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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: MARCH 20, 1989
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT APRIL 17, 1989

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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

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW
Uniform Administrative Procedure Rules
Transmission of Contested Cases to the OAL
Proposed Amendment: N.J.A.C. 1:1-8.2

Authorized By: Office of Administrative Law, Jaynee LaVecchia, Director.
Authority: N.J.S.A. 52:14F-5(e), (f) and (g).
Proposal Number: PRN 1989-232.

Submit written comments by June 14, 1989 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
CN 049
Quakerbridge Plaza, Bldg. 9
Quakerbridge Road
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendment of N.J.A.C. 1:1-8.2 clarifies that when an agency transmits a contested case to the Office of Administrative Law (OAL) for a hearing, the agency shall file the transmittal form and any attachments in duplicate. N.J.A.C. 1:1-7.3(c) requires that all papers filed with the OAL shall be in duplicate. In practice, however, the OAL has found that only one copy of the transmittal form and attachments is usually submitted. Two copies are needed because one must be retained on file in the Clerk's office and the other becomes part of the case file used by the judge assigned to hear the matter. When only one copy is submitted, OAL personnel must copy the transmittal documents before the OAL can begin processing the case. This creates an unnecessary delay and expense to the OAL that could be avoided if the papers were filed in duplicate. Adding the words "in duplicate" to N.J.A.C. 1:1-8.2(f) will emphasize to agencies that a second copy of the transmittal form and attachments must be filed.

N.J.A.C. 1:1-8.3(b) gives the Clerk the authority to return a case with instructions for retransmission if a case has not been transmitted in accordance with the rules. If this amendment is adopted, the Clerk may exercise the option of returning transmittal documents to an agency for copying if the agency fails to submit a duplicate set.

Social Impact

The proposed amendment clarifies that transmittal forms and attachments filed with the OAL must be filed in duplicate. This clarification should result in more agencies following the proper procedure, thus preventing delays caused by having OAL personnel make copies of transmittal documents. The OAL therefore will be able to process contested cases more quickly. One of the public policies underlying the establishment of the OAL was to promote the expeditious handling of contested cases. The proposed amendment will help the OAL achieve this goal. The amendment is particularly important in approximately 18 types of cases where the Legislature has required special expedited time frames for commencing the hearing. In Lemon Law cases, for example, a hearing must commence within 20 days from the consumer's application. In emergent fatal accident cases, as another example, a preliminary hearing must begin within 15 days from the driver's request for a hearing. It becomes especially difficult to meet these short statutory deadlines when several days may be consumed by the need to copy transmitted documents.

Economic Impact

The proposed amendment will result in more efficient use of OAL resources, since OAL personnel diverted to making copies of transmittal documents can be more productively utilized in processing contested cases. The annual OAL copying costs associated with this function are estimated at $18,500. This estimate includes copy machine, paper and personnel costs. Should the proposed amendment be adopted, most of these costs will be shared by the various agencies utilizing OAL's services in proportion to the number of cases and documents transmitted. Several agencies utilizing OAL services may also be able to shift this cost to the litigating parties by requiring them to submit an extra copy of case filings.

Regulatory Flexibility Statement

The proposed amendment does not require a small business regulatory flexibility analysis since the amendment does not impose any reporting, recording or compliance requirements on small businesses. The duplicate filing requirement is imposed upon agencies of the State.

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

1:1-8.2 Transmission of contested cases to the Office of Administrative Law

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

(f) The completed transmittal form and any attachments shall be filed **in duplicate** with the Clerk of the Office of Administrative Law.

(b)

OFFICE OF ADMINISTRATIVE LAW
Uniform Administrative Procedure Rules
Ordering a Transcript; Cost
Rule Pre-Proposal: N.J.A.C. 1:1-14.11

Authorized By: Office of Administrative Law, Jaynee LaVecchia, Director.
Authority: N.J.S.A. 52:14F-5(e), (f) and (g).
Pre-Proposal Number: PPR 1989-2.

Submit written comments by June 14, 1989 to:
Steven L. Lefelt, Deputy Director
Office of Administrative Law
CN 049
Quakerbridge Plaza, Bldg. 9
Quakerbridge Road
Trenton, New Jersey 08625

Take notice that the Office of Administrative Law (OAL) is considering amending N.J.A.C. 1:1-14.11, the rule for ordering transcripts of OAL proceedings. The OAL believes the amendment is necessary because of the 1989 revision of New Jersey Court Rule 2:5-3 (Preparation and Filing of Transcript; Statement of Proceedings; Prescribed Transcript Request Form). Although the Court Rule governs appellate practice in New Jersey courts, it affects the OAL because it prescribes how administrative hearing transcripts for use in appeals are to be obtained. The pre-proposed amendment to N.J.A.C. 1:14-11 is intended to apply only to transcripts of OAL proceedings. If an administrative hearing is conducted by an agency head rather than by the OAL or is conducted by an exempt agency (N.J.S.A. 52:14F-8), transcripts should be obtained through the agency which heard the matter.

Revised R. 2:5-3 eliminates the distinction between sound recorded proceedings and stenographically recorded proceedings in terms of how to request transcripts. Previously, requests for transcripts of stenographically recorded proceedings were made directly to the court reporting service which transcribed the proceeding. Only sound recorded transcript requests were made to the OAL Clerk. The revised Court Rule now states that all requests for transcripts shall be made to "the agency or officer if the appeal is from an administrative action." The current OAL rule still distinguishes between sound recorded and stenographically recorded transcript requests. While the OAL could maintain this distinction for transcripts that are requested for purposes other than an appeal to a court, the OAL believes that having one process for all transcript requests would be simpler and probably more efficient, even though the burden on the OAL will increase. Therefore, subsection (a) of the pre-proposed amendment establishes one process whereby all requests for OAL transcripts, whether the proceeding was sound or stenographically recorded, will be made to the OAL Clerk. If the pre-proposed amendment is adopted, litigants will be unable to make requests for OAL transcripts directly to court reporting firms.

Whenever an OAL transcript is ordered, a copy for the OAL also must be ordered. Because the rule applies when the transcript is requested either during or after the hearing, subsection (a) also specifies where the OAL copy of the transcript will be distributed. During the hearing, the OAL copy will be retained in the case file of the judge hearing the case and ultimately will be sent to the transmitting agency with the record after the initial decision is filed. If the transcript is requested after the initial decision, for the purpose of filing exceptions, the OAL copy will be forwarded to the transmitting agency to be included in the record, since the OAL will no longer have the record. If the transcript is requested after the final agency decision, for the purpose of an appeal to a court, the OAL copy will be forwarded to the court to which the appeal is taken, in accordance with the requirements of R. 2:5-3. Pre-proposed N.J.A.C. 1:1-14.11 (a)3, (a)3i and (a)3ii relate directly to Court Rule requirements. These provisions ensure that the transcript will not be sent to the court until all volumes of the transcript are completed and delivered to the appellant. Receiving all volumes at once, instead of piecemenal, was apparently a concern of the drafters of the revised Court Rule. In addition, these provisions provide for the transcript delivery certification required by R. 2:5-3.

Subsection (b) of the pre-proposed amendment relates to R. 2:5-3(a), which says: "If the appeal is from an administrative agency or officer which has had the verbatim record transcribed, such transcript shall be made available to the appellant on his request for reproduction for filing and service." The pre-proposed subsection provides that if either the OAL or a transmitting agency has a transcript, the transcript copy must be made available for copying. Subsection (b) applies whether the original transcript was ordered by the agency or paid for by someone other than the agency. The OAL believes that the transcript copy is a public document within the meaning of the Right to Know Law (N.J.S.A. 47:1A-1 et seq.) Therefore, transcript copies must be made available for copying, regardless of the reason for which additional copies are needed and irrespective of who paid for the original transcript. Each agency will have to establish its own policy for how copying is to be handled. Copies may be provided at copying rates set by the Right to Know Law. With appropriate safeguards, it may also be possible for agencies to loan the transcript copy to the requester for copying. If the additional copies are needed for an appeal to a court, it is intended that the person who obtained the additional copies will comply with whatever requirements of R. 2:5-3 pertain in that situation. When subsection (b) applies, the OAL will not send transcript copies to the court to which the appeal is taken, nor will the OAL be responsible for a transcript delivery certification.

If adopted, the pre-proposed amendment will significantly change the current procedure for obtaining transcripts of OAL proceedings. It will potentially affect all parties to OAL hearings and all agencies which transmit cases to the OAL, as well as the stenographic reporting services which transcribe the hearings. For that reason, the OAL has decided to pre-propose the amendment and invite pre-proposal comment on the suggested new process. No proposed amendment will be prepared until after the OAL carefully studies the pre-proposal comments.

Full text of the pre-proposal follows (additions shown in boldface **thus**; deletions shown in brackets [thus]:

1:1-14.11 Ordering a transcript; cost; **certification to court; copying**

[(a) Any party, or any person with a legitimate need, may obtain a transcript of any proceeding which has been sound recorded by filing a request with the Clerk and by notifying all parties. Unless the requesting party is the State or a political subdivision thereof, the request shall be accompanied by a $200.00 security deposit for each day or fraction thereof of the proceeding. The Clerk shall promptly arrange for the preparation of the transcript with a copy for the case file. Upon completion of the transcript, the preparer shall bill the requesting party for the preparation of the transcript and the copy. Upon receipt of payment, the Clerk shall forward the original transcript to the requesting party and shall return the deposit.]

(a) Any party or person may request preparation of a transcript of a proceeding before the Office of Administrative Law which has been sound or stenographically recorded and not sealed by filing a request with the Clerk of the OAL. The requesting party shall notify all other parties of the request. Unless the requesting party is the State or a political subdivision thereof, the request shall be accompanied by a $300.00 security deposit for each day or fraction thereof of the proceeding, the deposit to be made payable to the preparer. The Clerk shall promptly arrange for the preparation of the transcript with a copy for the Office of Administrative Law. Upon completion of the transcript, the preparer shall bill the requesting party for any sum due for the preparation of the transcript and copy or shall reimburse the requesting party for any overpayment made therefor.

1. If the transcript is requested before an initial decision has been isssued, the copy shall be maintained in the case file.

2. If the transcript is requested after an initial decision is issued, for the purpose of filing exceptions, the copy shall be forwarded by the Clerk of the OAL to the transmitting agency for inclusion in the record.

3. If the transcript is requested for the purpose of an appeal to a court, the copy shall be forwarded by the Clerk of the OAL to the court to which the appeal is taken when the last volume of the entire transcript has been delivered to the appellant.

i. The preparer shall notify the Clerk of the OAL when the last volume of the transcript has been delivered to the appellant.

ii. The Clerk of the OAL shall complete a transcript delivery certification, when required by New Jersey Court Rule 2:5-3, and forward the certification to the court along with the transcript. The Clerk shall send copies of the certification to the appellant and the Chief, Court Reporting Services, Administrative Office of the Courts, pursuant to R. 2:5-3.

(b) If the verbatim record of an agency proceeding has already been transcribed under (a) above and additional copies of the transcript are required, the transmitting agency or the OAL shall, upon request, make its transcript copy available for copying.

[(b)](c) Any party may obtain an unofficial copy of a sound recorded proceeding by making a request to the Clerk accompanied by a blank standard cassette of appropriate length.

[(c) Any party, or any person with a legitimate need, may request the appropriate stenographic firm to prepare a transcript of any stenographically recorded proceeding and shall provide notice of the request to the Clerk and to all other parties. Unless the requesting party is the State or a political subdivision thereof, the stenograhic firm may require a reasonable deposit. The reporter shall promptly prepare the transcript in accordance with standards established by the State and shall file a copy with the Clerk at the time the original is delivered to the requesting party. The requesting party shall be charged for the copy filed with the Clerk at a rate not to exceed State contract rates.]

(d) Any party or person entitled by Federal statute or regulation to copy and inspect the verbatim transcript may arrange with the Clerk to review any transcript filed under (a) [or (c)] above and shall also be permitted to hear and receive a copy of any sound recorded proceeding pursuant to [(b)] (c) above. All applications to obtain a tanscript of any proceeding at public expense for use on appeal shall be made to the Appellate Court pursuant to New Jersey Court Rule R. 2:5-3 or in case of Federal appeals pursuant to applicable Federal Court Rules.

(e) State agencies requesting official transcripts shall make provision for payment or shall pay the cost of production at rates established under the prevailing State contract rates; provided that where the Public Advocate's office is representing the public interest in a proceeding and another party to the proceeding[s] is entitled by law to recover the costs thereof from others, such other party shall obtain, pay for and furnish to the Public Advocate upon request the official transcript.

AGRICULTURE

(a)

STATE AGRICULTURE DEVELOPMENT COMMITTEE

Creation of Farmland Preservation Programs

Proposed Amendment: N.J.A.C. 2:76-3.12

Authorized By: State Agriculture Development Committee, Arthur R. Brown, Jr., Chairman.
Authority: N.J.S.A. 4:1C-5f.
Proposal Number PRN: 1989-254.

Submit written comments by June 14, 1989 to:
Donald D. Applegate, Executive Director
State Agriculture Development Committee
CN 330
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment aids in the implementation of the right of first refusal as authorized by recent amendments in P.L. 1989, c.28, to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-1 et seq.

The proposed amendment changes the deed restrictions for the creation of farmland preservation programs in accordance with the provisions of the statutory amendments. In accordance with the statute, right of first refusal provisions set forth in the statute must be included in the deed restrictions of farmland preservation programs certified after February 17, 1989 (the effective date of the statutory amendments). These deed restrictions set forth the procedure by which landowners enrolled in such programs will notify the State Agriculture Development Committee (SADC) of any proposed sales of such land, and the procedure by which the SADC will exercise its right of first refusal.

Social Impact

The proposed amendment will have a positive impact on the preservation of New Jersey agriculture and on affected groups. The amended deed restrictions for farmland preservation programs will ensure that landowners voluntarily enrolling in those programs are aware of the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c. 28.

Economic Impact

The proposed amendment will have a positive economic impact on the citizens of the State and on New Jersey agriculture. Citizens of New Jersey benefit from the agriculture retention program's expanded ability to preserve agricultural land and protect the benefits it provides.

Regulatory Flexibility Analysis

The majority of the land potentially subject to enrollment in farmland preservation programs is owned by small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment requires owners of land enrolled in farmland preservation programs to report the terms and conditions of proposed sales of such land to the SADC, and subjects such land to the SADC's right of first refusal in accordance with the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28. A farmland owner's application to create a farmland preservation program remains entirely voluntary. The requirements of the proposed amendment are mandated by P.L. 1989, c.28, section 2.

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

2:76-3.12 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board and the landowner(s) when a farmland preservation program is adopted and shall run with the land:

"Grantor promises that the Premises shall at all times for the term of the agreement be owned, used and conveyed subject to:

1.-14. (No change.)

"15. Grantor, his heirs, executors, administrators, personal or legal representatives, successors and assigns grant the Committee the first right and option to purchase the premises in fee simple absolute in accordance with the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28. Grantor, his heirs, executors, administrators, personal or legal representatives, successors and assigns, agree to give the Committee at least sixty days notice prior to contracting to sell and/or selling the premises. The notice shall include a copy of the proposed offer indicating the price which the proposed purchaser has agreed to pay for the premises and any other information required by the Committee by regulation. The Committee may exercise its first right and option to purchase the premises in fee simple absolute by complying with the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28.

[15.-18.] **16.-19.** (No change in text.)

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

(b)

STATE AGRICULTURE DEVELOPMENT COMMITTEE

Creation of Municipally Approved Farmland Preservation Programs

Proposed Amendment: N.J.A.C. 2:76-4.11

Authorized By: State Agriculture Development Committee, Arthur R. Brown, Jr., Chairman.
Authority: N.J.S.A. 4:1C-5f.
Proposal Number: PRN 1989-255.

Submit written comments by June 14, 1989 to:
Donald D. Applegate, Executive Director
State Agriculture Development Committee
CN 330
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment aids in the implementation of the right of first refusal as authorized by recent amendments in P.L. 1989, c.28, to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-1 et seq.

The proposed rule amends the deed restrictions for the creation of municipally approved farmland preservation programs in accordance with the provisions of the statutory amendments. In accordance with the statute, right of first refusal provisions set forth in the statute must be included in the deed restrictions of municipally approved farmland preservation programs certified after February 17, 1989 (the effective date of the statutory amendments). These deed restrictions set forth the procedure by which landowners enrolled in such programs will notify the State Agriculture Development Committee (SADC) of any proposed sales of such land, and the procedure by which the SADC will exercise its right of first refusal.

Social Impact

The proposed amendment will have a positive impact on the preservation of New Jersey agriculture and on affected groups. The amended deed restrictions for municipally approved farmland preservation programs will ensure that landowners voluntarily enrolling in those programs are aware of the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28.

Economic Impact

The proposed amendment will have a positive economic impact on the citizens of the State and on New Jersey agriculture. Citizens of New Jersey benefit from the agriculture retention program's expanded ability to preserve agricultural land and protect the benefits it provides.

Regulatory Flexibility Analysis

The majority of the land potentially subject to enrollment in municipally approved farmland preservation programs is owned by small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment requires owners of land enrolled in municipally approved farmland preservation programs to report the terms and conditions of proposed sales of such land to the SADC, and subjects such land to the SADC's right of first refusal in accordance with the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28. A farmland owner's application to create a municipally approved farmland preservation program remains entirely voluntary. The requirements of the proposed amendment are mandated by P.L. 1989, c.28, section 2.

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

2:76-4.11 Deed restrictions

(a) The following deed restrictions shall be agreed to by the board, and the municipal governing body and the landowner(s) when a municipally approved farmland preservation program is adopted and shall run with the land:

"Grantor promises that the Premises shall at all times for the term of the agreement be owned, used and conveyed subject to:

1.-14. (No change.)

"15. Grantor, his heirs, executors, administrators, personal or legal representatives, successors and assigns grant the Committee the first right and option to purchase the premises in fee simple absolute in accordance with the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28. Grantor, his heirs, executors, administrators, personal or legal representatives, successors and assigns, agree to give the Committee at least sixty days notice prior to contracting to sell and/or selling the premises. The notice shall include a copy of the proposed offer indicating the price which the proposed purchaser has agreed to pay for the premises and any other information required by the Committee by regulation. The Committee may exercise its first right and option to purchase the premises in fee simple absolute by complying with the provisions of N.J.S.A. 4:1C-1 et seq., as amended by P.L. 1989, c.28.

[15.-18.] **16.-19.** (No change in text.)

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

PERSONNEL

(a)

MERIT SYSTEM BOARD

Compensation

Reproposed New Rule: N.J.A.C. 4A:3-4.11
Proposed Repeal: N.J.A.C. 4:2-7.7(c)

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

Authority: N.J.S.A. 11A:2-6(d); 11A:3-7.

Proposal Number: PRN 1989-256.

A **public hearing** will be held on:

Thursday, June 1, 1989 at 5:30 P.M.
Office of Administrative Law
9 Quakerbridge Plaza, 1st Floor
Trenton, New Jersey

Please contact Ms. Dionisia Simona at 609-984-0118 if you wish to be included on the list of speakers.

Submit written comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

On April 18, 1988, the Merit System Board published a proposed chapter N.J.A.C. 4A:3, Classification, Services and Compensation, including a proposed N.J.A.C. 4A:3-4.11 on downward title reevaluation pay adjustments in State service (see 20 N.J.R. 846(a)). That rule sets procedures to be followed when an employee's title is reevaluated to a lower class code, or when a title is eliminated and incumbents are placed in a title with a lower class code. Following the public comment period, the Board adopted most of the new chapter, but decided not to adopt N.J.A.C. 4A:3-4.11 at that time (see 20 N.J.R. 2255(b)). Subsequently, further discussions have been held with the advisory boards concerning the subject matter of this rule. Based on those discussions, the Merit System Board has proposed two changes to the rule as originally proposed: notice of a downward title reevaluation is to be given to negotiations representatives as well as affected individual employees; and adjustments for affected employees may be requested by the employees and/or their negotiations representatives.

Although the changes in this rule as orginally proposed are not considered by the Board to be so substantial as to require additional public notice and comment pursuant to N.J.A.C. 1:30-4.3, due to the high level of interest in this rule shown during the public comment period, the Board decided to republish the rule as changed for additional comment.

Social Impact

The proposed new rule would affect State employees in only two situations: when an employee's title is reevaluated to a lower class code (salary level); or when an employee's title is eliminated and incumbents are placed in a title having a lower class code. In either case, advance notice would be provided to affected employees and their negotiations representatives.

Economic Impact

An employee in either situation specified by the proposed rule would not experience any loss in salary, but may experience a delay in receiving an increment. However, in contrast to the current rule, N.J.A.C. 4:2-7.7(c), the Commissioner of Personnel may provide for additional adjustments for affected employees.

The economic impact on State agencies cannot be ascertained at this time, since it is not known how frequently these situations would occur.

Regulatory Flexibility Statement

A regulatory flexibility statement is not required since this proposal will have no effect upon small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule relates to circumstantial pay adjustments in State service employees.

Full text of the repeal can be found in the New Jersey Administrative Code at N.J.A.C. 4:2-7.7(c).

Full text of the proposal follows:

4A:3-4.11 Downward title reevaluation pay adjustments: State service

(a) When a title is reevaluated to a lower class code, or when a title is eliminated and incumbents are placed in a title having a lower class code, each employee in that title shall remain at his or her current base salary. The part of an employee's base salary that is above the nearest lower step in the lower range will be carried as extra salary until the employee's anniversary date, at which time the employee's salary shall be moved to the next higher step, if warranted by performance, in lieu of the normal performance increment. If the employee's base salary is at the maximum step, the employee will remain at that salary until the maximum step of the lower range is increased to a level at or above the employee's base salary, at which time the employee's salary shall be moved to that maximum step of the lower range.

1. The effective date of a downward title reevaluation shall be the first pay period that is 60 days after the date of the reevaluation determination by the Commissioner.

2. All employees affected by a downward title reevaluation and their negotiations representatives shall be given notice by the appointing authority of the reduction in range at least 45 days prior to the effective date.

3. When a title has been eliminated and incumbents placed in a title having a lower class code, the Commissioner, on his or her own initiative or upon the request of affected employees and/or their negotiations representatives, may provide for additional adjustments for affected employees.

(a)

MERIT SYSTEM BOARD

Layoffs (Local Service)

Proposed Readoption: N.J.A.C. 4:3-16

Authorized By: Department of Personnel, Merit System Board; Peter J. Calderone, Assistant Commissioner.
Authority: N.J.S.A. 11A:2-6(d); 11A:8A-1 through 11A:8-4.
Proposal Number: PRN 1989-244.

A **public hearing** will be held on:
Thursday, June 1, 1989 at 5:30 P.M.
Office of Administrative Law
9 Quakerbridge Plaza, 1st Floor
Trenton, New Jersey

Please contact Ms. Dionisia Simona at 609-984-0118 if you wish to be included on the list of speakers.

Submit written comments by June 14, 1989 to:
Peter J. Calderone
Assistant Commissioner
Department of Personnel
CN 312
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 4:3-16 expires on June 4, 1989. Although the Merit System Board has proposed new rules on layoffs (see 20 N.J.R. 2955(b)), it is not anticipated that adoption of new rules will take place prior to the expiration of current rules concerning layoffs in local service. Since it is essential that uniform procedures are followed for layoffs in county and municipal government, the Merit System Board proposes to readopt N.J.A.C. 4:3-16 without change.

N.J.A.C. 4:3-16.1 concerns notice of layoff to employees who are serving their working test period. The rule provides that such employees must receive the same 45 day notice of layoff provided permanent employees. However, termination of the probationary employee may take place prior to the end of the 45 day period due to failure of the working test period or removal during the working test period for disciplinary reasons.

N.J.A.C. 4:3-16.2 concerns the determination of demotional and re-employment rights. This section defines essential terms and sets procedures to be followed for the rights of affected employees and providing notice to employees and appointing authorities.

Social Impact

These rules affect over 110,000 employees in over 300 county and municipal jurisdictions which are subject to Title 11A, New Jersey Statutes. Once readopted, these rules will continue to provide uniform procedures for determining the order of layoffs and demotions, seniority, and appeal rights for employees affected by reductions in force.

Economic Impact

These rules proposed for readoption have no discernible impact on county and municipal government. Political subdivisions subject to Title 11A will continue to be able to effect reductions in force if necessary for economy, efficiency or other reasons (see N.J.S.A. 11A:8-1). These rules provide a method for determining which particular employees are laid off, demoted in lieu of layoff, or retained in employment.

With regard to political subdivision employees, these rules have a positive economic impact in that some employees, on the basis of uniform seniority determinations, are able to retain comparable positions or be demoted to another position rather than losing their jobs entirely through layoffs. Moreover, seniority determinations affect the ability of affected employees to regain employment, through placement on special re-employment lists.

Regulatory Flexibility Statement

A regulatory flexibility statement is not required since these rules will have no effect upon small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 4:3-16.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Notice of Public Hearing

Utility Load Management Device Installation Programs

Proposed New Rule: N.J.A.C. 5:23-2.18A

Take notice that a public hearing concerning proposed new rule N.J.A.C. 5:23-2.18A, published at 21 N.J.R. 233(a) on February 6, 1989, will be held at the offices of the Department of Community Affairs, 101 South Broad Street, Trenton, New Jersey on June 8, 1989 at 10:30 A.M.

(c)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Developer Agreements

Proposed Amendments: N.J.A.C. 5:92-8.4

Authorized By: New Jersey Council on Affordable Housing, James L. Logue III, Chairman.
Authority: N.J.S.A. 52:27D-301 et seq., specifically 52:27D-307.
Proposal Number: PRN 1989-247.

Submit comments by June 14, 1989 to:
Douglas V. Opalski, Executive Director
New Jersey Council on Affordable Housing
CN 813
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Fair Housing Act requires that, in order to receive substantive certification, a municipality's housing element and fair share plan provide a realistic opportunity for the provision of its fair share of lower income housing. To insure this, the Council's rules provide a presumptive requirement of a 20 percent set-aside and a gross density of six units per acre for inclusionary developments (see N.J.A.C. 5:92-8.4(c)). The set-aside and density figures contained in the rule were utilized by the courts, and were adopted following analysis by the Council. They provide a reasonable balance necessary to insure that the project is realistic and will actually be constructed. The set-aside and density figures contained in the rule are the standards previously utilized by the courts. They were adopted by the Council on the ground that they insure the requisite realistic opportunity for provision of the low and moderate income units while insuring a sufficient return to developers such that the project is workable. However, the Council has recognized that the Fair Housing Act also encourages municipalities to develop new techniques for meeting their fair share obligations (see N.J.S.A. 52:27D-311).

Following receipt of several plans that deviated from the basic requirements, the Council determined that it was necessary to develop standards for such agreements in order to continue to insure the provision of a realistic opportunity. The plans often utilized single-family market homes or commercial prospects rather than multi-family market housing. Thus, the Council proposed an amendment to N.J.A.C. 5:92-8.4 in order to provide standards to be met by all those developer agreements deviating from the standard 20 percent set-aside and six units per acre. These standards are:

1. That the agreement continues to provide the requisite realistic opportunity;
2. That the agreement not unduly burden the market units; and
3. That the developer must have the experience and financial ability to perform its obligations. The burden is on the municipality proposing the agreement.

The proposed amendment sets forth more specific standards with reference to developer agreements in three distinct situations where market units are single-family detached dwellings, where the market units are multi-family, and where the developer agreement contains commercial/industrial component. These guidelines were arrived at by the Council following analysis of developer agreements throughout the State.

The guidelines are intended to continue to insure the provision of the requisite realistic opportunity, while also providing a sufficient economic return to developers so as to insure project feasibility.

Social Impact

The proposed amendment will provide for deviations from the presumptive requirements as long as the developer's agreement meets the more specific test set out in the rule. The amendment would therefore benefit the developer and municipality in their attempt to reach a suitable agreement by providing more specific guidelines.

Economic Impact

One of the goals of the proposed amendment is to insure that developer agreements are economically feasible, and thus workable. It thus has an economic impact by restricting the type of developer agreements that will be approved by the Council. However, the impact should not be substantial, as the Council has always required that a proposed developer agreement provide the requisite realistic opportunity.

Regulatory Flexibility Statement

The proposed rules impose no reporting or recordkeeping requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment imposes compliance requirements on developers, which may be small businesses, and on municipalities. No capital costs or professional services need be incurred or engaged by small business developers to comply. As the amendment sets limits on developers' fees, which are now purely a matter for negotiation. The Council believes developers will benefit through the establishment of a standard against which to gauge fees, in their negotiations with municipalities.

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

5:92-8.4 Vacant sites

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

(d) All agreements, including those contemplated in (e) [and] , (f) **and (g)** below, that vary from the presumptive requirements of a 20 percent set-aside and a gross density of six units per acre, as set forth in (c) above, must satisfy the following conditions:

1.-4. (No change.)

(e) All agreements where the market units are single family detached dwellings may provide that, in exchange for an increase over existing density, the developer either: construct low and moderate income units as part of an inclusionary development; or pay a voluntary fee to be utilized by the municipality for an RCA or municipally constructed low and moderate income housing **or rehabilitation.** The developer's expense in either case must bear a reasonable relationship to the increase in density, such that the agreement does not violate the test in (d)1[-] **through** 3 above. **For single family detached dwellings, the fee negotiated may not be in excess of the following formula: Total number of additional market units resulting from the bonus density multiplied by the projected selling price of the market units multiplied by six percent. For purposes of this section, the projected selling price shall be defined as the price at time of construction.**

(f) [Agreements] **In agreements** where the market units are multifamily dwellings, **the Council** may permit deviations from the presumptive requirements of a 20 percent set-aside:

1.-3. (No change.)

4. In cases where the agreement includes a developer's fee in lieu of the construction of low and moderate income units on the site, the fee shall be consistent with the current, average internal subsidization that would have been required to provide low and moderate income units on the site.

Renumber 4.-5. as **5.-6.** (No change in text.)

(g) In agreements that contain a fee in return for increased commercial/industrial square footage, increased commercial/industrial lot coverage and/or increased commercial/industrial impervious coverage, the fee negotiated must bear a reasonable relationship to the additional commercial/industrial consideration to be received.

(a)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Conformance with State Development and Redevelopment Plan

Proposed New Rules: N.J.A.C. 5:92-18

Authorized By: New Jersey Council on Affordable Housing, James J. Logue III, Chairman.

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

Proposal Number: PRN 1989-259.

Submit comments by June 14, 1989 to:

Douglas V. Opalski, Executive Director
New Jersey Council on Affordable Housing
CN 813
Trenton, New Jersey 08625-0813

The agency proposal follows:

Summary

In what has become known as the Mount Laurel II Decision, the New Jersey Supreme Court reaffirmed that every "municipalities' land use regulations will be required to provide a realistic opportunity for the construction of their fair share of the region's present . . . housing need generated by present dilapidated or overcrowded lower income units . . ." It also stated that municipalities in growth areas have a regional obligation for low and moderate income housing.

In deciding where to allocate this regional need, the Supreme Court stated that the Mount Laurel obligation should be imposed in accordance with sound planning concepts. The Court relied on the State Development Guide Plan to allocate housing need because the housing should be built where a comprehensive plan indicated such housing was desirable. However, the Court said that if it was going to rely on a State plan, the plan must be updated on a regular basis (every three years). The Decision indicated that if a State plan was not updated, the "courts shall have considerable discretion to vary the locus of the Mount Laurel obligation."

Subsequent to the Supreme Court's Decision, the Governor and Legislature created the State Planning Commission to develop a State Development and Redevelopment Plan. It also created the Council on Affordable Housing, as an alternative to the Courts, in order to implement the Mount Laurel II Decision. The Council was directed to allocate need in a manner consistent with the State Development and Redevelopment Plan.

The Fair Housing Act, N.J.S.A. 52:27D-301 et seq. required the Council to adopt its rules by August of 1986. Many municipalities, in order to receive the full benefits created by the Act, were required, by statute, to file housing elements with the Council and petition for substantive certification with the Council by January, 1987. Since that time, the Council has granted substantive certification to 64 municipal housing elements, representing 12,728 housing units. In many cases, these certifications represent the culmination of years of costly litigation between municipalities, developers and housing advocates. This litigation ended as a result of the Council's review and mediation process.

As the Council proposes these rules, New Jersey has not yet adopted a State plan. However, the State Planning Commission has developed a Draft State Development and Redevelopment Plan which is currently proceeding through a cross-acceptance process with New Jersey's municipalities. The Draft recognizes that the Council's rules and procedures will have preceded a final adopted plan by approximately three years. Therefore, it recognizes the Council's housing allocations and rules for 1987-1993.

The Draft State Development and Redevelopment Plan divides New Jersey into seven tiers; and the State Planning Commission has developed specific policies for each tier. The Draft attempts to focus development and State investment in Tiers I through IV. In Tiers V through VII, the Draft encourages focusing growth in communities of place.

The proposed rules are intended to foster the mandates of the Council and the State Planning Commission. It requires all municipalities designated in whole or in part as Tiers 5, 6 or 7 to designate sufficient land during the cross-acceptance process as a community of place or as Tiers 1 to 4 to accommodate their constitutional low and moderate income housing obligation. This will inform the State Planning Commission regarding the location of all proposed and approved inclusionary developments. Therefore, the proposed rules should provide valuable information to the State Planning Commission that may be used in amending the

Draft Plan. It should also provide developments that are necessary in accommodating the municipal constitutional housing obligations with an appropriate designation when the final plan is adopted.

Social Impact

The proposed rules will have a positive impact because they strive to address the housing needs of low and moderate income people within the framework of sound comprehensive planning.

Economic Impact

The proposed rules will have a positive economic impact because they will encourage the location of low and moderate income housing near employment and commercial centers. This policy will help employers attract an adequate labor supply and minimize the commuting costs of workers.

Regulatory Flexibility Statement

The proposed rules impose no reporting, recordkeeping or compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The new rules only affect municipalities.

SUBCHAPTER 18. CONFORMANCE WITH STATE DEVELOPMENT AND REDEVELOPMENT PLAN

5:92-18.1 General provisions

(a) This subchapter shall apply to municipalities that have been designated in whole or in part by the Draft State Development and Redevelopment Plan (SDRP) as Tier 5, 6 and/or 7 communities. During the SDRP cross-acceptance process, these communities shall designate sufficient land to accommodate their precredited need by either:

1. Designating sufficient land as a community of place; and/or
2. Designating sufficient land in Tiers 1, 2, 3 and/or 4 to accommodate their precredited need or fair share obligation.

(b) All efforts to address municipal precredited need or fair share obligations by designating sufficient land during the cross-acceptance process shall be reduced to writing and submitted to the county planning board or designated entity pursuant to N.J.S.A. 52:18A-202 within six months of receipt of the preliminary plan. If the county report resulting from cross-acceptance fails to incorporate municipal efforts and recommendations to address their precredited need or fair share obligation, the municipality shall forward to the State Planning Commission and the Council a report. This report shall document all efforts to accommodate the precredited need or fair share obligation and the reasons set forth for their exclusion in the cross-acceptance report filed by the county. The municipal report shall be submitted to the State Planning Commission and the Council no later than 30 days after the county report has been filed.

5:92-18.2 Specific applications

(a) Municipalities that have received substantive certification or a judgement of repose shall designate all inclusionary developments and all developments contributing toward the implementation of the municipal housing element and fair share plan as a community of place or within a community of place, or the municipality shall designate such developments as Tiers 1, 2, 3 and/or 4 during the cross-acceptance process.

(b) Municipalities that have petitioned for but not received substantive certification shall designate proposed inclusionary developments and proposed developments contributing to the municipal housing element and fair share plan as a community of place or within a community of place, or the municipality shall designate such developments as Tiers 1, 2, 3, and/or 4 during the cross-acceptance process.

(c) Municipalities that have not received or petitioned for substantive certification shall designate sufficient land to accommodate their precredited need by either:

1. Designating sufficient land as community of place; and/or
2. Designating sufficient land in Tiers 1, 2, 3 and/or 4 to accommodate their precredited need.

HEALTH

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Perinatal Services

Proposed Readoption: N.J.A.C. 8:33C

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).

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

Proposal Number: PRN 1989-267.

Submit comments by June 14, 1989 to:

John A. Calabria, Chief
Health Systems Review Program, Room 604
New Jersey Department of Health
CN 360
Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

In February, 1978, the Department of Health established rules to govern the planning, certification of need, and designation of perinatal services. These rules were the result of an extensive planning process which began in 1973 when the New Jersey State Health Planning Council listed the reduction of infant mortality as its highest priority goal. Following a comprehensive planning effort, a system of regionalization for perinatal services was recommended, involving the establishment and designation of three distinct levels of care.

The purpose of the rules remains to establish a means for the Department to:

1. Promote delivery of the highest quality of care to all pregnant women and newborns;
2. Maximize utilization of highly trained perinatal personnel and intensive care facilities;
3. Promote cost effectiveness throughout the system; and
4. Emphasize a coordinated and cooperative approach to perinatal services.

The rules established a planning process, a designation and certification of need review process, and criteria and standards for delivery of care at the three defined levels. The planning and designation process was implemented by the Department in 1981, and all New Jersey hospitals with obstetrical services were designated under the Level of Care concept. The rules were readopted with amendments in August, 1984 in order to continue the regionalized approach in New Jersey for perinatal services.

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:33C expires on August 6, 1989.

Many changes have occurred in health care within the past five years. The Department has reviewed the present rules and determined that a major review of current trends and clinical developments in perinatal services is required before amending these rules. Therefore, the Department will develop proposed new rules for Perinatal Services. The Department recognizes, however, that the effective date of the new rules (and the concurrent repeal of N.J.A.C. 8:33C) cannot occur prior to expiration of N.J.A.C. 8:33C on August 6, 1989. In order to avoid expiration of these rules pursuant to Executive Order No. 66(1978) and to maintain continuity in the certificate of need process for Perinatal Services, the readoption of these rules without change is now being proposed. These rules will be adopted for a limited two year period, however, at the request of the Policy and Plan Development (PPD) Committee of the Statewide Health Coordinating Council (SHCC).

Social Impact

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

for the development and administration of the State's policy with respect to health planning, hospital and health care services, and health facility cost containment programs. . . ."

The New Jersey State Health Plan recognizes the underutilization of inpatient beds, specialty services, and expensive equipment as an important factor contributing to the rapidly escalating costs of health care. Regionalization of specialty services and equipment is viewed as an important mechanism for promoting health by improving the capabilities of services and quality of care offered, by assuring an adequate patient volume for hospitals offering these expensive services, and by containing the rising costs of health care services.

The Department believes the rules are effective in addressing their established goal of promoting a higher quality of care for pregnant mothers and newborns. As a result of implementation of the designation process, high-quality neonatal intensive care services are available and accessible throughout New Jersey on a regionalized basis. The two year extension of existing rules that is proposed herein will permit the Department of Health to review the appropriateness of these rules and initiate the designation process.

Economic Impact

The rules were established to address both quality of care and cost-effectiveness goals. Through implementation of perinatal designation, delivery of high-cost intensive care services has been regionalized in New Jersey.

The economic impact of these rules has thus been to produce initial cost efficiencies in the system of perinatal services through improving utilization of high-cost services. Since 1979, closure of several underutilized obstetrical services has occurred in New Jersey hospitals, thus further reducing costs to the system.

Extension of existing rules for a relatively brief period (two years) while new rules are promulgated will have little or no economic impact.

Regulatory Flexibility Statement

Facilities affected by these rules consist of hospitals with more than 100 beds. These hospitals typically employ well over 100 full-time employees. Therefore, these facilities do not fall into the category of small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:33C.

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Comprehensive Rehabilitation Hospitals
Standards for Licensure
Physical Plant and Functional Requirements
Proposed New Rules: N.J.A.C. 8:43H-23 and 24

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with approval of Health Care Administration Board).

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

Proposal Number: PRN 1989-245.

Submit written comments by June 14, 1989 to:

Joseph A. DiCara
Health Facilities Construction Services
Division of Health Facilities Evaluation
New Jersey Department of Health
300 Whitehead Road, CN 367
Trenton, New Jersey 08625-0367
(609) 588-7786

The agency proposal follows:

Summary

The New Jersey State Department of Health has been mandated the responsibility to develop and promulgate building requirements and fire protection standards for the licensing of comprehensive rehabilitation hospitals.

The Department proposes the adoption of new rules at N.J.A.C. 8:43H-23 and N.J.A.C. 8:43H-24 for the physical plant and functional requirements for the licensure of comprehensive rehabilitation hospitals.

Proposed N.J.A.C. 8:43H-23 is necessary, since the existing construction standards are part of the Physical Plant Standards of the Licensure Manual of Standards for Hospital Facilities at N.J.A.C. 8:43B-3 and are not specifically directed towards rehabilitation facilities. The proposed rules are in agreement with the update of the State Uniform Construction Code at N.J.A.C. 5:23-3.2, which substitutes the Guidelines for Construction and Equipment of Hospital and Medical Facilities (1987 Edition) in place of Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities, (HRS-M-HF)84-1.

The detailed functional requirements for comprehensive rehabilitation hospitals were not included in the Manual of Standards for Hospitals; therefore, N.J.A.C. 8:43H-24 was included to incorporate the necessary functional requirements for these facilities.

The rules which are being proposed emphasize fire safety and protection of the patients. These rules are proposed in order to comply with new Federal requirements for reimbursement and to comply with the New Jersey Uniform Construction Code, N.J.A.C. 5:23. In addition, the design of facilities was planned for a more efficient functional layout, with the emphasis on cutting operational cost and discouraging the construction of wasted space in health facilities.

A summary of the proposed new rules follows.

Proposed N.J.A.C. 8:43H-23.1 addresses standards for construction, alteration, or renovation of rehabilitation facilities.

Proposed N.J.A.C. 8:43H-24.1 addresses the provisions for handicapped persons.

Proposed N.J.A.C. 8:43H-24.2 sets forth the functional service areas required for this type of facility.

Proposed N.J.A.C. 8:43H-24.3, medical evaluation services, is the first of the required 26 service areas. This service requires offices, examination room(s) and evaluation room(s).

Proposed N.J.A.C. 8:43H-24.4 is the second required service area, psychology. It requires an office(s) and a work space for testing, evaluation and counseling for the patient.

The rehabilitation facility is required by N.J.A.C. 8:43H-24.5 to have a service for social work services. This service shall be designed to provide and insure privacy to the patient, since private interviewing and counseling are elements of this service.

Proposed N.J.A.C. 8:43H-24.6 mandates vocational services which shall provide prevocational and vocational evaluation to determine the extent of training and services required by the patient, as well as counseling.

Proposed N.J.A.C. 8:43H-24.7 requires that a total of 30 square feet for the first 100 beds and 27 square feet for each bed in excess of 100 be required for patients' dining and recreation. If a day care program is provided, a total of 20 square feet per person is required, if dining is a part of the day care program. If dining is not a part of program, then it is only necessary to provide 10 square feet per person for recreation and day spaces.

Proposed N.J.A.C. 8:43H-24.8 requires respiratory therapy services, which can be provided in a separate area or at the patient's bedside. If a distinctly separate service is offered, an office, clerical space, and storage for equipment and supplies shall be provided.

Proposed N.J.A.C. 8:43H-24.9 requires that the dietary department shall have an onsite conventional food preparation system, or provide a convenience food service system or an appropriate combination.

Administration and public areas, as required by N.J.A.C. 8:43H-24.10, shall contain an entrance, lobby, interview space(s), general or individual office(s), multipurpose room(s), special storage, and general storage.

Proposed N.J.A.C. 8:43H-24.11 requires nursing units in rehabilitation hospitals. The maximum unit size for adults or children, shall be 30 beds, in order to obtain maximum efficiency. In addition, there shall be no more than four beds per room and there shall be two private rooms with bath for each nursing unit. The size of each private room shall be 125 square feet and in multi-bedrooms, a minimum of 100 square feet per bed with a clearance of three feet six inches at the foot of each bed. Each patient's bedroom shall have a window. One lavatory shall be provided in each patient room. This lavatory may be omitted from a single bedroom if it is provided in the toilet room. In each patient room, there shall be a wardrobe, closet or locker for each patient. Visual privacy shall be provided each patient in a multi-bedded room by a cubicle curtain.

The rule provides that in the service areas for the nursing unit there must be a nursing station, offices, storage, handwashing facilities, charting facilities, lounge, multipurpose room, examination and treatment room, clean workroom, soiled workroom, clean linen storage, nourishment station, equipment storage room and parking for wheelchairs and stretchers to provide a comprehensive service for the nursing unit.

The rehabilitation hospital is required to provide patients' bathing and toilet facilities. The bathing facilities shall be provided on a ratio of one for each eight beds and at least one island-type bathtub per nursing unit. Showers in central bathing areas shall be four feet square, without curbs, to allow use by a wheelchair patient.

Proposed N.J.A.C. 8:43H-24.12 requires that complete physical therapy services be provided in each facility. In the unit there shall be office and work space for staff. In addition, there shall be treatment areas for hydrotherapy, thermotherapy, ultrasonics, diathermy, gait training and any other treatment or training performed in a physical therapy department. An individual treatment area shall be provided with cubicle curtains and 60 square feet of clear floor area. An exercise area, clean linen and towel storage, storage for equipment, separate storage for soiled linen, towel and supplies, wheelchair and stretcher storage shall be provided in each rehabilitation facility.

Proposed N.J.A.C. 8:43H-24.13 requires occupational therapy services in each rehabilitation facility. The occupational therapy unit shall provide an office and work space, waiting area, work areas and counters usable for wheelchairs, handwashing facilities and storage for supplies and equipment. There shall be space for driver evaluation, an environmental modification area, and an area for teaching activities for daily living which shall include a bedroom, bath, kitchen and space for stairs to train the patient to be able to handle daily activities when he or she returns home.

The rehabilitation facility is required to have prosthetics and orthotics services with work space, space for evaluation and fitting, and storage for equipment and supplies under proposed N.J.A.C. 8:43H-24.14.

Proposed N.J.A.C. 8:43H-24.15 requires that each rehabilitation facility shall provide speech-language pathology and audiology services. In each area there shall be offices for therapists, space for evaluation and treatment, and space for equipment and storage.

Proposed N.J.A.C. 8:43H-24.16 requires that dental services include a dental chair with light and drill and a lavatory.

The rehabilitation facility, pursuant to N.J.A.C. 8:43H-24.17, is required to provide a radiology unit which contains a radiographic room, film processing facilities, viewing area, film storage, toilet room, dressing areas, waiting rooms, and holding areas for stretcher patients.

Proposed N.J.A.C. 8:43H-24.18 requires laboratory services, either within the hospital or through contractual arrangement.

Proposed N.J.A.C. 8:43H-24.19 requires that a pharmacy unit, which includes a unit dose drug distribution system, be provided in the rehabilitation facility.

Proposed N.J.A.C. 8:43H-24.20 requires a sterilizing system, to provide sterilized equipment and supplies to the entire facility.

Proposed N.J.A.C. 8:43H-24.21 requires that linen services be provided, either through onsite processing or offsite processing.

Proposed N.J.A.C. 8:43H-24.22 requires housekeeping services with a janitor's closet on each floor, in order to maintain a clean and sanitary environment. In addition, a janitor's closet shall be provided for each nursing unit.

Proposed N.J.A.C. 8:43H-24.23 requires that the rehabilitation facility provide for employees' locker rooms, lounges, toilet and showers. These facilities also must be available for volunteers.

Proposed N.J.A.C. 8:43H-24.24 requires that the engineering service and equipment areas be comparable to those of a general hospital.

Proposed N.J.A.C. 8:43H-24.25 requires that educational services be provided. If a children's unit is part of a rehabilitation facility, it must meet the requirements of the New Jersey Department of Education.

Proposed N.J.A.C. 8:43H-24.26 and 24.27 require details and finishes to accommodate the differing degrees of disability of the patients.

Proposed N.J.A.C. 8:43H-24.28 addresses optional services that the facility may provide to the patient. The services are urology services and personal care services. The personal care service may be provided in a separate room for hair care and grooming needs of patients, with all the appropriate fixtures and utilities needed to perform the services available, or in the patient's bedroom, if offered as part of the rehabilitation process. The urology service shall contain rooms for examinations, treatment and counseling services.

Social Impact

N.J.S.A. 26:2H-1 (as amended) recognizes as "public policy of the State that hospitals and related health care services of the highest quality are of vital concern to the public health." In order to provide for the protection and promotion of the health of inhabitants of the State, comprehensive rehabilitation hospitals of the highest quality and safety must be constructed.

The proposed new rules will provide citizens the assurance that the design and construction of facilities is being monitored and enforced in order to insure that health care is delivered in a safe environment.

The New Jersey State Department of Health, through its delegated authority, is responsible for insuring that health care facilities meet all appropriate construction codes and standards for compliance with State and Federal requirements to guarantee patient safety and to facilitate the services which are being provided.

These rules will be more easily implemented, due to the alternative means of compliance provided in the rules.

The physical plant will be designed to accommodate the specific needs of rehabilitation patients for total accessibility throughout the entire building.

Economic Impact

Implementation of the proposed rules will result in the addition of new costs to the health care system. Certain mandated functional services, which are currently optional, would necessitate increased construction cost. The services provided for by the proposed rules must now be provided onsite, whereas the current rules permit contracting for services offsite. The services which were listed as optional in the previous rules and now being mandated onsite in a comprehensive rehabilitation hospital are sterilizing facilities, physical therapy, occupational therapy, prosthetics and orthotics, speech and hearing, dental, radiology, pharmacy and educational services. The construction cost of a new facility would increase approximately $2,500,000 (per facility), in order to build the physical facilities required by these rules.

In practice, the impact on existing comprehensive rehabilitation hospitals would be minimal. Based on a current survey, many of the services are already being provided as part of the comprehensive programs being offered by facilities currently operating under a Department of Health license.

The proposed rules present provisions which reflect many of the current practices. These rules are in compliance with the construction requirements of the State Uniform Construction Code, N.J.A.C. 5:23.

Regulatory Flexibility Statement

The Department of Health has determined that compliance with proposed N.J.A.C. 8:43H-23 and 24 is necessary for all facilities which provide comprehensive rehabilitation services. Since the proposed new rules are intended to protect the health and safety of patients, the Department recognizes the need to apply the proposed new rules uniformly to all rehabilitation hospitals, regardless of size. It is improbable that any rehabilitation hospital, as defined in the proposed new rules, will have fewer than 100 full-time employees and, therefore, the proposed new rules are not expected to affect small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Full text of the proposed new rules follows:

SUBCHAPTER 23. PHYSICAL PLANT

8:43H-23.1 Standard for construction, alteration, or renovation of rehabilitation facilities

(a) Standards for construction of rehabilitation facilities in new buildings, additions, alterations and renovations to existing buildings shall be in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23 under Use Group I-2 and standards imposed by the United States Department of Health and Human Services (HHS), the New Jersey Departments of Health and the Community Affairs, and the Guidelines for Construction and Equipment of Hospital and Medical Facilities 1987 Edition as published by The American Institute of Architects Press. In order to avoid conflict between N.J.A.C. 5:23 and the other standards listed above, Sections 501.3, 610.4.1, 704.0, 705.0, 706.0, 708.0 and 916.5 of the 1987 BOCA Basic Building Code of the New Jersey Uniform Construction Code shall not govern with respect to health care facilities.

(b) The following standards, in addition to those in (a) above, shall apply to alterations and renovations of existing buildings.

1. When alterations and/or renovations are made within any 12 month period, costing in excess of 50 percent of the physical value of the structure, requirements for new structures shall apply to entire structure, including those portions not altered or renovated.

2. When alterations and/or renovations are made within any 12 month period, costing between 25 percent to 50 percent of the physi-

cal value of the structure, only the altered or renovated area need to conform to the requirements for new structures.

3. When alterations and/or renovations are made within any 12 month period costing less than 25 percent of the physical value of the structure, the New Jersey Department of Health shall determine to what degree the portions so altered or renovated shall be made to conform to the requirements for new structures.

SUBCHAPTER 24. FUNCTIONAL REQUIREMENTS

8:43H-24.1 Provisions for the handicapped

Facilities shall be available and accessible to the physically handicapped, pursuant to New Jersey Uniform Construction Code, N.J.A.C. 5:23-7, Barrier Free Subcode.

8:43H-24.2 Functional service areas

(a) Each rehabilitation facility shall contain the following service areas on site:

1. Medical evaluation services;
2. A psychology service with sexual counseling services;
3. Social work services;
4. Vocational services;
5. Recreation therapy services;
6. Respiratory therapy services;
7. Dietary services with nutritional counseling;
8. Administration services;
9. Nursing services;
10. Physical therapy services;
11. Occupational therapy services with environmental modification services, driver evaluation services and activities of daily living services;
12. Orthotic and prosthetic services;
13. Speech-language pathology and audiology services;
14. Dental services;
15. Radiology services;
16. Laboratory services;
17. Pharmacy services;
18. Sterilization services;
19. Linen services;
20. Housekeeping services;
21. Employees facilities;
22. Engineering service and equipment areas; and
23. Educational services.

(b) The following optional special service areas may be provided, if required by the program.

1. Urology services; and
2. Personal care services.

(c) Each rehabilitation facility shall also comply with the requirements for details and finishes set forth at N.J.A.C. 8:43H-24.26 and 24.27.

8:43H-24.3 Medical evaluation services

(a) The medical evaluation service shall include the following:

1. Office(s) for personnel;

2. Examination rooms, which shall have a minimum floor area of 120 square feet, excluding such spaces as the vestibule, toilet, closet, and work counter (whether fixed or movable). The minimum room dimension shall be 10 feet. The room shall contain a lavatory or sink equipped for handwashing, a work counter, storage facilities and a desk, counter, or shelf space for writing; and

3. Evaluation room areas, which shall be arranged to permit appropriate evaluation of patient needs and progress and to determine specific programs of rehabilitation. Rooms shall include a desk and work area for the evaluators; writing and workspace for patients; and storage for supplies. Where the facility is small and the workload light, evaluation may be done in the examination room(s).

8:43H-24.4 Psychology services

The psychology services unit shall include offices and workspace for testing, evaluation and counseling.

8:43H-24.5 Social work services

The social work services unit shall include office space(s) for private interviewing and counseling, waiting space, record storage space and secretarial office space.

8:43H-24.6 Vocational services

The vocational services unit shall contain office(s) and workspace for evaluation, counseling and placement.

8:43H-24.7 Patient dining, recreation therapy and day spaces

(a) Patient dining, recreation therapy and day spaces may be in separate or adjoining spaces and it shall be possible for both dining and recreation to occur simultaneously.

(b) For inpatients and residents, a total of 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100 shall be provided for patient dining, recreation therapy and day spaces.

(c) An indoor and an outdoor recreation area shall be provided.

(d) For outpatients in medical day and/or day hospitalization, a total of 20 square feet per person shall be provided, if dining is part of the day care program. If dining is not part of the program, at least 10 square feet per person for recreation and day spaces shall be provided.

(e) Storage spaces shall be provided for recreational equipment and supplies.

(f) An office for the recreation therapist shall be provided.

8:43H-24.8 Respiratory therapy services

(a) Respiratory therapy services may be provided as a separate area or at the patient's bedside.

1. A separate area shall include:
i. Office and clerical space;
ii. Convenient access to staff toilets, lounge, lockers and showers;
iii. A conference room;
iv. Storage for equipment and supplies; and
v. Space and utilities for cleaning and sanitizing equipment.

2. If respiratory therapy services are provided at the patient's bedside, there shall be storage in the patient's room for equipment and supplies.

8:43H-24.9 Dietary services and nutritional counseling

(a) The construction, equipment, and installation of food service facilities shall meet the requirements of the functional program. Services may consist of an onsite conventional food preparation system, a convenience food service system, or an appropriate combination thereof. The following facilities shall be provided as required to implement the food service selected:

1. A control station for receiving food supplies;

2. Storage facilities for four days' food supply, including cold storage items;

3. Food preparation facilities as follows:

i. Conventional food preparation systems with space and equipment for preparing, cooking, and baking;

ii. Convenience food service systems; such as frozen prepared meals, bulk packaged entrees, individually packaged portions, and contractual commissary services with space and equipment for thawing, portioning, cooking, and/or baking;

4. Handwashing facility(ies) located in the food preparation area;

5. Patient meal service facilities for tray assembly and distribution;

6. Dining space for staff and visitors;

7. Warewashing space, which shall be located in a room or an alcove separate from food preparation and serving area. Commercial dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, and stacking soiled tableware and separate area for transferring clean tableware to the using areas. A lavatory shall be conveniently available;

8. Potwashing facility(ies);

9. Storage areas for cans, carts, and mobile tray conveyors;

10. Waste storage facility(ies) which shall be located in a separate room easily accessible to the outside for direct waste pickup or disposal;

11. Office(s) or desk space(s) for dietitian(s) or the dietary service manager;

12. Toilets for dietary staff with handwashing facility(ies), which shall be immediately available;

13. A janitor's closet located within the dietary department and containing a floor receptor or service sink and storage space for housekeeping equipment and supplies; and

14. Self-dispensing icemaking facilities, which may be in an area or room separate from the food preparation area, but must be easily cleanable and convenient to dietary facilities.

(b) Nutritional counseling shall be provided in the dietitian's office, or conference room or patient bedroom, based on program.

8:43H-24.10 Administration services

(a) A grade-level entrance, sheltered from the weather and able to accommodate wheelchairs, shall be provided which conforms to the requirements of N.J.A.C. 5:23-7.

(b) A lobby shall be provided which shall include:

1. Wheelchair storage space(s);
2. A reception and information counter or desk;
3. Waiting space(s);
4. Public toilet facility(ies);
5. Public telephone(s); and
6. Drinking fountain(s).

(c) Interview space(s) for private interviews relating to social service, credit, and admissions shall be provided.

(d) General or individual office(s) for business transactions, records, and administrative and professional staffs shall be provided.

(e) Multipurpose room(s) shall be provided for conferences, meetings, health education, and library services.

(f) Special storage shall be provided for employees' personal effects.

(g) Separate space for office supplies, sterile supplies, pharmaceutical supplies, splints and other orthopedic supplies, and housekeeping supplies and equipment shall be provided.

8:43H-24.11 Nursing services

(a) The maximum size of an adult unit or pediatric unit shall be 30 beds.

(b) Each patient room shall meet the following requirements:

1. Maximum room occupancy shall be four patients. At least two single-bed rooms with private toilet rooms shall be provided for each nursing unit.

2. Each patient shall have a minimum room area exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules of 125 square feet in single-bed rooms and 100 square feet per bed in multi-bed rooms.

3. Each bedroom shall have a space for a wheelchair to make a 180 degree turn, which is a clear space of 60 inches in diameter.

4. Each one-bed room shall have a minimum clear floor space of 36 inches along each side of bed and 42 inches between the foot of the bed and the wall.

5. Each two-bed room shall have a minimum clear floor space of 42 inches between the foot of bed and the wall, 36 inches between the side of bed and the wall and 48 inches between beds.

6. Each four-bed room shall have a minimum clear floor space of 48 inches from the foot of the bed to the foot of the opposing bed, 36 inches between side of bed and the wall and 48 inches between beds.

7. Each patient sleeping room shall have a window.

8. A nurses' calling system shall be provided as follows:

i. Each patient room shall be served by at least one calling station for two way voice communications;

ii. Each bed shall be provided with a call button;

iii. Two call buttons serving adjacent beds may be served by one calling station;

iv. Calls shall activate a visible signal in the corridor at the patient's door; and

v. Nurses' call emergency system shall be provided at each inpatient toilet, bath, sitz bath and shower room. The call system shall be designed so that a signal light activated at the calling patients' station will remain lighted until turned off at the patients' calling station.

9. In new construction, handwashing facilities shall be provided in each patient room. In renovations and modernization, the lavatory may be omitted from the bedroom where a water closet and lavatory are provided in a toilet room designed to serve one single-bed room, or one two-bed room.

10. Each patient shall have access to a toilet room without having to enter the general corridor area. One toilet room shall serve no more than four beds and no more than two patient rooms. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room that serves single-bed and two-bed rooms if each such patient's room contains a lavatory.

11. Each patient shall have a wardrobe, closet, or locker with minimum clear dimensions of one foot 10 inches by one foot eight inches, suitable for hanging full-length garments. A clothes rod and adjustable shelf shall be provided.

12. Visual privacy shall be provided for each patient in multi-bed rooms with cubicle curtains between beds.

(c) The service areas noted below shall be in or readily available to each nursing unit. Although identifiable spaces are required for each indicated function, consideration will be given to alternative designs that accommodate some functions without designating specific areas or rooms. Each service area may be arranged and located to serve more than one nursing unit, but at least one such service area shall be provided on each nursing floor. The following service areas shall be provided:

1. An administrative center or nurses' station;
2. A nurses' office;
3. Storage for administrative supplies;
4. Handwashing facilities located near the nurses' station and the drug distribution station. One lavatory may serve both areas;
5. Charting facilities for staff;
6. A lounge and toilet room(s) for staff;
7. Individual closets or compartments for safekeeping the personal effects of nursing personnel, located convenient to the duty station or in a central location;
8. A room for examination and treatment of patients. This room may be omitted if all patient rooms are single-bed rooms. It shall have a minimum floor area of 120 square feet, excluding space for vestibules, toilet, closets, and work counters (whether fixed or movable). The minimum room dimension shall be 10 feet. The room shall contain a lavatory or sink equipped for handwashing, work counter, storage facilities, and a desk, examination table, counter, or shelf space for writing. The examination room in the evaluation unit may be used if it is in the immediate area;
9. A clean workroom or clean holding room;
10. A soiled workroom or soiled holding room;
11. A drug distribution station. Provisions shall be made for convenient and prompt 24-hour distribution of medicine to patients. Distribution may be from a medicine preparation room, a self-contained medicine dispensing unit, or through another approved system. If used, a medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located at a nurses station, in the clean workroom, or in an alcove or other space under visual observation of nursing or pharmacy staff;
12. Clean linen storage with a separate closet or an area within the clean workroom provided for this purpose. If a closed-cart system is used, storage may be in an alcove;
13. A nourishment station, which shall contain a sink for handwashing, equipment for serving nourishment between scheduled meals, a refrigerator, storage cabinets, and icemaker-dispenser units;
14. An equipment storage room for equipment such as I.V. stands, inhalators, air mattresses, and walkers; and
15. Parking for stretchers and wheelchairs which shall be located out of the path of normal traffic.

(d) Bathtubs or showers shall be provided at a ratio of one bathing facility for each eight beds not otherwise served by bathing facilities within patient rooms. At least one island-type bathtub shall be provided in each nursing unit. Each tub or shower shall be in an individual room or privacy enclosure that provides space for the private use of bathing fixtures, for drying and dressing, and for a wheelchair and an assistant. Showers in central bathing facilities shall be at least four feet square, curb-free, and designed for use by a wheelchair patient.

(e) Patient toilet facilities shall be as follows:

1. The minimum dimensions of a room containing only a toilet shall be three feet by six feet clear space; additional space shall be provided if a lavatory is located within the same room. Toilets must be usable by wheelchair patients;

2. At least one room on each floor containing a nursing unit(s) shall be provided for toilet training. It shall be accessible from the corridor. A minimum clearance of three feet shall be provided at the front and at each side of the toilet. This room shall also contain a lavatory;

3. A toilet room that does not require travel through the general corridor shall be accessible to each central bathing area;

4. Doors to toilet rooms shall have a minimum width of two feet 10 inches to admit a wheelchair. The doors shall permit access from the outside in case of an emergency and swing outward; and

5. A handwashing facility shall be provided for each water closet in each multifixture toilet room.

8:43H-24.12 Physical therapy services

(a) The following shall be provided in physical therapy services;

1. Office space;

2. Waiting space;

3. Treatment area(s);

i. For thermotherapy, diathermy, ultrasonics, respiratory therapy, hydrotherapy, and other treatments performed in a physical therapy unit, cubicle curtains around each individual treatment area shall be provided. Handwashing facility(ies) shall also be provided. One lavatory or sink may serve more than one cubicle. Facilities for collection of wet and soiled linen and other material shall be provided.

4. An exercise area;

5. Storage for clean linen, supplies, and equipment;

6. Patients dressing areas, showers, lockers, and toilet rooms; and

7. Wheelchair and stretcher storage.

(b) The areas designated in (a)1, 2, 5, 6 and 7 above may be planned and arranged for shared use by occupational therapy patients and staff if the functional program reflects this sharing concept.

8:43H-24.13 Occupational therapy services

(a) The following shall be provided in an occupational therapy service unit:

1. Office space;

2. Waiting space;

3. Activity areas, which shall have provisions for a sink or lavatory;

4. Storage for supplies and equipment;

5. Patients dressing areas, showers, lockers, and toilet rooms;

6. Space for driver evaluation;

7. An environmental modification area (bio-engineering rehabilitation therapy); and

8. Activities for daily living.

i. An area for teaching the activities of daily living shall be provided. The area shall include a bedroom, bath, and kitchen space with stove.

(b) The areas designated in (a)1, 2, 4, 5 and 8 above may be planned and arranged for shared use by physical therapy patients and staff, if the functional program reflects this sharing concept.

8:43H-24.14 Prosthetics and orthotics services

(a) The following shall be provided in a prosthetic and orthotic service:

1. Workspace for technician(s);

2. Space for evaluation and fitting which shall include provision for privacy; and

3. Space for equipment, supplies, and storage.

8:43H-24.15 Speech-language pathology and audiology services

(a) The following shall be provided in speech-language pathology and audiology services:

1. Office(s) for therapists;

2. Space for evaluation and treatment; and

3. Space for equipment and storage.

8:43H-24.16 Dental services

(a) A dental unit shall contain a dental chair with light and drill, and lavatory.

(b) If the program does not require a room, a portable chair may be used.

8:43H-24.17 Radiology services

(a) A radiology service shall contain the following:

1. Radiographic room(s);

2. Film processing facilities;

3. Viewing and administration area(s);

4. Film storage facilities;

5. A toilet room with handwashing facility;

6. Dressing area(s) conveniently accessible to toilets;

7. A waiting area; and

8. A holding area for stretcher patients.

(b) A portable x-ray with film processing facilities may be used, if required by program.

8:43H-24.18 Laboratory services

(a) Laboratory services shall be provided within the rehabilitation hospital or through contract arrangement with a hospital or laboratory service for hematology, clinical chemistry, urinalysis, cytology, pathology, and bacteriology.

1. If laboratory services are provided on-site the following shall be the minimum provided:

i. Laboratory work counter(s) with a sink, and gas and electric service;

ii. Handwashing facilities;

iii. Storage cabinet(s) or closet(s);

iv. Specimen collection facilities. Urine collection rooms shall be equipped with a water closet and lavatory. Blood collection facilities shall have space for a chair and work counter; and

v. Refrigerator.

8:43H-24.19 Pharmacy services

(a) Provisions shall be made for the following functional areas in the pharmacy unit:

1. Dispensing area with handwashing facility;

2. An area for compounding; and

3. Locked storage areas.

8:43H-24.20 Sterilization services

Where required by the functional program, a system for sterilizing equipment and supplies shall be provided.

8:43H-24.21 Linen services

(a) If linen is to be processed on the site, the following shall be provided:

1. A laundry processing room with commercial equipment that can process seven days' laundry within a regularly scheduled workweek, with handwashing facilities;

2. A soiled linen receiving, holding, and sorting room with handwashing and cart-washing facilities;

3. Storage for laundry supplies;

4. A clean linen storage, issuing, and holding room or area; and

5. A janitor's closet, containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(b) If linen is processed off the rehabilitation facility site, the following shall be provided:

1. A soiled linen holding room; and

2. A clean linen receiving, holding, inspection, and storage room(s).

8:43H-24.22 Housekeeping services

A janitor's closet shall be provided for each nursing unit. It may service two nursing units if they are on the same floor and adjacent to each other. In addition, janitor's closets shall be provided throughout the facility as required to maintain a clean and sanitary environment.

8:43H-24.23 Employees facilities

Employee facilities, such as lockers, lounges, and toilets, shall be provided for employees and volunteers.

8:43H-24.24 Engineering service and equipment areas

(a) Equipment room(s) for boilers, mechanical equipment, and electrical equipment shall be provided.

(b) Storage rooms for building maintenance supplies and yard equipment shall be provided.

(c) Space and facilities shall be provided for the sanitary storage and disposal of waste. If provided, design and construction of incinerators and trash chutes shall conform to the requirements prescribed by the New Jersey Department of Environmental Protection.

8:43H-24.25 Educational services

Space shall be provided for educational services. In a pediatric unit, there shall be classroom(s) for pediatric patients as required by the New Jersey Department of Education.

8:43H-24.26 Details

(a) Compartmentation, exits, automatic extinguishing systems, and other details relating to fire prevention and fire protection in inpatient rehabilitation facilities shall comply with requirements listed in the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(b) Items such as drinking fountains, telephone booths, vending machines and portable equipment shall not restrict corridor traffic or reduce the corridor width below the required minimum.

(c) Rooms containing bathtubs, sitz baths, showers, and water closets which are subject to patient use shall be equipped with doors and hardware that will permit access from the outside in an emergency. When such rooms have only one opening, the doors shall open outward or be otherwise designed to open without pressing against a patient who may have collapsed within the room.

(d) Minimum width of all doors to rooms needing access for beds shall be three feet eight inches. Doors to rooms requiring access for stretchers and doors to patient toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of two feet 10 inches. Where the functional program states that the sleeping facility will be for residential use (and therefore not subject to in-bed patient transport), patient room doors may be three feet wide, if approved by the New Jersey Department of Health.

(e) Doors between corridors and rooms or those leading into spaces subject to occupancy, except elevator doors, shall be swing-type. Openings to showers, baths, patient toilets, and other small wet areas not subject to fire hazard are exempt from this requirement.

(f) Doors, except those to spaces such as small closets not subject to occupancy, shall not swing into corridors in a manner that obstructs traffic flow or reduces the required corridor width.

(g) Windows shall be designed to prevent accidental falls when open, or shall be provided with security screens where deemed necessary by the functional program.

(h) Windows and outer doors that may be frequently left open shall be provided with insect screens.

(i) Patient rooms intended for occupancy shall have windows that operate without the use of tools and shall have sills not more than three feet above the floor.

(j) Doors, sidelights, borrowed light, and windows glazed to within 18 inches of the floor shall be constructed of safety glass, wired glass, or plastic glazing material that resists breaking or creates no dangerous cutting edges when broken. Similar materials shall be used in wall openings of playrooms and exercise rooms. Safety glass or plastic glazing material shall be used for shower doors and bath enclosures.

(k) Linen and refuse chutes shall comply with the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(l) Thresholds and expansion joint covers shall be flush with the floor surface, to facilitate use of wheelchairs and carts.

(m) Grab bars shall be provided at all patient toilets, bathtubs, showers, and sitz baths. The bars shall have one and one-half inches clearance to walls and shall be sufficiently anchored to sustain a concentrated load of 250 pounds. Special consideration shall be given to shower curtain rods which may be momentarily used for support.

(n) Recessed soap dishes shall be provided in showers and bathrooms.

(o) Handrails shall be provided on both sides of corridors used by patients. A clear distance of one and one-half inches shall be provided between the handrail and wall, and the top of the rail shall be 32 inches above the floor.

(p) Ends of handrails and grab bars shall be constructed to prevent snagging the clothes of patients.

(q) The location and arrangement of handwashing facilities shall permit proper use and operation. Particular care shall be given to clearance required for blade-type operating handles. Lavatories intended for use by handicapped patients shall be installed to permit wheelchairs to fit under them.

(r) Mirrors shall be arranged for use by wheelchair patients as well as by patients in a standing position.

(s) Provisions for hand drying shall be included at all handwashing facilities.

(t) Lavatories and handwashing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 pounds on the front of the fixture.

(u) Radiation protection requirements of x-ray and gamma ray installations shall conform to applicable State and local laws. Provisions shall be made for testing the completed installation before use. All defects shall be corrected before use of equipment.

(v) The minimum ceiling height shall be seven feet 10 inches, with the following exceptions:

1. Boiler rooms shall have a ceilng clearance not less than two feet six inches above the main boiler header and connecting piping.

2. Ceilings of radiographic and other rooms containing ceiling-mounted equipment, including those with ceiling-mounted surgical light fixtures, shall have sufficient height to accommodate the equipment and/or fixtures.

3. Ceilings in corridors, storage rooms, toilet rooms, and other minor rooms shall not be less than seven feet eight inches.

4. Suspended tracks, rails, and pipes located in the path of normal traffic shall not be less than six feet eight inches above the floor.

(w) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over patient bed areas unless special provisions are made to minimize such noise.

(x) Rooms containing heat-producing equipment (such as boiler or heater rooms and laundries) shall be insulated and ventilated to prevent any floor surface above and below from exceeding a temperature 10 degrees Fahenheit (six degrees Celsius) above the ambient room temperature.

(y) Noise reduction criteria shown in Table 1 of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as published by the American Institute of Architects Press, incorporated herein by reference, shall apply to partition, floor, and ceiling construction in patient areas.

8:43H-24.27 Finishes

(a) Cubicle curtains and draperies shall be noncombustible or rendered flame retardant.

(b) Floor materials shall be readily cleanable and wear resistant for the location. Floors in food preparation or assembly areas shall be water resistant. Joints in tile and similar material in such areas shall also be resistant to food acids. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors subject to traffic while wet, such as shower and bath areas, kitchens, and similar work areas, shall have a non-slip surface.

(c) Wall bases in kitchens, soiled workrooms and other areas that are frequently subject to wet cleaning methods shall be monolithic and coved with the floors, tightly sealed within the wall, and constructed without voids that can harbor insects.

(d) Wall finishes shall be washable and, in the proximity of plumbing fixtures, shall be smooth and moisture-resistant. Finish, trim, and floor and wall construction in dietary and food preparation areas shall be free from spaces that can harbor pests.

(e) Floor and wall areas penetrated by pipes, ducts, and conduits shall be tightly sealed to minimize entry of pests. Joints of structural elements shall be similarly sealed.

(f) Ceilings throughout shall be readily cleanable. All overhead piping and ductwork in the dietary and food preparation area shall be concealed behind a finished ceiling. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

(g) Acoustical ceilings shall be provided for corridors in patient areas, nurses stations, dayrooms, recreational rooms, dining areas, and waiting areas.

8:43H-24.28 Optional services

(a) If a urology service is provided it shall include:

1. One hundred square feet per examination table in the urology unit, with cubicle curtains for each patient for privacy, if more than one table is provided;
2. Storage space for equipment:
3. A handwashing sink;
4. A soiled utility room with lavatory;
5. Office space;
6. A charting area; and
7. A storage area for supplies.

(b) If personal care services for inpatients are provided, a separate room with appropriate fixtures and utilities shall be provided for patient grooming. This function can be performed in patient's bedroom, if part of his or her rehabilitation program.

(a)

DIVISION OF OCCUPATIONAL AND ENVIRONMENTAL HEALTH

Worker and Community Right to Know Act Hazardous Substance List Special Health Hazard Substance List

Pre-Proposal for Repeal and New Rule: N.J.A.C. 8:59, Appendix A and Appendix B

Authority: N.J.S.A. 34:5A-1 et seq., specifically N.J.S.A. 34:5A-30.

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

Pre-Proposal Number: PPR 1989-3.

A **public hearing** concerning the pre-proposal will be held on June 2, 1989 from 10:00 A.M. to 10:00 P.M. at:

Auditorium
Institute for Management and Labor Relations
Rutgers University
Ryders Lane
New Brunswick, N.J. 08903

Submit written comments by June 14, 1989 to:

Richard Willinger, Manager
Right to Know Program
Division of Occupational and Environmental Health
New Jersey Department of Health
CN 368
Trenton, NJ 08625
(609) 984-2202

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:59, Appendix A and Appendix B, expire on October 1, 1989.

Summary

Appendix A was originally adopted on June 18, 1984 and Appendix B was originally adopted on October 1, 1984, to implement the requirements of the Worker and Community Right to Know Act, N.J.S.A. 35:5A-1 et seq., Appendix A was amended on October 1, 1984.

Appendix A contains a list of hazardous substances which pose a threat to the health or safety of public employees, emergency responders and community residents. The list is called the Workplace Hazardous Substance List. However, since the list also incorporates the Environmental Hazardous Substance List and Hazardous Materials Tables regulated by the Department of Environmental Protection in their implementation of Community Right to Know, and the chemicals overlap, the list is pre-proposed for re-designation as the Right to Know Hazardous Substance List.

Appendix B contains a list of hazardous substances "which, because of their known carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity, or reactivity pose a special hazard to health and safety" of public employees, emergency responders and community residents. This list is called the Special Health Hazard Substance List.

The significance of a substance being listed on the Right to Know Hazardous Substance List is that it must be reported on the Right to Know Survey (for public employers) or Community Right to Know Survey (for private employers). These substances must also be listed on all container labels if present in more than 1.0 percent of a mixture.

The significance of a substance being listed on the Special Health Hazard Substance List, which meets the criteria of N.J.A.C. 8:59-10, is that a covered employer cannot claim trade secrecy for that substance and must report it on the Right to Know Survey (for public employers) and Community Right to Know Survey (for private employers), and list its chemical name on container labels. Special health hazard substances that are carcinogens, mutagens or teratogens must be listed on container labels if present in a mixture at more than 0.1 percent.

N.J.A.C. 8:59-1 to 10, which implements the Right to Know Act is being proposed for readoption, with amendments, elsewhere in this issue of the New Jersey Register. The justification for these rules and their effectiveness is covered in detail in the notice of proposal for readoption of N.J.A.C. 8:59-1 to 10. Appendix A and Appendix B have been separated from the rest of the rules because they will be repealed and adopted as new rules, due to the hundreds of changes being made to both the Right to Know Hazardous Substance and Special Health Hazard Substance Lists.

The Department conducted an internal review of the rules prior to noticing for pre-proposal of repeal and adoption of new rules. In its review of the rules, the Department determined that the rules adequately and reasonably provide the ability to execute the intent of the state statute. Additional public comment and review will occur as a result of the pre-proposal and subsequent proposal process.

The rules are necessary and should be continued because of the ongoing need for workers, emergency responders and community residents to know where hazardous substances are kept in their community and workplace, what their hazards are and how to respond to them, and whether they should seek medical attention, change work practices, or change their living conditions as a result of exposure or potential exposure to hazardous substances.

Appendix A has been amended once since June 18, 1984. On October 1, 1984, the rule was amended to change the numbering of several sections, 32 substances were added to the list, five substances were deleted from the list, and 17 substances had Source Numbers either added or deleted from their listing (see 16 N.J.R. 2555(a)).

The Department is now pre-proposing the addition and deletion of substances to the Right to Know Hazardous Substance List and Special Health Hazard Substance List, to add and delete special health hazard codes to the Special Health Hazard Substance List, and to add and delete Substance Numbers, DOT numbers, Chemical Abstracts Service numbers and Reference Source numbers to the Right to Know Hazardous Substance List.

The proposed changes to Appendix A and Appendix B are in the form of a pre-proposal because of existing regulatory requirements. According to N.J.A.C. 8:59-9.3(d), "Annual revisions to the [Right to Know] Hazardous Substance List proposed by the Department shall be submitted to the Advisory Council for review and shall be published in the New Jersey Register as a notice of preproposal for a rule pursuant to the requirements of N.J.A.C. 1:30-3.2."

Furthermore, under N.J.A.C. 8:59-9.3(f) "Notice of proposed revisions to the [Right to Know] Hazardous Substance List shall be published . . . in the New Jersey Register as a proposed amendment to these rules in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. At least 30 days shall be allowed for public comment. A public hearing shall be held, if, in the Department's determination, there is significant public interest in the proposal."

Therefore, the actual additions, deletions and modifications of substances to the Right to Know Hazardous Substance List (Appendix A) and Special Health Hazard Substance List (Appendix B) are not being proposed as an amendment at this time. This publication shall be considered to be the notice of pre-proposal for a rule amendment to Appendix A and Appendix B. The actual proposed amendments will be made at a later time.

However, in order to expedite the amendment of Appendix A and Appendix B, the public hearing scheduled for June 2, 1989 to consider rule amendments to subchapters 1-10 (except subchapter 3) and proposed

new rule subchapter 11, will also serve as a public hearing on the changes being proposed to the Right to Know Hazardous Substance List and Special Health Hazard Substance List in this pre-proposal for rule amendment.

Appendix A—Right to Know Hazardous Substance List

The Department proposes to add more than 400 hazardous substances to the Right to Know Hazardous Substance List. Most of these substances come from the U.S. Department of Transportation's Hazardous Materials Table, Part 172.101 (Source #3), and the U.S. Department of Transportation's Emergency Response Guidebook (Source #17). Others are cited by new sources being added to the List, all from the U.S. Environmental Protection Agency—List of Acute Toxic Chemicals (Source #16), Section 313 List of Toxic Chemicals from SARA—Title III (Source #18), List of Extremely Hazardous Substances from CERCLA (Source #20), and the RCRA List of Hazardous Wastes (Source #21).

In addition, the Department proposes to add approximately 468 generic categories of hazardous substances and materials to the Right to Know Hazardous Substance List. These substances are cited by the U.S. Department of Transportation's Hazardous Materials Tables, Parts 172.101 and 172.102 (Soure #3) and the U.S. Department of Transportation's Emergency Response Guidebook (Source #17).

The Department also proposes to add several hundred synonyms to the Right to Know Hazardous Substance List in order to enable employers, employees and the public to find hazardous chemicals that are commonly known by more than one common name. Some of the synonyms have Chemical Abstracts Service numbers after them to reflect the fact that there are different isomers of chemicals that are known by the same common name. The addition of synonyms makes it easier for employers to find hazardous substances on the List, as well as making it easier to label, since these synonym names will be allowed to be used on labels.

A new column of information has been added to the Right to Know Hazardous Substance List to benefit emergency responders. This column provides the U.S. Department of Transportation Number.

The reference source citations are being updated to reflect the most current edition of the cited publication—for the OSHA Subpart Z Table, the ACGIH TLV publication, NIOSH recommended health standards, the NTP annual report, and an updating of the IARC Monographs.

The new reference sources, and their attendant hazardous substances, being added to the Right to Know Hazardous Substance List include:

Source #16—List of Acutely Toxic Chemicals, Chemical Emergency Preparedness Program, U.S. Environmental Protection Agency, November 1985.

Source #17—Emergency Response Guidebook, Materials Transportation Bureau, U.S. Department of Transportation, 1987.

Source #18—List of Toxic Chemicals, Section 313, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 52 FR 21151.

Source #19—List of Extremely Hazardous Substances, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part 300, Subpart I—Emergency Planning and Community Right to Know, Appendix D, 52 FR 13378, November 14, 1986.

Source #20—List of Hazardous Substances and Reportable Quantities (RQ), Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), U.S. Environmental Protection Agency, 40 CFR Part 302, Table 302.4, amended in 51 FR 34541, September 29, 1986.

Source #21—Hazardous Wastes from the P and U Lists, Resource Conservation and Recovery Act (RCRA), U.S. Environmental Protection Agency, 40 CFR 261.33.

All of these new reference sources are from the U.S. Environmental Protection Agency with the one exception from the U.S. Department of Transportation. Some were prepared for puroses of hazardous chemical contamination of the environment while some were meant to address both environmental contamination and workplace and emergency responder exposures. Most of the chemicals on these new reference sources are already on the Right to Know Hazardous Substance List, however, some are new additions to the List.

Some changes have also been made to the text of N.J.A.C. 8:59-9 which creates the Right to Know Hazardous Substance List. See the proposal for readoption with amendments of N.J.A.C. 8:59-9 elsewhere in this issue of the New Jersey Register for a description of these changes.

The revised Right to Know Hazardous Substance List being printed herein incorporates all of the additions, deletions and modifications of hazardous substances to the List; there is no separate list of additions, deletions and modifications. The public can obtain additional copies of the revised Right to Know Hazardous Substance List from the address listed at the beginning of this pre-proposal. Copies are also available on diskette in DBase III + or ASHII for $25.00 (to cover costs).

Appendix B—Special Health Hazard Substance List

The Department proposes to add special health hazard codes to 59 substances. Of these substances, 11 are already on the List because of existing special health hazard codes, while 48 are being added to the List for the first time.

Of the 48 new substances being added to the Special Health Hazard Substance List, 17 are flammable, nine are carcinogens, seven are mutagens, seven are both flammable and reactive, two are reactive, three are teratogens, two are corrosive, and one is both carcinogenic and teratogenic.

The Department proposes to delete special health hazard codes from 11 substances. Of these substances, six will remain on the List because they have other special health hazard code designations.

Of the remaining five substances which will be deleted from the Special Health Hazard Substance List, three substances were formerly designated as mutagens, one substance was formerly designated as a carcinogen, and one substance was formerly designated as a corrosive.

To summarize the above changes, 48 new substances are being added to the Special Health Hazard Substance List and five substances are being deleted from the List. The remaining 17 substances had special health hazard codes added, deleted or modified.

The justification for the addition and deletion of special health hazard code designations for flammable, reactive and corrosive substances comes from the U.S. Environmental Protection Agency (Sources #16, 18, 19, 20 and 21), the National Fire Protection Association's National Fire Codes (Source #15), and other sources.

The Department is adding and deleting special health hazard code designations for carcinogens, mutagens and teratogens because new information has come to the attention of the Department from the reference sources cited in the Right to Know Hazardous Substance List and other sources, which indicates that the substances being so designated meet or no longer meet the criteria for carcinogen, mutagen and teratogen set forth in subchapter 10, specifically N.J.A.C. 8:59-10.2(a)1, 2, and 3, respectively.

The revised Right to Know Hazardous Substance List printed herein incorporates the Special Health Hazard Substance List additions and deletions.

Appendix A and Appendix B

The page which contains an explanation of column headings used in the combined Right to Know Hazardous Substance List/Special Health Hazard Substance List has been substantially revised and rewritten.

Six new reference sources have been added to the list of Reference Sources, Sources #16 to #21, and corrections have been made to Sources #12 and #13.

Social Impact

The social effect of these rules would be significantly greater protection of the health and welfare of New Jersey's public employees, emergency responders and citizens, because a greater number of hazardous substances will now be reported and labeled in workplaces.

See the Social Impact statement in the Proposed Readoption with amendments of N.J.A.C. 8:59-1, 2, 4, 5, 6, 7, 8, 9, 10, elsewhere in this publication, for a more detailed explanation of the social impact of the implementation of the Worker and Community Right to Know Act.

It would be deleterious to the implementation of the statute if these rules were not adopted once they are proposed as new rules, and it would severely jeopardize the Department's ability to protect the health and safety of public employees, emergency responders and residents of this State.

Economic Impact

There would be no economic impact from the eventual proposal and adoption of these rules for two reasons: (1) Public employers are already voluntarily reporting and labeling 97 percent of the substances on the Right to Know Hazardous Substance List being pre-proposed herein, and (2) Private employers are already reporting 100 percent of the substances on the Right to Know Hazardous Substance List being pre-proposed herein because all of the chemicals on the list meet the criteria of the OSHA Hazard Communication Standard for chemicals that must be reported on Community Right to Know Surveys pursuant to the Superfund Amendments and Reauthorization Act (SARA), Title III. All of the generic categories of substances on the List are already required to be reported by the Department of Environmental Protection pursuant to the New Jersey Right to Know Act.

Regulatory Flexibility Statement

The pre-proposed appendices do not, in and of themselves, impose any reporting, recordkeeping or compliance requirements on small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Any such requirements affecting small businesses in the private sector are set forth in proposed new N.J.A.C. 8:59-11, published elsewhere in this issue of the New Jersey Register. For an explanation of those requirements, refer to the Regulatory Flexibility Analysis in that notice of proposal.

Full text of the pre-proposed new rules follows:

Full text of the pre-proposed repeals may be found in the New Jersey Administrative Code at N.J.A.C. 8:59 Appendices A and B.

APPENDIX A AND APPENDIX B
RIGHT TO KNOW HAZARDOUS SUBSTANCE LIST AND SPECIAL HEALTH HAZARD SUBSTANCE LIST

Explanation of Column Headings—

Substance Number—A four-digit number assigned to each hazardous substance and used for reporting purposes. These numbers are not in sequence.

syn— Indicates that the name listed is a synonym and you must refer to the second name listed—"see ____"—to report substance.

gen— Indicates that the name listed is a generic name. A generic name is not as specific as a common name and refers to more than one substance sharing similar properties.

chg— Indicates that the CAS number, common name or chemical name of this substance has been changed since the publication of the Workplace Hazardous Substance List in 1984. Use the new listing.

#— Indicates a substance on the Special Health Hazard Substance List.

Common name/chemical name—The name on the first line is the common name for the substance; the name on the second line is the chemical name. When there is only one name, the common and chemical names are the same.

*—Indicates continuation of name from previous line.

CAS number—Chemical Abstracts Service number.

DOT number—A four-digit number used by the U.S. Department of Transportation. A "+" after a DOT number indicates that this substance may have more than one DOT number. If this number is different from the one provided by your supplier, use the one provided by your supplier.

Special Health Hazard Codes—These codes (SHH codes) are on the top line of the right column and refer to the hazardous categories of the substances:

CA—Carcinogen	F4—Flammable—Fourth Degree
MU—Mutagen	F3—Flammable—Third Degree
TE—Teratogen	R4—Reactive—Fourth Degree
CO—Corrosive	R3—Reactive—Third Degree
	R2—Reactive—Second Degree

The carcinogenic, mutagenic and teratogenic substances are special health hazard substances when present as pure substances or in mixtures at a concentration of one-tenth of one percent (0.1%) or greater. The flammable, reactive/explosive, and corrosive substances are special health hazard substances when present as pure substances or present at a concentration of one percent or greater in a mixture which meets the hazard criteria as defined in N.J.A.C. 8:59-10.2(A).

Source Number(s)—The source numbers correspond to the references listed in the reference sources section. The source numbers are located in the right column, one line below the common name.

RIGHT TO KNOW HAZARDOUS SUBSTANCE LIST

SUBSTANCE NUMBER		COMMON NAME CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
	syn	ACACIA see GUM ARABIC			
2056	gen	ACCUMULATORS, PRESSURIZED		1956	3
2958		ACENAPHTHENE	83-32-9		20
2959		ACENAPHTHYLENE	208-96-8		20
2057		ACETAL	105-57-7	1088	3
0001	#	ACETALDEHYDE	75-07-0	1089	(F4,MU,R2) 1 2 3 6 15 18 20 21
0002		ACETALDEHYDE AMMONIA ETHANOL, 1-AMINO-	75-39-8	1841	3
0003		ACETALDEHYDE OXIME ACETALDEHYDE, OXIME	107-29-9	2332	3
	syn	ACETALDEHYDE, TRICHLORO- see CHLORAL			
	syn	ACETALDOXIME see ACETALDEHYDE OXIME			
2890		ACETAMIDE	60-35-5		18
	syn	ACETAMIDE, N-(4-ETHOXYPHENYL)- see PHENACETIN			
2960		ACETAMIDE, N-(AMINOTHIOXOMETHYL)- ACETIC ACID	591-08-2		20 21
0004	#		64-19-7	2789+	(CO) 1 2 3 15 20
0005	#	ACETIC ANHYDRIDE ACETIC ACID, ANHYDRIDE	108-24-7	1715	(CO) 1 2 3 4 15 20
	syn	ACETOIN see ACETYL METHYL CARBINOL			
0006	#	ACETONE 2-PROPANONE	67-64-1	1090	(F3) 1 2 3 4 15 18 20 21
0007	#	ACETONE CYANOHYDRIN PROPANENITRILE, 2-HYDROXY-2-METHYL-	75-86-5	1541	(R2) 3 4 15 16 19 20 21
2058	gen	ACETONE OIL		1091	3
2059		ACETONE THIOSEMICARBAZIDE	1752-30-3		16 19
0008	#	ACETONITRILE	75-05-8	1648	(F3) 1 2 3 4 15 20 21
	syn	ACETOPHENETIDIN see PHENACETIN			
2961		ACETOPHENONE	98-86-2		17 20 21
	syn	ACETOZONE see ACETYL BENZOYL PEROXIDE			
0009		ACETYL ACETONE PEROXIDE 2,4-PENTANEDIONE, PEROXIDE	37187-22-7	2080	3 15
	syn	ACETYLACETONE see PENTANE-2,4-DIONE			
0010	#	2-ACETYLAMINOFLUORENE ACETAMIDE, N-9H-FLUOREN-2-YL-	53-96-3		(CA,MU) 1 5 8 18 20 21
0011		ACETYL BENZOYL PEROXIDE PEROXIDE, ACETYL BENZOYL	644-31-5	2081	3
0012	#	ACETYL BROMIDE	506-96-7	1716	(CO) 3 20
0013	#	ACETYL CHLORIDE	75-36-5	1717	(CO,F3,R2) 3 15 20 21

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0014	ACETYL CYCLONEXANE SULFONYL PEROXIDE PEROXIDE, ACETYL CYCLOHEXYLSULFONYL	3179-56-4	2082+	3
0015	# ACETYLENE ETHYNE	74-86-2	1001	(F4,R3) 2 3 4 15
syn	ACETYLENE DICHLORIDE see 1,2-DICHLOROETHYLENE			
0016	ACETYLENE TETRABROMIDE ETHANE, 1,1,2,2-TETRABROMO-	79-27-6	2504	1 2 3 15
0017	# ACETYL IODIDE	507-02-8	1898	(CO) 3
0018	ACETYL METHYL CARBINOL 2-BUTANONE, 3-HYDROXY-	513-86-0	2621	3
0019	# ACETYL PEROXIDE PEROXIDE, DIACETYL	110-22-5	2084	(R4) 3 15
0020	ACETYLSALICYLIC ACID BENZOIC ACID, 2-(ACETYLOXY)-	50-78-2	1851	1 2 3
syn	ACID BUTYL PHOSPHATE see BUTYL ACID PHOSPHATE			
2060 gen	ACID MIXTURES, NITRATING		1796	3
2061 gen	ACID MIXTURES, SPENT, NITRATING		1826	3
syn	ACIDS, LIQUID, n.o.s. see CORROSIVE LIQUIDS, n.o.s.			
syn	ACID SLUDGE see SLUDGE ACID			
2064	ACRIDINE	260-94-6	2713	3
0021 chg	# ACROLEIN 2-PROPENAL	107-02-8	1092	(F3,MU,R2) 1 2 3 6 14 15 16 18 19 20 21
0022	ACRYLAMIDE 2-PROPENAMIDE	79-06-1	2074	1 2 3 4 16 18 19 20 21
0023	# ACRYLIC ACID 2-PROPENOIC ACID	79-10-7	2218	(CO,R2) 1 2 3 6 15 18 20
0024	# ACRYLONITRILE 2-PROPENENITRILE	107-13-1	1093	(CA,F3,MU,R2) 1 2 3 4 5 6 7 8 10 14 15 16 18 19 20 21
2065	ACRYLYL CHLORIDE	814-68-6		16 19
0025 chg	# ACTINOMYCIN D	50-76-0	1851	(CA,MU,TE) 1 3 7 13(H, G,X) 16
2066	ACTIVATED CARBON	7440-44-0	1362	3
2067 gen	ADHESIVES, CONTAINING FLAMMABLE LIQUID		1133	3
0026	ADIPIC ACID HEXANEDIOIC ACID	124-04-9	9077	3 15 20
0027	ADIPONITRILE HEXANEDINITRILE	111-69-3	2205	3 4 15 19
0028	# ADRIAMYCIN 5,12-NAPHTHACENEDIONE, 10- (3-AMINO-2,3,6-TRIDEOXY- alpha-L- * LYXO-HEXOPYRANOSYL)OXY -7,8,9,10-TETRAHYDRO-6,8,11- * TRIHYDROXY-8-(HYDROXYACETYL)-1-METHOXY-, (8S-cis)-	23214-92-8	1851	(CA,MU) 3 7
2068 gen	AEROSOL DISPENSERS		1950	3
0029	# AFLATOXIN B2 CYCLOPENTA(c)FURO(3',2':4,5)FURO(2,3-H)(1)BENZOPYRAN-1,11-DIONE, * 2,3,6A-alpha,8,9,9A-alpha-HEXAHYDRO-4-METHOXY-	7220-81-7		(CA,MU) 5 7
0030	# AFLATOXIN G1 1H,12H-FURO(3',2':4,5)FURO(2,3-H)PYRANO(3,4-C)(1)(BENZOPYRAN-1, * 12-DIONE,3,4,7A,10A-TETRAHYDRO-5-METHOXY-	1165-39-5		(CA,MU) 5 7 8
	AGENTS, BLASTING see BLASTING AGENTS, n.o.s.			
syn				
2070 gen	AIR, COMPRESSED		1002	3
2071 gen	AIRCRAFT EVACUATION SLIDE		2990	17
2072 gen	AIRCRAFT ROCKET ENGINE		2791	3
2073 gen	AIRCRAFT ROCKET ENGINE IGNITER		2792	3
2074 gen	AIRCRAFT SURVIVAL KIT		2990	17
2075 gen	AIRCRAFT THRUST DEVICE FOR ASSISTED TAKE-OFF		2791	3
2076 gen	AIR, REFRIGERATED LIQUID		1003	3
	ALCOHOL (ETHYL) see ETHYL ALCOHOL			
syn				
2078 gen	ALCOHOLIC BEVERAGE		1170	3
2079 gen	ALCOHOL, n.o.s.		1987	3
2080 gen	ALCOHOL, DENATURED		1986	3
	ALDEHYDE AMMONIA see ACETALDEHYDE AMMONIA			
syn				
2081 gen	ALDEHYDES, n.o.s.		1989	3
2082 gen	ALDEHYDE, TOXIC, n.o.s.		1988	3
0031	ALDICARB PROPANAL, 2-METHYL-2-(METHYLTHIO)-, O-((METHYLAMINO)CARBONYL)- * OXIME	116-06-3	2757	3 14 16 19 20 21
0032 chg	ALDOL BUTANAL, 3-HYDROXY-	107-89-1	2839+	3
	ALDOMET see alpha-METHYLDOPA			
syn				
0033 chg	# ALDRIN 1,4:5,8-DIMETHANONAPHTHALENE, 1,2,3,4,10,10-HEXACHLORO-1,4,4A,5, * 8,8A-HEXAHYDRO-, (1 alpha,4 alpha,4A beta,5 alpha, * 8 alpha,8A beta)-	309-00-2	2761+	(CA,TE) 1 2 3 4 6 8 14 16 18 19 20 21
	ALIPHATIC NAPHTHA see BENZINE			
syn				
2083 gen	ALKALI METAL ALLOYS, LIQUID		1421	3
2084 gen	ALKALI METAL AMALGAM, n.o.s.		1389	3
2085 gen	ALKALI METAL AMIDES, n.o.s.		1390	3
2086 gen	ALKALI METAL DISPERSIONS, n.o.s. or ALKALI EARTH * METAL DISPERSIONS, n.o.s.		1391	3
2087 gen	ALKALINE BOILER OR WATER TREATMENT COMPOUND		1760	3
2088 gen	ALKALINE CORROSIVE LIQUID, n.o.s.		1719	3
2089 gen	ALKALINE EARTH METAL ALLOYS, n.o.s.		1393	3
2090 gen	ALKALINE EARTH METAL AMALGAMS, n.o.s.		1392	3
2091 gen	ALKALINE EARTH METAL DISPERSIONS, n.o.s.		1392	3
syn	ALKALOID, SALTS, n.o.s., POISONOUS see ALKALOIDS, n.o.s. or * ALKALOID SALTS, n.o.s., POISONOUS			
2093 gen	ALKALOIDS, n.o.s. or ALKALOID SALTS, n.o.s., POISONOUS		1544	3
0034	# ALKANE SULFONIC ACID METHANESULFONIC ACID	75-75-2	2584	(CO) 3

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) / SOURCE NUMBER(S)
2094 gen	ALKYLAMINES or POLYALKYLAMINES, n.o.s., flash point below 23C, * and boiling point above 35C but no more than 200C		2733	3
2095 gen	ALKYLAMINES or POLYALKYLAMINES, n.o.s., CORROSIVE flash point * above 23C, and boiling point above 35C but no more than 200C		2735	3
2096 gen	ALKYLAMINES or POLYALKYLAMINES, n.o.s., flash point above 23C * and boiling point above 35C but no more than 200C		2734	3
2097 gen	ALKYL, ARYL, or TOLUENE SULFONIC ACID, LIQUID containing more * than 5% free SULFURIC ACID		2584	3
2098 gen	ALKYL,ARYL,OR TOLUENE SULFONIC ACID, LIQUID containing not more * than 5% free SULFURIC ACID		2586	3
2099 gen	ALKYL,ARYL,OR TOLUENE SULFONIC ACID, SOLID containing more than * 5% free SULFURIC ACID		2585	3
2100 gen	ALKYL,ARYL,or TOLUENE SULFONIC ACID, SOLID containing not more * than 5% free SULFURIC ACID		2583	3
2101 gen	ALKYL PHENOL, n.o.s.		2430	3
2102	ALLETHRIN	584-79-2	2902	3
0035	# ALLYL ACETATE ACETIC ACID, 2-PROPENYL ESTER	591-87-7	2333	(F3) 3 15
0036	# ALLYL ALCOHOL 2-PROPEN-1-OL	107-18-6	1098	(F3) 1 2 3 14 15 16 19 20 21
0037	# ALLYL AMINE 2-PROPEN-1-AMINE	107-11-9	2334	(F3) 3 15 16 19
0038	# ALLYL BROMIDE 1-PROPENE, 3-BROMO-	106-95-6	1099	(F3) 3 15
0039	# ALLYL CHLORIDE 1-PROPENE, 3-CHLORO-	107-05-1	1100	(F3) 1 2 3 4 6 15 18 20
0040	# ALLYL CHLOROCARBONATE CARBONOCHLORIDIC ACID, 2-PROPENYL ESTER	2937-50-0	1722	(CO_2F3) 3 15
syn	ALLYL ETHER see DIALLYLETHER			
0041 chg	# ALLYL ETHYL ETHER 1-PROPENE, 3-ETHOXY-	557-31-3	2335	(F4,R4) 3
0042	ALLYL FORMATE FORMIC ACID, 2-PROPENYL ESTER	1838-59-1	2336	3
0043	ALLYL GLYCIDYL ETHER OXIRANE, (2-PROPENYLOXY)METHYL -	106-92-3	2219	1 2 3 4 10
0044	# ALLYL IODIDE 1-PROPENE, 3-IODO-	556-56-9	1723	(CO) 3
0045	# ALLYL ISOTHIOCYANATE 3-ISOTHIOCYANATOPROPENE	57-06-7	1545	(MU) 3
0046	ALLYL PROPYL DISULFIDE DISULFIDE, 2-PROPENYL PROPYL	2179-59-1		1 2
0047	# ALLYL TRICHLOROSILANE SILANE, TRICHLORO-2-PROPENYL-	107-37-9	1724	(CO_2F3,R2) 3 15
0053	# ALPRAZOLAM ((4H-S-TRIAZOLO(4,3-alpha))1,4) BENZODIAZEPINE, 8-CHLORO-1- * METHYL-6-PHENYL	28981-97-7		(TE) 13(Y,EE,FF)
0054	ALUMINUM	7429-90-5	1383+	1 2 3 15 18
2103 gen	ALUMINUM ALKYL		3051	17
2104 gen	ALUMINUM ALKYL CHLORIDE		2221+	3
2105 gen	ALUMINUM ALKYL HALIDE		3052	17
2106 gen	ALUMINUM ALKYL HALIDES, IN SOLUTION		2220	3
2107 gen	ALUMINUM ALKYL HALIDES, PURE		2221	3
syn	ALUMINUM ALKYLS see METAL ALKYLS, n.o.s.			
2108	ALUMINUM BOROHYDRIDE	16962-07-5	2870	3
0055	# ALUMINUM BROMIDE	7727-15-3	1725+	(CO) 3
0056	ALUMINUM CARBIDE	12656-43-8	1394	3
0057	# ALUMINUM CHLORIDE	7446-70-0	1726+	(CO) 1 2 3 15
0058	ALUMINUM FERROSILICON ALUMINUM IRON SILICIDE	12003-41-7	1395	3
0059	ALUMINUM FLUORIDE	7784-18-1		1 2 4
0060	ALUMINUM HYDRIDE	7784-21-6	2463	3
syn	ALUMINUM LITHIUM HYDRIDE see LITHIUM ALUMINUM HYDRIDE			
0061	ALUMINUM NITRATE NITRIC ACID, ALUMINUM SALT	13473-90-0	1438	1 2 3
2891	ALUMINUM OXIDE	1344-28-1		18
0062	# ALUMINUM PHOSPHATE PHOSPHORIC ACID, ALUMINUM SALT (1:1)	7784-30-7	1760	(CO) 1 2 3
0063	ALUMINUM PHOSPHIDE	20859-73-8	1397	1 2 3 14 16 19 20 21
2109 gen	ALUMINUM PHOSPHIDE PESTICIDE		3048	17
2110 gen	ALUMINUM POWDER, COATED		1309	3
2111 gen	ALUMINUM POWDER, UNCOATED, NON-PYROPHORIC		1396	3
0064 chg	+ ALUMINUM RESINATE RESIN ACIDS AND ROSIN ACIDS, ALUMINUM SALTS (F3)	61789-65-9	2715	3
0065	ALUMINUM SILICON ALUMINUM SILICIDE (AlSi5)	50810-25-8	1398	3
0066	ALUMINUM SILICON ALUMINUM SILICIDE (AlSi)	12042-55-6	1398	3
0067	ALUMINUM SILICON ALUMINUM SILICIDE (AlSi2)	57485-31-1	1398	3
0068	ALUMINUM SULFATE SULFURIC ACID, ALUMINUM SALT (3:2)	10043-01-3	9078+	1 2 3 20
0069	# 2-AMINOANTHRAQUINONE 9,10-ANTHRACENEDIONE, 2-AMINO-	117-79-3		(CA) 5 6 18
syn	4-AMINOAZOBENZENE see C.I. SOLVENT YELLOW 1			
syn	4-AMINOBENZENE see C.I. SOLVENT YELLOW 1			
syn	4-AMINOBIPHENYL see 4-AMINODIPHENYL			
0070	2-AMINO-4-CHLOROPHENOL PHENOL, 2-AMINO-4-CHLORO-	95-85-2	2673	3
0071	2-AMINO-5-DIETHYL AMINOPENTANE 1,4-PENTANEDIAMINE, N1,N1-DIETHYL-	140-80-7	2946	3
0072	# 4-AMINODIPHENYL 1,1'-BIPHENYL -4-AMINE	92-67-1		(CA,MU) 1 2 5 7 8 18
0073 chg	# 2-(2-AMINOETHOXY)ETHANOL ETHANOL, 2-(2-AMINOETHOXY)-	929-06-6	1760	(CO) 3
0074	AMINOETHYLETHANOLAMINE ETHANOL, 2- (AMINOETHYL)AMINO -	111-41-1		12(A,B,F,I) 15
0075 chg	# N-AMINOETHYLPIPERAZINE 1-PIPERAZINEETHANAMINE	140-31-8	2815	(CO) 3 15
0076	# 1-AMINO-2-METHYLANTHRAQUINONE 9,10-ANTHRACENEDIONE, 1-AMINO-2-METHYL-	82-28-0		(CA) 5 18
0077	6-AMINO-PENICILLANIC ACID 4-THIA-1-AZABICYCLO 3.2.0 HEPTANE-2-CARBOXYLIC ACID, 6-AMINO-3, * 3-DIMETHYL-7-OXO-, 2S-(2 alpha,5 alpha,6 beta) -	551-16-6		12(A,G)

SUBSTANCE NUMBER		COMMON NAME CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0078		AMINOPHENOLS PHENOL, AMINO-	27598-85-2	2512	3
0079		AMINOPROPYLDIETHANOLAMINE ETHANOL, 2,2'- (3-AMINOPROPYL)IMINO BIS-	4985-85-7	1760	3
0080	#	AMINOPROPYLMORPHOLINE 4-MORPHOLINEPROPANAMINE	123-00-2	1760	(CO) 3 15
2112		AMINOPTERIN	54-62-6	2588	3 16 19
0081		2-AMINOPYRIDINE 2-PYRIDINAMINE	504-29-0	2671	1 2 3
0082		3-AMINOPYRIDINE 3-PYRIDINAMINE	462-08-8	2671	3
syn		4-AMINOPYRIDINE see AVITROL			
syn		AMINOTRIAZOLE see AMITROL			
2113		AMITON	78-53-5	2902	3 16 19
2114		AMITON OXALATE	3734-97-2	2783+	3 16 19
0083	#	AMITROL 1H-1,2,4-TRIAZOL-3-AMINE	61-82-5		(CA,MU) 1 2 5 6 7 8 20 21
0084	#	AMMONIA	7664-41-7	1005+	(CO) 1 2 3 4 15 18 19 20
0085		AMMONIUM ACETATE ACETIC ACID, AMMONIUM SALT	631-61-8	9079	3 20
0086		AMMONIUM ARSENATE ARSENIC ACID (H_3AsO_4), DIAMMONIUM SALT	7784-44-3	1546	1 2 3
0087		AMMONIUM BENZOATE BENZOIC ACID, AMMONIUM SALT	1863-63-4	9080	3 20
0088		AMMONIUM BICARBONATE CARBONIC ACID, MONOAMMONIUM SALT	1066-33-7	9081	3 20
syn		AMMONIUM BICHROMATE see AMMONIUM DICHROMATE			
0089		AMMONIUM BIFLUORIDE AMMONIUM FLUORIDE	1341-49-7	1727+	1 2 3 4 20
syn		AMMONIUM BISULFATE see AMMONIUM HYDROGEN SULFATE			
0090	#	AMMONIUM BISULFITE SULFUROUS ACID, MONOAMMONIUM SALT	10192-30-0	2693	(CO) 3 20
0091		AMMONIUM CARBAMATE CARBAMIC ACID, MONOAMMONIUM SALT	1111-78-0	9083	3 20
0092 chg		AMMONIUM CARBONATE CARBONIC ACID, AMMONIUM SALT	506-87-6	9084	3 20
0093		AMMONIUM CHLORIDE	12125-02-9	9085	1 2 3 15 20
0094		AMMONIUM CHLOROPLATINATE PLATINATE (2-1), HEXACHLORO-, DIAMMONIUM	16919-58-7		1 2 16 19
0095 chg		AMMONIUM CHROMATE CHROMIC ACID, DIAMMONIUM SALT	7788-98-9	9086	1 2 3 20
0096 chg		AMMONIUM CITRATE DIBASIC 1,2,3-PROPANETRICARBOXYLIC ACID, 2-HYDROXY-, DIAMMONIUM SALT	3012-65-5	9087	3 20
0097		AMMONIUM DICHROMATE CHROMIC ACID, DIAMMONIUM SALT	7789-09-5	1439	1 2 3 15 20
0098		AMMONIUM DINITRO-o-CRESOLATE o-CRESOL, 4,6-DINITRO-, AMMONIUM SALT	2980-64-5	1843	3
syn		AMMONIUM FERRIC CITRATE see FERRIC AMMONIUM CITRATE			
syn		AMMONIUM FERRIC OXALATE see FERRIC AMMONIUM OXALATE			
syn		AMMONIUM FERROUS SULFATE see FERROUS AMMONIUM SULFATE			
0099		AMMONIUM FLUORIDE	12125-01-8	2505	1 2 3 10 15 20

SUBSTANCE NUMBER		COMMON NAME CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0100		AMMONIUM FLUOROBORATE BORATE(1-), TETRAFLUORO-, AMMONIUM	13826-83-0	9088	1 2 3 20
0101		AMMONIUM FLUOSILICATE CRYPTOHALITE	1309-32-6	2854	1 2 3
0102	#	AMMONIUM HYDROGEN SULFATE SULFURIC ACID, MONOAMMONIUM SALT	7803-63-6	2506	(CO) 3
2115 gen		AMMONIUM HYDROSULFIDE SOLUTION	12124-99-1	2683	3
0103		AMMONIUM HYDROXIDE	1336-21-6	2672+	3 20
0104		AMMONIUM METAVANADATE VANADATE, AMMONIUM	7803-55-6	2859	3 20 21
0105		AMMONIUM MOLYBDATE MOLYBDIC ACID, DIAMMONIUM SALT	13106-76-8		1 2
syn		AMMONIUM NICKEL SULFATE see NICKEL AMMONIUM SULFATE			
0106 chg	#	AMMONIUM NITRATE NITRIC ACID, AMMONIUM SALT	6484-52-2	1942+	(R3) 3 15 18
2116 gen		AMMONIUM NITRATE FERTILIZER		2067	3
2117 gen		AMMONIUM NITRATE FERTILIZER, less than 45% AMMONIUM NITRATE		2071	3
2118 gen		AMMONIUM NITRATE FERTILIZER (NITROGEN/POTASH OR PHOSPHATE)		2071	3
2119 gen		AMMONIUM NITRATE FERTILIZER, n.o.s.		2072	3
2120 gen		AMMONIUM NITRATE FERTILIZER, with less than 0.2% COMBUSTIBLE * SUBSTANCES		1942	3
2121 gen		AMMONIUM NITRATE FERTILIZER, with CALCIUM CARBONATE		2068	3
2122 gen		AMMONIUM NITRATE-FUEL OIL MIXTURES		0222	3
0107 chg	+	AMMONIUM NITRATE PHOSPHATE	57608-40-9	2070	(R3) 3
2126 gen		AMMONIUM NITRATE - SULFATE MIXTURE		2069	3
0108		AMMONIUM OXALATE ETHANEDIOIC ACID, DIAMMONIUM SALT	1113-38-8	2449	3 20
3056		AMMONIUM OXALATE	5972-73-6		20
3057		AMMONIUM OXALATE	6009-70-7		20
3058		AMMONIUM OXALATE	14258-49-2		20
0109 chg	#	AMMONIUM PERCHLORATE PERCHLORIC ACID, AMMONIUM SALT	7790-98-9	1442	(R4) 3
0110	#	AMMONIUM PERMANGANATE PERMANGANIC ACID, AMMONIUM SALT	13446-10-1	9190	(R3) 3
syn		AMMONIUM PEROXYDISULFATE see AMMONIUM PERSULFATE			
0111		AMMONIUM PERSULFATE PEROXYDISULFURIC ACID, DIAMMONIUM SALT	7727-54-0	1444	3
0112 chg	+	AMMONIUM PICRATE PHENOL, 2,4,6-TRINITRO-, AMMONIUM SALT	131-74-8	1310	(F3,R3) 3 20 21
syn		AMMONIUM PLATINIC CHLORIDE see AMMONIUM CHLOROPLATINATE			
syn		AMMONIUM PLATINIC CHLORIDE see AMMONIUM TETRACHLOROPLATINATE			
0113 chg	#	AMMONIUM POLYSULFIDE AMMONIUM SULFIDE ($(NH_4)_2$ (S3))	12259-92-6	2818	(CO) 3
2127 gen		AMMONIUM POLYVANADATE		2861	3
2128		AMMONIUM SILICOFLUORIDE, SOLID	16919-19-0	2854	3 20
0114		AMMONIUM SULFAMATE SULFAMIC ACID, MONOAMMONIUM SALT	7773-06-0	9089	1 2 3 20

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) / SOURCE NUMBER(S)
2892	AMMONIUM SULFATE, solution	7783-20-2		18
0115	# AMMONIUM SULFIDE	12135-76-1	2683	(CO) 3 20
0116	AMMONIUM SULFITE SULFUROUS ACID, DIAMMONIUM SALT	10196-04-0	9090	3 20
0117	AMMONIUM TARTRATE BUTANEDIOIC ACID, 2,3-DIHYDROXY-, DIAMMONIUM SALT	3164-29-2	9091	3 20
3055	AMMONIUM TARTRATE	14307-43-8		20
0118	AMMONIUM TETRACHLOROPLATINATE PLATINATE (2-), TETRACHLORO-, DIAMMONIUM	13820-41-2		1 12(A)
0119	AMMONIUM THIOCYANATE THIOCYANIC ACID, AMMONIUM SALT	1762-95-4	9092	3 20
0120	AMMONIUM THIOSULFATE THIOSULFURIC ACID, DIAMMONIUM SALT	7783-18-8	9093	3 20
syn	AMMONIUM VANADATE see AMMONIUM METAVANADATE			
2129 gen	AMMUNITION, TEAR PRODUCING, NON-EXPLOSIVE		2017	3
2130	AMPHETAMINE	300-62-9	1851	3 16 19
0121	AMPICILLIN 4-THIA-1-AZABICYCLO 3.2.0 HEPTANE-2-CARBOXYLIC ACID, 6- * (AMINOPHENYLACETYL)AMINO -3,3-DIMETHYL-7-OXO-, 2S- * 2alpha, 5alpha, 6beta(S*) -	69-53-4	1851	3 12(A,G)
0122	AMPROLIUM HYDROCHLORIDE PYRIDINIUM, 1- (4-AMINO-2-PROPYL-5-PYRIMIDINYL)METHYL -2-METHYL- * , CHLORIDE, MONOHYDROCHLORIDE	137-88-2		12 (A)
1321	# n-AMYL ACETATE ACETIC ACID, PENTYL ESTER	628-63-7	1104	(F3) 1 2 3 15 20
1643	sec-AMYL ACETATE ACETIC ACID, sec-PENTYL ESTER	626-38-0		1 2 20
3023	tert-AMYL ACETATE	625-16-1		20
0123	# AMYL ACID PHOSPHATE PHOSPHORIC ACID, PENTYL ESTER	12789-46-7	2819	(CO) 3
0124	# AMYL ALCOHOL 1-PENTANOL	71-41-0	1105	(F3) 3 15
0125	# AMYL AMINE 1-PENTANAMINE	110-58-7	1106	(F3) 3 15
syn	n-AMYL BROMIDE see BROMOPENTANE			
0126	AMYL BUTYRATE BUTANOIC ACID, PENTYL ESTER	540-18-1	2620	3 15
0127	# AMYL CHLORIDE PENTANE, 1-CHLORO-	543-59-9	1107	(F3) 3 15
0128	# AMYLENE, NORMAL PENTENE	25377-72-4	1108	(F4) 3 15
syn	AMYLENE see METHYLBUTENE			
0129	# AMYL FORMATE FORMIC ACID, PENTYL ESTER	638-49-3	1109	(F3) 3 15
0130	# AMYL MERCAPTAN 1-PENTANETHIOL	110-66-7	1111	(F3) 3 4 15
0131	# AMYL NITRATE NITRIC ACID, PENTYL ESTER	1002-16-0	1112	(R2) 3 15
0132	# AMYL NITRITE NITROUS ACID, 3-METHYL BUTYL ESTER	110-46-3	1113	(R2) 3 15
0134	# AMYL TRICHLOROSILANE SILANE, TRICHLOROPENTYL-	107-72-2	1728	(CO,R2) 3 15
0135	# ANILINE BENZENAMINE	62-53-3	1547	(MU) 1 2 3 6 15 18 19 20 21
0136	ANILINE HYDROCHLORIDE BENZENAMINE, HYDROCHLORIDE	142-04-1	1548	3 15
	ANILINE, 2,4,6-TRIMETHYL- see 2,4,6-TRIMETHYL ANILINE			
syn				
1421	# o-ANISIDINE BENZENAMINE, 2-METHOXY-	90-04-0	2431	(CA) 1 2 3 5 6 15 18
2893	p-ANISIDINE	104-94-9		18
1422	# o-ANISIDINE HYDROCHLORIDE BENZENAMINE, 2-METHOXY-, HYDROCHLORIDE	134-29-2		(CA) 5 7 18
0137	ANISOLE BENZENE, METHOXY-	100-66-3	2222	3 15
0138	# ANISOYL CHLORIDE BENZOYL CHLORIDE, METHOXY-	1300-64-7	1729	(CO) 3
0139	ANTHRACENE	120-12-7		6 15 18 20
0140	ANTHRAQUINONE	84-65-1		12(A) 15
2131 gen	ANTI-FREEZE		1142	3
0141 chg	ANTIMONY	7440-36-0	1549+	1 2 3 4 6 18 20
2223 gen	ANTIMONY compounds		1549+	3 18
2866 gen	ANTIMONY, all inorganic compounds of		1549+	3 6 20
0142	ANTIMONY LACTATE PROPANOIC ACID, 2-HYDROXY-, ANTIMONY(3+) SALT (3:1)	58164-88-8	1550	1 2 3 6
0143	# ANTIMONY PENTACHLORIDE ANTIMONY CHLORIDE (SbCl5)	7647-18-9	1730+	(CO) 1 2 3 6 15 20
0144	# ANTIMONY PENTAFLUORIDE ANTIMONY FLUORIDE (SbF5)	7783-70-2	1732	(CO) 1 2 3 6 15 16 19
0145	ANTIMONY POTASSIUM TARTRATE ANTIMONATE(2-), BIS .mu.- 2,3-DIHYDROXYBUTANEDIOATO(4-)-O1, * O2:O3,O4 DI-, DIPOTASSIUM, TRIHYDRATE, STEREOISOMER	28300-74-5	1551	1 2 3 6 20
0146	# ANTIMONY TRIBROMIDE STIBINE, TRIBROMO-	7789-61-9	1549	(CO) 1 2 3 6 20
0147	# ANTIMONY TRICHLORIDE STIBINE, TRICHLORO-	10025-91-9	1733	(CO) 1 2 3 6 20
0148	# ANTIMONY TRIFLUORIDE STIBINE, TRIFLUORO-	7783-56-4	1549	(CO) 1 2 3 6 20
0149	ANTIMONY TRIOXIDE ANTIMONY OXIDE	1309-64-4	9201	1 2 3 6 20
2132	ANTIMYCIN	1397-94-0	2588	3 16 19
syn	ANTU see alpha-NAPHTHYL THIOUREA			
0150	# ARAMITE SULFUROUS ACID, 2-CHLOROETHYL 2- 4-(1,1-DIMETHYLETHYL)PHENOXY - * 1-METHYLETHYL ESTER	140-57-8	2588	(CA) 3 5 8
0151	ARGON	7440-37-1	1006+	2 3
syn	AROCLOR see POLYCHLORINATED BIPHENYLS	88-01-9	2315	
syn	AROCLOR 1016 see POLYCHLORINATED BIPHENYLS	12674-11-2	2315	
syn	AROCLOR 1221 see POLYCHLORINATED BIPHENYLS	11104-28-2	2315	
syn	AROCLOR 1232 see POLYCHLORINATED BIPHENYLS	1141-16-5	2315	
syn	AROCLOR 1242 see POLYCHLORINATED BIPHENYLS	53469-21-9	2315	
syn	AROCLOR 1248 see POLYCHLORINATED BIPHENYLS	12672-29-6	2315	
syn	AROCLOR 1254 see POLYCHLORINATED BIPHENYLS	11097-69-1	2315	

SUBSTANCE NUMBER		COMMON NAME / CHEMICAL NAME	CAS	DOT	SHN CODE(S) SOURCE NUMBER(S)
syn		AROCLOR 1260 see POLYCHLORINATED BIPHENYLS	11096-82-5	2315	
0152	#	ARSENIC	7440-38-2	1557	(CA) 1 2 3 4 5 6 7 8 10 18 20 21
0153		ARSENIC ACID	7778-39-4	1554+	1 2 3 20 21
3060		ARSENIC ACID	1327-52-2		20 21
2867 gen		ARSENIC, all inorganic compounds of		1556+	3 6 20
2133 gen		ARSENICAL DUST or FLUE DUST		1562	3
2861 gen		ARSENICAL PESTICIDE, FLAMMABLE LIQUID, n.o.s., flash point * between 23C and 61C		2993	3
2135 gen		ARSENICAL PESTICIDE, FLAMMABLE LIQUID, n.o.s., flash point * below 23C		2760	3
2136 gen		ARSENICAL PESTICIDE, LIQUID, TOXIC, n.o.s.		2994	3
2137 gen		ARSENICAL PESTICIDE, SOLID, TOXIC, n.o.s.		2759	3
0154 chg		ARSENIC BROMIDE ARSENOUS TRIBROMIDE	7784-33-0	1555	1 2 3 6
0155		ARSENIC CHLORIDE	37226-49-6	1560	1 2 3 6
2138 gen		ARSENIC COMPOUND, LIQUID, n.o.s.		1556	3 18
2139 gen		ARSENIC COMPOUND, SOLID, n.o.s.		1557	3 18
0156		ARSENIC DISULFIDE ARSENIC SULFIDE	56320-22-0	1557	1 3 6 20
0157 chg		ARSENIC IODIDE ARSENOUS TRIIODIDE	7784-45-4	1557	1 3 6
0158	#	ARSENIC PENTOXIDE ARSENIC OXIDE (As2O5)	1303-28-2	1559	(CA) 1 2 3 5 6 8 16 19 20 21
0159 chg		ARSENIC TRICHLORIDE	7784-34-1	1560	1 2 3 6 16 19 20
0160		ARSENIC TRICHLORIDE	60646-36-8	1560	1 2 3 6
0161	#	ARSENIC TRIOXIDE ARSENIC OXIDE (As2O3)	1327-53-3	1561	(CA) 1 2 3 5 6 7 8 14 16 19 20 21
0162 chg	+	ARSENIC TRISULFIDE ARSENIC SULFIDE	1303-33-9	1557	(CA) 1 2 3 6 7 15 20
syn		ARSENOUS OXIDE see ARSENIC TRIOXIDE			
syn		ARSENOUS TRICHLORIDE see ARSENIC TRICHLORIDE			
0163 chg	+	ARSINE	7784-42-1	2188	(CA) 1 2 3 10 16 19
2962		ARSINE, DIETHYL-	692-42-2		20 21
0164	#	ASBESTOS	1332-21-4	2590+	(CA) 1 2 3 4 5 6 7 8 10 18 20
0165	#	ASBESTOS, AMOSITE ASBESTOS, GRUNERITE	12172-73-5	2590+	(CA,MU) 1 2 3 5 6 7 8
0166	#	ASBESTOS, ANTHOPHYLLITE	77536-67-5	2590+	(CA) 1 2 3 5 6 7 8
syn		ASBESTOS, BLUE see ASBESTOS, CROCIDOLITE			
0167	#	ASBESTOS, CHRYSOTILE	12001-29-5	2590	(CA) 1 2 3 5 6 7 8
0168	#	ASBESTOS, CROCIDOLITE	12001-28-4	2212	(CA) 1 2 3 5 6 7 8
syn		ASBESTOS, TREMOLITE see ASBESTOS			
syn		ASBESTOS, WHITE see ASBESTOS, CHRYSOTILE			
0169		ASPARAGINASE	9015-68-3	1851	3 13(P)
syn		ASPHALT (PETROLEUM DERIVED) see ASPHALT FUMES			
0170		ASPHALT FUMES	8052-42-4	1999	2 3 4 15
syn		AS-m-XYLENOL see 2,4-DIMETHYLPHENOL			
0171	#	ATRAZINE 1,3,5-TRIAZINE-2,4-DIAMINE, 6-CHLORO-N-ETHYL-N'-(1-METHYLETHYL)-	1912-24-9	2588	(MU) 1 2 3
2894		AURAMINE ANILINE, 4,4'-(IMIDOCARBONYL)BIS(N,N-DIMETHYL)-	492-80-8		18 20 21
0172		AVITROL PYRIDINE, 4-AMINO-	504-24-5	2671	3 14 16 19 20 21
0173	#	AZASERINE L-SERINE, DIAZOACETATE (ESTER)	115-02-6		(CA) 8 20 21
0174	#	AZATHIOPRINE 1H-PURINE, 6- (1-METHYL-4-NITRO-1H-IMIDAZOL-5-YL)THIO -	446-86-6	1851	(CA,MU) 3 7
2140		AZINPHOS-ETHYL	2642-71-9	2783+	3 16 19 20
syn		AZINPHOS-METHYL see GUTHION			
0175 chg		1-AZIRIDINYL PHOSPHINE OXIDE (TRIS) AZIRIDINE, 1,1'1'-PHOSPHINYLIDYNETRIS-	545-55-1	2501	3
0176		2,2'-AZODI-(2,4-DIMETHYL-4-METHOXYVALERONITRILE) PENTANENITRILE, 2,2'-AZOBIS 4-METHOXY-2,4-DIMETHYL -	15545-97-8	2955	3
0177		2,2'-AZODI-(2,4-DIMETHYLVALERONITRILE) PENTANENITRILE, AZOBIS 2,4-DIMETHYL-	28604-91-3	2953	3
0178		AZODI-(1,1'-HEXAHYDROBENZONITRILE) CYCLOHEXANECARBONITRILE, AZOBIS-	25551-14-8	2954	3
0179		AZODIISOBUTYRONITRILE PROPANENITRILE, 2,2'-AZOBIS 2-METHYL-	78-67-1	2952	3 15
2141		AZODI (2-METHYLBUTYRONITRILE)		3030	17
2142		BACITRACIN	1405-87-4	1851	3 16 19 20
2143 gen		BAGS, EMPTY and UNWASHED, having contained SODIUM NITRATE or * POTASSIUM NITRATE		1359	3
0180		BARIUM	7440-39-3	1400	1 2 3 18 20
2144 gen		BARIUM ALLOYS, NON-PYROPHORIC		1399	3
2145 gen		BARIUM ALLOYS, PYROPHORIC		1854	3
0181		BARIUM AZIDE	18810-58-7	1571	1 2 3
0182		BARIUM BROMATE BROMIC ACID, BARIUM SALT	13967-90-3	2719	1 2 3
0183	#	BARIUM CHLORATE CHLORIC ACID, BARIUM SALT	13477-00-4	1445+	(R2) 1 2 3 15
2146 gen		BARIUM COMPOUND, n.o.s.		1564	3 18 20 21
0184		BARIUM CYANIDE	542-62-1	1565	1 2 3 20 21

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0185		BARIUM HYPOCHLORITE HYPOCHLOROUS ACID, BARIUM SALT	13477-10-6	2741	1 2 3
syn		BARIUM METAL, NON-PYROPHORIC see BARIUM			
0186		BARIUM NITRATE NITRIC ACID, BARIUM SALT	10022-31-8	1446	1 2 3 15
0187		BARIUM OXIDE	1304-28-5	1884	1 2 3
0188		BARIUM PERCHLORATE PERCHLORIC ACID, BARIUM SALT	13465-95-7	1447	1 2 3
0189		BARIUM PERMANGANATE PERMANGANIC ACID, BARIUM SALT	7787-36-2	1448	1 2 3
0190		BARIUM PEROXIDE	1304-29-6	1449	1 2 3 15
2148		BARIUM SELENATE		2630	3
2149		BARIUM SELENITE		2630	3
2150		BATTERY, ELECTRIC, STORAGE, DRY, CONTAINING POTASSIUM		3028	17
2151 gen		BATTERY, ELECTRIC, STORAGE, DRY, CONTAINING POTASSIUM HYDROXIDE		1813	3
2152 gen		BATTERY, ELECTRIC, STORAGE, WET, NONSPILLABLE		2800	3
2153 gen		BATTERY FLUID, ACID		2796	3
2154 gen		BATTERY FLUID, ALKALI		2797	3
0191		BENDIOCARB 1,3-BENZODIOXOL-4-OL, 2,2-DIMETHYL-, METHYLCARBAMATE	22781-23-3	2757	3 14
0192		BENOMYL CARBAMIC ACID, 1-(BUTYLAMINO)CARBONYL-1H-BENZIMIDAZOL-2-YL-, * METHYL ESTER	17804-35-2	2588	2 3
0195 chg	+	BENZAL CHLORIDE BENZENE, DICHLORO METHYL-	98-87-3	1886	(MU) 3 6 16 18 19 20 21
0196		BENZALDEHYDE	100-52-7	1989	3 15
2895		BENZAMIDE	55-21-0		18
0193	#	BENZ(a)ANTHRACENE	56-55-3		(CA,MU) 5 8 20 21
0194	#	BENZ(a)ANTHRACENE, 7,12-DIMETHYL-	57-97-6		(CA,MU,TE) 8 20 21
2963		BENZ(c)ACRIDINE	225-51-4		20 21
syn		BENZENAMINE, 2-METHYL-,HYDROCHLORIDE see o-TOLUIDINE * HYDROCHLORIDE			
syn		BENZENAMINE, 3-(TRIFLUOROMETHYL)- see 3-TRIFLUOROMETHYL * ANILINE			
syn		1,2-BENZENDICARBOXYLIC ACID ANHYDRIDE see PHTHALIC ANHYDRID			
0197	#	BENZENE	71-43-2	1114	(CA,F3,MU) 1 2 3 4 5 6 7 8 15 18 20 21
syn		BENZENEAMINE,N,N-DIMETHYL-4-PHENYLAZO- see * 4-DIMETHYLAMINOAZOBENZENE			
2155		BENZENEARSONIC ACID	98-05-5	1557	3 16 19
2966		BENZENE, 1-BROMO-4-PHENOXY-	101-55-3		20 21
2156		BENZENE, 1-(CHLOROMETHYL)-4-NITRO-	100-14-1	2811	3 16 19
syn		BENZENE, CHLORO-, NITRO-, (TRIFLUOROMETHYL)- see * NITROCHLOROBENZOTRIFLUORIDE			
syn		1,2-BENZENEDICARBOXYLIC ACID, DIETHYL ESTER see * DIETHYL PHTHALATE			
syn		BENZENE, m-DIMETHYL- see m-XYLENE			
syn		BENZENE, o-DIMETHYL- see o-XYLENE			
syn		BENZENE, p-DIMETHYL- see p-XYLENE			
syn		1,3-BENZENEDIOL see RESORCINOL			
2914		1,2-BENZENEDIOL, 4-(1-HYDROXY-2-(METHYLAMINO)ETHYL)-	51-43-4		20 21
syn		BENZENE, HEXAHYDRO- see CYCLOHEXANE			
syn		BENZENE, 1-METHYL-2,6-DINITRO- see 2,6 DINITROTOLUENE			
syn		BENZENE, 1,2-METHYLENEDIOXY-4-ALLYL- see SAFROLE			
syn		BENZENE, 1,2-METHYLENEDIOXY-4-PROPENYL- see 1,2-METHYLENE- * DIOXY-4-PROPENYL-BENZENE			
syn		BENZENE, 1,2-METHYLENEDIOXY-4-PROPYL- see 1,2-METHYLENE- * DIOXY-4-PROPYL-BENZENE			
syn		BENZENE, 1,METHYLETHYL- see CUMENE			
2967		BENZENE, PENTACHLORO-	608-93-5		20 21
syn		BENZENE, PENTACHLORONITRO- see QUINTOZENE			
0200	#	BENZENE PHOSPHOROUS DICHLORIDE PHOSPHORUS DICHLORIDE, PHENYL-	644-97-3	2798	(CO) 3
0201 chg	#	BENZENE PHOSPHOROUS THIODICHLORIDE PHOSPHORDICHLORIDOTHIOUS ACID, PHENYL ESTER	14684-25-4	2799	(CO) 3
0202	#	BENZENE SULFONYL CHLORIDE	98-09-9	2225	(CO) 3 16 19 20 21
0203		BENZENETHIOL PHENYLMERCAPTAN	108-98-5	2337	2 3 4 16 19 20 21
0204	#	BENZIDINE 1,1'-BIPHENYL-4,4'-DIAMINE	92-87-5	1885	(CA,MU) 1 2 3 5 7 21 18 20
syn		BENZILIC ACID, 4,4'-DICHLORO-, ETHYL ESTER see ETHYL-4,4'- * DICHLOROBENZILATE			
syn		BENZILIDEN CHLORIDE see BENZAL CHLORIDE			
2908		BENZIMIDAZOLE, 4,5-DICHLORO-2-(TRIFLUOROMETHYL)	3615-21-2		19
0206		BENZINE PETROLEUM SPIRITS	8030-30-6	1115+	1 2 3
syn		1,2-BENZISOTHIAZOLIN-3-ONE,1,1-DIOXIDE, AND SALTS see * SACCHARIN			
0208	#	BENZO(b)FLUORANTHENE BENZ(e)ACEPHENANTHRYLENE	205-99-2		(CA) 5 8 20
0210	#	BENZO(j)FLUORANTHENE	205-82-3		(CA) 8
2969		BENZO(k)FLUORANTHENE	207-08-9		20
2970		BENZO(jk)FLUORANTHENE	206-44-0		20 21
0209		BENZOIC ACID	65-85-0	9094	3 15 20
2157 gen		BENZOIC DERIVATIVE PESTICIDES, FLAMMABLE LIQUID, n.o.s., flash * point between 23C and 61C		3003	3
2158 gen		BENZOIC DERIVATIVE PESTICIDES, FLAMMABLE LIQUID, n.o.s., flash * point less than 23C		2770	3
2159 gen		BENZOIC DERIVATIVE PESTICIDES, LIQUID, TOXIC, n.o.s.		3004	3

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2160 gen	BENZOIC DERIVATIVE PESTICIDES, SOLID, TOXIC, n.o.s.		2769	3
syn	BENZOIC TRICHLORIDES see BENZOTRICHLORIDE			
0211	BENZONITRILE	100-47-0	2224	3 20
2968	BENZO(ghi)PERYLENE	191-24-2		20
0207	# BENZO(a)PYRENE	50-32-8		(CA,MU) 2 5 7 8 20 21
syn	BENZOQUINONE see p-BENZOQUINONE			
1460	p-BENZOQUINONE 2,5-CYCLOHEXADIENE-1,4-DIONE	106-51-4	2587	1 2 3 15 18 20 21
syn	p-BENZOQUINONE, 2,3,5-TRIS(1-AZIRIDINYL)- see 2,3,5-TRIS * (1-AZIRIDINYL)-p-BENZOQUINONE			
0212	# BENZOTRICHLORIDE BENZENE, TRICHLOROMETHYL-	98-07-7	2226	(CA,CO) 3 5 6 7 15 16 18 19 20 21
0213	# BENZOTRIFLUORIDE BENZENE, TRIFLUOROMETHYL-	98-08-8	2338	(F3) 3 15
0214	# BENZOYL CHLORIDE	98-88-4	1736	(CO) 3 6 15 18 20
0215 chg	# BENZOYL PEROXIDE PEROXIDE, DIBENZOYL	94-36-0	2085+	(F4,R4) 1 2 3 4 6 18
0216	# BENZYL BROMIDE BENZENE, BROMOMETHYL-	100-39-0	1737	(CO) 3
0217	# BENZYL CHLORIDE BENZENE, CHLOROMETHYL-	100-44-7	1738	(CO,MU) 1 2 3 4 6 15 16 18 19 20 21
0218	# BENZYL CHLOROFORMATE CARBONOCHLORIDIC ACID, PHENYLMETHYL ESTER	501-53-1	1739	(CO) 3
syn	BENZYL CYANIDE see PHENYLACETONITRILE			
0219	# BENZYL DIMETHYLAMINE BENZENEMETHANAMINE, N,N-DIMETHYL-	103-83-3	2619	(CO) 3
0220	BENZYL IODIDE BENZENE, IODOMETHYL-	620-05-3	2653	3
2161	4-(BENZYL(ETHYL)AMINO)-3-ETHOXYBENZENEDIAZONIUM ZINC * CHLORIDE		3037	17
2162	4-(BENZYL(METHYL)AMINO)-3-ETHOXYBENZENEDIAZONIUM ZINC * CHLORIDE		3038	17
0221	BENZYLPENICILLIN 4-THIA-1-AZABICYCLO 3.2.0 HEPTANE-2-CARBOXYLIC ACID, 3,3- * DIMETHYL-7-OXO-6- (PHENYLACETYL)AMINO - 2S-(2alpha, * 5alpha, 6beta)-	61-33-6	1851	3 12(A,G)
0222 chg	# BERYLLIUM	7440-41-7	1566+	(CA) 1 2 3 4 5 6 7 8 18 20 21
2868 gen	BERYLLIUM, all inorganic compounds of		1566+	3 6 20
0223	# BERYLLIUM CHLORIDE	7787-47-5	1566	(CA) 1 2 3 5 6 7 8 20
2163 gen	BERYLLIUM compounds, n.o.s.		1566	3 18 20
0224	# BERYLLIUM FLUORIDE	7787-49-7	1566	(CA) 1 2 3 5 6 7 8 20
0225	BERYLLIUM NITRATE NITRIC ACID, BERYLLIUM SALT	13597-99-4	2464	1 2 3 6 10 20
0226	# BERYLLIUM OXIDE	1304-56-9	1566	(CA) 1 3 5 6 7 8
syn	alpha-BHC see alpha-HEXACHLOROCYCLOHEXANE			
syn	beta-BHC see beta-HEXACHLOROCYCLOHEXANE			
syn	delta-BHC see delta-HEXACHLOROCYCLOHEXANE			
syn	gamma-BHC see LINDANE			
2164 gen	BHUSA		1327	3
2856	BICYCLO(2.2.1.)HEPTANE-2-CARBONITRILE, 5-CHLORO-6- * ((((METHYLAMINO)CARBONYL)OXY)IMINO)-	15271-41-7	2992	3 16 19
2165 gen	BIFLUORIDE, n.o.s.	18130-74-0	1740	3
syn	BIPHENYL see DIPHENYL			
syn	1,1'-BIPHENYL see DIPHENYL			
syn	(1,1'-BIPHENYL)-4-4'DIAMINE, 3,3'DICHLORO- see * 3,3' DICHLOROBENZIDINE			
syn	BIPHENYL, 4-NITRO see 4-NITROBIPHENYL			
2166 gen	BIPYRIDILIUM PESTICIDES, FLAMMABLE LIQUID, n.o.s., flash point * between 23C and 61C		3015	3
2167 gen	BIPYRIDILIUM PESTICIDES, FLAMMABLE LIQUID, n.o.s., flash point * less than 23C		2782	3
2168 gen	BIPYRIDILIUM PESTICIDES, LIQUID, TOXIC, n.o.s.		3016	3
2169 gen	BIPYRIDILIUM PESTICIDES, SOLID, TOXIC, n.o.s.		2781	3
0230	# BIS(AMINOPROPYL)AMINE 1,3-PROPANEDIAMINE, N-(3-AMINOPROPYL)-	56-18-8	2269	(CO) 3
0231	# BIS(AMINOPROPYL)PIPERAZINE PIPERAZINE,1,4-BIS(3-AMINOPROPYL)-	7209-38-3	1760	(CO) 3
2971	BIS (2-CHLOROETHOXY) METHANE	111-91-1		20 21
1965 chg	# 5-(BIS(2-CHLOROETHYL)AMINO) URACIL 2,4(1H,3H)-PYRIMIDINEDIONE, 5- BIS(2-CHLOROETHYL)AMINO -	66-75-1		(CA,MU) 8 20 21
0232	# BIS (2-CHLOROETHYL) ETHER ETHANE, 1,1'-OXYBIS 2-CHLORO-	111-44-4	1916	(CA) 1 2 3 8 15 16 18 19 20 21
0233	# BISCHLOROETHYL NITROSOUREA UREA, N,N'-BIS(2-CHLOROETHYL)-N-NITROSO-	154-93-8		(CA,MU) 7 13(H,Q)
syn	BIS(2-CHLOROISOPROPYL)ETHER see BIS(2-CHLORO-1- * METHYLETHYL)ETHER			
0234	# BIS (2-CHLOROMETHYL) ETHER METHANE, OXYBIS(CHLORO-)	542-88-1	2249	(CA) 1 2 3 5 7 8 16 18 19 20 21
0235	BIS(2-CHLORO-1-METHYLETHYL)ETHER PROPANE, 2,2'-OXYBIS 1-CHLORO-	108-60-1	2490	3 6 18 20 21
2170	BIS(CHLOROMETHYL)KETONE 2-PROPANONE, 1,3-DICHLORO-	534-07-6	2649	3 16 19
0236 chg	1,2-BIS-(DIMETHYLAMINO)-ETHANE 1,2-ETHANEDIAMINE, N,N,N',N'-TETRAMETHYL-	110-18-9	2372	3
0237	BIS (2-ETHYLHEXYL) ADIPATE HEXANEDIOIC ACID, BIS(2-ETHYLHEXYL) ESTER	103-23-1		5 6 7 18
0238	# BIS (2-ETHYLHEXYL) PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, BIS(2-ETHYLHEXYL) ESTER	117-81-7		(CA) 1 2 5 6 18 20 21
0239	BISMUTH TELLURIDE	1304-82-1		1 2
2171 gen	BISULFITES, INORGANIC, AQUEOUS SOLUTION, n.o.s.		2693	3
2172	BITOSCANATE	4044-65-9	1588	3 6 16 19
0240	BLADEX PROPIONITRILE, 2-(4-CHLORO-6-(ETHYLAMINO)-1,3,5-TRIAZIN-2- * YL)AM-2-METHYL-	21725-46-2	2588	3 14
2173 gen	BLASTING AGENTS, n.o.s.		BLAG	3

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syn		BLEACHING POWDER see CALCIUM HYPOCHLORITE			
syn		BLUE ASBESTOS see ASBESTOS CROCIDOLITE			
2175 gen		BOMBS, SMOKE, CONTAINING CORROSIVE LIQUID, NON-EXPLOSIVES * WITHOUT INITIATING DEVICE		2028	3
2176 gen		BORATE AND CHLORATE MIXTURES		1458	3
syn		BORATE, TETRASODIUM SALT see SODIUM BORATES			
syn		BORAX see SODIUM BORATES			
2177 gen		BORDEAUX ARSENITE, liquid or solid		2759	3
syn		BORIC ANHYDRIDE see BORON OXIDE			
0242		BORNEOL BICYCLO 2.2.1 HEPTAN-2-OL, 1,7,7-TRIMETHYL-, ENDO-	507-70-0	1312	3 15
syn		BORNYL CHLORIDE see PINANE HYDROPEROXIDE			
0243 chg		BORON OXIDE	1303-86-2		1 2
0244	#	BORON TRIBROMIDE BORANE, TRIBROMO-	10294-33-4	2692	(CO) 1 2 3 15
0245	#	BORON TRICHLORIDE BORANE, TRICHLORO-	10294-34-5	1741	(CO) 3 16 19
0246		BORON TRIFLUORIDE BORANE, TRIFLUORO-	7637-07-2	1008	1 2 3 4 15 16 19
0247		BORON TRIFLUORIDE ACETIC ACID COMPLEX BORANE, TRIFLUORO-COMPOUND WITH ACETIC ACID (1:1)	753-53-7	1742	3
0248	#	BORON TRIFLUORIDE DIETHYL ETHERATE BORON, TRIFLUORO 1,1'-OXYBIS ETHANE -, (T-4)-	109-63-7	2604	(CO) 1 2 3 15
0249	#	BORON TRIFLUORIDE DIHYDRATE BORANE, TRIFLUORO-, DIHYDRATE	13319-75-0	2851	(CO) 1 2 3
syn		BORON TRIFLUORIDE COMPOUND with METHYL ETHER (1:1) * see BORON TRIFLUORIDE DIMETHYL ETHERATE			
0250 chg	+	BORON TRIFLUORIDE DIMETHYL ETHERATE BORON, TRIFLUORO OXYBIS METHANE -, (T-4)-	353-42-4	2965	(F3,R3) 1 2 3 16 19
syn		BOX TOE GUM see NITROCELLULOSE			
2178 gen		BRAKE FLUID, HYDRAULIC		1118	3
0251 chg	+	BROMACIL 2,4(1H,3H)-PYRIMIDINEDIONE, 5-BROMO-6-METHYL-3-(1-METHYLPROPYL)-	314-40-9		(MU) 1 2
2179		BROMADIOLONE	28772-56-7	3027	16 17 19
2180 gen		BROMATES, INORGANICS, n.o.s.		1450	3
0252	#	BROMINE	7726-95-6	1744	(CO) 1 2 3 6 15 16 19
syn		BROMINE, and solutions see BROMINE			
0253	#	BROMINE CHLORIDE	13863-41-7	2901	(CO) 3
0254	#	BROMINE PENTAFLUORIDE BROMINE FLUORIDE (BrF5)	7789-30-2	1745	(CO,R3) 1 2 3
0255	#	BROMINE TRIFLUORIDE BROMINE FLUORIDE	7787-71-5	1746	(CO,R3) 3 4 12 15
2182 gen		BROMOACETIC ACID, Solid or Solution	79-08-3	1938	3
0256		BROMOACETONE 2-PROPANONE, 1-BROMO-	598-31-2	1569	3 20 21
0257	#	BROMOACETYL BROMIDE ACETYL BROMIDE, BROMO-	598-21-0	2513	(CO) 3
0258		BROMOBENZENE BENZENE, BROMO-	108-86-1	2514	3 15
0259		BROMOBENZYL CYANIDE ACETONITRILE, BROMOPHENYL	5798-79-8	1694	3
0260		2-BROMOBUTANE BUTANE, 2-BROMO-	78-76-2	2339	3
0261		BROMOETHYL ETHYL ETHER ETHANE, 1-BROMO-2-ETHOXY	592-55-2	2340	3
0262		BROMOFORM METHANE, TRIBROMO-	75-25-2	2515	1 2 3 18 20 21
syn		BROMOMETHANE see METHYL BROMIDE			
0263 chg	+	BROMOMETHYLBUTANE BUTANE, 1-BROMO-3-METHYL	107-82-4	2341	(F3) 3
0264 chg	+	2-BROMO-2-METHYLPROPANE PROPANE, 2-BROMO-2-METHYL	507-19-7	2342	(F3) 3
0265 chg	+	1-BROMO-2-METHYLPROPANE PROPANE, 1-BROMO-2-METHYL	78-77-3	2342	(F3) 3
0266		BROMOPENTANE PENTANE, BROMO-	29756-38-5	2343	3
0267		BROMOPROPANE PROPANE, BROMO-	26446-77-5	2344	3
0268	#	3-BROMOPROPYNE PROPYNE, 3-BROMO-	106-96-7	2345	(F3,R4) 3 16 19
0269		BROMOTRIFLUOROETHYLENE ETHENE, BROMOTRIFLUORO-	598-73-2	2419	3
0270		BRUCINE STRYCHNIDIN-10-ONE, 2,3-DIMETHOXY-	357-57-3	1570	3 20 21
0271	#	BUSULFAN 1,4-BUTANEDIOL, DIMETHANESULFONATE	55-98-1	1851	(CA,MU,TE) 3 7 13(H,T,V ,Y,EE,FF)
0272	#	1,3-BUTADIENE	106-99-0	1010	(F4,R2) 1 2 3 6 15 16 18 19
2922		1,3-BUTADIENE, 1,1,2,3,4,4-HEXACHLORO-	86-78-3		20 21
syn		1-BUTANAMINE, N-BUTYL-N-NITROSO- see * N-NITROSODI-N-BUTYLAMINE			
0273	#	BUTANE	106-97-8	1011	(F4) 1 2 3 15
0274		BUTANEDIONE 2,3-BUTANEDIONE	431-03-8	2346	3
syn		1-BUTANETHIOL see BUTYL MERCAPTAN			
syn		2-BUTANONE see METHYL ETHYL KETONE			
syn		2-BUTANONE PEROXIDE see METHYL ETHYL KETONE PEROXIDE			
syn		2-BUTENE, 1,4-DICHLORO- see 1,4-DICHLORO-2-BUTENE			
0275		2-BUTOXY ETHANOL ETHANOL, 2-BUTOXY-	111-76-2	2369	1 2 3 15
0276		BUTOXYL 1-BUTANOL, 3-METHOXY-, ACETATE	4435-53-4	2708	3
1329	#	n-BUTYL ACETATE ACETIC ACID, BUTYL ESTER	123-86-4	1123	(F3) 1 2 3 15 20
1644 chg		sec-BUTYL ACETATE ACETIC ACID, 1-METHYLPROPYL ESTER	105-46-4	1123	1 2 3 20
1786 chg	+	tert-BUTYL ACETATE ACETIC ACID, 1,1-DIMETHYLETHYL ESTER	540-88-5	1123	(F3) 1 2 3 20
0277 chg	#	BUTYL ACID PHOSPHATE PHOSPHORIC ACID, DIBUTYL ESTER	12788-93-1	1718	(CO) 3
0278	#	BUTYL ACRYLATE 2-PROPENOIC ACID, BUTYL ESTER	141-32-2	2348	(R2) 1 2 3 15 18
1330	#	n-BUTYL ALCOHOL 1-BUTANOL	71-36-3	1120	(F3) 1 2 3 15 18 20 21

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1645 chg	sec-BUTYL ALCOHOL 2-BUTANOL	78-92-2	1120	1 2 3 18
1787 chg	tert-BUTYL ALCOHOL 2-PROPANOL, 2-METHYL-	75-65-0	1120	1 2 3 15 18
0279	BUTYL ALDEHYDE OXIME BUTANAL OXIME	110-69-0	2840	3
0280	# BUTYLAMINE 1-BUTANAMINE	109-73-9	1125	(F3) 1 2 3 15 20
3024	sec-BUTYLAMINE	513-49-5		20
3059	sec-BUTYLAMINE	13952-84-6		20
3025	tert-BUTYLAMINE	75-64-9		20
0281	BUTYLANILINE BENZENAMINE, N-BUTYL	1126-78-9	2738	3 15
syn	BUTYLATED HYDROXYTOLUENE see 2,6-Di-tert-BUTYL-p-CRESOL			
0282	BUTYL BENZENE BENZENE, BUTYL-	104-51-8	2709	3 15
2896	BUTYL BENZYL PHTHALATE PHTHALIC ACID, BENZYL BUTYL ESTER	85-68-7		18 20
0283	# BUTYL BROMIDE BUTANE, 1-BROMO-	109-65-9	1126	(F3) 3 15
syn	sec-BUTYL BROMIDE see 2-BROMOBUTANE			
syn	tert-BUTYL BROMIDE see BROMOMETHYLPROPANE			
syn	BUTYL CELLOSOLVE see 2-BUTOXY ETHANOL			
0284	# BUTYL CHLORIDE BUTANE, 1-CHLORO-	109-69-3	1127	(F3) 3 15
0285	# BUTYLCHLOROFORMATE CARBONOCHLORIDIC ACID, BUTYL ESTER	592-34-7	2743	(CO) 3
1788	tert-BUTYL CHROMATE CHROMIC ACID, BIS(1,1-DIMETHYLETHYL)- ESTER	1189-85-1		1 2 10
syn	tert-BUTYL CUMENE PEROXIDE see tert-BUTYL CUMYL PEROXIDE			
2184	tert-BUTYL CUMYL PEROXIDE	3457-61-2	2091	3
syn	BUTYLCYCLOHEXYLCHLOROFORMATE see tert-BUTYLCYCLOHEXYLCHLORO * FORMATE			
1789	tert-BUTYLCYCLOHEXYLCHLOROFORMATE CARBONOCHLORIDIC ACID, (1,1-DIMETHYLETHYL)CYCLOHEXYL ESTER	70042-58-9	2747	3
2185	N-BUTYL-4,4-DI(tert-BUTYL-PEROXY) VALERATE (stock pure)	995-33-5	2140	3
2186 gen	N-BUTYL-4,4-DI(tert-BUTYL-PEROXY) VALERATE (maximum 52% * SOLUTION)	995-33-5	2141	3
0286 chg	# BUTYLENE BUTENE	25167-67-3	1012	(F4) 3 15
0287	# 1,2-BUTYLENE OXIDE OXIRANE, ETHYL-	106-88-7		(F3,MU) 6 15 17 18
0288	# BUTYL ETHER BUTANE, 1,1'-OXYBIS-	142-96-1	1149	(F3) 3 15
0289	BUTYL FORMATE FORMIC ACID, BUTYL ESTER	592-84-7	1128	3 15
1331	n-BUTYL GLYCIDYL ETHER OXIRANE, (BUTOXYMETHYL)-	2426-08-6		1 2 4 10
1790	# tert-BUTYL HYDROPEROXIDE HYDROPEROXIDE, 1,1-DIMETHYLETHYL	75-91-2	2094	(MU) 3
2187 gen	tert-BUTYL HYDROPEROXIDE SOLUTION, maximum 80% in DI-tert-BUTYL * PEROXIDE AND SOLVENT		2092	3
1402	n-n-BUTYL-IMIDAZOLE 1H-IMIDAZOLE, 1-BUTYL-	4316-42-1	2690	3
1332	n-BUTYLISOCYANATE BUTANE, 1-ISOCYANATO-	111-36-4	2484	3
1791	tert-BUTYLISOCYANATE PROPANE, 2-ISOCYANATO-2-METHYL-	1609-86-5	2485	3
2188	tert-BUTYL ISOPROPYL BENZENE HYDROPEROXIDE	30026-92-7	2091	3
2189	BUTYL ISOVALERATE	109-19-3		16 19
syn	BUTYL LACTATE see n-BUTYL LACTATE			
1333	n-BUTYL LACTATE PROPANOIC ACID, 2-HYDROXY-, BUTYL ESTER	138-22-7		1 2 15
2190	BUTYL LITHIUM	109-72-8	2445	3 17
0290	# BUTYL MERCAPTAN 1-BUTANETHIOL	109-79-5	2347	(F3) 1 2 3 4 15
0291	BUTYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, BUTYL ESTER	97-88-1	2227	3 15
1792	tert-BUTYL MONOPEROXYMALEATE 2-PROPENEPEROXOIC ACID, 3-CARBOXY-, 1-(1,1-DIMETHYLETHYL) ESTER, * (Z)-	1931-62-0	2101+	3
0292 chg	+ BUTYL NITRITE NITROUS ACID, BUTYL ESTER	544-16-1	2351	(F3) 3
1793	# tert-BUTYL PEROXYACETATE ETHANEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	107-71-1	2096+	(F3,R4) 3
syn	BUTYL PEROXYBENZOATE see tert-BUTYLPEROXYBENZOATE			
1794	# tert-BUTYL PEROXYBENZOATE BENZENECARBOPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	614-45-9	2098+	(F3,R4) 3
syn	BUTYL PEROXYCROTONATE see tert-BUTYL PEROXYCROTONATE			
1795	tert-BUTYL PEROXYCROTONATE 2-BUTENEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	23474-91-1	2183	3
0293	BUTYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIBUTYL ESTER	16215-49-9	2169	3
2191	tert-BUTYL PEROXYDIETHYL-ACETATE, technical pure	2550-33-6	2144	3
2192 gen	tert-BUTYL PEROXYDIETHYL-ACETATE with tert-BUTYL PEROXYBENZOATE		2551	3
1796	tert-BUTYL PEROXY(2-ETHYL)-HEXANOATE HEXANEPEROXOIC ACID, 2-ETHYL-, 1,1-DIMETHYLETHYL ESTER	3006-82-4	2886+	3
1797	tert-BUTYL PEROXYISOBUTYRATE PROPANEPEROXOIC ACID, 2-METHYL-, 1,1-DIMETHYLETHYL ESTER	109-13-7	2142+	3
2193 gen	tert-BUTYL PEROXYISONONANOATE		2104	3
1798	tert-BUTYL PEROXYISOPROPYL CARBONATE CARBONOPEROXOIC ACID, OO-(1,1-DIMETHYLETHYL) O-(1- * METHYLETHYL) ESTER	2372-21-6	2103	3
1799	tert-BUTYL PEROXYNEODECANOATE NEODECANEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	26748-41-4	2177+	3
2194	3-tert-BUTYL PEROXY-3-PHENYLPHTHALIDE	25251-51-8	2596	3
2195 gen	tert-BUTYL PEROXY-PHTHALATE		2105	3
1800	# tert-BUTYL PEROXYPIVALATE PROPANEPEROXOIC ACID, 2,2-DIMETHYL-, 1,1-DIMETHYLETHYL ESTER	927-07-1	2110	(F3,R4) 3
2196	tert-BUTYL PEROXY-3,5,5-TRIMETHYLHEXANOATE	13122-18-4	2104	3
0294	BUTYL PHENOL PHENOL, BUTYL-	28805-86-9	2228+	3
1440 chg	o-sec-BUTYLPHENOL PHENOL, 2-(1-METHYLPROPYL)	89-72-5	2229+	1 2 3
syn	BUTYL PHOSPHORIC ACID see BUTYL ACID PHOSPHATE			
syn	N-BUTYL PHTHALATE see DI-N-BUTYL PHTHALATE			
0295	# BUTYL PROPIONATE PROPANOIC ACID, BUTYL ESTER	590-01-2	1914	(F3) 3 15

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1620		p-tert-BUTYLTOLUENE BENZENE, 1-(1,1-DIMETHYLETHYL)-4-METHYL-	98-51-1		1 2 17
0296	#	BUTYL TRICHLOROSILANE SILANE, BUTYLTRICHLORO-	7521-80-4	1747	(CO) 3 15
2198		tert-BUTYL-2,4,6-TRINITRO-m-XYLENE		2956	17
0297	#	BUTYL VINYL ETHER BUTANE, 1-(ETHENYLOXY)-	111-34-2	2352	(F3,R2) 3 15 16 19
0298		1,4-BUTYNEDIOL 2-BUTYNE-1, 4-DIOL	110-65-6	2716	3
0299	#	BUTYRALDEHYDE BUTANAL	123-72-8	1129	(F3) 3 15 18 20
syn		BUTYRALDOXIME see BUTYL ALDEHYDE OXIME			
0300	#	BUTYRIC ACID BUTANOIC ACID	107-92-6	2820	(CO) 3 15 20
0301	#	BUTYRIC ANHYDRIDE BUTANOIC ACID, ANHYDRIDE	106-31-0	2739	(CO) 3 15
0302	#	BUTYRONITRILE BUTANENITRILE	109-74-0	2411	(F3) 3 4 15
0303	#	BUTYRYL CHLORIDE BUTANOYL CHLORIDE	141-75-3	2353	(CO) 3
0304		CACODYLIC ACID ARSINIC ACID, DIMETHYL-	75-60-5	1572	1 2 3 20 21
0305 chg	#	CADMIUM	7440-43-9	2570	(CA,TE) 1 2 3 4 5 6 7 8 18 20 21
2869 gen		CADMIUM, all inorganic compounds of		2570	3 6 20
0306	#	CADMIUM ACETATE ACETIC ACID, CADMIUM SALT	543-90-8	2570	(CA) 1 2 3 5 6 7 8 20
0307		CADMIUM BROMIDE	7789-42-6	2570	1 2 3 6 20
0308	#	CADMIUM CHLORIDE	10108-64-2	2570	(CA,MU) 1 2 3 5 6 7 8 20
2199 gen		CADMIUM COMPOUNDS		2570	3 18
2200		CADMIUM OXIDE	1306-19-0	2570	3 6 16 19
2201		CADMIUM STEARATE	2223-93-0	2570	3 6 16 19
0309	#	CALCIUM	7440-70-2	1401	(R2) 3 15
0310	#	CALCIUM ARSENATE ARSENIC ACID, CALCIUM SALT	7778-44-1	1573	(CA) 1 3 5 6 7 8 16 19 20
0311 chg	@	CALCIUM ARSENITE ARSONIC ACID, CALCIUM SALT	52740-16-6	1574	1 2 3 5 6 7 8 20
syn		CALCIUM BISULFIDE see CALCIUM HYDROGEN SULFITE			
0312	#	CALCIUM CARBIDE	75-20-7	1402	(F4,R2) 3 15 20
0313		CALCIUM CHLORATE CHLORIC ACID, CALCIUM SALT	10137-74-3	1452+	3 15
0314		CALCIUM CHLORITE CHLOROUS ACID, CALCIUM SALT	14674-72-7	1453	3
0315	#	CALCIUM CHROMATE CHROMIC ACID, CALCIUM SALT	13765-19-0	9096	(CA,MU) 1 2 3 5 6 7 8 20 21
0316		CALCIUM CYANAMIDE CYANAMIDE, CALCIUM SALT (1:1)	156-62-7	1403	1 2 3 18
0317		CALCIUM CYANIDE	592-01-8	1575	1 2 3 6 14 20 21
2202		CALCIUM DITHIONITE		1923	17
0318		CALCIUM DODECYLBENZENE SULFONATE BENZENESULFONIC ACID, DODECYL-, CALCIUM SALT	26264-06-2	9097	3 20
0319		CALCIUM FLUORIDE	7789-75-5		4
0320		CALCIUM HYDRIDE	57308-10-8	1404	3
0321	#	CALCIUM HYDROGEN SULFITE SULFUROUS ACID, CALCIUM SALT (2:1)	13780-03-5	2693	(CO) 3
2203		CALCIUM HYDROSULFITE		1923	3
0322 chg		CALCIUM HYDROXIDE	1305-62-0		1 2
0323	#	CALCIUM HYPOCHLORITE HYPOCHLOROUS ACID, CALCIUM SALT	7778-54-3	1748+	(R2) 3 15 20
2204 gen		CALCIUM MANGANESE SILICON		2844	3
0324		CALCIUM NITRATE NITRIC ACID, CALCIUM SALT	10124-37-5	1454	3
0325		CALCIUM OXIDE	1305-78-8	1910	1 2 3 15
0326		CALCIUM PERCHLORATE PERCHLORIC ACID, CALCIUM SALT	13477-36-6	1455	3
0327		CALCIUM PERMANGANATE PERMANGANIC ACID, CALCIUM SALT	10118-76-0	1456	3
0328		CALCIUM PEROXIDE	1305-79-9	1457	3
0329		CALCIUM PHOSPHIDE	1305-99-3	1360	3
0330		CALCIUM RESINATE RESIN ACIDS AND ROSIN ACIDS, CALCIUM SALTS	9007-13-0	1314+	3
0331		CALCIUM SELENATE SELENIC ACID, CALCIUM SALT (1:1)	14019-91-1	2630	1 2 3
0332		CALCIUM SILICIDE	12737-18-7	1405	3
2205		CALCIUM SILICON	12013-56-8	1406	3
syn		CAMPHECHLOR see TOXAPHENE			
0333 chg	+	CAMPHENE BICYCLO (2.2.1) HEPTANE, 2,2-DIMETHYL-3-METHYLENE-	79-92-5	9011	(F3) 3
0334		CAMPHOR BICYCLO (2.2.1) HEPTAN-2-ONE, 1,7,7-TRIMETHYL-	76-22-2	2717	1 2 3 15
syn		CAMPHOR, NATURAL OR SYNTHETIC see CAMPHOR			
0335		CAMPHOR OIL OILS, CAMPHOR	8008-51-3	1130	3
2207		CANTHARIDIN	56-25-7		16 19
0336	#	CAPROIC ACID HEXANOIC ACID	142-62-1	1760	(CO) 3 15
syn		CAPROIC ALDEHYDE see HEXALDEHYDE			
0337		CAPROLACTAM 2H-AZEPIN-2-ONE, HEXAHYDRO-	105-60-2		1 2
2208		CAPRYLYL PEROXIDE (N-OCTANOYL PEROXIDE)	7530-07-6	2129	3
0338		CAPTAFOL 1H-ISOINDOLE-1,3(2H)-DIONE, 3A,4,7,7A-TETRAHYDRO-2- (1,1,2,2- * TETRACHLOROETHYL)THIO -	2425-06-1	2588	1 2 3
0339	#	CAPTAN 1H-ISOINDOLE-1,3(2H)-DIONE, 3A,4,7,7A-TETRAHYDRO-2- * (TRICHLOROMETHYL)THIO -	133-06-2	9099	(MU) 1 2 3 6 18 20
2209		CARBACHOL CHLORIDE	51-83-2		16 19 20
2211 gen		CARBAMATE PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s., * flash point between 23C and 61C		2991	3

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2212 gen	CARBAMATE PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s., * flash point less than 23C		2758	3
2210 gen	CARBAMATE PESTICIDES, LIQUID, TOXIC, n.o.s.		2992	3
2213 gen	CARBAMATE PESTICIDES, SOLID, TOXIC, n.o.s.		2757	3
syn	CARBAMIC ACID, ETHYL ESTER see URETHANE			
2214	CARBAMIC ACID, METHYL-, O(((2,4-DIMETHYL-1-3- * DITHIOLAN-2-YL)METHYLENE)AMINO)	26419-73-8		16 19
syn	CARBAMIDE, N-ETHYL-N-NITROSO- see N,NITROSO-N-ETHYLUREA			
syn	CARBAMIDE, N-METHYL-N-NITROSO- see N-NITROSO-N-METHYLUREA			
syn	CARBAMIDE, THIO- see THIOUREA			
syn	CARBAMOYL CHLORIDE, DIMETHYL- see DIMETHYLCARBAMOYL * CHLORIDE			
2972	CARBAMINIDOSELENOIC ACID	630-10-4		20 21
0340	CARBARYL 1-NAPHTHALENOL, METHYLCARBAMATE	63-25-2	2757	1 2 3 4 6 18
syn	CARBOBENZOXY CHLORIDE see BENZYL CHLOROFORMATE			
0341	CARBOFURAN 7-BENZOFURANOL, 2,3-DIHYDRO-2,2-DIMETHYL-, METHYLCARBAMATE	1563-66-2	2757	1 2 3 4 14 16 19 20
syn	CARBON, ACTIVATED see ACTIVATED CARBON			
2216 gen	CARBON, ANIMAL OR VEGETABLE ORIGIN		1361	3
0342 chg	CARBON BLACK	1333-86-4	1361	1 2 4
0343	CARBON DIOXIDE	124-38-9	1013+	1 2 3 4
0344	# CARBON DISULFIDE	75-15-0	1131	(F3) 1 2 3 4 14 15 16 18 19 20 21
0345	# CARBON MONOXIDE	630-08-0	1016	(F4) 1 2 3 4 15
syn	CARBON OXYFLUORIDE see CARBONYL FLUORIDE			
2217 gen	CARBON REMOVER, LIQUID		1132	3
0346	CARBON TETRABROMIDE METHANE, TETRABROMO-	558-13-4	2516	1 2 3
0347 chg	# CARBON TETRACHLORIDE METHANE, TETRACHLORO	56-23-5	1846	(CA) 1 2 3 4 5 6 7 8 14 15 18 20 21
syn	CARBON TETRAFLUORIDE see TETRAFLUOROMETHANE			
0348	CARBONYL FLUORIDE CARBONIC DIFLUORIDE	353-50-4	2417	1 2 3 20 21
0349	CARBONYL SULFIDE CARBON OXIDE SULFIDE	463-58-1	2204	3 15 18
2218	CARBOPHENOTHION	786-19-6	3018	3 16 19
syn	CARMUSTINE see BISCHLOROETHYL NITROSOUREA			
2219	CARVONE	2244-16-8	1224	3 16 19
2220 gen	CASINGHEAD GASOLINE		1257	3
0350	CASTOR BEAN POMACE		2969	3 12(B)
0351	CASTRIX PYRIMIDINE, 2-CHLORO-4-(DIMETHYLAMINO)-6-METHYL-	535-89-7	2588	3 14 16 19
syn	CATECHOL see 1,2-DIHYDROXYBENZENE			
2221 gen	CAUSTIC ALKALI LIQUIDS, n.o.s.		1719	3
syn	CAUSTIC SODA, DRY, SOLID see SODIUM HYDROXIDE			
syn	CAUSTIC SODA, SOLUTION see SODIUM HYDROXIDE			
syn	CDEC see SULFALLATE			
syn	CELLOSOLVE ACETATE see 2-ETHOXYETHYLACETATE			
2224 gen	CELLULOID, IN BLOCKS, RODS, ROLLS, SHEETS, TUBES, ETC.		2000	3
2225 gen	CELLULOID SCRAP		2002	3
2226 gen	CEMENT, LIQUID, n.o.s.		1133	3
0352	CERIUM	7440-45-1	1333	3
0353	CESIUM	7440-46-2	1407	3
0354	# CESIUM HYDROXIDE	21351-79-1	2681+	(CO) 1 2 3
0355	CESIUM NITRATE NITRIC ACID, CESIUM SALT	7789-18-6	1451	3
2227 gen	CHEMICAL AMMUNITION, NON-EXPLOSIVE, WITH IRRITANT		2017	3
2228 gen	CHEMICAL AMMUNITION, NON-EXPLOSIVE, WITH POISONOUS * MATERIAL		2016	3
2229 gen	CHEMICAL KIT		1760	3
0356	CHLORAL ACETALDEHYDE, TRICHLORO-	75-87-6	2075	3 20 21
0357	CHLORAMBEN BENZOIC ACID, 3-AMINO-2,5-DICHLORO-	133-90-4	2588	1 3 18
0358	# CHLORAMBUCIL BENZENEBUTANOIC ACID, 4- BIS(2-CHLOROETHYL)AMINO -	305-03-3	1851	(CA,MU,TE) 3 5 7 13(E, F,H,R,Y,EE,FF) 20 21
0359	CHLORAMINE CHLORAMIDE	10599-90-3		12(B)
0360	# CHLORAMPHENICOL ACETAMIDE, 2,2-DICHLORO-N- 2-HYDROXY-1-(HYDROXYMETHYL)-2-(4- * NITROPHENYL)ETHYL -	56-75-7	1851	(CA,MU,TE) 3 7
syn	CHLORATE and BORATE MIXTURES see BORATE and CHLORATE * MIXTURES			
2231 gen	CHLORATE and MAGNESIUM CHLORIDE MIXTURES		1459	3
syn	CHLORATE OF POTASH see POTASSIUM CHLORATE			
syn	CHLORATE OF SODA see SODIUM CHLORATE			
2232 gen	CHLORATES, INORGANIC, n.o.s.		1461	3
0361	# CHLORDANE	57-74-9	2762	(CA) 1 2 3 6 8 14 16 18 19 20 21
syn	CHLORDECONE see KEPONE			
0362	# CHLORDIAZEPOXIDE 3H-1,4-BENZODIAZEPINE, 7-CHLORO-2-(METHYLAMINO)-5-PHENYL-,4- * OXIDE	58-25-3	1851	(TE) 3 13(EE,FF)
0363 chg	# CHLORDIAZEPOXIDE HYDROCHLORIDE 3H-1,4-BENZEDIAZEPINE-4-OXIDE HYDROCHLORIDE, 7-CHLORO-2-METHYL- * AMINO-5-PHENYL	438-41-5	1851	(TE) 3 13(EE,FF)

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0364		CHLORFENVINPHOS PHOSPHORIC ACID, 2-CHLORO-1-(2,4- * DICHLOROPHENYL) ETHENYL DIETHYLESTER	470-90-6	3018	3 14 16 19
0365		CHLORIC ACID	7790-93-4	2626+	3
2973	gen	CHLORINATED BENZENES			20
0366	chg	CHLORINATED DIPHENYL OXIDE BENZENE, 1,1'-OXY BIS CHLORO	55720-99-5		1 2
2974	gen	CHLORINATED ETHANES			20
	syn	CHLORINATED FLUOROCARBON see 1,1,2-TRICHLORO- * 1,2,2-TRIFLUOROETHANE			
2975	gen	CHLORINATED NAPHTHALENE			20
2976	gen	CHLORINATED PHENOLS			18 20
0367		CHLORINE	7782-50-5	1017	1 2 3 4 6 15 16 18 19 20
	syn	CHLORINE CYANIDE see CYANOGEN CHLORIDE			
0368		CHLORINE DIOXIDE CHLORINE OXIDE	10049-04-4		1 2 18
	syn	CHLORINE DIOXIDE HYDRATE, FROZEN see CHLORIC ACID			
0369	#	CHLORINE PENTAFLUORIDE CHLORINE FLUORIDE (ClF5)	13637-63-3	2548	(CO) 1 2 3
0370		CHLORINE TRIFLUORIDE CHLORINE FLUORIDE (ClF3)	7790-91-2	1749	1 2 3 15
2234	gen	CHLORITE, INORGANIC, n.o.s.		1462	3
2235		CHLORMEPHOS	24934-91-6	3018	3 16 19
2236		CHLORMEQUAT CHLORIDE	999-81-5	2811	3 16 19
0371	#	CHLORNAPHAZINE	494-03-1	1851	(CA) 3 7 20 21
0372		CHLOROACETALDEHYDE ACETALDEHYDE, CHLORO-	107-20-0	2232	1 2 3 16 19 20 21
0373	#	CHLOROACETIC ACID ACETIC ACID, CHLORO-	79-11-8	1750+	(CO) 3 15 16 18 19
0374		CHLOROACETONE 2-PROPANONE, 1-CHLORO-	78-95-5	1695	3
0375		CHLOROACETONITRILE ACETONITRILE, CHLORO-	107-14-2	2668	3
	syn	CHLOROACETOPHENONE see alpha-CHLOROACETOPHENONE			
0048		alpha-CHLOROACETOPHENONE ETHANONE, 2-CHLORO-1-PHENYL-	532-27-4	1697	1 2 3 18
	syn	2-CHLOROACETOPHENONE see alpha-CHLOROACETOPHENONE			
0377	#	CHLOROACETYL CHLORIDE ACETYL CHLORIDE, CHLORO-	79-04-9	1752	(CO) 1 2 3
2977	gen	CHLOROALKYL ETHERS			20
0378	+ chg	CHLOROANILINES BENZENAMINE, CHLORO-	27134-26-5	2019+	(F3) 3
2964		p-CHLOROANILINE	106-47-8	2019+	3 20 21
1466	chg	p-CHLORO-o-ANISIDINE BENZENEAMINE, 4-CHLORO-2-METHOXY-	93-50-5	2233	3
0379	#	CHLOROBENZENE BENZENE, CHLORO-	108-90-7	1134	(F3) 1 2 3 6 15 18 20 21
	syn	CHLOROBENZILATE see ETHYL-4,4'-DICHLOROBENZILATE			
0380		CHLOROBENZOTRIFLUORIDE BENZENE, CHLORO (TRIFLUOROMETHYL)-	52181-51-8	2234	3 15
1464		p-CHLOROBENZOYL PEROXIDE PEROXIDE, BIS(4-CHLOROBENZOYL)	94-17-7	2114+	3
1465	chg	p-CHLOROBENZYL CHLORIDE BENZENE, 1-CHLORO-4-(CHLOROMETHYL)-	104-83-6	2235	3
1423		o-CHLOROBENZYLIDENE MALONONITRILE PROPANEDINITRILE, (2-CHLOROPHENYL)METHYLENE -	2698-41-1		1 2
0381		CHLOROBROMOMETHANE BROMOCHLOROMETHANE	74-97-5	1887	1 2 3
2237		1-CHLORO-3-BROMOPROPANE	109-70-6	2688	3
0382		CHLOROBUTANE BUTANE, CHLORO-	25154-42-1	1127	3
0383		CHLOROCRESOLS PHENOL, CHLOROMETHYL-	1321-10-4	2669	3
2917		4-CHLORO-m-CRESOL	59-50-7		20 21
2978		CHLORODIBROMOMETHANE	124-48-1		20
2238		3-CHLORO-4-DIETHYLAMINO-BENZENEDIAZONIUM ZINC CHLORIDE		3033	17
0384		CHLORODIFLUOROBROMOMETHANE METHANE, BROMOCHLORODIFLUORO-	353-59-3	1974	3
0385	chg	CHLORODIFLUOROETHANE ETHANE, 1-CHLORO-1,1-DIFLUORO-	75-68-3	2517	3
	syn	CHLORODIFLUOROETHANES see CHLORODIFLUOROETHANE	25497-29-4		
0386		CHLORODIFLUOROMETHANE METHANE, CHLORODIFLUORO-	75-45-6	1018	1 2 3
	syn	CHLORODIPHENYL OXIDE see CHLORINATED DIPHENYL OXIDE			
	syn	CHLOROETHANE see ETHYL CHLORIDE			
	syn	CHLOROETHANOL see ETHYLENE CHLOROHYDRIN			
2239		CHLOROETHYLCHLOROFORMATE	627-11-2	1182	3 16 19
0387	#	1-(2-CHLOROETHYL)-3-CYCLOHEXYL-1-NITROSOUREA UREA, 1-(2-CHLOROETHYL)-3-CYCLOHEXYL-1-NITROSO-	13010-47-4		(CA) 1 7 13(H,O)
2954		2-CHLOROETHYL VINYL ETHER	110-75-8		20 21
0388	#	CHLOROFORM METHANE, TRICHLORO-	67-66-3	1888	(CA) 1 2 3 4 5 6 7 8 10 15 16 18 19 20 21
2240	gen	CHLOROFORMATE, n.o.s., flash point equals 73F		2742	3
	syn	CHLOROMETHANE see METHYL CHLORIDE			
0417		2-CHLORO-4-METHYL ANILINE BENZENAMINE, 2-CHLORO, 4-METHYL-	615-65-6	2239	3
0418		3-CHLORO-4-METHYL ANILINE BENZENAMINE, 3-CHLORO, 4-METHYL-	95-74-9	2239	3
0419		3-CHLORO-2-METHYL ANILINE BENZENAMINE, 3-CHLORO, 2-METHYL-	87-60-5	2239	3
0420		2-CHLORO-5-METHYL ANILINE BENZENAMINE, 2-CHLORO, 5-METHYL-	95-81-8	2239	3
0421		5-CHLORO-2-METHYL ANILINE BENZENAMINE, 5-CHLORO, 2-METHYL-	95-79-4	2239	3
0422		2-CHLORO-3-METHYL ANILINE BENZENAMINE, 2-CHLORO, 3-METHYL-	29027-17-6	2239	3
0423		6-CHLORO-2-METHYL ANILINE BENZENAMINE, 2-CHLORO, 6-METHYL-	87-63-8	2239	3
0424		4-CHLORO-3-METHYL ANILINE BENZENAMINE, 4-CHLORO, 3-METHYL-	7149-75-9	2239	3

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0389	#	CHLOROMETHYLCHLOROFORMATE CARBONOCHLORIDIC ACID, CHLOROMETHYL ESTER	22128-62-7	2745	(CO) 3
syn		CHLOROMETHYL ETHER see BIS (2-CHLOROMETHYL) ETHER			
0390		CHLOROMETHYL ETHYL ETHER ETHANE, CHLOROMETHOXY-	3188-13-4	2354	3
0391	#	CHLOROMETHYL METHYL ETHER METHANE, CHLOROMETHOXY-	107-30-2	1239	(CA) 1 2 3 8 16 18 19 20 21
0392 chg		3-CHLORO-4-METHYL PHENYL ISOCYANATE BENZENE, 2-CHLORO-4-ISOCYANATO-1-METHYL-	28479-22-3	2236	3
2424		beta-CHLORONAPHTHALENE	91-58-7		20 21
0393		CHLORONITROANILINE BENZENAMINE, CHLORONITRO-	41587-36-4	2237	3
0394		CHLORONITROBENZENE BENZENE, CHLORONITRO-	25167-93-5	1578	3 15
0395	#	1-CHLORO-1-NITROPROPANE PROPANE, 1-CHLORO-1-NITRO-	600-25-9		(R3) 1 2 15
0396		CHLORONITROTOLUENE BENZENE, CHLOROMETHYLNITRO-	25567-68-4	2433	3
0398		CHLOROPENTAFLUOROETHANE ETHANE, CHLOROPENTAFLUORO-	76-15-3	1020	3
0399		3-CHLOROPEROXYBENZOIC ACID BENZENECARBOPEROXOIC ACID, 3-CHLORO-	937-14-4	2755	3
0400		CHLOROPHACINONE 1,3-INDANDIONE,2-((p-CHLOROPHENYL)PHENYLACETYL)-	3691-35-8	3027+	14 16 17 19
0403	#	2-CHLOROPHENOL PHENOL, 2-CHLORO-	95-57-8	2021+	(CA) 3 7 20 21
0401 chg	#	4-CHLOROPHENOL (CHLOROPHENATE) PHENOL, p-CHLORO	106-48-9	2904+	(CO) 3
0402 chg	#	3-CHLOROPHENOL (CHLOROPHENATE) PHENOL, m-CHLORO	108-43-0	2904+	(CO) 3
2957		4-CHLOROPHENYL PHENYL ETHER	7005-72-3		20
0404		CHLOROPHENYLTRICHLOROSILANE SILANE, TRICHLORO(CHLOROPHENYL)-	26571-79-9	1753	3
0405		CHLOROPICRIN METHANE, TRICHLORONITRO-	76-06-2	1580	1 2 3 14 15
0406	#	CHLOROPLATINIC ACID PLATINATE, HEXACHLORO-, DIHYDROGEN-	16941-12-1	2507	(CO) 1 2 3
0407	#	CHLOROPRENE 1,3-BUTADIENE, 2-CHLORO-	126-99-8	1991	(F3,MU) 1 2 3 4 6 10 15 18
2241		2-CHLOROPROPANE	75-29-6	2356	3
0408		3-CHLOROPROPANOL 1-PROPANOL, 3-CHLORO-	627-30-5	2849	3
0409		2-CHLOROPROPENE PROPENE, 2-CHLORO-	557-98-2	2456	3
0410	#	CHLOROPROPIONIC ACID PROPANOIC ACID, CHLORO-	28554-00-9	2511	(CO) 3 15
2711		3-CHLOROPROPIONITRILE	542-76-7	2404	3 16 19 20 21
0411		2-CHLOROPYRIDINE PYRIDINE, 2-CHLORO-	109-09-1	2822	3
0412	#	CHLOROQUINE 1,4-PENTANEDIAMINE, N,N,N,N-(7-CHLORO-4-QUINOLINYL)-N,N-DIETHYL-	54-05-7	1851	(TE) 3 13(Y,EE,FF)
2242 gen		CHLOROSILANE, n.o.s., CORROSIVE		2987	17
2243 gen		CHLOROSILANE, n.o.s., EMITS FLAMMABLE GAS WHEN WET, CORROSIVE		2988	17
2244 gen		CHLOROSILANE, FLAMMABLE, CORROSIVE, n.o.s.		2985+	17
1424 chg		o-CHLOROSTYRENE BENZENE, CHLOROETHENYL-	1331-28-8		1 2

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0413 chg	#	CHLOROSULPHONIC ACID CHLOROSULFURIC ACID	7790-94-5	1754	(CO,R3) 3 20
0414		CHLOROTETRAFLUOROETHANE ETHANE, CHLOROTETRAFLUORO-	63938-10-3	1021	3
0415		CHLOROTHALONIL 1,3-BENZENEDICARBONITRILE, 2,4,5,6-TETRACHLORO-	1897-45-6		6 18
0416	#	CHLOROTOLUENES BENZENE, CHLOROMETHYL-	25168-05-2	2238	(CO) 3 15
1425 chg		o-CHLOROTOLUENE BENZENE, 1-CHLORO-2-METHYL-	95-49-8	2238	1 2
0397		4-CHLORO-o-TOLUIDINE HYDROCHLORIDE BENZENAMINE, 4-CHLORO-2-METHYL-, HYDROCHLORIDE	3165-93-3	1579	3 20 21
0425		CHLOROTRIFLUOROMETHANE METHANE, CHLOROTRIFLUORO-	75-72-9	1022	3
2246		CHLOROXURON	1982-47-4	2588	3 16 19
0426		CHLORPYRIFOS PHOSPHOROTHIOIC ACID, O,O-DIETHYL O-(3,5,6-TRICHLORO-2- * PYRIDINYL) ESTER	2921-88-2	2783	1 2 3 14 20
syn		CHOLANTHRENE, 3-METHYL see 3-METHYLCHOLANTHRENE			
2247		CHLORTHIOPHOS	21923-23-9	3018	3 16 19
0428 chg	+	CHROMIC ACETATE ACETIC ACID, CHROMIUM (3+) SALT	1066-30-4	9101	(CA) 1 2 3 6 20
0429 chg	#	CHROMIC ACID	7738-94-5	1463+	(CO) 1 3 4 6 15 20
3063		CHROMIC ACID	11115-74-5	1463+	3 20
2248		CHROMIC CHLORIDE	10025-73-7		6 16 19
0430	#	CHROMIC FLUORIDE CHROMIUM FLUORIDE	7788-97-8	1756+	(CO) 1 2 3 6
0431 chg	+	CHROMIC SULFATE SULFURIC ACID, CHROMIUM(3+) SALT (3:2)	10101-53-8	9100	(CA) 1 2 3 6 20
0432	#	CHROMIUM	7440-47-3		(CA,MU) 1 2 5 6 7 8 18 20 21
2245 gen		CHROMIUM compounds			18
2870 gen		CHROMIUM, all inorganic compounds of			6
0433		CHROMIUM (II) CHROMIUM, ion (Cr2+)	22541-79-3		1 2 6
0434 chg	+	CHROMIUM(III) OXIDE(2:3)	1308-38-9		(CA) 1 2 6
0435		CHROMIUM NITRATE NITRIC ACID, CHROMIUM (3+)	13548-38-4	2720	1 2 3 6
0437	#	CHROMIUM OXIDE	1333-82-0	1463+	(CA) 1 2 3 5 6 7 8 10 15
0436	#	CHROMIUM OXYCHLORIDE CHROMIUM, DICHLORODIOXO-	14977-61-8	1758	(CO) 1 2 3 6 10 15
syn		CHROMOSULFURIC ACID see NEOCHROMIUM	64093-79-4		
0439 chg	#	CHROMOSULFURIC ACID SULFURIC ACID, CHROMIUM SALT	14489-25-9	2240	(CO) 1 2 3 6
0440		CHROMOUS CHLORIDE	10049-05-5	9102	1 2 3 6 20
syn		CHROMYL CHLORIDE see CHROMIUM OXYCHLORIDE			
0441 chg	#	CHRYSENE	218-01-9		(CA) 2 4 8 20 21
2897		C.I. ACID BLUE 9, DIAMMONIUM SALT AMMONIUM, ETHYL(4-p-(ETHYL(m-SULFOBENZYL)AMINO)-alpha- * (o-SULFOPHENYL)BENZYLIDENE)-2,5-CYCLOHEXADIEN-1-YLIDENE) * (m-SULFOBENZYL-,HYDROXIDE), INNER SALT, DIAMMONIUM SALT	2650-18-2		18

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2898	C.I. ACID BLUE 9, DISODIUM SALT AMMONIUM, ETHYL(4-p-(ETHYL(m-SULFOBENZYL)AMINO)-alpha- * (o-SULFOPHENYL)BENZYLIDENE)-2,5-CYCLOHEXADIEN-1-YLIDENE) * (m-SULFOBENZYL-,HYDROXIDE), INNER SALT, DISODIUM SALT	3844-45-9		18
0442	C.I. ACID GREEN 3	4680-78-8	1602+	3 6 18
0443	# C.I. ACID ORANGE 45 2,7-NAPHTHALENEDISULFONIC ACID, 3-AMINO-4- 4'- 4- (4- * METHYLPHENYL)SULFONYL OXY PHENYL AZO 1,1'-BIPHENYL -4- * YL AZO -, DISODIUM SALT	2429-80-3	1602+	(CA) 3 9
0444	# C.I. ACID RED 85 1,3-NAPHTHALENEDISULFONIC ACID, 7-HYDROXY-8- 4'- 4- (4- * METHYLPHENYL)SULFONYL OXY PHENYL AZO 1,1'-BIPHENYL -4- * YL AZO -, DISODIUM SALT	3567-65-5	1602+	(CA) 3 9
0445	C.I. ACID RED 114, DISODIUM SALT 1,3-NAPHTHALENEDISULFONIC ACID, 8- 3,3'-DIMETHYL-4'- 4- (4- * METHYLPHENYL)SULFONYL OXY PHENYL AZO -1,1'-BIPHENYL-4- * YL AZO -7-HYDROXY-, DISODIUM SALT	6459-94-5	1602+	3 11
0446	C.I. AZOIC COUPLING COMPONENT 5 BUTANAMIDE, N,N'-(3,3'-DIMETHYL 1,1'-BIPHENYL -4,4'-DIYL)BIS 3- * OXO-	91-96-3	1602+	3 11
0447	C.I. AZOIC COUPLING COMPONENT	91-92-9	1602+	3 11
2249	C.I. BASIC GREEN 1	633-03-4	1602+	3 6 19
0448	C.I. BASIC GREEN 4 METHANAMINIUM, N- 4- 4-(DIMETHYLAMINO)PHENYL PHENYLMETHYLENE - * 2,5-CYCLOHEXADIEN-1-YLIDENE -N-METHYL-, CHLORIDE	569-64-2	1602+	3 6 18
0449	C.I. BASIC RED 1 XANTHYLIUM, 9- 2-(ETHOXYCARBONYL)PHENYL -3,6-BIS(ETHYLAMINO)-2, * 7-DIMETHYL-, CHLORIDE	989-38-8	1602+	3 6 18
0450	# C.I. BASIC YELLOW 2, MONOHYDROCHLORIDE BENZENAMINE, 4,4'-CARBONIMIDOYLBIS N,N-DIMETHYL-, * MONOHYDROCHLORIDE	2465-27-2	1602+	(CA) 3 7 8
0451	# C.I. DIRECT BLACK 4 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-3- 4'- (2,4-DIAMINO-5- * METHYLPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -5-HYDROXY-6- * (PHENYLAZO)-, DISODIUM SALT	2429-83-6	1602+	(CA) 3 9
0452	# C.I. DIRECT BLACK 4 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-3- 4'- (2,4-DIAMINO-5- * METHYLPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -5-HYDROXY-6- * (PHENYLAZO)-	25156-49-4	1602+	(CA) 3 9
0453	# C.I. DIRECT BLACK 38 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-3- 4'- (2,4- * DIAMINOPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -5-HYDROXY-6- * (PHENYLAZO)-, DISODIUM SALT	1937-37-7	1602+	(CA) 3 5 6 7 9
0454	C.I. DIRECT BLACK 114	61703-05-7	1602+	3 11
0455	C.I. DIRECT BLACK 91, TRISODIUM SALT BENZOIC ACID, 2- 2-AMINO-6- 4'- (3-CARBOXY-4- * HYDROXYPHENYL)AZO -3,3'-DIMETHOXY 1,1'-BIPHENYL -4-YL AZO -5- * HYDROXY-7-SULFO-1-NAPHTHALENYL AZO -5-NITRO-, * TRISODIUM SALT	6739-62-4	1602+	3 11
0456	C.I. DIRECT BLUE 25 2,7-NAPHTHALENEDISULFONIC ACID, 3,3'- (3,3'-DIMETHYL 1,1'- * BIPHENYL -4,4'-DIYL)BIS(AZO) BIS 4,5-DIHYDROXY-, * TETRASODIUM SALT	2150-54-1	1602+	3 11
0457	# C.I. DIRECT BLUE 2 2,7-NAPHTHALENEDISULFONIC ACID, 5-AMINO-3- 4'- (7-AMINO-1- * HYDROXY-3-SULFO-2-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO - * 4-HYDROXY-	25180-19-2	1602+	(CA) 3 9
0458	C.I. DIRECT BLUE 1 1,3-NAPHTHALENEDISULFONIC ACID, 6,6'- (3,3'-DIMETHOXY 1,1'- * BIPHENYL -4,4'-DIYL)BIS(AZO) BIS 4-AMINO-5-HYDROXY-, * TETRASODIUM SALT	2610-05-1	1602+	3 11
0459	C.I. DIRECT BLUE 15 2,7-NAPHTHALENEDISULFONIC ACID, 3,3'- (3,3'-DIMETHOXY 1,1'- * BIPHENYL -4,4'-DIYL)BIS(AZO) BIS 5-AMINO-4-HYDROXY-, * TETRASODIUM SALT	2429-74-5	1602+	3 11
0460	C.I. DIRECT BLUE 25 2,7-NAPHTHALENEDISULFONIC ACID, 3,3'- (3,3'-DIMETHYL 1,1'- * BIPHENYL -4,4'-DIYL)BIS(AZO) BIS 4,5-DIHYDROXY-	25180-27-2	1602+	3 11
0461	# C.I. DIRECT BLUE 2 2,7-NAPHTHALENEDISULFONIC ACID, 5-AMINO-3- 4'- (7-AMINO-1- * HYDROXY-3-SULFO-2-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO - * 4-HYDROXY-, TRISODIUM SALT	2429-73-4	1602+	(CA) 3 9
0462	# C.I. DIRECT BLUE 6 2,7-NAPHTHALENEDISULFONIC ACID, 3,3'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 5-AMINO-4-HYDROXY-, TETRASODIUM SALT	2602-46-2	1602+	(CA) 3 5 6 7 9 10 11
0463	C.I. DIRECT BLUE 8, DISODIUM SALT 1-NAPHTHALENESULFONIC ACID, 3,3'- (3,3'-DIMETHOXY 1,1'- * BIPHENYL -4,4'-DIYL)BIS(AZO) BIS 4-HYDROXY-, DISODIUM SALT	2429-71-2	1602+	3 11
0464	C.I. DIRECT BLUE 22, DISODIUM SALT 1,3-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-6- 4'- (2- * HYDROXY-1-NAPHTHALENYL)AZO -3,3'-DIMETHOXY 1,1'-BIPHENYL -4- * YL AZO -, DISODIUM SALT	2586-57-4	1602+	3 11
0465	# C.I. DIRECT BLUE 14, TETRASODIUM SALT 2,7-NAPHTHALENEDISULFONIC ACID, 3,3'- (3,3'-DIMETHYL 1,1'- * BIPHENYL -4,4'-DIYL)BIS(AZO) BIS 5-AMINO-4-HYDROXY-, * TETRASODIUM SALT	72-57-1	1602+	(CA) 3 8 11 20 21
0466	# C.I. DIRECT BROWN 59 BENZOIC ACID, 2-HYDROXY-5- 4'- 1-HYDROXY-7-(PHENYLAMINO)-3- * SULFO-2-NAPHTHALENYL AZO 1,1'-BIPHENYL -4-YL AZO -	6247-51-4	1602+	(CA) 3 9
0467	# C.I. DIRECT BROWN 6 BENZOIC ACID, 5- 4'- 2,4-DIHYDROXY-3- (4- * SULFOPHENYL)AZO PHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-, DISODIUM SALT	2893-80-3	1602+	(CA) 3 9
0468	# C.I. DIRECT BROWN 6 BENZOIC ACID, 5- 4'- 2,4-DIHYDROXY-3- (4- * SULFOPHENYL)AZO PHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-	25180-39-6	1602+	(CA) 3 9
0469	# C.I. DIRECT BROWN 74 BENZOIC ACID, 3,3'- (3,7-DISULFO-1,5-NAPHTHALENEDIYL)BIS AZO(6- * HYDROXY-3,1-PHENYLENE)AZO 6(OR 7)-SULFO-4,1- * NAPHTHALENEDIYL AZO 1,1'-BIPHENYL -4,4'-DIYLAZO BIS 6- * HYDROXY-, HEXASODIUM SALT	8014-91-3	1602+	(CA) 3 9
0470	# C.I. DIRECT BROWN 111	12222-20-7	1602+	(CA) 3 9
0471	# C.I. DIRECT BROWN 2 BENZOIC ACID, 5- 4'- (7-AMINO-1-HYDROXY-3-SULFO-2- * NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * DISODIUM SALT	2429-82-5	1602+	(CA) 3 9 11
0472	# C.I. DIRECT BROWN 59 BENZOIC ACID, 2-HYDROXY-5- 4'- 1-HYDROXY-7-(PHENYLAMINO)-3- * SULFO-2-NAPHTHALENYL AZO 1,1'-BIPHENYL -4-YL AZO -, * DISODIUM SALT	3476-90-2	1602+	(CA) 3 9
0473	# C.I. DIRECT BROWN 154 BENZOIC ACID, 5- 4'- 2,6-DIAMINO-3-METHYL-5- (4- * SULFOPHENYL)AZO PHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-3-METHYL-, DISODIUM SALT	6360-54-9	1602+	(CA) 3 9
0474	# C.I. DIRECT BROWN 1 BENZOIC ACID, 5- 4'- 2,4-DIAMINO-5- (4- * SULFOPHENYL)AZO PHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-, DISODIUM SALT	3811-71-0	1602+	(CA) 3 9
0475	# C.I. DIRECT BROWN 31 BENZOIC ACID, 5- 4'- 2,6-DIAMINO-3- 8-HYDROXY-3,6-DISULFO-7- * (4-SULFO-1-NAPHTHALENYL)AZO -2-NAPHTHALENYL AZO -5- * METHYLPHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * TETRASODIUM SALT	2429-81-4	1602+	(CA) 3 9 11
0476	# C.I. DIRECT BROWN 31 BENZOIC ACID, 5- 4'- 2,6-DIAMINO-3- 8-HYDROXY-3,6-DISULFO-7- * (4-SULFO-1-NAPHTHALENYL)AZO -2-NAPHTHALENYL AZO -5- * METHYLPHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-	25180-41-0	1602+	(CA) 3 9
0477	# C.I. DIRECT BROWN 2 BENZOIC ACID, 5- 4'- (7-AMINO-1-HYDROXY-3-SULFO-2- * NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-	25255-06-5	1602+	(CA) 3 9
0478	# C.I. DIRECT BROWN 95 CUPRATE(2-), 5- 4'- 2,6-DIHYDROXY-3- (2-HYDROXY-5- * SULFOPHENYL)AZO PHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXYBENZOATO(4-) -, DISODIUM	16071-86-6	1602+	(CA) 3 6 7 9 10
0479	# C.I. DIRECT GREEN 1 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-3- 4'- (4- * HYDROXYPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -6-(PHENYLAZO)-	25180-45-4	1602+	(CA) 3 9
0480	# C.I. DIRECT GREEN 1 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-3- 4'- (4- * HYDROXYPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -6-(PHENYLAZO)-, * DISODIUM SALT	3626-28-6	1602+	(CA) 3 9
0481	# C.I. DIRECT GREEN 6 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-6- 4'- (4- * HYDROXYPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -3- (4- * NITROPHENYL)AZO -, DISODIUM SALT	4335-09-5	1602+	(CA) 3 9
0482	# C.I. DIRECT GREEN 8 BENZOIC ACID, 5- 4'- 8-AMINO-1-HYDROXY-7- (4-NITROPHENYL)AZO - * 3,6-DISULFO-2-NAPHTHALENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-, TRISODIUM SALT	5422-17-3	1602+	(CA) 3 9

SUBSTANCE NUMBER		COMMON NAME CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0483	#	C.I. DIRECT GREEN 8 BENZOIC ACID, 5- 4'- 8-AMINO-1-HYDROXY-7- (4-NITROPHENYL)AZO - * 3,6-DISULFO-2-NAPHTHALENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-	25180-47-6	1602+	(CA) 3 9
0484	#	C.I. DIRECT GREEN 6 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-6- 4'- (4- * HYDROXYPHENYL)AZO -1,1'-BIPHENYL -4-YL AZO -3- (4- * NITROPHENYL)AZO -	25180-46-5	1602+	(CA) 3 9
0485	#	C.I. DIRECT ORANGE 1	54579-28-1	1602+	(CA) 3 9
0486	#	C.I. DIRECT ORANGE 8	64083-59-6	1602+	(CA) 3 9
0487		C.I. DIRECT ORANGE 6, DISODIUM SALT BENZOIC ACID, 5- 4'- (2,6-DIAMINO-3-METHYL-5-SULFOPHENYL)AZO - * 3,3'-DIMETHYL 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * DISODIUM SALT	6637-88-3	1602+	3 11
0488	#	C.I. DIRECT RED 28 1-NAPHTHALENESULFONIC ACID, 3,3'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 4-AMINO-, DISODIUM SALT	573-58-0	1602+	(CA) 3 9
0489	#	C.I. DIRECT RED 13 1-NAPHTHALENESULFONIC ACID, 4-AMINO-3- 4'- (2-AMINO-8-HYDROXY- * 6-SULFO-1-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -, * DISODIUM SALT	1937-35-5	1602+	(CA) 3 9
0490	#	C.I. DIRECT RED 37 1,3-NAPHTHALENEDISULFONIC ACID, 8- 4'- (4-ETHOXYPHENYL)AZO 1, * 1'-BIPHENYL -4-YL AZO -7-HYDROXY-, DISODIUM SALT	3530-19-6	1602+	(CA) 3 9
0491	#	C.I. DIRECT RED 13 1-NAPHTHALENESULFONIC ACID, 4-AMINO-3- 4'- (2-AMINO-8-HYDROXY- * 6-SULFO-1-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -	25188-30-1	1602+	(CA) 3 9
0492	#	C.I. DIRECT RED 1 BENZOIC ACID, 5- 4'- (2-AMINO-8-HYDROXY-6-SULFO-1- * NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * DISODIUM SALT	2429-84-7	1602+	(CA) 3 9
0493	#	C.I. DIRECT RED 10 1-NAPHTHALENESULFONIC ACID, 4-AMINO-3- 4'- (1-HYDROXY-4-SULFO- * 2-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -, * DISODIUM SALT	2429-70-1	1602+	(CA) 3 9
0494	#	C.I. DIRECT RED 10 1-NAPHTHALENESULFONIC ACID, 4-AMINO-3- 4'- (1-HYDROXY-4-SULFO- * 2-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -	25188-29-8	1602+	(CA) 3 9
0495	#	C.I. DIRECT RED 1 BENZOIC ACID, 5- 4'- (2-AMINO-8-HYDROXY-6-SULFO-1- * NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-	25188-24-3	1602+	(CA) 3 9
0496		C.I. DIRECT RED 39, DISODIUM SALT 1,3-NAPHTHALENEDISULFONIC ACID, 8- 4'- (4-ETHOXYPHENYL)AZO -3, * 3'-DIMETHYL 1,1'-BIPHENYL -4-YL AZO -7-HYDROXY-, * DISODIUM SALT	6358-29-8	1602+	3 11
0497		C.I. DIRECT RED 2, DISODIUM SALT 1-NAPHTHALENESULFONIC ACID, 3,3'- (3,3'-DIMETHYL 1,1'-BIPHENYL - * 4,4'-DIYL)BIS(AZO) BIS 4-AMINO-, DISODIUM SALT	992-59-6	1602+	3 11
0498	#	C.I. DIRECT VIOLET 1 2-NAPHTHALENESULFONIC ACID, 5,5'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 6-AMINO-4-HYDROXY-, DISODIUM SALT	2586-60-9	1602+	(CA) 3 9
0499	#	C.I. DIRECT VIOLET 22 1,3,6-NAPHTHALENETRISULFONIC ACID, 8-HYDROXY-7- 4'- (2-HYDROXY- * 1-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -	25329-82-2	1602+	(CA) 3 9
0500	#	C.I. DIRECT VIOLET 22 1,3,6-NAPHTHALENETRISULFONIC ACID, 8-HYDROXY-7- 4'- (2-HYDROXY- * 1-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -, * TRISODIUM SALT	6426-67-1	1602+	(CA) 3 9
0501	#	C.I. DIRECT VIOLET 1 2-NAPHTHALENESULFONIC ACID, 5,5'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 6-AMINO-4-HYDROXY-	25188-44-7	1602+	(CA) 3 9
0502	#	C.I. DIRECT YELLOW 20	6426-62-6	1602+	(CA) 3 9
0503		C.I. DISPERSE YELLOW 3 ACETAMIDE, N- 4- (2-HYDROXY-5-METHYLPHENYL)AZO PHENYL -	2832-40-8	1602+	3 6 18
0504		C.I. FOOD RED 5 2,7-NAPHTHALENEDISULFONIC ACID, 4- (2,4-DIMETHYLPHENYL)AZO -3- * HYDROXY-, DISODIUM SALT	3761-53-3	1602+	3 6 18
0505		C.I. FOOD RED 15 XANTHYLIUM, 9-(2-CARBOXYPHENYL)-3,6-BIS(DIETHYL AMINO)-, * CHLORIDE	81-88-9	1602+	3 6 18
2250 gen		CIGARETTE LIGHTERS, WITH FLAMMABLE GAS		1057	3
2251 gen		CIGARETTE LIGHTERS, WITH FLAMMABLE LIQUID		1226	3
2252 gen		CIGARETTE, SELF-LIGHTING		1867	3
0506		C.I. SOLVENT ORANGE 7 2-NAPHTHALENOL, 1- (2,4-DIMETHYLPHENYL)AZO -	3118-97-6	1602+	3 6 18
0507		C.I. SOLVENT YELLOW 3 BENZENAMINE, 2-METHYL-4- (2-METHYLPHENYL)AZO -	97-56-3	1602+	3 6 18
0508		C.I. SOLVENT YELLOW 1 BENZENAMINE, 4-(PHENYLAZO)-	60-09-3	1602+	3 6 18
0509		C.I. SOLVENT YELLOW 14 2-NAPHTHALENOL, 1-(PHENYLAZO)-	842-07-9	1602+	3 6 18
0510 chg	#	CISPLATIN CIS-DIAMMINEDICHLOROPLATINUM(II)	15663-27-1	1851+	(CA,MU) 3 7
0511	#	C.I. CITRUS RED NO. 2 2-NAPHTHALENOL, 1- (2,5-DIMETHOXYPHENYL)AZO -	6358-53-8	1602+	(CA) 3 8
0512		C.I. VAT YELLOW 4 DIBENZO (b,def) CHRYSENE-7,14-DIONE	128-66-5	1602+	3 6 18
2253 gen		CLEANING COMPOUND		1142	3
2254 gen		CLEANING COMPOUND, LIQUID, CORROSIVE		1760	3
0513		CLOMIPHENE CITRATE ETHANAMINE, 2-(4-(2-CHLORO-1,2-DIPHENYLETHENYL)PHENOXY)-N,N- * DIETHYL,-	50-41-9		13(Y,EE,FF)
0514		CLOPIDOL 4-PYRIDINOL, 3,5-DICHLORO-2,6-DIMETHYL-	2971-90-6		1 2
0515	#	CLORAZEPATE DIPOTASSIUM 1H-1,4-BENZODIAZEPINE-3-CARBOXYLIC ACID, 7-CHLORO-2, 3-HYDRO-2- * OXO-5 PHENYL,MONOPOTASSIUM SALT	57109-90-7		(TE) 13(Y,EE,FF)
0516		COAL DUST			1 2
2255 gen		COAL GAS		1023	3
0519		COAL TAR (COAL TAR PITCH)	8007-45-2	1137	1 2 3 7
0517	#	COAL TAR CREOSOTE CREOSOTE	8001-58-9	1993	(CA) 1 3 8 15 20 21
2256 gen		COAL TAR DISTILLATE, COMBUSTIBLE, LIQUID	65996-92-1	1137	3
2257 gen		COAL TAR DISTILLATE, FLAMMABLE, LIQUID	65996-92-1	1136	3
0518		COAL TAR NAPHTHA	65996-79-4	2553	1 3
2259 gen		COATING SOLUTION		1139	3
0520		COBALT	7440-48-4		1 2 4 12(B) 16 18 19
2222 gen		COBALT compounds			18
0521 chg	+	COBALT CARBONYL COBALT, DI-mu-CARBONYLHEXACARBONYLDI-, (Co-Co)	10210-68-1	2811	(F3,R1) 1 2 3 16 19
2260		COBALT, ((2,2'-(1,2-ETHANEDIYLBIS(NITRILOMETHYLIDENE)BIS * (PHENALOTO))(2-)-N,N',O,O')-	62207-76-5		16 19
0522		COBALT HYDROCARBONYL COBALT, TETRACARBONYLHYDRO-	16842-03-8		1 2
0523		COBALT NAPHTHENATE NAPHTHENIC ACID, COBALT SALT	61789-51-3	2001	1 2 3 15
0524		COBALTOUS BROMIDE COBALT BROMIDE	7789-43-7	9103	1 3 20
0525		COBALTOUS FORMATE FORMIC ACID, COBALT SALT	544-18-3	9104	1 2 3 20
2261		COBALTOUS SULFAMATE	14017-41-5	9105	3 20
2262 gen		COBALT RESINATE, PRECIPITATED		1318	3

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0526	COCCULUS PICROTOXIN	124-87-8	1584	3 16 19
0527	COKE OVEN EMISSIONS			1 20
2263	COLCHICINE	64-86-8	1851	3 16 19
syn	COLLODION see NITROCELLULOSE			
syn	COLOGNE SPIRITS see ETHYL ALCOHOL			
syn	COLUMBIAN SPIRITS see METHYL ALCOHOL			
2267 gen	COMBUSTIBLE LIQUID, n.o.s.		1993	3
2268 gen	COMPOUND, PAINT, etc., REMOVING, REDUCING, or THINNING		1263	3
2269 gen	COMPOUND, TREE or WEED KILLING, LIQUID, COMBUSTIBLE or * FLAMMABLE		1993	3
2270 gen	COMPOUND, TREE or WEED KILLING, LIQUID, CORROSIVE		1760	3
2271 gen	COMPRESSED OR LIQUIFIED GASES, NON-FLAMMABLE, TOXIC, n.o.s		1955	3
2272 gen	COMPRESSED OR LIQUIFIED GASES, FLAMMABLE, NON-TOXIC, n.o.s.		1954	3
2273 gen	COMPRESSED OR LIQUIFIED GASES, FLAMMABLE, TOXIC, n.o.s.		1953	3
2274 gen	COMPRESSED OR LIQUIFIED GASES, NON-FLAMMABLE, NON-TOXIC, n.o.s.		1956	3
0528	COPPER	7440-50-8		1 2 6 18 20
2215 gen	COPPER compounds			18
0529	COPPER ACETOARSENITE COPPER, BIS(ACETO)HEXAMETA-ARSENITOTETRA-	12002-03-8	1585	1 2 3 4 16 19 20
2871 gen	COPPER, all inorganic compounds of			6 20
0530 chg	COPPER ARSENITE ARSENIC ACID, COPPER (2+) SALT (1:1)	10290-12-7	1586	1 2 3 6
2275 gen	COPPER-BASED PESTICIDE, FLAMMABLE, LIQUID, TOXIC, n.o.s., flash * point less than 23C		2776	3
2276 gen	COPPER-BASED PESTICIDE, FLAMMABLE, LIQUID, TOXIC, n.o.s., flash * point between 23C and 61C		3009	3
2277 gen	COPPER-BASED PESTICIDE, LIQUID, TOXIC, n.o.s.		3010	3
2278 gen	COPPER-BASED PESTICIDE, SOLID, TOXIC, n.o.s.		2775	3
0531	COPPER CHLORATE CHLORIC ACID, COPPER SALT	26506-47-8	2721	1 2 3 6
0532	COPPER CHLORIDE	1344-67-8	2802	1 2 3 6 20
0533 chg	COPPER CYANIDE	14763-77-0	1587	1 2 3 6 18 20 21
3061	COPPER CYANIDE	544-92-3	1587	1 2 3 6 20 21
2279	COPPER SELENATE	15123-69-0	2630	3 6
2280	COPPER SELENITE	10214-40-1	2630	3 6
0534	COPRA COCONUT OIL	8001-31-8	1363	3
2281 gen	CORROSIVE LIQUIDS, FLAMMABLE, n.o.s.		2920	3
2282 gen	CORROSIVE LIQUIDS, n.o.s.		1760	3
2283 gen	CORROSIVE LIQUIDS, POISONOUS, n.o.s.		2922	3
2284 gen	CORROSIVE SOLIDS, FLAMMABLE, n.o.s.		2921	3
2285 gen	CORROSIVE SOLIDS, n.o.s.		1759	3
2286 gen	CORROSIVE SOLIDS, POISONOUS, n.o.s.		2923	3
2287 gen	COSMETICS, CORROSIVE LIQUID, n.o.s.		1760	3
2288 gen	COSMETICS, FLAMMABLE or COMBUSTIBLE LIQUID, n.o.s.		1993	3
2289 gen	COSMETICS, FLAMMABLE SOLID, n.o.s.		1325	3
2290 gen	COSMETICS, OXIDIZER, n.o.s.		1479	3
2291 gen	COSMETICS, SOLID, n.o.s.		1759	3
2292 gen	COSMETICS, WITH FLAMMABLE SOLVENTS		1266	3
syn	COTTON FIBER AS RAW COTTON see COTTON FIBER (RAW)			
0535	COTTON FIBER (RAW)			1 2 4
syn	COUMAFURYL see FUMARIN			
0536	COUMAPHOS PHOSPHOROTHIOIC ACID, O-(3-CHLORO-4-METHYL-2-OXO-2H-1- * BENZOPYRAN-7-YL) O,O-DIETHYL ESTER	56-72-4	2783	3 14 16 19 20
2294 gen	COUMARIN DERIVATIVE PESTICIDE, FLAMMABLE, LIQUID, n.o.s.		3024+	17
2295 gen	COUMARIN DERIVATIVE PESTICIDE, LIQUID, n.o.s.		3026	17
2296 gen	COUMARIN DERIVATIVE PESTICIDE, SOLID, n.o.s.		3027	17
2297	COUMATETRALYL	5836-29-3	3027	16 17 19
2298 gen	CREOSOTE SALTS		1334	17
syn	CREOSOTE see COAL TAR CREOSOTE			
syn	CRESIDINE see p-CRESIDINE			
1467	# p-CRESIDINE BENZENAMINE, 2-METHOXY-5-METHYL-	120-71-8		(CA) 5 6 18
syn	CRESOLS, mixed isomers see CRESYLIC ACID			
1161	# m-CRESOL PHENOL, 3-METHYL-	108-39-4	2076	(CO) 1 2 3 4 15 18 20 21
1426	# o-CRESOL PHENOL, 2-METHYL-	95-48-7	2076	(CO,R2) 1 2 3 4 15 16 18 19 20 21
1468	# p-CRESOL PHENOL, 4-METHYL-	106-44-5	2076	(CO) 1 2 3 4 15 18 20 21
0537	CRESYLIC ACID PHENOL, METHYL-	1319-77-3	2022+	1 2 3 15 18 20 21
syn	o-CRESYLIC ACID see o-CRESOL			
syn	CRIMIDINE see CASTRIX			
0538	# CROTONALDEHYDE 2-BUTENAL	123-73-9	1143	(F3,MU,R2) 1 2 3 15 16 19 20 21
2888	CROTONALDEHYDE, inhibited	4170-30-3	1143	3 16 19 20 21
0539	# CROTONIC ACID 2-BUTENOIC ACID	3724-65-0	2823	(CO) 3 15

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0540		CROTONYLENE	503-17-3	1144	
chg		2-BUTYNE			3
0541		CRUFOMATE	299-86-5	2765+	
chg		PHOSPHORAMIDIC ACID, METHYL-, 2-CHLORO-4-(1,1- * DIMETHYLETHYL)PHENYL METHYL ESTER			1 2 3
		CRYOLITE see SODIUM ALUMINUM FLUORIDE			
syn					
0542		CUMENE	98-82-8	1918	
		BENZENE, (1-METHYLETHYL)-			1 2 3 6 15 18 20 21
0543	#	CUMENE HYDROPEROXIDE	80-15-9	2116	(R4)
		HYDROPEROXIDE, 1-METHYL-1-PHENYLETHYL			3 6 15 18 20 21
0544		CUMYL PEROXYNEODECANOATE	26748-47-0	2963	
		NEODECANEPEROXOIC ACID, 1-METHYL-1-PHENYLETHYL ESTER			3
2299		CUMYL PEROXYPIVALATE		2964	
gen					3
0545	#	CUPFERRON	135-20-6		(CA)
		BENZENAMINE, N-HYDROXY-N-NITROSO-, AMMONIUM SALT			5 18
0546		CUPRIC ACETATE	142-71-2	9106	
		ACETIC ACID, COPPER(II) SALT			1 2 3 6 20
		CUPRIC ACETOARSENITE see COPPER ACETOARSENITE			
syn					
		CUPRIC ARSENITE see COPPER ARSENITE			
syn					
		CUPRIC CHLORATE see COPPER CHLORATE			
syn					
		CUPRIC CHLORIDE see COPPER CHLORIDE			
syn					
0547		CUPRIC NITRATE	3251-23-8	1479	
		NITRIC ACID, COPPER(II) SALT			1 2 3 6 20
0548		CUPRIC OXALATE	814-91-5	2449	
chg		ETHANEDIOIC ACID, COPPER (II) SALT (1:1)			1 2 3 6 20
0549		CUPRIC SULFATE	7758-98-7	9109	
		SULFURIC ACID, COPPER(II) SALT (1:1)			1 3 6 20
2300		CUPRIC SULFATE, AMMONIATED	10380-29-7	9110	
gen					3 6 20
0550		CUPRIC TARTRATE	815-82-7	9111	
		BUTANEDIOIC ACID, 2,3-DIHYDROXY-, COPPER SALT			1 2 3 6 20
0551	#	CUPRIETHYLENEDIAMINE	13426-91-0	1761	(CO)
		COPPER, BIS(1,2-ETHANE DIAMINE-N,N')-			3
		CUT-BACKS see ASPHALT FUMES			
syn					
0552	#	CYANAMIDE	420-04-2		(R3)
					1 2 15
0553		CYANIDE	57-12-5	1588+	
					1 2 3 6 20
2872		CYANIDE, all inorganic compounds			
gen					6 18 20 21
2308		CYANIDE compounds		1588+	
gen					3 18
		CYANOBENZENE see BENZONITRILE			
syn					
0554	#	CYANOGEN	460-19-5	1026	(F4,R3)
		ETHANEDINITRILE			1 2 3 15 20 21
2302		CYANOGEN BROMIDE	506-68-3	1889	
					3 16 19 20 21
0556		CYANOGEN CHLORIDE	506-77-4	1589	
					1 2 3 20 21
2303		CYANOGEN IODIDE	506-78-5	1588	
					3 16 19
2304		CYANOPHOS	2636-26-2	3018	
					3 16 19
2305		CYANURIC FLUORIDE	675-14-9		
					16 19
0557	#	CYANURIC TRICHLORIDE	108-77-0	2670	(CO)
chg		1,3,5-TRIAZINE, 2,4,6-TRICHLORO-			3
0558	#	CYCASIN	14901-08-7		(CA)
		beta-D-GLUCOPYRANOSIDE, ((METHYL-ONN-AZOXY)METHYL)-			5 8
0559	#	CYCLOBUTANE	287-23-0	2601	(F4)
					3 15
0560	#	CYCLOBUTYLCHLOROFORMATE	81228-87-7	2744	(CO)
		CARBONOCHLORIDIC ACID, CYCLOBUTYL ESTER			3
0561		1,5,9-CYCLODODECATRIENE	4904-61-4	2518	
					3
0562	#	CYCLOHEPTANE	291-64-5	2241	(F3)
					3 15
0563		CYCLOHEPTATRIENE	544-25-2	2603	
		1,3,5-CYCLOHEPTATRIENE			3
0564	+	CYCLOHEPTENE	628-92-2	2242	(F3)
chg					3
0565	#	CYCLOHEXANE	110-82-7	1145	(F3)
					1 2 3 15 18 20 21
		CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, alpha-ISOMER see alpha- * HEXACHLOROCYCLOHEXANE			
syn					
		CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, beta-ISOMER see beta- * HEXACHLOROCYCLOHEXANE			
syn					
0568		CYCLOHEXANETHIOL	1569-69-3		
					4 15 17
0569		CYCLOHEXANOL	108-93-0	1986	
					1 2 3 15
0570		CYCLOHEXANONE	108-94-1	1915	
					1 2 3 4 15 20 21
0571		CYCLOHEXANONE PEROXIDE	12262-58-7	2117+	
					3
0572		CYCLOHEXENE	110-83-8	2256	
					1 2 3 15
0573	#	CYCLOHEXENYL TRICHLOROSILANE	10137-69-6	1762	(CO)
		SILANE, (3-CYCLOHEXENYL)TRICHLORO-			3
0574	#	CYCLOHEXIMIDE	66-81-9	2811	(MU)
		GLUTARIMIDE, 3-(2-(3,5-DIMETHYL-2-OXOCYCLOHEXYL)-2- * HYDROXYETHYL)-			3 14 16 19
0575		CYCLOHEXYL ACETATE	622-45-7	2243	
		ACETIC ACID, CYCLOHEXYL ESTER			3 15
0576	#	CYCLOHEXYLAMINE	108-91-8	2357	(CO,F3,MU)
					1 2 3 15 16 19
0577		CYCLOHEXYL ISOCYANATE	3173-53-3	2488	
		CYCLOHEXANE, ISOCYANATO-			3
		CYCLOHEXYL MERCAPTAN see CYCLOHEXANETHIOL			
syn					
0578	#	CYCLOHEXYL TRICHLOROSILANE	98-12-4	1763	(CO)
		SILANE, TRICHLOROCYCLOHEXYL-			3 15
0579		CYCLONITE	121-82-4	0072	
chg		1,3,5-TRIAZINE, HEXAHYDRO-1,3,5-TRINITRO-			1 2 3
0580	#	CYCLOOCTADIENE	29965-97-7	2520	(F3)
					3 15
2307		CYCLOOCTADIENE PHOSPHINE		2940	
					17
0581		CYCLOOCTATETRAENE	629-20-9	2358	
		1,3,5,7-CYCLOOCTATETRAENE			3
0582		CYCLOPENTADIENE	542-92-7		
		1,3-CYCLOPENTADIENE			1 2
0583	#	CYCLOPENTANE	287-92-3	1146	(F3)
					1 2 3 15 16 19
0584		CYCLOPENTANOL	96-41-3	2244	
					3 15
0585	#	CYCLOPENTANONE	120-92-3	2245	(F3)
					3 15
0586	#	CYCLOPENTENE	142-29-0	2246	(F3)
					3 15

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) / SOURCE NUMBER(S)
0587	# CYCLOPHOSPHAMIDE 2H-1,3,2-OXAZAPHOSPHORIN-2-AMINE, N,N-BIS(2- * CHLOROETHYL)TETRAHYDRO-, 2-OXIDE	50-18-0	1851	(CA,MU,TE) 3 5 7 8 13 (C,E,F,G,H,Y,EE ,FF) 20 21
0588	# CYCLOPROPANE	75-19-4	1027	(F4) 3 15
0589	# CYCLOTETRAMETHYLENETETRANITRAMINE 1,3,5,7-TETRAZOCINE, OCTAHYDRO-1,3,5,7-TETRANITRO-	2691-41-0	0226+	(CO) 3
0590	CYHEXATIN STANNANE, TRICYCLOHEXYLHYDROXY-	13121-70-5		1 2
0591	CYMENE BENZENE, METHYL(1-METHYLETHYL)-	25155-15-1	2046	3 15
0592	# CYSTOSINE ARABINOSIDE CYTOSINE, 1-beta-D-ARABINO-FURANOSYL	147-94-4		(MU,TE) 13(H,S)
0593	2,4-D ACETIC ACID, (2,4-DICHLORO-PHENOXY)-	94-75-7	2765	1 2 3 6 14 18 20 21
1022	# DACARBAZINE 1H-IMIDAZOLE-4-CARBOXAMIDE, 5-(3,3-DIMETHYL-1-TRIAZENYL)-	4342-03-4		(CA) 7
0594	# DAUNOMYCIN 5,12-NAPHTHACENEDIONE, 8-ACETYL-10- (3-AMINO-2,3,6-TRIDEOXY- * alpha-L-LYXO-HEXOPYRANOSYL)OXY -7,8,9,10-TETRAHYDRO-6,8,11- * TRIHYDROXY-1-METHOXY-, (8S-cis)-	20830-81-3	1851	(CA,MU) 3 8 20 21
syn	DAUNORUBICIN see DAUNOMYCIN			
0595	# DBCP PROPANE, 1,2-DIBROMO-3-CHLORO-	96-12-8	2872	(CA,MU) 1 3 4 5 8 18 20 21
syn	DDD see 1,1-DICHLORO-2,2-BIS(p-CHLOROPHENYL)ETHANE			
2979	DDE	72-55-9	2761	3 20
0596 chg	# DDT	50-29-3	2761	(CA,MU,TE) 1 2 3 4 7 8 20 21
0597	DECABORANE	17702-41-9	1868	1 2 3 15 16 19
syn	DECABROMODIPHENYL OXIDE see DECABROMODIPHENYL ETHER			
0598	DECABROMODIPHENYL ETHER BENZENE, 1,1'-OXYBIS 2,3,4,5,6-PENTABROMO-	1163-19-5		6 18
0599	DECAHYDRONAPHTHALENE NAPHTHALENE, DECAHYDRO-	91-17-8	1147	3 15
syn	DECALIN see DECAHYDRONAPHTHALENE			
0600	DECANE	124-18-5	2247	3 15
0601	1-DECANETHIOL	143-10-2		4
0602	DECANOYL PEROXIDE PEROXIDE, BIS(1-OXODECYL)	762-12-9	2120	3
0603	DECENTHION PHOSPHORODITHIOIC ACID, S-((1,3-DIHYDRO-1,3-DIOXO-2H-ISOINDOL-2- * YL)METHYL) O,O-DIMETHYL ESTER	732-11-6	2783+	3 14 16 19
0604	DEMETON PHOSPHOROTHIOIC ACID, O,O-DIETHYL O- 2-(ETHYLTHIO)ETHYL ESTER, * MIXED WITH O,O-DIETHYL S- 2- * (ETHYLTHIO)ETHYL PHOSPHOROTHIOATE	8065-48-3	2902	1 2 3 14 16 19
syn	DEMETON-S-METHYL see METHYL-S-DEMETON			
syn	DENATURATED ALCOHOL see ETHYL ALCOHOL			
2930	2,4-D ESTERS	25168-26-7	2765	3 20
2941	2,4-D ESTERS	94-11-1	2765	3 20
2942	2,4-D ESTERS	94-79-1	2765	3 20
2943	2,4-D ESTERS	94-80-4	2765	3 20
2944	2,4-D ESTERS	1320-18-9	2765	3 20
2945	2,4-D ESTERS	1928-38-7	2765	3 20
2946	2,4-D ESTERS	1928-61-6	2765	3 20
2947	2,4-D ESTERS	2971-38-2	2765	3 20
2948	2,4-D ESTERS	53467-11-1	2765	3 20
2949	2,4-D ESTERS	1929-73-3	2765	3 20
0605	# DEUTERIUM	7782-39-0	1957	(F4) 3 15
0606	DIACETONE ALCOHOL 2-PENTANONE, 4-HYDROXY-4-METHYL-	123-42-2	1148	1 2 3 4 15
0607	DIACETONE ALCOHOL PEROXIDE 2-PENTANONE, 4-HYDROXY-4-METHYL-, PEROXIDE	54693-46-8	2163	3
2309	DIALIFOR	10311-84-9	2783+	3 16 19
syn	DIALIFOS see DIALIFOR			
0608	# DIALLATE CARBAMOTHIOIC ACID, BIS (1-METHYLETHYL)-S-(2,3-DICHLORO-2- * PROPENYL) ESTER	2303-16-4	2902	(CA,MU) 3 6 8 18 20 21
0609	DIALLYLAMINE 2-PROPEN-1-AMINE, N-2-PROPENYL-	124-02-7	2359	3
0610	# DIALLYLETHER 1-PROPENE, 3,3'-OXYBIS-	557-40-4	2360	(F3,R2) 3 15
0611	2,4-DIAMINOANISOLE 1,3-BENZENEDIAMINE, 4-METHOXY-	615-05-4		6 10 18
2899 chg	+ 2,4-DIAMINOANISOLE SULFATE m-PHENYLENEDIAMINE, 4-METHOXY-, SULFATE	39156-41-7		(CA) 5 7 18 20
0612	4,4'-DIAMINODIPHENYL ETHER BENZENAMINE, 4,4'-OXYBIS-	101-80-4		6 18
syn	p,p'-DIAMINODIPHENYLMETHANE see 4,4'-METHYLENE DIANILINE			
0613	# 2,4-DIAMINOTOLUENE 1,3-BENZENEDIAMINE, 4-METHYL-	95-80-7	1709	(CA) 3 5 6 18 20 21
2980	2,6-DIAMINOTOLUENE	823-40-5	1709	3 20 21
2981	3,4-DIAMINOTOLUENE	496-72-0	1709	3 20
2134	DIAMINOTOLUENES, mixed isomers BENZENEDIAMINE, METHYL-	25376-45-8	1709	3 18 20 21
0614	DIAMYLAMINE 1-PENTANAMINE, N-PENTYL-	2050-92-2	2841	3 15
syn	o-DIANISIDINE see 3,3'-DIMETHOXYBENZIDINE			
0615	DIASTASE AMYLASE	9000-92-4		12(A)
0616 chg	DIATOMACEOUS EARTH	68855-54-9		2
0617	# DIAZEPAM 2H-1, 4-BENZODIAZEPIN-2-ONE, 7-CHLORO-1,3-DIHYDRO-1-METHYL-5- * PHENYL-	439-14-5	1851	(TE) 3 13(Y,EE,FF)
0618	DIAZINON PHOSPHOROTHIOIC ACID, O,O-DIETHYL O- 6-METHYL-2-(1-METHYLETHYL)- * 4-PYRIMIDINYL ESTER	333-41-5	2783	1 2 3 14 20
0619 chg	DIAZODINITROPHENOL 1,2,3-BENZOXDIAZOLE, 5,7-DINITRO-	87-31-0	0074	3
0620	DIAZOMETHANE METHANE, DIAZO-	334-88-3		1 2 18
2310	2-DIAZO-a-NAPHTHOL-4-SULFOCHLORIDE		3042	17
2311	2-DIAZO-1-NAPHTHOL-5-SULFOCHLORIDE		3043	17

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0621	# DIBENZ(a,h)ACRIDINE	226-36-8		(CA) 5
0623	# DIBENZ(a,j)ACRIDINE	224-42-0		(CA) 5 8
0622	# DIBENZ(a,h)ANTHRACENE	53-70-3		(CA,MU) 5 8 20 21
0624 chg	# DIBENZO(a,e)PYRENE	192-65-4		(CA,MU) 8
0625	# DIBENZO(a,h)PYRENE DIBENZO (b,def) CHRYSENE	189-64-0		(CA) 5 8
0626	# DIBENZO(a,i)PYRENE BENZO (rst) PENTAPHENE	189-55-9		(CA) 5 8 20 21
syn	1,2:7,8-DIBENZOPYRENE see DIBENZO(a,i)PYRENE			
2230	DIBENZOFURAN	132-64-9		18
0627	# DIBENZYL DICHLOROSILANE SILANE, DICHLOROBIS(PHENYL METHYL)	18414-36-3	2434	(CO) 3
0628	DIBENZYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, BIS(PHENYLMETHYL) ESTER	2144-45-8	2149	3
0629	# DIBORANE	19287-45-7	1911	(F4,R3) 1 2 3 15 16 19
0630	DIBROMOBENZENE BENZENE, DIBROMO-	26249-12-7	2711	3
0631	DIBROMOBUTANONE 1,1-DIBROMO-2-BUTANONE	3479-86-5	2648	3
syn	1,2-DIBROMO-3-CHLOROPROPANE see DBCP			
syn	1,2-DIBROMOETHANE see ETHYLENE DIBROMIDE			
0632	# DIBUTYLAMINE 1-BUTANAMINE, N-BUTYL-	111-92-2	2248	(CO) 3 15
1334	2-n-DIBUTYLAMINOETHANOL 2-(DIBUTYLAMINO)-ETHANOL	102-81-8	2873	1 2 3
0814	2,6-DI-tert-BUTYL-p-CRESOL PHENOL, 2,6-BIS(1,1-DIMETHYLETHYL)-4-METHYL-	128-37-0		1 2
0813	DI(4-tert-BUTYLCYCLOHEXYL)-PEROXYDICARBONATE PEROXYDICARBONIC ACID, BIS 4-(1,1- * DIMETHYLETHYL)CYCLOHEXYL ESTER	15520-11-3	2154+	3
syn	N,N'-DIBUTYL HEXAMETHYLENEDIAMINE see HEXAMETHYLENE- * DIAMINE, N,N'DIBUTYL-			
0815	DI-tert-BUTYL PEROXIDE PEROXIDE, BIS(1,1-DIMETHYLETHYL)	110-05-4	2102	3
0816	2,2-DI(tert-BUTYLPEROXY)-BUTANE PEROXIDE, (1-METHYLPROPYLIDENE)BIS (1,1-DIMETHYLETHYL)	2167-23-9	2111+	3
0817	1,1-DI(tert-BUTYLPEROXY)-CYCLOHEXANE PEROXIDE, CYCLOHEXYLIDENEBIS (1,1-DIMETHYLETHYL)	3006-86-8	2179	3
0809	DI-sec-BUTYL PEROXY-DICARBONATE PEROXYDICARBONIC ACID, BIS(1-METHYLPROPYL) ESTER	19910-65-7	2150+	3
2312 gen	DI-N-BUTYL PEROXYDICARBONATE, between 27% and 52% solution		2169	3
2313 gen	DI-N-BUTYL PEROXYDICARBONATE, less than 27% in solution		2170	3
2314 gen	1,4-DI-(2-tert-BUTYLPEROXY ISOPROPYL)BENZENE or 1,3- * DI-(2-tert-BUTYLPEROXY ISOPROPYL)BENZENE or mixtures		2112	3
2315 gen	DI-tert-BUTYLPEROXYPHTHALATE, maximum 55% in solution	2155-71-7	2107	3
2316 gen	DI-tert-BUTYLPEROXYPHTHALATE, maximum 55% in paste	2155-71-7	2108	3
2317	DI-tert-BUTYLPEROXYPHTHALATE, technical pure	2155-71-7	2106	3
2318 gen	2,2-DI(tert-BUTYLPEROXY)PROPANE with at least 50% PHLEGMATIZER		2883	3
2319 gen	2,2-DI(tert-BUTYLPEROXY)PROPANE with at least 13% PHLEGMATIZER * and 47% inert inorganic solid		2884	3
0818	1,1-DI(tert-BUTYLPEROXY)-3,3,5-TRIMETHYLCYCLOHEXANE PEROXIDE, (3,3,5-TRIMETHYLCYCLOHEXYLIDENE)BIS (1,1- * DIMETHYLETHYL)	6731-36-8	2145+	3
0633	DIBUTYL PHOSPHATE PHOSPHORIC ACID, DIBUTYL ESTER	107-66-4		1 2
syn	DIBUTYL PHTHALATE see DI-N-BUTYL PHTHALATE			
0773	DI-N-BUTYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIBUTYL ESTER	84-74-2	9095	1 2 3 6 18 19 20 21
0634	DICAMBA BENZOIC ACID, 3,6-DICHLORO-2-METHOXY-	1918-00-9	2769	3 20
0635	DICETYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIHEXADECYL ESTER	26322-14-5	2895	3
0636	DICHLOBENIL BENZONITRILE, 2,6-DICHLORO-	1194-65-6	2769	3 20
0637	DICHLONE 1,4-NAPHTHALENEDIONE, 2,3-DICHLORO-	117-80-6	2761	3 20
0638	# DICHLOROACETIC ACID ACETIC ACID, DICHLORO-	79-43-6	1764	(CO) 3
0639	# DICHLOROACETYL CHLORIDE ACETYL CHLORIDE, DICHLORO-	79-36-7	1765	(CO) 3 15
0640	DICHLOROACETYLENE DICHLORDETHYNE	7572-29-4		1 2
0641	DICHLOROANILINE BENZENAMINE, AR,AR-DICHLORO-	27134-27-6	1590	3 15
2320	DICHLOROBENZALKONIUM CHLORIDE	8023-53-8		16 19
0642	1,2-DICHLOROBENZENE BENZENE, 1,2-DICHLORO-	95-50-1	1591	1 2 3 6 15 18 20 21
2301 chg	1,3-DICHLOROBENZENE BENZENE, 1,3-DICHLORO-	541-73-1	9255	3 18 20 21
0643	1,4-DICHLOROBENZENE BENZENE, 1,4-DICHLORO-	106-46-7	1592	1 2 3 6 15 18 20 21
2321	DICHLOROBENZENES, mixed isomers	25321-22-6		18 20
0644	# 3,3'-DICHLOROBENZIDINE 1,1'-BIPHENYL-4,4'-DIAMINE, 3,3'-DICHLORO-	91-94-1		(CA,MU) 1 2 5 6 7 8 18 20 21
0645	2,4-DICHLOROBENZOYL PEROXIDE PEROXIDE, BIS(2,4-DICHLOROBENZOYL)	133-14-2	2114+	3
0646	1,1-DICHLORO-2,2-BIS-(p-CHLOROPHENYL)ETHANE BENZENE, 1,1'-(2,2-DICHLOROETHYLIDENE)BIS 4-CHLORO-	72-54-8	2761	3 20 21
2341	DICHLOROBROMOMETHANE	75-27-4		18 20
0647	# DICHLOROBUTENE BUTENE, DICHLORO-	11069-19-5	2924	(CO) 3 15
2829	trans-1,4-DICHLOROBUTENE	110-57-6	2924	3 16 19
3070	1,4-DICHLORO-2-BUTENE	764-41-0	2924	3 20 21
0648	DICHLORODIFLUOROETHYLENE ETHENE, DICHLORODIFLUORO-	27156-03-2	9018	3
0649	DICHLORODIFLUOROMETHANE METHANE, DICHLORODIFLUORO-	75-71-8	1028	1 2 3 20 21
0650	1,3-DICHLORO-5,5-DIMETHYL HYDANTOIN 2,4-IMIDAZOLIDINEDIONE, 1,3-DICHLORO-5,5-DIMETHYL-	118-52-5		1 2
syn	3,5-DICHLORO-n-(1,1-DIMETHYL-2-PROPYNYL)BENZAMIDE * see PRONAMIDE			
syn	DICHLORODIMETHYL SILANE see DIMETHYLDICHLOROSILANE			
syn	DICHLORODIPHENYL TRICHLOROETHANE see DDT			
0651	1,1-DICHLOROETHANE ETHANE, 1,1-DICHLORO-	75-34-3	2362	1 2 3 10 15 20 21

SUBSTANCE NUMBER		COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0652 chg	#	1,2-DICHLOROETHANE ETHANE, 1,2-DICHLORO-	107-06-2	1184	(CA,F3,MU) 1 2 3 4 5 6 8 10 15 18 20 21
syn		1,2-DICHLOROETHENE see 1,2-DICHLOROETHYLENE			
syn		1,1-DICHLOROETHYLENE see VINYLIDENE CHLORIDE			
0653	#	1,2-DICHLOROETHYLENE ETHENE, 1,2-DICHLORO-	540-59-0	1150	(F3,R2) 1 2 3 14 15 18
2921		1,2-trans-DICHLOROETHYLENE	156-60-5		20 21
syn		DICHLOROETHYL ETHER see BIS (2-CHLOROETHYL) ETHER			
0654		DICHLORODISOCYANURIC ACID 1,3,5-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE, 1,3-DICHLORO-	2782-57-2	2465	3
syn		DICHLOROISOPROPYL ETHER see CHLOROMETHYL ETHYL ETHER			
syn		DICHLOROMETHANE see METHYLENE CHLORIDE			
syn		DICHLOROMETHYL ETHER see BIS (2-CHLOROMETHYL) ETHER			
syn		DICHLOROMETHYLPHENYL SILANE see METHYLPHENYLDICHLOROSILANE			
0655	#	1,1-DICHLORO-1-NITROETHANE ETHANE, 1,1-DICHLORO-1-NITRO-	594-72-9	2650	(R3) 1 2 3 15
0656		DICHLOROPENTANE PENTANE, DICHLORO-	30586-10-8	1152	3 15
2344		2,4-DICHLOROPHENOL	120-83-2		18 20 21
2952		2,6-DICHLOROPHENOL	87-65-0		20 21
0672		2,6-DICHLOROPHENOXYACETIC ACID ESTER PHENOL, 2,6-DICHLORO-ACETATE	28165-71-1	2765	3
0673		2,4-DICHLOROPHENOXYACETIC ACID ESTER PHENOL, 2,4-DICHLORO-ACETATE	6341-97-5	2765	3
syn		2,4-DICHLOROPHENOXYACETIC ESTER see 2,4-D ESTERS			
0657		1,2-DICHLORO-3-PHENYL ISOCYANATE BENZENE, 1,2-DICHLORO-3-ISOCYANATO-	41195-90-8	2250	3
0658		1,2-DICHLORO-4-PHENYL ISOCYANATE BENZENE, 1,2-DICHLORO-4-ISOCYANATO-	102-36-3	2250	3 16 19
0659		1,3-DICHLORO-2-PHENYL ISOCYANATE BENZENE, 1,3-DICHLORO-2-ISOCYANATO-	39920-37-1	2250	3
0660		1,3-DICHLORO-5-PHENYL ISOCYANATE BENZENE, 1,3-DICHLORO-5-ISOCYANATO-	34893-92-0	2250	3
0661		1,4-DICHLORO-2-PHENYL ISOCYANATE BENZENE, 1,4-DICHLORO-2-ISOCYANATO-	5392-82-5	2250	3
0662		2,4-DICHLORO-1-PHENYL ISOCYANATE BENZENE, 2,4-DICHLORO-1-ISOCYANATO-	2612-57-9	2250	3
0663	#	DICHLOROPHENYL TRICHLOROSILANE SILANE, TRICHLORO(DICHLOROPHENYL)-	27137-85-5	1766	(CO) 3 16 19
2982		DICHLOROPROPANE	26638-19-7		20
2919		1,1-DICHLOROPROPANE	78-99-9		20
0664	#	1,2-DICHLOROPROPANE PROPANE, 1,2-DICHLORO-	78-87-5	1279	(F3) 1 2 3 6 15 18 20 21
2923		1,3-DICHLOROPROPANE	142-28-9		20
2983		1,2-DICHLOROPROPANE - 1,3-DICHLOROPENE mixture	8003-19-8		20
0665		1,3-DICHLOROPROPANOL 2-PROPANOL, 1,3-DICHLORO-	96-23-1	2750	3
syn		DICHLOROPROPANONE see BIS(CHLOROMETHYL)KETONE			
2984		DICHLOROPROPENE	26952-23-8		20
0666	#	1,3-DICHLOROPROPENE 1,3-DICHLORO-1-PROPENE	542-75-6	2047	(F3) 1 2 3 6 1 5 18 20 21
2929		2,3-DICHLOROPROPENE	78-88-6		20
0668	#	2,2-DICHLOROPROPIONIC ACID PROPANOIC ACID, 2,2-DICHLORO-	75-99-0	1760	(CO) 1 2 3 20
syn		1,3-DICHLOROPROPYLENE see 1,3-DICHLOROPROPENE			
0670		DICHLOROSILANE SILANE, DICHLORO-	4109-96-0	2189	3
0671 chg		DICHLOROTETRAFLUOROETHANE ETHANE, 1,2-DICHLORO-1,1,2,2-TETRAFLUORO-	76-14-2	1958	1 2 3
2322 gen		DICHLOROTRIAZINETRIONE and its salts		2465	3
0674		DICHLORVOS PHOSPHORIC ACID, 2,2-DICHLOROETHENYL DIMETHYL ESTER	62-73-7	2783	1 2 3 6 14 16 18 19 20
0675		DICOFOL BENZENEMETHANOL, 4-CHLORO-alpha-(4-CHLOROPHENYL)-alpha- * (TRICHLOROMETHYL)-	115-32-2	2588	3 6 18 20
0676		DICROTOPHOS PHOSPHORIC ACID, 3-(DIMETHYLAMINO)-1-METHYL-3-OXO-1- * PROPENYL DIMETHYL ESTER, (E)-	141-66-2	3018	1 2 3 14 16 19
0677		DICUMYL PEROXIDE PEROXIDE, BIS(1-METHYL-1-PHENYLETHYL)	80-43-3	2121	3
2323		DICYCLOHEPTADIENE		2251	17
0678	#	DICYCLOHEXYLAMINE CYCLOHEXANAMINE, N-CYCLOHEXYL-	101-83-7	2565	(CO) 3 15
0679		DICYCLOHEXYLAMMONIUM NITRATE CYCLOHEXANAMINE, N-CYCLOHEXYL-, NITRATE	3882-06-2	2687	3
0680		DICYCLOHEXYL PEROXY-DICARBONATE PEROXYDICARBONIC ACID, DICYCLOHEXYL ESTER	1561-49-5	2153+	3
0681	#	DICYCLOPENTADIENE 4,7-METHANO-1H-INDENE, 3A,4,7,7A-TETRAHYDRO-	77-73-6	2048	(F3) 1 2 3 15
0682 chg	@	DICYCLOPENTADIENYL IRON FERROCENE	102-54-5		1 2
syn		DIDECANOYL PEROXIDE, technical pure see DECANOYL PEROXIDE			
2325 gen		2,2-DI(4,4-DI-tert-BUTYL-PEROXY CYCLOHEXYL)-PROPANE 42%		2168	3
2326 gen		DI-2,4-DICHLOROBENZOYL PEROXIDE, greater than 75% in water		2137	3
2327 gen		DI-2,4-DICHLOROBENZOYL PEROXIDE, 52% as paste		2138	3
2328 gen		DI-2,4-DICHLOROBENZOYL PEROXIDE, 52% in solution		2139	3
2329 gen		1,2-DI(DIMETHYLAMINO)-ETHANE		2372	3
2330 gen		DIDYMIUM NITRATE		1465	3
0683	#	DIELDRIN 2,7:3,6-DIMETHANONAPHTH 2,3-B OXIRENE, 3,4,5,6,9,9-HEXACHLORO- * 1A,2,2A,3,6,6A,7,7A-OCTAHYDRO-, (1Aalpha, 2beta, 2Aalpha, * 3beta, 6beta, 6Aalpha, 7beta, 7Aalpha)-	60-57-1	2761	(CA,MU) 1 2 3 8 14 20 21
0684	#	DIENOESTROL PHENOL, 4,4-(DIETHYLIDENE-ETHYLENE)DI-	84-17-3	1851	(CA) 3 7
0685	#	1,2:3,4-DIEPOXYBUTANE 2,2'-BIOXIRANE	1464-53-5	1955	(CA) 5 8 16 17 18 19 20 21
0686		DIETHANOLAMINE ETHANOL, 2,2'-IMINOBIS-	111-42-2		1 2 15 18
syn		DIETHOXYDIMETHYL SILANE see DIMETHYLDIETHOXYSILANE			
syn		DIETHOXYLETHANE see ETHYLENE GLYCOL DIETHYL ETHER			

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0687 chg	+	DIETHOXYMETHANE ETHANE, 1,1'- METHYLENEBIS(OXY) BIS-	462-95-3	2373	(F3) 3
2331		2,5-DIETHOXY-4-MORPHO-LINOBENZENEDIAZONIUM ZINC CHLORIDE		3036	17
0688 chg		3,3-DIETHOXYPROPENE 1-PROPENE, 3,3-DIETHOXY-	3054-95-3	2374	3
0689	#	DIETHYLALUMINUM CHLORIDE ALUMINUM, CHLORODIETHYL-	96-10-6	1101	(F3,R3) 2 3 15
0690	#	DIETHYLAMINE ETHANAMINE, N-ETHYL-	109-89-7	1154	(F3) 1 2 3 15 20
0691		DIETHYLAMINOETHANOL ETHANOL, 2-(DIETHYLAMINO)-	100-37-8	2686	1 2 3 15
0692	#	3-(DIETHYLAMINO) PROPYLAMINE 1,3-PROPANEDIAMINE, N,N-DIETHYL-	104-78-9	2684	(CO) 3
0693		DIETHYL ANILINE BENZENAMINE, N,N-DIETHYL-	91-66-7	2432	3 15
0694		DIETHYLBENZENE BENZENE, DIETHYL-	25340-17-4	2049	3 15
2332		DIETHYLCARBAMAZINE CITRATE	1642-54-2	1851	3 16 19
0695		DIETHYLCARBAMOYL CHLORIDE CARBAMIC CHLORIDE, DIETHYL-	88-10-8		10
0696	#	DIETHYLCARBINOL 3-PENTANOL	584-02-1	2706	(F3) 3 15
0697	#	DIETHYL CARBONATE CARBONIC ACID, DIETHYL ESTER	105-58-8	2366	(F3) 3 15
syn		DIETHYL CELLOSOLVE see ETHYLENE GLYCOL DIETHYL ETHER			
2333		DIETHYL CHLOROPHOSPHATE	814-49-3	1993	3 16 19
0698	#	DIETHYL DICHLOROSILANE SILANE, DICHLORODIETHYL-	1719-53-5	1767	(CO) 3
0699		DIETHYLENEGLYCOL DINITRATE ETHANOL, 2,2'-OXYBIS-, DINITRATE	693-21-0	0075	3
syn		1,4-DIETHYLENE DIOXIDE see 1,4-DIOXANE			
0700 chg	#	DIETHYLENE TRIAMINE 1,2-ETHANEDIAMINE, N-(2-AMINOETHYL)-	111-40-0	2079	(CO) 1 2 3 15
0701	#	DIETHYL ETHER ETHANE, 1,1'-OXYBIS-	60-29-7	1155	(F4) 1 2 3 4 15 20 21
0702		DIETHYLETHYLENE DIAMINE N,N-DIETHYL-1,2-ETHANEDIAMINE	100-36-7	2685	3 15
0703		DI(2-ETHYLHEXYL) PEROXY-DICARBONATE PEROXYDICARBONIC ACID, BIS(2-ETHYLHEXYL) ESTER	16111-62-9	2123+	3
2334		DI(2-ETHYLHEXYL)PHOSPHORIC ACID	298-07-7	1902	3
syn		DI(2-ETHYL HEXYL) PHTHALATE see BIS(2-ETHYLHEXYL) PHTHALATE			
1007 chg	#	1,2-DIETHYL HYDRAZINE	1615-80-1		(CA) 8 20 21
0704	#	DIETHYL KETONE 3-PENTANONE	96-22-0	1156	(F3) 1 2 3 15
0705 chg	+	DIETHYL MAGNESIUM MAGNESIUM, DIETHYL-	557-18-6	1367	(F3,R4) 3
0708		DIETHYL-p-NITROSOANILINE N,N-DIETHYL-4-NITROSOBENZENAMINE	120-22-9		13
syn		DIETHYL OXALATE see ETHYL OXALATE			
0706		DIETHYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIETHYL ESTER	14666-78-5	2175	3
0707		DIETHYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIETHYL ESTER	84-66-2		1 2 6 15 18 20 21
2335		DIETHYL-p-PHENYLENEDIAMINE	93-05-0	1673	3 16 19
0709	#	DIETHYLSTILBESTROL PHENOL, 4,4'-(1,2-DIETHYL-1,2-ETHENEDIYL)BIS-, (E)-	56-53-1	1851	(CA,MU,TE) 3 5 7 8 20 21
0710	#	DIETHYL SULFATE SULFURIC ACID, DIETHYL ESTER	64-67-5	1594	(CA,MU) 3 4 5 7 15 18
0711 chg	+	DIETHYL SULFIDE ETHANE, 1,1'-THIOBIS-	352-93-2	2375	(F3) 3
0712		DIETHYLTHIOPHOSPHORYL CHLORIDE PHOSPHOROCHLORIDOTHIOIC ACID, O,O-DIETHYL ESTER	2524-04-1	2751	3
0713	#	DIETHYLZINC ZINC, DIETHYL-	557-20-0	1366	(F3,R3) 3 15
0714		DIFLUORODIBROMOMETHANE METHANE, DIBROMODIFLUORO-	75-61-6	1941	1 2 3
0715 chg		1,1-DIFLUOROETHANE ETHANE, 1,1-DIFLUORO-	75-37-6	1030	3
0716 chg	#	DIFLUOROPHOSPHORIC ACID PHOSPHORODIFLUORIDIC ACID	13779-41-4	1768	(CO) 1 2 3
2336		DIGITOXIN	71-63-6	1851	3 16 19
0717		DIGLYCIDYL ETHER OXIRANE, 2,2'- OXYBIS(METHYLENE) BIS-	2238-07-5	2929	1 2 3 4 10 16 19
0718		DIGLYCIDYL ETHER OF BISPHENOL A OXIRANE, 2,2' ((1-METHYLETHYLIDENE)BIS(4,1- * PHENYLENEOXYMETHYLENE))BIS-	1675-54-3		10
2337		DIGOXIN	20830-75-5	1851	3 16 19
0719		2,2-DIHYDROPEROXY PROPANE HYDROPEROXIDE, (1-METHYLETHYLIDENE)-BIS-	2614-76-8	2178	3
0720 chg	#	DIHYDROPYRAN 2H-PYRAN, 3,4-DIHYDRO-	110-87-2	2376	(F3) 3 15
2421		1,2-DIHYDRO-3,6-PYRIDAZINEDIONE	123-33-1		20 21
0721		DIHYDROSTREPTOMYCIN STREPTAMINE, O-beta-D-MANNOPYRANOSYL-(1-4)-2-DEOXY-2- * (METHYLAMINO)-alpha-L-GLUCOPYRANO-SYL-(1-2)-5-DEOXY-O-3-C- * (HYDROXYMETHYL)-alpha-L-LYXOFURANOSYL-(1-4)-N,N'-DIAMIDINO-, * 1)-	128-46-1	1851	3 13(Y,FF)
0722 chg	a	1,2-DIHYDROXYBENZENE 1,2-BENZENEDIOL	120-80-9		1 2 6 18
0723		DI(1-HYDROXYCYCLO-HEXYL) PEROXIDE DICYCLOHEXYL PEROXIDE	1758-61-8	2148	3
0724	#	DI-ISOBUTYLAMINE 1-PROPANAMINE, 2-METHYL-N-(2-METHYLPROPYL)-	110-96-3	2361	(F3) 3 15
0725	#	DI-ISOBUTYLENE PENTENE, 2,4,4-TRIMETHYL-	25167-70-8	2050	(F3) 3 15
0726		DI-ISOBUTYRYL PEROXIDE PEROXIDE, BIS(2-METHYL-1-OXOPROPYL)	3437-84-1	2182	3
syn		1,6-DIISOCYANATO HEXANE see HEXAMETHYLENE DI-ISOCYANATE			
0727	#	DI-ISOOCTYL ACID PHOSPHATE ISOOCTANOL HYDROGEN PHOSPHATE	27215-10-7	1902	(CO) 3
0728	#	DIISOPROPYLAMINE 2-PROPANAMINE, N-(1-METHYLETHYL)-	108-18-9	1158	(F3) 1 2 3 15
2338 gen		DI-ISOPROPYLBENZENE HYDROPEROXIDE, maximum 72% solution	26762-93-6	2171	3
0729	#	DI-ISOPROPYLETHANOLAMINE ETHANOL, 2- BIS(1-METHYLETHYL)AMINO-	96-80-0	2825	(CO) 3
0730	#	DIISOPROPYL ETHER PROPANE, 2,2'-OXYBIS-	108-20-3	1159	(F3) 1 2 3
0731	#	DI-ISOPROPYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, BIS(1-METHYLETHYL) ESTER	105-64-6	2133+	(F4,R4) 3
2339		DI-ISOTRIDECYL PEROXYDICARBONATE		2889	3
0732	#	DIKETENE 2-OXETANONE, 4-METHYLENE-	674-82-8	2521	(R2) 3 15
2340 gen		DILAUROYL PEROXIDE, maximum 42% IN WATER		2893	3
syn		DILAUROYL PEROXIDE, technical pure see LAUROYL PEROXIDE			

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
2342	DIMEFOX	115-26-4	2902	3 16 19
0733	# DIMETHOATE PHOSPHORODITHIOIC ACID, O,O-DIMETHY, S-(2-(METHYLAMINO)-2- * OXOETHYL) ESTER	60-51-5	2783+	(MU) 3 14 16 19 20 21
0734	# 3,3'-DIMETHOXYBENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE, 3,3'-DIMETHOXY-	119-90-4		(CA) 5 7 8 18 20 21
0735	1,1-DIMETHOXYETHANE ETHANE, 1,1-DIMETHOXY-	534-15-6	2377	3 15
syn	DIMETHYLACETAL see 1,1-DIMETHOXYETHANE			
0736	DIMETHYL ACETAMIDE ACETAMIDE, N,N-DIMETHYL-	127-19-5		1 2 15
0737	# DIMETHYLAMINE N-METHYLMETHANAMINE	124-40-3	1032+	(F4) 1 2 3 15 20 21
0738 chg	+ 2-DIMETHYLAMINOACETO-NITRILE ACETONITRILE, (DIMETHYLAMINO)-	926-64-7	2378	(F3,R1) 3
0739 chg	# 4-DIMETHYLAMINOAZOBENZENE BENZENAMINE, N,N-DIMETHYL-4-(PHENYLAZO)-	60-11-7		(CA,MU,TE) 1 5 8 18 20 21
2343	4-DIMETHYLAMINO-6-(2-DIMETHYLAMINOETHOXY) TOLUENE-2-DIAZONIUM- * ZINC CHLORIDE		3039	17
0740	DIMETHYLAMINOETHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, 2-(DIMETHYLAMINO)ETHYL ESTER	2867-47-2	2522	3 15
0227	beta-DIMETHYLAMINOPROPIONITRILE PROPIONITRILE, 3-(DIMETHYLAMINO)	1738-25-6		10
0741	DIMETHYLANILINE BENZENAMINE, N,N-DIMETHYL-	121-69-7	2253	1 2 3 15 18
syn	7,12-DIMETHYL-BENZ(a)ANTHRACENE see BENZ(a)ANTHRACENE, * 7,12-DIMETHYL-			
0742	# 3,3'-DIMETHYLBENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE, 3,3'-DIMETHYL-	119-93-7		(CA,MU) 2 4 5 6 8 18 20 21
0743	DI(2-METHYLBENZOYL) PEROXIDE BIS(2-METHYLBENZOYL) PEROXIDE	3034-79-5	2593	3
syn	alpha,alpha-DIMETHYLBENZYLHYDROPEROXIDE see CUMENE * HYDROPEROXIDE			
0744 chg	+ 2,3-DIMETHYLBUTANE BUTANE, 2,3-DIMETHYL-	79-29-8	2457	(F3) 3 15
0745 chg	# 1,3-DIMETHYLBUTYLAMINE 2-PENTANAMINE, 4-METHYL-	108-09-8	2379	(F3) 3 15
0746 chg	# DIMETHYLCARBAMOYL CHLORIDE CARBAMIC CHLORIDE, DIMETHYL-	79-44-7	2262	(CA,MU) 2 3 5 7 8 10 18 20 21
0747	# DIMETHYL CARBONATE CARBONIC ACID, DIMETHYL ESTER	616-38-6	1161	(F3) 3 15
syn	DIMETHYL CHLOROTHIOPHOSPHATE see DIMETHYL THIOPHOSPHORYL- * CHLORIDE			
0748	# 1,4-DIMETHYLCYCLOHEXANE CYCLOHEXANE, 1,4-DIMETHYL-	589-90-2	2263	(F3) 3 15
0749	# DIMETHYLCYCLOHEXYL AMINE CYCLOHEXANAMINE, N,N-DIMETHYL	98-94-2	2264	(CO) 3
0750	2,5-DIMETHYL-2,5-DI-(BENZOYLPEROXY)HEXANE BENZENECARBOPEROXOIC ACID, 1,1,4,4-TETRAMETHYL-1,4- * BUTANEDIYL ESTER	2618-77-1	2959+	3
0751	DIMETHYL 1,2-DIBROMO-2,2-DICHLOROETHYL PHOSPHATE PHOSPHORIC ACID, 1,2-DIBROMO-2,2-DICHLOROETHYL DIMETHYL ESTER	300-76-5	2783	1 2 3 20
0757	2,5-DIMETHYL-2,5-DI(tert-BUTYL PEROXY)HEXANE PEROXIDE, (1,1,4,4-TETRAMETHYL-1,4-BUTANEDIYL)BIS (1,1- * DIMETHYLETHYL)	78-63-7	2155	3
2345	2,5-DIMETHYL-2,5-DI(tert-BUTYLPEROXY)HEXYNE-3, technical pure	1068-27-5	2158	3
2346 gen	2,5-DIMETHYL-2,5-DI(tert-BUTYLPEROXY)HEXYNE-3, maximum 52% * PEROXIDE in inert solid	1068-27-5	2159	3
0752	# DIMETHYL DICHLOROSILANE DICHLORODIMETHYLSILANE	75-78-5	1162	(CO,F3) 3 15 16 19
0753	DIMETHYLDIETHOXYSILANE SILANE, DIETHOXYDIMETHYL-	78-62-6	2380	3
0754	2,5-DIMETHYL-2,5-DIHYDRO-PEROXYHEXANE HYDROPEROXIDE, (1,1,4,4-TETRAMETHYL-1,4-BUTANEDIYL)BIS-	3025-88-5	2174	3
0755	# DIMETHYLDIOXANE 1,4-DIOXANE, DIMETHYL-	25136-55-4	2707	(F3) 3 15
0756	# DIMETHYLDISULFIDE DISULFIDE, DIMETHYL	624-92-0	2381	(F4) 3 16 19
0758	# DIMETHYL ETHER METHANE, OXYBIS-	115-10-6	1033	(F4) 3 15
0759	DIMETHYLFORMAMIDE N,N-DIMETHYLFORMAMIDE	68-12-2	2265	1 2 3 15
0760	2,6-DIMETHYLHEPTANONE 4-HEPTANONE, 2,6-DIMETHYL	108-83-8	1157	1 2 3 4 15
0761	# 1,1-DIMETHYLHYDRAZINE HYDRAZINE, 1,1-DIMETHYL-	57-14-7	2382+	(CA,CO,F3,MU) 1 2 3 4 6 8 15 16 18 19 20 21
1008 chg	# 1,2-DIMETHYLHYDRAZINE	540-73-8	1163	(CA,MU) 3 8 20 21
0762	DIMETHYLMAGNESIUM MAGNESIUM, DIMETHYL-	2999-74-8	1368+	3
0763	# DIMETHYL MERCURY MERCURY, DIMETHYL-	593-74-8		(TE) 1 2
3016	alpha,alpha-DIMETHYL PHENETHYLAMINE	122-09-8		20 21
0764	2,4-DIMETHYLPHENOL PHENOL, 2,4-DIMETHYL-	105-67-9		6 18 20 21
syn	DIMETHYL PHOSPHOROCHLORIDOTHIOATE see DIMETHYL THIOPHOS- * PHORYL CHLORIDE			
0765	DIMETHYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIMETHYL ESTER	131-11-3		1 2 6 15 16 18 19 20 21
2348	DIMETHYL-p-PHENYLENEDIAMINE	99-98-9	1673	3 16 19
0766	# DIMETHYLPROPANE PROPANE, 2,2-DIMETHYL	463-82-1	2044	(F4) 3 15
0767	# DIMETHYLPROPYLAMINE 1-PROPANAMINE, N,N-DIMETHYL-	926-63-6	2266	(CO) 3
0768	# DIMETHYL SULFATE SULFURIC ACID, DIMETHYL ESTER	77-78-1	1595	(CA,CO,MU) 1 2 3 5 6 7 8 15 16 18 19 20 21
0769	# DIMETHYL SULFIDE METHANE, THIOBIS-	75-18-3	1164	(R4) 3 16 19
0770	# DIMETHYL THIOPHOSPHORYL CHLORIDE PHOSPHOROCHLORIDOTHIOIC ACID, O,O-DIMETHYL ESTER	2524-03-0	2267	(CO) 3 16 19
0771 chg	+ DIMETHYLZINC ZINC, DIMETHYL-	544-97-8	1370	(F4,R2) 3
2349	DIMETILAN	644-64-4	2757	3 16 19
syn	DIMPYLATE see DIAZINON			
0772	DIMYRISTYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DITETRADECYL ESTER	53220-22-7	2892+	3
0774	DINEX PHENOL, 2-CYCLOHEXYL-4,6-DINITRO-	131-89-5	9026	3 14 20 21
0775	DINITOLMIDE BENZAMIDE, 2-METHYL-3,5-DINITRO-	148-01-6		1 2
0776	# DINITROANILINE BENZENAMINE, DINITRO-	26471-56-7	1596	(R3) 3 15
0777	# DINITROBENZENE BENZENE, DINITRO	25154-54-5	1597	(R4) 1 2 3 15 20
3017	m-DINITROBENZENE	99-65-0		20
3018	o-DINITROBENZENE	528-29-0		20
3019	p-DINITROBENZENE	100-25-4		20
0778	# DINITROCHLOROBENZENE BENZENE, CHLORODINITRO-	25567-67-3	1577	(R4) 3 15

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0779	4,6-DINITRO-o-CRESOL PHENOL, 2-METHYL-4,6-DINITRO-	534-52-1	1598	1 2 3 4 14 16 18 19 20 21
syn	4,6-DINITRO-o-CYCLOHEXYLPHENOL see DINEX			
2350 gen	DINITROPHENATES ALKALI METALS, dry or wetted		0077	3
0780	DINITROPHENOL PHENOL, DINITRO-	25550-58-7	0076+	3 18 20
2950	2,4-DINITROPHENOL	51-28-5	0076+	3 20 21
2951	2,5-DINITROPHENOL	329-71-5	0076+	3 20
2953	2,6-DINITROPHENOL	573-56-8	0076+	3 20
2351 gen	DINITROPHENOLATES, with greater than 15% WATER		1321	3
0781	DINITRORESORCINOL 1,3-BENZENEDIOL, DINITRO-	35860-51-6	0078+	3
0782	DINITROSOBENZENE BENZENE, DINITROSO-	25550-55-4	0406	3
2352	DINITROSO-DIMETHYL TEREPHTHALAMIDE		2973	17
2353	DINITROSOPENTAMETHYLENE TETRAMINE	101-25-7	2972	17
2985	DINITROTOLUENE	25321-14-6		20
0783	# 2,4-DINITROTOLUENE BENZENE, 1-METHYL-2,4-DINITRO-	121-14-2	1600+	(CA,MU,R3) 1 2 3 6 8 15 18 20 21
0784	2,6-DINITROTOLUENE BENZENE, 2-METHYL-1,3-DINITRO-	606-20-2	1600+	1 2 3 6 18 20 21
3071	3,4-DINITROTOLUENE	610-39-9		20
0785	DI-N-NONANOYL PEROXIDE PEROXIDE, BIS(1-OXONONOYL)	762-13-0	2130	3
2354	DINOSEB	88-85-7	2902	3 16 19 20 21
2355	DINOTERB	1420-07-1	2780+	3 16 19
0786	DI-N-OCTANOYL PEROXIDE PEROXIDE, BIS(1-OXOOCTYL)	762-16-3	2129	3
0787	DI-N-OCTYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIOCTYL ESTER	117-84-0		6 15 16 18 19 20 21
0789	# 1,4-DIOXANE	123-91-1	1165	(CA) 1 2 3 4 5 6 7 8 18 20 21
0790 chg	DIOXATHION PHOSPHORODITHIOIC ACID, S,S'-1,4-DIOXANE-2,3-DIYL O,O,O',O'- * TETRAETHYL ESTER	78-34-2	2783+	1 2 3 14 16 19
syn	DIOXIN see 2,3,7,8-TETRACHLORODIBENZO-p-DIOXIN			
0791	# DIOXOLANE 1,3-DIOXOLANE	646-06-0	1166	(F3,R2) 3 15 16 19
0792	DIPENTENE CYCLOHEXENE, 1-METHYL-4-(1-METHYLETHENYL)-	138-86-3	2052	3 15
0793	DIPEROXYAZELAIC ACID NONANEDIPEROXOIC ACID	1941-79-3	2958	3
0794	DIPHACINONE 1H-INDENE-1,3(2H)-DIONE, 2-(DIPHENYLACETYL)-	82-66-6	3027	14 16 17 19
0795	DIPHENYL 1,1'-BIPHENYL	92-52-4		1 2 6 15 18
0796	DIPHENYLAMINE BENZENAMINE, N-PHENYL-	122-39-4		1 2 15
0797	DIPHENYLAMINECHLORO-ARSINE PHENARSAZINE, 10-CHLORO-5,10-DIHYDRO-	578-94-9	1698	3
0798	DIPHENYLCHLOROARSINE ARSINOUS CHLORIDE, DIPHENYL-	712-48-1	1699	1 3
0799	# DIPHENYL DICHLOROSILANE DICHLORODIPHENYLSILANE	80-10-4	1769	(CO) 3 15
0800	# 1,2-DIPHENYLHYDRAZINE HYDRAZINE, 1,2-DIPHENYL-	122-66-7		(CA) 5 6 8 18 20 21
0801	# DIPHENYLMETHYL BROMIDE BENZENE, 1,1'-(BROMOMETHYLENE)BIS-	776-74-9	1770	(CO) 3
2356	DIPHENYLOXIDE-4,4'-DI-SULFOHYDRAZIDE	80-51-3	2951	17
2357	DIPHOSPHORAMIDE, OCTAMETHYL-	152-16-9	3018	3 16 19 20 21
0802	DIPICRYL SULFIDE BENZENE, 1,1'-THIOBIS 2,4,6-TRINITRO-	2217-06-3	0401+	3
2358	DIPROPIONYL PEROXIDE		2132	3
0803	# DIPROPYLAMINE 1-PROPANAMINE, N-PROPYL-	142-84-7	2383	(F3) 3 15 20 21
2359	4-DIPROPYLAMINOBENZENE-DIAZONIUM ZINC CHLORIDE		3034	17
0804 chg	DIPROPYLENE GLYCOL METHYL ETHER PROPANOL, (2-METHOXYMETHYLETHOXY)-	34590-94-8		1 2 15
syn	DIPROPYLENE TRIAMINE see BIS(AMINOPROPYL)AMINE			
0805	# DIPROPYL ETHER PROPANE, 1,1'-OXYBIS-	111-43-3	2384	(F3) 3 15
0806	DIPROPYL KETONE 4-HEPTANONE	123-19-3	2710	1 2 3 15
0788	DI-N-PROPYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIPROPYL ESTER	16066-38-9	2176	3
0807 chg	+ DIQUAT DIPYRIDO 1,2-A:2',1'-C PYRAZINEDIIUM, 6,7-DIHYDRO-	2764-72-9	2781	(MU) 1 2 3 20
0808	DIQUAT DIPYRIDO 1,2-A:2',1'-C PYRAZINEDIIUM, 6,7-DIHYDRO-, DIBROMIDE	85-00-7	2781	1 2 3 20
syn	DIRECT BLACK 38 see C.I. DIRECT BLACK 38			
syn	DIRECT BLUE 6 see C.I. DIRECT BLUE 6			
syn	DIRECT BROWN 95 see C.I. DIRECT BROWN 95			
2361 gen	DISINFECTANTS, CORROSIVE, LIQUID, n.o.s.		1903	3
2362 gen	DISINFECTANTS, n.o.s., POISONOUS, LIQUID OR SOLID		1601	3
2363 gen	DISPERSANT GAS, FLAMMABLE, n.o.s.		1954	3
2364 gen	DISPERSANT GAS, n.o.s.		1078	3
0810	DISTEARYL PEROXYDI-CARBONATE PEROXYDICARBONIC ACID, DIOCTADECYL ESTER	52326-66-6	2592	3
2365 gen	DISUCCINIC ACID PEROXIDE, 72% in water		2962	3
syn	DISUCCINIC ACID PEROXIDE, technical pure see SUCCINIC * ACID PEROXIDE			
0811 chg	DISULFIRAM THIOPEROXYDICARBONIC DIAMIDE, TETRAETHYL-	97-77-8	2588	1 2 3 10
0812	DISULFOTON PHOSPHORODITHIOIC ACID, O,O-DIETHYL S- 2-(ETHYLTHIO)ETHYL ESTER	298-04-4	2783	1 2 3 14 16 19 20 21
2367	DITHIAZANINE IODIDE	514-73-8	2588	3 16 19
2368	DITHIOBIURET	541-53-7	2771	3 16 19 20 21
2369 gen	DITHIOCARBAMATE PESTICIDES, FLAMMABLE LIQUID, n.o.s., flash- * point less than 23C		2772	3

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2370 gen		DITHIOCARBAMATE PESTICIDES, FLAMMABLE LIQUID, n.o.s., flash-point between 23C and 61C		3005	3
2371 gen		DITHIOCARBAMATE PESTICIDES, LIQUID, TOXIC, n.o.s.		3006	3
2372 gen		DITHIOCARBAMATE PESTICIDES, SOLID, TOXIC, n.o.s.		2771	3
2373 gen		DI(3,5,5-TRIMETHYL-1,2-DIOXOLANYL-3) PEROXIDE, paste		2597	3
2374		DI(3,5,5-TRIMETHYLHEXANOYL) PEROXIDE		2128	3
0819		DIURON UREA, N'-(3,4-DICHLOROPHENYL)-N,N-DIMETHYL-	330-54-1	2767	1 2 3 20
0820 chg	#	DIVINYL BENZENE BENZENE, 1,3-DIETHENYL-	108-57-6		(R2) 1 2 15
0821	#	DIVINYL ETHER ETHENE, 1,1'-OXYBIS-	109-93-3	1167	(F3,R2) 3 15
syn		DMBA see BENZ(a)ANTHRACENE, 7,12-DIMETHYL			
0822	#	DODECYLBENZENE SULFONIC ACID BENZENESULFONIC ACID, DODECYL-	27176-87-0	2584	(CO) 3 20
0823	#	DODECYL TRICHLOROSILANE TRICHLORODODECYLSILANE	4484-72-4	1771	(CO) 3
syn		DOXORUBICIN see ADRIAMYCIN			
2375 gen		DRIERS, PAINT OR VARNISH, LIQUID, n.o.s.		1168	3
2376 gen		DRIERS, PAINT OR VARNISH, SOLID, n.o.s.		1371	3
2377 gen		DRUGS, LIQUID, n.o.s., CORROSIVE MATERIAL		1760	3
2378 gen		DRUGS, LIQUID, n.o.s., POISON B		2810	3
2379 gen		DRUGS, n.o.s., COMBUSTIBLE OR FLAMMABLE LIQUID		1993	3
2380 gen		DRUGS, n.o.s., FLAMMABLE SOLID		1325	3
syn		DRUGS, n.o.s. see MEDICINES, n.o.s.			
2382 gen		DRUGS, n.o.s., OXIDIZER		1479	3
2383 gen		DRUGS, SOLID, n.o.s., CORROSIVE MATERIAL		1759	3
2384 gen		DRUGS, SOLID, n.o.s., POISON B		2811	3
syn		DRY ICE see CARBON DIOXIDE			
syn		DTBP see DI-tert-BUTYL PEROXIDE			
syn		DURSBAN see CHLORPYRIFOS			
2385 gen		DYES, n.o.s. or DYE INTERMEDIATES, n.o.s., CORROSIVE		2801	3
2386 gen		DYES, n.o.s. or DYE INTERMEDIATES, n.o.s., POISONOUS		1602	3
syn		EDTA see ETHYLENEDIAMINE TETRA-ACETIC ACID			
2387		EMETINE, DIHYDROCHLORIDE	316-42-7	1544	3 16 19
syn		ENAMELS see PAINTS, etc.			
0824		ENDOSULFAN 6,9-METHANO-2,4,3-BENZODIOXATHIEPIN, 6,7,8,9,10,10-HEXACHLORO-1,5,5A,6,9,9A-HEXAHYDRO-, 3-OXIDE	115-29-7	2761	1 2 3 16 19 20 21
3014		alpha-ENDOSULFAN	949-98-8	2761	3 20
3015		beta-ENDOSULFAN	33213-65-9	2761	3 20
2987		ENDOSULFAN AND METABOLITES		2761	3 20
2988		ENDOSULFAN SULFATE	1031-07-8	2761	3 20
2989		ENDOTHALL	1145-73-3		20 21
2389		ENDOTHION	2778-04-3	2783+	3 16 19
0825		ENDRIN 2,7:3,6-DIMETHANONAPHTH 2,3-B OXIRENE, 3,4,5,6,9,9-HEXACHLORO-1A,2,2A,3,6,6A,7,7A-OCTAHYDRO-, (1Aalpha, 2beta, 2Abeta, 3alpha, 6alpha, 6Abeta, 7beta, 7Aalpha)-	72-20-8	2761	1 2 3 14 15 16 19 20 21
2990		ENDRIN ALDEHYDE	7421-93-4	2761	3 20
2991		ENDRIN AND METABOLITES		2761	3 20 21
0826		ENFLURANE ETHANE, 2-CHLORO-1-(DIFLUOROMETHOXY)-1,1,2-TRIFLUORO-	13838-16-9		2 4
2390 gen		ENGINE STARTING FLUID, WITH FLAMMABLE GAS		1960	3
0827		EPIBROMOHYDRIN OXIRANE, BROMOMETHYL-	3132-64-7	2558	3
0828	#	EPICHLOROHYDRIN OXIRANE, CHLOROMETHYL-	106-89-8	2023	(CA,MU,R2) 1 2 3 4 6 7 8 10 15 16 18 19 20 21
0829		EPN PHOSPHONOTHIOIC ACID, PHENYL-, O-ETHYL O-(4-NITROPHENYL) ESTER	2104-64-5	2783+	1 2 3 14 16 19
0830		EPOXY ETHYLOXY PROPANE (ETHOXYMETHYL)-OXIRANE	4016-11-9	2752	3
0831	#	2,3-EPOXY 1-PROPANOL OXIRANEMETHANOL	556-52-5		(MU) 1 2
2876 gen		ERADICATORS, PAINT OR GREASE		1850	3
2391		ERGOCALCIFEROL	50-14-6	1851	3 16 19
2392		ERGOTAMINE TARTRATE	379-79-3	1544	3 16 19
syn		ERYTHRITOL ANHYDRIDE see BUTANEDIONE			
0832	#	ESTRADIOL ESTRA-1,3,5(10)-TRIENE-3,17-DIOL (17beta)-	50-28-2	1851	(CA) 3 7
0833	#	ESTRONE ESTRA-1,3,5(10)-TRIEN-17-ONE, 3-HYDROXY-	53-16-7	1851	(CA) 3 7
syn		ETHANAMINE, N-ETHYL-N-NITROSO- see N-NITROSODIETHYLAMINE			
0834	#	ETHANE	74-84-0	1035+	(F4) 2 3 15
2920		ETHANEDIYL BISCARBAMODITHIDIC ACID	111-54-6		20 21
syn		ETHANE, 1,1,2,2,2-HEXACHLORO- see HEXACHLOROETHANE			
syn		ETHANE, 1,1'-OXYBIS- see DIETHYL ETHER			
2393		ETHANESULFONYL CHLORIDE, 2-CHLORO-	1622-32-8		16 19
syn		ETHANETHIOAMIDE see THIOACETAMIDE			
syn		ETHANE, 1,1,1-TRICHLORO-2,2-BIS(p-METHOXYPHENYL)- see METHOXYCHLOR			
0835	#	ETHANOLAMINE ETHANOL, 2-AMINO-	141-43-5	2491	(CO) 1 2 3 15
2394		ETHANOL, 1,2-DICHLORO-, ACETATE	10140-87-1	1993	3 16 19
syn		ETHENAMINE, N-METHYL-N-NITROSO- see NITROSOMETHYLVINYLAMINE			

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		ETHENE, CHLORO- see VINYL CHLORIDE			
syn					
0836	#	ETHINYLOESTRADIOL 19-NORPREGNA-1,3,5(10)-TRIEN-20-YNE-3,17-DIOL, (17alpha)-	57-63-6	1851	(CA,MU) 3 7
0837		ETHION PHOSPHORODITHIOIC ACID, S,S'-METHYLENE O,O,O',O'- * TETRAETHYL ESTER	563-12-2	2783	1 2 3 14 16 19 20
0838	#	ETHIONAMIDE ISONICOTINAMIDE, 2-ETHYLTHIO-	536-33-4	1851	(TE) 3 13(Y,EE,FF)
2395		ETHOPROPHOS	13194-48-4	3018	3 16 19
0839		2-ETHOXYETHANOL ETHANOL, 2-ETHOXY-	110-80-5	1171	1 2 3 10 15 18
0840		2-ETHOXYETHYLACETATE ETHANOL, 2-ETHOXY-, ACETATE	111-15-9	1172	1 2 3 15
0841	#	ETHYL ACETATE ACETIC ACID ETHYL ESTER	141-78-6	1173	(F3) 1 2 3 15 20 21
		ETHYL ACETONE see METHYL PROPYL KETONE			
syn					
0842		ETHYL ACETYLENE 1-BUTYNE	107-00-6	2452	3
0843	#	ETHYL ACRYLATE 2-PROPENOIC ACID, ETHYL ESTER	140-88-5	1917	(F3,R2) 1 2 3 15 18 20 21
0844	#	ETHYL ALCOHOL ETHANOL	64-17-5	1170	(F3) 1 2 3 15
		ETHYLALDEHYDE see ACETALDEHYDE			
syn					
0845	#	ETHYL ALUMINUM DICHLORIDE ALUMINUM, DICHLOROETHYL-	563-43-9	1924	(F3,R3) 2 3 15
0846	#	ETHYL ALUMINUM SESQUICHLORIDE ALUMINUM, TRICHLOROTRIETHYLDI-	12075-68-2	1925	(F3,R3) 2 3 15
0847	#	ETHYLAMINE ETHANAMINE	75-04-7	1036	(F4) 1 2 3 15 20
0848 chg		ETHYL AMYL KETONE 3-OCTANONE	541-85-5	2271	1 2 3
0849		2-ETHYLANILINE BENZENAMINE, 2-ETHYL-	578-54-1	2273	3
0850		ETHYLANILINE BENZENAMINE, N-ETHYL-	103-69-5	2272+	3 15
0851	#	ETHYL BENZENE BENZENE, ETHYL-	100-41-4	1175	(F3) 1 2 3 6 15 18 20
0852		ETHYLBENZYLANILINE BENZENEMETHANAMINE, N-ETHYL-N-PHENYL-	92-59-1	2274	3 15
0853		ETHYLBENZYLTOLUIDINE BENZENEMETHANAMINE, N-ETHYL-N-(3-METHYL-PHENYL)-	119-94-8	2753	3
2396		ETHYLBIS(2-CHLOROETHYL)AMINE	538-07-8	2810	3 16 19
0854 chg	#	ETHYL BORATE BORIC ACID (H3BO3), MONOETHYL ESTER	34099-73-5	1176	(F3) 3 15
0855		ETHYL BROMIDE ETHANE, BROMO-	74-96-4	1891	1 2 3 15
0856		ETHYL BROMOACETATE ACETIC ACID, BROMO-, ETHYL ESTER	105-36-2	1603	3 15
0857	@	ETHYLBUTANOL 1-BUTANOL, 2-ETHYL	97-95-0	2275	3 15
0858 chg		ETHYLBUTYL ACETATE HEXANOIC ACID, ETHYL ESTER	123-66-0	1177	3 15
0859	#	ETHYLBUTYL ETHER BUTANE, 1-ETHOXY-	628-81-9	1179	(F3) 3 15
0860		ETHYL BUTYL KETONE 3-HEPTANONE	106-35-4	1224	1 2 3 15
0861	#	ETHYLBUTYRALDEHYDE BUTANAL, 2-ETHYL	97-96-1	1178	(F3) 3 15
0862	#	ETHYL BUTYRATE BUTANOIC ACID, ETHYL ESTER	105-54-4	1180	(F3) 3 15
		ETHYL CARBONATE see DIETHYL CARBONATE			
syn					
0863	#	ETHYL CHLORIDE ETHANE, CHLORO-	75-00-3	1037	(F4) 1 2 3 15 18 20
0864	#	ETHYL CHLOROACETATE ACETIC ACID, CHLORO-, ETHYL ESTER	105-39-5	1181	(F3) 3 15
0865	#	ETHYL CHLOROFORMATE CARBONOCHLORIDIC ACID, ETHYL ESTER	541-41-3	1182	(CO,F3) 3 15 18
0866		ETHYL-2-CHLOROPROPIONATE PROPANOIC ACID, 2-CHLORO-, ETHYL ESTER	535-13-7	2935	3
0867 chg	#	ETHYL CHLOROTHIOFORMATE CARBONOCHLORIDOTHIOIC ACID, O-ETHYL ESTER	2812-73-9	2826	(CO) 3
0869 chg	#	ETHYL CROTONATE 2-BUTENOIC ACID, ETHYL ESTER-	623-70-1	1862	(F3) 3 15
0870		ETHYL CYANOACETATE ACETIC ACID, CYANO-, ETHYL ESTER	105-56-6	2666	3 15
2397 gen		ETHYL-3,3-DI(tert-BUTYL-PEROXY)BUTYRATE with at least 50% * inert inorganic solution		2598	3
2398 gen		ETHYL-3,3-DI(tert-BUTYL-PEROXY)BUTYRATE, maximum concentration * 77% solution		2185	3
2399		ETHYL-3,3-DI(tert-BUTYL-PEROXY)BUTYRATE, technical pure		2184	3
0871		ETHYL DICHLOROARSINE ARSONOUS DICHLORIDE, ETHYL-	598-14-1	1892	1 3
0205	#	ETHYL-4,4'-DICHLOROBENZILATE BENZILIC ACID, 4,4'-DICHLORO-, ETHYL ESTER	510-15-6		(CA) 8 18 20 21
0872	#	ETHYL DICHLOROSILANE SILANE, DICHLOROETHYL-	1789-58-8	1183	(CO,F3) 3 15
0873 chg	#	ETHYLENE ETHENE	74-85-1	1962+	(F4,R2) 2 3 15 18
0874	#	ETHYLENE CHLOROHYDRIN ETHANOL, 2-CHLORO-	107-07-3	1135	(MU) 1 2 3 15 16 19
0875	#	ETHYLENEDIAMINE 1,2-ETHANEDIAMINE	107-15-3	1604	(CO) 1 2 3 15 16 19 20
0876		ETHYLENEDIAMINE TETRA-ACETIC ACID GLYCINE, N,N'-1,2-ETHANEDIYLBIS N-(CARBOXYMETHYL)-	60-00-4	9117	3 20
0877	#	ETHYLENE DIBROMIDE ETHANE, 1,2-DIBROMO-	106-93-4	1605	(CA,MU) 1 2 3 4 5 6 7 8 10 18 20 21
		ETHYLENE DICHLORIDE see 1,2-DICHLOROETHANE			
syn					
2400		ETHYLENE FLUOROHYDRIN	371-62-0	2642	3 16 19
0878		ETHYLENE GLYCOL 1,2-ETHANEDIOL	107-21-1	1142	1 2 3 15 18
0879	#	ETHYLENE GLYCOL DIETHYL ETHER ETHANE, 1,2-DIETHOXY-	629-14-1	1153	(F3) 3 15
0880		ETHYLENE GLYCOL DINITRATE 1,2-ETHANEDIOL, DINITRATE	628-96-6		1 2 4
		ETHYLENE GLYCOL MONOMETHYL ETHER see 2-METHOXYETHANOL			
syn					
		ETHYLENE GLYCOL MONOETHYL ETHER ACETATE see 2-ETHOXYETHYL * ACETATE			
syn					
0881	#	ETHYLENEIMINE AZIRIDINE	151-56-4	1185	(CA,F3,MU,R3) 1 2 3 6 8 15 16 18 19 20 21
0882	#	ETHYLENE OXIDE OXIRANE	75-21-8	1040	(CA,MU,R3) 1 2 3 4 6 7 8 10 14 15 16 18 19 20 21
0883	#	ETHYLENE THIOUREA 2-IMIDAZOLIDINETHIONE	96-45-7		(CA,TE) 4 5 6 7 8 10 18 20 21

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syn		ETHYL ETHER see DIETHYL ETHER			
syn		ETHYL FLUID see MOTOR FUEL ANTIKNOCK compounds			
0884	#	ETHYL FLUORIDE ETHANE, FLUORO-	353-36-6	2453	(F4) 3 15
0885	#	ETHYL FORMATE FORMIC ACID, ETHYL ESTER	109-94-4	1190	(F3) 1 2 3 15
0886		ETHYL HEXALDEHYDE HEXANAL, 2-ETHYL-	123-05-7	1191	3 15
0888		2-ETHYL HEXYLAMINE HEXYLAMINE, 2-ETHYL-	104-75-6	2276	3
0889	#	ETHYL HEXYLCHLOROFORMATE CARBONOCHLORIDIC ACID, 2-ETHYLHEXYL ESTER	24468-13-1	2748	(CO) 3
syn		ETHYLIDENE CHLORIDE see 1,1-DICHLOROETHANE			
0890		ETHYLIDENE NORBORNENE BICYCLO 2.2.1 HEPT-2-ENE, 5-ETHYLIDENE-	16219-75-3		1 2
0891	#	ETHYL ISOBUTYRATE PROPANOIC ACID, 2-METHYL-, ETHYL ESTER	97-62-1	2385	(F3) 3 15
0892		ETHYL ISOCYANATE ISOCYANATOETHANE	109-90-0	2481	3
0893		ETHYL LACTATE PROPANOIC ACID, 2-HYDROXY-, ETHYL ESTER	97-64-3	1192	3 15
0894	#	ETHYL MERCAPTAN ETHANETHIOL	75-08-1	2363	(F4) 1 2 3 4 15
0895	#	ETHYL MERCURIC CHLORIDE MERCURY, CHLOROETHYL-	107-27-7	2777	(TE) 1 2 3
0896		ETHYLMERCURIC PHOSPHATE MERCURATE(2-), ETHYL PHOSPHATO(3-)-O -, DIHYDROGEN	2235-25-8	3012	1 2 3 16 19
syn		(ETHYLMERCURIC)-p-TOLUENESULPHONANILIDE see n-(ETHYLMERCURIC) * p-TOLUENESULFONANILIDE			
1337		n-(ETHYLMERCURIC)-p-TOLUENESULPHONANILIDE MERCURY, ETHYL (-p-TOLUENESULPHONANILIDATO)-	517-16-8		1 2
0897	#	ETHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, ETHYL ESTER	97-63-2	2277	(F3) 3 15 20 21
syn		ETHYL METHYL ETHER see METHYL ETHYL ETHER			
syn		ETHYL MORPHINE see 2-METHYL-5-ETHYLPYRIDINE			
1338		n-ETHYLMORPHOLINE MORPHOLINE, 4-ETHYL-	100-74-3		1 2
0898	#	ETHYL NITRATE NITRIC ACID, ETHYL ESTER	625-58-1	1993	(F3,R4) 3 15
0899	#	ETHYL NITRITE NITROUS ACID, ETHYL ESTER	109-95-5	1194	(F4,R4) 3 15
0900		ETHYL ORTHOFORMATE ETHANE, 1,1',1''- METHYLIDYNETRIS(OXY) TRIS-	122-51-0	2524	3
0901		ETHYL OXALATE ETHANEDIOIC ACID, DIETHYL ESTER	95-92-1	2525	3 15
0902	#	ETHYL PHENYL DICHLOROSILANE SILANE, DICHLOROETHYLPHENYL	1125-27-5	2435	(CO) 3
0903		ETHYLPHOSPHONOTHIOIC-DICHLORIDE PHOSPHONOTHIOIC DICHLORIDE, ETHYL-	993-43-1	1760	3
0904	#	ETHYL PHOSPHONOUS DICHLORIDE PHOSPHONOUS DICHLORIDE, ETHYL-	1498-40-4	2845	(CO) 3
0905	#	ETHYL PHOSPHORODICHLORIDATE PHOSPHORODICHLORIDIC ACID, ETHYL ESTER	1498-51-7	1760	(CO) 3
syn		ETHYL PHTHALATE see DIETHYL PHTHALATE			
0906		1-ETHYL PIPERIDINE PIPERIDINE, 1-ETHYL-	766-09-6	2386	3
0907	#	ETHYL PROPIONATE PROPANOIC ACID, ETHYL ESTER	105-37-3	1195	(F3) 3 15
0908	#	ETHYL PROPYL ETHER PROPANE, 1-ETHOXY-	628-32-0	2615	(F3) 3 15
0909		ETHYL SILICATE SILICIC ACID, TETRAETHYL ESTER	78-10-4	1292	1 2 3 15
chg					
syn		ETHYL SULFIDE see DIETHYL SULFIDE			
0910	#	ETHYL SULFURIC ACID SULFURIC ACID, MONOETHYL ESTER	540-82-9	2571	(CO) 3
2402		ETHYL THIOCYANATE	542-90-5	2902	3 16 19
0911		ETHYL TOLUIDINE N-ETHYL-4-METHYLBENZENAMINE	622-57-1	2754	3
0912	#	ETHYLTRICHLOROSILANE SILANE, TRICHLOROETHYL-	115-21-9	1196	(CO,F3) 3 15 16 19
2403		ETIOLOGIC AGENT, n.o.s.		2814	3
gen					
2404		EXPLOSIVES A		EXPA	3
gen					
2405		EXPLOSIVES B		EXPB	3
gen					
2406		EXPLOSIVES C		EXPC	3
gen					
2407		EXTRACTS, AROMATIC, LIQUID		1169	3
gen					
2408		EXTRACTS, FLAVORING, LIQUID		1197	3
gen					
2409		FABRIC, ANIMAL OR VEGETABLE, with greater than 5% OIL, n.o.s.		1373	3
gen					
2915		FAMPHUR PHOSPHOROTHIOIC ACID, O,O-DIMETHYL ESTER, O-ESTER with * p-HYDROXY-N,N-DIMETHYL BENZENE-SULFONAMIDE	52-85-7		20 21
0913		FENAMINOSULF (LESAN) BENZENEDIAZOSULFONIC ACID, p-(DIMETHYLAMINO)-,SODIUM SALT	140-56-7	2588	3 14
0914		FENAMIPHOS PHOSPHORAMIDIC ACID, (1-METHYLETHYL)-, ETHYL (3-METHYL-4- * (METHYLTHIO)PHENYL) ESTER	22224-92-6	2783	1 2 3 14 16 19
2410		FENITROTHION	122-14-5	3018	3 16 19
0915		FENSULFOTHION PHOSPHOROTHIOIC ACID, O,O-DIETHYL O- 4- * (METHYLSULFINYL)PHENYL ESTER	115-90-2	3018	1 2 3 14 16 19
0916		FENTHION PHOSPHOROTHIOIC ACID, O,O-DIMETHYL O- 3-METHYL-4- * (METHYLTHIO)PHENYL ESTER	55-38-9	3018	1 2 3 14
0917		FERBAM IRON, TRIS(DIMETHYLCARBAMODITHIOATO-S,S')-, (OC-6-11)-	14484-64-1	2588+	1 2 3
chg					
0918		FERRIC AMMONIUM CITRATE 1,2,3-PROPANETRICARBOXYLIC ACID, 2-HYDROXY-, * AMMONIUM IRON(III) SALT	1185-57-5	9118	2 3 20
0919		FERRIC AMMONIUM OXALATE FERRATE, TRIS ETHANEDIOATO-O,O' -, TRIAMMONIUM-	14221-47-7	9119	2 3 20
3053		FERRIC AMMONIUM OXALATE	2944-67-4		20
3054		FERRIC AMMONIUM OXALATE	5548-87-4		20
0920	@	FERRIC ARSENATE ARSENIC ACID, IRON(III) SALT (1:1)	10102-49-5	1606	1 3 6
chg					
0921		FERRIC ARSENITE IRON(III) O-ARSENITE PENTAHYDRATE	63989-69-5	1607	1 3 6
syn		FERRIC CHLORIDE see IRON CHLORIDE			
syn		FERRIC DEXTRAN see IRON DEXTRAN COMPLEX			
0923		FERRIC FLUORIDE IRON FLUORIDE	7783-50-8	9120	3 20
0924		FERRIC NITRATE NITRIC ACID, IRON(III) SALT	10421-48-4	1466	2 3 20
0925		FERRIC SULFATE SULFURIC ACID, IRON(III) SALT (3:2)	10028-22-5	9121	2 3 20

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0926	FERROCERIUM	69523-06-4	1323	3
0927	FERROSILICON	8049-17-0	1408	3
0928	FERROUS AMMONIUM SULFATE SULFURIC ACID, AMMONIUM IRON(II) SALT (2:2:1)	10045-89-3	9122	2 3 20
0929	FERROUS ARSENATE ARSENIC ACID, IRON(II) SALT (2:3)	10102-50-8	1608	1 3 6
0930	# FERROUS CHLORIDE IRON CHLORIDE	7758-94-3	1759+	(CO) 2 3 20
2411 gen	FERROUS METAL BORINGS, CUTTINGS, SHAVINGS, OR TURNINGS		2793	3
0931	FERROUS SULFATE SULFURIC ACID, IRON(2+) SALT (1:1)	7720-78-7	9125	2 3 20
0932	FERROVANADIUM	12604-58-9		1 2 4
2877 gen	FERTILIZER AMMONIATING SOLUTION, less than 35% free Ammonia		1043	3
2412 gen	FIBER, ANIMAL or VEGETABLE, with greater than 5% OIL, n.o.s.		1373	3
2413 gen	FIBER, ANIMAL or VEGETABLE, BURNT, DRY, WET or DAMP, n.o.s		1372	3
0933	FIBROUS GLASS			2 4
syn	FILLERS, LIQUID see PAINTS, etc.			
2415 gen	FILM, MOTION PICTURE, NITROCELLULOSE BASE		1324	3
2416 gen	FIRE EXTINGUISHER CHARGES, CORROSIVE LIQUID		1774	3
2417 gen	FIRE EXTINGUISHERS, WITH COMPRESSED OR LIQUEFIED GAS		1044	3
2418 gen	FIRELIGHTERS, SOLID, WITH FLAMMABLE LIQUID		2623	3
2419 gen	FISHMEAL and SCRAP, STABILIZED		2216	3
2420 gen	FISHMEAL and SCRAP, UNSTABILIZED		1374	3
syn	FLAMMABLE GAS IN LIGHTERS FOR CIGARS, CIGARETTES, etc. see * CIGARETTE LIGHTERS, WITH FLAMMABLE GAS			
2422 gen	FLAMMABLE GAS, n.o.s.		1954	3
2423 gen	FLAMMABLE LIQUID PREPARATIONS, n.o.s.		1142	3
2425 gen	FLAMMABLE LIQUIDS, CORROSIVE, n.o.s.		2924	3
2426 gen	FLAMMABLE LIQUIDS, n.o.s.		1993	3
2427 gen	FLAMMABLE LIQUIDS, POISONOUS, n.o.s.		1992	3
2428 gen	FLAMMABLE SOLIDS, CORROSIVE, n.o.s.		2925	3
2429 gen	FLAMMABLE SOLIDS, n.o.s.		1325	3
2430 gen	FLAMMABLE SOLIDS, POISONOUS, n.o.s.		2926	3
syn	FLAX, DRY see FIBER, ANIMAL or VEGETABLE, BURNT, DRY, WET or DAMP, n.o.s.			
2432 gen	FLUE DUST, POISONOUS	67711-90-4	2811	3
2433	FLUENETIL	4301-50-2	2902	3 16 19
0934	# FLUOBORIC ACID BORATE(1-), TETRAFLUORO-, HYDROGEN	16872-11-0	1775	(CO) 1 2 3
0935	FLUOMETURON UREA, N,N-DIMETHYL-N-((3-TRIFLUOROMETHYL)PHENYL)	2164-17-2		6 18
2993	FLUORENE	86-73-7		20
0936 chg	FLUORIDES			1 2 4
0937	# FLUORINE	7782-41-4	1045+	(R3) 1 2 3 16 19 20 21
syn	FLUORINE MONOXIDE see OXYGEN DIFLUORIDE			
2434	FLUOROACETAMIDE	640-19-7	2811+	3 16 19 20 21
0938	FLUOROACETIC ACID ACETIC ACID, FLUORO-	144-49-0	2642	1 2 3 16 19
2435	FLUOROACETYL CHLORIDE	359-06-8	1752	3 16 19
2436	2-FLUOROANILINE	348-54-9	2941	3
2437	4-FLUOROANILINE	371-40-4	2944	3
0939	# FLUOROBENZENE BENZENE, FLUORO-	462-06-6	2387	(F3) 3 15
syn	FLUOROFORM see TRIFLUOROMETHANE			
0940 chg	# FLUOROPHOSPHORIC ACID	13537-32-1	1776	(CO) 1 2 3
2438 gen	FLUOROSILICATES, n.o.s.		2856	3
syn	FLUOROSILICIC ACID see SILICOFLUORIC ACID			
0941	# FLUOROSULPHONIC ACID FLUOROSULFURIC ACID	7789-21-1	1777	(CO) 3
0942	FLUOROTOLUENE BENZENE, FLUOROMETHYL-	25496-08-6	2388	1 2 3
syn	FLUOROURACIL see 5-FLUOROURACIL			
1966 chg	# 5-FLUOROURACIL 2,4(1H,3H)-PYRIMIDINEDIONE, 5-FLUORO-	51-21-8	1851	(MU,TE) 3 13(C,G,R) 16 19
syn	FLUOSILICIC ACID see SILICOFLUORIC ACID			
0944	# FLURAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-1-(2-* (DIETHYLAMINO) ETHYL)-5-(O-FLUOROPHENYL)	17617-23-1	1851	(TE) 3 13(EE,FF)
0945 chg	FONOFOS PHOSPHONODITHIOIC ACID, ETHYL-, O-ETHYL S-PHENYL ESTER	944-22-9	2783+	1 2 3 14 16 19
0946	# FORMALDEHYDE	50-00-0	1198+	(CA,MU) 1 2 3 4 5 6 7 8 10 12 (A,B) 15 18 19 20 21
syn	FORMALDEHYDE CYANOHYDRIN see GLYCOLONITRILE			
0947	FORMAMIDE	75-12-7	1993	1 2 3 15
2862	FORMETANATE	23422-53-9	2757+	3 16 19
syn	FORMETANATE HYDROCHLORIDE see FORMETANATE			
0948	# FORMIC ACID	64-18-6	1779	(CO) 1 2 3 15 20 21
2439	FORMOTHION	2540-82-1	3018	3 16 19
2440	FORMPARANATE	17702-57-7		16 19
2441	FOSTHIETAN	21548-32-3	3018	3 16 19
syn	FREON 113 see 1,1,2-TRICHLORO-1,2,2-TRIFLUOROETHANE			
2442	FUBERIDAZOLE	3878-19-1	2902	3 16 19

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2443 gen		FUEL, AVIATION, TURBINE ENGINE		1863	3
2444 gen		FUEL OIL		1993	3
syn		FUEL OIL #1 see KEROSENE			
2445 gen		FUEL, PYROPHORIC, n.o.s.		1375	3
0949		FUMARIC ACID 2-BUTENEDIOIC ACID (E)-	110-17-8	9126	3 20
0950		FUMARIN COUMARIN, 3-(alpha-ACETONYLFURFURYL)-4-HYDROXY-	117-52-2	3027	3 14 16 17 19
0951	#	FUMARYL CHLORIDE 2-BUTENEDIOYL DICHLORIDE, (E)-	627-63-4	1780	(CO) 3
2446 gen		FUNGICIDE, CORROSIVE, SOLID, n.o.s.		1759	3
2447 gen		FUNGICIDE, POISONOUS, n.o.s.		2902	3
0952	#	FURAN	110-00-9	2389	(F4) 3 15 16 19 20 21
syn		2-FURANCARBOXALDEHYDE see FURFURAL			
syn		2,5 FURANDIONE see MALEIC ANHYDRIDE			
0953		FURFURAL 2-FURANCARBOXALDEHYDE	98-01-1	1199	1 2 3 15 20 21
0954		FURFURYL ALCOHOL 2-FURANMETHANOL	98-00-0	2874	1 2 3 4 15
0955	#	FURFURYLAMINE 2-FURANMETHANAMINE	617-89-0	2526	(F3) 3 15
0956	#	GALLIUM	7440-55-3	2803	(CO) 3
2448		GALLIUM TRICHLORIDE	13450-90-3		16 19
2449 gen		GAS DRIPS, HYDROCARBON		1864	3
2450 gen		GAS IDENTIFICATION SET		9035	3
2451 gen		GASOHOL		1203	3
2452 gen		GAS OIL	64741-44-2	1202	3
0957 gen	#	GASOLINE	8006-61-9	1203	(F3) 1 2 3 15
0958		GERMANIUM HYDRIDE GERMANE	7782-65-2	2192	2 3
0959		GLUCOSE OXIDASE OXIDASE, GLUCOSE	9001-37-0		12(A)
0960		GLUTARALDEHYDE PENTANEDIAL	111-30-8		1 2
2453		GLYCEROL-alpha-MONOCHLOROHYDRIN	96-24-2	2689	3
syn		GLYCERYL TRINITRATE SOLUTION see NITROGLYCERIN			
0961	#	GLYCIDALDEHYDE OXIRANECARBOXALDEHYDE	765-34-4	2622	(CA) 3 8 20 21
syn		GLYCIDOL see 2,3-EPOXY 1-PROPANOL			
syn		GLYCIDYLALDEHYDE see GLYCIDALDEHYDE			
2265 gen		GLYCOL ETHERS			18
0962		GLYCOLONITRILE ACETONITRILE, HYDROXY-	107-16-4	1648	3 4 16 19
2455 gen		GRENADE, TEAR GAS		2017	3
2456 gen		GRENADE, WITHOUT BURSTING CHARGE, WITH POISONOUS GAS		2016	3
syn		GUAIACOL see 4-METHOXYPHENOL			
syn		GUANIDINE, 1-METHYL-3-NITRO-1-NITROSO- see 1-METHYL-3-NITRO-1 * NITROSO-GUANIDINE			
0964 chg		GUANIDINE NITRATE GUANIDINE, MONONITRATE	506-93-4	1467	3
0965		GUM ARABIC	9000-01-5		12(A,B)
0966		GUTHION PHOSPHORODITHIOIC ACID, O,O-DIMETHYL S- (4-OXO-1,2,3- * BENZOTRIAZIN-3(4H)-YL)METHYL ESTER	86-50-0	2783	1 2 3 14 16 19 20
2457 gen		GUTTA-PERCHA SOLUTION	900-32-2	1205	3
0967		HAFNIUM	7440-58-6	2545+	1 2 3
0968	#	HALAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-5-PHENYL-1-(2, * 2-TRIFLUOROETHYL)-	23092-17-3	1851	(TE) 3 13(EE,FF)
2994 gen		HALOETHERS			20
2458 gen		HALOGENATED IRRITATING LIQUIDS, n.o.s.		1610	3
2995 gen		HALOMETHANES			20
0969		HALOTHANE ETHANE, 2-BROMO-2-CHLORO-1,1,1-TRIFLUORO-	151-67-7	1851	2 3 4
2459 gen		HAY		1327	3
2460 gen		HAZARDOUS SUBSTANCE, n.o.s.		9188	3
2461 gen		HAZARDOUS WASTE, n.o.s.		9189	3
0970	#	7H-DIBENZO(c,g)CARBAZOLE	194-59-2		(CA) 5 8
0972		HELIUM	7440-59-7	1046+	2 3
syn		HEMPA see HEXAMETHYL PHOSPHORAMIDE			
0974	#	HEPTACHLOR 4,7-METHANO-1H-INDENE, 1,4,5,6,7,8,8-HEPTACHLORO-3A,4,7,7A- * TETRAHYDRO-	76-44-8	2761	(CA) 1 2 3 6 8 14 18 20 21
2996		HEPTACHLOR AND METABOLITES		2761	3 20
2997		HEPTACHLOR EPOXIDE	1024-57-3	2761	3 20
1339	#	n-HEPTANE HEPTANE	142-82-5	1206	(F3) 1 2 3 4 15
0975		1-HEPTANETHIOL	1639-09-4		4
0976	#	HEPTENE	81624-04-6	2278	(F3) 3 15
0977		HEXACHLOROACETONE 2-PROPANONE, 1,1,1,3,3,3-HEXACHLORO-	116-16-5	2661	3
0978	#	HEXACHLOROBENZENE BENZENE, HEXACHLORO-	118-74-1	2729	(CA) 3 5 6 8 18 20 21
0979	#	HEXACHLOROBUTADIENE 1,3-BUTADIENE, 1,1,2,3,4,4, HEXACHLORO-	87-68-3	2279	(CA) 1 2 3 7 8 15 18
0566 chg	#	alpha-HEXACHLOROCYCLOHEXANE CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, alpha-ISOMER	319-84-6		(CA) 8 20
0567 chg	#	beta-HEXACHLOROCYCLOHEXANE CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, beta-ISOMER	319-85-7		(CA) 8 20
3013		delta-HEXACHLOROCYCLOHEXANE	319-86-8		20
syn		gamma-HEXACHLOROCYCLOHEXANE see LINDANE			

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0980	# HEXACHLOROCYCLOPENTADIENE 1,2,3,4,5,5-HEXACHLORO-1,3-CYCLOPENTADIENE	77-47-4	2646	(CO) 1 2 3 6 16 18 19 20 21
0981	# HEXACHLOROETHANE ETHANE, HEXACHLORO-	67-72-1	9037	(CA) 1 2 3 6 8 18 20 21
0982	HEXACHLORONAPHTHALENE NAPHTHALENE, HEXACHLORO-	1335-87-1		1 2 4 16 18 19
0983	HEXACHLOROPHENE PHENOL, 2,2'-METHYLENEBIS 3,4,6-TRICHLORO-	70-30-4	2875	3 20 21
2998	HEXACHLOROPROPENE	1888-71-7		20
0984	1-HEXADECANETHIOL	2917-26-2		4 15
0985	# HEXADIENE	42296-74-2	2458	(F3) 3 15
0986	HEXAETHYL TETRAPHOSPHATE TETRAPHOSPHORIC ACID, HEXAETHYL ESTER	757-58-4	1611	3 20 21
0987	HEXAFLUOROACETONE 2-PROPANONE, 1,1,1,3,3,3-HEXAFLUORO-	684-16-2	2420	1 2 3
0988 chg	HEXAFLUOROACETONE HYDRATE 2-PROPANONE, 1,1,1,3,3,3-HEXAFLUORO-, MONOHYDRATE	10543-95-0	2552	3
0989	HEXAFLUOROETHANE ETHANE, HEXAFLUORO-	76-16-4	2193	3
0990	# HEXAFLUOROPHOSPHORIC ACID PHOSPHATE(1-), HEXAFLUORO-, HYDROGEN	16940-81-1	1782	(CO) 1 2 3
0991	HEXAFLUOROPROPYLENE 1-PROPENE, 1,1,2,3,3,3-HEXAFLUORO-	116-15-4	1858	3
0992	HEXAFLUOROPROPYLENE OXIDE OXIRANE, TRIFLUORO(TRIFLUOROMETHYL)-	428-59-1	1956	3
syn	HEXAHYDROCRESOL see METHYLCYCLOHEXANOL			
0993	# HEXALDEHYDE HEXANAL	66-25-1	1207	(F3) 3 15
0994	# HEXAMETHYLENE DIAMINE 1,6-HEXANEDIAMINE	124-09-4	2280+	(CO) 3 15
2462	HEXAMETHYLENEDIAMINE, N,N'-DIBUTYL-	4835-11-4	2735	3 16 19
0995 chg	HEXAMETHYLENE DIISOCYANATE HEXANE, 1,6-DIISOCYANATO-	822-06-0	2281	3 4
2463	HEXAMETHYLENEIMINE	111-49-9	2493	3
syn	HEXAMETHYLENE TETRAMINE see HEXAMINE			
0973 chg	HEXAMETHYL PHOSPHORAMIDE (HEMPA) HEXAMETHYLPHOSPHORIC TRIAMIDE	680-31-9		2 6 10 18
2464	3,3,6,6,9,9-HEXAMETHYL-1,2,4,5-TETRAOXOCYCLONONANE, technical + pure	22397-33-7	2165	3
2465 gen	3,3,6,6,9,9-HEXAMETHYL-1,2,4,5-TETRAOXOCYCLONONANE, not more + than 52% with inert solid		2166	3
2466 gen	3,3,6,6,9,9-HEXAMETHYL-1,2,4,5-TETRAOXOCYCLONONANE, not more + than 52% in solution		2167	3
0996	HEXAMINE 1,3,5,7-TETRAAZATRICYCLO 3.3.1.13,7 DECANE	100-97-0	1328	3 15
1340	# n-HEXANE HEXANE	110-54-3	1208	(F3) 1 2 3 4 15
0998	1-HEXANETHIOL	111-31-9		4
0999	HEXANITRODIPHENYLAMINE BENZENAMINE, N-PHENYL-, HEXANITRO DERIV.	35860-31-2	0079	3
1000	HEXANITROSTILBENE BENZENE, 1,1'-(1,2-ETHENEDIYL)-BIS 2,4,6-TRINITRO -	20062-22-0	0392	3
1001 chg	n-HEXANOL 1-HEXANOL	111-27-3	2282	3 15
1002 chg	# 1-HEXENE	592-41-6	2370	(F3) 3 15
syn	HEXYL ACETATE see METHYL AMYL ACETATE			
syn	sec-HEXYL ACETATE see METHYL AMYL ACETATE			
1003	HEXYLENE GLYCOL 2,4-PENTANEDIOL, 2-METHYL-	107-41-5		1 2 15
1004	# HEXYL TRICHLOROSILANE SILANE, TRICHLOROHEXYL-	928-65-4	1784	(CO) 3
1005	HIMIC ANHYDRIDE 4,7-METHANOISOBENZOFURAN-1,3-DIONE, 3A,4,7,7A-TETRAHYDRO-, (3Aalpha,4beta,7beta,7Aalpha)-	2746-19-2		12(A)
1006	# HYDRAZINE	302-01-2	2029+	(CA,CO,F3,MU,R2) 1 2 3 6 7 8 15 16 18 19 20 21
syn	HYDRAZINE, 1,2-DIETHYL- see 1,2-DIETHYLHYDRAZINE			
2360	HYDRAZINE SULFATE	10034-93-2		5 7 18
syn	HYDRAZOBENZENE see 1,2-DIPHENYL HYDRAZINE			
2467 gen	HYDRIDES, METAL, n.o.s.		1409	3
1009	# HYDRIODIC ACID	10034-85-2	1787+	(CO) 3
2468 gen	HYDROCARBON GASES, COMPRESSED, n.o.s.		1964	3
2469 gen	HYDROCARBON GASES, LIQUIFIED, n.o.s.		1965	3
syn	HYDROCHLORIC ACID see HYDROGEN CHLORIDE			
syn	HYDROCYANIC ACID see HYDROGEN CYANIDE			
syn	HYDROFLUOROSILICIC ACID see SILICOFLUORIC ACID			
1010 chg	# HYDROGEN	1333-74-0	1049+	(F4) 2 3 15
1011	# HYDROGEN BROMIDE HYDROBROMIC ACID	10035-10-6	1048	(CO) 1 2 3
1012	# HYDROGEN CHLORIDE HYDROCHLORIC ACID	7647-01-0	1050+	(CO) 1 2 3 6 18 20
2909	HYDROGEN CHLORIDE GAS (only)	7647-01-0	1050+	1 2 3 6 18 19 20
1013	# HYDROGEN CYANIDE HYDROCYANIC ACID	74-90-8	1051+	(F4,R2) 1 2 3 4 6 14 15 16 18 19 20 21
1014	# HYDROGEN FLUORIDE HYDROFLUORIC ACID	7664-39-3	1052+	(CO) 1 2 3 4 6 16 18 19 20 21
syn	HYDROGEN IODIDE, ANHYDROUS see HYDRIODIC ACID			
syn	HYDROGEN IODIDE SOLUTION see HYDRIODIC ACID			
1015 chg	# HYDROGEN PEROXIDE	7722-84-1	2984+	(CO,MU,R3) 1 2 3 4 15 19
1016	HYDROGEN SELENIDE	7783-07-5	2202	1 2 3 16 19
1017	# HYDROGEN SULFIDE	7783-06-4	1053	(F4) 1 2 3 4 6 15 19 20 21
1018	HYDROHEXAPHTHALIC ANHYDRIDE HEXAHYDRO-1,3-ISOBENZOFURANDIONE	85-42-7		12(A)
1019	# HYDROQUINONE 1,4-BENZENEDIOL	123-31-9	2662	(MU) 1 2 3 4 6 15 16 18 19
syn	HYDROSILICOFLUORIC ACID see SILICOFLUORIC ACID			

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2474 gen	1-HYDROXY-1'-HYDROPEROXY DICYCLOHEXYL PEROXIDE, more than 90% * with water		2117	3
2475	1-HYDROXY-1'-HYDROPEROXY DICYCLOHEXYL PEROXIDE	78-18-2	2119	3
1020	# HYDROXYLAMINE SULFATE	10039-54-0	2865	(CO) 3
1021	# HYDROXYUREA UREA, HYDROXY-	127-07-1	1851	(MU,TE) 3 13(U,V,X)
2477 gen	HYPOCHLORITE SOLUTIONS with less than 5% AVAILABLE CHLORINE		1791	3
2478 gen	IGNITER FOR AIRCRAFT THRUST DEVICE		2792	3
syn	IMIDAZOLE-4-CARBOXAMIDE, 5-(3,3-DIMETHYL-1-TRIAZENO)- * see DACARBAZINE			
syn	3,3'-IMINOBISPROPYLAMINE see BIS(AMINOPROPYL)AMINE			
1023	INDENE 1H-INDENE	95-13-6		1 2
1024	# INDENO (1,2,3-cd) PYRENE	129-00-0		(CA) 5 16 19 20
3052	INDENO (1,2,3-cd) PYRENE	193-39-5		20 21
1025	INDIUM	7440-74-6		1 2
2480	INDOMETHACIN	53-86-1	1851	3 16 19
2481 gen	INFECTIOUS SUBSTANCE, HUMAN, n.o.s.		2814	3
syn	INFLAMMABLE (*ITEM*) see appropriate FLAMMABLE LISTING			
2483 gen	INK, PRINTERS		1210	3
2484 gen	INKS		2867	3
2485 gen	INSECTICIDE, DRY, n.o.s.		2588	3
2486 gen	INSECTICIDE GASES, NON-TOXIC, n.o.s.		1968	3
2487 gen	INSECTICIDE GASES, TOXIC, n.o.s.		1967	3
2488 gen	INSECTICIDE, LIQUID, n.o.s.		1993	3
2489 gen	INSECTICIDE, LIQUID, POISONOUS, n.o.s.		2902	3
1026	IODINE	7553-56-2	1851	1 2 3
1027	# IODINE MONOCHLORIDE IODINE CHLORIDE (ICl)	7790-99-0	1792	(CO) 3
1028	IODINE PENTAFLUORIDE IODINE FLUORIDE (IF5)	7783-66-6	2495	3
1029 chg	2-IODOBUTANE BUTANE, 2-IODO-	513-48-4	2390	3
1030	IODOFORM METHANE, TRIIODO-	75-47-8	1851	1 2 3
1031	1-IODO-2-METHYLPROPANE	513-38-2	2391	3
1032	2-IODO-2-METHYLPROPANE	558-17-8		3
1033	IODO PROPANE PROPANE, IODO-	26914-02-3	2392	3
2490	IRIDIUM TETRACHLORIDE	10025-97-5		16 19
1034 chg	# IRON CHLORIDE	7705-08-0	1773+	(CO) 2 3 15 20
1035	# IRON DEXTRAN COMPLEX IRON DEXTRAN	9004-66-4		(CA) 5 8 20 21
1036 chg	IRON OXIDE FUME	1309-37-1	1376	1 2 3
1037	# IRON PENTACARBONYL IRON CARBONYL (Fe(CO)5), (TB-5-11)-	13463-40-6	1994	(F3) 1 2 3 15 16 19
2491 gen	IRON SPONGE, SPENT		1376	3
2492	IRON SWARF		2793	17
2493 gen	IRRITATING AGENT, n.o.s.		1693	3
1038	# ISOAMYL ACETATE 1-BUTANOL, 3-METHYL-, ACETATE	123-92-2		(F3) 1 2 15 20
1039 chg	ISOAMYL ALCOHOL 1-BUTANOL, 3-METHYL-	123-51-3	1105	1 2 3 15
syn	ISOAMYL BROMIDE see BROMOMETHYLBUTANE			
2494	ISOBENZAN	297-78-9	2588	3 16 19
1040	# ISOBUTANE PROPANE, 2-METHYL-	75-28-5	1969	(F4) 3 15
1041	# ISOBUTYL ACETATE ACETIC ACID, 2-METHYLPROPYL ESTER	110-19-0	1213	(F3) 1 2 3 15 20
1042	# ISOBUTYL ACRYLATE 2-PROPENOIC ACID, 2-METHYLPROPYL ESTER	106-63-8	2527	(F3) 3 15
1043	# ISOBUTYL ALCOHOL 1-PROPANOL, 2-METHYL-	78-83-1	1212	(F3) 1 2 3 15 20 21
1044	# ISOBUTYLAMINE 1-PROPANAMINE, 2-METHYL-	78-81-9	1214	(F3) 3 15 20
syn	ISOBUTYL BROMIDE see BROMOMETHYLPROPANE			
1045	# ISOBUTYLENE 1-PROPENE, 2-METHYL-	115-11-7	1055	(F4) 3 15
1046	# ISOBUTYL FORMATE FORMIC ACID, 2-METHYLPROPYL ESTER	542-55-2	2393	(F3) 3 15
syn	ISOBUTYL IODIDE see IODO METHYLPROPANE			
1047	ISOBUTYL ISOBUTYRATE PROPANOIC ACID, 2-METHYL-, 2-METHYLPROPYL ESTER	97-85-8	2528	3 15
1048	ISOBUTYL ISOCYANATE 1-ISOCYANATO-2-METHYLPROPANE	1873-29-6	2486	3
syn	ISOBUTYL KETONE see 2,6-DIMETHYL HEPTANONE			
1049	ISOBUTYLMETHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, 2-METHYLPROPYL ESTER	97-86-9	2283	3
1050	ISOBUTYL PROPIONATE PROPANOIC ACID, 2-METHYLPROPYL ESTER	540-42-1	2394	3
1051 + chg	ISOBUTYRALDEHYDE PROPANAL, 2-METHYL-	78-84-2	2045	(F3) 3 15 18
1052	# ISOBUTYRIC ACID PROPANOIC ACID, 2-METHYL-	79-31-2	2529	(CO) 3 15 20
1053	# ISOBUTYRIC ANHYDRIDE PROPANOIC ACID, 2-METHYL-, ANHYDRIDE	97-72-3	2530	(CO) 3 15
1054	# ISOBUTYRONITRILE PROPANENITRILE, 2-METHYL-	78-82-0	2284	(F3) 3 4 15 16 19
1055	ISOBUTYRYLCHLORIDE PROPANOYL CHLORIDE, 2-METHYL-	79-30-1	2395	3
2495 gen	ISOCYANATES, n.o.s., boiling point not less than 300 C		2207	3
2496 gen	ISOCYANATES, solutions, n.o.s., FLAMMABLE		2206+	3
2497 gen	ISOCYANATES, solutions, n.o.s., flash point greater than 23C * and boiling point less than 300C		2206	3
1056	ISOCYANATOBENZO-TRIFLUORIDE BENZENE, ISOCYANATO (TRIFLUOROMETHYL)-	71121-36-3	2285	3
syn	ISOCYANIC ACID, 3,4-DICHLOROPHENYL ESTER see 1,2-DICHLORO-4 * PHENYLISOCYANATE			

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2498	ISODODECANE	31807-55-3	2286	3
2499	ISODRIN	465-73-6	2761	3 16 19 20 21
2500	ISOFLUORPHATE	55-91-4	3018	3 16 19 20 21
1057	ISOFLURANE ETHANE, 2-CHLORO-2-(DIFLUOROMETHOXY)-1,1,1-TRIFLUORO-	26675-46-7		4
1058	ISOHEPTENE	68975-47-3	2287	3
1059	ISOHEXENE PENTENE, 2-METHYL-	27236-46-0	2288	3
1060	ISONONANOYL PEROXIDE PEROXIDE, BIS(1-OXOISONONYL)	58449-37-9	2128	3
1061 chg	# ISOOCTANE PENTANE, 2,2,4-TRIMETHYL-	540-84-1	1262	(F3) 3 15
1062	# ISOOCTENE	11071-47-9	1216	(F3) 3 15
1063	ISOOCTYL ALCOHOL ISOOCTANOL	26952-21-6	1987	1 2 3 15
1064	# ISOPENTANE BUTANE, 2-METHYL-	78-78-4	1265	(F4) 3 15
1065	# ISOPENTANOIC ACID BUTANOIC ACID, 3-METHYL-	503-74-2	1760	(CO) 3 15
2501 gen	ISOPENTENES		2371	3
syn	ISOPENTYL ALCOHOL see ISOAMYL ALCOHOL			
1066	ISOPHORONE 2-CYCLOHEXEN-1-ONE, 3,5,5-TRIMETHYL-	78-59-1	1224	1 2 3 4 15 20
1067	# ISOPHORONEDIAMINE CYCLOHEXANEMETHANAMINE, 5-AMINO-1,3,3-TRIMETHYL-	2855-13-2	2289	(CO) 3
1068	ISOPHORONE DIISOCYANATE CYCLOHEXANE, 5-ISOCYANATO-1-(ISOCYANATOMETHYL)-1,3,3-TRIMETHYL-	4098-71-9	2290	1 2 3 4 16 19
1069	# ISOPRENE 1,3-BUTADIENE, 2-METHYL-	78-79-5	1218	(F4,R2) 3 15 20
syn	ISOPROPANOL see ISOPROPYL ALCOHOL			
1070	ISOPROPANOLAMINE DODECYLBENZENESULFONATE BENZENESULFONIC ACID, 4-DODECYL-, compound WITH 1-AMINO-2- * PROPANOL (1:1)	54590-52-2	9127	3
3026	ISOPROPANOLAMINE DODECYLBENZENESULFONATE	42504-46-1		20
1071	# ISOPROPENYL ACETATE 1-PROPEN-2-OL, ACETATE	108-22-5	2403	(F3) 3 15
1072	ISOPROPENYL BENZENE BENZENE, (1-METHYLETHENYL)-	98-83-9	2303	1 2 3
1073	ISOPROPOXYETHANOL 2-(1-METHYLETHOXY)ETHANOL	109-59-1		1 2
1074	# ISOPROPYL ACETATE ACETIC ACID, 1-METHYLETHYL ESTER	108-21-4	1220	(CO,F3) 1 2 3 15
syn	ISOPROPYLACETONE see METHYL ISOBUTYL KETONE			
1075	# ISOPROPYL ACID PHOSPHATE PHOSPHORIC ACID, MONO(1-METHYLETHYL) ESTER	1623-24-1	1793	(CO) 3
1076	# ISOPROPYL ALCOHOL 2-PROPANOL	67-63-0	1219	(F3) 1 2 3 15
2381	ISOPROPYL ALCOHOL (manufacture-strong acid process)	67-63-0		19
1077	# ISOPROPYLAMINE 2-PROPANAMINE	75-31-0	1221	(F4) 1 2 3 15
syn	ISOPROPYLANILINE see n-ISOPROPYLANILINE			
1354	n-ISOPROPYLANILINE BENZENAMINE, N-(1-METHYLETHYL)-	643-28-7		1 2
1078	ISOPROPYL BUTYRATE BUTANOIC ACID, 1-METHYLETHYL ESTER	638-11-9	2405	3
1079	ISOPROPYL CHLOROACETATE ACETIC ACID, CHLORO-, 1-METHYLETHYL ESTER	105-48-6	2947	3
1080	# ISOPROPYL CHLOROFORMATE CARBONOCHLORIDIC ACID, 1-METHYLETHYL ESTER	108-23-6	2407	(CO) 3 16 19
1081	ISOPROPYL-2-CHLOROPROPIONATE PROPIONIC ACID, 2-CHLORO-1-METHYLETHYL ESTER	40058-87-5	2934	3
2502	ISOPROPYLCUMYL HYDROPEROXIDE		2171	17
syn	ISOPROPYL ETHER see DIISOPROPYL ETHER			
2504	ISOPROPYL FORMATE	625-55-8	2408	3 16 19
1082	ISOPROPYL GLYCIDYL ETHER OXIRANE, (1-METHYLETHOXY)METHYL -	4016-14-2		1 2 4 10
2388	4,4'-ISOPROPYLIDENEDIPHENOL PHENOL, 4,4'-ISOPROPYLIDENEDI-	80-05-7		18
1083	ISOPROPYL ISOBUTYRATE PROPANOIC ACID, 2-METHYL-, 1-METHYLETHYL ESTER	617-50-5	2406	3
1084	ISOPROPYL ISOCYANATE PROPANE, 2-ISOCYANATO-	1795-48-8	2483	3
1085	ISOPROPYL MERCAPTAN 2-PROPANETHIOL	75-33-2	2703	3
1621	# n-ISOPROPYL-alpha-(2-METHYLHYDRAZINO)-p-TOLUAMIDE	671-16-9		(CA,MU) 5 7
2505	ISOPROPYLMETHYLPYRAZOLYL DIMETHYLCARBAMATE	119-38-0	2992	3 16 19
1086	ISOPROPYL NITRATE NITRIC ACID, 1-METHYLETHYL ESTER	1712-64-7	1222	3
syn	ISOPROPYL PEROXYDICARBONATE see DI-ISOPROPYL PEROXY- * DICARBONATE			
1087	ISOPROPYL PROPIONATE PROPANOIC ACID, 1-METHYLETHYL ESTER	637-78-5	2409	3
2508 gen	ISOSORBIDE DINITRATE MIXTURE with not less than 60% lactose, * mannose, starch or calcium	87-33-2	2907	3
1088	KANAMYCIN D-STREPTAMINE, O-3-AMINO-3-DEOXY-alpha-D-GLUCOPYRANOSYL-(1-6)- * ortho-(6-AMINO-6-DEOXY-alpha-D-GLUCOPYRANOSYL-(1-4))-2-DEOXY-	59-01-8	1851	3 13(Y,FF)
1089 chg	KARAYA KARAYA GUM	9000-36-6		12(A)
syn	KELTHANE see DICOFOL			
1090	# KEPONE 1,3,4-METHENO-2H-CYCLOBUTA(cd)PENTALEN-2-ONE, 1,1A,3,3A,4,5,5, * 5A,5B,6-DECACHLOROOCTAHYDRO-	143-50-0	2761	(CA) 3 4 5 8 20 21
1091	KEROSENE KEROSINE	8008-20-6	1223	3
1092	KETENE ETHENONE	463-51-4		1 2
2510 gen	KETONES, LIQUID, n.o.s.		1224	3
1093	KRYPTON	7439-90-9	1056+	3
syn	LACQUER see PAINTS, etc.			
2511 gen	LACQUER BASE OR LACQUER CHIPS, DRY		2557	3
2512 gen	LACQUER BASE OR LACQUER CHIPS, LIQUID		1263	3
2514	LACTONITRILE	78-97-7		16 19
1094	# LASIOCARPINE 2-BUTENOIC ACID, 2-METHYL-, 7- 2,3-DIHYDROXY-2-(1- * METHOXYETHYL)-3-METHYL-1-OXOBUTOXY METHYL -2,3,5,7A- * TETRAHYDRO-1H-PYRROLIZIN-1-YL ESTER, 1S- 1alpha(Z),7(2S*, * 3R*),7Aalpha-	303-34-4		(CA,MU) 8 20 21
2885 gen	LATEX, PAINTS		2810	3
1095	LAUROYL PEROXIDE PEROXIDE, BIS(1-OXODODECYL)	105-74-8	2893+	3

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1096	# LEAD	7439-92-1		(TE) 1 2 4 6 18 20 21
1097	# LEAD ACETATE	301-04-2	1616	(CA,TE) 1 3 4 5 6 20 21
2873 gen	LEAD, all inorganic compounds		2291+	3 6 20
1098 chg	# LEAD ARSENATE ARSENIC ACID [H3AsO4], LEAD (2+) SALT (1:1)	7784-40-9	1617	(CA) 1 2 3 4 5 6 7 8 15 20
3027	LEAD ARSENATE	7645-25-2		20
3028	LEAD ARSENATE	10102-48-4		20
1099	LEAD ARSENITE ARSENEMOUS ACID, LEAD(2+) SALT	10031-13-7	1618	1 2 3 4 6
1100	# LEAD AZIDE	13424-46-9	0129	(TE) 1 2 3 4 6
1101 chg	# LEAD CHLORIDE	7758-95-4	2291	(TE) 1 2 3 4 6 20
1102 chg	# LEAD CHROMATE CHROMIC ACID, LEAD SALT	7758-97-6	2291	(CA) 1 2 3 4 5 6 7 8
2266 gen	LEAD compounds, n.o.s.			18
2515 gen	LEAD COMPOUNDS, SOLUBLE, n.o.s.		2291	3
1103	# LEAD CYANIDE	592-05-2	1620	(TE) 1 2 3 4 6
1104	LEAD DIOXIDE LEAD OXIDE (PbO2)	1309-60-0	1872	1 2 3 4 6
1105	LEAD FLUOBORATE BORATE(1-), TETRAFLUORO-, LEAD(2+)	13814-96-5	2291	1 2 3 4 6 20
1106 chg	# LEAD FLUORIDE	7783-46-2	2811	(TE) 1 2 3 4 6 20
1107 chg	# LEAD IODIDE	10101-63-0	2811	(TE) 1 2 3 4 6 20
1108 chg	# LEAD NITRATE NITRIC ACID, LEAD (2+) SALT	10099-74-8	1469	(TE) 1 2 3 4 6 20
1109	# LEAD PERCHLORATE PERCHLORIC ACID, LEAD (2+) SALT	13637-76-8	1470	(TE) 1 2 3 4 6
1110	# LEAD PHOSPHATE	7446-27-7	2291	(CA) 1 2 3 4 5 6 7 20 21
2293	LEAD PHOSPHITE, DIBASIC	15845-52-0	2989	3 6
1111	LEAD STEARATE OCTADECANOIC ACID, LEAD SALT	7428-48-0	2811	1 3 4 6 20
3029	LEAD STEARATE	1072-35-1		20
3030	LEAD STEARATE	52652-59-2		20
3031	LEAD STEARATE	56189-09-4		20
1112 chg	LEAD STYPHNATE 1,3-BENZENEDIOL, TRINITRO-, LEAD SALT	63918-97-8	0130	1 3 4 6
2999	LEAD SUBACETATE	1335-32-6		20 21
1113 chg	LEAD SULFIDE	1314-87-0	2291	1 2 3 4 6 20
1114	# LEAD SULPHATE SULFURIC ACID, LEAD (2+) SALT 1:1	7446-14-2	2291	(CO,TE) 1 2 3 6 20
3032	LEAD SULPHATE	15739-80-7		20
1115	# LEAD THIOCYANATE THIOCYANIC ACID, LEAD (2+) SALT	592-87-0	2291	(TE) 1 2 3 4 6
2516	LEPTOPHOS	21609-90-5	2588	3 16 19
1116	LETHANE THIOCYANIC ACID, 2-(2-BUTOXYETHOXY)ETHYL ESTER	112-56-1	2902	3 14
2517	LEWISITE	541-25-3	1556	3 16 19
2518 gen	LIFE-RAFTS, INFLATABLE		2990	17
syn	LIGHTER, FOR CIGARS, CIGARETTES, etc., with flammable liquid * see CIGARETTE LIGHTERS, with flammable liquid			
syn	LIGHTER FUELS, CIGAR OR CIGARETTE see CIGARETTE LIGHTERS, * with flammable liquid			
syn	LIGHTERS, FOR CIGARS, CIGARETTES, etc., with flammable gas * see CIGARETTE LIGHTERS, with flammable gas			
syn	LIME see CALCIUM OXIDE			
syn	LIMONENE, inactive see DIPENTENE			
1117	# LINDANE CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, (1alpha, 2alpha, * 3beta, 4alpha, 5alpha, 6beta)-	58-89-9	2761	(CA) 1 2 3 5 6 14 16 18 19 20 21
1118	LIQUEFIED PETROLEUM GAS	68476-85-7	1075	1 2 3
1119	LITHIUM	7439-93-2	1415	3 15
1120	LITHIUM ACETYLIDE ETHYLENEDIAMINE	50475-76-8	2813	3
1121	LITHIUM ALUMINUM HYDRIDE ALUMINATE(1-), TETRAHYDRO-, LITHIUM	16853-85-3	1410	2 3 15
1122	LITHIUM AMIDE	7782-89-0	1412	3
1123	LITHIUM BOROHYDRIDE BORATE(1-), TETRAHYDRO-, LITHIUM	16949-15-8	1413	3
1124	# LITHIUM CARBONATE CARBONIC ACID, DILITHIUM SALT	554-13-2		(TE) 13(Y,EE,FF)
1125	LITHIUM CHROMATE CHROMIC ACID, DILITHIUM SALT	14307-35-8	9134	1 2 3 6 20
1126 chg	LITHIUM FERROSILICON FERRATE(1-), SILANETETRAYL-, LITHIUM	64082-35-5	2830	3
1127	# LITHIUM HYDRIDE	7580-67-8	2805	(F4,R2) 1 2 3 15 16 19
1128	# LITHIUM HYDROXIDE MONOHYDRATE	1310-66-3	2680	(CO) 3
1129	LITHIUM HYPOCHLORITE HYPOCHLOROUS ACID, LITHIUM SALT	13840-33-0	1471	3
1130	LITHIUM NITRATE NITRIC ACID, LITHIUM SALT	7790-69-4	2722	3
1131	LITHIUM NITRIDE	26134-62-3	2806	3
1132	LITHIUM PEROXIDE	12031-80-0	1472	3
1133 chg	LITHIUM SILICON	68848-64-6	1417	3
1134	LONDON PURPLE	8012-74-6	1621	3
1135	# LORAZEPAM 2H-1, 4-BENZODIAZEPIN-2-ONE, 7-CHLORO-5-(O-CHLOROPHENYL)-1,3- * DIHYDRO	846-49-1	1851	(TE) 3 13(Y,EE,FF)
syn	LPG see LIQUEFIED PETROLEUM GAS			
syn	LYE SOLUTION see SODIUM HYROXIDE			
syn	LYNESTRENOL see ETHINYLOESTRADIOL			

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syn		MACE see alpha-CHLOROACETOPHENONE			
1136	#	MAGNESIUM	7439-95-4	1869	(R2) 3 15
2523		MAGNESIUM ALKYL		3053	17
2524 gen		MAGNESIUM ALUMINUM PHOSPHIDE		1419	3
syn		MAGNESIUM AMIDE see MAGNESIUM DIAMIDE			
1137		MAGNESIUM ARSENATE ARSENIC ACID, MAGNESIUM SALT	10103-50-1	1622	1 2 3 6
2525 gen		MAGNESIUM BISULFITE solution		2693	17
1138		MAGNESIUM BROMATE BROMIC ACID, MAGNESIUM SALT	7789-36-8	1473	3
1139		MAGNESIUM CHLORATE CHLORIC ACID, MAGNESIUM SALT	10326-21-3	2723	3
1140		MAGNESIUM DIAMIDE MAGNESIUM AMIDE	7803-54-5	2004	3
1141		MAGNESIUM DIPHENYL	555-54-4	2005	3
1142		MAGNESIUM HYDRIDE	60616-74-2	2010	3
1143		MAGNESIUM NITRATE NITRIC ACID, MAGNESIUM SALT	10377-60-3	1474	3 15
1144		MAGNESIUM OXIDE MAGNESIUM OXIDE	1309-48-4		1 2
1145		MAGNESIUM PERCHLORATE PERCHLORIC ACID, MAGNESIUM SALT	10034-81-8	1475	3 15
1146 chg		MAGNESIUM PEROXIDE	14452-57-4	1476	3
1147		MAGNESIUM PHOSPHIDE	12057-74-8	2011	3
1148		MAGNESIUM SILICIDE	39404-03-0	2624	3
1149 chg		MAGNESIUM SILICOFLUORIDE SILICATE (2-), HEXAFLUORO-, MAGNESIUM, HEXAHYDRATE	18972-56-0	2853	1 2 3
1150	#	MALATHION BUTANEDIOIC ACID, (DIMETHOXYPHOSPHINOTHIOYL)THIO -, * DIETHYL ESTER	121-75-5	2783	(MU) 1 2 3 4 20
1151		MALEIC ACID 2-BUTENEDIOIC ACID	110-16-7	2215	3 20
1152		MALEIC ANHYDRIDE 2,5-FURANDIONE	108-31-6	2215	1 2 3 12(A) 15 18 20 21
1153		MALONONITRILE PROPANEDINITRILE	109-77-3	2647	3 4 16 19 20 21
1154	#	MANEB MANGANESE, (ETHYLENEBIS(DITHIOCARBAMATO))-	12427-38-2	2968	(CA) 1 2 3 6 8 18
1155		MANGANESE	7439-96-5		1 2 18
2342 gen		MANGANESE compounds, n.o.s.			18
1156		MANGANESE CYCLOPENTADIENYL TRICARBONYL MANGANESE, TRICARBONYL(eta 5-2,4-CYCLOPENTADIEN-1-YL)-	12079-65-1		1 2
1157		MANGANESE DIOXIDE MANGANESE OXIDE	1313-13-9	1479	1 2 3
1158		MANGANESE NITRATE NITRIC ACID, MANGANESE(2+) SALT	10377-66-9	2724	1 2 3
2526 gen		MANGANESE RESINATE	9008-34-8	1330	3
syn		MANGANESE, TRICARBONYL METHYLCYCLOPENTADIENYL see METHYL- * CYCLOPENTADIENYL MANGANESE TRICARBONYL			
1159		MANGANESE TRIOXIDE MANGANESE OXIDE	1317-34-6		1 2
1160		MANNITOL HEXANITRATE d-MANNITOL, HEXANITRATE	15825-70-4	0133	3
2527 gen		MATCHES, FUSEE		2254	3
2528 gen		MATCHES, SAFETY		1944	3
2529 gen		MATCHES, STRIKE ANYWHERE		1331	3
2530 gen		MATCHES, WAX ("VESTA")		1945	3
syn		MDI see METHYLENE BISPHENYL ISOCYANATE			
syn		MECHLORETHAMINE see NITROGEN MUSTARD			
syn		MECRYLATE see METHYL 2-CYANOACRYLATE			
2532 gen		MEDICINES, n.o.s.		1851	3
syn		MEKP see METHYL ETHYL KETONE PEROXIDE			
2401		MELAMINE	108-78-1		18
1162	#	MELPHALAN L-PHENYLALANINE, 4- BIS(2-CHLOROETHYL)AMINO -	148-82-3	1851	(CA,MU) 3 5 7 8 13 (E,H) 20 21
2534		MEMTETRAHYDROPHTHALIC ANHYDRIDE	25134-21-8	1760	3
1163		p-MENTHANE HYDROPEROXIDE MENTHANE-8-HYDROPEROXIDE	80-47-7	2125	3
2535		MEPHOSFOLAN	950-10-7	3018	3 16 19
1164	#	MEPROBAMATE 1,3-PROPANEDIOL, 2-METHYL-2-PROPYL-, DICARBAMATE	57-53-4	1851	(TE) 3 13(Y,EE,FF)
2536 gen		MERCAPTANS AND MIXTURES, LIQUID, n.o.s.		1228	3
1165		MERCAPTODIMETHUR PHENOL, 3,5-DIMETHYL-4-(METHYLTHIO)-, METHYLCARBAMATE	2032-65-7	2757	3 14 16 19 20
1166		MERCURIC ACETATE ACETIC ACID, MERCURY(2+) SALT	1600-27-7	1629	1 2 3 6 16 19
1167		MERCURIC ARSENATE ARSENIC ACID, MERCURY(2+) SALT (1:1)	7784-37-4	1623	1 2 3 6
1168		MERCURIC BENZOATE MERCURY (II) BENZOATE	583-15-3	1631	1 2 3 6
1169		MERCURIC BROMIDE MERCURY BROMIDE	7789-47-1	1634	1 2 3 6
1170		MERCURIC CHLORIDE MERCURY CHLORIDE	7487-94-7	1624	1 2 3 6 16 19
syn		MERCURIC CHLORIDE, AMMONIATED see MERCURY AMMONIUM CHLORIDE			
1171		MERCURIC CYANIDE MERCURY CYANIDE	592-04-1	1636	1 2 3 6 15 20
1172		MERCURIC IODIDE MERCURY (II) IODIDE	7774-29-0	1638	2 3 6
1173		MERCURIC NITRATE NITRIC ACID, MERCURY(II) SALT	10045-94-0	1625	1 2 3 6 20
2537		MERCURIC OXIDE	21908-53-2	2811	3 6 16 19
1174 chg	+	MERCURIC OXYCYANIDE MERCURY CYANIDE OXIDE	1335-31-5	1642	(R3) 1 2 3 6 10
1175		MERCURIC POTASSIUM CYANIDE MERCURATE(-2), TETRAKIS(CYANO-C)-,DIPOTASSIUM, (T-4)-	591-89-9	1626	1 2 3 6
1176		MERCURIC SUBSULFATE MERCURY OXIDE SULFATE	1312-03-4	2025	1 2 3 6 10 15
1177		MERCURIC SULFATE SULFURIC ACID, MERCURY(II) SALT (1:1)	7783-35-9	1645	1 2 3 6 20

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1178	MERCUROL	12002-19-6	1639	1 2 3 6
1179	MERCUROUS CHLORIDE MERCURY CHLORIDE	7546-30-7		1 2 6
syn	MERCUROUS CHLORIDE see MERCURY CHLORIDE	10112-91-1		
1189 chg	MERCUROUS IODIDE MERCURY IODIDE	7783-30-4	1638	1 2 3 4 6
1181	MERCUROUS NITRATE NITRIC ACID, MERCURY(1+) SALT	10415-75-5	1627	1 2 3 6 20
3033	MERCUROUS NITRATE	778-26-7		20
1191 chg	MERCUROUS OXIDE	15829-53-5	1641	1 2 3 4 6
1182	MERCUROUS SULFATE SULFURIC ACID, DIMERCURY(1+) SALT	7783-36-0	1628	1 2 3 6
1183 chg	# MERCURY	7439-97-6	2809	(CO) 1 2 3 4 6 18 20 21
2874	MERCURY, all inorganic compounds		2025+	3 6 20
syn	MERCURY, AMMONIATED see MERCURY AMMONIUM CHLORIDE			
1184	MERCURY AMMONIUM CHLORIDE MERCURY AMIDE CHLORIDE (Hg(NH2)Cl)	10124-48-8	1630	1 2 3 6
2539 gen	MERCURY-BASED PESTICIDES, LIQUID, FLAMMABLE, TOXIC, n.o.s., * flash point less than 23C		2778	3
2538 gen	MERCURY-BASED PESTICIDES, LIQUID, FLAMMABLE, TOXIC, n.o.s., * flash point between 23C and 61C		3011	3
2540 gen	MERCURY-BASED PESTICIDES, LIQUID, TOXIC, n.o.s.		3012	3
2541 gen	MERCURY-BASED PESTICIDES, SOLID, TOXIC, n.o.s.		2777	3
1185	MERCURY(1)BROMIDE(1:1) MERCURY BROMIDE (HgBr)	10031-18-2	1634	1 2 3 4 6
1186	MERCURY(1)BROMIDE(1:1) MERCURY BROMIDE (Hg2Br2)	15385-58-7	1634	1 2 3 4 6
1180	MERCURY CHLORIDE MERCURY CHLORIDE (HgCl2)	10112-91-1		1 2 6
2542 gen	MERCURY COMPOUNDS, LIQUID, n.o.s.		2024	3
2414 gen	MERCURY compounds, n.o.s.			18
2543 gen	MERCURY COMPOUNDS, SOLID, n.o.s.		2025	3
1187	MERCURY FULMINATE FULMINIC ACID, MERCURY SALT	628-86-4	0135	1 2 3 4 6 20 21
1188	MERCURY GLUCONATE	63937-14-4	1637	1 2 3 4 6
syn	MERCURY NUCLEATE see MERCUROL			
1190	MERCURY OLEATE 9-OCTADECENOIC ACID (Z)-, MERCURY(2+) SALT	1191-80-6	1640	1 2 3 4 6
syn	MERCURY OXIDE see MERCUROUS OXIDE			
1192	MERCURY POTASSIUM IODIDE MERCURATE (2-), TETRAIODO-, DIPOTASSIUM	7783-33-7	1643	1 2 3 4 6
1193	MERCURY SALICYLATE MERCURY, 2-HYDROXYBENZOATO(2-)-O1,O2 -	5970-32-1	1644	1 2 3 4
1194 chg	MERCURY THIOCYANATE THIOCYANIC ACID, MERCURY (2+) SALT	592-85-8	1646	1 2 3 4 6 20
syn	MESITYLENE see 1,3,5-TRIMETHYLBENZENE			
1195	MESITYL OXIDE 3-PENTEN-2-ONE, 4-METHYL-	141-79-7	1229	1 2 3 4
1196	# MESTRANOL 19-NORPREGNA-1,3,5(10)-TRIEN-20-YN-17-OL, 3-METHOXY-, * (17 alpha)-	72-33-3	1851	(CA,MU) 3 7
2545 gen	METAL ALKYL HALIDE, n.o.s.		3049	17
2546 gen	METAL ALKYL HYDRIDE, n.o.s.		3050	17
2547 gen	METAL ALKYLS, n.o.s.		2003	3
2548 gen	METAL ALKYL SOLUTION, n.o.s.		9195	3
1197 chg	# METALDEHYDE 1,3,5,7-TETROXOCANE, 2,4,6,8-TETRAMETHYL-	108-62-3	1332	(F3) 3 15
2549	METHACROLEIN DIACETATE	10476-95-6		16 19
1198	METHACRYLALDEHYDE 2-PROPENAL, 2-METHYL-	78-85-3	2396	3
1199	# METHACRYLIC ACID 2-PROPENOIC ACID, 2-METHYL-	79-41-4	2531	(CO,R2) 1 2 3 15
2550	METHACRYLIC ANHYDRIDE	760-93-0	2531	3 16 19
syn	METHACRYLONITRILE see METHYLACRYLONITRILE			
2551	METHACRYLOYL CHLORIDE	920-46-7		16 19
2552	METHACRYLOYLOXYETHYL ISOCYANATE	30674-80-7	2206	3 16 19
1200	# METHALLYL ALCOHOL 2-PROPEN-1-OL, 2-METHYL-	513-42-8	2614	(F3) 3 15
1201	METHAMIDOPHOS PHOSPHORAMIDOTHIOIC ACID, O, S-DIMETHYL ESTER	10265-92-6	2783+	3 14 16 19
1202	# METHANE	74-82-8	1971+	(F4) 2 3 15
syn	METHANE, DIBROMO- see METHYLENE BROMIDE			
syn	METHANE, DICHLORO- see METHYLENE CHLORIDE			
1203	# METHANESULFONIC ACID, ETHYL ESTER	62-50-0		(CA,MU) 8 20 21
1204	# METHANESULFONIC ACID, METHYL ESTER	66-27-3		(CA,MU) 8
2553	METHANESULFONYL FLUORIDE	558-25-8		16 19
syn	METHANOL see METHYL ALCOHOL			
1205	# METHAPYRILENE 1,2-ETHANEDIAMINE, N,N-DIMETHYL-N'-2-PYRIDINYL-N'-(2- * THIENYLMETHYL)-	91-80-5		(CA) 8 20 21
syn	METHENAMINE see HEXAMINE			
1206	METHIDATHION PHOSPHORODITHIOIC ACID, S-((5-METHOXY-2-OXO-1,3,4-THIAZOL-3(2H)- * YL)METHYL) O,O-DIMETHYL ESTER	950-37-8	2588	3 14 16 19
1207	METHIMAZOLE 2H-IMIDAZOLE-2-THIONE, 1,3-DIHYDRO-1-METHYL-	60-56-0		13(Y)
syn	METHIOCARB see MERCAPTODIMETHUR			
1208	METHOMYL ETHANIMIDOTHIOIC ACID, N- (METHYLAMINO)CARBONYL OXY-, * METHYL ESTER	16752-77-5	2757	1 2 3 14 16 19 20 21
1209	# METHOTREXATE L-GLUTAMIC ACID, N- 4- (2,4-DIAMINO-6- * PTERIDINYL)METHYL METHYLAMINO BENZOYL-	59-05-2	1851	(MU,TE) 3 13(C,G,O,Y, EE,FF)
1210	METHOXYCHLOR BENZENE, 1,1'-(2,2,2-TRICHLOROETHYLIDENE)BIS 4-METHOXY-	72-43-5	2761	1 2 3 6 18 20 21
1211	2-METHOXYETHANOL 2-METHOXYETHANOL	109-86-4	1188	1 2 3 10 15 18

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1212	2-METHOXYETHYL ACETATE 2-METHOXYACETATE ETHANOL	110-49-6	1189	1 2 3 10
2554	METHOXYETHYLMERCURIC ACETATE	151-38-2	2777	3 16 19
1213	METHOXYFLURANE ETHANE, 2,2-DICHLORO-1,1-DIFLUORO-1-METHOXY-	76-38-0		4
1214	METHOXYMETHYL ISOCYANATE METHANE, ISOCYANATOMETHOXY-	6427-21-0	2605	3
1215	4-METHOXY-4-METHYLPENTAN-2-ONE 2-PENTANONE, 4-METHOXY-4-METHYL-	107-70-0	2293	3
1216 chg	4-METHOXYPHENOL PHENOL, 4-METHOXY-	150-76-5	2761	1 2 3
1217	# METHYL ACETATE ACETIC ACID, METHYL ESTER	79-20-9	1231	(F3) 1 2 3 15
1218	# METHYL ACETYLENE 1-PROPYNE	74-99-7		(F4,R2) 1 2 15
1219	# METHYL ACRYLATE 2-PROPENOIC ACID, METHYL ESTER	96-33-3	1919	(F3,R2) 1 2 3 15 18
1220	METHYLACRYLONITRILE 2-PROPENENITRILE, 2-METHYL-	126-98-7		1 2 16 19 20 21
1221	# METHYLAL METHANE, DIMETHOXY-	109-87-5	1234	(F3,R2) 1 2 3 15
1222	# METHYL ALCOHOL METHANOL	67-56-1	1230	(F3) 1 2 3 4 15 18 20 21
1223	METHYL ALLYL CHLORIDE 1-PROPENE, 3-CHLORO-2-METHYL-	563-47-3	2554	3
2555	METHYL ALUMINUM SESQUIBROMIDE	12263-85-3	1926	3
1224	# METHYL ALUMINUM SESQUICHLORIDE ALUMINUM, TRICHLOROTRIMETHYLDI-	12542-85-7	1927	(F3,R3) 2 3 15
1225	# METHYLAMINE METHANAMINE	74-89-5	1061	(F4) 1 2 3 15 20
1227	METHYL AMYL ACETATE 2-PENTANOL, 4-METHYL, ACETATE	108-84-9	1233	1 2 3 15
1228 chg	METHYL AMYL ALCOHOL 2-PENTANOL, 4-METHYL-	108-11-2	2053	1 2 3 15
1279	METHYL (N-AMYL) KETONE 2-HEPTANONE	110-43-0	1110	1 2 3 4 15
1229	METHYLANILINE BENZENAMINE, N-METHYL-	100-61-8	2294	1 2 3 15
1230	METHYLBENZOATE BENZOIC ACID, METHYL ESTER	93-58-3	2938	3 15
0049	alpha-METHYLBENZYL ALCOHOL BENZENEMETHANOL, alpha-METHYL-	98-85-1	2937	3
1231	METHYL BROMIDE METHANE, BROMO-	74-83-9	1062	1 2 3 14 15 18 19 20 21
1232	METHYL BROMOACETATE ACETIC ACID, BROMO-, METHYL ESTER	96-32-2	2643	3
2925	1-METHYL BUTADIENE	504-60-9		20 21
syn	2-METHYL-2-BUTANETHIOL see AMYL MERCAPTAN			
1233	# METHYLBUTENE BUTENE, 2-METHYL-	26760-64-5	2561+	(F3,R2) 3 15
1401	n-METHYLBUTYLAMINE 1-BUTANAMINE, n-METHYL-	110-68-9	2945	3
syn	METHYL-1,3-BUTYLENE GLYCOL ACETATE see BUTOXYL			
1293	METHYL-tert-BUTYL ETHER ETHYL, tert-BUTYL METHYL	1634-04-4	2350	3 18
1280	METHYL N-BUTYL KETONE 2-HEXANONE	591-78-6	1224	1 2 3 4
1234	# METHYL BUTYRATE BUTANOIC ACID, METHYL ESTER	623-42-7	1237	(F3) 3 15
syn	METHYL CARBAMATE see METHYL URETHANE			
syn	METHYL CELLOSOLVE see 2-METHOXYETHANOL			
syn	METHYL CELLOSOLVE ACETATE see 2-METHOXYETHYL ACETATE			
1235	# METHYL CHLORIDE CHLOROMETHANE	74-87-3	1063	(F4) 1 2 3 15 18 20 21
1236	METHYL CHLOROACETATE ACETIC ACID, CHLORO-, METHYL ESTER	96-34-4	2295	3 15
2556	METHYL-2-CHLOROACRYLATE	80-63-7	2810	3 16 19
syn	METHYL CHLOROCARBONATE see METHYL CHLOROFORMATE			
1237	METHYL CHLOROFORM ETHANE, 1,1,1-TRICHLORO-	71-55-6	2831	1 2 3 4 6 18 20 21
1238	METHYL CHLOROFORMATE CARBONOCHLORIDIC ACID, METHYL ESTER	79-22-1	1238	3 16 19 20 21
1239	METHYL-2-CHLOROPROPIONATE PROPANOIC ACID, 2-CHLORO-, METHYL ESTER	17639-93-9	2933	3
1240	METHYL CHLOROSILANE CHLOROMETHYLSILANE	993-00-0	2534	3
0427 chg	# 3-METHYLCHOLANTHRENE BENZ(j)ACEANTHRYLENE, 1,2-DIHYDRO-3-METHYL-	56-49-5		(CA,MU) 8 20 21
1241	METHYL 2-CYANOACRYLATE 2-PROPENOIC ACID, 2-CYANO-, METHYL ESTER	137-05-3		1 2
1242	# METHYLCYCLOHEXANE CYCLOHEXANE, METHYL-	108-87-2	2296	(F3) 1 2 3 15
1243	METHYL CYCLOHEXANOL CYCLOHEXANOL, METHYL-	25639-42-3	2617	1 2 3 15
1438	o-METHYLCYCLOHEXANONE METHYLCYCLOHEXANONE	583-60-8	2297	1 2 3 15
1244	METHYLCYCLOPENTADIENYL MANGANESE TRICARBONYL MANGANESE, TRICARBONYL (1,2,3,4,5-eta)-1-METHYL-2,4- * CYCLOPENTADIEN-1-YL -	12108-13-3		1 2 16 19
1245	# METHYL CYCLOPENTANE CYCLOPENTANE, METHYL-	96-37-7	2298	(F3) 3 15
1246	METHYL DEMETON PHOSPHOROTHIOIC ACID, O- 2-(ETHYLTHIO)ETHYL O,O-DIMETHYL ESTER, * mixture with S- 2-(ETHYLTHIO)ETHYL O,O-DIMETHYL PHOSPHORO- * THIOATE	8022-00-2	3018	1 2 3 14
2886	METHYL-S-DEMETON PHOSPHOROTHIOIC ACID, S-(2(ETHYLTHIO)ETHYL) O,O-DIMETHYL ESTER	919-86-9	3018	3 16 19
1247	# METHYL DICHLOROACETATE ACETIC ACID, DICHLORO-, METHYL ESTER	116-54-1	2299	(CO) 3
1248	METHYL DICHLOROARSINE ARSONOUS DICHLORIDE, METHYL-	593-89-5	1556	1 2 3
1249	# METHYL DICHLOROSILANE SILANE, DICHLOROMETHYL-	75-54-7	1242	(CO,F3,R2) 3 15
syn	METHYL DISULFIDE see DIMETHYLDISULFIDE			
0050	alpha-METHYLDOPA 2-TYROSINE, 3-HYDROXY-alpha-METHYL-	555-30-6		12(A)
1250	# 4,4'-METHYLENEBIS (2-CHLOROANILINE) BENZENAMINE, 4,4'-METHYLENEBIS 2-CHLORO-	101-14-4		(CA) 1 2 4 5 6 8 18 20 21
1251	METHYLENE BIS(4-CYCLOHEXYLISOCYANATE) 1,1'-METHYLENEBIS 4-ISOCYANATOCYCLOHEXANE	5124-30-1		1 2
1252	# 4,4'-METHYLENEBIS (N,N-DIMETHYL) BENZENAMINE ANILINE, 4,4'-METHYLENEBIS (N,N-DIMETHYL)-	101-61-1		(CA,MU) 5 6 18
1253	METHYLENE BISPHENYL ISOCYANATE ISOCYANIC ACID, METHYLENE DI-p-PHENYLENE ESTER	101-68-8	2489	1 2 3 4 12 (B) 18
1254	METHYLENE BROMIDE METHANE, DIBROMO-	74-95-3	2664	3 18 20 21
1255 chg	+ METHYLENE CHLORIDE METHANE, DICHLORO-	75-09-2	1593	(CA) 1 2 3 4 6 15 18 20 21

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1256	4,4'-METHYLENE DIANILINE BENZENAMINE, 4,4'-METHYLENEBIS-	101-77-9	2651	2 3 6 10 15 18
0198 chg	# 1,2-METHYLENEDIOXY-4-PROPENYL-BENZENE 1,3-BENZODIOXOLE, 5-(1-PROPENYL)-	120-58-1		(CA) 8 20 21
0199 chg	# 1,2-METHYLENEDIOXY-4-PROPYL-BENZENE 1,3-BENZODIOXOLE, 5-PROPYL-	94-58-6		(CA) 8 20 21
syn	METHYL ETHER see DIMETHYL ETHER			
1257	# METHYL ETHYL ETHER ETHANE, METHOXY-	540-67-0	1039	(F4) 3 15
1258	METHYL ETHYL KETONE 2-BUTANONE	78-93-3	1193	1 2 3 4 15 18 20 21
1259	METHYL ETHYL KETONE PEROXIDE 2-BUTANONE, PEROXIDE	1338-23-4	2127+	1 2 3 20 21
1260	# 2-METHYL-5-ETHYLPYRIDINE 2-PICOLINE, 5-ETHYL-	104-90-5	2300	(CO,F3) 3
1261	METHYL FLUORIDE METHANE, FLUORO-	593-53-3	2454	1 2 3
1262	# METHYL FORMATE FORMIC ACID, METHYL ESTER	107-31-3	1243	(F4) 1 2 3 15
1263	2-METHYLFURAN FURAN, 2-METHYL-	534-22-5	2301	3
syn	5-METHYL-3-HEPTANONE see ETHYL AMYL KETONE			
1265	# METHYL HYDRAZINE HYDRAZINE, METHYL-	60-34-4	1244	(CA,CO,F3,MU) 1 2 3 4 6 15 16 18 19 20 21
1266 chg	# METHYL IODIDE METHANE, IODO-	74-88-4	2644	(MU) 1 2 3 4 6 8 18 20 21
1267	METHYL ISOAMYL KETONE 2-HEXANONE, 5-METHYL-	110-12-3	2302	1 2 3 4 15
syn	METHYL ISOBUTYL CARBINOL see METHYL AMYL ALCOHOL			
1268	# METHYL ISOBUTYL KETONE 2-PENTANONE, 4-METHYL-	108-10-1	1245	(F3) 1 2 3 4 15 18 20 21
1269	METHYL ISOBUTYL KETONE PEROXIDE 2-PENTANONE, 4-METHYL-, PEROXIDE	37206-20-5	2126	3
1270	# METHYL ISOCYANATE METHANE, ISOCYANATO-	624-83-9	2480	(F3,R3) 1 2 3 6 12 (B) 15 16 18 19 20 21
2557	METHYL ISOPROPENYL KETONE, inhibited	814-78-8	1246	3
1271 chg	METHYL ISOPROPYL KETONE 2-BUTANONE, 3-METHYL-	563-80-4	2397	1 2 3
1272	METHYL ISOTHIOCYANATE METHANE, ISOTHIOCYANATO-	556-61-6	2477	3 16 19
1273	METHYL ISOVALERATE BUTANOIC ACID, 3-METHYL-, METHYL ESTER	556-24-1	2400	3
1274	METHYL MAGNESIUM BROMIDE MAGNESIUM, BROMOMETHYL-	75-16-1	1928	3
1275	# METHYL MERCAPTAN METHANETHIOL	74-93-1	1064	(F4) 1 2 3 4 15 16 19 20 21
1276	# METHYL MERCURY DICYANDIAMIDE MERCURY, (3-CYANOGUANIDINO)-METHYL	502-39-6	2777	(TE) 1 2 3 16 19
1277	# METHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, METHYL ESTER	80-62-6	1247	(F3,R2) 1 2 3 6 15 18 20 21
1278	# METHYLMORPHOLINE 4-METHYLMORPHOLINE	109-02-4	2535	(CO,F3) 3 15
1281	METHYL NITRITE NITROUS ACID, METHYL ESTER	624-91-9	2606	3
0963 chg	# 1-METHYL-3-NITRO-1-NITROSO-GUANIDINE GUANIDINE, N-METHYL-N'-NITRO-N-NITROSO-	70-25-7	1325	(CA,MU) 3 8 20
syn	METHYL ORTHO SILICATE see METHYL SILICATE			
1283	# METHYL PARATHION PHOSPHOROTHIOIC ACID, O,O-DIMETHYL O-(4-NITROPHENYL) ESTER	298-00-0	2783	(MU) 1 2 3 4 14 15 16 19 20 21
1284 chg	METHYLPENTADIENE PENTADIENE, METHYL-	54363-49-4	2461	3 16
1285	METHYLPENTANE PENTANE, METHYL-	43133-95-5	2462	3
2558	2-METHYL-2-PENTANOL	590-36-3	2560	3
syn	METHYL PENTYL KETONE see METHYL (N-AMYL) KETONE			
2559	METHYL PHENKAPTON	3735-23-7	2783+	3 16 19
1286	# METHYLPHENYLDICHLOROSILANE SILANE, DICHLOROMETHYLPHENYL-	149-74-6	2437	(CO) 3 16 19
2560	METHYL PHOSPHONIC DICHLORIDE	676-97-1	9206	3 16 19
1287	METHYL PHOSPHONOTHIOIC DICHLORIDE PHOSPHONOTHIOIC DICHLORIDE, METHYL-	676-98-2	1760	3
1288	# METHYL PHOSPHONOUS DICHLORIDE PHOSPHONOUS DICHLORIDE, METHYL-	676-83-5	2845	(CO) 3
1289	1-METHYLPIPERIDINE PIPERIDINE, 1-METHYL-	626-67-5	2399	3
1290	# METHYL PROPIONATE PROPANOIC ACID, METHYL ESTER	554-12-1	1248	(F3) 3 15
1291	# METHYL PROPYL ETHER PROPANE, 1-METHOXY-	557-17-5	2612	(F3) 3 15
1292	# METHYL PROPYL KETONE 2-PENTANONE	107-87-9	1249	(F3) 1 2 3 4 15
1282 chg	METHYL SILICATE SILICIC ACID, TETRAMETHYL ESTER	681-84-5	2606	1 2 3
syn	METHYL STYRENE see ISOPROPENYL BENZENE			
syn	METHYL SULFATE see DIMETHYL SULFATE			
syn	METHYL SULFIDE see DIMETHYL SULFIDE			
1294	# METHYL TETRAHYDROFURAN FURAN, TETRAHYDROMETHYL-	25265-68-3	2536	(F3) 3 15
2562	METHYL THIOCYANATE	556-64-9	1935	3 16 19
1967 chg	# 6-METHYL-2-THIOURACIL 4(1H)-PYRIMIDINONE, 2,3-DIHYDRO-6-METHYL-2-THIOXO-	56-04-2		(CA) 8 20 21
1295	METHYL TRICHLOROACETATE ACETIC ACID, TRICHLORO-, METHYL ESTER	598-99-2	2533	3
1296	# METHYL TRICHLOROSILANE TRICHLOROMETHYLSILANE	75-79-6	1250	(CO,F3,R2) 3 15 16 19
1297	# METHYL URETHANE CARBAMIC ACID, METHYL NITROSO-ETHYL ESTER	615-53-2		(CA,MU) 8 20 21
1299	# METHYL VALERALDEHYDE PENTANAL, 2-METHYL	123-15-9	2367	(F3) 3 15
1301	# METHYL VINYL KETONE 3-BUTEN-2-ONE	78-94-4	1251	(F3,R2) 3 15 16 19
2563	METOLCARB	1129-41-5	2757	3 16 19
1302	METRIBUZIN 1,2,4-TRIAZIN-5(4H)-ONE, 4-AMINO-6-(1,1-DIMETHYLETHYL)-3-* (METHYLTHIO)-	21087-64-9	2588	1 2 3
1303	# METRONIDAZOLE 1H-IMIDAZOLE-1-ETHANOL, 2-METHYL-5-NITRO-	443-48-1	1851	(CA,MU) 3 7
syn	MEVINPHOS see PHOSDRIN			
1304	MEXACARBATE PHENOL, 4-(DIMETHYLAMINO)-3,5-DIMETHYL-, METHYLCARBAMATE (ESTER)	315-18-4	2757	3 14 16 19 20

SUBSTANCE NUMBER		COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
1305	#	MICHLERS KETONE METHANONE-BIS 4-(DIMETHYLAMINO) PHENYL -	90-94-8	1224	(CA) 3 5 18
syn		MINERAL OIL see OIL MIST, MINERAL			
syn		MINERAL SPIRITS see BENZINE			
2564 gen		MINING REAGENT, LIQUID		2022	3
1306	#	MIREX 1,3,4-METHENO-1H-CYCLOBUTA cd PENTALENE, 1,1a,2,2,3,3a,4,5,5,5a, * 5b,6-DODECACHLOROOCTAHYDRO-	2385-85-5	2646	(CA) 3 5
2565 gen		MISCHMETAL, POWDER		1333	17
1307 chg	+	MITOMYCIN C AZIRINO (2',3':3,4) PYRROLO (1,2-A) INDOLE-4,7-DIONE, 6-AMINO-8- * (((AMINOCARBONYL)OXY)METHYL)-1,1A,2,8,8A,8B-HEXAHYDRO-8-A- * METHOXY-5-METHYL-, (1as-(1a alpha, 8 beta, 8a alpha, 8b * alpha))-	50-07-7	1851	(MU) 1 3 13(H) 16 19 20 21
syn		MIXED ACID (NITRATING ACID) see ACID MIXTURES, NITRATING			
syn		MIXED ACID, SPENT see ACID MIXTURES, SPENT, NITRATING			
1309		MOLYBDENUM	7439-98-7		1 2
1310		MOLYBDENUM (IV) SULFIDE	1317-33-5		1 2
1311	#	MOLYBDENUM PENTACHLORIDE MOLYBDENUM CHLORIDE (MoCl5)	10241-05-1	2508	(CO) 1 2 3
1312		MOLYBDENUM TRIOXIDE	1313-27-5		1 2 18
1313		MONOCROTOPHOS PHOSPHORIC ACID, DIMETHYL 1-METHYL-3-(METHYLAMINO)-3-OXO-1- * PROPENYL ESTER, (E)-	6923-22-4	2783	1 2 3 14 16 19
syn		MONOFLUOROPHOSPHORIC ACID see FLUOROPHOSPHORIC ACID			
1315	#	MORPHOLINE	110-91-8	2054+	(CO,F3) 1 2 3 15
2568 gen		MOTOR FUEL ANTI-KNOCK COMPOUND		1649	3
2569 gen		MOTOR FUEL, n.o.s.		1203	3
syn		MOTOR SPIRIT see GASOLINE			
syn		MURIATIC ACID see HYDROGEN CHLORIDE			
2571		MUSCIMOL	2763-96-4	2811	3 16 19 20 21
2572		MUSK EXYLENE	81-15-2	2956	17
1319	#	MUSTARD GAS ETHANE, 1,1'-THIOBIS 2-CHLORO-	505-60-2		(CA,MU) 5 7 8 16 18 19
syn		NALED see DIMETHYL 1,2-DIBROMO-2,2-DICHLOROETHYL PHOSPHATE			
syn		NAPHTHA see BENZINE			
syn		NAPHTHA see COAL TAR NAPHTHA			
syn		NAPHTHA DISTILLATE see BENZINE			
1322		NAPHTHALENE	91-20-3	1334	1 2 3 6 15 18 20 21
1323		NAPHTHALENE DIISOCYANATE NAPHTHALENE, DIISOCYANATO-	25551-28-4	2207	3 4
2924		1,4-NAPHTHALENEDIONE	130-15-4		20 21
syn		NAPHTHA, PETROLEUM see BENZINE			

SUBSTANCE NUMBER		COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
2575 gen		NAPHTHA, SOLVENT		1256	3
1324	#	2-NAPHTHYLAMINE 2-NAPHTHALENAMINE	91-59-8	1650	(CA,MU) 1 2 3 5 7 8 18 20 21
1325	#	1-NAPHTHYLAMINE 1-NAPHTHALENAMINE	134-32-7		(CA,MU) 1 4 6 8 15 18 20 21
syn		alpha-NAPHTHYLAMINE see 1-NAPHTHYLAMINE			
syn		beta-NAPHTHYLAMINE see 2-NAPHTHYLAMINE			
1326		NAPHTHYLTHIOUREA THIOUREA, NAPHTHALENYL-	30553-04-9	1651	3 16 19
0051		alpha-NAPHTHYL THIOUREA THIOUREA, 1-NAPHTHALENYL-	86-88-4	1651	1 2 3 14 16 19 20 21
1327		1-NAPHTHYLUREA UREA, 1-NAPHTHALENYL	6950-84-1	1652	3
1328		2-NAPHTHYLUREA UREA, 2-NAPHTHALENYL	13114-62-0	1652	3
2576		NAPTHENIC ACID	1338-24-5	9137	3 20
2577 gen		NATURAL GAS with a high METHANE content, COMPRESSED	74-82-8	1971	3
2578 gen		NATURAL GAS, LIQUID (REFRIGERATED) with a high METHANE content	74-82-8	1972	3
2579 gen		NATURAL GASOLINE		1257	3
0438 chg	@	NEOCHROMIUM BASIC CHROMIUM SULFATE	64093-79-4		1 2 6
1335	#	NEOHEXANE BUTANE, 2,2-DIMETHYL-	75-83-2	2457	(F3) 3 15
1336		NEON	7440-01-9	1065+	2 3
syn		NEOPENTANE see DIMETHYLPROPANE			
1341	#	NICKEL	7440-02-0		(CA) 1 2 4 5 6 7 8 12(A,B,G ,K) 16 18 19 20
2875 gen		NICKEL, all inorganic compounds of			6 20
1342		NICKEL AMMONIUM SULFATE SULFURIC ACID, AMMONIUM NICKEL(2+) SALT (2:2:1)	15699-18-0	9138	1 2 3 4 6 20
1343 chg	#	NICKEL CARBONYL	13463-39-3	1259	(CA,F3,R3) 1 2 3 4 6 15 16 19 20 21
2580 gen		NICKEL CATALYST, DRY	7440-02-0	2881	3 6
2581 gen		NICKEL CATALYST, FINELY DIVIDED, ACTIVATED OR SPENT		1378	3 6
1344 chg		NICKEL CHLORIDE	7718-54-9	9139	1 2 3 4 6 20
3034		NICKEL CHLORIDE	37211-05-5		20
2366 gen		NICKEL compounds, n.o.s.			18
1345		NICKEL CYANIDE	557-19-7	1653	1 3 6 10 20 21
1346 chg	+	NICKEL HYDROXIDE	12054-48-7	9140	(CA) 3 6 10 20
1347		NICKEL NITRATE NITRIC ACID, NICKEL(2+) SALT	13138-45-9	2725	1 2 3 4 6 20
3035		NICKEL NITRATE	14216-75-2		20

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
2582	NICKEL NITRITE	17861-62-0	2726	3 6
1348	NICKEL SULFATE SULFURIC ACID, NICKEL(2+) SALT (1:1)	7786-81-4	9141	1 2 3 4 6 20
1349	NICOTINE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, (S)-	54-11-5	1654	1 2 3 15 16 19 20 21
2583 gen	NICOTINE, COMPOUNDS AND PREPARATIONS, n.o.s.		1655	3
1350	NICOTINE HYDROCHLORIDE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, HYDROCHLORIDE, (S)-	2820-51-1	1656	3
1351	NICOTINE SALICYLATE BENZOIC ACID, 2-HYDROXY-, COMPD. WITH (S)-3-(1-METHYL-2-* PYRROLIDINYL)PYRIDINE (1:1)	29790-52-1	1657	3
1352	NICOTINE SULFATE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, (S)-, SULFATE	65-30-5	1658	3 16 19
1353	NICOTINE TARTRATE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, (S)-, R-(R*,R*) -2,3-* DIHYDROXYBUTANEDIOATE	3275-73-8	1659	3
syn	NITRAMINE see TETRYL			
1355	NITRAPYRIN PYRIDINE, 2-CHLORO-6-(TRICHLOROMETHYL)-	1929-82-4		2
2584 gen	NITRATES, INORGANIC, n.o.s.		1477	3
syn	NITRATING ACID, MIXTURES see ACID MIXTURES, NITRATING			
syn	NITRATING ACID MIXTURE, SPENT see ACID MIXTURES, NITRATING			
1356	# NITRIC ACID	7697-37-2	2031+	(CO) 1 2 3 4 16 18 19 20
1357	NITRIC OXIDE NITROGEN OXIDE (NO)	10102-43-9	1660	1 2 3 4 16 19 20 21
1358	# NITRILOTRIACETIC ACID GLYCINE, N,N-BIS(CARBOXYMETHYL)-	139-13-9		(CA) 5 18
2587 gen	NITRITES, INORGANIC, n.o.s.		2627	3
1359 chg	# o-NITROANILINE BENZENAMINE, 2-NITRO-	29757-24-2	1661	(R3) 3 15
1548	# p-NITROANILINE BENZENAMINE, 4-NITRO-	100-01-6	1661	(MU) 1 2 3 15 20 21
syn	4-NITROANILINE see p-NITROANILINE			
1388	# 5-NITRO-o-ANISIDINE BENZENAMINE, 2-METHOXY-5-NITRO-	99-59-2		(CA) 5 6 7 18
1360 chg	p-NITROANISOLE BENZENE, 1-METHOXY-4-NITRO-	100-17-4	2730	3
1361	NITROBENZENE BENZENE, NITRO-	98-95-3	1662	1 2 3 15 16 18 19 20 21
1362	# NITROBENZENESULFONIC ACID BENZENESULFONIC ACID, NITRO-	31212-28-9	2305	(CO) 3
1363	5-NITROBENZOTRIAZOL 1H-BENZOTRIAZOLE, 5-NITRO-	2338-12-7	0385	3
1364	3-NITROBENZOTRIFLUORIDE TOLUENE, 3-NITRO-alpha, alpha, alpha-TRIFLUORO-	98-46-4	2306	1 2 3 15
0229 chg	+ 4-NITROBIPHENYL 1,1'-BIPHENYL, 4-NITRO-	92-93-3		(CA) 1 2 7 15 18
1365 chg	p-NITROBROMOBENZENE BENZENE, 1-BROMO-4-NITRO	586-78-7	2732	3
1366	# NITROCELLULOSE CELLULOSE, NITRATE	9004-70-0	2556	(F3,R3) 3 15
syn	NITROCHLOROBENZENE see p-NITROCHLOROBENZENE			
1549 chg	# p-NITROCHLOROBENZENE BENZENE, 1-CHLORO-4-NITRO-	100-00-5	1578	(CO) 1 2 3
1367	2-NITRO-1-CHLOROBENZO-4-TRIFLUORIDE BENZENE, 1-CHLORO, 2-NITRO, -4-(TRIFLUOROMETHYL)-	121-17-5	2307	3
1368	1-NITRO-4-CHLOROBENZO-2-TRIFLUORIDE BENZENE, 4-CHLORO, 1-NITRO,-2-(TRIFLUOROMETHYL)-	118-83-2	2307	3
1369	1-NITRO-2-CHLOROBENZO-3-TRIFLUORIDE BENZENE, 2-CHLORO, 1-NITRO,-3-(TRIFLUOROMETHYL)-	39974-35-1	2307	3
1370	4-NITRO-1-CHLOROBENZO-2-TRIFLUORIDE BENZENE, 1-CHLORO, 4-NITRO,-2-(TRIFLUOROMETHYL)-	777-37-7	2307	3
1371	2-NITRO-4-CHLOROBENZO-1-TRIFLUORIDE BENZENE, 4-CHLORO, 2-NITRO,-1-(TRIFLUOROMETHYL)-	25889-38-7	2307	3
1372	NITROCRESOLS PHENOL, METHYLNITRO-	12167-20-3	2446	3
2588	NITROCYCLOHEXANE	1122-60-7	2810	3 16 19
1373	# NITROETHANE ETHANE, NITRO-	79-24-3	2842	(F3,R3) 1 2 3 15
1374	# NITROFEN BENZENAMINE, 4-ETHOXY-N- (5-NITRO-2-FURANYL)METHYLENE -	1836-75-5	2588	(CA) 3 5 6 18
1375	NITROGEN	7727-37-9	1066	3
1376	NITROGEN DIOXIDE NITROGEN OXIDE (NO2)	10102-44-0	1067+	1 2 3 4 16 19 20 21
syn	NITROGEN DIOXIDE see NITROGEN TETROXIDE	10544-72-6		
2589 gen	NITROGEN FERTILIZER SOLUTION		1043	3
1377 chg	# NITROGEN MUSTARD ETHANAMINE, 2-CHLORO-N-(2-CHLOROETHYL)-N-METHYL-	51-75-2	2810	(CA,MU,TE) 3 7 8 13(D, H,L,O,Y,EE,FF) 16 18 19
1378	# NITROGEN MUSTARD N-OXIDE HYDROCHLORIDE DIETHYLAMINE,2,2'-DICHLORO-N-METHYL,N-OXIDE, HYDROCHLORIDE	302-70-5		(CA) 8
1379	NITROGEN TETROXIDE NITROGEN OXIDE (N2O4)	10544-72-6	1066	3 20 21
1380	NITROGEN TRIFLUORIDE NITROGEN FLUORIDE (NF3)	7783-54-2	2451	1 2 3
1381	NITROGEN TRIOXIDE NITROGEN OXIDE (N2O3)	10544-73-7	2421	3
1382	NITROGEN TRIOXIDE NITROGEN OXIDE (NO3)	12033-49-7	2421	3
1383	# NITROGLYCERIN 1,2,3-PROPANETRIOL, TRINITRATE	55-63-0	0143+	(R4) 1 2 3 4 15 18 20 21
1384	NITROGUANIDINE GUANIDINE, NITRO-	556-88-7	0282+	3
1385	# NITROHYDROCHLORIC ACID AQUA REGIA	8007-56-5	1798	(CO) 3
1386	# NITROMETHANE METHANE, NITRO-	75-52-5	1261	(F3,R4) 1 2 3 15
1387	NITRONAPHTHALENE NAPHTHALENE, NITRO-	27254-36-0	2538	3 15
1389	3-NITROPHENOL PHENOL, 3-NITRO-	554-84-7	1663	3 20
1390	4-NITROPHENOL PHENOL, 4-NITRO-	100-02-7	1663	3 6 15 18 20 21
1391	2-NITROPHENOL PHENOL, 2-NITRO-	88-75-5	1663	3 18 20
3001	NITROPHENOL, mixed isomers	25154-55-6	1663	3 20
1392	# 2-NITROPROPANE PROPANE, 2-NITRO-	79-46-9	2608	(R2) 1 2 3 6 10 15 18 20 21
1394	# 1-NITROPROPANE PROPANE, 1-NITRO-	108-03-2	2608	(R2) 1 2 3 15
3002 gen	NITROSAMINES			20

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
1406	# N-NITROSODI-N-BUTYLAMINE 1-BUTANAMINE, N-BUTYL-N-NITROSO-	924-16-3		(CA,MU) 5 7 8 18 20 21
syn	NITROSODI-N-BUTYLAMINE see N-NITROSODI-N-BUTYLAMINE			
1403	# N-NITROSODIETHANOLAMINE ETHANOL, 2,2'-(NITROSOIMINO)BIS-	1116-54-7		(CA) 5 8 20 21
syn	NITROSODIETHANOLAMINE see N-NITROSODIETHANOLAMINE			
1404	# N-NITROSODIETHYLAMINE ETHANAMINE, N-ETHYL-N-NITROSO-	55-18-5		(CA,MU) 5 8 18 20 21
syn	NITROSODIETHYLAMINE see N-NITROSODIETHYLAMINE			
1405	# N-NITROSODIMETHYLAMINE METHANAMINE, N-METHYL-N-NITROSO-	62-75-9	1955	(CA,MU) 1 2 3 5 8 16 18 19 20 21
syn	NITROSODIMETHYLAMINE see N-NITROSODIMETHYLAMINE			
1550	p-NITROSODIMETHYLANILINE BENZENAMINE, N,N-DIMETHYL-4-NITROSO-	138-89-6	1369	3
syn	NITROSODIMETHYLANILINE see p-NITROSODIMETHYLANILINE			
1408	N-NITROSODIPHENYLAMINE BENZENAMINE, N-NITROSO-N-PHENYL-	86-30-6		6 18 20
1551	# p-NITROSODIPHENYLAMINE BENZENAMINE, 4-NITROSO-N-PHENYL-	156-10-5		(CA) 5 18
syn	NITROSODIPHENYLAMINE see N-NITROSODIPHENYLAMINE	86-30-6		
syn	NITROSODIPHENYLAMINE see p-NITROSODIPHENYLAMINE	156-10-5		
1407	# N-NITROSODI-N-PROPYLAMINE 1-PROPANEAMINE N-NITROSO, N-PROPYL-	621-64-7		(CA,MU) 5 7 8 18 20 21
syn	NITROSODI-N-PROPYLAMINE see N-NITROSODI-N-PROPYLAMINE			
1410	# N,NITROSO-N-ETHYLUREA UREA, N-ETHYL-N-NITROSO-	759-73-9		(CA,MU,TE) 5 8 18 20 21
syn	NITROSO-N-ETHYLUREA see N,NITROSO-N-ETHYLUREA			
syn	NITROSO-N-METHYLUREA see N-NITROSO-N-METHYLUREA			
2907	NITROSOMETHYLVINYLAMINE VINYLAMINE, N-METHYL-N-NITROSO-	4549-40-0		18 20 21
1411	# N-NITROSO-N-METHYLUREA UREA, N-METHYL-N-NITROSO-	684-93-5		(CA) 5 8 18 20 21
1409	# N-NITROSOMORPHOLINE MORPHOLINE, 4-NITROSO-	59-89-2		(CA,MU) 5 8 18
syn	NITROSOMORPHOLINE see N-NITROSOMORPHOLINE			
2900	N-NITROSONORNICOTINE NICOTINE, 1'-DEMETHYL-1'-NITROSO-	16543-55-8		18
1412	# N-NITROSOPIPERIDINE PIPERIDINE, 1-NITROSO-	100-75-4		(CA,MU) 5 8 18 20 21
syn	NITROSOPIPERIDINE see N-NITROSOPIPERIDINE			
3000	N-NITROSOPYRROLIDINE	930-55-2		20 21
1413	# N-NITROSOSARCOSINE GLYCINE, N-METHYL-N-NITROSO-	13256-22-9		(CA) 5 8
syn	NITROSOSARCOSINE see N-NITROSQSARCOSINE			
1395	NITROSTARCH STARCH, NITRATE	9056-38-6	0146+	3
1396	NITROSYL CHLORIDE	2696-92-6	1069	3
1397	# NITROSYLSULFURIC ACID SULFURIC ACID, MONOANHYDRIDE WITH NITROUS ACID	7782-78-7	2308	(CO) 3

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
1398	# NITROTOLUENE BENZENE, METHYLNITRO-	1321-12-6	1664	(R4) 1 2 3 15 20
3020	m-NITROTOLUENE	99-08-1		20
3021	o-NITROTOLUENE	88-72-2		20
3022	p-NITROTOLUENE	99-99-0		20
1444	# 5-NITRO-o-TOLUIDINE BENZENAMINE, 2-METHYL-5-NITRO-	99-55-8	2660	(CA) 3 8 20 21
1399	NITROUS OXIDE NITROGEN OXIDE	10024-97-2	1070	3 4
1308	m-NITROXYLENE 1,2-DIMETHYL-4-NITROBENZENE	99-51-4	1665	3
1400 chg	NITROXYLOL BENZENE, DIMETHYLNITRO-	25168-04-1	1665	3
1414	# NONANE	111-84-2	1920	(F3) 1 2 3 15
1415	1-NONANETHIOL	1455-21-6		4
2590 gen	NONFLAMMABLE GAS, n.o.s.		1956	3
1416	# NONYL TRICHLOROSILANE SILANE, TRICHLORONONYL-	5283-67-0	1799	(CO) 3
2591	NORBORMIDE	991-42-4	2588	3 16 19
syn	NORETHINDRONE see NORETHISTERONE			
1417	# NORETHISTERONE 19-NORPREGN-4-EN-20-YN-3-ONE, 17-HYDROXY-, (17alpha)-	68-22-4	1851	(CA,MU) 3 7
syn	NOVOLDIAMINE see 2-AMINO-5-DIETHYLAMINOPENTANE			
1427	OCTACHLORONAPHTHALENE NAPHTHALENE, OCTACHLORO-	2234-13-1		1 2 18
1428	1-OCTADECANETHIOL	2885-00-9		4
1429	# OCTADECYL TRICHLOROSILANE SILANE, TRICHLOROOCTADECYL-	112-04-9	1800	(CO) 3 15
1430	# OCTADIENE	63597-41-1	2309	(CO) 3
1431	OCTAFLUOROBUT-2-ENE 2-BUTENE, 1,1,1,2,3,4,4,4-OCTAFLUORO-	360-89-4	2422	3
1432	OCTAFLUOROCYCLOBUTANE CYCLOBUTANE, OCTAFLUORO-	115-25-3	1976	3
1433	OCTAFLUOROPROPANE PROPANE, OCTAFLUORO-	76-19-7	2424	3
syn	OCTAMETHYL DIPHOSPHORAMIDE see DIPHOSPHORAMIDE, OCTAMETHYL-			
1434	# OCTANE	111-65-9	1262	(F3) 1 2 3 4 15
1435	1-OCTANETHIOL	111-88-6		4 15 17
syn	OCTANOYL PEROXIDE see DI-N-OCTANOYL PEROXIDE			
syn	OCTYL ALDEHYDE see 2-ETHYL HEXALDEHYDE			
2592	tert-OCTYL HYDROPEROXIDE		2160	3
syn	tert-OCTYL MERCAPTAN see 1-OCTANETHIOL			
2594	tert-OCTYL PEROXY-2-ETHYLHEXANOATE		2161	3
1436	# OCTYL TRICHLOROSILANE SILANE, TRICHLOROOCTYL-	5283-66-9	1801	(CO,R2) 3
2595 gen	OIL GAS		1071	3

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
1437 chg	OIL MIST, MINERAL MINERAL OIL			1 2
3003	O,O-DIETHYL S-METHYL DITHIOPHOSPHATE	3288-58-2		20 21
2596 gen	ORGANIC PEROXIDE, LIQUID OR SOLUTION, n.o.s.		9183	3
2597 gen	ORGANIC PEROXIDE MIXTURE		2756	3
2598 gen	ORGANIC PEROXIDE, SAMPLES, n.o.s.		2255	3
2599 gen	ORGANIC PEROXIDE, n.o.s., TRIAL QUANTITIES		2899	3
2600 gen	ORGANIC PEROXIDE, SOLID, n.o.s.		9187	3
2601 gen	ORGANIC PHOSPHATE COMPOUND, SOLID (POISON B)		2783	3
2602 gen	ORGANIC PHOSPHORUS COMPOUND, MIXED WITH COMPRESSED GAS		1955	3
2603 gen	ORGANOCHLORINE PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s., * flashpoint less than 23C		2762	3
2604 gen	ORGANOCHLORINE PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s., * flash point between 23C and 61C		2995	3
2605 gen	ORGANOCHLORINE PESTICIDES, LIQUID, TOXIC, n.o.s.		2996	3
2606 gen	ORGANOCHLORINE PESTICIDES, SOLID, TOXIC, n.o.s.		2761	3
2610 gen	ORGANOPHOSPHOROUS PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s., * flash point less than 23C		2784	3
2607 gen	ORGANOPHOSPHOROUS PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s. * flashpoint between 23C and 61C		3017	3
2608 gen	ORGANOPHOSPHOROUS PESTICIDES, LIQUID, TOXIC, n.o.s.		3018	3
2609 gen	ORGANOPHOSPHOROUS PESTICIDES, SOLID, TOXIC, n.o.s.		2783	3
2611	ORGANORHODIUM COMPLEX	PMN82-14-7	2811	3 16 19
2612 gen	ORGANOTIN PESTICIDES, FLAMMABLE LIQUID, TOXIC, n.o.s., flash * point less than 23C		2787	3
2613 gen	ORGANOTIN PESTICIDES, FLAMMABLE LIQUID, TOXIC, n.o.s., flash * point between 23C and 61C		3019	3
2614 gen	ORGANOTIN PESTICIDES, LIQUID, TOXIC, n.o.s.		3020	3
2615 gen	ORGANOTIN PESTICIDES, SOLID, TOXIC, n.o.s.		2786	3
2616	OROTIC ACID	65-86-1		16 19
1441	OSMIUM TETROXIDE OSMIUM OXIDE	20816-12-0	2471	1 2 3 16 18 19 20 21
2617	OUABAIN	630-60-4	1851	3 16 19
1445	# OXALIC ACID ETHANEDIOIC ACID	144-62-7	2449	(CO) 1 2 3 15
2618	OXAMYL	23135-22-0	2757+	3 16 19
1446	# 1,2-OXATHIOLANE 2,2-DIOXIDE	1120-71-4		(CA,MU) 2 8 18 20 21
1447	# OXAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 7-CHLORO-1,3-DIHYDRO-3-HYDROXY-5- * PHENYL-	604-75-1	1851	(TE) 3 13(Y,EE,FF)
2619	OXETANE, 3,3-BIS(CHLOROMETHYL)	78-71-7		16 19
2620 gen	OXIDIZER, CORROSIVE, LIQUID, n.o.s.		9193	3
2621 gen	OXIDIZER, CORROSIVE, SOLID, n.o.s.		9194	3
2622 gen	OXIDIZER, POISONOUS LIQUID, n.o.s.		9199	3
2623 gen	OXIDIZER, POISONOUS SOLID, n.o.s.		9200	3
2624 gen	OXIDIZING SUBSTANCE, n.o.s.		1479	3
2625	OXYDISULFOTON	2497-07-6	3018	3 16 19
1448	OXYGEN	7782-44-7	1072+	3
1449	OXYGEN DIFLUORIDE OXYGEN FLUORIDE	7783-41-7	2190	1 2 3
1450	# OXYMETHOLONE ANDROSTAN-3-ONE, 17-HYDROXY-2-(HYDROXYMETHYLENE)-17-METHYL-, * (5alpha, 17beta)-	434-07-1	1851	(CA) 3 5 7
1451	OZONE	10028-15-6	1693	1 2 3 16 17 19
syn	PAINT, etc., FLAMMABLE LIQUID see PAINTS, ENAMELS, * LACQUERS, STAINS, etc.			
2627 gen	PAINT RELATED MATERIAL, CORROSIVE LIQUID		1760	3
2628 gen	PAINTS, ENAMELS, LACQUERS, STAINS, etc.		1263	3
syn	PAINTS, LATEX see LATEX PAINTS			
1452	PANCREATIN	8049-47-6	1851	3 12(A)
1453	PAPAIN	9001-73-4		12(A)
2629 gen	PAPER, UNSATURATED OIL TREATED, INCOMPLETELY DRY		1379	3
1454	PARAFORMALDEHYDE	30525-89-4	2213	3 15 20
1455	# PARALDEHYDE 1,3,5-TRIOXANE, 2,4,6-TRIMETHYL-	123-63-7	1264	(F3) 3 15 20
1456 chg	PARAMETHANE HYDROPEROXIDE HYDROPEROXIDE, 4-METHYL-1-(1-METHYLETHYL) CYCLOHEXYL	52061-60-6	2125	3
1457	PARAOXON PHOSPHORIC ACID, DIETHYL P-NITROPHENYL ESTER	311-45-5	2783	3 14 20 21
1458 chg	PARAQUAT 4,4'-BIPYRIDINIUM, 1,1'-DIMETHYL-, DICHLORIDE	1910-42-5	2588	1 2 3 14 16 19
2630	PARAQUAT METHOSULFATE	2074-50-2	2588	3 16 19
1459	PARATHION PHOSPHOROTHIOIC ACID, O,O-DIETHYL O-(4-NITROPHENYL) ESTER	56-38-2	2783	1 2 3 4 6 18 19 20 21
2631 gen	PARATHION AND COMPRESSED GAS MIXTURE		1967	3
syn	PARATHION-METHYL see METHYL PARATHION			
syn	PARIS GREEN see COPPER ACETOARSENITE			
syn	PBB see POLYBROMINATED BIPHENYLS			
syn	PCB's see POLYCHLORINATED BIPHENYLS			
syn	PCB-1242 (CHLORODIPHENYL (42% Cl)) see POLYCHLORINATED * BIPHENYLS			
syn	PCB-1254 (CHLORODIPHENYL (54% Cl)) see POLYCHLORINATED * BIPHENYLS			
1469	PECTINASE POLYGALACURONASE	9032-75-1		12(A)
syn	PELARGONYL PEROXIDE see DI-N-NONANOYL PEROXIDE			
syn	PENICILLIN see BENZYLPENICILLIN			
1470	# PENTABORANE	19624-22-7	1380	(F3,R2) 1 2 3 15 16 19

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1471	PENTACHLOROETHANE ETHANE, PENTACHLORO-	76-01-7	1669	3 16 19 20 21
1472	PENTACHLORONAPHTHALENE NAPHTHALENE, PENTACHLORO-	1321-64-8		1 2
1473	PENTACHLOROPHENOL PHENOL, PENTACHLORO-	87-86-5	2020	1 2 3 6 14 16 18 19 20 21
2634	PENTADECYLAMINE	2570-26-5	2733+	3 16 19
1474	PENTAERYTHRITE TETRANITRATE PENTAERYTHRITOL, TETRANITRATE	78-11-5	0150+	3
1475	PENTAMETHYLHEPTANE HEPTANE, PENTAMETHYL-	30586-18-6	2286	3
1476	# PENTANE	109-66-0	1265	(F4) 1 2 3 4 15
1477	PENTANE-2,4-DIONE 2,4-PENTANEDIONE	123-54-6	2310	3 15
syn	PENTENE see AMYLENE, NORMAL			
1478	PENTOL 9-OCTADECENOIC ACID (Z)-, ESTER WITH 2,2-BIS(HYDROXYMETHYL)-1,3- * PROPANEDIOL	12772-47-3	2705	3
1479	PENTOLITE 1,3-PROPANEDIOL, 2,2-BIS (NITROOXY)METHYL -, DINITRATE (ESTER), * MIXT. WITH 2-METHYL-1,3,5-TRINITROBENZENE	8066-33-9	0151	3
syn	PERACETIC ACID see PEROXYACETIC ACID			
2635	PERBORATE, n.o.s.		1480	17
2636 gen	PERCHLORATES, INORGANIC, n.o.s.		1481	3
2637 gen	PERCHLORIC ACID, less than 50% acid by weight	7601-90-3	1802	3
2638 gen	PERCHLORIC ACID, greater than 50% but less than 72% acid, by * weight	7601-90-3	1873	3
syn	PERCHLOROETHYLENE see TETRACHLOROETHYLENE			
1480	PERCHLOROMETHYL MERCAPTAN METHANESULFENYL CHLORIDE, TRICHLORO-	594-42-3	1670	1 2 3 16 19 20 21
1481	PERCHLORYL FLUORIDE	7616-94-6	1955	1 2 3
2639 gen	PERFUMERY PRODUCTS, WITH FLAMMABLE SOLVENT		1266	3
2640 gen	PERMANGANATES, INORGANIC, n.o.s.		1482	3
2641 gen	PEROXIDES, INORGANIC, n.o.s.		1483	3
1482	# PEROXYACETIC ACID ETHANEPEROXOIC ACID	79-21-0	2131	(CO,R4) 3 6 16 18 19
2642 gen	PESTICIDES, FLAMMABLE LIQUID, TOXIC, n.o.s., flash point * between 23C and 61C		2903	3
2643 gen	PESTICIDES, FLAMMABLE LIQUID, TOXIC n.o.s., flash point less * than 23C		3021	3
2644 gen	PESTICIDES, LIQUID, TOXIC, n.o.s.		2902	3
2645 gen	PESTICIDES, SOLID, TOXIC, n.o.s.		2588	3
syn	PETROL see GASOLINE			
2647 gen	PETROLEUM CRUDE OIL		1267	3
2648 gen	PETROLEUM DISTILLATES, n.o.s.	8002-05-9	1268	3
syn	PETROLEUM ETHER see BENZINE			
syn	PETROLEUM GASES, LIQUEFIED see LIQUEFIED PETROLEUM GAS			
syn	PETROLEUM NAPHTHA see BENZINE			
2651 gen	PETROLEUM OIL		1270	3
syn	PETROLEUM SPIRITS see BENZINE			
1483	# PHENACETIN N-(4-ETHOXYPHENYL)ACETAMIDE	62-44-2	1851	(CA) 3 5 7 8 20 21
1484	PHENACYL BROMIDE ETHANONE, 2-BROMO-1-PHENYL-	70-11-1	2645	3
3004	PHENANTHRENE	85-01-8		20
syn	PHENARAZINE CHLORIDE see DIPHENYLAMINECHLORO-ARSINE			
2653	PHENARSAZINE OXIDE	58-36-6	1557	3 16 19
1485	# PHENAZOPYRIDINE HYDROCHLORIDE 2,6-PYRIDINEDIAMINE, 3-(PHENYLAZO)-, MONOHYDROCHLORIDE	136-40-3		(CA) 5
1486	PHENETIDINE BENZENAMINE, AR-ETHOXY-	1321-31-9	2311	3
1487	# PHENOL	108-95-2	1671+	(MU) 1 2 3 4 6 12(B) 15 16 18 19 20 21
2654	PHENOL, 3-(1-METHYLETHYL)-, METHYLCARBAMATE	64-00-6	2757+	3 16 19
1488	# PHENOLSULPHONIC ACID BENZENESULFONIC ACID	98-11-3	1803	(CO) 3
syn	PHENOL, 2,2'-THIOBIS(4-CHLORO-6-METHYL-) see 2,2'-THIOBIS * (4-CHLORO-6-METHYL-)PHENOL			
syn	PHENOL, 2,2'-THIOBIS-4,6-DICHLORO- see 2,2'-THIOBIS-4,6- * DICHLORO-PHENOL			
1489	PHENOTHIAZINE 10H-PHENOTHIAZINE	92-84-2		1 2
syn	PHENOXARSINE, 10,10'OXYDI- see PHENARSAZINE OXIDE			
2655 gen	PHENOXY PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s. * flash point between 23C and 61C		2999	3
2656 gen	PHENOXY PESTICIDES, FLAMMABLE, LIQUID, TOXIC, n.o.s. * flash point less than 23C		2766	3
2657 gen	PHENOXY PESTICIDES, LIQUID, TOXIC, n.o.s.		3000	3
2658 gen	PHENOXY PESTICIDES, SOLID, TOXIC, n.o.s.		2765	3
1490	PHENYLACETONITRILE BENZENEACETONITRILE	140-29-4	2470	3 15 16 19
1491	# PHENYLACETYL CHLORIDE BENZENEACETYL CHLORIDE	103-80-0	2577	(CO) 3
syn	PHENYLBUTANE see BUTYL BENZENE			
1492	PHENYLCARBYLAMINE CHLORIDE CARBONIMIDIC DICHLORIDE, PHENYL-	622-44-6	1672	3
1493	# PHENYLCHLOROFORMATE CARBONOCHLORIDIC ACID, PHENYL ESTER	1885-14-9	2746	(CO) 3
1494	PHENYLDICHLOROARSINE ARSONOUS DICHLORIDE, PHENYL-	696-28-6	1556	1 3 16 19 20 21
1316	m-PHENYLENEDIAMINE 1,3-BENZENEDIAMINE	108-45-2		11
1495 chg	o-PHENYLENEDIAMINE 1,2-BENZENEDIAMINE	95-54-5	1673	3 15
1586	p-PHENYLENEDIAMINE 1,4-BENZENEDIAMINE	106-50-3	1673	1 2 3 12(A, B) 18
1496	PHENYL ETHER BENZENE, 1,1'-OXYBIS-	101-84-8		1 2
syn	PHENYL ETHYLENE see STYRENE MONOMER			

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1497	PHENYL GLYCIDYL ETHER OXIRANE, (PHENOXYMETHYL)-	122-60-1		1 2 4 10
1499	PHENYLGLYCINE ACID alpha-AMINO-BENZENEACETIC ACID	69-91-0		12(A)
1500	PHENYLHYDRAZINE HYDRAZINE, PHENYL-	100-63-0	2572	1 2 3 4 15
2659	PHENYLHYDRAZINE HYDROCHLORIDE	59-88-1	2572	3 16 19
1501	PHENYL ISOCYANATE ISOCYANATOBENZENE	103-71-9	2487	3
1502 chg	+ PHENYLMERCURIC ACETATE MERCURY, (ACETATO-O)PHENYL-	62-38-4	1674	(TE) 1 2 3 15 16 19 20 21
2660 gen	PHENYLMERCURIC COMPOUND, SOLID, n.o.s.		2026	3
1503	# PHENYLMERCURIC HYDROXIDE MERCURY, HYDROXYPHENYL-	100-57-2	1894	(TE) 1 2 3
1504	# PHENYLMERCURIC NITRATE MERCURY, (NITRATO-O)PHENYL-	55-68-5	1895	(TE) 1 2 3
1418	n-PHENYL-beta-NAPHTHYLAMINE N-PHENYL-2-NAPHTHALENAMINE	135-88-6		2 4
syn	PHENYLPHENOL see o-PHENYLPHENOL			
1439	o-PHENYLPHENOL 1,1'-BIPHENYL -2-OL	90-43-7		6 18
syn	2-PHENYL PHENOL see o-PHENYLPHENOL			
1505	PHENYLPHOSPHINE PHOSPHINE, PHENYL-	638-21-1		1 2
syn	PHENYL PHOSPHORUS DICHLORIDE see BENZENE PHOSPHOROUS * DICHLORIDE			
2662	PHENYL PHOSPHORUS THIODICHLORIDE	3497-00-5	2799	3
2663	PHENYLSILATRANE	2097-19-0		16 19
2664	PHENYLTHIOUREA	103-85-5		16 19 20 21
1506	# PHENYL TRICHLOROSILANE TRICHLOROPHENYLSILANE	98-13-5	1804	(CO) 3 15 16 19
2665 gen	PHENYL UREA PESTICIDES, FLAMMABLE LIQUID, TOXIC, n.o.s., * flash point less than 23C		2768	3
2666 gen	PHENYL UREA PESTICIDES, FLAMMABLE LIQUID, TOXIC, n.o.s., flash * point between 23C and 61C		3001	3
2667 gen	PHENYL UREA PESTICIDES, LIQUID, TOXIC, n.o.s.		3002	3
2668 gen	PHENYL UREA PESTICIDES, SOLID, TOXIC, n.o.s.		2767	3
1507	# PHENYTOIN 2,4-IMIDAZOLIDINEDIONE, 5,5-DIPHENYL-	57-41-0	1851	(CA,TE) 3 5 7
1508	PHORATE PHOSPHORODITHIOIC ACID, O,O-DIETHYL S- (ETHYLTHIO)METHYL ESTER	298-02-2	2783	1 2 3 14 16 19 20 21
2669	PHOSACETIM	4104-14-7	1681	3 16 19
1509	PHOSDRIN 2-BUTENOIC ACID, 3- (DIMETHOXYPHOSPHINYL)OXY -, METHYL ESTER	7786-34-7	3018	1 2 3 14 16 19 20 21
2670	PHOSFOLAN	947-02-4	2783+	3 16 19
1510	PHOSGENE CARBONIC DICHLORIDE	75-44-5	1076	1 2 3 4 6 15 16 18 19 20 21
syn	PHOSMET see DECENTHION			
1511	# 9-PHOSPHABICYCLONONANE 9-PHOSPHABICYCLO 4.2.1 NONANE	13396-80-0	2940	(CO) 3
1512	9-PHOSPHABICYCLONONANE 9-PHOSPHABICYCLO 3.3.1 NONANE	13387-02-0	2940	3
1513	PHOSPHAMIDON PHOSPHORIC ACID, 2-CHLORO-3-(DIETHYLAMINO)-1-METHYL-3-OXO-1-PRO	13171-21-6	2783	3 14 16 19
1514	# PHOSPHINE	7803-51-2	2199	(F4) 1 2 3 15 16 19 20 21
syn	PHOSPHINE SULFIDE, TRIS(1-AZIRIDINYL)- see TRIS(1-AZIRIDINYL) * PHOSPHINE SULFIDE			
2671	PHOSPHONOTHIOIC ACID, METHYL-, O-ETHYL O-(4-METHYLTHIO) * PHENYL ESTER	2703-13-1	3018	3 16 19
2672	PHOSPHONOTHIOIC ACID, METHYL-, O-(4-NITROPHENYL) O- * PHENYL ESTER	2665-30-7	3018	3 16 19
2673	PHOSPHONOTHIOIC ACID, METHYL-, S-(2-(BIS(METHYL * ETHYL)AMINO)ETHYL)O-ETHYL ESTER	50782-69-9		3 16 19
1516	# PHOSPHORIC ACID	7664-38-2	1805	(CO) 1 2 3 18 20
2674	PHOSPHORIC ACID, DIMETHYL 4-(METHYLTHIO)PHENYL ESTER	3254-63-5	3018	3 16 19
syn	PHOSPHORIC ACID TRIETHYLENEIMINE see 1-AZIRIDINYL * PHOSPHINE OXIDE (TRIS)			
1517	# PHOSPHORIC ANHYDRIDE PHOSPHORUS OXIDE	1314-56-3	1807	(CO) 3 16 19
2910	PHOSPHOROTHIOTIC ACID, O,O-DIMETHYL-S-(2-METHYLTHIO)EHTYL * ESTER	2587-90-8		19
1519	PHOSPHOROUS ACID, ortho PHOSPHONIC ACID	13598-36-2	2834	3
syn	PHOSPHOROUS PENTOXIDE see PHOSPHORIC ANHYDRIDE			
syn	PHOSPHORUS see PHOSPHORUS, AMORPHOUS, RED			
1520	PHOSPHORUS, AMORPHOUS, RED PHOSPHORUS (RED)	7723-14-0	1338	3 14 15 16 19 20
1521	PHOSPHORUS HEPTA-SULPHIDE PHOSPHORUS SULFIDE	12037-82-0	1339	3
1522	# PHOSPHORUS OXYBROMIDE PHOSPHORYL BROMIDE	7789-59-5	2576+	(CO) 3
1523	PHOSPHORUS OXYCHLORIDE PHOSPHORYL CHLORIDE	10025-87-3	1810	1 2 3 15 16 19 20
1524	# PHOSPHORUS PENTABROMIDE PHOSPHORANE, PENTABROMO-	7789-69-7	2691	(CO) 3
1525	# PHOSPHORUS PENTACHLORIDE PHOSPHORANE, PENTACHLORO-	10026-13-8	1806	(CO) 1 2 3 16 19
1526	PHOSPHORUS PENTAFLUORIDE PHOSPHORANE, PENTAFLUORO-	7647-19-0	2198	1 2 3
1527	PHOSPHORUS PENTASULFIDE PHOSPHORUS SULFIDE	1314-80-3	1340	1 2 3 20 21
syn	PHOSPHORUS PENTOXIDE see PHOSPHORIC ANHYDRIDE			
1528	PHOSPHORUS SESQUISULFIDE PHOSPHORUS SULFIDE	1314-85-8	1341	3
1529	# PHOSPHORUS TRIBROMIDE PHOSPHOROUS TRIBROMIDE	7789-60-8	1808	(CO) 3
1530	# PHOSPHORUS TRICHLORIDE PHOSPHOROUS TRICHLORIDE	7719-12-2	1809	(CO,RZ) 1 2 3 6 16 19 20
1531	PHOSPHORUS TRIFLUORIDE PHOSPHOROUS TRIFLUORIDE	7783-55-3		1 2 17
1532	# PHOSPHORUS TRIOXIDE PHOSPHORUS OXIDE	1314-24-5	2578	(CO) 3
1533	PHOSPHORUS TRISULFIDE PHOSPHORUS SULFIDE	12165-69-4	1343	3
1534	# PHOSPHORUS (YELLOW) PHOSPHORUS (WHITE)	7723-14-0	1381	(F3) 1 2 3 14 15 16 18 19
3005 gen	PHTHALATE ESTERS			20
1535	PHTHALIC ANHYDRIDE 1,3-ISOBENZOFURANDIONE	85-44-9	2214	1 2 3 12(A, B,G) 15 18 20 21

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2676 gen	PHTHALIMIDE DERIVATIVE PESTICIDES, LIQUID, TOXIC, n.o.s.		3008	3
2677 gen	PHTHALIMIDE DERIVATIVE PESTICIDES, SOLID, TOXIC, n.o.s.		2773	3
2678 gen	PHTHALIMIDE DERIVATIVE PESTICIDES, FLAMMABLE, LIQUID, * TOXIC, n.o.s., flash point less than 23C		2774	3
2679 gen	PHTHALIMIDE DERIVATIVE PESTICIDES, FLAMMABLE, LIQUID, * TOXIC, n.o.s., flash point between 23C and 61C		3007	3
1317	m-PHTHALODINITRILE 1,3-BENZENEDICARBONITRILE	626-17-5		1 2
2680	PHYLLOQUINONE	84-80-0	1851	3 16 19
2681	PHYSOSTIGMINE	57-47-6	2757	3 16 19
2682	PHYSOSTIGMINE, SALICYLATE (1:1)	57-64-7	2757	3 16 19
1536	PICLORAM 2-PYRIDINECARBOXYLIC ACID, 4-AMINO-3,5,6-TRICHLORO-	1918-02-1	2588	1 2 3 14
1537	PICOLINE PYRIDINE, METHYL-	1333-41-1	2313	3 15
2955	2-PICOLINE	109-06-8	2313	3 20 21
syn	PICRIC ACID see 2,4,6-TRINITROPHENOL			
2683	PICRITE, with greater than 20% WATER		1336	3
syn	PICROTOXIN see COCCULUS			
1538	PINANE HYDROPEROXIDE HYDROPEROXIDE, 2,6,6-TRIMETHYLBICYCLO 3.1.1 HEPTYL	28324-52-9	2162	3
syn	PINDONE see PIVAL			
0052	alpha-PINENE BICYCLO 3.1.1 HEPT-2-ENE, 2,6,6-TRIMETHYL-	80-56-8	2368	3
1539	# PINENE BICYCLO 3.1.1 HEPTANE, 2,6,6-TRIMETHYL-, DIDEHYDRO * DERATIVE	1330-16-1	2368	(F3) 3 15
2684 gen	PINE OIL	8002-09-3	1272	3
1540	# PIPERAZINE	110-85-0	2579	(CO) 3 15
1541	PIPERAZINE DIHYDROCHLORIDE	142-64-3		1 2
1542	PIPERAZINE HYDROCHLORIDE	6094-40-2		12(A,E)
1543	# PIPERIDINE	110-89-4	2401	(F3,R3) 3 15 16 19
2685	PIPROTAL	5281-13-0	2902	3 16 19
1544	PIRIMICARB CARBAMIC ACID, DIMETHYL-,2-(DIMETHYLAMINO)-5,6-DIMETHYL-4- * PYRIMIDYL ESTER	23103-98-2	2757	3 14
1545	PIRIMPHOS-ETHYL PHOSPHOROTHIOIC ACID, O,O-DIETHYL O-(2-(DIETHYLAMINO)-6-METHYL- * 4-PYRIMIDINYL) ESTER	23505-41-1	3018	3 14 16 19
1546	PIVAL 1H-INDENE-1,3(2H)-DIONE, 2-(2,2-DIMETHYL-1-OXOPROPYL)-	83-26-1	2472	1 2 3 14
2686 gen	PLASTICS MOULDING MATERIALS, EVOLVING FLAMMABLE VAPORS		2211	3
2687 gen	PLASTICS, NITROCELLULOSE BASED, SPONTANEOUSLY COMBUSTIBLE		2006	3
syn	PLATINIC CHLORIDE see CHLOROPLATINIC ACID			
2688	PLATINOUS CHLORIDE	10025-65-7		16 19
1547	PLATINUM	7440-06-4		1 2 12(A,B,D,G)
2689	PLATINUM TETRACHLORIDE	13454-96-1		16 19
2690 gen	POISONOUS LIQUIDS, FLAMMABLE, n.o.s.		2929	3
2691 gen	POISONOUS LIQUID OR GAS, FLAMMABLE, n.o.s.		1953	3
2692 gen	POISONOUS LIQUID OR GAS, n.o.s.		1955	3
2693 gen	POISONOUS LIQUIDS, CORROSIVE, n.o.s.		2927	3
2694 gen	POISONOUS LIQUIDS, n.o.s., OR POISON B LIQUIDS		2810	3
2695 gen	POISONOUS SOLIDS, CORROSIVE, n.o.s.		2928	3
2696 gen	POISONOUS SOLIDS, FLAMMABLE, n.o.s.		2930	3
2697 gen	POISONOUS SOLIDS, n.o.s.		2811	3
2698 gen	POLISHES, LIQUID		1263	3
2699 gen	POLISH, METAL, STOVE AND FURNITURE		1142	3
1552	# POLYBROMINATED BIPHENYLS	59536-65-1		(CA) 5 18
1553	# POLYBROMINATED BIPHENYLS	67774-32-7		(CA) 5 18
1554	# POLYCHLORINATED BIPHENYLS	1336-36-3	2315	(CA,TE) 1 3 4 5 6 7 8 18 20
3006 gen	POLYNUCLEAR AROMATIC HYDROCARBONS			20
2700 gen	POLYSTYRENE BEADS, EXPANDED, MIXTURE WITH FLAMMABLE LIQUID		2211	3
1555	# POTASSIUM	7440-09-7	2257	(R2) 3
1556	# POTASSIUM ARSENATE ARSENIC ACID, MONOPOTASSIUM SALT	7784-41-0	1677	(CA) 1 2 3 5 6 7 8 20
1557	# POTASSIUM ARSENITE ARSENIC ACID, POTASSIUM SALT	10124-50-2	1678	(CA) 1 2 3 5 6 7 8 16 19 20
syn	POTASSIUM BICHROMATE see POTASSIUM DICHROMATE			
syn	POTASSIUM BIFLUORIDE see POTASSIUM HYDROGEN FLUORIDE			
syn	POTASSIUM BISULFIDE see POTASSIUM HYDROGEN SULFATE			
2701 gen	POTASSIUM BISULFITE solution		2693	17
1558	POTASSIUM BOROHYDRIDE BORATE(1-), TETRAHYDRO-, POTASSIUM	13762-51-1	1870	3
1559	POTASSIUM BROMATE BROMIC ACID, POTASSIUM SALT	7758-01-2	1484	3 15
1560	POTASSIUM CHLORATE CHLORIC ACID, POTASSIUM SALT	3811-04-9	1485+	3 15
1561	# POTASSIUM CHROMATE CHROMIC ACID, DIPOTASSIUM SALT	7789-00-6	9142	(CA) 1 2 3 6 7 20
2702 gen	POTASSIUM CUPROCYANIDE		1679	3 6
1562	POTASSIUM CYANIDE	151-50-8	1680	1 2 3 4 6 16 19 20 21
1563	POTASSIUM DICHLOROISOCYANURATE 1,3,5-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE, 1,3-DICHLORO-, * POTASSIUM SALT	2244-21-5	2465	3 6
1564	# POTASSIUM DICHROMATE CHROMIC ACID, DIPOTASSIUM SALT	7778-50-9	1479	(CA) 1 2 3 5 6 7 8 15 20
2703 gen	POTASSIUM DITHIONITE		1929	17

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1565	# POTASSIUM FLUORIDE	7789-23-3	1812	(CO) 1 2 3
1566	POTASSIUM FLUOROACETATE ACETIC ACID, FLUORO-, POTASSIUM SALT	23745-86-0	2628	1 2 3
1567	POTASSIUM HEXACHLOROPLATINATE PLATINATE(2-), HEXACHLORO-, DIPOTASSIUM, (OC-6-11)-	16921-30-5		1 2
syn	POTASSIUM HEXAFLUOROSILICATE see POTASSIUM SILICOFLUORIDE			
1568	# POTASSIUM HYDROGEN FLUORIDE POTASSIUM FLUORIDE	7789-29-9	1811	(CO) 1 2 3
1569	# POTASSIUM HYDROGEN SULFATE SULFURIC ACID, MONOPOTASSIUM SALT	7646-93-7	2509	(CO) 3
1570	POTASSIUM HYDROSULFITE DITHIONOUS ACID, DIPOTASSIUM SALT	14293-73-3	1929	3
1571	# POTASSIUM HYDROXIDE	1310-58-3	1813+	(CO) 1 2 3 20
1572	POTASSIUM HYPOCHLORITE HYPOCHLOROUS ACID, POTASSIUM SALT	7778-66-7	1791	3
1573 chg	POTASSIUM METAVANADATE VANADATE, POTASSIUM	13769-43-2	2864	3
1574	POTASSIUM NITRATE NITRIC ACID, POTASSIUM SALT	7757-79-1	1486	3
2704 gen	POTASSIUM NITRATE and SODIUM NITRITE, MIXTURE		1487	3
1575	POTASSIUM NITRITE NITROUS ACID, POTASSIUM SALT	7758-09-0	1488	3
1576	# POTASSIUM OXIDE	12136-45-7	2033	(CO) 3
1577	# POTASSIUM PERCHLORATE PERCHLORIC ACID, POTASSIUM SALT	7778-74-7	1489	(R2) 3 15
1578	POTASSIUM PERMANGANATE PERMANGANIC ACID, POTASSIUM SALT	7722-64-7	1490	3 20
1579	# POTASSIUM PEROXIDE	17014-71-0	1491	(R2) 3
1580	POTASSIUM PERSULFATE PEROXYDISULFURIC ACID, DIPOTASSIUM SALT	7727-21-1	1492	3 15
1581 chg	POTASSIUM PHOSPHIDE	20770-41-6	2012	3
2705 gen	POTASSIUM SALTS OF NITRO-AROMATIC DERIVATIVES, explosive		0158	3
2706	POTASSIUM SELENATE	7790-59-2	2630	17
2707	POTASSIUM SELENITE	10431-47-7	2630	17
1582	POTASSIUM SILICOFLUORIDE SILICATE(2-), HEXAFLUORO-, DIPOTASSIUM	16871-90-2	2655	1 2 3
2708	POTASSIUM SILVER CYANIDE	506-61-6	1588	3 6 16 19 20 21
2709 gen	POTASSIUM-SODIUM ALLOY	11135-81-2	1422	3
1583 chg	# POTASSIUM SULFIDE	1312-73-8	1382+	(CO) 3
1584	POTASSIUM SUPEROXIDE	12030-88-5	2466	3
1585	POTASSIUM TETRACHLOROPLATINATE PLATINATE, TETRACHLORO-, DIPOTASSIUM,	10025-99-7		1 2
syn	POTASSIUM TETRACYANOMERCURATE (II) see MERCURIC POTASSIUM * CYANIDE			
1587	# PRAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-1- * (CYCLOPROPYLMETHYL)- PHENYL-	2955-38-6	1851	(TE) 3 13(EE,FF)
1588	PREDNISOLONE PREGNA-1,4-DIENE-3,20-DIONE, 11,17,21-TRIHYDROXY-, (11beta)-	50-24-8	1851	3 13(Z,AA,FF)
1589	PREDNISONE PREGNA-1,4-DIENE-3,11,20-TRIONE, 17,21-DIHYDROXY-	53-03-2	1851	3 13(Z,AA,FF)
syn	PROCARBAZINE see n-ISOPROPYL-alpha-(2-METHYLHYDRAZINO) * -p-TOLUAMIDE			
1590	# PROCARBAZINE HYDROCHLORIDE BENZAMIDE, N-(1-METHYLETHYL)-4- (2-METHYLHYDRAZINO)METHYL -, * MONOHYDROCHLORIDE	366-70-1	1851	(CA,MU,TE) 3 5 7 13(D, H,L,Q)
1591	# PROGESTERONE PREGN-4-ENE-3,20-DIONE	57-83-0	1851	(CA,MU) 3 7
2710	PROMECARB	2631-37-0	2757+	3 16 19
1592	# PRONAMIDE BENZAMIDE, 3,5-DICHLORO-n-(1,1-DIMETHYL-2-PROPYNYL)-	23950-58-5		(CA) 8 20 21
1593	PROPADIENE 1,2-PROPADIENE	463-49-0	2200	3
syn	1-PROPANAMINE see PROPYLAMINE			
1594	# PROPANE	74-98-6	1978	(F4) 1 2 3 15
syn	PROPANE MIXTURES see LIQUEFIED PETROLEUM GAS			
syn	PROPANE SULTONE see 1,2-OXATHIOLANE 2,2-DIOXIDE			
1595	PROPANETHIOL	79869-58-2	2402	3 4
1596	PROPARGITE SULFUROUS ACID, 2- 4-(1,1-DIMETHYLETHYL)PHENOXY CYCLOHEXYL 2- * PROPYNYL ESTER	2312-35-8	2765	3 20
1597	# PROPARGYL ALCOHOL 2-PROPYN-1-OL	107-19-7	1986	(F3,R3) 1 2 3 15 20 21
syn	PROPARGYL BROMIDE see 3-BROMOPROPYNE			
0228 chg	# beta-PROPIOLACTONE 2-OXETANONE	57-57-8		(CA,CO,MU) 1 2 5 7 8 15 16 18 19
1598	# PROPIONALDEHYDE PROPANAL	123-38-6	1275	(F3) 3 15 18
1599	# PROPIONIC ACID PROPANOIC ACID	79-09-4	1848	(CO) 1 2 3 15 20
1600	# PROPIONIC ANHYDRIDE PROPANOIC ACID, ANHYDRIDE	123-62-6	2496	(CO) 3 15 20
1601	# PROPIONITRILE PROPANENITRILE	107-12-0	2404	(F3) 3 4 15 16 19 20 21
syn	PROPIONITRILE, 3-CHLORO- see 3-CHLOROPROPIONITRILE			
1602	# PROPIONYL CHLORIDE PROPANOYL CHLORIDE	79-03-8	1815	(CO,F3) 3 15
1603	PROPIONYL PEROXIDE PEROXIDE, BIS(1-OXOPROPYL)	3248-28-0	2132	3
2911	PROPIOPHENONE, 4-AMINO-	70-69-9		19
1604	PROPOXUR PHENOL, 2-(1-METHYLETHOXY)-, METHYLCARBAMATE	114-26-1	2588	1 2 3 6 14 18
1419	# n-PROPYL ACETATE ACETIC ACID, PROPYL ESTER	109-60-4	1276	(F3) 1 2 3 15
1605 chg	# PROPYL ALCOHOL 1-PROPANOL	71-23-8	1274	(F3) 1 2 3 15
syn	sec-PROPYL ALCOHOL see ISOPROPYL ALCOHOL			
1606	# PROPYLAMINE 1-PROPANAMINE	107-10-8	1277	(F3) 3 15 20 21
1607	# PROPYL BENZENE BENZENE, PROPYL-	103-65-1	2364	(F3) 3 15
2062	PROPYL CHLORIDE	540-54-5	1278	3
1608	# PROPYLCHLOROFORMATE CARBONOCHLORIDIC ACID, PROPYL ESTER	109-61-5	2740	(CO) 3 16 19
1609	# PROPYLENE 1-PROPENE	115-07-1	1077	(F4) 2 3 15 18

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1610	PROPYLENE CHLOROHYDRIN 1-PROPANOL, 2-CHLORO-	78-89-7	2611	3 15
1611	# PROPYLENEDIAMINE 1,2-PROPANEDIAMINE	78-90-0	2258	(CO,F3) 3 15
syn	PROPYLENE DICHLORIDE see 1,2-DICHLOROPROPANE			
2712	PROPYLENE GLYCOL, ALLYL ETHER	1331-17-5		16 19
1612	PROPYLENE GLYCOL DINITRATE 1,2-PROPANEDIOL, DINITRATE	6423-43-4		1 2
1613	PROPYLENE GLYCOL MONOMETHYL ETHER 2-PROPANOL, 1-METHOXY-	107-98-2		1 2
1614	PROPYLENE IMINE 2-METHYLAZIRIDINE	75-55-8	1921	1 2 3 16 18 19 20 21
1615	# PROPYLENE OXIDE OXIRANE, METHYL-	75-56-9	1280	(F4,MU,R2) 1 2 3 6 15 16 18 19 20
2713 gen	PROPYLENE TETRAMER	6842-15-5	2850	3
syn	PROPYL ETHER see DIPROPYL ETHER			
1616	# PROPYL FORMATE FORMIC ACID, PROPYL ESTER	110-74-7	1281	(F3) 3 15
1617	PROPYL ISOCYANATE 1-ISOCYANATOPROPANE	110-78-1	2482	3
1618	PROPYL MERCAPTAN 1-PROPANETHIOL	107-03-9	2704	3
1420	# n-PROPYL NITRATE NITRIC ACID, PROPYL ESTER	627-13-4	1865	(F3,R3) 1 2 3 15
1968 chg	# 6-PROPYL-2-THIOURACIL 4(1H)-PYRIMIDINONE, 2,3-DIHYDRO-6-PROPYL-2-THIOXO-	51-52-5		(CA,MU) 7 8
1619	# PROPYL TRICHLOROSILANE SILANE, TRICHLOROPROPYL-	141-57-1	1816	(CO,F3,R2) 3 15
2715	PROTHOATE	2275-18-5	2783+	3 16 19
2716	PSEUDOCUMENE	95-63-6	1263	3 16 18 19
syn	PYRENE see INDENO (1,2,3-cd) PYRENE			
3064	PYRETHRINS	121-21-1	9184	3 20
3065	PYRETHRINS	121-29-9	9184	3 20
1623	PYRETHRUM PYRETHRINS AND PYRETHROIDS	8003-34-7	9184	1 2 3
1624	# PYRIDINE	110-86-1	1282	(F3) 1 2 3 15 18 20 21
syn	PYRIDINE, 4-AMINO see AVITROL			
2717	PYRIDINE, 2-METHYL-5-VINYL-	140-76-1	1993	3 16 19
2718	PYRIDINE, 4-NITRO-, 1-OXIDE	1124-33-0		16 19
2719	PYRIMINIL	53558-25-1	2588	3 16 19
syn	PYROCATECHOL see 1,2-DIHYDROXYBENZENE			
syn	PYROPHORIC FUEL, n.o.s. see FUEL, PYROPHORIC, n.o.s.			
2721 gen	PYROPHORIC LIQUIDS, n.o.s.		2845	3
2722 gen	PYROPHORIC METALS OR ALLOYS, n.o.s.		1383	3
2723 gen	PYROPHORIC SOLIDS, n.o.s.		2846	3
2884 gen	PYROSULFURIC ACID		1831	3
1625	# PYROSULPHURYL CHLORIDE PYROSULFURYL CHLORIDE	7791-27-7	1817	(CO) 3
1626	# PYRROLIDINE	123-75-1	1922	(F3) 3 15
1627	QUINACRINE HYDROCHLORIDE 1,4-PENTANEDIAMINE, N,N,N,N-(6-CHLORO-2-METHOXY-9-ACRIDINYL)-N, * N-DIETHYL-, DIHYDROCHLORINE	69-05-6		13(Y,FF)
1628	# QUINOLINE	91-22-5	2656	(MU) 3 6 15 18 20
1629	# QUINOLINE, 4-NITRO-, 1-OXIDE	56-57-5	1851	(CA,MU) 3 8
syn	QUINONE see p-BENZOQUINONE			
1630	# QUINTOZENE BENZENE, PENTACHLORONITRO-	82-68-8	2588	(CA) 3 6 8 18 20 21
2724 gen	RADIOACTIVE DEVICE, n.o.s.		2911	3
2725 gen	RADIOACTIVE MATERIAL, FISSILE, n.o.s.		2918	3
2726 gen	RADIOACTIVE MATERIAL, INSTRUMENTS AND ARTICLES		2911	3
2728 gen	RADIOACTIVE MATERIAL, LIMITED QUANTITY, n.o.s.		2910	3
2729 gen	RADIOACTIVE MATERIAL, LOW SPECIFIC ACTIVITY (LSA), n.o.s.		2912	3
2730 gen	RADIOACTIVE MATERIAL, n.o.s.		2982+	3
2732 gen	RADIOACTIVE MATERIAL, ARTICLES, from natural or depleted * URANIUM or natural THORIUM		2909	3
2733 gen	RADIOACTIVE MATERIAL, EMPTY PACKAGES		2908	3
2735 gen	RADIOACTIVE MATERIAL, SPECIAL FORM, n.o.s.		2974+	3
3007	RADIONUCLIDES			20
2738 gen	RAGS, OILY		1856	3
2739 gen	RARE GASES, MIXTURES		1979	3
2740 gen	RARE GASES, MIXTURES WITH NITROGEN		1981	3
2741 gen	RARE GASES, MIXTURES WITH OXYGEN		1980	3
syn	R-22 see CHLORODIFLUOROMETHANE			
syn	R-12 see DICHLORODIFLUOROMETHANE			
syn	RDX see CYCLONITE			
2742 gen	RECEPTACLES, SMALL, WITH FLAMMABLE COMPRESSED GAS		2037	3
1631	RED SQUILL		1681	3 14
syn	REDUCING LIQUID see FLAMMABLE LIQUID PREPARATIONS, n.o.s.			
2744 gen	REFRIGERANT GASES, n.o.s.		1078	3
2745 gen	REFRIGERANT GAS, FLAMMABLE, n.o.s.		1954	3
2746 gen	REFRIGERATING MACHINES, CONTAINING NONFLAMMABLE, NONTOXIC * LIQUEFIED GASES		2857	3
syn	REMOVING LIQUID see FLAMMABLE LIQUID PREPARATIONS, n.o.s.			
1632	# RESERPINE YOHIMBAN-16-CARBOXYLIC ACID, 11,17-DIMETHOXY-18- (3,4,5- * TRIMETHOXYBENZOYL)OXY-, METHYL ESTER, (3beta,16beta, * 17alpha,18beta,20alpha)-	50-55-5	1544	(CA,MU) 3 5 8 20 21

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1633	#	RESIN FAST BLACK WP		1602+	(CA) 3 9
2748 gen		RESIN OIL		1286	3
2749 gen		RESIN SOLUTION		2868	3
2751 gen		RESIN SOLUTION, POISONOUS		1896	3
1634		RESORCINOL 1,3-BENZENEDIOL	108-46-3	2876	1 2 3 15 20 21
2054		RESORCINOL DIGLYCIDYL ETHER OXIRANE, 2,2' - [1,3-PHENYLENEBIS (OXYMETHYLENE)] BIS-	101-90-6		10
1635		RHODIUM	7440-16-6		1 2
1636		RHODIUM TRICHLORIDE RHODIUM (III) CHLORIDE (1:3)	10049-07-7		1 2 16 19
syn		ROAD ASPHALT, LIQUID see ASPHALT FUMES			
syn		ROAD FLARES see EXPLOSIVES C			
2750 gen		ROAD OIL		1268+	3
2752 gen		RODENTICIDES, LIQUID OR SOLID, n.o.s.		1681	3
1637		RONNEL PHOSPHOROTHIOIC ACID, O,O-DIMETHYL O-(2,4,5- * TRICHLOROPHENYL) ESTER	299-84-3	2783	1 2 3
2753 gen		ROSIN OIL	8002-16-2	1286	3
1638	#	ROTENONE (1) BENZOPYRANO (3,4-B) FURO (2,3-H) (1) BENZOPYRAN-6(6AH)-ONE, * 1,2,12,12A-TETRAHYDRO-8,9-DIMETHOXY-2-(1-METHYLETHENYL)-, * 2R-2 alpha,6A alpha,12A alpha) -	83-79-4	2588	(CO) 1 2 3
syn		ROZOL see CHLOROPHACINONE			
2754 gen		RUBBER SCRAP, POWDERED OR GRANULATED		1345	3
2755 gen		RUBBER SOLUTION		1287	3
syn		RUBBER SOLVENT see BENZINE			
1639		RUBIDIUM	7440-17-7	1423	3
1640	#	RUBIDIUM HYDROXIDE	1310-82-3	2678+	(CO) 3 15
1641	#	SACCHARIN 1,1-DIOXIDE-1,2-BENZISOTHIAZOL-3(2H)-ONE	81-07-2		(CA) 5 8 18 20 21
1642	#	SAFROLE 1,3-BENZODIOXOLE, 5-(2-PROPENYL)-	94-59-7	1851+	(CA,MU) 3 5 6 8 15 18 20 21
2756		SALCOMINE	14167-18-1		16 19
2757		SARIN	107-44-8		16 19
2758 gen		SEED CAKE, CONTAINING VEGETABLE OIL, MECHANICALLY EXPELLED * greater than 10% of OIL or more than 20% of OIL and MOISTURE		1386	3
2759 gen		SEED CAKE, CONTAINING VEGETABLE OIL, SOLVENT EXTRACTIONS * less than 10% OF OIL or more than 20% of OIL and MOISTURE		1386	3
2760 gen		SEED CAKE, CONTAINING VEGETABLE OIL, less than 1.5% OIL and * greater than 11% MOISTURE		2217	3
2761 gen		SELENATES, n.o.s., or SELENITES, n.o.s.		2630	3 20
1647	#	SELENIC ACID	7783-08-6	1905	(CO) 1 2 3
syn		SELENIOUS ACID see SELENOUS ACID			
1648		SELENIUM	7782-49-2	2658	1 2 3 18 20 21
2347 gen		SELENIUM compounds, n.o.s.		2658	3 18
syn		SELENIUM DIOXIDE see SELENIUM OXIDE			
1649		SELENIUM DISULFIDE	7488-56-4	2657	1 2 3 20 21
1650		SELENIUM HEXAFLUORIDE SELENIUM FLUORIDE (SeF6),	7783-79-1	2194	1 2 3
1651 chg	+	SELENIUM OXIDE	7446-08-4	2811	(MU) 1 2 3 20 21
1652	#	SELENIUM OXYCHLORIDE SELENINYL CHLORIDE	7791-23-3	2879	(CO) 1 2 3 15 16 19
1653 chg	#	SELENIUM SULFIDE	7446-34-6	2630	(CA) 1 2 3 5 8
2762		SELENOUS ACID	7783-00-8	2928+	3 16 19 20 21
2763		SELF-REACTIVE SUBSTANCES, SAMPLES, n.o.s.		3031	17
2764 gen		SELF-REACTIVE SUBSTANCES, TRIAL QUANTITIES, n.o.s.		3032	17
2765		SEMICARBAZIDE HYDROCHLORIDE	563-41-7	2811	3 16 19
1654		SESONE ETHANOL, 2-(2,4-DICHLOROPHENOXY)-, HYDROGEN SULFATE, SODIUM SALT	136-78-7		1 2
2766 gen		SHALE OIL		1288	3
2767 gen		SHELLAC	9000-59-3	1263	3
2768		SILANE, (4-AMINOBUTYL)DIETHOXYMETHYL-	3037-72-7		16 19
1655		SILICA, AMORPHOUS, FUMED SILICA, FUMED	7631-86-9		1 2
1656		SILICA, AMORPHOUS, FUSED SILICA, FUSED	60676-86-0		1 2
1657		SILICA, CRISTOBALITE SILICA, CRYSTALLINE-CRISTOBALITE	14464-46-1		1 2 4 10
1658		SILICA, GRAPNITE SILICON CARBIDE	409-21-2		1
1659		SILICA, MICA SILICATE, MICA	12001-26-2		1 2
1660		SILICA, QUARTZ SILICA, CRYSTALLINE-QUARTZ	14808-60-7		1 2
1661		SILICATE, PORTLAND CEMENT	65997-15-1		1
1662		SILICATE, SOAPSTONE			1 2
1663		SILICA, TRIDYMITE SILICA, CRYSTALLINE-TRIDYMITE	15468-32-3		1 2
1664 chg		SILICA, TRIPOLI	1317-95-9	1123	1 2 3
1665 chg		SILICOFLUORIC ACID SILICATE (2-), HEXAFLUORO-, DIHYDROGEN	16961-83-4	1778	1 2 3
syn		SILICOFLUORIDES, n.o.s. see FLUOROSILICATES, n.o.s.			
1666		SILICON TETRACHLORIDE SILANE, TETRACHLORO-	10026-04-7	1818	3
1667		SILICON TETRAFLUORIDE SILANE, TETRAFLUORO-	7783-61-1	1859	3
1668		SILICON TETRAHYDRIDE SILANE	7803-62-5	2203	1 2 3
1669		SILVER	7440-22-4		1 2 18 20 21
3008 gen		SILVER and compounds			18 20
1670		SILVER ARSENITE ARSENOUS ACID, TRISILVER(1+) SALT	7784-08-9	1683	1 3 6
1671		SILVER CYANIDE	506-64-9	1684	3 6 20 21

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1672		SILVER NITRATE NITRIC ACID SILVER(1+) SALT	7761-88-8	1493	1 2 3 20
1673		SILVER PICRATE PHENOL, 2,4,6-TRINITRO-, SILVER(1+) SALT	146-84-9	1347	1 2 3
2770 gen		SLUDGE ACID	64742-24-1	1906	3
2771 gen		SMOKELESS POWDER, SMALL ARMS		1325	3
syn		SOAPSTONE see TALC			
2772 gen		SODA LIME	8006-28-8	1907	3
1674	#	SODIUM	7440-23-5	1428	(R2) 3 20
1675 chg	#	SODIUM ALUMINATE SODIUM ALUMINUM OXIDE	11138-49-1	1819	(CO) 3
1676		SODIUM ALUMINUM FLUORIDE SODIUM FLUOALUMINATE	15096-52-3		1 2 4
1677		SODIUM ALUMINUM HYDRIDE ALUMINATE(1-), TETRAHYDRO-, SODIUM, (T-4)-	13770-96-2	2835	2 3
1678		SODIUM AMALGAM MERCURY ALLOY, BASE	11110-52-4	1424	1 3
1679		SODIUM AMIDE	7782-92-5	1425	3
1680		SODIUM AMMONIUM VANADATE SODIUM VANADATE	13718-26-8	2863	3
2773		SODIUM ANTHRAQUINONE-1-SULFONATE	128-56-3		16 19
1681		SODIUM ARSANILATE ARSONIC ACID, (4-AMINOPHENYL)-, MONOSODIUM SALT	127-85-5	2473	1 2 3
1682	#	SODIUM ARSENATE ARSENIC ACID, SODIUM SALT	7631-89-2	1685	(CA,TE) 1 2 3 6 7 8 16 19 20
1683 chg	#	SODIUM ARSENITE ARSENENOUS ACID, SODIUM SALT	7784-46-5	1686+	(CA,MU,TE) 1 2 3 5 6 7 8 16 19 20
1684	#	SODIUM AZIDE	26628-22-8	1687	(MU) 1 2 3 14 16 19 20 21
syn		SODIUM BICHROMATE see SODIUM DICHROMATE			
syn		SODIUM BIFLUORIDE see SODIUM HYDROGEN FLUORIDE			
syn		SODIUM BISULFATE see SODIUM HYDROGEN SULFATE			
syn		SODIUM BISULFIDE see SODIUM HYDROSULFIDE			
1685	#	SODIUM BISULFITE SULFUROUS ACID, MONOSODIUM SALT	7631-90-5	2693	(CO) 1 2 3 20
0241 chg		SODIUM BORATES BORATE, TETRA SODIUM SALTS	1303-96-4	1458	1 2 3
2063		SODIUM BOROHYDRIDE	16940-66-2	1426	3
1686		SODIUM BROMATE BROMIC ACID, SODIUM SALT	7789-38-0	1494	3
1687		SODIUM CACODYLATE ARSINIC ACID, DIMETHYL-, SODIUM SALT	124-65-2	1688	1 3 16 19
1688	#	SODIUM CHLORATE CHLORIC ACID, SODIUM SALT	7775-09-9	1495+	(R2) 1 3 14 15
1689	#	SODIUM CHLORITE CHLOROUS ACID, SODIUM SALT	7758-19-2	1496+	(CO,R2) 3 15
1690		SODIUM CHLOROACETATE ACETIC ACID, CHLORO-, SODIUM SALT	3926-62-3	2659	3
1691		SODIUM CHLOROPLATINATE PLATINATE(2-), HEXACHLORO-DISODIUM, TETRAHYDRATE	1307-82-0		1 2
1692	#	SODIUM CHROMATE CHROMIUM SODIUM OXIDE	7775-11-3	9145	(CA) 1 2 3 5 6 7 8 20
2774		SODIUM CUPROCYANIDE SOLID		2316	3 6
2775		SODIUM CUPROCYANIDE SOLUTION		2317	3 6
1693		SODIUM CYANIDE	143-33-9	1689	1 2 3 4 6 14 16 19 20 21
2776		SODIUM 2-DIAZO-1-NAPHTHOL-4-SULFONATE		3040	17
2777		SODIUM 2-DIAZO-1-NAPHTHOL-5-SULFONATE		3041	17
1694		SODIUM DICHLORO-ISOCYANATE S-TRIAZINE-2,4,6 (1H,3H,5H)-TRIONE, DICHLORO-, SODIUM SALT	2893-78-9	2465	3 6
syn		SODIUM DICHLORO-S-TRIAZINETRIONE see SODIUM DICHLORO- * ISOCYANATE			
1695	#	SODIUM DICHROMATE CHROMIC ACID, DISODIUM SALT	10588-01-9	1479	(CA) 1 2 3 5 6 7 8 20
1696		SODIUM DINITRO-ortho-CRESOLATE o-CRESOL, 4,6-DINITRO-, SODIUM SALT	2312-76-7	0234+	3
1697 chg	+	SODIUM DITHIONITE DITHIONOUS ACID, DISODIUM SALT	7775-14-6	1384	(F3,R4) 3
1698		SODIUM DODECYLBENZENE SULFONATE BENZENE SULFONIC ACID, DODECYL-, SODIUM SALT	25155-30-0	9146	3 20
1699 chg		SODIUM FLUORIDE	7681-49-4	1690	1 2 3 20
3038		SODIUM FLUORIDES			3 20
1700		SODIUM FLUOROACETATE ACETIC ACID, FLUORO-, SODIUM SALT	62-74-8	2629	1 2 3 14 16 19 20 21
1701		SODIUM FLUOROSILICATE SILICATE(2-), HEXAFLUORO-, DISODIUM	16893-85-9	2674	1 2 3
syn		SODIUM HEXACHLOROPLATINATE (IV) see SODIUM CHLOROPLATINATE			
1702	#	SODIUM HYDRIDE	7646-69-7	1427	(F3,R2) 3 15
1703	#	SODIUM HYDROGEN FLUORIDE SODIUM FLUORIDE	1333-83-1	2439	(CO) 1 2 3 20
1704	#	SODIUM HYDROGEN SULFATE SULFURIC ACID, MONOSODIUM SALT	7681-38-1	1821+	(CO) 3
1705	#	SODIUM HYDROSULFIDE SODIUM SULFIDE	16721-80-5	2318+	(CO) 3 20
1706	#	SODIUM HYDROXIDE	1310-73-2	1823+	(CO) 1 2 3 4 18 20
1707		SODIUM HYPOCHLORITE HYPOCHLOROUS ACID, SODIUM SALT	7681-52-9	1791	3 20
3039		SODIUM HYPOCHLORITE	10022-70-5	1791	3 20
1708		SODIUM METABISULFITE PYROSULFUROUS ACID, DISODIUM SALT	7681-57-4	2693	1 2 3
syn		SODIUM METHOXIDE see SODIUM METHYLATE			
1709		SODIUM METHYLATE METHANOL, SODIUM SALT	124-41-4	1289+	3 20
1710	#	SODIUM MONOXIDE SODIUM OXIDE	12401-86-4	1825	(CO) 3
1711		SODIUM NITRATE NITRIC ACID SODIUM SALT	7631-99-4	1498	3 15
2258		SODIUM NITRITE	7632-00-0	1500	3 20
syn		SODIUM NITRITE and POTASSIUM NITRATE MIXTURES see POTASSIUM * NITRATE and SODIUM NITRITE, MIXTURE			
1712		SODIUM PENTACHLOROPHENATE PHENOL, PENTACHLORO-, SODIUM SALT	131-52-2	2567	3 16 19
1713		SODIUM PERCARBONATE CARBONOPEROXOIC ACID, DISODIUM SALT	4452-58-8	2467	3

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1714	SODIUM PERCARBONATE CARBONIC ACID DISODIUM SALT, COMPOUND * WITH HYDROGEN PEROXIDE	15630-89-4	2467	3
1715	SODIUM PERCARBONATE PEROXYDICARBONIC ACID, DISODIUM SALT	3313-92-6	2467	3
1716	# SODIUM PERCHLORATE PERCHLORIC ACID, SODIUM SALT	7601-89-0	1502	(R2) 3 15
1717	SODIUM PERMANGANATE PERMANGANIC ACID, SODIUM SALT	10101-50-5	1503	3
1718	# SODIUM PEROXIDE	1313-60-6	1504	(R2) 3 15
1721	SODIUM PERSULFATE PEROXYDISULFURIC ACID DISODIUM SALT	7775-27-1	1505	3
1722	# SODIUM PHENOLATE PHENOL, SODIUM SALT	139-02-6	2497	(CO) 3
syn	SODIUM PHENOXIDE see SODIUM PHENOLATE			
1723	SODIUM PHOSPHATE, DIBASIC PHOSPHORIC ACID, DISODIUM SALT	7558-79-4	9147	3 20
3040	SODIUM PHOSPHATE, DIBASIC	10039-32-4	9147	3 20
3041	SODIUM PHOSPHATE, DIBASIC	10140-65-5	9147	3 20
1724	SODIUM PHOSPHATE, TRIBASIC PHOSPHORIC ACID, TRISODIUM SALT	7601-54-9	9148	3
3042	SODIUM PHOSPHATE, TRIBASIC	7758-29-4	9148	3 20
3043	SODIUM PHOSPHATE, TRIBASIC	7765-84-4	9148	3 20
3044	SODIUM PHOSPHATE, TRIBASIC	10101-89-0	9148	3 20
3045	SODIUM PHOSPHATE, TRIBASIC	10124-56-8	9148	3 20
3046	SODIUM PHOSPHATE, TRIBASIC	10361-89-4	9148	3 20
1725	SODIUM PHOSPHIDE	12058-85-4	1432	3 20
2780 gen	SODIUM PICRAMATE, WET, greater than 20% water	831-52-7	1349	3
syn	SODIUM-POTASSIUM ALLOY see POTASSIUM-SODIUM ALLOY			
2782 gen	SODIUM SALTS OF NITRO-AROMATIC DERIVATIVES, n.o.s.		0203	3
1726	SODIUM SELENATE SELENIC ACID, DISODIUM SALT	13410-01-0	2630	1 2 3 16 19
1727	SODIUM SELENITE SELENIOUS ACID, DISODIUM SALT	10102-18-8	2630	1 2 3 16 19 20
3047	SODIUM SELENITE	7782-82-3	2630	3 20
2906 gen	SODIUM SULFATE, solution	7757-82-6		18
1728	# SODIUM SULFIDE	1313-82-2	1385	(CO) 3
1729	SODIUM SUPEROXIDE	12034-12-7	2547	3
2783	SODIUM TELLURITE	10102-20-2		16 19
2784 gen	SOLVENT, n.o.s.		1993	3
syn	SPENT MIXED ACID see ACID MIXTURES, SPENT, NITRATING			
1730	SPIRAMYCIN	8025-81-8		12(A,G)
syn	STAIN see PAINTS, ENAMELS, LACQUERS, STAINS, etc.			
2912	STANNANE, ACETOXYTRIPHENYL-	900-95-8		19
syn	STANNIC CHLORIDE see TIN TETRACHLORIDE			

1731	# STANNIC CHLORIDE, HYDRATED
	TIN(IV) CHLORIDE, PENTAHYDRATE(1:4:5)
		10026-06-9	2440	(CO)
				1 2 3

1732 chg	STANNIC PHOSPHIDE TIN PHOSPHIDE	25324-56-5	1433	1 2 3
1733	STANNOUS CHLORIDE TIN CHLORIDE	7772-99-8	1759	1 2 3
1734	STANNOUS FLUORIDE TIN FLUORIDE	7783-47-3		1 2
2787 gen	STEEL SWARF		2793	17
1735	STIBINE	7803-52-3	2676	1 2 3
1736	STODDARD SOLVENT	8052-41-3	1993	1 2 3
2788 gen	STRAW		1327	3
1737	STREPTOMYCIN	57-92-1	1851	3 13(Y,FF)
1738 chg	# STREPTOZOCIN D-GLUCOSE, 2-DEOXY-2- (METHYLNITROSOAMINO)CARBONYL AMINO -	18883-66-4	1851	(MU) 3 5 8 20 21
1739	STRONTIUM	7440-24-6	1434	3
1740	STRONTIUM ARSENITE	15195-06-9	1691	1 2 3
1741	STRONTIUM CHLORATE CHLORIC ACID, STRONTIUM SALT	7791-10-8	1506	3
1742	# STRONTIUM CHROMATE CHROMIC ACID, STRONTIUM SALT (1:1)	7789-06-2	9149	(CA) 3 5 7 8 20
1743	STRONTIUM NITRATE NITRIC ACID, STRONTIUM SALT	10042-76-9	1507	3
1744	STRONTIUM PERCHLORATE PERCHLORIC ACID, STRONTIUM SALT	13450-97-0	1508	3
1745	STRONTIUM PEROXIDE	1314-18-7	1509	3
1746	STRONTIUM PHOSPHIDE	12504-13-1	2013	3
3009	STRONTIUM SULFIDE	1314-96-1		20 21
1747	STRYCHNINE STRYCHNIDIN-10-ONE	57-24-9	1692	1 2 3 14 16 19 20 21
2789	STRYCHNINE, SULFATE	60-41-3	1692	3 16 19
syn	STYPHNIC ACID see TRINITRORESORCINOL			
1748	# STYRENE MONOMER	100-42-5	2055	(F3,MU,R2) 1 2 3 4 6 15 18 20
1749 chg	# STYRENE OXIDE OXIRANE, PHENYL-	96-09-3		(CA,MU,TE) 6 15 18
2790 gen	SUBSTANCES, WHICH, WHEN IN CONTACT WITH WATER, EMIT FLAMMABLE * GASES, n.o.s.		2813	3
2792 gen	SUBSTITUTED NITROPHENOL PESTICIDES, LIQUID, FLAMMABLE, TOXIC, * n.o.s., flash point less than 23C		2780	3
2791 gen	SUBSTITUTED NITROPHENOL PESTICIDES, LIQUID, FLAMMABLE, TOXIC, * n.o.s., flash point between 23C and 61C		3013	3
2793 gen	SUBSTITUTED NITROPHENOL PESTICIDES, LIQUID, TOXIC, n.o.s.		3014	3
2794 gen	SUBSTITUTED NITROPHENOL PESTICIDES, SOLID, TOXIC, n.o.s.		2779	3
1750	SUBTILISINS (Proteolytic Enz as 100% pure cryst enzyme) BACILLUS SUBTILIS BPN	1395-21-7		1 2
1751	SUCCINIC ACID PEROXIDE BUTANOIC ACID, 4,4'-DIOXYBIS 4-OXO-	123-23-9	2135	3
1752	SUCCINONITRILE BUTANEDINITRILE	110-61-2		4 15

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1753	#	SULFALLATE CARBAMODITHIOIC ACID, DIETHYL-, 2-CHLORO-2-PROPENYL ESTER	95-06-7	2902	(CA) 3 5
1754		SULFAMETHOXAZOLE BENZENESULFONAMIDE, 4-AMINO-N-(5-METHYL-3-(ISOXAZOLYL)-	723-46-6	1851	3 13(Y,EE,FF)
1755		SULFATHIAZOLE BENZENESULFONAMIDE, 4-AMINO-N-2-THIAZOLYL-	72-14-0	1851	3 12(A,B)
1756		SULFOTEPP THIODIPHOSPHORIC ACID, O-TETRAETHYL ESTER	3689-24-5	1704+	1 2 3 14 16 19 20 21
2795		SULFOXIDE, 3-CHLOROPROPYL OCTYL	3569-57-1		16 19
1757		SULFUR	7704-34-9	1350	3 15
1758 chg	#	SULFUR CHLORIDE	10025-67-9	1828	(CO,R2) 3 12 15 20
1759		SULFUR DIOXIDE	7446-09-5	1079	1 2 3 4 15 19
1760		SULFUR HEXAFLUORIDE SULFUR FLUORIDE	2551-62-4	1080	1 2 3
1761 chg	#	SULFURIC ACID	7664-93-9	1830+	(CO,R2) 1 2 3 4 16 18 19 20
1762 chg	+	SULFURIC ACID, FUMING SULFURIC ACID, MIXED WITH SULFUR TRIOXIDE	8014-95-7	1831	(CO) 1 2 3 4 20
3048		SULFUR MONOCHLORIDE	12771-08-3	1828	3 20
1764	#	SULFUROUS ACID SOLUTION SULFUROUS ACID (H2SO3)	7782-99-2	1833	(CO) 3
1765 chg		SULFUR PENTAFLUORIDE SULFUR FLUORIDE (S2F10)	5714-22-7		1 2
1766		SULFUR TETRAFLUORIDE SULFUR FLUORIDE	7783-60-0	2418	1 2 3 16 19
1767	#	SULFUR TRIOXIDE	7446-11-9	1829	(CO) 3 16 19
1768	#	SULFURYL CHLORIDE	7791-25-5	1834	(CO,R2) 3
1769		SULFURYL FLUORIDE	2699-79-8	2191	1 2 3 14
1770		SULPHAMIC ACID SULFAMIC ACID	5329-14-6	2967	3
1771		SULPROFOS PHOSPHORODITHIOIC ACID, O-ETHYL O- 4-(METHYLTHIO)PHENYL S- * PROPYL ESTER	35400-43-2	2902	1 2 3
1772		SWAT GLUTACONIC ACID, 3-HYDROXY-,DIMETHYL ESTER, DIMETHYL PHOSPHATE	122-10-1	3018	3 14
syn		SYMCLOSENE see TRICHLOROISOCYANURIC ACID			
2796		TABUN	77-81-6	1955	3 16 19
1773		TALC	14807-96-6		1 2
syn		2,4,5-T see 2,4,5-(TRICHLOROPHENOXY) ACETIC ACID			
1774		2,4,5-T AMINE PHENOL,2,4,5-TRICHLORO-COMPOUND WITH AMINE(1:1)	42589-07-1	2765	1 3
2931		2,4,5-T AMINE	1319-72-8	2765	3 20
2932		2,4,5-T AMINE	2008-46-0	2765	3 20
2933		2,4,5-T AMINE	3813-14-7	2765	3 20
2934		2,4,5-T AMINE	6369-96-6	2765	3 20
2935		2,4,5-T AMINE	6369-97-7	2765	3 20
1775		TANTALUM	7440-25-7		1 2
2797 gen		TAR, LIQUID		1993	17
1776		2,3,6-TBA BENZOIC ACID, 2,3,6-TRICHLORO-	50-31-7	3004	3 14
syn		TCA see TRICHLOROACETIC ACID			
syn		TCDD see 2,3,7,8-TETRACHLORODIBENZO-p-DIOXIN			
2799 gen		TEAR GAS CANDLES, NON-EXPLOSIVE		1700	3
2800 gen		TEAR GAS (IRRITATING SUBSTANCES, LIQUID OR SOLID), n.o.s.		1693	3
1777		TELLURIUM	13494-80-9		1 2 16 19
1778		TELLURIUM HEXAFLUORIDE TELLURIUM FLUORIDE	7783-80-4	2195	1 2 3 16 19
1779	#	TEMAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 7-CHLORO-1,3-DIHYDRO-3-HYDROXY-1- * METHYL-5-PHENYL-	846-50-4	1851	(TE) 3 13(EE,FF)
1780 chg		TEMEPHOS PHOSPHOROTHIOIC ACID, O,O'-(THIODI-4,1-PHENYLENE) O,O,O',O'- * TETRAMETHYL ESTER	3383-96-8	2783	1 2 3
1781		TEPP DIPHOSPHORIC ACID, TETRAETHYL ESTER	107-49-3	2783	1 2 3 14 16 19 20 21
2801		TERBUFOS	13071-79-9	2903	3 16 19
2901 chg		TEREPHTHALIC ACID 1,4-BENZENEDICARBOXYLIC ACID	100-21-0		15 18
2802 gen		TERPENE HYDROCARBONS, n.o.s.	68956-56-9	2319	3
1782		m-TERPHENYL	92-06-8		1 2
1783		o-TERPHENYL	84-15-1		1 2
1784		p-TERPHENYL	92-94-4		1 2
1785		TERPINOLENE CYCLOHEXENE, 1-METHYL-4-(1-METHYLETHYLIDENE)-	586-62-9	2541	3
1801		2,4,5-T ESTER ACETIC ACID (2,4,5-TRICHLOROPHENOXY)-ISOOCTYL ESTER	25168-15-4	2765	3 20
1802		2,4,5-T ESTER ACETIC ACID (2,4,5-TRICHLOROPHENOXY)-BUTYL ESTER	93-79-8	2765	3 20
1803		2,4,5-T ESTER ACETIC ACID (2,4,5-TRICHLOROPHENOXY)-ISOPROPYL ESTER	93-78-7	2765	3 20
2936		2,4,5-T ESTER	1928-47-8	2765	3 20
2937		2,4,5-T ESTER	2545-59-7	2765	3 20
2938		2,4,5-T ESTER	61792-07-2	2765	3 20
1804	#	TESTOSTERONE ANDROST-4-EN-5-ONE, 17-HYDROXY-	58-22-0	1851	(TE) 3 13(BB,Y,FF)
1805		TETRABROMOETHANE ETHANE, TETRABROMO-	25167-20-8	2504	3
syn		TETRABROMOETHANE see ACETYLENE TETRABROMIDE	79-27-6		
2965		1,2,4,5-TETRACHLOROBENZENE	95-94-3		20 21
1806	#	2,3,7,8-TETRACHLORODIBENZO-p-DIOXIN DIBENZO(b,e)(1,4)-DIOXIN, 2,3,7,8-TETRACHLORO-	1746-01-6		(CA,TE) 4 5 7 8 20
1807		1,1,1,2-TETRACHLORO-2,2-DIFLUOROETHANE ETHANE, 1,1,1,2-TETRACHLORO-2,2-DIFLUORO-	76-11-9		1 2
1808		1,1,2,2-TETRACHLORO-1,2-DIFLUOROETHANE ETHANE, 1,1,2,2-TETRACHLORO-1,2-DIFLUORO-	76-12-0		1 2
2992		1,1,1,2-TETRACHLOROETHANE	630-20-6		20 21
1809	#	1,1,2,2-TETRACHLOROETHANE ETHANE, 1,1,2,2-TETRACHLORO-	79-34-5	1702	(CA) 1 2 3 4 6 8 18 20 21

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1810	#	TETRACHLOROETHYLENE ETHENE, TETRACHLORO-	127-18-4	1897	(CA) 1 2 3 4 6 8 10 15 18 20 21
1811		TETRACHLORONAPHTHALENE NAPHTHALENE, TETRACHLORO-	1335-88-2		1 2
2916		2,3,4,6-TETRACHLOROPHENOL	58-90-2		20 21
1812		TETRACHLOROPHTHALIC ANHYDRIDE 1,3-ISOBIENZOFURANDIONE, 4,5,6,7-TETRACHLORO-	117-08-8		12(A)
1813		TETRACHLORVINPHOS PHOSPHORIC ACID, 2-CHLORO-1-(2,4,5- * TRICHLOROPHENYL) VINYL DIMETHYL ESTER	961-11-5	2783	3 6 18
1814	#	TETRACYCLINE 2-NAPHTHACENECARBOXAMIDE, 4-(DIMETHYLAMINO)-1,4,4A,5,5A,6,11, * 12A-OCTAHYDRO-3,6,10,12,12A-PENTAHYDROXY-6-METHYL-1,11-DIOXO-	60-54-8	1851	(TE) 3 12(A,G)
syn		TETRAETHYL DITHIOPYRO-PHOSPHATE see SULFOTEPP			
1816	#	TETRAETHYLENEPENTAMINE 1,2-ETHANEDIAMINE, N-(2-AMINOETHYL)-N'- 2- (2- * AMINOETHYL)AMINO ETHYL -	112-57-2	2320	(CO) 3 15
1817	#	TETRAETHYL LEAD PLUMBANE, TETRAETHYL-	78-00-2	1649	(R3) 1 2 3 15 16 19 20 21
syn		TETRAETHYL PYROPHOSPHATE see TEPP			
syn		TETRAETHYL SILICATE see ETHYL SILICATE			
2803		TETRAETHYLTIN	597-64-8	3020	3 16 19
1819	#	TETRAFLUOROETHYLENE ETHENE, TETRAFLUORO-	116-14-3	1081	(F4,R3) 3 15
1820		TETRAFLUOROHYDRAZINE NITROGEN FLUORIDE (N2F4)	10036-47-2	1955	1 2 3
1821		TETRAFLUOROMETHANE METHANE, TETRAFLUORO-	75-73-0	1982	3
1822		TETRAHYDROBENZALDEHYDE CYCLOHEXENECARBOXALDEHYDE	1321-16-0	2498	3 15
syn		1,2,3,4-TETRAHYDROBENZENE see CYCLOHEXENE			
1823	#	TETRAHYDROFURAN FURAN, TETRAHYDRO-	109-99-9	2056	(F3) 1 2 3 15 20 21
1824		TETRAHYDROFURFURYLAMINE 2-FURANMETHANAMINE, TETRAHYDRO-	4795-29-3	2943	3
1825		TETRAHYDROPHTHALIC ANHYDRIDE 1,3-ISOBENZOFURANDIONE, 3A,4,7,7A-TETRAHYDRO-	85-43-8	2698	3
1826		1,2,3,6-TETRAHYDROPYRIDINE PYRIDINE, 1,2,3,6-TETRAHYDRO-	694-05-3	2410	3
1827		TETRAHYDROTHIOPHENE THIOPHENE, TETRAHYDRO-	110-01-0	2412	3
1828		TETRALIN HYDROPEROXIDE HYDROPEROXIDE, 1,2,3,4-TETRAHYDRO-1-NAPHTHALENYL	771-29-9	2136	3
1829	#	TETRAMETHYL AMMONIUM HYDROXIDE METHANAMINIUM, N,N,N-TRIMETHYL-, HYDROXIDE	75-59-2	1835	(CO) 3
1830 chg		1,1,3,3-TETRAMETHYL BUTYL HYDROPEROXIDE HYDROPEROXIDE, 1,1,3,3-TETRAMETHYLBUTYL	5809-08-5	2160	3
2804		1,1,3,3-TETRAMETHYLBUTYLPEROXY-2-ETHYL HEXANOATE, * technical pure	22288-43-3	2161	3
syn		TETRAMETHYLDIAMINOBENZOPHENONE see MICHLERS KETONE			
1831	#	TETRAMETHYL LEAD PLUMBANE, TETRAMETHYL-	75-74-1	1649	(F3,R3) 1 2 3 15 16 19
1832		TETRAMETHYLMETHYLENEDIAMINE METHANEDIAMINE, N,N,N',N'-TETRAMETHYL-	51-80-9	9069	3
1833		TETRAMETHYL SILANE SILANE, TETRAMETHYL-	75-76-3	2749	3
1834		TETRAMETHYL SUCCINONITRILE BUTANEDINITRILE, TETRAMETHYL-	3333-52-6		1 2 4
1835		TETRANITRO-ANILINE BENZENAMINE, TETRANITRO-	53014-37-2	0207	3
1836		TETRANITROMETHANE METHANE, TETRANITRO-	509-14-8	1510	1 2 3 16 19 20 21
2805		TETRAPROPYLORTHOTITANATE	3087-37-4	2413	3
1837 chg		TETRASODIUM PYROPHOSPHATE DIPHOSPHORIC ACID, TETRASODIUM SALT	7722-88-5		1 2
1838		TETRAZOL-1-ACETIC ACID 1H-TETRAZOLE-1-ACETIC ACID	21732-17-2	0407	3
1839		TETRYL BENZENAMINE, N-METHYL-N,2,4,6-TETRANITRO-	479-45-8	EXPA	1 2 3
2878 gen		TEXTILE TREATING COMPOUND		1760	3
2806 gen		TEXTILE WASTE, WET, n.o.s.		1857	3
2807		THALLIC OXIDE	1314-32-5	1707	3 16 19 20 21
1840		THALLIUM	7440-28-0	1707	1 2 3 18 20
3062		THALLIUM ACETATE	563-68-8		20 21
2808		THALLIUM CHLORATE	13453-30-0	2573	3
2809 gen		THALLIUM COMPOUNDS, n.o.s.		1707	3 18 20
1841 chg		THALLIUM NITRATE NITRIC ACID, THALLIUM(1+) SALT	10102-45-1	2727	1 2 3 20 21
2810 gen		THALLIUM SALT, n.o.s.		1707	3
3010		THALLIUM SELENIDE	12039-52-0		20 21
1842		THALLIUM SULFATE SULFURIC ACID, THALLIUM SALT	10031-59-1	1707	1 2 3 16 19 20 21
2811		THALLOUS CARBONATE	6533-73-9	1707	3 16 19 20 21
2812		THALLOUS CHLORIDE	7791-12-0	1707	3 16 19 20 21
2813		THALLOUS MALONATE	2757-18-8	1707	3 16 19
syn		THALLOUS SULFATE see THALLIUM SULFATE			
2887		THALLOUS SULFATE	7446-18-6	1707	3 16
1843		4-THIAPENTANAL PROPANAL, 3-(METHYLTHIO)-	3268-49-3	2785	3
syn		THINNERS see PAINTS, etc.			
1844	#	THIOACETAMIDE ETHANETHIOAMIDE	62-55-5		(CA) 5 8 18 20 21
1845		THIOACETIC ACID ETHANETHIOIC ACID	507-09-5	2436	3
1846		4,4'-THIOBIS (6-tert BUTYL-m-CRESOL) m-CRESOL, 4,4'-THIOBIS (6-tert-BUTYL)-	96-69-5		1 2
2816		2,2'-THIOBIS(4-CHLORO-6-METHYL)PHENOL	4418-66-0		16 19
2817		2,2'-THIOBIS-4,6-DICHLORO-PHENOL	97-18-7	1671	3 16 19
2818		THIOCARBAZIDE	2231-57-4	2588	3 16 19
2819		THIOCYANIC ACID, (2-BENZOTHIAZOLYLTHIO)METHYL ESTER	21564-17-0	2902	3 16 19
1847		4,4'-THIODIANILINE BENZENAMINE, 4,4'-THIOBIS-	139-65-1		6 18
2820		THIOFANOX	39196-18-4	2757	3 16 19 20 21

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2821 gen	THIOGLYCOL		2966	3
1848	# THIOGLYCOLIC ACID ACETIC ACID, MERCAPTO-	68-11-1	1940	(CO) 1 2 3
1849	THIOLACTIC ACID PROPANOIC ACID, 2-MERCAPTO-	79-42-5	2936	3
2822	THIOMETON	640-15-3	3018	3 16 19
syn	THIONAZIN see ZINOPHOS			
1850	# THIONYL CHLORIDE	7719-09-7	1836	(CO,R2) 3
1851	# THIOPHENE	110-02-1	2414	(F3) 3 15
syn	THIOPHENOL see BENZENETHIOL			
1852	THIOPHOSGENE CARBONOTHIOIC DICHLORIDE	463-71-8	2474	3
2823	THIOSEMICARBAZIDE	79-19-6	2811	3 16 19 20 21
1853	# THIOUREA	62-56-6	2877	(CA,MU) 3 5 6 8 18 20 21
2824	THIOUREA, (2-CHLOROPHENYL)-	5344-82-1	2588	3 16 19 20 21
2825	THIOUREA, (2-METHYLPHENYL)-	614-78-8	2811	3 16 19
1854	THIRAM THIOPEROXYDICARBONIC DIAMIDE, TETRAMETHYL-	137-26-8	2771	1 2 3 20 21
1855	THORIUM	7440-29-1	9170	3
1856	# THORIUM DIOXIDE THORIUM OXIDE	1314-20-1		(CA) 5 18
1857	THORIUM NITRATE NITRIC ACID, THORIUM SALT	13823-29-5	9171	3
1858	TIN	7440-31-5		1 2
2826 gen	TINCTURES, MEDICINAL		1293	3
1859	# TIN TETRACHLORIDE STANNANE, TETRACHLORO-	7646-78-8	1827	(CO) 1 2 3 15
1860	TITANIUM	7440-32-6	2546+	3
1861	TITANIUM DIOXIDE TITANIUM OXIDE	13463-67-7		1 2 18
1862	TITANIUM HYDRIDE	11140-68-4	1871	3
2827 gen	TITANIUM SPONGE, Granules or Powder		2878	3
1863 chg	# TITANIUM SULFATE TITANIUM OXO(SULFATO)-	13825-74-6	1760	(CO) 3
1864	# TITANIUM TETRACHLORIDE TITANIUM CHLORIDE	7550-45-0	1838	(CO) 3 16 18 19
1865	# TITANIUM TRICHLORIDE TITANIUM CHLORIDE	7705-07-9	2869	(CO) 3
2828 gen	TOE PUFFS, NITROCELLULOSE BASE		1353	3
syn	o-TOLIDINE see 3,3'-DIMETHYLBENZIDINE			
syn	p-TOLUAMIDE-n-ISOPROPYL-alpha-(2-METHYLHYDRAZINO) * see n-ISOPROPYL-alpha-(2-METHYLHYDRAZINO)-p-TOLUAMIDE			
1866	# TOLUENE BENZENE, METHYL-	108-88-3	1294	(F3) 1 2 3 4 6 15 18 20 21
1867 chg	TOLUENEDIAMINE BENZENEDIAMINE, AR-METHYL-	25376-45-8	1709	3
1868	TOLUENE-2,6-DIISOCYANATE BENZENE, 1,3-DIISOCYANATO-2-METHYL-	91-08-7	2078	3 6 16 18 19 20
1869	TOLUENE-2,4-DIISOCYANATE BENZENE, 2,4-DIISOCYANATO-1-METHYL-	584-84-9	2078	1 2 3 4 6 12(A,B,G) 15 16 18 19 20 21
1870	# TOLUENE SULFONIC ACID BENZENESULFONIC ACID, METHYL-	25231-46-3	2584	(CO) 3 15
1318	m-TOLUIDINE BENZENAMINE, 3-METHYL-	108-44-1	1708	3
1442	# o-TOLUIDINE 2-METHYLBENZENAMINE	95-53-4	1708	(CA,MU) 1 2 3 6 7 15 18
1622	p-TOLUIDINE BENZENAMINE, 4-METHYL-	106-49-0	1708	3 15
1443	# o-TOLUIDINE HYDROCHLORIDE BENZENAMINE, 2-METHYL-, HYDROCHLORIDE	636-21-5		(CA) 5 7 8 18 20 21
syn	o-TOLUIDINE-5-NITRO- see 5-NITRO-o-TOLUIDINE			
1871 chg	# TOXAPHENE	8001-35-2	2761	(CA,TE) 1 2 3 5 6 7 8 16 18 19 20 21
2939	2,4,5-TP ESTERS	32524-95-5	2765	3 20
1872	TRAGACANTH GUM GUM TRAGACANTH	9000-65-1		12(A,B)
syn	TREMOLITE see ASBESTOS			
1874	# TREOSULFAN 1,2,3,4-BUTANETETROL, 1,4-DIMETHANESULFONATE, S-(R*,R*) -	299-75-2		(CA) 7
1875	TRIALLYLAMINE 2-PROPEN-1-AMINE, N,N-DI-2-PROPENYL-	102-70-5	2610	3
1876	TRIALLYL BORATE BORIC ACID (H3BO3), TRI-2-PROPENYL ESTER	1693-71-6	2609	3
2830	TRIAMIPHOS	1031-47-6	2783	3 16 19
2832 gen	TRIAZINE PESTICIDES, LIQUID, FLAMMABLE, TOXIC, n.o.s., * flash point less than 23C		2764	3
2831 gen	TRIAZINE PESTICIDES, LIQUID, FLAMMABLE, TOXIC, n.o.s., * flash point between 23C and 61C		2997	3
2833 gen	TRIAZINE PESTICIDES, LIQUID, TOXIC, n.o.s.		2998	3
2834 gen	TRIAZINE PESTICIDES, SOLID, TOXIC, n.o.s.		2763	3
syn	TRIAZIQUONE see 2,3,5-TRIS(1-AZIRIDINYL)-p-BENZOQUINONE			
2835	TRIAZOFOS	24017-47-8	3018	3 16 19
1877	# TRIAZOLAM 4H-S-TRIAZOLO (4,3-A) (1,4) BENZODIAZEPINE, 8-CHLORO-6-(O- * CHLOROPHENYL)-1-METHYL-	28911-01-5	1851	(TE) 3 13(EE,FF)
1878 chg	TRIBUTYL ALUMINUM ALUMINUM, TRIBUTYL-	1116-70-7	1930+	2 3 15
1879	# TRIBUTYLAMINE 1-BUTANAMINE, N,N-DIBUTYL-	102-82-9	2542	(CO) 3 15
1880	TRIBUTYL PHOSPHATE PHOSPHORIC ACID TRIBUTYL ESTER	126-73-8		1 2 15
1881	TRIBUTYLTIN ACETATE STANNANE, ACETOXYTRIBUTYL	56-36-0		1 2
syn	1,1,1-TRICHLORETHANE see METHYL CHLOROFORM			
1882	TRICHLORFON PHOSPHONIC ACID, (2,2,2-TRICHLORO-1-HYDROXYETHYL)-, * DIMETHYL ESTER	52-68-6	2783+	3 6 14 16 18 19 20
1883	# TRICHLOROACETIC ACID ACETIC ACID, TRICHLORO-	76-03-9	1839+	(CO) 1 2 3
1884	TRICHLOROACETYL CHLORIDE ACETYL CHLORIDE, TRICHLORO-	76-02-8	2442	3 16 19
1885	1,2,3-TRICHLOROBENZENE BENZENE, 1,2,3-TRICHLORO-	87-61-6	2321	3

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1887	1,2,4-TRICHLOROBENZENE BENZENE, 1,2,4-TRICHLORO-	120-82-1	2321	1 2 3 6 15 18 20
1886	TRICHLOROBENZENES BENZENE, TRICHLORO-	12002-48-1	2321	3
1888	TRICHLOROBUTENE BUTENE, TRICHLORO-	51023-22-4	2322	3
2836	TRICHLORO(CHLOROMETHYL)SILANE	1558-25-4	1250	3 16 19
syn	TRICHLORO(DICHLOROPHENYL)SILANE see DICHLOROPHENYL TRI- * CHLOROSILANE			
syn	1,1,1-TRICHLOROETHANE see METHYL CHLOROFORM			
1889 chg	# 1,1,2-TRICHLOROETHANE ETHANE, 1,1,2-TRICHLORO-	79-00-5		(CA) 1 2 3 6 8 18 20 21
syn	TRICHLOROETHENE see TRICHLOROETHYLENE			
1890	# TRICHLOROETHYLENE TRICHLOROETHENE	79-01-6	1710	(CA,MU) 1 2 3 4 6 8 10 15 18 20 21
syn	TRICHLOROETHYLSILANE see ETHYLTRICHLOROSILANE			
1891 chg	TRICHLOROFLUOROMETHANE METHANE, TRICHLOROFLUORO-	75-69-4		1 2 3 20 21
1892	TRICHLOROISOCYANURIC ACID 1,3,5-TRICHLORO-1,3,5-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE	87-90-1	2468	3
syn	TRICHLORO METHANE SULFENYL CHLORIDE see PERCHLOROMETHYL * MERCAPTAN			
1893	TRICHLORONAPHTHALENE NAPHTHALENE, TRICHLORO-	1321-65-9		1 2
2837	TRICHLORONATE	327-98-0	3018	3 16 19
3011	TRICHLOROPHENOL	25167-82-2	2020	3 20
1894	# 2,4,6-TRICHLOROPHENOL PHENOL, 2,4,6-TRICHLORO-	88-06-2	2020	(CA) 3 5 7 8 18 20 21
1895	2,4,5-TRICHLOROPHENOL PHENOL, 2,4,5-TRICHLORO-	95-95-4	2020	3 18 20 21
2926	2,3,4-TRICHLOROPHENOL	15950-66-0	2020	3 20
2927	2,3,5-TRICHLOROPHENOL	933-78-8	2020	3 20
2928	2,3,6-TRICHLOROPHENOL	933-75-5	2020	3 20
2956	3,4,5-TRICHLOROPHENOL	609-19-8	2020	3 20
1896	# 2,4,5-(TRICHLOROPHENOXY) ACETIC ACID ACETIC ACID, (2,4,5-TRICHLOROPHENOXY)-	93-76-5	2765	(MU) 1 2 3 14 20
1899	TRICHLOROPHENOXYPROPIONIC ACID PROPIONIC ACID, 2-(2,4,5-TRICHLORO-PHENOXY)-	93-72-1	2765	3 20 21
1898	TRICHLOROPHENOXYPROPIONIC ACID ESTER PROPIONIC ACID, 2-(2,4,5) TRICHLORO-PHENOXY)-,p-CHLORO- * PHENACYL ESTER	73826-29-6	2765	3
1900	TRICHLOROPHENOXYPROPIONIC ACID ESTER PROPIONIC ACID, 3-(2,4,5) TRICHLORO-PHENOXY)-3-BUTOXY- * PROPYL ESTER	6047-17-2	2765	3
syn	TRICHLOROPHENYL ETHER see CHLORINATED DIPHENYL OXIDE			
syn	TRICHLOROPHENYLSILANE see PHENYL TRICHLOROSILANE			
syn	TRICHLOROPHON see TRICHLORFON			
1902	# 1,2,3-TRICHLOROPROPANE PROPANE, 1,2,3-TRICHLORO-	96-18-4		(MU) 1 2 15
1903	# TRICHLOROSILANE SILANE, TRICHLORO-	10025-78-2	1295	(CO,F4,R2) 3 15
1904	1,1,2-TRICHLORO 1,2,2-TRIFLUOROETHANE ETHANE, 1,1,2-TRICHLORO-1,2,2-TRIFLUORO-	76-13-1		1 2 18
1905	TRIETHANOLAMINE DODECYLBENZENESULFONATE ETHANOL, 2-2',2''-NITRILOTRIS-DODECYLBENZENESULFONATE (SALT)	27323-41-7	9151	3 20
2838	TRIETHOXYSILANE	998-30-1	2810	3 16 19
1906	# TRIETHYL ALUMINUM ALUMINUM, TRIETHYL	97-93-8	1102	(F3,R3) 2 3 15
1907	# TRIETHYLAMINE N,N-DIETHYLETHANAMINE	121-44-8	1296	(F3) 1 2 3 15 20
2839	TRIETHYLENE DIAMINE	280-57-9	2675	17
1908	# TRIETHYLENE TETRAMINE 1,2-ETHANEDIAMINE, N,N'-BIS(2-AMINOETHYL)-	112-24-3	2259	(CO) 3 15
1909	TRIETHYL PHOSPHITE PHOSPHOROUS ACID, TRIETHYL ESTER	122-52-1	2323	3
1910	TRIETHYLTIN CHLORIDE STANNANE, CHLOROTRIETHYL	994-31-0		1 2
1911	# TRIFLUOROACETIC ACID ACETIC ACID, TRIFLUORO-	76-05-1	2699	(CO) 3
1912	TRIFLUOROBROMOMETHANE METHANE, BROMOTRIFLUORO-	75-63-8	1009	1 2 3
1913	# TRIFLUOROCHLOROETHYLENE ETHENE, CHLOROTRIFLUORO-	79-38-9	1082	(F4) 3 15
1914	TRIFLUOROETHANE ETHANE, TRIFLUORO-	27987-06-0	2035	3
1915	TRIFLUOROMETHANE METHANE, TRIFLUORO-	75-46-7	1984	3
1916	3-TRIFLUOROMETHYL ANILINE BENZENAMINE, 3-(TRIFLUOROMETHYL)-	98-16-8	2948	3 16 19
1917	2-TRIFLUOROMETHYL ANILINE BENZENAMINE, 2-(TRIFLUOROMETHYL)-	88-17-5	2942	3
1918	TRIFLURALIN BENZENAMINE, 2,6-DINITRO-N,N-DIPROPYL-4-(TRIFLUOROMETHYL)-	1582-09-8	2588	3 6 18
1919	# TRIISOBUTYL ALUMINIUM ALUMINUM, TRIS(2-METHYLPROPYL)-	100-99-2	1930	(F3,R3) 2 3 15
1920	TRIISOBUTYLENE 1-PROPENE, 2-METHYL-, TRIMER	7756-94-7	2324	3
2840 gen	TRIISOCYANATOISOCYANURATE OF ISOPHORONEDIISOCYANATE, SOLUTION		2906	3
1921	TRIISOPROPYL BORATE BORIC ACID (H3BO3), TRIS(1-METHYLETHYL) ESTER	5419-55-6	2616	3
1922	TRIMELLITIC ANHYDRIDE 5-ISOBENZOFURANCARBOXYLIC ACID, 1,3-DIHYDRO-1,3-DIOXO-	552-30-7		1 2 10
1923	TRIMETHADIONE 2,4-OXAZOLIDINEDIONE, 3,5,5-TRIMETHYL-	127-48-0	1851	3 13(Y,EE,FF)
1924	TRIMETHOPRIM 2,4-PYRIMIDINEDIAMINE, 5-((3,4,5-TRIMETHOXY-PHENYL)METHYL)-	738-70-5	1851	3 13(Y,EE,FF)
1925	# TRIMETHYLACETYL CHLORIDE PROPANOYL CHLORIDE, 2,2-DIMETHYL-	3282-30-2	2438	(CO) 3
1926	# TRIMETHYL ALUMINUM ALUMINUM, TRIMETHYL	75-24-1	1103	(F3,R3) 2 3
1927	# TRIMETHYLAMINE N,N-DIMETHYLMETHANAMINE	75-50-3	1083+	(F4) 1 2 3 15 20
2841	2,4,6-TRIMETHYL ANILINE	88-05-1	2810	3 16 19
1928	1,3,5-TRIMETHYLBENZENE MESITYLENE	108-67-8	2325	3 15 16 19
1929	TRIMETHYL BENZENE BENZENE, TRIMETHYL-	25551-13-7	2325	1 2 3
syn	1,2,4-TRIMETHYL BENZENE see PSEUDOCUMENE			
1930	# TRIMETHYLBORATE BORIC ACID, TRIMETHYL ESTER	121-43-7	2416	(F3) 3 15
1931	# TRIMETHYLCHLOROSILANE CHLOROTRIMETHYLSILANE	75-77-4	1298	(CO,F3,R2) 3 15 16 19
1932	# TRIMETHYLCYCLOHEXYLAMINE CYCLOHEXYLAMINE, TRIMETHYL-	34216-34-7	2326	(CO) 3
1933	# TRIMETHYLHEXAMETHYLENEDIAMINE 1,6-HEXANEDIAMINE, TRIMETHYL-	25620-58-0	2327	(CO) 3

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1934		TRIMETHYLHEXAMETHYLENEDI-ISOCYANATE HEXANE, 1,6-DIISOCYANATOTRIMETHYL-	28679-16-5	2328	3
syn		TRIMETHYL NORPINAMYL HYDROPEROXIDE see PINANE HYDROPEROXIDE			
2843		TRIMETHYLOLPROPANE PHOSPHITE	824-11-3		16 19
syn		2,4,4-TRIMETHYLPENTENE see DI-ISOBUTYLENE			
2844		2,4,4-TRIMETHYLPENTYL-2-PEROXYPHENOXY-ACETATE		2961	3
1935		TRIMETHYL PHOSPHITE PHOSPHOROUS ACID, TRIMETHYL ESTER	121-45-9	2329	1 2 3 15
2845		TRIMETHYLTIN CHLORIDE	1066-45-1		16 19
1936		TRINITRO-ANILINE BENZENAMINE, TRINITRO-	26952-42-1	0153	3
1937		TRINITROANISOLE BENZENE, 2-METHOXY-1,3,5-TRINITRO	606-35-9	0213	3
1938	#	TRINITROBENZENE BENZENE, 1,3,5-TRINITRO-	99-35-4	0214+	(F4,R4) 3 20 21
1939		TRINITROBENZENESULFONIC ACID BENZENESULFONIC ACID, 2,4,6-TRINITRO-	2508-19-2	0386	3
1940 chg		TRINITROBENZOIC ACID BENZOIC ACID, 2,4,6-TRINITRO-	129-66-8	0215+	3
1941		TRINITROCHLOROBENZENE BENZENE, CHLOROTRINITRO-	28260-61-9	0155	3
1943		TRINITRO-m-CRESOL PHENOL, 3-METHYL-2,4,6-TRINITRO-	602-99-3	0216	3
1942		TRINITROFLUORENONE 9H-FLUOREN-9-ONE, TRINITRO-	25322-14-9	0387	3
1944		TRINITRONAPHTHALENE NAPHTHALENE, TRINITRO	55810-17-8	0217	3
1945		TRINITROPHENETOLE BENZENE, 2-ETHOXY-1,3,5-TRINITRO-	4732-14-3	0218	3
1946		2,4,6-TRINITROPHENOL PHENOL, 2,4,6-TRINITRO-	88-89-1	0154+	1 2 3 15 18
1947		TRINITRORESORCINOL RESORCINOL, 2,4,6-TRINITRO	82-71-3	0394+	3
1948	#	2,4,6-TRINITROTOLUENE BENZENE, 2-METHYL-1,3,5-TRINITRO-	118-96-7	0209+	(F4,R4) 1 2 3
1949		TRIORTHOCRESYL PHOSPHATE PHOSPHORIC ACID, TRI-O-TOLYL ESTER	78-30-8	2574	1 2 3
1950		TRIPHENYL AMINE N,N-DIPHENYLBENZENAMINE	603-34-9		1 2
1951		TRIPHENYL PHOSPHATE PHOSPHORIC ACID, TRIPHENYL ESTER	115-86-6		1 2 15
1952		TRIPHENYLTIN CHLORIDE STANNANE, CHLOROTRIPHENYL	639-58-7	2786	1 2 3 16 19
1953		TRIPHENYLTIN HYDROXIDE STANNANE, HYDROXYTRIPHENYL	76-87-9	2588	1 2 3 14
1954	#	TRIPROPYL ALUMINUM ALUMINUM, TRIPROPYL-	102-67-0	2718	(F3,R3) 2 3 15
1955	#	TRIPROPYLAMINE 1-PROPANAMINE, N,N-DIPROPYL-	102-69-2	2260	(CO) 3 15
1956	#	TRIPROPYLENE 1-PROPENE, TRIMER	13987-01-4	2057	(F3) 3 15
1461	#	2,3,5-TRIS(1-AZIRIDINYL)-p-BENZOQUINONE 2,5-CYCLOHEXADIENE-1,4-DIONE, 2,3,5-TRIS(1-AZIRIDINYL)-	68-76-8		(CA,MU) 7
syn		TRIS(1-AZIRIDINYL)PHOSPHINE OXIDE, SOLUTION see 1-AZIRIDINY * PHOSPHINE OXIDE(TRIS)			
1515	#	TRIS(1-AZIRIDINYL)-PHOSPHINE SULFIDE AZIRIDINE, 1,1',1''-PHOSPHINOTHIOYLIDYNETRIS-	52-24-4		(CA,MU) 5 7 8
2847		TRIS(2-CHLOROETHYL)AMINE	555-77-1	2810	3 16 19
1957	#	TRIS (2,3-DIBROMOPROPYL) PHOSPHATE 1-PROPANOL, 2,3-DIBROMO-, PHOSPHATE (3:1)	126-72-7		(CA) 5 8 18 20 21
syn		TROCLOSENE POTASSIUM see POTASSIUM DICHLOROISOCYANURATE			
syn		TRYPAN BLUE see C.I. DIRECT BLUE 14, TETRASODIUM SALT			
1958		TRYPSIN	9002-07-7		12(A)
2940		2,4,5-T SALTS	13560-99-1	2765	3 20
1959		TUNGSTEN	7440-33-7		1 2 4
1960		TUNGSTEN CARBIDE	12070-12-1		2 4 12(B)
1961	#	TUNGSTEN HEXAFLUORIDE TUNGSTEN FLUORIDE (WF6)	7783-82-6	2196	(CO) 2 3
1962 chg	#	TURPENTINE	8006-64-2	1299	(F3) 1 2 3 15
2848 gen		TURPENTINE SUBSTITUTE		1300	3
1963		UNDECANE	1120-21-4	2330	3 15
1964		1-UNDECANETHIOL	5332-52-5		4
syn		URACIL, 5-(BIS(2-CHLOROETHYL)AMINO) see 5-(BIS(2-CHLOROETHYL) * AMINO)URACIL			
syn		URACIL, 5-FLUORO see 5-FLUOROURACIL			
syn		URACIL, 6-METHYL-2-THIO- see 6-METHYL-2-THIOURACIL			
syn		URACIL, 6-PROPYL-2-THIO- see 6-PROPYL-2-THIOURACIL			
1969		URANIUM	7440-61-1	2979+	1 2 3
1970		URANIUM HEXAFLUORIDE URANIUM FLUORIDE	7783-81-5	2977+	1 2 3
1971		URANIUM TETRACHLORIDE URANIUM (IV) CHLORIDE	10026-10-5		1 2
1972		URANIUM TETRAFLUORIDE	10049-14-6		1 2
1973		URANIUM TRICHLORIDE	10025-93-1		1 2
1974		URANIUM TRIOXIDE	1344-58-7		1 2
1975		URANYL ACETATE URANIUM, BIS(ACETATO-O)DIOXO-	541-09-3	9180	1 2 3 20
1976		URANYL CHLORIDE URANIUM (VI), DICHLORODIOXY	7791-26-6		1 2
1977		URANYL DIOXIDE URANIUM DIOXIDE	1344-57-6		1 2
1978		URANYL NITRATE URANIUM, BIS(NITRATO-O)DIOXO-	10102-06-4	9177	1 2 3 20
1980		URANYL NITRATE HEXAHYDRATE URANIUM, BIS(NITRATO-O)DIOXO-, HEXAHYDRATE	13520-83-7	9178	1 2 3
1981		URANYL PEROXIDE URANIUM PEROXIDE	19525-15-6		1 2
1982		URANYL PHOSPHATE	18433-48-2		1 2
1983		URANYL SULFATE	1314-64-3		1 2
syn		UREA HYDROGEN PEROXIDE see UREA PEROXIDE			
1984 chg		UREA NITRATE UREA, MONONITRATE	124-47-0	1357	3
1985 chg		UREA PEROXIDE UREA, compound with HYDROGEN PEROXIDE	124-43-6	1511	3
1986	#	URETHANE CARBAMIC ACID, ETHYL ESTER	51-79-6		(CA,MU,TE) 5 6 8 18 20 21
1987	#	VALERALDEHYDE PENTANAL	110-62-3	2058	(F3) 1 2 3 15

SUBSTANCE NUMBER		COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) / SOURCE NUMBER(S)
1988	#	VALERIC ACID PENTANOIC ACID	109-52-4	1760	(CO) 3 15
1989	#	VALERYL CHLORIDE PENTANOYL CHLORIDE	638-29-9	2502	(CO) 3
2850		VALINOMYCIN	2001-95-8	2588	3 16 19
1990		VANADIUM	7440-62-2		4 18
1991		VANADIUM CARBIDE	11130-21-5		4
1992	#	VANADIUM OXYTRICHLORIDE VANADIUM, TRICHLOROOXO-	7727-18-6	2443	(CO) 3
1993		VANADIUM PENTOXIDE VANADIUM OXIDE	1314-62-1	2862	1 2 3 4 12 (B) 16 19 20 21
1994	#	VANADIUM TETRACHLORIDE VANADIUM CHLORIDE	7632-51-1	2444	(CO) 3 10 15
1995	#	VANADIUM TRICHLORIDE VANADIUM CHLORIDE	7718-98-1	2475	(CO) 3
1996		VANADIUM TRIOXIDE VANADIUM OXIDE	1314-34-7	2860	3 10
1997		VANADYL SULFATE VANADIUM, OXOSULFATO(2-)-O-	27774-13-6	2931+	3 10 20
syn		VANADYL TRICHLORIDE see VANADIUM OXYTRICHLORIDE			
syn		VARNISH see PAINTS, etc.			
syn		VARNOLINE see STODDARD SOLVENT			
syn		VARSOL see STODDARD SOLVENT			
1998	#	VINYL ACETATE ACETIC ACID ETHENYL ESTER	108-05-4	1301	(F3,R2) 1 2 3 4 15 16 18 19
syn		VINYL ACETATE MONOMER see VINYL ACETATE			
syn		VINYL BENZINE see STYRENE MONOMER			
1999		VINYL BROMIDE ETHENE, BROMO-	593-60-2	1085	1 2 3 4 18
syn		VINYL-n-BUTYL ETHER see BUTYL VINYL ETHER			
2000	#	VINYL BUTYRATE BUTANOIC ACID, ETHENYL ESTER	123-20-6	2838	(F3,R2) 3 15
2001	#	VINYL CHLORIDE ETHENE, CHLORO-	75-01-4	1086	(CA,F4,MU) 1 2 3 4 5 6 7 8 15 18 20 21
2002		VINYL CHLOROACETATE ACETIC ACID, CHLORO-, ETHENYL ESTER	2549-51-1	2589	3
2003	#	VINYL CYCLOHEXENE DIOXIDE 7-OXABICYCLO(4.1.0)HEPTANE, 3-OXIRANYL-	106-87-6		(MU) 1 2
2004	#	VINYL ETHYL ETHER ETHENE, ETHOXY-	109-92-2	1302	(F4,R2) 3 15
2005	#	VINYL FLUORIDE ETHENE, FLUORO-	75-02-5	1860	(F4,R2) 3 4 10 15
2006	#	VINYLIDENE CHLORIDE ETHENE, 1,1-DICHLORO-	75-35-4	1303	(CA,F4,MU,R2) 1 2 3 4 6 8 15 18 20 21
2007	#	VINYLIDENE FLUORIDE ETHENE, 1,1-DIFLUORO-	75-38-7	1959	(F4,R2) 3 4 15
2008	#	VINYL ISOBUTYL ETHER PROPANE, 1-(ETHENYLOXY)-2-METHYL-	109-53-5	1304	(F3,R2) 3 15
2009	#	VINYL METHYL ETHER ETHENE, METHOXY-	107-25-5	1087	(F4,R2) 3 15
2852		VINYLNORBORNENE	3048-64-4		16 19
2010		VINYL TOLUENE BENZENE, ETHENYLMETHYL-	25013-15-4	2618	1 2 3 15
2011	#	VINYL TRICHLOROSILANE SILANE, TRICHLOROETHENYL-	75-94-5	1305	(CO,F3,R2) 3 15
syn		V.M. & P. NAPHTHA see BENZINE			
2012	#	WARFARIN 2H-1-BENZOPYRAN-2-ONE, 4-HYDROXY-3-(3-OXO-1-PHENYLBUTYL)-	81-81-2	3027	(TE) 1 2 14 16 1 7 19 20 21
2860		WARFARIN SODIUM COUMADIN SODIUM	129-06-6	3027	16 17 19
2851 gen		WASTE OIL		1270	3
2853 gen		WATER REACTIVE SOLID, n.o.s.		2813	3
2854 gen		WAX, LIQUID		1993	3
syn		WHITE SPIRITS see STODDARD SOLVENT			
2855 gen		WOOD FILLER, LIQUID		1263	3
2879 gen		WOOD PRESERVATIVE, LIQUID		1306	3
2857 gen		WOOL WASTE, WET		1387	3
2013		XENON	7440-63-3	2036+	3
2902		m-XYLENE	108-38-3		18 20 21
2903		o-XYLENE	95-47-6		18 20 21
2904		p-XYLENE	106-42-3		18 20 21
1320		m-XYLENE a,a'-DIAMINE m-PHENYLENEBIS(METHYLAMINE)	1477-55-0		1 2
2014	#	XYLENES	1330-20-7	1307	(F3) 1 2 3 4 6 15 18 20 21
2015		XYLENOL PHENOL, DIMETHYL-	1300-71-6	2261	3 20
2016		2,6-XYLIDINE	87-62-7		6 18
2017		XYLIDINE BENZENAMINE, AR,AR-DIMETHYL-	1300-73-8	1711	1 2 3 15
2018 chg		XYLYL BROMIDE XYLENE, BROMO-	28258-59-5	1701	3
2858		XYLYLENE DICHLORIDE	28347-13-9	2811	3 16 19
2019		YTTRIUM	7440-65-5		1 2
2020		ZEOLITE	1318-02-1		4
2021		ZINC	7440-66-6	1436+	3 15 18 20
2022		ZINC ACETATE ACETIC ACID, ZINC SALT	557-34-6	9153	3 20
2859		ZINC AMMONIUM CHLORIDE	52628-25-8	9154	3 20
3050		ZINC AMMONIUM CHLORIDE	14639-97-5		20
3051		ZINC AMMONIUM CHLORIDE	14639-48-6		20
2023		ZINC AMMONIUM NITRITE	63885-01-8	1512	3
2024		ZINC ARSENATE	1303-39-5	1712	1 3 6
2025		ZINC ARSENITE ARSENIOUS ACID, ZINC SALT	10326-24-6	1712	1 2 3 6
2880 gen		ZINC ASHES		1435	3

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
2881 gen	ZINC BISULFITE solution		2693	17
2026	ZINC BORATE BORIC ACID, ZINC SALT	1332-07-6	9155	3 20
2882	ZINC BROMATE	14519-07-4	2469	3
2027	ZINC BROMIDE	7699-45-8	9156	3 20
2028	ZINC CARBONATE CARBONIC ACID, ZINC SALT (1:1)	3486-35-9	9157	3 20
2029	ZINC CHLORATE CHLORIC ACID, ZINC SALT	10361-95-2	1513	3 15
2030	# ZINC CHLORIDE	7646-85-7	2331	(CO) 1 2 3 20
2031	# ZINC CHROMATE CHROMIC ACID, ZINC SALT (1:1)	13530-65-9		(CA) 1 2 5 6 7 8
3012 gen	ZINC compounds			18 20
2032	ZINC CYANIDE	557-21-1	1713	1 2 3 6 20 21
2863	ZINC, DICHLORO(4,4-DIMETHYL-5-((((METHYLAMINO) * CARBONYL)OXY)IMINO)PENTANE NITRILE)-	58270-08-9	2588	3 16 19
2033	ZINC DITHIONITE DITHIONOUS ACID, ZINC SALT (1:1)	7779-86-4	1931	3 20
2034	ZINC FLUORIDE	7783-49-5	9158	1 2 3 20
2035	ZINC FORMATE FORMIC ACID, ZINC SALT	557-41-5	9159	3 20
syn	ZINC HYDROSULFITE see ZINC DITHIONITE			
2036	ZINC NITRATE NITRIC ACID, ZINC SALT	7779-88-6	1514	3 20
2037	ZINC OXIDE	1314-13-2		1 2
2055	ZINC OXIDE FUME	1314-13-2		1 2
2038	ZINC PERMANGANATE PERMANGANIC ACID, ZINC SALT	23414-72-4	1515	3
2039	ZINC PEROXIDE	1314-22-3	1516	3
2040	ZINC PHENOLSULFONATE BENZENESULFONIC ACID, 4-HYDROXY-, ZINC SALT (2:1)	127-82-2	9160	3 20
2041 chg	ZINC PHOSPHIDE	1314-84-7	1714	3 14 16 19 20 21
2042 chg	ZINC POTASSIUM CHROMATE CHROMATE (1-),HYDROXYOCTA OXODIZINCATEDI-, POTASSIUM	11103-86-9		1 6
2883	ZINC RESINATE	9010-69-9	2714	3
2864	ZINC SELENATE		2630	3
2865	ZINC SELENITE	13597-46-1	2630	3
2043	ZINC SILICOFLUORIDE SILICATE(2-), HEXAFLUORO-, ZINC (1:1)	16871-71-9	2855	1 2 3 20
2044	ZINC SULFATE SULFURIC ACID, ZINC SALT (1:1)	7733-02-0	9161	3 20
2045	# ZINEB ZINC, ETHYLENE BIS(DITHIOCARBAMATE)	12122-67-7	2588	(CA,MU) 3 6 8 18
2046	ZINOPHOS PHOSPHOROTHIOIC ACID, O,O-DIETHYL, O-PYRAZINYL ESTER	297-97-2	3018	3 14 16 19 20 21
2047	# ZIRCONIUM	7440-67-7	2008+	(F4) 1 2 3
2048 chg	ZIRCONIUM HYDRIDE	77049-96-1	1437	1 2 3
2049	ZIRCONIUM NITRATE NITRIC ACID, ZIRCONIUM (4+) SALT	13746-89-9	2728	1 2 3 20
2050	ZIRCONIUM PICRAMATE PICRAMIC ACID, ZIRCONIUM SALT	63868-82-6	1517	1 2 3
2051	ZIRCONIUM POTASSIUM FLUORIDE ZIRCONATE (2-), HEXAFLUORO-, DIPOTASSIUM,	16923-95-8	9162	1 2 3 20
2052 chg	ZIRCONIUM SULFATE SULFURIC ACID, ZIRCONIUM (4+) SALT (2:1)	14644-61-2	9163	1 2 3 20
2053	# ZIRCONIUM TETRACHLORIDE ZIRCONIUM CHLORIDE	10026-11-6	2503	(CO) 1 2 3 20

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15. National Fire Codes—A compilation of NFPA Codes, Standards, Recommended Practices, and Manuals, Volume 13, "Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids," (NFPA 325M-1977), National Fire Protection Association (NFPA), 1981. This source was not used as the sole source for including any substance on the list.

16. List of Acutely Toxic Chemicals, Chemical Emergency Preparedness Program, U.S. Environmental Protection Agency, November 1985.

17. Emergency Response Guidebook, Materials Transportation Bureau, U.S. Department of Transportation, 1987.

18. List of Toxic Chemicals. Section 313, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 52 FR 21151.

19. List of Extremely Hazardous Substances. Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part 300, Subpart I—Emergency Planning and Community Right to Know, Appendix D, 52 FR 13378, November 14, 1986.

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(a)

DIVISION OF OCCUPATIONAL AND ENVIRONMENTAL HEALTH

Worker and Community Right to Know Act Rules

Proposed Readoption with Amendments: N.J.A.C. 8:59

Proposed New Rules: N.J.A.C. 8:59-11

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

Authority: N.J.S.A. 34:5A-1 et seq., specifically N.J.S.A. 34:5A-30.

Proposal Number: PRN 1989-249.

A public hearing concerning the proposal will be held on June 2, 1989 from 10:00 A.M. to 10:00 P.M. at:

Auditorium
Institute for Management and Labor Relations
Rutgers University
Ryders Lane
New Brunswick, NJ 08903

Submit written comments by June 14, 1989 to:

Richard Willinger, Manager
Right to Know Program
Division of Occupational and Environmental Health
New Jersey Department of Health
CN 368
Trenton, NJ 08625
(609) 984-2202

The agency proposal follows:

Summary

N.J.A.C. 8:59 was originally adopted on October 1, 1984 to implement the requirements of the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq. It was amended on January 21, 1985 and September 8, 1986. Pursuant to Executive Order No. 66(1978), this chapter expires on October 1, 1989.

The chapter establishes a comprehensive system for the disclosure and dissemination of information about hazardous substances in the workplace and the environment to workers and community residents. The system includes an inventory of hazardous substances at facility sites on survey forms, the labeling of all containers at the facility, the education and training of employees who are exposed or potentially exposed to the hazardous substances, and the availability of surveys and hazardous substance fact sheets to employees and community residents.

The Act was passed to address the significant incidence of illness and injuries to workers in the public and private sectors, as well as known and suspected injuries to community residents from hazardous substances in the environment. The law was intended to provide information about hazardous chemicals to workers and community residents so that they could make reasoned decisions and take informed action about their employment and living conditions.

The Act's goals are to train workers how to handle substances properly and respond to spills and other emergencies, to inform workers and residents about the health hazards of hazardous substances in case they are suffering adverse effects from some substances now or can avoid illness in the future, to train emergency responders how to respond to spills and other emergencies, and to inform community residents about the health hazards of substances that may be contaminating their environment and, ultimately, to reduce illnesses and injuries among the population.

The Department conducted an internal review of the rules prior to noticing for readoption. In its review of the rules, the Department determined that the rules adequately and reasonably provide the ability to execute the intent of the State statute. Additional public comment and review will occur as a result of the readoption process.

The rules have been effective because they have provided thousands of hazardous substance surveys to emergency responders, workers and community residents for emergency planning and other purposes; they have caused hundreds of thousands of workers to be trained about hazardous substances which has protected them from illness and injury from hazardous substance exposure; they have resulted in the dissemination of millions of hazardous substance fact sheets to firefighters, hospitals, health departments, physicians, employees, community residents, employers and others which have increased the knowledge of the health and safety hazards of hazardous substances among these groups; and they have raised the level of awareness and knowledge of the hazards from hazardous substances among the population of New Jersey.

The rules are necessary and should be continued because of the ongoing need for workers, emergency responders and community residents to know where hazardous substances are kept in their community and workplace, what their hazards are and how to respond to them, and whether they should seek medical attention, change work practices, or change their living conditions, as a result of exposure or potential exposure to hazardous substances.

The rules have been amended twice since October 1, 1984. On January 21, 1985, the rules were amended to allow trade secret claims for hazardous substances listed in employee health and exposure records, to delete references to material safety data sheets, to ease the requirements of container labeling for containers whose contents were partially unknown or were labeled pursuant to the federal Food, Drug and Cosmetic Act, and to allow labeling exceptions for containers labeled pursuant to three additional laws and regulations. (See 16 N.J.R. 2735(a) and 17 N.J.R. 196(a).)

On September 8, 1986, the rules were amended to reflect recent amendments to the statute which set new compliance deadlines, added and deleted certain employers from coverage under the statute, and allowed exemptions for employers who reported no hazardous substances; to add a more detailed definition of the "technically qualified person" who is to conduct the training of employees; to resolve a conflict between State and Federal law regulating controlled substances; to clarify the process by which an employee requests a survey or hazardous substance fact sheet from an employer; to substantially add to the existing subchapter on enforcement; and to make other minor amendments. (See 18 N.J.R. 1363(a) and 18 N.J.R. 1821(a).)

It is now proposed to further amend the rules that are being readopted and to add new rules to help clarify a recent court decision and Federal agency action. The addition of substances to the Right to Know Hazardous Substance List and Special Health Hazard Substance List is being pre-proposed elsewhere in this issue of the New Jersey Register.

On October 10, 1985, the United States Third Circuit Court of Appeals held, in the case of *New Jersey Chamber of Commerce v. Hughey,* 774 F.2d 587 (3rd Cir. 1985), that manufacturers were preempted from the worker protection requirements of the New Jersey Worker and Community Right to Know Act by the Occupational Safety and Health Administration's Hazard Communication Standard.

At the time, only manufacturers were covered by the OSHA Hazard Communication Standard. Then, on August 24, 1987, OSHA expanded the Standard to cover non-manufacturers. This had the effect of preempting New Jersey non-manufacturers from the worker protection requirements of the New Jersey Worker and Community Right to Know Act. This left the public sector as the only group still subject to the worker protection requirements of the New Jersey Right to Know Act. The rules are being amended to reflect this change in employer coverage.

However, both manufacturers and non-manufacturers remained covered under the Community Right to Know provisions of the New Jersey Right to Know Act. Community Right to Know is primarily regulated by the New Jersey Department of Environmental Protection (DEP), which administers surveys of hazardous substances. The one segment of Community Right to Know that is not regulated by the DEP and is regulated by the State Department of Health, is labeling of containers for the benefit of emergency responders such as firefighters.

On March 25, 1988, the United States District Court, District of New Jersey, held, in the same case of *New Jersey Chamber of Commerce v. Hughey,* Civil Action Nos. 84-3255 and 84-3892, that the manufacturing sector must comply with the labeling requirements of the New Jersey Right to Know Act in addition to the labeling requirements of the OSHA Hazard Communication Standard. This decision was appealed to the United States Third Circuit Court of Appeals. On February 28, 1989, the Court of Appeals rendered a decision in *New Jersey Chamber of Commerce v. Hughey,* Case Nos. 88-5283 and 88-5332. The Court of Appeals upheld the District Court's decision.

In recognition of the confusion that will be created by private manufacturers and non-manufacturers being subject, under Community Right to Know, to the same labeling requirements that public agencies are subject to under Worker Right to Know, a new rule is being proposed, N.J.A.C. 8:59-11, to address the matter of Community Right to Know labeling in the private sector.

Several revisions are being proposed throughout the rules to reflect the above court decisions and current practice by the primary agencies administering the rules, the Departments of Health and Environmental Protection, as follows:

The word "public" is being added to the word "employer" in those sections that only apply to public agencies, such as Subchapter 2, Right to Know Survey, Subchapter 4, Hazardous Substance Fact Sheet, Subchapter 6, Education and Training Program, and Subchapter 7, Employee and Public Access to Information.

The rules originally regulated what was called the "workplace survey". In addition, the DEP regulated two surveys, and a covered employer ended up receiving three different surveys to fill out. In 1986, the two Departments decided to combine all three surveys into one survey in order to make the process of filling out the surveys easier for employers. Since 1987, the combined survey form has been called the "Right to Know Survey." Throughout the rules, wherever there is a reference to workplace survey, it has been replaced with "Right to Know Survey." (Due to preemption, the Right to Know Survey is only sent to public agencies. Private employers receive what is called the "Community Right to Know Survey" from DEP, a different survey form.)

The rules originally regulated what was called the "Workplace Hazardous Substance List." The DEP regulated two additional hazardous substance lists, and a covered employer received three different lists along with the three different surveys. In 1986, the two Departments decided to combine all three hazardous substance lists into one master list in order to make the process of filling out the surveys easier for employers. Since 1987, the combined list has been called the "Right to Know Hazardous Substance List." Throughout the rules wherever there is a reference to the Workplace Hazardous Substance List it has been replaced with "Right to Know Hazardous Substance List."

Many amendments are being proposed to the rules to clarify interpretations of the law. In order to make it easier to follow, the amendments will be discussed subchapter by subchapter.

Subchapter 1. General Information (N.J.A.C. 8:59-1)

Several definitions have been amended and added. "Designated county lead agency" has been amended to allow offices of emergency management to be designated as the county lead agency, since these offices deal with hazardous substances and have use for the data generated by the Right to Know law. A definition for "emergency responder" has been added.

A definition for "employee" has been added to interpret the law to cover volunteer firefighters and other public agency volunteers. While volunteer firefighters are not paid by their municipality, they possess certain vestiges of public employee status not possessed by others, such as being covered by Workers Compensation, receiving clothing allowances, and receiving accident and health insurance through their municipalities. Volunteer fire companies also fall into a public agency Standard Industrial Classification (SIC) Code. The intent of the New Jersey Right to Know law is to protect all persons involved in public sector activities. Therefore, the Department of Health is now interpreting the law to include volunteer firefighters. The responsibility of paying for the Right to Know education and training program will be borne by the municipality (see N.J.A.C. 8:59-6.1(f)).

Since the underlying purpose of the Right to Know law is to protect all persons involved in public sector activities, it is incongruous to train paid employees who work with hazardous substances but not train volunteers who may be working side-by-side with the paid employee. The situation where a volunteer will be working with or around hazardous substances should be infrequent; however, in those cases where this occurs, the Department of Health will now require the public employer to provide Right to Know education and training to that volunteer.

All references to private employer Standard Industrial Classification Codes are being removed from the definition of "employer." They are being moved to the new proposed rules in Subchapter 11 (N.J.A.C. 8:59-11). What is left are the public agencies—State agencies, counties, municipalities, public school districts, utilities, authorities, and others. It does not matter what Standard Industrial Classification Code a public employer falls under; if it is a public agency it is covered by the Right to Know law. Public employers can fall within the following SIC codes, among others:

4784—Transportation Services
4911—Electric Services
4941—Water Supply
4952—Sewerage Systems
4953—Refuse Systems
4959—Sanitary Services, not elsewhere classified
8211—Elementary and Secondary Schools
8221—College and Universities, not elsewhere classified
8222—Junior Colleges
8231—Libraries and Information Centers
8249—Vocational Schools, not elsewhere classified
8321—Social Services—Individual and Family
8361—Social Services—Residential Care
91)
92)
93)
94)—Any employer within any of these SIC codes, except federal agencies
95)
96)
97)

(SIC codes below 91 contain a mixture of both public and private employers.)

Regardless of its SIC code, if an employer is a *public agency,* it is covered by all of the Department of Health Right to Know rules that are being proposed for readoption in this New Jersey Register.

"Hazardous substance" is being revised to include emergency responders who may be exposed to an acute or chronic health hazard from a solid article; to specify the threshold percentage in a mixture of 0.1 percent for carcinogens, mutagens and teratogens; to include coverage of consumer products which are present at a facility in more than normal consumer quantities such as in a warehouse; and to add an exemption for fuel in a motor vehicle.

"Hazardous substance fact sheet" is being revised to clarify that fact sheets do not have to be written for generic categories of hazardous substances found on the Right to Know Hazardous Substance List.

The definition of "hazardous substance" contains a limitation of one percent. Questions have arisen whether this means by weight or by volume, therefore a definition for "one-percent" is being added. It will cover both weight and volume.

Since education and training must be given to employees who are exposed or potentially exposed to hazardous substances, a definition of "potentially exposed" is added to further clarify this term.

The phrase "research and development laboratory" is being clarified by defining the word "primarily" used in the definition to mean greater than 50 percent.

Definitions of "Right to Know Hazardous Substance List" and "Right to Know Survey" are being added to notify employers that the formerly used workplace, environmental and emergency services information surveys and their companion lists have been combined into one survey and one master list.

The 30-hour training program given to persons to qualify as a Right to Know training instructor is also being given by reputable private organizations; therefore, the definition of "technically qualified person" is being modified to reflect this fact.

Subchapter 2. Right to Know Survey (N.J.A.C. 8:59-2)

Since the Department of Health in actuality mails the Right to Know Survey to covered employers, the reference to the Department of Labor has been deleted in N.J.A.C. 8:59-2.1(a). The last sentence in this section is being deleted, since there would be no instance where a public agency would not be on file with the Department of Labor.

N.J.A.C. 8:59-2.2(b) is being amended to state that Material Safety Data Sheets can be used as documentation to indicate which products contain the hazardous substances listed on the Right to Know Survey.

The deadline in N.J.A.C. 8:59-2.1(d) is no longer necessary and is being deleted. The last sentence of this section is also no longer necessary.

N.J.A.C. 8:59-2.2(e) and (f) are being revised to eliminate the six-month allowable time period to find out ingredient information about a substances. All public employers should already have obtained Material Safety Data Sheets on existing products in their facilities and should be receiving new Material Safety Data Sheets along with new products as they are purchased. A good faith effort must still be made to determine the ingredients of containers whose contents are unknown or partially unknown, but this effort can be made within the 90 days required to complete and return the Right to Know Survey. The form entitled "Substances and Mixture With Unknown Components" must now be attached to and submitted with completed Right to Know Survey within the 90 day compliance period.

A new subsection, N.J.A.C. 8:59-2.2(h), is being added to clarify the question of what to do with hazardous substances brought into a public facility by an outside contractor. It is the intent of the Right to Know law to protect public employees from hazardous substances present in their workplace. No distinction is made as to who brings such substances into the workplace. Therefore, a public employer will now be responsible for finding out from a subcontractor what hazardous substances are being stored at the public facility. It should not be a problem to find out this information since the subcontractor is under a contractual obligation to this or another public agency. A good faith effort to find out the hazardous substance ingredients is required.

In order for public employers to find out the hazardous and non-hazardous ingredients of products at their facilities, they must obtain Material Safety Data Sheets on all products. (It is recognized that Material Safety Data Sheets do not always list all of the ingredients.) To ensure that this occurs, and to obtain Material Safety Data Sheets for purposes of education and training and employee access as set forth in subchapters 6 and 7, a new subsection N.J.A.C. 8:59-2.2(i) is being added.

Subchapter 3. Trade Secrets (N.J.A.C. 5:59-3)

Subchapter 3 is being proposed for readoption without change at this time. However, this subchapter is under revision and it is anticipated that new rules will, in the near future, be jointly proposed by the Department of Health and Environmental Protection. Subchapter 3 contains provisions regarding the maintenance of trade secrets within the context of the Right to Know rules.

Subchapter 4. Hazardous Substance Fact Sheets (N.J.A.C. 8:59-4)

N.J.A.C. 8:59-4.1(a) is amended to make clear that the Department of Health is only required to prepare Hazardous Substance Fact Sheets for pure substances on the Right to Know Hazardous Substance List and not on the generics listed therein. Generics are a family of chemicals sharing some common properties.

Hazardous Substance Fact Sheets are written for pure substances, not for mixtures, and are not the best source of information regarding the fire, corrosive, explosive or other safety hazard of a mixture. More accurate safety hazard information for a mixture is found on a Material Safety Data Sheet (MSDS).

MSDS's should also be substituted for pure substances when a Hazardous Substance Fact Sheet has not yet been prepared for that substance. It is the intent of the Right to Know Act that public employees receive all necessary information about the hazards of substances to which they are or may be exposed. Therefore, the Department of Health is now requiring all public employers to obtain Material Safety Data Sheets for all of their products and to distribute them to employees for mixtures and when Hazardous Substance Fact Sheets have not been prepared, in new N.J.A.C. 8:59-4.1(f).

N.J.A.C. 8:59-4.3 is being modified to specify that Spanish translations of Hazardous Substance Fact Sheets shall only be transmitted to public employers on request, and not automatically, as previously required. The automatic transmittal requirement was not appropriate, in any case, because not all employers need Spanish-language fact sheets. (Note: A substantial number of Hazardous Substance Fact Sheets are currently being translated into Spanish.)

Subchapter 3. Labeling (N.J.A.C. 8:59-5)

Since the deadlines for labeling containers have all passed and are no longer necessary, they have been deleted from N.J.A.C. 8:59-5.1(a), (b) and (c). All containers in the public workplace must now be properly labeled.

Since universal labeling is now in effect, it is no longer necessary to have separate requirements for hazardous substance labeling. Therefore, N.J.A.C. 8:59-5.1(a) has been deleted. Its requirements have been incorporated into N.J.A.C. 8:59-5.1(c) and it has been replaced by a sentence which tells private employers that they should refer to the proposed new rules at N.J.A.C. 8:59-11 for information about their requirements under Community Right to Know. The new rules also define which private employers are covered by the Community Right to Know labeling requirements.

There was some confusion about when to label containers, when information is obtained about the ingredients of a product. Thus, N.J.A.C. 8:59-5.1(g) has been amended to allow up to 30 days for an employer to label its containers after finding out the ingredients of a product.

Several new subsections have been added. N.J.A.C. 8:59-5.1(k) imposes a restriction against removing or defacing labels on incoming containers. N.J.A.C. 8:59-5.1(l) allows public employers who operate prisons or jails, and who believe labels on containers could cause a security risk, to apply for a waiver of the Act's labeling requirements.

N.J.A.C. 8:59-5.1(m) addresses the situation where skids of containers arrive at a facility and it would be a great deal of extra work to unload the skid to label every container and then stack the containers back on the skid, especially if it was shrink-wrapped. An alternative labeling scheme is allowed.

In many instances, numerous small containers come packed in a larger container. To ensure that the necessary information about ingredients is conveyed to employees but at the same time minimizing the work of the employer, the Department will not require small containers to be properly labeled until they are removed from the larger container, as long as the larger container is properly labeled pursuant to the Right to Know law, as set forth in N.J.A.C. 8:59-5.1(n).

While the intent of N.J.A.C. 8:59-5.4(b) was to reduce the labeling burden on employers, the language of this section was so difficult to understand that it is being deleted.

The word "excipient" is being deleted from N.J.A.C. 8:59-5.5(d), because it is a word that most people do not understand and it is repetitious of the words "active and inactive" which cover the universe of chemicals.

N.J.A.C. 8:59-5.6(a) is being modified in the same manner as the definition of "hazardous substance" in N.J.A.C. 8:59-1.3. A partial sentence is being added to N.J.A.C. 8:59-5.6(b), to clarify coverage of the section referred to in the sentence.

In some cases, an employee will remove a small container from a properly labeled large container and will use up the entire contents of the small container during his or her workshift. This situation is analogous to the one where an employee transfers a substance from a labeled container in the definition of "process container" (see N.J.A.C. 8:59-1.3). Therefore, a new exclusion has been created in N.J.A.C. 8:59-5.6(c), to allow an employer to not label the small containers that will be used up during the employee's workshift.

Since the creation of the original Right to Know Hazardous Substance List, synonyms of certain hazardous substances on the list have been added to the list to enable easier location of a hazardous substance which is known by several common names. N.J.A.C. 8:59-5.7(b) has been amended to allow the use of these synonyms for labeling purposes.

An obvious, but previously unstated, condition of labeling is stated for the first time in N.J.A.C. 8:59-5.8(c), which requires that labels be prominently displayed on containers.

Primarily for the benefit of emergency responders, but also for the benefit of public employees, containers stored at a public facility by a subcontractor must now be labeled in accordance with this subchapter, according to proposed N.J.A.C. 8:59-5.10. This section is a corollary to proposed N.J.A.C. 8:59-2.2(h).

Subchapter 6. Education and Training Program (N.J.A.C. 8:59-6)

Throughout this subchapter, Material Safety Data Sheets have been added wherever Hazardous Substance Fact Sheets are listed. The use of Material Safety Data Sheets are sometimes necessary in lieu of Hazardous Substance Fact Sheets, for reasons previously stated.

In addition, in order to provide public employees with all necessary information about the hazards of a substance and all other necessary information about that substance, the information on a Material Safety Data Sheet shall be included as part of the Right to Know education and training program when they are more applicable than Hazardous Substance Fact Sheets or when Hazardous Substance Fact Sheets are unavailable. N.J.A.C. 8:59-6.1(a) has been modified to reflect this.

The education and training programs referred to in N.J.A.C. 8:59-6.1(b) only apply to those that were in effect as of August 29, 1984. Since no public employer applied for certification of an education and training program in existence as of that date, this sentence is no longer applicable and is being deleted.

The middle sentence in N.J.A.C. 8:59-6.1(d) is no longer necessary and is being deleted. The end of the last sentence is also no longer necessary and is being deleted.

Now that the definition of "employee" clearly covers volunteer firefighters, the question arises as to who pays for the Right to Know training of these volunteers. Since the volunteers perform their duties for the benefit of their municipality, and their volunteer associations may not have the funds for their training, N.J.A.C. 8:59-6.1(f) makes the municipality responsible for providing Right to Know training for their volunteer firefighters. However, N.J.A.C. 8:59-6.1(a) makes it clear that the requirement to pay employees during training does not apply to volunteers.

Several of the dates in N.J.A.C. 8:59-6.2 are no longer necessary and are being deleted. A clarification is being provided in N.J.A.C. 8:59-6.2(a) for the annual update training program by specifying that annual training shall be provided within 12 months of the initial training and within 12 months of each annual training program.

N.J.A.C. 8:59-6.3(b) is being amended to clarify that the Right to Know education and training program shall include an explanation of operations in the work area that use hazardous substances. This merely states what should already be part of every education and training program.

N.J.A.C. 8:59-6.3(e) is being amended to specify that employers shall distribute the Right to Know brochure to all employees. However, due to a provision in the law which limits education and training programs to those facilities which report hazardous substances, brochure distribution is not required at facilities which report no hazardous substances. At those facilities where hazardous substances are present, an employer must distribute Right to Know brochures to all current and new employees, regardless of exposure or potential exposure to hazardous substances. This effort serves to re-educate employees about the existence of the Right to Know law and their rights and the employer's responsibilities under the law.

As mentioned previously, in light of the fact that N.J.A.C. 8:59-6.4 only applied to public employer education and training programs in existence prior to August 29, 1984, and no public employer submitted such a training program for certification, this section has no applicability and is being deleted.

A new section is being added to deal with actual or potential exposures from hazardous substances brought into a public facility by a subcontractor. N.J.A.C. 8:59-6.5 will require a public employer to protect its public employees by providing them with information about any hazardous substances brought into the public facility which causes actual or potential exposure to the public employees. A public employer could find out the necessary information by obtaining appropriate Material Safety Data Sheets from the subcontractor. The MSDS's can then be supplied to employees requesting them, along with appropriate Hazardous Substance Fact Sheets.

Subchapter 7. Employee and Public Access to Information (N.J.A.C. 8:59-7)

Material Safety Data Sheets are added to this subchapter to be utilized in the same manner as Hazardous Substance Fact Sheets.

N.J.A.C. 8:59-7.2(b) is being modified to reflect the fact that the Right to Know poster is now available to be sent to public employers for posting.

N.J.A.C. 8:59-7.2(d) states that, for mixtures, a public employer shall supply an employee with a copy of the appropriate Material Safety Data Sheet.

N.J.A.C. 8:59-7.2(h) states that when Hazardous Substance Fact Sheets have not been supplied to a public employer by the Department of Health, for whatever reason, the employer shall provide the appropriate Material Safety Data Sheet to the employee.

N.J.A.C. 8:59-7.2(j) has been added to make it clear that Hazardous Substance Fact Sheet and Material Safety Data Sheet distribution also applies to hazardous substances brought into a public facility, including the surrounding land, by a subcontractor.

Subchapter 8. Enforcement (N.J.A.C. 8:59-8)

N.J.A.C. 8:59-8.2(b)1ii(8), (9) and (10) have been reworded to clarify their meaning, that failure to label at least 95 percent of containers in a facility constitutes a major violation of the Act.

Failure to distribute Material Safety Data Sheets and to keep them in the central file are also added as major violations of the Act, in N.J.A.C. 8:59-8.2(b)1ii(14) and (17).

Subchapter 9. Right to Know Hazardous Substance List (N.J.A.C. 8:59-9)

This list has been renamed the Right to Know Hazardous Substance List for reasons previously stated.

The publication date of the Occupational Safety and Health Administration's Subpart Z Table of Toxic and Hazardous Substances is being deleted so that this citation will refer to the most recent edition of the Subpart Z Table, in N.J.A.C. 8:59-9.2(a).

A new column of information has been added to the Right to Know Hazardous Substance List to benefit emergency responders. This column provides the U.S. Department of Transportation Number. N.J.A.C. 8:59-9.2(b) has been modified to reflect this change.

The Department of Health has not been able to modify the Right to Know Hazardous Substance List once a year as required by N.J.A.C. 8:59-9.3(a) and does not anticipate being able to adhere to an annual revision schedule in the future. Therefore, the requirement for annual revision has been deleted. The Department will revise the List as needed.

In order to render unnecessary the constant revision of the Right to Know Hazardous Substance List to reflect the annual changes to some of the cited reference sources, N.J.A.C. 8:59-9.3(b) is being revised to provide automatic revision to the Right to Know Hazardous Substance List, without need for rulemaking, whenever a reference source cited in this section is revised. Any change in the listing of hazardous substances in a reference source has already gone through extensive Federal or State rulemaking or professional peer review, or is the result of highly regarded professional determinations by well-recognized organizations or agencies. In the opinion of the Department, further evaluation of the hazardous substance would not be fruitful. The Department accepts the determinations of hazard of the agencies and organizations listed as references in this section. These changes will be made by a notice in the New Jersey Register, and the Appendices revised.

The reference source citations in N.J.A.C. 8:59-9.3(b) are being updated to reflect the most current edition of the cited publication for the OSHA Subpart Z Table, the ACGIH TLV publication, NIOSH recommended health standards, the NTP annual report, and an updating of the IARC Monographs.

In addition, new reference sources, and their attendant hazardous substances, are being added to N.J.A.C. 8:59-9.3(b). They include:

Source #16—List of Acutely Toxic Chemicals, Chemical Emergency Preparedness Program, U.S. Environmental Protection Agency, November 1985.

Source #17—Emergency Response Guidebook, Materials Transportation Bureau, U.S. Department of Transportation, 1987.

Source #18—List of Toxic Chemicals, Section 313, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 52 FR 21151.

Source #19—List of Extremely Hazardous Substances, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part 300, Subpart I—Emergency Planning and Community Right to Know, Appendix D, 52 FR 13378, November 14, 1986.

Source #20—List of Hazardous Substances and Reportable Quantities (RQ), Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), U.S. Environmental Protection Agency, 40 CFR Part 302, Table 302.4, amended in 51 FR 34541, September 29, 1986.

Source #21—Hazardous Wastes from the P and U Lists, Resource Conservation and Recovery Act (RCRA), U.S. Environmental Protection Agency, 40 CFR 261.33.

All of these new reference sources are from the U.S. Environmental Protection Agency, with the one exception, which is from the U.S. Department of Transportation. Some were prepared for purposes of hazardous chemical contamination of the environment, while some were meant to address both environmental contamination and workplace and emergency responder exposures. Most of the chemicals on these new reference sources are already on the Right to Know Hazardous Substance List, however, some are new additions to the List.

N.J.A.C. 8:59-9.3(c) clarifies that the purpose of the Right to Know Hazardous Substance List is to identify substances that are dangerous to both employees and emergency responders.

In accordance with the deletion of the requirement for annual revisions to the Right to Know Hazardous Substance List in N.J.A.C. 8:59-9.3(a), (d) and (f) are revised to delete the requirement to submit automatic additions to the List to the Right to Know Advisory Council for review, and to publish annual notices of revisions to the List in the New Jersey Register. The Right to Know Advisory Council will be notified of all non-automatic additions to the List and proposal and adoption notices will be published in the New Jersey Register whenever the List is revised other than automatically.

N.J.A.C. 8:59-9.3(g) has been modified to indicate that employers will be notified of any changes to the Right to Know Hazardous Substance List when they receive their Right to Know Survey. In 1988, this was accomplished by enclosing a copy of the Right to Know Hazardous Substance List in the envelope with the Right to Know Survey and accompanying material. In 1989, this will be accomplished by an order form in the Right to Know Survey Instruction Booklet for employers to request a copy of the revised Right to Know Hazardous Substance List.

Subchapter 10. Special Health Hazard Substance List (N.J.A.C. 8:59-10)

There will be no change in text. This subchapter contains provisions which delineate the criteria used to evaluate the special health hazards posed by specific substances, and how this list (found in Appendix A & B) is to be interpreted.

Proposed New Rules: Subchapter 11. Community Right to Know; Labeling; Private Employers

Now that the U.S. Third Circuit Court of Appeals has upheld the decision of the U.S. District Court, requiring New Jersey Right to Know labeling by private employers, it may be confusing for these employers to determine which part of the current Department of Health rule applies to them. Therefore, these new rules are being proposed to enable a private employer to clearly see what parts of the existing Department of Health rule apply to the private employer, both manufacturers and non-manufacturers. Private employers are being given at least six months to come into compliance with labeling.

The new rules are summarized as follows:

N.J.A.C. 8:59-11.1, Authority: The New Jersey Worker and Community Right to Know Act and the U.S. Third Circuit Court of Appeals decision authorize this rule.

N.J.A.C. 8:59-11.2, Purpose: To comply with Community Right to Know, a private employer must submit a Community Right to Know Survey to the New Jersey Department of Environmental Protection, and label containers in accordance with Department of Health rules.

N.J.A.C. 8:59-11.3, Definitions: This section defines the "employers" covered by Community Right to Know as those employers which fall within the private employer Standard Industrial Classification codes contained in the Act.

N.J.A.C. 8:59-11.4: The general provisions of N.J.A.C. 8:59-1 apply to private employers with one exception.

N.J.A.C. 8:59-11.5: The trade secret provisions of N.J.A.C. 8:59-3 apply to private employers to maintain the confidentiality of substance names on container labels.

N.J.A.C. 8:59-11.6: The labeling provisions of N.J.A.C. 8:59-5 apply to private employers. Labeling shall be completed by March 31, 1990. For other than special health hazard substances, containers less than one pound are exempt from labeling.

N.J.A.C. 8:59-11.7: The enforcement provisions of N.J.A.C. 8:59-8 apply to private employers.

N.J.A.C. 8:59-11.8: The Right to Know Hazardous Substance List established pursuant to N.J.A.C. 8:59-9 applies to private employers.

N.J.A.C. 8:59-11.9: The Special Health Hazard Substance List established pursuant to N.J.A.C. 8:59-10 applies to private employers.

Social Impact

The social effect of the rules has been significant for the health and welfare of New Jersey's public employees, emergency responders and citizens. In the past four years, hundreds of thousands of public employees have been trained about the health and safety hazards of the hazardous substances they work with or are exposed or potentially exposed to, how to handle these substances properly, and what to do in the case of a spill or other emergency. Thousands of firefighters, police officers and other emergency responders have been trained how to handle spills and other emergencies involving hazardous substances.

There has been a tremendous amount of education of workers, emergency responders and the public as a result of several State and Federal laws working in concert with each other, regarding the hazards of hazardous chemicals. Such education can only serve to improve the health and safety of public employees, emergency responders and the public at large. Society will always use hazardous substances in workplaces and transport them on its roads. Therefore, education and training about hazardous substances will always be needed for new employees and to convey new information about old and new substances to all employees, emergency responders and the public.

The worker protection provisions of the rules affect approximately 1,576 public employers and 460,000 public employees. Not all employees are directly affected, since some work at facilities where there are no hazardous substances, and not all of the provisions of the Act apply to those facilities. Thousands of emergency responders in fire and police departments across the State are also affected by the rules. With the coverage of the law now interpreted to include volunteer firefighters, thousands of additional persons will benefit from the rules' required education and training program.

There has been great interest in these rules since their adoption. The enabling statute was passed as a result of advocacy by community, union

and environmental groups. All of these groups have maintained their interest throughout the past five years of implementation. These groups have worked hard to see that the rules were implemented properly. It would be deleterious to the implementation of the statute if these rules were not readopted, and it would severely jeopardize the Department's ability to protect the health and safety of public employees, emergency responders and residents of this State.

Economic Impact

The rules have had an economic impact over the past four years since their effective date. Public employers have had to fund education and training programs, hire consultants to perform inventories and fill out surveys, and hire staff or consultants to label containers in the workplace. Some employers have integrated this work into existing staffing situations, while others have hired new staff or outside consultants. There has not been any study to ascertain how much has been spent by public employers to comply with the Worker and Community Right to Know Act.

The amendments to the proposed readopted rules could cause some additional costs to be incurred by public employers. The addition of volunteers other than firefighters to coverage by the law would mean that any volunteers exposed or potentially exposed to hazardous substances would have to receive Right to Know training. These training costs, however, can be absorbed by including volunteers in regular training programs. It is not known how many public sector volunteers fall into this category.

The training of volunteer firefighters will probably not add additional expenses to municipalities because the Superfund Amendments and Reauthorization Act (SARA), Title III—Community Right to Know and Emergency Response Planning, requires that all firefighters must receive at least eight hours of hazardous materials emergency response training. This is greater than the estimated four to six hours of training required under the Right to Know law. Thus, volunteer firefighters who receive the SARA-Title III training should not need additional Right to Know training.

There will be an economic cost resulting from the U.S. Third Circuit Court of Appeals decision that the private manufacturing and non-manufacturing sector must label in accordance with New Jersey's Right to Know law. The cost of such compliance would involve the re-designing and printing of new labels by manufacturers and suppliers. Some employers would have to label products in stock. However, the cost will not be any greater than it was when the Right to Know law went into effect in 1984 before preemption. Some companies are already labeling according to New Jersey's Right to Know law and, for them, there will not be any additional cost.

Label re-designing and current stock relabeling will be a one-time cost for containers purchased from New Jersey companies. Future containers from New Jersey companies should come into the workplace correctly labeled due to the law's requirements. In fact, the law may increase purchasing of containers from New Jersey companies since they will already be properly labeled.

Regulatory Flexibility Analysis

The proposed readopted rules only regulate public employers; therefore, there would be no direct economic impact on small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

As mentioned under economic impact, there will be some label re-designing and printing, and in-stock labeling costs to small manufacturers, non-manufacturers and suppliers as a result of the Federal court applying the labeling requirements to them, except if they are already labeling according to the New Jersey Right to Know law. This cost will not be any greater than it was from 1984-1986 when certain small businesses were required to comply with labeling prior to preemption.

Label re-designing and current stock relabeling will be a one-time cost for containers purchased from New Jersey companies. Future containers from New Jersey companies should come into the workplace correctly labeled, due to the law's requirements. In fact, the law may increase purchasing of containers from New Jersey companies, since they will already be properly labeled.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:59-1, 2, 4, 5, 6, 7, 8, 9 and 10.

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

8:59-1.3 Definitions

The following words and terms have the following meanings unless the context clearly indicates otherwise:

. . .

"Designated county lead agency" means a health agency **or office of emergency management** designated by the county clerk to be responsible for conducting all county health department activities required by this act in the county.

. . .

"Emergency responder" means a firefighter, police officer, emergency medical technician, hazardous materials technician, and other similar person who responds to a hazardous substance spill, fire or other incident involving the actual or potential release of a hazardous substance.

"Emergency Services Information Survey" or "ESI Survey" means a written form prepared by the Department of Environmental Protection and transmitted to an employer, on which the employer shall provide certain information concerning each of the hazardous materials at its facility, including, but not limited to, the following: the name of the hazardous material and its United States Department of Transportation identification number, the United States Department of Transportation designated hazard class, the approximate range of maximum inventory quantity, the units of measure, the major methods of storage or types of containers, and whether the substance is present in a mixture. **The ESI Survey is incorporated into the Right to Know Survey.**

"Employee" means any paid full-time or part-time salaried, seasonal or hourly worker of a covered public employer, and shall include volunteer firefighters and volunteers who work for a covered public employer.

. . .

"Employee representative" means a certified collective bargaining agent or attorney or individual or organization to whom an employee gives written authorization to exercise his rights to request information pursuant to the provisions of the Act, or a parent or legal guardian of a minor or legally incompetent employee.

"Employer" means [any person or corporation in the State engaged in business operations which has a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget, within the following Major Group Numbers, Group Numbers, or Industry Numbers, as the case may be: Major Group Number 07 (Agricultural Services), only Industry Number 0782-Lawn and garden services; Major Group Numbers 20 through 39 inclusive (manufacturing industries; Major Group Number 45 (Transportation by Air), only Industry Number 4511-Air Transportation, certified carriers, and Group Number 458-Air Transportation Services; Major Group Number 46 (Pipelines, Except Natural Gas); Major Group Number 47 (Transportation Services), only Group Numbers 471-Freight Forwarding, 474-Rental of Railroad Cars, and 478-Miscellaneous Services Incidental to Transportation; Major Group Number 48 (Communication), only Group Numbers 481-Telephone Communication, and 482-Telegraph Communication; Major Group Number 49 (Electric, Gas and Sanitary Services); Major Group Number 50 (Wholesale Trade-Durable Goods), only Industry Numbers 5085-Industrial Supplies, 5087-Service Establishment Equipment and Supplies, and 5093-Scrap and Waste Materials; Major Group Number 51 (Wholesale trade, nondurable goods), only Group Numbers 512-Drugs, Drug Proprietaries and Druggist's Sundries, 516-Chemicals and Allied Products, 517-Petroleum and Petroleum Products, 518-Beer, Wine and Distilled Alcoholic Beverages, and 519-Miscellaneous Nondurable Goods; Major Group Number 55 (Automobile Dealers and Gasoline Service Stations), only Group Numbers 551-Motor Vehicle Dealers (New and Used), 552-Motor Vehicle Dealers (Used only), and 554-Gasoline Service Stations; Major Group Number 72 (Personal Services), only Industry Numbers 7216-Dry Cleaning Plants, Except Rug Cleaning, 7217-Carpet and Upholstery Cleaning, and 7218-Industrial Launderers; Major Group Number 73 (Business Services), only Industry Number 7397-Commercial testing labora-

tories; Major Group Number 75 (automotive repair, services, and garages), only Group Number 753-Automotive Repair Shops; Major Group Number 76 (miscellaneous repair services), only Industry Number 7692-Welding Repair: Major Group Number 80 (health services), only Group Number 806-Hospitals; and Major Group Number 82 (educational services), only Group Numbers 821-Elementary and Secondary Schools and 822-Colleges and Universities, and Industry Number 8249-Vocational Schools. Except for the purposes of the Worker and Community Right to Know Fund, N.J.S.A. 34:5A-26, "employer" means] the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof, **except for the purposes of the Worker and Community Right to Know Fund, N.J.S.A. 34:5A-26.**

. . .

"Environmental hazardous substance list" means the list of environmental hazardous substances developed by the Department of Environmental Protection pursuant to N.J.S.A. 34:5A-4. **The environmental hazardous substance list is incorporated into the Right to Know Hazardous Substance List.**

"Environmental survey" means a written form, entitled Part I or Part II, as the case may be, prepared by the Department of Environmental Protection and transmitted to an employer, on which the employer shall provide certain information concerning each of the environmental hazardous substances at his facility. **The environmental survey is incorporated into the Right to Know Survey.**

. . .

"Facility" means the building, equipment and contiguous area at a single location used for the conduct of business and shall include any area where employees are periodically assigned. Remote installed equipment **that is not located in a building,** which an employee may occasionally repair, maintain, check for proper operation, expand, remove, or replace shall be considered part of the facility from which employees are assigned to perform this work. Except for the purposes of education and training, N.J.S.A. 34:5A-13(c), labeling, N.J.S.A. 34:5A-14, and communication with the local fire department, N.J.S.A. 34:5A-25(b), "facility" shall not include a research and development laboratory.

. . .

"Hazardous substance" means any substance, or substance contained in a mixture, included on the [workplace] hazardous substance list developed by the Department of Health pursuant to N.J.S.A. 34:5A-5, introduced by an employer to be used, studied, produced, or otherwise handled at a facility. "Hazardous substance" shall not include.

[(1)]**1.** Any article containing a hazardous substance if the hazardous substance is present in a solid form which does not pose any acute or chronic health hazard to an employee **or emergency responder** exposed to it;

[(2)]**2.** Any hazardous substance constituting less than one percent of a mixture unless the hazardous substance is present in an aggregate amount of 500 pounds or more in a container at a facility;

[(3)]**3.** Any hazardous substance which is a special health hazard substance constituting less than the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture. **The threshold percentage for carcinogens, mutagens and teratogens shall be 0.1 percent;** [or]

[(4).]**4.** Any hazardous substance present in the same form and concentration as a product packaged for distribution and use by the general public to which an employee's exposure during handling is not significantly greater than a consumer's exposure during the principal use of the toxic substance, **present in normal consumer quantities** [.]; **or**

5. Any fuel in a motor vehicle.

"Hazardous substance fact sheet" means a written document prepared by the Department of Health for each hazardous substance **except for generic categories,** and transmitted by the [department] **Department** to employers, county health departments, county clerks, designated county lead agencies and the public pursuant to the provisions of the Act.

. . .

"One percent" means one percent by weight or volume.

. . .

"Potential exposure" includes exposure resulting from foreseeable emergencies such as, but not limited to, equipment failure, rupture of containers, or failue of control equipment which could result in an uncontrolled release of a hazardous substance into the workplace and exposure to an employee.

. . .

"Research and development laboratory"means a specially designated area used primarily for research, development, and testing activity and not primarily involved in the production of goods for commercial sale, in which hazardous substances or environmental hazardous substances are used by or under the direct supervision of a technically qualified person. **"Primarily" means greater than 50 percent.**

"Right to Know Hazardous Substance List" includes the workplace hazardous substance list and the environmental hazardous substance list.

"Right to Know Survey" includes the workplace survey, environmental survey, and the emergency services information survey.

. . .

"Technically qualified person" means a person who is a registered nurse, or has a bachelor's degree in industrial hygiene, environmental science, health education, chemistry, or a related field and understands the health risks associated with exposure to hazardous substances; or has completed at least 30 hours of hazardous materials training offered by the New Jersey State Safety Council, an accredited public or private educational institution, labor union, trade association, **private organization** or government agency and understands the health risks associated with exposure to hazardous substances, and has at least one year of experience supervising employees who handle hazardous substances or work with hazardous substances. The [thirty] **30** hour requirement may be met by the combination of one or more hazardous materials training courses.

. . .

"Trade secret claim" means a written request, made by an employer pursuant to N.J.S.A. 34:5A-15 **and N.J.A.C. 8:59-3,** to withhold the public disclosure of information on the grounds that the disclosure would reveal a trade secret.

. . .

"Workplace Hazardous Substance List" means the list of hazardous substances developed by the Department of Health pursuant to N.J.S.A. 34:5A-5. **The Workplace Hazardous Substance List is incorporated into the Right to Know Hazardous Substance List.**

"Workplace survey" means a written document, prepared by the Department of Health and completed by [an] **a public** employer pursuant to the Act, on which the employer shall report each hazardous substance present at his facility. **The workplace survey is incorporated into the Right to Know Survey.**

8:59-1.4 Covered employers exempt from provisions of the law.

(a) Any **public** employer whose [workplace] **Right to Know** survey transmitted to the Department of Health indicates that no hazardous substances are present at the facility[,] shall be exempt from the provisions of the Act for that facility, except for the requirement to annually update the [workplace] **Right to Know** survey pursuant to N.J.A.C. 8:59-2, and except for the provisions of N.J.S.A. 34:5A-33 and N.J.A.C. 8:59-8 providing for enforcement of violations of the Act.

(b) Any **public** employer exempted from the provisions of the Act pursuant to this section who transmits to the Department of Health an update of the [workplace] **Right to Know** survey which indicates that a hazardous substance is present at the **public** employer's facility shall immediately be subject to **all** the provisions of the Act.

SUBCHAPTER 2. [WORKPLACE] RIGHT TO KNOW SURVEY

8:59-2.1 General provisions

(a) A [workplace] **Right to Know** survey shall be prepared by the Department of Health and mailed [by the Department of Labor] to every **public** employer covered under the New Jersey unemployment insurance law who is also coverd by the Act. [The Department of

Labor will give public notice to employers who are not covered by unemployment insurance but are covered by the Act, to inform them of their responsibility to comply with the Act.]

(b) Every **public** employer shall report each hazardous substance listed on the [Workplace] **Right to Know** Hazardous Substance List which is present at its facility.

(c) Every **public** employer shall complete a [workplace] **Right to Know** survey every year.

(d) [By October 30, 1985, or within] **Within** 90 days of receipt of a [workplace] **Right to Know** survey, [whichever is later, an] **a public** employer shall complete and transmit the survey to the Department of Health; the county health department, county clerk, or designated county lead agency, of the county in which the employer's facility is located; **the local health department; the Local Emergency Planning Committee;** the local fire department; and the local police department. [These deadlines shall apply to the first workplace survey and to annual workplace survey updates.]

(e) The [department] **Department** shall provide, **upon request,** a Spanish translation of a blank copy of the [workplace] **Right to Know** survey to **public** employers; to county health departments, county clerks, or designated county lead agencies; and to the public.

8:59.2.2 Completion of [workplace] **Right to Know** survey

(a) [An] **A public** employer shall report the hazardous substances which are present at its facility on the [workplace] **Right to Know** survey in alphabetical order on each page of the survey. Hazardous substances shall be reported by the common name permitted by N.J.A.C. 8:59-5.7, and Chemical Abstracts Service number listed on the [Workplace] **Right to Know** Hazardous Substance List. Hazardous substances which are special health hazard substances shall be reported on the [workplace] **Right to Know** survey in accordance with N.J.A.C. 8:59-10.1(b). Hazardous substances other than special health hazard substances which are included in a mixture shall be reported on the [workplace] **Right to Know** survey if they constitute one percent or more of the mixture or if the substance is present in the aggregate of 500 pounds or more in a container at the facility regardless of the percentage of the substance in a mixture.

(b) In order for the [department] **Department** to enforce compliance with the law, [an] **a public** employer shall maintain records which indicate which hazardous substance components are present in which substances, mixtures, or intermediates that are [defined] **identified** by non-generic, **generic** or non-acceptable common or chemical names. **Material safety data sheets should be used for this purpose.**

(c) [An Employer] **A public employer** who wishes to claim a trade secret for the product trade name and chemical name or common name and Chemical Abstracts Service number of a hazardous or other substance shall follow the procedures set forth in N.J.A.C. 8:59-3 for making a trade secret claim on the [workplace] **Right to Know** survey.

(d) [An] **A public** employer shall report on the [workplace] **Right to Know** survey any other information the [department] **Department** determines to be reasonably necessary in order to carry out its responsibilities under the Act.

(e) If [an] **a public** employer does not know the chemical name and Chemical Abstracts Service number of the components of a substance, mixture, or intermediate, at the time of receipt of the annual [workplace] **Right to Know** survey, it shall make a good faith effort [during the following six months] to obtain this information from the manufacturer or supplier. The **public** employer shall maintain written documentation of its good faith effort.

(f) If [an] **a public** employer is unable to obtain the chemical name and Chemical Abstracts Service number of all hazardous substances or the non-hazardous substances among the five most predominant components of the substance, mixture, or intermediate [six months after receiving the workplace survey], it shall notify the [department] **Department** on the form provided **and attach it to the Right to Know survey submitted to the Department.** The **public** employer shall include the identifying name or trade name of the substance, mixture or intermediate, and the manufacturer's name and address, and shall supply the department with any available corresponding material safety data sheet. If the **public** employer cannot identify the manufacturer's name it shall supply the name and address of the supplier.

(g) [An] **A public** employer shall certify on the [workplace] **Right to Know** survey that the information contained therein is true, accurate and complete to the best of its knowledge.

(h) If a public or private subcontractor stores hazardous substances at a public employer's facility, the public employer shall report these substances on the Right to Know survey.

(i) A public employer shall obtain material safety data sheets from manufacturers, suppliers and subcontractors for all products present at the public employer's facility, purchased for the public employer's facility, and brought on site at the public employer's facility.

8:59-2.3 Additional information requested by local agencies

(a) Any county health department, county clerk, or designated county lead agency, local police department, or local fire department may request from [an] **a public** employer submitting a [workplace] **Right to Know** survey to it further information concerning the survey, except for information claimed as trade secret on the survey form, and the public employer shall provide the additional information upon the request therefore. The **public** employer shall provide a response within 30 days.

(b) The **public** employer may require the county health department, county clerk, or designated county lead agency; local police department; or local fire department to sign an agreement protecting the confidentiality of any additional information provided pursuant to (a) above.

SUBCHAPTER 3. TRADE SECRETS (No change.)

SUBCHAPTER 4. HAZARDOUS SUBSTANCE FACT [SHEET] **SHEETS**

8:59-4.1 General provisions

(a) A hazardous substance fact sheet shall be developed by the Department of Health for each hazardous substance on the [Workplace] **Right to Know** Hazardous Substance List. **This requirement does not include generic categories of substances.**

(b) When [an] **a public** employer files a trade secret claim, it may prepare its own hazardous substance fact sheet pursuant to N.J.A.C. 8:59-4.4(b) subject to the approval of the [department] **Department.**

(c) The [department] **Department** shall retain each hazardous substance fact sheet prepared either by the [department] **Department** or [an] **a public** employer for 30 years.

(d) Except for fact sheets prepared by **public** employers claiming a trade secret, the [department] **Department** shall prepare a Spanish translation of each hazardous substance fact sheet.

(e) The [department] **Department** shall make available to **public** employers, county health departments, county clerks, or designated county lead agencies, and the public a Spanish translation of each hazardous substance fact sheet.

(f) A public employer shall maintain and make available to employees material safety data sheets that have been developed or acquired for substances listed on the Right to Know Hazardous Substance List for which hazardous substance fact sheets have not beem completed and for mixtures, in the same manner as hazardous substance fact sheets. The material safety data sheets shall be distributed in addition to hazardous substance fact sheets and not as a substitute. The material safety data sheets shall be made available to the department upon request.

8:59-4.2 Contents of **hazardous substance** fact sheet

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

8:59-4.3 Transmittal to employer

(a) Upon receipt of a completed [workplace] **Right to Know** survey from [an] **a public** employer, the Department of Health shall transmit to that **public** employer a hazardous substance fact sheet [and its Spanish translation] for each hazardous substance reported by the **public** employer on the [workplace] **Right to Know** survey.

(b) The [department] **Department** shall transmit to [an] **a public** employer who was unable to list the hazardous substance compo-

nents of a substance or mixture on the [workplace] **Right to Know** survey, a hazardous substance fact sheet for each hazardous substance contained in the substance or mixture when the [department] **Department** obtains the names of the hazardous substances[, and other pertinent information].

(c) Upon receipt of the annual [workplace] **Right to Know** survey, the [department] **Department** shall supply the **public** employer with any necessary additional hazardous substance fact sheets.

(d) The Department shall transmit a Spanish translation for each hazardous substance reported by a public employer on the Right to Know survey, upon request.

8:59-4.4 Trade secret claims

(a) If [an] **a public** employer makes a trade secret claim for a substance on the [workplace] **Right to Know** survey pursuant to N.J.A.C. 8:59-3, the [department] **Department** shall transmit to the **public** employer a hazardous substance fact sheet for the substance with the public employer's trade secret registry number for the substance listed in place of the name of the substance and the Chemical Abstracts Service number, unless the **public** employer notifies the [department] **Department** that it desires to prepare its own hazardous substance fact sheet in accordance with (b) below.

(b) [An] **A public** employer may prepare a hazardous substance fact sheet for any substance for which a trade secret claim has been made in order to maintain the confidentiality of the trade secret.

1. The hazardous substance fact sheet prepared by [an] **a public** employer shall contain the information set forth in N.J.A.C. 8:59-4.2(a)2 to 8. The information required in N.J.A.C. 8:59-4.2(a)3 may be expressed in descriptive terminology. The interpretation of data for a fact sheet prepared by [an] **a public** employer shall follow the intent of and information contained in the corresponding fact sheet prepared by the [department] **Department**, including information supplied in addition to that required by N.J.A.C. 8:59-4.2(a).

2. [An] **A public** employer shall attach a standardized explanatory sheet prepared by the [department] **Department** to every hazardous substance fact sheet prepared by the **public** employer.

3. A hazardous substance fact sheet prepared by [an] **a public** employer shall be available for employee use in the same manner as a fact sheet prepared by the [department] **Department**, and a copy shall be submitted to the [department] **Department** within 30 days of receiving the [department's] **Department's** hazardous substance fact sheet. A hazardous substance fact sheet prepared by [an] **a public** employer need only be distributed to employees on request and to the [department] **Department** for review. In the case of trade secret claims made after return of the [workplace] **Right to Know** survey, a copy of the hazardous substance fact sheet pertaining to the claim shall be submitted to the [department] **Department** within one month of submission of the trade secret claim.

4. The **public** employer shall list its trade secret registry number for the substance on the hazardous substance fact sheet.

5. [An] **A public** employer shall prepare a Spanish translation of the hazardous substance fact sheet and submit a copy to the [department] **Department** within 30 days of approval of its hazardous substance fact sheet.

(c) The [department] **Department** shall review hazardous substance fact sheets prepared by **public** employers for compliance with N.J.A.C. 8:59-4.4(b). During the review by the [department] **Department**, the **public** employer's hazardous substance fact sheets shall be made available for employee use in the same manner as a fact sheet prepared by the [department] **Department**. After review and discussion, the [department] **Department** shall require, if necessary, modifications to the fact sheets or substitution of the [department's] **Department's** fact sheet for the fact sheet developed by the **public** employer within 30 days of the [department's] **Department's** review.

SUBCHAPTER 5. LABELING CONTAINERS

8:59-5.1 General provisions

[(a) By October 30, 1985, every container at an employer's facility containing a hazardous substance shall bear a label indicating the chemical name and Chemical Abstracts Service number of the hazardous substance or the trade secret registry number assigned to the hazardous substance. Common names specified in N.J.A.C. 8:59-5.7 may be substituted for the chemical name of the substance.]

(a) The labeling provisions of this subchapter apply to public employers as defined in N.J.A.C. 8:59-1.3 and private employers as defined in N.J.A.C. 8:59-11.3.

(b) [By October 30, 1985, every] **Every** container at an employer's facility in which more than one percent of the contents of the container are unknown, shall bear a label stating "Contents Unknown" or "Contents Partially Unknown", as appropriate, in addition to other labeling required by N.J.A.C. 8:59-5.

(c) [By August 29, 1986, every] **Every** container at an employer's facility shall bear a label indicating the chemical name and Chemical Abstracts Service number of all hazardous substances in the container, and all other substances which are among the five most predominant substances in the container, or the trade secret registry number assigned to the substance. **This is commonly referred to as "universal labeling."** Common names specified in N.J.A.C. 8:59-5.7 may be substituted for the chemical name of the substance.

(d) Labels shall be affixed to containers before employees open the containers or within five working days of the container's arrival at the facility, whichever is sooner. In warehouses, storage or transfer facilities associated with employers covered by this Act, where containers are not opened, labeling required by or consistent with United States Department of Transportation, 49 CFR Parts 172.101 and 172.102 requirements, may be used.

(e) Laboratories or other facilities which receive containers with unknown materials or old pressurized gas cylinders with unknown contents for analysis of the contents shall label the containers as substances are identified. In the interim period until the contents are identified, these containers shall be labeled in accordance with N.J.A.C. 8:59-5.1(b).

(f) Containers of materials for which the employer does not know the contents, and the manufacturer is unknown or no longer in business, shall be labeled pursuant to the Act or the Federal Resource Conservation and Recovery Act. The employer shall be responsible for determining the components of the container and attaching appropriate labeling.

(g) When an employer receives information that allows it to identify the chemical name and Chemical Abstracts Service number of the components of any product in its facility, it shall label the appropriate containers pursuant to [(a),] (c), (d) and (e) above **within 30 days of receiving this information.**

(h) Reaction vessels are containers in which reaction or mixing takes place which do not meet the definition of process container. Reaction vessels shall contain labels which identify the substances which are added to the vessel and removed from the vessel. These labels may be placed on an adjoining wall or post in close proximity to the reaction vessel. Batch sheets or operating manuals which contain the information required for labeling in N.J.A.C. 8:59-5.1(a), (b), and (c) may be placed on an adjoining wall or post in close proximity to the reaction vessel to meet the requirement of this section.

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

(j) An employer shall not be precluded from including on a label an appropriate hazard warning and the name and address of the substance manufacturer, importer, or other responsible party.

(k) Employers shall not remove or deface labels on incoming containers of substances, unless the container is immediately marked with the information required by this subchapter.

(l) Public employers who operate prisons or jails who believe that container labeling will constitute a security risk at the institution, may

request a waiver of the labeling requirements of this subchapter. The waiver shall insure that the employees of the public employer receive all of the information about hazardous substances they are entitled to under the Act, although in a modified manner.

(m) In warehouses, storage and transfer facilities where containers are delivered stacked on skids, the containers remain on the skid until they are shipped out of the warehouse, storage or transfer facility, and it is not possible to get to all the containers without breaking down the skid, only those containers on the outside face of the skid and within reach of an employee need to be labeled in accordance with this subchapter. If the skid is shrink-wrapped, labels must be placed inside the shrink-wrap on all four sides of the skid. If unlabeled containers are removed from the skid, they shall be immediately labeled.

(n) Containers that are packed within properly labeled larger containers need not be labeled in accordance with this subchapter until they are removed from the larger container.

8:59-5.4 Mixtures

[(a)] If a container contains a mixture, an employer shall label the container according to N.J.A.C. 8:59-5.

[(b) For those hazardous substances other than special health hazard substances whose only references sources on the Workplace Hazardous Substance List are the United States Department of Transportation's Hazardous Materials Tables (source #3) and the National Fire Protection Association's National Fire Codes (source #15), labeling is required only if those substances are among the five most predominant substances contained in the mixture.]

8:59-5.5 Exceptions to labeling requirements—**Federal labeling laws**

(a) The labeling requirements of N.J.A.C. 8:59-5.1 shall not apply to containers affixed with labels pursuant to the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, 61 Stat. 163 (7 U.S.C. 121 et al.).

(b) Containers labeled with shipping names of specific substances with identification numbers from the United States Department of Transportation's Hazardous Materials Tables, Title 49 Code of Federal Regulations Parts 172.101, columns 2 and 3A, and 172.102, columns 2 and 4, may be substituted for the information required by N.J.A.C. 8:59-5.1 if the name on the container is identical to the chemical or common name on the [Workplace] **Right to Know** Hazardous Substance List.

(c) Containers containing waste material shall be labeled. The information required on a label pursuant to the Federal Resource Conservation and Recovery Act (RCRA) may be substituted for the information required by N.J.A.C. 8:59-5.1, even though the employer is not regulated by RCRA.

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

(e)-(i) (No change.)

8:59-5.6 Exclusions from the requirement to label

(a) Containers containing the following categories of hazardous or other substances shall be exempt from the requirements of labeling:

1. Any article containing a hazardous or other substance if the hazardous or other substance is present in a solid form and is not used in a manner which changes its physical form, and which does not pose any acute or chronic health hazard to an employee **or emergency responder** exposed to it[.];

2. Any hazardous or other substance constituting less than one percent of a mixture unless the hazardous or other substance is present in an aggregate amount of 500 pounds or more in a container at a facility;

3. Any hazardous or other substance which is a special health hazard substance constituting less than the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture. **The threshold percentage for carcinogens, mutagens and teratogens shall be 0.1 percent**; [or]

4. Any hazardous or other substance present in the same form and concentration as a product packaged for distribution and use by the general public to which an employee's exposure during handling is not significantly greater than a consumer's exposure during the principal use of the toxic or other substance **present in normal consumer quantities[.]; or**

5. Any fuel in a motor vehicle.

(b) Process containers and directly associated piping whose contents change with the same frequency as the contents of the process containers, and sample valves from the process containers and directly associated piping, need not be labeled. This exclusion shall not apply to pipeline labeling requirements in N.J.A.C. 8:59-5.2, **which regulates the labeling of valves, outlets, vents, drains and sample connections.**

(c) A container which is removed from a larger container that is labeled in accordance with this subchapter, which is intended only for the immediate use of the employee who performs the removal, and which is used up during the employee's workshift, need not be labeled.

8:59-5.7 Common name

(a) Only common names specified by the department may be substituted for required chemical names on labels.

(b) For hazardous substances listed on the [Workplace] **Right to Know** Hazardous Substance List, the first name shall be considered the common name for the hazardous substance for purposes of labeling containers. If there is only one name listed for a hazardous substance on the [Workplace] **Right to Know** Hazardous Substance List, no other name may be used for purposes of labeling containers. **Any synonym listed on the Right to Know Hazardous Substance List shall be considered an acceptable common name for purposes of labeling containers.**

(c) For substances not listed on the [Workplace] **Right to Know** Hazardous Substance List, any synonym accepted by the Chemical Abstracts Service shall be considered the common name for the substance for purposes of labeling containers.

8:59-5.8 Labels

(a) A label shall be a sign, emblem, sticker or marker of a durable nature affixed to or stenciled onto a container.

(b) The printing on a label shall be easily readable and not obscured.

(c) The label shall be prominently displayed on the container.

8:59-5.10 *Subcontractors*

If a public or private subcontractor stores hazardous or other substances at a public employer's facility, the public employer shall ensure that the containers holding these substances are labeled in accordance with this subchapter.

SUBCHAPTER 6. EDUCATION AND TRAINING PROGRAM

8:59-6.1 General provisions

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

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

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

(b) All education and training programs shall comply with N.J.A.C. 8:59-6.3. [Existing education and training programs which comply with N.J.A.C. 8:59-6.4 may be certified by the department.]

(c) [An] **A public** employer shall use a technically qualified person to conduct its education and training program.

(d) All **public** employers shall submit, attached to their [workplace] **Right to Know** survey, a certification that employees who are exposed or are potentially exposed to hazardous substances in the course of their employment, have received an education and training program which meets the requirements of N.J.A.C. 8:59-6.3 within the deadlines set forth in N.J.A.C. 8:59-6.2. [This certification is not required to be submitted with the workplace survey returned in the first year of the act.] Research and development laboratories shall certify by letter that all employees have received an education and training program which meets the requirements of N.J.A.C. 8:59-6.3 by January 1 of each year [beginning January 1, 1986].

(e) [Employers] **Public employers** shall maintain a written record of training given to employees. This record, at a minimum, shall describe the training, the date or dates on which it was given, the names and signatures of the employees, and the person conducting the training. These records shall be maintained by the **public** employer for the duration of each employee's employment and shall be made available to the [department] **Department** upon request.

(f) Municipalities shall be responsible for providing the education and training program to the volunteer firefighters in their municipality.

8:59-6.2 Program for employees

(a) [By October 30, 1985, an employer shall establish an education and training program for his employees.] By December 31, 1985, [an] **a public employer shall have provided** [provide] current employees with a complete education and training program, and **shall provide an education and training program for these employees** annually thereafter. **The annual training shall occur within 12 months of the initial training and within 12 months of subsequent annual training programs.**

(b) [Beginning on January 1, 1986, an] **A public** employer shall provide new or reassigned employees with an education and training program within the first month of employment or reassignment.

(c) [An] **A public** employer shall provide employees with an education and training program for hazardous substances which were unknown to the **public** employer, within three months of receiving the identity of and hazardous substance fact sheets for the hazardous substance components of a substance or mixture pursuant to N.J.A.C. 8:59-4.3(b).

(d) [An] **A public** employer shall provide employees whose native language is Spanish and who cannot read or speak English above a 6th grade level, with an education and training program in Spanish, including written materials.

(e) [Beginning on January 1, 1986, prior] **Prior** to entering an employment agreement with a prospective employee, [an] **a public** employer shall notify the prospective employee of the availability of [workplace] **Right to Know** surveys and appropriate hazardous substance fact sheets at the Department of Health; county health department, county clerk, or designated county lead agency; and employer's facility **(including material safety data sheets at the facility)** for the facility at which the prospective employee will be employed.

8:59-6.3 Contents of program

(a) The design of an acceptable education and training program shall include a definition of objectives including cognitive and behavioral goals, technically qualified instructors, and a method to evaluate the effectiveness of the program.

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

1. A general overview of occupational health including an explanation of:

i. The common methods used to recognize occupational health and safety hazards;

ii. The common methods used to measure and evaluate employee exposure to hazardous substances;

iii. The common methods used to prevent and control employee exposure to hazardous substances including methods which (1) eliminate the source of the contaminant; (2) prevent dispersion of the contaminant; and (3) provide personal employee protection;

2. An explanation of the nature of and potential health and safety risks, including acute and chronic effects and symptoms of effects of exposure, of the hazardous substances to which the employees are exposed **or potentially exposed** in the course of their employment, as set forth in the hazardous substance fact sheets, **material safety data sheets, and other sources.** Hazardous substances with similar health and safety risks may be grouped together for purposes of explanation;

3. An explanation of the proper and safe procedures for handling, under all circumstances, the hazardous substances to which the employees are exposed **or potentially exposed** in the course of their employment, including the use and functioning of personal protective equipment, the policy and program for use of respirators, appropriate emergency treatment for exposure, procedures for cleanup of leaks and spills, and any special use conditions. **This shall include an explanation about any operations in the work area which use hazardous substances.** Appropriate employees shall be given "hands-on" training in the proper use and functioning of personal protective equipment and certain designated employees shall be given"hands-on" training in the use of cleanup and firefighting equipment;

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

i. A general explanation of the [workplace] **Right to Know** survey and the substances listed on the employer's [workplace] **Right to Know** survey, including distribution of a sample page of a survey;

ii. An explanation of the employer's obligation to label containers in its facility with chemical or common names and Chemical Abstracts Service numbers;

iii. A general explanation of hazardous substance fact sheets and **material safety data sheets and** distribution of a sample fact sheet **and material safety data sheet;**

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

v. An explanation of the employee's right and relevant procedures to obtain a copy of the [workplace] **Right to Know** survey, [and] hazardous substance fact sheets **and material safety data sheets** from the employer, from the county health department, county clerk, or designated county lead agency, or from the Department of Health; to obtain copies from the county health department, county clerk, or designated county lead agency, and Department of Health in confidence; and the employer's obligation to supply, without cost, copies of the [workplace] **Right to Know** survey and appropriate hazardous substance fact sheets to employees **and, where appropriate and available, material safety data sheets,** within five working days of a request;

vi. An explanation of the employee's right to refuse to work with a hazardous substance for which a request was made for a [workplace] **Right to Know** survey, appropriate hazardous substance fact sheet, [environmental survey,] the chemical name and Chemical Abstracts Service number of a substance in a container which is not labeled pursuant to N.J.A.C. 8:59-5, or the chemical name of a substance labeled with a common name, for the facility at which he or she is employed, and not honored within five working days of the request; the employee's right not to lose pay or forfeit any other privilege until the request is honored and not to be discharged, disciplined, penalized, or discriminated against for exercising any right under the law; and the appropriate agency to whom the employee would register a complaint regarding a violation of the law;

5. Informing and physically showing employees the location of the hazardous substance containers present at the facility with which they work and with which they are likely to work. Employees assigned plant-wide or to more than one location may be shown a representative work area where hazardous substance containers are present;

6. The opportunity for employees to ask questions related to hazardous substances and the New Jersey Worker and Community Right-to-Know Act.

(c) Every employer shall **annually** supply **all** employees with **the Right to Know brochure and** any **other** material designed and provided by the Department of Health, the Department of Environmental Protection, and the Department of Labor to inform employees of their rights under the Act **at those facilities where hazardous substances are present. All new employees, regardless of potential ex-**

posure to a hazardous substance, shall receive the Right to Know brochure developed by the above-referenced departments, within the first month of employment.

(d) Every **public** employer shall post on bulletin boards or in other conspicuous areas **in the facility** any posters designed and provided by the [department] **Department** to inform employees of their rights under the Act.

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

(f) If the only hazardous substance to which an employee is exposed is toner or developer for a copying machine when the employee periodically replenishes the toner or developer in the machine, or gasoline for a motorized vehicle when the employee periodically fills the vehicle or a small can with gasoline, the public employer is not required to provide the full education and training program (including a technically qualified trainer) or annual training to the employee if the public employer:

1. Provides the employee with the appropriate hazardous substance fact sheet and material safety data sheet on the toner or developer, or gasoline, as appropriate;

2. Reviews the hazardous substances fact sheet and material safety data sheet with the employee and explains its provisions;

3. Answers all questions by the employee about this information; and

4. Provides the employee with the Right to Know brochure developed by the Departments of Health, Environmental Protection and Labor.

5. A fact sheet developed by the Department on the hazards of photocopiers may be substituted for hazardous substance fact sheets.

8:59-6.4 [Certification of existing program] **(Reserved)**

[(a) An employer which has established an employee education and training program regarding the health and safety risks and proper handling procedures for hazardous substances prior to August 29, 1984, may request the department to certify the education and training program as constituting compliance with the Act by submitting the following information to the department by March 1, 1985:

1. A general description of the education and training program;

2. A list of all materials used and distributed to employees. Upon request, said materials shall be submitted to the department. If other than written documents are submitted, such as film or filmstrip, the department shall return the material after review upon request of the employer;

3. A description of the method of instruction;

4. Information documenting that the provisions of N.J.A.C. 8:59-6.3 are being met.

(b) The department shall have the right to enter an employer's facility during the normal operating hours of the facility to evaluate a request for certification and to determine an employer's compliance with N.J.A.C. 8:59-6.

(c) An employer shall be deemed in compliance with N.J.S.A. 8:59-6 until the department renders a decision on certification if it has submitted the information required by (a) above by March 1, 1985.

(d) Employees shall be informed by the employer of the employer's application for certification of its education and training program by posting a notice on bulletin boards readily accessible to employees.]

8:59-6.5 Subcontractors

(a) When a public or private subcontractor produces, uses or stores hazardous substances at a public employer's facility in such a way that the employees of the public employer are or may be exposed to the hazardous substances, the public employer shall find out the identity of the hazardous substances and provide health hazard and protective procedure information about the substances to exposed and potentially exposed employees during the annual education and training program or upon request of an employee or employee representative, whichever occurs sooner.

(b) If not part of the annual training program, such information may be provided to exposed and potentially exposed employees in writing. The public employer shall provide exposed and potentially exposed employees with appropriate hazardous substance fact sheets or material safety data sheets, if requested.

SUBCHAPTER 7. EMPLOYEE AND PUBLIC ACCESS TO INFORMATION

8:59-7.1 Department of Health obligations

(a) The Department of Health shall maintain a file of all completed [workplace] **Right to Know** surveys received from **public** employers and hazardous substance fact sheets prepared by the [department] **Department** or by **public** employers.

(b) The [department] **Department** shall retain hazardous substance fact sheets prepared by the [department] **Department** and each [workplace] **Right to Know** survey and hazardous substance fact sheet received from **public** employers, for 30 years.

(c) Any person may request in writing from the department a copy of a [workplace] **Right to Know** survey for a facility or a copy of any hazardous substance fact sheet.

(d) The [department] **Department** shall transmit any material requested pursuant to (c) above within 30 days of the request.

(e) Any request by an employee for material pertaining to the facility where he or she is employed made pursuant to (c) above shall be treated by the [department] **Department** as confidential.

(f) Any person who requests the disclosure of information for which a trade secret claim has been made or approved, shall follow the procedures set forth in N.J.A.C. 8:59-3.10.

(g) The [department] **Department** shall not distribute to any person, except as provided in N.J.A.C. 8:59-3.15, hazardous substance fact sheets prepared by **public** employers for the protection of trade secrets.

(h) The [department] **Department** shall have the right to charge for making and supplying copies of any documents requested by any persons in accordance with N.J.S.A. 47:1A-1 et seq. The Department shall have the right to charge for copies of hazardous substance fact sheets requested by any person except for those sent to an employer in response to hazardous substances reported on the workplace survey and except for research and development laboratories covered by the Act.

8:59-7.2 Employer obligations

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

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

(c) [An] **A public** employer shall, upon request, provide an employee whose native language is Spanish or employee representative, with a Spanish translation of a [workplace] **Right to Know** survey, hazardous substance fact sheet and, if applicable, [an environmental survey] **a material safety data sheet**. Every employer with employees whose native language is Spanish shall post the notice required in (b) above in Spanish.

(d) [An] **A public** employer shall, upon written request, provide an employee or employee representative with a copy of a [workplace] **Right to Know** survey, appropriate hazardous substance fact sheets and, if applicable, **material safety data sheets,** [an environmental survey,] at no cost. This information shall be provided as soon as possible but at the least within five working days of the request. **For a mixture, a public employer shall, upon written request, provide an**

employee or employee representative with a copy of the appropriate material safety data sheet.

(e) [An] **A public** employer shall, upon written request, provide an employee or employee representative with the chemical name of a substance in a container labeled with a common name. This information shall be provided as soon as possible but at the least five working days of the request.

(f) [An] **A public** employer shall, upon written request, provide an employee or employee representative with the chemical name and Chemical Abstracts Service number or trade secret registry number of all hazardous substances and[, after August 29, 1986,] the five most predominant substances contained in any container which is not labeled pursuant to the Act. This information shall be provided as soon as possible but at the latest within five working days of the request.

(g) Every research and development laboratory shall establish a communications program with the local fire department, which shall be designed to assist the fire department in adequately preparing to respond to emergencies at the research and development laboratory.

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

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

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

(i) No **public** employer shall discharge, cause to be discharged, or otherwise discipline, penalize, or discriminate against any employee because the employee or his or her employee representative has exercised any right established in the Act.

(j) The requirements of this section to supply hazardous substance fact sheets and material safety data sheets to employees or employee representatives shall also apply to hazardous substances brought into a public employer's facility (including surrounding land) by a public or private subcontractor.

8:59-7.3 County health department, county clerk, or designated county lead agency obligations

(a) Each county health department, county clerk, or designated county lead agency shall maintain a file of [workplace] **Right to Know** surveys[, environmental surveys,] and hazardous substance fact sheets transmitted to it pursuant to the provisions of [this act] **the Act.**

(b) [Workplace surveys, environmental] **Right to Know** surveys[,] and hazardous substance fact sheets shall be made available for inspection by the public at no cost and at reasonable hours. If a fee is charged for copies of these documents, the fee shall not exceed the cost of reproducing the document.

(c) A county health department, county clerk, or designated county lead agency shall, upon request, provide to any person copies of the [workplace survey, environmental] **Right to Know** survey and hazardous substance fact sheet in a Spanish translation provided by the Department of Health, Department of Environmental Protection, or an employer.

(d) Any request by an employee for material pertaining to the facility where he or she is employed made pursuant to (b) and (c) above shall be treated by the county health department, county clerk, or designated county lead agency as confidential.

8:59-7.4 Police and fire department obligations

No local police department or local fire department receiving [workplace surveys or environmental] **Right to Know** surveys pursuant to the provisions of the Act shall make the surveys available to the public. **This prohibition shall not apply to distribution of surveys to local health departments, Local Emergency Planning Committees, or other units of local government.**

8:59-7.5 Employee rights

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

(b) An employee shall have the right to refuse to work with a hazardous substance for which a request was made for a [workplace] **Right to Know** survey, appropriate hazardous substance fact sheet [environmental survey] **or material safety data sheet,** the chemical name and Chemical Abstracts Service number of a substance in a container which is not labeled pursuant to N.J.A.C. 8:59-5, or the chemical name of a substance labeled with a common name, for the facility at which he or she is employed, and not honored within five working days of the request, without loss of pay or forfeit of any other privilege until the request is honored, except in the case of (c) below.

(c) (No change.)

SUBCHAPTER 8. ENFORCEMENT

8:59-8.2 Civil administrative penalty

(a) The Commissioner of the State Department of Health is authorized pursuant to N.J.S.A. 34:5A-33 to impose a civil administrative penalty of not more than $2,500 for each violation and additional penalties of not more than $1,000 for each day during which a violation continues after receipt of an order from the Commissioner to cease the violation.

(b) The penalty which may be assessed for a violation is to be determined by application of factors indicative of the seriousness and type of the violation, as set forth below.

1. Seriousness:

i. Within the Commissioner's discretion, significant violations shall include, but not be limited to:

(1) Filing false information on the [workplace] **Right to Know** survey;

(2) Failure to conduct an education and training program.

(3) Failure to supply information requested by a county health department, county clerk, or designated county lead agency, local police department, or local fire department concerning the [workplace] **Right to Know** survey.

ii. Within the Commissioner's discretion, major violations shall include, but not be limited to:

(1) Failure to return a completed [workplace] **Right to Know** survey to the [department] **Department** within the deadline set forth in N.J.A.C. 8:59-2;

(2) Failure to convey copies of the [workplace] **Right to Know** survey to the county health department, county clerk, or designated county lead agency, local fire department, or local police department;

(3) Omission from the [workplace] **Right to Know** survey of more than **five percent** of the hazardous substances present at the **public** employer's facility;

(4) Failure to make a good faith effort to obtain the chemical names and Chemical Abstracts Service numbers of the components of a product which are unknown to the employer, from the manufacturer or supplier of the product.

(5) Failure to supply the chemical name or common name and Chemical Abstracts Service number of a substance claimed to be a trade secret on the trade secret **claim form** [section of the workplace survey] which is filed with the [department] **Department**;

(6) Failure to file the trade secret **claim form** [section of the workplace survey] with the [department] **Department**, if applicable.

(7) Failure to prepare a hazardous substance fact sheet for a trade secret substance in accordance with the requirements of N.J.A.C. 8:59-4.4(b).

(8) Failure to label [more than five] **at least 95** percent of containers containing hazardous substances by the deadlines set forth in N.J.A.C. 8:59-5.1;

(9) Failure to label [more than five] **at least 95** percent of all containers by the deadline set forth in N.J.A.C. 8:59-5.1(c);

(10) Failure to label [more than five] **at least 95** percent of containers in accordance with the requirements of N.J.A.C. 8:59-5;

(11) Conducting an education and training program that does not comply with the requirements set forth in N.J.A.C. 8:59-6.

(12) Failure to provide employees with material provided by the [department] **Department**;

(13) Failure to post posters provided by the [department] **Department** to inform employees of their rights under the law;

(14) Failure to provide an employee with a copy of a [workplace] **Right to Know** survey, appropriate hazardous substance fact sheets, and, if applicable, [an environmental survey] **material safety data sheets**, as soon as possible but at the latest within five working days of the request;

(15) Failure to provide copies of employee health and exposure records requested by the [department] **Department**;

(16) Failure to grant the [department] **Department** access to employees in order to request permission to review their health and exposure records;

(17) Failure to establish and maintain a central file which contains a [workplace] **Right to Know** survey, appropriate hazardous substance fact sheets **and material safety data sheets** and[, if applicable, an environmental survey] **Right to Know Hazardous Substance List**;

(18) Failure to provide an employee with the chemical name of a substance in a container labeled with a common name, or in a container which is not labeled pursuant to the provisions of N.J.A.C. 8:59-5, as soon as possible or at the latest within five working days of the request.

iii. Any other violations of the Act or these regulations shall generally be considered to be non-serious violations. The Commissioner reserves the right to find other violations of the Act to be serious.

2.-5. (No change.)

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

SUBCHAPTER 9. [WORKPLACE] RIGHT TO KNOW HAZARDOUS SUBSTANCE LIST

8:59-9.1 General provisions

(a) Substances not included on the [Workplace] **Right to Know** Hazardous Substance List shall not be subject to the reporting provisions of the Act.

(b) The absence of any substance from the [Workplace] **Right to Know** Hazardous Substance List or the provision of any information by an employer to an employee or any other person pursuant to the provisions of the Act, shall not in any way affect any other liability of an employer with regard to safeguarding the health and safety of an employee or any other person exposed to the substance, nor shall it affect any other duty or responsibility of an employer to warn ultimate users of a substance of any potential health hazards associated with the use of the substance pursuant to the provisions of any law or rule or regulation adopted pursuant thereto.

8:59-9.2 Contents of the [workplace] **Right to Know** hazardous substance list

(a) The [Workplace] **Right to Know** Hazardous Substance List consists of the hazardous substances listed in Appendix A, which includes:

1. Any substance or substance contained in a mixture regulated by the Occupational Safety and Health Administration, United States Department of Labor, under Title 29 Code of Federal Regulations (CFR) Part 1910—Occupational Safety and Health Standards for General Industry, Subpart Z—Toxic and Hazardous Substances[, July 1, 1983].

2. Environmental hazardous substances contained in the "Environmental Hazardous Substance List" adopted by the New Jersey Department of Environmental Protection pursuant to the Act and codified in the New Jersey Administrative Code as N.J.A.C. 7:1G.

3. Additional substances which the department has determined pose a threat to the health or safety of employees. The scientific evidence documenting the health or safety threat of the substances listed in Appendix A is contained in the referenced sources listed in Appendix A.

(b) The [Workplace] **Right to Know** Hazardous Substance List identifies the Chemical Abstract Service number, a common name, the chemical name, **the U.S. Department of Transportation Number** and the source or sources which provides scientific evidence supporting selection of the substance to the list, for each substance.

8:59-9.3 Modification of the list

(a) The [department] **Department** shall periodically review the [Workplace] **Right to Know** Hazardous Substance List and shall make any necessary revisions in accordance with the procedures set forth in (b) through (f) below. The list shall be revised by the [department] **Department**, if necessary, [once a year] **every three years,** unless the [department] **Department** determines that special circumstances warrant an earlier revision.

(b) The [Workplace] **Right to Know** Hazardous Substance List shall be [reviewed to consider] **revised to reflect** revisions to the following sources, which are hereby incorporated by reference:

1. (Source #1) Occupational Safety and Health Administration, Title 29, CFR Part 1910, Subpart Z—Toxic and Hazardous Substances, **amended in Federal Register, Vol. 54, No. 12, January 19, 1989, p. 2332-2983.**

2. (Source #2) "Threshold Limit Values (TLVs) for Chemical Substances in the Work Environment Adopted by ACGIH for [1983-1984] **1988-1989**" [(inclusive of intended changes for 1983-84)], American Conference of Governmental Industrial Hygienists (ACGIH), [1983] **1988**.

3. (Source #3) Materials Transportation Bureau, U.S. Department of Transportation, Title 49 CFR Part 172.101—Hazardous Materials Table, October 1, 1982, and Part 172.102—Optional Hazardous Materials Table, amended in Federal Register, Vol. 48, No. 211, October 31, 1983, p. 50234-50279.

4. (Source #4) "NIOSH Recommendations for Occupational Health Standards," National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, Morbidity and Mortality Weekly Report Supplement, Vol. 32, No. 1S, October 7, 1983, **and Vol. 34, No. 1S, July 19, 1985**.

5. (Source #5) [("Third] **"Fourth** Annual Report on Carcinogens," National Toxicology Program, U.S. Department of Health and Human Services, [December 1982] **NTP 85-002, 1985**.

6. (Source #6) "Environmental Hazardous Substance List", New Jersey Department of Environmental Protection, N.J.A.C. 7:1G.

7. (Source #7) "Chemicals, Industries Processes and Industrial Associated with Cancer in Humans," Supplement 4, Groups 1, 2A and 2B, International Agency for Research on Cancer (IARC), World Health Organization, 1982 (multi-volume); **and "Overall Evaluations of Carcinogenicity: An Updating of IARC Monographs Volumes 1 to 42," IARC Monographs . . . Supplement 7, IARC, 1987**.

8. (Source #8) "Chemicals Having Substantial Evidence of Carcinogenicity", Carcinogens Assessment Group, Office of Health and Environmental Assessment, U.S. Environmental Protection Agency (EPA), Chemical Regulation Reporter, Bureau of National Affairs, August 15, 1980, pages 647-649.

9. (Source #14)

i. "Prohibited and Restricted Use Pesticide List," New Jersey Department of Environmental Protection, N.J.A.C. 7:30-2.

ii. List of restricted use pesticides. United States Environmental Protection Agency, Title 40 CFR Part 162.31, July 1, 1983.

10. (Source #16) List of Acutely Toxic Chemicals, Chemical Emergency Preparedness Program, U.S. Environmental Protection Agency, November 1985.

11. (Source #17) Emergency Response Guidebook, Materials Transportation Bureau, U.S. Department of Transportation, 1987.

12. (Source #18) List of Toxic Chemicals, Section 313, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 52 FR 21151.

13. (Source #19) List of Extremely Hazardous Substances, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part 300, Subpart

I—Emergency Planning and Community Right to Know, Appendix D. 52 FR 13378, November 14, 1986.

14. (Source #20) List of Hazardous Substances and Reportable Quantities (RQ), Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), U.S. Environmental Protection Agency, 40 CFR Part 302, Table 302.4, amended in 51 FR 34541, September 29, 1986.

15. (Source #21) Hazardous Wastes from the P and U Lists, Resource Conservation and Recovery Act (RCRA), U.S. Environmental Protection Agency, 40 CFR 261.33.

(c) The [department] **Department** shall add to the [workplace] **Right to Know** hazardous substance list any substance which it determines poses a threat to the health or safety of any employee **or emergency responder** and is based on documented scientific evidence.

(d) The Right to Know Advisory Council shall advise the [department] **Department** of its recommendations for proposed revisions to the [Workplace] **Right to Know** Hazardous Substance List. [Annual revisions] **Revisions other than those made pursuant to N.J.A.C. 8:59-9.3(b) above** to the [Workplace] **Right to Know** Hazardous Substance List proposed by the [department] **Department** shall be submitted to the Advisory Council for review and shall be published in the New Jersey Register as a notice of pre-proposal for a rule, pursuant to the requirements of N.J.A.C. 1:30-3.2.

(e) The [department] **Department** shall consider relevant scientific information in evaluating a revision to the [Workplace] **Right to Know** Hazardous Substance List. For substances which cause health effects, this information may include, but is not limited to, short-term in vitro tests, animal toxicity tests, human epidemiological studies, clinical studies, and scientifically documented reports of symptoms or adverse health effects among employees. The [department] **Department** may investigate the situation surrounding any studies or reports in order to obtain additional information regarding a revision.

1.-4. (No change.)

(f) Notice of proposed revisions to the [Workplace] **Right to Know** Hazardous Substance List which are not included in (b) above shall be published **as necessary** [once a year, or more frequently if warranted by special circumstances,] in the New Jersey Register as a proposed amendment to these rules, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. At least 30 days shall be allowed for public comment. A public hearing shall be held, if, in the [department's] **Department's** determination, there is significant public interest in the proposal. Notice of revisions made pursuant to (b) above shall be published in the New Jersey Register as a public notice, and incorporated into the List.

(g) Employers will be notified of any revisions to the [Workplace] **Right to Know** Hazardous Substance List through the **annual Right to Know** [annual updated workplace] survey **transmittal.**

SUBCHAPTER 10. SPECIAL HEALTH HAZARD SUBSTANCE LIST

8:59-10.1 General provisions

(a) The Special Health Hazard Substance List consists of hazardous substances of the [Workplace] **Right to Know** Hazardous Substance List which, because of their known carcinogenicity, mutagenicity or teratogenicity in humans, animals, or in vitro tests; or because of their flammability, reactivity/exposivity, or corrosivity, pose a special hazard to the health and safety of employees or the community.

(b) For purposes of reporting hazardous substances on the [workplace] **Right to Know** survey form, the threshold percentage for special health hazard substances when present in a mixture shall be one-tenth of one percent for carcinogens, mutagens, and teratogens, and, for all other substances, one percent or if present in an aggregate amount of 500 pounds or more in a container at a facility.

(c) (No change.)

(d) An employer shall not make a trade secret claim on the [workplace] **Right to Know** survey or for labeling containers for any carcinogenic, mutagenic or teratogenic substance which is listed on the Special Health Hazard Substance List and is present as a pure substance or in a mixture at a concentration of one-tenth of one percent or greater, or for any flammable, explosive, reactive, or corrosive substance which is listed on the Special Health Hazard Substance List and is present as a pure substance or at a concentration of one percent or greater in a mixture which meets the hazard criteria as defined in N.J.A.C. 8:59-10.2(a).

(e) (No change.)

8:59-10.2 Contents of the Special Health Hazard Substance List

(a) The Special Health Hazard Substance List consists of hazardous substances with the following properties:

1. Carcinogen—Carcinogens which have met the criteria established by the International Agency for Research on Cancer (IARC) or the National Toxicology Program (NTP) or the Environmental Protection Agency's Carcinogen Assessment Group (CAG) or the criteria of the National Institute for Occupational Safety and Health (NIOSH) for benzidine based dyes, are included on the Special Health Hazard Substance List.

i. IARC categorizes its list of carcinogens into three groups:

(1) Group 1—The chemical, group of chemicals or occupational exposure is carcinogenic to humans. This category was used only when there was sufficient evidence from epidemiological studies to support a causal association between the exposure and cancer.

(2) Group 2—The chemical, group of chemicals or occupational exposure is probably carcinogenic to humans.

(3) Compounds from Group 3 were not included on the [Workplace] **Right to Know** or Special Health Hazard Substance Lists.

ii. NTP categorizes its list of carcinogens into two groups:

(1) Group 1 includes substances or groups of substances that are known to be carcinogenic, which includes those substances for which the evidence from human studies indicates that there is a causal relationship between exposure to the substance and human cancer.

(2) Group 2 includes substances or groups of substances that may reasonably be anticipated to be carcinogens, which includes those substances for which there is limited evidence of carcinogenicity in humans or sufficient evidence of carcinogenicity in experimental animals.

iii. CAG includes substances which demonstrate substantial or strong evidence of carcinogenicity in humans or animals, based upon positive human epidemiological studies, or a statistically significant increase in malignant tumors or an increase in benign tumors of a progressive nature in at least one animal species. Evidence of carcinogenicity in short-term bioassays was used only as supportive evidence.

iv. NIOSH considers benzidine-based dyes as potential human carcinogens based on the rapid induction of tumors in animals and the demonstration of bladder cancer in workers exposed to benzidine-based dyes. In addition, evidence exists to indicate that benzidine-based dyes are converted to the carcinogen benzidine in laboratory animals and in humans.

2.-6. (No change.)

(b) The Special Health Hazard Substance List consists of the hazardous substances listed in Appendix B.

SUBCHAPTER 11. COMMUNITY RIGHT TO KNOW; LABELING; PRIVATE EMPLOYERS

8:59-11.1 Authority

This subchapter is promulgated pursuant to the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq., in particular, N.J.S.A. 34:5A-14 and 30, and the case of *New Jersey Chamber of Commerce v. Hughey*, United States Third Circuit Court of Appeals, Case Nos. 88-5283 and 88-5332 (February 28, 1989).

8:59-11.2 Purpose

(a) Private employers covered by the Worker and Community Right to Know Act are pre-empted from being subject to the workplace requirements of the Act, but must comply with the community provisions of the Act.

(b) In order to comply with the community provisions of the Act, a private employer must:

1. Submit a completed Community Right to Know Survey to the Department of Environmental Protection pursuant to N.J.A.C. 7:1G; and

2. Label all containers in the workplace pursuant to this subchapter (N.J.A.C. 8:59-11).

8:59-11.3 Definitions

(a) All of the definitions in N.J.A.C. 8:59-1.3 shall apply to this subchapter except for the definition of "employer".

(b) For this subchapter and for N.J.A.C. 8:59-1, 3, 5, 8, 9 and 10 "employer" shall also mean any person or corporation in the State engaged in business operations which has a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the federal Office of Management and Budget, within the following Major Group Numbers, Group Numbers, or Industry Numbers, as the case may be: Major Group Number 07 (Agricultural Services), only Industry Number 0782-Lawn and garden services; Major Group Numbers 20 through 39 inclusive (manufacturing industries); Major Group Number 45 (Transportation by Air), only Industry Number 4511-Air Transportation, certified carriers, and Group Number 458-Air Transportation Services; Major Group Number 46 (Pipelines, Except Natural Gas); Major Group Number 47 (Transportation Services), only Group Numbers 471-Freight Forwarding, 474-Rental of Railroad Cars, and 478-Miscellaneous Services Incidental to Transportation; Major Group Number 48 (Communication), only Group Numbers 481-Telephone Communication, and 482-Telegraph Communication; Major Group Number 49 (Electric, Gas and Sanitary Services); Major group Number 50 (Wholesale Trade-Durable Goods), only Industry Numbers 5085-Industrial Supplies, 5087-Service Establishment Equipment and Supplies, and 5093-Scrap and Waste Materials; Major Group Number 51 (Wholesale trade, nondurable goods), only Group Numbers 512-Drugs, Drug Proprietaries and Druggist's Sundries, 516-Chemicals and Allied Products, 517-Petroleum and Petroleum Products, 518-Beer, Wine and Distilled Alcoholic Beverages, and 519-Miscellaneous Nondurable Goods; Major Group Number 55 (Automobile Dealers and Gasoline Service Stations), only Group Numbers 551-Motor Vehicle Dealers (New and Used), 552-Motor Vehicle Dealers (Used only), and 554-Gasoline Service Stations; Major Group Number 72 (Personal Services), only Industry Numbers 7216-Dry Cleaning Plants, Except Rug Cleaning, 7217-Carpet and Upholstery Cleaning, and 7218-Industrial Launderers; Major Group Number 73 (Business Services), only Industry Number 7397-Commercial testing laboratories; Major Group Number 75 (automotive repair, services, and garages), only Group Number 753-Automotive Repair Shops; Major Group Number 76 (miscellaneous repair services), only Industry Number 7692-Welding Repair; Major Group Number 80 (health services), only Group Number 806-Hospitals; and Major Group Number 82 (educational services), only Group Numbers 821-Elementary and Secondary Schools and 822-Colleges and Universities, and Industry Number 8249-Vocational Schools.

8:59-11.4 General information

The general information provisions of N.J.A.C. 8:59-1 shall apply to this subchapter, except for N.J.A.C. 8:59-1.4

8:59-11.5 Trade secrets on labels

Trade secret claims to maintain the secrecy of hazardous substances and the five most predominant substance ingredients on container labels shall be filed in accordance with the procedures set forth in N.J.A.C. 8:59-3, which shall govern all trade secret label claims.

8:59-11.6 Labeling containers

(a) The provisions of N.J.A.C. 8:59-5, which regulate the labeling of containers and pipelines, shall apply to this subchapter.

(b) By March 31, 1990, all employers shall comply with the labeling requirements of this subchapter.

(c) All containers less than one pound are exempt from labeling, unless they contain special health hazard substances.

8:59-11.7 Enforcement

The provisions of N.J.A.C. 8:59-8, which regulate enforcement of this chapter, shall apply to this subchapter.

8:59-11.8 Right to Know Hazardous Substance List

The provisions of N.J.A.C. 8:59-9, which regulate the Right to Know Hazardous Substance List, shall apply to this subchapter.

8:59-11.9 Special Health Hazard Substance List

The provisions of N.J.A.C. 8:59-10, which regulate the Special Health Hazard Substance List, shall apply to this subchapter.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Alternate Benefit Program Eligibility for Enrollment Proposed Amendment: N.J.A.C. 9:2-4.1

Authorized By: Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.
Authority: N.J.S.A. 18A:66-170 and 18A:66-172.
Proposal Number: PRN 1989-236.

Submit written comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The Board of Higher Education is statutorily authorized to set and determine eligibility requirements for enrollment in the alternate benefit program. Pursuant to N.J.S.A. 18A:66-167 et seq., the alternate benefit program is the pension system for certain employees at New Jersey's public institutions of higher education. The proposed amendment affects the categories of employees at such institutions who are eligible to participate in the program. Under current rules, employees' entry into the program can depend upon minor aspects of their employment duties. The amendment seeks to set a more equitable standard upon which employees will be judged on their eligibility to participate in the program. Further, the amendment will assist the institutions of higher education in recruiting individuals from outside of the State as employees by allowing more of those persons to remain in the pension system in which they were enrolled at their previous institution.

Social Impact

The proposed amendment will expand the number of individuals employed at the public institutions of higher education in New Jersey who are eligible to participate in the alternate benefit program. It will also enable the public colleges and universities of New Jersey to be more competitive in their recruiting of individuals from outside the State.

Economic Impact

The proposed amendment has no economic impact but expands the number of public employees at New Jersey institutions of higher education who are eligible to participate in the alternate benefit program as opposed to another public pension system.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses. The amendment merely expands the number of employees at public institutions of higher education who are eligible to participate in the alternate benefit program.

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

9:2-4.1 General provisions

(a) Full-time members of the faculty and administrative staffs, as set forth below, of the University of Medicine and Dentistry of New Jersey, Rutgers, the State University, the New Jersey Institute of Technology, the [state] **State** colleges and the county colleges are eligible to participate in the alternate benefit program under N.J.S.A. 18A:66-167 et seq.:

1.-4. (No change.)

5. All [directors, associate directors, assistant directors or their equivalents,] **professional employees** providing that those holding such titles serve in applicable positions as set forth in (b) below;

6.-7. (No change.)

8. Administrative and research personnel who perform work which [required] **requires** knowledge of an advanced nature in a field of science, technology or other area of specialized study and are [commonly] **preferably** recruited from among individuals with experience in higher education.

(b) Eligibility to participate in the alternate benefit program by those employees within the category set forth in (a)5[,] above shall be limited to **professional** employees [in the titles stated therein or positions of equivalent authority and responsibility] who are [commonly] **preferably** recruited from among individuals with experience in higher education. Except for those employees eligible under (c) below, no employees employed in a clerical or [below the level of director in a maintenance or security] **other non-professional** position shall be eligible to participate in the alternate benefit program.

(c) (No change.)

(d) Any employee of an eligible institution who has previously been denied eligibility for participation in the alternate benefit program who is currently eligible for participation in the alternate benefit program under this subchapter shall be granted until [April 1, 1986] **December 31, 1989** to apply for eligibility to participate in the alternate benefit program.

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

(g) [The holders of the following positions or their equivalent] **All professional employees** in the Department of Higher Education shall be eligible to participate in the alternate benefit program[:

1. Chancellor;
2. Vice Chancellor;
3. Assistant Chancellor;
4. Deputy Assistant Chancellor;
5. Special Assistant;
6. Executive Assistant;
7. Confidential Agent;
8. Director;
9. Associate Director;
10. Assistant Director;
11. Program Officer;
12. Program Assistant;
13. Program Specialist;
14. Administrative Assistant;
15. Administrative Services Assistant;
16. Evaluation Analyst;
17. Project Coordinator, Computer Planning and Information Systems;
18. Program Development Specialist;
19. Management Compliance Officer;
20. Project Specialist;
21. Coordinator, Veteran's Programs;
22. Assistant Coordinator, Veteran's Programs;
23. Supervisor, Processing Services;
24. Special Projects Officer;
25. Fiscal Analyst;
26. Graduate Program Coordinator;
27. Supervisor, Program Analysts].

(h) For the purposes of this subchapter, "professional employee" shall mean any employee whose minimum qualifications for hiring include a baccalaureate degree or its equivalent but shall not include career service employees as defined by the Department of Personnel pursuant to Title 11A of the New Jersey Revised Statutes.

(a)

BOARD OF HIGHER EDUCATION

County Community Colleges

Organization and Administration; Personnel; Standards for Presidential Searches; Code of Ethics; Presidential Contracts

Proposed New Rules: N.J.A.C. 9:4-1.10, 2.1 to 2.5 and 7.5

Proposed Amendments: N.J.A.C. 9:4-1.3 and 1.9

Authorized By: The Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:64A-7, N.J.S.A. 18A:64A-12 and N.J.S.A. 18A:3-14(h).

Proposal Number: PRN 1989-237.

Submit comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The Board of Higher Education is statutorily charged with the supervision of the county community college sector, including, but not limited to, governance and personnel matters. The proposed new rules and amendments stem from several recommendations made by an independent panel report, Building Partnerships: The Opportunities Ahead, which was received by the Board of Higher Education regarding the county community college system. As a response to the report, the Chancellor and the county community college sector developed a joint agreement for the implementation of the report's recommendations. The new rules and amendments seek to implement several of those recommendations. The areas covered by the new rules and amendments include the appointment of college board of trustees members, the role of the trustees in the operation of the college and in the hearing of grievances, personnel appointments, standards for presidential searches and contracts and a code of ethics.

Social Impact

The proposed new rules and amendments clarify various practices at the county community colleges, some of which already comply with these requirements. If adopted, the new rules and amendments will ensure the proper appointment of trustees under the law and an appropriate balance of authority between the trustees and the college president with regard to the setting of policy and the daily administration of the college. The rules and amendments will also ensure that all personnel appointments are properly handled. The rules and amendments also set standards for the search for college presidents, thereby ensuring that searches are carried out with full participation by the college community and that a well developed pool of candidates, including minorities and women are presented to the board of trustees for consideration. The rules and amendments further set standards for the initial contracts to be given to a president and the method by which such contracts shall be reviewed.

Proposed N.J.A.C. 9:4-2 additionally creates a code of ethics for the board of trustees. This code will limit both county college and county college commission boards of trustees' behavior which might conflict with their official board activities. Each college or commission may adopt its own code if it meets or exceeds the standards set forth by the proposed rules.

Economic Impact

The proposed new rules and amendments will possibly have an economic impact in the following discernible areas. N.J.A.C. 9:4-2.4, which sets forth the conflicts of interest ethical provisions, may alter the economic activities of trustees or businesses/interests in which they are involved, since trustees are not permitted to act in an official capacity in areas in which they have an interest, as defined under N.J.A.C. 9:4-2.3. Proposed N.J.A.C. 9:4-7.5 provides county community college presidents with a minimum three-year term, with automatic renewal provisions. This

rule may be of positive economic impact, by way of security, on those hired as president subsequent to the effective date of these rules, or contemplating such positions.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules and amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses. The rules and amendments contain provisions regarding the governance, personnel matters and other related items concerning county community colleges and commissions.

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

9:4-1.3 Organization and administration

(a) (No change.)

(b) Governance of a community college shall be vested in a board of trustees, appointed as required by law. **No county college board of trustee member appointed by the county may be sworn into office unless that individual was nominated by the county trustee search committee for consideration by the appointing authority.** The board shall be broadly representative of the community to be served. The names of the officers and members of each community college board of trustees shall be filed annually with the Chancellor of Higher Education on the first day of December.

(c)-(g) (No change.)

(h) The role of the board of trustees of a county community college is to establish policy. The administration of policy is the responsibility of the president. No county community college board of trustees, nor individual trustee, shall interfere in the administration of policy in a county community college.

(i) The board of trustees shall develop appropriate procedures for hearing within the college, the grievances of students, college employees and citizens. Complainants should be encouraged to follow such established procedures. Within such procedures, the board of trustees should only serve as the final body within the institution, to which a previous determination made at the institution may be brought and reviewed.

[(h)-(i)] (j)-(k) (No change in text.)

9:4-1.9 Personnel

(a)-(m) (No change.)

(n) All personnel appointments in a county community college shall be made upon the written nomination of the president to the board of trustees with the exception of the position of the presidency itself. All personnel appointments must be approved by the board of trustees.

9:4-1.10 Standards for presidential searches

(a) Each county community college shall conduct any presidential search in accordance with nationally accepted procedures and standards for pre-search, search, and selection procedures including, at a minimum, the following components:

1. Assistance from, or consultation with, a nationally recognized higher education group, agency or association, at least at the inception of the search process;

2. Assessment of the needs of the institution;

3. Development of criteria for the selection of a new president;

4. Creation of a search committee that, if it is to contain persons other than trustees, is broadly representative of the college;

5. Opportunity for the search committee to consult with the various groups within the institutional community;

6. Public advertisement of the position of the presidency with a minimum of 60 days to respond;

7. Development of a pool of qualified candidates which includes both men and women, as well as minority candidates; and

8. Interviews of at least four candidates, evaluating each in comparison to the criteria established by the college.

(b) Every county community college conducting a presidential search shall submit, to the chair of the Board of Higher Education, its plan for the search and the identity of the group, agency or organization it has obtained to assist in the presidential search or consulted with in establishing its procedures.

SUBCHAPTER 2. CODE OF ETHICS FOR COUNTY COMMUNITY COLLEGES AND COMMISSION BOARDS OF TRUSTEES

9:4-2.1 Purpose

The purpose of this subchapter is to establish general and specific standards to guide the conduct of trustees of the county community colleges and commissions in the exercise of their fiduciary responsibilities as trustees of public institutions of higher education.

9:4-2.2 Application

(a) This subchapter shall apply to all county community colleges and commissions established pursuant to N.J.S.A. 18A:64A-1 et seq.

(b) Any county community college or commission may adopt and be governed by an institutional code of ethics so long as the standards of conduct set forth within the institutional code of ethics equals or exceeds the requirements and standards set forth within this subchapter.

9:4-2.3 Definitions

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

"College matter" means any application, award, bid, claim, contract, license, proceeding, resolution or transaction made by, to, against or with a county community college or commission, or which requires any official action by the board of trustees of a county community college or commission, or its officers or employees.

"College trustee" means any person who is a member of the board of trustees of any county community college or commission.

"Interest" means any personal, financial, economic, property or other concern amounting to a right, advantage, share or portion coming either directly or indirectly to a trustee singly, or in affiliation with any person or party as defined herein.

"Person or party" means any natural person, association, corporation, estate, partnership, proprietorship, trust or other legal entity.

9:4-2.4 Code of ethics

(a) No college trustee shall accept from any person, directly or indirectly, or through his or her spouse or any member of his or her family any gift, favor, service, employment or other things of value under circumstances from which it might be reasonably inferred or which he or she knows or has reason to believe is offered to him or her with intent to influence his or her public duties and responsibilities.

(b) No college trustee shall knowingly act in an official capacity, by voting or otherwise, on any college matter in which he or she has an interest.

(c) Disclosure of the precise nature of the interest or involvement, at first knowledge of the transaction, shall be required in the event that a board must consider any college matter which also involves:

1. A member of the board of the college or a member of his or her family (defined as spouse, parents, siblings, or children); and/or

2. An organization with which a member of the board of the college is affiliated.

(d) Disclosure shall be further required of board members concerning all relationships and business affiliations that reasonably could give rise to a conflict of interest involving the institution.

(e) No college trustee shall act as an officer or agent of the college for the transaction of any business with himself or herself or in which he or she has an interest.

(f) No college trustee shall willfully disclose to any person or party for pecuniary gain any information not generally available to members of the public which he or she receives or acquires in the course of his or her official duties.

(g) No college trustee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity which might reasonably be expected to impair his or her objectivity or independence of judgment, or which is otherwise in substantial conflict with the proper discharge of his or her duties in the public interest.

(h) No college trustee should use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself or herself or others.

(i) No college trustee should act in his or her official capacity in any matter wherein he or she has a direct or indirect interest that might reasonably be expected to impair his or her objectivity or independence of judgment.

9:4-2.5 Violations

Violations of the provisions of N.J.A.C. 9:4-2.4 may constitute cause for removal from the board of trustees pursuant to N.J.S.A. 18A:64A-9 or N.J.S.A. 18A:64A-32 or other sanctions as determined by the board of trustees.

9:4-7.5 Presidential contracts

(a) County community college presidents should receive initial employment contracts of three years duration, to be reviewed at least 18 months prior to expiration.

(b) If the board of trustees fails to provide written notice to a college president of non-renewal of his or her initial presidential contract, or any extensions thereof which are not governed by a subsequent contract, at least one year prior to its expiration, the president's contract shall be automatically extended for a one-year term.

(c) Subsequent to the president's initial employment contract, the college and the president may mutually agree to terms of employment or an employment contract as permissible by law.

(a)

BOARD OF HIGHER EDUCATION

Graduate Medical Education Program General Provisions

Proposed New Rules: N.J.A.C. 9:15

Authorized By: The Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:64H-8.

Proposal Number: PRN 1989-238.

Submit comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The Board of Higher Education is statutorily authorized, through the Advisory Graduate Medical Education Council of New Jersey, to support and develop graduate medical education programs in hospitals throughout the State. The proposed new rules are identical to rules which were allowed to expire pursuant to Executive Order No. 66 (1978) on October 25, 1988. The programs in question have been under study for some time; however, because of the length of time it has taken to complete such studies, the Board of Higher Education has determined to propose the rules as they previously existed at this time. If as a result of the study, it is determined that the rules should be amended, new rules will be proposed.

The proposed new rules set forth criteria for applying for graduate medical education grants, selection of recipients, guidelines for expenditure of funds, reporting requirements, payment procedures, unexpended funds, termination of contracts and financial audits.

Social Impact

The proposed new rules set forth program administration and guidelines for the graduate medical education program. The program issues grant monies to hospitals in New Jersey to establish residency programs for physicians throughout the State. Often, such programs include various areas of medicine which are greatly needed in that particular geographic region of the State, thus benefitting the citizens of that area. The program also serves to increase the number of physicians in the State who are trained in those particular areas of medicine.

Economic Impact

The proposed new rules set forth procedures whereby funding is distributed for graduate medical education programs in New Jersey. Under the program, various hospitals receive funding for areas of medicine which are in need of development in that particular region of the State.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules do not impose reporting, recordkeeping or other compliance requirements on small businesses. The rules set forth program requirements for hospitals receiving grants for graduate medical education. Such teaching hospitals all employ more than 100 people, and are not, therefore, small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. A regulatory flexibility analysis is not required.

Full text of the proposed new rules follows:

CHAPTER 15
GRADUATE MEDICAL EDUCATION PROGRAMS

SUBCHAPTER 1. GENERAL PROVISIONS

9:15-1.1 Definitions

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

"Act" means the Graduate Medical Education Act, N.J.S.A. 18A:64H-1 et seq.

"Board" means the Board of Higher Education of New Jersey.

"Chairperson" means the chairperson of the Advisory Graduate Medical Education Council.

"Chancellor" means the Chancellor of Higher Education.

"Commissioner" means the Commissioner of Health.

"Council" means the Advisory Graduate Medical Education Council of New Jersey.

"Curriculum" means a body of clinical knowledge taught to trainees in graduate medical education programs.

"Graduate medical education" means internship and residency programs as defined in N.J.S.A. 18A:64H-3(c).

"Primary care medicine" means the medical specialties of general and family practice, general internal medicine, general obstetrics and gynecology, pediatrics and psychiatry.

"Student" means a full time equivalent (three part-time equal one full-time) physician in a graduate medical educational program.

9:15-1.2 Guidelines for participating hospitals

(a) A New Jersey private not-for-profit or public hospital seeking support for graduate medical education normally shall, in response to requests for proposals issued by the Chancellor of Higher Education, submit an application containing the following:

1. An education plan for each program for which support is requested, which plan shall identify:

i. The objectives of the program;

ii. A justification of the request giving evidence of the need for funds and of the area's need for physician manpower;

iii. The length of training;

iv. The curriculum to be offered in each year of the program, and clinical rotations;

v. A list of faculty members indicating their qualifications and time involvement;

vi. The name of the program director whose qualifications shall be subject to the review of the Council and who shall qualify for medical school appointment;

vii. A projection of the number of students that will be trained in each year of the program;

viii. The nature of the required relationship of the program to a United States medical school;

ix. The resources that are available at the institution to support the program;

x. The additional resources which are needed;

xi. A summary of other existing clerkships and residency programs within the applying institution;

xii. Support of the hospital's board of trustees; and

xiii. Any other appropriate information at the discretion of the applicant or the request of the Council.

2. A statement indicating that the chief executive of the hospital or his or her designee shall assume the responsibility for implement-

ing the program and coordinating it with other graduate medical education programs in hospitals; the medical school with which the program is affiliated; and with the Council.

3. Assurances that the program will be one that will provide a high degree of excellence. Such assurances should include, but not be limited to, documentation that the program currently is fully or provisionally approved by either the Accreditation Council on Graduate Medical Education or the Office of Education of the American Osteopathic Association, or indications of reasonable probability that such approvals will be received.

4. Assurances that alternate sources of support for each program will be established by the end of the grant period. Such assurances should include, but not be limited to, a plan in which future levels of training activity and financial support are identified.

9:15-1.3 Criteria for selecting recipients

(a) In selecting recipients the Council shall consider, but not be limited to, the following criteria:

1. Programs that meet Statewide physician manpower needs and/or the needs of specific service populations such as those programs in primary care medicine;

2. Teaching programs that involve innovative methods that may be of special value in promoting effective solutions to the problems identified in the Act; and

3. Programs that pay special attention to the recruitment of minority graduates.

9:15-1.4 Guidelines for expenditure of funds

(a) The Council, with the approval of the Chancellor, acting on behalf of the Board, and the Commissioner shall establish a list of activities that can be funded under this authority. The list may include, but need not be limited to:

1. Salaries, or a portion thereof, of directors of medical education;
2. Salaries, or a portion thereof, of program directors;
3. Salaries, or a portion thereof, of faculty;
4. The cost of educational supplies;
5. The cost of library materials;
6. The cost of audio visual equipment;
7. The cost of other educational equipment;
8. Salaries, or a portion thereof, of secretaries and other overhead costs;
9. Partial funding of residents' salaries as these are related to educational activities; and
10. Funding required for planning and developmental activities.

9:15-1.5 Approved programs

(a) Program applications shall be reviewed by the Council which shall forward its recommendations to the Chancellor for transmittal, together with his or her own recommendations, to the Board and the Commissioner. Cost reimbursement contracts will be executed annually for the programs approved by the Board and the Commissioner between the Chancellor, acting on behalf of the Board, and the chief executive of the institution receiving support.

(b) The Chancellor, acting for the Board, may authorize the reallocation of funds within an existing contract with the advice of the Chairperson when such allocations do not change the nature of the contract. If the Chancellor and Chairperson determine that such allocations will change the nature of the contract, these changes may be made subject to the approval of the Council and the Chancellor, acting for the Board.

9:15-1.6 Reporting requirements for recipients of awards

(a) At a time specified by the Council, the chief executive of his or her designee of each hospital receiving funds under this chapter shall submit to the Council a semiannual progress report for each program so funded. This report shall include the following:

1. A summary of accomplishments to date;

2. Problems encountered during the grant period and their proposed solution;

3. Requests for reimbursement for approved expenditures as defined in N.J.A.C. 9:15-1.4;

4. Requests for continuation funds; and

5. Information on placement of residents upon completion of the program.

9:15-1.7 Payment procedures

Upon certification of expenditures made pursuant to the contract, the Chancellor shall authorize the State Treasurer to reimburse funds according to the contract.

9:15-1.8 Unexpended funds

In the event that the amounts previously awarded have not been obligated pursuant to the approved project and at the recommendation of the Council, the Chancellor, acting for the Board, may, upon notice to the recipient, reduce the amount of the contract to an amount consistent with the recipient's needs.

9:15-1.9 Termination of contracts

Contracts may be terminated for failure to adhere to the terms and conditions of the contract, the Graduate Medical Education Act, or any of the rules promulgated thereto. The Chancellor may, in his or her discretion, suspend without notice the operation of any contract pending a review by the Council. Upon recommendation of the Council, the Chancellor may terminate a contract. Prior to making such recommendations, Council shall afford a recipient reasonable notice and opportunity to be heard. A recipient shall return any monies improperly utilized at the time of contract termination.

9:15-1.10 Financial audits

Final payment of funds under the contract will be withheld until an independent audit is conducted, paid for by the recipient of the contract, certifying that the expenditures were in accordance with the terms of the contract. Copies of such an audit shall be submitted to the Chancellor.

COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT

(a)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Energy Emergency

Proposed New Rules: N.J.A.C. 12A:61

Authorized By: Department of Commerce, Energy and Economic Development. Borden R. Putnam, Commissioner.

Authority: N.J.S.A. 52:27F-18.

Proposal Number: PRN 1989-260.

Submit written comments by June 14, 1989 to:

Edward J. Linky, Esq.
Chief Regulatory Officer
Division of Energy Planning and Conservation
101 Commerce Street
Newark, New Jersey 07102

The agency proposal follows:

Summary

These administrative rules provide the Division of Energy Planning and Conservation with the authority to allocate various sources of energy within the State after a gubernatorial declaration of an energy emergency. The specific energy sources are electricity, natural gas, regulation and control of the sale of motor gasoline, the State set-aside for major refined petroleum based fuels and supplies of motor gasoline. The rules proposed below are identical to N.J.A.C. 14A:2, which expired on April 17, 1989, pursuant to Executive Order No. 66 (1978), as the Division was completing its update of the Energy Emergency Preparedness Report as required by N.J.S.A. 52:27F-16. The Division is proposing these rules for public comment and by the adoption date of these rules may have amendments for these rules based on its update of the Energy Emergency Preparedness Report cited above and comments submitted by the public and affected industries.

A more specific summary by subchapter is provided below:

Subchapter 1. General Provisions

This subchapter contains the scope of the rules, definitions, provisions regarding exemptions and a reservation of the Commissioner's right to modify emergency plans.

Subchapter 2. Natural Gas

This subchapter provides for several steps in resolving an impending shortage of natural gas in the State. First, a public appeal is issued through the news media requesting customers of the natural gas distribution companies to voluntarily reduce their use of natural gas. In the event that a significant shortage is forecast over a period in which voluntary reductions will not provide sufficient relief, a Priority Plan is specified which involves a sequence of involuntary curtailments. Finally, an emergency plan is set forth which identifies a series of conditions to be implemented prior to interrupting firm service.

Subchapter 3. Regulation and Control of Sale of Motor Gasoline

This subchapter contains the procedures which would be implemented during a period when there is a significant shortage of motor gasoline. The key provisions of the procedures are limitations on the quantity of gasoline to be sold to any one purchaser and days of access to retail dealers, commonly known as the "odd/even" system.

Subchapter 4. Electric

This subchapter identifies a program of reductions in energy usage because of a fuel or other emergency energy related deficiency of the electric utilities. Included in the measures are voluntary calls for curtailment of electric usage, voluntary energy conservation programs, voltage reductions and other measures which will be implemented on a successive basis depending on the gravity of the emergency.

Subchapter 5. State Set-Aside

This subchapter is implemented if the Governor finds that there exists or impends a petroleum supply shortage of a dimension which imperils the public health, safety and welfare. A State Set-Aside Program requires that a prime supplier of motor gasoline, gasohol, aviation gasoline, kerosene, diesel fuel oil, distillate fuel oil, No. 4 fuel oil, residual oil and propane will be required to set aside mandated percentages of product volume. The Division may designate certain geographic areas of the State as suffering from an intra-State supply imbalance and may issue and order releasing all or part of a prime supplier's set-aside volume through their normal distribution channels.

Subchapter 6. Supplier of Motor Gasoline

This subchapter requires each supplier of motor gasoline to submit to the Division the New Jersey posted dealer tank wagon price for its regular, premium and unleaded premium grades of motor gasoline for each class of customer.

Social Impact

These proposed rules regarding energy emergencies will have a positive social impact in minimizing the daily disruptions to providers of critical social services such as medical care in the event of a declared state of emergency. Exception mechanisms are provided in the programs which restrict access to motor fuels to school and hospital vehicles. The public utility emergency plans as well as the State emergency plans provide that facilities which provide critical social services will be kept on firm service to the maximum extent practicable.

Economic Impact

These emergency procedures will have a positive economic impact in the event of an energy emergency. The State Set-Aside in particular for petroleum fuels is designed to give the State the maximum degree of flexibility to redirect fuels to geographical parts of the State which would otherwise suffer disproportionate economic disruption. The overall goal of all of these procedures is to provide a system which minimizes economic disruption across the State.

Environmental Impact

These emergency procedures will not have an adverse impact on the environment. Although it is not an intended outcome of the procedures, it may be anticipated that with restricted access to motor fuels and more ridesharing implemented that air quality for the State or in certain areas may improve.

Regulatory Flexibility Analysis

These rules will impose requirements on small businesses, particularly the retailers of motor gasoline (see N.J.A.C. 14A:2-3). These requirements relate to the quantities and manner in which gasoline is sold. No capital cost or professional services should be incurred or required to comply. The impact on businesses is felt only during a period of declared energy emergency. Such a state of energy emergency has not been implemented since 1979.

These rules do provide for exceptions upon presentation of a documented hardship to the Division.

Full text of the proposed new rules may be found in the New Jersey Administrative Code at N.J.A.C. 14A:2.

TRANSPORTATION

(a)

DESIGN AND RIGHT OF WAY

Right of Way

Relocation Assistance

Proposed Repeals and New Rules: N.J.A.C. 16:6

Authorized By: Robert A. Innocenzi, Deputy Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-27, 27:7-72 through 27:7-88 and the Uniform Transportation Replacement Housing and Relocation Act (P.L. 1972 c. 47 as amended by P.L. 1989, c.50, effective March 14, 1989).

Proposal Number: PRN 1989-243.

Submit comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The proposed new rules comply with the provisions of the Uniform Transportation Replacement Housing and Relocation Act (P.L. 1972, c.47 as amended by P.L. 1989, c.50, effective March 14, 1989) and complies with the Federal Highway Administration requirements for implementing the Federal Uniform Relocation Assistance and Real Property Acquistion Policies Act of 1970, as amended. The uniform regulations, policies and operating procedures governing relocation assistance are published in full in the Federal Register.

The rules provide the planning process to be used wherein problems associated with the displacement of individuals, families, businesses, farms and nonprofit organizations are recognized and solutions developed to minimize the adverse impact associated with the displacement. The proposed new rules provide the following:

Subchapter 1 outlines the general provisions of the rules concerning relocation.

Subchapter 2 establishes guidelines for the payment of moving and related expenses.

Subchapter 3 describes the organization and procedures establishing the exercise and delegation of powers and appeal procedures to be followed.

Social Impact

The intent of the proposed new rules N.J.A.C. 16:6 is to comply with the provisions of the Uniform Transportation Replacement Housing and Relocation Act (P.L. 1972, c.47 as amended by P.L. 1989, c.50, effective March 14, 1989). The rules are necessary and vital to the Department's relocation operation since they provide an orderly and efficient procedure to provide relocation assistance to those persons displaced as a result of a Department of Transportation transportation project. The rules will have a beneficial impact on such displaced persons and generally will not have or cause any adverse impact on those persons affected by the rules, relative to the previous rules.

Economic Impact

The economic impacts are mandated primarily by the provisions of changes in the Federal Laws of 1987. Since some of the changes are administrative and procedural, substantial savings to the State should result in the administration of the law, primarily in reduction of paperwork and uniformity of procedures. Other changes, which increase benefit levels to displaced persons and provide additional benefits to small businesses, should result in a modest increase which will vary in amounts on a case by case basis.

The Department, State and individuals affected may incur direct and indirect costs involved in the arrangement and coordination of the formal appeal process before an Administrative Law Judge where there are

contested cases, which is currently the situation under the existing rules. Additionally, the person so affected may elect to be represented by legal counsel or other representative at that person's expense.

Regulatory Flexibility Analysis

The proposed new rules do not place any bookkeeping or recordkeeping on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. They do place compliance requirements on small businesses involved in the relocation process, by way of limiting what may or may not be reimbursable. The rule complies with the provisions of the Uniform Transportation Replacement Housing and Relocation Act for Federal and Federally Assisted Programs, (P.L. 1972, c. 47 as amended by P.L. 1989, c. 50, effective March 14, 1989).

Rules regarding payment for actual moving and related expenses (N.J.A.C. 16:6-2.3) and fixed payment for moving expenses (N.J.A.C. 16:6-2.4) are proposed for nonresidential moves. Ineligible moving and related expenses are set forth at N.J.A.C. 16:6-2.5. Small businesses, defined for the purposes of this chapter as businesses having no more than 500 employees, are eligible for a relocation and reestablishment payment of up to $10,000 in accordance with N.J.A.C. 16:6-2.6.

Full text of the proposed repeal appears in the New Jersey Administrative Code at N.J.A.C. 16:6.

Full text of the proposal follows:

CHAPTER 6
RELOCATION ASSISTANCE

SUBCHAPTER 1. GENERAL PROVISIONS

16:6-1.1 Purpose

The intent of the rules contained in this chapter is to comply with the provisions of the Uniform Transportation Replacement Housing and Relocation Act, N.J.S.A. 27:7-72 et seq, as amended, including P.L. 1989, c.50.

16:6-1.2 Relocation notices

(a) As soon as is practicable, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency's relocation program. The term "agency" means the entity, public or private, including the State of New Jersey, Department of Transportation, counties, municipalities, and other public entities, utilizing State or Federal funds under an aid program administered by the State of New Jersey, Department of Transportation. The written description shall accomplish at least the following:

1. Inform the person that he or she may be displaced for the project and generally describe the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);

2. Inform the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims and other necessary assistance to help the person successfully relocate;

3. Inform the person that he or she will not be required to move without at least 90 days advance written notice, and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available to them; and

4. Describe the person's right to appeal the agency's determination as to a person's application for assistance for which a person may be eligible.

(b) Eligibility for relocation assistance shall begin on the date of initiation of negotiations for the occupied property. Initiation of negotiations means the delivery of the initial written offer of just compensation by the agency to the owner or the owner's representative, to purchase the real property. When this occurs, all occupants shall promptly be notified, in writing, of their eligibility for applicable relocation assistance.

(c) Ninety-day notice requirements are as follows:

1. No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

2. The agency shall issue the notice 90 days before it expects the person to be displaced or earlier.

3. The 90 day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating at least 30 days in advance, the specific date by which he or she must move. If the 90 day notice is issued before a comparable replacement dwelling is made available, the notice shall state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made availalbe per these regulations.

4. In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the agency determines that a 90 day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety.

16:6-1.3 Availability of comparable replacement dwelling before displacement

(a) No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (described in (b) below) has been made available to the person pursuant to this chapter. Where possible, three or more comparable replacement dwellings shall be made available. Only in those situations when the local housing market does not contain three comparable dwellings, may the agency make fewer than three referrals.

(b) The term "comparable replacement dwelling" means a dwelling which the Agency determines to be:

1. Decent, safe and sanitary;

2. Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present;

3. Adequate in size to accommodate the occupants;

4. In an area not subject to unreasonable adverse environmental conditions;

5. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commerical and public facilities, and reasonably accessible to the person's place of employment;

6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses;

7. Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance; and

8. Within the financial means of the displaced person.

i. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180 day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased mortgage interest costs, and all incidental expenses, plus any additional amount required to be paid under replacement housing of last resort.

ii. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling.

iii. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length of occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under replacement housing of last resort.

(c) A comparable replacement dwelling will be considered to have been made available to a person if:

1. The person is informed of its location;

2. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

3. Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(d) The agency may grant a waiver of the policy in (a) above in any case where it is demonstrated that a person must move because of a major disaster, presidentially declared national emergency, or other emergency requiring immediate vacation of the real property which constitutes substantial danger to the health or safety of the occupants or the public.

(e) In lieu of the aforementioned provisions regarding comparable replacement dwellings, whenever a person is required to relocate for a temporary period because of an emergency, the agency shall:

1. Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling;

2. Pay the actual reasonable out of pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

3. Make available to the displaced person, as soon as practicable, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

16:6-1.4 Relocation planning, advisory services, and coordination

(a) During the early stages of development, programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by the agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study which may include the following:

1. An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families and the handicapped when applicable.

2. An estimate of the number of comparable replacement dwellings in the area, including price ranges and rental rates, that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.

3. An estimate of the number, type and size of the businesses, farms and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

4. Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

(b) Relocation assistance advisory services requirements are as follows:

1. The agency shall carry out a relocation assistance advisory program which satisfies applicable State requirements and offers the services described in 2 below. If the agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

2. The advisory program shall include such measures, facilities and services as may be necessary or appropriate in order to:

i. Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.

ii. Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in N.J.A.C. 16:6-1.3(c).

(1) As soon as practicable, the agency shall inform the person, in writing, of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(2) Where practicable, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe and sanitary.

(3) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require the agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(4) All persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

iii. Provide current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations, and assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

iv. Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

v. Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

3. Any person who occupies property acquired by the agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the agency.

(c) Relocation activities shall be coordinated with project work and other displacement causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized.

16:6-1.5 Eviction for cause

(a) Eviction for cause shall conform to applicable State law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the agency determines that:

1. The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice, is later evicted; or

2. The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

3. In either case, the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance as set forth in this part.

(b) For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project.

(c) A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by the agency to be a squatter who is occupying the real property without the

permission of the owner and otherwise has no legal right to occupy the property under State law. A displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy.

16:6-1.6 General requirements—claims for relocation payments

(a) Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person shall be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) The agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as practicable following receipt of sufficient documentation to support the claim.

(c) If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) All claims for a relocation payment shall be filed with the agency within 18 months after, for tenants, the date of displacement; for owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

This time period shall be waived by the agency, for good cause as determined by the agency.

(e) If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) The agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, the agency may deduct from relocation payments any rent that the displaced person owes the agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling. The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) If the agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant, in writing, of its determination, the basis for its determination, and the procedures for appealing that determination.

SUBCHAPTER 2. PAYMENTS FOR MOVING AND RELATED EXPENSES

16:6-2.1 Payments for actual reasonable moving and related expenses; residential moves

(a) Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person is entitled to payment of his or her actual moving and related expenses, as the agency determines to be reasonable and necessary, including expenses for:

1. Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the agency determines that relocation beyond 50 miles is justified;

2. Packing, crating, unpacking, and uncrating of the personal property;

3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property;

4. Storage of the personal property for a period not to exceed 12 months, unless the agency determines that a longer period is necessary;

5. Insurance for the replacement value of the property in connection with the move and necessary storage;

6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available; and

7. Other moving related expenses that are not listed as ineligible under N.J.A.C. 16:6-2.5, as the agency determines to be reasonable and necessary.

16:6-2.2 Fixed payment for moving expenses—residential moves

Any person displaced from a dwelling or seasonal residence is entitled to receive an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses under N.J.A.C. 16:6-2.1. This allowance shall be determined according to the applicable schedule maintained by the Bureau of Property and Relocation. In those instances involving a Federal project, the schedule shall be approved by the Federal Highway Administration.

16:6-2.3 Payment for actual reasonable moving and related expenses; nonresidential moves

(a) Any business or farm operation which qualifies as a displaced person pursuant to N.J.S.A. 27:7 et seq., as amended, is entitled to payment for such actual moving and related expenses, as the agency determines to be reasonable and necessary, including expenses for:

1. Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified;

2. Packing, crating, unpacking, and uncrating of the personal property;

3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property. This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right of way to the building or improvement are excluded.);

4. Storage of the personal property for a period not to exceed 12 months, unless the agency determines that a longer period is necessary;

5. Insurance for the replacement value of the personal property in connection with the move and necessary storage;

6. Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit or certification;

7. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available;

8. Professional services necessary for:

i. Planning the move of the personal property;

ii. Moving the personal property; and

iii. Installing the relocated personal property at the replacement location;

9. Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move;

10. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

i. The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price); or

ii. The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles);

11. The reasonable cost incurred in attempting to sell an item that is not to be relocated;

12. Purchase of substituted personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

i. The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade in of the replaced item; or

ii. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate;

13. Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed $1,000 as the agency determines to be reasonable, which are incurred in searching for a replacement location, including:

i. Transportation;

ii. Meals and lodging away from home;

iii. Time spent searching, based on reasonable salary or earnings; and

iv. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site; and

14. Other moving-related expenses that are not listed as ineligible under N.J.A.C. 16:6-2.5, as the agency determines to be reasonable and necessary.

(b) The following notification and inspection requirements apply to payments under this section:

1. The agency shall inform the displaced business or farm, in writing, of the requirements of (b) 2 and 3 above as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person.

2. The displaced business or farm operator shall provide the agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the agency may waive this notice requirement after documenting its file accordingly.

3. The displaced business or farm operator shall permit the agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(c) If the displaced business or farm elects to take full responsibility for its move, the agency may make a payment for the moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the agency or prepared by qualified staff. At the agency's discretion, a payment for a low cost (generally less than $1,000) or uncomplicated move may be based on a single bid or estimate.

(d) Upon request and in accordance with applicable law, the business or farm operation shall transfer to the agency ownership of any personal property that has not been moved, sold, or traded in.

(e) The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

1. The depreciated reproduction cost of the sign, as determined by the agency, less the proceeds from its sale; or

2. The estimated cost of moving the sign, but with no allowance for storage.

16:6-2.4 Fixed payment for moving expenses; nonresidential moves

(a) A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with (e) below, but not less than $1,000 nor more than $20,000. The displaced business is eligible for the payment if the agency determines that:

1. The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move, and the business vacates or relocates from its displacement site;

2. The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the agency determines that it will not suffer a substantial loss of its existing patronage;

3. The business is not part of a commercial enterprise having more than three other properties/locations which are not being acquired by the agency, and which are under the same ownership and engaged in the same or similar business activities;

4. The business is not operated at the displacement building solely for the purpose of renting such as a dwelling to others;

5. The business is not operated at the displacement site solely for the purpose of renting the site to others;

6. The business contributed materially to the income of the owner or operator of the business during the two taxable years prior to displacement. The term "contribute materially" means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the agency determines to be more equitable, a business or farm operation:

i. Had average annual gross receipts of at least $5,000; or

ii. Had average annual net earnings of at least $1,000; or

iii. Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources;

iv. If the application of the above criteria creates an inequity or hardship in any given case, the agency may approve the use of other criteria as determined appropriate.

(b) In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;

2. Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

3. The entities are held out to the public, and to those customarily dealing with them, as one business; and

4. The same person or closely related persons own, control, or manage the affairs of the entities.

(c) A displaced farm operation may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in acccordance with (e) below, but not less than $1,000 nor more than $20,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the agency determines that:

1. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

2. The partial acquisition caused a substantial change in the nature of the farm operation.

(d) The term "nonprofit organization" means an organization that is incorporated as a nonprofit organization under the laws of New Jersey or other State jurisdiction, and is exempt from payment of Federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. § 501). A displaced nonprofit organization may choose a fixed payment of $1,000 to $20,000 in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the agency demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two 12 month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

(e) The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be

based upon a different period of time when the agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the agency determines is satisfactory.

16:6-2.5 Ineligible moving and related expenses

(a) A displaced person is not entitled to payment for:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership;
2. Interest on a loan to cover moving expenses;
3. Loss of goodwill;
4. Loss of profits;
5. Loss of trained employees;
6. Any additional operating expenses of a business or farm operation incurred because of operating in a new location, except as provided in N.J.A.C. 16:6-2.6(b)10;
7. Personal injury;
8. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency;
9. Expenses for searching for a replacement dwelling;
10. Physical changes to the real property at the replacement location of a business or farm operation, except as provided in N.J.A.C. 16:6-2.3(a)3 and 16:6-2.6(b); or
11. Costs for storage of personal property on real property already owned or leased by the displaced person.

16:6-2.6 Reestablishment expenses—nonresidential moves

(a) In addition to the payments available under N.J.A.C. 16:6-2.3, a small business (a business having at least one but not more than 500 employees working at the site being acquired), farm or nonprofit organization may be eligible to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(b) Reestablishment expenses must be reasonable and necessary, as determined by the agency. They may include, but are not limited to, the following:

1. Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance;
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;
3. Construction and installation costs, not to exceed $1,500 for exterior signing to advertise the business;
4. Provision of utilities from right of way to improvements on the replacement site;
5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling or carpeting;
6. Licenses, fees and permits when not paid as part of moving expenses;
7. Feasibility surveys, soil testing and marketing studies;
8. Advertisement of replacement location, not to exceed $1,500;
9. Professional services in connection with the purchase or lease of a replacement site;
10. Estimated increased costs of operation during the first two years at the replacement site, not to exceed $5,000 for such items as:
   i. Lease or rental charges;
   ii. Personal or real property taxes;
   iii. Insurance premiums; and
   iv. Utility charges, excluding impact fees;
11. Impact fees or one time assessments for anticipated heavy utility usage; and
12. Other items that the agency considers essential to the reestablishment of the business.
13. Expenses in excess of the regulatory maximums set forth in (b)3, 8 and 10 above, may be considered eligible if large and legitimate disparities exist between costs of operation at the displacement site and costs of operation at an otherwise similar replacement site. In such cases, the regulatory limitation for reimbursement of such costs may be waived by the agency, but, in no event, shall total costs payable under this section exceed the $10,000 statutory maximum.

(c) The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary or otherwise eligible:

1. Purchase of capital assets, such as, office furniture, filing cabinets, machinery or trade fixtures;
2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation;
3. Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in (b)5 above;
4. Interest on money borrowed to make the move or purchase the replacement property; and
5. Payment to a part time business in the home which does not contribute materially to the household income.

16:6-2.7 Replacement housing payment for 180 day homeowner occupants

(a) A displaced person is eligible for the replacement housing payment for a 180 day homeowner occupant if the person:

1. Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and
2. Purchases and occupies a decent, safe, and sanitary replacement dwelling as defined at N.J.A.C. 16:6-2.9(f) within one year after the later of the following dates (except that the agency may extend such one year period for good cause as determined by the agency);
   i. The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or
   ii. The date the agency's obligation under N.J.A.C. 16:6-1.3 is met.

(b) The replacement housing payment for an eligible 180 day homeowner-occupant may not exceed $22,500 (see also, N.J.A.C. 16:6-2.10). The payment under this section is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

1. The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with (c) below; and
2. The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with (h) below; and
3. The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with (i) below.

(c) The price differential to be paid under (b) 1 above is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

i. The reasonable cost of a comparable replacement dwelling as determined in accordance with (d) below; or
ii. The purchase price of the decent, safe and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(d) The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling, defined at N.J.A.C. 16:6-1.3(b).

1. If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local maket data. An obviously overpriced dwelling may be ignored.
   i. If a displaced person purchases the comparable dwelling upon which the supplement was predicated, but cannot acquire the property for the adjusted price, it is appropriate to increase the replacement housing payment to the actual purchase amount.
2. If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

3. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the agency will offer to purchase the entire property. If the owner refuses to sell the remainder to the agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

4. To the extent practicable, comparable replacement dwellings shall be selected from the neighorhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(e) If the displacement dwelling unit was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling unit shall be considered its acquisition cost when computing the price differential.

(f) To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be added to the acquisition cost of the displacement dwelling when computing the price differential.

(g) If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling, shall be the sum of:

1. The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and

2. The cost of making the unit a decent, safe, and sanitary replacement dwelling, as defined at N.J.A.C. 16:6-2.9(f); and

3. The current fair market value for residential use of the replacement site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

4. The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(h) The displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person under (b) 2 above. The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized over the term of the old or new mortgage, as determined by the agency, with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bonafide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (h) 1 through 5 below shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

1. The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

2. The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, as determined by the agency.

3. The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

4. Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

i. They are not paid as incidental expenses;

ii. They do not exceed rates normal to similar real estate transactions in the area;

iii. The agency determines them to be necessary; and

iv. The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

5. The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(i) The incidental expenses to be paid under (b)3 above are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

1. Legal, closing and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;

2. Lender, FHA, or VA application and appraisal fees;

3. Loan origination or assumption fees that do not represent prepaid interest;

4. Certification of structural soundness and termite inspection when required;

5. Credit report;

6. Owner's and mortgagee's evidence of title, for example, title insurance, not to exceed such costs for a comparable replacement dwelling;

7. Escrow agent's fee;

8. State revenue or documentary stamps, sales or transfer taxes (not to exceed such costs for a comparable replacement dwelling); and

9. Such other costs as the agency determines to be incidental to the purchase.

(j) A 180 day homeowner occupant, who could be eligible for a replacement housing payment under (a) above, but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed $5,250, computed and disbursed in accordance with N.J.A.C. 16:6-2.8.

16:6-2.8 Replacement housing payment for 90 day occupants

(a) A tenant (a person who has the temporary use and occupancy of real property owned by another) or owner occupant displaced from a dwelling is entitled to a payment not to exceed $5,250 for rental assistance, as computed in accordance with (b) below, or downpayment assistance, as computed in accordance with (c) below, if such displaced person:

1. Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

2. Has rented, or purchased and occupied a decent, safe and sanitary replacement dwelling within one year (unless the agency extends this period for good cause as determined by the agency) after:

i. For a tenant, the date he or she moves from the displacement dwelling: or

ii. For an owner occupant, the later of:

(1) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of just compensation is deposited with the court; or

(2) The date he or she moves from the displacement dwelling.

3. The payment to an owner occupant under this section may not exceed the comparable amount computed under N.J.A.C. 16:6-2.7 if the person had been eligible for such payment.

(b) Rental assistance payments are determined as follows:

1. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $5,250 for rental assistance (see also N.J.A.C. 16:6-2.10). Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

i. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

ii. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

2. The base monthly rental for the displacement dwelling is the lesser of:

i. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the agency. (For an owner occupant, the fair market rent for the displacement dwelling will be utilized. For a tenant who paid little or no rent for the displacement dwelling, the fair market rent will be used, unless its use would result in a hardship, as determined by the agency, because of the person's income or other circumstances); or

ii. Thirty percent of the person's average gross household income. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental shall be established solely on the criteria in (b)2i above.) A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or

iii. The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

3. Utility costs are defined as expenses for heat, lights, water and sewer.

4. A rental assistance payment may, at the agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by N.J.A.C. 16:6-2.9(e), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) Downpayment assistance payments are determined as follows:

1. An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would have received under (b) above if the person had rented a comparable replacement dwelling, but instead chose to purchase. The payment to a displaced homeowner shall not exceed the amount the owner would have received under N.J.A.C. 16:6-2.7(b) if he or she had met the 180 day occupancy requirement. A displaced person eligible to receive a payment as a 180 day owner occupant under N.J.A.C. 16:6-2.7(a) is not eligible for this payment.

2. The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

16:6-2.9 Additional rules governing replacement housing payments

(a) Before making a replacement housing payment or releasing a payment from escrow, the agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe and sanitary dwelling, as defined at (f) below.

(b) A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

1. Purchases a dwelling;

2. Purchases and rehabilitates a substandard dwelling;

3. Relocates a dwelling which he or she owns or purchases;

4. Constructs a dwelling on a site that he or she owns or purchases;

5. Contracts with a builder for the purchase or construction of a dwelling on a site that the person owns or purchases; or

6. Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(c) No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in this chapter for a reason beyond his or her control, including:

1. A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the agency; or

2. Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the agency.

(d) A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under N.J.A.C. 16:6-2.8 is eligible to receive a replacement housing payment under N.J.A.C. 16:6-2.7 or 2.8 if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under N.J.A.C. 16:6-2.7 or 2.8.

(e) A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payments shall not be paid to the heirs or assigns, except that:

1. The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

2. The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy the decent, safe and sanitary replacement dwelling.

3. Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

(f) The term "decent, safe and sanitary dwelling" means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply unless waived by the agency for good cause as determined by the agency. The dwelling shall:

1. Be structurally sound, weathertight, and in good repair;

2. Contain a safe electrical wiring system adequate for lighting and other devices;

3. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees Fahrenheit) for a displaced person;

4. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contain a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage system, and adequate space and utility service connections for a stove and refrigerator;

5. Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress; and

6. For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

(g) Displaced persons shall not be entitled to receive duplicative payments under N.J.A.C. 16:6-2.7, 2.8 and 2.10.

16:6-2.10 Replacement housing of last resort

(a) Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants as specified in N.J.A.C. 16:6-2.7 and 2.8, as appropriate, the agency shall provide additional or alternative assistance under the provisions of this section. Any decision to provide last resort housing assistance must be adequately justified either:

1. On a case by case basis, for good cause, which means that appropriate consideration has been given to:

i. The availability of comparable replacement housing in the project or program area;

ii. The resources available to provide comparable housing; and

iii. The individual circumstances of the displaced person; or

2. By a determination that:

i. There is little, if any, comparable replacement housing available to displaced persons within an entire project or program area and, therefore, last resort housing assistance is necessary for the area as a whole;

ii. A project or program cannot be advanced to completion in a timely manner without last resort housing assistance; and

iii. The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to toal project or program costs.

(b) Notwithstanding any provision of this section, no person shall be required to move from a displacement dwelling unless comparable replacement housing is made available to such person. No person may be deprived of any rights the person may have under Federal law or this chapter. The agency shall not require any displaced person to accept a dwelling provided by the agency under this chapter (unless the agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) The agency shall have broad latitude in implementing this section, but implementation shall be for reasonable cost, on a case by case basis unless an exception to case by case analysis is justified for an entire project.

1. The methods of providing replacement housing of last resort include, but are not limited to:

i. A replacement housing payment in excess of the limits set forth in N.J.A.C. 16:6-2.7 and 2.8. A rental assistance subsidy under this section may be provided in installments or in a lump sum at the agency's discretion;

ii. Rehabilitation of or additions to an existing replacement dwelling;

iii. The construction of a new replacement dwelling;

iv. The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest free;

v. The relocation and, if necessary, rehabilitation of a dwelling;

vi. The purchase of land and/or a replacement dwelling by the agency and subsequent sale or lease to, or exchange with, a displaced person;

vii. The removal of barriers to the handicapped; or

viii. The change in status of the displaced person with his or her concurrence, from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort housing rental assistance payment.

2. Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling including upgraded, but smaller replacement housing that is decent, safe and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with N.J.A.C. 16:6-1.3(b)2.

3. The agency shall provide assistance under this section to a displaced person who is not eligible to receive a replacement housing payment under N.J.A.C. 16:6-2.7 or 2.8 because of failure to meet the length of occupancy requirements, when comparable replacement rental housing is not available at a rental rate within the person's financial means, which is 30 percent of the person's gross monthly household income. Such assistance shall cover a period of 42 months.

16:6-2.11 Mobile homes; applicability

This section through N.J.A.C. 16:6-2.15 describe the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this section. Except as modified by this section, such a displaced person is entitled to a moving expense payment in accordance with N.J.A.C. 16:6-2.1 and a replacement housing payment in accordance with N.J.A.C. 16:6-2.7 or 2.8 to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

16:6-2.12 Moving and related expenses; mobile homes

(a) A homeowner occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with N.J.A.C. 16:6-2.1. A nonoccupant owner of a rented mobile home is eligible for actual cost reimbursement under N.J.A.C. 16:6-2.3. However, if the mobile home is not acquired by the agency, but the homeowner occupant obtains a replacement housing payment under one of the circumstances described at N.J.A.C. 16:6-2.13(a)3, the owner is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

(b) The following provisions apply to payments for actual moving expenses under N.J.A.C. 16:6-2.3:

1. A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting and awnings, which were not acquired, anchoring of the unit, and utility "hook-up" charges.

2. If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe, and sanitary, and the agency determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.

3. A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the agency determines that payment of the fee is necessary to effect relocation.

16:6-2.13 Replacement housing payment for 180 day mobile homeowner occupants

(a) A displaced owner occupant of a mobile home is entitled to a replacement housing payment, not to exceed $22,500 under N.J.A.C. 16:6-2.7 if:

1. The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;

2. The person meets the other basic eligibility requirements at N.J.A.C. 16:6-2.7(a); and

3. The agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the agency but the owner is displaced from the mobile home because the agency determines that the mobile home:

i. Is not and cannot economically be made decent, safe and sanitary;

ii. Cannot be relocated without substantial damage or unreasonable cost;

iii. Cannot be relocated because there is no available comparable replacement site; or

iv. Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) If the mobile home is not acquired, and the agency determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described at N.J.A.C. 16:6-2.7(c), shall include the salvage value or trade-in value of the mobile home, whichever is higher.

16:6-2.14 Replacement housing payment for 90 day mobile home occupants

(a) A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed $5,250 under N.J.A.C. 16:6-2.8 if:

1. The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

2. The person meets the other basic eligibility requirements at N.J.A.C. 16:6-2.8(a); and

3. The agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described at N.J.A.C. 16:6-2.13(a)3.

16:6-2.15 Additional provisions governing relocation payments to mobile home occupants

(a) Circumstances surrounding both the mobile home and mobile home site shall be considered when determining a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also a person may elect to purchase a replacement mobile home and rent

a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site. However, the total replacement housing payment under N.J.A.C. 16:6-2.7 or 2.8 shall not exceed the maximum payment provided therein.

(b) The following apply in determining the cost of a comparable replacement dwelling:

1. If a comparable replacement mobile home is not available the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

2. If the agency determines that it would be practical to relocate the mobile home, but the owner occupant elects not to do so, the agency may determine that, for the purpose of computing the price differential under N.J.A.C. 16:6-2.7(c), the cost of a comparable replacement dwelling is the sum of:

i. The value of the mobile home;

ii. The cost of any necessary repairs or modifications to the mobile home; and

iii. The estimated cost of moving the mobile home to a replacement site.

(c) If the mobile home is not actually acquired, but the occupant is considered displaced, "initiation of negotiations" is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that he or she is a displaced person under this section.

(d) If the owner is reimbursed for the cost of moving the mobile home under this section, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

(e) The acquisition by the agency of a portion of a mobile home park property may leave the remaining part of the property that is not adequate to continue the operation of the park. If the agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under this chapter.

SUBCHAPTER 3. ORGANIZATION AND PROCEDURES

16:6-3.1 Exercise of powers

The Department of Transportation may exercise, on behalf of any county, municipality, or other entity, as the case may be, the powers granted to these agencies under P.L. 1989, c.50 (N.J.S.A. 27:7-72 et seq., as amended), and under this chapter.

16:6-3.2 Delegation of powers

Ordinarily, the Bureau of Property and Relocation, within the Division of Right of Way, will be responsible for administering this chapter and the attendant Federal and State law, on behalf of the Commissioner of Transportation.

16:6-3.3 Appeal of agency determination

(a) Any aggrieved person may file a written appeal, regardless of form, with the agency in any case in which the person believes that the agency has failed to properly consider the person's application for assistance under this chapter. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a relocation payment.

(b) The appeal must be initiated within 90 days after the person receives written notification of the agency's determination on the person's claim. The written appeal should be addressed to the Right of Way District Supervisor. If the matter is not resolved to the person's satisfaction, the person may request an in-person review by writing to the New Jersey Department of Transportation, 1035 Parkway Avenue, (CN600), Trenton, New Jersey 08625, Attention: Director of Right of Way, who is the Commissioner's authorized designee to hear appeals.

(c) A person has the right to be represented by legal counsel or other representative in connection with the appeal, but solely at the person's own expense. The person shall be permitted to inspect and copy all materials pertinent to the appeal, except materials which are classified as confidential by the agency. The agency may impose reasonable conditions on the person's right to inspect, consistent with applicable laws. In deciding an appeal, the agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(d) Promptly after receipt of all information submitted by a person in support of an appeal, the agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the agency shall advise the person of his or her opportunity to request a contested case before the Office of Administrative Law, conducted pursuant to 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.

16:6-3.4 Federal law

The administration of relocation assistance shall be provided consistent with applicable Federal law and regulations.

(a)

LOCAL AID
State Aid Road System
County Operations
Construction Equipment Damage Program
Proposed Repeals: N.J.A.C. 16:14, 15 and 18

Authorized By: Department of Transportation, Robert A. Innocenzi, Deputy Commissioner.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:8-1 to 9, 27:13-1 to 41, 27:13A-1 to 13, 27:14-1 to 49 and 52:27B-17.

Proposal Number: PRN 1989-242.

Submit written comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

Under the sunset and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to repeal several chapters of regulations within its Division of Traffic Engineering and Local Aid.

The rules were provided by the staff of the Bureau of Local Aid District Operations, in compliance with the Department's ongoing rulemaking and review procedures. This review and analysis revealed that the following chapters were found to be no longer necessary, adequate or responsive to the purposes for which they were originally promulgated:

Chapter 14 "State Aid Road System"
Chapter 15 "County Operations"
Chapter 18 "Construction Equipment Damage Program"

Additionally, the programs scheduled to be repealed are presently funded under the New Jersey Transportation Trust Fund Act, and funding under the previous programs has been depleted.

Social Impact

The proposed repeals will comply with the requirements of Executive Order No. 66(1978) in that the Department has removed rules and regulations no longer needed for the purposes they were promulgated. The counties and municipalities will be pleased to see the obsolescence of programs no longer required.

Economic Impact

The proposed repeals will not have any economic impact on the local governments, since funding under these programs are no longer available and have been depleted. The Department will incur direct and indirect costs for personnel and rulemaking requirements.

Regulatory Flexibility Statement

The proposed repeals do not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined

by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule primarily affects programs, designed to aid local governments, which are no longer required.

Full text of the chapters proposed for repeal can be found in the New Jersey Administrative Code at N.J.A.C. 16:14, 16:15 and 16:18.

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes U.S. 1 in Middlesex County; U.S. 30 in Camden County; N.J. 34 in Middlesex County; and NJ. 71 in Monmouth County

Proposed Amendments: N.J.A.C. 16:28A-1.1, 1.21, 1.24 and 1.38

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

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

Proposal Number: PRN 1989-252.

Submit comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The proposed amendments will establish "no stopping or standing" zones along Route U.S. 1 in Plainsboro Township, Middlesex County; "no parking bus stop" zones along Routes U.S. 30 in Somerdale Borough, Camden County; N.J. 34 in Old Bridge Township, Middlesex County; and "no parking—loading zone" along Route N.J. 71 in the City of Asbury Park, Monmouth 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 local government officials in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no stopping or standing" zones along Route U.S. 1 in Plainsboro Township, Middlesex County; "no parking bus stop" zones along Routes U.S. 30 in Somerdale Borough, Camden County; N.J. 34 in Old Bridge Township, Middlesex County; and "no parking—loading zone" along Route N.J. 71 in the City of Asbury Park, Monmouth County, were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.1, 1.21, 1.24 and 1.38 based upon requests from local government officials and the traffic investigations.

Social Impact

The proposed amendments will establish "no stopping or standing" zones along Route U.S. 1 in Plainsboro Township, Middlesex County; "no parking bus stop" zones along Routes U.S. 30 in Somerdale Borough, Camden County; N.J. 34 in Old Bridge Township, Middlesex County; and "no parking—loading zone" along Route N.J. 71 in the city of Asbury Park, Monmouth 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. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zones signs and the local governments will bear the costs for "no parking bus stop" and "no parking—loading zone" signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

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

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

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

(a) The certain parts of the State highway Route U.S. 1 described in this **sub**section shall be designated and established as "[no parking] **no stopping or standing**" zones where stopping or standing is prohibited at all times [except as provided in N.J.S.A. 39:4-139].

1. through 4. (No change.)

5. No stopping or standing in Plainsboro Township, Middlesex County:

i. Along both sides:

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

(b) (No change.)

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

(a) (No change.)

(b) The certain parts of State highway Route U.S. 30 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. 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.-25. (No change.)

26. Along the eastbound (southerly) side in Somerdale Borough, Camden County:

i. Near side bus stops:

(1) Evergreen Avenue—Beginning at the westerly curb line of Evergreen Avenue and extending 105 feet westerly therefrom.

(2) Crestwood Avenue—Beginning at the westerly curb line of Crestwood Avenue and extending 123 feet westerly therefrom.

(3) Somerdale Road—Beginning at the westerly curb line of Somerdale Road and extending 105 feet westerly therefrom.

(4) Dartmouth Avenue—Beginning at the westerly curb line of Dartmouth Avenue and extending 105 feet westerly therefrom.

27. Along the westbound (northerly) side in Somerdale Borough, Camden County:

i. Near side bus stops:

(1) Vassar Avenue—Beginning at the easterly curb line of Vassar Avenue and extending 105 feet easterly therefrom.

(2) Lafayette Avenue—Beginning at the easterly curb line of Lafayette Avenue and extending 105 feet easterly therefrom.

(3) Somerdale Road —Beginning at the easterly curb line of Somerdale Road and extending 105 feet easterly therefrom.

(4) Crestwood Avenue—Beginning at the easterly curb line of Crestwood Avenue and extending 115 feet easterly therefrom.

(5) Evergreen Avenue—Beginning at the easterly curb line of Evergreen Avenue and extending 120 feet easterly therefrom.

ii. Far side bus stops:

(1) White Horse Road Route 673—Beginning at the westerly curb line of White Horse Road Route 673 and extending 140 feet westerly therefrom.

(2) Dartmouth Avenue—Beginning at the westerly prolongated curb line of Dartmouth Avenue and extending 100 feet westerly therefrom.

[26.] **28.** (No change in text.)

16:28A-1.24 Route 34

(a) (No change.)

(b) The certain parts of State highway Route 34 described in this **sub**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. Along the easterly (northbound) side in Old Bridge Township, Middlesex County:

i. Near side bus stops:

(1) (No change.)

(2) Lexington Circle—Beginning at the southerly prolongated curb line of Lexington Circle and extending 105 feet southerly therefrom.

ii. Far side bus stops:

(1) (No change.)

2. Along the southerly (westbound) side in Old Bridge Township, Middlesex County:

i. (No change.)

ii. Near side bus stop:

(1) Lexington Circle—Beginning at the northerly curb line of Lexington Circle and extending 110 feet northerly therefrom.

16:28A-1.38 Route 71

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

(c) The certain parts of State highway Route 71 described in this subsection are designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established Loading Zones:

1. No parking—Loading Zone in the City of Asbury Park, Monmouth County:

i. Along the easterly (northbound) side:

(1) (No change.)

(2) Beginning at a point 50 feet from the northerly curb line of Sewall Avenue and extending 50 feet northerly therefrom.

ii. (No change.)

(d) (No change.)

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping
Route U.S. 9 in Middlesex County
Proposed Amendment: N.J.A.C. 16:28A-1.7

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

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

Proposal Number: PRN 1989-253.

Submit comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The proposed amendment will establish a "no parking bus stop" zone (near side bus stop, Ferry Road) along the northbound side of Route U.S. 9 in Old Bridge Township, Middlesex 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. Additionally, this amendment effects the change from Madison Township to Old Bridge Township, because of name redesignation.

Based upon a request from the local government in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of a "no parking bus stop" zone (near side bus stop, Ferry Road) along the northbound side of Route U.S. 9 in Old Bridge Township, Middlesex County, was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7 based upon the request from the local government and the traffic investigation.

Social Impact

The proposed amendment will establish a "no parking bus stop" zone (near side bus stop, Ferry Road) along Route U.S. 9 in Old Bridge Township, Middlesex 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. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local government will incur direct and indirect costs for mileage, personnel and equipment requirements. The local government will bear the costs for "no parking bus stop" zone signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

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

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

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

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. Along the northbound side in [Madison Township'] **Old Bridge Township, Middlesex County**:

i. Far side bus stops:

(1)-(2) (No change.)

[(3) Ferry Road (105 feet);]

Renumber (4) through (7) as (3) **through** (6) (No change in text.)

ii. Near side bus stops:

(1)-(6) (No change.)

(7) Ferry Road (105 feet);

iii. [Midblock] **Mid-block** bus [stops] **stop**:

(1) Northbound [service road] **Service Road**—[from] **From** a point 1,615 feet north of the northerly curb line of Cindy Street to a point 1,750 feet north of the northerly curb line of Cindy Street.

2. Along the southbound side in [Madison Township] **Old Bridge Township, Middlesex County**:

i.-ii. (No change.)

3.-39. (No change.)

CONSTRUCTION AND MAINTENANCE

(b)

DIVISION OF CONSTRUCTION AND MAINTENANCE ENGINEERING SUPPORT

Bureau of Construction
Construction Control
Contractor Claims; Substantial Completion
Proposed Repeal: N.J.A.C. 16:33
Proposed New Rules: N.J.A.C. 16:45

Authorized By: Robert A. Innocenzi, Deputy Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1 to 2-8.

Proposal Number: PRN 1989-223.

Submit comments by June 14, 1989 to:

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

The agency proposal follows:

Summary

The proposed new rules and the proposed repeal will effect administrative changes and necessary recodification to comply with the recent Reorganization Plan (see 20 N.J.R. 937), and the Department's ongoing process of updating the rules.

The rules were reviewed by the staff of the Division of Construction and Maintenance Support and reflect the present practices and

procedures within that respective unit. After legal review and analysis, portions of the rule are being repealed because they were considered as being procedural rather than regulatory.

The portions being repealed are outlined in the Department's Standard Specifications and the Supplementary Specifications for specific projects.

A summary of Chapters and/or Subchapters being repealed follows:

Subchapter 1. Subletting of Contract Work.
N.J.A.C. 16:33-2.1 Definitions
N.J.A.C. 16:33-2.3 Notice of intent to present claim
N.J.A.C. 16:33-2.4 Negotiations prior to presentation of claim
N.J.A.C. 16:33-2.5 Content of claim
N.J.A.C. 16:33-2.6 Processing
N.J.A.C. 16:33-2.7 Disposition
N.J.A.C. 16:33-2.8 Appeal

The Department therefore proposes to adopt new rule N.J.A.C. 16:45, Title 16 and repeal Chapter 33.

Social Impact

The proposed new rule will reflect current procedural and administrative changes to comply with the recent Reorganization Plan (see 20 N.J.R. 937). Additionally, the rules being repealed appear in the Department's Standard Specifications and the Supplementary Specifications for specific projects, since they are considered to be procedural in nature and not regulatory. Contractors are provided copies of the Department's Standard Specifications in their performance of contracts with the Department.

Economic Impact

The Department will incur direct and indirect costs for personnel and equipment requirements, in the updating of the rule and the need to reprint forms required in the contractual process. There will be no added economic impact on contractors as a result of this proposed new rule.

Regulatory Flexibility Statement

The proposed new rule does not place any bookkeeping or recordkeeping requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are still compliance requirements for small businesses in the case of a subcontractor performing for the prime contractor. The proposed new rule primarily effects administrative changes.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:33.

Full text of the proposed new rules follows:

CHAPTER 45
CONSTRUCTION CONTROL

SUBCHAPTER 1. CONTRACTOR CLAIMS

16:45-1.1 Claims Committee

(a) The Claims Committee is an administrative body available to review and resolve claims that arise under the contract. At the option of the contractor, claims may be presented to the Claims Committee for administrative resolution. The presentation of a claim to the Claims Committee shall in no way alter or affect other rights of the contractor, including the right, pursuant to the Contractual Liability Act, N.J.S.A. 59:13-1 et seq., to seek redress in the courts. Said presentation to the Claims Committee shall in no way alter or affect the applicable statute of limitations.

(b) The Claims Committee is comprised of the following:

1. Chairman—Director, Division of Construction and Maintenance Engineering Support (Chief Engineer, Construction and Maintenance);
2. Director, Division of Regional Design (Chief Engineer, Regional Design);
3. Director, Division of Accounting and Auditing;
4. Deputy Attorney General (non-voting member);
5. Secretary for the Claims Committee (non-voting member to be designated by the Chairman).

16:45-1.2 Contractor compliance

(a) The contractor shall comply with the provisions of the applicable NJDOT Standard Specifications and the Supplementary Specifications for the specific contract for documentation and submission of claims.

(b) The Department will accept for consideration all claims presented within the time period stated in the applicable NJDOT Standard Specifications and Supplementary Specifications.

(c) The procedure set forth in this section establishes a method of reviewing contractual disputes and in no way constitutes a waiver by the State of New Jersey of its sovereign immunity from suit.

16:45-1.3 Disposition

(a) The Deputy Commissioner shall make final determination on all claims heard by the Department's Claims Committee.

(b) The Regional Director shall notify the contractor of the Deputy Commissioner's decision and that the contractor has 60 days to accept or reject it. If the disposition of the claim is acceptable to the contractor, the Regional Director shall ensure that a Supplementary Agreement is prepared. If the disposition of the claim is not acceptable to the contractor, or not acted upon within the 60 day time limit, the Regional Director shall inform the contractor that there are no more administrative steps to be taken and that the project files will be closed out.

SUBCHAPTER 2. SUBSTANTIAL COMPLETION

16:45-2.1 Purpose

The definition of "substantial completion" in N.J.A.C. 16:45-2.2 is adopted pursuant to N.J.S.A. 27:7-34. This definition will be incorporated into contracts on Department of Transporation construction projects in substantially the same form as therein presented.

16:45-2.2 Definition of substantial completion

"Substantial completion", as used herein, shall refer to the point at which the performance of all work on the project except landscaping items, including the planting of trees, shrubs, vines, ground covers and seedlings, final clean-up and repair of work performed but not acceptable has been completed, provided the engineer has determined, in his or her sole discretion, that the project is safe and convenient for use by the public, and failure to complete the work and repairs expected above does not result in the deterioration of other completed work; and, provided further, that the value of landscape work remaining to be performed, repairs and clean-up, is less than two percent of the total adjusted contract price.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Public Employees' Retirement System Work-Related Travel; Accidental Disability Retirement and Accidental Death Benefit Coverage

Proposed New Rule: N.J.A.C. 17:2-6.27

Authorized By: Public Employees' Retirement System, Janice Nelson, Secretary.
Authority: N.J.S.A. 45:15A-17.
Proposal Number: PRN 1989-235.

Submit written comments by June 14, 1989 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front Street
CN 295
Trenton, N.J. 08625

The agency proposal follows:

Summary

The purpose of this proposed new rule is to clarify when a member of the Public Employees' Retirement System (PERS) who is required to travel in connection with his or her employment is covered for the purposes of accidental disability retirement and accidental death benefits under the retirement system while traveling. Members of PERS are often required to travel in connection with their employment and the question

frequently arises if they are covered for accidental disability retirement and accidental death benefits if they are injured or killed during the travel. The law governing PERS does not address this question explicitly. There also does not appear to be any explicit case law on this issue. For accidential disability retirement, a member must be totally and permanently disabled as a direct result of a traumatic event occurring during and as a result of the "performance of his regular or assigned duties." For accidental death benefits, a member must have died as a result of an accident met "in the actual performance of duty."

The new rule provides that if a member's duties authorize or require travel between a regularly assigned office or workplace and other locations, or among other locations, the member is in performance of duty during such travel. If the member's duties authorize or require travel between the member's place of residence and a location other than a regularly assigned office or workplace, the member is in performance of duty when he or she completely leaves the property of his or her place of residence and begins the travel to the location, or until he or she begins entry to the place of residence after travel from the location, and all expenses of the travel are paid for by the employer. The rule also lists situations in which a member's duties are considered to authorize travel between a place of residence and a location other than a regularly assigned office or workplace. These include the following:

1. The member's regular or assigned duties involve field work and the member is not required to report to a regularly assigned office or workplace before or after travelling to other locations to perform his or her duties.

2. The member's regular or assigned duties are usually performed at a regularly assigned office or workplace but occasionally require travel to other locations.

3. The member is authorized or required to respond to an emergency situation outside of the member's regularly scheduled work hours, regardless of the location to which the member goes or who pays for the travel.

4. The member is attending a meeting, seminar, convention or similar type of work-related activity at a location other than a regularly assigned office or workplace, regardless of who pays for the travel. Only travel to and from the general activity itself and travel to and from and participation in the work-related functions of the activity are considered part of the member's duties. Activities related to social or recreational functions or living accommodations are not considered part of the member's duties.

Social Impact

The proposed new rule will be beneficial to all members of PERS in that it will clarify when they are covered for the purposes of accidental disability retirement and accidental death benefits in connection with work-related travel. The circumstances and situations under which members would be covered are liberally defined.

Economic Impact

No significant economic impact on the retirement system is anticipated from the adoption of this new rule. The clarification and liberal definition of the circumstances and situations under which members would be covered for accidental disability retirement and accidental death benefits in connection with work-related travel is economically beneficial to the members.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed new rule does not impose reporting, recordkeeping or other compliance requirements on small businesses. The rules of the Public Employees' Retirement System affect only public employers and employees.

Full text of the proposal follows:

17:2-6.27 Work-related travel; accidental disability retirement and accidental death benefit coverage

(a) A member whose duties include regular or occasional travel in the course of employment will be considered in the "performance of his regular or assigned duties" for the purposes of accidential disability retirement or "in the actual performance of duty" for the purposes of accidental death benefits during employment-related travel as provided in this section. For the purposes of this section, "in performance of duty" means and includes both "performance of regular or assigned duties" and "in the actual performance of duty."

(b) If a member's duties require or authorize the member to travel between a regularly assigned office or workplace and other locations, or among other locations, the member is in performance of duty during travel between a regularly assigned office or workplace and other locations, or among other locations.

(c) If a member's duties require or authorize the member to travel between his or her place of residence and a location other than an office or workplace of the employer to which the member is regularly assigned or near to the regularly assigned office or workplace to perform the duties of the employment, the member is in performance of duty when he or she completely leaves the property of his or her residence and begins to travel to the other location, or until he or she begins entry to the property of residence after travel from the other location, and all expenses of the travel are paid for by the employer. A member's duties are considered to authorize or require travel from the place of residence to a location other than a regularly assigned office or workplace of the employer in the following situations:

1. The member's regular or assigned duties involve field work which requires or authorizes the member to travel to locations other than a regularly assigned office or workplace of the employer to perform his or her duties and do not require the member to report to a regularly assigned office or workplace before or after traveling to other locations. Travel by the member between a regularly assigned office or workplace of the employer and the place of residence of the member is not considered part of the member's duties.

2. The member's regular or assigned duties are usually performed at an office or workplace of the employer to which the member is regularly assigned but occasionally require or authorize travel to other locations.

3. The member is authorized or required by his or her employer to respond to an emergency situation outside of the member's regularly scheduled work hours, regardless of whether the member goes to a regularly assigned office or workplace or another location, or whether the expenses of the travel are paid for by the employer or the member.

4. The member is attending a meeting, seminar, convention or a similar type of work-related activity as authorized or required by the employer at a location other than a regularly assigned office or workplace, regardless of whether the expenses of the travel are paid for by the employer or the member. Where there are social or recreational activities associated with the work-related activity or attendance requires living accommodations, only travel to and from the general activity and participation in and travel to and from the work-related functions of the activity are considered part of the duties of the member. Activities related to social or recreational functions or living accommodations are not considered part of the duties of the member.

(d) In all cases, a certification from the employer is required and must include a copy of the member's job description, a statement of the member's work schedule on the day of the travel in question, and proof of or a statement by the employer that the travel was authorized or required by the employer and was paid for by the employer.

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Public Financing of Elections for Governor; Coordinated Expenditures

Reproposed New Rules: N.J.A.C. 19:25-15.29 and 16.30

Authorized By: The Election Law Enforcement Commission, Frederick M. Herrmann, Ph.D., Executive Director.

Authority: N.J.S.A. 19:44A-38 and P.L. 1989, c.4, specifically section 12.

Proposal Number: 1989-239.

A public hearing concerning these proposed new rules will be conducted on June 1, 1989 at 10 A.M. at the Montclair Municipal Building, 205 Claremont Avenue, Montclair, New Jersey.

Submit written comments by June 14, 1989 to:
Nedda Gold Massar, Esq.
Election Law Enforcement Commission
National State Bank Building, 12th Floor
CN 185
Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

These new rules are reproposals superseding prior proposed rules, which are hereby withdrawn. The prior proposed rules were published at 21 N.J.R. 704(a) (March 20, 1989), proposed N.J.A.C. 19:25-16.30, Coordinated expenditures; and at 21 N.J.R. 1109(a) (May 1, 1989), proposed N.J.A.C. 19:25-15.29. These reproposed new rules are a result of comments received at a public hearing on March 21, 1989 from Angelo J. Genova, Esq., counsel, "Florio for Governor," and from Scott A. Weiner, Esq., treasurer, "Florio for Governor."

Candidates for Governor who elect to participate in public financing of their campaigns are subject to overall expenditure limits (see N.J.S.A. 19:44A-7, as amended by P.L. 1989, c.4). Under these proposed rules, a communication expenditure by a non-gubernatorial candidate (that is, political advertising) making unambiguous reference to a gubernatorial candidate and undertaken with consent of the gubernatorial candidate, must at least partially be charged or allocated against the gubernatorial candidate's expenditure limit. Under such circumstances, a portion of the cost of making and circulating the advertisement, even though paid for by the non-gubernatorial candidate, aids or promotes the gubernatorial candidate and must be counted against the expenditure limit. The proportion of cost to be so allocated depends upon the extent to which the advertisement promotes the gubernatorial candidate when measured against the extent it promotes a non-gubernatorial candidate or candidates. For example, if the cost is $1,000, and the advertisement equally promotes a gubernatorial candidate and a non-gubernatorial candidate, the allocation against the gubernatorial candidate's expenditure limit would be $500.00.

The principal change in these reproposed rules is to relax the application of this requirement by exempting certain coordinated expenditures from its application. Representatives of the "Florio for Governor" campaign testified that certain expenditures by non-gubernatorial candidates for bumper stickers, lawn signs, buttons and similar items should not be allocated notwithstanding coordination with a gubernatorial candidate. They cited the Federal Election Campaign Act, which exempts what are commonly referred to as "slate card" and "volunteer" expenditures of political party committees from the definitions of "contribution" and "expenditure" (see 2 U.S.C. §431(8)(B)(v) and (x), and 2 U.S.C. §431(9)(B)(iv) and (viii)).

The Commission concurs with the suggestions that non-gubernatorial candidates should not be discouraged from making references to a gubernatorial candidate in campaign materials such as those included in the above-cited Federal statutes. Therefore, it is reproposing its "coordinated expenditure" rules to exempt such expenditures (see subsections (b) of the text). Other changes made in this reproposal are:

1. Subsections (a) have been changed to include a reference to compliance with the contribution limit of N.J.S.A. 19:44A-29, and paragraphs (a) 2 have been redrafted to add the test of "exercising control" over the coordinated expenditure rather than "in consultation with" (see text of prior proposals).

2. Subsections (c) and (d) have been added to clarify the methodology to be used in arriving at a reasonable value of a coordinated expenditure to a gubernatorial candidate; and

3. Subsections (e) replace prior subsections (b), which had contained a 15 percent minimum allocation requirement (see text of prior proposals).

Pursuant to its authority under P.L. 1989, c.4, section 12, the Commission intends these new rules to be effective upon the filing of its notice of adoption with the Office of Administrative Law. The Commission contemplates such filing will occur shortly after the expiration of the comment period on June 14, 1989.

Social Impact

These reproposed new rules affect principally candidates for governor who have elected to participate in public financing and thereby are subject to the overall expenditure limit contained in N.J.S.A. 19:44A-7. The Commission believes that the rules will have a beneficial social impact because, as noted by the New Jersey Supreme Court in *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Commission*, 114 N.J. 33 (1989), in the absence of such rules, gubernatorial candidates might circumvent the expenditure limit by conducting part of their campaigns through non-gubernatorial candidates. For example, in the absence of this proposed restriction, a gubernatorial candidate concerned that his or her campaign might exceed the expenditure limit might coordinate with legislative or other local candidates of the same political party those communication expenditures for political advertising that the gubernatorial candidate could not otherwise make because of the expenditure limit. However, the Commission also believes that application of the rules to all coordinated expenditures might unduly restrict non-gubernatorial candidates from referring to a gubernatorial candidate in bumper stickers, pins and similar materials and therefore proposes to exempt such materials.

Economic Impact

The Commission believes that these reproposed new rules do not have any substantial economic impact, other than minimal costs that a gubernatorial candidate might incur for recordkeeping and reporting purposes. The rules will require a gubernatorial candidate making coordinated expenditures to make and maintain sufficient records to document a reasonable basis for determining the proportion of the communication expense that should be allocated to the gubernatorial candidate, and records sufficient for the conduct of an audit should the Commission investigate any reported or non-reported coordinated expenditure. Such documents would include, but not be limited to, a photostatic copy of any print advertising, or a tape of any video or sound broadcast.

Regulatory Flexibility Statement

The proposed new rules do not impose any recordkeeping or reporting requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. While it is conceivable that small businesses may be employed or otherwise contracted by gubernatorial candidates for the purpose of preparing or circulating political advertising, the reporting and recordkeeping requirements generated by these rules are solely on the gubernatorial and non-gubernatorial candidates purchasing such services.

Full text of the proposal follows:

19:25-15.29 Coordinated expenditures

(a) A communication expenditure by a candidate other than a gubernatorial candidate is a contribution by such candidate subject to the contribution limit in N.J.S.A. 19:44A-29 and is a coordinated expenditure of the gubernatorial candidate properly allocable against the expenditure limit of gubernatorial candidate in N.J.S.A. 19:44A-7 if:

1. The communication makes an unambiguous reference to the gubernatorial candidate in an audio, visual or printed format; and

2. The gubernatorial candidate or his or her campaign committee has consented to, authorized, or exercised control over the production or circulation of the communication.

(b) A reference to a gubernatorial candidate will be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of the name or picture of the gubernatorial candidate in equal or less than equal prominence to the prominence given the names or pictures of non-gubernatorial candidates;

2. The names or pictures of the gubernatorial and non-gubernatorial candidates appear on printed campaign materials used in connection with volunteer activities on behalf of the named or pictured non-gubernatorial candidates, such materials consisting of buttons, pins, bumper stickers, handbills, brochures, posters, yard signs or palm cards; and

3. The materials in (b)2 above are not used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

(c) A gubernatorial candidate or campaign committee receiving a coordinated communication pursuant to (a) above must determine:

1. The cost of preparation and circulation of the communication; and

2. The reasonable value of the coordinated communication to the gubernatorial candidate.

(d) The reasonable value of a coordinated communication to a gubernatorial candidate may be determined at less than 100 percent of the total cost of preparation and circulation if the coordinated

communication referred to one or more non-gubernatorial candidates in the same election, and the percentage of the cost to be allocated to the gubernatorial candidate shall be determined based upon the following:

1. The number of non-gubernatorial candidates identified or otherwise referred to; and

2. The relative prominence of the reference to the gubernatorial candidate in relation to references to non-gubernatorial candidates. For example, if a printed pamphlet is prepared and circulated at a cost of $1,000 and features equally one page for a non-gubernatorial candidate and one page for a gubernatorial candidate, the reasonable value is 50 percent of the total cost of $1,000 or $500.00.

(e) A gubernatorial candidate determining the reasonable value to his or her candidacy of a coordinated communication pursuant to (d) above shall establish that value to the nearest five percent of the total cost of preparation and circulation. In no case shall the reasonable value be determined to be less than five percent of total cost.

19:25-16.30 Coordinated expenditures

(a) A communication expenditure by a candidate other than a gubernatorial candidate is a contribution by such candidate subject to the contribution limit in N.J.S.A. 19:44A-29 and is a coordinated expenditure of the gubernatorial candidate properly allocable against the expenditure limit of the gubernatorial candidate in N.J.S.A. 19:44A-7 if:

1. The communication makes an unambiguous reference to the gubernatorial candidate in an audio, visual or printed format; and

2. The gubernatorial candidate or his or her campaign committee has consented to, authorized, or exercised control over the production or circulation of the communication.

(b) A reference to a gubernatorial candidate will be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of the name or picture of the gubernatorial candidate in equal or less than equal prominence to the prominence given the names or pictures of non-gubernatorial candidates;

2. The names or pictures of the gubernatorial and non-gubernatorial candidates appear on printed campaign materials used in connection with volunteer activities on behalf of the named or pictured non-gubernatorial candidates, such materials consisting of buttons, pins, bumper stickers, handbills, brochures, posters, yard signs or palm cards; and

3. The materials in (b)2 above are not used in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

(c) A gubernatorial candidate or campaign committee receiving a coordinated communication pursuant to (a) above must determine:

1. The cost of preparation and circulation of the communication; and

2. The reasonable value of the coordinated communication to the gubernatorial candidate.

(d) The reasonable value of a coordinated communication to a gubernatorial candidate may be determined at less than 100 percent of the total cost of preparation and circulation if the coordinated communication referred to one or more more-gubernatorial candidates in the same election, and the percentage of the cost to be allocated to the gubernatorial candidate shall be determined based upon the following:

1. The number of non-gubernatorial candidates identified or otherwise referred to; and

2. The relative prominence of the reference to the gubernatorial candidate in relation to references to non-gubernatorial candidates. For example, if a printed pamphlet is prepared and circulated at a cost of $1,000 and feature equally one page for a non-gubernatorial candidate and one page for a gubernatorial candidate, the reasonable value is 50 percent of the total cost of $1,000 or $500.00.

(e) A gubernatorial candidate determining the reasonable value to his or her candidacy of a coordinated communication pursuant to (d) above shall establish that value to the nearest five percent of the total cost of preparation and circulation. In no case shall the reasonable value be determined to be less than five percent of total cost.

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Procedures for Depositing Checks Received from Gaming Patrons

Proposed Amendment: N.J.A.C. 19:45-1.28

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-99(a) and 5:12-101(c).

Proposal Number: PRN 1989-224.

Submit written comments by June 14, 1989 to:

Deno R. Marino
Deputy Director—Operations
Casino Control Commission
Princeton Pike Office Park
Building No. 5, CN-208
Trenton, NJ 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:45-1.28 reduces the deposit times for unredeemed counter checks and changes the deposit times from "banking days" to "calendar days". Furthermore, the dollar amount threshold that determines the specific time frame in which a counter check must be deposited has also been changed. This amendment is necessary due to a change in the Casino Control Act, N.J.S.A. 5:12-1 et seq. (Act).

Social Impact

Casino patrons who are issued counter checks will have to alter their finances to allow for quicker repayment. However, there will be little impact since the procedures are currently being followed by the casino industry.

Economic Impact

The industry is aided by the reduced deposit times in that they receive payments sooner and collection efforts are enforced sooner for those patrons whose counter checks are returned to the casinos due to insufficient funds. Accordingly, there is a positive economic benefit for the casino in the form of a quicker cash flow.

Regulatory Flexibility Statement

This proposed amendment will only affect the operations of New Jersey casino licensees and, therefore, will not impact on any business addressed by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.28 Procedure for depositing checks received from gaming patrons

(a) All checks, unless redeemed or consolidated prior to the time requirements herein, received from gaming patrons in conformity with N.J.A.C. 19:45-1.25 shall be deposited in the casino licensee's bank account in accordance with the casino licensee's normal business practice, and such practice must be submitted in writing to both the Commission and Division, but in no event later than:

1. The banking day after the date of the check for a non-gaming check;

2. Seven [banking days] **calendar days** after the date of the check for a check in an amount **of** [less than] $1,000 **or less**;

3. Fourteen [banking days] **calendar days** after the date of the check for a check in an amount **greater than** [of at least] $1,000 but less than [$2,500;] or **equal to $5,000; or**

4. [Ninety banking days] **Forty-five calendar days** after the date of the check for a check in an amount [of $2,500 or more] **greater than $5,000.**

(b) All checks received for consolidation in conformity with N.J.A.C. 19:45-1.26 shall be deposited in the casino licensee's bank account within:

1. Seven [banking days] **calendar days** after the date of the initial check for a consolidating check where **the** consolidating check is in an amount [less than] **of** $1,000 **or less**;

2. Fourteen [banking days] **calendar days** after the date of the initial check for a consolidating check where **the** consolidating check is in an amount [of at least] **greater than** $1,000 but less than [$2,500;] or **equal to $5,000; or**

3. [Ninety banking days] **Forty-five calendar days** after the date of the initial check for a consolidating check where the consolidating check is in an amount [of $2,500 or more] **greater than $5,000.**

(c) All checks received as part of a redemption in conformity with N.J.A.C. 19:45-1.26 shall be deposited in the casino licensee's bank account within:

1. Seven [banking days] **calendar days** after the date of the initial check if the initial check is in an amount of [less than] $1,000 **or less;**

2. Fourteen [banking days] **calendar days** after the date of the initial check if the initial check is in an amount [of at least] **greater than** $1,000 but less than [$2,500;] or **equal to $5,000; or**

3. [Ninety banking days] **Forty-five calendar days** after the date of the initial check if the initial check accepted is in an amount [of $2,500 or more] **greater than $5,000.**

(d) In computing a time period prescribed by this section, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or Federal holiday, in which event the time period shall run until the next business day.

[(d)](e) In the event of a series of consolidation **or** redemption transactions with a patron, the initial check shall be the earliest dated check returned to the patron in the first of the series of consolidation or redemption transactions.

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

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF REGULATORY AFFAIRS

Notice of Extension of Comment Period Rulemaking Petition Rules

Proposed New Rule: N.J.A.C. 7:1-1.2

Take notice that the Department of Environmental Protection is extending until May 30, 1989 the period for submission of written comments on the proposed new rulemaking petition rule. The notice of proposal was published on January 17, 1989 in the New Jersey Register at 21 N.J.R. 102(a). Please refer to the notice of proposal (DEP Docket No. 046-88-12) for further information.

Submit written comments by May 30, 1989 to:
Kevil Duhon
Division of Regulatory Affairs
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Fish and Game Council
1989-90 Game Code

Proposed Amendments: N.J.A.C. 7:25-5

Authorized By: Fish and Game Council, George McCloskey, Chairman.
Authority: N.J.S.A. 13:1B-29 et seq., particularly 13:1B-30, and 23:1-1 et seq.,
DEP Docket Number: 023-89-04.
Proposal Number: PRN 1989-248.

A **public hearing** concerning these proposed amendments will be held on:

June 6, 1989 at 8:00 P.M.
Mercer County Community College
West Windsor Campus
1200 Old Trenton Road
Audio Visual Building, Room 110
West Windsor, New Jersey

Submit written comments by June 14, 1989 to:
George P. Howard, Director
Division of Fish, Game and Wildlife
Department of Environmental Protection
CN 400
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed 1989-90 Game Code, N.J.A.C. 7:25-5, states when, under what circumstances, in what location, by what means, and in what amounts and numbers, game birds, game animals and fur-bearing animals may be pursued, taken, killed or possessed.

N.J.A.C. 7:25-5 has provided a system for the protection, propagation, increase, control, and conservation of game birds, game animals, and fur-bearing animals in this State and for their use and development for public recreation and food supply. The system is based on scientific investigation and research.

The proposed amendments include the following revisions:

1. Most hunting season dates are adjusted to correspond with the 1989-90 calendar.

2. The bobwhite quail season is re-opened in the area of Sussex County previously closed to quail hunting due to an attempted quail restoration effort by the Division of Fish, Game and Wildlife (N.J.A.C. 7:25-5.3).

3. Qualified farmers, as described in N.J.A.C. 7:25-5.7(i)1, are permitted to apply for regular turkey permits in addition to farmer turkey permits during the initial application period (N.J.A.C. 7:25-5.7).

4. Permit allocations for beaver trapping are adjusted to achieve harvest objectives (N.J.A.C. 7:25-5.9).

5. The hunting hours for waterfowl are deleted and will be those hours that are prescribed by United States Fish and Wildlife Service regulations (N.J.A.C. 7:25-5.13).

6. The designated steel shot area for waterfowl hunting is expanded to include Mercer and Gloucester Counties and the remaining portion (western) of Burlington County (N.J.A.C. 7:25-5.14).

7. Separate north and south fox hunting zones are eliminated and hounds are permitted for fox hunting during the entire firearm fox season of November 11, 1989-February 24, 1990 (N.J.A.C. 7:25-5.19).

8. The muzzleloading rifle squirrel season has been shortened by five days from 25 days to 20 days (N.J.A.C. 7:25-5.23).

9. The winter bow season is extended by five days to increase recreational opportunity, to better achieve deer harvest objectives and to compensate for the closure of 21 zones on two hunting days (January 19 and 20, 1990) due to scheduling of the permit shotgun season (N.J.A.C. 7:25-5.26).

10. Zone 53, Lakehurst Naval Engineering Center, will have a split permit muzzleloader deer season with a bag limit of one antlered deer during the first segment and one deer of either sex and any age during the second segment (N.J.A.C. 7:25-5.28).

11. The boundary between Zones 4 and 5 is modified to better achieve harvest objectives. The Zones 1, 4 and 5 descriptions have been changed to reflect road numbering changes. Zone 39 is divided into two zones. New Zone 39 includes the Earle Naval Weapons Station and a new Zone 62 includes that portion of old Zone 39 administered by Fort Monmouth (N.J.A.C. 7:25-5.28, 5.29, 5.30).

12. Legal hunting hours for permit muzzleloader and permit shotgun deer seasons are changed, from 7:00 A.M. E.S.T. to 5:00 P.M., to sunrise to 1/2 hour after sunset (N.J.A.C. 7:25-5.28, 5.29).

13. The permit shotgun season bag limit was reduced from three deer to two deer per permit in 25 management zones. Pursuant to N.J.A.C. 7:25-5.29(b), the Director of the Division of Fish, Game and Wildlife is given the authority to provide additional days of permit shotgun season hunting, if the anticipated harvest has not been achieved during the prescribed season dates. Permit shotgun season dates and quotas have been adjusted and one day was added to the season in 20 zones to better achieve zone deer harvest objectives. The permit shotgun season for Zone 59, Supawna Meadows National Wildlife Refuge, was extended to three,

three-day hunting periods with 20 permits per hunting period. Permit muzzleloader and permit bow seasons quotas and dates have been adjusted according to harvest objectives (N.J.A.C. 7:25-5.28, 5.29, 5.30).

14. Other changes have been made for clarification and correction of typographical errors.

Social Impact

No adverse social impact is anticipated from the proposed amendments. Positive social impact anticipated includes the conservation, management and the enhancement of the wildlife resource for continued recreational opportunities.

The relatively limited changes proposed for hunting seasons, hunting methods, permit quotas, bag limits and hunting areas should have minimal adverse social impact.

The additional hunting areas and times which have been established, including those for deer hunting, should increase hunting opportunity. Adjustments that have been made to deer hunting quotas, season lengths, hunting hours, and bag limits should benefit all segments of the public in providing for healthier deer populations, long-term enhanced recreational hunting opportunities, and deer population levels compatible with other land uses. Adjustments in the dates of small game seasons in order to account for 1990 calendar changes are minor with no social impact anticipated.

Other minor changes in dates, bag limits, hunting methods and the issuance of special permits are designed to offer sportsmen additional recreational opportunity.

Economic Impact

No adverse economic impact is anticipated from the proposed amendments. Rather, continuation of the Game Code should further the conservation and enhancement of the wildlife resource upon which a significant recreational and commercial industry is dependent.

There may be a minor economic impact as a result of changes in permit quotas, special permit seasons, expansion of the designated steel shot only areas, some limited adjustments to hunting season dates and certain other new rules. The Fish and Game Council does not, however, foresee any specific adverse economic impact arising from the proposed amendments.

Environmental Impact

The proposed amendments should have a positive environmental impact in continuing the conservation, management and enhancement of the State's wildlife resources.

Annual amendments to the Game Code ensure the preservation and maintenance of the State's wildlife resources as changes in their populations, distributions and habitats occur.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed amendments would not impose reporting, recordkeeping, or other compliance requirements on small businesses because small businesses are not regulated by N.J.A.C. 7:25-5.

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

SUBCHAPTER 5. [1988-89] **1989-90** GAME CODE

7:25-5.1 General provisions

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

(c) This Code, when adopted and when effective, shall supersede the provisions of [1987-88] **1988-89** Game Code.

(d)-(f) (No change.)

7:25-5.2 Pheasant—Chinese ringneck (Phasianus colchicus torquatus), English or blackneck (P. c. colchicus), Mongolian (P. c. mongolicus), Japanese green (Phasianus versicolor); including mutants and crosses of above

(a) The duration for the male pheasant season is November [12] **11**, to December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** through January [7, 1989] **6, 1990**, excluding December [14, 15 and 16, 1988] **13, 14 and 15, 1989** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(b) The duration for the male pheasant season for properly licensed persons engaged in falconry is September 1 to December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** through March 31, [1989] **1990**, excluding November [11] **10** and December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those management zones in which a shotgun deer permit season is authorized and also excluding any extra permit deer season day(s) if declared open.

(c) (No change.)

(d) The duration of the season for pheasants of either sex in the area described as Warren County north of Route 80, Morris County north of Route 80, Ocean County south of Route 70 and the counties of Sussex, Passaic, Bergen, Hudson, Essex, Camden, Atlantic and Cape May and on all wildlife management areas is November [12] **11** to December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** through February [20, 1989] **19, 1989**, excluding December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(e) The hours for hunting pheasants on November [12, 1988] **11, 1989** are 8:00 A.M. to 1/2 hour after sunset. All other days on which the hunting for pheasants is legal, the hours are sunrise to 1/2 hour after sunset.

(f) (No change.)

(g) The opening of the season on semi-wild preserves coincides with the listed Statewide opening of November [12, 1988] **11, 1989**.

(h) (No change.)

7:25-5.3 Cottontail rabbit (Sylvilagus floridanus), black-tailed jack rabbit (Lepus californicus), white-tailed jack rabbit (Lepus townsendii), European hare (Lepus europeus), chukar partridge (Alectoris graeca), and quail (Colinus virginianus)

(a) The duration of the season for the hunting cottontail rabbit, black-tailed jack rabbit, white-tailed jack rabbit, European hare, chukar partridge and quail is November [12] **11** through December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** to February [20, 1988] **19, 1990**, excluding December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(b) The duration of the season for the hunting of the animals enumerated by (a) above for properly licensed persons engaged in falconry is September 1 to December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** through March 31, [1989] **1990**, excluding November [11] **10** and December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

[(c) The bobwhite quail season as described in (a) above is closed within the area described as that portion of Sussex County lying within a continuous line beginning at the intersection of Rt. 519 and Rt. 618; then south and east along Rt. 618 to its intersection with Rt. 206; then south along Rt. 206 to its intersection with Rt. 517 at Andover; then south and west along Rt. 517 to its intersection with Rt. 611 at Tranquility; then north and west along Rt. 611 to its intersection with Henry Road; then north and west along Henry Rd. to its intersection with Hibler Rd.; then west along Hibler Road to its intersection with Rt. 519; then northeast along Rt. 519 to the point of beginning. This closure does not preclude the hunting of bobwhite quail on commercial shooting preserves located within the closed area, provided they are licensed for quail.]

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

[(e)] **(d)** The hunting hours for the animals enumerated in this section are as follows: November [12, 1988] **11, 1989**, 8:00 A.M. to 1/2 hour after sunset. On all other days for which hunting for these animals is legal, the hours are sunrise to 1/2 hour after sunset.

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

7:25-5.4 Ruffed grouse (Bonasa umbellus)

(a) The duration of the season for the hunting of grouse is October [15] **14** through December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** to February [20, 1989] **19, 1990**, excluding December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and excluding any extra deer permit season day(s) that is declared open.

(b) (No change.)

(c) The hunting hours for ruffed grouse are sunrise to 1/2 hour after sunset, with the exception of November [12, 1988] **11, 1989** when legal hunting hours are 8:00 A.M. to 1/2 hour after sunset.

(d) (No change.)

7:25-5.5 Eastern gray squirrel (Sciurus carolinensis)

(a) The duration of the season for the hunting of squirrels is October [15] **14** through December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** to February [20, 1989] **19, 1990** excluding, December [14, 15, and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit season day(s) if declared open.

(b) The duration of the season for the hunting of squirrels for properly licensed persons engaged in falconry is September 1 to December [3, 1988] **2, 1989**, inclusive, and December [12, 1988] **11, 1989** through March 31, [1989] **1990**, excluding December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(c) (No change.)

(d) Hunting hours for squirrels are sunrise to 1/2 hour after sunset, with the exception of November [12, 1988] **11, 1989** when legal hunting hours are 8:00 A.M. to 1/2 hour after sunset.

(e) (No change.)

7:25-5.6 (No change.)

7:25-5.7 Wild turkey (Meleagris gallapavo)

(a) The duration of the Spring Wild Turkey Gobbler hunting season includes five separate hunting periods of four, five or 10 days each. The hunting periods for all hunting areas shall be:

1. Monday, April [24, 1989] **23, 1990**—Friday, April [28, 1989] **27, 1990;**

2. Monday, [May 1, 1989] **April 30, 1990**—Friday, [May 5, 1989] **May 4, 1990;**

3. Monday, May [8, 1989] **7, 1990**—Friday, May [12, 1989] **11, 1990;**

4. Monday, May [15, 1989] **14, 1990**—Friday, May [19] **18** and Monday, May [22, 1989] **21, 1990**—Friday, May [26, 1989] **25, 1990;**

5. Saturday, April [29, 1989] **28, 1990**; Saturday, May [6, 1989] **5, 1990**; Saturday, May [13, 1989] **12, 1990;** and Saturday May [20, 1989] **19, 1990.**

(b)-(g) (No change.)

(h) Wild Turkey Hunting Permits shall be applied for as follows:

1. Only holders of valid and current firearm or archery hunting licenses, including juvenile licenses, may apply by detaching from the hunting license the stub marked "Special Spring Turkey", signing as provided on the back, and sending the stub together with an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i. License issuing agents;

[i.-iii.] **ii.-iv.** (No change in text.)

2. (No change.)

3. The application form shall be filled in to include: Name, address, [1989] **1990** firearm or archery hunting license number, turkey hunting areas applied for, hunting periods applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of February 1-15, [1989] **1990**, inclusive. Applications received after February 15 will not be considered for the initial drawing. Selection of permits will be by random drawing.

i. If a fall turkey hunting season is authorized for [1989] **1990**, application shall be made in conjunction with the spring season application procedures in a form as prescribed by the Division.

4.-6. (No change.)

(i) Special Farmer Spring Turkey Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, address and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of February 1-15, [1989] **1990**. There is no fee required and all qualified applicants will receive a Special Farmer Spring Turkey Permit delivered by mail.

4. Only one **farmer** application may be submitted per individual during the initial application period. **Application for a farmer turkey permit shall not preclude a farmer from applying for and the Division's issuing one regular turkey season permit as a holder of a valid hunting license.**

(j) (No change.)

(k) **The** Turkey Hunting Area Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1989] **1990** Spring Turkey Hunting Season Permit Quotas are as follows:

[1989] **1990** SPRING TURKEY HUNTING SEASON PERMIT QUOTAS

Turkey Hunting Area Number	Weekly Permit Quota*	Season Total	Portions of Counties Involved
1	100	500	Sussex
2	120	600	Sussex, Warren
3	80	400	Sussex, Warren
4	100	500	Sussex, Warren, Morris
5	100	500	Sussex
6	150	750	Sussex, Passaic, Bergen
7	150	750	Sussex, Morris, Passaic
8	50	250	Warren, Hunterdon
9	50	250	Warren, Hunterdon, Morris
10	25	125	Essex, Middlesex, Morris, Somerset, Union

11	25	125	Middlesex, Mercer, Hunterdon, Somerset
14	50	250	Burlington, Ocean, Mercer, Monmouth
15	50	250	Burlington, Camden, Atlantic
16	60	300	Burlington, Atlantic, Ocean, Cape May, Cumberland
20	50	250	Cumberland, Salem
21	50	250	Atlantic, Cumberland, Salem
22	0	0	Atlantic, Cape May, Cumberland
	1,210	6,050	

*Applied to each of the five hunting periods (A, B, C, D, E) in all areas:

A. Monday, April [24, 1989] **23, 1990**—Friday, April [28, 1989] **27, 1990;**
B. Monday, [May 1, 1989] **April 30, 1990**—Friday, May [5, 1989] **4, 1990;**
C. Monday, May [8, 1989] **7, 1990**—Friday, May [12, 1989] **11, 1990;**
D. Monday, May [15, 1989] **14, 1990**—Friday, May [19, 1989] **18, 1990** and Monday, May [22, 1989] **21, 1989**—Friday, May [26, 1989] **25, 1990**;
E. Saturday, April [29, 1989] **28, 1990**; Saturday, May [6, 1989] **5, 1990**; Saturday, May [13, 1989] **12, 1990**; and Saturday May [20, 1989] **19, 1990.**

(l)-(m) (No change.)

7:25-5.8 Mink (Mustela vison), muskrat (Ondatra zibethicus) and nutria (Myocaster coypus) trapping only

(a) (No change.)

(b) The duration of the mink, muskrat and nutria trapping season is as follows:

1. Northern Zone: 6:00 A.M. on November 15, [1988] **1989** through March 15, [1989] **1990**, inclusive, except on State Fish and Wildlife Management Areas.

2. Southern Zone: 6:00 A.M. on December 1, [1988] **1989** through March 15, [1989] **1990**, inclusive, except on State Fish and Wildlife Management Areas.

3. (No change.)

4. On State Fish and Wildlife Management Areas: 6:00 A.M. on January 1 through March 15, [1989] **1990**, inclusive.

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

7:25-5.9 Beaver (Castor canadensis) trapping

(a) (No change.)

(b) The duration of the trapping season for beaver shall be February 1 through February 28, [1989] **1990**, inclusive.

(c) Special Permit: A special $7.00 permit obtained from the Division of Fish, Game and Wildlife shall be required to trap beaver. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders.) Applications shall be received in the Trenton office during the period December 1, [1988] **1989**-December 26, [1988] **1989**. Applicants may apply for only one beaver trapping permit and shall provide their [1988] **1989** trapping license number. Permits will be allotted on a zone basis as follows: Zone 1-7, Zone 2-12, Zone 3-[2] **1**, Zone 4-[3] **4**, Zone 5-[4] **3**, Zone 6-10, Zone 7-3, Zone 8-[4] **2**, Zone 9-[4] **3**, Zone 10-11, Zone 11-[5] **4**, Zone 12-[6] **5**, Zone 13-0, Zone 14-1, Zone 15-0. Total [72] **66**. Successful applicants [shall provide their 1989 Trapping License Number to the Division before permit will be issued] **must trap with a valid, current trapping license**.

(d) (No change.)

(e) A "beaver transportation tag" provided by the Division shall be affixed to each beaver taken immediately upon removal from trap, and all beaver shall be taken to a designated beaver checking station at the times and dates specified on the beaver permit and, in any case, no later than March [4, 1989] **3, 1990.**

(f)-(g) (No change.)

7:25-5.10 River [Otter] **otter** (Lutra canandensis) trapping

(a) (No change.)

(b) The duration of the trapping season for otter shall be February 1 through February 28, [1989] **1990**, inclusive.

(c) Special Permit: A special $7.00 permit obtained from the Division of Fish, Game and Wildlife shall be required to trap otter. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders). Beaver permit holders will be given first opportunity for otter permits in their respective zones. Applications shall be received in the Trenton office during the period December 1, [1988] **1989**-December 26, [1988] **1989**. Only one application per person may be submitted for trapping otter and applicants shall provide their [1988] **1989** trapping license number. Permits will be allotted on a zone basis as follows: Zone 1-5, Zone 2-6, Zone 3-2, Zone 4-4, Zone 5-4, Zone 6-5, Zone 7-3, Zone 8-6, Zone 9-3, Zone 10-7, Zone 11-5, Zone 12-9, Zone 13-14, Zone 14-7, Zone 15-12. Total 92. Successful applicants [shall provide their 1989 Trapping License Numbers to the Division before permit will be issued] **must trap with a valid, current trapping license**.

(d) (No change.)

(e) The "otter transportation tag" provided by the Division must be affixed to each otter taken immediately upon removal from the trap. All otter pelts and carcasses shall be taken to a beaver-otter check station at dates specified on the otter permit and, in any case, no later than March [4, 1989] **3, 1990**, where a pelt tag will be affixed and the carcass surrendered.

(f)-(i) (No change.)

7:25-5.11 Raccoon (Procyon lotor), red fox (Vulpes vulpes), gray fox (Urocyon cinereoargenteus) and Virginia opossum (Didelphis virginiana), striped skunk (Mephitis mephitis), long-tailed weasel (Mustela frenata), short-tailed weasel (Mustela erminea), and coyote (Canis latrans) trapping only

(a) (No change.)

(b) The duration of the regular raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tailed weasel, short-tailed weasel and coyote trapping season is 6:00 A.M. on November 15, [1988] **1989** to March 15, [1989] **1990**, inclusive, except on State Fish and Wildlife Management Areas.

(c) The duration for trapping on State Fish and Wildlife Management Areas is 6:00 A.M. on January 1, [1988] **1990** to March 15, [1989] **1990**, inclusive.

(d)-(h) (No change.)

7:25-5.12 (No change.)

7:25-5.13 Migratory birds

(a) Should any open season on migratory game birds, including waterfowl, be set by Federal regulation which would include the date of November [12, 1988] **11, 1989**, the starting time on such date will be 8:00 A.M. to coincide with the opening of the small game season on that date. However, this shall not preclude the hunting of migratory game birds, including waterfowl, on the tidal marshes of the State as regularly prescribed throughout the season by Federal regulations.

(b) (No change.)

(c) A person shall not take, attempt to take, hunt for or have in possession, any migratory game birds, including waterfowl, except at the time and in the manner prescribed in the Code of Federal Regulations by the U.S. Department of the Interior, U.S. Fish and Wildlife Service, for the [1988-89] **1989-90** hunting season. The species of migratory game birds, including waterfowl, that may be taken or possessed and, unless otherwise provided, the daily bag limits shall be the same as those prescribed by the U.S. Department of the Interior, U.S. Fish and Wildlife Service for the [1988-89] **1989-90** hunting season.

(d)-(g) (No change.)

(h) Hunting hours for [migratory birds are one-half hour before sunrise to sunset, except for crows and woodcock] **waterfowl shall be those hours that are prescribed by the Department of the Interior, United States Fish and Wildlife Service, for the 1989-90 hunting season.**

(i)-(l) (No change.)

(m) A person shall not take or attempt to take migratory game birds:

1.-10. (No change.)

11. Before 8:00 A.M. on November [12, 1988] **11, 1989**. However this shall not preclude the hunting of migratory game birds on tidal waters or tidal marshes of the State.

12.-13. (No change.)

14. Except at the time and manner prescribed by the State or Federal regulation, or by the [1988-89] **1989-90** Game Code.

15.-19. (No change.)

(n) Seasons and Bag Limits are as follows:

1. Mourning dove (Zenaida macroura) are protected. There will be no open season on these birds during [1988-89] **1989-90**.

2. Rail and gallinule season and bag limits are as follows:

i. The duration of the season for hunting clapper rail (Rallus longirostris), Virginia rail (Rallus limicola), sora rail (Porzana carolina) and common gallinule or moorhen (Gallinula chloropus) is September 1 through November [12, 1988] **9, 1989**, inclusive.

ii. (No change.)

(o) Woodcock[-]zones and hunting hours are as follows:

1.-2. (No change.)

3. Hunting hours for woodcock are sunrise to sunset except on November [12] **11**, when the hunting hours are 8:00 A.M. to sunset.

(p)-(r) (No change.)

7:25-5.14 Special regulation limiting use of shotguns and shotgun shells containing lead pellets

(a) No person shall have in possession or use in hunting waterfowl and coot or any snipe, rail or gallinules after the season for hunting waterfowl commences any shotgun shell containing lead shot or lead pellets or have in possession or use any shotgun containing lead shot in the following designated area of New Jersey.

1. The State designated steel shot area for waterfowl hunting includes the counties and adjacent State-owned tidal waters of Atlantic, Cape May, Cumberland, Middlesex, Monmouth, Ocean, Salem, Hudson, **Mercer, Gloucester** and [that portion of] Burlington [County lying to the south and east of the New Jersey Transit Railroad which runs from Atsion to Woodmansie].

2. (No change.)

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

7:25-5.15 Crow (Corvus spp.)

(a) Duration for the season for hunting the crow shall be Monday, Thursday, Friday and Saturday from August [15, 1988] **14, 1989** through March [25, 1989] **24, 1990**, inclusive, excluding December [5-10] **4-9** and December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized.

(b) (No change.)

(c) The hours for hunting crows shall be sunrise to 1/2 hour after sunset, except on November [12, 1988] **11, 1989** when the hours are 8:00 A.M. to 1/2 hour after sunset.

(d) (No change.)

7:25-5.16 (No change.)

7:25-5.17 Raccoon (Procyon lotor) and Virginia opossum (Didelphis virginiana) hunting

(a) The duration for the season of hunting raccoons and Virginia opossum is one hour after sunset on October 1, [1988] **1989** to one hour before sunrise on March 1, [1989] **1990**. The hours for hunting are one hour after sunset to one hour before sunrise.

(b) (No change).

(c) A person shall not hunt for raccoon or opossum with dogs and firearms or weapons of any kind on December [5-10] **4-9** and on December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and including any extra permit deer season day(s).

(d) A person shall not train a raccoon or opossum dog other than during the period of September 1 to October 1, [1988] **1989** and from March 1 to May 1, [1989] **1990**. The training hours are one hour after sunset to one hour before sunrise.

(e) (No change.)

7:25-5.18 Woodchuck (Marmota monax) hunting

(a) Duration for the hunting of woodchucks with a rifle in this State is March [13] **10**-September 22, [1989] **1990**. Licensed hunters may also take woodchuck with shotgun or long bow and arrow or by means of falconry during the regular woodchuck rifle season and during the upland game season established in N.J.A.C. 7:25-5.3.

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

7:25-5.19 Red fox (Vulpes vulpes) and gray fox (Urocyon cinereoargenteus) hunting

(a) The duration of the red fox and gray fox hunting season is as follows:

1. [Northern Zone:] Bow and Arrow Only—[October 1] **September 30** through November [11, 1988] **10, 1989**[; Firearm or Bow and Arrow—November 12, 1988 through February 25, 1989, inclusive, excluding December 5-10 and December 14, 15 and 16, 1988 and January 27 and 28, 1989 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open]

2. [Southern Zone: Bow and Arrow Only—October 1 through November 11, 1988;] Firearm or Bow and Arrow—November [12, 1988] **11, 1989** through February [25, 1989] **24, 1990**, excluding December [5-10, 14, 15 and 16, 1988] **4-9, 13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s), if declared open.

(b) The use of dogs shall not be allowed for fox hunting during the Statewide bow and arrow only season of [October 1,-November 11, 1988] **September 30-November 10, 1989** [and during the period of February 6-February 25, 1989 in the Southern Zone]. There shall be no fox hunting during the firearm deer season, except that a person hunting deer during the firearm deer season may kill fox if the fox is encountered before said person kills a deer. However, after a person has killed a deer he must cease all hunting immediately.

[(c) Fox Hunting Zone Boundaries: Fox hunting zones shall be defined as follows: That section of New Jersey situated north (or south) of Route 70.]

[(d)]**(c)** The hours for hunting fox are 8:00 A.M. to 1/2 hour after sunset on November [12, 1988] **11, 1989** and on other days from sunrise to 1/2 hour after sunset.

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

7:25-5.20 Dogs

(a) A person shall not exercise or train dogs on State Fish and Wildlife Management Areas May 1 to August 31, inclusive, except on portions of various wildlife management areas designated as dog training areas, and there shall be no exercising or training of dogs on any Wildlife Management Area on November [11, 1988] **10, 1989**.

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

7:25-5.21 and 5.22 (No change.)

7:25-5.23 Firearms and missiles, etc.

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

(e) Within the areas described as portions of Passaic, Mercer, Hunterdon, Warren and Sussex Counties lying within a continuous line beginning at the intersection of Rt. 513 and the New York State line; then south along Rt. 513 to its intersection with the Morris-Passaic County line; then west along the Morris-Passaic County line to the Sussex County line; then south along the Morris-Sussex County line to the Warren County line; then southwest along the Morris-Warren County line to the Hunterdon County line; then southeast along the Morris-Hunterdon County line to the Somerset County line; then south along the Somerset-Hunterdon County line to its intersection with the Mercer County line; then west and south along the Hunterdon-Mercer County line to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 546; then west along Rt. 546 to the Delaware River; then north along the east bank of the Delaware River to the New York State Line; then east along the New York State Line to the point of beginning at Lakeside; and in that portion of Salem, Gloucester, Camden, Burlington, Mercer, Monmouth, Ocean, Atlantic, Cape May and Cumberland counties lying within a continuous line beginning at the intersection of Rt. 295 and the Delaware River; then east along Rt. 295 to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Rt. 40; then east along Rt. 40 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Rt. 536; then east along Rt. 536 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 571; then southeast along Rt. 571 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 9 at Somers Point; then south along Rt. 9 to its intersection with Rt. 83; then west along Rt. 83 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Dennis Creek; then south along the west bank of Dennis Creek to its intersection with Delaware Bay; then northwest along the east shore of Delaware Bay and the Delaware River to the point of beginning; persons holding a valid and proper rifle permit in addition to their [1988] **1990** firearm hunting license may hunt for squirrels between January [23] **27** and February [20, 1989] **19, 1990** using a .36 caliber or smaller muzzleloading rifle loaded with a single projectile.

(f) Except as specifically provided below for waterfowl hunters, semi-wild and commercial preserves, muzzleloader deer hunters and trappers, from December [5-10, 1988] **4-9, 1989** inclusive, it shall be illegal to use any firearm of any kind other than a shotgun. Nothing herein contained shall prohibit the use of a shotgun not smaller than 20 gauge nor larger than 10 gauge with a rifled bore for deer hunting only. Persons hunting deer shall use a shotgun not smaller than 20 gauge or larger than 10 gauge with the lead or lead alloy rifled slug or slug shotgun shell only or a shotgun not smaller than 12 gauge nor larger than 10 gauge with the buckshot shell. It shall be illegal to have in possession any firearm missile except the 20, 16, 12 or 10 gauge lead or lead alloy rifled slug or hollow base slug shotgun shell or the 12 or 10 gauge buckshot shell. (This does not preclude a person legally engaged in hunting on semi-wild or commercial preserves for the species under license from being possessed solely of shotgun(s) and nothing larger than No. 4 fine shot, nor a person engaged in hunting waterfowl only from being possessed solely of shotgun and nothing larger than No. 2 lead fine shot or T (.200 inch) steel shot.) A legally licensed trapper possessing a valid rifle permit may possess and use a .22 rifle and short rimfire cartridge only while tending his trap line.

1. Persons who are properly licensed may hunt for deer with a muzzleloader rifle during the [1988] **1989** six day firearm deer season and the permit muzzleloader rifle deer season.

2.-3. (No change.)

(g)-(p) (No change.)

7:25-5.24 Bow and arrow, general provisions

(a) (No change.)

(b) No person shall use a bow and arrow for hunting, on December [14, 15 and 16, 1988] **13, 14 and 15, 1989** and January [27 and 28, 1989] **19, 20 and 27, 1990** in those deer management zones in which a permit shotgun deer season is authorized, on any additional permit deer season day(s) if declared open, during the 6-Day Firearm Deer Season, or between 1/2 hour after sunset and sunrise during other seasons. Deer shall not be hunted for or taken on Sunday except on wholly enclosed preserves that are properly licensed for the propagation thereof.

(c)-(f) (No change.)

7:25-5.25 White-tailed deer (Odocoileus virginianus) fall bow season (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from [October 1-November 11, 1988] **September 30-November 10, 1989**, inclusive. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

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

7:25-5.26 White-tailed deer winter bow season (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from 1/2 hour before sunrise on January 2 to 1/2 hour after sunset on January [21, 1989] **26, 1990, inclusive, excluding January 19 and 20, 1990 in those management zones in which a shotgun permit season is authorized**. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

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

7:25-5.27 White-tailed deer six-day firearm season

(a) Duration for this season will be December [5-10, 1988] **4-9, 1989** inclusive with shotgun or muzzleloader rifle, exclusively.

(b) Bag Limit: Two deer, with antler at least three inches long, except in those areas designated as "hunters choice" indicated in (d) below, where the bag limit is two deer of either sex. Only one deer may be taken in a given day per person on a regular firearm hunting license. Persons awarded Zone 9 or Zone 13 shotgun permits may also take one deer of either sex and any age, per permit, on December [5 and 10, 1988] **4 and 9, 1989**, subject to the provisions of N.J.A.C. 7:25-5.29. Deer shall be tagged immediately with the "transportation tag" appropriate for the season, completely filled in and shall be transported to a checking station before 7:00 P.M. E.S.T. on the day killed. Upon completion of the registration of the first deer, one valid and proper "New Jersey Second Deer Permit and Transportation Tag" (second tag) will be issued which will allow that person to continue hunting and take one additional deer with antler at least three inches long or one additional deer of either sex in the "hunters choice" area, exclusively, during the current, six-day firearm season. The second tag shall not be valid on the day of issuance and all registration requirements apply. Any legally killed deer which is recovered too late to be brought to a check station by closing time shall be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. This deer must be brought to a checking station on the next open day to receive a legal "possession tag". If the season has concluded, this deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag".

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

(e) Hunting Hours: December [5-10, 1988] **4-9, 1989**, inclusive, 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T., with shotgun or muzzleloader rifle.

(f)-(g) (No change.)

7:25-5.28 White-tailed deer muzzleloader rifle permit season (either sex)

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

(c) Bag Limit: Two deer of either sex and any age per permit, except in zones: 37 [and], 52 **and 53** where the limit shall be one deer with antlers at least three inches long during the first season segment [which shall be November 12, 13, 14, 15, 16, 17, 18 and 19, 1988] and one deer of either sex and any age during the second season segment [which shall be December 12, 13, 14, 15, 16, 17, 26, 27, 28, 29 and 30, 1988]. Only one deer may be taken in a given day per permit. Deer shall be tagged immediately with the muzzleloader rifle permit season permit "transportation tag" completely filled in, and shall be transported to a checking station before 7:00 P.M. E.S.T. on the day killed. Upon completion of the registration of the first deer, one valid and proper "New Jersey Second Deer Permit and

Transportation Tag" (second tag) will be issued which will allow the person to continue hunting and take one additional deer of either sex during the current muzzleloader rifle permit season. The second tag shall not be valid on the day of issuance and all registration requirements apply. Any legally killed deer which is recoverd too late to be brought to a check station by closing time shall be immediately reported by telephone [to the nearest Division of Fish, Game and Wildlife law enforcement] to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. Said deer shall be brought to a checking station on the next open day to receive a legal "possession tag". If the season has concluded, said deer shall be taken to a regular deer checking station on the following weekday to receive a legal "possession tag". It is unlawful to attempt to take or continue to hunt for more than the number of deer permitted.

(d) Duration of the muzzleloader rifle permit season is December [12, 13, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29 and 30, 1988] **11, 12, 16, 18-23, 26-30, 1989 in zones 1-36, 40-51, 55, 57, 58 and 61; November 11-18, 1989 (first segment) and December 11, 16, 18-21, 26-30, 1989 (second segment) in zones 37 and 51; December 11-30, 1989 and January 13 and 27, 1990 in zones 39 and 62; November 25-December 2, 1989 (first segment) and December 18-23 and 26-30, 1989 (second segment) in zone 53; December 11, 12, 14, 15, 18-23 and 26-30, 1989 in zone 54** or any other time as determined by the Director. Legal hunting hours shall be [7:00 A.M. E.S.T. to 5:00 P.M.] **sunrise to 1/2 hour after sunset** E.S.T.

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

(h) Muzzleloader Rifle Permit Season Permits shall be applied for as follows:

1. Only holders of valid and current firearm hunting licenses may apply by detaching from their hunting license the stub marked "Special Deer Season [1988] **1989**", signing as provided on the back, and sending the stub, together with a $17.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iii. (No change.)

iv. Other Division officers.

2.-3. (No change.)

4. The application form shall be filled in to include: Name, address, current firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25-September 10, [1988] **1989** inclusive. Applications postmarked after September 10 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

5.-7. (No change.)

(i) Farmer Muzzleloader [rifle] **Rifle** Permit Season Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15 [1988], **1989**. There is no fee required, and all qualified applicants will receive a farmer muzzleloader rifle permit season permit, delivered by mail.

4.-5. (No change.)

(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1988] **1989** Muzzleloader Rifle Deer Season Permit Quotas (either sex) are as follows:

[1988] **1989** MUZZLELOADER RIFLE PERMIT SEASON PERMIT QUOTAS

Deer Mgt. Zone No.	Season Dates Code	Anticipated Deer Harvest [1988]	Anticipated Deer Harvest **1989**	Permit Quota [1988]	Permit Quota **1989**	Portions of Counties Involved
1	**1**	[172]	**150**	[600]	**610**	Sussex
2	**1**	[122]	**109**	[450]	**455**	Sussex
3	**1**	[121]	**108**	[650]	**690**	Sussex, Passaic, Bergen
4	**1**	[209]	**125**	[765]	**523**	Sussex, Warren
5	**1**	[417]	**355**	[1490]	**1350**	Sussex, Warren
6	**1**	[166]	**132**	[687]	**700**	Sussex, Morris, Passaic, Essex
7	**1**	[192]	**166**	[685]	**620**	Warren, Hunterdon
8	**1**	[412]	**329**	1425		Warren, Hunterdon, Morris, Somerset
9	**1**	[125]	**111**	[365]	**400**	Morris, Somerset
10	**1**	[256]	**251**	[820]	**850**	Warren, Hunterdon
11	**1**	[144]	**145**	[516]	**470**	Hunterdon
12	**1**	[311]	**323**	[915]	**1098**	Mercer, Hunterdon, Somerset
13	**1**	[40]	**41**	[178]	**200**	Morris, Somerset
14	**1**	[75]	**90**	[433]	**600**	Mercer, Somerset, Middlesex, Burlington
15	**1**	[89]	**105**	[374]	**455**	Mercer, Monmouth, Middlesex
16	**1**	[69]	**90**	[362]	**400**	Ocean, Monmouth
17	**1**	[67]	**70**	[200]	**236**	Ocean, Monmouth, Burlington
18	**1**	[42]	**40**	[237]	**220**	Ocean
19	**1**	[50]	**46**	250		Camden, Burlington
20	**1**	[58]	**51**	[250]	**300**	Burlington
21	**1**	[114]	**135**	[452]	**511**	Burlington, Ocean
22	**1**	[14]	**17**	[81]	**100**	Burlington, Ocean
23	**1**	[125]	**150**	[610]	**700**	Burlington, Camden, Atlantic
24	**1**	[124]	**152**	[380]	**460**	Burlington, Ocean
25	**1**	77		[408]	**400**	Gloucester, Camden, Atlantic, Salem
26	**1**	[137]	**130**	[496]	**515**	Atlantic
27	**1**	[142]	**159**	[407]	**468**	Salem, Cumberland
28	**1**	[84]	**98**	[288]	**338**	Salem, Cumberland, Gloucester
29	**1**	[119]	**135**	[456]	**549**	Salem, Cumberland
30	**1**	[18]	**22**	[80]	**108**	Cumberland
31	**1**	[10]	**11**	[40]	**46**	Cumberland
32	**1**	[6]	**5**	[20]	**30**	Cumberland
33	**1**	[21]	**28**	[114]	**115**	Cape May, Atlantic

34	1	[93]	**94**	[390]	**430**	Cape May, Cumberland
35	1	[76]	**87**	[300]	**390**	Gloucester, Salem
36	1	[23]	**14**	[100]	**140**	Bergen, Hudson, Essex, Morris, Union, Somerset, Middlesex
37	[1] **2**	[64]	**81**	[180]	**250**	Burlington (Fort Dix Military Reservation)
38		[0]		[0]		Morris (Great Swamp National Wildlife Refuge)
39	[2] **3**	[26]	**20**	[40]	**35**	Monmouth (Earle Naval Weapons Station)
40	1	[16]	**9**	[72]	**80**	Warren (Allamuchy State Park)
41	1	[128]	**124**	[325]	**360**	Mercer, Hunterdon
42	1	[12]	**9**	40		Atlantic
43	1	[15]	**19**	90		Cumberland
44	1	[8]	**15**	[30]	**50**	Cumberland
45	1	[38]	**40**	[161]	**200**	Cumberland, Atlantic, Cape May
46	1	[31]	**40**	[96]	**125**	Atlantic
47	1	[14]	**8**	[47]	**50**	Atlantic, Cumberland, Gloucester
48	1	[23]	**37**	[197]	**190**	Burlington
49	1	[10]	**5**	[40]	**20**	Burlington, Camden, Gloucester
50	1	[12]	**23**	[103]	**130**	Middlesex, Monmouth
51	1	[33]	**24**	120		Monmouth, Ocean
52	[1] **2**	[29]	**22**	100		Ocean (Fort Dix Military Reservation)
53	[3] **4**	[4]	**7**	40		Ocean (Lakehurst Naval Engineering Center)
54	[3] **5**	[2]	**1**	4		Morris (Picatinny Arsenal-ARRAD Com)
55	1	[0]		0		Atlantic (Federal Aviation Administration Technical Center)
56		[0]		0		Atlantic (Forsythe National Wildlife Refuge)
57	1	[25]		50		Atlantic (Forsythe National Wildlife Refuge)
58	1	[12]		60		Burlington, Ocean (Forsythe National Wildlife Refuge)
59		[0]		0		Salem (Supawna National Wildlife Refuge)
61	1	[24]		105		Atlantic (Atlantic County Parks)
62	3		**15**		**30**	Monmouth (Fort Monmouth)
Total		[4,846]	**4,711**	[18,174]	**19,281**	

(l) The Season Dates Code referenced in the table in (k) above is as follows:

1. Indicates the season dates will be [November 12-19, 1988 (first segment) and December [12-17, 26-30, 1988] (second segment).] **December 11, 12, 16, 18-23, 26-30, 1989.**

2. Indicates the season dates will be [December 12-16, 19-24 and 26-31, 1988.] **November 11-18, 1989 (first segment) and December 11-16, 18-21, 26-30, 1989 (second segment).**

3. Indicates the season dates will be December [12, 13, 15, 16, 20-24, 26-31, 1988] **11-30, 1989 and January 13 and 27, 1990.**

4. Indicates the season dates will be November 25-December 2, 1989 (first segment) and December 18-23 and 26-30, 1989 (second segment).

5. Indicates the season dates will be December 11, 12, 14, 15, 18-23 and 26-30, 1989.

(m) Permit quotas in zones 37, 38, 39, 40, 52-59, [and] 61 **and 62** are contingent upon approval by appropriate land management agencies for those zones.

(n) Muzzleloader[,] rifle permit season permits not applied for by September 10, [1988] **1989** will be reallocated to shotgun and bow permit season applicants.

7:25-5.29 White-tailed deer shotgun permit season (either sex)

(a) (No change.)

(b) If the anticipated harvest of deer has not been accomplished during this season, [one] additional days of shotgun permit deer hunting may be authorized by the Director. Such authorization and date thereof shall be announced by press and radio.

(c) The season bag limit **per permit** shall be one deer of either sex and any age with a shotgun permit season permit in Zones 1, 3, 4, 18, [20-24, 26, 28, 30-34, 40, 43, 44, 46, 47, 52, 54 and 61] **20, 21, 23-26, 28, 31-34, 40, 43-47, 52-54**; [three] **two** deer of either sex and any age with a shotgun permit season permit in Zone 2, 5-17, 19, [25, 27, 29, 35-37, 39, 41, 42, 48, 51-53, 55-59] **22, 27, 29, 30, 35-37, 41, 42, 48-51; three deer of either-sex and any age with a shotgun permit season permit in Zones 39, 55- 59, 61 and 62;** and six deer of either sex and any age in Zone 38. Only one deer may be taken in a given day per permit. Persons awarded Zone 9 and 13 shotgun permits may also take a deer with antler at least three inches long on December [5 or 10, 1988] **4 or 9, 1989** with a regular firearm license, subject to the provisions of N.J.A.C. 7:25-5.27. It is unlawful to attempt to take or hunt for more than the number of deer permitted.

(d) Duration of the permit shotgun deer season is from [7:00 A.M. E.S.T. to 5:00 P.M.] **sunrise to 1/2 hour after sunset** E.S.T. on the following dates:

1. December [14, 1988] **13, 1989** in Zones 1, 3, 4, 18, [20-24, 26, 28, 30-34, 40, 43, 44, 46, 47 and 61] **20, 21, 23-26, 28, 31-34, 40, 43-47;**

2. December **13,** 14, **and** 15 [and 16, 1988], **1989** in Zones 6, [15-17, 19, 25, 27, 29, 35, 42, 56-59] **16, 19, 22, 27, 30, 42, 56-58, 61;**

3. December **13,** 14, **and** 15 [and 16, 1988] **1989** and January **19, 20 and** 27 [nd 28, 1989] **1990** in zones 2, 5, 7, 8, 10[, 11, 12, 14, 36, 41, 48-51] **12, 14, 15, 17, 29, 35, 36, 41, 48-51;**

4. December [5, 10] **4, 9, 13,** 14, **and** 15, [and 16, 1988] **1989** and January **19, 20 and 27** [and 28, 1989] **1990** in Zones 9 and 13 only; [or]

5. [At other times as determined by the Director (see (m) below.] **December 22 and 23, 1989 in Zone 37;**

6. December 7, 8 and 9, 1989, and January 4, 5 and 6, 1990 in Zone 38;

7. December 16, 1989 and January 13 and 27, 1990 in Zones 39 and 62;

8. December 23, 1989 in Zone 52;

9. December 16, 1989 in Zones 53 and 54;

10. December 16, 1989 and January 6 and 13, 1990 in Zone 55;

11. December 4, 5 and 6, 1989 (first segment); December 13, 14 and 15, 1989 (second segment); and January 19, 20 and 27, 1990 (third segment) in Zone 59; or

12. At other times as determined by the Director.

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

(g) Permits for shotgun permit season consist of back display which includes a "deer transportation tag" or proper and valid second tag. The back display portion of the permit will be conspicuously displayed on the outer clothing in addition to the valid firearm license in the case of a shotgun permit season permit, and without the license in the case of the farmer shotgun permit season permit. The "deer transportation tag" portion of the permit must be completely filled out, and affixed to the deer immediately upon killing. This completely filled in "deer transportation tag" allows legal transportation of the

deer of either sex to an authorized check station only. Personnel at the checking station will issue a "possession tag." Any permit holder killing a deer of either sex during this season must transport this deer to an authorized checking station by 7:00 P.M. E.S.T. on the date killed to secure the legal "possession tag." The possession of a deer of either sex after 7:00 P.M. E.S.T. on the date killed without a legal "possession tag" shall be deemed illegal possession. Any legally killed deer which is recovered too late to be brought to the check station by closing time must be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. Said deer must be brought to a checking station on the next open day to receive a legal "possession tag". If the season has been concluded said deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag". For deer management zones where the shotgun permit season is [three days or more and the bag limit is three deer] **more than one day and the bag limit is two deer**, a second valid and proper "New Jersey Second Deer Permit and Transportation Tag" (second tag) will be issued upon registration of the first deer. This permit will allow this person to continue hunting and take one additional legal deer during the shotgun permit season, provided the season is open the following day(s) or on any additional days that shotgun permit season hunting is authorized. [A] **For deer management zones where the shotgun permit season is three days or more and the bag limit is three deer a** third "New Jersey Permit and Transportation Tag" will be issued upon registration of the second deer. This permit will allow this hunter to continue hunting and take one additional legal deer during the shotgun permit season, provided the season is open or on any additional days that shotgun permit season hunting is authorized. **For Deer Management Zone 38 (Great Swamp National Wildlife Refuge) where the shotgun permit season is six days and the bag limit is six deer, an additional valid and proper "New Jersey Permit and Transportation Tag" will be issued upon registration of first, second, third, fourth or fifth deer. This permit will allow this hunter to continue hunting on the following designated season date.** The second, [and] third, **fourth or fifth** permit[s are] **is** not valid on the day of issuance, and will only be available from check stations designated to be open for the extended shotgun permit deer season.

(h) Shotgun Permit Season Permits shall be applied for as follows:

1. Only holders of valid and current firearm hunting licenses including juvenile firearm license holders may apply by detaching from the hunting license the stub marked "Special Deer Season [1988] **1989**", signing as provided on the back, and sending the stub, together with a $17.00 permit fee per applicant and an application form properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2. (No change.)

3. The application form shall be filled in to include: Name, address, current firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25-September 10, [1988] **1989**. Applications postmarked after September 10 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

4.-6. (No change.)

(i) Farmer Shotgun Permit Season Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15, [1988] **1989**. There is no fee required, and all qualified applicants will receive a farmer shotgun permit season permit, delivered by mail.

4. (No change.)

(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1988] **1989** Shotgun Permit Season Permit Quotas (Either Sex) are as follows:

[1988] **1989** SHOTGUN PERMIT SEASON PERMIT QUOTAS (EITHER SEX)

Deer Mgt. Zone No.	Season Dates Code	Anticipated Deer Harvest [1988]	Anticipated Deer Harvest **1989**	Permit [1988]	Quota **1989**	Portion of Counties Involved
1	1	[363]	**249**	[1450]	**1361**	Sussex
2	3	[534]	**614**	[1190]	**1185**	Sussex
3	1	[96]	**90**	[768]	**782**	Sussex, Passaic, Bergen
4	1	[55]	**66**	[482]	**473**	Sussex, Warren
5	3	[2232]	**2135**	[3720]	**3833**	Sussex, Warren
6	2	[330]	**287**	[1255]	**1287**	Sussex, Morris, Passaic, Essex
7	3	[755]	**860**	[1324]	**1450**	Warren, Hunterdon
8	3	[2214]	**2224**	[3486]	**3754**	Warren, Hunterdon, Morris, Somerset
9	4	[413]	**579**	[826]	**965**	Morris, Somerset
10	3	[1171]	**1175**	[1945]	**1993**	Warren, Hunterdon
11	3	[729]	**624**	[1429]	**1262**	Hunterdon
12	3	[1738]	**1508**	[2355]	**2449**	Mercer, Hunterdon, Somerset
13	4	[458]	**357**	[460]	**750**	Morris, Somerset
14	3	[774]	**793**	[1653]	**1736**	Mercer, Somerset, Middlesex, Burlington
15	[2] **3**	[218]	**451**	[726]	**902**	Mercer, Monmouth, Middlesex
16	2	[154]	**159**	[684]	**694**	Ocean, Monmouth
17	[2] **3**	[250]	**307**	[508]	**578**	Ocean, Monmouth, Burlington
18	1	[35]	**31**	[280]	**200**	Ocean
19	2	[121]	**130**	[403]	**392**	Camden, Burlington
20	1	[32]	**60**	[275]	**300**	Burlington
21	1	[0]	**59**	[0]	**437**	Burlington, Ocean
22	[1] **2**	38		[200]	**190**	Burlington, Ocean
23	1	[20]	**75**	[200]	**300**	Burlington, Camden, Atlantic
24	1	[0]	**40**	[0]	**300**	Burlington, Ocean
25	[2] **1**	[82]	**45**	[431]	**365**	Gloucester, Camden, Atlantic, Salem,
26	1	0		0		Atlantic
27	2	[283]	**196**	[600]	**592**	Salem, Cumberland

28	1	[31]	**25**	[146]	**160**	Salem, Cumberland, Gloucester
29	[2] **3**	[398]	**477**	[894]	**933**	Salem, Cumberland
30	[1] **2**	[21]	**46**	90		Cumberland
31	1	0		0		Cumberland
32	1	0		0		Cumberland
33	1	[47]	**43**	[200]	**150**	Cape May, Atlantic
34	1	[61]	**24**	[244]	**200**	Cape May, Cumberland
35	[2] **3**	[191]	**255**	[478]	**500**	Gloucester, Salem
36	3	[47]	**39**	[100]	**140**	Bergen, Hudson, Essex, Morris, Union, Somerset, Middlesex
37	5	[42]	**43**	[168]	**140**	Burlington (Fort Dix Military Reservation)
38	6	[194]	**190**	600		Morris (Great Swamp National Wildlife Refuge)
39	7	[85]	**77**	[84]	**60**	Monmouth (Earle Naval Weapons Station)
40	1	[6]	**7**	[60]	**80**	Warren (Allamuchy State Park)
41	3	[595]	**586**	[846]	**903**	Mercer, Hunterdon
42	2	[18]	**24**	[52]	**60**	Atlantic
43	1	0		0		Cumberland
44	1	[8]	**18**	[50]	**50**	Cumberland
45	1	0		0		Cumberland, Atlantic, Cape May
46	1	[17]	**15**	[82]	**90**	Atlantic
47	1	[11]	**9**	[92]	**90**	Atlantic, Cumberland, Gloucester
48	3	[173]	**181**	[404]	**427**	Burlington
49	3	[13]	**25**	[40]	**60**	Burlington, Camden, Gloucester
50	3	[119]	**110**	[400]	**420**	Middlesex, Monmouth
51	3	[52]	**62**	[200]	**221**	Monmouth, Ocean
52	8	[16]	**15**	[64]	**60**	Ocean (Fort Dix Military Reservation)
53	9	[36]	**10**	[90]	**50**	Ocean (Lakehurst Naval Engineering Center)
54	[10] **9**	[20]	**12**	35		Morris (Picatinny Arsenal-ARRAD Com)
55	[11] **10**	15		40		Atlantic (Federal Aviation Administration Technical Center)
56	2	[22]	**28**	20		Atlantic (Forsythe National Wildlife Refuge)
57	2	[55]	**20**	[50]	**40**	Atlantic (Forsythe National Wildlife Refuge)
58	2	20		[60]	**50**	Burlington, Ocean (Forsythe National Wildlife Refuge)
59	[2] **11**	[10]	**60**	[20]	**60**	Salem (Supawna National Wildlife Refuge)
61	[1] **2**	21		105		Atlantic (Atlantic County Parks)
62	**7**		**19**		**25**	**Monmouth (Fort Monmouth)**
Total		[15,439]	**15,628**	[32,365]	**34,353**	

(l) Shotgun permit season permits not applied for by September 10, [1988] **1989** may be reallocated to muzzleloader rifle[,] permit season applicants.

(m) The Season Dates code referenced in the table in (k) above is as follows:

1. Indicates one day shotgun permit season—December [14, 1988] **13, 1989**.

2. Indicates three-day shotgun permit season—December [14, 15 and 16, 1988] **13, 14 and 15, 1989**.

3. Indicates [five-day] **six-day** shotgun permit season—December [14, 15 and 16, 1988 and January 27 and 28, 1989] **13, 14 and 15, 1989 and January 19, 20 and 27, 1990**.

4. Indicates [seven-day] **eight-day** shotgun permit season—December [5, 10, 14, 15 and 16, 1988 and January 27 and 28, 1989] **4, 9, 13, 14, 15, 1989 and January 19, 20 and 27, 1990**.

5. Indicates a two-day shotgun permit season—December [21 and 22, 1988] **22 and 23, 1989**.

6. Indicates a six-day shotgun permit season—December [8, 9, 10, 1988 and January 5, 6 and 7, 1989] **7, 8 and 9, 1989 and January 4, 5 and 6, 1990**.

7. Indicates a three-day shotgun permit season—December [17, 1988 and January 14, 28, 1989] **16, 1989 and January 13 and 27, 1990**.

8. Indicates a one-day shotgun permit season—December [21, 1988] **23, 1989**.

9. Indicates a [two-day] **one-day** shotgun permit season—December [17 and 19, 1988] **16, 1989**.

10. Indicates a [one-day] **three-day** shotgun permit season—December [17, 1988] **16, 1989 and January 6 and 13, 1990**.

11. Indicates [a] **three** three-day shotgun permit season segments—December [17, 1988 and January 7 and 14, 1989] **4, 5 and 6, 1989 (first segment); December 13, 14 and 15, 1989 (second segment); and January 19, 20 and 27, 1990 (third segment)**.

(n) (No change.)

(o) Permit quotas for Zones 37, 38, 39, 40, 52-59, [and] 61 **and 62** are contingent upon approval by appropriate land management agencies for those zones.

(p) Deer management zones are located as follows:

1. Zone No. 1: That portion of Sussex County lying within a continuous line beginning at the intersection of Rtes. 206 and 519 at Branchville; than northwest along Rt. 206 to its intersection with Rt. [521] **560**; then west along Rt. [521] **560** to its intersection with the Delaware River at Dingman's Ferry; then north along the east branch of the Delaware River to the New York State line; then east along the New York State line to Rt. 519; then south along Rt. 519 to the point of beginning at Branchville. The islands of Namanock, Minisink and Mashipacong lying in the Delaware River are included in this zone.

2.-3. (No change.)

4. Zone No. 4: That portion of Sussex and Warren Counties lying within a continuous line beginning at the intersection of Route [521] **560 (Tuttles Corner—Dingman's Road)** and the Delaware River at Dingman's Ferry; then southeast along Route [521] **560** to its intersection with Route 206; then southeast along Route 206 to its intersection with Route 521 at Culvers Inlet; then south along [Route 521 to its intersection with Rt. 617 (Mountain Road); then south along Route 617 to its intersection with Old Schoolhouse Road; then southwest on Old Schoolhouse Road to Sand Pond Road; then south on Millbrook Road to Gaisler Road; then west on Gaisler Road to Corner Road; then north on Corner Road to] the base of the Kittatinny Ridge **at Culvers Inlet**; then southwest along the base of the Kittatinny Ridge to the Delaware River at the Delaware Water Gap north of Quarry Road; then north along the east bank of the Dela-

ware to the point of beginning at Dingman's Ferry. Depew, Tocks, Poxono and Labar Islands in the Delaware River are included in this zone.

5. Zone No. 5: That portion of Warren and Sussex Counties lying within a continuous line beginning at the intersection of [Rt. 521] **the base of the Kittatinny Ridge** and Rt. 206 at Culvers Inlet; then southeast along Rt. 206 to its intersection with Rt. 519 at Branchville; then south along Rt. 519 to its intersection with Rt. 206 at Newton; then south along Rt. 206 to its intersection with Rt. 517 at Andover; then south along Rt. 517 to its intersection with Rt. 46 at Hackettstown; then west along Rt. 46 to its intersection with the Zone 4 boundary at the Delaware Water Gap north of Quarry Road; then northeast along the base of the Kittatinny Ridge to [Corner Road; then south on Corner Road to Gaisler Road; then east on Gaisler Road to Millbrook Road; then north on Millbrook Road to Sand Pond Road; then east on Sand Pond Road to Old Schoolhouse Road; then northeast on Old Schoolhouse Road to Route 617 at Wintermute's Foundry; then north along Rt. 617 to its intersection with Rt. 521; then north along Rt. 521 to the point of beginning at Culvers Inlet] **its intersection with Rt. 206, the point of beginning.**

6.-60. (No change.)

61. Zone No. 62: Those portions of Fort Monmouth, designated as open for deer hunting, lying within Monmouth County.

7:25-5.30 White-tailed deer bow permit season, (either sex)

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

(d) Duration of the bow permit season is from November [12 to December 3, 1988, in designated deer management zones] **11-December 2, 1989 in Zones 1-36, 39-51, 54, 55, 58, 59, 61 and 62; November 20 through December 2, 1989 in Zones 37 and 52; November 11-24, 1989 in Zone 53**, or any other time as determined by the Director. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

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

(h) Bow Permit Season Permits shall be applied for as follows:

1. Only holders of valid bow and arrow licenses including juvenile bow license holders may apply by detaching from their bow hunting license the stub marked special deer season [1988] **1989**, signing as provided on the back, and sending the stub together with a $17.00 permit fee per applicant and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2.-8. (No change.)

(i)-(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The [1988] **1989** Bow Permit Season Quotas (Either Sex) are as follows:

[1988] **1989** BOW PERMIT SEASON PERMIT QUOTAS (EITHER SEX)

Deer Mgt. Zone No.	Season Dates Code	Anticipated Deer Harvest [1988]	**1989**	Permit Quota [1988]	**1989**	Portions of Counties Involved
1	**1**	[79]	**72**	[700]	**840**	Sussex
2	**1**	[78]	**76**	[800]	**725**	Sussex
3	**1**	[53]	**40**	750		Sussex, Passaic, Bergen
4	**1**	0		0		Sussex, Warren
5	**1**	[231]	**262**	2430		Sussex, Warren
6	**1**	[93]	**81**	1000		Sussex, Morris, Passaic, Essex
7	**1**	[136]	**127**	1150		Warren, Hunterdon
8	**1**	[270]	**305**	2500		Warren, Hunterdon, Morris, Somerset
9	**1**	[98]	**108**	[800]	**1000**	Morris, Somerset
10	**1**	[162]	**190**	1300		Warren, Hunterdon
11	**1**	[105]	**77**	[950]	**850**	Hunterdon
12	**1**	[224]	**221**	[1900]	**1800**	Mercer, Hunterdon, Somerset
13	**1**	[56]	**68**	[575]	**675**	Morris, Somerset
14	**1**	[90]	**85**	1200		Mercer, Somerset, Middlesex, Burlington
15	**1**	80		[800]	**750**	Mercer, Monmouth, Middlesex
16	**1**	[67]	**59**	[750]	**800**	Ocean, Monmouth
17	**1**	[56]	**44**	450		Ocean, Monmouth, Burlington
18	**1**	[35]	**24**	[403]	**250**	Ocean
19	**1**	[40]	**27**	[400]	**265**	Camden, Burlington
20	**1**	[37]	**21**	[370]	**250**	Burlington
21	**1**	[0]	**52**	[0]	**500**	Burlington, Ocean
22	**1**	16		[161]	**190**	Burlington, Ocean
23	**1**	[26]	**60**	[419]	**600**	Burlington, Camden, Atlantic
24	**1**	[0]	**52**	[0]	**500**	Burlington, Ocean
25	**1**	[43]	**42**	[500]	**465**	Gloucester, Camden, Atlantic, Salem
26	**1**	[0]	**50**	[0]	**495**	Atlantic
27	**1**	[52]	**62**	[550]	**525**	Salem, Cumberland
28	**1**	[0]	**21**	[0]	**200**	Salem, Cumberland, Gloucester
29	**1**	[74]	**68**	650		Salem, Cumberland
30	**1**	[10]	**11**	[90]	**110**	Cumberland
31	**1**	0		0		Cumberland
32	**1**	0		0		Cumberland
33	**1**	[27]	**21**	[274]	**135**	Cape May, Atlantic
34	**1**	[0]	**41**	[0]	**400**	Cape May, Cumberland
35	**1**	[63]	**76**	[550]	**575**	Gloucester, Salem
36	**1**	[18]	**11**	140		Bergen, Hudson, Essex, Morris, Union, Somerset and Middlesex
37	[1] **2**	[17]	**12**	150		Burlington (Fort Dix Military Reservation)

38		0		0		Morris (Great Swamp National Wildlife Refuge)
39	**1**	[17]	**11**	[58]	**50**	Monmouth (Earle Naval Weapons Station)
40	**1**	[6]	**4**	[65]	**80**	Warren (Allamuchy State Park)
41	**1**	[67]	**51**	650		Mercer, Hunterdon
42	**1**	[16]	**14**	[130]	**100**	Atlantic
43	**1**	0		0		Cumberland
44	**1**	[0]	**5**	[0]	**50**	Cumberland
45	**1**	[18]	**8**	[175]	**150**	Cumberland, Atlantic, Cape May
46	**1**	[18]	**4**	[170]	**100**	Atlantic
47	**1**	8		80		Atlantic, Cumberland, Gloucester
48	**1**	[32]	**35**	400		Burlington
49	**1**	4		40		Burlington, Camden, Gloucester
50	**1**	[39]	**26**	400		Middlesex, Monmouth
51	**1**	[24]	**21**	[304]	**300**	Monmouth, Ocean
52	**2**	[2]	**3**	[48]	**50**	Ocean (Fort Dix Military Reservation)
53	**3**	[12]	**4**	[60]	**40**	Ocean (Lakehurst Naval Engineering Center)
54	**1**	[4]	**6**	[22]	**23**	Morris (Picatinny Arsenal-ARRAD Com)
55	**1**	5		40		Atlantic (Federal Aviation Administration Technical Center)
56		0		0		Atlantic (Forsythe National Wildlife Refuge)
57		0		0		Atlantic (Forsythe National Wildlife Refuge)
58	**1**	[6]	**5**	[60]	**50**	Burlington, Ocean (Forsythe National Wildlife Refuge)
59	**1**	[6]	**14**	30		Salem (Supawna National Wildlife Refuge)
61	**1**	14		135		Atlantic (Atlantic County Parks)
62	**1**		**6**		**30**	**Monmouth (Fort Monmouth)**
Total		[2,634]	**2,810**	[25,579]	**27,423**	

(l) The Season Dates Code referred in the table in (k) above is as follows:

1. Indicates the season dates will be November [21 through December 3, 1988 in Zones 37 and 52] **11-December 2, 1989.**

2. Indicates the season dates will be November 20 through December 2, 1989.

3. Indicates the season dates will be November 11 through November 24, 1989.

(m) Permit quotas [in] **for** Zones 37, 38, 39, 40, 52-59, [and] **61 and 62** are contingent upon approval by the appropriate land management agencies for these zones.

(n) (No change.)

7:25-5.31 White-tailed deer permit shotgun season permit (either sex), Great Swamp National Wildlife Refuge (Zone 38)

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

(c) Duration of the Great Swamp Permit Shotgun Season Permit shall be from 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T. on the following dates: December [8, 9, 10, 1988] **7, 8 and 9, 1989** and January [5, 6, 7, 1989] **4, 5 and 6, 1990** or as may otherwise be designated by the U.S. Fish and Wildlife Service.

(d) Bag Limit: Six deer of either sex and any age, may be taken with a Great Swamp Permit Shotgun Season Permit. Only one deer may be taken in a given day **per permit.**

(e)-(i) (No change.)

7:25-5.32 to 5.33 (No change.)

7:25-5.34 Controlled hunting—hunting restrictions on wildlife management areas

(a) No wildlife management areas have been selected for limited hunter density for the [1988-89] **1989-90** season. However, hunting with firearms shall be prohibited on November [11, 1988] **10, 1989** on those wildlife management areas designated as pheasant and quail stamp areas in N.J.A.C. 7:25-5.33.

(b) (No change.)

7:25-5.35 to 5.38 (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Transportation by Licensees; Transit Insignia

Proposed Amendments: N.J.A.C. 13:2-20

Authorized By: John F. Vassallo, Jr., Director, Division of Alcoholic Beverage Control.

Authority: N.J.S.A. 33:1-1(x) and (y), 2, 3, 10, 11, 12, 13, 14, 23, 25, 26, 28, 28.1, 28(a), 35, 39, 50, 55 and 66.

Proposal Number: PRN 1989-251.

Submit comments by June 14, 1989 to:

John F. Vassallo, Jr., Director
Division of Alcoholic Beverage Control
TRW Complex, Building #20
200 Woolverton St.
CN-087
Trenton, N.J. 08625

The agency proposal follows:

Summary

The commercial transportation of alcoholic beverages into, out of or within the State of New Jersey is prohibited unless the vehicle transporting the alcoholic beverages is properly licensed by the Division of Alcoholic Beverage Control (see N.J.S.A. 33:1-2 and 33:1-28). Most of the State issued licenses that authorize the production or wholesaling of alcoholic beverages in this State carry the privilege of transporting these products subject to rules and regulations. A similar privilege exists for retail consumption and retail distribution licensees. Additionally, a specific license to transport alcoholic beverages and maintain a warehouse is authorized by N.J.S.A. 33:1-13.

The provisions of subchapter 20 that are proposed for amendment deal with those situations involving vehicles utilized by holders of a transportation license under N.J.S.A. 33:1-13. Recently, several wine club operations have commenced business in New Jersey. These clubs offer to New Jersey residents a wine recommendation service with the opportunity of acquiring for the customer alcoholic beverages to be delivered to the New Jersey customer's home. In the actual conduct of such programs, the need to effectuate delivery to the customer's home has created problems. To permit such delivery, it is necessary to have a properly licensed individual transporting the alcoholic beverages. The retail licensee that is incorporated in these wine club programs cannot always offer home de-

livery services because of the geographic limits that exist upon a retail licensee. If the retail licensee does not effectuate such delivery in its own vehicles that bear transit insignia or a special transporatation permit sticker, the only other lawful delivery mode is delivery by a holder of a transportation license.

Under N.J.S.A. 33:1-13, a transportation license can be issued for a fee of $500.00 per license term, which would enable the holder to transport alcoholic beverages into, out of, through and within the State of New Jersey and to maintain a warehouse for incidental retention of such goods during transit interruptions. Existing Division policy and rules requires the holder of a transportation license to obtain from the Division a transit insignia for each vehicle it covers under the license at a fee of $25.00 per vehicle.

The proposed amendments will modify the policy and Division rules to more closely comport with statutory language and intent by establishing for the holders of transportation licenses a new indicia of licensure of vehicles different than the transit insignia or special transportation permit sticker. The transportation licensee would be issued a transportation license insignia which would be available at a reduced administrative charge of $10.00 per vehicle and could be utilized in any vehicle that the transportation licensee owns, leases or has under its control, subject to the basic eligibility requirements and restrictions that exist for other type licensees and their vehicles which are set forth under existing transit insignia or special transportation permit rules, and further subject to an additional requirement that the vehicle displays on its exterior the transportation licensee's name.

Specific discussion of the amendments follows:

N.J.A.C. 13:2-20.1 states that the transportation of alcoholic beverages into, out of, or within the State of New Jersey must be done in a vehicle of the licensee which shall first have issued for the vehicle a transit insignia or Special Transportation Permit sticker. The proposed amendment would specify two other types of permits that the Division currently issues as well as the new transportation licensee insignia which will replace for transportation licensees the transit insignia. Amendments are made to identify the limited transportation permit and emergency trip permit which are issued under provisions in N.J.A.C. 13:2-21 (see proposal published elsewhere in this issue of the New Jersey Register). Also, the newly created transportation license insignia is being identified in these amendments as a new authorization for certain vehicles.

N.J.A.C. 13:2-20.2 concerns delivery of alcoholic beverages by a retail licensee. The only change is to identify the common name for the law as the New Jersey Alcoholic Beverage Control Act. A similar change will also occur in N.J.A.C. 13:2-20.3

N.J.A.C. 13:2-20.3 identifies document requirements for State licensees that can lawfully sell at retail and deliver to customers. Under N.J.S.A. 33:1-28.1 et seq., winery licensees can utilize a parcel delivery service for delivery to consumers under the law provided an annual permit is obtained. The annual permit period will terminate June 30, not December 31 as currently provided for in N.J.A.C. 13:2-20.3(b)1, in order to coincide with the license year. Additionally, the time period required for retention of invoices will be reduced from three years to one year in N.J.A.C. 13:2-20.3(b)3. A similar record retention period in N.J.A.C. 13:2-20.4 will also be reduced.

N.J.A.C. 13:2-20.4 sets forth the documents and information required to accompany delivery of alcoholic beverages into, out of, or within the State of New Jersey. An amendment is being made in subsection (a) to recognize a responsibility on the part of a transportation licensee to have the appropriate delivery documents accompanying a delivery of alcoholic beverages for its customer. The licensee that initiates the delivery already has that responsibility.

N.J.A.C. 13:2-20.5 identifies the various eligibility standards for the issuance of insignia that will evidence the authorization to transport alcoholic beverages. The proposed amendment will incorporate these eligibility requirements for the issuance of transportation license insignia. A change is also proposed to recognize that transportation licenses are issued to out-of-State companies that may not have their vehicles registered in New Jersey. In that case, those vehicles cannot engage in transportation into, within, or out of this State unless these companies and vehicles are also authorized to utilize New Jersey roads in accordance with other applicable State laws in that area.

N.J.A.C. 13:2-20.6 identifies the application process and fees required for obtaining a regular or special transit insignia, or a transportation license insignia. An amendment adding a subsection (c) is proposed that will state that applications for transportation license insignia shall be filed upon a prescribed form with the Director and shall be issued at a cost of $10.00.

N.J.A.C. 13:2-20.7 sets forth the renewal requirements and the expiration date for the issuance of these various insignia. Added to this section is the new transportation license insignia.

N.J.A.C. 13:2-20.8 deals with the affixing of a transit insignia to commercial-size vehicles and special transit insignia to passenger-type vehicles. Added to this section will be the location of the transportation license insignia. This insignia will either be affixed to the vehicle in the same manner as a transit insignia or visibly maintained within the vehicle. The Director, upon further review of the utilization of this insignia and the type of vehicles to which it shall be issued, shall determine the location.

N.J.A.C. 13:2-20.9 identifies various restrictions that are applicable to vehicles that bear regular or special transit insignia. The transportation license insignia will be added to this section, except with respect to subsection (c) which deals with the inability to transfer transit insignia from vehicle to vehicle because each permit is issued for a specific registered vehicle. Since the transportation license insignia will be issued to the holder of a transportation license and can be used for any eligible vehicle, it can be transferred. To reflect this difference, a new subsection (d) is proposed which identifies the transferability of this insignia for transportation licensees and adds the requirement that the vehicle must identify the name of the holder of the transportation license.

N.J.A.C. 13:2-20.10 indicates that by accepting a regular or special transit insignia, the licensee or a solicitor that authorizes use of his or her personal vehicle in the course of his or her employer-licensee's business consents to the inspection and search of the vehicle without warrant by persons authorized to enforce the alcoholic beverage law. The proposed amendment will add vehicles that have transportation license insignia to this section.

The last amendments to this subchapter occurred in July, 1985 at which time the entire subchapter was reviewed and significant amendments were made. (see 17 N.J.R. 1054(a) and 1662(a), effective July 1, 1985). In connection with Executive Order No. 66(1978), the entire subchapter as well as all other subchapters N.J.A.C. 13:2 will expire on August 5, 1990. In compliance with appropriate rules, the within amendments are deemed necessary, adequate, reasonable, efficient, understandable and responsive to the regulatory objectives, policies and purposes that exist today.

Social Impact

The control of the transportation of alcoholic beverages is an integral element in the legislative objectives of monitoring and regulating all alcoholic beverage activity in this State. Through vehicle licensure, the incidents of unlawful diversion of product to improper sources can be disclosed. Protection against loss of tax revenues flows from this control. So also, licensure permits the State to review the qualifications of the individuals who seek to engage in the transportation of alcoholic beverages in this State.

As noted before, with the introduction of the wine club type of operations in New Jersey by various entities, including the American Express Company, the difficulties which attend the delivery of wine under these programs prompted a review of N.J.S.A. 33:1-13 and N.J.S.A. 33:1-28, in particular. Since the retail licensees, which are components of these wine club programs, are unable or choose not to deliver throughout the State of New Jersey in their own licensed vehicles which possess transit insignia or a special transit insignia, nor are there apparently transportation licensees that are capable of such diverse delivery, the wine club operators have identified the parcel delivery services, such as United Parcel Service, which can, in other States, deliver alcoholic beverages. While a delivery service such as United Parcel Service could acquire a transportation license, the cost of obtaining transit insignia for all of its numerous vehicles make such licensure economically prohibitive.

In reviewing the legislation which discussed the transit insignia and the $25.00 fee per vehicle, N.J.S.A. 33:1-28, the Division is satisfied that a reasonable interpretation of such statute would permit the conclusion that the holders of a transportation license do not have to acquire transit insignia at a fee of $25.00 per vehicle. The holders of the transportation license should be able to encompass any vehicle it owns, leases or has under its control upon payment of a lesser fee for insignia. This interpretation will make it economically feasible for large transportation companies with many vehicles to acquire the license and utilize their vehicles in the transportation of alcoholic beverages into, out of and within the State of New Jersey. Additionally, New Jersey wholesalers and manufacturing class licensees may find it more economical to acquire a transportation license and pay $10.00 per vehicle rather than paying $25.00 per vehicle under their wholesale or manufacturing class license.

Economic Impact

During the 1987-88 fiscal year, the Division issued a total of 6,132 transit insignia. Four thousand one hundred sixty-nine (4,169) of these transit insignia were issued to holders of transportation licenses to encompass the vehicles it uses in connection with their business. These amendments will result in cost savings to those who hold transportation licenses by reducing the insignia fee for each covered vehicle from $25.00 to $10.00. While there will be some revenue reduction from this change, it is anticipated that many wholesalers and suppliers will now acquire transportation licenses at a $500.00 fee per year to utilize the transportation license insignia to cover their delivery vehicles. The Division's operational costs to process the issuance of the transportation license insignia and the monetary costs for the insignia (about $300.00 per 1000 based upon current purchase costs for transit insignia) should be covered by the $10.00 processing fee. In sum, the Division may see a slight revenue reduction, but, alternatively, the transportation segment of the industry will achieve savings as it relates to their fee requirements.

Regulatory Flexibility Analysis

The proposed amendments would basically impact on the holders of transportation licenses which would be considered small businesses within the intendment of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and no one business would be considered dominant in its field. Currently, there are 204 entities which hold transportation licenses. No additional reporting, recordkeeping or other compliance requirements are being imposed in connection with these amendments, nor are additional professional services required. In fact, the required time to keep delivery invoices will be reduced from three years to one year. There is no initial capital cost or annual cost to be added as a result of the proposed amendments to this subchapter. These amendments would minimize the economic impact on these businesses by reducing the fee for registering their vehicles and the expenses necessary to retain records.

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

SUBCHAPTER 20. TRANSPORTATION OF ALCOHOLIC BEVERAGES BY LICENSEES; [TRANSIT] INSIGNIA

13:2-20.1 Transit insignia; transportation of alcoholic beverages

No licensee shall transport alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless it is owned, leased or contracted for by the licensee. Such vehicle, while so used, shall first have issued [thereto] **therefor** a transit insignia, [or] special [transportation permit sticker as provided in N.J.A.C. 13:2-20.6] **transit insignia, transportation license insignia issued pursuant to the provisions of this subchapter, or a limited transportation permit or emergency trip permit issued pursuant to the provisions of N.J.A.C. 13:2-21.**

13:2-20.2 Transportation by retail licensee; delivery slip

(a) No retail licensee shall deliver or transport any alcoholic beverages into, out of, or within the State of New Jersey unless the driver of the vehicle has in his **or her** possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the date of delivery, the bona fide name and address of the purchaser or consignee, and the brand, size of container, and quantity and price of each item of the alcoholic beverages being delivered or transported. The original or true copy of such delivery slip, invoice, manifest, waybill or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery[;], and shall be available for inspection by any person authorized to enforce the provisions of the **New Jersey** Alcoholic Beverage [Law] **Control Act**, N.J.S.A. 33:1-1[,] et seq., unless the [director] **Director** shall have granted to the licensee written permission to keep such documents at another designated place.

(b) (No change.)

13:2-20.3 Transportation by State licensee with retail privileges; delivery slip or route card

(a) No State licensee privileged to sell alcoholic beverages at retail shall deliver or transport any alcoholic beverages in any vehicle, unless:

1. The driver of the vehicle has in his **or her** possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the bona fide name and address of the purchaser or consignee, and the brand, size of container, quantity and price of each item of the alcoholic beverages being delivered or transported; or

2. The driver of the vehicle has in his **or her** possession a route card which shall contain the name, address and standing order of the customer, and the entry at the time of delivery of the date of delivery, the brand, size of container, quantity delivered and the price charged. In addition to such route cards, there must be carried in the vehicle a loading list setting forth the total quantity of alcoholic beverages loaded for delivery, indicating as to each brand loaded the total quantity of each size of container; and

3. The original or true copy of such delivery slip, invoice, manifest, waybill, route card or similar document shall be retained by the licensee at his licensed premises for a period of one year from the date of delivery, and shall be available for inspection by any person authorized to enforce the provisions of the **New Jersey** Alcoholic Beverage [Law] **Control Act**, N.J.S.A. 33:1-1 et seq., unless the [director] **Director** shall have granted to the licensee written permission to keep such documents at another designated place.

(b) The holder of a New Jersey Plenary or Farm Winery license with retail privileges may authorize the shipment of wine purchased in person at retail on the licensed premises to a [designation] **destination** within this State by a parcel delivery service subject to the following terms and conditions:

1. The New Jersey Plenary or Farm Winery licensee with retail privileges must first file an application for authorization to utilize a parcel delivery service before it makes any such deliveries to consumers. The application is made on a form provided by the Division and must be accompanied by an annual fee of $150.00. All parcel delivery service permits are for [the calendar] **one** year and expire on [December 31] **June 30** and must be renewed annually; and

2. The parcel delivery service must first be registered and approved by the Director. Application for approval shall be made on a form to be provided by the Division. No fee is required. Once approved, a parcel delivery service shall not be required to obtain a Transportation License under N.J.S.A. 33:1-13 or any Transit Insignia [or Permits] under N.J.S.A. 33:1-28 or [N.J.A.C. 13:2-20.1 et seq.] **this subchapter**; and

3. An invoice must be attached to every package stating the purchaser's name, address, destination, quantity of wine being shipped and place of purchase. A copy of the original invoice must be made available for inspection by any person authorized to enforce the provisions of the **New Jersey** Alcoholic Beverage [Law] **Control Act**, N.J.S.A. 33:1-1 et seq. for a period of [three years] **one year** at the office of the licensee; and

4. It is the duty of personnel delivering the wine for a licensee in accordance with N.J.S.A. 33:1-28.1 et seq. and this subsection to seek to determine that, at the time of delivery of wine, the party signing a delivery receipt is of legal age to purchase and consume alcoholic beverages.

(c) (No change.)

13:2-20.4 Transportation by other State licensees, importers and manufacturers; delivery documents

(a) No manufacturer, importer or wholesaler shall deliver or transport, directly or indirectly, any alcoholic beverages into, out of, or within the State of New Jersey in any vehicle**, nor shall any transportation licensee so deliver or transport alcoholic beverages for any licensee,** unless the driver of the vehicle has in his **or her** possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the name, address and New Jersey State assigned license number (if applicable) of the purchaser or consignee, the brand, size of container, terms of sale, quantity and price of each kind of alcoholic beverages being delivered or transported. Such document shall further bear a printed or stamped legend reading substantially as follows:

"The undersigned licensee hereby acknowledges that all of the alcoholic beverages itemized above have been ordered and were received on

_____
(Date)

_____ "
(Signature by or for licensee)

(b) Two copies of such delivery slip, invoice, manifest, waybill or similar document shall be truly dated and signed by the licensee or his agent at the time and on the date of actual delivery of any alcoholic beverage. One copy shall be retained for a period of [three years] **one year** from the date thereof by the manufacturer, importer or wholesaler and the other by the purchasing licensee for a like period at its respective licensed premises, and shall be available for inspection by any person authorized to enforce the provisions of the **New Jersey** Alcoholic Beverage [Law] **Control Act**, N.J.S.A. 33:1-1 et seq., unless the [director] **Director** shall have granted written permission to the manufacturer, importer, wholesaler or retailer to keep its copies at another designated place.

(c) (No change.)

13:2-20.5 Eligibility for transit insignia [or], special [transportation permit] **transit insignia or transportation license insignia**

(a) No transit insignia [or], special [transportation permit] **transit insignia or transportation license insignia** shall be issued [to] :

1. To a bonded warehouse bottling licensee, public warehouse licensee, or warehouse receipts licensee, unless such licensee also holds a license of some type which authorizes the transportation of alcoholic beverages.

[(b) No transit insignia or special transportation permit shall be issued for]

2. For any motor vehicle [not] **unless it is** properly registered in **New Jersey or authorized to utilize New Jersey roads in** accordance with State law applicable to such vehicle.

[(c) No transit insignia or special transportation permit will be issued for]

3. For any leased vehicle **or other vehicle not owned by the licensee** unless said lease **or other document** by its terms transfers to the licensee [the right to] exclusive possession, control and operation of such vehicle when utilized in connection with the licensed business. A copy of the lease **or other document** must be [annexed to] **furnished with** any application.

[(d)](**b**) No transit insignia or special [transportation permit] **transit insignia** shall be issued [until after the basic manufacture, transportation, wholesale or retail license is issued, and in case of a municipally issued retail license, until the issuance of the license shall have been certified to the director by the municipal issuing authority] **for any solicitor's vehicle unless an agreement exists authorizing utilization of the solicitor's vehicle for purposes in furtherance of the business of the solicitor's employer.**

13:2-20.6 Application; fees

(a) Application[s] for transit insignia shall be filed **with the Director** upon a prescribed form [with the director] accompanied by the full fee of $25.00 for each insignia, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

(b) Application[s] for special **transit insignia** [transportation permit], which may be issued for passenger type vehicles and consists of a sticker that is less conspicuous than a transit insignia, shall be filed **with the Director** upon a prescribed form [with the director] acompanied by the full fee of $25.00 for each permit, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

(c) Application for transportation license insignia shall be filed with the Director upon a prescribed form and shall be issued at a cost of $10.00 for each insignia, in cash, money order or certified check payable to the order of the Division of Alcoholic Beverage Control.

1. No transportation license insignia shall be required for any vehicle operated by a parcel delivery service holding a transportation license for delivery of alcoholic beverages purchased at retail to consumers unless the vehicle is primarily and substantially used at any time for transport or delivery of alcoholic beverages.

13:2-20.7 Term of transit insignia [or], special [transportation permit] **transit insignia or transportation license insignia**; renewal

(**a**) All transit insignia and special [transportation permits] **transit insignia** expire on August 31 following their issuance unless [previously] **sooner** terminated by order of the [director] **Director** or by surrender[, revocation] or [expiration] **termination** of the basic license **under** which [authorized issuance of] the insignia [or permit] **was issued.**

(b) All transportation license insignia expire on June 30 following their issuance or upon sooner termination of the underlying transportation license

(**c**) Renewals must be applied for in the same manner as a new insignia [or permit].

13:2-20.8 [Affixing] **Location of** transit insignia [or], special [transportation permit sticker] **transit insignia or transportation license insignia** [to vehicle]

(a) Transit insignia must be directly [and securely] affixed [at the time of receipt] to the exterior [of the body] of the vehicle on the left side thereof, so as to be clearly visible at all times.

(b) Special [transportation permit stickers] **transit insignia** must be directly [and securely] affixed [at the time of receipt] to the rearmost side window on the driver's side of the vehicle. The [sticker] **insignia** shall be placed in the lower [left] **rear** corner of such window, shall be affixed from the inside facing outward and shall be clearly visible at all times.

(c) Transportation license insignia shall either be affixed to the exterior of the vehicle in the same manner as a transit insignia or otherwise visibly displayed as may be determined by the Director.

13:2-20.9 Restrictions applicable to vehicles bearing transit insignia [or], special [transportation permit] **transit insignia or transportation license insignia**

(a) No licensee shall allow, permit or suffer any vehicle for which a transit insignia [or], special [transportation permit] **transit insignia or transportation licese insignia** is issued [to him] to be used to transport alcoholic beverages except solely for the licensee's [or employer's] own business.

(b) When any transit insignia [or,], special [transportation permit] **transit insignia or transportation license insignia** shall become marred, defaced or damaged, the licensee shall forthwith notify the [director] **Director** in writing, so that there may be appropriate replacement, if necessary, of such insignia [or sticker].

(c) Transit insignia or special [transportation permits are not transferable and] **transit insignia** may be used only for the vehicle for which issued, provided, however, that nothing herein contained shall prohibit the transportation of alcoholic beverages by a transferee of a license in a vehicle for which a transit insignia or special [transportation permit] **transit insignia** was issued to his transferor for a period not exceeding seven days subsequent to the effective date of the transfer of license to such transferee.

(d) A transportation license insignia is issued to the holder of a transportation license and may be used for any eligible vehicle under N.J.A.C. 13:2-20.5, provided the identity of the transportation license holder is indicated on the vehicle.

[(d)](**e**) Except as provided in (c) above, no licensee shall sell or otherwise dispose of any vehicle to which a transit insignia or special [transportation permit sticker] **transit insignia** is affixed, without having first removed said insignia [or sticker] and having notified the [director] **Director** of such removal.

13:2-20.10 Search of licensed vehicle

By acceptance of a transit insignia [or] , special [transportation permit] **transit insignia or transportation license insignia,** the licensee consents to the inspection and search of the vehicle for which such insignia [or permit] is issued, without search warrant, by any person authorized to enforce the provisions of the **New Jersey** Alcoholic Beverage [Law] **Control Act**, N.J.S.A. 33:1-1 et seq.

(a)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Transportation of Alcoholic Beverages Into, Through or Out of the State

Proposed Amendments: N.J.A.C. 13:2-21

Authorized By: Division of Alcoholic Beverage Control, John F. Vassallo, Jr., Director.

Authority: N.J.S.A. 33:1-1(x) and (y), 1-2, 1-3, 1-10, 1-11, 1-12, 1-13, 1-14, 1-23, 1-25, 1-26, 1-28, 1-28.1, 1-28(a), 1-35, 1-39, 1-50, 1-55 and 1-66, 1-74.

Proposal Number: PRN 1989-250.

Submit written comments by June 14, 1989 to:
John F. Vassallo, Jr., Director
Division of Alcoholic Beverage Control
TRW Complex, Building #20
200 Woolverton St.
CN-087
Trenton, NJ 08625

The agency proposal follows:

Summary

The commercial transportation of alcoholic beverages into, through or out of the State of New Jersey, as well as the transportation into or within the State of New Jersey for personal consumption, is circumscribed by law and rule. With commercial transportation, the legislative and regulatory scheme sets forth available licenses or permits to identify and authorize the entity or person transporting alcoholic beverages into or out of New Jersey. In N.J.A.C. 13:2-20 (see proposed amendments published elsewhere in this issue of the New Jersey Register), various transportation insignias were identified that are available to persons who basically possess some other annual State-issued license to either transport, sell or manufacture alcoholic beverages. In this subchapter, several permits are identified that authorize transportation of alcoholic beverages in a limited manner, either as to time or scope. These permits are basically acquired by persons not regularly involved in the alcoholic beverage business.

Transportation of alcoholic beverages in a personal vehicle for an individual's personal use is also regulated by law. Certain quantities can be transported without permit. However, beyond statutorily established limits, the transporter, even for personal usage, must possess some type of license or permit to authorize transportation.

A review of this subchapter was essentially motivated by a recent legislative enactment signed into law on July 19, 1988 as P.L. 1988, c.67. It is anticipated that this law will be codified as N.J.S.A. 33:1-28a. This law addresses the emergency trip permit that is issued to a trucker to authorize a specific delivery into or out of New Jersey. The emergency trip permit is issued because the trucker does not possess an annual State-issued license or other permit that could authorize alcoholic beverage delivery. This permit can be issued by the Director or his authorized agents. The authorized agents will be located at truck stops which those in the trucking industry normally utilize to acquire other types of government permits as well as satisfy their own transportation needs. In essence, the law change paralleled the basic procedures of the Division in this regard.

The amendments proposed will more concisely identify the existing law, rules and Division practices concerning alcoholic beverage transportation into, through or out of New Jersey.

The provisions of this subchapter and proposed amendments thereto are more specifically noted as follows:

N.J.A.C. 13:2-21.1 deals with transportation into New Jersey and will be repealed and restated in a broader, more comprehensive new N.J.A.C. 13:2-21.1.

N.J.A.C. 13:2-21.2 identifies a portion of applicable law as it related to transportation through New Jersey. This section will be repealed and a fuller, more accurate statement of law and regulation will be contained in a new section, N.J.A.C. 13:2-21.3. Provisions in the current N.J.A.C. 13:2-21.4 will form a part of the revised N.J.A.C. 13:2-21.2 that will deal with the transportation of alcoholic beverages for personal consumption in the individual's own vehicle.

N.J.A.C. 13:2-21.3 concerns temporary storage by transportation licensees. The provisions of this section will be repealed since they do not identify any additional control or regulatory requirement, but rather, restate what law already requires.

N.J.A.C. 13:2-21.4 reiterates in part the provisions of N.J.S.A. 33:1-2 and the transportation of alcoholic beverages in an individual's car for personal consumption. This section will be more concisely worded and expanded in the new N.J.A.C. 13:2-21.2. The section will contain the carry limits for alcoholic beverages transported into New Jersey or transported solely within New Jersey. The requirements and cost for permits when the statutory limits are exceeded will be clearly stated.

N.J.A.C. 13:2-21.5 identifies the ability to apply for a special permit to authorize importation of alcoholic beverages into New Jersey. This will be deleted since it will now be covered in the revised N.J.A.C. 13:2-21.2.

N.J.A.C. 13:2-21.6 notes that retail transit licensees (trains, planes, boats and limousines) can bring alcoholic beverages into New Jersey in connection with their licenses. This is proposed for repeal since it is unnecessary and duplicative of the statutory privileges of the license.

N.J.A.C. 13:2-21.7 identifies the limited transportation permit issued by the Director to authorize non-intrastate commercial transportation. The section will now become N.J.A.C. 13:2-21.4 and shall be expanded to more clearly address the application process, permit requirements, permit term, and cost for transportation license insignia.

N.J.A.C. 13:2-21.8 restates the basic prohibition concerning unlicensed transportation and the potential for seizure of vehicles violating the law. This section will be retained as N.J.A.C. 13:2-21.6 with one amendment to reference the law provision involving seizure, N.J.S.A. 33:1-66.

In addition to the above, a new section to be cited as N.J.A.C. 13:2-21.5, Emergency trip permit, is proposed for adoption. Pursuant to P.L. 1988, c.67, signed into law on July 19, 1988, the concept of an emergency trip permit to authorize a nonlicensee to transport alcoholic beverages for a particular specified trip into or out of New Jersey was specifically codified, although such practice has been a basic part of Division policy for approximately 50 years under N.J.S.A. 33:1-74. The permit will be issued by the Director from the Division office in Trenton or through designated agents that will be located at truck stops throughout New Jersey and potentially throughout the United States. This new section will set forth the procedure, requirements, fees and privileges concerning the issuance of Emergency Trip Permits.

Lastly, for clarity purposes, the requirements on licensees and permittees to authorize a search of the transportation licensed or permitted vehicle (auto, truck, tractor trailer, cab, tanker, etc.) now set forth at N.J.A.C. 13:2-20.10 will be repeated at N.J.A.C. 13:2-21.7 to eliminate any possible ambiguity.

The subchapter as currently structured reflects changes made in a complete review and revision of Division rules adopted September 8, 1977. However, the basic subject matter of this subchapter has been, as noted above, a part of the Division's regulatory framework for approximately 50 years. These provisions will expire pursuant to Executive Order No. 66 (1978) as part of the entire N.J.A.C. 13:2 sunset on August 5, 1990. In compliance with appropriate rules, the within amendments are deemed necessary, adequate, reasonable, efficient, understandable and responsive to the regulatory objectives, policies and purposes that exist today.

Social Impact

Regulating the transportation of alcoholic beverages facilitates and enhances the Division's ability to monitor compliance with numerous laws and rules aimed at the maintenance of orderly, controlled and verifiable transportation. Some readily identifiable objectives attained by a definite licensure or vehicle identification procedure include deterring unlawful diversion of product to improper sources, protecting against loss of tax revenues, and fostering the comprehensive enforcement of numerous other regulatory and legislative provisions.

By identifying the participants and the vehicles utilized, the law enforcement community and the Division can effectively ascertain the extent and nature of alcoholic beverage activity in the State and assess these activities to provide a regulatory framework that will best achieve the legislative mandates of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq.

Economic Impact

The ability to acquire the necessary permit authorized under this subchapter is relatively simple and the cost is moderate. A limited transportation Permit costs $200.00 and will allow the permittee to transport alcoholic beverages into or out of New Jersey for a full year. The emergency trip permit costs $25.00 and will allow one specific delivery into or

out of New Jersey. This is most useful for truck operators who do not regularly transport alcoholic beverages. The personal consumption or importation permits that allow a New Jersey resident to transport in excess of the statutory limits in N.J.S.A. 33:1-2 costs only $5.00.

All permit fees are deposited into the General Treasury of the State. The surcharge collected when the designated agent issues the emergency trip permit at a truck stop will cover the agents' business operations. The location of these agents at the most frequented truck stops will economically benefit the permit applicant by saving the expense required to travel to Trenton and the Division's office to acquire these permits.

During 1988, the number of permits issued in these areas was as follows:

Limited transportation permits	185
Personal consumption/importation	224
Emergency trip permit	8,724

Regulatory Flexibility Analysis

The amendments basically affect two types of persons. The first would be any resident of this State who wishes to transport or import into New Jersey alcoholic beverages in their own vehicle in excess of statutory limits set forth in N.J.S.A. 33:1-2. The second would be truckers who occasionally transport alcoholic beverages into or out of New Jersey. The requirements to obtain the necessary permits to authorize the above-referenced transportation is simple. No professional services are needed. The recordkeeping requirements are minimal. Lastly, these amended rules require no added capital expenditures for compliance.

In sum, these permits are easily attainable, require little or no other activity than completion of the application form, and require minimal preparation or retention of documents.

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

SUBCHAPTER 21. TRANSPORTATION OF ALCOHOLIC BEVERAGES INTO, THROUGH OR OUT OF THE STATE

[13:2-21.1 Importation by licensed manufacturer or wholesaler

Alcoholic beverages owned by or sold to the holder of a New Jersey manufacturer's or wholesaler's license may be brought into this State by a licensed transporter, or in the licensee's vehicle bearing a proper transit insignia].

13:2-21.1 Delivery into or out of the State

Delivery of alcoholic beverages into or shipment of alcoholic beverages out of New Jersey is prohibited unless the beverages are transported by a licensee pursuant to N.J.A.C. 13:2-20 or in a vehicle bearing or carrying a permit issued in accordance with this subchapter.

[13:2-21.2 Transportation through New Jersey

(a) Alcoholic beverages in amounts not exceeding one-fourth barrel, or one case containing not in excess of 12 quarts in all, of beer, ale or porter and one gallon of wine and one gallon of other alcoholic beverages, properly labeled and bearing such indicia of tax payment as is required by the laws of the United States, may be transported through this State in any vehicle provided no delivery is made in New Jersey, and provided further the beverages may lawfully be delivered and received in the state of destination.

(b) Alcoholic beverages in excess of the amounts hereinabove set forth, properly labeled and bearing the aforesaid indicia of tax payment, passing through this State, may be transported through this State in any vehicle:

1. Which bears proper transit insignia issued by the Directors of the Division of Alcoholic Beverage Control; or

2. The driver of which has in his possession bona fide, authentic and accurate waybills or similar documents stating the bona fide names and addresses of the consignee and consignor, the nature and quantity of the alcoholic beverages being transported, the place of origin and destination; provided further, the beverages may be lawfully delivered to and received by a consignee fully authorized by State and Federal laws to receive the same.]

[13:2-21.3 Importation by a licensed transporter

Alcoholic beverages may be brought into New Jersey by a licensed transporter where they are being delivered to a licensed public warehouse for temporary storage, and awaiting ultimate delivery without this State, or within this State to licensed manufacturers and wholesalers.]

[13:2-21.4 Importation] **13:2-21.2 Transportation** for personal consumption; amount limitation; **permit**

(a) Alcoholic beverages intended **in good faith** for personal consumption and not for sale may [, if properly labeled and bearing such indicia of tax payment as is required by the laws of the United States,] be [brought] **transported** into this State **from a point outside New Jersey** by any [individuals on their] person[s or] in **a** vehicle[s] under [their] **his or her** control, [to the following extent, vis:] **without any transportation license or permit, to the extent permitted by N.J.S.A. 33:1-2, that is** not exceeding one-fourth barrel or one case containing not in excess of 12 quarts in all, of beer, ale or porter, and one gallon of wine, and two quarts of other alcoholic beverages within any consecutive period of 24 hours[, provided, however, that no licensed transporter may accept any shipment of alcoholic beverges in any amount from or at the licensed premises of any retailer of alcoholic beverages licensed in any other state and thereafter deliver or cause to be delivered such shipment to any consumer within this State].

(b) Alcoholic beverages intended in good faith for personal consumption and not for sale may be transported between points within this State by any person in a vehicle under their control to the extent permitted by N.J.S.A. 33:1-2 that is, not exceeding one-half barrel, or two cases, containing not in excess of 24 quarts in all, of beer, ale or porter, and e gallons of wine and 12 quarts of other alcoholic beverages within any consecutive period of 24 hours.

(c) Transportation of alcoholic beverages intended in good faith for personal consumption in excess of the limits set forth in this section is prohibited, unless the consumer:

1. Acquires from the Division a special permit to authorize the intrastate transportation in that individual's vehicle for a fee of $5.00 as set forth N.J.S.A. 33:1-2; or

2. Has the alcoholic beverages delivered intrastate by a New Jersey licensed alcoholic beverage transporter; or

3. Acquires from the Division a special permit to authorize the interstate transportation for a fee of $5.00 as set forth in N.J.S.A. 33:1-2. No such permit shall be issued until the applicant establishes that there has been payment of all applicable New Jersey Alcoholic Beverage Taxes.

13:2-21.3 Transportation through New Jersey

(a) Alcoholic beverages may be transported through the State of New Jersey in any vehicle provided the following terms and conditions are met:

1. No delivery is made in New Jersey;

2. The alcoholic beverages may lawfully be sold and transported from the state of origin;

3. The driver of the vehicle possesses a bona fide, accurate waybill, bill of sale, invoice, receipt or similar document stating the name and address of the seller and buyer, the type and quantity of alcoholic beverages being transported and the places of origin and destination; and

4. The alcoholic beverages may lawfully be delivered to and received in the state of destination.

[13:2-21.5 Special permits

Alcoholic beverages may be brought or carried into New Jersey by a person having a special permit issued by the director in any vehicle to the extent and subject to the conditions of such special permit, without any transit insignia.]

[13:2-21.6 Transportation by retail transit licensees

Retail transit licensees may continue to bring alcoholic beverages into this State in connection with their licenses.]

[13:2-21.7] **13:2-21.4** Limited transportation permit

(a) Alcoholic beverages not intended for delivery, sale or use in New Jersey may be transported from the licensed premises in this State of a manufacturer,[or] wholesaler or [from a licensed] public warehouse **licensee**, to points outside this State; or between points outside this State and piers of import or export located within the State [provided that if the transporter engaged in such transportation

does not hold] **by the holder of** a New Jersey transportation license [, such transporter shall first have obtained] **or** a limited transportation permit [from the Director of the Division of Alcoholic Beverage Control authorizing the foregoing transportation].

(b) Application for a limited transportation permit shall be made to the Division on a form prescribed by the Director, in duplicate, accompanied by a fee of $200.00.

(c) A limited transportation permit has a term of one year terminating on June 30, unless sooner cancelled by the Director.

(d) The holder of a limited transportation permit cannot transport alcoholic beverages unless the vehicles have affixed thereto a limited transportation permit insignia.

(e) Limited transportation permit insignia are obtainable from the Division in the same manner, with the same eligibility requirements, transfer restrictions and insignia location as a transit insignia as set forth in N.J.A.C. 13:2-20. The cost for this limited transportation permit insignia is $20.00 per vehicle.

13:2-21.5 Emergency trip permit

(a) The Director, Division of Alcoholic Beverage Control, or any designated agent of the Director may issue a special emergency trip permit for the temporary or emergency transportation of alcoholic beverages into or out of the State in any vehicle not otherwise authorized by license or permit issued pursuant to N.J.A.C. 13:2-20 or this subchapter.

(b) An emergency trip permit shall authorize the delivery into or out of the State for a particular singular shipment identified in the permit from a specified source of origin to a specified destination.

(c) Applications for an emergency trip permit shall be on a form prescribed by the Director and may be issued by the Director or his designated agent for such purpose.

(d) The fee for an emergency trip permit is $25.00, which shall be deposited in the State Treasury. A surcharge in an amount allowed by the Director may be collected and retained by the agent when the permit is issued by that designated agent.

(e) A designated agent shall maintain true and accurate books of account, electronically transmit to the Division at time of issuance a copy of the issued permit, remit emergency trip permit fees to the Division within seven business days after issuance, and post an adequate performance bond if required.

(f) A desginated agent serves at the will of the Director and may be dismissed without cause upon 30 days notice.

[13:2-21.8] **13:2-21.6** Prohibited transportation; seizure of unlawful property

No alcoholic beverages shall be transported into, through or out of the State except in accordance with [the foregoing rules] **this subchapter**. Alcoholic beverages transported in violation of [these rules], **this subchapter** and the vehicle containing the same, are unlawful property and are subject to seizure and forfeiture by the [director] **Director in accordance with N.J.S.A. 33:1-66.**

13:2-21.7 Search of vehicle

By acceptance of a special permit issued pursuant to this subchapter for the transportation of alcoholic beverages in excess of the quantities authorized by law, or a limited transportation permit, or an emergency trip permit, the holder of the permit consents to the inspection and search of the vehicle for which such permit is issued, without search warrant, by any person authorized to enforce the provisions of the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1 et seq.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Nonrenewal of Automobile Insurance Policies
Proposed Repeal and New Rule: N.J.A.C. 11:3-8.4
Proposed Amendment: N.J.A.C. 11:3-8.2

Authorized By: Kenneth D. Merin, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1; 17:1C-6(e); 17:22-6.14a1, 2 and 3; 39:6A-3; 39:6A-7; 39:6A-19; P.L. 1988, c.119 (N.J.S.A. 39:6A-7.1).

Proposal Number: PRN 1989-241.

Submit comments by June 14, 1989 to:

Verice M. Mason, Assistant Commissioner
Department of Insurance
Legislative and Regulatory Affairs
20 West State Street
CN-325
Trenton, New Jersey 08625-0325

The agency proposal follows:

Summary

Section 26 of P.L. 1988, c.119 (N.J.S.A. 39:6A-7.1) expands the right of insurers to nonrenew automobile insurance policies. N.J.S.A. 17:29C-7.1(b) permits an insurer to nonrenew in each territory up to two percent of the policies in force at the end of the previous calendar year. N.J.S.A. 17:29C-7.1(c) permits an insurer to nonrenew an additional one automobile for each two newly insured automobiles voluntarily written in each territory, subject to a fair and non-discriminatory formula to be established by regulation. This proposed new rule and amendment conform the current rules to the new law, and set forth the criteria required by N.J.S.A. 17:29C-7.1(c) which circumscribe use of that reason for nonrenewal.

N.J.A.C. 11:3-8.4 is proposed for repeal and replacement by a new rule which was adopted as part of the Department's efforts to encourage voluntary depopulation of the New Jersey Automobile Full Insurance Underwriting Association. That rule is no longer necessary since depopulation has now been mandated by statute.

The proposed new rule provides instead for the annual nonrenewal of up to two percent of the policies in each territory, as provided by N.J.S.A. 17:29C-7.1(b). The proposed new rule further provides for additional nonrenewals based on the "one nonrenewal for each two newly written" formula contained in N.J.S.A. 17:29C-7.1(c), subject to the following restrictions:

1. Besides being from the same territory, the driver characteristics (age, sex and marital status) and use of vehicle must be the same for the nonrenewed automobile as for the two newly insured automobiles.

2. An insurer must exhaust its permitted nonrenewals based on the annual two percent limitation before justifying a nonrenewal on the basis of two newly insured automobiles.

These restrictions are intended to prohibit unfairly discriminatory policy nonrenewals. They prevent an insurer from using the "one for two" reason to nonrenew policies of drivers with specific characteristics, and nonrenewing more similarly classified policies using the two percent annual limit. The proposed amendment to N.J.A.C. 11:3-8.2 requires the insurer to identify clearly the reason for nonrenewal on the notice, and to provide information about the rating territory and policy classification for monitoring purposes.

Social Impact

The proposed new rule and amendment will impact automobile insurance purchasers and automobile insurers. They implement recent legislative changes to the automobile insurance laws, and thus will have the positive social impact on the automobile insurance market as determined by the Legislature. They will prevent unfairly discriminatory nonrenewals.

Economic Impact

The proposed new rule and amendment will impact the Department as the increase in automobile insurance nonrenewals is likely to increase the number of consumer complaints received and to which the Department must respond. If this proves correct, additional investigators must

be added to the current staff. The number required cannot be determined at this time.

The proposed new rule and amendment will also impact automobile insurers, who may be required to amend their current procedures for nonrenewal of policies to provide additional information on their nonrenewal notices. This change will be a minor one and the cost should be more than offset by the increased competitive flexibility regarding nonrenewals permitted by the legislation and the proposed rule and amendment.

Regulatory Flexibility Analysis

The proposed new rule and amendment may apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These "small businesses" would consist of insurance companies authorized to write private passenger automobile insurance; a maximum of five automobile insurers may qualify as "small businesses."

The proposed new rule and amendment impose requirements on these businesses in connection with the nonrenewal of automobile insurance policies. They permit nonrenewals for an increased variety of reasons, but require the regulatory basis be specified on the notice of nonrenewal to the insured. Overall, the proposed new rule and amendment increase the underwriting flexibility of all companies. They do not require certain policies be nonrenewed; they allow companies more freedom to exercise business judgments.

When the company chooses to exercise that judgment to nonrenew a policy, the rule authorizing it must be specified. This is a requirement of the current rule, and no additional costs are imposed. Some minor changes in internal company procedures may be required to adapt to the new reasons for nonrenewal, but they may be accomplished with the company's current underwriting staff. The legislation provides no additional flexibility for insurance companies that qualify as "small businesses."

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

11:3-8.2 General provisions

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

(f) No notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured no less than 60 days and no more than 90 days prior to the expiration of the current policy, setting forth the reason(s) for such nonrenewal.

1. No notice of nonrenewal shall be valid unless it includes the text of the designated provision(s) of this subchapter under which action is being taken and the correct facts which bring the insured under the provision(s), including dates and any other facts necessary for identification of the incidents. In the event action is being taken under N.J.A.C. 11:3-8.3(a)1, the text of the exceptions under N.J.A.C. 11:3-8.3(a)2 must be included together with a statement that none of these exceptions are applicable.

i. In the event action is being taken under N.J.A.C. 11:3-8.3(a)1[.], (b) or (c), the text of the notice shall include both the number of accidents or claims where the insurer's nonrenewal is contingent thereon, and the number of [cars] **automobiles** in the household.

ii. In the event action is being taken under N.J.A.C. 11:3-8.4, the notice shall identify the territory and contain the insurer's classification code that identifies the driver characteristics (age, sex and marital status) and use of vehicle by which the policy is currently rated.

iii. In the event action is being taken under N.J.A.C. 11:3-8.4, the notice shall specify that the action is being taken in accordance with either N.J.A.C. 11:3-8.4(a) (two percent territorial nonrenewal) or N.J.A.C. 11:3-8.4(b) (one nonrenewal for each two newly insured automobiles). The notice shall not state that the action is being taken in accordance with both provisions.

2.-3. (No change.)

(g)-(i) (No change.)

11:3-8.4 Additional nonrenewals [based on underwriting guidelines

(a) An insurer may issue notice of nonrenewal based upon a failure to meet current underwriting standards as specified in such insurer's underwriting guidelines provided that such nonrenewals may be issued only with respect to a policy:

1. Issued by the insurer to any policyholder who was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter; or

2. Issued by the insurer to any policyholder who was last insured through a statutorily mandated residual market mechanism; or

3. Issued by the insurer to any policyholder who is a first-time applicant for automobile coverage.

i. For the purposes of this section, the term "first-time applicant" shall mean a person seeking automobile insurance for the first time, including a child applying for a policy in his or her own name after being on their parent's policy.

(b) Pursuant to the provisions of N.J.S.A. 17:22-6.14a1, an insurer's underwriting guidelines shall not be arbitrary, capricious or unfairly discriminatory.

1. Nonrenewals based upon one or more of the following reasons are specifically prohibited:

i. The race, religion, nationality or ethnic group of an insured;

ii. Solely upon the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer, agent or broker which limits its market to one lawful occupation or profession, or to several related lawful occupations or professions;

iii. The principal location of the insured motor vehicle, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination. The insurer shall state the business purpose for such nonrenewal and provide the Department with documentation of such purpose upon request;

iv. Solely upon the age, sex or marital status of an insured, except that this subparagraph shall not prohibit rating differentials based upon age, sex or marital status;

v. The insured previously obtained insurance coverage through a residual market insurance mechanism;

vi. Another insurer previously declined to insure the insured or terminated an existing policy of the insured.

(c) When policies are written subject to nonrenewal pursuant to this section, the company shall document that the insured is a first time applicant, was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewed pursuant to this subchapter or was last insured through a statutorily mandated residual market mechanism. Insurance companies shall maintain copies of such documentation for a period of not less than five years. Such documentation shall be available to the Department on request.

(d) Issuance of a notice of nonrenewal pursuant to this section shall be limited to a period of three years from the date as of which the policy becomes effective after first issuance.]

(a) For each calendar year period, an insurer may issue notices of intention not to renew an automobile insurance policy in the voluntary market in an amount not to exceed two percent of the total number of voluntary market automobile insurance policies of the insurer, rounded to the nearest whole number, which are in force at the end of the previous calendar year in each of the insurer's territories.

(b) For every two newly insured automobiles which an insurer voluntarily writes in each territory during each calendar year period, the insurer shall be permitted to refuse to renew one additional automobile in that territory in excess of the two percent limitation established in (a) above, subject to the conditions set forth below. For the purposes of this subsection, "voluntarily writes" shall not include any exposure voluntarily written by or assigned to an insurer to meet any quota established pursuant to N.J.S.A. 17:30E-14.

1. Any automobile nonrenewed in accordance with this subsection shall be similarly rated as to driver characteristics (age, sex and marital status) and use of vehicle as the two newly insured automobiles.

2. No insurer shall issue a notice of nonrenewal in accordance with this subsection until it has exhausted its permitted number of annual nonrenewals in accordance with (a) above.

(c) Insurance companies shall maintain records of nonrenewals for not less than five years which shall include a copy of the notice of nonrenewal, data concerning the allowable number of nonrenewals in each territory computed in accordance with (a) above, and data concerning the actual number of nonrenewals in each territory for each classification, computed in accordance with (b) above. Such records and data shall be made available to the Department upon request.

(d) Nothing in this section shall be construed to authorize insurers to act in contravention of any application State or Federal law prohibiting discrimination on impermissible bases.

(a)

DIVISION OF ACTUARIAL SERVICES

Excess Interest Reserves Adjusted for Policy Loans

Proposed New Rules: N.J.A.C. 11.4-33

Authorized By: Department of Insurance, Kenneth D. Merin, Commissioner.
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:19-8g.
Proposed Number: PRN 1989-240.

Submit written comments by June 14, 1989 to:
Verice M. Mason, Assistant Commissioner
Department of Insurance
Division of Legislative and Regulatory Affairs
20 West State Street
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Minimum standards for the valuation of reserve liabilities for life insurance policies and annuity and pure endowment contracts issued by life insurers transacting business in this State are established by N.J.S.A. 17B:19-8. Consistent therewith, each insurer must maintain reserves which are sufficient to provide for all unmatured obligations.

Some insurers have elected to credit interest to policy values at rates that exceed the maximum valuation interest rates prescribed under N.J.S.A. 17B:19-8. To the extent that an insurer is committed to creating excess interest for any period which extends beyond the valuation date, the insurer has incurred an obligation for which an additional reserve liability must be established.

The excess interest reserves recognize the additional risk borne by an insurer in guaranteeing to credit interest at a rate higher than the maximum valuation rate. However, some contracts may have policy loan provisions which have been executed by policyholders. For those contracts, no such risk exists on the loaned amounts and the Commissioner may determine that the excess interest reserve for those portions of the fund values which are encumbered by policy loans to the policyholders is not required.

Social Impact

It is anticipated that the proposed new rules will have no direct social impact inasmuch as the requirements impact solely on internal accounting procedures for those insurers seeking relief pursuant to this subchapter and on the reserve funds held by such insurers.

Economic Impact

The proposed new rules modify the minimum standards for calculation of excess interest reserves in certain instances where policy loans exist. In some cases, use of the rules will permit companies to reduce and/or release currently held reserves, and allow companies to establish lesser excess interest reserves in the future.

Regulatory Flexibility Analysis

The Department believes that few, if any, insurers subject to the proposed new rules are "small businesses" as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Additionally, the proposed new rules impose no undue burden or adverse economic impact on insurers which may qualify as "small businesses."

Small companies seeking relief under the proposed new rules can expect to incur little or no additional administrative expenses, no additional reporting, and little or no change in present record-keeping systems. All companies should be able to easily absorb whatever minimal costs are incurred.

Full text of the proposal follows:

SUBCHAPTER 33. EXCESS INTEREST RESERVE ADJUSTMENT

11:4-33.1 Purpose

This subchapter establishes procedures for modifying the calculation of excess interest reserves when a life insurer guarantees to credit policy values with interest which exceeds the maximum valuation rate prescribed in N.J.S.A. 17B:19-8. This subchapter does not limit or restrict any other requirement of law.

11:4-33.2 Applicability and scope

This subchapter applies to all life insurance policies, pure endowment and annuity contracts issued by an insurer transacting business in this State in which the insurer has committed to crediting interest to policy values for any period that extends beyond the valuation date at a rate that exceeds the maximum valuation rate as specified and defined in N.J.S.A. 17B:19-8.

11:4-33.3 Requirements

(a) In addition to the basic policy reserve required under N.J.S.A. 17B:19-8, a life insurer is also required by N.J.S.A. 17B:19-8 to establish an excess interest reserve whenever the insurer has committed to crediting interest to policy values for any period of time that extends beyond the valuation date at a rate that exceeds the maximum valuation interest rate.

(b) The amount of the excess interest reserve required equals the total amount of the excess interest commitment, discounted to the valuation date using an interest rate not greater than the maximum rate prescribed under N.J.S.A. 17B:19-8.

(c) Upon written request by an insurer to the Commissioner, the Commissioner may determine that the excess interest reserve calculated on that portion of the policy value encumbered by a policy loan is not required. In making such determination, the Commissioner shall consider the following:

1. The relationship between any minimum guaranteed interest rate, the maximum valuation interest rate and interest rate commitment; and

2. Such other information which the Commissioner deems necessary to make a determination.

11:4-33.4 Separability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(b)

DIVISION OF THE REAL ESTATE COMMISSION

Employment Agreements; Commissions; Accounting to Salesperson

Proposed New Rule: N.J.A.C. 11:5-1.10

Authorized By: New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.
Authority: N.J.S.A. 45:15-6.
Proposal Number: PRN 1989-225.

Submit comments by June 14, 1989 to:
Rober J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Real Estate Commission (Commission) has proposed a new rule at N.J.A.C. 11:5-1.10. The proposed new rule attempts to clarify the procedures set forth in the current rule required to be followed when a broker and salesperson enter into an employment agreement with one another. The Commission has determined that the language contained in the current rule is ambiguous and fails to adequately inform

a broker as to his or her obligations upon employing a salesperson on a commission basis.

The proposed new rule changes the language in the existing rule by adding a list of the essential provisions which, at a minimum, must be included in all employment or independent contracts or agreements between brokers and salespersons. The current rule also lacks language which mandates that both the broker and salesperson sign the written agreement prior to the salesperson's commencement of activity under the authority of the broker. The proposed new rule contains such language and specifies the duration that the broker must maintain a copy of the agreement. The new rule also requires that a copy of the fully executed agreement be provided to the salesperson.

Social Impact

The adoption of the proposed new rule will benefit the public-at-large. The new rule will allow the Commission to devote more time and resources to the investigation and resolution of complaints from the public rather than to complaints involving commission disputes between brokers and salespersons. In effect, the proposed rule forces a broker and salesperson to resolve their commission disputes through either a settlement agreement, arbitration or a civil suit in a court of law. The Commission will limit its investigation to determine whether all of the requirements of this rule pertaining to the issuance of certain writings by brokers to salespersons have been complied with. If they have, the Commission would take no further action on a commission dispute complaint unless and until the salesperson had prevailed in an arbitration proceeding or civil suit against the broker and had been unable to collect on their award.

Economic Impact

The proposed new rule will provide an economic benefit to the entire real estate industry. The new rule is designed to assist a salesperson who disputes the amount of commission paid by their broker, by compelling the broker to provide a full explanation in writing of any variation between the commission paid and the amount specified in the employment agreement. By complying with the new rule, a broker may avoid incurring legal and administrative costs which frequently arise from commission disputes.

Regulatory Flexibility Analysis

The proposed new rule imposes only minimal additional record keeping requirements on small businesses, under which term are included most of the real estate brokerage businesses in New Jersey.

This rule adds to current provisions the requirement that the broker provide a complete written explanation for withholding the payment of moneys due a salesperson under the terms of the agreement. The additional burden imposed on small businesses by this requirement is minimal, when compared to the benefit conferred. In addition, the broker must maintain certain records as already prescribed in N.J.A.C. 11:5-1.3 and 1.12 which implicitly refers to New Jersey's statute of limitations of six years in contract actions. Further, the proposed rule makes reference to N.J.A.C. 11:5-1.8(d) to ensure that a broker complies with this rule under the appropriate circumstances. As the businesses affected by the new rule are predominantly small businesses, no differentiation in requirements is provided.

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

11:5-1.10 **Employment agreements;** [Commissions:] **commissions;** accounting to salesperson

[(a) Unless otherwise expressly provided by written agreement between a broker with whom the salesperson is licensed and salesperson, all commissions due to a salesperson from such broker shall be subject to accounting and payment to the salesperson not later than 10 days from the receipt of such commission by the broker.

(b) Every licensed broker must promulgate a policy for the payment of commissions to salespersons on their termination. Such office policy must prescribe the rate of commission to be paid on such termination. The licensed broker must obtain the written signature of each salesperson licensed under such broker as soon as such employment or association is established, indicating that such salesperson agrees to such policy:

1. Upon termination of employment or other association, the broker shall make a complete accounting in writing of all commissions due to said salesperson.

2. In the event any commission so accounted for is not in accord with the established commission schedule, the broker shall give a complete and comprehensive written explanation of any difference.

3. Such accounting shall be made not later than 30 days after the termination of employment or other association of said salesperson.]

(a) No salesperson may commence operations as such for a broker and no broker may authorize a salesperson to act as such on his or her behalf until a written agreement as provided in this subsection has been signed by the broker and salesperson. Prior to an individual's commencement of activity as a salesperson under the authority of a broker, the broker and salesperson shall both sign a written agreement which recites the terms under which the services of the salesperson have been retained by the broker. Such terms shall include, but need not be limited to, the following:

1. The rate of compensation to be paid to the salesperson during his or her affiliation with the broker;

2. A promise by the broker to pay to the salesperson his or her portion of commissions earned within 10 business days of their receipt by the broker, or as soon thereafter as such funds have cleared the broker's bank;

3. The rate of compensation payable to the salesperson on transactions which close and, if applicable, on renewals which occur subsequent to the termination of the salesperson's affiliation with the broker; and

4. A provision that any future changes to the agreement will not be binding unless the changes are contained in a writing signed by both parties.

(b) A copy of the fully executed agreement shall be provided to the salesperson upon the commencement of his or her affiliation with the broker, and the original thereof shall be maintained by the broker as a business record in accordance with N.J.A.C. 11:5-1.13.

(c) By (the 30th day following the effective date of this amendment), all brokers shall have secured such agreements with all salespersons licensed through them on that date, which agreements shall comply in all respects with the provisions of this section.

(d) All compensation paid to brokers shall, unless debited from funds held in escrow in accordance with N.J.A.C. 11:5-1.8(d), be deposited into the general business account of the broker within five business days of their receipt by the broker.

(e) In the event that any monies due a salesperson under the terms of the written agreement with their broker are not paid within 10 business days of the broker's receipt of such funds or promptly thereafter upon their having cleared the broker's account, the broker shall provide to the salesperson a complete and comprehensive written explanation of the failure to pay such monies.

(f) Upon the termination of the affiliation of a salesperson with a broker, the broker shall make a complete accounting in writing of all monies due the salesperson as of the date of termination and/or which may become due in the future. In the event any sums so accounted for are not in accord with the terms of the post-termination compensation clause in the written agreement between the broker and the salesperson, the broker shall give a complete and comprehensive written explanation of any difference to the salesperson with the accounting. Such accounting shall be delivered to the salesperson not later than 30 days after termination.

(g) Copies of all written agreements as described in (a) above, of all written explanations of the failure to pay compensation due a salesperson on a timely basis as described in (e) above, and of all accountings and written explanations regarding compensation due a salesperson subsequent to the termination of their affiliation with a broker as described in (f) above shall be maintained by the broker, with adequate proof of the delivery of the same to the salesperson, for a period of six years.

(h) In situations where the Commission confirms that a broker has complied with all of the requirements imposed by this section, the Commission will not further investigate a complaint alleging the nonpayment of a commission by a broker to a salesperson unless such complaint is accompanied by a copy of an arbitration decision or the equivalent, or a copy of a judgment of a court of competent jurisdiction secured by the salesperson against the broker. Unless appealed, the failure by a broker to pay monies awarded to a salesperson under the

terms of any such decision or judgment within 30 days of its effective date shall subject the broker to sanctions pursuant to N.J.S.A. 45:15-17.

(i) All references to "salesperson" in this section shall be construed to also include individuals licensed as broker-salespersons.

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Permanent Type Records to be Maintained by Broker

Proposed Amendment: N.J.A.C. 11:5-1.12

Authorized By: New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.
Authority: N.J.S.A. 45:15-6.
Proposal Number: PRN 1989-230.

Submit comments by June 14, 1989 to:
Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Real Estate Commission (Commission) proposed to amend N.J.A.C. 11:5-1.12. The proposed amendment will clearly specify to licensees the type of business records brokers are to generally maintain, and, more specifically, the manner in which records regarding funds held in trust are to be kept. The Commission has determined that the proposed amendment is necessary to ensure that licensees fully comply with their fiduciary responsibility to properly maintain moneys entrusted to them by others. Their ability to do so will be enhanced by their being required to keep the detailed records mandated by this rule. The amendment will also assist the Commission in its efforts to verify that licensees have properly handled escrowed funds. Thus, the amended rule will enhance the protection which the public is entitled to receive from brokers who unscrupulously, or through sloppy bookkeeping practice, mishandle escrowed funds.

The proposed amendment sets forth how brokers must record their handling of escrowed monies, including the maintenance of an escrow ledger book. These portions of the rule are similar to the recordkeeping requirements imposed by court rule upon New Jersey attorneys with regard to their escrow or trust accounts. The amendment also specifies which documents on transactions wherein the broker acts as an escrow agent or trustee must be so maintained for six years and which documents must be so maintained on transactions where the broker did not act as a trustee or escrow agent.

Social Impact

The proposed amendment will have a beneficial impact on licensees and the public-at-large.

The amendment is designed to inform brokers of their obligation to use a recordkeeping system which the Commission considers essential to the efficient operation of a brokerage business and to the protection of the public. Upon adoption of this amendment, brokers will become more accountable concerning funds held by them. The proposed amendment will also provide assurances to the public that detailed comprehensive records will be kept of all monies they entrust to licensees.

Economic Impact

Upon the implementation of the reporting procedures required by this amended rule, businesses will not sustain a substantial adverse economic impact other than the initial cost to purchase a ledger and make copies of the documentation as specified in the rule. The proposed amendment will help to reduce the frequency of the serious financial problems which result from the inadequate managerial and accounting practices of some licensees. In addition, a licensee who complies with this rule will avoid expenses related to the legal and administrative proceedings that invariably ensue from incidents of commingling or the improper documentation of moneys held by the licensee on behalf of others.

Regulatory Flexibility Analysis

Currently, there are approximately 7,000 licensed real estate brokerage businesses operating in this State, of which most are "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment will impose additional reporting requirements on both small and large real estate businesses. The Commission has taken into account the resources available to small businesses and has determined that the proposed requirements will not impose an unreasonable burden on such businesses, when compared to the benefits that the public and the principals of such businesses will realize. This amendment merely requires that sound accounting procedures be followed by all licensed real estate firms doing business in this State with regard to escrowed or trust funds. Clearly, no aspect of the broker's business is more sensitive, or imposes a greater duty of circumspection and fidelity upon the licensee, than their assumption of responsibility for the maintenance and proper disbursement of the funds of others. The proposed amendment makes no differentiation between small and large businesses on their obligations to record and maintain information concerning trustee or escrow funds. The Commission is aware, however, that the cost and time required to comply with the rule will vary according to the volume of business done by, and the current recording system maintained at, each real estate firm.

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

11:5-1.12 Permanent type records to be maintained by broker

(a) Every broker shall keep [permanent type] records **as prescribed herein** of all funds and property of others received by him **or her** for not less than six years from the date of receipt of any such funds or property. **All such funds shall be deposited by the broker in accordance with the requirements of N.J.A.C. 11:5-1.8.**

1. Whenever a broker receives funds to be held in trust in cash, a written receipt signed by the licensee to whom the funds were paid and specifying the date, amount, purpose and from whom those funds were received shall be issued to the payor of the funds. A copy of that receipt shall be retained by the broker as prescribed in this section.

(b) [These] **The** records **required to be kept pursuant to (a) above** shall [clearly indicate the date, amount and from whom received, specifying property and reason for holding moneys, date of deposit of such funds and name of depository bank; also, date of disbursement, amounts forwarded, together with the name of the recipient, and any other pertinent information concerning the transaction.] **include:**

1. Written references on the check book stubs or checkbook ledger pages to all deposits into and withdrawals from the account(s) maintained by the broker in accordance with N.J.A.C. 11:5-1.8, which shall specifically identify the date, amount and source of each item deposited, the property to which the monies pertain and the reason for their being held by the broker. Such records shall also specify the date, amount, payee and purpose of each disbursement. All trust or escrow account withdrawals shall be only by authorized intrastate or interstate bank transfer or by check payable to a named payee and not to cash;

2. An appropriate ledger book for all trustee accounts or escrow accounts showing, in one location in that ledger book for each separate trust transaction, the source of all funds deposited in such accounts, the date of deposit, the names of all persons for whom the funds are or were held, the amount of such funds, the amounts and dates of all disbursements of such moneys, and the names of all persons to whom such funds were disbursed. The Commission will not deem a regular checkbook ledger as sufficient to constitute an appropriate ledger book. Such a ledger book may be maintained in a computer or similar device so long as it is capable of reproducing the electronically stored data on paper so as to depict the complete history of all activity in each separate trust transaction, and the data can be maintained in an easily accessible form for the required six year period. A regular running balance of the individual transaction ledger sheets shall be maintained. The total of the running balance must agree with the control figure computed by taking the beginning balance, adding the total of moneys received in trust on that transaction, and deducting the total of all moneys disbursed;

3. Copies of all records, showing that at least quarterly a reconciliation has been made of the checkbook balance, the bank statement balance and the client trust ledger sheet balances;

4. All bank statements, cancelled checks and duplicate deposit slips;

5. Copies of all offers, contracts of sale and sale or rental listing agreements;

6. Copies of all leases and property management agreements;

7. Copies of all statements to owners, sellers, purchasers and tenants showing the disbursement of funds to them or on their behalf, which statements shall identify the property and unit, if applicable, for which the disbursement was made and the reason for the disbursement;

8. Copies of all bills paid for owners, sellers, purchasers or tenants by the broker from escrowed funds, which payments may only be made pursuant to written authorization;

9. Copies of all records showing payments to persons licensed with the paying broker and to cooperating brokers, which records shall contain all information required by N.J.A.C. 11:5-1.8(d); and

10. Copies of all receipts issued for all security deposits accepted from tenants, and of checks for and letters accompanying the release of such funds, and/or the duplicate deposit slips evidencing the deposit of such funds by the broker.

(c) With the exception of the materials described in (d) below, on transactions where a broker has not received the property or funds of others, the following records shall be maintained for six years from the earlier of the date of the listing or property management agreement or of the contract or lease:

1. Copies of all fully executed leases, contracts of sale, property management and listing agreements;

2. Copies of bills for brokerage services rendered in such transactions;

3. Copies of all records showing payments to persons licensed with the paying broker and to co-operating brokers; and

4. Copies of all bank statements, cancelled checks and duplicate deposit slips pertaining to the broker's general business account.

(d) Unaccepted offers and expired listing agreements during the term of which no contract of sale was executed or no tenancy was entered into shall be maintained for six months from the date of the offer or the expiration date of the listing agreement.

(e) The financial books and other records as described in (a), (b), (c) and (d) above shall be maintained in accordance with generally accepted accounting practice. They shall be located at the main New Jersey office of each broker or, in situations where separate general business and/or trust or escrow accounts are maintained at licensed branch offices, either at that branch office or at the main office of the broker. All such records shall be available for inspections, checks for compliance with this section and copying by a duly authorized representative of the New Jersey Real Estate Commission.

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Use of License for the Benefit of Others

Proposed Amendment: N.J.A.C. 11:5-1.14

Authorized By: New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.

Authority: N.J.S.A. 45:15-6.

Proposal Number: PRN 1989-229.

Submit comments by June 14, 1989 to:

Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Real Estate Commission has proposed to amend N.J.A.C. 11:5-1.14. This rule proscribes license lending by real estate licensees.

In September, 1988, the Commission had proposed the repeal of this rule (see 20 N.J.R. 2184(a) (see 20 N.J.R. 3019(a)). However, after considering written comments from the industry, all of which opposed a total repeal, and after a further review of the text of the current rule, the Commission determined that an amendment is necessary to ensure that licensed brokers of record and employing brokers fully understand the type of conduct that would constitute prohibited license lending. Essentially, the amended rule will specify the minimum amount of personal contact which brokers must maintain with their offices and salespeople. The amendment also eliminates a substantial portion of the language in the existing rule which refers to a licensee's lending of their name for the use and/or benefit of others. The revisions to the rule make it consistent with proposed amendments to N.J.A.C. 11:5-1.18 and 1.19 concerning the supervision of main and branch offices published elsewhere in this issue of the New Jersey Register. Thus, N.J.A.C. 11:5-1.14 should be read together with the above-referenced rules when a license lending issue is involved.

Social Impact

The proposed amendment will benefit the public-at-large. The amended rule is designed to protect the public from individuals who engage in real estate activities with little or no supervision from the broker under whom they are licensed. In addition, the reference to N.J.A.C. 11:5-1.18 and 1.19 serves to inform employing brokers and brokers of record about their responsibility to provide proper supervision in their main and branch offices.

Economic Impact

The proposed amendment will have a beneficial economic impact on the real estate industry and the public-at-large.

The rule will help protect the public and real estate businesses from sustaining financial losses which may result from employing the services of an individual or firm over which the licensed broker maintains no control or supervision. In addition, the amendment provides assurances that all licensees involved in a particular transaction will have access to all brokers on at least a weekly basis.

The proposed amendment will also minimize the number of legal actions and related expenses that can occur in the absence of personal oversight by brokers of the operations carried on under the authority of their licenses.

Regulatory Flexibility Statement

The proposed amendment imposes no reporting or record keeping requirements on small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Broker licensees are required to maintain personal oversight and direction of the business, as defined under the rule. Uniform application of this standard, notwithstanding business size, is necessary to fulfill the public protection objective of the amendment.

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

11:5-1.14 Use of [name or] license for the benefit of others

(a) No arrangement, direct or indirect, shall be entered into by any licensee whereby an individual licensee lends his [name] or **her** license for the benefit of another person, firm or corporation, or whereby the provisions of the real estate statute and [regulations] **rules** relating to licensing are circumvented.

[(b) Lending a broker's license for the benefit of another person, firm or corporation shall be construed as including any arrangement whereby a corporation seeks to be licensed in, or whereby a corporation, firm, or individual uses as a business name, a name containing the name of a salesperson or broker-salesperson in, or proposed to be in, the broker's employ, which does not also contain the name of the broker of record, in the case of a corporation or the name of the employing broker, in all other cases, with the following exceptions:

1. If a broker buys the real estate business of a person who, immediately preceding the purchase, has been licensed as a broker and had used his name in the business or corporate name of the real estate business, the purchaser-broker may use the name of the former broker in a business or corporate name which does not also contain the name of the purchaser-broker, even if the former broker is employed by the purchaser-broker as a broker-salesperson or salesperson.

2. In the event of the death of an employing broker or broker of record of a corporation whose name had been used in a business or corporate name immediately preceding the death, if the new broker employs the deceased broker's widow or widower as a broker-sales-

person, the new broker may use the deceased broker's name in a business or corporate name which does not also contain the name of the new broker.]

(b) Lending a broker's license for the benefit of another person, firm or corporation shall be construed as including any arrangement whereby a broker fails to personally oversee and direct the operations of the business of which he or she is licensed as broker of record or employing broker. For the purposes of this section, personal oversight and direction of the business shall be construed as requiring the broker to be physically present in the main office or branch office locations of the business at least one day each week (excluding vacations and emergencies.) Communication via telephone and/or mail alone for an extended period of time may be considered by the Commission as evidence of prohibited license lending.

(c) Nothing in this section shall be construed to limit a broker's responsibility to insure the adequate supervision of all offices in accordance with the requirements of N.J.A.C. 11:5-1.18 and 1.19.

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Advertising

Proposed Amendment: N.J.A.C. 11:5-1.15

Authorized By: The New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.
Authority: N.J.S.A. 45:15-6.
Proposal Number: PRN 1989-228.

Submit comments by June 14, 1989 to:
Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Real Estate Commission has proposed an amendment to the advertising rule. The proposed amendment exempts residential lawn sign advertisements from the requirement that all advertising of licensed brokers contain language, in addition to the name in which the advertising broker is licensed, which indicates that they are engaged in the real estate brokerage business. The existing rule as applied to lawn signs imposes an unreasonable financial burden on many real estate enterprises in this State. In addition, the Commission deems it unnecessary to require such additional wording on lawn signs because real estate developers, investment firms and other similar operations do not typically place lawn signs publicizing themselves on residential properties.

An amendment to subsection (n) has also been proposed to clarify that a licensee who desires to publish an advertisement or place a sign referring to a property which is exclusively listed with another broker may only do so with the written consent of the listing broker.

Social Impact

These proposed amendments will have no adverse impact on the general public. Although the Commission has provided an exemption for lawn signs, the advertising rule continues to provide the public with sufficient protection from misleading advertising campaigns. Advertisements communicated through such mediums as publications, radio or television broadcasts, business stationery, business cards and other business items still must comply with the requirement that sufficient wording be included so as to clearly identify the advertiser as a broker. Furthermore, the amendment to subsection (n) will minimize confusion among licensees on the permissibility of their advertising the exclusive listings of other brokers.

Economic Impact

The proposed amendment will afford licensees the opportunity to minimize costs that are normally incurred for the purchase and maintenance of lawn signs. In addition, the proposed amendment to subsection (n) will have a beneficial effect on the public at large because the confusion created as to the true identity of the listing broker when another broker advertises a property will be minimized. Consequently, prospective purchasers who wish to deal directly with the listing broker's office will be able to more easily identify the listing broker.

Regulatory Flexibility Analysis

The proposed amendment to subsection (c) of the rule does not impose any reporting, recordkeeping or other compliance requirements on small businesses. The amendment simply exempts one mode of advertisement from the disclosure requirements imposed by the rule. The amendment adding subsection (n) clarifies under what circumstances a licensee may advertise property exclusively listed by another broker. Complying with this requirement should impose no costs on small businesses, as it mandates only an obtaining of consent. As real estate brokerage enterprises in New Jersey are predominantly small businesses, no differentiation in this compliance requirement is necessary. The lawn sign exception should result in an economic saving to all real estate brokerage businesses, regardless of size.

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

11:5-1.15 Advertising [rules]

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

(c) All advertising, **with the exception of lawn signs placed on residential properties containing four or fewer units,** shall clearly indicate after the licensee's regular business name that the advertising licensee is engaged in the real estate brokerage business. Except as prescribed by N.J.S.A. 45:15-17(j), examples of permissible language shall include, but are not limited to, "Realtor," "Realist," "real estate broker," "broker," or "real estate agency". Examples of prohibited language when used alone shall include, but are not limited to, "realty," "real estate," "land sales," and "land investments." This provision shall not apply when the word "agency" appears in the advertisement as part of the licensee's regular business name or when the licensee has legal or equitable ownership of the property.

(d)-(m) (No change.)

(n) No licensee shall publish or cause to be published any advertisement or place any sign which makes reference to the availability of a specific property which is exclusively listed for sale by another broker unless the licensee obtains the prior written consent of the broker with whom the property is exclusively listed.

(b)

DIVISION OF THE REAL ESTATE COMMISSION

Maintained Offices

Reproposed Amendment: N.J.A.C. 11:5-1.18

Authorized By: New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.
Authority: N.J.S.A. 45:15-6.
Proposal Number: PRN 1989-227.

Submit written comments by June 14, 1989 to:
Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
8th Floor
Trenton, New Jersey 08625

The agency proposal follows:

Summary

This proposed amendment supersedes the proposed amendment to N.J.A.C. 11:5-1.18 which was previously published in the New Jersey Register on June 6, 1988 at 20 N.J.R. 1160(a). The New Jersey Real Estate Commission has incorporated several substantive changes following the receipt and review of public comments on the initial proposed amendment.

Specifically, the proposed amendment has been revised to clarify the obligation of employing brokers and brokers of record to supervise their primary (main) office. The amendment also emphasizes that such supervision shall be maintained on a full time basis five days a week during usual business hours. The Commission has deemed it necessary to explain in this proposed amendment that maintaining full time supervision at the main office does not require the person performing the supervisory func-

tions to be present at the office continuously during usual business hours. However, the licensed supervisor must provide the personnel at the main office with sufficient information as to allow such personnel to communicate with that person at all times.

The Commission has incorporated the phrase "during usual business hours" into several sentences of the proposed amendment for the purpose of clarification.

The proposed amendment indicates further that the broker who maintains a main office will be ultimately responsible for all activities conducted by licensees including the supervising broker-salesperson and other employees of such office.

Social Impact

The proposed amendment will have a favorable impact on the real estate industry and the general public by assuring efficient and professional management at all real estate establishments.

In addition, those individuals who utilize the services of a broker will be assured that the broker's office is properly supervised at all times. The presence of a qualified licensee exerting supervisory authority over all activities at an office on a full time basis should help to assure that quality service is provided to all members of the public, including those who may be dealing directly with a relatively inexperienced licensee.

Economic Impact

The proposed amendment will also have a beneficial economic effect on the entire real estate industry. Brokers shall reap the financial rewards from satisfied clients who have received real estate services overseen by a licensed supervising broker or broker-salesperson. Also, upon implementation of the management procedures as required by this proposed amendment, real estate enterprises should experience a financial savings because of the reduction of administrative errors and subsequent delays in transactions which frequently result from poorly managed offices. Furthermore, the amendment should reduce the number of complaints from clients to brokers and to the Real Estate Commission. Thus, the Commission will save the time and expense of investigating such complaints and conducting hearings to resolve disputes which frequently arise from a lack of adequate supervision of some licensees.

Regulatory Flexibility Analysis

Most of the real estate brokerage enterprises in New Jersey are small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment places no reporting or record keeping requirements on such businesses. The amendment does require direct supervision of a broker's main office by either the broker or a licensed broker-salesperson. Such full-time supervising person is required to be physically present at the office when not required to be out of the office for office-business related reasons. Since the purpose of this amendment is to assure efficient and professional management at all real estate brokerage establishments, and the Commission considers the proposed supervision requirement a minimum necessary standard, no requirement differentiation based upon business size is possible, particularly in light of the predominance of the real estate brokerage industry in New Jersey by small businesses.

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

11:5-1.18 Maintained offices

(a) Every resident real estate broker **not licensed as a broker-salesperson** shall maintain a [bona fide regularly established] **main** office for the transaction of business [into] **in** the State of New Jersey, which shall be open to the public during usual business hours. [This regulation shall not apply to brokers licensed as broker-salespersons]. **This main office and the activities of the licensees working from it shall be under the direct supervision of either the broker himself or herself, or of a person licensed as a broker-salesperson. Such supervision shall be maintained on a full time basis. Maintaining full time supervision shall not be construed as requiring the person performing the supervisory functions to be present at the office location continuously during usual business hours. However, the person performing the supervisory functions shall provide sufficient information so as to allow the personnel at the main office to make communication with that person at all times. Further, the licensee supervising the main office shall be so employed on a full time basis and, when not required to be away from the office for reasons related to the business of the office, shall be physically present at that office during usual business hours at least five days per calendar week and shall not be otherwise employed during such time.**

1. In the event the main office of a broker is under the direct supervision of a broker-salesperson, the broker who maintains such a main office shall be ultimately responsible for all activities conducted by licensees and employees. Such a broker shall also provide sufficient information to the personnel at such offices so as to allow them to make communication with such broker at all times. Nothing in this section shall be construed to limit a broker's responsibility to comply with the requirements of N.J.A.C. 11:5-1.14.

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

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Branch Office Compliance with N.J.A.C. 11:5-1.18 (Maintained Offices)

Proposed Amendment: N.J.A.C. 11:5-1.19

Authorized By: New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.

Authority: N.J.S.A. 45:15-6.

Proposal Number: PRN 1989-231.

Submit comments by June 14, 1989 to:

Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Real Estate Commission has determined to propose an amendment to N.J.A.C. 11:5-1.19. The purpose of the amendment is to ensure that every branch office of any real estate enterprise is supervised by a competent individual. The adoption of the amendment will make N.J.A.C. 11:5-1.19 compatible with the requirements in N.J.A.C. 11:5-1.18, an amendment to which is proposed elsewhere in the issue of the New Jersey Register, which pertains to the supervision of maintained offices. The language of the proposed amendment will require that all branch offices be under the direct supervision of a person licensed as a broker-salesperson. It should be noted that it is proposed that the operative date of this change will be six months after adoption. Thus, on the date of adoption, any branch office supervisor who does not then possess a broker-salesperson's license will be given a period of six months to qualify for and obtain such a license. If they fail to do so, they will, at the expiration of that six month period, no longer qualify as a branch office manager.

Social Impact

The proposed amendment will have a favorable impact on the real estate industry and the general public. By requiring branch offices to be supervised by broker-salespersons, the public will be assured of dealing with licensees supervised by persons who have demonstrated that they possess the knowledge and experience required for licensure as a broker.

The amendment reflects a decision to enhance the professionalism and efficiency of branch office operations. The presence of a supervisor who is a broker-licensee will ensure that the highest quality service, which the public deserves regardless of whether they deal with a branch office or with the main office of a firm, will be provided.

Economic Impact

The proposed amendment will have a beneficial effect on the entire real estate industry.

Brokers will reap the financial rewards which result from satisfied clients who convey their satisfaction to other prospective clients. Also, upon implementation of this amendment, many real estate enterprises should experience a financial savings because of the reduction of administrative errors, and subsequent delays in transactions, which result from poorly managed offices. Furthermore, the amendment should help to reduce the number of complaints from clients. Thus, the Commission will save the time and expense of conducting investigations and hearings to resolve complaints concerning problems caused by inadequately supervised offices.

If they are currently eligible to do so, current branch office supervisors who are not licensed as broker-salespersons will have to take the State broker license examination and, if successful, apply for a broker-salesperson license. The cost of them doing so will range from $84.00 to $99.00 depending upon whether they pre-register for an exam or walk in.

If such persons have not taken the broker's prelicensure education course in the last year, they will, pursuant to N.J.A.C. 11:5-1.3, have to again take that course and again have their apprenticeship approved before being permitted to take the broker license exam. Such courses are currently being offered for an approximate cost of $300.00.

If such persons are unable to qualify for a broker license, while they may lose the opportunity to work as a branch office supervisor, they could still work as a real estate salesperson on the basis of their licensure as such.

Regulatory Flexibility Analysis

Most real estate brokerage enterprises in New Jersey are small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment will not impose any reporting or compliance requirements on such businesses. All real estate brokerage businesses are required under the amendment to have a licensed broker-salesperson, supervise each branch office. Since branches presently are required under N.J.A.C. 11:5-1.19(c) to be either supervised by a licensed broker-salesperson or a salesperson qualified for a broker's license, the adoption of this amendment would require that, within six months, such qualified salespersons who are to remain supervisors apply for and receive their broker's license, or that a licensed broker-salesperson be hired to supervise the branch office.

The Commission expects any costs to the businesses affected by this amendment to be minimal, since action must be taken by the present non-broker supervisor, with or without the business' assistance, to obtain licensure to remain in the supervisory position, or the business would have to replace the incumbent supervisor. Given the amendment's purpose to enhance the professionalism and efficiency of branch operation, and the predominance of small businesses in the real estate field, the Commission has not differentiated the amendment's requirements based upon business size.

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

11:5-1.19 Branch office compliance with N.J.A.C. 11:5-1.18 (Maintained offices)

(a) (No change.)

(b) No license shall be issued for a branch office situated in the dwelling premises of a salesperson **or broker-salesperson**.

(c) Any branch office shall be under the direct supervision of [either] a licensed broker [or a salesperson who has been the holder of a license for at least two years immediately preceding and would, if he or she so desire, qualify for a broker's license pursuant to the provisions of N.J.A.C. 11:5-1.3 (Qualifications for licensing-broker) of this subchapter] **employed as a broker-salesperson by the broker maintaining the branch office.**

(d) Such individual shall devote his **or her** full time to management of said office during the usual business hours.

(e) (No change.)

(f) When a branch office license is issued to a broker it shall specifically set forth the name of the broker and the address of the branch office, and shall be conspicuously displayed at all times in the branch office. The branch office shall also prominently display the name of the **broker-salesperson** licensee in charge as "office supervisor" and the names of all **other** broker-salespersons [or] **and** salespersons doing business at that branch office.

(g) (No change.)

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Formal Proceedings by the New Jersey Real Estate Commission

Proposed New Rules: N.J.A.C. 11:5-3, 4 and 5

Authorized By: New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.

Authority: N.J.S.A. 45:15-6.

Proposal Number: PRN 1989-226.

Submit written comments by June 14, 1989 to:

Robert J. Melillo
Special Assistant to the Director
New Jersey Real Estate Commission
20 West State Street, CN 328
8th Floor
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Real Estate Commission has proposed a series of rules to provide notice to the public and to licensees of the procedural requirements applicable to the various types of actions heard by the Real Estate Commission.

The rules establish procedures applicable to rulemaking actions, disciplinary actions against licensees, including motions, defaults and settlements in such actions, and the procedures applicable to appeals of initial staff decisions denying licensing applications.

Social Impact

The promulgation of these rules will have a beneficial impact upon members of the public and licensees involved in matters formally considered by the full Real Estate Commission. Through the enactment of these rules, such persons will be provided with notice of the procedures applicable to the particular types of actions in which they are involved. Furthermore, the source of such information will be in the same chapter of administrative rules which contains the substantive rules which govern the conduct of real estate licensees and establish license qualification standards. Consequently, the adoption of these rules will make it easier for persons involved in formal actions heard by the Commission, or who wish to petition the Commission to take a formal rule making action, to submit the documents required, with the required number of copies to accomplish their desired objectives.

Economic Impact

The adoption of these rules will have a beneficial economic impact upon members of the public and licensees. By clearly setting forth the procedures applicable to proceedings before the Commission, and by locating them in the chapter of the New Jersey Administrative Code which contains the substantive rules of the Commission, affected parties will be enabled to prepare submissions to the Commission in a more efficient and timely manner. This will reduce the incidence of erroneous filings and of time spent in attempting to locate the procedural standards applicable to proceedings before the Real Estate Commission, and the expenses attendant thereto.

Regulatory Flexibility Analysis

There are approximately 7,000 real estate brokerage businesses in New Jersey, most of which are small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rules impose no reporting or recordkeeping requirements on such businesses.

Any person, including a small business real estate broker, filing a petition for rulemaking with the Commission is required to comply with the petition filing requirements of proposed N.J.A.C. 11:5-3.2. No capital costs or professional services are required to produce a petition complying with proposed N.J.A.C. 11:5-3.2(a).

The rules in proposed N.J.A.C. 11:5-4 govern certain proceedings before the Commission. Any person, including a small business real estate broker, against whom a complaint is filed with, or an order to show cause issued against by, the Commission is required to comply with the pleadings, hearings and settlement requirements of this subchapter. Persons involved in such proceedings may, but are not required to, engage professional representation before the Commission. The Commission does not anticipate the need for new capital costs for compliance in this area.

Proposed N.J.A.C. 11:5-5 governs appeals from initial denials of license applications. Proposed N.J.A.C. 11:5-5.1(b) sets forth the administrative/informational requirements for such appeals. As in proposed N.J.A.C. 11:5-4, professional representation may, but is not required to be, engaged for the appeal. No new capital costs should be incurred in bringing an appeal.

The proposed new rules set forth the minimum requirements for rulemaking petitions, compliant and order to show cause proceedings and appeals of initial licensure denials. As these are minimum requirements, and as the real estate brokerage industry in New Jersey is predominantly small business in nature, the Commission does not consider it necessary or advisable to differentiate the requirements based upon business size.

Full text of the proposed new rules follows:

SUBCHAPTER 3. PETITIONS FOR RULEMAKING

11:5-3.1 Petitions for rulemaking—scope

This subchapter shall apply to all petitions made by interested persons for the promulgation, amendments or repeal of any rule by the New Jersey Real Estate Commission, as required by N.J.S.A. 52:14B-4(f).

11:5-3.2 Procedure for the submission of petitions for rulemaking

(a) Any interested person may petition the Real Estate Commission to promulgate, amend or repeal a rule. Such petition shall state clearly and concisely:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The petitioner's interest in the request, including, without limitation, any relevant organizational affiliation or economic interest; and
5. References to the Commission's authority to take the requested action.

(b) Petitions should be sent to the following address:

New Jersey Real Estate Commission
CN 328
Trenton, New Jersey 08625

(c) Filing a petition shall be made by forwarding an original and two copies to the Commission at the address indicated in (b) above.

(d) Any document submitted to the Real Estate Commission which is not in substantial compliance with (a) above shall not be deemed to be a petition for a rule requiring further Commission action pursuant to N.J.S.A. 52:14B(f).

(e) Within 30 days of its receipt of a petition for rulemaking, the Commission shall review the same to ascertain if the submission complies with the requirements of (a) above and, in the event that the Commission determines that the submission is not in substantial compliance with (a) above, the Commission shall notify the petitioner of such noncompliance and of the particular deficiency or deficiencies in the submission on which the decision of the Commission was based. The Commission shall also advise the petitioner that any deficiencies may be corrected and the petition may be re-submitted for further consideration.

11:5-3.3 Procedure for the consideration and disposition of rulemaking petitions

(a) Upon receipt of a petition in compliance with N.J.A.C. 11:5-3.2, the Commission will file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register. The notice will include:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

(b) Within 30 days of receiving the petition, the Commission will consider the petition and decide upon an action on the petition. The petitioner may be requested to attend a Commission meeting and answer questions concerning the petition. The Commission will mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition which will include:

1. The name of the petitioner;
2. The New Jersey Register citation for the notice of petition, if that notice appeared in a previous Register;
3. Certification by the Commission that the petition was duly considered pursuant to law;
4. The nature or substance of the Commission's action upon the petition; and
5. A brief statement of reasons for the Commission's action.

(c) Commission action on a petition may include:

1. Denying the petition;
2. Filing a notice of proposed rule or a notice of pre-proposal for a rule with the Office of Administrative Law; or
3. Referring the matter for further deliberations, the nature of which will be specified and which will conclude upon a specified date. The results of these further deliberations will be mailed to the petitioner and submitted to the OAL for publication in the New Jersey Register.

11:5-3.4 Public hearings for promulgation, amending or repealing rules

(a) The Commission may hold a public hearing to gather information concerning any proposed rule, amendment, or repeal.

(b) The Commission shall publish a notice of the place, date and time of the hearing at least 15 business days before the date of the hearing.

SUBCHAPTER 4. PROCEEDINGS BEFORE THE COMMISSION

11:5-4.1 Pleadings enumerated and defined

(a) Pleadings before the Commission shall be orders to show cause, complaints, answers, petitions, and motions, which for purposes of these rules are defined as follows:

1. "Orders to show cause" means orders issued by the Director on behalf of the New Jersey Real Estate Commission compelling the persons to whom the order is directed to appear and show cause before the Commission why certain actions, including but not limited to the imposition of sanctions, should not be taken by the Commission pursuant to the Real Estate Licensing Act, N.J.S.A. 45:15-1 et seq. and the rules promulgated thereunder.
2. "Complaint" means a filing by the Office of the Attorney General of New Jersey alleging violations of one or more of the provisions of N.J.S.A. 45:15-1 et seq. and/or of the Commission's rules.
3. "Answer" means the pleading filed by a licensee or other party against whom an order to show cause or complaint is directed which sets forth the respondent's position with the respect to each factual and legal allegation in the order or complaint and specifies all affirmative defenses raised by the respondent.
4. "Petition" means the pleading filed by an interested person to request a rulemaking action or declaratory ruling by the Commission or the pleading filed by an interested person seeking to intervene in any rulemaking or declaratory ruling proceeding.
5. "Motion" means the application filed incidental to an action before the Commission for the purpose of obtaining a ruling or order directing that some action be taken in favor of the movant.

(b) Documents, affidavits or other evidentiary matter submitted with or attached to a pleading other than a motion shall not be deemed evidentiary. Such materials must be offered into evidence at a hearing and admitted as such in order to be considered as part of the evidentiary record.

11:5-4.2 Answers

(a) Any party against whom an order to show cause or complaint is directed and who desires to contest the same or make any representation to the Commission in connection therewith shall file an answer in writing with the Commission.

(b) The answer shall apprise the Commission fully and completely of the nature of all defenses and shall admit or deny specifically and in detail all material allegations of the order to show cause or complaint.

(c) Matters alleged by way of affirmative defense shall be separately stated and numbered in the answer.

(d) An answer must be filed within 20 days after service of the order to show cause or complaint unless the deputy attorney general who represents the complainant consents, or the Commission orders an extension of the time, to answer.

(e) Filing of an answer shall be made by forwarding an original and two copies to the Director of the Commission and a copy to the deputy attorney general who represents the Commission.

11:5-4.3 Adversary hearing determination by the Commission

(a) Promptly after the answer is filed, the Commission will review the pleadings at a Commission meeting and decide whether any material fact or issue of law is contested. If the Commission determines that a matter is contested, a hearing will be scheduled. On its own motion or at the request of either party, the Commission may, in its discretion, transmit the case to the Office of Administrative Law for hearing and initial decision.

(b) If, upon review of the pleadings, the Commission determines that no material facts or issues of law are contested, the Commission shall afford the respondent an opportunity to be heard and to present witnesses and documentary evidence, which presentation shall be limited to the issue of the severity of any sanction or penalty to be imposed. By stipulation or other means, the deputy attorney general representing the complainant shall present evidence sufficient to establish the factual basis for all alleged violations and may present documentary evidence or witnesses in rebuttal of any mitigation testimony or evidence presented by the respondent.

11:5-4.4 Motions

(a) In all matters heard by the Commission, motions and replies shall be made in the manner and form prescribed by the rules which establish the procedures for motion practice before the Office of Administrative Law, N.J.A.C. 1:5-1.12. In construing those rules, the terms "Executive Director" and "Commission" are substituted for the terms "Clerk" and "Judge", respectively.

(b) Filing of a motion or reply shall be made by forwarding an original and 15 copies to the Director of the Commission and a copy to all other attorneys and pro se parties, if any, in the matter.

(c) A motion shall be considered by the Commission at a regularly scheduled meeting pursuant to the requirements of N.J.A.C. 1:1-12.

(d) Oral argument on a motion when permitted or directed by the Commission shall be presented to the Commission by the parties or their representatives in person at a Commission meeting; motions will not be heard by telephone conference.

(e) Motions for the reconsideration of sanctions imposed by the Commission must be filed within 30 days of the date upon which notice of the decision imposing sanctions was provided to the movant. Such motions must be accompanied by a recitation of the particular facts and legal basis which purportedly support the application.

11:5-4.5 Conference hearing procedure

(a) The Director may, on behalf of the Commission, issue an order to show cause requiring a licensee or other person to appear before the Commission for a conference hearing as defined in N.J.A.C. 1:1-2.1 in circumstances where violations of N.J.S.A. 45:15-17d, 17o and/or 19.1 are alleged to have occurred or where there is a danger of imminent harm to the public.

(b) The order to show cause shall be served upon the respondent at least 10 days prior to the hearing.

(c) The respondent shall not be required to file a written answer, but shall be required to appear on the return date of the order to show cause and admit or deny the allegations in the order to show cause and present all defenses to the alleged violations.

(d) The respondent may notify the Commission by telephone or letter of any witnesses to be subpoenaed on the respondent's behalf and shall provide to the Commission the addresses at which such witnesses can be served.

(e) Discovery and motions in conference hearings shall be limited in accordance with N.J.A.C. 1:1-10.6 and 1:1-12.1, respectively.

11:5-4.6 Sanctions: failure to answer or appear; default

(a) In all matters heard by the Commission, the imposition of sanctions for the failure to appear and/or to comply with any order of the Commission or the requirements of these procedural rules shall be governed by the procedures established for the imposition of sanctions in matters heard by the Office of Administrative Law at N.J.A.C. 1:1-14.4.

(b) The Commission shall have the discretionary authority to grant extensions of the time to file an answer or appear.

11:5-4.7 Settlements

(a) The parties to a proposed settlement shall present the settlement to the Commission pursuant to the requirements of N.J.A.C. 1:1-19.1.

(b) Such a settlement shall be presented to the Commission during the public session of a Commission meeting. Should a proposed settlement be rejected by the Commission, the proposal shall not be considered or used for any purpose in any subsequent hearing. Any settlement approved by the Commission shall be a public record.

11:5-4.8 Decisions in enforcement actions

All final decisions of the Real Estate Commission on contested and uncontested matters shall be reduced to writing, in the form of an order of the Commission, which shall be served upon all parties to the matter either personally or by registered or certified mail sent to the last known business address of all parties.

SUBCHAPTER 5. APPEALS OF INITIAL DENIALS OF LICENSING APPLICATIONS

11:5-5.1 Procedures applicable to appeals of initial denials of licensing applications

(a) Initial denials of the following applications may be appealed to the full Real Estate Commission through compliance with all of the requirements established in (b) below:

1. License applications, with the exception of reinstatement applications submitted beyond the statutorily established time limitations upon such reinstatements;

2. Applications from disabled veterans for education waivers and/or apprenticeship waivers;

3. Applications for the issuance of education waivers by persons other than disabled veterans;

4. Applications for the issuance of apprenticeship waivers by broker licensees of other states; and

5. Applications by broker license candidates for the Commission's approval of their apprenticeship.

(b) All appeals to the full Real Estate Commission provided for in (a) above shall be filed by the appealing applicant submitting to the Commission within 45 days of the date of the notice of denial an original and 15 copies of all of the documentation noted below:

1. A covering letter stating the factual and legal basis of the appeal, to which shall be attached a copy of the application and the denial letter which forms the basis of the appeal. The said covering letter shall also state whether the applicant desires to appear and present oral argument and/or testimony when the appeal is considered by the Commission;

2. Where the denial was based upon an applicant's prior criminal history and/or their loss of a professional license, all judgments of conviction on the convictions which form the basis of the denial and a letter from their probation or parole officer, if within one year of making the application they were under such supervision, which letter shall state the extent of the applicant's compliance with the terms and conditions of his or her probationary sentence or parole supervision, and/or a copy of the order or memorandum of settlement evidencing the loss of the professional license;

3. On all applications as described in (b)2 above, a letter from the broker with whom the applicant intends to be licensed, evidencing that person's full knowledge of the factors which formed the basis of the initial denial;

4. Any other relevant documentation which the applicant desires the Commission to consider when hearing the appeal; and

5. Any other documentation which the Commission determines is required in order to allow it to make a fully informed decision on the appeal.

(c) Upon the proper filing of an appeal as described in (b) above, the appeal package shall be reviewed and the applicant advised of the following:

1. The date, time and place at which the appeal will be considered by the full Real Estate Commission; or

2. That based upon the content of the appeal documents a determination has been made to approve the application; or

3. The appeal package is deficient in certain respects, which shall be specified to the applicant, with an indication that upon receipt of the missing documentation the appeal will be given further consideration.

(d) All applicants have the opportunity to be represented by counsel when submitting an appeal and/or appearing before the Real Estate Commission and to call witnesses to testify on their behalf at the time of its consideration of their appeal.

(e) Upon the conclusion of a hearing on an appeal, the Commission shall either render a decision or take the matter under advisement and render a decision at a future date. The ruling of the Commission shall be communicated to the applicant in written form promptly upon the decision being rendered.

(a)

DIVISION OF ENFORCEMENT AND CONSUMER PROTECTION

Insurance Producer Standards of Conduct: Marketing; Commissions and Fees; Management of Funds and Administrative Penalties

Proposed New Rules: N.J.A.C. 11:17A, 17B, 17C and 17D

Proposed Repeals: N.J.A.C. 11:1-3, 11:1-7, 11:1-8 and 11:1-13

Authorized By: Verice M. Mason, Assistant Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:22A-1 et seq.; 17:22A-3; 17:22A-17a(4), (5), (15), (17), (18), 17b and 17c; and 17:22A-24; 17:29B-7; 17B:30-13 and 15.

Proposal Number: PRN 1989-246.

Submit written comments by June 30, 1989 to:

Verice M. Mason
Assistant Commissioner
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Insurance Producer Licensing Act (P.L. 1987, c. 293; N.J.S.A. 17:22A-1 et seq.) ("Act") became effective on April 27, 1988. The Department has determined to implement by rulemaking this and existing related legislation by a three-phase procedure (see N.J.S.A. 17:22A-24). Phase I, concerning producer licensing, and Phase II, concerning professional qualifications, have already been adopted and are codified at N.J.A.C. 11:17. The instant new rules mark the culmination of this rulemaking trilogy and will provide insurance producers with standards of conduct concerning their daily operations and their interaction with the public and the Department. The Department believes that the instant new rules, and the entire trilogy of insurance producer rules, will provide insurance producers with a clear and easily-located compendium of performance guidelines in furtherance of the Legislature's and the Department's stated goals, and the industry's own desire to further upgrade and professionalize insurance producer operations. The three phases of rules will be juxtaposed in the New Jersey Administrative Code (Code) for easy reference and use.

Although all of the chapters of proposed new rules in Phase III have requirements not previously codified as rules in the Code, in many cases the rules reflect current standards and practices commonly followed by insurance producers and required by the Department. The rules concerning the management of funds is an exception, although it is believed that many insurance producers already utilize procedures similar to those required by the proposed new rules. The rules concerning management of funds are specifically responsive to N.J.S.A. 17:22A-17a(4), (5), (15) and (17), and to the desire of the Legislature and the Department to both professionalize the industry and protect the consumer. The rules concerning management of funds will also further clarify the insurance producer's judicially-acknowledged fiduciary obligations. Concern over the proper management of funds is shared by other states, of which at least 19 have adopted or enacted similar rules or legislation.

The rules concerning marketing primarily focus upon the activities for which a person must be licensed as an insurance producer and upon unfair trade practices. Rules concerning the former identify the insurance-related activities that require licensure as an insurance producer, and include the requirement that unless otherwise specifically authorized by N.J.S.A. 17:22A-1 et seq. (for example, the person qualifies as a limited insurance representative), any person who "solicits," "negotiates" or "effects" a contract of insurance in New Jersey, or who acts in any manner as of who holds himself or herself out to be an insurance producer is considered to be "transacting the business of insurance" in New Jersey so as to require licensure as an insurance producer. The terms "solicit," "negotiate" and "effect," which comprise part of the definition of "insurance agent" and "insurance broker," are, for the first time, defined and examples thereof are given in the rule. The rules also list the activities for which licensure is not required. These rules implement the New Jersey Insurance Producer Licensing Act, particularly N.J.S.A. 17:22A-3, and will, as a practical matter, provide needed guidance to insurance producers in determining compliance therewith.

Consistent with the intent and language of the Act, the rules clarify that salaried employees of insurers authorized to do business in this State who transact the business of insurance in the name of and on behalf of the insurer, are not considered to be transacting the business of insurance so as to require licensure as an insurance producer if they (1) do not receive any compensation contingent upon the sale of a policy, contract or certificate of insurance; (2) do not transact the business of insurance outside of their relationship with the insurer; and (3) transact the business of insurance under the control of the insurer.

The Department believes that it is the insurer rather than such an employee who solicits, negotiates and effects contracts of insurance, or who otherwise transacts the business of an insurance producer within the meaning and intent of the statute (see N.J.S.A. 17:22A-3). Further, such employees are not within the definitions of "insurance agent," "insurance broker" or "insurance consultant" (see N.J.S.A. 17:22A-3). Rather, their duties are the clerical implementation of the company's transaction of insurance business. Accordingly, for this additional reason, licensure is not required (see N.J.S.A. 17:22A-3). The Certificate of Authority granted to the insurer empowers it to transact the business of insurance. Of necessity, the company is, and can operate only through, its employees. As employees of the insurer, the insurer becomes directly responsible for the actions of each employee. Any misconduct or act of omission by one of these employees would create a cause of action against the insurer. It is therefore in the best interests of the insurer to see that its employees are properly trained, conduct the insurer's business in good faith and are properly controlled by the insurer. In contrast, such a level of training, accountability and control would not exist for persons required by the Act and these rules to be licensed as insurance producers without the licensure requirement.

The rules also exempt from licensure part-time representatives of fraternal benefit societies who procure life insurance contracts in a de minimis amount. This exemption existed pursuant to N.J.S.A. 17:44A-29, which statute was inadvertently repealed in its entirety upon the enactment of the New Jersey Insurance Producer Licensing Act. The insertion of this exemption in the proposed new rules is a recognition of this fact.

The rules concerning unfair trade practices implement the provisions of N.J.S.A. 17:29A-15, 17:29B-4 and 17B:30-13 and 15 by prohibiting insurance producers and limited insurance representatives from engaging in certain practices in connection with the business of insurance. These rules are meant to address both perceived and actual abuses. The rules primarily focus upon "rebates", "inducements" and "tie-ins". Rebates and inducements as defined in the proposed new rules are prohibited except as they may be plainly expressed in the insurance contract. In this context, the rules also prohibit insurance producers and limited insurance representatives from paying or giving, or offering to pay or give, anything of value in return for an agreement not to purchase insurance from another producer or insurer or for being unable to offer a comparable insurance program at less cost. Significantly, the rules apply whether or not a contract of insurance is ultimately effected.

"Tie-ins" represent another area of actual and perceived potential abuse. The rules are primarily directed to four areas of abuse. First,

financial institutions licensed as insurance producers or registered as limited insurance representatives and lending money or extending credit, cannot require the obligee to acquire, finance or negotiate a policy of insurance through any particular insured, insurance producer or limited insurance representative. The rules require that all financial institutions licensed as insurance producers or registered as limited insurance representatives issue a written disclosure to prospective insureds informing them of their right to acquire insurance coverage from sources independent of the financial institution. Second, insurance producers cannot require the purchase of a collateral policy of insurance as a condition precedent to securing another policy of insurance (for example, auto sold only if a life policy is also purchased). Third, premium financing cannot be required as a condition precedent to the issuance of a policy. Finally, no insurance producer acting as a motor club representative can require the purchase of a motor club contract as a condition to the issuance of an insurance contract or premium finance agreement.

The marketing rules also incorporate by reference, to the extent applicable to insurance producers and limited insurance representatives, rules concerning the following subjects:

1. Mass marketing of property and liability insurance;
2. Life insurance solicitation;
3. Health insurance solicitation;
4. Life insurance replacement;
5. Life and health insurance advertising; and
6. Unfair claims settlement practices.

A second chapter of rules concerns fees and commissions. These rules implement N.J.S.A. 17:22A-1 et seq., particularly 17:22A-3 and 17:22A-17a(18), and, in large part, duplicate existing provisions on service fees and motor club fees, which rules will be repealed at their present codification and herein recodified as amended. These rules:

1. Clarify those circumstances under which fees can be charged in connection with insurance transactions;
2. Clarify to whom commissions may be paid;
3. Require full disclosure of fees charged in connection with insurance policies;
4. Prohibit the commingling of certain non-insurance fees with charges for insurance premiums; and
5. Prohibit certain abuses which could arise out of the sale of insurance by a licensee acting as a motor club representative.

The rules concerning the management of funds, unlike the rules concerning marketing and fees and commissions, are not primarily a recodification of existing rules or a codification of existing procedures and positions required or taken by the Department and generally followed by insurance producers. Rather, these rules set forth for the first time the standards of conduct for licensed insurance producers concerning the management of funds and related record-keeping for all insurance-related transactions, in direct implementation of the New Jersey Insurance Producer Licensing Act (see N.J.S.A. 17:22A-17a(4), (5), (15) and (17)). The rules also reflect the Legislature's specific inclusion of "financial irresponsibility" as a basis for revocation of a license (see N.J.S.A. 17:22A-17a(20)), and its concern that the Department be able to detect instances of such violations. N.J.S.A. 17:22A-17a(15) specifically empowers the Commissioner of Insurance to require, by rule, a system of record maintenance. This legislative focus upon the financial affairs concerning the business of insurance is consistent with and responsive to the Department's complaint and disciplinary experience. Further, as previously noted, at least 19 other states have enacted legislation, rules, or both, concerning and requiring the management of funds by insurance producers. Similar practices are already required of other professionals such as attorneys and real estate brokers.

The rules prohibit the commingling of premium funds with any other funds of the licensee except as specifically permitted. The rules require, with exceptions (for example, JUA or Fair Plan requirements), that where premium funds are not remitted to the insurer or another licensee within five business days of their receipt, or when a producer deposits any collected premiums into a financial institution account or other investment or otherwise uses the premiums, even though the premiums are remitted within five business days, a trust account (TA) must be established. Certain non-premium monies, such as service fees, policy fees, late charges and inspection fees, can also be deposited into this account. Resident insurance producers are required to maintain a TA in one or more financial institutions in New Jersey. TA funds may be placed in interest bearing or income producing accounts for the licensee if he or she secures prior written approval from the insurer. The rules require, and the Department is empowered to periodically monitor, that the balance in the financial institution remains is empowered to at all times at least equal to the amount deposited less lawful withdrawals.

The rules also require that receipts be issued at the time payment is tendered for premium payments made by personal delivery.

Additionally, the rules require that each receipt and receipt book be maintained in a specified manner so that inspection by the Department, in fulfillment of its statutory obligation, is facilitated. The rules also require that insurance producers maintain accurate books and records reflecting all insurance-related transactions in such a manner that they can be produced for examination at any time. Appropriate entries are required to be made at least once every 30 days. The records must include a register of all monies received or disbursed in connection with an insurance transaction, which itself must contain certain specified information to enable the Department to fulfill its statutory obligation. Insurance producers must also keep a file for each current client or customer, which must be maintained for a period of five years after the termination of the business relationship. Finally, all required books and records of accounts, including bank records, must be maintained for a period of at least five years after the period covered by the account and must be produced for examination by the Commissioner upon his or her request.

The final chapter of proposed new rules concerns administrative procedures and penalties. This chapter describes the procedures for imposing administrative penalties, and includes a schedule of fines for violations of certain provisions of Titles 17 and 17B of the New Jersey Statutes Annotated and any rules or orders issued by the Commissioner. The procedures and penalties described apply to all insurers, insurance producers, limited insurance representatives and other persons subject to the jurisdiction of the Commissioner. This chapter marks the first attempt to codify and organize the Department's administrative penalty procedures into an organized and readily available compendium of standards.

The new rules address penalties and/or procedures concerning;

1. The initiation of action against an alleged violator;
2. The failure of an alleged violator to respond to a notice;
3. Consent to an administrative penalty;
4. Requests for a hearing;
5. Monetary penalties for time-related violations;
6. The imposition of fines for insurance producer licensing violations, including the promulgation of a schedule of fines for common violations; and
7. Reinstatement after revocation or suspension of a license or registration privilege.

As clearly noted in the proposed new rules, certain provisions are limited in application as to persons (for example, management of funds applies to insurance producers only) or line of business (for example, title insurance).

In the preparation of these rules, and in an effort to secure the input of persons who will be affected by these proposed new rules, the Department staff has had several meetings with various affected insurance producer groups during which the rules as initially drafted by the Department were subjected to comment. As a result of these comments, comments received in writing from other interested persons whose expertise was solicited by the Department, and the Department's own internal review, the rules have been amended to address many of the concerns stated by the commenting interested persons. Further public comment is now invited in accordance with the procedure established in this notice of proposal, consistent with the requirements of law. Because of the lengthy nature of the proposed new rules, the Department is affording interested persons an extended comment period.

The rules proposed for repeal are either inconsistent with or duplicate the proposed new rules and will be superseded by them.

Social Impact

To a great extent, the proposed new rules articulate current standards and practices followed by many insurance producers and the Department. The proposed new rules will benefit insurance producers by providing them with a clear, organized and accessible set of written guidelines and standards to follow in the daily operation of their business. This, in turn, should reduce inquiries from insurance producers and reduce the time spent by Department staff in identifying and explaining current standards and procedures.

Proposed Chapter 17A identifies those persons who have to be licensed as an insurance producer, thus eliminating or reducing the uncertainties that may exist under the current law. This chapter also implements and clarifies existing law concerning rebates and inducements. It reaffirms the

Department's position that rebates are improper and clarifies by definition what the Department considers to be an impermissible inducement. This chapter also seeks to prevent service "tie-ins" by protecting insureds and purchasers of other products or services from insurance producers or limited insurance representatives who seek to force their insurance services on the consumer as a condition to securing any other insurance or non-insurance service. Other provisions of this chapter are intended to protect the consumer by requiring the insurance producer to witness the signature of the insured or prospective insured and to confirm in writing with the insured or prospective insured all information pertinent to the modification of an existing insurance contract or application for insurance.

Chapter 17B, concerning fees and commissions, largely codifies existing guidelines. Of primary significance to the consumer is the continuation of the present requirement that insurance producers acting as a motor club representative secure a written agreement, separate and apart from the insurance contract, effecting motor club coverage. This will prevent confusion and misunderstandings between the insured and insurance producer. The chapter also requires full disclosure of the terms and conditions of motor club service contracts sold in connection with automobile insurance policies and imposes strict standards of conduct on insurance producers who also act as motor club representatives. The chapter also changes existing requirements by raising the maximum service fee for any one policy to $20.00 in all cases, rather than for only "exceptional circumstances." The current $15.00 fee is believed to be outdated and the new limit will free the Department from the enforcement time and problems associated with the current standard.

Chapter 17C, concerning management of funds, will have a significant impact on the consumer public, the insurance producers and Department. Generally, the consumer will be better protected since the rules will require a "paper trail" for all insurance transactions. Thus, both the consumer and the Department can hold an insurance producer accountable for his actions. Both will benefit from the ability to identify transgressions which may lead to permissible fines or the suspension or revocation of a license. Insurance producers, many of whom already employ some of the procedures required in this chapter, will benefit by being required to employ a comprehensive recordkeeping system to protect their own interest in dealing with insureds and the Department, to verify the legitimacy of their conduct when it is questioned, and to generally upgrade the level of their business operations and procedures. This is consistent with the efforts of the Legislature, the Department and the insurance producers themselves to further professionalize this industry. As previously noted, lawyers, real estate brokers and other professionals are already required to abide by similar requirements.

Proposed N.J.A.C. 11:17C-2.2 will reduce the time period during which coverage has not been effected by requiring the timely remittance of premium funds. This will in turn have the effect of reducing the amount of uncovered losses and concomitant litigation. Proposed N.J.A.C. 11:17C-2.3, requiring the establishment of a trust account in certain circumstances, establishes standards and procedures to insure that premium funds are properly maintained and credited. These requirements will protect the public and insurers from insurance producers who may misuse premium funds upon their receipt or thereafter to the detriment of the insurer and the insured. N.J.A.C. 11:17C-2.4, requiring insurance producers to issue receipts for premium payments made by personal delivery and to maintain a receipt book as a record of such transactions, will enable the Department to identify transgressions or to verify that no malfeasance has occurred. Proposed N.J.A.C. 11:17C-2.5 establishes minimum recordkeeping requirements which include "accurate books and records reflecting all insurance-related transactions." Requiring these records, and further, that they be maintained in a uniform manner as specified, will better enable the Department to fulfill its legislative mandate to protect the public interest. Specifically, this section (and the chapter generally) implements the provisions of N.J.S.A. 17:22A-17a(4), (5), (15), (17) and (18). Proposed N.J.A.C. 11:17C-2.6, requiring that records be maintained for at least five years, and approving the use of electronic recordkeeping, will insure that the Department has the opportunity to review necessary information and enable insurance producers to adhere to the recordkeeping requirement by using more efficient and technologically advanced systems.

Chapter 17D, concerning administrative penalties, articulates the current hearing and penalty procedures and sets fines for certain commonly occurring violations. Publishing these procedures will fully apprise insurance producers of their rights and duties when their conduct is questioned by the Department, as well as apprise them of the specific type of conduct that may subject them to the specified fines. The publication of these rules may thus reduce the incidence of malfeasance.

Economic Impact

Proposed Chapter 17A may increase the cost of doing business for insurance producer organizations because people who previously may not have been licensed (and who, in many cases, should have been licensed under existing requirements) will now have to secure an insurance producer license and incur the costs attendant thereto. This, in turn, may increase the cost of doing business for insurance producer organizations since the compensation and other benefits or requirements for these people may have to be increased or improved. To the extent that more people will have to be licensed, including those who should have been licensed under existing law, the Department will collect increased license fees.

By clarifying the issue of inducements, and, specifically, by stating that inducements do not include items of value of less than $10.00, the Department will no longer have to expend its investigatory resources, with attendant costs, on matters which it no longer considers offensive. Insurance producers will now be able to participate in normal advertising practices which involve the distribution of items of limited value.

Proposed Chapter 17B, concerning service fees and commissions, enables insurance producers to charge a maximum service fee of $20.00 per year per policy, instead of the current $15.00 maximum (except where exceptional circumstances exist). As a result of this increase, the Department will no longer need to expend resources to determine whether exceptional circumstances existed to merit charging $20.00 under existing law. The proposed rules also delete the $3.00 maximum allowable charge for completing claim or accident reports, which charge will be subsumed within the $20.00 service fee. The impact of this charge on the public will be minimal while individual insurance producers will secure a limited increase in service fee revenues for the first time in over 10 years.

Proposed Chapter 17C may require insurance producers to enlist the services of bookkeepers or similar professionals where they do not consider themselves able to maintain the records required by these rules. However, it is believed that most well-run businesses already maintain records and books in the manner herein prescribed, or sufficiently similar thereto, so that no major expenditures or new personnel will be required. Minor costs may be incurred which are associated with opening and maintaining a trust account for those insurance producers who do not already maintain such an account. For those insurance producers who choose to maintain the required records on electronic equipment, initial costs will be incurred commensurate with the system chosen.

Generally, the effect of the requirements in proposed Chapter 17C will be to protect the consumer and the insurance companies against the financial consequences of insurance fraud and malfeasance existing at the level addressed by these rules. These consequences include higher rates for the consumer and potential financial instability for the insurer or underwriting associations like the JUA.

Proposed Chapter 17D will impose no economic impact on insurance producers who do not violate the law. For violators, the proposed new rules largely codify existing procedures concerning fines (and other penalties). However, proposed N.J.A.C. 11:17D-2.8 lists a new schedule of fines for certain enumerated licensing violations which currently are formulated according to the requirements of N.J.S.A. 17:22A-17B ($5,000 maximum for the first offense; $10,000 maximum for each subsequent violation). Depending upon the particular case, the new schedule imposes fines which may be higher or lower than the existing requirements. The publication of these rules, including the schedule of fines, will lessen the amount of time spent by Department staff and the concomitant costs associated with handling the administrative matters attendant to the assessment and imposition of penalties.

Regulatory Flexibility Analysis

Generally, the new rules do not establish differing compliance or reporting requirements for small businesses since any size business, whether it be an insurance producer sole-proprietorship, partnership or corporation, will be able to comply with the proposed requirements. These requirements will help ensure that all insurance producer organizations are operating in a proper manner and consistent with the public and Department's regulatory interest. Although the compliance and reporting requirements cannot be modified to suit the differing sizes of insurance producer organizations, since they are required by statute, the manner or procedure by which these requirements are met may be modified and varied. Accordingly, for example, the proposed new rules allow for records to be maintained, at the insurance producer's option, by electronic

or manual means. Insurance producer organizations can thus employ the system that is most economical and efficient for them. The level and cost of compliance required will generally parallel the size of the business enterprise.

Although small businesses are not exempt from any of the requirements in the proposed new rules, since to do so would violate the public interest in ensuring the proper operation of an insurance producer business, the rules concerning the management of funds (Chapter 17C) do not require compliance with the requirement to establish a trust account where an insurance producer holds a premium for less than five days before remittance to an insurer or another insurance producer. This may inure to the benefit of small businesses, although the establishment of a trust account is clearly advisable in most if not all cases.

The proposed new rules will apply to insurance producer businesses of all types (that is, sole proprietorships, partnerships and corporations). There are presently about 60,000 licensed insurance producers who comprise these three types of insurance producer organizations and who will be subject to these rules. There are about 7,000 limited insurance representatives to whom the rules will apply. It is anticipated that the rules may increase the number of licenses since it clarifies the operations for which licensure is required. The Department is aware that many people who were previously unlicensed (but who should have been licensed) will now have to secure a license for the performance of the functions of an insurance producer.

The reporting, recordkeeping and other compliance requirements to be followed are plainly expressed in the proposed new rules.

Compliance with the proposed new rules may not require the use of professional services at all, or of professional services other than those presently being used. It appears that many insurance producers are already employing bookkeepers or fulfill this function themselves. Since the proposed new rules increase the incidence of recordkeeping, those insurance producer organizations presently operating without a bookkeeper may be required to employ one, or to train themselves or a clerical employee in these duties. Additionally, the proposed new rules may require the licensure of persons previously unlicensed, so that insurance producers may now have to secure the services of licensed professionals to perform certain operations previously performed by unlicensed staff. This is not necessarily a function of a change in the law, but rather of the existence of a clear and published pronouncement on licensure. However, since the standards for licensure are clear and well-defined in the proposed new rules, an insurance producer of any size need not assume this additional cost if he or she appropriately delegates the operations and functions of the business.

The initial capital costs of compliance with the proposed new rules are inestimable. They will vary according to the size of the insurance producer organization, the number of clients and whether professional services will be necessary. Thus, more clients will mean more recordkeeping and will require more elaborate set-up costs. However, as previously noted, it is believed that some or many insurance producers are already in at least partial compliance with these requirements. Initial capital costs may also vary according to whether a manual or electronic recordkeeping system is utilized, and, if the latter, the type of system employed. This additional cost is thus largely controllable.

Annual compliance costs are also inestimable. However, they will generally be equal to the cost of maintaining the management of funds recordkeeping system required by the proposed new rules, which will include consideration of labor expended, the volume of business and the method chosen (electronic or manual) to maintain the records.

In the Department's opinion, the costs of compliance are clearly outweighed by the benefit to the public of ensuring the integrity of the insurance system in New Jersey.

Full text of the proposed repeals appears in the New Jersey Administrative Code at N.J.A.C. 11:1-3, 11:1-7, 11:1-8 and 11:1-13.

Full text of the proposed new rules follows:

CHAPTER 17A
PRODUCER CONDUCT: MARKETING

SUBCHAPTER 1. ACTIVITIES FOR WHICH A PERSON MUST BE LICENSED AS AN INSURANCE PRODUCER

11:17A-1.1 Purpose; scope

(a) The purpose of this subchapter is to implement the provisions of N.J.S.A. 17:22A-1 et seq. generally, and 17:22A-3 in particular, by identifying the insurance-related activities that require licensure as an insurance producer.

(b) This subchapter applies to all persons performing the functions of licensed insurance producers.

11:17A-1.2 Definitions

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

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

"Effectuate" or "effectuation" means the act of insuring or making operable and effective an insurance contract, including all binders, endorsements, insurance identification cards and certificates related thereto.

"Insurance contract" means contracts, policies or applications, where applicable, of life insurance, health insurance, annuities, indemnity, property and casualty, fidelity, surety, guaranty and title insurance.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined in N.J.S.A. 17:22A-2.

"Insurer" means any company that underwrites or issues an insurance policy or contract including fraternal benefit societies as defined in N.J.S.A. 17:44A-1 et seq. and risk retention groups and purchasing groups as defined in 15 U.S.C. §3901.

"Negotiate" or "negotiation" means the act of conferring with a prospective purchaser of a contract of insurance concerning any of the substantive benefits, terms of, or the premium to be charged for, the contract.

"Person" means any individual, corporation, partnership or other legal entity.

"Solicit" or "solicitation" means any activities which are designed to initiate the purchase of a contract of insurance that is being offered for sale by or through the person making the solicitation.

"Transaction of the business of an insurance producer" means to solicit, negotiate or effect an insurance contract, for a fee, commission, compensation or other consideration, including the transaction of matters subsequent to execution of the insurance contract and arising out of it.

11:17A-1.3 Who must be licensed; exceptions

(a) No person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer, without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted.

(b) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., any person who solicits, negotiates or effects contracts of insurance in New Jersey shall be considered to be transacting the business of insurance in New Jersey so as to require licensure as an insurance producer.

(c) Engaging in a single act or transaction of the business of an insurance producer, or holding oneself out to the public or an insurance producer as being so engaged, shall be sufficient proof of engaging in the business of an insurance producer as to require licensure pursuant to N.J.S.A. 17:22A-1 et seq.

(d) No licensed insurance producer shall permit or allow any unlicensed person to transact the business of an insurance producer.

(e) A person who is a salaried officer or employee of an insurer authorized to do business in this State and who performs any of the acts set forth in N.J.A.C. 11:17A-1.4, 1.5, 1.6 and 1.7, in the name of and on behalf of the insurer, shall not be considered to be transacting the business of insurance so as to require licensure as an insurance producer if the person:

1. Does not receive any compensation contingent upon the sale of a policy, contract or certificate of insurance;

2. Does not transact the business of insurance outside of his or her relationship with the insurer; and

3. Transacts the business of insurance under the control of the insurer.

(f) A part-time representative of a fraternal benefit society who, in one year, procures life insurance contracts on behalf of the society in an amount of insurance not in excess of $50,000 and on the persons of not more than 25 individuals, shall not be required to be licensed as an insurance producer.

11:17A-1.4 Solicitation of an insurance contract

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall solicit an insurance contract in New Jersey unless he or she is a licensed insurance producer.

(b) Solicitation of an insurance contract includes, but is not limited to, the following activities:

1. Discussing the effect of age, health or other risk-related conditions of the prospective policyholder;

2. Urging or advising any prospective purchaser to buy any particular policy or to insure with any particular company;

3. Initiating sales over the telephone or otherwise;

4. Urging additional business when receiving payment for existing business;

5. Completing or receiving applications for insurance;

6. Collecting premiums at other than the recorded place of business;

7. Making or proposing to make an insurance contract;

8. Dissemination of information as to coverages or rates in general or for any particular policy; and

9. Inquiring as to the terms of existing coverage.

(c) No insurance producer or limited insurance representative shall solicit in New Jersey any insurance contract which has not first been filed in New Jersey.

11:17A-1.5 Negotiation of an insurance contract

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall negotiate an insurance contract in New Jersey unless he or she is a licensed insurance producer.

(b) Negotiation of an insurance contract includes, but is not limited to, the following activities:

1. Discussing the premium cost of a proposed contract of insurance with a prospective policyholder, including the quoting of rates;

2. Discussing or describing the coverages or terms of a proposed contract of insurance with a prospective policyholder, including counseling as to which coverages to buy; or

3. Recommending or independently initiating additions or deletions to an insured's policy.

(c) No insurance producer or limited insurance representative shall negotiate in New Jersey any insurance contract which has not first been filed in New Jersey.

11:17A-1.6 Effectuation of an insurance contract

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall effectuate an insurance contract in New Jersey unless he or she is a licensed insurance producer.

(b) Effectuation of an insurance contract includes, but is not limited to, the following activities:

1. Signing binders, certificates of insurance, endorsements, insurance identification cards and insurance policies;

2. Indicating that the requested coverage is or will be bound or issued; or

3. Issuing or delivering certificates of insurance, endorsements, binders, insurance policies or insurance identification cards.

11:17A-1.7 Transaction of the business of an insurance producer

(a) Unless otherwise specifically provided by N.J.S.A. 17:22A-1 et seq., no person shall transact the business of an insurance producer in New Jersey unless he or she is a licensed insurance producer.

(b) Transacting the business of an insurance producer includes the activities denoted in N.J.A.C. 11:17A-1.4, 1.5 and 1.6 and further includes, but is not limited to, the following additional activities:

1. Adding or deleting coverages; or

2. Responding to a policyholder's questions regarding policy provisions or coverage.

11:17A-1.8 Activities for which licensure not required

(a) Employees of an insurance producer who perform strictly clerical duties shall not be required to be licensed as an insurance producer. Such clerical duties shall include, but are not limited to, the following activities:

1. Receiving requests for coverage for transmittal to a licensed insurance producer;

2. Mailing billings;

3. Scheduling appointments with insurance producers;

4. Office filing;

5. Marketing research or prospecting so long as no attempt is made to solicit or to discuss a specific insurance product or to encourage replacement of an existing policy;

6. Typing for an insurance producer's review and signature all binders, certificates, endorsements, identification cards or policies pursuant to instructions from the insurance producer;

7. Typing an application for insurance pursuant to instructions from and for the review of an insurance producer;

8. Taking a message from a policyholder or prospective policyholder to give to an insurance producer for his or her response;

9. Taking and noting an insured's request concerning any additions or deletions to a policy, typing the appropriate endorsements and giving the endorsement to the insurance producer for final action;

10. Opening mail;

11. Receiving premiums at the recorded place of business where the payment is being made on a binder, endorsement or existing policy; and

12. Taking factual information relative to a claim.

11:17A-1.9 Duty to have insurance producer at each place of business

(a) Each place of business maintained by an insurance producer for the purpose of transacting the business of insurance shall be under the direct supervision of an insurance producer.

(b) Any insurance producer who has established one or more places of business for the purpose of transacting the business of insurance shall assign at least one separate insurance producer to each location and shall register as a branch office in accordance with N.J.A.C. 11:17-2.8.

(c) Licensed officers shall be held responsible for all insurance related conduct of the organization licensee, its other licensed officers or partners, and its employees.

11:17A-1.10 Penalties

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this subchapter.

11:17A-1.11 Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 2. UNFAIR TRADE PRACTICES

11:17A-2.1 Purpose; scope

(a) This subchapter implements the provisions of N.J.S.A. 17:29A-15, 17:29B-4 and 17B:30-13 and 15 by prohibiting insurance producers from engaging in certain practices in connection with the business of insurance.

(b) This subchapter applies to all insurance producers or limited insurance representatives.

11:17A-2.2 Definitions

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

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

"Effectuation of an insurance contract" or "effectuate" is defined at N.J.A.C. 11:17A-1.2

"Financial institution" means any State or Federal banking institution, bank holding company, credit union, savings and loan association, finance company, mortgage loan company, or any other institution, association, partnership, company, corporation, individual or individuals whose principal business is the lending of money or the extension of credit.

"Inducement" means any special favor, advantage, object, valuable consideration or anything other than money which has an intrinsic value or a redeemable value greater than $10.00.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined in N.J.S.A. 17:22A-2.

"Limited insurance representative" means a person who is authorized to solicit, negotiate or effect contracts for a particular line of insurance as an agent for an insurance company authorized to write that line in this State which by the nature of the line of business and the manner by which it is marketed to the public does not require the professional competency demanded for an insurance producer license.

"Negotiation of an insurance contract" or "negotiate" is defined at N.J.A.C. 11:17A-1.2.

"Person" means any individual, corporation, partnership or other legal entity.

"Rebate" means the return or promise to return of any monetary sum, or discount, abatement, credit or reduction in premium other than that plainly expressed in the insurance contract.

"Solicitation of an insurance contract" or "solicit" is defined at N.J.A.C. 11:17A-1.2.

11:17A-2.3 Rebates and inducements: prohibited practices

(a) No insurance producer shall offer, make or give, or permit to be offered, made or given, to any person directly or indirectly, an inducement to purchase insurance other than that plainly expressed in the insurance contract.

(b) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, any rebate of premiums payable on a contract of insurance, other than that plainly expressed in the contract or provided for in ratings systems filed by or on behalf of the insurer writing the contract and approved by the Commissioner.

(c) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, anything of value in return for that person's agreement not to purchase insurance from another insurance producer or insurer.

(d) No insurance producer shall offer, pay or give, or permit to be offered, paid or given, to any person, directly or indirectly, anything of value as compensation for being unable to offer a comparable or better insurance program at less cost.

(e) The provisions of this section shall apply whether or not a contract of insurance is ultimately effected.

11:17A-2.4 Rebates and inducements: determination of value

(a) For the purpose of determining the value of any item pursuant to N.J.A.C. 11:17A-2.3, an insurance producer shall retain the original invoice for such item for five years beyond the later of the date the offer is discontinued or the date the last item is given.

(b) The value of any special favor, advantage, valuable consideration or any other item or service shall be determined by the Commission or his or her designee.

11:17A-2.5 Tie-ins; coercion

(a) No financial institution licensed as an insurance producer or registered as a limited insurance representative shall, as a condition precedent, concurrent or subsequent to the lending of money or the extension of credit, or a renewal of the loan or extension of credit, require that the obligee of the money or credit acquire, finance or negotiate a policy or contract of insurance through any particular insurer, insurance producer, or limited insurance representative, or cancel insurance with another insurance producer, limited insurance representative or insurer.

1. A financial institution licensed as an insurance producer or registered as a limited insurance representative shall accept the insurance policy provided by a borrower unless a reasonable basis exists to disapprove the insurance policy. For the purpose of this paragraph, disapproval shall be deemed unreasonable if it is not based solely on reasonable standards as determined by the Commissioner, uniformly applied, relating to the extent of coverage required and the financial soundness and services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the disapproval of an insurance policy because such policy contains coverage in addition to that required. If a financial institution rejects the insurance furnished by the borrower, it shall provide the borrower with a clear and complete statement of reasons for the rejection.

2. Pursuant to and consistent with (a) and (a)1 above, all financial institutions licensed as insurance producers or registered as limited insurance representatives shall issue a written disclosure to prospective insureds which shall inform them of their right to acquire insurance coverage from and through sources independent of the financial institution or its subsidiaries when such insurance coverage is required to secure a loan, credit or mortgage, or any renewal thereof. The written disclosure required by this paragraph shall be as follows, in a type size not less than 10 point type, and shall be maintained by the insurance producer or limited insurance representative for at least five years. A copy of this disclosure shall be given to the borrower at the time the issue of insurance first arises.

DISCLOSURE NOTICE

The Insurance Laws of New Jersey provide that the lender may not require the borrower to take insurance through any particular insurer, insurance producer (e.g., agent or broker) or limited insurance representative.

The borrower has the right to have the insurance placed with or through an insurance producer, limited insurance representative and insurer of his choice, provided that they meet the reasonable requirements of the lender. Subject to the rules adopted by the Commissioner of Insurance, the lender has the right to designate reasonable requirements as to the insurer, the insurance producer and limited insurance representative, and as to the adequacy of the coverage. The lender cannot require the borrower to cancel insurance with another insurance producer, limited insurance representative and insurer unless the continuation of such coverage and relationship would be unreasonable within the meaning of this notice and N.J.A.C. 11:17A-2.5.

I have read the foregoing statement and understand my rights and privileges and those of the lender relative to the placing of insurance.

I have selected the _____ (insert name) Insurance Company to write the required _____ (insert type of insurance). I have selected _____ (insert name) insurance producer or limited insurance representative to sell me this insurance.

_____
Name of Borrower

_____
Name of Borrower

_____
Date

(b) No financial institution licensed as an insurance producer or registered as a limited insurance representative shall require, directly or indirectly, that any borrower, mortgagor, purchaser, insurer or other insurance producer or limited insurance representative pay a separate charge in connection with the handling of any insurance policy required as security for a loan or the extension of credit, or pay a separate charge to substitute the insurance policy of one insurer for that of another.

(c) No financial institution licensed as an insurance producer or registered as a limited insurance representative shall require any procedure or condition of an insurer, insurance producer or limited insurance representative not customarily required of insurers in-

surance producer or limited insurance representative that are affiliated or connected with the financial institution.

(d) No insurance producer or limited insurance representative shall engage in any conduct which results in:

1. Leading a person to believe that his or her credit-worthiness, or that the extension of credit, is conditioned upon the purchase of insurance through a particular insurance producer, limited insurance representative or insurer; or

2. An unlicensed financial institution either soliciting, negotiating, or effecting insurance business acting on behalf of the insurance producer, or limited insurance representative.

(e) No insurance producer shall require an applicant or policyholder, or a member of the applicant's or policyholder's family, to purchase a collateral policy of insurance as a condition precedent to securing a policy of insurance unless such condition precedent is based upon the legitimate underwriting requirements of the insurer.

(f) No insurance producer engaged in a business other than the business of insurance shall engage in any conduct which reasonably could result in coercing an applicant or policyholder into purchasing insurance as a condition precedent, concurrent or subsequent to securing any other goods or service.

(g) No insurance producer shall restrict the sale or issuance of an insurance policy, or participate in the restriction of the sale or issuance of an insurance policy, to persons who enter into, or agree to enter into, premium financing agreements with any particular premium finance service company.

(h) No insurance producer acting as a motor club representative or who receives any compensation, directly or indirectly, for or on account of the sale of a motor club service contract, shall require the purchase of a motor club contract as a condition to securing an insurance contract and/or premium finance agreement.

11:17A-2.6 Identification of insurance producer

(a) An insurance producer who solicits insurance shall be required to identify the following information prior to commencing his or her solicitation:

1. His or her name as it appears on his or her insurance producer license;

2. The name of the insurer, if known, or insurance producer, that he or she is representing; and

3. The nature of the relationship between the insurance producer and the insurer or insurance producer being represented.

(b) In addition to (a)1 through 3 above, an insurance producer shall maintain his or her license at the business address on file with the Department and shall display the licesne to an insured or prospective insured upon their request.

11:17A-2.7 Unfair discrimination

No insurance producer or limited insurance representative shall refuse to provide his or her services to a policyholder or prospective policyholder for any reason based in whole of in part upon the race, color, creed, religion, sex, marital status or physical impairments of an applicant or policyholder, or for any arbitrary, capricious, or unfairly discriminatory reason.

11:17A-2.8 "Twisting" prohibited

No insurance producer or limited insurance representative shall make any misleading representations or incomplete or fraudulent comparison of any insurance policies or annuity contracts or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy or annuity contract, or to take out a policy of insurance or annuity contract with another insurer.

11:17A-2.9 Penalty

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17B:30-1 et seq., 17:29B-1 et seq. and N.J.S.A. 17:22A-1 et seq.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist and a separate penalty therefore shall be assessed for each violation of the provisions of this subchapter.

11:17A-2.10 Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 3. INCORPORATION OF OTHER PROVISIONS OF THE NEW JERSEY ADMINISTRATIVE CODE APPLICABLE TO INSURANCE PRODUCERS AND LIMITED INSURANCE REPRESENTATIVES

11:17A-3.1 Incorporation of other rules

(a) The following rules are herein incorporated by reference to the extent that they regulate the conduct of insurance producers and limited insurance representatives:

1. N.J.A.C. 11:2-12, concerning mass marketing of property and liability insurance;

2. N.J.A.C. 11:4-11, concerning life insurance solicitation;

3. N.J.A.C. 11:4-17, concerning health insurance solicitation;

4. N.J.A.C. 11:4-2, concerning life insurance replacement;

5. N.J.A.C. 11:2-11 and 11:2-23, concerning life and health insurance advertising; and

6. N.J.A.C. 11:2-17, concerning unfair claims settlement practices.

SUBCHAPTER 4. MISCELLANEOUS MARKETING AND RELATED REQUIREMENTS

11:17A-4.1 Agent and broker authorized to collect premiums

(a) Premium monies collected by an insurance producer acting as an insurance agent shall be deemed to be received by the insurer by whom the agent is authorized to act whether or not the agent actually remits the monies to the insurer.

(b) Premium monies collected by an insurance producer acting as an insurance broker shall be deemed to be received by the insurer in accordance with the provisions of N.J.S.A. 17:22-6.2a.

11:17A-4.2 Insurance producer to witness signature of insured

In cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer.

11:17A-4.3 Confirmation of underwriting information

(a) Every insurance producer shall, within 10 days after the effectuation of an insurance transaction made through an insurance producer which modifies the terms of an existing insurance contract or the terms of an application for insurance, notify a policyholder or applicant, in writing, of all information pertinent to the modification.

1. The requirement in (a) above shall apply to all insurance policies, certificates, binders, endorsements and insurance identification cards.

11:17A-4.4 Special underwriting associations

(a) Every insurance producer who solicits, negotiates or effects contracts of insurance for the placement of risks in the New Jersey Automobile Full Insurance Underwriting Association ("NJAFIUA") or the New Jersey Insurance Underwriting Association ("Fair Plan"), shall conduct his or her business in accordance with the plan of operation established pursuant to N.J.S.A. 17:30E-1 et seq. and 17:37A-1 et seq. respectively.

(b) For the purpose of this section, "solicit", "negotiate" or "effect" shall have the same meanings as provided by N.J.A.C. 11:17A-1.2.

11:17A-4.5 Disclosure of personal or privileged information

No insurance producer or limited insurance representative shall disclose personal or privileged information about an individual collected or received in connection with an insurance transaction except in conformity with N.J.S.A. 17:23A-1 et seq.

11:17A-4.6 Loans from clients

No insurance producer or limited insurance representative shall solicit or accept a loan from, or offer to make or make a loan to, an individual with whom he or she came into contact in the course of his or her insurance business, unless the lender is authorized by law to make loans, the loan agreement or note is in writing, the lender is provided with a fully executed copy of the agreement or note at the time the loan is made, and the terms of the loan are lawful. Said loan agreement shall be retained by the insurance producer or limited insurance representative for a period of five years.

11:17A-4.7 Delivery of policies

Policies, certificates, or other evidence of insurance which are received by an insurance producer or limited insurance representative from an insurer for delivery to an insured shall be delivered or mailed to the insured by the insurance producer or limited insurance representative within 10 calendar days of their receipt, unless the insured agrees in writing that the insurance producer or limited insurance representative may retain them.

11:17A-4.8 Receipts for materials

An insurance producer or limited insurance representative who takes possession of an insured's or a potential insured's insurance policies, certificates, or other documents pertaining to existing or pending insurance, shall provide to the insured a written receipt for those materials at the time the insurance producer or limited insurance representative receives the materials. The receipt shall contain an itemized list of the materials received, the insurance producer's or limited insurance representative's name and the address and telephone number of the agency or other place where the insurance producer or limited insurance representative can be contacted. The receipt shall be dated and signed by the insurance producer or limited insurance representative and the insured.

11:17A-4.9 Replies to inquiries by Commissioner

An insurance producer or limited insurance representative shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given.

11:17A-4.10 Reporting of claims by property-casualty agents

Claims and estimated losses thereon in excess of $250.00 shall be reported to the insurer by an insurance producer acting as a property-casualty insurance agent no later than five business dates following his receipt of notice of claim.

11:17A-4.11 Fiduciary capacity

An insurance producer shall be considered to be acting in a fiduciary capacity and shall observe the highest standards of commercial and professional honor in the conduct of his or her insurance business.

11:17A-4.12 Penalties

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this subchapter.

CHAPTER 17B
PRODUCER CONDUCT: COMMISSIONS AND FEES

SUBCHAPTER 1. GENERAL REQUIREMENTS

11:17B-1.1 Scope

This chapter applies to all insurance producers and limited insurance representatives selling commercial or personal lines insurance, including private passenger automobile policies written through the NJAFIUA, life, health, title, property, or casualty insurance, except as may be otherwise provided in this chapter.

11:17B-1.2 Purpose

(a) The purposes of this chapter are:

1. To clarify those circumstances under which fees can be charged in connection with insurance transactions;

2. To clarify to whom commissions may be paid;

3. To require full disclosure of fees charged in connection with insurance policies;

4. To prohibit the commingling of certain non-insurance fees with charges for insurance premiums; and

5. To prohibit certain abuses which could arise out of the sale of insurance by an insurance producer or limited insurance representative acting as a motor club representative.

11:17B-1.3 Definitions

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

"Brokerage fee" means any money or other consideration, except commissions, charged or received by any person for services rendered as an insurance broker.

"Claim or accident reporting fees" means fees for preparation of proof of loss.

"Commission" means any payment to a producer from an insurer which is contingent upon the sale of a policy, contract, or certificate of insurance.

"Consultant fee" means any charge to a client for services rendered as an insurance consultant as defined at N.J.S.A. 17:22A-2.

"Fee" means any money or other consideration, except commissions, paid to or received from any person for service or advice in connection with a policy, contract or certificate of insurance, including, but not limited to, any service fee, motor club fee, consultant fee, brokerage fee or other charge by an insurance producer acting as an insurance broker or an insurance consultant.

"Insurance agent" means an insurance producer acting as an insurance agent as defined at N.J.S.A. 17:22A-2.

"Insurance broker" means an insurance producer acting as an insurance broker as defined at N.J.S.A. 17:22A-2.

"Insurance consultant" means an insurance producer acting as an insurance consultant as defined at N.J.S.A. 17:22A-2.

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker, or insurance consultant as defined at N.J.S.A. 17:22A-2.

"Limited insurance representative" means a person acting as a limited insurance representative as defined at N.J.S.A. 17:22A-2.

"Motor club" means any person, firm, association, partnership, corporation or other legal entity, whether or not residing, domiciled, or incorporated in this State, engaged in selling, furnishing or procuring, for a consideration, motor club services. Such services may include, but are not limited to, community traffic safety service, travel and touring service, emergency road service, theft or reward service, map service, towing service, bail bond service, legal fee reimbursement service in the defense of traffic offenses and the participation in an accident and sickness or death insurance benefit program. Motor club services shall not include towing and labor costs or other services included in or added by endorsement to an automobile insurance policy.

"Motor club fee" means any fee charged for a motor club service contract.

"Motor club representative" means a person who solicits the purchase of, or transmits a contract or application for, or aids in any manner in the negotiation, sale, renewal or continuance of, a motor club service contract.

"Motor club service contract" means any agreement whereby a motor club, for a consideration, promises to render, furnish or procure for any person a motor club service.

"Policy" means any contract of insurance and includes, but is not limited to, all policies, contracts, certificates, riders and endorsements which provide insurance coverage.

"Service fee" means a fee charged an insured or prospective insured by an insurance broker or insurance consultant for the placement of insurance or financing, credit reporting, obtaining auto oper-

ator's driving records, claim or accident reporting, adjustment of claims, inspection fees, and referral fees.

11:17B-1.4 Penalties

(a) The Commissioner shall impose penalties for violations of this chapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purposes of determining the existence of a violation and assessing a penalty under this chapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this chapter.

11:17B-1.5 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 2. COMMISSIONS

11:17B-2.1 Commissions

(a) No insurance producer or limited insurance representative shall pay any commission to any unlicensed or unregistered person for services rendered in this State as an insurance producer or limited insurance representative except for services rendered while licensed or registered.

(b) Payment or receipt of renewal or other deferred commissions to or by any person who has ceased to hold a license or registration under N.J.S.A. 17:22A-1 et seq. shall be permitted only for business produced by that person while an insurance producer or limited insurance representative.

(c) No commission or renewal, deferred or otherwise, can be paid to any individual or organization whose license or registration has been revoked or suspended, whether or not it is for services rendered while licensed or registered, except where the individual or organization has sold its book of business for compensation contingent upon the persistency of the business.

(d) No insurance producer or limited insurance representative shall pay or return, or offer to pay or return to any policyholder, certificateholder, or prospective policyholder or certificateholder, all or any portion of the commission received or which will be received in connection with the sale of insurance.

SUBCHAPTER 3. FEES

11:17B-3.1 Fees

(a) Only an insurance producer acting as an insurance broker or insurance consultant may charge a fee.

(b) No insurance producer acting as an agent for a company, including limited insurance representatives, may charge or receive any fee on a policy.

(c) Any insurance producer acting as an insurance broker or insurance consultant charging a fee to an insured shall first obtain from the insured a written agreement, which shall be separate and apart from all other agreements and applications, and shall contain only the following:

1. A clear statement of the amount of the fee to be charged and the nature of the service to be provided therefor;

2. A statement that such fees are not a part of the premium charged by the insurance company and that a charge can be made only if the insured consents to it in writing;

3. A clear statement as to whether a commission will be received from the purchase of insurance; and

4. The signature of the insured and the licensed insurance broker or insurance consultant and the date of execution of the agreement.

(d) Any fee charged by an insurance producer acting as an insurance broker or insurance consultant shall bear a reasonable relationship to the services provided and shall not be discriminatory.

(e) A new written agreement shall be entered into for each fee charged or each time a fee is charged. An initial agreement may not be used as the sole basis to charge a fee for a renewal policy.

(f) No insurance producer acting as an insurance broker or insurance consultant may pay or return, or offer to pay or return, all or part of a fee charged as an inducement to purchase a specific policy, or coverage within a policy, or coverage from a particular insurer.

(g) No insurance producer acting as an insurance broker or insurance consultant may charge a fee for services not actually performed.

(h) No insurance producer acting as an insurance broker or insurance consultant, except a duly authorized employed producer on behalf of his or her employer, may execute a written fee agreement on behalf of any other insurance producer or premium finance company.

11:17B-3.2 Service fees

(a) An insurance producer acting as an insurance broker or insurance consultant may charge a fee for services rendered in the sale or service of personal lines property/casualty or personal lines surplus lines insurance subject to the following conditions:

1. No service fee for any one policy shall exceed $20.00.

2. No insurance producer acting as an insurance broker or insurance consultant may charge a fee for completing accident or claim report forms, nor shall a fee be charged for providing forms required by an insurer for servicing a policy.

3. An inspection fee may only be charged on a surplus lines policy and shall not exceed two percent of the premium or $10.00, whichever is greater; except that the insured may be charged the actual amount paid to an unrelated firm or person for the service if said firm or person is not an agent or broker.

4. No charge may be made for services not actually performed.

5. A maximum service fee of $15.00 may be charged upon placement of a renewal, except that an inspection fee may be charged in accordance with (a)3 above if no inspection of the property has occurred during the three years prior to issuance of the renewal policy.

6. Only one service fee per policy per year shall be charged, regardless of whether the policy term is for less than one year.

7. A motor club membership sold in connection with a policy shall not be considered separate coverage for the purpose of charging a service fee.

8. A motor club claim arising from the same loss as a claim under a private passenger automobile coverage policy shall not be considered a separate claim for purposes of charging a fee.

(b) No insurance producer may charge a service fee for services rendered in the sale or service of life or health insurance.

11:17B-3.3 Motor club fees

(a) Any insurance producer who acts as a motor club representative or receives any compensation, directly or indirectly, or on account of the sale of a motor club service contract purchased in connection with the negotiation or sale of an automobile insurance policy or contract shall:

1. Obtain at the time of the initial application for the motor club service contract a dated written agreement, separate and apart from any other agreements, signed by both the insurance producer and the insured or prospective insured, containing the following information:

i. That the motor club service contract is not an insurance contract;

ii. That the motor club service contract is optional and is not required to be purchased by the insured or prospective insured as a condition of obtaining automobile insurance coverages;

iii. That the motor club membership fee is not related to or included in the automobile insurance premium charge, and cannot lawfully be included in a premium finance agreement entered into by the insured or prospective insured;

iv. A clear statement separately showing the amount of the motor club fee and the automobile insurance premium charge;

v. Identification of the person(s) and/or vehicle(s) covered by the motor club service contract and the term of the contract; and

vi. The name and location of the motor club and the benefits and/or services provided by the motor club service contract.

2. Furnish the insured or prospective insured with a copy of the written agreement, identified at (a)1 above, at the time of execution thereof. The insurance producer shall also maintain a copy of the written agreement in the file of insured or prospective insured.

(b) No insurance producer acting as a motor club representative shall:

1. Commingle motor club fees with charges for automobile insurance premiums;

2. Make the availability of automobile insurance dependent upon the purchase of a motor club membership;

3. Induce an insured or prospective insured to finance automobile insurance premiums which would not otherwise be necessary if not for the motor club costs; or

4. Sell more than one motor club agreement per automobile insurance policy.

CHAPTER 17C
PRODUCER CONDUCT: MANAGEMENT OF FUNDS

SUBCHAPTER 1. GENERAL REQUIREMENTS

11:17C-1.1 Purpose and scope

This chapter sets forth standards of conduct for licensed insurance producers concerning the management of funds and general record-keeping for all insurance related transactions, for which a New Jersey insurance producer license is required, in implementation of N.J.S.A. 17:22A-17a(5), (15) and (17) and 17c.

11:17C-1.2 Definitions

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

"Business day" means all days except Saturdays, Sundays and State and Federal holidays.

"Financial institution" means a Federal or State chartered bank, savings bank, or savings and loan institution which is a member of the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

"Insurance producer" means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined at N.J.S.A. 17:22A-2.

"Insured" means an applicant for insurance or a policyholder.

"Trust account" (TA) means a special fiduciary account established and maintained by an insurance producer pursuant to the requirements of this chapter.

"Voluntary deposit" means a deposit in a TA(s) in excess of aggregate net premium, premiums due the insured and deposits, received but not remitted, made to maintain a minimum balance or to guarantee the adequacy of the account(s).

11:17C-1.3 Penalties

(a) The Commissioner shall impose penalties for violations of this chapter in accordance with the provisions of N.J.S.A. 17:22A-1 et seq. and any other applicable law.

(b) For the purposes of determining the existence of a violation and assessing a penalty under this chapter, a separate violation shall be deemed to exist, and a separate penalty therefor shall be assessed, for each violation of the provisions of this chapter.

11:17C-1.4 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 2. RULES CONCERNING MANAGEMENT OF FUNDS

11:17C-2.1 Commingling of funds

(a) All premium funds shall be held by an insurance producer in a fiduciary capacity and shall not be misappropriated, improperly converted to the insurance producer's own use, or illegally withheld by the licensee.

(b) All premium funds shall be segregated and not in any manner commingled with any other funds of the insurance producer, except as may be permitted by this chapter.

11:17C-2.2 Remittance standards

(a) All premium funds shall be remitted to the insurer or other insurance producer, as applicable, within five business days after receipt of the funds except as otherwise required or provided by any of the following:

1. The rules of the New Jersey Automobile Full Insurance Underwriting Association (NJAFIUA);

2. The rules of the New Jersey Insurance Underwriting Association (FAIR Plan);

3. The insurance producer's contract with the insurer or written agreement with the insured pursuant to N.J.A.C. 11:17A-2.3(g);

4. Any controlling statute or administrative rule; or

5. The rules of the Commercial Automobile Insurance Plan (CAIP).

(b) All premiums due the insured shall be paid to the insured or credited to the insured's account within five business days after receipt from the insurer or other insurance producer.

1. If the return premium is to be credited to the insured's account, the credit shall be shown and applied to the next billing statement sent to the insured.

2. If the credit is to be held on the insured's account and the account reflects a credit balance, the insurance producer shall send monthly written notification to the insured which clearly reflects a credit owed to the insured and, at the discretion of the insured shall be paid upon his demand.

(c) All title insurance settlement funds shall be disbursed within five business days after settlement except as determined by the parties at settlement.

(d) Cancellation for nonpayment of a premium where the insurance producer of record has advanced the premium shall follow the written request of the insurance producer who has advanced such funds to the insurer. The written request shall be signed by the insurance producer, setting forth the amount of money advanced by the insurance producer, the amount of money paid by the insured to the insurance producer, the provisions contained in the agreement between the insured and the insurance producer, the provisions contained in the agreement between the insured and insurance producer as to payments, and facts concerning the breach of payment by the insured. A copy of the written request shall be mailed to the insured at the time that it is submitted to the insurer.

11:17C-2.3 Trust account

(a) An insurance producer shall establish and maintain a TA under the following circumstances:

1. When an insurance producer holds any premiums for more than five business days before remitting the premiums to an insurer or other insurance producer, pursuant to N.J.A.C. 11:17C-2.2(a)1-5; or

2. When an insurance producer deposits any collected premiums into a financial institution account or other investment, or otherwise uses the premiums, even though the premiums are remitted within five business days.

(b) The account shall be designated a "Trust Account" on the bank records and those words shall be displayed on the face of the checks on that account.

(c) The TA shall be a separate account from that required for the surplus lines guarantee fund.

(d) Any insurance producer who maintains or is required to maintain a TA shall deposit into the TA all premiums received.

(e) Non-premium monies received by the insurance producer for soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance may be deposited into the TA. Examples of non-premium monies include, but are not limited to, service fees, policy fees, late charges, inspection fees and surplus lines premium taxes.

(f) Any insurance producer who is required to maintain a TA pursuant to (a) above shall establish and maintain a TA in a financial institution as defined in this chapter. Any resident insurance producer required to maintain a TA shall maintain such TA in one or more financial institutions located within this State and subject to the jurisdiction of the New Jersey courts.

(g) An insurance producer may place TA funds in interest bearing or income producing assets and retain the interest or income thereon

provided the nature of the account has previously been disclosed to the principal and the insurance producer has secured from the principal a written authorization for the investment of the money and the retention of any earnings thereon.

(h) The following disbursements may be lawfully withdrawn from the TA:

1. Non-premium monies received by the insurance producer in connection with soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance;
2. Net or gross premium remittances due other insurance producers or insurers;
3. Claim payments or reinsurance premiums for transfer to another TA account when authorized by an insurer;
4. Premiums due insureds;
5. Commissions due the insurance producer, net any financial institution charge or commission due another insurance producer, provided that commissions are withdrawn only on premiums deposited into the TA;
6. Interest which the insurance producer is authorized to retain pursuant to this chapter;
7. Voluntary deposits; and
8. Funds for investment made pursuant to (g) above.

(i) Disbursements pursuant to (h)2 and 4 above shall be made payable to the insurance producer or another insurance producer, the insurer or the insured, as the case may be.

(j) The TA balance in the financial institution shall at all times be at least equal to the amount deposited less lawful withdrawals, except where the sole reason for the deficiency is the return from the maker's bank of checks accepted in good faith as payment of premiums. If the balance in the financial institution is less than the amount deposited less lawful withdrawals, the insurance producer shall be deemed to be in violation of this chapter and shall be subject to penalties as provided by N.J.A.C. 11:17C-1.3.

11:17C-2.4 Receipts

(a) Each insurance producer shall issue a receipt for each premium for any payment, premium deposit or installment payment which is submitted by personal delivery and shall maintain verification for each receipt issued. The receipt shall be furnished at the time payment is tendered. For title insurance only, unless a receipt is specifically requested, a settlement statement with the file number denoted shall suffice in lieu of a receipt.

(b) Each receipt and receipt book maintained by an insurance producer shall:

1. Be sequentially numbered;
2. Be clearly written on "no carbon required" paper or "carbon copy" paper;
3. Be clearly signed by the insurance producer or his or her authorized employee, and the name of the insurance producer shall be typed or legibly printed below the signature;
4. Specify allocation of the payment to the entities identified in (b)6 below;
5. Indicate the name and address of the insured;
6. Indicate the name of the insurance company when known, or the name of the residual market mechanism or other insurance producer;
7. Indicate the name, address and telephone number of the insurance agency;
8. Indicate the policy number(s), application number(s), or binder number(s);
9. Indicate the date of transaction;
10. Indicate the purpose of the payment, such as, premium deposit, installment, renewal premium, premium tax, service fees, motorclub fees, etc.;
11. Indicate the amount of remittance; and
12. Indicate the type of remittance, such as, cash, check or money order.

(c) The requirements of (b)2 and 5 above shall not apply to receipts which are a part of and attached to the original application for insurance.

(d) Each insurance producer shall be responsible for the care, custody, and security of receipt books in the following manner:

1. Receipt books shall be maintained at a business address on file with the Department of Insurance;
2. Every receipt shall be accounted for by the licensee; and
3. Completed receipt books shall be retained for a minimum of five years from the date of completion.

11:17C-2.5 Minimum record-keeping requirements

(a) Each licensee shall maintain accurate books and records reflecting all insurance-related transactions in accordance with the standards set forth in this chapter. These records may be maintained by either separate books of record or by one or more consolidated books of record.

1. All books and records shall consist of sequentially numbered pages and shall be maintained in such a manner that they can be produced for examination at any time.
2. Appropriate and required entries shall be made at least once every 30 days.

(b) Each licensee shall maintain a register of all monies received, deposited, disbursed or withdrawn in connection with an insurance transaction, including, but not limited to: premiums; service fees; placement fees; inspection fees; motorclub fees; premium taxes; transfers and disbursements from a TA; and all transactions concerning, including the balance of, all interest bearing accounts. The minimum information required to be maintained in the register includes the following:

1. The date monies were received, deposited, disbursed or withdrawn;
2. The amount of money received, deposited, disbursed or withdrawn;
3. An itemized record of the allocation of the funds;
4. The name of the insured, insurance producer, insurer or other account to or from whom monies are disbursed or received pursuant to N.J.A.C. 11:17C-2.4(b);
5. The policy number or binder number;
6. The receipt number, when available; and
7. The method of payment, such as, cash, check, money order or draft.

(c) If the premium amount received or disbursed differs with the amount billed, the insurance producer shall prepare a written record of the discrepancy which shall be maintained with the relevant entry in the register for the period of time required by N.J.A.C. 11:17C-2.6(a).

(d) For each disbursement, the number of the check shall be recorded in the register.

(e) If the disbursement is a commission payment to the insurance producer or another insurance producer, the disbursement shall be supported by a written record of the following:

1. The name of the insured;
2. The name of the insurer;
3. The policy number; and
4. The net commission, which shall not in all cases be greater than the amount of the disbursements recorded in the register.

(f) All entries for receipts and disbursements shall be supported by evidential matter as provided in (b), (d) and (e) above. The evidential matter shall be referenced in the entry so that it may be traced for verification.

(g) Each insurance producer shall prepare and maintain a monthly reconciliation of the TA.

(h) Each insurance producer shall maintain a file for each current client or customer which shall continue to be maintained for a period of at least five years after the termination of the business relationship. The minimum items required to be maintained in the file include the following:

1. A copy of each application for insurance;
2. The name of any other insurance producer who handled any transaction or part thereof;
3. The insurance premium financing agreement, if any, and the name of the lender; and
4. All correspondence received or sent with respect to any insurance or insurance related transaction.

11:17C-2.6 Record maintenance and examination; electronic record keeping

(a) All required books and records of account, including bank records, shall be maintained for a period of five years after the period covered by the account.

(b) All records, books and documents required to be maintained by the provisions of this chapter shall, upon his or her request, be produced for examination by the Commissioner or his or her duly authorized representatives.

(c) The books and records required by this chapter to be maintained may be maintained electronically if the following conditions are met:

1. That all of the elements required by this chapter to be maintained are contained in the electronic system;

2. That, upon the request of the Department of Insurance, the electronically kept records can be reproduced in hardcopy; and

3. That, at least every 30 days, the records maintained electronically are reproduced in hardcopy and maintained on file for a period of five years. Each such reproduction shall contain a certification by the issuing insurance producer that the hardcopy is an accurate reproduction of the electronically kept records.

CHAPTER 17D
PRODUCER CONDUCT: ADMINISTRATIVE PROCEDURES AND PENALTIES

SUBCHAPTER 1. GENERAL REQUIREMENTS

11:17D-1.1 Purpose and scope

This chapter is promulgated to describe the procedures for imposing administrative penalties, including the method of determining monetary fines, for violations of the provisions of N.J.S.A. Titles 17 and 17B and any rules or orders issued by the Commissioner of Insurance. The procedures and penalties described apply to all insurers, insurance producers, limited insurance representatives and other persons subject to the jurisdiction of the Commissioner.

11:17D-1.2 Definitions

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

"Administrative order" means any and all orders issued or executed by the Department including but not limited to consent orders and orders to show cause.

"Administrative penalty" means a punishment authorized by any statute or administrative rule to be imposed by the Commissioner for any act or omission by a person subject to the Commissioner's jurisdiction, including: revocation, suspension or refusal to renew any license or authority to conduct any regulated activity; any monetary fine; and any order to make restitution or to pay the reasonable cost of an investigation and prosecution of any matter. It shall not include the rejection and return of any application or filing for additions or correction of any error, unless a fine is imposed and must be paid as a condition of later acceptance of the application or filing;

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

"Department" means the New Jersey Department of Insurance.

"Hearing" means a hearing held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules adopted thereunder.

"Insurance producer" is defined at N.J.S.A. 17:22A-2.

"Market conduct examination" means an audit or examination by the Department of the trade practices and activities of an insurer.

"Notice" means any written communication from the Department to an alleged violator of intent to assess an administrative penalty containing those elements set forth in N.J.A.C. 11:17D-2.1. A notice may be in the form of an administrative order such as a consent order or order to show cause.

"Person" means any individual, corporation, partnership or other legal entity.

"Time related violation" means the failure to meet a time limit or deadline imposed by statute, rule or administrative order. When such a time limit or deadline is not met, each day after the time limit or deadline passes shall be considered a separate and distinct violation.

SUBCHAPTER 2. ADMINISTRATIVE PROCEDURES AND PENALTIES

11:17D-2.1 Procedures for the imposition of administrative penalties

(a) Rules concerning the initiation of action against an alleged violator follow:

1. Before an administrative penalty is imposed, the Department shall direct a notice by certified mail or personal delivery to the last known business or mailing address of the alleged violator. The notice shall include:

i. A reference to the statute, rule and/or administrative order alleged to be violated;

ii. A concise statement of the facts alleged to constitute the violation;

iii. A statement of the administrative penalty or penalties sought to be imposed; and

iv. A statement advising the alleged violator of the right to a hearing and the procedure for requesting a hearing.

2. The notice may describe more than one violation, or more than one specific penalty for each violation. A single form of notice may be used to notify several alleged violators, so long as all are named and served with a copy of the notice in conformity with the provisions of (a)3 below.

3. The notice shall be served by personal delivery, or by certified mail to the alleged violator's last known business or mailing address, according to the files maintained by the Department. Service in this manner shall be considered lawful service on the alleged violator.

(b) Rules concerning the failure of an alleged violator to respond to a notice follow:

1. The alleged violator's failure to respond, as required by the notice, within the time provided in the notice, shall be deemed to be an admission to all of the allegations, charges and conclusions contained in the notice, and no further proceeding shall be required prior to the execution of a final order that imposes the administrative penalty or penalties described in the notice.

2. If no response is received within the time provided in any notice to suspend or revoke a license or authority to conduct any activity regulated by Title 17 and 17B, the Department shall prepare a final order suspending or revoking the license or authority to conduct such activity, and mail a copy of the order to the violator at his or her last known business address on file with the Department.

3. If the notice provides for the payment of any fine, compels any restitution or reimbursement to the Department for investigative or prosecution cost, and payment or proof of payment has not been received, the Department may proceed to suspend or revoke the license or authority of the violator as provided in N.J.A.C. 11:17D-2.1.

(c) Rules concerning an alleged violator's consent to an administrative penalty follow:

1. In order for matters set forth in a notice to be deemed concluded by means of a consent by the alleged violator to the imposition of the administrative penalty described in the notice, the Department may require any or all of the following:

i. The return to the Department for cancellation of any license or other written evidence of the authority to conduct the business of insurance in this State;

ii. The payment of any monetary penalty;

iii. The reimbursement to the Department of the costs of investigation and prosecution;

iv. Restitution of moneys owed any person; and

v. Execution of an administrative order which may include admissions of material facts, conclusions of law, and such other terms and conditions as the Commissioner, or his or her authorized representative may deem to be necessary and appropriate under the circumstances.

(d) Rules concerning a request by an alleged violator for a hearing follow:

1. An alleged violator shall have 20 calendar days from service of the notice of intent to impose an administrative penalty within which to deliver a written request for a hearing to: Administrator, Enforcement, New Jersey Department of Insurance, CN 329, Trenton, New Jersey 08625-0329.

2. A request for a hearing shall include:

i. The name, address and daytime telephone number of an alleged violator;

ii. A copy of the notice;

iii. A statement requesting a hearing;

iv. A specific admission, denial or explanation of each fact alleged, or a statement that the person is without knowledge thereof; and

v. A concise statement of the facts or principles of law asserted to constitute any factual or legal defense.

3. If a hearing request fails to include a specific admission, denial or explanation of each fact alleged, or a statement that the person is without knowledge thereof, the facts alleged in the notice shall be deemed to have been admitted.

4. If a hearing request lacks any of the elements in (d)2 above, the Department may deny the request or by certified mail advise the person of the deficiencies and provide an additional 10 calendar days from the issuance of the deficiency letter to correct them. If no reply correcting the deficiencies is received by the Department within 15 calendar days, the Department may issue a final order.

5. Upon receipt of a properly completed request for a hearing, the Administrator of Enforcement or such other Department personnel as may be designated, shall examine the request and may conduct or direct such further proceedings as may be appropriate, including but not limited to an interview with the alleged violator.

6. Not later than 60 days after the receipt of a properly completed request for a hearing, the Administrator of Enforcement, or such other Department personnel as may be designated, shall advise the alleged violator of the manner of disposition, which may be as follows:

i. Terminated with or without prejudice;

ii. Resolved by consent order, which may provide for a lesser or different administrative penalty; or

iii. A finding that the matter constitutes a contested case, pursuant to the Administrative Procedure Act N.J.S.A. 52:14B-1 et seq. In such a case, the Department shall transmit the matter to the Office of Administrative Law for a hearing consistent with the Uniform Administrative Practice Rules, N.J.A.C. 1:1.

11:17D-2.2 Monetary penalty for time related violations

(a) Time related violations shall include the following:

1. When an insurance producer or limited insurance representative fails to respond to an inquiry of the Department within the time requested or within 15 calendar days from the date of the inquiry if no response date is given; or

2. When an insurance producer or limited insurance representative fails to act within or continues his or her actions during the time established or proscribed by a statute, administrative rule or order.

(b) Each day that an insurance producer or limited insurance representative is in violation of (a) 1 or 2 above shall be considered a separate violation and the Commissioner may impose the maximum penalty provided therefor by law.

11:17D-2.3 Alternative remedies

Neither the assessment of administrative penalties nor the payment of any such penalty shall be deemed to affect the availability to the Department of any other enforcement provision provided for by statute, rule or administrative order, in connection with the violation for which the penalty is levied.

11:17D-2.4 Schedules of fines for certain insurance producer licensing violations

(a) The Department shall impose fines for certain insurance producer violations in accordance with the following schedule:

1. Failure to maintain on file with the Department a complete and accurate business or home address or to notify the Department of a change of business or home address within 20 days: $250.00, except where notification is delayed beyond 60 days, in which case the violator is subject to the maximum penalty provided by law;

2. Failure to notify the Department of the opening of a branch office within 30 days or the closing of a branch office within 20 days: $500.00;

3. Payment of a license or processing fee with a check later returned for insufficient funds or because the account is closed: $500.00;

4. Failure to notify the Department of a change of business name within 30 days: $250;

5. Failure to notify the Department of the addition or deletion of owners of more than five percent or officers, directors or partners: $250.00;

6. Failure to maintain at each office copies of all employment contracts and copies of all agency contracts: $100.00 per contract;

7. Failure to renew a license prior to expiration, unless, prior to expiration, the renewal application is returned marked "do not renew": $25.00 per month or part thereof. Failure to timely renew an insurance producer license shall require reapplication; and

8. Upon demand by a licensed insurance producer, the failure by an employing insurance producer, insurer, or other custodian to return a license to the possession of the named insurance producer: $500.00.

(b) The fines identified in (a) above are applicable to first offenders only. Repeat offenders shall be subject to the maximum penalties provided by law.

11:17D-2.5 Effect of suspension or revocation of producer license

(a) Upon service of any final order suspending or revoking an insurance producer license, the insurance producer shall immediately return to the Department for cancellation any license in his or her possession.

(b) Imposition of a period of suspension or of revocation shall sever any existing agency relationships with insurance companies, employment relationships with other insurance producers, and licensed officer or partner relationships with any licensed organization. In the event a license is later reinstated, those relationships shall be reestablished by refiling in accordance with N.J.A.C. 11:17-2.9.

(c) No other licensed individual or organization shall advertise, display or conduct any insurance business using the legal or business name of any person whose license has been revoked.

(d) No person whose insurance producer license has been suspended or revoked shall be entitled to any refund of license fees for the unexpired term of any license issued.

(e) No person whose insurance producer license has been suspended or revoked shall become or act as a limited insurance representative during the period of suspension or revocation.

(f) In accordance with N.J.S.A. 17:22A-18, no person whose license has been suspended or revoked may be a partner, officer, director or owner of a license organization, or otherwise be employed in any capacity by an insurance producer or insurance company.

11:17D-2.6 Reinstatement after suspension of insurance producer license

(a) Upon completion of any period of suspension and upon the completion of all conditions contained in the order suspending an insurance producer's license, a former licensee may reapply for an insurance producer license by submitting a properly completed application as required by N.J.A.C. 11:17-2.3.

(b) The applicant shall submit with the application a copy of the order of suspension and an executed affidavit that states:

1. That the period of suspension has been completed;

2. That all required conditions for reinstatement as described in the order of suspension have been met;

3. That documents confirming that all conditions have been met, such as receipts for fines or restitution, satisfactions of judgement, etc. are attached to the affidavit; and

4. That the applicant has complied with all restrictions imposed by the order of suspension.

(c) The applicant shall demonstrate compliance with the professional qualification provisions of N.J.S.A. 17:22A-4(c) (which requires completion of the proper courses of pre-licensing education if the person has been unlicensed for two years or more) and N.J.S.A.

17:22A-4(d) (which requires persons to have passed the state licensing examination if they have been unlicensed for one year or more).

11:17D-2.7 Reinstatement after revocation of insurance producer license

(a) A person whose license has been revoked may, after five years from the effective date of any order revoking an insurance producer license, apply for reinstatement of the license on the form of application used for initial insurance producer license applicants.

(b) The applicant shall demonstrate compliance with the professional qualification requirements of N.J.S.A. 17:22A-4(c) which requires completion of the proper courses of pre-licensing education and N.J.S.A. 17:22A-4(d) which requires the person to have passed the State licensing examination.

(c) The applicant shall include with the application an affidavit containing the following information concerning the applicant's activities since revocation:

1. An employment history;

2. A statement concerning the other business interests, if any of the applicant;

3. The manner of disposition of the applicant insurance producer business upon revocation of his or her insurance producer license;

4. Whether restitution has been made as a result of the activities that led to revocation, including the names and addresses of the persons or entities to whom restitution was made and amounts of restitution made;

5. Whether the applicant currently holds any other business, professional or occupational licenses in this or any other state;

6. Whether the applicant, or any business in which he or she owns five percent or more, is or has been a party to any legal or administrative proceedings in this or any other state, and if so a statement concerning the nature of the proceedings, the parties and result or current status; and

7. A written statement by the applicant describing the manner in which he or she has improved his or her reputation, character, trustworthiness, competency and worthiness to be an insurance producer.

(d) If the revocation was based upon the conviction of a crime or if the applicant was convicted of a crime since revocation, a report from the applicant's chief probation officer must be submitted with the application for licensing.

(e) The Commissioner, or his or her designee, shall review the application to determine whether reinstatement is warranted. The review of the application may include further investigation or inquiry, may require the applicant to provide additional information, and may further include a conference with Department personnel.

(f) If the Department is satisfied that reinstatement is warranted, the Department shall issue the license. If the Department is not satisfied that reinstatment is warranted, the Department shall deny the license in accordance with the procedures described in N.J.A.C. 11:17D-2.3.

11:17D-2.8 Suspension or revocation of registration as a limited insurance representative

(a) No person whose registration as a limited insurance representative has been suspended or revoked may be registered or conduct business as a limited insurance representative or as an insurance producer during the period of suspension or revocation.

(b) Imposition of a period of suspension or revocation shall terminate the existing relationship between the limited insurance representative and the insurance company that registered the representative.

(c) Upon completion of the period of suspension, or not less than five years in the case of revocation, the limited insurance representative may be re-registered by any company if all other conditions that may have been imposed by the order of suspension or revocation have been satisfied.

11:17D-2.9 Separability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

RULE ADOPTIONS

PERSONNEL

(a)

MERIT SYSTEM BOARD

Notice of Administrative Correction
Classification, Services and Compensation
N.J.A.C. 4A:3-2.2

Take notice that the Department of Personnel has discovered an error in the text of N.J.A.C. 4A:3-2.2(b) in which a language change substituting "another" for "higher level" was adopted by the Department but not published as part of the rule text in the September 6, 1988 issue of the New Jersey Register at 20 N.J.R. 2255(b). This notice of administrative correction is provided pursuant to N.J.A.C. 1:30-2.7(a)3.

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

4A:3-2.2 Designation of SES positions: State service
(a) (No change.)
(b) An SES position shall only report to a department head, higher level unclassified position, or [higher level] **another** SES position.
(c) (No change.)

COMMUNITY AFFAIRS

(b)

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Return on Equity
Adopted Amendment: N.J.A.C. 5:80-3.3

Proposed: January 17, 1989 at 21 N.J.R. 94(a).
Adopted: April 12, 1989 by the New Jersey Housing and Mortgage Finance Agency, James L. Logue III, Executive Director/Secretary.
Filed: April 19, 1989 as R.1989 d.259, **without change.**

Authority: N.J.S.A. 55:14K-5g and 55:14K-7a(6).

Effective Date: May 15, 1989.
Expiration Date: May 20, 1990.

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

Full text of the adoption follows:

5:80-3.3 Housing projects on or after January 17, 1984
(a) For each eligible loan made by the Agency on or after January 17, 1984 for a Housing Project, the Agency shall determine, at the time of initial mortgage closing, the investment made by the Housing Sponsor.
1.-2. (No change.)
3. The Housing Sponsor shall be entitled to return on its investment except for funds procured through grants or loans at rates established in accordance with (b) or (c) below. It shall earn a return on any cash portion of its investment from the date it is actually contributed and on the non-cash portion of its investment from the date it is actually contributed toward approved project costs.
(b) For housing projects which receive a loan from the Agency under the New Jersey Urban Multi-family Production Program, the rate of return on investment may not exceed 12 percent.
Redesignate existing (b) as (c) (No change in text.)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

(c)

Substantive Rules
Definitions, Terms and Age Restricted Units
Adopted Amendments: N.J.A.C. 5:92-1.3 and 11.2
Adopted New Rule: N.J.A.C. 5:92-14.3

Proposed: March 6, 1989 at 21 N.J.R. 595(a).
Adopted: April 24, 1989 by the New Jersey Council on Affordable Housing, James L. Logue III, Chairman.
Filed: April 24, 1989 as R.1989 d.264, **without change.**

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

Effective Date: May 15, 1989.
Expiration Date: June 16, 1991.

Summary of Public Comments and Agency Responses:
COMMENT: The Council's recognition of alternative living arrangements is a welcome recognition of a housing type that supplies shelter for people who might otherwise be homeless. However, the 25 percent cap on age restricted housing and/or alternative living arrangements is unnecessary. Many alternative living arrangements are licensed through the Department of Human Services and are structured in such a way to avoid saturation within a specific municipality. The rule also creates an unwarranted competition between the housing needs of the elderly and the disabled.
RESPONSE: The purpose of the 25 percent cap is to balance the needs of at-risk groups and the needs of other households and families. It should be emphasized that the elderly and disabled are not precluded from occupying any low and moderate income unit. The rule merely limits restriction to particular groups. In general, the Council favors housing open to all low and moderate income households. However, N.J.A.C. 5:92-14.3(b) states that the Council shall monitor the creation of alternative living arrangements on an annual basis to determine the impact of the rule. After this monitoring process, the Council will have more information to determine the necessity of the 25 percent cap.
COMMENT: Can a municipality receive credit for alternative living arrangements constructed after April 1, 1980?
RESPONSE: Alternative living arrangements constructed after April 1, 1980 would be eligible for credit if governed by controls on affordability acceptable to the Council. The unit of credit shall be the bedroom. Therefore, if two or more people share a bedroom, the municipality shall receive credit for one unit against its fair share obligation.

Full text of the adoption follows.

5:92-1.3 Definitions
The following words and terms, when used in this chpater, shall have the following meanings unless the context clearly indicates otherwise.

. . .

"Alternative living arrangement" means a structure in which households maintain private rooms yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to, Class C boarding homes as regulated by the New Jersey Department of Community Affairs, residential health care facilities as regulated by the New Jersey Department of Health, group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services, and congregate living arrangements. All such facilities must be subject to controls on affordability acceptable to the Council.

5:92-11.2 Terms
(a)-(b) (No change.)
(c) Housing provided pursuant to a RCA may include the creation of alternative living arrangements. To qualify as an appropriate component of a RCA, such facilities must be subject to controls on affordability acceptable to the Council.

(d)-(g) (No change.)

(h) Housing units transferred via a regional contribution agreement may include age restricted housing units and alternative living arrangements provided that the sum of newly constructed age restricted units and alternative living arrangements created in the sending and receiving communities does not exceed 25 percent of the sending community's fair share obligation as calculated after credits and adjustments have been granted. This restriction shall not apply to the rehabilitation of existing age restricted units in either the sending or receiving community.

5:92-14.3 Age restricted units and alternative living arrangements

(a) Municipalities may address up to 25 percent of their fair share obligation, as calculated after credits and adjustments have been granted, less any units tranferred by way of a regional contribution agreement, by creating age restricted housing units and/or alternative living arrangements. The unit of credit for alternative living arrangements shall be the bedroom. Therefore, if two or more people share a bedroom, the municipality shall receive credit for one unit against its fair share obligation.

(b) The Council shall monitor alternative living arrangements on an annual basis to determine the impact of this rule.

(a)

Substantive Rules
Rental Housing Fair Share Credit
Adopted Amendment: N.J.A.C. 5:92-14.4

Proposed: February 6, 1989 at 21 N.J.R. 234(a).
Adopted: April 24, 1989 by the New Jersey Council on Affordable Housing, James L. Logue III, Chairman.
Filed: April 24, 1989 as R.1989 d.265, **without change.**

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

Effective Date: May 15, 1989.
Expiration Date: June 16, 1991.

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

Full text of the adoption follows.

5:92-14.4 Rental housing

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

(d) All municipalities, including those not required to develop a rental housing component, shall receive a one and a third unit credit, for each rental unit constructed and occupied in their municipality, until such time that the constructed rental housing units are in excess of 20 percent of the municipal fair share calculated after crediting, after adjustments and after indigenous need. The Council may grant municipalities the one and a third unit credit when it determines that the municipality has provided or received a firm commitment for the construction of low and moderate income rental units that includes a construction timetable coinciding with the period of substantive certification.

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

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES
Coastal Resource and Development
Hudson River Waterfront Development
Adopted Amendment: N.J.A.C. 7:7E-3.46

Proposed: August 15, 1988 at 20 N.J.R. 1982(a).
Adopted: April 22, 1989 by Christopher J. Daggett, Commissioner, Department of Environmental Protection.
Filed: April 24, 1989 as R.1989 d.271, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 12:5-1 et seq. and 13:1D-1 et seq.
DEP Docket Number: 029-88-07.

Effective Date: May 15, 1989.
Expiration Date: July 24, 1990.

Summary of Public Comments and Agency Responses:

The proposed amendment was published on August 15, 1988. During the comment period, which closed on September 14, 1988, one comment was submitted by a transportation agency.

COMMENT: The rule should explicitly state that the public access walkway along the length of the pier is to be connected with the Hudson Waterfront Walkway.

RESPONSE: It was the intent of the proposal and is consistent with Department policy that public open space systems on piers are to be contiguous with the Hudson River Waterfront Walkway. The Department believes that, although N.J.A.C. 7:7E-3.46(d)1vi does not specifically state this, such a requirement is implicit. In order to clarify the intent of the rule, however, the recommended modification has been made.

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

7:7E-3.46 Hudson River Waterfront Area

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

(d) The following standards apply to all developments proposed on piers and will be used by the Division as a guide for developments proposed on platforms. In some cases, a platform may, in effect, function as upland and, thus, be more appropriately reviewed under policies that regulate upland development. Developers proposing platform development that does not adhere to this section's requirements are encouraged to contact the Division for guidance when conceptual plans have been prepared.

1. Non-industrial development upon piers is conditionally acceptable provided that specific amounts of usable landscaped public open space are incorporated into the project, as provided below:

i.-v. (No change.)

vi. At least one public access walkway of at least 16 feet in width shall be provided along the entire length of a pier, from the *[landward to the]* waterward *[ends]* ***end to the landward end at the point at which it abuts the Hudson River Waterfront Walkway***. All such walkways shall be at pier deck level or ramped so that disabled access is provided between the public open space areas at both ends of a pier;

vii-ix. (No change.)

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

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries Administration

Taking of Blue Crabs

Adopted Amendment: N.J.A.C. 7:25-7.13

Proposed: February 6, 1989 at 21 N.J.R. 268(a).
Adopted: April 18, 1989 by Christopher J. Daggett, Commissioner, Department of Environmental Protection.
Filed: April 24, 1989 as R.1989 d.269, **without change.**

Authority: N.J.S.A. 23:2B-6 and 23:5-35.2.
DEP Docket Number: 002-89-01

Effective Date: May 15, 1989.
Expiration Date: February 18, 1991.

Summary of Public Comments and Agency Responses:

The proposed amendment was published in the New Jersey Register on February 6, 1989 at 21 N.J.R. 268(a). The Department received written comments from four interested parties during the public comment period which closed on March 8, 1989. At this time, the Department is adopting the proposed amendment without change. However, as a result of the comments received, the Department will propose further amendments to the blue crab harvest rules in the near future.

COMMENT: The Department should allow dredging of blue crabs from the beginning of daylight to dark, instead of the current limits of from one-half hour after sunrise to one-half hour before sunset (see N.J.A.C. 7:25-7.13(d)).

RESPONSE: The current dredging hours provide definable limits on dredging and are equitable to all participants in the crab dredge fishery. In addition, allowing dredging during the defined time gives law enforcement officers the ability to easily monitor the fishery on the water and when catches are landed.

COMMENT: The Department should allow crab dredging on Sunday in all bays, not just in Raritan and Sandy Hook Bays (see N.J.A.C. 7:25-7.13(d)).

RESPONSE: The Department does not allow crab dredging on Sundays south of Sandy Hook Bay because of the potential interference with leased shellfish beds to the south. Since clams cannot be legally harvested on Sundays, leased shellfish beds are unmanned on Sundays. The Department feels that allowing crab dredging in these areas on Sundays could lead to extensive illegal harvesting of clams on leased shellfish beds. To minimize the conflicts between the two user groups, both clam harvest and blue crab harvest will remain prohibited on Sundays at this time.

COMMENT: The Department should amend N.J.A.C. 7:25-7.13(a)6 to allow crab dredges to be attached to a vessel by more than one cable or tow line.

RESPONSE: The Department's intent in enacting N.J.A.C. 7:25-7.13(a)6 was to prohibit attaching dredges together to effectively circumvent dredge size and weight limits. Since crab dredges can be attached to a vessel by more than one cable or tow line and still be "independently and separately" attached to the vessel, the Department will propose amendments to this language in the near future.

COMMENT: The Department should allow more than four dredges to be attached to a vessel.

RESPONSE: The adopted amendment increases the maximum dredge weight to 200 pounds when harvesting crabs in Raritan and Sandy Hook Bays if only one dredge is attached to the harvest vessel. North of Route 36 (Highlands Bridge), the Department allows an unlimited number of dredges with a maximum weight per dredge of 110 pounds. The Department feels that these weight limits and dredge number limits are necessary to retain the traditional small boat character of the crab dredge fishery and to minimize the possible detrimental effects of dredging on hard clams and submerged aquatic vegetation.

COMMENT: The Department should increase the maximum weight of dredges used in Raritan Bay to 200 pounds, with a limit of four dredges per vessel.

RESPONSE: The adopted amendment increases the maximum dredge weight to 200 pounds when harvesting crabs in Raritan and Sandy Hook Bays if only one dredge is attached to the harvest vessel. North of Route 36 (Highlands Bridge), the Department allows an unlimited number of dredges with a maximum weight per dredge of 110 pounds. The Department feels that these weight limits and dredge number limits are necessary to retain the traditional small boat character of the crab dredge fishery and to minimize the possible detrimental effects of dredging on hard clams and submerged aquatic vegetation.

COMMENT: The Department should allow blue crab harvesters to shackle two dredges together side by side.

RESPONSE: Allowing dredges to be shackled together would effectively circumvent the maximum length of tooth bar regulations—the result would be harvest by two attached dredges that are in effect fishing as one large dredge. Therefore, each dredge must be separately and independently attached to the vessel.

Full text of the adoption follows.

7:25-7.13 Crab dredging in the Atlantic Coast section

(a) No crabs may be caught or taken in the Atlantic Coast section by dredges unless a valid crab dredge license is aboard the vessel. The crab dredges shall conform to the following specifications:

1. The maximum length of the tooth bar shall be 75 inches in Raritan and Sandy Hook Bays, but if only one dredge is in possession then the maximum length of the tooth bar shall be 96 inches in Raritan and Sandy Hook Bays, and 38 inches in all other waters.

2. The maximum weight of the dredge shall be 110 pounds in Raritan and Sandy Hook Bays, but if only one dredge is in possession then the maximum weight of the dredge shall be 200 pounds in Raritan and Sandy Hook Bays, and 60 pounds in all other waters.

3.-7. (No change.)

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

(d) No person shall catch, take, or attempt to catch or take crabs from any of the lands of the Atlantic Coast section except from one-half hour after sunrise to one-half hour before sunset between November 15 and March 31 south of Route 40 (Black Horse Pike), and December 1 and March 31 north of Route 40, nor at any time on Sunday except in Raritan and Sandy Hook Bays.

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

HEALTH/LABOR

(b)

ASBESTOS CONTROL SERVICE
DIVISION OF WORKPLACE STANDARDS

Asbestos Licenses and Permits

Definition of Removal

Adopted Amendments: N.J.A.C. 8:60-1.4 and 12:120-1.4 and N.J.A.C. 8:60-2.1 and 12:120-2.1

Proposed: May 16, 1988 at 20 N.J.R. 1049(a).
Adopted: April 11, 1989 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health and Charles Serraino, Commissioner, Department of Labor.
Filed: April 14, 1989 as R.1989 d.247, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:5A-39.

Effective Date: May 15, 1989.
Expiration Date: May 3, 1990.

Summary of Public Comments and Agency Responses:

Comments were received during the comment period from the following:

Laborers' International Union of North America ("LIUNA").

Skadden, Arps, Slate, Meagher & Flom, representing Jones Lang Wooton Project Management Services, Inc. ("JLWPMS").

Archway Contracting Company, Inc.

Marcor of Pennsylvania, Inc.

National Institute of Building Sciences ("NIBS").

The amendment, as proposed, exempts the application, enclosure, encapsulation, or removal of asbestos-containing roofing and exterior siding material from the provisions of N.J.A.C. 8:60 and 12:120. The Department of Health, however, reserves the right to reevaluate its position and require appropriate training and licensing should future data indicate a significant risk due to this type of environmental exposure.

COMMENT: One commenter indicated that the proposed amendment made no mention of the transport and disposal of asbestos-containing exterior building materials.

RESPONSE: Although the intent of this amendment is to exempt the application, enclosure, encapsulation, or removal of asbestos-containing roofing and exterior siding material, it was never the intention of this Department to exempt the transport and disposal of such material. The amendment in no way changes the rules as set forth at N.J.A.C. 7:26 (Rules of the Bureau of Solid Waste Management).

COMMENT: One commenter stated that it would be prudent to include qualifying statements addressing the waste handling and worker protection issues.

RESPONSE: The waste handling and worker protection issues are addressed at N.J.A.C. 7:26 (Rules of the Bureau of Solid Waste Management), 29 C.F.R. 1910.1001 (Occupational Exposure to Asbestos: Occupational Safety and Health Administration General Industry Safety and Health Standards), 29 C.F.R. 1926.58 (Occupational Exposure to Asbestos: Occupational Safety and Health Administration: Construction Standard), and 40 C.F.R. 763, Subpart G (Environmental Protection Agency: Asbestos Abatement Projects, Worker Protection Rule).

COMMENT: If it is the intent of the amendment to describe relevant work practices, will the Department consider requirements to reduce fiber release, such as water misting and control of breakage of asbestos-cement shingles?

RESPONSE: These relevant work practices are addressed in the previous response.

COMMENT: Any activities dealing with exterior roofing and siding should also be exempt.

RESPONSE: It is true that the amendment, as originally proposed, indirectly implies that removal may be the only activity which is exempt. As such, the N.J.A.C. 12:120-1.4 and N.J.A.C. 8:60-1.4 have been amended to address activities other than removal.

COMMENT: The proposed amendment is factually incorrect in stating that there is an absence of significant health risk data related to removal of roofing and siding materials.

RESPONSE: In support of this position, the commenter submitted "Asbestos Exposure Assessment", prepared by ICF Inc., for Dr. Kin Wong, Chemical Engineering Branch, OPTS, EPA, 3/21/88. This documentation is a broad literature review with only one section addressing the construction industry. Although the report is dated March 21, 1988, most of the data cited date from the 1970s, when regulations were less stringent and asbestos sampling and analytical methods were less sensitive and standardized. The authors state that no other recent data are available. Only three ambient area samplings can be identified in the data from 17 roofing sites. Most of these data are personal exposure data for roofers who are regulated by 29 C.F.R. 1926.58. The Department's principal concern is environmental exposures of building occupants and the nearby public.

Data supplied by the National Roofing Contractors Association ("NRCA") contain 20 recent studies in addition to those cited in the above-referenced document. Most of these studies include ambient samples and six of these have multiple, systematic ambient sampling. All but three of the 98 individual ambient samples were <0.01 fibers per cubic centimeter (f/cc) or else below the detection limit (BDL) for the analytic method (P&CAM 239 or NIOSH 7400). The three ambient samples were 0.013 f/cc for two (of the 14 total) in one study and one (of 12 total) at 0.027 f/cc in another study. The ambient levels identified from the data submitted by LIUNA are near or below the analytic limit of detection (LoD). Area sampling from the Johns-Manville studies cited in the LIUNA data may be significantly above the LoD, but the available data do not distinguish between personal and area sampling. These data range from <0.1 to 0.6 f/cc and are the oldest (1974-77).

COMMENT: One commenter attempted to make a strong case by combining exposure data from Wong, above, with lifetime cancer risk estimates for asbestos exposures at 0.01 f/cc.

RESPONSE: These risk data are based upon extrapolations from epidemiological data of deaths related to occupational exposures two to three orders of magnitude higher than the 0.01 f/cc standard. Assumptions must be made that not only are dose-response relationships linear with no threshold throughout their entire range, but also that continuous exposures create proportionately greater cancer risks than do 40 hour per week exposures. These are rather tenuous assumptions. It is misleading for the commenter to use outdated occupational phase contrast microscopy (PCM) data which have all "non-detected" or "below detectable limits" adjusted to a 0.05 f/cc limit of detection. They compare these results with alleged environmental background levels of 0.0001 f/cc, as determined by transmission electron microscopy (TEM), and lifetime risk data at 0.01 f/cc continuous exposure. All data have thus been defined as being hazardous.

COMMENT: The rationale for the proposed amendment is incorrect in its assertion that workers are adequately protected by OSHA's General Industry and Construction Standards.

RESPONSE: This point is moot in that it is beyond the scope of these rules. It does seem, however, that the General Industry Standard and the Construction Standard do have an inherent loophole in that employee training is required only if initial air monitoring indicates that exposure exceeds the action level. However, initial monitoring would not be required if the employer can produce historical data which demonstrate that exposures are below the action level. As such, it is the employer's responsibility to ensure that the levels of airborne asbestos fibers are below the action level and that the requisite training is provided for its employees.

COMMENT: The proposed amendment is conceptually flawed and arbitrary.

RESPONSE: In support of this contention, the commenter presents studies and data prepared by affiliates of the Mt. Sinai School of Medicine. These data do not, however, specifically address exposures resulting from roofing and siding abatement. They simply broadly address the importance of occupational/environmental exposures, the prevalence of non-occupational asbestos exposures, and present detailed risk assessments. Two of the documents, however, give the impression that exposure to friable asbestos, vehicle braking, and internal building activities are of overwhelming importance. Only one instance of indirect exposure from a weathered school roof is given and it is countered by a reference to no exposures seen in studies on residential roofs.

Upon adoption, the Departments of Health and Labor have amended N.J.A.C. 12:120-1.4 and N.J.A.C. 8:60-1.4 to specifically clarify that abatement activities other than removal are also excluded. This change more closely reflects the stated intention of the Departments in the summary for the proposed rule change at 20 N.J.R. 1050: "[T]he purpose of the proposed amendment will be to exempt exterior portions of buildings from the provisions of N.J.A.C. 8:60 and 12:120."

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

8:60-1.4 and 12:120-1.4 Scope

(a) (No change.)

(b) This chapter shall not apply to:

1. (No change.)
2. (No change.)
3. (No change.)
4. The sale, or storage of asbestos*[.]**; or***

5. The application, enclosure, encapsulation, repair, or removal of asbestos-containing roofing and exterior siding materials.

8:60-2.1 and 12:120-2.1 Definitions

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

. . .

"Removal" means the taking out or the stripping of asbestos-containing surfacing, thermal, or miscellaneous material from a building or structure. Specifically excluded from this definition are roofing and exterior siding materials in all but demolition projects.

. . .

INSURANCE

DIVISION OF ACTUARIAL SERVICES

(a)

Reporting Financial Disclosure and Excess Profits Adopted Repeals and New Rules: N.J.A.C. 11:3-20

Proposed: March 20, 1989 at 21 N.J.R. 667(b)

Adopted: April 24, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.

Filed: April 25, 1989 as R.1989 d.277, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29A-5.6 through 17:29A-5.16.

Effective Date: May 15, 1989.

Expiration Date: January 6, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: One commenter stated that a definition of "insurance holding system" should be provided. This commenter also stated that there should be instruction for insurance groups.

RESPONSE: The definition of insurance holding company system is found at N.J.S.A. 17:27A-1 et seq. There is no distinction between an insurance group and insurance holding company. The rule will be changed to reflect this clarification.

COMMENT: One commenter inquired as to whether the combined profits report of an insurance holding company system should include member insurers that had less than 150 earned car years of exposure during the three years preceding the due date of the profits report.

RESPONSE: Since these insurers are exempt from filing an excess profits report, they should not be included in the combined profits report of an insurance holding company.

COMMENT: One commenter requested clarification in the instructions for labeling the written copy of the profits report to make clear if an insurer is to identify the row and column locations of data on each page of the Lotus worksheet by a notation in the upper left corner to indicate where the information can be found.

RESPONSE: Insurers are required to identify the row and column location of data on each page of the Lotus worksheet by notation in the upper left corner to indicate where the information can be found. The Department feels that no clarification of the rules is necessary.

COMMENT: Four commenters stated that in N.J.A.C. 11:3-20.4(d) property damage and uninsured and underinsured motorists coverage should not be combined for reporting purposes. The commenter suggested that uninsured and underinsured motorists coverage provide bodily injury benefits and do not close as fast as property damage claims. Therefore, uninsured and underinsured motorists coverage should be treated like bodily injury.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.7(a)(3) requires uninsured and underinsured coverages to be combined with property damage. Therefore, no change is warranted.

COMMENT: Three commenters stated that under N.J.A.C. 11:3-20.7, while allowing the Commissioner, in his or her discretion, to limit the effect of negative excess investment income, there is no guideline to govern the exercise of this discretion. Therefore, the commenter stated, the rule may be outside of the Commissioner's regulatory authority. Furthermore, the commenter stated that a corporation's investment and tax policy is complex and may not be adequately addressed in issuing a standard on the investment of policyholder supplied funds.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.5 specifically grants the Commissioner authority to limit the effect of negative excess investment income in the computation of excess profits. A standard has been promulgated in the April 3 New Jersey Register (see 21 N.J.R. 842(a)). Furthermore, the impact on a company's tax policy by issuing a standard on the investment of policyholder supplied funds is of no relevance. Federal income tax requirements and impact are independent of excess profits requirements. Therefore, no change in the proposal is warranted.

COMMENT: One commenter suggested that there be clarification as to how an excess profit carry forward, under N.J.A.C. 11:3-20.9, would be applied as a credit against future determinations of excess profits. The commenter further suggested that there be a provision for this carry forward on Exhibit Ten.

RESPONSE: The Department agrees. This information will be provided for the 1990 excess profits filing since the carry forward is prospective in nature and as this is the first filing under the new rules, there would be no excess profits carry forward to report this year. The rule will be amended in the near future to reflect this clarification.

COMMENT: Two commenters stated that Exhibit One should not require data from 1981 since the years 1982-1988 are the seven years from which data is required by statute.

RESPONSE: The Department disagrees. Losses for 1981 are not used in the calculation of the excess profit. The statute requires that only the most recent seven calendar/accident years are those for which loss data is used to calculate excess profits. Specifically, the actuarial gain for the three most recent years and the development adjustment for the prior four years are used to calculate excess profits. However, in order to provide enough years so that development factors can be selected, 1981 data is required. Using data for 1981 for the purpose of determining the development factor is consistent with the requirements of the statute.

COMMENT: One commenter suggested a listing of "off road" classification codes in Exhibit One, as this would be helpful in defining the premium subject to the excess profit test. Another commenter stated that isolating experience for motorcycles or "off-road" vehicles is difficult and suggested including this experience at a company's option.

RESPONSE: The Department disagrees. The listing of "off-road" vehicles and motorcycles is shown as an exclusion. This exclusion is required by the statute. Therefore, these items cannot be included at a company's option. Regarding "off-road" classifications, an insurer should use codes that apply to any vehicle that is not designed for use on the road and highway. The Department feels that no additional clarification is necessary.

COMMENT: Two commenters stated that loss data should not be valued as of December 31 in Exhibit Two, since the statute requires data to be valued as March 31. The commenters stated that it would require extensive data processing resources to produce this data by coverage for each December back to December 31, 1982. One commenter stated that in order to be consistent with Exhibit One, each insurer would be required to assign any formula and/or IBNR reserves to individual accident years. For these reasons, the commenters suggested that loss data be valued as of March 31.

RESPONSE: The Department disagrees. In the calculation, data is valued as of March 31. Calendar year data to December 31 is used to ensure accuracy of the data submitted for this Exhibit. This coincides with data on page 14 of the Annual Statement and thus gives the Department a means of checking data submitted for the Exhibit, with data already received in the Annual Statement. Similarly, formula reserves must be assigned to the various accident years in order to assess the reasonableness of the accident year ultimate incurred losses and loss adjustment expenses.

COMMENT: One commenter stated that there is no instruction for personal injury protection (PIP) losses to be gross or net of unsatisified claim and judgment fund (UCJF) losses. The commenter suggested that there be a description of what is required and how this coverage for Exhibit Two and Exhibit Three is to be completed.

RESPONSE: The Department disagrees. Exhibit One, Item 1A and Exhibit Twelve provide these instructions.

COMMENT: One commenter suggested that in Exhibit Four, uninsured and underinsured data should be evaluated on an incurred basis (as in bodily injury) rather than on a paid loss basis. Also, for uninsured/underinsured and property damage coverages, it should not be presumed that paid as of 51 months is ultimate as there is the possibility of further development, either up or down.

RESPONSE: The Department disagrees. The Department believes that 51 months is a proper horizon to determine ultimate of uninsured/underinsured and property damage coverages. Furthermore, the Department believes that an evaluation on an incurred loss basis is not inherently more accurate than a paid loss basis. Therefore, no change is warranted.

COMMENT: One commenter suggested that Exhibit Six, Part Seven provide for reporting data to determine the development adjustment for the years 1982-1985 instead of only 1985 since this development is allowed beyond 51 months.

RESPONSE: The Department disagrees. Development is only allowed up to 51 months in Exhibit Six. Therefore, no change is warranted.

COMMENT: Six commenters stated that the assets and income used to generate actual investment income for Item 7 in Exhibit Eight should

not be limited to a subset of bonds, as this is not reflective of the investment practices of a majority of insurers. One commenter stated that investment income on railroad, public utilities and other industries make up a relatively small portion of assets. The commenters suggest that actual investment income be based upon a company's entire actual portfolio results. One commenter also stated that a company's entire actual portfolio results be used in the provision for profit and contingency factor for rates that underlie the premiums used in the excess profits test. Three commenters also stated that as a measure of return on the subset of bonds, the formula in Exhibit Eight, Part One is inaccurate and should be revised to exclude interest on Government Agency and Special Reserve Bonds from Item 1 or add Line 16, Column 6, page 29 of the Annual Statement to the types of bonds held.

RESPONSE: The Department feels that limiting the income and actual investment income used to generate Item 7 in Exhibit Eight is appropriate. The subset of bonds is utilized so that only a conservative investment value is used in the excess profits calculation. The Department feels this estimate is appropriate to investment of policyholder supplied funds. The Department, however, agrees with the comment that Exhibit Eight, Part One must be revised to add data from Line 16, Column 6, Page 29 of the Annual Statement to the types of bonds held. Appropriate revisions to Exhibit Eight will be made to reflect this change.

COMMENT: Three commenters suggested that there be a provision in Exhibit Eight for Federal income tax on investment income, since this is needed for the investment instruments described in Exhibit Eight, Part One-A.

RESPONSE: The Department disagrees. As was stated in response to a previous comment, Federal income tax requirements are independent of excess profits reporting requirements. Therefore, a provision for Federal income tax on investment income is unnecessary.

COMMENT: One commenter suggested that in Exhibit Ten, items which are the result of adding or subtracting other items on this exhibit show the arithmetic. For example, Item 19, Actuarial Gain should show (17)-(18).

RESPONSE: The Department feels this is not necessary since the instructions to Exhibit Ten show the arithmetic.

COMMENT: One commenter suggested that "non-excessive subsidization" (Item 25) and "excessive subsidization" (Item 26), Exhibit Ten should be defined.

RESPONSE: As was noted in the previous response, these terms are defined in the instructions to Exhibit Ten.

COMMENT: One commenter suggested that there be clarification as to where the result in Exhibit Eleven, Item 5 is used and if this Exhibit will be connected with Exhibits Two and Three for the PIP coverage.

RESPONSE: This data is not directly used in the excess profits calculation. This is data required to assess the reasonableness of data reported for the determination of excess profits.

COMMENT: One commenter suggested that Exhibit Eight, Part One, Item 1 be modified to include data in the Annual Statement, page 13, lines 24.1 and 25.

RESPONSE: The Department disagrees. This data is not necessary for the calculation. The calculation in Exhibit Eight, Part One, Item 1 is consistent with that used by the National Association of Insurance Commissioners (NAIC) in the statutory insurance expense exhibit. Therefore, no change is warranted.

COMMENT: One commenter suggests that in Exhibit Eight, Part One, Items 10, 11, 13, and 15, losses unpaid and loss adjustment expenses unpaid should be limited by the product of the ratio of losses unpaid to incurred losses times the expected loss plus loss expense ratio underlying the filer's rates times earned premium. The commenter stated that the expected loss plus loss expense ratio should be used to limit the calculated actual investment income to investment income generated by policyholder supplied funds. If losses and reserves are higher than anticipated due to losses exceeding the expected loss ratio, the excess portion of loss reserves is a reduction to surplus (not policyholder supplied funds) and, therefore, the investment income generated by these excess reserves should be removed from the excess profits calculation. The commenter also stated that this would make the calculation consistent with the type of calculation for the ISO rates in 1983 and which the commenter used throughout the excess profits period (1986-1988).

RESPONSE: The Department agrees. The exhibit will be revised so that the calculation takes into account the expected loss and loss adjustment expense ratio.

COMMENT: Three commenters suggested that the denominator of Item 7 of Exhibit Eight, Part One-A should be the average of a year and the prior year end balance.

RESPONSE: The Department disagrees. The Department believes that is no great impact in making the denomination of Item 7 of Exhibit Eight Part One-A the average of a year end and prior year end balance.

COMMENT: One commenter stated that there should not be a minimum value placed on Item 7, Exhibit Eight, Part One-A, as this could result in the return of "excess investment income" which has never been earned.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.8 authorizes the Commissioner to limit the effect of negative excess investment income pursuant to a standard. Such a standard has been proposed in the April 3 New Jersey Register (see 21 N.J.R. 842(a)). The Department, however, does not believe that such a limit on negative excess investment income would result in the return of excess investment income which has never been earned. This limit does not create excess profits. Therefore, no change to the proposal is warranted.

COMMENT: Four commenters suggested that Automobile Insurance Risk Exchange (AIRE) charges be developed to ultimate, since AIRE compensation is developed to ultimate.

RESPONSE: The Department disagrees. There is no development of AIRE charges to ultimate. These charges are charges for each calendar year only.

COMMENT: Two commenters suggested that filers who write a majority of policies on a single limit basis be permitted to report bodily injury (BI), property damage, (PD), and uninsured/underinsured motorists (UM) on a combined basis. One commenter stated that the Department has made allowances for such companies in the past.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.7 requires that information be provided for each of the above-mentioned coverages and for each of these coverages combined. There is no exception in the statute for filers which write a majority of policies on a single limit basis.

COMMENT: One commenter suggested that for Exhibit Seven, Part One, groups of insurance companies with pooling agreements be permitted to use the consolidated Insurance Expense Exhibit (IEE).

RESPONSE: The statute provides for no such exception. N.J.S.A. 17:29A-5.7 requires each insurer to file an excess profits report, unless exempt pursuant to N.J.S.A. 17:29A-5.7.

COMMENT: Three commenters stated that the proposed rules require companies to provide data not currently available or collected and expensive to develop. Furthermore, the commenters state that most of the information required is beyond that authorized by statute. Also, the commenters state that much of the data required is irrelevant to the determination of profits.

RESPONSE: The Department disagrees. The Department believes that the data required is both relevant and available. Furthermore, N.J.S.A. 17:29A-5.15 authorizes the Commissioner to require the submission of any data he or she deems necessary or appropriate to determine the profits of an insurer. Therefore, the information required is not beyond that authorized by the statute.

COMMENT: One commenter suggested that the information to be filed in the informational filing be limited to the information provided in the excess profits filing, as this is filed at the same time as the informational filing.

RESPONSE: The Department disagrees. The informational filing is wholly independent from the excess profits filings.

COMMENT: One commenter stated that Exhibit One only addresses the subject of losses paid and is therefore inconsistent with the statute which requires data regarding losses paid, ultimate losses, loss adjustment expenses paid, ultimate loss adjustment expenses paid, AIRE received and AIRE developed to ultimate.

RESPONSE: All of these items are addressed in the various Exhibits. The Department feels that no change is necessary.

COMMENT: One commenter stated that Item 2 of Exhibit One is unattainable in its current statistical system. Furthermore, to require information not currently collected and available is in violation of N.J.S.A. 17:29A-5.

RESPONSE: The Department disagrees. This information should be available to insurers. Furthermore, the Commissioner may require any information he deems necessary for the determination of profits under N.J.S.A. 17:29A-5.15.

COMMENT: One commenter stated that for Exhibit 1, Items 2 through 7, losses are not available separately from allocated loss adjustment expenses.

RESPONSE: This information is available separately. Insurers are required to report this information separately on Page 14 of the Annual Statement.

COMMENT: One commenter stated that it is not possible to provide all of the break outs required (Item 13 through 15 of Exhibit 1) and therefore the commenter recommends that only Items 12, 12A and 12B be required.

RESPONSE: The Department disagrees. The Department feels this information can be broken out and is necessary for an accurate determination of excess profits.

COMMENT: One commenter stated that the rules imply that towing, rental reimbursement and other miscellaneous coverages should not be included in the excess profits data, but they are on page 14 of the Annual Statement and they are not subtracted out in Exhibit 1.

RESPONSE: The Department disagrees. These items should be included with physical damage coverage. Therefore, no change is warranted.

COMMENT: Two commenters stated the Exhibits split allocated and unallocated losses and therefore is beyond the scope of the law.

RESPONSE: The Department disagrees. This coincides with page 14 data in the Annual Statement. Furthermore, this information is necessary to assess the reasonableness of ultimate loss and loss adjustment expense data. This is not beyond the scope of the law pursuant to N.J.S.A. 17:29A-5.15.

COMMENT: One commenter stated that Exhibits 3 through 6 are irrelevant to determine excess profits. Furthermore, the commenter stated that in Exhibit 6, paid losses is not the proper data to be sought. The commenter suggests using incurred losses because the statute requires that incurred loss development form the fourth through the seventh prior accident years be included in the calculations of actuarial gain.

RESPONSE: The Department disagrees. The statute does not specifically state that incurred losses be used. Furthermore, paid losses is the standard for determining the ultimate loss incurred.

COMMENT: Two commenters state that the yield calculation in Exhibit 8, Item 7 is incorrectly overstated because the numerator (investment income) is from more bond categories than is included in the denominator (assets).

RESPONSE: The Department agrees. As was stated earlier, this Exhibit and corresponding instructions will be revised to reflect this change.

COMMENT: One commenter stated that Exhibit Nine is unnecessary because it only developed AIRE to 39 months, so the ultimate accident year value is included in subsequent year excess profits reports. This commenter recommended eliminating Exhibit Nine and making Items 2A and 2B of Exhibit 10 actual as of March 31 compensation and charges by accident year.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.6(b) requires AIRE to be developed to ultimate.

COMMENT: One commenter stated that under N.J.A.C. 11:3-20.5(c)3iv and 20.5(c)7, only UCJF assessments and reimbursements are included in the excess profits formula. This does not recognize the full liabilities of the UCJF. This commenter suggested that there be a full reflection of UCJF reserves included in the formula to determine excess profits.

RESPONSE: The Department disagrees. The reserving suggested by the commenter might overstate a company's liability for purposes of reporting excess profits.

COMMENT: Two commenters stated that in N.J.A.C. 11:3-20.5(c)5 and 20.5(c)6 investment income calculations are based on countrywide data which assumes investment income in New Jersey is the same as countrywide. One commenter stated that an insured should not benefit by countrywide figures since New Jersey investment income is less than countrywide investment income.

RESPONSE: The Department disagrees. Investment income portfolios are not separated by state. Therefore, countrywide data is appropriate.

COMMENT: One commenter stated that developing losses beyond three years is unnecessary and suggested that the requirement of developing losses be reduced to three years instead of seven years.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.6 et seq. requires the reporting of data for seven years prior to the due date of the profits report.

COMMENT: One commenter suggested that for companies which are part of a group, only group filings be required.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.7(a) requires each insurer in a holding company system to file an excess profits report.

COMMENT: One commenter stated that the statutory revision for a five percent threshold to the current 2.5 percent threshold was unnecessary.

RESPONSE: This is a statutory requirement that the Department of Insurance cannot alter.

COMMENT: One commenter suggested that there be a provision that where the costs of effectuating a refund exceeds the cost of the refund itself, the insurer should either be exempt from providing a refund or be permitted to carry forward the refunds and reflect them in a subsequent report. As an alternative to these approaches, the commenter suggested an exemption from providing a refund when the amount due per policyholder is under a specified, minimum dollar threshold.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.10 only allows for carry forward of an excess profit if the refund of such excess profit was in error. There is no statutory exemption provided for a situation as described by the commenter.

COMMENT: Three commenters expressed concern over the manner in which UCJF assessments are treated. The first commenter stated that the reporting requirements implicitly require a company to reduce PIP losses by both UCJF recovered and recoverable while the statute only refers to losses recovered from the UCJF.

The second commenter stated that Exhibit 1, Item 1A requires exclusion for UCJF assessments as though it were an offset to direct premiums written or earned. This commenter stated that the assessment is not an income item but rather is an expense. Both commenters stated PIP coverage in excess of $75,000 remains a contractual liability to insurers.

RESPONSE: The Department disagrees. This is not a liability for insurers, it is covered by the UCJF. The UCJF assessment is deducted from premium and the reimbursement is deducted from losses. An insurer is not responsible for medical expenses beyond $75,000. The Exhibit reflects this.

COMMENT: One commenter stated that for Exhibit 1, assigned risk business should not be removed from Page 14 data in order to arrive at excess profits data since excess profits are based on total private passenger automobile business retained by the company including assigned risk business.

RESPONSE: The Department agrees. This Exhibit will be revised to reflect this change.

COMMENT: One commenter stated that Exhibit Two should be revised so as to allow all accident years prior to 1981 to be reported on a combined basis for calendar year reports for 1987 and prior. Furthermore, this commenter suggests that "column three, First Quarter 1989 Losses" should be developed from all but the calendar year 1988 reports. Exhibits 5 and 6 would have to be revised to show actual paid allocated loss adjustment expenses (ALAE) added to developed incurred losses, and paid unallocated loss adjustment expenses (ULAE) and total unpaid loss adjustment expenses (LAE) loaded on these. Ultimate losses and loss adjustment expense as of December 31, 1987 could also be produced with this approach.

RESPONSE: The Department disagrees. The exhibits are for 1988. When an insurer performs the calculations for other years, column three will refer to prior years (see paragraph 2 of instructions just before Exhibit 1 description). Furthermore, the accident years prior to 1981 cannot be combined because development of the data is necessary for the excess profits calculation.

COMMENT: One commenter stated that it is unclear in Exhibits Two through Four whether "Incurred losses" include IBNR and similar items or are limited to case incurred losses only. If the data is used in loss development, it should exclude IBNR. If the totals are to match the Exhibit One values, IBNR should be included. This commenter stated, however, that IBNR is not allocated to accident year by state and it would require significant efforts to produce this data.

RESPONSE: The Department disagrees. IBNR data is allocated by accident year by state on page 14 of the Annual Statement. Also, IBNR is included in Exhibits Two through Four since these Exhibits reflect page 14 data.

COMMENT: One commenter stated that bulk ALAE reserves and paid outstanding ULAE are generally not allocated to accident year by state. Therefore, reconstruction of these values would be arbitrary and not result in meaningful data for development analysis.

RESPONSE: The Department disagrees. This data is necessary in order to show the development of this data. Furthermore, this data is allocated to accident year by state.

COMMENT: One commenter suggested that Items 23 through 26 of Exhibit Ten should be completed on an all coverage basis only since excess profits are not determined separately by coverage.

RESPONSE: The Department disagrees. While excess profits is determined on all coverages combined, the Department believes separate

coverage data is necessary in order to assess the reasonableness of the filer's calculations.

COMMENT: One commenter stated that the $250.00 non-excessive subsidization standard in Exhibit Ten is unreasonably low and does not reflect the size of the member company.

RESPONSE: The Department disagrees. Upon due consideration, the Department believes this to be a reasonable standard.

COMMENT: One commenter stated that the proposed rules are unworkable, unfair and will lead to distortions of auto insurance company financial disclosures. Furthermore, this commenter stated that the calculations required overstate income and understate liabilities resulting in findings of excess profits where none exist.

RESPONSE: The Department disagrees. N.J.S.A. 17:29A-5.6 et seq. requires the proposed calculations.

COMMENT: One commenter stated that it is inappropriate to request the information be presented in the format Lotus 1-2-3 or compatible spreadsheet. Furthermore, it will be impossible to meet the filing deadline using the new computer format given the time required to set up the new program. This commenter suggests returning to the current diskette format which is uniform with appropriate modifications to recognize the additional information required by the enabling law.

RESPONSE: The Department disagrees. The current diskette format has been found to be inadequate for the Department's purposes. The proposed new form is more appropriate to the filing of these reports.

COMMENT: One commenter stated that it is impossible to meet the July 1 filing deadline since loss development figures as of March 31 are to be used which are not available until April 30. This commenter suggests reducing the amount of data to be submitted.

RESPONSE: This time frame is required by the statute. The Department of Insurance cannot alter these time requirements. Regarding the amount of data to be submitted, the Department believes that the data required is necessary for an accurate determination of excess profits.

COMMENT: One commenter stated that the requirement that insurers submit a plan to refund or credit excess profits within 30 days after notice has been given is unworkable. The commenter stated that more than 30 days is needed to develop such a plan. Furthermore, this commenter stated that since the common policy term written is six months, implementation of a plan would be required over a six month policy renewal cycle. The commenter recommended that insurers be given 60 days to submit a plan for the refund or credit of excess profits with such plan extending over a policy renewal cycle. Similarly, the commenter stated that the requirement that an officer certify a refund of excess profits within 15 days after the refund has taken place is unworkable. The commenter suggested that the requirement be changed to 60 days as this would be the time needed to verify completion of a refund.

RESPONSE: The Department disagrees. The 30 day time limit to submit a plan for refund of excess profits has been the standard since adoption of the previous excess profits rule. The Department does not believe that this time frame is overly burdensome. Similarly, the Department believes 15 days is sufficient time for an officer of the insurer to certify that the refund has taken place.

COMMENT: One commenter stated that only data reported in Item 12 of Exhibit 1 should be required. The commenter stated addressing areas beyond private passenger automobile in determining excess profits is an unnecessary extension of the law.

RESPONSE: The Department disagrees. These other items are required by statute to be included. Furthermore, these items are relevant to determining excess profits. Therefore, no change is warranted.

COMMENT: One commenter stated in Part 3 of Exhibit Seven, the allocation of commission, taxes, licenses and fee expenses to earned premium does not comply with statutory accounting. The commenter suggests that these expenses be recognized as incurred when premium is written.

RESPONSE: The Department disagrees. Expenses should be incurred as premiums are earned. This provides a proper match of this data for the excess profits calculation.

COMMENT: One commenter stated that for Exhibit Eight, the Clifford formula is inappropriate for calculating a mutual company's return on insurance operations.

RESPONSE: The Department disagrees. The Clifford formula has been utilized for many years. Furthermore, the Department believes that different application to mutual companies is inappropriate. Excess profits should be determined utilizing the same formula for all insurers in order to be consistent.

COMMENT: One commenter stated that the instructions to Exhibit Eight should be clarified to state "Item 2 shows the investment income factor expressed as a ratio to premiums used in the filer's approved filing for the interval 1985 through 1988 . . ."

RESPONSE: The Department feels that this is adequately expressed in the instructions as written and that no additional clarification is needed.

COMMENT: Two commenters stated that in the instructions to Exhibit Ten the reference to Exhibit 3 should read Exhibit 5. Similarly where Exhibit 4 is referenced, Exhibit 6 is intended. This is because Exhibits 3 and 4 give only loss figures while Exhibit 5 and 6 give loss and loss adjustment expense figures which Item 3 in Exhibit 10 requires.

RESPONSE: The Department agrees. The instructions will be revised to reflect this correction.

COMMENT: One commenter stated that excess investment income should not be used in the determination of excess profits as this would be a windfall for subsequent policyholders.

RESPONSE: The statute requires that excess investment income be used in the calculation of excess profit. The Department of Insurance cannot alter this requirement.

COMMENT: One commenter stated that it will not be able to include loss development data for 1983 and prior years as it does not have seven years loss development data. This commenter also stated that it will not have development of AIRE compensation to ultimate for 1988, as required by Exhibit 9, Parts 1 and 2 since the central processor for AIRE does not provide this information until September. Similarly, the commenter stated that it cannot develop AIRE compensation for 1984 and 1985 separately since all transactions for those years have been combined.

RESPONSE: In these cases, this insurer will have to estimate the data as accurately as possible.

COMMENT: Five commenters stated that the method of developing losses for BI and PIP coverages in Exhibit Three should not be dictated. These commenters stated that filers should be able to use any appropriate method to project to ultimate since a formalized method would not be appropriate in every case. One commenter also stated that filers should be able to use any appropriate method to determine loss development, physical damage, other liability and loss adjustment expenses.

RESPONSE: The Department disagrees. Specifying the method of loss development and requiring the various filers to use the same breakdown of data will ensure that the excess profits calculations will be consistent from year to year and from filer to filer.

COMMENT: One commenter is assuming that Exhibit Eight must be prepared for calendar years 1986 and 1987 in addition to 1988, although not specified.

RESPONSE: The Exhibit specifically states that it is to be prepared for calendar years 1986 and 1987 in addition to 1988.

COMMENT: One commenter stated that it is unconstitutional to include 1988 and prior years in the calculation of excess profits unless such information would work to the benefit of the insurer.

RESPONSE: The Department disagrees. The argument and authority cited by the commenter are not persuasive.

COMMENT: Two commenters stated that Exhibits Three through Six are redundant. One commenter stated that only losses should be used to develop loss experience to ultimate. Another commenter stated that loss and loss adjustment expenses should be combined to develop loss experience to ultimate.

RESPONSE: The Department disagrees. Loss adjustment expenses may emerge according to a different pattern than losses. Therefore, no change is warranted.

Changes made by the Department upon its own initiative

1. Technical changes have been made to the following sections to correct printing errors.

N.J.A.C. 11:3-20.3, 20.8(b), 20.8(e), 20.11(b)3 and Appendix, Exhibit Nine, Parts One, Two and Three

2. Technical changes to the instructions for Exhibit Two to clarify the data requirements for this Exhibit.

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

SUBCHAPTER 20. REPORTING FINANCIAL DISCLOSURE AND EXCESS PROFITS

11:3-20.1 Purpose

This subchapter sets forth the financial disclosure and excess profits reporting requirements pursuant to P.L. 1988, c.118 (N.J.S.A. 17:29A-5.6 to 17:29A-5.16).

11:3-20.2 Scope

The provisions of this subchapter apply to all insurers authorized to transact private passenger automobile insurance business in this State.

11:3-20.3 Definitions

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

"Actual investment income" means that portion of income generated by investment of policyholder-supplied funds.

"Actuarial gain" means the remainder obtained by subtracting the allowance for profit and contingencies from underwriting income which remainder may be positive or negative.

"AIRE charges" and "AIRE compensation" mean, respectively, amounts paid to or received from the New Jersey Automobile Insurance Risk Exchange pursuant to N.J.S.A. 39:6A-22.

"Anticipated investment income" means the amount obtained by multiplying earned premium by the percentage of premium representing investment income used in the insurer's approved rate filings or filings made pursuant to N.J.S.A. 17:29A-42, during the period of the three calendar-accident years being calculated, to calculate the allowance for profit and contingencies.

"Calendar-accident year" means the period from January 1 to December 31, during which, in the appropriate context:

1. Premium or investment income was earned;
2. Expenses were incurred; or
3. Accidents occurred which resulted in losses, loss adjustment expenses or AIRE compensation.

"Car year" means the unit of exposure equivalent to the insuring of one automobile for 12 months, two automobiles for six months each, three automobiles for four months each, and so on.

"*[Commission]* ***Commissioner***" means the Commissioner of Insurance.

"Development adjustment", for a given calendar-accident year, means the difference obtained by subtracting:

1. The sum of:

i. Loss and loss adjustment expenses for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year preceding the year in which the profits report required by N.J.A.C. 11:3-20.5 is due; plus

ii. AIRE compensation for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year in which the profits report is due; from

2. The sum of:

i. Losses and loss adjustment expenses for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year in which the profits report is due; plus

ii. AIRE compensation for that calendar-accident year, developed to an ultimate basis and evaluated as of March 31 of the year preceding the year in which the profits report is due.

"Excess investment income" means the remainder obtained by subtracting the anticipated investment income from the actual investment income earned by the insurer, which remainder may be positive or negative.

"Insurer" means an entity authorized or admitted to transact private passenger automobile insurance business in New Jersey. Where an insurer is part of an insurance holding company system, insurer means each individual insurer within that insurance holding company system ***as defined in N.J.S.A. 17:27A-1 et seq***. Insurer does not include the New Jersey Automobile Full Insurance Underwriting Association created pursuant to N.J.S.A. 17:30E-1 et seq., for the purposes of this subchapter.

"Private passenger automobile insurance business" means direct insurance on private passenger automobiles as defined in N.J.S.A. 39:6A-2, excluding personal excess liability insurance and insurance on commercial vehicles.

"Total acturial gain" means the sum of actuarial gains for the three calendar-accident years immediately preceding the due date of the profits report required by N.J.A.C. 11:3-20.5 less the development adjustments for the calendar-accident years beginning with the seventh calendar-accident year immediately preceding the due date of the profits report and ending with the fourth calendar-accident year immediately preceding the due date of the profits report.

"Underwriting income" means the remainder obtained by subtracting the sum of losses developed to an ultimate basis, loss adjustment expenses developed to an ultimate basis, and other expenses exclusive of UCJF assessments, from the sum of premiums earned and AIRE compensation developed to an ultimate basis, which remainder may be positive or negative.

"UCJF assessments" means amounts paid by insurers to the Unsatisfied Claim and Judgement Fund pursuant to N.J.S.A. 39:6-63.

"UCJF reimbursements" means amounts received by an insurer from the Unsatisfied Claim and Judgement Fund as a result of excess medical expense benefit payments by the insurer pursuant to N.J.S.A. 39:6-73.1.

11:3-20.4 General reporting requirements

(a) The data in the reports required by this subchapter shall be for New Jersey voluntary private passenger automobile insurance only.

(b) Each private passenger automobile insurer, except as provided in (e) below, shall annually file with the Commissioner the data and information required by this subchapter on or before July 1 of each year. Filings shall be sent:

New Jersey Department of Insurance
Division of Property and Liability
20 West State Street
CN 325
Trenton, New Jersey 08625
Attention: Excess Profits

(c) The data required by this subchapter shall be submitted on an MS-DOS formated disk(s), and in written copy using the forms and record layouts contained in the Appendix to this subchapter. The disk(s) may be either 5.25 inch double sided, double density, or 3.5 inch high density. The information shall be presented in a Lotus 1-2-3 or compatible spread sheet. The written copy shall include in the left and top margins the row and column location respectively of all the data in the worksheets. Each page shall also display in the bottom right corner the name of the computer file and disk on which it is contained. All calculated values shall be given as a formula in the spreadsheet.

(d) The information shall be provided with respect to the insurer's New Jersey private passenger automobile insurance business separately for each of the following coverages and for all these coverages combined:

1. Personal injury protection, including all options;
2. Bodily injury liability, reported at total limits;
3. Other liability, consisting of property damage liability and uninsured and underinsured motorist coverages, all reported at total limits; and
4. Physical damage, consisting of comprehensive and collision coverages, including all deductibles.

(e) Any insurer having fewer than 150 earned car years of exposure in New Jersey during the three calendar-accident years immediately preceding the date the profits report is due shall file a certification to that effect, in lieu of all other requirements of this subchapter.

11:3-20.5 Profits report

(a) Each insurer shall submit a complete and accurate profits report in format of the exhibits appended to this subchapter, which exhibits are hereby incorporated by reference as part of these rules.

(b) The profits report shall contain the following information for each of the seven most recent calendar-accident years, with an evaluation date as of March 31 of the year in which the profits report is due:

1. Losses paid;
2. Losses developed to an ultimate basis;

3. Loss adjustment expenses paid;
4. Loss adjustment expenses developed to an ultimate basis;
5. AIRE compensation received; and
6. AIRE compensation developed to an ultimate basis.

(c) In addition to the requirements in (b) above, each insurer shall file in the format of the exhibits appended to this subchapter, the following information for the calendar-accident year ending December 31 immediately preceding the date the profits report is due:

1. Premiums written;
2. Premiums earned;
3. Other expenses, itemized separately as follows:
i. Commissions and brokerage fees;
ii. Taxes, licenses and fees;
iii. AIRE charges;
iv. UCJF assessments:
v. Other acquisition costs and general expenses;
vi. Policyholder dividends including any excess profits refunded or credited to policyholders;
4. Allowance for profit and contingencies, (obtained by multiplying premiums earned by the profit and contingency factors authorized for use with the insurer's approved rate filings);
5. Anticipated investment income;
6. Actual investment income; and
7. UCJF reimbursements received.

(d) The profits report shall include a calculation of each of the following items in the format of the exhibits appended to this subchapter:

1. Underwriting income for each of the three calendar-accident years immediately preceding the date of the profits report;
2. Actuarial gain for each of the three calendar-accident years immediately preceding the date of the profits-report;
3. Excess investment income for each of the three calendar-accident years immediately preceding the date of the profits report;
4. Development adjustment for the calendar-accident years beginning with the seventh calendar-accident year immediately preceding the due date of the profits report and ending with the fourth calendar-accident year immediately preceding the due date of the profits report;
5. Total actuarial gain; and
6. Excess profits.

(e) An officer of the insurer shall certify on the profits report forms that the report complies with all statutory and regulatory requirements to the best of his or her information, knowledge and belief. The officer shall sign his or her name and provide title and date, and phone number.

11:3-20.6 Reporting requirements for insurance holding companies

(a) A separate profits report shall be filed for each insurer and each insurer in an insurance holding company system.

(b) For each insurance holding company system, a separate combined profits report for all insurers in its system shall be filed with the Commissioner. The excess profits computation for an insurance holding company system shall be performed on its combined profits report, except the Commissioner may order an adjustment in the combined profits report if in his or her judgement, upon examining each insurer's profits report in the insurance holding company system, one or more of the insurers in that system is excessively subsidizing other insurers in that system.

11:3-20.7 Determination of excess profits

(a) Excess profits shall exist if for the three calendar-accident years immediately preceding the date the profits report is due, the sum of an insurer's total actuarial gain and excess investment income for all private passenger automobile coverages combined exceeds 2.5 percent of earned premiums.

(b) The effect of negative excess investment income shall be limited in the computation of excess profits, at the discretion of the Commissioner. This discretion shall be exercised pursuant to a standard on the investment of policyholder supplied funds pursuant to rules promulgated by the Commissioner not later than April 1 of the year in which excess profits reports are filed.

11:3-20.8 Refund or credit of excess profits

(a) If the Commissioner determines that an insurer has made excess profits, the Commissioner shall issue written notice to the insurer of his or her determination.

(b) The insurer shall submit to the Commissioner a fair, practicable and nondiscriminatory plan to refund or credit to *[policyholder]* ***policyholders*** the excess profits within 30 days after the written notice in (a) above has been given to the insurer by the Commissioner.

1. The refund or credit plan shall be subject to approval by the Commissioner.
2. If the refund or credit plan is disapproved, the Commissioner shall issue a written notice to the insurer containing the reasons for disapproval, and specifications for corrections of the plan.

(c) Upon approval of the insurer's refund or credit plan, the Commissioner shall issue an order requiring the insurer to distribute all excess profits according to the approved plan.

(d) Within 15 days after the excess profits have been refunded or credited to policyholders, the insurer's corporate official shall certify that such refund or credit has occurred.

(e) Any refund or credit shall be deemed a policyholder *[divided]* ***dividend*** applicable to the year in which it is incurred for reporting in subsequent excess profits reports.

11:3-20.9 Excess profits carry forward

(a) In the event an excess profit is returned by an insurer in accordance with this subchapter and subsequent development demonstrates that an excess profit did not exist or was overstated, an excess profit carry forward in the amount of the excess profit refunded or the amount overstated, whichever is less, shall be established.

(b) This excess profit carry forward shall be applied by such insurer as a credit against future determinations of excess profits until such credit is exhausted or the end of a 15 year period from the date the excess profits carry forward was established, whichever occurs first.

11:3-20.10 Order for further information

(a) If, after examination of the insurer's excess profits report, the Commissioner finds that any information or calculation contained in such report contains, results in or is based upon aberrant, unusual or irregular data, the Commissioner shall issue, in writing, an order to such insurer, directing that the information or calculation be altered in a manner necessary to eliminate the effect of the aberrant, unusual or irregular data.

(b) Such insurer shall submit the revised information to the Commissioner within 15 days after receiving an order pursuant to (a) above.

11:3-20.11 Compliance dates

(a) The due date for the first profits report required by this subchapter is July 1, 1989.

(b) For the first report required by this subchapter:

1. The seven most recent calendar-accident years referred to in N.J.A.C. 11:3-20.5(b) are 1982 through 1988, inclusive.
2. The three calendar-accident years immediately preceding the due date referred to in N.J.A.C. 11:3-20.4(d), 20.5(d) and 20.7 are 1986, 1987 and 1988.
3. The seventh calendar-accident year immediately preceding the due date referred to in N.J.A.C. 11:3-20.5(d)***4*** is 1982.
4. The fourth calendar-accident year immediately preceding the date the profits report is due referred to in N.J.A.C. 11:3-20.5(d)4 is 1985.
5. The calendar-accident year immediately preceding the date the profits report is due referred to in N.J.A.C. 11:3-20.5(c) is 1988.

11:3-20.12 Penalties

Failure to file a complete and accurate excess profits report so that it is received by the Commissioner on or before July 1 shall constitute a violation of this subchapter, and may result in the imposition of penalties as provided by statute.

APPENDIX

EXCESS PROFIT EXHIBITS—INSTRUCTIONS

In all Exhibits, dollars are stated as whole numbers, Ratios and fractions are expressed as decimals and rounded to the third decimal place. Where a three year sum is expressed as a ratio, the ratio required is the ratio of three years' dollar figures and not the sum of three ratios.

The Exhibits attached are 1988 exhibits. Where exhibits for prior years or later years must be reported, the filer is required to submit Exhibits which are substantially similar to the attached Exhibits to report the prior years' or later years' data, and which contain all information, including dates, adjusted accordingly.

Exhibit One

General Instructions

Exhibit One is to be completed using data for calendar year 1988. Exhibits substantially similar to Exhibit One are to be completed for each of the years 1981 through 1987.

The filer is completing and submitting five Exhibits One (i.e. one for each of four coverages and a total of all four coverages) for each of eight calendar years (i.e. 1981 through 1988, inclusive) for a total of forty Exhibits One.

Item 1 is the premium and loss data as shown on Page 14 for New Jersey of the statutory annual statement for the various calendar years. For the various private passenger auto coverages, for 1988, use the data shown on Page 14 of the 1988 annual statement as follows:

BI Liability, included in	Page 14 Line 19.2
PD Liability and Uninsured and Underinsured Motorist Coverages, include in	Page 14 Line 19.2
No Fault	Page 14 Line 19.1
Physical Damage	Page 14 Line 21.1

For years prior to 1988, use corresponding Page 14 data for those years.

In Item 1, fill in the Page 14 line which is the source of the data.

Item 1A is the UCJF premium offset, as developed in Exhibit Twelve.

Items 2 through 10 are deductions from Item 1 for loss and dividend data (see Col (3), Col (4), Col (5), or Col (7)) or Item 1B for premium data (see Col (1), Col (2), or Col (6)), as described below. Items 2 through 10A are to be completed ONLY IF PREMIUM, LOSS OR DIVIDEND DATA FOR ITEMS 2 THROUGH 10A ARE INCLUDED IN ITEM 1.

In listing the exclusions in Items 2 through 10, note that where a premium, loss, or dividend amount is contained in an Item, it is not to be contained in another Item.

For example, all excess medical benefits are to be contained in Item 2 (see below), and not contained in any of the other Items 2 through 10. Therefore, any excess medical benefits paid on a motorcycle policy are to be included in Item 2, and not in Item 3. Item 3 is to contain motorcycle premiums, losses, and dividends not included in Item 2.

As another example, premiums, losses, and dividends contained in Item 7, Excess and Umbrella Policies are premiums, losses and dividends on Excess/Umbrella policies that are not contained in Items 2 through 6.

Please note there is no Item 5.

Individual Items

Item 2 is the dollars of losses included in Item 1 which are excess medical benefits, and for which the insurer will be reimbursed by the UCJF, per NJSA 39:6-61 et seq.

With regard to Item*[s 5 and]* 6, please note that the New Jersey Automobile Full Insurance Availability Act (NJSA 17:30E-1 et seq), which established the "JUA", was effective 01 January 1984.

Premiums, losses, and dividends for private passenger type commercial vehicles are to be listed in Item 8 as a "write in", but only if they are contained in Item 1, for loss data or dividend data, or Item 1B, for premium data, and then only the dollars of premiums, losses, and dividends not contained in Items 2 through 7.

Provision is made for other "write in" exclusions in Items 8, 9 and 10. A filer may modify the form to add more lines for exclusions if three lines are not sufficient.

Where any "write in" exclusion is used, a written explanation as to what is listed as an exclusion, and why it is appropriate to list the exclusion, is to be provided on a piece of paper attached to Exhibit One.

Premiums, losses, and dividends for private passenger motor homes are NOT to be listed as exclusions.

Item 12 states the premiums, losses, and dividends which are to be used for the excess profits calculation. For premium data, Item 12 is Item 1B minus Item 11. For loss and dividend data, Item 12 is Item 1 minus Item 11.

Item 13, Col (3), states the claim settlement costs paid during 1988 that are directly assignable to specific claims for which loss data is included in Item 12. Item 13, Col (4), states the claim settlement costs incurred during 1988 that are directly assignable to specific claims for which loss data is included in Item 12.

Item 14, Col (3), states the costs associated with the claim settlement function that were paid during 1988, which are not directly assignable to specific claims, but which are assignable to claims for which loss data is included in Item 12. Item 14, Col (4) shows the costs associated with the claim settlement function that were incurred during 1988, which are not directly assignable to specific claims, but which are assignable to claims for which loss data is included in Item 12.

Item 15 states unpaid claim settlement costs as of 31 December 1988, which are assignable to unpaid losses shown in Item 12, Col (7).

Exhibit Two

A corresponding Exhibit Two is to be completed for each calendar year and coverage for which an Exhibit One is to be completed. Therefore, the filer is completing and submitting forty Exhibits Two. The six parts of Exhibit Two show incurred and paid losses and expenses by calendar/accident year during each calendar year for which data is reported in an Exhibit One, and also during the first three months of 1989.

For example, for the Exhibit Two that corresponds to Exhibit One for 1988, Exhibit Two—Part one shows:

(a) payments for losses that occurred during calendar/accident year 1988, and were paid during 1988, and during the first three months of 1989.

(b) payments for losses that occurred during calendar/accident year 1987, and were paid during 1988, and during the first three months of 1989.

(c) etc.

[Note that Col (3) is to show payments for the first three months of 1989 regardless of the calendar year for which Exhibit One is completed.]

***For example, for the Exhibit Two that corresponds to Exhibit One for 1987, Exhibit Two—Part One shows:**

(a) payments for losses that occurred during calendar/accident year 1987, and were paid during 1987, and during the first three months of 1988.

(b) payments for losses that occurred during calendar/accident year 1986, and were paid during 1987, and during the first three months of 1988.

(c) etc.*

A description of each part of Exhibit Two follows.

Exhibit Two—Part One states the calendar year losses paid, as stated in Exhibit One, Item 12, Col (3), according to calendar/accident year. Col (2) shows losses paid during 1988, and Col (3) shows further losses paid during the first three months of 1989.

Exhibit Two—Part Two states the calendar year losses incurred in Exhibit One, Item 12, Col (4), according to calendar/accident year. Col (2) states losses incurred during 1988, and Col (3) shows further losses incurred during the first three months of 1989.

Exhibit Two—Part Three states the calendar year allocated loss adjustment expenses paid in Exhibit One, Item 13, Col (3), according

to calendar/accident year. Col (2) states the allocated loss adjustment expenses paid during 1988, and Col (3) shows further allocated loss adjustment expenses paid during the first three months of 1989.

Exhibit Two—Part Four states the calendar year allocated loss adjustment expenses incurred in Exhibit One, Item 13, Col (4), according to calendar/accident year. Col (2) states incurred allocated loss adjustment expenses incurred duirng 1988, and Col (3) shows further allocated loss adjustment expenses incurred during the first three months of 1989.

Exhibit Two—Part Five states the calendar year unallocated loss adjustment expenses paid in Exhibit One, Item 14, Col (3), according to calendar/accident year. Col (2) states unallocated loss adjustment expenses paid during 1988, and Col (3) shows further unallocated loss adjustment expenses paid duirng the first three months of 1989.

Exhibit Two—Part Six states calendar year unallocated loss adjustment expenses incurred in Exhibit One, Item 14, Col (4), according to calendar/accident year. Col (2) shows unallocated loss adjustment expense incurred during 1988, and Col (3) shows further unallocated loss adjustment expenses incurred during the first three months of 1989.

Exhibit Three states the "development triangles" of incurred losses for BI Liability and for PIP.

Exhibit Three—Part One states the losses incurred for the various calendar/accident years during various intervals (the first 15 months, the next 12 months, etc).

Exhibit Three—Part Two states the accumulated losses for each calendar/accident year as of the various stages of development (15 months, 27 months, etc.)

Exhibit Three—Part Three states the historical development factors based on the accumulated losses shown in Exhibit Three—Part Two.

In Exhibit Three—Part Three the "selected factor" stated in Col (5A) is determined as follows. Of the various historical factors for each development interval (15-27 months, 27-39 months, etc.) a simple mean is determined with the high and low values omitted. Where there are fewer than three factors, the low and high values are not to be omitted from the calculation. The "projection factor" stated in Col (6A) is the group of factors from Col (5A) accumulated to project losses at each stage of development to ultimate. The projection factor for 87 months to ultimate is the selected factor for development from 75 to 87 months.

In Exhibit Three—Part Three the "Ultimate Incurred" stated in Col (3) is determined by multiplying the calendar/accident year losses evaluated as of 31 March 1989 by the Projection Factor from Col (6A). Each "Projection Factor to Ultimate" in Col (2) of Exhibit Three—Part Three is identical to the "Projection Factor" stated in Col (6A).

Exhibit Four summarizes data from Exhibit Two to get the "development triangles" of paid losses, for Other Liability and Physical Damage. The various parts of Exhibit Four analyze paid losses in the same way that Exhibit Three analyzes incurred losses. The only difference is that, for Physical Damage and Other Liability, ultimate paid is deemed to be reached at 51 months of development.

Exhibits Five and Six anlayze the sum of losses and loss adjustment expenses in the same way that Exhibits Three and Four analyze losses.

Note that Exhibit Five, Parts Four, Five and Six are to be completed with data through calendar/accident year 1987. The projections based on data through calendar/accident year 1987 are used to produce the "Development Adjustment" in Exhibit Five—Part Seven.

Note that Exhibit Six, Parts Four, Five, and Six are to be completed with data through calendar/accident year 1987. The projections based on data through calendar/accident year 1987 are used to produce the "Development
Adjustment" in Exhibit Six—Part Seven.

Exhibit Seven, Part One, states countrywide premiums and expenses from the statutory Insurance Expense Exhibit. An Exhibit Seven, Part One, is to be completed for each of the years 1988, 1987, and 1986. Other Acquisition and General Expenses are to be stated, in Col (2) and Col (3A) as ratios to Net Earned Premium. Commission and Brokerage and Taxes, Licenses, and fees are to be stated, in Col (2) and Col (3A) as ratios to Net Written Premium. Loss Adjustment Expenses Incurred are to be stated in Col (2) and Col (3A) as ratios to Losses Incurred.

Exhibit Seven—Part Two

Exhibit Seven, Part Two, states New Jersey expenses for each coverage, with ratios, in Col (2), to earned premium, written premium, and losses as described for Exhibit Seven—Part One, above.

Exhibit Seven, Parts Three—A, Three—B, and Three—C develop the Commission and Brokerage expenses to be stated in Exhibit Seven, Part Two. Exhibits substantially similar to Parts Three—A, Three—B, and Three—C are to be completed to develop the Taxes, Licenses, and Fees expenses to be stated in Exhibit Seven, Part Two.

Exhibit Seven—Parts Four—A, Four—B, and Four—C develop the General Expense expenses to be stated in Exhibit Seven, Part Two. Exhibits substantially similar to Parts Four—A, Four—B, and Four—C are to be completed to develop the Other Acquisition expenses stated in Exhibit Seven, Part Two and to develop the Loss Adjustment expenses stated in Exhibit Seven, Part Two.

Exhibit Seven, Part Two, Prepaid Expenses, Item 9, Col (1) = (½ x (Item 2, Col (1), + Item 3, Col (1)) + Item 5 + Item 6

Exhibit Seven, Part Two, Item 9, Col (2) = (Item 9, Col (1))/(Item 4, Col (1))

Exhibit Seven, Parts Two, Three, and Four are to be completed for each of the calendar years 1988, 1987 and 1986.

Exhibit Eight—Part One shows investment income attributable to New Jersey private passenger auto for the purpose of completing excess profits reports.

Item 1 is countrywide data from the 1988 statutory annual statement, page 2, column 1, the sum of lines 9.1, 9.2, 9.3, 10, and 11.

Item 2 is countrywide data from the statutory annual statement, page 3, column 1, line 9.

NOTE: Limit Item 3 to a maximum of 1.000.

Item 4 is Exhibit Seven—Part Two, Col (1), Item 9.

Item 5, is Exhibit One, Col (1), Item 12.

NOTE: Limit Item 6 to a maximum of 1.000.

Item 7 is Exhibit One, Col (6), Item 12, for 1988

Item 8 is Exhibit One, Col (6), Item 12, for 1987

Item 9A = Item 9 x (1 - Item 3 - Item 6). Limit Item 9A to a minimum of zero.

Item 10 is Exhibit One, Col (7), Item 12, for 1988.

Item 11 is Exhibit One, Col (7), Item 12, for 1987.

Item 13 is Exhibit One, Col (7), Item 15, for 1988.

Item 14 is Exhibit One, Col (7), Item 15, for 1987.

Item 16G is the expected loss and loss adjustment expense ratio which is used to determine the investment income offset in the filer's filed and approved rate filings. The filer must submit a copy of the portion of the filing showing this figure, and show how it was used to determine the investment income offset.

Item 18 is Exhibit Eight Part One—A, Item 7, for 1988.

Item 19 is Actual Investment Income for 1988.

Exhibit Eight—Part Two shows Anticipated Investment Income and Excess Investment Income.

Item 1 is Exhibit One, Col (2), Item 12.

Item 2 shows the filed and approved investment income offset, expressed as a ratio to premiums, for the filer's approved filings over the interval 1985 through 1988. The investment income offset is the percent used in the company's rate filing to reduce the "Clifford" target 3.5% rate of return to premiums for the effect of investment income. A copy of the portion of the filing showing this calculation is to be attached to Exhibit Eight—Part Two. If the filer submits no documentation of the investment income offset that has been approved by the Department, then Item 2 is the number zero.

Item 3 is Item 1 multiplied by Item 2.

Item 4 is Exhibit Eight—Part One, Item 19.

Item 5 = Item 4 - Item 3.

Exhibit Nine shows the estimate of the ultimate amount the filer reasonably expects to receive, as "AIRE Compensation", provided by NJSA 39:6A-22 et seq. In estimating the ultimate value of the compensation, keep in mind that there are few data points of actual experience. The estimate involves projecting to ultimate paid reimbursement for liability claims. For these reasons, the Department believes significant development beyond payments already received may be reasonable.

Exhibit Ten uses the data developed in Exhibits One through Nine to calculate excess profits.

The sources of data for Exhibit Ten follow.

Item 1: Direct Calendar Year Written Premium, Exhibit One, Item 12.

Item 2: Direct Calendar Year Earned Premium, Exhibit One, Item 12.

Item 2A: Exhibit Nine—Part Three, Col (3).

Item 2B: AIRE Charges are the amounts the filer is assessed, according to NJSA 39:6A-22. The calendar/accident year in which an AIRE charge is assigned is the calendar year in which the filer is informed of the AIRE charge and not the calendar year in which the filer pays the AIRE charge, if different.

Item 3: For BI Liability and PIP, "Ultimate Incurred", per Exhibit *[Three]* **Five***—Part Three, Col (3). For Other Liability and Physical Damage, "Ultimate Incurred", per Exhibit *[Four]* **Six***—Part Three, Col (3).

Item 5: Exhibit Seven—Part Two

Item 7: Exhibit Seven—Part Two

Item 9: Exhibit Seven—Part Two

Item 11: Exhibit Seven—Part Two

Item 13: Exhibit One, Item 12B.

Item 14: Exhibit One, Item 12A.

Item 18: Insurer's filed and approved allowance for profits and contingencies in the filer's approved rate filing, expressed as a ratio, and multiplied by the earned premium stated in Item 2.

Item 19 = Item 17 - Item 18

Item 20: Exhibit Five—Part Seven, Total, Col (3), for BI Liability and PIP; Exhibit Six—Part Seven, Col (3), for Other Liability and Physical Damage.

Item 21 = Item 19 - Item 20

Item 22: Exhibit Eight—Part Two, Item 5.

Item 24 = Item 21 + Item 22 - Item 23.

Item 25 is 250 for a filer that is a member of a holding company system, and 0 for all other filers.

Item 26 is Item 24 minus Item 25.

Exhibit Eleven must be completed for calendar years 1986, 1987, and 1988.

Item 1 states what PIP losses would have been without the portion that is assumed by the UCJF.

Items 2, 3, 4, and 5 are self explanatory.

Exhibit Twelve states the portion of premiums that are attributable to the UCJF.

Item 1 is self explanatory.

Item 2 is two times the dollar amount that the insurer was assessed by the UCJF during 1987.

Item 3 is two times the dollar amount that the insurer was assessed by the UCJF during 1988.

Item 4 = Item 1 - Item 2 + Item 3

Excess Profits Reports for New Jersey
Private Passenger Auto

THESE EXHIBITS MUST BE SENT SO THAT THEY ARE RECEIVED BY THE DEPARTMENT OF INSURANCE BY 01 JULY 1989.

Group Name _____

Group NAIC Number _____

Company Name _____

Company NAIC Number _____

BEFORE COMPLETING THE EXHIBITS, PLEASE READ THE ACCOMPANYING INSTRUCTIONS.

NEW JERSEY
Private Passenger Auto Data

Exhibit One

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Calendar Year 1988

(This exhibit is also to be completed for each of the years 1981 through 1987)

		Col (1) Direct Premiums Written	Col (2) Direct Premiums Earned	Col (3) Direct Losses Paid	Col (4) Direct Losses Incurred	Col (5) Dividends on Direct Business	Col (6) Direct Unearned Premium Reserves	Col (7) Direct Losses Unpaid
Item 1	Source: line ____ of Page 14	____	____	____	____	____	____	____
Item 1A	UCJF Assessments	____	____	X	X	X	____	X
Item 1B	Item 1 minus Item 1A	____	____	X	X	X	____	X
NOTE: LIST DATA IN EXCLUSIONS (ITEMS 2 THROUGH 10) ONLY IF THE DATA IS INCLUDED IN ITEM ONE.								
Exclusions:								
Item 2	Excess Medical Benefits	X	X	____	____	X	X	____
Item 3	Motorcycles	____	____	____	____	____	____	____
Item 4	"Off Road" Vehicles	____	____	____	____	____	____	____
*[Item 5	Assigned Risk Business	____	____	____	____	____	____	____]*
Item 6	JUA Business	____	____	____	____	____	____	____
Item 7	Excess/Umbrella Policies	____	____	____	____	____	____	____
Other Exclusions (list):								
Item 8	____	____	____	____	____	____	____	____
Item 9	____	____	____	____	____	____	____	____
Item 10	____	____	____	____	____	____	____	____
Item 10A	Finance and Service Charges	____	____	X	X	X	____	X
Item 11	Subtotal (Sum Items 2 through 10A)	____	____	____	____	____	____	____
Item 12	Excess Profits Data	____	____	____	____	____	____	____
Item 12A	Refund of Excess Profits Included in Item 12, Col (5)	X	X	X	X	____	X	X
Item 12B	All Other Dividends Included in Item 12, Col (5)	X	X	X	X	____	X	X
				(Col 3) Paid Allocated LAE	(Col 4) Incurred Allocated LAE			
Item 13	Allocated loss adjustment expenses corresponding to Item 12, Cols. (3) and (4), respectively	X	X	____	____			
Item 13A	Ratio Item 13, Col (3), to Item 12, Col (3)	X	X	____	X			
Item 13B	Ratio Item 13, Col (4), to Item 12, Col (4)	X	X	X	____			
				Col (3) Paid Unallocated LAE	Col (4) Incurred Unallocated LAE			
Item 14	Unallocated loss adjustment expenses corresponding to Item 12, Cols. (3) and (4), respectively	X	X	____	____			
Item 14A	Ratio Item 14, Col (3), to Item 12, Col (3)	X	X	____	X			
Item 14B	Ratio Item 14, Col (4), to Item 12, Col (4)	X	X	X	____			
Item 15	Unpaid loss adjustment expenses (allocated plus unallocated) corresponding to unpaid losses shown in Item 12, Col (7)	X	X	X	X	X	X	____

Exhibit Two

Calendar year 1988

(This Exhibit is also to be completed for each of the calendar years 1981 through 1987)

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Exhibit Two—Part One

	Col (2) Losses Paid During 1988	Col (3) Losses Paid During 1Q 1989
Calendar/Accident Years:		
1988		
1987		
1986		
1985		
1984		
1983		
1982		
prior		
Total		

Exhibit Two—Part Two

	Col (2) Losses Incurred During 1988	Col (3) Losses Incurred During 1Q 1989
Calendar/Accident Years:		
1988		
1987		
1986		
1985		
1984		
1983		
1982		
prior		
Total		

Exhibit Two—Part Three

	Col (2) ALAE Paid During 1988	Col (3) ALAE Paid During 1Q 1989
Calendar/Accident Years:		
1988		
1987		
1986		
1985		
1984		
1983		
1982		
prior		
Total		

Exhibit Two—Part Four

	Col (2) ALAE Incurred During 1988	Col (3) ALAE Incurred During 1Q 1989
Calendar/Accident Years:		
1988		
1987		
1986		
1985		
1984		
1983		
1982		
prior		
Total		

Exhibit Two—Part Five

	Col (2) ULAE Paid During 1988	Col (3) ULAE Paid During 1Q 1989
Calendar/Accident Years:		
1988		
1987		
1986		
1985		
1984		
1983		
1982		
prior		
Total		

Exhibit Two—Part Six

	Col (2) ULAE Incurred During 1988	Col (3) ULAE Incurred During 1Q 1989
Calendar/Accident Years:		
1988		
1987		
1986		
1985		
1984		
1983		
1982		
prior		
Total		

Exhibit Three

Check one:

BI Liability _____

PIP _____

Exhibit Three—Part One

Development of Incurred Losses

Calendar/Accident Year

Losses Incurred During	82	83	84	85	86	87	88
0-15 months							
15-27 months							
27-39 months							
39-51 months							
51-63 months							
63-75 months							
75-87 months							

Exhibit Three—Part Two

Development of Incurred Losses

Calendar/Accident Year

Losses Incurred As Of	82	83	84	85	86	87	88
15 months							
27 months							
39 months							
51 months							
63 months							
75 months							
87 months							

Exhibit Three—Part Three

Incurred Loss Development Factors

Calendar/Accident Year

Development Factors	82	83	84	85	86	87	88	Col (5A) Selected Factor	Col (6) Incurred Losses As Of	Col (6A) Projection Factor
15-27 months									15 months	
27-39 months									27 months	
39-51 months									39 months	
51-63 months									51 months	
63-75 months									63 months	
75-87 months									75 months	
87 mos-ultimate									87 months	

Calendar/ Accident Year	Col (1) Losses at 3/89	Col (2) Projection Factor to Ultimate	Col (3) Ultimate Incurred
88			
87			
86			
85			
84			
83			
82			

Exhibit Four

Check one:

Other Liability _____

Physical Damage _____

Exhibit Four—Part One

Development of Paid Losses

Calendar/Accident Year

Losses Paid During	82	83	84	85	86	87	88
0-15 months							
15-27 months							
27-39 months							
39-51 months							

Exhibit Four—Part Two

Development of Paid Losses

Calendar/Accident Year

Losses Paid As Of	82	83	84	85	86	87	88
15 months							
27 months							
39 months							
51 months							

Exhibit Four—Part Three

Paid Loss Development Factors

Calendar/Accident Year

Development Factors	82	83	84	85	86	87	88	Col (5A) Selected Factor	Col (6) Paid Losses As Of	Col (6A) Projection Factor
15-27 months									15 months	
27-39 months									27 months	
39-51 months									39 months	

Calendar/ Accident Year	Col (1) Losses at 3/89	Col (2) Projection Factor to Ultimate	Col (3) Ultimate Incurred
88			
87			
86			

Exhibit Five

Check one:

BI Liability _____

PIP _____

Exhibit Five—Part One

Development of Incurred Losses and LAE

Calendar/Accident Year

	82	83	84	85	86	87	88
Losses and LAE Incurred During							
0-15 months							
15-27 months							
27-39 months							
39-51 months							
51-63 months							
63-75 months							
75-87 months							

Exhibit Five—Part Two

Development of Incurred Losses and LAE

Calendar/Accident Year

	82	83	84	85	86	87	88
Losses and LAE Incurred As Of							
15 months							
27 months							
39 months							
51 months							
63 months							
75 months							
87 months							

Exhibit Five—Part Three

Incurred Loss and LAE Development Factors

Calendar/Accident Year

Development Factors	82	83	84	85	86	87	88	Col (5A) Selected Factor	Col (6) Incurred Losses and LAE As Of	Col (6A) Projection Factor
15-27 months									15 months	
27-39 months									27 months	
39-51 months									39 months	
51-63 months									51 months	
63-75 months									63 months	
75-87 months									75 months	
87 mos-ultimate									87 months	

Calendar/ Accident Year	Col (1) L + LAE at 3/89	Col (2) Projection Factor to Ultimate	Col (3) Ultimate Incurred
88			
87			
86			
85			
84			
83			
82			

Exhibit Five—Part Four

Development of Incurred Losses and LAE

Calendar/Accident Year

Losses and LAE Incurred During	81	82	83	84	85	86	87
0-15 months							
15-27 months							
27-39 months							
39-51 months							
51-63 months							
63-75 months							
75-87 months							

Exhibit Five—Part Five

Development of Incurred Losses and LAE

Calendar/Accident Year

Losses and LAE Incurred As Of	81	82	83	84	85	86	87
15 months							
27 months							
39 months							
51 months							
63 months							
75 months							
87 months							

Exhibit Five—Part Six

Incurred Loss and LAE Development Factors

Calendar/Accident Year

Development Factors	81	82	83	84	85	86	87	Col (5A) Selected Factor	Col (6) Incurred Losses and LAE As Of	Col (6A) Projection Factor
15-27 months									15 months	
27-39 months									27 months	
39-51 months									39 months	
51-63 months									51 months	
63-75 months									63 months	
75-87 months									75 months	
87 mos-ultimate									87 months	

Calendar/ Accident Year	Col (1) L + LAE at 3/88	Col (2) Projection Factor to Ultimate	Col (3) Ultimate Incurred
87			
86			
85			
84			
83			
82			
81			

Exhibit Five—Part Seven

Development Adjustment

Check one:

BI Liability _____

PIP _____

Calendar/ Accident Year	Col. (1) Ultimate Incurred per Exhibit Five-Part Six Col (3)	Col (2) Ultimate Incurred per Exhibit Five-Part Three Col (3)	Col (3) Difference Col (2) minus Col (1)
85			
84			
83			
82			
Total	X	X	

Exhibit Six

Check one:

Other Liability _____

Physical Damage _____

Exhibit Six—Part One

Development of Paid Losses and LAE

Calendar/Accident Year

Losses and LAE Paid During	82	83	84	85	86	87	88
0-15 months							
15-27 months							
27-39 months							
39-51 months							

Exhibit Six—Part Two

Development of Paid Losses and LAE

Calendar/Accident Year

Losses and LAE Paid As Of	82	83	84	85	86	87	88
15 months							
27 months							
39 months							
51 months							

Exhibit Six—Part Three

Paid Loss and LAE Development Factors

Calendar/Accident Year

Development Factors	82	83	84	85	86	87	88	Col (5A) Selected Factor	Col (6) Paid Losses and LAE As Of	Col (6A) Projection Factor
15-27 months									15 months	
27-39 months									27 months	
39-51 months									39 months	

Calendar/ Accident Year	Col (1) L + LAE at 3/89	Col (2) Projection Factor to Ultimate	Col (3) Ultimate Incurred
88			
87			
86			
85		1.000	

Exhibit Six—Part Four

Development of Paid Losses and LAE

Calendar/Accident Year

Losses Paid During	81	82	83	84	85	86	87
0-15 months							
15-27 months							
27-39 months							
39-51 months							

Exhibit Six—Part Five

Development of Paid Losses and LAE

Calendar/Accident Year

Losses Paid As Of	81	82	83	84	85	86	87
15 months							
27 months							
39 months							
51 months							

Exhibit Six—Part Six

Paid Loss and LAE Development Factors

Calendar/Accident Year

Development Factors	81	82	83	84	85	86	87	Col (5A) Selected Factor	Col (6) Paid Losses As Of	Col (6A) Projection Factor
15-27 months									15 months	
27-39 months									27 months	
39-51 months									39 months	

Calendar/ Accident Year	Col (1) Losses + LAE at 3/88	Col (2) Projection Factor to Ultimate	Col (3) Ultimate Incurred
87			
86			
85			

Exhibit Six—Part Seven
Development Adjustment

Calendar/ Accident Year	Col. (1) Ultimate Incurred per Exhibit Six-Part Six Col (3)	Col (2) Ultimate Incurred per Exhibit Six-Part Three Col (3)	Col (3) Difference Col (2) minus Col (1)
85			

Exhibit Seven

Part One—Countrywide Expenses
From Insurance Expense Exhibit

Calendar Year 1988

(This Exhibit is also to be completed separately for calendar years 1987 and 1986.)

	Private Passenger Auto Liability Col (1)	Col (2)	Private Passenger Auto Physical Damage Col (3)	Col (3A)
Net Earned Premium		1.000		1.000
Other Acquisition				
General Expenses				
Net Written Premium		1.000		1.000
Commission and Brokerage				
Taxes, Licenses, Fees				
Losses Incurred		1.000		1.000
Loss Adjustment Expenses Incurred				

Exhibit Seven

Part Two—New Jersey Expenses

Calendar/Accident Year 1988

(This exhibit is also to be completed for calendar/accident years 1987 and 1986.)

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

	Col (1)	Col (2)	Col (3)	Col (3A)
Item 1: Direct Earned Premium		1.000		1.000
Item 2: Direct Other Acquisition				
Item 3: Direct General Expenses				
Item 4: Direct Written Premium		1.000		1.000
Item 5: Direct Commission and Brokerage				
Item 6: Direct Taxes, Licenses, Fees				
Item 7: Direct Losses Incurred		1.000		1.000
Item 8: Direct Loss Adjustment Expenses Incurred				
Item 9: Prepaid Expenses				

Exhibit Seven—Part Three—A

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Allocation of Commission and Brokerage Fees to Calendar/Accident Year 1988

		Col (2)
Item 1:	1988 Direct Written Premium	
Item 2:	Commission and Brokerage Fees that arise from the writing of policies, the premium of which is listed in Item 1	
Item 3:	Dollars of 1988 Direct Written Premium that are earned in 1988	
Item 4:	Ratio Item 3 divided by Item 1	
Item 5:	Item 2 multiplied by Item 4	
Item 6:	1987 Direct Written Premium	
Item 7:	Commission and Brokerage Fees that arise from the writing of policies, the premium of which is listed in Item 6	
Item 8:	Dollars of 1987 Direct Written Premium that are earned in 1988	
Item 9:	Ratio Item 8 divided by Item 6	
Item 10:	Item 9 multiplied by Item 7	
Item 11:	1988 Commission and Brokerage Incurred Item 10 plus Item 5	

Exhibit Seven—Part Three—B

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Allocation of Commission and Brokerage Fees to Calendar/Accident Year 1987

		Col (6)
Item 1:	1987 Direct Written Premium	
Item 2:	Commission and Brokerage Fees that arise from the writing of policies, the premium of which is listed in Item 1	
Item 3:	Dollars of 1987 Direct Written Premium that are earned in 1987	
Item 4:	Ratio Item 3 divided by Item 1	
Item 5:	Item 2 multiplied by Item 4	
Item 6:	1986 Direct Written Premium	
Item 7:	Commission and Brokerage Fees that arise from the writing of policies, the premium of which is listed in Item 6	
Item 8:	Dollars of 1986 Direct Written Premium that are earned in 1987	
Item 9:	Ratio Item 8 divided by Item 6	
Item 10:	Item 9 multiplied by Item 7	
Item 11:	1987 Commission and Brokerage Item 10 plus Item 5	

Exhibit Seven—Part Three—C

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Allocation of Commission and Brokerage Fees to Calendar/Accident Year 1986

		Col (11)
Item 1:	1986 Direct Written Premium	_____
Item 2:	Commission and Brokerage Fees that arise from the writing of policies, the premium of which is listed in Item 1	_____
Item 3:	Dollars of 1986 Direct Written Premium that are earned in 1986	_____
Item 4:	Ratio Item 3 divided by Item 1	_____
Item 5:	Item 2 multiplied by Item 4	_____
Item 6:	1985 Direct Written Premium	_____
Item 7:	Commission and Brokerage Fees that arise from the writing of policies, the premium of which is listed in Item 6	_____
Item 8:	Dollars of 1985 Direct Written Premium that are earned in 1986	_____
Item 9:	Ratio Item 8 divided by Item 6	_____
Item 10:	Item 9 multiplied by Item 7	_____
Item 11:	1986 Commission and Brokerage Item 10 plus Item 5	_____

Exhibit Seven—Part Four—A

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

General Expenses

Calendar Year 1988

		Col (3)
Item 1:	General Expenses Paid During 1988	_____
Item 2:	General Expenses Unpaid at 12/31/88	_____
Item 3:	General Expenses Unpaid at 12/31/87	_____
Item 4:	Item 1 + Item 2 – Item 3	_____

Exhibit Seven—Part Four—B

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

General Expenses

Calendar Year 1987

		Col (7)
Item 1:	General Expenses Paid During 1987	_____
Item 2:	General Expenses Unpaid at 12/31/87	_____
Item 3:	General Expenses Unpaid at 12/31/86	_____
Item 4:	Item 1 + Item 2 – Item 3	_____

Exhibit Seven—Part Four—C

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

General Expenses

Calendar Year 1986

		Col (12)
Item 1:	General Expenses Paid During 1986	_____
Item 2:	General Expenses Unpaid at 12/31/86	_____
Item 3:	General Expenses Unpaid at 12/31/85	_____
Item 4:	Item 1 + Item 2 – Item 3	_____

Exhibit Eight

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Exhibit Eight—Part One

Actual Investment Income

Calendar Year 1988

(This exhibit is also to be completed for each calendar year 1987 and 1986.)

		Col (2)
Item 1	Agents Balances—Countrywide	_____
Item 2	Unearned Premium Reserve—Countrywide	_____
Item 3	Ratio (Item 1)/(Item 2)	_____
Item 4	Direct Prepaid Expenses	_____
Item 5	Direct Premiums Written	_____
Item 6	Ratio (Item 4)/(Item 5)	_____
Item 7	Direct Unearned Premium Reserves—1988	_____
Item 8	Direct Unearned Premium Reserves—1987	_____
Item 9	(Item 7 + Item 8)/2	_____
Item 9A	Investable Unearned Premiums	_____
Item 10	Direct Losses Unpaid—1988	_____
Item 11	Direct Losses Unpaid—1987	_____
Item 12	(Item 10 + Item 11)/2	_____
Item 13	Direct Loss Adjustment Expenses Unpaid—1988	_____
Item 14	Direct Loss Adjustment Expenses Unpaid—1987	_____
Item 15	(Item 13 + Item 14)/2	_____
Item 16	(Item 12 + Item 15)	_____
***Item 16A**	**Exhibit One, Item 12, Col (4)**	_____*
***Item 16B**	**Exhibit One, Item 13, Col (4)**	_____*
***Item 16C**	**Exhibit One, Item 14, Col (4)**	_____*
***Item 16D**	**Item 16A + Item 16B + Item 16C**	_____*
***Item 16E**	**Ratio Item 16/Item 16D**	_____*
***Item 16F**	**Exhibit One, Item 12, Col (2)**	_____*
***Item 16G**	**Filed and Approved Expected Loss Ratio**	_____*
***Item 16H**	**Item 16E × Item 16F × Item 16G**	_____*
Item 17	(Item 16***H*** + Item 9A)	_____
Item 18	Exhibit Eight Part One—A Item 7	_____
Item 19	(Item 18) × (Item 17)	_____

Exhibit Eight—Part One—A

Note: The source of data for Exhibit Eight—Part One—A is the statutory annual statement for the calendar year. Items 1A, 2A, and 3A are from Schedule D—Summary By Country which is on page 29 of the 1988 statement.

Items 1 through 7 are from Underwriting and Investment Exhibit, Part 1—Interest, Dividends, and Real Estate Income, which is on page 6 of the 1988 statement.

Item	Source	
Item 1A	Schedule D—Summary By Country page 29, column 6, line 20	_____
Item 2A	Schedule D—Summary By Country page 29, column 6, line 24	_____
Item 3A	Schedule D—Summary By Country page 29, column 6, line 28	_____
***Item 3B**	**The number of dollars of Schedule D—Summary By Country page 29, column 6, line 16, which are NOT bonds exempt from U.S. tax**	_____*
Item 4A	Item 1A + Item 2A + Item 3A ***+ Item 3B***	_____
Item 1	Underwriting and Investment Exhibit Part 1—Interest, Dividends, and Real Estate Income Page 6, column 8, line 1.2	_____
Item 2	Underwriting and Investment Exhibit Part 1—Interest, Dividends, and Real Estate Income Page 6, column 8, line 10	_____
Item 3	Ratio (Item 1)/(Item 2)	_____
Item 4	Underwriting and Investment Exhibit Part 1—Interest, Dividends, and Real Estate Income Page 6, column 8, line 14	_____
Item 5	(Item 3) × (Item 4)	_____
Item 6	(Item 1) - (Item 5)	_____
Item 7	Ratio (Item 6)/(Item 4A) **Note: The value of Item 7 may be subject to a minimum as provided by a regulation issued pursuant to N.J.S.A. 17:29A-5.8**	_____

Exhibit Eight—Part Two

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

Anticipated Investment Income

	Calendar/Accident Year	1986	1987	1988
Item 1:	Earned Premium			
Item 2:	Filed and Approved Investment Income Offset			
Item 3:	Anticipated Investment Income			
Item 4:	Actual Investment Income			
Item 5:	Excess Investment Income			

Exhibit Nine—Part One

Development of AIRE Compensation to Ultimate

	Calendar/Accident Year 86	87	88
AIRE Compensation Received During			
0-15 months			
15-27 months			*[ ]*
27-39 months		*[	]*

Exhibit Nine—Part Two

Development of AIRE Compensation to Ultimate

	Calendar/Accident Year 86	87	88
AIRE Compensation Received As Of			
15 months			
27 months			*[ ]*
39 months		*[	]*

Exhibit Nine—Part Three

AIRE Compensation Development Factors

	Calendar/Accident Year 86	87
Development Factors		
15-27 months		
27-39 months		*[ ]*

	Col (1)	Col (2)	Col (3)
Calendar/ Accident Year	AIRE Comp'n at 3/89	Projection Factor to Ultimate	Ultimate Comp'n
88			
87			
86			
85			
84			

Exhibit Ten

Excess Profit Calculation

Check one:

BI Liability _____

Other Liability _____

PIP _____

Physical Damage _____

Total of above four coverages _____

		1986	1987	1988	Three Year Total
Item 1:	Direct Calendar Year Written Premium				
Item 2:	Direct Calendar Year Earned Premium				
Item 2A:	AIRE Compensation, Developed to Ultimate				
Item 2B:	AIRE Charges				
Item 2C:	Item 2A - Item 2B				
Item 3:	Direct Calendar/Accident Year Losses and Loss Adjustment Expenses Incurred, Developed to Ultimate				
Item 4:	Item 3 as a Ratio to Item 2				
Item 5:	Direct Commission and Brokerage Fees Incurred				

Item 6:	Item 5 as a Ratio to Item 1				
Item 7:	Direct Other Acquisition, Field Supervision, and Collection Expenses Incurred				
Item 8:	Item 7 as a Ratio to Item 1				
Item 9:	Direct General Expenses Incurred				
Item 10:	Item 9 as a Ratio to Item 2				
Item 11:	Direct Taxes, Licenses, and Fees Incurred				
Item 12:	Item 11 as a Ratio to Item 1				
Item 13:	Direct Policyholder Dividends Other Than Excess Profits Refunds or Credits Incurred				
Item 14:	Credit or Refund of Excess Profits				
Item 15:	Subtotal Item 13 + Item 14				
Item 16:	Item 15 as a Ratio to Item 2				
Item 17:	Underwriting Income = Item 2 + Item 2A - Item 2B - Item 3 - Item 5 - Item 7 - Item 9 - Item 11 - Item 15				
Item 18:	Allowance for Profit and Contingencies				
Item 19:	Actuarial Gain				
Item 20:	Total Development Adjustment	X	X	X	
Item 21:	Total Actuarial Gain	X	X	X	
Item 22:	Excess Investment Income				
Item 23:	Item Two times .025				
Item 24:	Excess Profit	X	X	X	
Item 25:	Non-excessive Subsidization	X	X	X	
Item 26:	Excessive Subsidization	X	X	X	

Exhibit Eleven—Supplementary Data

Year _____

Item 1:	PIP Incurred Losses exclusive of limitation due to reimbursement by UCJF, as provided by N.J.S.A. 39:6-61 et seq.	
Item 2:	Dollars of PIP Losses Assumed by UCJF	
Item 3:	UCJF Assessments Paid	
Item 4:	UCJF Reimbursements Rec'd	
Item 5:	Item 2 + Item 4 - Item 3	

Exhibit Twelve—UCJF Premium Offset

Calendar Year 1988

Item 1:	UCJF Assessments Paid in 1988	
Item 2:	Reserve for Two Future UCJF Assessments, Evaluated at 12/87	
Item 3:	Reserve for Two Future UCJF Assessments, Evaluated at 12/88	
Item 4:	UCJF Premium Offset	

(a)

Automobile Insurance
Coverage Option Survey: Personal Injury Protection and Tort Threshold Option
Adopted Amendments: N.J.A.C. 11:3-22.1, 22.3 and Appendix Forms A and B

Proposed: March 6, 1989 at 21 N.J.R. 619(a).
Adopted: April 24, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.
Filed: April 24, 1989 as R.1989 d.267, **without change.**

Authority: N.J.S.A. 17:1C-6(e), 17:1-8.1, 17:28-1 et seq., 39:6A-1 et seq., P.L. 1988, c.119.

Effective Date: May 15, 1989.
Expiration Date: January 6, 1991.

Summary of Public Comments and Agency Responses:

One letter with comments was received authored by the Assistant Vice President and Attorney of New Jersey Manufacturers Insurance Company, Edward R. Palsho. He indicated that under proposed N.J.A.C. 11:3-22.3, an insurer filing a coverage option survey would be required to "... reflect the total number of automobiles with in force coverage as of December 31 and as of June 30 of each year, and shall indicate the personal injury protection and lawsuit threshold or no threshold option selected with respect to each automobile." He indicates that since the effective date of P.L. 1988, c.119 is January 1, 1989, he suggests that there may be a need for a transition reporting form in connection with the survey form to be filed on June 30, 1989. This transition reporting form will allow insurers to report the options selected under the provisions of the new law as well as the old law.

The Department only needs the information on automobiles with in force coverage exhibiting threshold and PIP deductibles options selected, from January 1989 to June 1989, for the June 30, 1989 filing. The information based on the old law is not required; therefore, a transition reporting form is not needed.

Full text of the adoption follows.

11:3-22.1 Purpose

This subchapter requires the submission of data concerning policyholder selection of the various options provided under the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984 (P.L. 1983, c.362 as amended by P.L. 1984, c.40, as amended by P.L. 1988, c.119) in order to monitor the implementation and effectiveness of the Act.

11:3-22.3 Coverage option survey requirements

Every automobile insurer, on a biannual basis, shall complete and file with the Commissioner the coverage option survey required by this subchapter. The insurer's biannual survey shall reflect the total number of automobiles with in force coverage as of December 31 and as of June 30 of each year, and shall indicate the personal injury protection and lawsuit threshold or no threshold option selected with respect to each such automobile. Insurers shall use forms A and B, appended to and incorporated by reference in this subchapter, to report the information required by this section.

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

Form A

STATE OF NEW JERSEY—DEPARTMENT OF INSURANCE
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: _____

Total Number of Automobiles with Insurance Policy Coverage in Force as of December 31 or June 30, 19____.

Options	Number of Automobiles
PIP Coverages for Medical Expense Only	_____
PIP Medical Expense Benefit Deductibles	
$250	_____
$500	_____
$1,000	_____
$2,500	_____
Tort Threshold	
Lawsuit Threshold	_____
No Threshold	_____

Form B

STATE OF NEW JERSEY—DEPARTMENT OF INSURANCE
AUTOMOBILE INSURANCE COVERAGE OPTION SURVEY

Company/Group: _____

Total Number of Automobiles with Insurance Policy Coverage in Force as of December 31 or June 30, 19____.

P.I.P. Deductible	Full P.I.P. with Lawsuit/No Threshold		Medical P.I.P. Only With Lawsuit/No Threshold	
	Lawsuit Threshold	No Threshold	Lawsuit Threshold:	No Threshold
$250				
$500				
$1,000				
$2,500				

(b)

Policy Constants
Adopted New Rules: N.J.A.C. 11:3-24

Proposed: December 19, 1988 at 20 N.J.R. 3104(a).
Adopted: April 24, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.
Filed: April 25, 1989 as R.1989 d.278, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6 and 17:29A-37.1

Effective Date: May 15, 1989.
Expiration Date: January 6, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: (Progressive Financial Services) The proposed new rules should not apply to Lenders Collateral Protection (LCP) programs because (1) the lender, not the borrower, is the insured; (2) Progressive's limited liability under the LCP coverage is limited to the lesser of the loan balance or the cost of repair or replacement of the damaged collateral; and (3) rates are based on the outstanding loan balance rather than on make or model.

RESPONSE: Regardless of the particular features of the program, if LCP coverage may be substituted for one or more of the types of voluntary or residual coverage to which the policy constant applies, then a vehicle receiving such substitute coverage is subject to the policy constant.

COMMENT: The proposed new rules exceed statutory authority since N.J.S.A. 17:29A-37.1 pertains only to insurance companies who have filed automobile rates and are writing private passenger automobile insurance.

RESPONSE: As is made clear by the committee statement accompanying P.L. 1987 c.344 (amending N.J.S.A. 17:29A-37.1), the complexity of the subject requires that the Commissioner may determine which motor vehicles are assessed the policy constant.

COMMENT: (Progressive Financial Services) The proposed new rules are invalid as a matter of the law to the extent that they encompass, on a retroactive basis, coverages on vehicles not subject to the policy constant assessment prior to issuance of the proposed new rules.

RESPONSE: Upon further research and examination, the Department has concluded that the effective date of the proposed new rules is the date of publication of their adoption, May 15, 1989.

COMMENT: (New Jersey Business and Industry Association) It was the intent of the Legislature to include only private passenger vehicles under the policy constant. Any other application of the law would have an unintended negative effect on many of the commenter's member companies, especially those, such as public utilities, which have large fleets of vehicles.

RESPONSE: The Department believes that only those commercial vehicles used for private passenger, or personal use, such as commuting to and from work, would be subject to the policy constant (see N.J.A.C. 11:3-24.4(b)10). For instance, if the vehicle used in a particular business is only driven for work related activities, it would not be subject to the policy constant.

COMMENT: (The Hertz Corporation) New Jersey statutes give the Commissioner authority to impose flat charges on self-insured vehicles of a type described by rules and regulations. Therefore, the Commissioner must first establish the types of vehicles before he may assess a policy constant, thereby necessitating one rule for the description and another rule for the imposition.

Also, the financial responsibility laws of New Jersey relate only to bodily injury and property damage. Self-insureds who do not provide collision and comprehensive coverage because they assume the risk of same should not be subject to the flat charge on a per car coverage basis predicated solely upon their status as self-insureds under the proposed new rules.

RESPONSE: The Department agrees the policy constant should not be assessed on a retroactive basis. However, there would be no legitimate reason to promulgate rules describing the types of self-insured vehicles to which the flat charges apply and subsequently by another rule impose the policy constant. Policy constants are already imposed by statute. By adopting these rules, the vehicles subject to these rules are automatically subject to the policy constant.

The Department also agrees that the policy constant should not be assessed against self-insured collision and comprehensive coverage for the very reason Hertz listed above, and has reflected this agreement through a charge upon adoption at N.J.A.C. 11:3-24.3(c)1.

COMMENT: (Pennsylvania Miller's Mutual Insurance Company) Are insurers who do not write private passenger automobile insurance nor have plans to write this type of business required to file non-remittance reports each month or file their vocations statement every December 31st?

RESPONSE: Insurers not writing private passenger automobile insurance should nevertheless file non-remittance reports, but would not be required to file a verification statement.

COMMENT: (New Jersey Catholic Conference) The imposition of flat charges upon a non-profit or religious corporation will have a significant financial impact upon them, and impede their ability to carry out their charitable activities.

RESPONSE: Upon further research and investigation, the Department has determined that religious and nonprofit institutions will not be charged a policy constant, and the rules, as adopted, reflect same.

COMMENT: (Roman Catholic Diocese of Camden) The policy constant is a tax or assessment having nothing to do with tax exempt entities since they will not receive any benefit from the assessment.

RESPONSE: See response to the New Jersey Catholic Conference.

In addition to the changes described above, the following changes, for the reasons stated, have been made by the Department:

Agency Initiated Changes

1. The requirement for self-insurers to maintain a daily log of the number and types of private passenger automobiles is administratively burdensome. The rules, as adopted, do not require a daily, but do require a quarterly, log to be maintained and reported to the Department and the Association.

2. The Department has clarified the definition of "classic automobile" for the purpose of imposing a policy constant on these types of private passenger automobiles. In order to qualify as a classic automobile, the vehicle must be at least 10 but less than 25 years old. This eliminates any confusion as to the difference between classic and antique cars.

3. The use of the term "registered" vehicles (rather than those which are principally garaged in another state if insured through the Association) in providing a definition of "private passenger automobile" clarifies the applicability of the rules as adopted in order to encompass the full range of vehicles to which the policy constant will apply.

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

SUBCHAPTER 24. POLICY CONSTANTS

11:3-24.1 Purpose and scope

(a) This subchapter provides guidelines for the identification of the types of private passenger automobiles as defined in this subchapter which are insured under private passenger or commercial automobile policies, or self-insured pursuant to N.J.S.A. 39:6-52, upon which flat charges known as policy constants shall be imposed pursuant to N.J.S.A. 17:29A-37.1. This subchapter also establishes procedures for the collection of policy constants and for their transmission to the New Jersey Automobile Full Insurance Underwriting Association (Association).

(b) This subchapter is applicable to all private passenger automobile insurers that insure, in the voluntary and residual markets in this State, private passenger automobiles as defined in this subchapter; to all commercial automobile insurers that insure, in the voluntary and residual markets in this State, automobiles of a private passenger type: and to all self-insurers which own or lease under contract, for a continuous period of at least three months, self-insured automobiles of a private passenger type registered with the Division of Motor Vehicles under a certificate of self-insurance issued on a calendar year annual basis by the Department of Insurance pursuant to N.J.S.A. 39:6-52.

11:3-24.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings:

"Classic automobile" means a motor vehicle which otherwise satisfies the definition of private passenger automobile as defined herein and which is also ***at least*** 10 *[or more]* ***but less than 25*** years old, is used on a regular basis, and has a value significantly higher than the average value of other private passenger automobiles of the same make and model year.

"Owned" means to have legal title to such private passenger automobile as defined in this subchapter. This *[defintion]* ***definition*** shall include a private passenger automobile leased under contract for a continuous period of at least three months.

"Policy constants" mean flat charges imposed on the following, but in no event shall be deemed to include a residual market equalization charge levied pursuant to N.J.S.A. 17:30E-8:

1. Private passenger automobiles as defined by this subchapter, written on private passenger automobile insurance policies in the voluntary and residual markets;

2. Private passenger automobiles as defined by this subchapter, written on commercial automobile policies in the voluntary and residual markets; and

3. Private passenger automobiles as defined by this subchapter, which are self-insured under a certificate of self-insurance issued on a calendar year annual basis by the Department of Insurance pursuant to N.J.S.A. 39:6-52.

"Principally garaged" means located within the boundaries of the State of New Jersey for a total time period of at least three months per year, whether consecutive or non-consecutive.

11:3-24.3 Collection of flat charges; remittance

(a) All private passenger and commercial automobile insurers and self-insurers which are subject to the provision of this subchapter shall collect policy constants, pursuant to N.J.S.A. 17:29A-37.1, on private passenger automobiles as defined in N.J.A.C. 11:3-24.4 on a per car per coverage basis unless otherwise indicated elsewhere in this subchapter, in the following annual amounts:

Bodily Injury Liability	$12.00
Property Damage Liability	4.00
Personal Injury Protection	28.00
Collision	8.00
Comprehensive	18.00

(b) The policy constants which have been collected by an insurer subject to the provisions of this subchapter shall be transferred to the New Jersey Automobile Full Insurance Underwriting Association (Association) within 10 days after the close of each accounting month.

1. All monies collected from the policy constants, net of a pro rata portion of any producer commissions, and all premium taxes payable thereon, shall be transferred to the Association. No other expenses shall be payable to or deductible from the policy constants transferred to the Association.

2. In the case of policy premiums paid pursuant to a payment plan or installment plan, the insurer shall, within 10 days after the close of each month of receipt thereof, transfer to the Association a proportionate share of the total policy constant on the policy, based on the payment schedule or amount of payment received.

3. The charges shall be collected, where applicable, on all private passenger automobile liability and physical damage policies, and all commercial automobile liability and physical damage policies that insure automobiles of a private passenger type, issued or renewed in the voluntary and residual market with an effective date on or after *[December 24, 1987]* ***May 15, 1989***.

(c) The policy constants applicable to a self-insurer subject to the provisions of this subchapter shall be forwarded to and received by the Association before the Department of Insurance shall issue an annual certificate of self-insurance.

1. The policy constants shall be collected, where applicable, for all coverages required by law, on all self-insured, private passenger automobiles as defined in this subchapter, which are intended to be covered under a certificate of self-insurance issued on a calendar year annual basis by the Department of Insurance pursuant to N.J.S.A. 39:6-52. *[The policy constants shall also be collected, where applicable, for all coverage not required by law but for which an accounting entry has been made in the financial records or statements of the self-insurer for possible future repairs to such self-insured vehicle]*. The charges shall be collected on all vehicles self-insured on or after *[December 24, 1987]* ***May 15, 1989***.

2. Self-insurers subject to the provisions of this subchapter shall *[keep a daily log of the number and types of private passenger automobiles as defined in this subchapter and]* report to the Department and the Association on a calendar year quarterly basis, within a time frame and on a form provided by the Commissioner, the number and types of *[such motor vehicles]* ***private passenger automobiles*** added to or deleted from the self-insurer's inventory as of the 15th day of the last month of each quarter, with the exception of the last quarter of the calendar year. Upon receipt of the quarterly report, the Association shall, in the case of a net addition to the self-insurer's inventory, send the self-insurer a bill in the amount of pro rata charges due. In the case of a net deletion from the self-insurer's inventory, a credit in the amount of the pro rata charges unearned will be made toward the renewal fee for the certificate of self-insurance, provided, however, that if the self-insurer does not renew the certificate of self-insurance, the Association shall remit the amount of the pro rata charge unearned to the self-insurer within 30 days after January 1 of the renewal year.

11:3-24.4 Definition of private passenger automobile

(a) "Private passenger automobile" means an automobile*[,]* ***registered or*** principally garaged in the State of New Jersey *[or principally garaged in another state if insured through the New Jersey Automobile Full Insurance Underwriting Association]*, of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; or a motor vehicle with a pick-up body, a van, a delivery sedan, a panel truck or a motorized camper type vehicle, ***registered or*** principally garaged in the State of New Jersey *[or principally garaged in another state if insured through the New Jersey Automobile Full Insurance Underwriting Association]*, and owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile. All motor vehicles owned by a governmental entity, agency or instrumentality thereof ***and all motor vehicles owned by a religious or nonprofit institution*** shall not be considered a private passenger automobile for the purposes of this subchapter.

(b) The following motor vehicles which otherwise meet the definition of private passenger automobile for the purposes of this subchapter shall also be subject to assessment of the policy constant:

1. A pickup, panel truck, or van used in the business of the United States Government, by an employee of the Government, which shall be considered a private passenger automobile, if:

i. It is owned by an individual or by a husband and wife who are residents of the same household;

ii. It is customarily used in any other occupation, profession or business of the insured other than farming or ranching; and

iii. Liability coverage is limited in accordance with the Federal employee's use of the automobile in government business endorsement.

2. A motor vehicle issued a certificate of self-insurance by the Department of Insurance pursuant to N.J.S.A. 39:6-52, as authorized by N.J.S.A. 17:29A-37.1;

3. A dune buggy, but only if it is registered for street use;

4. A classic automobile as defined in this subchapter;

5. An electric powered automobile;

6. An amphibious vehicle;

7. A motor vehicle which shares its license plate(s) with an inventory of other motor vehicles for eventual sale by a person engaged in the business of selling such motor vehicles. For purposes of this subparagraph, the policy constants shall be imposed on a per-plate per-coverage basis;

8. A motor vehicle in which *[the]* ***an*** insurance policy covering the lender's *[and]* ***or*** borrower's interest in the motor vehicle has lapsed and ***another policy*** is *[reissued]* ***issued*** to the lender *[pursuant to the financing agreement between such lender and borrower]*;

9. A motor vehicle, owned by a corporation, which is assigned to one or more corporate officers or employees; and

10. Any other motor vehicle, as determined by the Commissioner, which is available for private passenger use and not wholly related to business use.

11:3-24.5 Verification statement

(a) On December 31 of each year, all private passenger automobile insurers, commercial automobile insurers and self-insureds under which the provisions of this subchapter apply shall provide to the Commissioner of the Department of Insurance, and to the Manager of the Association, a certified statement containing the name, title, address and telephone number of the individual responsible for certifying and sending policy constants to the Association.

(b) The statement shall be sent to:
Actuarial Services *, **Property Liability***
State of New Jersey
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625

11:3-24.6 Penalty

Failure to comply with the provisions of this subchapter may result in the imposition of sanctions by the Department including, but not limited to, sanctions set forth pursuant to N.J.S.A. 17:33-2 and N.J.S.A. 17:29A-37.1.

(a)

Residual Market Equalization Charges (RMECs) Adopted New Rules: N.J.A.C. 11:3-25

Proposed: February 6, 1989 at 21 N.J.R. 278(a).
Adopted: April 24, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.
Filed: April 25, 1989 as R.1989 d.279, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6 and 17:30E-1 et seq.

Effective Date: May 15, 1989.
Expiration Date: January 6, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: (Progressive Financial Services) The proposed new rules should not apply to Lenders Collateral Protection (LCP) programs because (1) the lender, not the borrower, is the insured; (2) Progressive's limited liability under the LCP coverage is limited to the lesser of the loan balance or the cost of repair or replacement of the damaged collateral; and (3) rates are based on the outstanding loan balance rather than on make or model.

RESPONSE: Regardless of the particular features of the program, if LCP coverage may be substituted for one or more of the types of voluntary or residual coverage to which the RMEC applies, then a vehicle receiving such substitute coverage is subject to the RMEC.

COMMENT: N.J.S.A. 17:30E-8(b) contemplates that RMECs are to be collected from "voluntary insureds," while the LCP coverage is force placed when borrowers fail to procure acceptable physical damage coverage on collateral securing their loans.

RESPONSE: Simply because coverage on a motor vehicle has changed insurer and insured, the coverage remains, and is, therefore, subject to the RMEC.

COMMENT: (Progressive Financial Services) The proposed new rules are invalid as a matter of the law to the extent that they encompass, on a retroactive basis, coverages on vehicles not subject to the RMEC assessment prior to issuance of the proposed new rules.

RESPONSE: Upon further research and examination, the Department has concluded that the effective date of the proposed new rules is the date of publication of their adoption, May 15, 1989.

COMMENT: (New Jersey Manufacturers Insurance Company) There is not sufficient space on this commenter's declaration page to make the entries required by N.J.A.C. 11:3-25.3(a)3 as proposed. The commenter suggests that the language of this section be amended to allow each company to display the total amount of the RMEC on a separate page attached to the declaration page.

RESPONSE: The Department agrees with the comment and the rules as adopted reflect such change by allowing discretion as to how the information should be displayed.

COMMENT: (Unforgettable Autos of Mid-Jersey) The commenter is opposed to any surcharge added to its policies for its antique automobiles.

RESPONSE: The proposed new rules never contemplated antique vehicles as subject to the RMEC. The rules, as adopted, reflect the intent of the Department to only assess classic automobiles by clarifying the definition of "classic" automobile so as to focus upon the age of the vehicle.

COMMENT: (New Jersey Catholic Conference) N.J.S.A. 17:30E-8 does not grant authority to the Commissioner to impose RMECs on self-insured automobiles.

RESPONSE: After further research and investigation, the Department has determined that self-insurers are subject to the assessment of the RMEC pursuant to N.J.S.A. 17:30E-1 et seq. However, under the rules as adopted, religious and nonprofit institutions are exempt from the RMEC, due to their tax-exempt status.

COMMENT: (LeBoeuf, Lamb, Leiby and MacRae) The proposed RMEC rules as applied to self-insurers is ultra vires and unfair to public utility rate payors.

RESPONSE: As mentioned above in response to the New Jersey Catholic Conference, RMECs will be imposed on self-insurers. However, under the rules as adopted, religious and nonprofit institutions are exempt from the RMEC.

COMMENT: (MacKevich and Burke) Because Agency Rent-A-Car, Inc.'s (a self-insurer) customers have already paid for insurance protection within the context of their existing policies, the imposition of the RMECs will certainly be passed on to the consumer who is already paying for the same RMEC. Also, Agency had no advance warning in 1988 that a retroactive RMEC charge was contemplated, in order to protect itself within its pricing structure from the effect of the charge.

RESPONSE: As stated in the response submitted by the New Jersey Catholic Conference, RMECs will be assessed against self-insurers. Also, as indicated by the response to Progressive Financial Services, the effective date of the proposed rules is the date of publication of their adoption, May 15, 1989.

COMMENT: (New Jersey Region Antique club of America) The RMEC proposed rules should not apply to historic (qq) vehicles as they are used solely for exhibition and educational purposes by the owner, and because State law precludes historic vehicles from being used as private passenger vehicles on a regular basis.

RESPONSE: The rules as adopted do not contemplate that antique vehicles would be assessed the RMEC, as is stated in the response to Unforgettable Autos of Mid-Jersey.

In addition to the changes described above, the following changes, for the reasons stated, have been made by the Department.

Agency Initiated Changes

1. The Department has clarified the definition of "classic automobile" for the purpose of imposing a RMEC on these types of private passenger automobiles. In order to qualify as a classic automobile, the vehicle must be at least 10 but less than 25 years old. This eliminates any confusion as to the difference between classic and antique cars.

2. Consistent with the definition of "automobile" provided in N.J.S.A. 17:30E-3, motorcycles also fall under the definition of "private passenger automobile" for the purposes of the rules as adopted.

3. The use of the term "registered" vehicles (rather than those which are principally garaged in another state if insured through the Association) in providing a definition of "private passenger automobile" clarifies the applicability of the rules as adopted in order to encompass the full range of vehicles to which the RMEC will apply.

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

SUBCHAPTER 25. RESIDUAL MARKET EQUALIZATION CHARGES (RMECs)

11:3-25.1 Purpose and scope

(a) This subchapter provides guidelines to identify the types of private passenger automobiles as defined in this subchapter which are subject to residual market equalization charges (RMECs) pursuant to N.J.S.A. 17:30E-8. This subchapter also establishes procedures for the collection and transmission of RMECs to the New Jersey Automobile Full Insurance Underwriting Association (Association).

(b) This subchapter applies to the following:

1. All private passenger automobile insurers that provide coverage (in the voluntary and residual markets in this State) for private passenger automobiles as defined in this subchapter;

2. All commercial automobile insurers that provide coverage (in the voluntary and residual markets in this State) for automobiles of a private passenger type; and

3. All self-insurers who own or lease under contract (for a continuous period of at least three months) self-insured automobiles of a private passenger type registered with the Division of Motor Vehicles

under an annual certificate of self-insurance issued by the Department of Insurance pursuant to N.J.S.A. 39:6-52.

(c) RMECs are imposed on the following vehicles:

1. Private passenger automobiles as defined by this subchapter, written on private passenger automobile insurance policies in the voluntary and residual markets;

2. Private passenger automobiles as defined by this subchapter, written on commercial automobile policies in the voluntary and residual markets; and

3. Private passenger automobiles as defined by this subchapter, which are self-insured under a certificate of self-insurance issued on a calendar year annual basis by the Department pursuant to N.J.S.A. 39:6-52.

11:3-25.2 Definitions

The following words and terms, when used in this subchapter, have the following meanings:

"Association" means the New Jersey Automobile Full Insurance Underwriting Association established pursuant to N.J.S.A. 17:30E-1 et seq.

"Classic automobile" means a motor vehicle which is ***at least*** 10 ***[or more]* *but less than 25*** years old, which is used on a regular basis, and which has a value significantly higher than the average value of other motor vehicles of the same make and model year.

"Commissioner" means the New Jersey Commissioner of Insurance.

"Department" means the New Jersey Department of Insurance.

"Net direct car years of liability exposure" means direct bodily injury liability car years of exposure, after deducting returns for cancellations, but without adding reinsurance assumed or deducting reinsurance ceded, as determined by the board of directors of the Association and approved by the Commissioner.

"Net direct car years of physical damage exposure" means direct physical damage car years of exposure, after deducting returns for cancellations, but without adding reinsurance assumed or deducting reinsurance ceded, as determined by the board of directors of the Association and approved by the Commissioner.

"Owned" means legal title to and control of a private passenger automobile as defined in this subchapter. This definition shall include a private passenger automobile leased under contract for a continuous period of at least three months.

"Principal operator" means one who operates a motor vehicle more than any other person based upon the percentage of annual mileage driven by each operator. A person may only be designated as the principal operator of one vehicle, except where the number of vehicles exceeds the number of principal operators.

"Principally garaged" means located within the boundaries of the State of New Jersey for a total time period of at least three months per year, whether consecutive or non-consecutive.

"Residual market equalization charges" or "RMECs" mean amounts which, when added to all other sources of Association income, will cause the Association to operate on a no profit, no loss basis, but are in no event considered to include a policy constant levied pursuant to N.J.S.A. 17:29A-37.1.

11:3-25.3 Collection of RMECs; remittance

(a) All private passenger and commercial automobile insurers and self-insurers which are subject to the provisions of this subchapter shall collect RMECs, pursuant to N.J.S.A. 17:30E-8, on private passenger automobiles as defined herein on a uniform net direct car year of liability exposure basis and a net direct car year of physical damage exposure basis (except as set forth at N.J.A.C. 11:3-25.4(b)7) in the amounts approved by the Commissioner and in effect when each policy or certificate of self-insurance is issued or renewed.

1. Each insurer should assess six month policies one-half the approved RMEC and quarterly policies one-fourth the approved RMEC. The RMEC charge is prorated for motor vehicles that are added or deleted mid-term from any policy subject to this subchapter. In the case of additions, the applicable RMEC is prorated to the end of the policy term. In the case of deletions, the unearned RMEC collected is refunded to the insured.

2. Each insurer shall implement billing and collection procedures for the approved RMEC within 45 days after each approval date. All billings issued on or after the expiration of the 45 days, whether for new or renewal business, shall include the approved RMEC in the total policy premium. All new or renewal policies effective on or after the date the approved RMEC goes into effect and which have received initial billings prior to the insurer's implementation of the new billing and collection procedures ***[must be rerated]* *are*** to reflect inclusion of the RMEC. Supplemental billings for these policies shall be issued no later than 60 days after the effective date of the approved RMEC.

3. Each insurer shall display the total amount of the RMEC, and its separate component charges by coverage or line, on the policy declaration page ***or a form attached thereto***.

4. Each insurer utilizing billing systems designed to round premium charges to the nearest dollar may bill and collect the RMEC on the rounded basis.

5. Each self-insurer that obtains an initial certificate of self-insurance during the calendar year shall pay a prorated RMEC. The RMEC charged is in the same proportion to the RMEC approved as the number of remaining days (from the date such self-insurer is certified by the Department to December 31) of the applicable calendar year bears to the total number of days of that calendar year.

(b) Each insurer shall transfer the RMECs collected to the Association within 10 days after the close of each accounting month pursuant to the provisions set forth below.

1. All monies collected from the RMECs are to be transferred to the Association on a written basis. No other expenses are payable to or deductible from the RMECs transferred to the Association. All insurers, including Association servicing carriers, may charge the full RMEC in addition to any initial policy premium installment or deposit payment at the time the initial installment or deposit is due.

2. The RMECs are collected, where applicable, on all private passenger automobile liability and physical damage policies, and all commercial automobile liability and physical damage policies that insure automobiles of a private passenger type, issued or renewed in the voluntary or residual market with an effective date on or after ***[January 21, 1988]* *May 15, 1989***.

(c) Each self-insurer shall forward the RMEC charge to the Association before the Department shall issue an annual certificate of self-insurance.

1. The RMEC is collected, where applicable, for all coverages required by law, on all self-insured, private passenger automobiles as defined in this subchapter, which are intended to be covered under a certificate of self-insurance issued on a calendar year annual basis by the Department pursuant to N.J.S.A. 39:6-52. The charge is collected on all vehicles issued a certificate of self-insurance on or after ***[January 21, 1988*] *May 15, 1989***.

2. Each self-insurer shall report to the Department and the Association on a calendar year quarterly basis, within a time frame and on a form provided by the Commissioner, the number and types of motor vehicles added to or deleted from the self-insurer's inventory as of the last day of the last month of each quarter, with the exception of the last quarter of the calendar year. Upon receipt of the quarterly report, the Association shall, in the case of a net addition to the self-insurer's inventory, send the self-insurer a bill in the amount of pro rata charges due; in the case of a net deletion from the self-insurer's inventory, the Association shall credit the amount of the pro rata charges unearned on renewal of the certificate of self-insurance, except that if the self-insurer does not renew the certificate of self-insurance, the Association shall remit the amount of the pro-rata charge unearned to the self-insurer within 30 days after January 1 of the renewal year.

(d) A RMEC is not assessed on insured or self-insured private passenger automobiles where the principal operator is 65 years of age or older. Manual rules involving rating classifications are not used to determine principal operator status, if inconsistent with this subchapter.

(e) When any policy or certificate of self-insurance subject to imposition of the RMEC is cancelled, the Association shall refund any unearned RMEC collected to the relevant policyholder or self-insurer. The Association shall calculate the unearned RMEC on a pro-rata or short-rate basis, as applicable.

11:3-25.4 Definition of private passenger automobile

(a) "Private passenger automobile" means an automobile*[,]* ***registered as*** principally garaged in the State of New Jersey *[or principally garaged in another state if insured through the Association]*, of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; or a motor vehicle with a pick-up body, a van, a delivery sedan, a panel truck*,* *[or]* a motorized camper type vehicle, ***or a motorcycle registered or*** principally garaged in the State of New Jersey *[or principally garaged in another state if insured through the Association]*, and owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, professional or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a private passenger automobile. Motor vehicles owned by a governmental entity, agency or instrumentality thereof*, **and motor vehicles owned by a religious or nonprofit institution,*** are not considered private passenger automobiles.

(b) The following motor vehicles which otherwise meet the definitions of private passenger automobile are also subject to the assessment of RMECs:

1. A pickup, panel truck, or van used in the business of the United States Government, by an employee of the Government if:

i. It is owned by an individual or by a husband and wife who are residents of the same household;

ii. It is not customarily used in any other occupation, profession or business of the insured other than farming or ranching; and

iii. Liability coverage is limited in accordance with the Federal employee's use of the automobile in government business endorsement;

2. A motor vehicle issued a certificate of self-insurance by the Department of Insurance pursuant to N.J.S.A. 39:6-52, as authorized by N.J.S.A. 17:29A-37.1;

3. A dune buggy, but only if it is registered for street use;

4. A classic automobile as defined in this subchapter;

5. An electric powered automobile;

6. An amphibious vehicle;

7. A motor vehicle which shares its license plate(s) with an inventory of other motor vehicles for eventual sale by a person engaged in the business of selling such motor vehicles; for purposes of this subparagraph; RMECs are imposed on a per-plate per-coverage basis;

8. A motor vehicle in which *[the]* ***an*** insurance policy covering the lender's *[and]* ***or*** borrower's interest in the motor vehicle has lapsed and is *[reissued]* ***issued*** to the lender *[pursuant to the financing agreement between such lender and borrower]*;

9. A motor vehicle, owned by a corporation, which is assigned to one or more corporate officers or employees; and

10. Any other motor vehicle, as determined by the Commissioner, which is available for private passenger use and not wholly related to business use.

11:3-25.5 Verification statement

(a) On December 31 of each year, all private passenger automobile insurers, commercial automobile insurers and self-insurers to which this subchapter applies shall provide to the Commissioner, and the Manager of the Association, a certified statement containing the name, title, address and telephone number of the individual responsible for certifying and sending RMECs to the Association.

(b) The statement is sent to:

Actuarial Services*, **Property Liability***
State of New Jersey
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625

11:3-25.6 Penalty

Failure to comply with this subchapter may result in the imposition of sanctions by the Department including, but not limited to, sanctions pursuant to N.J.S.A. 17:33-2 and N.J.S.A. 17:30E-1 et seq.

(a)

Unsatisfied Claim and Judgment Fund
Adopted New Rules: N.J.A.C. 11:3-26, 27 and 28

Proposed: March 20, 1989 at 21 N.J.R. 688(a)
Adopted: April 24, 1989 by Kenneth D. Merin, Commissioner, Department of Insurance.
Filed: April 24, 1989 as R.1989 d.268, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3)

Authority: N.J.S.A. 39:6-61 et seq., 39:6-64a, 39:6-64.1 and 39:6-73.1.

Effective Date: May 15, 1989.
Expiration Date: January 6, 1991.

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

Agency Initiated Changes

1. The following technical changes have been made to correct printing errors.

In proposed N.J.A.C. 11:3-26.1(a)4, the word "accidents" has been changed to "accident".

In proposed N.J.A.C. 11:3-26.2, the word "claims" has been changed to "claim".

In proposed N.J.A.C. 11:3-28.6(b), the word "expense" has been added so that it will read ". . . excess medical expense benefits . . ."

2. In proposed N.J.A.C. 11:3-28.1, the word "practical" has been changed to "practicable" as a matter of form.

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

SUBCHAPTER 26. ACCIDENT CLAIMS

11:3-26.1 Claim information

(a) A Notice of Intention to Make Claim under N.J.S.A. 39:6-65 as amended by P.L. 1958, c.99, approved July 1, 1958, shall contain the following information:

1. The claimant's name and address;

2. The time and place of accident;

3. The identity of the operators and vehicles involved in the accident;

4. Such witnesses to said accident*[s]* as are then known;

5. A short description of the accident;

6. A description of the injuries then known, and attached thereto a medical certificate if then available. In any event the medical certificate shall be filed as soon as available; and

7. A description of the damage sustained to property, and attached thereto an estimate of the cost of repairs if then available.

11:3-26.2 Claim*[s]* filing; form

(a) A Notice of Intention to Make Claim under N.J.S.A. 39:6-65 may be filed on a form of the Unsatisfied Claim and Judgment Fund Board designated as a "Notice of Intention to Make Claim."

(b) A written notice to the Board in any other form that contains the information required by this section shall be acceptable.

SUBCHAPTER 27. UNSATISFIED CLAIM AND JUDGMENT FUND BOARD

11:3-27.1 Uninsured's current financial status

(a) Upon review of a case by the Unsatisfied Claim and Judgment Fund Board, if the Board does not have sufficient current information to determine whether or not the uninsured's installment payment is reasonable, a request will be addressed to the uninsured asking for a statement of current financial status.

(b) If the uninsured fails to furnish a completed statement of current financial status within a time period to be established by the executive director, the Unsatisfied Claim and Judgment Fund Board will request the Director of Motor Vehicles to suspend the license and all registrations of the uninsured pursuant to N.J.S.A. 39:5-30 and 39:5-87, for failure to furnish this information.

SUBCHAPTER 28. UNSATISFIED CLAIM AND JUDGMENT FUND'S REIMBURSEMENT OF EXCESS MEDICAL EXPENSE BENEFITS PAID BY INSURERS

11:3-28.1 Notification of potential for payment of excess medical expense benefits

An automobile liability insurer shall, as soon as *[practical]* ***practicable***, notify the Unsatisfied Claim and Judgment Fund on forms provided by the Fund of all claims for medical expense benefits, as defined in N.J.S.A. 39:6A-2(e), where the potential exposure to the insurer exceeds $75,000 on account of personal injury to any one person in any one accident occurring after 12:00 A.M. on February 19, 1978.

11:3-28.2 Report of such claims when the carrier has paid at least $50,000 for medical expense benefits

In cases where the potential exposure to the automobile liability insurer exceeds $75,000, the insurer shall report on forms provided by the Fund whenever medical expense benefits in a total amount of $50,000 have been paid on account of personal injury to any one person in any one accident.

11:3-28.3 Notice of change in the amount of reserves

Whenever an automobile liability insurer has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount of $50,000, said insurer shall notify the Fund of any changes in the amount of reserves established for payment of the claim or closing of the file.

11:3-28.4 Supplemental form to be submitted to the Fund

A reimbursement and reserve form shall be filed with the Fund within 90 days after an automobile insurer has paid medical expense benefits on account of personal injury to any one person in any one accident in a total amount of $75,000. Such form shall be filed each quarter that the insurer seeks reimbursement.

11:3-28.5 Insurer's continuing obligation to investigate claims

An automobile liability insurer shall be required to discharge its duty of investigating claims where the potential exposure to the insurer exceeds $75,000. Said insurer's duty and obligation with regard to claim handling shall exist and continue to exist notwithstanding this rule. The Executive Director may direct such investigations as often as he or she deems necessary. All expenses relating to the investigation of claims, including expenses for medical examinations and file maintenance, are the responsibility of the automobile liability insurer.

11:3-28.6 Reimbursement of excess medical expense benefits paid by insurers

(a) Insurers shall submit to the Fund itemized accounts with supporting documentation of claim payments as soon as practicable after the close of the quarter for which reimbursement is sought. The Fund shall reimburse automobile liability insurers for excess medical expense benefits on a quarterly basis. Insurers shall not be reimbursed for interest, attorney fees or punitive damages.

(b) The Fund shall not reimburse an insurer for excess medical expense benefits if it is determined that there are multiple insurance policies applicable to a claim unless an insurer has expended medical benefits in an amount exceeding $75,000 on account of personal injury to any one person in any one accident. Where there are two or more different primary insurers liable, the Fund shall not reimburse such an insurer for excess medical ***expense*** benefits unless each primary insurer has expended medical benefits in an amount exceeding $75,000 on account of personal injury to any one person in any one accident.

(c) Where the Fund has reimbursed an insurer for excess medical expense benefits and thereafter determines that there were or are multiple insurance policies applicable to the underlying claim, the insurer shall return all moneys paid from the Fund. The insurer(s) shall apportion the medical benefits payment and make individual application to the Fund where the potential exposure to the insurer(s) exceeds $75,000 on account of personal injury to any one person in any one accident.

(d) Whenever an insurer recovers amounts expended by it for medical benefits, it shall not be reimbursed for excess medical expense benefits unless it has fully repaid the amount previously reimbursed by the Fund.

11:3-28.7 Audits

Upon request of the Fund, the insurer(s) shall present for audit at the direction of the Executive Director at a New Jersey location all policy and claim records on which notice of potential for payment of excess medical expense benefits have been submitted.

(a)

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

Organization Rules

Adopted New Rules: N.J.A.C. 11:5-2

Adopted: April 19, 1989 by the New Jersey Real Estate Commision, Daryl G. Bell, Executive Director.

Filed: April 19, 1989 as R. 1989 d. 258.

Authority: N.J.S.A. 45:15-6.

Effective Date: April 19, 1989.

Expiration Date: October 28, 1993.

Take notice that the New Jersey Real Estate Commission has adopted, at N.J.A.C. 11:5-2, organizational rules in accordance with N.J.S.A. 52:14B-4(b). These rules provide statements of the Commission's responsibilities and functions, an organizational chart, and an address for obtaining further information.

Full text of the adoption follows.

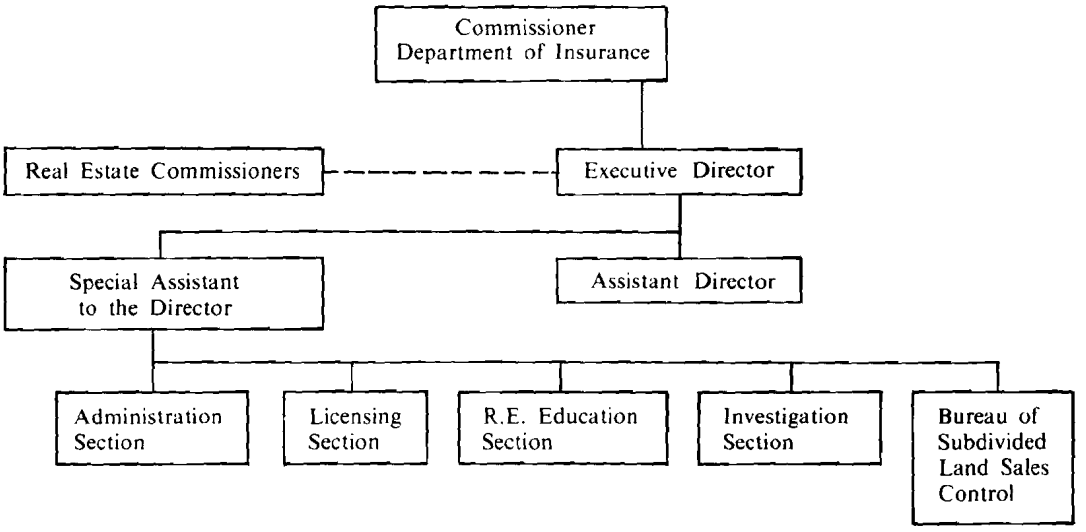
SUBCHAPTER 2. ORGANIZATIONAL RULES

11:5-2.1 Commission responsibilities

The Real Estate Commission is responsible for the supervision and regulation of the education, examination and licensing of real estate brokers and salespersons, the regulaton of the sale or lease of out-of-state properties to New Jersey residents through promotional activities in New Jersey, the investigation and adjudication of disciplinary actions against licensees, and the administration of the Real Estate Guaranty Fund.

11:5-2.2 Organization of the Commission

The organization chart of the Real Estate Commission is as follows:



11:5-2.3 Functions of the Commission

(a) The commission is comprised of five sections whose functions are as follows:

1. The Licensing Section is responsible for processing license applications, transfers, terminations, renewals and upgrades, and for providing licensing information to the public and to licensees.

2. The Investigations Section is responsible for investigating the qualifications of applicants for licensure, and for investigating complaints against licensed brokers or sales-persons or individuals who have allegedly engaged in the business of a real estate broker or a salesperson without being licensed to do so.

3. The Real Estate Education Section is responsible for reviewing the qualifications of real estate school and instructor applicants and for regulating their activities as such.

4. The Bureau of Subdivided Land Sales Control within the Investigations Section is responsible for enforcing the provisions of the Land Sales Full Disclosure Act. Its duties include, but are not limited to reviewing applications for the registration of new projects, conducting inspections of conditionally registered projects, and reviewing applications for the renewal of projects.

5. The Administration Section is responsible for the budget and accounting functions and also for ensuring that personnel operate in a manner which will accomplish their designated duties in conjunction with the staff of the Department of Insurance. It is also responsible for processing the rulemaking activity of the Commission, the scheduling and processing of contested matters and other functions including administration of the Real Estate Guaranty Fund.

11:5-2.4 Information available to the public

The public may obtain complete information or make submissions or requests concerning any commission programs by contacting the Real Estate Commission, Department of Insurance, CN 328, Trenton, New Jersey 08625.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CRIMINAL JUSTICE
Police Training Commission
Definitions; Certification Requirements
Adopted Amendments: N.J.A.C. 13:1-1.1, 4.6 and 5.1

Proposed: March 20, 1989 at 21 N.J.R. 695(a).

Adopted: April 20, 1989 by Robert T. Winter, Director, Division of Criminal Justice and Chairman, Police Training Commission.

Filed: April 20, 1989 as R.1989 d.260, **without change.**

Authority: N.J.S.A. 52:17B-71(h) and P.L. 1988, c.176.

Effective Date: May 15, 1989.

Operative Date: June 19, 1989.

Expiration Date: July 5, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

13:1-1.1 Definitions

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

. . .

"Appointing authority" means a person or group of persons having the power of appointment to or removal from offices, positions or employment as law enforcement officers, corrections officers and juvenile detention officers.

"Basic Course" means an entry-level training course at a Commission-approved school designed for trainees who are required by law to be trained under Commission jurisdiction.

. . .

"In-service course" means any course of study which a police officer, corrections officer or juvenile detention officer shall attend after completion of the basic course.

. . .

"Law enforcement agency" means any police force, corrections authority or organization functioning within this State, except for the Division of State Police, which has by statute or ordinance the

responsibility of detecting crime and enforcing the criminal or penal laws of this State.

. . .

"Police officer" means any employee of a law enforcement agency, other than a civilian employee, any member of a fire department or force who is assigned to an arson investigation unit pursuant to Public Law 1981, Chapter 409 and any corrections officer or juvenile detention officer.

. . .

13:1-4.6 Certification requirements for instructors of certain subjects

(a) Applicants who seek certification to instruct in certain subjects must be certified as an instructor and also comply with the following requirements:

1. An individual seeking certification as a firearms instructor must successfully complete a Commission-recognized firearms instructor course. Under the immediate supervision of a school's range master, the individual must successfully:

i. Demonstrate knowledge of the established range safety rules;

ii. Identify the major parts of those firearms which will be used in the training program;

iii. Demonstrate the ability to handle those firearms which the Commission shall designate safely under conditions such as the following:

(1)-(4) (No change.)

iv.-v. (No change.)

2.-3. (No change.)

13:1-5.1 Certification requirements; basic courses

(a) A trainee shall be eligible for certification when the school director affirms that:

1. The trainee has achieved the minimum requirements set forth in the Basic Course for Police Officers, the Basic Course for Investigators, the Basic Course for Special Law Enforcement Officers, the Basic Course for Corrections Officers or the Basic Course for Juvenile Detention Officers and has demonstrated an acceptable degree of proficiency in the performance objectives contained therein;

2-3. (No change.)

(a)

DIVISION OF CONSUMER AFFAIRS
BOARD OF ACCOUNTANCY
Notice of Administrative Correction
Continuing Professional Education
Reporting of Continuing Education Hours
N.J.A.C. 13:29-6.8

Take notice that the Division of Consumer Affairs has discovered an error in the text of N.J.A.C. 13:29-6.8(b), as adopted at 21 N.J.R. 908(c). The word "renovation" appearing in that subsection is incorrect; the proper word, as filed for publication with the Office of Administrative Law, is "revocation". This notice of administrative correction is made pursuant to N.J.A.C. 1:30-2.7(a)3.

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

13:29-6.8 Reporting of continuing education credit hours

(a) (No change.)

(b) Falsification of any information required may result in the suspension or [renovation] **revocation** of the licenses held by the falsifier.

DIVISION OF CONSUMER AFFAIRS

(b)

BOARD OF OPTOMETRISTS
Advertising Practices; Optometrists' Availability; Availability of Patient's Records
Adopted Repeals: N.J.A.C. 13:38-1.1, 1.2, 1.4, 1.5, 1.6, 1.7, 1.8 and 2.5
Adopted Amendments: N.J.A.C. 13:38-1.3, 1.9, 1.10, 2.1, 2.3 and 6.1
Adopted New Rule: N.J.A.C. 13:38-2.7

Proposed: September 19, 1988 at 20 N.J.R. 2361(b).

Adopted: March 15, 1989 by the State Board of Optometrists, Edward S. Campbell, O.D., President

Filed: April 17, 1989 as R.1989 d.252, **with the proposed amendment to N.J.A.C. 13:38-1.2(j) not adopted at this time.**

Authority: N.J.S.A. 45:12-4.

Effective Date: May 15, 1989.

Expiration Date: October 7, 1990.

The Board of Optometrists afforded all interested parties an opportunity to comment on the proposed new rules, amendments, and repeals relating to advertising practices, optometrists' availability and availability of patient records. The official comment period ended on October 19, 1988. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on September 19, 1988 at 20 N.J.R. 2361(b). Announcements were also forwarded to the Star Ledger and Trenton Times, newspapers of general circulation; the New Jersey Optometric Association; the Society of Dispensary Opticians of New Jersey; the Coalition of Opticians; and other interested individuals.

A full record of this opportunity to be heard can be inspected by contacting Board of Optometrists, Room 501, 1100 Raymond Boulevard, Newark, New Jersey 07102.

Summary of Public Comments and Agency Response:

Two letters were received during the 30-day comment period.

COMMENT: N.J.A.C. 13:38-1.1. The words "rebuttable presumption" should be substituted for the absolute presumption indicated in the proposal.

RESPONSE: The Board believes the proposed language to be appropriate; however, evidence rebutting the presumption would be considered by the Board if a violation of this provision were to be charged.

COMMENT: N.J.A.C. 13:38-1.2(c)6. Language relating to contact lens care kits is overly broad and would have a "chilling effect" on a practitioner's willingness to advertise.

RESPONSE: The Board's concern for public safety motivated this proposed amendment. Since the disclaimer informs the contact wearer of the necessity of sterilization and alerts the consumer that additional items must be purchased in conjunction with the contact lenses, the language will remain unchanged.

COMMENT: N.J.A.C. 13:38-1.2(c)7. This new provision appears to prohibit price competition and truthful discounts equal to the price of examinations.

RESPONSE: The proposed new provision does not prohibit the doctor from offering or giving a free eye examination. However, it does prohibit the doctor from making those services contingent upon the purchase of eye glasses or contact lenses.

COMMENT: N.J.A.C. 13:38-1.2(f). The proposed provision is unclear as to whether or not a non-profit professional association (that is, N.J.O.A.) could place advertisements on behalf of their membership.

RESPONSE: A non-profit professional organization may place an advertisement encouraging the public to seek eye care from member professionals and even use a toll-free telephone number for referral to a local member professional. Furthermore, a local society could place an advertisement in a local paper listing the names and telephone numbers of its members.

COMMENT: N.J.A.C. 13:38-1.2(j)1. Commenter I supports the proposed changes, but does not feel they go far enough. The Board is encouraged to adopt the Federal Trade Commission approach to testimonials relating to optometric services, which permits testimonials of a technical nature, in limited circumstances with appropriate substantia-

tions. Commenter II registers strong opposition to the proposed language since it appears to be a partial ban on the use of testimonials.

RESPONSE: The Board will not be adopting amendments to N.J.A.C. 13:38-1.2(j) (formerly N.J.A.C. 13:38-1.9(j)) at this time.

COMMENT: N.J.A.C. 13:38-1.2(j)3. The three year requirement for the retention of copies of advertising should be retained rather than to reduce it to one year as stated in the amendment.

RESPONSE: The Board will not be adopting amendments to N.J.A.C. 13:38-1.2(j) (formerly N.J.A.C. 13:38-1.9(j)), at this time.

COMMENT: N.J.A.C. 13:38-1.3. The Board is urged to repeal the prohibition of an optometrist(s) from practicing under a trade name or assumed name that does not contain the name of the optometrist(s).

RESPONSE: The optometry statute, N.J.S.A. 45:12-11(i)2, prohibits the use of trade names. This rule follows the statutory scheme and provides guidelines for professional service corporations with respect to disclosure, reporting and advertising.

COMMENT: N.J.A.C. 13:38-1.3(d). It is recommended that, should the statutory trade name ban be repealed, an office be required to provide any consumer, inquiring over the telephone, the name of at least one practicing optometrist and to conspicuously display a current listing of the practicing optometrists at a given location where the trade name is being used.

RESPONSE: The Board feels that the proposed amendment is in the best interest of the consumer since the present statute holds licensed individuals responsible for professional services, and not corporations.

COMMENT: N.J.A.C. 13:38-2.7. Support is given for the intent of the proposed new rule; however, it is suggested that the phrase ". . . has access to . . ." be further delineated.

RESPONSE: The Board's intention is to allow the doctor to choose the method he or she deems most effective and convenient to assure availability or accessibility of service to his or her patients.

COMMENT: Support is offered for the proposed new provisions relating to patient evaluation for a specifically advertised brand of contact lenses, N.J.A.C. 13:38-2.3(e), and for the proposed new provision which clarifies the Board policy relating to a patient's financial obligation to the optometrist prior to the release of any patient records, N.J.A.C. 13:38-6.1(d).

RESPONSE: The Board acknowledges and appreciates this support.

Full text of the adoption follows.

13:38-1.1 Optometrist presumed responsible for advertisements

Every registered optometrist whose name appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, and approved the advertising and shall be personally responsible for its material content and character.

13:38-1.2 General advertising provisions

(a) An optometrist may, consistent with the provisions set forth in this section, advertise to the consuming public the availability for sale and offering of optometric services and ophthalmic goods or merchandise. In any advertising permitted by this subchapter, an optometrist shall not use, employ, permit or condone any practice, statement or format which is false, fraudulent, misleading or deceptive. For the purpose of this section, the term "advertising" shall mean any attempt directly or indirectly by public dissemination, circulation or in any other way to induce a consumer to purchase or consider the purchase of optometric services or ophthalmic goods or merchandise.

(b) An optometrist may advertise by means of print or electronic media, including on-premise signs, professional cards and appointment cards.

(c) An optometrist may advertise fees for services to be rendered and prices for ophthalmic goods and merchandise for sale provided that:

1. The advertised service, goods or merchandise is provided for not more than the advertised amount;

2. All advertised fees or prices are clearly and conspicuously displayed;

3. A statement of a fee or price for professional services shall be set forth in a single dollar amount and shall not be stated in the form of a range of fees or prices. A statement of price relating to ophthalmic goods or merchandise may be set forth in a range provided such range is stated in terms of a minimum and maximum dollar amount.

4. Where a separate or additional fee for the service of dispensing ophthalmic goods is to be charged, the advertisement shall disclose the dollar amount of such fee.

5. Where prices are set forth for ophthalmic goods and services for eyeglasses (lenses and frames), the advertisement shall indicate the type of frames and corrective lenses being offered such as clear or tinted, single vision or multifocal, and plastic, glass or other material. The lenses and frames may be priced separately or as a combined item.

6. When prices are set forth for ophthalmic goods and services for contact lenses, the advertisement shall include, but not be limited to, the fee for the eye exam appropriate to a contact lens evaluation, the type of lens being offered, fitting instruction and follow-up care. These items may be priced separately or as a combined package. If the cost of a contact lens care kit is not indicated as a separate item or as a part of a package, the following statement shall be set forth: "The proper maintenance of contact lenses requires sterilization, storage and cleansing in special containers and solutions, the cost of which is not included in this offer." In all advertisements which include a price for a contact lens care kit, the type of kit shall be set forth. When the brand name and price of a contact lens is advertised, a statement shall be made to note that such lens may not be appropriate for all patients.

7. An advertised offer of a free or reduced fee eye examination shall not be contingent upon a resultant purchase of ophthalmic goods or services.

(d) In the event that an advertisement contains a statement with regard to an advertiser's refund policy, such policy shall clearly and conspicuously set forth all material conditions including, but not limited to, relevant time periods and dollar amounts to be refunded.

(e) An advertisement shall not state that the advertiser possesses professional superiority with regard to services or merchandise offered or with regard to apparatus, equipment or technology utilized by such advertiser. The use of such terms as specialist, specialty, expert or words of similar import shall be deemed to indicate a claim of professional superiority and are not permitted.

(f) When an advertisement contains information on professional credentials, it shall only contain the highest academic degrees obtained relating to the practice of optometry and certifications from bona fide accrediting bodies directly related to the practice of optometry.

(g) For a period of not more than two years from the date of succession to the practice of another optometrist, an optometrist may use a telephone listing of such prior optometrist together with the words "succeeded by" or "successor to", and for the same time period may also use the prior optometrist's name in any advertisement.

(h) An optometrist may be listed in the classified section of any directory under the classification entitled "Optometrist", "Doctor of Optometry", or any other designation which is not misleading. Such listing shall show the address or addresses for which a valid, unrevoked, active certificate has been issued to practice optometry in this State.

(i) Any optometrist whose license is either suspended or revoked shall not be permitted to advertise during the period of active suspension or revocation except to announce the closing of the optometrist's office and/or where the patient records may be available.

(j) It shall be an unlawful advertising practice for an optometrist licensed by the New Jersey Board of Optometrists to:

1. Use or employ any advertisement containing colored, flashing or neon lights;

2. Employ endorsements or personal testimonials attesting to the quality of services rendered or merchandise received;

3. Guarantee that services rendered will result in cures of any optometric or visual abnormality;

4. Utilize any advertising format or presentation which is undignified or unprofessional in nature;

5. Engage in any form or method of advertising wherein the advertised medium limits access thereto to a closed, limited or designated class of optometrists;

6. Fail to retain a copy or duplicate of any advertisement for a period of three years following the date of publication or dissemination. Such copies or tapes shall be made available on request by the Board or its designee.

7. Fail to substantiate the truthfulness or accuracy of any assertion or representation set forth in an advertisement.

13:38-1.3 Optometric practice under assumed names and disclosure of practitioner names

(a) Except as may be authorized by the Professional Service Corporation Act, N.J.S.A. 14A:17-1 et seq., a licensed optometrist shall not practice under a name other than his or her own.

(b) A licensed optometrist who is also an officer of a professional service corporation which renders optometric service or sells ophthalmic merchandise shall:

1.-2. (No change.)

3. File with the Board of Optometrists by March 31 of each year a copy of that report required to be filed pursuant to N.J.S.A. 14A:17-15 showing the names and post office addresses of all shareholders, directors, and officers of such corporation. In addition thereto, the report shall include the names and post office addresses of all licensed optometrists employed by the corporation.

(c) It shall be the joint and several responsibility of all corporate officers holding licenses to secure compliance with this section.

(d) In all advertisements for optometric goods and services at a particular location or group of locations, the name of at least one licensee responsible for the optometric practice at the individual location or group of locations shall be disclosed. Any licensee's name appearing in an advertisement shall be accompanied by one of the following designations: O.D., Optometrist, Doctor of Optometry.

(e) (No change.)

SUBCHAPTER 2. GENERAL RULES OF OPTOMETRIC PRACTICE

13:38-2.1 Minimum examination; record of conditions

(a) (No change.)

(b) Procedures (a)3, 4, 5, 7 and 12 above must be performed by the doctor. In procedure (a)11 above, where any form of contact tonometry is used, the doctor must perform the procedure. The accuracy of the findings from the above-referenced procedures shall be the exclusive responsibility of the examining optometrist(s).

13:38-2.3 Records of examinations and prescriptions

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

(e) Every optometrist shall be required to evaluate a patient for the specifically advertised brand of contact lenses which attracted or induced the patient to seek such goods. In the event that the patient is fitted with another brand or type of contact lens, the patient record shall reflect that decision and the justification therefor.

13:38-2.5 (No change in text.)

13:38-2.6 (No change in text.)

13:38-2.7 Optometrist's availability

The examining optometrist shall assure that every patient has access to the optometrist or to a suitable covering doctor in an emergency, during a doctor's vacation time or during hours when the office is not open.

13:38-2.8 (Reserved)

Renumber 13:38-2.10 through 2.12 as 2.9 through 2.11 (No change in text.)

SUBCHAPTER 6. RECORDS

13:38-6.1 Availability of records

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

(d) The above subsections shall not apply unless the patient has satisfied all financial obligations to the optometrist.

(a)

OFFICE OF CONSUMER PROTECTION

Motor Vehicle Advertising Practices Adopted Repeals and New Rules: N.J.A.C. 13:45A-2.

Proposed: January 17, 1989 at 21 N.J.R. 115(a).

Adopted: March 30, 1989 by James J. Barry, Jr., Director, Division of Consumer Affairs.

Filed: April 17, 1989, as R. 1989 d. 253, **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. 56:8-4

Effective Date: May 15, 1989.

Expiration Date: December 16, 1990.

The Division of Consumer Affairs ("Division") afforded all interested parties an opportunity to comment on the proposed repeal and new rules, N.J.A.C. 13:45A-2, relating to motor vehicle advertising practices. The official comment period ended on February 16, 1989. Announcement of the opportunity to respond to the Division appeared in the New Jersey Register on January 17, 1989 at 21 N.J.R. 115(a). Announcements were also forwarded to the Star Ledger, the Trenton Times, the Asbury Park Press, the Record, the News Tribune, the Philadelphia Inquirer, and a number of other publications; to the New Jersey Automobile Dealers Association, the Motor Vehicle Manufacturers Association, the Advertising Council, Inc., the National Vehicle Leasing Association; and to other interested parties.

A full record of this opportunity to be heard can be inspected by contacting the Division of Consumer Affairs, Room 504, 1100 Raymond Boulevard, Newark, New Jersey 07102.

Summary of Public Comments and Agency Responses:

Written comments were received from Charles E. Walton, President of the New Jersey Automobile Dealers Association (NJADA); James J. DeLuca, Counsel for the National Vehicle Leasing Association (NVLA); Phil Davis, Chairman of the New Jersey Chapter of the NVLA; William Nerenberg, Executive Director of the NVLA; Stephen G. Carrellas, New Jersey Chapter Coordinator of Citizens for Rational Traffic Laws, Inc.; Reginald A. Boddie, Esq.; Kevin Campbell; Krzysztof M. Krawczyk and M. Sorensen, concerned citizens; and Bernard Mann, Investigator for the Office of Consumer Protection. Verbal comments were received from a number of dealers, lessors, advertising agency and newspaper personnel at six regional meetings co-sponsored by various New Jersey newspapers and the New Jersey Automobile Dealers Association.

COMMENT: (NVLA, New Jersey Chapter) At the present time, both the existing rules and the proposed rules have been worded in such a way that the intent, as well as the letter, of the law has not only created confusion in the industry but has left wide gaps for varying interpretations.

RESPONSE: The Division agrees that the existing rules may have created some confusion in the industry; that is why the Division has tried to make the new rules as clear as possible and has further clarified them in the adopted text in response to specific questions by commenters. The Division's intent is to provide easily-followed rules that will be fair both to the industry and consumers, and that will attack real and continuing problems in motor vehicle advertising.

COMMENT: (NVLA) The long-term interests of the industry do not lie in the misrepresentation of the terms of lease agreements to the consuming public and the Association stands with the Division as protectors of the public's interest as lease activities are concerned.

RESPONSE: The Division appreciates the NVLA's commitment to fair dealing; these rules are directed at the activities of that small number of advertisers who do engage in misrepresentation.

COMMENT: Several commenters suggested that the definition of "extra cost option" be reworded to clarify that it refers only to dealer-installed options.

RESPONSE: The definition has been changed accordingly.

COMMENT: (NVLA) The definitions of "open-end" and "closed-end" leases should be rewritten since they are presently confusing.

RESPONSE: Plain language definitions adapted from the Federal Trade Commission's brochure "Truth in Leasing" have been substituted for those in the proposed rule.

COMMENT: (NVLA) N.J.A.C. 13:45A-2.6(a)3 provides that the advertiser must state whether the advertisement refers to a business or

individual lease. NVLA questions whether the rule should govern the lease of motor vehicles to persons other than individuals who will use the motor vehicle for personal, family or household purposes. Persons who lease motor vehicles for business purposes are generally more aware of the benefits and risks in a lease and thus do not require the types of disclosures mandated by the rule. Assuming the Division wishes to retain this provision, it should clarify that if the vehicle is available for both business and individual leases, no such statement is required.

RESPONSE: The Division is not concerned with whether a vehicle is available for both business and individual leases. The Division is concerned with whether the advertised price for that vehicle is available to consumers; if not, that fact should be clearly indicated. Complaints to the Division, verified by phone calls made by its staff to certain leasing companies, indicate that consumers are often induced to telephone a leasing company because of a low advertised lease price; upon telephoning, the advertised price is disclaimed as applying only to business leases and a "bait and switch" attempt is made. It is therefore essential for the protection of consumers that restriction of an advertised price to business lessees be clearly stated. However, the text has now been slightly modified to require that only a price restricted to business leases must be so identified; a price applying to personal leases, or personal and business leases, need not be so identified.

COMMENT: (NJADA) Regarding the required price disclosure, the present wording should be shortened to state simply that prices include all costs to be paid by the consumer except for registration fees, leasing costs, and taxes.

RESPONSE: This has now been done and language has been added to make clear that the advertised price of a new car must include manufacturer-installed options, freight, transportation, shipping, dealer preparation and any other costs to be paid by a consumer (although these amounts need not be itemized). The advertised price of a used car must include any additional costs other than licensing, registration and taxes.

COMMENT: The rule is not clear how a demonstrator vehicle or "demo" should be advertised.

RESPONSE: A definition of "demo" has been added and clarifying provisions have been inserted in N.J.A.C. 13:45A-2.5 and 2.6.

COMMENT: (NVLA) "N.J.A.C. 13:45A-2.6(a)1 requires that the words 'leasing dealer' or independent leasing company' be included in an ad. We do not believe the addition of the term 'leasing dealer' or 'independent leasing company' will have any significance to the public. Accordingly, we would recommend that this requirement be deleted." NJADA and other commenters also urged elimination of the requirement for identification of the type of advertiser, because almost all dealer advertising contains a logo or statement that the advertiser is an authorized dealership. Further identification is therefore superfluous.

RESPONSE: While the Division believes that identification of a dealer or independent leasing company may be important to the consumer's understanding of how the advertised lease offer is to be fulfilled, it has deleted the lessor identification requirement for the reasons advanced by the commenters, as well as the requirement of identification of a dealer or retail broker in advertisements for sale of motor vehicles.

COMMENT: A number of commenters suggested that the requirement in N.J.A.C. 13:45A-2.5(c), mandating that the type size of the advertised price be twice as large as that of any other amount in the ad, was inconsistent with other requirements within the rules and cumbersome in designing an advertisement.

RESPONSE: The Division acknowledges that this has created problems in classified advertising as well as where an advertised price listed both the sale and lease prices of the same vehicle. The requirement that the advertised price must be "twice as large as that of any other dollar figure in the advertisement" rule has therefore been deleted in both N.J.A.C. 13:45A-2.5 and 2.6.

COMMENT: (NJADA) The Association is of the opinion that where a disclaimer, qualifier, or limitation is the same for all of the advertised motor vehicles, such information should be allowed to appear in a footnote provided it is in at least 10 point size type. If the disclaimers or limitations vary among the group of advertised vehicles, only then should such information be placed adjacent to the description of the advertised motor vehicle and not set forth in a footnote. The Association believes that this approach will provide for the disclosure of meaningful information to the consuming public but eliminate needless representation of identical information for a group of advertised vehicles.

RESPONSE: The section has been reworded to permit identical information about a group of advertised vehicles to be placed in a footnote. However, the rewording also clarifies that major limitations which negate the broad availability of an offer should be placed next to the offer (for example, such statements as, "on selected models" or "qualified buyers only" for general offers of low credit terms). Similarly, such statements as "This advertisement of trade-in amounts does not apply to any advertised vehicles" or the requirement of presentation of the advertisement as a "coupon" in order to obtain offered prices are limitations negating the general availability of an offer which should be clearly and conspicuously stated in the body of the advertisement and not in a footnote.

COMMENT: (NJADA) In N.J.A.C. 13:45A-2.4, the Association suggests that the word "advertiser" be substituted for "dealer" so that it covers brokers also.

RESPONSE: This has been done.

COMMENT: The rules as presently drafted conflict with the advertising regulations of Regulation M promulgated by the Federal Reserve Board in accordance with the Truth In Lending Act. The requirement of inconsistent disclosures puts advertisers in the unenviable position of having to choose between compliance with the Federal regulation and State regulation. Additionally, a number of states, including the State of New York, have proposed regulations with respect to motor vehicle advertisements. Now motor vehicle lessors doing business in New Jersey will be faced with the prospect of complying with potentially inconsistent State regulations as well. As an alternative to the rules, the Association strongly suggests that the Division adopt a rule providing that it would be a violation of the New Jersey Consumer Fraud Act if the advertiser fails to comply with the provisions of the Federal Truth In Lending Act and Regulation M promulgated thereunder. Such an alternative will both protect the public while at the same time give the leasing industry a uniform set of regulations to follow.

RESPONSE: §213.7 of Regulation M contains an express preemption provision if the lessor cannot comply with a State law without violating Regulation M. However, the Division has changed the required disclosure for leases so that it repeats the Federal wording. As for inconsistent state rules, there are many inconsistencies from state to state—in taxation rates, environmental protection rules, procedural requirements for establishment of a corporation, etc. The Division's position is that the advertiser who solicits business in New Jersey will have to comply with New Jersey rules.

COMMENT: (NVLA) N.J.A.C. 13:45A-2.6 requires that the advertisement use the word "lease." The Association believes this requirement is essential. However, the additional requirement that the word "lease" appear immediately adjacent to the monthly payment price is, in its opinion, unnecessary and unduly burdensome.

RESPONSE: The wording in N.J.A.C. 13:45A-2.6(a)2 has been changed to allow identification of a lease in a footnote if all motor vehicles advertised are for lease.

COMMENT: (NVLA) N.J.A.C. 13:45A-2.6 requires that certain disclosures be given regarding the number of required payments and the "total cost of the lease." The proposed rule fails to define the concept "total cost." Such failure will only lead to confusion. Moreover, usage of the term "total cost" is inherently misleading. This is true because the amount the lessee will ultimately pay will vary dramatically depending upon subsequent events. Accordingly, if the intent is to disclose the total of anything, such as rentals which Federal law requires to be disclosed, the rule should be specific in that regard.

RESPONSE: The Division agrees that "total cost" may be confusing and has changed the wording to track the Federal language more closely.

COMMENT: (NVLA) N.J.A.C. 13:45A-2.6(a)6 requires that the manufacturer's suggested retail price be disclosed using the abbreviation "MSRP." It is the position of NVLA that such information is irrelevant to the consumer since, in most instances, a consumer is looking strictly at the monthly payment amount; but, in any case, such information is certainly irrelevant to the lessor in structuring the lease term. Further, since an independent leasing company need not have the motor vehicles on its premises at the time the lease advertisement is placed, the exact information regarding the MSRP may not be available. Finally, to the extent the Division believes consumers will use MSRP as a shopping tool, confusion can only result, since quite often a lease of a motor vehicle with a higher MSRP is substantially less expensive ultimately than the lease of a vehicle with a lesser MSRP. Accordingly, NVLA urges the Division to eliminate this requirement.

RESPONSE: The MSRP for a specific make and model of motor vehicle is a figure readily available to consumers as well as to people in the automotive industry; it is also the only reliable figure that can serve as a "reference price." It is not a hardship to require that when a motor vehicle is advertised as available (though not necessarily on premises, in the case of independent leasing companies) at a specific price that it be

specifically identified including the MSRP and VIN. The Division's position is that if a car is not available for delivery to the lease customer at the advertised price, the price should not be advertised.

COMMENT: (NVLA) The disclosures required by N.J.A.C. 13:45A-2.6(a)7, including the disclosure of "dealer prep," are totally irrelevent to the lease of a motor vehicle, but rather are relevant to the sale of a motor vehicle. As such, the Association urges the Division to eliminate this requirement.

RESPONE: Under new wording, the advertiser now simply says "all costs to be paid by a consumer." Those costs which must be figured into the advertised price, as applicable, are now enumerated in N.J.A.C. 13:45A-2.5 and 2.7.

COMMENT: (NVLA) As to N.J.A.C. 13:45A-2.6(a)10, the Association has continued to object to this provision which requires a statement regarding the number of engine cyclinders and various other detailed aspects of the motor vehicle. The Association believes it is overly detailed. Further, many of the items can be taken care of by merely stating that the vehicle contains standard factory equipment.

RESPONE: This provision has been changed so that some details need not be specified if they are standard equipment. However, the Division believes that the number of engine cyclinders is important to a consumer's judgment of the value of an advertised offer and should be stated.

COMMENT: Several commenters asked why eight digits of the Vehicle Identification Number or VIN are required instead of the six in the current regulation.

RESPONSE: The Division submits that eight digits are needed for a computer check of a motor vehicle's chain of title; such checks are a necessary tool for the Division's investigatory staff when questions arise as to prior use, odometer readings, etc.

COMMENT: Does prior use have to be disclosed in a classified advertisement?

RESPONSE: Yes, if there is an advertised price and the person placing the ad falls within the definition of "advertiser" in N.J.A.C. 13:45A-2.3.

COMMENT: (NJADA) The Association believes that if the State determines as a matter of policy that prior use is information a buyer should know, the Association suggests the New Jersey Certificate of Ownership law be amended to include this information on the New Jersey title document. The DMV currently notes "taxi," "police car," "flood car," etc. on the face of motor vehicle titles. Also, the sections on nature of prior use, N.J.A.C. 13:45A-2.5(b)2 and 2.6(b)2, should recognize that a vehicle operated under a personal or business lease is probably no worse for wear than a vehicle that is owned outright. As more and more individuals turn to leasing as an alternative to direct purchase, if the need for disclosure places a stigma on such lease units, a decrease in trade-in allowance will result from the need for such disclosure.

RESPONSE: The words "or leased" have been added, so that prior use need not be disclosed if a used motor vehicle has been previously and exclusively owned or leased by individuals for their personal use. As for information required on the title, the Division maintains that other non-personal uses should be imparted to the consumer, if known by a seller or lessor or if evident from the motor vehicle's documentation.

COMMENT: How can the Division police compliance with N.J.A.C. 13:45A-2.7(a)13? This section forbids the use of such terms as "our lowest prices of the year", "lower prices than anyone else," etc., unless such claim can be substantiated by the advertiser.

RESPONSE: The Division has broad investigative powers under the Consumer Fraud Act that the Division will utilize to ensure that such claims are truthful.

COMMENT: The "prior repair" disclosure is overly strigent; repair or replacment of a damaged part with a new part may not have any bearing on the value of the car.

RESPONSE: The Division believes the provision is fair and that disclosure of prior repair valued at over $1,000 retail is important to the consumer.

COMMENT: How does an advertiser comply with the requirement to state the MSRP in advertisements of vehicles which may not have a manufacturer's suggested retail price?

RESPONSE: If no Monroney label is required by Federal law, the MSRP need not be stated.

COMMENT: (Kevin Campbell) It should be prohibited, as a bait and switch practice under N.J.A.C. 13:45A-2.4, for dealers to have consumers sign over manufacturer's rebates to the dealer without applying the advertised rebate to the deal. In effect, the dealer pockets the rebate.

RESPONSE: Such a practice, if proved, would appear to be a violation of N.J.A.C. 13:45A-2.4(a)1, which prohibits the advertising of a motor vehicle as part of a plan not to sell it at the advertised price (since the advertised price must clearly identify the manufacturer's rebate).

COMMENT: What responsibility is assigned to a newspaper (or radio or TV station) in the case of a violative advertisement?

RESPONSE: The Division considers the primary responsibility to be with the party benefitting from the advertisement, that is, the seller or lessor who directly or indirectly approved it or acquiesced in its publication.

COMMENT: (Krawczyk) Ads should clearly state the offer's starting and expiration dates.

RESPONSE: N.J.A.C. 13:45A-2.7(a)5 sets this requirement.

COMMENT: (Boddie) The rules should obtain strong penalties and dealerships that violate them should be placed on probation and monitored to determine compliance; if compliance is not obtained, a process should begin to revoke the dealership's license.

RESPONSE: The Division has no statutory authority to revoke a dealership's license under any circumstances; it intends, however, to vigorously enforce these rules by imposing applicable penalties for violation.

COMMENT: (Boddie) Dealerships should be required to disclose the nature of damage to the vehicle, if known, and whether the car was previously rejected for a defect or returned under the New Jersey Lemon Law.

RESPONSE: Disclosure of certain kinds of prior damage is required under N.J.A.C. 13:45A-2.7(a)7. The new Lemon Law, P.L. 1988, ch. 123, requires that the manufacturer advise a potential purchaser or lessee that the motor vehicle in question was returned as a "lemon."

COMMENT: (Boddie) Consumers should be notified where to go or call to report a violation of these auto advertising rules.

RESPONSE: The Division intends to publicize the rules and invites complaints from the public upon observing a violation.

COMMENT: (Sorensen) The industry should have all details in very simple language for easy interpretation.

RESPONSE: The Division believes that the new rules are in plain language; specific examples of violative wording in advertisements have been included wherever feasible.

COMMENT: (Mann) The use of inaccurate photographs or illustrations when describing specific automobiles—for example, depicting a fully-loaded automobile when the advertisement refers to a minimally-equipped one—should be limited.

RESPONSE: The Division will act against such misrepresentation under N.J.A.C. 13:45A-2.7(a)1, which prohibits "the use of any type size, location, lighting, illustration, graphic depiction or color so as to obscure or make misleading any material fact."

COMMENT: (Carrellas) Citizens for Rational Traffic Laws finds the newly-proposed changes in automobile advertising rules to be a big step in the right direction.

RESPONSE: The Division agrees.

Summary of Changes Made Upon Adoption

Although some technical corrections and minor adjustments have been made which are discussed in the Comments/Responses Summary above, the agency considers the following to be the most significant changes from the proposed text:

In the definitions section under "advertised motor vehicle," a sentence regarding range-of-prices advertising was omitted by error from the proposed text. It substantially repeats a provision under the same heading in the repealed N.J.A.C. 13:45A-2.3, in effect from August 17, 1987 until now. Other definitions, such as those for "open-end" lease and "closed-end" lease, have been clarified.

As a result of many queries, the Division recognized the need for clarification of "demo" advertising; a definition of "demo" and two provisions relating to advertising of "demos" have been added.

Also, in response to comments, the required price disclosures in N.J.A.C. 13:45A-2.5 and 2.6 have been simplified, and N.J.A.C. 13:45A-2.6(a)4 has been reworded to duplicate language in the corresponding Federal rule, §213.5 of Regulation M promulgated under the Truth in Lending Act.

Wording has been added in N.J.A.C. 13:45A-2.7(a)4 to distinguish between serious limitations on a general offer and information that is identical for all motor vehicles in an advertised group. The latter may now appear in a footnote.

In N.J.A.C. 13:45A-2.7(a)5, manufacturer's programs have been exempted from the requirement that the applicable time period of a special offer be stated, because those dates are not always available to the advertiser.

Finally, references to "independent leasing companies" have been deleted since such identification in a lease ad is no longer required, nor is identification as a "leasing dealer." Similar identification requirements have also been deleted for advertisements for the sale of motor vehicles.

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

SUBCHAPTER 2. MOTOR VEHICLE ADVERTISING PRACTICES

13:45A-2.1 Scope

Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., the rules contained in this subchapter set forth motor vehicle advertising practices which are prohibited as unlawful under the Consumer Fraud Act; the rules also include mandatory disclosure in advertisements of certain information relating to advertised motor vehicles as well as on-site disclosures relating to advertised motor vehicles.

13:45A-2.2 Application

(a) These rules shall apply to the following advertisements:

1. Any advertisement, including radio and television broadcasts, uttered, issued, printed, disseminated, published, circulated or distributed within this State concerning motor vehicles offered for sale or lease at locations exclusively within this State; and

2. Any advertisement, including radio and television broadcasts, uttered, issued, printed, disseminated, published, circulated or distributed to any substantial extent within this State concerning motor vehicles offered for sale or lease at locations within this State and outside this State, or at locations exclusively outside the State.

13:45A-2.3 Definitions

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

"Advertised motor vehicle" means any new or used motor vehicle offered for sale or lease and specifically identified by an advertised price. ***With respect to an advertisement which offers a group of new or used vehicles for sale or lease covering a specified price range (for example, "1990 Metros for sale—$6,999 to $9,999," or "Lease a new Olds for $298 a month up."), the least expensive motor vehicle in that advertised range is considered to be an advertised motor vehicle.***

"Advertised price" means the dollar amount required to purchase or lease a motor vehicle, advertised as:

1. The total price; or
2. The monthly payment price; or
3. The deferred payment price; or
4. A specific discount or savings on the manufacturer's suggested retail price.

"Advertisement" means any advertisement as defined by N.J.S.A. 56:8-1(a) of any motor vehicle including any statement appearing in a newspaper, periodical, pamphlet, circular, or other publication, paper, sign or radio or television broadcast which offers a motor vehicle for sale or lease at retail.

"Advertiser" means any person as defined by N.J.S.A. 56:8-1(d) who in the ordinary course of business is engaged in the sale, leasing or financing of motor vehicles at retail or who in the course of any 12 month period offers more than three motor vehicles for sale or lease or who is engaged in the brokerage of motor vehicles whether for sale or lease and who causes an advertisement to be made for the retail sale or lease of motor vehicles. An advertising agency and the owner or publisher of a newspaper, magazine, periodical, circular, billboard or radio or television station acting on behalf of an advertiser shall be deemed an advertiser within the meaning of this subchapter, when the agency or owner's or publisher's staff prepares and places an advertisement for publication. The agency, owner, or publisher shall not be liable for a violation of this subchapter when reasonably relying upon data, information or material supplied by the person for whom the advertisement is prepared or placed or when the violation is caused by an act, error or omission beyond the preparer's control, including but not limited to, the post-publication performance of the person on whose behalf such advertisement was placed.

"Dealer" means any person who in the ordinary course of business is engaged in the sale or leasing of motor vehicles at retail or who in the course of any 12-month period offers more than three motor vehicles for sale or lease at retail.

"Demo" means a motor vehicle used exclusively by a dealer or dealer's employee that has never been titled and to which the new vehicle warranty still applies.

"*[Extra cost]* ***Dealer-installed*** option" means optional equipment *[the price of which would not be included in the manufacturer's suggested retail price for the basic vehicle]* ***installed by the dealer at an additional cost***.

["Independent leasing company" means a person who in the course of any 12 month period arranges or offers to arrange the retail lease of more than three motor vehicles from the inventory of other business entities.]

"Lease" means a contract for the use of a motor vehicle for a period of time exceeding four months whether or not the lessee may become the owner of the motor vehicle at the expiration of the lease.

"Open-end lease" means a lease in which the lessee *[is required to pay]* ***may owe*** additional amounts *[on account of]* ***that is, a "balloon" payment depending on*** the value of the motor vehicle at the end of the lease term.

"Closed-end lease" means a lease in which the lessee is not *[required to pay additional amounts on account of]* ***responsible for*** the value of the motor vehicle at the end of the lease term ***unless there is excessive damage, wear and tear, or mileage***, but may have the option to pay additional amounts in order to purchase it at that time.

"Lessee" means a person as defined in the Consumer Fraud Act, N.J.S.A. 56:8-1(d), who leases a motor vehicle from a broker or dealer.

"Monroney label" is the label required by Section 3 of the Automobile Information Disclosure Act, 15 U.S.C. §§1231-1233.

"Motor vehicle" means any vehicle driven otherwise than by muscular power, excepting such vehicles as those which run only upon rails or tracks.

"MSRP" means the manufacturer's suggested retail price.

"Period of publication" means the time period between 48 hours prior to the date of first publication of an advertisement and midnight of the third business day following the date of final publication; in the case of a special offer, the period of publication shall extend until midnight of the date the special offer ends.

"Person" means a person as defined in the Consumer Fraud Act, N.J.S.A. 56:8-1(d).

"Rebate" means any payment of money by the manufacturer to or on behalf of a consumer who has bought or leased a motor vehicle, whether called "rebate", "factory rebate", "cash back", "money back", or a term of similar import.

["Retail broker"] ***"Broker"*** means a person who in the course of any 12 month period arranges or offers to arrange the retail sale ***or lease*** of more than three motor vehicles from the inventory of other business entities.

"Sale" means a sale as defined by N.J.S.A. 56:8-1(e) of any motor vehicle.

"Special offer" means any advertisement of a reduction from the usual selling price for an applicable time period, whether called "sale", "sale days", "bargain", "bargain days", "special offer", "discount", "reduction", "clearance", "prices slashed", "special savings", or a term of similar import.

"Taxes, licensing costs and registration fees" means those usual taxes, charges and fees payable to or collected on behalf of governmental agencies and necessary for the transfer of any interest in a motor vehicle or for the use of a motor vehicle.

"Used motor vehicle" means any motor vehicle with an odometer reading of greater than 1,000 miles***, except for a "demo"***.

13:45A-2.4. Bait and switch

(a) The following motor vehicle advertising practices constitute "bait and switch" and are prohibited and unlawful:

1. The advertisement of a motor vehicle as part of a plan or scheme not to sell or lease it or not to sell or lease it at the advertised price.

2. Without limiting other means of proof, the following shall be prima facie evidence of a plan or scheme not to sell or lease a motor vehicle as advertised or not to sell or lease it at the advertised price:

i. Refusal to show, display, sell, or lease the advertised motor vehicle in accordance with the terms of the advertisement, unless the vehicle has been actually sold or leased during the period of publication; in that case, the *[dealer]* ***advertiser*** shall retain records of that sale or lease for 180 days following the date of the transaction, and shall make them available for inspection by the Division of Consumer Affairs.

ii. Accepting a deposit for an advertised motor vehicle, then switching the purchaser to a higher-priced motor vehicle, except when the purchaser has initiated the switch as evidenced by a writing to that effect signed by the purchaser.

iii. The failure to make delivery of an advertised motor vehicle, then switching the purchaser to a higher-priced motor vehicle; except when the purchaser has initiated the switch as evidenced by a writing to that effect signed by the purchaser.

13:45A-2.5 Advertisements; mandatory disclosure requirements in all advertisements for sale.

(a) In any advertisement in which an advertiser offers a new motor vehicle for sale at an advertised price, the following information must be included:

1. The advertiser's *[true]* ***business*** name and business address *[and the words "retail dealer"; if the advertiser is a broker, the words "retail broker" must appear adjacent to the name]*;

2. A statement that "price(s) include(s) *[freight, transportation, shipping, dealer preparation, and any other]* ***all*** costs to be *[borne]* ***paid*** by a consumer, except for licensing costs, registration fees, and taxes". If this statement appears as a footnote, it must be set forth in at least 10 point type***. For purposes of this subsection, "all costs to be paid by a consumer" means manufacturer-installed options, freight, transportation, shipping, dealer preparation, and any other costs to be borne by a consumer except licensing costs, registration fees, and taxes***;

3. The manufacturer's suggested retail price as it appears on the Monroney label, clearly denominated by using the abbreviation "MSRP".

4. The year, make, *[and]* model, ***and number of engine cylinders*** of the advertised motor vehicle*[.]**;*

5. *[The number of engine cylinders; whether]* ***Whether*** the transmission is automatic or manual; whether the brakes and steering mechanism are power or manual; and whether the vehicle has air conditioning***, unless those items are standard equipment on the advertised motor vehicle***. This provision shall not apply to advertisements for motorcycles*[.]**;*

6. The last eight digits of the vehicle identification number, preceded by the letters "VIN". This provision shall not apply to radio and television broadcasts, or to advertisements for motorcycles.

7. A list of any *[extra cost]* ***dealer installed*** options *[installed]* on the advertised motor vehicle and the retail price of each, as determined by the dealer.

(b) In any advertisement offering for sale a used motor vehicle ***at an advertised price***, the information described in (a)1, 2, 4, 5 and 6 above must be included, as well as the following additional information:

1. The actual odometer reading as of the date the advertisement is placed for publication; and

2. The nature of prior use *[including lease history, if any,]* unless previously and exclusively owned ***or leased*** by individuals for their personal use, when such prior use is known or should have been known by the advertiser.

[(c) In any advertisement offering for sale a new or used motor vehicle, the advertised price shall be in type at least twice as large as that of any other dollar figure in the advertisement.]

(c) In any advertisement offering a "demo" for sale, the information listed in (a) above must be included, as well as:

1. Identification as a "demo"; and

2. The actual odometer reading as of the date the advertisement is placed for publication.

(d) It shall be an unlawful practice to fail to include the information required by this section.

13:45A-2.6 Advertisements; mandatory disclosure requirements in advertisements for lease

(a) In any advertisement offering a new motor vehicle for *[individual or business]* lease, at an advertised price, the following information must be included:

1. The advertiser's *[true]* ***business*** name and business address *[and the words "leasing dealer" or "independent leasing company"]*;

2. Identification of the transaction as a lease, with a statement to that effect or the word "lease" appearing immediately adjacent to the monthly payment price***; alternatively, the statement may appear in a footnote, in no smaller than 10 point type, if all the advertised motor vehicles are for lease***;

3. *[Whether]* ***If*** the advertised price refers ***solely*** to a business *[or individual]* lease, ***that fact must be stated*** *[and whether it is an open-end or closed-end lease]*;

[4. The monthly payment in type size at least twice as large as that of any other dollar figure pertaining to the advertised motor vehicle.]

*[5.]****4. Whether it is an open-end or closed-end lease,*** *[The]* ***the*** number***, amounts, due dates or periods of scheduled*** *[of required]* payments and the total *[cost of]* ***of such payments under*** the lease; *[the total cost shall include all non-refundable payments (such as a security deposit, a down payment or a capitalized cost reduction charge required at the beginning of the lease), which shall be itemized; if no non-refundable payments are required, that fact shall be stated]* ***the advertised price shall include the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, which shall be itemized, or that no such payments are required***;

*[6.]****5.*** The manufacturer's suggested retail price as it appears on the Monroney label, clearly denominated by using the abbreviation "MSRP";

*[7.]****6.*** A statement contained in the description of the motor vehicle or in a footnote that "Price(s) include(s) *[freight, transportation, shipping, dealer preparation; and any other]* ***all*** costs to be *[borne]* ***paid*** by a consumer, except for licensing *[costs]*, registration *[fees]*, and taxes." If this statement appears as a footnote, it must be set forth in at least 10 point type***. For purposes of this subsection, "all costs to be paid by a consumer" means manufacturer-installed options, freight, transportation, shipping, dealer preparation, and any other costs to be borne by the consumer except for licensing costs, registration fees, and taxes***;

*[8.]****7.*** Whether or not the lessee has the option to purchase the advertised motor vehicle and at what price and time; the method of determining the price may be substituted for disclosure of the price;

*[9.]****8.*** The amount (including termination charge, if any) or method of determining any liability imposed upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased motor vehicle and its realized value at the end of the lease term, if the lessee has such liability;

*[10.]****9.*** *[The number of engine cylinders; whether]* ***Whether*** the transmission is automatic or manual; whether the brakes and steering mechanism are power or manual; and whether the vehicle has air conditioning***, unless those items are standard equipment on the advertised motor vehicle***. This provision shall not apply to motorcycles;

*[11.]****10.*** The year, make, *[and]*,* model***, and the number of engine cylinders*** of the advertised motor vehicle; and

*[12.]****11.*** The last eight digits of the vehicle identification number, preceded by the letters "VIN". This provision shall not apply to radio and television broadcasts, or to advertisements for motorcycles.

(b) In any advertisement offering a used motor vehicle for lease ***at an advertised price***, the information in (a)1 through *[5]* ***4***

and *[7]* **6** through *[12]* **11** above shall be included, as well as the following additional information:

1. The actual odometer reading as of the date of placing the advertisement for publication; and

2. The nature of prior use unless previously and exclusively owned **or leased** by *[private]* individuals for their personal use, when such prior use is known or should have been known by the advertiser.

(c) All advertisements offering new or used motor vehicles for lease, even if they do not state an advertised price, shall contain the *[true]* **business** name and business address of the advertiser *[and the words "leasing dealer" or "independent leasing company"]*.

(d) In any advertisement offering a "demo" for lease, the information listed in (a) above must be included, as well as:

1. Identification as a "demo"; and

2. The actual odometer reading as of the date the advertisement is placed for publication.

*[(d)]**(e)* It shall be an unlawful practice to fail to include the information required by this section.

13:45A-2.7 Unlawful advertising practices

(a) In any type of motor vehicle advertising, the following practices shall be unlawful:

1. The use of any type*[,]* size, location, lighting, illustration, graphic depiction or color so as to obscure or make misleading any material fact;

2. The setting forth of an advertised price which has been calculated by deducting a down payment, trade-in allowance or any deductions other than a manufacturer's rebate and dealer's discount;

3. The setting forth of an advertised price which fails to disclose, adjacent to the advertised price, that it has been calculated by deducting a manufacturer's rebate or dealer's discount;

4. The failure to state all disclaimers, qualifiers, or limitations **that in fact limit, condition, or negate a purported unconditional offer (such as a low APR or high trade-in amount),** clearly and conspicuously, next to the *[terms they modify]* **offer** and not in a footnote identified by an asterisk*[:]**.* *[except for the price qualification statements required by N.J.A.C. 13:45A-2.5(a)2, which may appear as a footnote.]* Such disclosure shall be made verbally in a radio or television advertisement**. Identical information pertaining to all motor vehicles in a group of advertised motor vehicles, however, may appear in a footnote, provided the type is no smaller than 10 point**;

5. The failure to state the applicable time period of any special offer, in at least 10-point type immediately adjacent to the special offer**, unless the special offer is a manufacturer's program**;

6. The use of the word "free" when describing equipment or other item(s) to be given to the purchaser or lessee of a motor vehicle, if the "free" item has a value which has increased the *[usual selling]* **advertised** price. In using the word "free" in advertising, the advertiser shall comply with the Federal Trade Commission Rule, 16 CFR §251, and any amendments thereto;

7. The failure to disclose that the motor vehicle had been previously damaged and that substantial repair or body work has been performed on it when such prior repair or body work is known or should have been known by the advertiser; for the purposes of this subsection, "substantial repair or body work" shall mean repair or body work having a retail value of $1,000 or more;

8. The use of the terms "Public Notice", "Public Sale", "Liquidation", "Liquidation Sale", or terms of similar import, where such sale is not required by court order or by operation of law or by impending cessation of the advertiser's business;

9. The use of terms such as "Authorized Sale", "Authorized Distribution Center", "Factory Outlet", "Factory Authorized Sale", or other term(s) which imply that the advertiser has an exclusive or unique relationship with the manufacturer;

10. The use, directly or indirectly, of a comparison to the dealer's cost, inventory price, factory invoice, floor plan balance, tissue, or terms of similar import; or the claim that the advertised price is "wholesale" or "at no profit";

11. The use of the terms "guaranteed discount", "guaranteed lowest prices" or other term of similar import unless the advertiser clearly and conspicuously discloses the manner in which the guarantee will be performed and any conditions or limitations controlling such performance; this information shall be disclosed adjacent to the claim and not in a footnote;

12. The use of the statement "We will beat your best deal", or similar term or phrase if a consumer must produce a contract that the consumer has signed with another dealer or lessor in order to receive the "better" deal;

13. The use of such terms or phrases as "lowest prices", "lower prices than anyone else" or "our lowest prices of the year", or similar terms or phrases if such claim cannot be substantiated by the advertiser.

13:45A-2.8 Certain credit and installment sale advertisements

(a) The following information must be stated in any credit and installment sale advertising. It must appear adjacent to the description of the advertised motor vehicle and not in a footnote or headline unless the information is the same for all motor vehicles advertised. If in a footnote, it must be in at least 10-point type. Failure to include this information shall be an unlawful practice.

1. The total cost of the installment sale, which shall include the down payment or trade-in or rebate, if any, plus the total of the scheduled periodic payments;

2. The annual percentage rate;

3. The monthly payment figure and the number of required payments; and

4. The amount of any down payment or trade-in required or a statement that none is required.

(b) The following motor vehicle advertising practices concerning credit and installment sale advertisements shall be unlawful:

1. The advertising of credit, including but not limited to such terms as "easy credit" or "one-day credit", other than that actually provided by the advertiser on a regular basis in the ordinary course of business;

2. The use or statement of an installment payment on any basis other than a monthly basis.

13:45A-2.9 On-site disclosures

(a) The following information relating to an advertised motor vehicle must be provided at the main entrance(s) to the business premises where the motor vehicle is displayed or in proximity to the vehicle or on the vehicle itself:

1. A copy of any printed advertisement that quotes a price for the sale or lease of that vehicle; alternatively, a tag may be attached to the motor vehicle(s) stating the advertised price as well as the other information required in N.J.A.C. 13:45A-2.5 or 2.6;

2. A fuel economy label, if required by the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. §2006; and

3. The Used Car Buyers Guide, if required by the Federal Trade Commission's Used Car Rule, 16 C.F.R. Part 455.2.

(b) A dealer shall not advertise a new motor vehicle which does not have the Monroney label, if required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231-1233.

(c) It shall be an unlawful practice to fail to comply with the disclosures required by this section.

13:45A-2.10 Record of transactions

(a) An advertiser shall have a motor vehicle advertised for sale on premises and available for sale at the advertised price during the period of publication, or a record of the sale of that vehicle at the advertised price or less during that period. An advertiser shall have a motor vehicle advertised for lease available for lease at the advertised price during the period of publication, or a record of the lease of that vehicle at the advertised price or less during that period. Such record shall consist of all applicable advertisements and a copy of the executed contract with the purchaser or lessee of the vehicle; this documentation shall be maintained for 180 days after the transaction and shall be made available for inspection by the Division of Consumer Affairs.

(b) If the motor vehicle is sold or leased during the period of publication, the advertiser must so notify consumers who inquire by telephone or in person.

(c) It shall be an unlawful practice to fail to comply with the requirements of this section.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Office of Cable Television

Rules of Practice and Procedure of the Office of Cable Television

Readoption with Amendments: N.J.A.C. 14:17

Proposed: February 21, 1989 at 21 N.J.R. 440(a).

Adopted: April 19, 1989, by Celeste M. Fasone, Director, Office of Cable Television (with the approval of the Board of Public Utilities).

Filed: April 24, 1989, as R.1989 d.266, **without change.**

Authority: N.J.S.A. 48:5A-10.

Effective Date: April 24, 1989, Readoption; May 15, 1989, Amendments.

Expiration Date: April 24, 1994.

Summary of Public Comments and Agency Responses:

This proposed readoption with amendments was published in the February 21, 1989, New Jersey Register and a public hearing was held on March 21, 1989, at the Board of Public Utilities' Hearing Room, Two Gateway Center, Newark. Comments were submitted by the New Jersey League of Municipalities, the New Jersey Cable Television Association, the Cable Users Association of New Jersey and a member of the general public.

COMMENT: It was suggested that a requirement be added to the rules so that an audit would be performed prior to the transfer of a cable television franchise to study the impact of the proposed transfer on subscriber rates.

RESPONSE: Currently, all cable television rates are not subject to the Board's regulatory authority and it would be beyond the Board's jurisdiction to impose a requirement for an audit.

COMMENT: The Board was requested to require cable television operators obtain municipal approval prior to the transfer of a certificate of approval.

RESPONSE: The New Jersey Cable Television Act specifically vests authority over the transfer of certificates of approval with the Board, N.J.S.A. 48:5A-19. It would not be appropriate to impose additional restrictions on such transfers.

COMMENT: It was requested that the Board require petitioners for authority to transfer certificates of approval to submit certain affidavits concerning compliance with the terms of the franchise agreement.

RESPONSE: These affidavits are unnecessary in that franchise commitments run with the franchise and must be honored by subsequent holders of the franchise rights. Further, the readoption with amendments would require municipalities be notified prior to the transfer of certificate of approval. This would bring any known franchise violations to light.

COMMENT: Certain suggestions were made for amending the procedures of cable television rate cases.

RESPONSE: Since cable television rates are deregulated, amendments to these rules are unnecessary at this time.

COMMENT: It was asked whether the reference to N.J.S.A. 48:2-56, in N.J.A.C. 14:17-2.1, is intended to impose additional charges on cable television operators which pay an assessment pursuant to N.J.S.A. 48:5A-32.

RESPONSE: The proposed amendments to N.J.A.C. 14:17-2.1 are to clarify existing requirements and are not intended to impose additional charges.

COMMENT: It was asked why a reference to "contested formal" cases was not included in the proposed amendment to N.J.A.C. 14:17-3.3(c), if the intent was to conform with N.J.A.C. 14:1-3.3(c).

RESPONSE: This agency was informed that it is the opinion of the Office of Administrative Law that the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, apply to contested cases and that such a reference in N.J.A.C. 14:17 could be confusing. The reference to "contested cases" was therefore deleted from the proposed amendment as published.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:17.

Full text of the adopted amendments follows:

14:17-1.1 Scope or Rules

Except for contested case hearings which shall be conducted pursuant to the UAPR, N.J.A.C. 1:1, these rules shall govern practice and procedure before the Office of Cable Television within the Board of Public Utilities Commissioners of the State of New Jersey, unless otherwise ordered by the Board in any proceeding.

14:17-1.9 Radio, television, photographs and sketches

(a) (No change.)

(b) The use of cameras or recording devices, including still cameras, movie cameras, television cameras, tape recorders and stenotype machines (hereinafter referred to as "equipment"), in open meetings or hearings conducted by the Board, Staff Hearing Examiners or a Commissioner is permitted.

(c) Any accredited member of a news media desiring to use such equipment shall first contact the Board's Office of Public Information to arrange for the set-up and removal of equipment so as not to interfere with the orderly conduct of the proceedings.

(d) No such equipment shall be placed on the counsel tables, witness stand or on the presiding officer's bench, without the approval of the presiding officer; equipment which would require the user to move about the room during the proceedings is prohibited. Moving about the meeting or hearing room in order to more advantageously use such equipment is prohibited, while the meeting or hearing is in session.

(e) Except for portable equipment which is used at an individual's seat in the audience, such equipment must be in place and ready for use prior to the start of the meeting or hearing or set-up during a recess thereof. Such equipment may be removed only at the conclusion of the meeting or hearing or during a recess. A pre-arranged recess for the set-up or removal of such equipment may be requested through the Office of Public Information or presiding officer.

(f) The Board or presiding officer may suspend the operation of all or part of this rule with respect to a particular hearing or meeting.

(g) The Board or the presiding officer may at any time limit or prohibit the use of any or all of such equipment in hearings or meetings where in the opinion of the Board or the presiding officer use of such equipment may obstruct the conduct of the hearing.

14:17-2.1 Amount of fees and charges

(a) (No change.)

(b) All other fees and charges which the Office has been empowered, authorized and required by law to charge and collect are set forth in N.J.S.A. 48:5A-1 et seq., N.J.S.A. 48:2-56 and N.J.S.A. 47:1A-1 et seq.

14:17-3.3 Ethical conduct and ex parte communications

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

(c) After the filing of a complaint or petition in a proceeding and prior to the issuance of a final order thereon, no parties to the proceeding, or their counsel, shall discuss the merits of such matter or proceeding with the Commissioners, or with the presiding officer involved unless reasonable notice is given to all parties who have appeared therein, to enable such parties to be present at the conference. When, after the filing of a complaint or petition and prior to the issuance of a final order thereon, letters are directed to the Board, or any member of its staff, regarding a formal proceeding, copies of such letters shall be mailed to all parties of record and proof of such service furnished upon request.

14:17-3.4 Former employees

Except with the written permission of the board, no former employee shall represent any person or party in any matter pending at the date of his or her termination before the agency in which the employee held office or employment for a period of six months following his or her termination of employment.

14:17-4.3 Designation of other than parties

Persons opposing petitions or tariff schedules filed by cable television companies shall be styled "objectors" unless permitted to intervene. Participation by "objectors" shall be limited to a statement of position under oath or affirmation which may be subject to cross-examination by the parties. Objectors shall not be entitled to notices

of hearing and copies of pleadings and other documents as a matter of right.

14:17-5.3 Number of copies

(a) Unless otherwise required by the Board or office, there shall be filed with the Board through the office for its own use an original and 10 conformed copies of each pleading or other paper and amendment thereof.

(b) (No change.)

14:17-5.5 Amendments

The Office, or the Board, may in its discretion before or after the conclusion of the hearing, allow any pleadings to be amended or corrected or any omission therein to be supplied upon such terms as may be lawful and just, provided such amendment, correction or addition does not prejudice a substantial right of any party.

14:17-6.8 Petitions for approval of the transfer of certificates of approval

(a) (No change.)

(b) Proof of service of notice of the proposed transfer to the clerk of each municipality being served by the cable television company shall be included with the petition.

14:17-6.9 Petitions for renewal of certificate of approval

(a) (No change.)

(b) The petition shall also contain the information as required by the provisions of N.J.A.C. 14:17-6.6, Petitions for certificate of approval, and shall indicate that the petitioner has complied with N.J.A.C. 14:18-13, Renewals.

14:17-9.5 Denial of motions

All motions shall be deemed denied if not decided within 60 days after the filing thereof, whether referred to the Board or to be decided by the examiner. The Board or the hearing examiner may waive this rule on their own or for good cause shown by a party.

14:17-12.11 Sanctions; failure to appear; adjournment; repeated violations

(a) If without just excuse or because of failure to give reasonable attention to the matter no appearance is made on behalf of a party on the day of a hearing, the Board may order one or more of the following:

1. Payment by the delinquent attorney or party of all of the Board's costs associated with the hearing;

2. The dismissal of the petition or other pleadings as appropriate and the entering of a decision or order by default; or

3. Such other action as the Board deems appropriate.

(b) If without just excuse or because of failure to give reasonable attention an application is made for an adjournment on the day of hearing, the Board or presiding officer may dismiss or grant the application or take such other action as it deems appropriate. If the hearing is continued, the Board may impose such other sanctions as provided by (a) above.

(c) If any attorney or party is repeatedly delinquent in appearances before the Board, such conduct will be deemed unacceptable and the Board shall take appropriate disciplinary action consistent with its rules and regulations; but with respect to attorneys, the Rules Governing the Courts of the State of New Jersey 1:20 et seq. shall be exclusively applicable.

14:17-13.1 Purposes

(a) (No change.)

(b) Prehearing or pre-transmittal conferences of parties or their attorneys may be held to expedite the orderly conduct and disposition of any hearing, and at such conferences there may be considered, in addition to the matters set forth in (a) above the possibility of the following:

1.-5. (No change.)

TRANSPORATION

TRANSPORTATION OPERATIONS

(a)

Speed Limits
Routes U.S. 206 in Atlantic and Burlington Counties and N.J. 36 in Monmouth County
Adopted Amendments: N.J.A.C. 16:28-1.72 and 1.75

Proposed: February 21, 1989 at 21 N.J.R. 435(a)
Adopted: March 27, 1989 by John F. Dunn Jr., Director, Division of Traffic Engineering and Local Aid.
Filed: April 17, 1989 as R.1989 d.248, **without change.**

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

Effective Date: May 15, 1989.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28-1.72 Route U.S. 206 including U.S. 206 and U.S. 130

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

1. For both directions of traffic:

i. In Atlantic County:

(1) Hammonton Township: 50 miles per hour between Route U.S. 30 and the Town of Hammonton-Shamong Township line (mileposts 0.0 to 6.27); thence

ii. In Burlington County:

(1) Shamong Township: 50 miles per hour between the Shamong Township-Town of Hammonton line and the Shamong Township-Tabernacle Township line (mileposts 6.27 to 12.75); thence

(2) Tabernacle Township: 50 miles per hour between the Tabernacle Township-Shamong Township line and the Tabernacle Township-Southampton Township line (mileposts 12.75 to 16.28); thence

(3) The Townships of Southampton, Eastampton, and Pemberton: 50 miles per hour within all the corporate limits (mileposts 16.28 to 26.22); thence

(4) Springfield Township:

(A) Zone one: 50 miles per hour between the Springfield Township-Eastampton; Pemberton Township line and County Road 537 (mileposts 26.22 to 26.80); thence

(B) Zone two: 55 miles per hour between County Road 537 and the Mansfield Township-Springfield Township line (mileposts 26.80 to 29.54);

(5) Mansfield Township: 55 miles per hour between the Mansfield Township-Springfield Township line and the Mansfield Township-Bordentown Township line (mileposts 29.54 to 33.80); thence

(6) Township and City of Bordentown:

(A) Zone one: 55 miles per hour between the Bordentown Township-Mansfield Township line and Cemetery Lane (mileposts 33.80 to 35.47); thence

(B) Zone two: 40 miles per hour between Cemetery Lane and the northernmost intersection of Route U.S. 130-Route U.S. 206 (which includes the part coincident with Route U.S. 130) (mileposts 35.47 to 36.40); thence

(C) Zone three: 50 miles per hour between the northernmost intersection of Route U.S. 130-Route U.S. 206 and the northerly end of the bridge over Crosswicks Creek (Burlington County-Mercer County line) (mileposts 36.40 to 38.45).

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

1. (No change.)

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

16:28-1.75 Route 36

(a) The rate of speed designated for the certain parts of State highway Route 36 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in Monmouth County:

i. Zone 1:

(1) Eatontown Borough: 55 miles per hour between Hope Road and 1,000 feet south of Wycoff Road (mileposts 0.00 to 1.08);

ii. Zone 2:

(1) Eatontown Borough: 50 miles per hour between 1,000 feet south of Wycoff Road and the Eatontown Borough-West Long Branch Borough line (mileposts 1.08 to 2.39);

(2) West Long Branch Borough: 50 miles per hour between the Eatontown Borough-West Long Branch line and County Road 537 (mileposts 2.39 to 3.27);

iii.-x. (No change.)

(a)

Restricted Parking and Stopping
Route U.S. 202 in Somerset County
Adopted Amendment: N.J.A.C. 16:28A-1.55

Proposed: February 21, 1989 at 21 N.J.R. 436(a).
Adopted: March 27, 1989 by John F. Dunn Jr., Director, Division of Traffic Engineering and Local Aid.
Filed: April 17, 1989 as R. 1989 d.250, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6. 39:4-138(g) and 39:4-199.

Effective Date: May 15, 1989.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28A-1.55 Route U.S. 202

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

(d) The certain parts of State highway Route U.S. 202 described in this subsection shall be designated and established as "Time Limit Parking" zones. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established Time Limit Parking zones.

1. Time Limit Parking zones in Bernardsville Borough, Somerset County:

i. Along the west side:

(1) Two-hour time limit parking, between 7:00 A.M. to 6:00 P.M.:

(A) From 35 feet south of the southerly curbline of Anderson Hill Road to a point 240 feet southerly therefrom.

(B) From 35 feet south of Quimby Lane to a point 400 feet south of the southerly curbline of Claremont Road.

(2) One half-hour time limit parking, between 7:00 A.M. to 6:00 P.M., from a point 275 feet south of the southerly curbline of Anderson Hill Road to a point 90 feet southerly therefrom.

ii. Along the east side:

(1) One half-hour time limit parking, between 7:00 A.M. to 6:00 P.M., beginning 85 feet south of the southerly curbline of Mt. Airy Road extending 50 feet southerly therefrom.

(2) Two-hour time limit parking, between 7:00 A.M. to 6:00 P.M., from a point 135 feet south of the southerly curbline of Mt. Airy Road to the northerly curbline of Depot Square.

(b)

Drawbridge Usage
Route N.J. 35 in Ocean County
Adopted Amendment: N.J.A.C. 16:30-9.1

Proposed: February 21, 1989 at 21 N.J.R. 437(a).
Adopted: March 27, 1989 by John F. Dunn Jr., Director, Division of Traffic Engineering and Local Aid.
Filed: April 17, 1989 as R.1989 d.251, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-17 and 39:4-198.

Effective Date: May 15, 1989.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:30-9.1 Route 35

(a) The certain parts of State highway Route 35 described in this subsection shall not be used for purposes described herein. In accordance with N.J.S.A. 39:4-198, authority is granted to erect appropriate signs.

1. No jumping, diving, crabbing, fishing or loitering shall be permitted along both sides of the entire length of bridges and waterways listed:

i.-ii. (No change.)

iii. Ocean County:

(1) The bridge over the Manasquan River in Point Pleasant and Brielle Boroughs.

(c)

THE COMMISSIONER
Aviation
Regulation of Land Use Adjacent to Public Use Airports
Adopted Amendments: N.J.A.C. 16:62-1.1, 1.2, 3.2, 5.1, 9.1 and 10.1
Adopted New Rule: N.J.A.C. 16:62-3.5.

Proposed: December 5, 1988 at 20 N.J.R. 3007(a).
Adopted: April 11, 1989, Robert A. Innocenzi, Deputy Commissioner, Department of Transportation.
Filed: April 11, 1989 as R.1989 d.242, **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. 27:1A-5, 27:1A-6, 6:1-29, 6:1-32 and P.L. 1983 c.260, as amended by P.L. 1985 c.122.

Effective Date: May 15, 1989.
Expiration Date: April 15, 1990.

Summary of Public Comments and Agency Responses:

Under the provisions of N.J.S.A. 6:1-83 and 6:1-84, the Department of Transportation (Department) published its intent to propose amendments to N.J.A.C. 16:62-1.1, 1.2, 3.2, 5.1, 9.1 and 10.1 and to propose new rule N.J.A.C. 16:62-3.5. The Department's Notice of Proposal was published in the December 5, 1988 issue of the New Jersey Register.

The objectives of the proposal notice were to seek public comment to the following proposed regulatory changes to:

1. Limit all structure development in the proposed clear zone;
2. Allow low density residential zoning; and
3. Permit municipalities to zone preexisting residential structures as a conforming land use.

In response to the Notice of Proposal, the Department received 58 written comments and heard 18 oral presentations during the public hearing concerning these amendments and new rule held on December 22, 1988.

The bulk of the comments received from the responding municipalities were based on the perception that the current rules require that municipalities zone public use airports as a "conforming" land use within their respective ordinances. It is their claim that the "Act" is unconstitutional and that the Department is usurping the municipalities' right to zone.

N.J.A.C. 16:62-2.1(e) states:

"Municipalities which contain within their boundaries airports regulated by the provisions of this chapter, may not hereafter classify those airports as nonconforming land uses within the context of their ordinances or master plans of development. Those municipalities which may currently classify an airport as nonconforming land use within the context of their ordinances or master plans of development, shall amend those ordinances or plans to eliminate that nonconforming status."

Several of the comments received addressed the constitutionality of the rules, particularly that section of the rules concerning the zoning of the airport as other than nonconforming. The Department will not address these comments in depth since it is the Department's position that such comments are not appropriately raised in the context of the proposed regulatory changes. However, it should be noted that the rules do not require airports to be zoned as conforming uses, but rather require that municipalities refrain from zoning the airports as nonconforming.

Of the 58 written comments received, 41 form letters were received from Readington Township residents. This form letter was also received from one Bedminster Township resident. These form letters were based on the misconception that the proposed modifications would make the airport a "conforming" use and the surrounding land, "nonconforming". The proposed amendments do not attempt to change or alter the airport zoning requirements as referenced above. Additionally, the purpose of one of the proposed amendments would be to permit preexisting residential structures to be zoned as "conforming" in local land use ordinances.

The changes and comments relating to the specific regulation changes are discussed in the following paragraphs:

COMMENT: Thirteen comments were received regarding the establishment of a clear zone in which structural development would be prohibited.

1. Three comments received were in support of the change.
2. Five comments opposed reduction in the size of the proposed clear zone or would prefer a 3,000 foot length clear zone.
3. Two commenters felt that the size of the clear zone should be based on the length of runway, number of operations, and types of aircraft and uses.
4. Two commenters support the clear zone concept but felt the preexisting structures should be zoned as a "conforming" use.
5. One comment was received which objected to a clear zone which would prohibit construction of industrial uses.

RESPONSE: The current land use standards prohibit all residential development but permit commercial and industrial development in the delineated hazard area. Based on an analysis of the 1983-1987 aircraft accidents, the Department proposed to establish a clear zone, along the takeoff and departure path of runway, in which structural development would be prohibited. After analyzing the comments received in response to the Notice of Pre-Proposal, Pre-Proposal Number PPR 1988-4, published July 5, 1988 in the New Jersey Register, (see 20 N.J.R. 1534(a)) the Department reduced the length of the proposed clear zone from 3,000 to 1,000 feet. The Department emphasizes that its proposal creates a new clear zone and does not reduce the length of an existing clear zone. Additionally, the Department reminds the reader that the rules are minimum Statewide standards and that municipalities are free to lengthen or enlarge their respective clear zones. It is also emphasized that this is a planning act and that a minimum Statewide standard is necessary for proper and efficient land use compatibility planning based on future airport growth.

COMMENT: Nine comments were received regarding the amendment to N.J.A.C. 16:62-5.1(a)1i permitting single family residential dwellings on large lot parcels (three acre minimum lot size).

1. Four comments supported this amendment.
2. One commenter suggested, "consider carefully."
3. Four comments opposed this change.

RESPONSE: In the absence of any significant comments to this change, the Department proposes to proceed with the three acre minimum lot size.

COMMENT: Eight comments supported the proposed amendment to N.J.A.C. 16:62-9.1(b) permitting municipalities to zone preexisting residential structures as a conforming land use.

RESPONSE: Since all comments supported this change, the Department proposes to proceed with this amendment to permit municipalities to zone preexisting residential structures as a conforming land use.

Based on the analysis of the comments, as referenced above, the Department proposes to proceed with the proposed amendments as published in the December 5, 1988 edition of the New Jersey Register. The following amendments will be implemented:

1. Limit all structure development in the CLEAR ZONE. The CLEAR ZONE would consist of trapezoids located within the RUNWAY END SUBZONES along the flight approach and departure path; the base of the CLEAR ZONE would be co-located with the end of the RUNWAY SUBZONE and would have a width of 250 feet; the length of the CLEAR ZONE would be 1,000 feet; and the width of the CLEAR ZONE would increase as the distance from the end of the RUNWAY SUBZONE increases. Its outer width would be 450 feet.

All structural development would be prohibited and strictly enforced. The waiver provisions currently contained in the rules would apply. All preexisting structures would be classified by the municipality as either "non-conforming" or "conditional."

2. The Department proposes to permit single family residential dwellings on large lot parcels in all areas of the hazard zone, except in the proposed CLEAR ZONE. The Department will proceed with the three acre minimum lot size.

3. The rules currently state that preexisting land uses not in conformance with the rules may, at the discretion of a municipality, be zoned by the municipality as either "non-conforming" or "conditional." The Department proposes to allow those preexisting residential dwellings to be zoned as "conforming." The Department proposes that this change be implemented as proposed for all structures located outside the suggested CLEAR ZONE area.

Upon adoption the Department has added a sentence to clarify airports involved and added Appendix A, Licensed Public Use Airports.

Full text of the adoption follows (additions to the proposal indicated in boldface with asterisks ***thus***).

16:62-1.1 Definitions

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

"Airpark" means any area of land, adjacent to a public use airport, to be utilized as a combined single family residence and aircraft storage facility.

. . .

16:62-1.2 General requirements and provisions

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

(f) Airport hazard areas adjacent to airports not licensed by the State of New Jersey or airports which are located within the Port of New York District as defined in N.J.S.A. 32:1-3 are not subject to the specific provisions of this chapter. Although the specific provisions of this chapter may not apply to areas surrounding non-State licensed airports open to the public, this in no way limits the power of municipalities to enact substantially similar ordinances governing the areas in accordance with the purposes of the Municipal Land Use Law. ***To clarify the airports involved, please refer to Appendix A, incorporated herein by reference, which lists the licensed public use airports subject to the rules.***

(g)-(m) (No change.)

(n) This chapter shall not apply to:

1. Any person who has submitted a complete application, as defined and required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., for approval of the proposed development as of April 15, 1985 or as of the adoption date of the latest amendments to this chapter for commercial and industrial development proposed to be located in the clear zone.

2. Any person immune to local ordinance, whose proposed development has progressed beyond the preliminary engineering stage, as of April 15, 1985 or at the time of the adoption of the latest amendments to this chapter for commercial and industrial development proposed to be located in the clear zone.

SUBCHAPTER 3. DELINEATION OF AIRPORT HAZARD AREAS

16:62-3.2 Methodology used to delineate Airport Hazard Areas

(a) (No change.)

(b) Each Airport Hazard Area shall consist of a RUNWAY SUBZONE, two RUNWAY END SUBZONES and two CLEAR ZONES.

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

16:62-3.5 Delineation of the CLEAR ZONES

(a) The CLEAR ZONES of an Airport Hazard Area shall consist of trapezoids located within the RUNWAY END SUBZONE along the flight approach and departure path.

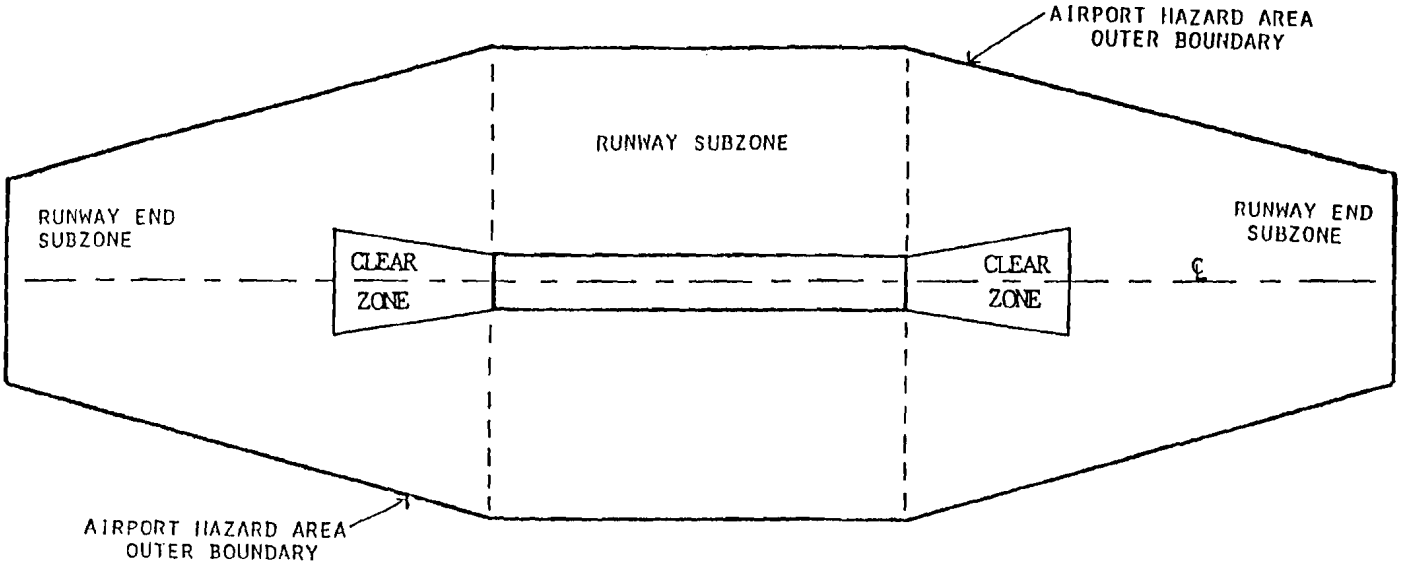
(b) Each CLEAR ZONE shall extend 1000 feet from the end of the RUNWAY SUBZONE, as measured along the extended centerline of the RUNWAY.

(c) The base of the Clear Zone shall be co-located with the end of the RUNWAY SUBZONE, and shall have a width of 250 feet. The width of the CLEAR ZONE shall increase as the distance from the end of the Runway Safety Zone increases. Its final width shall be 450 feet.

(d) The methodology used to delineate the CLEAR ZONE of an Airport Hazard Area is illustrated in Figure 7.

FIGURE 7.

FOR PURPOSES OF GRAPHIC CLARITY, NOT ALL PORTIONS OF THIS DRAWING ARE NECESSARILY TO THE SAME SCALE



GRAPHIC DEPICTION OF THE CLEAR ZONE
DIMENSION: INNER WIDTH 250 FEET
OUTER WIDTH 450 FEET
LENGTH 1000 FEET

16:62-5.1 Minimum land use standards

(a) Within the hazard areas delineated in N.J.A.C. 16:62-3.1, each municipality shall implement under N.J.A.C. 16:62-2.1, ordinances which implement the following standards for land use around airports. Prohibited land uses are specifically prohibited without the written approval of the Commissioner. Prohibited land uses may be allowed by the Commissioner on airport property when they are determined necessary by the Director for air commerce purposes or for the operation of the airport and its vendors directly serving air commerce needs. An example of this is a flight school.

1. Permitted land uses:

i. Residential-single family dwelling units which are situated on a lot at least three acres in size and not located in a CLEAR ZONE. Residential zoning is permitted in the CLEAR ZONE as long as all dwellings are physically located outside of the CLEAR ZONE;

ii. Airpark (minimum lot size of at least three acres which are not located in a CLEARZONE);

iii.-v. (No change.)

vi. Airport;

vii. Commercial (not located in a CLEAR ZONE);

viii. Industrial (not located in a CLEAR ZONE);

2. Specifically prohibited land uses:

i. Residential (dwelling units) not situated on a lot at least three acres in size;

ii.-viii. (No change.)

(b) (No change.)

(c) Municipalities shall, when developing land use ordinances to conform with the provisions of this chapter, adopt general land use provisions within the ordinance to minimize unwarranted concentrations of persons within Airport Hazard Areas, especially along the extended runway centerlines within RUNWAY END SUBZONES.

16:62-9.1 General provisions

(a) (No change.)

(b) Within the context of an ordinance adopted to conform with the standards of this chapter, a preexisting land use which is located within a CLEAR ZONE as delineated in N.J.A.C. 16:62-3.5 and not

in conformance with the rules may, at the discretion of the municipality, be classified within such an ordinance as either "nonconforming" or "conditional".

SUBCHAPTER 10. IMPLEMENTATION DEADLINES

16:62-10.1 General provisions

(a) Municipalities affected by the provisions of this chapter shall implement the standards of this chapter as of April 15, 1985, or at a later date as provided for in this chapter. Affected municipalities shall adopt the required ordinances within 12 months of the amendment to this subchapter.

(b) No municipal body may grant variances or subdivisions in an Airport Hazard Area under their existing ordinances whose purpose would be contrary to the standards of this chapter.

***APPENDIX A**

LICENSED PUBLIC USE AIRPORTS

Aeroflex-Andover	**Lakewood**	**Red Lion**
Alexandria	**Licalzi**	**Red Wing**
Allaire	**Lincoln**	**R.J. Miller**
Bader Field	**Manahawkin**	**Rudys**
Blairstown	**Marlboro**	**Sky Manor**
Bucks	**Mercer County**	**Solberg-Hunterdon**
Camden County	**Millville**	**Somerset**
Cape May County	**Morristown**	**Southern Cross**
Colts Neck	**Newton**	**South Jersey Reg.**
Cross Keys	**Nordheim Fly. "K"**	**Sussex**
Eagles Nest	**Oakland Farms**	**Trenton-Robbinsville**
Flying W	**Ocean City**	**Trinca**
Greenwood	**Old Bridge**	**Twin Pine**
Hackettstown	**Oldmans**	**Vineland-Downstown**
Hammonton	**Pemberton**	**Woodbine***
Kroelinger	**Piney Hollow**	
Kupper	**Princeton**	

OTHER AGENCIES

ELECTION LAW ENFORCEMENT COMMISSION

(a)

Political Communications; Cost Reporting
Adopted New Rules: N.J.A.C. 19:25-11.10 and 11.11
Adopted Amendment: N.J.A.C. 19:25-16.34

Proposed: March 20, 1989 at 21 N.J.R. 703(b).

Adopted: April 21, 1989 by the Election Law Enforcement Commission, Frederick M. Herrmann, Ph.D., Executive Director.

Filed: April 24, 1989 as R.1989 d.262, **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 19:44A-38 and P.L. 1989, c.4, specifically section 12.

Effective Date: April 24, 1989, pursuant to P.L. 1988, c.4, section 12.

Expiration Date: January 9, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: A representative of the "Hardwick for Governor" campaign testified and submitted a written comment concerning the "substantially similar" wording in the text of paragraph 2 of subsection (b) in proposed new rule N.J.A.C. 19:25-11.10, Political communications. The commenter observed that the proposed text left open the question of whether a communication to a portion of the electorate would be considered a "political communication" by a candidate if it was not sent to an audience "substantially similar" to the entire electorate. The commenter proposed a new text, which provided that if the communication was circulated to an audience substantially comprised of persons eligible to vote for the candidate, the communication could be deemed political.

RESPONSE: The Commission agreed with the commenter, and adopted the text of paragraph (a)2 as suggested. The Commission intended that its rule be applicable to a communication circulated to a portion of the electorate. For example, a candidate for Governor should not be able to avoid application of the "political communication" test contained in subsection (b) by circulating that communication to only one county. Under the proposed text, since the electorate in one county is not "substantially similar" to the Statewide electorate, a possible ambiguity existed. Under the text proposed by the commenter and adopted by the Commission, since the electorate in the county is comprised substantially of persons eligible to vote for the office of Governor, the ambiguity is avoided and the test in paragraph (a)2 is clearly applicable.

The Commission believes that the change in the adopted rule is a technical change in language specifically made to clarify its proposal (see N.J.A.C. 1:30-4.3(c)2).

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

19:25-11.10 Political communications

(a) A communication circulated to 10 or more persons that contains an appeal for votes for a candidate in an upcoming election, solicits campaign contributions or otherwise makes an unambiguous reference to an upcoming election shall be deemed to be a political communication and any costs associated with production or circulation shall be subject to campaign reporting.

(b) A communication that does not contain any of the elements described in (a) above shall nevertheless be deemed political and subject to campaign reporting if all of the following criteria are applicable to the communication:

1. The communication is circulated to 10 or more persons and contains a statement or reference concerning the governmental or political objectives or achievements of a candidate in an upcoming election;

2. The communication is circulated to an audience that is *[substantially similar to the electorate voting on]* ***comprised substantially of persons eligible to vote for*** the public office being elected in the upcoming election; and

3. The communication is circulated fewer than 60 days before the date of any election in which the candidate referred to is seeking elected office, except that in the case of a candidate for nomination for the office of Governor in a primary election, the period of time that a communication may be deemed political shall be on or after January 1st in a year in which a primary election for Governor is being conducted, and in the case of a candidate for election to the office of Governor in a general election, the period of time that a communication may be deemed political shall begin on the day following the date of the gubernatorial primary election.

(c) Nothing contained in (b) above shall be construed to require reporting of a communication by an incumbent officeholder seeking reelection which communication is circulated to constituents for the sole and limited purpose of communicating governmental events requiring those constituents to make applications or take other actions within a specified time period, or for the sole and limited purpose of communicating facts relevant to a bona fide public emergency.

19:25-11.11 Reporting of political communication costs

(a) If any political communication as defined in N.J.A.C. 19:25-11.10 is incurred or paid for by any candidate or his or her designated committee, the candidate shall report such expenditure in accordance with N.J.A.C. 19:25-12.

(b) Any political communication as defined by N.J.A.C. 19:25-11.10 incurred or paid for by any person or entity other than the candidate's campaign fund, which political communication is prepared, made or circulated with the consent or cooperation of the candidate, shall be reported by that candidate as a campaign contribution of goods and/or services in accordance with N.J.A.C. 19:25-11.5.

(c) Any political communication not prepared, made or circulated with the consent or cooperation of a candidate and incurred or paid for by any other person or entity shall be reported in accordance with N.J.A.C. 19:25-12.8.

19:25-16.34 Computation of value of goods and services

(a) (No change.)

(b) The costs of a political communication as defined in N.J.A.C. 19:25-11.10 which aids or promotes a candidate for Governor, and is undertaken, made or circulated with the cooperation or consent of the candidate, shall be reported by the candidate in the same manner as the receipt of any goods and services, and shall be valued for the purposes of the contribution limit in N.J.A.C. 19:25-16.6 and the expenditure limit in N.J.A.C. 19:25-16.9(a)3 in the same manner as any other contributed goods or services.

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Public Financing of Primary Election for Governor

Adopted New Rules: N.J.A.C. 19:25-16.37, 16.38, 16.39, 16.40, 16.41, 16.42, 16.43, 16.44, 16.45, 16.46 and 16.47

Adopted Amendments: N.J.A.C. 19:25-16.3, 16.6, 16.7, 16.8, 16.9, 16.10, 16.11, 16.12, 16.14, 16.18 and 16.22

Adopted Recodifications and Amendments: N.J.A.C. 19:25-16.30, 16.32 and 16.34

Proposed: March 20, 1989 at 21 N.J.R. 788(b).

Adopted: April 21, 1989 by the Election Law Enforcement Commission, Frederick M. Herrmann, Ph.D., Executive Director.

Filed: April 24, 1989 as R. 1989 d. 263, **without change**.

Authority: N.J.S.A. 19:44A-38 and P.L. 1989, c.4, specifically section 12.

Effective Date: April 24, 1989, pursuant to P.L. 1989, c.4, section 12.

Expiration Date: January 9, 1991.

Summary of Public Comments and Agency Responses:

No comments received. Although public hearings were conducted on March 21, 1989 and April 18, 1989, comments received were directed at separate although related proposals concerning "political communications" (see separate adoption notice in this issue of the New Jersey Register) and concerning "coordinated expenditures," which proposal was withdrawn and reproposed (see May 1, 1989 New Jersey Register for reproposal notice).

Full text of the adoption follows.

19:25-16.3 Definitions for this subchapter

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

. . .

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to section 15 of P.L. 1980, c.74 (N.J.S.A. 19:44A-44), no amount of the candidate's own funds in the aggregate in excess of $1,500, no in-kind contribution and no other moneys received by the candidate, his or her campaign treasurer, or deputy campaign treasurer, except those contributions described in subsection (a) of section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29(a)) shall be deemed contributions eligible for match. Funds received by an individual who is testing the waters may be matched when the individual becomes a candidate, if such contributions meet all the requirements of the regulation.

"Debate sponsor" means the private organization or organizations to which the Commission has delegated the responsibility for conducting one or more of the televised interactive primary election debates.

. . .

"Interactive primary election debate" means the moderated reciprocal discussion of issues among the candidates of a political party which involves responses by the candidates to questions posed by the representative or representatives of the sponsor organization.

. . .

"Qualified candidate" means:

1. Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot and who has deposited and expended $150,000 pursuant to N.J.S.A. 19:44A-32; and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial primary election debates; or

2. Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot, but who has deposited and expended $150,000 pursuant to N.J.S.A. 19:44A-32 and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial primary election debates.

"Statement of agreement" means a written declaration, by a candidate for nomination for election to the office of Governor who intends that application will be made on that candidate's behalf to receive monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, that the candidate undertakes to abide by the terms of any rules established by any private organization sponsoring a gubernatorial primary election debate in which the candidate is to participate. The statement of agreement shall include an acknowledgment of notice to the candidate who signs it that failure on that candidate's part to participate in any of the gubernatorial primary election debates may be cause for termination of the payment of such monies on the candidate's behalf and for the imposition of liability for the return to the Commission of such monies as may previously have been so paid.

19:25-16.6 Contribution limits; applicability

(a) Each candidate, whether or not intending to participate in public funding, and each campaign treasurer or deputy campaign treasurer of such candidate shall not knowingly accept from any person, candidate or political committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of $1,500 in any primary election.

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

19:25-16.7 Candidates deemed non-participating; effect

Any candidate who does not by the last day for filing petitions to nominate candidates to be voted upon in a primary election for governor make application for public funding in a primary election pursuant to N.J.A.C. 19:25-16.18 (Matching of funds) shall be deemed non-participating in public funding of that primary election and shall not receive public funds on behalf of his or her campaign.

19:25-16.8 Non-participating candidates; generally

(a) A non-participating candidate is subject to the $1,500 limitation on contributions from a person or political committee, pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29).

(b) A non-participating candidate is subject to the $1,500 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) (No change.)

19:25-16.9 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the act (N.J.S.A. 19:44A-1 et seq.) or these regulations, is subject to the following limitations:

1.-2. (No change.)

3. The amount which any qualified candidate may spend in aid to his or her candidacy shall not exceed $2,200,000, which amount shall include all expenditures for testing the waters activity prior to candidacy. Such amount shall not include expenditures listed in N.J.A.C. 19:25-16.27.

4. Contributions by any candidate in excess of $1,500 from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

19:25-16.10 Who may or may not contribute; generally

(a) No person or political committee, other than a candidate contributing his or her own funds to his or her campaign, shall make any contribution to any candidate, the candidate's campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for nomination for election to the office of Governor in a primary election, in the aggregate in excess of $1,500. Any such contribution in excess of $1,500 must be promptly returned to the contributor, and evidence of the repayment shall be submitted to the Commission. Notwithstanding the provision of N.J.S.A. 19:44A-3(i) and N.J.A.C. 19:25-1.7 excluding "continuing political committees" from the meaning of "political committees", the term "political committee" as it appears in N.J.S.A. 19:44A-29(a) and this subsection shall include "continuing political committees" as defined in N.J.S.A. 19:44A-3(n)(2).

(b) (No change.)

(c) A corporation, association or labor organization or any subsidiary, affiliate, branch, division, department or local unit of any such corporation, association or labor organization shall not make any contribution to or on behalf of a candidate which, when added to any other contribution by any related or affiliated corporation, association or labor organization, exceeds $1,500 in the aggregate. Whether such corporation, association or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations or labor organizations, the source and control of funds used for such contribution and the degree to which the decisions whether to contribute, to what candidate and in what amount are independent decisions.

19:25-16.11 Contributions eligible for match; generally

(a) (No change.)

(b) Only contributions in cash or by check, money order or negotiable instruments shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of $1,500 and the overall expenditure limit contained in section 2 of P.L. 1980, c.74 (N.J.S.A. 19:44A-7) except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-16.27. The total of all contributions eligible for match from any person or political committee shall not exceed $1,500 in the aggregate.

(c) A maximum of $1,500 in the aggregate of a candidate's own funds may be deposited in the matching fund account.

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

19:25-16.12 Contributions and loans prior to candidacy

(a) Each candidate, whether or not intending to participate in public funding, shall certify to the Commission in writing within 10 days after the date of commencement of his or her candidacy that:

1.-2. (No change.)

3. No contribution in excess of $1,500 in the aggregate from a person or political committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of $1,500 in the aggregate have been received for that purpose, and the amount of each contribution in excess of $1,500 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of all contributors who contributed more than $1,500 and the dates and amounts of all such contributions; and

ii. Written evidence such as photocopy of check, showing that such excess amounts have been returned to the contributor.

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

19:25-16.14 Limitation on contributions eligible for match

(a) Any contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the $1,500 contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a dinner or testimonial affair as defined in N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the $1,500 limitation.

(c) (No change.)

19:25-16.18 Matching of funds

(a) Any candidate seeking to qualify for receipt of public matching funds shall not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for Governor file with the Commission:

1. A statement of agreement in a form prescribed by the Commission to participate in the series of two interactive gubernatorial primary election debates; and

2. Either of the following:

i. A certified application for receipt of public matching funds pursuant to this section; or

ii. A statement of qualification to participate in public financing pursuant to N.J.A.C. 19:25-16.37.

(b) (No change.)

(c) A candidate seeking to become eligible to receive matching funds shall certify to the Commission in a written statement signed by the candidate that he or she is a candidate for Governor in a primary election and that he or she has received and deposited into his or her matching fund account contributons eligible for match of at least $150,000 from persons or political committees each of whose contributions in the aggregate do not exceed $1,500, and that at least $150,000 of such contributions has been expended. "Expended" for this purpose shall mean disbursed or irrevocably committed by a legally binding commitment for expenditure in the campaign and ultimately disbursed.

(d)-(f) (No change.)

(g) The initial certification shall include two photocopies of checks receipted bills, contracts or the like, as proof of the expenditure of at least $150,000.

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

(j) Each submission for public matching fund payments following the date on which a candidate is determined to be a qualified candidate shall contain no less than $12,500 of contributions eligible for match. Upon determination by the Commission that each submission contains no less than $12,500 of contributions eligible for match, public matching funds will be awarded based upon the total amount of contributions determined to be eligible for match.

19:25-16.22 Receipt of public funds; limitation

(a) (No change.)

(b) The maximum amount which any qualified candidate may receive from public funds shall not exceed $1,350,000.

19:25-16.30 (Reserved)

19:25-16.31 Borrowing of funds; repayment

Any candidate, his or her campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person or political committee other than the candidate may in any way endorse or guarantee such loan in the aggregate in excess of the $1,500 contribution limit. Except for a non-participating candidate guaranteeing a loan to his or her campaign,

the amount so borrowed shall not at any one time in the aggregate exceed $50,000 and must be repaid in full by such candidate or his or her campaign treasurer or deputy campaign treasurer from moneys accepted or allocated pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29) not later than 20 days prior to the primary election. Certification of such repayment shall be made by the borrower to the Commission not later than 15 days prior to the date of primary election. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the act to prohibit the expenditure by the candidate of moneys received from the fund and any other moneys received by him or her in aid of his or her candidacy in such primary election.

19:25-16.32 (No change in text.)

19:25-16.33 Post-election contributions; post-election payment of expenses

(a) Any person or political committee otherwise eligible to make political contributions to a candidate may make a contribution in aid of the candidacy of such candidate after the date of such primary provided such person or political committee does not exceed $1,500 in the aggregate for such primary.

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

19:25-16.34 (No change in text.)

19:25-16.35 Computation of value of goods and services

(a) Goods and services shall, for purposes of the reports required to be filed under the act and for purposes of the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7) where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

1. Example 1: Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay $500.00 per day, which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is $1,000 per day. In this example, the amount of $500.00 paid by the campaign committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in section 7 of the act (N.J.S.A. 19:44A-7). The difference between the $500.00 actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of $500.00. The candidate could obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than three days. If the candidate obtained the use of the helicopter for four days under this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions ($2,000) from that contributor in this instance would have exceeded $1,500.

2. Example 2: Candidate Y in example 1, wishes to obtain the use of the helicopter from the owner for three days, and the campaign committee for the candidate pays to the owner the reasonable commercial value of $1,000 for each day, or a total of $3,000. The amount paid to the owner is not an expenditure within the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7). On these facts the owner has made no contribution to the candidate.

3. In example 1 and example 2, the total amounts of expenditures, including expenditures not subject to the expenditures limitation of section 7 of the act (N.J.S.A. 19:44A-7), must be reported in the preelection and post-election report filed on behalf of the candidate.

19:25-16.36 (No change in text.)

19:25-16.37 Candidate statement of qualification before participation in public financing

(a) A candidate who intends to apply to the Commission for public matching funds on a date later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for the office of Governor must on or before the last day for filing petitions to nominate candidates in a primary election for Governor file:

1. A certified statement of qualification containing evidence that $150,000 has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial primary election campaign expenses. Evidence that $150,000 has been deposited and expended shall be filed with the Commission on the last day for filing petitions in the primary election to nominate candidates for the office of Governor and in a form to be prescribed by the Commission.

2. Each contribution submitted in the report required by (a)1 above as evidence that $150,000 in contributions has been deposited must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order for, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

3. Each disbursement submitted in the report required by (a)1 above as evidence that $150,000 has been expended for primary election expenses shall include two photocopies of checks, receipted bills, contracts, or similar documents as evidence of the expenditure of at least $150,000.

(b) The reports filed pursuant to (a) above to establish qualification shall not be available for public inspection.

(c) Any report required to be filed pursuant to (a) above cannot be handwritten.

19:25-16.38 Statement of candidates electing to participate in debates

(a) A candidate who has not by the last day for filing petitions to nominate candidates to be voted upon in a primary election applied to the Commission for public matching funds may elect to participate in the series of interactive gubernatorial primary election debates by:

1. Notifying the Commission in writing no later than the last day for filing petitions in the primary election to nominate candidates for the office of Governor of his or her intent to participate in the series of gubernatorial primary election debates; and

2. Filing a statement of qualification containing evidence that $150,000 has been deposited and expended pursuant to N.J.S.A. 19:44-32 for gubernatorial primary election expenses. The statement of qualification shall contain the same information as that required at N.J.A.C. 19:25-16:37(a).

(b) The reports filed pursuant to (a) above to establish qualifications for participation in gubernatorial primary election debates shall not be available for public inspection.

(c) Any report required to be filed pursuant to (a) above cannot be handwritten.

19:25-16.39 Application to sponsor debates

(a) To be eligible for selection by the Commission to sponsor one or more of the interactive gubernatorial primary election debates, a private organization:

1. Must be unaffiliated with any political party or with any holder of or candidate for public office;

2. Must not have endorsed any candidate in the pending primary election for the office of Governor and must represent to the Commission that no such endorsement will be forthcoming; and

3. Must have previously sponsored one or more televised debates for Statewide office in New Jersey since 1976.

(b) Written applications by organizations to sponsor a gubernatorial primary election debate or debates shall be submitted

to the Commission on a form provided by the Commission not later than March 15 of any year in which a primary election is held to nominate candidates for the office of Governor. The written application shall set forth plans of the applicant for television and media coverage.

19:25-16.40 Selection of debate sponsor

(a) Based upon the criteria in N.J.A.C. 19:25-16.39(a), the Commission shall select the private organization or organizations to sponsor the gubernatorial primary election debates within 30 calendar days of the March 15 deadline for receipt of sponsor applications and shall provide written notification to the organization or organizations so selected.

(b) The Commission shall determine the number of primary election debates for which each debate sponsor organization is responsible and the party affiliation of the candidates in each debate. The Commission shall provide each debate sponsor it has selected with a list of candidates who are required to participate in the gubernatorial primary election debates or who have elected to participate.

19:25-16.41 Dates, times, and location of debates

(a) Not later than five calendar days after receipt of notification from the Commission that an organization has been selected to sponsor one or more of the gubernatorial primary election debates, each sponsoring organization shall:

1. Submit a written calendar to the Commission and to all candidates who are required to or have elected to participate in the relevant debate or debates containing the date, time, location, and plans for television and other media coverage of the debate or debates assigned to the sponsor;

2. Submit to the Commission a description of the physical facilities available at the debate site or sites for use by television, broadcast and other media personnel; and

3. Submit a written statement to the Commission agreeing not to endorse any candidate for nomination in the pending primary election.

(b) The debate date or dates selected by each sponsoring organization in the written calendar required in (a) above shall be no earlier than the date upon which the ballot for the pending primary election is finally certified by the Secretary of State to the county clerks and no later than the 11th day prior to the pending primary election.

(c) Upon the vote of a majority of the candidates participating in the second in the series of primary election debates that an emergency condition exists requiring postponement of that debate, the debate sponsor shall:

1. Reschedule the second debate to occur no later than the second calendar day preceding the primary election; and

2. Take whatever actions are necessary to notify all participating candidates and the Commission of the date, time, and location of the rescheduled debate.

i. Actions to notify the participating candidates and the Commission of the rescheduled debate shall include, but not be limited to, telephone contact and first class mail, return receipt requested.

(d) The Commission shall review and approve the debate calendars submitted by the debate sponsoring organizations pursuant to (a) above prior to the occurrence of any primary election debate and shall create a master debate calendar which ensures compliance with the date requirements of (b) above and ensures that no two or more debates are scheduled for the same date.

(e) In the event that the Commission determines in its review pursuant to (d) above that a conflict exists in two or more scheduled debates, the Commission shall direct a debate sponsor or sponsors to submit a revised debate schedule or schedules within two calendar days containing new debate dates and times which eliminate the conflict.

19:25-16.42 Rules for conduct of debates

(a) Each debate in the series of interactive debates between or among candidates for nomination for the office of Governor shall be of at least one hour's duration.

(b) Promulgation of the rules for the conduct of each debate shall be the responsibility of the private organization selected by the Commission as the sponsor of each debate and such rules shall not be made final without consultation with the chairpersons of the New Jersey Republican and Democratic State Committees.

(c) Immediately upon notification of its selection as a sponsor and no later than five calendar days before each date is to occur, the sponsor shall forward the written rules for conduct of the interactive primary election debate to the chairpersons of the New Jersey Republican State Committee and the New Jersey Democratic State Committee to the Commission, and to the relevant candidates who are required to or have elected to participate in the debate.

(d) The candidates participating in the debate and the Commission shall be notified by the sponsor in writing of any modifications or changes to the rules for conduct of a debate no later than two calendar days before the debate is scheduled to occur.

19:25-16.43 Complaint alleging failure to participate in debate

(a) Any complaint filed with the Commission alleging failure of a primary election candidate to participate in a required debate shall:

1. Be in writing and be verified; and

2. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the allegation of failure to participate in a debate.

(b) Service of a complaint alleging failure to participate in a primary election debate shall be made by the complainant in person or by certified mail, return receipt requested upon the respondent candidate, the Commission, the debate sponsor, and any person named in the complaint.

19:25-16.44 Temporary cessation of distribution of public funds

(a) Upon receipt by the Commission of a verified complaint alleging failure to participate in a debate, the Commission shall meet as soon as practicable to determine whether there is reasonable cause to believe the respondent candidate may have failed to participate as required in a primary election debate.

(b) If it is determined by majority vote of the Commission that there is reasonable cause to believe that a candidate may have failed to participate in a debate as required, the Commission shall:

1. Cease the review and certification of any public fund amounts which have been requested by the respondent candidate from the Commission and which have not previously been approved; and

2. Schedule a hearing before it on the complaint to determine whether the respondent candidate has failed to participate in a debate as alleged.

(c) The Commission shall as soon as practicable notify the respondent candidate in writing of the actions it has taken pursuant to (b) above.

19:25-16.45 Response to a complaint for failure to participate in a debate or debates

(a) Within five calendar days of service of the complaint upon the respondent candidate, he or she shall respond to the complaint in a written, verified answer which:

1. Admits or denies each of the factual allegations contained in the complaint; and

2. Sets forth any affirmative defenses to the allegations contained in the complaint including all facts known to the respondent candidate pertinent to any such affirmative defense.

3. Justification and excuse shall be deemed to be affirmative defenses for the purposes of this subsection.

(b) Service of an answer shall be made by the respondent candidate in person or by certified mail, return receipt requested, upon the complainant, the Commission, the debate sponsor, and any person named in the complaint or response.

19:25-16.46 Conduct of the hearing

(a) The complainant and the respondent candidate shall appear at the hearing. Other interested persons may appear as permitted by N.J.A.C. 1:1-16 and may be represented as permitted by N.J.A.C. 1:1-5.

(b) The hearing shall be governed by the New Jersey Uniform Administrative Procedure Rules, (N.J.A.C. 1:1).

(c) The complainant shall have the burden of proving non-participation by a preponderance of the credible evidence, and the respon-

dent candidate charged with the failure to participate in a debate shall have the burden of proving justification or excuse by a preponderance of the credible evidence.

(d) At the request of the complainant or respondent candidate, subpoenas shall be issued to compel the attendance of witnesses to testify at the hearing held to determine a candidate's failure to participate in a debate.

(e) The Commission may refer the matter for hearing to the Office of Administrative Law as a contested case pursuant to the provisions of the New Jersey Uniform Administrative Procedure Rules, (N.J.A.C. 1:1).

(f) The Commission shall have the authority to assess the costs associated with a hearing held pursuant to this section against any complainant, respondent or interested person permitted to appear.

19:25-16.47 Final decision of non-participation

(a) At the conclusion of a hearing, the Commission shall determine by majority vote:

1. Whether a candidate required to participate in a primary election debate has failed to do so;

2. Whether the failure to participate occurred under circumstances which were beyond the control of the candidate and of such a nature that a reasonable person would find the failure justifiable or excusable; and

(b) The Commission shall serve its written decision upon the participants or upon their legal representatives as soon as practicable.

(c) If it is determined by the Commission that the respondent candidate failed to participate in a primary election debate without reasonable justification or excuse, the Commission shall:

1. Calculate the total amount of public moneys distributed by the Commission pursuant to N.J.S.A. 19:44A-33 to the respondent candidate for campaign expenses;

2. Notify the respondent candidate and campaign treasurer in writing of the total dollar amount of the liability of the campaign for repayment and of the interest due upon the amount at the rate of one per cent for each month or fractional part of a month during which the liability remains unpaid; and

3. Cease certification of any further public fund amounts to the candidate.

(d) Within 10 calendar days of receipt of notification of the amount of repayment required to the Commission, the respondent candidate and his or her campaign shall submit to the Commission a written schedule for repayment of public funds which specifies dates and amount of repayment installments.

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Equine Embargoes
Equine Infectious Anemia
Adopted Amendments: N.J.A.C. 2:5-2.1, 2.3, 2.5, 2.6 and 2.7
Adopted Repeal: N.J.A.C. 2:5-2.8

Proposed: January 17, 1989 at 21 N.J.R. 92(a).

Adopted: April 24, 1989, by the State Board of Agriculture and Arthur R. Brown, Jr., Secretary.

Filed: April 24, 1989, as R.1989 d.270, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 4:5-6 et seq.

Effective Date: May 15, 1989.

Expiration Date: June 18, 1989.

Summary of Public Comments and Agency Responses:

Three written comments and a number of telephone and personal communications were received. One commenter took exception to the statement that testing poses a "financial burden"—the author pointed out that other costs are much greater and stated that the present (annual test) plan should stay in place.

COMMENT: An organization of equine practitioners and horsemen's groups stated that the disease would become more widespread if annual testing was replaced with two-year testing.

RESPONSE: The Department of Agriculture believes that current conditions do allow the reduction of testing frequency and despite the reduction in testing it is still a cost imposed.

The concern about the spread of disease was considered prior to the rewriting of the proposed amendments within the following context: Equine infectious anemia is a disease which requires the transmission of blood from an infected animal to a new victim. This passage is most commonly and most efficiently performed by contaminated hypodermic needles, syringes and surgical needles. When the mode of distribution was first proven, somewhat less than 20 years ago, the practice of multiple use of needles and syringes was common. Since then, single use of disposable needles and syringes has become the rule for veterinarians and owners alike. Thus, the principal mode of transmission has been largely removed. This change, combined with the fact that the greatest number of infected animals have been removed from the population, means there is a minimal source of infection. This statement is strengthened by the fact that positive reports from this Department reviewed for the past three years have shown that probably none would have been discovered by an annual, rather than a two-year test. At this time, the very large majority of positive animals are those introduced from other states and the requirements for importation have not been relaxed.

COMMENT: An auctioneer stated that it was unfair to impose the responsibility of other states' import rules on the auctioneer. He also argued for elimination of the use of mane and tail tags, and for the testing veterinarian, rather than the auction sale, being responsible for the Department's AGID test fee.

RESPONSE: The argument that an auctioneer should not be responsible for the movement into another state was deemed reasonable and this requirement has been eliminated. Similarly, the request to have a sales tag substituted for mane and tail tags is reasonable and the rule has been amended. The requested change in AGID test fee responsibility is also adopted, as it simplifies the fee collecting procedure by making the person administering the test, rather than a third party, responsible for fee collection.

COMMENT: A telephone call from the secretary of a breed organization argued that personal transfer of test charts at time of sale was not acceptable and that these should be only by certified mail. He also called attention to a typographical error in N.J.A.C. 2:5-2.7(b).

RESPONSE: The use of certified mail has been considered and while introducing a degree of surety, it is not thought to be necessary.

The Department has corrected the typo.

COMMENT: One commenter asked if the Department did not find N.J.A.C. 2:5-2.7(c) redundant and questioned the 12 month period in N.J.A.C. 2:5-2.7(b).

RESPONSE: The Department agrees and deletes (c) as superfluous, and agrees the 12 month period in N.J.A.C. 2:5-2.7(b) should read 24 months to conform with other adopted changes and has made these changes for clarity and accuracy.

COMMENT: One commenter questioned procedures of a slaughter buyer to receive accreditation, as the rules are silent to this.

RESPONSE: The Department agrees with the commenter. A procedure will be proposed as an amendment to N.J.A.C. 2:5-2.7(b) in the forthcoming proposed readoption of this chapter.

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

SUBCHAPTER 2. EQUINE INFECTIOUS ANEMIA

2:5-2.1 Definitions

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

"Equine infectious anemia (EIA)" means an infectious and contagious disease of equidae caused by a transmissible virus, known colloquially as swamp fever.

"Infected animal" means an animal which has been examined by two or more official tests and is positive to both.

"Official test" means the equine infectious anemia agar gel immuno-diffusion procedure recognized and controlled by the United

States Department of Agriculture as conducted by the New Jersey Department of Agriculture's Division of Animal Health Laboratory.

"Official test requirements" means blood samples taken by accredited veterinarians, tested by the Department of Agriculture Laboratory.

"Slaughter buyers" means one who purchases horses for the express purpose of slaughter for human consumption.

2:5-2.3 Horses consigned to horse auction markets

(a) Horses consigned to horse auction markets will be permitted to enter these markets if they do not have a negative Coggins test provided:

1. All horses sold *[to stay in New Jersey]* for other than slaughter purposes will have blood taken from them for the purpose of testing for EIA before leaving the sale.

2. These horses are to be fully identified as to purchaser, breed, color, sex and *[marketing and mane and tail tag]* ***markings,*** as well as being identified by sale identification number on charts to be supplied by the Department.

3. (No change.)

4. (No change.)

5. The *[auction sale]* ***testing veterinarian*** will *[also]* be responsible for the fee charged by the Department of Agriculture to run the AGID test (Coggins test).

[6. It will be the responsibility of the auction markets to see that horses sold into other states meet their requirements.]

2:5-2.5 Test requirements for transport

(a) No horse or other equidae six months or more of age, unless exempted by the provisions of N.J.A.C. 2:5-2.3, 2.6, or 2.7 shall be transported on any public highway within the State unless the custodian of such animal has in his or her possession during the period of such movement a report of a negative agar gel immunodiffusion test for equine infectious anemia for such animal taken within the past 24 months except that horses without such test(s) may be transported directly from a farm of origin to an auction for immediate sale. Said horse may proceed to a second farm after sale if official blood sample has been taken for testing.

1. (No change.)

2. Said test shall have been conducted during the 24 months prior to transportation.

3.-4. (No change.)

2:5-2.6 Test requirements for sale or other change of ownership

(a) No horse or other equidae six months or more of age, unless exempted by provisions of this section or N.J.A.C. 2:5-2.3 or *[2.8]* ***2.7***, shall be sold, exchanged, bartered or given away unless such animal has been subjected to an agar gel immunodiffusion test for equine infectious anemia and reacted negatively within 90 days prior to such transfer of ownership.

1. (No change.)

2. At the time of such transfer of ownership, the transferer shall deliver personally or by certified mail to the transferee, a copy of the report of such negative test. The negative test shall include:

i.-iv. (No change.)

3. (No change.)

2:5-2.7 Other authorized movement or transfer

(a) (No change.)

(b) The provisions of N.J.A.C. 2:5-2.6 shall not apply to any horse claimed in any claiming race conducted by any race track licensed by the New Jersey State Racing Commission, and such horse need not be retested for equine infectious anemia, provided such horse and all other horses admitted to said track had been tested and found negative for the disease within *[one year]* ***24 months*** prior to the date of the claim.

[(c) The Department of Agriculture hereby finds that the exemptions set forth in this subchapter are consistent with the control and eradication of equine infectious anemia.]

EDUCATION

(a)

STATE BOARD OF EDUCATION

Special Education

Readoption with Amendments: N.J.A.C. 6:28

Proposed: February 6, 1989 at 21 N.J.R. 239(a).

Adopted: April 5, 1989 by Saul Cooperman, Commissioner, Department of Education; Secretary, State Board of Education.

Filed: April 10, 1989 as R.1989 d.239, **with technical and substantive changes** not requiring additional public notice and comment (see: N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:4-15, 18A:7A-1 et seq., 18A:7B-1 et seq., 18A:7C-1 et seq., 18A:40-4, 18A:46-1 et seq., 18A:46A et seq., 18A:48-8, 39:1-1, U.S. Public Law 93-112, Sec. 504, 94-142 and 99-457.

Effective Date: April 10, 1989, Readoption; May 15, 1989, Amendments.

Expiration Date: April 10, 1994.

Summary of Public Comments and Agency Responses:

The Department of Education received 264 comments from 55 individuals and organizations regarding the proposed amendments to N.J.A.C. 6:28, the Special Education rules. There were six speakers who presented comments at the December 14, 1988 State Board of Education public hearing and seven at the February 15, 1989 hearing. Their comments, as well as those received in the month long written comment period which followed publication of the rules in the New Jersey Register, were carefully considered by the Department. A summary follows:

Eight comments expressed support for changes proposed by the Department.

Four comments on the rules were questions raised by one individual who did not request a change in the rules.

COMMENT: One commenter asked how can a child study team deliver services?

RESPONSE: The Department responds that child study team members can deliver appropriate related services such as counseling by the school psychologist.

COMMENT: The same commenter asked does the State have guidelines on which to base the comprehensive evaluations?

RESPONSE: The Department responds that the evaluations described are being piloted in the Plan to Revise.

COMMENT: The same commenter asked what is a significant discrepancy between current and expected achievement?

RESPONSE: The Department responds that the pilots are testing a variety of methods of determining significant discrepancy. No change in the rules is required.

COMMENT: The same commenter asked how does in-class support instruction and in-class replacement instruction support self-esteem at the secondary level?

RESPONSE: The Department responds that these options would be used only when determined appropriate by the team. The pupils self-esteem would certainly be taken into consideration. Some pupils self-esteem could be increased by remaining in the regular class as opposed to attending separate classes.

A Plan to Revise Special Education (Plan) is a project being implemented in 10 pilots across the State to test a variety of innovations in the delivery of special education. The pilot projects are regulated by N.J.A.C. 6:28-11 which refers solely to those districts. After completion of the pilots, an evaluation will be conducted to determine the effectiveness of the various innovations. Statewide implementation of the effective innovations will begin only after the completion of the evaluation.

Two comments were not addressed because they requested changes for pilot districts implementing the Plan. Such changes would interfere with the evaluation process.

COMMENT: Three commenters recommended that the evaluation of the Plan assess the pilot not only for success in schools but for student success as well.

RESPONSE: The Department maintains that the success of the pilots will be thoroughly evaluated.

COMMENT: Three commenters stated that they are still concerned about the Plan and its impact on autistic pupils.

RESPONSE: The Department is aware of those concerns and will review outcomes at the completion of the Plan evaluation.

Six comments could not be addressed as changes at this time because they would be premature to implement pending completion of the Plan.

COMMENT: One commenter suggested that the Department should develop a child study team/pupil ratio.

RESPONSE: The Department disagrees because this is currently under study in the Plan.

COMMENT: One commenter suggested discontinuing the use of perjorative labels and replace with ones which reflect pupil instructional needs.

RESPONSE: The Department responds that this is premature because this is currently under study in the Plan.

COMMENT: One commenter recommended that the pupil teacher ratio for resource room be increased.

RESPONSE: The Department disagrees because the Plan includes some modifications of pupil teacher ratio which are being tested. Other changes would be premature.

COMMENT: One commenter recommended that the maximum amount of time which pupils may spend in a resource room should be increased to 50 percent of the school day.

RESPONSE: The Department disagrees because this would be premature pending completion of the Plan which increased the amount of time pupils can receive in resource centers.

COMMENT: The same commenter asked if groups of six in elementary school and groups of eight in secondary school could be reduced because they are too large.

RESPONSE: The Department responds that class sizes are being tested in the pilot districts. No change is required currently.

COMMENT: The same commenter asked if groups of 10, 12 or above could be reduced at the junior and senior high school level because they are too large.

RESPONSE: The Department responds that the Plan is piloting a different organization system which addresses class size. Any other change would be premature.

Twenty-two commenters expressed concern that the Department of Education did not hold timely hearings to inform the public of the proposed changes to N.J.A.C. 6:28 and that the changes would lower educational standards for special education students. Two additional commenters stated that there was inadequate time to review or comment.

RESPONSE: The Department responds that the State Board of Education is not required by law to conduct any hearings, but does so voluntarily out of a genuine desire to be as informed as possible. Two hearings were held: one on December 14, 1988 and one on February 15, 1989. These hearings were conducted with proper notification to the public. Numerous individuals and organizations testified at those hearings.

The Department responds that the rules being adopted maintain and clarify the current standard for special education in New Jersey.

The Department responds to the comment regarding inadequate time to review, that the proposed rules were available to the public from October 1988, five months prior to adoption by the State Board. Copies of the proposed rules were available from the Department upon request. Numerous interested organizations commented throughout the adoption process.

Twenty-seven commenters requested changes which could not be made because Federal or State regulation would not allow such modification.

COMMENT: One commenter asked that the Department eliminate the requirement at N.J.A.C. 6:28-1.4(a)9 of a policy for the protection of pupils in evaluation and reevaluation.

RESPONSE: The Department responds that this is a Federal requirement (34 CFR 300.133).

COMMENT: The same commenter stated that N.J.A.C. 6:28-2.8 should be clarified by including a qualification of discipline which includes infractions that violate criminal law.

RESPONSE: The Department responds that Federal requirements regarding discipline would not allow such a distinction to be made.

COMMENT: The same commenter stated that the 15 day notice at N.J.A.C. 6:28-2.3(b) requirement could seriously delay children from receiving services.

RESPONSE: The Department responds that such notice is a Federal requirement (34 CFR 300.504).

COMMENT: One commenter stated that mediation should be available even if the school does not wish to participate.

RESPONSE: The Department responds that the Federal standard is that mediation be voluntary on the part of both parties.

COMMENT: One commenter asked if "voluntary consent" in definitions at N.J.A.C. 6:38-1.3 can be revoked at any time.

RESPONSE: The Department responds that voluntary consent can be revoked at any time. This is a Federal requirement (34 CFR 300.500(c)). The district would have to implement due process to proceed.

COMMENT: One commenter stated that surrogate parents should be appointed by a disinterested third party such as the Department of Education through its county office.

RESPONSE: The Department responds that the rules are compliant with Federal regulations and require that the person serving as the surrogate have no interest that conflicts with those of the pupil he or she represents.

COMMENT: The same commenter stated that the statement in N.J.A.C. 6:28-2.5 "be knowledgeable in the area of the suspected disability" should be made more specific by providing the team member "have specialized knowledge, training, or experience in the area of the disability suspected."

RESPONSE: The Department responds that the language of this requirement was taken directly from the Federal regulations (34 CFR 300.531(e)).

COMMENT: One commenter asked that the Department include barrier free requirements in approval of facilities.

RESPONSE: The Department responds that the standards of Section 504 of the Rehabilitation Act would apply independent of these rules.

COMMENT: One commenter stated that the definition of parent should not include surrogate parents, people with whom the pupil resides and individuals legally responsible for the pupil's welfare.

RESPONSE: The Department responds that the definition is based upon the Federal definition.

COMMENT: The same commenter stated that the definition of related services omits a number of types of services which are included in that term under the Federal Education for All Handicapped Children Act.

RESPONSE: The Department responds that the definition does not delineate each type of service but uses the Federal definition.

COMMENT: Two commenters asked if the requirement that districts initiate a request for due process if denying a parental request for an independent evaluation is unduly burdensome.

RESPONSE: The Department responds that the Federal regulation, 34 CFR 300.503(b), requires districts to provide the independent evaluation as requested or they may initiate due process.

COMMENT: One commenter asked if the requirement that hearing aids function properly applies to all pupils and whether it is the school's responsibility to replace hearing aids.

RESPONSE: The Department responds that this is a Federal requirement and applies to all deaf or hard of hearing pupils. The Department will develop guidelines to assist in the implementation of this requirement.

COMMENT: One commenter stated that the term "supplementary aids" used in N.J.A.C. 6:28-1.1(h) should be defined.

RESPONSE: The Department responds that this exact language is included in Federal regulations. "Supplementary aids" is not defined by the Federal regulation and includes any service which the participants in the development of the individualized education program (IEP) agree is needed for the educationally handicapped pupil to receive a free, appropriate public education.

COMMENT: One commenter stated that the discipline regulations at N.J.A.C. 6:38-2.8 could be utilized to enable handicapped students to remain in public school programs because their criminal behavior was deemed to be primarily caused by their educational handicap.

RESPONSE: The Department responds that a U.S. Supreme Court decision (*Honig vs Doe*) determined this policy. Handicapped pupils cannot be disciplined for behavior which is the result of their handicap unless the discipline is addressed in their IEP. N.J.A.C. 6:28-2.8.

COMMENT: One commenter stated that the term separate facilities should be clarified to indicate if it refers to all separate facilities or certain types.

RESPONSE: The Department responds that the term, without modifiers, refers to all separate facilities and therefore does not require change. This is a Federal requirement (34 CFR 300.307).

COMMENT: The same commenter stated that "If mediation or due process hearing involves initial admission . . . the child with consent of the parent(s) shall be placed in the public school . . ." causes concern with respect to practical application.

RESPONSE: The Department responds that this is a Federal regulation (34 CFR 300.513).

COMMENT: The same commenter stated that this requirement (N.J.A.C. 6:28-2.3(d)2) places a tremendous paperwork burden on districts.

RESPONSE: The Department responds that this is a Federal regulation (34 CFR 300.513).

COMMENT: One commenter stated that the Department of Education should not be the lead agency for Early Intervention Programs (EIP). This should move to the Health Department.

RESPONSE: The Department responds that it is the lead agency based upon State law (P.L. 1981, c. 415) and through designation by the Governor per Federal law (P.L. 99-457).

COMMENT: One commenter stated that the requirement that reevaluation and IEP be completed within three years of the date of the previous classification needs flexibility.

RESPONSE: The Department responds that Federal regulations require reevaluation within three years. This simply clarifies the exact timeline.

COMMENT: Two commenters stated that the requirement that "at least one member of the multi-disciplinary team have knowledge in the area of the suspected disability" is confusing.

RESPONSE: The Department responds that this is a Federal regulation (CFR 300.531).

COMMENT: Four commenters stated that they strongly urge elimination of "reasonable opportunities" at N.J.A.C. 6:28-1.2(b) and return to "shall include." This threatens to eliminate parental involvement in IEPs.

RESPONSE: The Department responds that "reasonable opportunities" is drawn from Federal language EDGAR 34 CFR 76.301(c)(5). This refers to development of the local educational agency (LEA) special education plan which is not the IEP.

COMMENT: One commenter stated that reevaluation required for change in classification or significant change in placement may result in excessive testing. Observation of student progress frequently provides sufficient information. The definition of "significant" change is unclear.

RESPONSE: The Department responds that reevaluation is required by the Federal regulations (as interpreted through recent court cases) whenever a significant change in placement occurs. The Department shares the concern that pupils should not be unnecessarily subjected to testing. Reevaluation, however, does not necessitate the administration of tests when a review of the pupil's progress through other informal measures and observation are utilized.

COMMENT: Two commenters stated that home instruction pupil count should be required and not "upon request." Similarly, numbers exiting special education should be reported and tabulated.

RESPONSE: The Department responds that all required data collections were mandated by Federal requirements. The "upon request" items were not.

COMMENT: Two commenters stated that the rules should make clear parents' rights to be reimbursed for legal fees if successful.

RESPONSE: The Department responds that the Federal attorneys fees legislation exists as a separate requirement from State special education rules. Department documents address this.

COMMENT: One commenter asked whether N.J.A.C. .6:28-2.3 is required by the Federal government.

RESPONSE: The Department responds that they are Federal requirements (34 CFR 300.504).

COMMENT: The same commenter stated that the provision at N.J.A.C. 6:28-1.2(e)4v will cause needless litigation and should be clarified.

RESPONSE: The Department responds, these provisions are Federal requirements under the Education for All Handicapped Children Act (34 CFR 300.380).

COMMENT: One commenter stated that the requirement that handicapped pupils have available to them the variety of educational services and programs available to non-handicapped pupils is problematic when pupils are placed in off campus programs such as alternate programs.

RESPONSE: The Department responds that the Federal regulation, 34 CFR 300.305, requires that this be made available to handicapped pupils. For off campus programs, when necessary, pupils can be transported to such programs or services.

Eight commenters stated opposition to the readoption in general with no specific reasons indicated.

Ninety-one comments were based on misinterpretations of deletions and regulatory language. The following is a synopsis of the concerns expressed.

COMMENT: Four commenters recommended that the nonpublic definition should include out-of-State schools and should include three to five year olds.

RESPONSE: The Department responds that out-of-State schools and three to five year olds are not eligible for the nonpublic school programs under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19, P.L. 1977, c. 192-193.

COMMENT: Three commenters recommended that age 21 is too late to begin the development of nonbinding written recommendations concerning resources and services.

RESPONSE: The Department responds that the transition item of the IEP at N.J.A.C. 6:28-3.6(e) addresses this.

COMMENT: One commenter suggests the deletion of the current requirement that newly transferred pupils have their classification reviewed and programs developed within 30 calendar days should be reinstated.

RESPONSE: The Department responds that this was not deleted. It was moved to N.J.A.C. 6:28-4.1(h).

COMMENT: The commenter suggests that the Department should not delete the current definition of evaluations.

RESPONSE: The Department responds that these requirements were moved to the section dealing with protection in evaluation, N.J.A.C. 6:28-2.5.

COMMENT: The same commenter suggested the Department should not delete procedural safeguards for IEP currently set forth in N.J.A.C. 6:28-3.6(c)1 to 4.

RESPONSE: The Department responds that the standards in N.J.A.C. 6:28-3.6(c)1 to 4 have been clarified and moved to N.J.A.C. 6:28-2.3(f).

COMMENT: One commenter states that the current requirement in N.J.A.C. 6:28-3.2(d) should not be deleted as it creates a serious gap with respect to how pupils new to a district shall be placed.

RESPONSE: The Department responds that non-classified pupils are entitled to placement in regular education. If referral to the team is needed it can be made.

COMMENT: Two commenters felt that it is assumed, although not stated, that photocopies of pupil records will be permitted and requested "to copy" be inserted for clarity in subsection N.J.A.C. 6:28-2.9(b). Timelines for appeal were deleted improperly.

RESPONSE: The Department responds that the term "copy" is sufficiently clear. Timelines for appeal are in N.J.A.C. 6:3-2 as stated.

COMMENT: One commenter suggested that the requirement that evaluation be conducted on an individual basis should not be deleted.

RESPONSE: The Department responds that this requirement has been moved to N.J.A.C. 6:28-2.5(a)7 dealing with protection in evaluation.

COMMENT: Five commenters suggested the Department retain the definition of least restrictive environment (LRE).

RESPONSE: The Department responds that the definition of LRE has been moved from N.J.A.C. 6:28-1.3 to N.J.A.C. 6:28-2.10 and grouped with all other LEA requirements.

COMMENT: One commenter asks the question, "Does the elimination of the annual submission of assurances for a mediation process mean that districts no longer have to address parental disputes?"

RESPONSE: The Department responds that a new section, N.J.A.C. 6:28-1.4, requires district boards of education to develop and adopt policies for due process and mediation. These policies will include a process to settle parental disputes.

COMMENT: The same commenter suggested adding "and nonjudgmental" to N.J.A.C. 6:28-1.2, Plans for special education.

RESPONSE: The Department responds that it is already included in N.J.A.C. 6:28-2.6(b)3.

COMMENT: Two commenters suggested the Department retain the provisions on appeals regarding pupil records (currently N.J.A.C. 6:28-2.9(b) 1,2,3.)

RESPONSE: The Department responds that appeal procedures are contained in N.J.A.C. 6:3-2.

COMMENT: One commenter suggests that the Department should not delete the provisions regarding pupil records hearings from N.J.A.C. 6:28-2.9(b).

RESPONSE: The Department responds that these are addressed in N.J.A.C. 6:3 and it would be redundant to repeat here.

COMMENT: One commenter felt that preschool should not be dropped from the rules.

RESPONSE: The Department responds that the language was not necessary because the definition of "preschool handicapped" is contained in N.J.A.C. 6:28-3.5(c)8.

COMMENT: Five commenters recommeded changing the age five definition to December 31 so that it is consistent with the definition for age three.

RESPONSE: The Department response is that the age five definition is set by statute N.J.S.A. 18A:44-2.

COMMENT: Two commenters felt there should be a specific limit added for suspensions on a temporary basis.

RESPONSE: The Department responds that the time limit in N.J.A.C. 6:28-2.8(d) applies in this case.

COMMENT: Two commenters felt that the meaning of "business services" is unclear.

RESPONSE: The Department responds that "business services" is the title of the private school tuition rules, N.J.A.C. 6:20-4, and is sufficiently clear.

COMMENT: One commenter felt that the requirement which sets forth that "approval for the initiation, expansion, or change of a program . . ." is far too vague.

RESPONSE: The Department responds that this citation was changed based upon comments at public testimony by the Association of Schools and Agencies for the Handicapped, to state "approval to establish or change a program."

COMMENT: One commenter felt that hearing decision enforcement implementation procedures should be included.

RESPONSE: Such procedures are available to the public on request and provided to parents requesting enforcement. This is a procedural issue and does not need to be in regulation.

COMMENT: The same commenter felt that parents should be told of their rights to an independent evaluation before and after local child study team evaluation.

RESPONSE: Parents receive a copy of the rules after initial evaluation. The right to independent evaluation is available if parents disagree with the evaluation performed.

COMMENT: The same commenter felt that the Department should add "at no cost to parent(s)" to the definition of special education.

RESPONSE: There are already numerous citations in N.J.A.C. 6:28 which state that a free public education is available to educationally handicapped pupils.

COMMENT: The same commenter objects to the definition of IEP as parent is not defined as a partner in the development of the IEPs.

RESPONSE: The role of the parent in the development of IEPs has been emphasized in the proposed amendments under N.J.A.C. 6:28-3.6(c), 2.3(a) and 2.3(e)3.

COMMENT: The same commenter suggested a change to the Federal definition of related services which states "as indicated in the pupil's IEP" as opposed to "as required by" the IEP.

RESPONSE: The Department feels that "as required by" is stronger language indicating the necessity to provide such services if in the IEP.

COMMENT: The same commenter stated that since a mediator is described as an arbitrator, their selection must be based on their objectivity.

RESPONSE: The Department agrees that mediation should be impartial. This is a training issue in the preparation of personnel and not a rulemaking issue.

COMMENT: The same commenter felt that schools should be held to the higher standard of LRE regarding maximum extent possible versus maximum extent appropriate.

RESPONSE: Maximum extent appropriate assures that this is appropriate for the pupil, not just possible to arrange.

COMMENT: Two commenters felt that parents should be informed of their right to emergency relief if mediation fails to find a solution to the disagreement and emergency relief should be defined.

RESPONSE: Emergency relief is not always appropriate for failed mediations. However, Department staff routinely informs parents of this right when it appears possible to utilize. Emergency relief is defined in N.J.A.C. 6:28-2.7(d) and more fully N.J.A.C. 1:6A.

COMMENT: One commenter suggests clarification of the title "Speech-Language Specialist."

RESPONSE: The title would be included under certified speech-language specialist as long as the person is school certified.

COMMENT: One commenter raised the question, "Will there still be the requirement for detailed justification of the reasons why the High School Proficiency Test (HSPT) is not administered?"

RESPONSE: Documentation is required as stated in N.J.A.C. 6:28-4.8(b). Exemptions will be allowed for any pupils whose IEPs have not included the range of proficiencies measured by the HSPT and curriculum proficiencies or if the pupil would be adversely affected by taking the HSPT.

COMMENT: One commenter recommends adding the following language to N.J.A.C. 6:28-8.4, State facilities: "(g) handicapped students placed in a State facility by a State agency will not require a 417 form unless the LEA has initiated such placement."

RESPONSE: The Department responds that there is no requirement in the proposed rules for the use of an approval form for placement in a State facility. Therefore, the addition is unnecessary.

COMMENT: One commenter raised the question, "Why are only private schools required to provide the annual approval information and not other agencies included in Subchapter 7?"

RESPONSE: Other agencies listed under subchapter 7 also provide this information through the fall report and other data collection which is not required of the private schools.

COMMENT: The same commenter suggested the Department define "establish or change of program" as stated in N.J.A.C. 6:28-7.2, Approved private schools.

RESPONSE: These terms are already clearly defined and the same as used for district boards of education in N.J.A.C. 6:28-4.1(c).

COMMENT: One commenter expressed concern that pupils are not effectively integrated in regular education.

RESPONSE: The Department currently offers assistance to districts to assist them in integrating pupils into regular education in their own communities.

COMMENT: Two commenters suggest the Department delete "if appropriate" from N.J.A.C. 6:28-3.7(a)5 (reevaluation) since one should always be required.

RESPONSE: The Department responds that in some cases, after reevaluation the pupil is declassified. Therefore "if appropriate" must remain.

COMMENT: Two commenters stated that they assume the right to review any additions to sections N.J.A.C. 6:28-10.2 and 10.3 prior to their subsequent approval by the State Board.

RESPONSE: Any amendments to this chapter will go through a formal adoption process which includes public testimony and a public comment period.

COMMENT: The same two commenters suggested the Department include an individual transition plan in the IEP built around assessment of vocational needs. Transition should begin at age 14 at the latest.

RESPONSE: The Department responds that the use of an individual transition plan would be redundant with the IEP.

COMMENT: The same two commenters suggest the Department return use of "comprehensive" child study team evaluation. The change from comprehensive to initial evaluation is unacceptable. All evaluations must be comprehensive.

RESPONSE: The titles were changed to clarify the differences between initial and reevaluation. The requirements for the comprehensiveness of the evaluations have not changed.

COMMENT: The same two commenters strongly applaud the Division's efforts to ensure an orderly transition from EIP to preschool and suggest adding required referral of EIP transition pupils to resident district.

RESPONSE: The Department responds that a referral cannot be required because parental consent must be obtained. The Department works with EIPs to facilitate communication between home and school.

COMMENT: The same two commenters suggest the Department add a subsection "e" after N.J.A.C. 6:28-3.1(d) which would require case

management to insure positive transition at age 21 and add "knowledge of related community based programs" to N.J.A.C. 6:28-11.3(d) to insure orderly effective transition at age 21.

RESPONSE: Teams cannot be made responsible to insure a positive transition because once pupils reach the age of 21 and leave school they are out of the control and responsibility of teams.

COMMENT: The same two commenters suggest that part two of the plan should be "shared at public meetings."

RESPONSE: The data are public information which are summarized in a document published by the Department.

COMMENT: One commenter felt that there is no approval process relative to State facilities.

RESPONSE: The authority of the Department of Education to approve State facilities is specified in N.J.S.A. 18A:46-14 and 15.

COMMENT: The same commenter suggests that requiring the filing of professional certificates in both offices is redundant.

RESPONSE: The filing of certificates in the county office is necessary to ensure compliance with N.J.A.C. 6:28-8.4(c)2.

COMMENT: One commenter felt that information concerning transportation should be contained in the IEP.

RESPONSE: Transportation information is included in the IEP as per N.J.A.C. 6:28-3.8(a)5.

COMMENT: One commenter felt that the Department should provide uniform guidelines for policies and procedures as noted in N.J.A.C. 6:28-1.4 and 3.2.

RESPONSE: The Department responds that guidelines, although they will be provided, are not meant to be enforceable as rules thereby allowing greater flexibility.

COMMENT: The same commenter questions the use of three dots between definitions as unclear.

RESPONSE: This means that portion of the rule was unchanged.

COMMENT: The same commenter felt that consent for record release is unclear and should be limited to parent or adult pupil.

RESPONSE: N.J.A.C. 6:28-1.1(n) refers to N.J.A.C. 6:3-2 in which all records rules are delineated.

COMMENT: The same commenter suggests the Department delete "if significant change in placement," since *Honig v. DOE* states a suspension of 10 days or more is a significant change in placement whether or not consecutive.

RESPONSE: N.J.A.C. 6:28-2.8(d)2 addresses this concern.

COMMENT: The same commenter recommends that the Department should not delete current N.J.A.C. 6:28-4.1(g) and (i).

RESPONSE: These are redundant requirements.

COMMENT: The same commenter feels that the Department should approve EIP's on an annual basis.

RESPONSE: EIP's are not approved. Their applications, however, are submitted for approval annually per N.J.A.C. 6:28-10.1(e).

COMMENT: The same commenter suggests the Department add "or with respect to any action or inaction by the district related to this Chapter" to N.J.A.C. 6:28-2.7(a) for those times a hearing may be requested.

RESPONSE: This addition is redundant to that subsection.

COMMENT: The same commenter suggests the Department not delete that subsection (N.J.A.C. 6:28-2.7(d)) requiring parent notice of right to emergency relief.

RESPONSE: N.J.A.C. 1:6A provides a full explanation of emergency relief. This subsection was redundant and incomplete.

COMMENT: The same commenter suggests the Department state the definition for "least restrictive environment" formerly in N.J.A.C. 6:28-1.3 in N.J.A.C. 6.28-2.10 to ensure that "the educational setting is selected in light of a pupil's special education needs."

RESPONSE: The special education needs are addressed in N.J.A.C. 6:28-2.10(a)4, which addresses the individualized education program.

COMMENT: Three commenters state that the preschool screening timelines are unclear as to their relationship to the total 90 day evaluation period. Is it before or during?

RESPONSE: Screening is not included in the 90 day timeline. It has no relationship to it.

COMMENT: One of the same commenters states that reevaluation is not clear in the past or in the proposal. May the speech/language therapist be one of the two persons to evaluate the pupil at age five?

RESPONSE: At age five, the speech/language specialist is no longer a part of the team and could no longer conduct the reevaluation.

COMMENT: One commenter states that the inflexibility of criteria setting eligibility will render some pupils with no available program between EIP and preschool.

RESPONSE: The Department disagrees. EIPs must continue to provide programs to children until they meet age requirements for preschool as stated in N.J.A.C. 6:28-1.3.

COMMENT: One commenter states that the use of the term "class size" is inconsistent and unclear. Instructional group size is suggested.

RESPONSE: The Department disagrees. The term is clearly defined. N.J.A.C. 6:28-4.4(b)3 begins by stating "For instructional purposes."

COMMENT: The same commenter states that some provision is needed to account for the impact which the inability to use the pupil's language has on the test and evaluation results. It is also imperative that specific steps be required to assure the validity of the evaluation despite the inability to use the pupil's native language.

RESPONSE: The Department disagrees. N.J.A.C. 6:28-2.5(a)4i states that evaluation procedures be selected and administered "so that the pupil's cultural background and language abilities are taken into consideration."

COMMENT: The same commenter states that the proposed definition of the term "preschool handicapped" would keep children who reach their fifth birthday by the kindergarten cut-off date in the peschool programs rather than allowing placement in kindergarten.

RESPONSE: The Department disagrees. These pupils would be eligible for kindergarten which is an elementary program and thus N.J.A.C. 6:28-1.1(d) would apply. These five year olds would be eligible for special education and/or related services.

COMMENT: One commenter states that the word parental should be added before consent.

RESPONSE: The Department disagrees. The addition of parental is unnecessary in that the definition clearly states the parent's role.

COMMENT: The same commenter states that the addition of the terms "determined collaboratively" removes the classification decision from being made solely by the team.

RESPONSE: The Department disagrees. The determination of eligibility must be a collaborative process or the participation of the individuals required by Federal regulations lacks purpose.

COMMENT: Two commenters recommend including "obtaining related services" as a reason to need a hearing.

RESPONSE: The Department disagrees with the need for express inclusion because this is included in the provision of a free, appropriate public education and is therefore an issue which may be brought to a hearing.

COMMENT: The same two commenters recommend addressing extended day or extended school year in IEPs not through exceptions.

RESPONSE: The Department disagrees. Extended day or extended school year would not require exceptions because they are not exceptions to the requirements of this chapter. Only shortened day or year would apply.

COMMENT: One commenter states that it seems inappropriate to provide a student with a copy of these rules without an appropriate counseling component.

RESPONSE: The Department disagrees because nothing in the rules prohibits such a counseling component.

COMMENT: The same commenter states that there does not seem to be an opportunity for parents to decline programs or services without utilizing due process.

RESPONSE: The Department disagrees. Parents may decline services for their child. However, if the child study team is convinced that the services proposed are necessary, the district would have a legal responsibility to pursue the provision of these services (through notice or due process as necessary).

COMMENT: The same commenter questions the need for an affidavit for emergency relief.

RESPONSE: The Department disagrees the emergency relief hearing occurs within three days without the usual discovery procedures. The affidavit is required by the Office of Administrative Law to provide a sworn statement of the issues and relief sought.

COMMENT: The same commenter states that the requirement for pupils transferring in N.J.A.C. 6:28-4.1(h) reduces flexibility by removing the 30 days schools previously were given to program for students transferring from other districts.

RESPONSE: The Department disagrees. The previous requirements did not allow for a 30 day time limit and the proposed rules clarify that.

COMMENT: The same commenter recommends clarification as to whether reimbursement will be based on hours of service or the numbers of students served.

RESPONSE: Clarification of this issue would need to be made in the finance rules, not in N.J.A.C. 6:28.

COMMENT: The same commenter states that the focus of subchapter 9 centers on compliance with no provision for technical assistance from the Department.

RESPONSE: The Department agrees that technical assistance should be provided. In fact, a vast variety of technical assistance is given each year in compliance with Federal standards. It is not appropriate to write this requirement into the rules at N.J.A.C. 6:28 in that the Department does not regulate itself by these rules.

COMMENT: The same commenter states that resource room instruction which must be "in place of" regular classroom instruction appears to conflict with subchapter 2.

RESPONSE: The Department disagrees. There is no conflict in that subchapter 2 maintains the separation of support and replacement activities.

COMMENT: The same commenter recommends correcting the reference to N.J.A.C. 6:28-3.4(h) in N.J.A.C. 6:28-3.5(c)2ii.

RESPONSE: The Department corrected the reference to N.J.A.C. 6:28-3.4(g).

COMMENT: The same commenter recommends clarifying complaint investigation procedures.

RESPONSE: The Department disagrees that the procedures need further explanation in the rules because they are explained in published guidelines.

COMMENT: One commenter suggests that, for EIP's, full scale monitoring annually is excessive and unnecessary. Monitoring should occur once every five years.

RESPONSE: Yearly monitoring is necessary due to the fact the contract is on an annual basis.

COMMENT: Two commenters suggest that for EIP's contract funds are restrictive and do not cover the cost of operating the programs.

RESPONSE: Funding is up to the extent appropriated by the legislature.

COMMENT: One commenter suggests that in N.J.A.C. 6:28-10.1 the Department delete the word "administered" and substitute "approved" as applied to EIPs.

RESPONSE: The language in this section is in compliance with P.L. 1981, c.415 and therefore cannot be amended.

COMMENT: One commenter states that there appears to be a conflict in interpretation of whether or not a parent can request an independent reevaluation at the time of reevaluation.

RESPONSE: N.J.A.C. 6:28-2.5(b) states that parents may request an independent evaluation when they disagree with the evaluation provided by the district. This would include reevaluation.

COMMENT: The same commenter suggests that the Department clarify the intent of the statement regarding the decision of the Office of Administrative Law judge being final, binding and to be implemented without delay.

RESPONSE: The department responds that this issue was raised based on language that was not part of the final proposal published in the New Jersey Register. The change requested was in fact made as part of that proposal and subsequently adopted.

COMMENT: The same commenter states that the Department should change the code to say "to inspect and secure those records" so districts would not need to charge a fee to parents.

RESPONSE: The Public Information Act allows for the free inspection of records and a reasonable charge.

COMMENT: The same commenter suggests the Department modify the rules to clarify the intent that it is the district's obligation to include on its child study team persons knowledgeable about program options.

RESPONSE: The Department responds that this is clear as N.J.A.C. 6:28-3.1(b) states that child study team members are employees of a district board of education.

COMMENT: The same commenter states delete [N.J.A.C. 6:28-]1.4(c) as it is premature to enact prior to the Plan to Revise."

RESPONSE: The Department is unable to respond since there is no citation for a subsection N.J.A.C. 6:28-1.4(c) in the proposed amendments.

COMMENT: The same commenter states that district personnel may have to commute unreasonable distances to provide home instruction to pupils confined to hospitals. Secure mental institutions do not permit access by school staff. Local districts cannot control the amount of instruction in hospitals.

RESPONSE: Districts may contract with certified teachers in these institutions or in nearby educational services or jointure commissions to provide instruction. This eliminates the problem of commuting and security in the facilities. Local districts can and must control the amount of instruction for pupils under their jurisdiction.

COMMENT: The same commenter states that the new language in N.J.A.C. 6:28-6.1(a) is not specific or clear.

RESPONSE: N.J.A.C. 6:28-6.1(a) was modified as it was redundant with N.J.A.C. 6:28-6.2(a). It was clarified to state the programs and services to which it applies. The Department feels it is clear and specific.

COMMENT: The same commenter suggests adding the word "required" before "documentation" in N.J.A.C. 6:28-1.1(m).

RESPONSE: The rules themselves contain the specific requirements which must be maintained as documentation.

COMMENT: The same commenter suggests including a reference index to the chapter revisions.

RESPONSE: An index will be developed and distributed after the adoption as it has been in the past.

COMMENT: The same commenter suggests that the reference in N.J.A.C. 6:28-1.4(a)10 to N.J.A.C. 6:28-1.3 is unnecessary as it has been eliminated.

RESPONSE: The Department responds that this reference was incorrect and was corrected in the proposal and subsequently adopted.

COMMENT: The same commenter suggests N.J.A.C. 6:28-2.3(a)1 and 4 are redundant.

RESPONSE: The Department agrees that they are repetitious, but have been retained to clarify the requirements.

COMMENT: The same commenter questions the ability of districts to provide 10 hours of instruction per week due to the lack of certified instructors and money.

RESPONSE: Districts are funded by State Aid for each hour of home instruction provided to pupils. Districts may contract with certified teachers from other agencies outside their district to provide home instruction.

COMMENT: The same commenter asks why is N.J.A.C. 6:28-8.2 included as it refers to N.J.A.C. 6:3-2, the pupil record code rules?

RESPONSE: Two requirements of this section are additional rules to N.J.A.C. 6:3-2 which are specific to State facilities.

COMMENT: One commenter suggests that the IEP serve as the alternate requirements to meet the high school graduation requirements for severely handicapped pupils.

RESPONSE: The Department agrees that this is appropriate and the rules would permit this as stated currently.

COMMENT: The same commenter suggests instruction in the resource room should be based upon the pupil's IEP and the adoption of a resource room curriculum is essentially impossible to design and/or implement. It is suggested that resource room programs be defined by curriculum adopted by the board for the regular education program as modified by the pupil's IEP.

RESPONSE: The Department responds that no change to the rules is required. Districts may, if they so choose, adopt the regular education curricula utilized in the appropriate grades and subjects as the curriculum of the resource room.

COMMENT: The same commenter suggests decision making meetings in N.J.A.C. 6:28-7.4(a)1 should be defined.

RESPONSE: The Department agrees and the term decision making was deleted at proposal and a reference to N.J.A.C. 6:28-2.3(f) was added. This was published as such in the New Jersey Register.

COMMENT: The same commenter states that education regarding the intent of N.J.A.C. 6:28-2.8 with non-special education personnel is needed.

RESPONSE: The Department agrees that educating non-special education personnel is important, however this falls within the scope of general education. Regulatory requirements in this section are not appropriate.

COMMENT: The same commenter suggests the requirement that the regular program be provided in the home school should be changed to require that the program be provided within the district.

RESPONSE: The Department agrees and this is reflected in N.J.A.C. 6:28-2.10(a)5.

Eight comments were recommended to the State Board of Education as non-substantive changes at adoption level to clarify the proposed text.

COMMENT: One commenter recommends that the reference to eligible for speech correction in N.J.A.C. 6:28-3.5(c)6 should be changed.

RESPONSE: This reference was changed upon adoption to the more correct term "speech-language services."

COMMENT: One commenter recommends that the word "handicapped" be inserted between preschool and pupils at N.J.A.C. 6:28-1.1(e).

RESPONSE: This clarifying change was made at adoption.

COMMENT: One commenter questions whether the reference to "eight weeks" in N.J.A.C. 6:28-11.2(c) means calendar or school.

RESPONSE: The Department changed the reference to "calendar" weeks to clarify this requirement.

COMMENT: One commenter recommends punctuation at N.J.A.C. 6:28-3.7(a) to avoid ambiguity of both actions where only one may be optional.

RESPONSE: The Department agrees and made the change upon adoption.

COMMENT: One commenter questions how the 10 hours of home instruction required under N.J.A.C. 6:28-4.5(b)4 is to be spread over a week for pupils classified by the team?

RESPONSE: The Department made a change upon adoption to clarify the intent that the hours of instruction be distributed in the same manner as for pupils classified by the school physician, that is, in no fewer than three visits on at least three separate days.

COMMENT: One commenter suggests that the addition of "or the designated representative" at N.J.A.C. 6:28-2.9(b) is not clear and questioned who would designate?

RESPONSE: The Department responds that a nonsubstantive change was made to the rule to state "or their designated representative."

COMMENT: One commenter suggests that adding who may be "educationally" handicapped at N.J.A.C. 6:28-3.1 is stretching public education too far.

RESPONSE: The Department agrees and initiated a nonsubstantive change in the adoption to clarify this requirement.

COMMENT: One commenter suggests the requirement at N.J.A.C. 6:28-8.4(b) should be changed to limit placement to only educationally handicapped pupils.

RESPONSE: The Department agrees and a change was made at adoption level to insert the words "educationally handicapped" before pupil.

Possible future action will be considered by the Department regarding nine comments which recommend substantive changes. These issues were raised for the first time and merit further consideration.

1. There is confusion as to what is meant by the phrase "at least one grade of" as compared to the individual pupil referred to in N.J.A.C. 6:28-1.1(g)2.

2. The rules should require consent for referral as well as evaluation.

3. It is suggested that the last line of N.J.A.C. 6:28-2.5(a) be changed so as to state that the test shall not measure the impairment itself, "unless that it is the intended purpose of the testing."

4. The requirements should require notice for referral of a pupil not just evaluation.

5. Add language to state that all students, for whom the State has been determined the responsible district, shall be granted appropriate credit and State endorsed high school diplomas for educational work completed in State facilities.

6. The Department of Corrections/Department of Human Services' Office of Education should be included as a party who may request due process or an independent evaluation.

7. Inconsistency is apparent in that no disciplinary action may be imposed if due to handicap, yet suspension is permitted for up to 10 days. Amend N.J.A.C. 6:28-2.8(b)1 and delete N.J.A.C. 6:28-2.8(d)2.

8. Thirty day timeline should be retained in N.J.A.C. 6:28-3.6(b).

9. It is not clear whether class size applies to county vocational schools, comprehensive high schools, local area vocational school districts or all of the above. There appears to be a conflict between N.J.A.C. 6:28-4.1(h)-4.1(i)1 and 4.4(c)2i.

Eighty-three comments were reviewed and rejected based on the rationale provided. A summary of those comments follows:

COMMENT: A commenter suggested that the consultation time for resource room teachers not be deleted from the rules.

RESPONSE: The Department disagrees with the suggestion, since resource room teachers provide instruction in place of regular class instruction and therefore there is no clear purpose for the continuation of this consultation time.

COMMENT: Two commenters stated that policies and requirements for early intervention programs have become extensive and should be evaluated and codified.

RESPONSE: The Department will review its policies and procedures once Federal Law P.L. 99-457 is implemented in 1991.

COMMENT: Nine commenters requested the deletion of the proposed amendment which states that the New Jersey standard is the same as that set under the Education for All Handicapped Children Act.

RESPONSE: The Department disagrees with the request, since it is necessary to clarify that the standard in N.J.A.C. 6:28 has been the same as the Federal standard.

COMMENT: Four commenters suggested the rules should state who the mediators will be and how they are to serve. It was also suggested that mediators not be selected from the Department of Education.

RESPONSE: The Department disagrees with the suggestion, as the mediators are Department employees and have been quite successful in offering mediation over the past five years.

COMMENT: Two commenters requested that the proposed rules regarding child study team responsibilities be deleted and the rule in effect be retained.

RESPONSE: The Department disagrees with the request as these are not mandated responsibilities.

COMMENT: One commenter recommended that for-profit approved private schools for the handicapped be excluded from the definition of private schools.

RESPONSE: The Department disagrees as it must regulate nonprofit and for-profit private schools in a consistent manner.

COMMENT: One commenter requested that the proposed rules be redrafted and republished for public comment and also requested that there be at least one additional public testimony session concerning the rules.

RESPONSE: The Department disagrees. Two public hearings were held by the State Board of Education. Written comments submitted by this particular commenter were included in the State Board's review. Written comments receive the same consideration as public testimony.

COMMENT: Fourteen commentors suggested changes to the terms: "age five," "emancipated minor," "kindergarten," "significant deficit," "adaptive behavior," "recreation," "evaluation of pupils," "nonpublic", "private", and "parochial schools," "ensure that," "procedures," "significant change in placement," and "changing the structure of its governing body."

RESPONSE: The Department disagrees with these recommendations as the rule language is specific.

COMMENT: One commenter recommended a provision be added to indicate that there is no intent to prohibit parents from changing their child's placement.

RESPONSE: The Department disagrees with this recommendation, since parents may unilaterally change their child's placement only by withdrawing from the public school which would remove them from the authority of these rules.

COMMENT: Two commenters recommended that both parties, rather than only the school district, be given the same 30 day period to act before a hearing is requested.

RESPONSE: The Department disagrees with the recommended changes as parents are given 15 days notice of any proposed or denied action. Schools are given 30 days prior to the implementation of a due process request. Schools have large numbers of children to consider and other legal requirements on the time of their teams. Decreasing the 30 days would be an unreasonable burden and increasing the parents' 15 days would delay the timely provision of services to children.

COMMENT: The same commenters recommended that the requirements that parents receive, on request, a postponement of the prehearing conference at least 15 days.

RESPONSE: The Department disagrees because the 15 days, postponement delayed the timely provision of a due process hearing after the request was received. Additionally, this 15 day timeline applied only to the settlement conference. Parents can request and receive delays at OAL once the hearing is scheduled.

COMMENT: One commenter suggested that the current requirement in N.J.A.C. 6:28-3.2(d) should not be deleted. This creates a serious gap with respect to how pupils new to a district shall be placed.

RESPONSE: The Department disagrees because nonclassified pupils are entitled to placement in regular education. If referral to the team is needed, it can be made. Transferring classified pupils is discussed under N.J.A.C. 6:28-4.1(h).

COMMENT: One commenter suggested that the definition of preschool handicapped would limit eligibility for preschool services to pupils who require and would benefit from special education and related services.

RESPONSE: The Department disagrees with the suggested change as related services shall be related to an educational program. Preschoolers are afforded an educational opportunity equal to the Federal standard which is special education and related services.

COMMENT: One commenter urged that it be expressly stated that with regard to eligible for day training pupils that such pupils not automatically be placed in a State operated facility.

RESPONSE: The Department agrees and is currently studying this issue. However, the rules cannot be changed until a statutory change is made first.

COMMENT: Three commenters recommended opposing points regarding the transition of pupils at age 14. One stated that this age was too early; one said it was too late. Another commenter stated that there should be a stronger statement on transition in the rules.

RESPONSE: The Department disagrees. The choice of age 14 to begin this very preliminary consideration was based upon research in the field of transition. It would be inappropriate to include any other requirement at this time, as the department is preparing a publication on transition services.

COMMENT: One of the same commenters stated that for pupils confined to a hospital, convalescent home or other medical institution, the limit of three pupils per instructional group is too restrictive.

RESPONSE: The Department disagrees. This code reflects an increase in flexibility by allowing small group instruction for these pupils for the first time.

COMMENT: Two commenters stated that the requirements surrounding for profit private schools and their board of directors are unacceptable in that the rules require owners to forfeit their legal and proper authority to make decisions concerning the operations of their schools.

RESPONSE: The Department disagrees because the corporations funded by private schools for the handicapped must be regulated since these schools are funded from public funds and educate public school pupils.

COMMENT: One commenter stated that the provision of subchapter 2 to parents, including information on surrogate parents, LRE, and records, at the time when parental consent is sought, is overwhelming to the parents.

RESPONSE: The Department disagrees because the Federal requirements mandate that parents receive all their procedural safeguards. It is necessary to give parents copies of the entire subchapter to ensure that these requirements are met.

COMMENT: Four commenters suggested deleting the requirement for a reevaluation on transition from preschool handicapped to a school age handicapped classification as this could lead to overassessment.

RESPONSE: The Department disagrees since testing is not required for a reevaluation. Therefore, overassessment is not an issue.

COMMENT: The same commenters stated that in establishing guidelines for the vocational rehabilitation facilities, it is important that appropriate evaluations are provided for lower functioning pupils.

RESPONSE: The Department agrees, but declines to add language to the rules. It is unnecessary, as this can be addressed through the child study team evaluation plan.

COMMENT: Two commenters recommended that the definiton of age three include the chronological age of three.

RESPONSE: The Department disagrees with this recommendation. The use of chronological age three would be extremely disruptive to the programs of all preschool pupils, that is, mid-year transfers from and to programs.

COMMENT: One of the same two commenters recommended adding that a surrogate parent be provided when, "The parent is unavailable and/or unresponsive."

RESPONSE: The Department disagrees with this recommendation because a parent's rights may not be removed simply because they are momentarily unavailable or unresponsive.

COMMENT: The same commenter urged the establishment of a time frame to address the maximum amount of time a student may remain on home instruction.

RESPONSE: The Department disagrees, as the rules state that the pupil "may receive home instruction beyond 60 calendar days only with written approval of the Department of Education through its county office", and this is sufficient protection.

COMMENT: One commenter recommended that 10 hours of home instruction should be reduced for preschool pupils since it would compare to 100 percent of time if at school.

RESPONSE: The Department disagrees. The requested change as an exception according to N.J.A.C. 6:28-4.6 can be sought for individuals for whom this is excessive.

COMMENT: One commenter recommended that copies of procedural safeguards should go to all parents not just to those of children age three to five when presented for potential need for special education.

RESPONSE: The Department disagrees because N.J.A.C. 6:28-2.1(d) clearly states that procedural safeguards are to be given when consent for initial evaluation is requested, a parent identifies to the district board a child age three to five, or notice is sent.

COMMENT: The same commenter recommeded that language be added to N.J.A.C. 6:28-2.8(b) to treat suspension separately from other disciplinary actions. Add "discipline, other than suspension."

RESPONSE: The Department disagrees with the recommended changes as all rules for disciplinary action are included in this section. This has been the case since the previous rules were adopted.

COMMENT: The same commenter suggested the deletion of the words "substantial disruption to educational process" in N.J.A.C. 6:28-2.8(b). Add a statement that students may not be suspended unless they pose a threat to their own or other's safety.

RESPONSE: The Department disagrees with the recommendation to change the language of the rule because discipline on a temporary basis for substantial disruption to the education process is necessary to protect the other pupils' rights.

COMMENT: The same commenter suggested N.J.A.C. 6:28-2.8(c) and (d) be reordered to reflect the sequence in which action should take place. The child study team should make their determinations before the principal suspends a pupil.

RESPONSE: The Department disagrees because the order is appropriate in that the team reviews, but does not act until necessary.

COMMENT: The same commenter suggested that once parental permission is gained, child study teams should not judge "appropriateness" of referral.

RESPONSE: The Department disagarees because referral is to the team which, in fact, meets to determine the need for an evaluation. Consent for referral does not automatically ensure evaluation.

COMMENT: The same commenter requested that the detail of the IEP in N.J.A.C. 6:28-3.6(e)2 not be deleted.

RESPONSE: The Department disagrees as this list was unnecessarily extensive. Each of these items may now be addressed only if appropriate.

COMMENT: The same commenter requested that the requirement for staff certification in N.J.A.C. 6:28-8.4(c)3 not be deleted.

RESPONSE: The Department disagrees with this request since the requirement for yearly certification review was not necessary. All professional certificates are on file in county offices per N.J.A.C. 6:28-8.4(c).

COMMENT: The same commenter suggested that the monitoring process of N.J.A.C. 6:28-9.1(b)1 through 4 be continued as mandatory.

RESPONSE: The Department disagrees as each of these options was not always required, hence the use of "may."

COMMENT: One commenter requested that a policy requiring the district board of education to provide private areas to conduct evaluations and hold conferences be added to the rules.

RESPONSE: The Department agrees that this is professionally appropriate. However, provision of such space need not be controlled by rule.

COMMENT: The same commenter recommended that the timeline requiring the implementation of an IEP within 30 calendar days be changed if an IEP is completed at the end of the school year.

RESPONSE: The Department disagrees with the recommendation to change the language of the rules because the IEP can address the implementation date which would remove any possible noncompliance issues due to the closing of school or other program concerns.

COMMENT: The same commenter suggested that N.J.A.C. 6:28-3.5(a) and 2.3(f) appear to be contradictory in who shall attend the IEP meeting.

RESPONSE: The Department disagrees as there is no inconsistency in these requirements. The full team is required to particpate only on an initial evaluation.

COMMENT: The same commenter asked the question, "Can the recommedations in reports from independent evaluations be rejected but the report be acceptable?

RESPONSE: The Department responds that the rules require only the acceptance or rejection of the reports. Rejection of a portion of the report (that is, recommendations) would be noted in writing as stated.

COMMENT: The same commenter asked, "Why isn't the special class teacher provided with consultation time with the regular teaching staff?"

RESPONSE: The Department responds that consultation time is not prohibited; however, it is not required. This would be a local negotiation issue.

COMMENT: The same commenter recommeded decreasing the age span of four years at the primary level.

RESPONSE: The Department disagreed with this recommendation as the four year age span is the maximum allowed. Placement is to be based on appropriateness for the individual pupil.

COMMENT: The same commenter suggested that it should be optional to refer pupils on home instruction due to illness to the child study team after 60 days.

RESPONSE: The Department disagrees since the provision of home instruction requires only a minimum of five hours per week. Referral to the team is for the protection of the pupil.

COMMENT: Two commenters recommended changing calendar days to school days throughout the rules.

RESPONSE: The Department disagrees. The use of calendar days ensures the timely delivery of services to pupils.

COMMENT: Three commenters recommended that the definition of age three should return to the district cut off date. The new code definition will unnecessarily increase the need for space and teachers and have economic impact on local school districts.

RESPONSE: The Department disagrees with this recommendation as the proposed definition allows for consistency in the entrance into preschool programs. The fact that a small number of pupils will enter earlier than under the previous system is seen as a benefit to the pupils. Districts will receive funding for these children.

COMMENT: Two commenters recommeded the deletion of "the child study team shall prepare and forward to the principal and the parent(s) a written statement . . ."

RESPONSE: The Department disagrees. These written statements are necessary to document the team's receipt of the notice and to allow the team to address placement issues prior to the student's suspension for a total of 10 days.

COMMENT: One of the same commenters recommended that the requirement should be extended to allow placement by September 30 as opposed to the opening of school for pupils entering preschool.

RESPONSE: The Department disagrees. This requirement is to ensure the placement of preschool handicaped pupils by the opening of school so that they do not miss one month of the program.

COMMENT: The same commenter recommended that the requirement for the use of observation and teacher conferences by the psychologist and social worker should be optional.

RESPONSE: The Department disagrees as this requirement is based upon sound assessment practices and should remain.

COMMENT: The same commenter suggested that maintaining class size requirements for special subject areas is too restrictive.

RESPONSE: The Department disagrees with the suggested change because pupils in special class programs who can benefit from instruction in larger groups may be mainstreamed and/or special subject teacher may team teach the subject.

COMMENT: The same commenter recommended the deletion of the proposed amendment which does not allow resource room and supplemental instruction to occur at the same time.

RESPONSE: The Department disagrees with the recommendation because this addition maintains and clarifies the current rule requirement that resource rooms provide replacement programs only.

COMMENT: The same commenter recommended that the class size for Educably Mentally Retarded (EMR) pupils not be reduced.

RESPONSE: The Department disagrees with the recommendation because class size for EMR was reduced from 15 to 12 to align it with other classes for pupils with similarly serious handicaps.

COMMENT: The same commenter recommended that classes of mixed handicaps be permitted to increase from eight to 12 pupils.

RESPONSE: The Department disagrees with the recommendation. The Department policy reflects its position that classes of pupils with mixed handicaps are more difficult to instruct and therefore should not be allowed to operate with class sizes, which in some instances would be larger than that for a single handicap class.

COMMENT: The same commenter suggested that the new provisions at N.J.A.C. 6:28-4.4(c)2i would be too cumbersome.

RESPONSE: The Department disagrees. The requirements reflect the findings and recommendations of the Vocational Program Task Force and are not seen as cumbersome.

COMMENT: Two commenters recommended that the Department of Corrections and Department of Human Services' Office of Education should be included as a party who may request due process or an independent evaluation.

RESPONSE: The Department disagrees with the recommendations. The due process challenge is based upon the IEP. The Department of Corrections and Department of Human Services, as program providers, are not responsible for the development of the IEP.

COMMENT: One commenter suggested that vision screening in State facilities should be conducted by either the school nurse or by appropriately licensed nursing staff.

RESPONSE: The Department disagrees with the recommendation for this change because certification requirements are the same in State facilities as for public schools. Only certified school nurses can conduct screening.

COMMENT: The same commenter suggested that the proposed revision transfers authority and responsibility relative to the determination of appropriate certification from the Office of Education to the Department of Education. This is both inappropriate and detrimental.

RESPONSE: The Department disagrees with the suggestion because it is the Department of Education's responsibility to assure appropriate certification of staff serving educationally handicapped pupils.

COMMENT: One commenter recommended that children below the age of three should not be referred to as "pupils."

RESPONSE: The Department disagrees because the remainder of the rules refers to handicapped children.

COMMENT: The same commenter suggested that dropping the requirement that the team sign the IEP in favor of "documentation" of those persons who participated in its development is an erosion of the team's responsibility.

RESPONSE: The Department disagrees because having the team sign each IEP regardless of their role in its development can become meaningless. Documenting all of the actual participants in the IEP development is more important.

COMMENT: The same commenter suggested that it is not appropriate to require that the educational status of nonhandicapped pupils entering the State facilities be reviewed within 30 days.

RESPONSE: The Department disagrees because may of the students entering State facilities do, in fact, have educationally handicapping conditions and this review is required to protect their rights and assure the provision of needed services.

COMMENT: The commenters suggested that the definitions set forth by Education for all Handicapped children's Act fall short of New Jersey's and, therefore, the reference should be deleted.

RESPONSE: The Department disagrees because where terms are not defined such a reference is appropriate.

COMMENT: The same two commenters recommended modification of N.J.A.C. 6:28-2.6(b)5 formal record of mediation shall be made."

RESPONSE: The Department disagrees with the recommendation as the use of the term "record" is sufficient.

COMMENT: The same two commenters suggested that the minimum of an observation is inadequate in determining if preschool referrals are warranted.

RESPONSE: The Department disagrees with the suggestion because this is only the minimum level of requirements. Districts may do more. On the other hand, for some severely handicapped pupils, observation would suffice as a screening.

COMMENT: The same two commenters recommended that the word "comprehensive" not be deleted from N.J.A.C. 6:28-3.4 because it implies a lowering of standards and service.

RESPONSE: The Department disagrees with this recommendation because there is no intent to lower standards, simply a clarification of initial evaluations and reevaluation.

COMMENT: One commenter suggested that including the planned schedule in the IEP of time the pupil will be served by specialists, special education teachers, bilingual or English as a second language teachers and regular education teachers is cumbersome due to frequent changes in scheduling. It is also unnecessary.

RESPONSE: The Department disagrees with the recommendation for this change as the planned schedule in the IEP is necessary to allow parents to monitor the provision of services to their children. The level of specificity of the plan, however is not stated and is, therefore, left to the participants in the development of the IEP to determine.

COMMENT: One commenter suggested more specificity in defining when it is "not feasible" to provide translations.

RESPONSE: The Department disagrees with the recommendation for this change as all the possibilities could not be listed in the rules.

COMMENT: One commenter suggests that N.J.A.C. 6:28-3.3(f) be modified to say "screening shall be initiated within 30 days."

RESPONSE: The Department disagrees because to change the rules to allow for the initiation of screening rather than the completion within 30 days would delay this process unnecessarily.

COMMENT: One commenter objects to the elimination of a local district's rights to accept or reject a State residential placement in local district.

RESPONSE: The Department deleted this sentence since it was not necessary. As with all special education placement, potentially receiving local school districts may accept or reject pupils.

COMMENT: The same commenter recommended addressing the following issues in the revision of N.J.A.C. 6:28 procedures for mainstreaming; State transition programs for preschool to school ages; and transition from secondary programs to employment.

RESPONSE: The Department disagrees. Transition from secondary programs is addressed in N.J.A.C. 6:28-3.6(e)5vii. It would be inappropriate to delineate procedures for mainstreaming in the rules. Mainstreaming and transition from preschool can be appropriately addressed in assistance to districts by the Department.

COMMENT: One commenter suggested reinstating "time and place convenient" since it is more specific in N.J.A.C. 6:28-2.6(b)4ii.

RESPONSE: The Department disagrees because time and place reasonably convenient is sufficient, particularly as this is a voluntary option.

COMMENT: The same commenter recommended that there should be written indicators of mediation "options explored" and "attempts made" even when no agreement is reached.

RESPONSE: The Department disagrees. Written records of options explored and attempts made can be made outside of the mediation.

COMMENT: The same commenter suggested that child study team role has been generally lowered by the change to services they "may" provide.

RESPONSE: The Department disagrees. The standards are not changed. Teams have never been required to personally provide related services; for example, they are responsible to see that the services are provided to the student by someone appropriately certified.

COMMENT: One commenter suggested that the proposed rules usurp the control of the private school operation from the school owner to a disinterested third party. This makes the private school "unsaleable." This is in violation of the United States and State constitutions. Private schools are privately owned businesses.

RESPONSE: The Department disagrees. If a private school were sold, a board of directors of six members, 50 percent of whom would be disinterested, would be formed. There is no reason to believe that this would make the private school unsaleable as all but 15 of the 115 approved schools operate under these rules now. All approved private schools, even the small number which are for-profit, are publicly funded and exist to serve public school pupils. It is the responsibility of the Department under Federal law to protect these pupils and the public funds expended by the private schools.

COMMENT: Two commenters recommended deleting the requirement that an approved private school which is issued a conditional approval status may not accept new pupils is completely unfair. It inflicts penalties without due process of law. Although it provides for an appeal to the Commissioner of Education, it is common knowledge that any such appeal would take months, if not years, to conclude.

RESPONSE: The Department disagrees. Conditional approval status is only imposed after a reasonable amount of time has elapsed in which the private school has failed to demonstrate compliance with these rules. It is only imposed after careful consideration or an emergency condition such as failing a fire inspection has occurred. Due process is available through N.J.A.C. 6:24.

COMMENT: One commenter suggested that the number of staff members required to attend eligibility/IEP conferences is overwhelming for the majority of parents. While input should be required, actual presence is unnecessary.

RESPONSE: The Department disagrees. The Department believes that the attendance of all team members is imperative in the eligibility/IEP conference for students new to special education to insure meaningful input. The participants are mandated by other Federal or State regulations.

Two changes were initiated by the Department.

1. The Department deleted, upon adoption, reference to "or administrative review" in N.J.A.C. 6:28-8.3 for consistency with similar language at N.J.A.C. 6:28-2.6 having to do with the mediation process.

2. The Department added "the initial" before the second sentence in N.J.A.C. 6:28-11.6(g)2 to clarify reevaluation and eligibility criteria.

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

CHAPTER 28
SPECIAL EDUCATION

SUBCHAPTER 1. GENERAL PROVISIONS

6:28-1.1 General requirements

(a) (No change.)

(b) The purpose of this chapter is to:

1. Ensure that all educationally handicapped pupils, as defined herein, have available to them a free, appropriate public education as that standard is set under the Education for All Handicapped Children Act (20 U.S.C. 1400 et seq.);

2. Ensure the provision of special education and/or related services;

3. Ensure that the rights of educationally handicapped pupils and their parents are protected;

4. Assist public and private agencies providing educational services to educationally handicapped pupils; and

5. Ensure the evaluation of the effectiveness of the education of these pupils.

(c) The rules in this chapter shall apply to all public and private agencies providing publicly funded educational programs and services to educationally handicapped pupils.

1. Programs and services shall be provided to pupils ages three through 21.

2. Programs and services may be provided by a district board of education at their option to pupils below the age of three and above the age of 21.

3. Each district board of education shall provide information regarding services available through other State, county and local agencies to parents of handicapped children below the age of three.

(d) Each district board of education is responsible for providing a system of free, appropriate special education and/or related services to its elementary and secondary school pupils which shall:

1. Be provided at public expense, under public supervision and with no charge to the parent(s);

2. Be administered, supervised and provided by appropriately certified professional staff members;

3. Be located in State approved facilities that are accessible to the handicapped; and

4. Meet all requirements of this chapter.

(e) Each district board of education is responsible for providing a system of free, appropriate special education and related services to its preschool ***handicapped*** pupils which shall:

1. Be provided at public expense, under public supervision and with no charge to the parent(s);

2. Be administered, supervised and provided by appropriately certified professional staff members;

3. Be located in facilities which are approved by the State according to N.J.A.C. 6:22-1 and accessible to the handicapped; and

4. Meet all requirements of this chapter.

(f) Each district board of education, independently or through joint agreements, shall employ child study teams, speech correctionists or speech-language specialists and other school personnel in numbers sufficient to ensure provision of required programs and services pursuant to this chapter.

(g) When a district board of education provides its educational programs through another New Jersey public school district, responsibility for the requirements of this chapter shall be according to the following:

1. In a sending-receiving relationship, when all the pupils of at least one grade of a district board of education attend school(s) operated by other district boards of education, the receiving district board of education shall be responsible for determining the pupil's eligibility and developing and implementing the individualized education program.

2. When individual pupils are placed in a school operated by another district board of education, a contractual agreement shall be made between district boards of education which specifies responsibility for providing instruction, related services and child study team services to educationally handicapped pupils.

(h) Each district board of education shall ensure that special classes, separate schooling or other removal of educationally handicapped pupils from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(i) All educationally handicapped pupils shall be placed in facilities or programs which have been approved by the Department of Education according to N.J.S.A. 18A:46-14 and 15.

(j) Each district board of education shall ensure that placement of educationally handicapped pupils is based on their individualized education programs.

(k) Each district board of education shall ensure that the hearing aids worn by deaf and/or hard of hearing children in school are functioning properly.

(l) All special education programs and services provided under this chapter shall be subject to review and approval by the Department of Education.

(m) All public and private agencies which provide educational programs and services to educationally handicapped pupils shall maintain documentation demonstrating compliance with this chapter.

(n) Each district board of education shall provide mandated pupil records according to N.J.A.C. 6:3-2 to programs operated by the Departments of Human Services or Corrections when a pupil is placed in a State facility. The parent or adult pupil shall receive notice of release of these records to the facility. Permitted records according to N.J.A.C. 6:3-2 may be released only with consent.

6:28-1.2 Plans for special education

(a) Each district board of education, jointure commission, county special services school district, educational services commission, approved private school and State-operated program for the educationally handicapped shall develop a written plan for special education. The plan shall conform with the State plan for the educationally handicapped. Plans for special education shall be submitted for approval to the Department of Education through its county offices as set forth in this section in three parts.

(b) The development of the plan for special education shall provide reasonable opportunities for the participation of professional staff, parents, community members, handicapped individuals and groups representing the handicapped population. Parts one and three of the written plan shall be presented at a public meeting prior to approval by the district board of education or governing board. Copies of the plan shall be made available upon request.

(c) If there are any changes to parts one or three of the plan they shall be prepared in accordance with the requirements of this section.

(d) Part one of the plan shall be submitted for a period not to exceed three years and shall include:

1. A description of the needs assessment procedures used to determine special education and related services program needs;
2. A list of the identified needs;
3. The goals and objectives selected to address the identified needs;
4. The activities planned to attain those goals and objectives; and
5. The procedures to be used to evaluate the operation and effectiveness of these activities.

(e) Part two of the plan shall be submitted annually and shall include:

1. A report of the numbers of educationally handicapped pupils according to their classification, age, racial-ethnic background, sex, placement and related services;
2. A report of the staff employed to identify, evaluate, determine eligibility, develop individualized education programs, provide related services and/or instruction to educationally handicapped pupils and the full-time equivalence of their assignments;
3. A report of the projected staff needed in the following school year; and
4. Assurances that the district board of education:

i. Complies with N.J.A.C. 6:28;

ii. Develops and adopts written policies and procedures according to N.J.A.C. 6:28-1.4;

iii. Implements the plan;

iv. Prepares the plan according to the requirements of this subchapter; and

v. Implements effective procedures for acquiring and disseminating to teachers and administrators participating in each program, significant information from educational research, demonstrations, and similar projects and adopting, when appropriate, sound educational practices developed through these projects.

(f) Part three of the plan, a district-wide comprehensive system of personnel development, shall be submitted every three years with the exception of (f) 1 below which shall be submitted annually and shall include:

1. A description of the personnel development completed during the previous year;
2. A description of the procedures used to determine personnel development needs, as well as the results of the procedures;
3. A description of the activities established to meet the identified needs; and
4. A description of the methods and procedures used to evaluate the operation and effectiveness of the personnel development activities.

(g) Upon request, additional reports shall be submitted to the Department of Education including, but not limited to, the numbers of educationally handicapped pupils exiting education, referred, classified, evaluated and receiving home instruction.

6:28-1.3 Definitions

Words and terms, unless otherwise stated in these definitions, when used in this chapter, shall be defined in the same manner as those words and terms used in the Education for All Handicapped Children Act.

. . .

"Adult pupil" means an emancipated minor or a person age 18 through 21, who is or was enrolled in the public school and who is not under legal guardianship.

"Approved private school for the handicapped" means an incorporated entity approved by the Department of Education according to N.J.A.C. 6:28-7.2 or 7.3 to provide special education and related services to educationally handicapped pupils placed by the district board of education responsible for providing their education.

"Consent" means that the parent(s) or adult pupil has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication; understands and agrees in writing to the implementation of this activity; and understands that the granting of consent is voluntary and may be revoked at any time.

"Department of Education"means the State Board of Education, the Commissioner of Education or its/his/her designee.

. . .

"Individualized education program" means a written plan developed at a meeting according to N.J.A.C. 6:28-3.6 which sets forth goals and measurable objectives and describes an integrated, sequential program of individually designed educational activities and/or related services necessary to achieve the stated goals and objectives. This plan shall establish the rationale for the pupil's educational placement, serve as the basis for program implementation and comply with the mandates set forth in this chapter.

. . .

"Nonpublic school" means an elementary or secondary school, other than a public school, within the State, providing education in grades kindergarten through 12, or any combination of grades, in which a pupil age five through 20 may fulfill compulsory school attendance and which complies with Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

"Nonpublic school pupil" means any pupil who is enrolled full time in a nonpublic school. A pupil who boards at a nonpublic school shall be considered a resident of the New Jersey district in which the parent(s) resides.

"Parent(s)" means the natural parent(s), the legal guardian(s), foster parent(s), surrogate parent(s), person acting in the place of a parent such as the person with whom the pupil legally resides and/or a person legally responsible for the pupil's welfare. Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent(s) retains all rights under this chapter.

"Pupil" means a person age three through 21 who is or was enrolled in a public school.

"Pupil age" means the school age of a pupil as defined by the following:

1. "Age three" means the attainment of chronological age three by December 31 of that school year. Children attaining age three by that date shall be considered age three on July 1 of that school year. Children enrolled in early intervention programs according to N.J.A.C. 6:28-10 attaining the chronological age of three during the school year but after December 31 shall continue to be provided services for the balance of that school year by those programs.

2. "Age five" means the attainment of age five by the month and day established as the kindergarten entrance cut off date by the district board of education. Educationally handicapped pupils attaining age five during the school year shall continue to be provided preschool services for the balance of that school year.

3. "Age 21" means the attainment of the twenty-first birthday by June 30 of that school year. Educationally handicapped pupils attaining age 21 during the school year shall continue to be provided services for the balance of that school year.

. . .

"Referral" means making a written request that a child study team meet to determine the need for an evaluation according to N.J.A.C. 6:28-3.3.

"Related services" for educationally handicapped pupils means counseling for pupils, counseling and/or training for parents relative to the education of a pupil, speech-language services, recreation, occupational therapy, physical therapy, transportation, as well as any other appropriate developmental, corrective and supportive services required for a pupil to benefit from education as required by the pupil's individualized education program.

"Special education" means specially designed instruction to meet the educational needs of educationally handicapped pupils including, but not limited to, subject matter instruction, physical education and vocational training.

6:28-1.4 District board of education policies and procedures

(a) Each district board of education shall develop and adopt written policies and procedures for the following:

1. Exemption of educationally handicapped pupils from the high school graduation requirements according to N.J.A.C. 6:8-7.1(b), 6:28-3.6 and 4.8 and 6:39-1.6;

2. Prevention of needless public labeling of educationally handicapped pupils;

3. Compilation, maintenance, access to and confidentiality of pupil records according to N.J.A.C. 6:3-2;

4. Identification, location and evaluation of potentially educationally handicapped pupils;

5. Provision of full educational opportunity to educationally handicapped pupils;

6. Participation of and consultation with the parent(s) of educationally handicapped pupils toward the goal of providing full educational opportunity to all educationally handicapped pupils ages birth through 21;

7. Provision of special services to enable educationally handicapped pupils to participate in regular educational programs to the maximum extent appropriate;

8. Development and implementation of individualized education programs according to N.J.A.C. 6:28-3.6 and 3.7;

9. Protection of pupils' rights in regard to evaluation and reevaluation procedures according to N.J.A.C. 6:28-2.5;

10. Placement of educationally handicapped pupils in the least restrictive environment according to N.J.A.C. 6:28-1.1(h), 2.1(a), 2.10, 3.6(e)5, and 4.1(i); and

11. Establishment and implementation of procedural safeguards according to N.J.A.C. 6:28-2.3, 2.6, and 2.7.

SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

6:28-2.1 General requirements

(a) Each district board of education shall provide a free, appropriate public education program and related services for educationally handicapped pupils in the least restrictive environments according to N.J.A.C. 6:28-1.1(b)1.

(b) (No change.)

(c) After parental consent for initial evaluation has been received, the district board of education shall ensure that within 90 calendar days evaluation and determination of eligibility for special education and/or related services, and, if eligible, development and implementation of the basic plan section of the individualized education program for the pupil shall be completed. Within the 90 calendar days, no more than 30 calendar days shall elapse between the development and the implementation of the basic plan section of the individualized education program.

(d) Whenever parental consent for initial evaluation is requested, a parent(s) identifies to the district board of education a child age three to five as potentially preschool handicapped or a notice is sent to the parent(s) to reevaluate, the parent(s) shall receive a copy of the procedural safeguard rights under this subchapter and N.J.A.C. 1:6A.

(e) Upon determination of a pupil's eligibility for special education and/or related services, by the child study team, the parent(s) or adult pupil shall receive a copy of this chapter.

(f) Upon parental request, each district board of education shall provide copies of special education statutes (N.J.S.A. 18A:46-1 et seq.), special education rules (N.J.A.C. 6:28), pupil records rules (N.J.A.C. 6:3-2), information regarding the availability of free and low cost legal or other services relevant to a due process hearing and due process rules (N.J.A.C. 1:6A).

(g) If the mediation according to N.J.A.C. 6:28-2.6 or due process hearing according to N.J.A.C. 6:28-2.7 involves initial admission to the public school of a child age five through 21, the child, with the consent of the parent(s), shall be placed in the public school program or a placement agreed to by the parent(s) and district board of education pending the outcome of the hearing.

6:28-2.2 Surrogate parents

(a) Each district board of education or responsible State agency shall ensure that the rights of a pupil are protected through the provision of an individual to act as surrogate for the parent and assume all parental rights under this chapter, when either:

1. The parent*s* cannot be identified according to N.J.A.C. 6:28-1.3;

2. The parent(s) cannot be located after reasonable efforts; or

3. The pupil is a ward of the State of New Jersey.

(b) Each district board of education or responsible State agency shall establish a method for selecting and training surrogate parents.

(c) The person serving as a surrogate parent shall have:

1. No interest that conflicts with those of the pupil he or she represents; and

2. Knowledge and skills that ensure adequate representation of the pupil.

(d) The person(s) serving as a surrogate parent may not otherwise be an employee of the local school district or responsible State agency. A surrogate parent may be paid solely to act in that capacity.

6:28-2.3 Parental notice, consent, participation and meetings

(a) Written notice which meets the requirements of this section shall be provided to the parent(s) when a district board of education:

1. Proposes to initiate or change the classification, evaluation or educational placement of the pupil or the provision of a free, appropriate public education to the pupil;

2. Requests consent to conduct an initial evaluation or for initial implementation of a special education program and/or related services;

3. Schedules a meeting to determine a pupil's eligibility for special education and/or related services or to develop an individualized education program;

4. Plans to conduct a reevaluation; or

5. Approves or denies the written request of the parent(s) to initiate or change the classification, evaluation or educational placement of the pupil or the provision of a free, appropriate public education to the pupil.

(b) Written notice, according to (a)1 through 5 above, shall be provided to the parent(s) no later than 15 calendar days after making a determination and in no event less than 15 calendar days prior to the date for implementation, unless the parent(s) otherwise consents. If the parent(s) consents to implementation before the 15 days have elapsed, documentation of such consent shall be maintained.

(c) On receipt of any written parental request, written notice shall be provided to the parent(s) within 30 calendar days.

(d) Each notice shall be written in language understandable to the general public and shall include:

1. A description of the action proposed or denied by the district board of education including:

i. An explanation of why it is taking such action; and

ii. A description of any options the district board of education considered and the reasons why those options were rejected;

2. A description of the procedures, tests, records or reports and factors used by the district board of education in determining whether to propose or deny an action; and

3. A full explanation of the parental rights to appeal and the process of appealing a district board of education's proposal or denial of an action according to N.J.A.C. 6:28-2.7 and N.J.A.C. 1:6A.

(e) A district board of education shall take steps to ensure that the parent(s) is given the opportunity to participate in:

1. Evaluations of the pupil;

2. The determination of the pupil's eligibility for special education and/or related services;

3. The development of an individualized education program according to N.J.A.C. 6:28-3.6; and

4. The annual review.

(f) Meetings shall be conducted to determine eligibility and to develop, review and revise the basic plan of a pupil's individualized education program.

1. Each meeting shall include the following participants:

i. The parent(s);

ii. Teacher(s) having knowledge of the pupil's educational performance;

iii. The pupil, where appropriate;

iv. At least one member of the child study team;

v. Referring certified school personnel, the school principal or designee and other appropriate individuals if they choose to participate; and

vi. A curriculum ***consultant*** from the Department of Human Services, for those pupils classified as eligible for day training.

2. Meetings shall be scheduled at a mutually agreed upon time and place.

3. Notice of meetings shall indicate the purpose, time, location and participants.

4. If the parent(s) cannot attend the meeting(s), the chief school administrator or designee shall attempt to ensure parental participation, including the use of individual or conference telephone calls. Documentation shall be maintained of all attempts to secure parental participation.

5. A meeting may be conducted without the parent(s) in attendance if the district board of education is unable to secure the participation of that parent(s).

(g) An adult pupil shall be given notice and participate in meetings according to (a) through (f) above.

(h) When requesting consent to conduct an initial evaluation or for initial implementation of a special education program and/or related services for an adult pupil, consent shall be obtained from the adult pupil and notice shall be provided to the adult pupil and his or her parent(s).

(i) Adult pupils shall be given a copy of this chapter and a copy of N.J.A.C. 1:6A upon attainment of the 18th birthday.

6:28-2.4 Native language

(a) Written notice to the parent(s) and parent conferences required by this chapter shall be conducted in the language used for communication by the parent and pupil unless it is not feasible to do so.

1. (No change.)

2. The determination of the language or mode of communication and a written rationale for its choice shall be documented in the pupil record.

3. If it is not feasible to translate the individualized education program or eligibility reports into another language or mode of communication, the professional(s) making this decision shall ensure and document that the parent(s) is given an English language copy of the report(s) and appropriate explanation of its contents in the language of the parent.

6:28-2.5 Protection in evaluation procedures

(a) Each district board of education shall ensure that evaluation procedures, including, but not limited to, observations, tests and interviews used to determine eligibility and placement of handicapped pupils shall:

1. Be selected and administered by the appropriate members of a multi-disciplinary team of professionals consisting of members of the child study team, the school physician and where appropriate, other specialists according to N.J.A.C. 6:28-3.5, each employing two or more appropriate evaluation procedures. At least one member of the multidisciplinary team shall be knowledgeable in the area of the suspected disability;

2. Be used by personnel certified and trained in the administration and interpretation of such procedures;

3. Have been validated for the purpose(s) for which they are administered;

4. Be selected and administered;

i. So that the pupil's cultural background and language abilities are taken into consideration; and

ii. In the pupil's native language or other mode of communication unless it is clearly not feasible to do so;

5. Be selected, administered and interpreted so that when a pupil has sensory, manual or communication impairments the results accurately reflect the ability which that procedure purports to measure, rather than the impairment;

6. Be selected and administered so as not to be racially or culturally discriminatory;

7. Be conducted on an individual basis;

8. Use information from group tests only to supplement individual evaluations;

9. Consider the pupil's sociocultural background and adaptive behavior in home, school and community; and

10. Result in a written report which shall be dated and signed by the individual who originated the data.

(b) A parent may request an independent evaluation if there is disagreement with the evaluation provided by a district board of education.

1. Such independent evaluation(s) shall be provided at no cost to the parent(s) unless the district board of education initiates a due process hearing to show that its evaluation is appropriate and a final determination to that effect is made following the hearing.

2. Any independent evaluation purchased at public expense shall:

i. Be conducted according to N.J.A.C. 6:28-3.4; and

ii. Be obtained from another public school district, Educational Services Commission, Jointure Commission or a clinic or agency approved under N.J.A.C. 6:28-5.

3. An independent medical evaluation may be obtained according to N.J.A.C. 6:28-5.1(c)3.

(c) Upon receipt of parental request, each district board of education shall provide information about where an independent evaluation may be obtained.

(d) Any independent evaluation submitted to the district child study team shall be considered in making decisions regarding special education and/or related services.

6:28-2.6 Mediation

(a) When disputes arise under this chapter, mediation shall be available through the local district, the Department of Education through its county office and/or the Department of Education

through the Division of Special Education. Mediation shall be provided in accordance with the following:

1. Attempts to resolve conflicts between the parent(s) and a school district prior to a request for a due process hearing are encouraged; however, a request for mediation is not a prerequisite to a hearing;

2. If either party is unwilling to participate in mediation, a request for a due process hearing under N.J.A.C. 6:28-2.7 may be made directly to the Department of Education;

3. Either party may be accompanied and advised at mediation by legal counsel or other person(s) with special knowledge or training with respect to educationally handicapped pupil needs; and

4. Each district board of education shall establish a mediation procedure consistent with this section.

(b) Mediation shall be provided as follows:

1. A request for mediation shall be made in writing to the superintendent of the local district, Child Study Supervisor of the Department of Education county office or the Director of the Division of Special Education, Department of Education with a copy to the other party. The mediation request shall specify the issue(s) in dispute and the relief sought;

2. A mediation conference shall be conducted within 20 calendar days after receipt of a written request at which time:

i. Issues shall be determined;

ii. Options explored; and

iii. Mediation attempts made within the confines of New Jersey law and code;

3. The role of the mediator is not judgmental;

4. The mediation conference shall be:

i. Informal; and

ii. Held at a time and place reasonably convenient to the parties in the dispute;

5. If the mediation results in agreement, the conclusions shall be incorporated into a written agreement and signed by each party. If the mediation does not result in agreement, the mediator shall document the date and the participants at the meeting. No other record of the mediation shall be made;

6. The mediator may terminate the mediation after at least one meeting if in his or her judgment the parties are not making progress toward resolving the issue(s) in dispute; and

7. Pending the outcome of mediation, no change shall be made to a pupil's classification, program or placement, unless both parties agree or emergency relief is granted by the Office of Administrative Law according to N.J.A.C. 6:28-2.7(c).

6:28-2.7 Due process hearings

(a) A due process hearing may be requested in regard to the referral, classification, evaluation or educational placement of a pupil age three through 21 and/or the provision of a free, appropriate public education to that pupil. For pupils below the age of three and above the age of 21, any disputes regarding the provision of programs and services to these pupils shall be handled as a contested case before the Commissioner of Education pursuant to N.J.A.C. 6:24.

(b) The parent(s) or district board of education may request a hearing after the district board of education has sent written notice of a proposed or denied action or after 30 calendar days have elapsed from the date of a written request by the parent(s) for a change with regard to the pupil. The district board of education, through its chief school administrator, may request a hearing when it is unable to obtain required parental consent to a proposed action. The district board of education shall request a due process hearing if it denies the parent(s) request for an independent evaluation.

1. A request for a due process hearing shall be made in writing to the Director of the Division of Special Education, Department of Education with a copy to the other party.

2. The Department of Education shall acknowledge receipt of the request and provide information regarding free and low cost legal services to the parent(s).

3. Upon receiving the Department of Education's acknowledgement, the parties shall begin to exchange relevant records and information according to the time limits in N.J.A.C. 1:6A-3.3.

4. Within seven calendar days of receipt of the written request, the Department of Education shall conduct a conference.

i. The purpose of the conference is to assist the parties in defining issues, identifying evidence, exchanging facts, stipulating facts and listing possible witnesses. Mediation will be available at the conference if both parties agree to participate.

ii. The district board of education shall ensure that the chief school administrator or his or her designee with the authority of the chief school administrator attends the conference.

iii. The conference shall be scheduled at a time and place reasonably convenient to the parties. Participation by the parent(s) is voluntary. Parent(s) may participate through the use of individual or conference calls.

iv. The conference may result in either settlement, withdrawal or transmittal to the Office of Administrative Law according to N.J.A.C. 1:6A.

v. If the conference results in settlement, the settlement shall be written and in compliance with New Jersey statute and rule.

vi. If the conference results in transmittal, the Department of Education representative will prepare a written document at the conference that specifies the issues in dispute, stipulations, evidence list and witness list for each party. This document shall be immediately forwarded to the Office of Administrative Law. A copy of this document and the transmittal form shall be sent to the parties. The Department of Education representative shall telephone the clerk of the Office of Administrative Law and schedule a hearing date which shall be no later than 14 calendar days from the date of the *[prehearing]* conference, unless a later date is agreed upon by both parties.

(c) The decision of the administrative law judge is final, binding on both parties and to be implemented without undue delay, unless stayed according to N.J.A.C. 1:6A-5.4.

(d) The district board of education, through its chief school administrator, or the parent(s) may apply in writing for emergency relief as part of a request for a hearing, or at any time after such request according to N.J.A.C. 1:6A-3.1. The request shall be supported by an affidavit. The applicant shall provide copies of the request to the other party.

1. Prior to transmittal of the hearing request to the Office of Administrative Law, application for emergency relief shall be made to the Director of the Division of Special Education, Department of Education. After transmittal of a request for a due process hearing, any application for emergency relief shall be made directly to the Office of Administrative Law.

(e) If the district board of education fails to implement a hearing decision of the Office of Administrative Law, a request for enforcement may be made by the parent(s). The request shall be made in writing to the Director of the Division of Special Education, Department of Education. On receipt of this request, implementation of the decision shall be assured according to Department of Education procedures.

(f) Pending the outcome of a due process hearing, no change shall be made to the pupil's classification, program or placement unless both parties agree or emergency relief is granted by the Office of Administrative Law according to *[(c)]* ***(d)*** above.

6:28-2.8 Disciplinary action

(a) Educationally handicapped pupils are subject to the same disciplinary procedures as nonhandicapped pupils. However, no educationally handicapped pupil may be disciplined if:

1. The pupil's behavior is primarily caused by his or her educational handicap; or

2. The program that is being provided does not meet the pupil's educational needs.

(b) Before a school staff member can discipline an educationally handicapped pupil, consideration shall be given to the nature of the offending behavior in light of the pupil's handicapping condition and educational needs, except as follows:

1. (No change.)

2. If there is a component of disciplinary action set forth in the pupil's individualized education program.

(c) When an educationally handicapped pupil is suspended, the principal shall forward, at the time of suspension, written notification and description of the reason(s) for such action to the parent(s) with

a copy to the child study team. The child study team shall review the status of that pupil in order to:

1. Determine if the behavior which resulted in the suspension was primarily caused by the pupil's handicapping condition;

2. Determine if the pupil's individualized education program is appropriate; and

3. Prepare and forward to the principal and the parent(s) a written statement setting forth their conclusions as to (c)1 and 2 above and their recommendations, if any.

(d) An educationally handicapped pupil whose behavior is primarily caused by his or her educational handicap or whose program does not meet his or her educational needs:

1. Shall not be suspended for more than a total of 10 school days during a school year if the suspensions constitute a significant change in placement, unless emergency relief is granted; and

2. Shall not be suspended more than 10 consecutive school days, unless emergency relief is granted.

(e) Before an educationally handicapped pupil can be considered for explusion by a district board of education, the pupil shall be reevaluated by the child study team according to N.J.A.C. 6:28-3.7.

(f) Before a noneducationally handicapped pupil is considered for expulsion by a district board of education, the district board of education shall obtain parental consent for referral and the child study team shall conduct an initial evaluation according to N.J.A.C. 6:28-3.4.

(g) The child study team shall submit a written report to the district board of education, the chief school administrator and the pupil's parent(s) stating the results of the reevaluation or initial evaluation required by (e) or (f) above.

1. This report shall indicate whether the pupil's behavior is primarily caused by a handicapping condition and whether the pupil's education program needs modification.

2. (No change.)

6:28-2.9 Pupil records

(a) (No change.)

(b) The parent(s), adult pupil or *[the]* ***their*** designated representative shall be permitted to inspect, review and appeal the contents of the pupil's records maintained by the district board of education under N.J.A.C. 6:3-2. When requested, this inspection shall occur without unnecessary delay before any meeting regarding the individualized education program.

6:28-2.10 Least restrictive environment

(a) Each district board of education shall ensure that:

1. To the maximum extent appropriate, an educationally handicapped pupil shall be educated with children who are not educationally handicapped;

2. Special classes, separate schooling or other removal of educationally handicapped pupils from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily;

3. Placement shall be provided in an appropriate educational setting as close to home as possible;

4. Consideration shall be given to any potentially harmful effect which a placement may have on the pupil or the ability of the program to implement the pupil's individualized education program; and

5. When the individualized education program does not describe specific restrictions, the pupil shall be included in the regular school program provided in the district he or she would attend if not handicapped.

i. This includes participation in health and physical education, industrial arts, fine arts, music, home economics, vocational and other regular education programs, intramural and interscholastic sports, nonacademic and extra curricular activities.

SUBCHAPTER 3. SERVICES

6:28-3.1 Child study teams

(a) A child study team is an interdisciplinary group of appropriately certified persons who:

1. Shall evaluate, after parental consent for referral has been received, and participate in the determination of eligibility of pupils for special education and/or related services;

2. Shall coordinate the development, monitor and evaluate the effectiveness of the individualized education programs;

3. May deliver appropriate related services to educationally handicapped pupils;

4. May provide preventive and support services to nonhandicapped pupils; and

5. May provide services to the general education staff regarding techniques, materials and programs for pupils experiencing difficulties in learning. Services include, but are not limited to, the following:

i. Consultation with school staff and parents; and

ii. (No change.)

(b) A child study team shall consist of a school psychologist, a learning disabilities teacher-consultant and a school social worker. For pupils ages three to five, the child study team shall include a speech correctionist or speech-language specialist. All members of the child study team shall be employees of a district board of education, have an identifiable, apportioned time commitment to the local school district and shall be available during the hours pupils are in attendance.

(c) (No change.)

(d) At least one member of the child study team shall be knowledgeable about placement options for educationally handicapped pupils according to N.J.A.C. 6:28-4.

6:28-3.2 Identification

(a) Each district board of education shall adopt written procedures for identifying those pupils ages three through 21 who reside within the local school district who may be educationally handicapped and who are not receiving special education and/or related services as required by this chapter. Children below age three who may be *[educationally]* handicapped shall be identified, located and evaluated through programs operated by or through contracts with the Department of Education.

(b) These procedures shall include criteria to identify pupils who may be experiencing physical, sensory, emotional, communication, cognitive or social difficulties.

(c) (No change.)

(d) For a child who has been enrolled in an early intervention program, who will be age three according to N.J.A.C. 6:28-1.3 in the following school year and who is identified to the district board of education prior to June 1, the district board of education shall obtain parental consent, determine eligibility and, if appropriate, develop an individualized education program. This shall be completed not later than the opening of school in the following school year.

6:28-3.3 Referral

(a) Prior to any decision regarding referral of a pupil to a child study team for determination of eligibility for special education programs or services, interventions in the regular public school program to alleviate educational problems shall be provided to the pupil unless the pupil's educational problem(s) is such that direct referral to the child study team can be supported and documented. Written documentation of the intervention(s) and its effect, if any, shall be made by the staff of the regular program. The parent(s) shall be informed of the interventions attempted and receive a copy of the written documentation.

(b) Pupils identified in conformance with written procedures adopted by the board of education as being potentially educationally handicapped and considered to require services beyond those available within the regular public school program shall be referred to the child study team. Referral to the child study team shall take place after written parental consent has been received.

1. When parental consent for a pupil's referral to the child study team is withheld, a district board of education may request a due process hearing according to N.J.A.C. 6:28-2.7.

(c) The parent(s) may initiate referral of his/her child by making a written request which shall be forwarded to the child study team.

(d) Audiometric screening shall be conducted for every pupil referred to the child study team according to N.J.A.C. 6:29-8.

(e) Vision screening shall be conducted by the school nurse for every pupil referred to the child study team.

(f) When a parent identifies a child age three to five as potentially preschool handicapped, the district board of education shall use a screening procedure which includes, at a minimum, an observation of the child to determine if the child should be referred to the child study team for comprehensive evaluation. Screening shall be completed within 30 calendar days of parental request.

(g) When the Division of Youth and Family Services, Department of Human Services, identifies a potentially educationally handicapped pupil for whom a local school district is responsible, that district shall accept the pupil's identification by the Division of Youth and Family Services and shall request parental consent to refer the pupil to its child study team according to this subchapter.

6:28-3.4 Evaluation

(a) Following receipt of parental consent for referral of a pupil, the child study team shall meet and determine the need for an initial evaluation and write an evaluation plan. Prior to the development of the evaluation plan, a determination of the pupil's communication skills and dominance in English and the native language shall be completed. The parent(s) and adult pupil shall be provided with a copy of the evaluation plan and notice according to N.J.A.C. 6:28-2.3. The evaluation plan shall include:

1.-2. (No change.)

3. The language(s) or method(s) of communication to be used in the evaluation process; and

4. (No change.)

(b) (No change.)

(c) The chief school administrator or designee shall request that the parent(s) provide information to the child study team to be considered as part of the evaluation data.

(d) An initial evaluation shall consist of the following:

1. A comprehensive health appraisal for pupils ages three through 21 shall be performed by a physician employed by the district board of education.

i. The comprehensive health appraisal shall include, but not be limited to, an assessment of prenatal, perinatal and postnatal factors, as well as developmental and early childhood illnesses and injuries and a review of health screenings.

ii. The physician employed by the district board of education shall examine the pupil, including all body systems, and write a summary indicating the effect of any current health problem or medical treatment on the pupil's learning.

iii.-iv. (No change.)

2. (No change.)

3. An educational assessment shall be the responsibility of a learning disabilities teacher-consultant employed by the district board of education. It shall include observation of the pupil in other than a testing session, review of the pupil's educational history, conferences with the pupil's teacher(s) and an evaluation and analysis of the pupil's academic performance and learning characteristics.

4. A social assessment shall be the responsibility of a school social worker employed by the district board of education. The social assessment shall include observation of the pupil and communication with the pupil and his or her parent(s). It shall also include an evaluation of the pupil's adaptive social functioning and emotional development and of the family, social and cultural factors which influence the pupil's learning and behavior in the educational setting.

5. For children ages three to five, a speech and language assessment shall be the responsibility of a speech correctionist or speech-language specialist employed by the district board of education. The assessment shall include observation of the pupil, communication with the parent(s) and an evaluation and analysis of speech and language development.

(e) The child study team shall include pertinent information from the parent(s), the pupil's teacher(s) and other certified school personnel when rendering evaluation and eligibility decisions.

(f) In addition to evaluations conducted by the school physician and the child study team, evaluation by additional specialists may be required as listed in N.J.A.C. 6:28-3.5(c).

(g) The requirements for evaluation by the child study team do not apply to a pupil confined at home or to a hospital for 60 calendar days or less by a physician or to a pupil with a speech or language problem when the nature of that problem does not warrant a comprehensive evaluation by a child study team.

(h) If the reports and evaluations of other New Jersey public school district child study team members, Department of Education approved clinics or agencies, or professionals in private practice are accepted by members of the child study team, such acceptance shall be noted in writing and shall become part of the report(s) of the child study team member(s). If a report or evaluation is rejected, a written rationale shall be provided.

(i) By June 30 of a pupil's last year in a program for the preschool handicapped, the child study team shall reevaluate and, if appropriate, classify according to N.J.A.C. 6:28-3.5.

6:28-3.5 Determination of eligibility

(a) When an initial evaluation is completed, a meeting according to N.J.A.C. 6:28-2.3(f) shall be convened. The child study team shall attend. The purpose of the meeting shall be to:

1. Determine whether the pupil is eligible for special education and/or related services; and

2. If eligible, determine a single classification category as defined in *[(d)]* *(c)* below.

i. For pupils age five through 21, when a pupil's assessment data suggest multiple handicapping conditions but do not meet the criteria for the classification of multiply handicapped, the classification category that best describes the pupil's educational status and needs shall be assigned. Additional behavior or conditions and individual program and/or service needs shall be included in the individualized education program.

ii. For pupils age three through five who have an identified handicapping condition and/or a measurable developmental impairment who require and would benefit from special education and related services, the classification of preschool handicapped shall be assigned.

(b) (No change.)

(c) Classification of pupils determined to be eligible for special education and/or related services shall be determined collaboratively by the child study team, parent(s) and*,* if they choose to participate, the school principal and referring staff members. Classification according to the following definitions shall be based on all evaluations conducted:

1. "Auditorily handicapped" means an inability to hear within normal limits due to physical impairment or dysfunction of auditory mechanisms characterized by (c)1i and ii below. Evaluations by a specialist qualified in the field of audiology and a speech and language evaluation by a certified speech correctionist or speech-language specialist are required.

i.-ii. (No change.)

2. "Chronically ill" means a health condition which makes it impractical to receive adequate instruction through a regular school program and characterized by (c)2i or ii below. Evaluation by the school physician or his or her review and written acceptance of the medical report of another physician is required. The school nurse shall assist in the accumulation of the data necessary to determine eligibility.

i. (No change.)

ii. "Eligible for home instruction" means a health condition determined by the school physician to be temporary and to require instruction be provided to a pupil confined to home or hospital for at least a two week period of time. The evaluation shall be conducted according to N.J.A.C. 6:28-3.4*[(h)]**(g)*.

3. "Communication handicapped" means impaired native speech or language which is outside the range of acceptable variation, adversely affects a pupil's educational performance and is not due primarily to hearing impairment as defined under "auditorily handicapped." It is characterized by (c)3i or ii below. An evaluation by

a certified speech correctionist or speech-language specialist is required.

i. (No change.)

ii. "Eligible for speech-language services" means a mild to moderate disorder in language, articulation, voice or fluency which requires instruction by a speech correctionist or speech-language specialist. The evaluation shall be conducted according to N.J.A.C. 6:28-3.4**(h)* *(g)*.

4. "Emotionally disturbed" means the exhibiting of seriously disordered behavior over an extended period of time which adversely affects educational performance and shall be characterized by (c)4i or ii below. An evaluation by a psychiatrist experienced in working with children is required.

i. (No change.)

ii. Behaviors inappropriate to the circumstances, a general or pervasive mood of depression or the development of physical symptoms or irrational fears.

5. "Mentally retarded" means cognitive, social and academic functioning which is seriously below age expectations. Such functioning is comprehensive in nature being demonstrated in home, school and community settings, and characterized by one of the following:

i. and ii. (No change.)

iii. "Eligible for day training" means a level of functioning profoundly below age expectations whereby on a consistent basis the pupil requires significant personal care and supervision and demonstrates a significant deficit in the ability to understand and respond to simple verbal or nonverbal communication, and to make known basic wants or needs.

6. "Multiply handicapped" means the presence of two or more educationally handicapping conditions which interact in such a manner that programs designed for the separate handicapping conditions will not meet the pupil's educational needs. All evident educational handicaps shall be documented. Eligibility for speech *[correction]* ***-language services*** as defined in this section shall not be one of the handicapping conditions which forms the basis for the classification of a pupil as "multiply handicapped." Evaluations by all specialists required in this subsection for the separate handicapping conditions being considered for the determination of "multiply handicapped" are required.

7. "Neurologically or perceptually impaired" means impairment in the ability to process information due to physiological, organizational or integrational dysfunction which is not the result of any other educationally handicapping condition or environmental, cultural or economic disadvantage and is characterized by (c)7i or ii below.

i.-ii. (No change.)

8. "Preschool handicapped" means those children age three through five who have an identified handicapping condition and/or a measurable developmental impairment who require and would benefit from special education and related services.

9. (No change.)

10. "Socially maladjusted" means a consistent inability to conform to the standards for behavior established by the school. Such behavior is seriously disruptive to the education of the pupil or other pupils and is not due to emotional disturbance as defined in (c)4 above. If determined necessary by the child study team, an evaluation by a psychiatrist experienced in working with children is to be obtained.

11. "Visually handicapped" means an inability to see within normal limits as characterized by (c)11i or ii below. An evaluation by a specialist qualified to determine visual disability is required. Visually handicapped pupils eligible for special education and/or related services shall be reported to the Commission for the Blind and Visually Impaired.

i.-ii. (No change.)

6:28-3.6 Individualized education program

(a) (No change.)

(b) The basic plan of the individualized education program shall be written upon completion of the child study team's evaluation according to the timelines in N.J.A.C. 6:28-2.1(c), and prior to the pupil's placement in a special education program.

(c) The basic plan of the individualized education program shall be developed with the participation of the parent(s) and members of the district board of education child study team who have participated in the evaluation and those persons attending the meeting according to N.J.A.C. 6:28-2.3(f).

(d) When a pupil has been classified as eligible for speech-language services or eligible for home instruction, the individualized education program meeting shall be as follows:

1. The meeting shall be attended by the parent(s) and, when appropriate, the pupil. Depending on the classification, either the school physician or speech correctionist or speech-language specialist shall attend.

2. (No change.)

3. For a pupil eligible for home instruction, at least one of the certified school personnel having knowledge of the pupil's educational performance shall participate in the meeting.

4. (No change.)

(e) The basic plan of the individualized education program shall include, but not be limited to:

1. (No change.)

2. A statement of current educational status which describes the pupil's present levels of educational performance;

3. (No change.)

4. A statement of objectives which describes specific measurable steps between the current educational status and the annual goals; and

5. A description of the pupil's educational program which includes:

i. (No change.)

ii. An explanation of why the type of program and placement is the least restrictive environment appropriate in light of the pupil's needs;

iii. A description of the extent to which the pupil will participate in regular educational programs. The participation of an educationally handicapped pupil in regular school programs or activities shall be based on the nature and extent of the pupil's educational needs. Appropriate curricular or instructional modifications to the regular education program shall be stipulated. Precautionary arrangements shall be made to protect the safety and well-being of the pupil;

iv. A description of exemptions from regular education program options including testing programs and State and local graduation requirements which includes a rationale for the exemptions;

v. Reasons why the individualized education program goals and objectives do not include the proficiencies measured by the High School Proficiency Test and the requirement to demonstrate mastery of curriculum proficiencies for pupils exempted from these requirements;

vi. A statement of the alternate requirement for each exemption from State and local high school graduation requirements. The individualized education program shall identify which alternate requirements must be achieved by the educationally handicapped pupil to qualify for the State endorsed diploma issued by the school district;

vii. For educationally handicapped pupils age 14 and over, the district board of education shall demonstrate that consideration has been given to the preparation of the pupil for the appropriate post-secondary program, work setting, adult services or independent living;

viii. A statement of and rationale for the length of time the pupil is expected to be in a special education program including the length of the school day and an extended academic year, when appropriate;

ix. A statement specifying the language to be used for instruction if other than English;

x. A statement which describes the special education and/or related services, including the frequency and duration of services and the date when they will begin;

xi. A statement describing the roles of specific school personnel and their responsibilities for implementing the various aspects of the individualized education program; and

xii. The criteria, procedure and schedule to determine if the pupil's goals and objectives are being met.

(f)-(g) (No change.)

(h) The instructional guide shall be completed within 20 calendar days after the basic plan has been implemented.

(i) The instructional guide shall include, but not be limited to, the following:

1.-3. (No change.)

4. Any special equipment and instructional media and materials needed for learning; and

5. Specific descriptions of instructional responsibilities of the regular and special education teachers.

(j) Annually, or more often if necessary, the case manager, parent(s), teacher(s), the pupil, if appropriate, and other individuals at the discretion of the parent(s) or district board of education shall meet to review and revise the instructional guide and the basic plan of the individualized education program and determine placement as specified in this subchapter.

1. The annual review shall be completed by June 30 of a handicapped pupil's last year in a preschool program.

2. The annual review shall be completed by June 30 of a handicapped pupil's last year in an elementary school program and shall include input from the staff of the secondary school.

(k) Documentation of those persons who participated in the development of the individualized education program shall be maintained and a copy of the individualized education program shall be provided to the parent(s) in their native language according to N.J.A.C. 6:28-2.4.

(l) When the parent(s) declines participation in an individualized education program meeting or is in disagreement with the recommendations, the remaining participants shall develop a written individualized education program in accordance with this section. However, initial implementation of special education cannot occur until consent is obtained or a due process hearing decision is issued. For other than initial implementation of special education, consent is not required. The parent(s) shall be provided written notice according to N.J.A.C. 6:28-2.3.

(m) During a 21 year old handicapped pupil's last year in an educational program, a meeting shall be held including the parent(s), the case manager, the pupil, if appropriate, and other individuals as appropriate to develop nonbinding written recommendations concerning services and resources available after the responsibility of the district board of education has ended.

6:28-3.7 Reevaluation

(a) A reevaluation*,* and individualized education program*[,]* if appropriate, shall be completed within three years of the date of the previous classification. Reevaluation shall be conducted sooner if conditions warrant or if the pupil's parent(s) or teacher request the reevaluation.

1. The child study team shall determine which child study team members and/or specialists will conduct the evaluations based upon demonstrated pupil progress in meeting the goals and objectives of the individualized education program. The reevaluation shall include assessment by at least two members of the child study team. For pupils who are auditorily handicapped, in addition to the two required evaluations provided by the child study team, an audiological evaluation and a speech and language assessment according to N.J.A.C. 6:28-3.5(c)1 shall be required.

2. The child study team shall write an evaluation plan as described in N.J.A.C. 6:28-3.4(a). The parent(s) shall be provided with a copy of the evaluation plan and notice according to N.J.A.C. 6:28-2.3.

3. Reevaluations shall be conducted according to N.J.A.C. 6:28-3.4(c), *[(d),]* (f) and (g). Individual child study team assessment shall be conducted according to N.J.A.C. 6:28-3.4*[(e)]* ***(d)***2, 3, 4 or 5.

4. Reevaluation shall be conducted when a change in classification or significant change in placement is being considered.

5. When the reevaluation is completed, the child study team shall attend a meeting according to N.J.A.C. 6:28-2.3(f) and, if appropriate, develop the basic plan of the individualized education program.

6:28-3.8 Related services

(a) Related services shall be provided to an educationally handicapped pupil according to his or her individualized education program and may include one or more of the following:

1. Counseling services shall be provided in the following manner:

i. Counseling services for an educationally handicapped pupil shall be provided within the public schools during the school day by certified school psychologists, social workers or guidance counselors; and

ii. Counseling and/or training services for parents shall be provided to assist them in understanding the special educational needs of their child.

2. Occupational and physical therapy shall be provided in the following manner:

i. Occupational and/or physical therapy shall be provided by educationally certified therapists; and

ii. A district board of education may contract with approved clinics and agencies for the provision of occupational and/or physical therapy.

3. Recreation shall be provided by certified school personnel.

4. Speech and language services for a pupil classified as other than "eligible for speech-language services," may be provided as a related service. Additional classification as "eligible for speech-language services" is not required.

5. Transportation shall be provided in the following manner:

i. The district board of education shall provide transportation as required in the individualized education program or as prescribed by the school physician. Such services shall include special transportation equipment, transportation aides and special arrangements for other assistance to and from and in and around the school;

ii. When out-of-district placement for educational reasons is made by a district board of education, transportation shall be provided consistent with the school calendar of the receiving school;

iii. When necessary, the case manager shall provide the transportation coordinator and the bus driver with specific information including safety concerns, mode of communication, health and behavioral characteristics of a pupil assigned; and

iv. For handicapped pupils below the age of five, safety belts or restraint systems are required; and

6. Other related services as specified in the pupil's individualized education program.

(b) School personnel may give advice to parents regarding additional services which are not required by this chapter. Such advice places no obligation on the district board of education to provide or fund such services.

6:28-3.9 Services to pupils in programs operated by the State of New Jersey

(a) For a pupil classified as eligible for day training attending an approved day program, the district board of education shall provide the services according to N.J.A.C. 6:28-3.2 through 3.8.

(b) For a pupil in residence in a State facility, the responsible district board of education shall:

1. Maintain the educational records sent by the State facility according to N.J.A.C. 6:3-2; and

2. (No change.)

(c) For a pupil in a program operated by or under contract with the Department of Education, the district board of education retains responsibility for the provision of programs and services under this chapter.

SUBCHAPTER 4. PROGRAMS

6:28-4.1 General requirements

(a) Each district board of education shall provide educational programs and related services for educationally handicapped pupils required by the individualized education programs of those pupils for whom the district board of education is responsible.

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

(d) Appropriate written curricula shall be developed and appropriate materials shall be provided for educationally handicapped pupils.

(e) The length of the school day and the academic year of programs for educationally handicapped pupils shall be at least as long as that established for all pupils.

1.-2. (No change.)

(f) If a classroom aide is employed, he or she shall work under the direction of a principal, special education teacher, general education teacher or other appropriately certified personnel in a special education program. The job description of a classroom aide shall be approved by the Department of Education through its county office.

(g) Physical education services, specially designed if necessary, shall be made available to every educationally handicapped pupil age five through 21, including those pupils in separate facilities.

(h) When an educationally handicapped pupil transfers from one New Jersey school district to another, or when a pupil classified as educationally handicapped by a State or local school district outside of New Jersey transfers into a New Jersey school district, and immediate review of the classification and individualized education program cannot be conducted, the pupil shall be immediately placed in a program consistent with the goals and objectives of the current individualized education program for a period not to exceed 30 calendar days.

(i) When the individualized education program of an educationally handicapped pupil does not describe any restrictions, the pupil shall be included in the regular school program provided by the district board of education.

1. When instruction in health, physical education, industrial arts, fine arts, music, home economics, vocational and other regular education programs, intramural and interscholastic sports, nonacademic and extracurricular activities is provided to groups consisting solely of educationally handicapped pupils, the size of the groups and the age range shall conform to the requirements for special class programs described in this subchapter.

(j) (No change.)

(k) Each district board of education shall ensure that all educationally handicapped pupils have available to them the variety of educational programs and services available to non-handicapped pupils.

6:28-4.2 Program options

(a) Educational program options include the following:

1. Instruction in school which complements regular or special class programs through the following means:

i.-ii. (No change.)

iii. Speech-language services; and

iv. (No change.)

2. (No change.)

3. A special education program in the following settings:

i.-iii. (No change.)

iv. An educational services commission; and

v. (No change.)

4.-6. (No change.)

7. An approved private school for the handicapped in the continental United States, when it is not appropriate to provide services according to (a)1 through 6 above. Placement in an approved private school for the handicapped shall only be made with the prior written approval of the Department of Education through its county office; and

8. Individual instruction at home or in other appropriate facilities, excluding home instruction for medical reasons, with the prior written approval of the Department of Education through its county office, only when it is not appropriate to provide a special education program for an educationally handicapped pupil according to (a)1 through 7 above.

6:28-4.3 Program criteria: supplementary instruction, speeech and resource rooms

(a) Supplementary instruction and speech-language services provided to educationally handicapped pupils shall be in addition to the regular instructional program and shall meet the following criteria:

1. Speech-language services shall be given individually or in groups not to exceed three pupils;

2. Supplementary instruction shall be given individually or in groups not to exceed five pupils;

3. A teacher providing supplementary instruction shall be appropriately certified for the subject or level in which instruction is given according to the requirements of N.J.A.C. 6:11;

4. Supplementary and resource room instruction shall not be provided to pupils by the same teacher during the same instructional period; and

5. Speech-language services shall be provided by a certified speech correctionist or speech-language specialist.

(b) Resource room programs shall be instructional centers offering individual and small group instruction in place of regular classroom instruction, based on curriculum adopted by the board of education. Resource rooms shall meet the following criteria:

1. An educationally handicapped pupil in a resource room shall be enrolled on a regular public school class register with his or her chronological peers. Instructional responsibility for such a pupil shall be shared between the resource room teacher and the regular class teacher(s) as described in the individualized education program.

2. Depending on the type of resource room program, the resource room teacher shall hold certification as teacher of the handicapped, or teacher of blind or partially sighted, or teacher of deaf and/or hard of hearing.

3. Types of resource room programs shall be designated as follows:

i. Single handicap program for pupils with the same classification;

ii. Mixed handicap program for pupils with different classifications; and

iii. Open program for nonhandicapped and handicapped pupils.

4. The number of pupils in a resource room at any given time shall not exceed five. The total number of resource room pupils assigned to a resource room teacher shall be no more than 20.

i. When a resource room teacher is assigned other instructional responsibilities, the maximum number of resource room pupils that can be assigned to that teacher shall be less than 20. The maximum number of pupils shall be determined by dividing the number of periods of resource room instruction to which that teacher is assigned by the number of periods of that teacher's total instructional time and multiplying the result by 20. Where the school divides its instructional day by hours rather than periods, the calculation shall be performed by substituting hours for periods.

5. The maximum amount of time per day a pupil may participate in a resource room program at the elementary level is two hours; at the secondary level, two instructional periods.

6:28-4.4 Program criteria: special class programs, secondary, vocational and vocational rehabilitation

(a) Special class programs shall meet the following criteria:

1. An educationally handicapped pupil in a special class program shall be enrolled on a special class register;

2. Pupils shall be the primary instructional responsibility of a full-time special education teacher assigned to that class. Such teachers shall work with other teachers to whom the educationally handicapped pupil may be assigned for portions of his or her educational program;

3. Depending on the educational handicap(s) of the pupils assigned to the special class program, the special class teacher shall hold certification as teacher of the handicapped, teacher of blind or partially sighted, and/or teacher of deaf or hard of hearing. Teachers of the preschool handicapped shall additionally hold nursery school endorsement;

4. The age span in special class programs shall not exceed four years except for eligible for day training pupils according to N.J.A.C. 6:28-8.4(e)3;

5. A special class program may not be approved as a kindergarten;

6. A special class program shall serve pupils who have the same classification. Class sizes shall not exceed the following:

i. Auditorily handicapped—eight pupils;

ii. Chronically ill—15 pupils;

iii. Communication handicapped—eight pupils;

iv. Emotionally disturbed—eight pupils;

v. Mentally retarded, educable—12 pupils;

vi. Mentally retarded, trainable—10 pupils;
vii. Mentally retarded, eligible for day training—nine pupils (pupil to staff ratio of three to one);
viii. Multiply handicapped—eight pupils;
ix. Neurologically impaired—eight pupils;
x. Orthopedically handicapped—10 pupils;
xi. Perceptually impaired—12 pupils;
xii. Preschool handicapped—eight pupils (classroom aide required);
xiii. Socially maladjusted—12 pupils; and
xiv. Visually handicapped—eight pupils; and

7. The above maximum class sizes may be increased no more than one-third with the addition of a classroom aide or a second classroom aide where one is already required by obtaining prior written approval from the Department of Education through its county office.

(b) Secondary special class programs shall meet the following criteria:

1. Programs shall be in schools in which any combination of grades seven through 12 is contained;

2. Enrollment in secondary special class programs may be increased by one-half the maximum class size for pupils with the same classification as noted in (a)6 above;

3. For instructional purposes:

i. In all class groups comprised of pupils with a single classification, class sizes shall be according to (a)6 and 7 above; and

ii. In all class groups comprised of pupils with mixed handicaps, the group shall be limited to eight educationally handicapped pupils; and

4. An educationally handicapped pupil enrolled on the register of a secondary special class program shall receive a minimum of three instructional periods with the certified teacher(s) of the handicapped who maintains primary instructional responsibility for the pupil. The remainder of the pupil's instruction may be provided in the following settings, as appropriate:

i. A class consisting solely of educationally handicapped pupils instructed by a regular education teacher where an adapted general education curriculum is used.

(1) In class groups comprised of pupils with a single classification, class sizes shall be according to (a)6 ***and 7*** above.

(2) In class groups comprised of pupils with mixed handicaps, the group shall be limited to eight educationally handicapped pupils.

ii. A regular education class instructed by a subject area teacher. The number of educationally handicapped pupils who are enrolled on a special class register who can attend any given instructional period in such classes shall be limited to four if program modification is required.

(c) Vocational education programs shall meet the following criteria:

1. For the pupil placed in a vocational program outside of the local district, responsibility shall be as follows:

i. In a full-time county vocational school, all responsibility for programs and services rests with the receiving district board of education;

ii. In a shared-time county vocational school and in an area vocational technical school, primary responsibility rests with the sending district board of education. Vocational personnel shall participate in the individualized education program decisions; and

2. In vocational shop, and related academic programs class sizes shall be as follows:

i. For a class consisting of educationally handicapped pupils, the maximum class size with an aide shall not exceed 15. Class size shall not exceed 10 without the addition of an aide unless prior written approval of the Department of Education through its county office is granted. Approval shall be considered according to procedures specified by the Department of Education. Requests for approval of a class size which exceeds 10 without an aide shall include, but not be limited to, a description of the following pupil needs and instructional considerations:

(1) Nature and degree of handicapping condition;
(2) Interests, aptitudes and abilities of the pupil;
(3) Functional level;
(4) Employment potential;
(5) Type of occupational area;
(6) Instructional strategies;
(7) Safety factors; and
(8) Physical facility requirements.

(d) Secondary level pupils may be placed in vocational rehabilitation facilities *[in accordance with]* ***according to*** the following:

1. Vocational rehabilitation facilities shall be approved by the New Jersey Department of Labor, the Division of Vocational Rehabilitation Services and the Department of Education, through its county offices, to provide vocational evaluation and work adjustment training only;

2. Placement shall be on a part-time basis. All other mandated instruction/services, as specified in the individualized education program shall be provided in an education program approved by the Department of Education; and

3. Placement in vocational rehabilitation facilities shall be made with prior written aproval by the Department of Education through its county office.

6:28-4.5 Program criteria: home instruction

(a) Instruction provided in lieu of classroom instruction for pupils confined to their residence and classified by the school physician as eligible for home instruction shall meet the following criteria:

1. Instruction shall be provided at the pupil's place of confinement;

2. The pupil shall be carried on an individual home instruction register;

3. Instructional services shall begin within seven calendar days after eligibility has been established;

4. The teacher providing instruction shall be appropriately certified as teacher of the handicapped or for the subject or level in which the instruction is given;

5. The pupil shall receive a program that meets the requirements of the district board of education for promotion and graduation unless exempted in the individualized education program;

6. 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 certified teacher on at least three separate days. When instruction is provided by direct communication to a classroom program by telephone, computer or television, this instruction shall be in addition to the basic five hours of instruction; and

7. Instruction may be provided for up to 60 calendar days in a school year. If the school physician believes that instruction for a longer period of time is indicated, referral shall be made according to N.J.A.C. 6:28-3.3 for determination by the child study team of eligibility for special education and/or related services.

(b) A pupil classified as educationally handicapped shall have his or her individualized education program implemented through one to one instruction at home or in another appropriate setting when it can be documented that no other program option is appropriate at that time.

1. Prior written approval to provide home instruction shall be obtained from the Department of Education through its county office.

2. Approval shall be obtained for a maximum of 60 calendar days.

3. Paragraphs (a)2, 3, 4 and 5 above shall apply to the home instruction program of pupils classified by the child study team.

4. Instruction shall be provided for no fewer than 10 hours per week. ***This instruction per week shall be accomplished in no fewer than three visits by a teacher on at least three separate days.***

(c) Instruction provided for pupils confined to a hospital, convalescent home or other medical institution, classified by the school physician as eligible for home instruction or classified by the child study team as educationally handicapped, shall meet the following criteria:

1. Instruction shall be provided by a district board of education, educational services commission or jointure commission at the pupil's place of confinement;

2. Paragraphs (a)2, 3, 4, 5 and 7 above shall apply to the home instruction program; and

3. Individualized instruction shall be provided through either:
i. One to one instruction according to (a)6 above;
ii. Instruction to small groups of no more than three pupils, for no fewer than 15 hours per week; or
iii. When instruction is provided by direct communication to a classroom program by telephone, computer or television, this instruction shall be in addition to (c)3i or ii above.

6:28-4.6 Exceptions
(a) Exceptions to the requirements of this chapter shall be:
1. Made only with prior written approval of the Department of Education through its county office;
2. For a period not to exceed one year;
3. Regarding length of school day and/or the academic year or class size or classification according to N.J.A.C. 6:28-4.4(a)6 or age range according to N.J.A.C. 6:28-4.4(a)4 or required hours or periods of instruction.
(b) The county office shall:
1. Approve the exceptions incorporated in the pupil's individualized education program; or
2. Convene a meeting of the child study team and parent(s) to review the exceptions and individualized education program and to reach a consensus regarding the delivery of a free, appropriate public education. If it is determined that the granting of the exceptions would interfere with the delivery of a free, appropriate public education to the pupil, the county office may deny the exception.

6:28-4.7 (No change in text.)

6:28-4.8 Diplomas and graduation
(a) An educationally handicapped pupil who entered a high school program in September 1981 or thereafter shall meet the high school graduation requirements according to N.J.A.C. 6:8-7, unless exempted in his or her individualized education program. The individualized education program must specifically address these graduation requirements. The individualized education program shall specify which requirements would qualify the educationally handicapped pupil for a State endorsed diploma issued by the school district responsible for his or her education.
(b) An educationally handicapped pupil shall be exempted from the High School Proficiency Test and demonstration of mastery of the curriculum proficiencies if it can be demonstrated that his or her individualized education program has not included the range of proficiencies measured by ***the*** High School Proficiency Test and curriculum proficiencies or if the pupil would be adversely affected by taking the High School Proficiency Test.
(c)-(d) (No change.)
(e) Educationally handicapped pupils meeting the standards for graduation according to N.J.A.C. 6:28-4.8, shall have the opportunity to participate in graduation exercises and related activities on a nondiscriminatory basis.

SUBCHAPTER 5. APPROVED CLINICS AND AGENCIES

6:28-5.1 General requirements
(a) Only clinics and agencies approved by the Department of Education may provide those contracted services to district boards of education delineated in this subchapter.
(b) (No change.)
(c) Services which may be contracted shall be restricted to the following:
1. For public school pupils:
i. Independent child study team evaluations and/or child study team diagnostic services to supplement existing local district services; and
ii. (No change.)
2. For nonpublic school pupils:
i.-iii. (No change.)
3. Medical clinics and agencies approved by the New Jersey Department of Health or appropriate State agencies outside of New Jersey may conduct diagnostic medical services. These agencies do not have to obtain Department of Education approval nor do district boards of education have to receive prior approval of the Department of Education to purchase diagnostic medical services.
(d) District boards of education may purchase services listed under (c)1 and 2 above from approved clinics and agencies with the prior written approval of the Department of Education through its county office according to the following:
1. A request for approval to purchase services shall include the proposed terms of the contract;
2. The district board of education shall be notified of approval or disapproval within 30 calendar days of the request; and
3. (No change.)

6:28-5.2 Approval procedures
(a) Annual approval of clinics and agencies shall require, but not be limited to, submission and evaluation of the following:
1. A valid certificate of incorporation or certificate of formation. Where appropriate, any licenses or permits required by ordinances in effect within the state, county or municipality where the clinic or agency provides its services shall be provided;
2. (No change.)
3. A list of professional staff who will provide services which indicates each individual's certification or license and the function he or she will fulfill;
i. All staff shall be appropriately certified or licensed;
ii. All educational certificates shall be recorded with the Department of Education through the county office in which the clinic or agency is located;
iii. Professional staff employed by a clinic or agency who work full time for a district board of education shall not provide service for the clinic or agency during the hours of that individual's public school employment; and
iv. An employee of a district board of education shall not provide service as an employee of a clinic or agency to a pupil who is the responsibility of his or her employing district board of education;
4. A description of the facility or facilities in which services shall be provided including assurances that the facility meets applicable building and administrative code standards;
5. (No change.)
6. Assurance of an adequate accounting system according to generally accepted accounting principles; and
7. (No change.)
(b) Any clinic or agency denied approval by the Department of Education may appeal the annual approval decision to the Commissioner of Education for a hearing according to N.J.A.C. 6:24. Such hearing shall be governed by the provisions of the Administrative Procedure Act (see N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as implemented by N.J.A.C. 1:1).

SUBCHAPTER 6. SERVICES FOR NONPUBLIC SCHOOL PUPILS

6:28-6.1 General requirements
(a) This subchapter applies only to programs and services provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.
(b) The district of residence, as required by Federal law and regulation, shall maintain responsibility for providing a free, appropriate public education for pupils enrolled in nonpublic schools.
(c) The district board of education in which the nonpublic school is located shall provide to nonpublic school pupils the programs and services required by this subchapter by itself, or through joint agreements with other district boards of education or through contracts with educational services commissions or with clinics and agencies approved under N.J.A.C. 6:28-5.
(d) Specifications for contracts to provide programs and services covered by this subchapter shall be approved by the county superintendent of schools.

6:28-6.2 Provision of programs and services
(a)-(i) (No change.)
(j) The district board of education in which the nonpublic school is located shall maintain all records of nonpublic school pupils receiving programs and/or services under this subchapter according to N.J.A.C. 6:3-2.

6:28-6.3 Fiscal management

(a) Each district board of education shall provide programs and services under this subchapter at a cost not to exceed the amount of State aid funds.

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

(d) Each district board of education shall receive State aid for programs and services required by this subchapter for the succeeding school year as available from appropriated funds for nonpublic school programs and services.

6:28-6.4 End of the year report

(a) (No change.)

(b) The end of the year report shall include the numbers of nonpublic school pupils provided each program or service and such other information as may be required by the Department of Education.

SUBCHAPTER 7. PROGRAMS BY EDUCATIONAL SERVICES COMMISSIONS, JOINTURE COMMISSIONS, REGIONAL DAY SCHOOLS, COUNTY SPECIAL SERVICES SCHOOL DISTRICTS, THE MARIE H. KATZENBACH SCHOOL FOR THE DEAF, PRIVATE SCHOOLS FOR THE HANDICAPPED AND PUBLIC COLLEGE OPERATED PROGRAMS FOR THE HANDICAPPED

6:28-7.1 General requirements

(a) Educational services commissions, jointure commissions, regional day schools, county special services school districts, the Marie H. Katzenbach School for the Deaf, private schools for the handicapped and public college operated programs for the handicapped shall obtain prior written approval from the Department of Education to provide programs for educationally handicapped pupils through contracts with district boards of education.

1. Approval *[for the initiation, expansion]* ***to establish*** or change *[of]* a program shall be based upon the criteria established by the Department of Education.

2. (No change.)

3. Annual approval for private schools shall be obtained and shall include, but not be limited to, the provisions of N.J.A.C. 6:28-7.3.

(b) (No change.)

(c) Programs for educationally handicapped pupils provided under this subchapter shall be operated according to this chapter.

1. Exceptions regarding pupil placement shall be made according to N.J.A.C. 6:28-4.6. Providers of programs under this subchapter shall maintain documentation of this approval.

(d) (No change.)

(e) The residential component of an approved private school for the handicapped shall be approved by either the New Jersey Department of Human Services or by the appropriate government agency in the state in which the school is located.

(f) Out-of-state private schools for the handicapped shall be approved to provide special education programs by the department of education of the state in which they are located prior to applying for eligibility to receive New Jersey pupils. Exceptions to this requirement may be made only at the discretion of the Division of Special Education, the New Jersey Department of Education based on demonstrated compliance with N.J.A.C. 6:28 and 6:20-4.

(g) When an approved private school has a change in corporate structure or changes the structure of its governing body from that which was approved in the prior year, the composition of the board shall be according to N.J.A.C. 6:28-7.2(e)6iii(1) and (2).

6:28-7.2 Approval procedures to establish or change a program

(a) Prior to the establishment or change of a program for educationally handicapped pupils, an application shall be submitted to the Department of Education.

(b) (No change.)

(c) The Department of Education shall notify the applicant of its decision no later than 90 calendar days after receipt of the application.

(d) An appeal of the decision to deny approval may be made to the Commissioner of Education according to N.J.A.C. 6:24.

(e) The application for approval to establish or change a program for educationally handicapped pupils shall include, but not be limited to:

1. A survey of need indicating the number, age range and classifications of educationally handicapped pupils to be served. This survey shall include, but not be limited to:

i. A listing of local school districts surveyed, indicating the number of pupils in need of the proposed programs/services; and

ii. A listing of existing approved programs, within the geographical area to be served, which currently serve pupils with the same or similar educational needs;

2. (No change.)

3. The projected program for each group of educationally handicapped pupils with the same handicapping condition including:

i.-iii. (No change.)

iv. The nature and scope of the program and services to be offered and the number and type of educationally handicapped pupils to be served; and

v. A description of the proposed curriculum including a statement of philosophy, goals, objectives and instructional strategies;

4. A copy of the approval of the facility by the Department of Education through its county office including certification of health and fire approval;

5. An assurance that necessary emergency procedures will be followed; and

6. Additionally each private school shall submit:

i. (No change.)

ii. A copy of the certificate of incorporation; and

iii. The names of the members of the board of directors. For initiation of a program this board of directors:

(1) (No change.)

(2) May include the director of the private school in a nonvoting capacity, but no other employee or officer of the school.

6:28-7.3 Annual approval procedures

(a) Annually each approved private school shall submit information including, but not limited to:

1. Program information:

i. Number of pupils to be served;

ii. Numbers and types of classes;

iii. Number of school days; and

iv. Daily hours in session;

2. Staffing information:

i. Staff roster including classes assigned and certification(s) held;

3. Fiscal information according to N.J.A.C. 6:20;

4. A copy of the certificates of health, fire, boiler inspections, occupancy and, if applicable, sewerage plant;

5. Assurance statement that necessary emergency procedures will be followed; and

6. An affidavit that its programs and services for the educationally handicapped are nonsectarian and in compliance with N.J.S.A. 18A:46-1 et seq., N.J.A.C. 6:28, the Education for All Handicapped Children Act-Part B. (20 U.S.C. 1400 et seq.) and the Rehabilitation Act (USPL 93-112 Section 504).

6:28-7.4 Responsibilities of district boards of education

(a) The educational program of a handicapped pupil provided through contractual agreements as described in N.J.A.C. 6:28-7.1(a) shall be considered the educational program of the district board of education. The district board of education shall be responsible for the services required in N.J.A.C. 6:28-3.

1. For pupils placed in programs described in N.J.A.C. 6:28-7.1(a), representative(s) of the program and the district board of education shall participate in any meeting(s) according to N.J.A.C. 6:28-2.3(f).

(b) The placement of an educationally handicapped pupil in a program as described in N.J.A.C. 6:28-7.1(a) shall be made only with the prior written approval of the Department of Education through its county office. Providers of programs under this subchapter shall maintain documentation of this approval.

1. (No change.)
2. Prior to placement in a program, a representative of the district board of education and, if possible, the parent(s) shall visit the school.
3. (No change.)
4. When a district board of education is able to demonstrate to the Department of Education through its county office that the individualized education program of an educationally handicapped pupil cannot be provided by a public program or private day school program, the pupil may be placed in an approved residential private school which shall be at no cost to the parent(s). The district board of education shall be responsible for special education costs, room and board.
5. Placement of an educationally handicapped pupil in an approved residential private school by a public agency, other than the district board of education, shall be subject to the rules governing such agencies and to this chapter. The district board of education shall pay the nonresidential special education costs.
i. (No change.)
ii. The chief school administrator or his or her designee shall participate with the public agency in the placement decision if the district board of education is to be responsible for the special education costs.
(c) If the approval of a private school for the handicapped is removed, a district board of education having an educationally handicapped pupil placed therein, shall immediately begin seeking an alternative, appropriate placement for that pupil.

6:28-7.5 Provision of programs
(a) An educational program provided under this subchapter shall conform to the requirements of N.J.A.C. 6:28-4 and to the pupil's individualized education program.
(b)-(c) (No change.)
(d) A provider of programs under this subchapter shall notify the Department of Education 90 calendar days prior to ceasing operation.

6:28-7.6 Termination or withdrawal from an educational program
(a) Prior to the termination or withdrawal of any educationally handicapped pupil from an approved program described in N.J.A.C. 6:28-7.1(a), there shall be an individualized education program review conference according to N.J.A.C. 6:28-3.6(j) which shall include participation of appropriate personnel from the receiving school. Fifteen calendar days prior to termination or withdrawal written notice shall be given by the parent(s), the district board of education or the school providing the program to the other parties.
(b) An educationally handicapped pupil *[completes his or her individualized education program, the pupil]* shall receive a diploma if the requirements of N.J.A.C. 6:28-4.8 are met.

6:28-7.7 Fiscal management
(a)-(c) (No change.)
(d) Transportation for pupils in residence at the Marie H. Katzenbach School for the Deaf shall be according to N.J.A.C. 6:78-1.3.
(e) All approved private schools for the handicapped shall submit a certified audit to the Department of Education by November first, for the prior school year, according to N.J.A.C. 6:20.

6:28-7.8 Records
(a) All providers under this subchapter shall conform to the requirements of N.J.A.C. 6:3-2 pertaining to pupil records. In addition:
1. (No change.)
2. Requests for access to pupil records by authorized organizations, agencies or persons as stated in N.J.A.C. 6:3-2 shall be directed to the chief school administrator or his or her designee of the local school district having responsibility for the handicapped pupil.
3. (No change.)
b. (No change.)

6:28-7.9 Monitoring and corrective action
(a) The Department of Education shall monitor approved private schools for the handicapped according to N.J.A.C. 6:28-9.1. On site monitoring shall be conducted at least every five years.
(b) When an approved private school is determined to be in noncompliance, Department of Education actions may include, but are not limited to:
1. The Department of Education may issue a conditional approval status when noncompliance is demonstrated in such areas as staff certification, facilities approval, business services according to N.J.A.C. 6:20-4 or submission and/or implementation of the corrective action plan.
i. An approved private school which is issued a conditional approval status may not accept new pupils;
2. The Department of Education may refuse to grant annual approval when chronic or systemic noncompliance is demonstrated; and
3. The Department of Education may immediately remove program approval when it is documented that the health, safety or welfare of the pupils is in danger.
(c) An appeal of the actions of the Department of Education may be made to the Commissioner of Education according to N.J.A.C. 6:24.

SUBCHAPTER 8. PROGRAMS OPERATED BY THE DEPARTMENTS OF CORRECTIONS AND HUMAN SERVICES

6:28-8.1 General requirements
(a) The requirements of this chapter shall apply to all educational programs provided under N.J.S.A. 18A:7B for handicapped pupils by the Departments of Corrections and Human Services. These requirements do not apply to Graduate Equivalent Degree (GED), adult continuing education or college degree programs.
(b) All educationally handicapped pupils shall receive an educational program and/or related services based on an individualized education program. A pupil who has an individualized habilitation plan or an individual treatment plan, as defined by the Department of Human Services, shall have the individualized education program incorporated into the plan.
(c)-(e) (No change.)
(f) Educational programs and services shall be provided for each pupil between the ages of three and 21 who does not hold a high school diploma or who is not enrolled in a Graduate Equivalent Degree, adult continuing education or a college degree program.
(g) Attendance is compulsory for all pupils except for a pupil age 16 or above who explicitly waives this right. Such a waiver may be revoked at any time by the pupil. For a pupil below the age of 18, a waiver is not effective unless accompanied by parental consent. Educationally handicapped pupils may reenroll according to N.J.A.C. 6:28-2.1(b).
(h) All education programs with the exception of home instruction shall be scheduled for at least four hours per day and no fewer than 180 days each year.
(i) (No change.)
(j) When a pupil enters a State facility:
1. If the pupil is educationally handicapped and an immediate review of the classification and individualized education program cannot be conducted, the pupil shall be placed in a program consistent with the goals and objectives of the current individualized education program for a period not to exceed 30 calendar days; or
2. If the pupil is not currently classified as educationally handicapped, or if the State facility does not have current school records, the State facility shall review the pupil's educational status within 30 calendar days to determine if the pupil is potentially educationally handicapped and if referral to the child study team is required.
(k) Each State facility shall develop a special education plan according to N.J.A.C. 6:28-1.2 which additionally shall include:
1.-2. (No change.)
(l) Annually the responsible board of education shall be notified of the pupil's progress toward the local and State high school graduation requirements according to N.J.A.C. 6:8-7.
(m) District boards of education shall grant State endorsed diplomas for pupils enrolled in State facilities *[in accordance with]* ***according to*** N.J.A.C. 6:8-7 and 6:28-4.8(a).

6:28-8.2 Pupil records

(a) (No change.)

(b) Prior to exiting a State facility, all educational records shall be transmitted to the responsible district board of education, as indicated *[by]* ***in*** N.J.S.A. 18A:7B-12, in order to assure credit for work completed by the pupil.

(c) In the case of pupils with no identifiable district board of education, records shall be maintained by the Department of Corrections or Department of Human Services according to N.J.A.C. 6:28-2.9.

6:28-8.3 Procedural safeguards

(a) A due process hearing request for a pupil in a State facility shall be made to the Department of Education according to N.J.A.C. 6:28-2.7. Attempts to resolve conflicts prior to a request for due process are encouraged; however a request for mediation *[or administrative review]* is not a prerequisite to a hearing.

(b) A request for mediation may be made directly to the Department of Corrections or the Department of Human Services.

1. The Department of Corrections and the Department of Human Services shall adhere to written mediation procedures approved by the Department of Education.

(c) Mediation efforts by the Department of Education as described in N.J.A.C. 6:28-2.6 may be requested for handicapped pupils.

(d) The educational rights of non***educationally*** handicapped pupils to procedural safeguards are the same as non***educationally*** handicapped pupils in local district schools in New Jersey.

(e) Discipline of educationally handicapped pupils shall be according to N.J.A.C. 6:28-2.8.

(f) Surrogate parents shall be appointed according to N.J.A.C. 6:28-2.2.

6:28-8.4 Provision of programs

(a) (No change.)

(b) A residential State facility may recommend placement of *[a]* ***an educationally handicapped*** pupil in a local school district if the pupil is capable of participating in an educational program offered by a district board of education. Documentation of attempts to place the pupil in the least restrictive environment according to N.J.A.C. 6:28-2.10 shall be stated in the pupil's individualized educational program. Tuition shall be paid by the State facility to the district board of education where the pupil is placed.

(c) All professional staff shall be appropriately certified to function in their area of assignment and their certification shall be on file in the respective department's education office and in the appropriate county office of the Department of Education.

1. (No change.)

2. All other educational staff shall hold the certification determined appropriate by the Department of Education.

3. When a class has educationally handicapped as well as *[nonhandicapped]* non***educationally*** handicapped pupils, the assigned teacher shall hold certification as teacher of the handicapped.

(d) Class size for all pupils enrolled in State-operated programs shall not exceed the following:

1. (No change.)

2. Child treatment center or psychiatric hospital—eight pupils;

3. (No change.)

4. Day training center—nine pupils per classroom with a pupil to staff ratio of three to one; and

5. (No change.)

(e) Day training programs shall be provided in the following manner:

1. The Department of Human Services shall provide educational programs and related services for pupils classified as eligible for day training in State-operated or contracted facilities;

2. A day training program is responsible for implementing the individualized education program which shall be developed by the district board of education *[agency]* with input from a curriculum consultant from the day training center;

3. In classes for pupils classified as eligible for day training, the age range may exceed four years only if the rationale for placement is noted in the pupil's individualized education program;

4. An educational program for pupils classified as eligible for day training in a State residential facility shall be commensurate with those in a day training center; and

5. (No change.)

(f) For those pupils placed in day training centers, the district board of education shall:

1. Develop the basic plan section of the individualized education program with participation of the curriculum consultant from the proposed day training facility;

2. Conduct the annual review of the individualized education program according to N.J.A.C. 6:28-3.6(j) and include the participation of the teaching staff member from the day training facility who is familiar with the pupil; and

3. Conduct the reevaluation according to N.J.A.C. 6:28-3.7*[(j)]* and provisions of this subchapter.

(g) For those pupils placed in day training centers, the Department of Human Services shall:

1. Provide an opportunity for the teacher having knowledge of the pupil to contribute to the development of the instructional guide section of the individualized education program *[in accordance with]* ***according to*** N.J.A.C. 6:28-3.6(i); and

2. Provide the educational program and all related services as specified in the individualized education program.

(h) An educational plan shall be developed by the approved facility for each school age pupil leaving a Department of Corrections or Department of Human Services education program which shall include:

1. Information necessary to formulate an appropriate educational program when the pupil returns to a local district or attends any other educational program beyond the facility placement.

2. An individualized education program for educationally handicapped pupils; or for non-educationally handicapped pupils, a description of the pupil's general education program; and

3. Specifics for the implementation of the plan including:

i. Contact personnel;

ii. Program recommendations;

iii. Timelines for implementation; and

iv. Personnel responsible for implementation.

(i) When a pupil in a residential State facility is in need of home instruction according to N.J.A.C. 6:28-4.5(b), the State facility shall implement the program. Pupils may receive home instruction beyond 60 calendar days only with written approval of the Department of Education through its county office.

(j) When a pupil in a day training center is in need of home instruction according to N.J.A.C. 6:28-4.5(b), the center shall implement the program. When home instruction extends beyond 60 calendar days, the Department of Human Services, Office of Education shall notify the responsible district board of education. The district shall review the pupil's current educational classification. Pupils may receive home instruction beyond 60 calendar days only with written approval of the Department of Education through its county office.

6:28-8.5 Eligibility to receive State funds

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

(c) Annually the Department of Corrections and the Department of Human Services shall submit a composite education program budget for all programs and services under its jurisdiction *[in accordance with]* ***according to*** N.J.S.A. 18A:7B-12.

6:28-8.6 Program review and approval

(a) Annually the Department of Education shall review all educational programs provided for educationally handicapped pupils by a department of State government for compliance with New Jersey Statutes Annotated, New Jersey Administrative Code, and adherence to their approved special education plan and budget.

(b) (No change.)

SUBCHAPTER 9. MONITORING, CORRECTIVE ACTION AND COMPLAINT INVESTIGATION

6:28-9.1 Monitoring and corrective action

(a) (No change.)

(b) The monitoring process may include but is not limited to:

1. Review of data and reports;
2. On-site visits;
3. Comparison of a sample of individualized education programs with the programs and services offered; and
4. Audit of Federal and State funds.

(c) (No change.)

(d) If the public or private agency receives a review report that indicates noncompliance, a corrective action plan shall be developed by the agency and submitted to the Department of Education for approval.

(e) The corrective action plan shall be submitted according to a format provided by the Department of Education and shall include, but not be limited to, the following:

1. Objectives and strategies for correcting each non-compliance item cited, including resources needed; and
2. Dates by which noncompliance will be corrected.

(f) The Department of Education shall review the corrective action plan and notify the agency if it is acceptable.

(g) When a corrective action plan is not submitted, found unacceptable or not implemented, the Department of Education shall notify the agency of the actions that it intends to take.

(h) An appeal of the denial of approval of a corrective action plan, imposition of sanctions or determination of noncompliance may be made to the Commissioner of Education according to N.J.A.C. 6:24.

(i) The Department of Education shall maintain monitoring records for a period of at least five years.

6:28-9.2 Complaint investigation

(a) The Director of the Division of Special Education or his or her designee(s) shall be responsible for reviewing, investigating and taking action on any written complaint of substance regarding the provision of special education and/or related services covered under this chapter. The Division of Special Education in conjunction with the county office of education, shall complete an investigation within 60 calendar days after a written complaint is received.

(b) The investigation may include, but not be limited to:

1. Review of policies and procedures;
2. Review of pupil record(s);
3. Observation of special class programs; and
4. Interview(s) of complainants, staff and parents.

(c) A report of findings, conclusions and, when warranted, the required corrective actions shall be sent to the parties involved.

(d) Upon receipt of the complaint investigation report, either party may appeal the findings and/or recommendations by filing a petition with:

1. The Commissioner of Education in accordance with N.J.A.C. 6:24; or
2. The United States Secretary of Education in accordance with 34 C.F.R. 76.781.

SUBCHAPTER 10. EARLY INTERVENTION PROGRAMS

6:28-10.1 General requirements

(a) This subchapter applies to all agencies that receive public funds through contracts from the Department of Education for the provision of early intervention programs to handicapped children between birth and age three. Early intervention programs shall address a child's education, health and human service needs within the framework of the family through an individualized family service plan according to P.L. 99-457.

(b) Early intervention programs shall be administered by the Department of Education as the lead agency in collaboration with the Departments of Health and Human Services and the Developmental Disabilities Council.

(c) Early intervention programs that receive public funds through contracts shall be funded to the extent provided by appropriations to the Department of Education for these purposes.

(d) The Department of Education, in consultation with the Departments of Health and Human Services and the Developmental Disabilities Council, shall monitor and review annually the programs and services of each funded early intervention program according to N.J.A.C. 6:28-9.

(e) An application for funding of an early intervention program shall be submitted annually to the Department of Education.

(f) Eligibility for funding and level of funding shall be determined annually by the Department of Education in consultation with the Departments of Health and Human Services and the Developmental Disabilities Council.

(g) To be eligible for funding, agencies shall comply with the program and fiscal criteria in the application for early intervention funds and with the contract requirements.

(h) An appeal of the approval or funding decision of the Department of Education may be made to the Commissioner of Education according to N.J.A.C. 6:24.

(i) Personnel employed in early intervention programs shall be appropriately certified or licensed.

(j) Facilities for early intervention programs shall comply with all local health and safety codes. Each facility site shall be inspected and approved *[in accordance with]* ***according to*** county and local building, fire and health requirements.

(k) Funded early intervention programs shall comply with all pupil record requirements according to N.J.A.C. 6:3-2.

6:28-10.2 (Reserved)

6:28-10.3 (Reserved)

SUBCHAPTER 11. SPECIAL EDUCATION PILOT PROJECT

6:28-11.1 General provisions

(a) The New Jersey Department of Education has developed the Plan to Revise Special Education in New Jersey (Plan). The Plan is a major initiative of the Department and includes a set of recommendations designed to improve the organization and delivery of special education programs and services to handicapped pupils. The Plan is also designed to build the capacity in regular education to serve nonhandicapped pupils with mild learning problems in regular education.

(b) The Plan to Revise Special Education in New Jersey is being implemented as a pilot project operated by the Department of Education in selected local districts under the authority of N.J.S.A. 18A:7A(5)i.

(c) This subchapter shall replace N.J.A.C. 6:28-3.1 through 3.5 and N.J.A.C. 6:28-4.1(a) through (d) and 4.2 through 4.6 and shall apply only to those districts selected by the Department of Education to pilot the Plan. All other provisions of N.J.A.C. 6:28 shall apply to such districts except as specifically noted in this subchapter.

(d) Prior to September 1, 1988, the child study teams of pilot districts shall determine an appropriate eligibility status for all pupils classified according to N.J.A.C. 6:28-3.5*[(d)]***(c)***.

1.-2. (No change.)

(e) (No change.)

6:28-11.2 School resource committees

(a) All pilot district boards of education shall establish at least one school resource committee in each of its regular schools. The school resource committee is a standing committee whose purpose is to assist teachers with strategies for educating non-handicapped pupils with learning and/or behavior problems in regular education. Pilot district boards of education shall develop procedures for requesting the services of the school resource committee, implementing committee recommendations and communicating with parents.

1.-3. (No change.)

(b) (No change.)

(c) The school resource committee shall prepare assistance plans for pupils who require modifications to their regular education program. Those plans shall detail the modification(s) developed for the pupil and be reviewed within eight ***calendar*** weeks of their implementation. The recommendation(s) of the assistance plan must be carried out and shall:

1.-3. (No change.)

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

6:28-11.3 Child study teams

(a) A child study team is an interdisciplinary group of appropriately certified persons who shall:

1. Evaluate pupil instructional needs after parental consent has been received and participate in the determination of eligibility for special education and/or related services for pupils referred as potentially educationally handicapped;

2.-3. (No change.)

4. Provide preventive and support services to nonhandicapped pupils; and

5. Provide services to the regular education staff which include:

i.-iii. (No change.)

iv. The design, implementation and evaluation of techniques to prevent and/or remediate educational difficulties; and

v. (No change.)

(b) A child study team shall consist of a learning disabilities teacher-consultant, a school psychologist, a school social worker and a speech correctionist or speech-language specialist. All members of the child study team shall be employees of the pilot district board of education, have an identifiable apportioned time commitment to the local school district and be available during the hours when pupils are in attendance.

(c) (No change.)

(d) At least one member of the child study team shall be knowledgeable about placement options for educationally handicapped pupils according to N.J.A.C. 6:28-4.

6:28-11.4 Identification

(a) Each pilot district board of education shall adopt written procedures for identifying those pupils ages three through 21 who reside within the local school district, may be educationally handicapped and are not receiving special education and/or related services as required by this chapter. Children below the age of three shall be identified, located and evaluated through programs operated by or through contract with the Department of Education.

1.-2. (No change.)

(b) When an educationally handicapped pupil transfers into a pilot district, placement shall be according to N.J.A.C. 6:28-4.1(h).

(c) For a child who has been enrolled in an early intervention program, who will be age three according to N.J.A.C. 6:28-1.3 in the following school year and who is identified to the district board of education prior to June 1, the district board of education shall obtain parental consent, determine eligibility and, if appropriate, develop an individualized education program. This shall be completed not later than the opening of school in the following school year.

6:28-11.5 Referral

(a) Prior to any decision regarding referral of a pupil to a child study team for determination of eligibility for special education programs or services, a certified staff member shall request the school resource committee to recommend interventions in the regular public school program to address educational problems. The following exceptions to this provision apply:

1. School resource committee intervention is not required for a pupil whose educational problems are such that direct referral to the child study team can be supported; and

2. The parent(s) may refer this child to the child study team directly. The child study team shall determine the appropriateness of any such referral.

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

(g) When a parent identifies a child three to five as potentially handicapped, the district board of education shall use a screening procedure which includes, at a minimum, an observation of the child to determine if the child should be referred directly to the child study team for comprehensive evaluation. Screening shall be completed within 30 calendar days of parental request.

(h) When the Division of Youth and Family Services, Department of Human Services, identifies a potentially educationally handicapped pupil for whom a local school district is responsible, the district shall accept the pupil's identification by the Division of Youth and Family Services and request parental consent to refer the pupil directly to its child study team according to this subchapter.

(i) Pupils referred solely for speech-language services may be referred directly to the speech-language specialist and need not be reviewed by the entire child study team.

(j) Vision screening shall be conducted by the school nurse for every pupil referred to the child study team.

6:28-11.6 Comprehensive evaluation

(a) (No change.)

(b) The evaluation plan shall include:

1. The specific information to be obtained;

2. The child study team members who will participate in the evaluation.

i.-iii. (No change.)

iv. Data collection shall include, but not be limited to, an interview with the referring teacher and parent, if direct referral is made by the parent(s);

3. (No change.)

4. The language(s) or method of communication to be used in the evaluation process; and

5. (No change.)

(c) The parent(s) shall be provided a copy of the evaluation plan and notice according to N.J.A.C. 6:28-2.3.

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

(f) All evaluations specified in this chapter shall:

1.-2. (No change.)

3. Be conducted in the dominant language or method of communication determined in the evaluation plan;

4. Consider the pupil's socio-cultural background and adaptive behavior in home, school and community; and

5. Result in a written report which shall be dated and signed by the individual who originated the data.

(g) A comprehensive evaluation shall consist of the following:

1. (No change.)

2. Assessment by a child study team member must include an appraisal of the pupil's current functioning and an analysis of instructional implication(s) appropriate to the discipline reporting. The ***initial*** assessment must comply with the eligibility criteria of N.J.A.C. 6:28-11.8, address those areas included in the evaluation plan based upon the presenting problem of the referred pupil, and result in a written report.

(h) (No change.)

(i) Eligibility assessment for speech-language services shall be conducted by the speech correctionist or speech-language specialist and others as appropriate and include a written report from the pupil's teacher.

(j)-(k) (No change.)

(l) A reevaluation and individualized education program, if appropriate, shall be completed within three years of the date of the previous classification. Reevaluation shall be conducted more often if conditions warrant or if the pupil's parent(s) or teacher requests the reevaluation.

1. (No change.)

2. The full child study team shall design an evaluation plan as described in this section. The parent(s) shall be provided with a copy of the evaluation plan and notice according to N.J.A.C. 6:28-2.3.

3. (No change.)

(m) (No change.)

6:28-11.7 Determination of eligibility

(a) When an evaluation is completed, members of the child study team who participated in the assessment and parent(s) shall meet with the school principal and referring staff member(s), if they choose to participate, in order to:

1.-2. (No change.)

3. Determine eligibility for special education and/or related services according to N.J.A.C. 6:28-11.8; and

4. (No change.)

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

6:28-11.8 Eligibility criteria

(a) (No change.)

(b) The pupil must meet both standard and functional criteria in order to satisfy a domain or an impact area.

1.-2. (No change.)
3. Functional assessment shall include:
i. A minimum of one structured observation of not less than 20 minute duration by each of two child study team members as required for each domain or area listed in this section;
ii.-v. (No change.)
(c) The following special considerations shall apply to eligibility criteria for preschool pupils:
1. Preschool evaluations need not use the school setting as the reference for meeting the functional criteria. In such cases the home, institution or community setting shall be substituted;
2. The learning domain in (d)2 below shall not be required;
3. The child study team must determine that the pupil requires a full-time special education program; and
4. The criteria for educational impact need not be demonstrated.
(d) The following criteria are established for each domain:
1. Cognitive criteria are as follows:
i. Standard criteria: The pupil's general level of cognitive functioning on a standardized intelligence test administered by a school psychologist shall be at least two standard deviations below the norm;
ii. Functional criteria: The pupil's general level of cognitive functioning within the school setting shall be significantly discrepant from the typical pupil and/or appropriate norms. This cognitive deficit shall include an inability to demonstrate personal independence and social responsibility according to age and sociocultural group expectations and any of the following: an inability to generalize/transfer information skills and concepts; an inability to appropriately solve problems; or an inability to formulate appropriate judgments and inferences;
iii. Assessment areas for the cognitive domain shall include:
(1) The pupil's general level of cognitive functioning;
iv. Assessment shall be by at least:
(1) A school psychologist; and
(2) One other child study team member;
2. Learning criteria are as follows:
i.-iii. (No change.)
iv. Assessment shall be by at least:
(1) (No change.)
(2) The learning disabilities teacher-consultant;
3. Social/emotional criteria are as follows:
i. Standard criteria: The pupil demonstrates a pervasive or chronic inability to build or maintain satisfactory relations with peers, teachers and/or school personnel that severely interferes with one or other pupils' social/emotional growth within the school setting;
ii. Functional criteria: The pupil shall demonstrate a pervasive or chronic inability to build or maintain satisfactory relations with peers, teachers and/or school personnel that severely interferes with the pupil's own or with others' social/emotional growth within the school setting. The behavior is significantly discrepant from the typical pupil and/or age appropriate norms;
iii. Assessment areas for the social/emotional domain shall include:
(1)-(3) (No change.)
(4) Atypical behavior; and
iv. Assessment shall be by at least:
(1) (No change.)
(2) A school social worker;
4. Physical criteria are as follows:
i. Standard criteria: The pupil has received a diagnosis describing a physical condition which interferes with the pupil's ability to function independently in a school setting;
ii. Functional criteria: The pupil's physical condition requires strategies, materials and/or equipment in order to compensate for the physical condition and to be able to function in the school environment;
iii.-iv. (No change.)
5. Sensory-hearing criteria are as follows:
i. Standard criteria: The pupil's performance on an audiological examination shall indicate a loss in the speech range of 30 decibels or greater in the better ear when aided;
ii. Functional criteria: The pupil's auditory functioning requires special strategies, materials and/or equipment in order to compensate for the auditory deficit and to be able to function in the school environment;
iii.-iv. (No change.)
6. (No change.)
7. Communication criteria are as follows:
i.-iii. (No change.)
iv. Assessment shall be by at least:
(1) A speech correctionist or speech-language specialist; and
(2) One other child study team member.
v. Pupils referred solely for speech-language services shall require at least the evaluation and observation of the speech correctionist or speech-language specialist and information from the pupil's teacher.
(e)-(f) (No change.)
(g) When the parent of a pupil eligible for special education and/or related services requests a classification designation as stated in N.J.A.C. 6:28-3.5(c), the child study team shall select an appropriate classification type based upon the evaluation completed according to N.J.A.C. 6:28-11.6 and 7 and any specialist required by N.J.A.C. 6:28-3.5(c).

6:28-11.9 Individualized education program
(a) The individualized education program for each educationally handicapped pupil shall consist of a basic plan and an instructional guide, pursuant to N.J.A.C. 6:28-3.6 and this subsection.
1. (No change.)
2. The basic plan of the individualized education program shall conform with N.J.A.C. 6:28-3.6(a), (b), (c) and (e) and shall also include the following:
i.-iii. (No change.)
3. The instructional guide shall describe both the learning characteristics of the pupil and the related instructional characteristics of the pupil's learning environment. The instructional guide shall include those requirements stated in N.J.A.C. 6:28-3.6(f), (g), (h) and (i) and the following:
i.-iv. (No change.)
(b) Pupils determined to require placement in a day training facility shall be classified as eligible for day training according to N.J.A.C. 6:28-3.5(c)5iii based upon the child study team evaluation completed under N.J.A.C. 6:28-11.6(g).
(c) Annually, or more often if necessary, the case manager, parent(s), teacher(s), the pupil, if appropriate, and other individuals at the discretion of the parents, shall meet to review and revise the instructional guide and the basic plan of the *[individual]* ***individualized*** education program as specified in this subchapter.
1.-3. (No change.)
(d) Documentation of those persons who participated in the development of the individualized education program shall be maintained and a copy of the individualized education program shall be provided to the parent(s) in their native language according to N.J.A.C. 6:28-2.4.
(e) When the parent(s) declines participation in an individualized education program meeting or is in disagreement with the recommendations, the remaining participants shall develop a written individualized education program in accordance with this section. Initial implementation of special education cannot occur until consent is obtained or a hearing decision is issued. For other than initial implementation of special education, the parent(s) shall be provided written notice according to N.J.A.C. 6:28-2.3.

6:28-11.10 Provision of programs
(a)-(c) (No change.)
(d) Appropriate facilities shall be provided for educationally handicapped pupils according to N.J.A.C. 6:22.
(e)-(f) (No change.)

6:28-11.11 Program options
(a) (No change.)
(b) The following program criteria shall be met:

1. Speech-language services provided to educationally handicapped pupils shall be in addition to the regular instructional program and shall meet the following criteria:

i. Speech-language services may be given individually or in groups not to exceed three pupils.

ii. Speech-language services shall be provided by a certified speech correctionist or speech-language specialist.

2. Part-time special education programs shall provide individual and small group instruction to pupils eligible to receive part-time special education and shall meet the following criteria:

i.-v. (No change.)

vi. The number of pupils provided replacement instruction at any given time shall not exceed six in an elementary group or eight in a secondary group. The group size in out-of-class replacement instruction may be increased by one-third with the addition of a classroom aide by obtaining the approval of the Department of Education through its county office. The group size in secondary out-of-class replacement instruction may be doubled when a regular teacher joins the resource center teacher in instructing the group. No more than one content area may be taught in an individual period of replacement instruction. Age span shall not exceed four years.

vii.-viii. (No change.)

3. (No change.)

6:28-11.12 Full-time class types

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

(f) Severe behavior handicap class types shall meet the following requirements:

1.-6. (No change.)

7. Required related services shall include:

i. (No change.)

ii. Speech-language services.

(g) (No change.)

(h) Severe cognitive handicap type classes shall meet the following requirements:

1.-6. (No change.)

7. Required related services shall include:

i. Speech-language services;

ii.-v. (No change.)

(i) Auditory handicap type classes shall meet the following requirements:

1.-6. (No change.)

7. Required related services shall include:

i. (No change.)

ii. Speech-language services.

(j) Auditory/visual handicap type classes shall meet the following requirements:

1.-2. (No change.)

3. Instruction shall be provided by a certified teacher of the handicapped who is certified as one of the following:

i. Teacher of the deaf/hard of hearing; or

ii. Teacher of the blind/visually impaired.

4.-6. (No change.)

7. Required related services shall include:

i.-ii. (No change.)

iii. Speech-language services;

iv.-vi. (No change.)

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

(n) In secondary full-time class types, enrollment may be increased by one-half the maximum instructional group size allowed for that specific class type as noted in (c) above. For instructional purposes, no group shall contain more than the maximum number for that class type. Pupils may be of only one class type.

(o) (No change.)

6:28-11.13 Program approval

(a) Annually, each pilot district shall apply for approval of its special education program by completing a report which describes:

1.-2. (No change.)

3. Profiles of each of the full-time classes it operates which include:

i.-ii. (No change.)

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

(e) Any exceptions regarding the requirements of these operational specifications shall be made only with prior written approval of the Department of Education through its county office and the Division of Special Education according to N.J.A.C. 6:28-4.6 and the following:

1. Pupils received by the pilot district or placed in out-of-district facilities such as, but not limited to, other New Jersey public schools, approved private schools for the handicapped within or outside of New Jersey, and State-operated programs shall be granted an exception regarding classification by the Department of Education through its county office.

2. The exception shall establish the pupil's classification as that of the type of class program which is being considered for placement.

HEALTH

(a)

PUBLIC HEALTH COUNCIL

Collection, Processing, Storage and Distribution of Blood

Readoption with Amendments: N.J.A.C. 8:8

Proposed: February 21, 1989 at 21 N.J.R. 407(a).

Adopted: April 10, 1989 by the Public Health Council, Milton Prystowsky, M.D., Chairman.

Filed: April 12, 1989 as R.1989 d.246, **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. 26:1A-7 and 26:2A-7.

Effective Date: April 12, 1989, Readoption May 15, 1989, Amendments.

Expiration Date: April 12, 1994.

Summary of Public Comments and Agency Responses:

COMMENT: A comment was received on N.J.A.C. 8:8-8.11(d) which issued a strong objection to the requirement that directed donations be initiated only at the written request of the intended recipient's physician or a transfusion facility. In addition, the New Jersey Department of Health's authority to impose this rule was questioned.

RESPONSE: The Department disagrees with this comment. The Department's intent in proposing this rule is to prevent people from initiating directed donations without a medically indicated need for transfusion. Situations have occurred where family or friends feeling that a relative or friend in the hospital "might" need blood have had blood collected for this person and sent to the hospital. Hospitals then receive unsolicited blood from a blood collection agency labelled with the name of a patient in their hospital. This creates a very confusing situation for the hospital and can have potentially dangerous consequences for the patient, if the hospital does not have an established protocol for handling directed donations, because the unit may not be compatibility tested. However, it is identified with the patient's name. In addition, in many cases, when the incident is investigated, it is found that no blood has been ordered for the patient. In the Department's determination, the ambiguity inherent in such an incident places the welfare of the potential recipient in jeopardy and could pose a threat to the public health. As stated in N.J.S.A. 26:2A-1 et seq., which the public policy of the State is to safeguard the health and well-being of its citizens with reference to the use of blood by establishing minimum standards for the control and distribution of blood and blood products. Although the Department agrees that the patient has the right to request that a particular donor be drawn for his or her own use, the Department maintains that this right should be reserved only for patients with a medical need.

COMMENT: In N.J.A.C. 8:8-5.1(a), 10 years after transfusion implies that records shall be retained for at least 20 years (with frozen red blood cells, therapeutic exchange plasma and source plasma having a 10 year shelf life). It is recommended that records be retained for no less than 10 years or six months after the latest expiration date for the individual product, whichever is a later date.

RESPONSE: In the Department's experience of the last three years, it has been found that records needed to determine recipients of blood

or blood components, that may have been infectious, have not been available. Thus it has been determined that records necessary to trace a unit of blood or blood component from its source to final disposition must be kept longer than the current requirement of five years. The Department agrees with the comment that 20 years may be excessive. Therefore, the rule has been amended to read: Records needed to trace a unit of blood or blood component from its source to final disposition shall be kept for at least 10 years after transfusion or five years after the latest expiration date for the individual product, but in no case for less than 10 years.

COMMENT: "Significant step", as stated in N.J.A.C. 8:8-5.1(i), should be defined.

RESPONSE: The Department agrees. For the purpose of these rules, "significant step" shall be defined as follows: "Significant step" means any step that would be necessary to reconstruct, from the record alone, the procedures performed and who performed them. The rule has been changed on adoption to include this definition.

COMMENT: N.J.A.C. 8:8-5.2(c) needs to be expanded to include complications of blood collection or transfusion resulting in fatality.

RESPONSE: Reporting of complications of blood transfusion that result in any hemolytic or life threatening transfusion is already required under N.J.A.C. 8:8-4.2(a)1, recodified in this adoption as N.J.A.C. 8:8-5.2(a)1. Regarding the proposal to expand the rule to include complications of blood collection that result in fatality, the Department agrees that it is a good suggestion. However, its incorporation into the rules would be considered a substantive change, which would require additional public notice and comment. Therefore, the Department has chosen not to incorporate it into the rules at this time. The Department will propose amendments in the future which will take this suggestion into account.

COMMENT: N.J.A.C. 8:8-9.1(f)5 should be revised for clarification, because the control is not required for a positive antiglobulin text.

RESPONSE: The Department agrees. The rule has been revised as follows: A control system using red blood cells sensitized with IgG shall be used with each negative antiglobulin test.

COMMENT: Implementation of N.J.A.C. 8:8-8.10(e)3, which requires that all autologous blood be tested in accordance with rules applicable to homologous donations in facilities that choose to cross over, raises significant financial and social concerns for these facilities. It is the commenter's policy to selectively test autologous donors who meet criteria for homologous donation. This policy resulted in net savings of approximately $12,000 (7.5 percent of the annual blood component budget) and cross over of 148 units of red blood cells and 295 units of fresh frozen plasma. This rule would require this institution to decide whether to continue cross over and test all autologous units or to discontinue cross over to avoid the requirement to test all autologous units. Either decision will severely limit the services this facility can offer to its patients. Limitations imposed by testing include: an upfront patient charge of at least $30.00 to cover the cost of testing, receiving consent from all participants to have HIV antibody testing performed with the knowledge that a positive test not only precludes the availability of their own blood, but also for some (for example, health care workers) continued concern over employment eligibility. Conversely, to not cross over in the face of dwindling blood supplies is not consistent with the desires and needs of the public for a safe and adequate blood supply. With more than five years experience in conducting an autologous preoperative blood collection program, the commenter submits to the Department that proper management, well delineated responsibilities, and appropriate review processes as outlined in proposed N.J.A.C. 8:8-4 will maintain a safe blood supply and make it unnecessary to mandate this costly testing.

RESPONSE: Inspections of various types of blood collection and transfusion facilities over the last three years has shown that the availability of both tested and untested blood and blood components can lead to erroneous distribution of untested blood and blood products. Besides isolated incidents of untested blood being released into the homologous blood supply, failure to test has led to inclusion of untested recovered plasma units in plasma pools and permitted the distribution of potentially contaminated products assumed to be negative. This has resulted in the recall of many plasma products severely impacting the plasma industry. It was with these problems in mind, and the knowledge that no single scheme can satisfy all points of view, that the Department revised N.J.A.C. 8:8. At the time of revision, two general types of autologous programs existed in the State. In the first type, only the ABO group was performed for donor identification and, if the blood was not used by the donor, it was discarded. The second type included screening the donor and testing the blood as required for homologous donation. If the blood was not used by the donor and met all the criteria for homologous donation, it was crossed over and used for other donors. Both these types of programs felt that their method was the better method to handle autologous donations. When N.J.A.C. 8:8-8.10(e)3 was revised, the requirement that all autologous blood drawn be tested, whether or not cross over was performed, was considered. However, because Department statistics show that greater than 50 percent of the facilities providing autologous donations did not test, and many of these facilities were not equipped to perform testing, a compromise was developed to allow these facilities to continue to provide autologous blood for their patients. The Department agrees with the commenter that proper management, well delineated responsibilities, and appropriate review processes as outlined in N.J.A.C. 8:8-4 should prevent these errors from recurring. However, in practice, the Department has found there are cracks in the system and problems can occur. Therefore, as an added protection, the Department proposed N.J.A.C. 8:8-8.10(e)3. In addition, as of March 15, 1989, the controversy concerning these issues has become moot, because the Federal government has taken the position that all autologous units, whether they are crossed over or not, must be tested. Since State requirements must be at least as stringent as Federal requirements, all autologous blood in New Jersey will have to be tested as required in N.J.A.C. 8:8-8.10(d).

COMMENT: The Blood Banking Task Force for New Jersey, commenting on N.J.A.C. 8:8-4.4(b), agrees with the intent of this rule. However, they state that further clarification of the rule is needed to prevent the patient/recipient from being notified of "trivial and inconsequential" errors. In addition, it is their opinion that there are additional circumstances that may occur, wherein, in the practice of good medicine, it is not advisable for the attending physician to notify the patient. These include circumstances in which the patient may have a terminal disease, be mentally incompetent or be a minor. In such cases it may be more appropriate to notify a representative of the patient, if one is available. The Task Force believes the subject of such notification and the judgement of what and who to notify is an important element of the practice of medicine. Thus the Task Force recommends that N.J.A.C. 8:8-4.4(b) be changed to the following: ". . . the patient/recipient's hospital blood bank director who shall document that the patient/recipient's physician is notified of the error and advised that, if appropriate, it is his or her responsibility to notify the patient, or his or her representative, of the error. . . ."

RESPONSE: The Department fully concurs with the Task Force that the subject of such notification and the judgement of what and who to notify is an important element of the practice of medicine. Thus, it was the intent of this rule to have blood banks notify the patient/recipient's physician of errors made by a blood bank that could result in infectious disease or other harmful consequences to the patient or someone with whom the patient has intimate contact. This in no way implies that the blood bank should notify a physician when the error can not result in harm. Further, it is the intent of this rule to clearly communicate to the doctor that notification of the error to the patient lies within the doctor-patient relationship and, therefore, it is the doctor's responsibility to notify the patient. The Department understands that once notification occurs, communication of the error to the patient lies within the practice of medicine and the Department has no intention to regulate this area. However, it is the Department's position that inclusion of the qualifier, "if appropriate" does not clarify this issue and may even confuse it further. Therefore, the Department has not included this wording in the rule. However, the Department fully agrees with the Task Force's comment that there are additional circumstances that may occur when it may be more appropriate to notify a representative of the patient than to directly notify the patient. Therefore, the rule will be amended to read: ". . . the patient/recipient's hospital blood bank director who shall document that the patient/recipient's physician is notified of the error and advised that it is his or her responsibility to notify the patient, or his or her representative, of the error. . . ."

COMMENT: The Division of AIDS Prevention and Control of the Department of Health suggested that the definition of "Preparation" be changed, as blood banks do not manufacture blood or blood components, but prepare blood or blood components for transfusion.

RESPONSE: The Department disagrees with this clarification because manufacture, as defined in the Code of Federal Regulations, is common blood banking terminology used to denote steps performed by the blood bank to prepare blood for transfusion. For example, before donor's blood can be used for transfusion, blood banks must package, test, label and store the blood.

COMMENT: The Division of AIDS Prevention and Control states that the current name for the virus that causes AIDS for which screening in these rules is required is Human Immunodeficiency Virus, type 1 (HIV-1), not HIV, since there is another HIV, namely HIV-2. Since there is very little infection with HIV-2 in the United States at the present time, the Department is properly not calling for screening for HIV-2. Thus, throughout the entire chapter, HIV should be replaced with HIV-1.

RESPONSE: To reflect the latest terminology for HIV, the definition of "HIV" has been modified as follows: "HIV" means the Human Immunodeficiency Virus, formerly known as the Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus, (HTLV-III/LAV) and currently known as HIV-1.

COMMENT: The Division of AIDS Prevention and Control states that there is no mention of HTLV-1 screening of blood and blood components in the rules.

RESPONSE: The Department recognizes the need for such screening; however, at the time these rules were proposed, HTLV-1 testing had just been licensed by the FDA. It was determined that inclusion of this testing in the rules would be premature. Instead, the Department developed "Interim Recommendations and Policy for Blood Banks on HTLV-1 Antibody Testing" as a guide for blood banks, with the intention of developing rules in the near future.

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

8:8-1.2 Definitions

For the purpose of this chapter, the terms listed below shall be defined and interepreted as follows:

. . .

"Autologous donation/transfusion" means the collection of blood and blood components from a donor/receipient for subsequent reinfusion into the same individual.

. . .

"Crossing over" means the transfusion of a donation of blood and/or blood components, originally collected for autologous transfusion, to a recipient other than the original donor/recipient.

. . .

"Designated donor" means a donor that is selected by a recipient for transfusion to this recipient at a later date.

"Directed donation" means the collection of blood or blood components from a designated donor.

. . .

"Homologous donation" means the collection of blood or blood components for subsequent transfusion to a recipient other than the donor.

"HIV" means the Human Immunodeficiency Virus, formerly known as the Human T-Lymphotropic Virus Type III/Lymphodenopathy-Associated Virus (HTLV-III/LAV) ***and currently known as HIV-1.***

"Key person" means individuals designated by the blood bank director.

"Mobile unit" means a moveable unit that is used to collect blood from donors not at the blood bank site.

. . .

"Preparation" means the method used to manufacture blood and blood components.

. . .

"Service" means any of the functions outlined in the Blood Bank License Application form supplied by the Department.

"Significant step" means any step that would be necessary to reconstruct, from the record alone, the procedures performed and who performed them.

"Stationary collection site" means a site for a blood bank that is permanently located at another facility and performs no function other than collection.

. . .

"Subsidiary blood bank" means a blood bank that is owned or controlled by a parent blood bank.

"Surrogate testing" means the use of alanine-amino transferase (ALT) and Hepatitis B Core Antibody tests to determine the possible presence of non-A, non-B hepatitis.

8:8-1.3 Licensure

(a) Application for an initial license to conduct a blood bank, as required under the provisions of N.J.S.A. 26:2A-1 et seq. commonly known as the Blood Bank Licensing Act and this chapter, shall be made on forms provided for that purpose by the State of New Jersey.

(b) A blood bank license shall be obtained for each subsidiary blood bank.

(c) (No change in text.)

(d) Amendments to the license shall be as follows:

1. A license renewal shall be obtained within 14 days whenever the name or the location of a blood bank is changed.

2. The Department shall be notified in writing within 14 days whenever the ownership, corporate structure, director, and/or services of a blood bank change.

(e) The blood bank shall perform only those services, related to this chapter, for which they specifically request and receive licensure. In the case of new services, written approval shall be received from the Department.

8:8-1.6 Brokers

Brokers shall maintain records, acceptable to the Department, of all applicable standards and procedures set forth in this chapter.

8:8-1.7 and 1.8 (No change in text.)

8:8-2.2 Donor related personnel

(a) The blood bank shall have one or more supervisors who under the general direction of the blood bank director supervise all functions related to the collection of blood and blood components, and in the absence of the blood bank director are responsible for the proper performance of these procedures.

(b) General provisions for donor related personnel are:

1. Each blood bank during the collection of blood shall have a responsible individual on the premises who, according to N.J.A.C. 8:8-2.2 (c), is qualified to provide emergency care.

2.-3. (No change.)

(c) Donor emergency care personnel qualifications are as follows:

1. A physician licensed in the State or a registered nurse (R.N.) holding a current certificate of registration who has fulfilled the following requirements:

i.-ii. (No change.)

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

SUBCHAPTER 4. MANAGEMENT

8:8-4.1 Quality control

(a) All blood banks shall have a quality control program which is acceptable to the Department, assures compliance with these rules, and is sufficiently comprehensive to ensure that blood and blood components, reagents and equipment perform as expected.

(b) The quality control program shall include at least the following:

1. Written quality control policies;

2. Evidence of validation of methods;

3. Periodic evaluation of reagents and equipment including the date of performance;

4. Periodic evaluation of blood and blood components in accordance with, whichever is more stringent, the current Code of Federal Regulations and/or the current Standards of the American Association of Blood Banks;

5. Evidence of appropriate corrective action; and

6. Review by the supervisor or the director.

8:8-4.2 Procedures

(a) All policies and procedures developed for use in the blood bank and required by this chapter shall be detailed in a written procedure manual.

(b) Each procedure shall have a current pertinent literature reference.

(c) The actual test procedures used shall coincide with the manufacturers' product insert unless data to support modifications or written documentation from the manufacturer are available.

(d) The procedure manual shall be reviewed by the blood bank director annually and this review shall be documented by date and the blood bank director's signature.

(e) All significant changes to procedures shall be reviewed, dated and signed by the blood bank director.

8:8-4.3 Documented review

(a) When blood or blood components are collected and/or prepared, a key person in the operation of the blood bank shall conduct a documented review prior to the release and final labelling of blood and blood components to ensure that blood from unsuitable donors will not be distributed for transfusion or further manufacture. If this function is performed by computer, validation of the computer program, as outlined in N.J.A.C. 8:8-5.1(d), shall be performed. This review procedure shall be in writing and the procedure shall include tracking of all collected and/or prepared blood and blood components, to asssure that:

1. The sequence of the numbers of the blood and blood components drawn are verified and donor numbers for which no donations are available are accounted for;

2. All required testing, as outlined in N.J.A.C. 8:8-7.2, Testing, is performed on all blood and blood components, with specimens drawn from the donor at the time of collection, before release for transfusion;

3. Blood or blood components with positive or questionable test results are not released for homologous or directed transfusion;

4. Blood or blood components collected from donors that shall be deferred are not released for homologous or directed transfusion or for further manufacture;

5. If required tests are performed by the blood bank, the testing is performed correctly and properly interpreted as determined by at least the following criteria:

i. Personnel are following the blood bank's established procedures for the test;

ii. Equipment is correctly set-up for test method specific adjustments;

iii. Test results on the machine printout can be traced to the workrecord;

iv. Test runs, that are unacceptable by the criteria specified in the manufacturers' product insert, are repeated;

v. Appropriate repeat testing is performed; and

vi. Review of the interpretation of all final test results to assure that the interpretation complies with state requirements, when applicable, or the manufacturers' product insert;

6. If required tests are performed by personnel outside the blood bank, the criteria used to determine a final reactive or nonreactive result coincides with the blood bank's own policy of interpreting results used to discard blood and blood components for transfusion;

7. That all blood and blood components from donations that have positive or questionable test results are quarantined until their final disposition is determined or they are destroyed; and

8. Autologous donations that are "crossed over" meet all criteria of a homologous donation before they are released into the general blood supply.

(b) Final disposition/destruction records shall be completed at the time of disposition/destruction and documented review shall verify that records accurately reflect that disposition/destruction.

8:8-4.4 Errors and accidents

(a) If any component prepared from a unit improperly tested, not tested, or tested properly but improperly interpreted for ABO or infectious diseases is accidentally labeled and released for transfusion, fractionation, reagent production, research or other use, immediate effort shall be made to locate and quarantine all components until satisfactory resolution occurs.

(b) If a whole blood unit or any blood component has been transfused prior to recognition of the error, the medical director of the blood collection facility shall be immediately notified and shall take immediate appropriate action to resolve the problem. If the error has resulted in the transfusion of blood or blood components that could result in infectious disease or other harmful consequences, appropriate medical staff from the collection facility shall notify the patient/recipient's hospital blood bank director who shall document that the patient/recipient's physician is notified of the error and advised that it is his or her responsibility to notify the patient/recipient**, or his/her representative,*** of the error. Thorough and complete documentation shall be made as to these actions.

SUBCHAPTER 5. RECORDS AND REPORTING REQUIREMENTS

8:8-5.1 Records

(a) Suitable legible records prepared with indelible material shall be maintained for a period of not less than five years. Records needed to trace a unit of blood or blood component from its source to final disposition shall be kept for at least 10 years after transfusion ***or five years after the latest expiration date for the individual product, but in no case for less than 10 years***.

(b) All corrections to errors made in the records shall:

1. Not conceal the original entry;

2. Document the reason for the correction; and

3. Include the date the change was made and the initials of the person making the change.

(c) Workrecords of tests shall be maintained and these records shall indicate final results together with all corresponding instrument readings and calculations. Where instrumentation produces tracings or printouts of results, these tracings or printouts shall be retained in a readily traceable manner and may serve as the workrecord.

(d) If records are maintained on computer systems, the following apply:

1. Prior to use or when modifications are made to the program, validation of all computer programs, including, but not limited to, those dealing with processing, labeling, and distribution of blood and blood components, shall be required as follows:

i. To determine if software consistently performs as required and within pre-established limits; and

ii. To include review of confidentiality of donor information, security of data and system documentation.

2. Adequate provisions shall be made to safeguard against the eventuality of unexpected electronic loss of data from the computer storage medium.

3. A system shall be in existence which maintains duplicate records on electronic storage media, updates these duplicates continuously and/or transfers electronically stored data periodically to hard copy such as prints or microfiche.

4. Written procedures shall be available for describing each of the blood bank's methods for performing requirements in (d) 1 through 3 above.

(e) The records shall:

1. (No change.)

2. Make it possible to trace a unit of any blood or blood component from source (for example, donor or shipping facility) to final disposition (for example, transfused, shipped, autoclaved);

3. Be readily available for review;

4. Be made available on forms provided by the Department for the purpose of preparing the State's Statistical Summary of Blood Use report annually by January 31, of each year, and biannually for the State's HIV Statistical Summary; and

5. (No change.)

(f) Before blood is issued for transfusion, test results for each recipient sample shall be compared with the following:

1. Past records of previous ABO and Rh typing results for the past 12 months; and

2. (No change.)

(g) If computers are used, hard copies of the test results shall be available and used in the case of computer failure.

(h) Records shall include at least the following:

1. Donor records:

i. An annual record of each unit of blood and blood component, listed by donor unit number, as to its source bank and destination (this may be final disposition);

ii.-xi. (No change.)

2.-3. (No change.)

4. Detailed procedure manual including all policies and procedures developed for use in the blood bank and required by this chapter;

5.-6. (No change.)

7. Quality control records, including but not limited to: periodic evaluation of personnel, blood and blood components, reagents, equipment, including dates of performance; test performed; observed results; interpretations; identification of personnel performing the test; any appropriate corrective action taken; and review by supervisor and/or director.

8.-10. (No change.)

(i) There shall be a means to identify persons performing each significant step in collecting, processing, compatibility testing and distributing blood or blood components.

8:8-5.2 Reporting requirements

(a) (No change.)

(b) Transfusion associated hepatitis and AIDS shall be reported as follows:

1. Any known or presumed case of transfusion associated hepatitis or AIDS brought to the attention of a blood bank shall be reported to the Department within 10 days on forms provided for this purpose.

2. (No change.)

(c) Errors and/or accidents, that result in shipment of unsuitable blood and blood components, shall be reported to the Department within 10 days of recognition of the error.

SUBCHAPTER 6. CRITERIA FOR DONOR SELECTION

8:8-6.1 (No change in text.)

8:8-6.2 Medical history; physical examinations; bleeding limitations

Medical history, physical examinations, and bleeding limitations of the donor shall be consistent with, whichever is more stringent, the most recent Code of Federal Regulations or Standards of the American Association of Blood Banks. If necessary, these documents may be reviewed at the Department of Health, Clinical Laboratory Improvement Services, Princess South, Princess Road, Bldg. 17F, Lawrenceville, New Jersey.

8:8-6.3 Donor selection

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

(c) Before blood or blood components are issued for distribution, permanent deferral records, which include donor past medical history and test results shall be reviewed to determine if the blood and blood components meet all the requirements for homologous use. Blood and blood components which do not meet these requirements can not be used for homologous transfusion.

8:8-6.4 (No change in text.)

8:8-6.5 AIDS screening requirements

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

(d) The collecting agency shall ensure that all blood and blood components collected in New Jersey, including those obtained from hemapheresis, be screened for HIV as specified in N.J.A.C. 8:8-8.3(b)3. Laboratory tests not performed by the collecting facility shall be referred to a blood bank or laboratory approved to perform HIV testing by the Department or which possesses a Federal interstate license to perform HIV testing. It shall be the responsibility of the receiving blood bank to assure that any blood brought in from out-of-State sources is tested for HIV. If the blood is used for homologous transfusion, it must be tested as all other blood and blood components.

(e) (No change.)

(f) (No change in text.)

(g) A blood bank shall use a self deferral system that allows the donation to be drawn and documents that:

1. Each donor has been given the opportunity to confidentially and voluntarily defer their blood donation for use in homologous transfusion before they leave the donation site;

2. The donor has been informed that their blood will be tested for HIV antibody even if they defer their blood for transfusion use; and

3. Blood and blood components from donors that defer their blood for transfusion use shall not be used.

(h)-(k) (No change in text.)

(l) Statistical summaries of HIV test results, which do not include the identity of the donor, shall be made available on forms provided by the Department for the purpose of preparing a statistical summary report.

SUBCHAPTER 7. BLOOD AND BLOOD COMPONENTS

8:8-7.1 General criteria

(a) The procedure for the collection, processing, storage, and distribution of blood and blood components shall meet the requirements of this chapter.

(b) Blood banks shall establish criteria for collection, processing, storage, and distribution, according to current standards, acceptable to the Department.

(c) Sale or exchange of blood and/or blood products positive for HIV and/or HBsAg shall not be made without the express permission, in writing, of the Department.

(d) Blood banks distributing blood and blood components shall:

1. Have available an information circular with each product explaining its proper indications and usage (thawing, dosage, stability, side effects, adverse reactions, hazards, etc.);

2. Provide accurate expiration dates and hours on the container label for all blood and blood components; and

3. Meet licensed expiration dates for product.

(e) At the time of collection of the blood or blood component the label shall have a unique numeric or alphanumeric identification.

8:8-7.2 Testing

(a) The preparation of all blood and blood components shall be consistent with, whichever is more stringent, the most recent Code of Federal Regulations or Standards of the American Association of Blood Banks. If necessary these documents may be reviewed at the Department of Health, Clinical Laboratory Improvement Services, Princess South, Princess Road, Bldg. 17F, Lawrenceville, New Jersey.

(b) All laboratory tests shall be made on specimens of blood taken from the donor at the time of phlebotomy in properly identified tubes.

1.-3. (No change.)

4. Surrogate testing for non-A, non-B Hepatitis:

i. Each donation of blood or blood components shall be tested for alanine-amino transferase (ALT) and Hepatitis B Core Antibody testing by test procedures that are acceptable to the Department.

ii. The blood or blood components shall not be used for transfusion purposes unless results of test(s) are considered normal except where delay occasioned by testing may result in a serious threat to the health and well-being of the recipient.

iii. In instances where untested blood and blood components are transfused, the attending physician shall attest in writing to the existence of the emergency and if the test is subsequently considered to be abnormal the recipient's physician shall be notified.

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

(c) Performance of any additional testing for product quality and patient safety is permitted under this chapter. This testing shall comply with all applicable requirements of this chapter.

SUBCHAPTER 8. COLLECTION OF BLOOD

8:8-8.1 General criteria

(a) Blood banks wishing to employ the techniques set forth in this subchapter shall file their protocol and a request in writing to the Department.

(b) The techniques set forth in this subchapter can be employed upon receipt of written approval from the Department.

8:8-8.2-8.4 (No change in text.)

8:8-8.5 Method of blood and blood component collection

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

(c) A closed system must be used except for blood cell separation instruments that use an open system.
(d)-(h) (No change.)

8.8-8.6 and 8.7 (No change in text.)

8:8-8.8 Labeling
(a) Labeling shall be consistent with the most recent Code of Federal Regulations.
(b) Blood and blood components shall be labelled to include conspicuous notation of incomplete testing and when applicable positive or abnormal test results.

8:8-8.9 Sterility testing
(a) Sterility testing shall be performed at regular intervals and not less than once monthly, where blood is collected or prepared in an open system. Such tests shall not be done on blood intended for transfusion.
(b) Culture techniques shall be in accordance with the most recent Code of Federal Regulations.
(c) Permanent records of sterility tests, with evidence that the tests have been performed according to the most recent Code of Federal Regulations, and the results shall be kept.

8:8-8.10 Autologous collection/transfusion
(a) Blood banks wishing to employ the techniques set forth in this section shall file their protocol and a request in writing to the Department.
(b) The techniques set forth in this section can be employed upon receipt of written approval from the Department.
(c) Autologous collection/transfusion shall be done only at the written request of the donor-recipient's physician. A telephone request shall be followed by written confirmation within seven calendar days.
(d) Testing and labelling requirements for autologous donations shall be consistent with, whichever is more stringent, this chapter or the Code of Federal Regulations.
(e) Donor processing for autologous transfusion shall be as follows:
1.-2. (No change.)
3. If "crossing over" is allowed, at the time of collection each donation shall be tested as required in N.J.A.C. 8:8-7.2.
4. Blood and blood components that test positive or abnormal and are transfused to the donor/recipient shall be labelled to warn personnel handling the blood that positive test results were obtained.
(f) (No change in text.)
(g) Pretransfusion testing of blood and blood components for autologous transfusion that are not "crossed over" shall be subject to the following:
1.-3. (No change.)
(h) A documented review procedure shall be performed to "crossover" autologous donations for homologous transfusion use. The procedure used shall insure that blood that is not acceptable for homologous use by donor medical history, required testing and permanent deferral status is not transfused or made into components for further manufacture.

8:8-8.11 Directed donation
(a) Blood banks wishing to employ the techniques set forth in this section shall file their protocol and a request in writing to the Department.
(b) Such techniques can not be employed until written approval is received from the Department.
(c) All requirements of this chapter related to homologous donations shall be followed.
(d) Directed donations shall be initiated only at the written request of the intended recipient's physician or a transfusion facility. A telephone request shall be followed by written confirmation within seven calendar days.

8:8-8.12 (No change in text.)

8:8-8.13 Therapeutic phlebotomy
(a) General criteria for therapeutic phlebotomy are as follows:
1. Therapeutic phlebotomy shall be done only at the written request of the patient's physician.
2.-5. (No change in text.)
(b) (No change.)
(c) Records shall be maintained which include patient identification, diagnosis, therapeutic procedure, volume of plasma and cells removed, volume replaced, nature of replacement fluids, any adverse reactions, and a record of the administered medications.
(d)-(e) (No change.)

8:8-8.14 (No change in text.)

8:8-8.15 Cytapheresis
(a)-(b) (No change.)
(c) The procedures used shall meet with the approval of the Department and shall include as a minimum the following requirements:
1. (No change.)
2. A licensed physician on the premises shall supervise the performance of these procedures including the reinfusion procedure. This requirement may be waived for cytapheresis procedures using a closed system subject to the following conditions:
i. A request for a waiver shall be submitted in writing and approved by the Department;
ii. N.J.A.C. 8:8-8.2, Donor's emergency care, shall be strictly followed;
iii. Donor emergency care personnel, as required under N.J.A.C. 8:8-2.2 (c), shall be on the premises; and
iv. A contingency plan to assure that a physician is available for emergency purposes during the procedure. The physician response time is to be no longer than 15 minutes.
3.-5. (No change.)
6. Donors may receive drugs before or during leukapheresis.
i. (No change.)
ii. The blood bank director is responsible for setting appropriate written guidelines in such circumstances.

8:8-8.16 (No change in text.)

SUBCHAPTER 9. RECIPIENT BLOOD TESTING

8:8-9.1 General provisions
(a)-(d) (No change.)
(e) The sample for compatibility testing shall be:
1. Identified by a label firmly attached to the sample before leaving the side of the recipient;
2. Labeled with at least the recipient's first and last names, identification number, the identity of the person drawing the sample and the date the sample was drawn;
3. Obtained within three days of the scheduled transfusion when the recipient has been transfused or pregnant in the preceding three months or this information is not known; and
4. Examined by a qualified person, before a specimen is used for typing or compatibility testing, to confirm that all information on the request form is in agreement with that on the specimen label. In the case of a discrepancy or doubt, another specimen shall be obtained and used for these procedures.
(f) Testing of the recipient's blood shall include at least the following:
1. (No change.)
2. D typing;
i.-iii. (No change.)
iv. To avoid incorrect designation of a D-negative recipient as D-positive, a control system appropriate to the D reagent in use is required.
3. Detection of unexpected antibodies;
i. Each blood sample submited with a request for transfusion shall be tested prior to, or concurrently with the performance of compatibility testing.
ii. (No change.)
4. Compatibility testing:
i. Compatibility testing requirements shall be consistent with the most recent Code of Federal Regulations and shall include a method to verify the ABO group of the donor unit and the recipient.

5. A control system using red blood cells sensitized with IgG *[must]* ***shall*** be used with each ***negative*** antiglobulin test.

8:8-9.2 and 9.3 (No change in text.)

SUBCHAPTER 10. ISSUE AND ADMINISTRATION OF BLOOD AND BLOOD COMPONENTS FOR TRANSFUSION

8:8-10.1 Issue of blood

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

(c) At the time the blood or blood component is released from the blood bank for transfusion, the person receiving the blood shall present a written request with sufficient information for the positive identification of the recipient. At a minimum the recipient's first and last names, identification number and the date of transfusion are required.

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

8:8-10.2 Administration of blood and blood components

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

8:8-10.3 Reissue of blood

(a) Blood or blood components which have been returned to the blood bank shall not be reissued for use unless the following conditions have been met:

1. The container closure or seal has not been punctured or tampered with;

2. The blood has been continuously stored and shipped under controlled conditions, which maintain acceptable temperatures for the product, or it is returned to the blood bank within a pre-determined time, set by the blood bank, which is acceptable to the Department;

3. Original identification labels and tags are attached and unaltered;

4. The original pilot sample has not been removed or tampered with;

5. If applicable, the blood has been allowed to settle long enough to permit reinspection of the plasma; and

6. The records indicate the blood was reissued with documentation of the time it was returned and reissued.

SUBCHAPTER 11. STORAGE OF BLOOD

8:8-11.1 General provisions

(a) The equipment used for the storage of blood shall be kept clean and individual compartments used only for the storage of blood and blood components, blood banking sera, pilot and patient samples.

(b) No food or potentially contaminated material shall be stored in the refrigeration equipment.

(c) Written procedures shall be readily available containing directions on how to maintain blood and blood components within permissible temperatures and including instructions to be followed in the event of power failure or other disruption of refrigeration.

8:8-11.2 to 11.4 (No change in text.)

8:8-11.5 Temperature monitoring systems

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

8:8-11.6 and 11.7 (No change in text.)

8:8-11.8 Packaging and transportation

(a) Processed whole blood, modified whole blood and all liquid red blood cell components shall be transported in a manner that will maintain temperatures of one to 10 degrees Centigrade.

(b) Components ordinarily stored at 20 to 24 degrees Centigrade shall be transported at this temperature.

(c) Components ordinarily stored frozen shall be transported in a manner designed to keep them frozen.

(d) Immediately upon arrival, the receiving facility shall transfer the blood to temperature controlled equipment for further storage.

SUBCHAPTER 12. HOME COLLECTION AND TRANSFUSION

8:8-12.1 General provisions

(a) Blood banks wishing to employ the techniques set forth in this subchapter shall file their protocol and a request in writing with the Department.

(b) Such techniques may be employed upon receipt of written approval from the Department.

(c) The procedures used shall be acceptable to the Department and ensure that there is compliance with this Chapter.

8:8-12.2 Home collection

(a) The home collection procedure shall be performed as part of the services of a blood bank licensed to collect blood and blood components.

(b) Donor safety shall be assured by at least the following:

1. If a physician is not present, the phlebotomist shall be a person able to administer emergency care and shall be a registered nurse (R.N.) holding a current certificate of registration who has fulfilled the following requirements:

i. Has demonstrated his or her familiarity with donor eligibility standards to the satisfaction of the director of the blood bank; and

ii. Has taken an eight hour course in cardiopulmonary resuscitation within three years and successfully passed a practical and written exam on the subject matter.

2. A second responsible person shall be available on the premises to help with emergency situations.

3. Adherence to N.J.A.C. 8:8-8.3, Medical contingency plan.

(c) Procedures used shall comply with N.J.A.C. 4, Management, N.J.A.C. 8:8-5, Records and Reporting Requirements, N.J.A.C. 6, Criteria For Donor Selection, and N.J.A.C. 8:8-8.2 through 8.7, Collection of Blood.

8:8-12.3 Home transfusion

(a) Home transfusion shall be done under medical supervison, and the patient shall be observed during the transfusion and for an appropriate time thereafter for suspected adverse reactions. Specific instructions concerning possible adverse reactions shall be provided for the patient.

(b) Blood or blood components for transfusion shall be prescribed by a physician.

(c) The home transfusion procedure shall be performed as part of the services of a blood bank licensed to transfuse blood and blood components.

(d) Recipient safety shall be assured by at least the following:

1. If a physician is not present, the transfusionist shall be a person able to administer emergency care and shall be a registered nurse (R.N.) holding a current certificate of registration who has fulfilled the following requirements:

i. Has taken an eight hour course in cardiopulmonary resuscitation within three years and successfully passed a practical and written exam on the subject matter.

2. A second responsible person shall be available on the premises to help with emergency situations and to provide the second check required in N.J.A.C. 8:8-10.2.

3. Adherence to N.J.A.C. 8:8-8.3, Medical contingency plan.

(e) The procedures used shall comply with N.J.A.C. 4, Management, N.J.A.C. 5, Records and reporting requirements, N.J.A.C. 8:8-10.2, Administration of blood and blood components, and N.J.A.C. 8:8-11.1 and 11.8, Storage of blood.

(f) Blood banks functioning only as home transfusion services shall also comply with N.J.A.C. 8:8-2, Personnel, N.J.A.C. 8:8-3.2, Contaminated material, N.J.A.C. 8:8-7.1(a), (b) and (d), Blood and blood components, and N.J.A.C. 8:8-9.1(d) and (e), Recipient blood testing.

(a)

FACILITIES RATE SETTING

Residential Alcoholism Treatment Facilities Cost Accounting and Rate Evaluation Guidelines

Adopted Amendments: N.J.A.C. 8:31C-1.1, 1.2, 1.3, 1.4, 1.8, 1.10, 1.11, 1.12, 1.15, 1.16, 1.19, 1.20 and 1.21

Adopted Repeals: N.J.A.C. 8:31C-1.5, 1.6, 1.7 and 1.9

Adopted New Rules: N.J.A.C. 8:31C-1.18, 1.19 and 1.20

Proposed: December 5, 1988 at 20 N.J.R. 2960(a).
Adopted: April 21, 1989 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).
Filed: April 24, 1989 as R.1989 d.272, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq. specifically 26:2H-18(c).

Effective Date: May 15, 1989.
Expiration Date: January 20, 1992.

Summary of Public Comments and Agency Responses:

COMMENTS: The New Jersey Directors Forum and Seabrook House raised questions as to the Department's right to include any reasonable costs as outlined in N.J.A.C. 8:31C-1.1, Scope and purpose.

RESPONSE: The purpose of this provision is to ensure that all costs associated with the providers of treatment of residential alcoholism patients are reasonable and are reported in accordance with the prescribed rules. The Department of Health's proposal does not include any changes to this section of the rules.

COMMENT: The preceding commenters and the Carrier Foundation made the following comments:

1. "Reasonable limits" is defined to include the maximum reimbursement costs based upon Statewide peer grouping and medians for the various cost centers or components set forth in these rules. The commenter believes that Statewide peer grouping is inappropriate for their facilities due to the significant expenses in operations as well as the differences in the types of individuals treated throughout the State.

2. Can the certification of actual costs by Blue Cross and Blue Shield be appealed and what will be the appeal process?

RESPONSE: 1. The Department of Health's proposed amendments and new rules do not include a change to the definition of the term, "reasonable limits". The Department may utilize peer grouping to establish its cost screens and ensure that alcoholism treatment facilities will be reimbursed at a reasonable level of cost for the provision of alcoholism treatment services.

2. The certification of actual costs by Blue Cross and Blue Shield is appealable directly to Blue Cross and Blue Shield.

COMMENT: The New Jersey Directors Forum and Seabrook House commented as follows:

1. N.J.A.C. 8:31C-1.3, Reporting period: cost data, appears to be seriously overburdensome and the penalty being recommended is entirely too severe.

2. Clarify the Department's position relative to the policy for the delinquent filing of cost reports.

RESPONSE: 1. The penalty that is being recommended for those facilities who do not file their cost reports in a timely manner is recoverable. When the cost report is submitted to the Department, an adjustment will be made equal to the penalty that was imposed.

2. The cost screens established by the Department of Health will not be adjusted for those facilities which do not submit a cost report within the regulatory time frame.

The Department's current proposed amendments and new rules do not include a change to the retroactive adjustment for those facilities which do not file a cost report within the regulatory time frame.

A facility whose reimbursement rate is established under N.J.A.C. 8:31C-1.7(b) will have an opportunity to review the Department's calculations for accuracy. It is difficult to determine at this time what impact, if any, these facilities will have on the established cost screens.

COMMENT: The preceding commenter stated that the Department is proposing at this time to implement standards and reasonable criteria "limits" with retroactive applicability to July 1, 1987. The Department did not follow the adopted rules in establishing the July 1, 1987 rate when it did not use the Capital Facilities Allowance (CFA) section of the rules.

RESPONSE: The Capital Facilities Allowance (CFA) was not utilized in the Department's methodology for the establishment of the alcoholism reimbursement rates effective July 1, 1987 for the following reasons: One, there was no mechanism to implement this method and it was not financially prudent to hire a vendor to perform this activity. Two, the originally proposed CFA methodology was contrary to public intent since it permitted some alcoholism treatment facilities to be reimbursed at a level greater than actual costs expended during any particular rate year. This would violate the intent of the Health Care Facilities Planning Act of 1971. Therefore, if the Department of Health's proposed rulemaking is adopted, it would be retroactive to July 1, 1987.

COMMENT: The preceding commenters, Sunrise House Foundation and the Carrier Foundation stated that it appears that the Department is trying to govern how a residential alcoholism treatment facility provides for compensation to its staff. The reference to compensation increases in excess of the Department economic factor only being made through improved utilization of personnel, upgrading of quality of employees, increases in productivity and other cost containment efforts does not belong to this regulatory scheme.

RESPONSE: These comments are not related to the proposed amendments and rules. However, the Department of Health's economic factor is applied globally to alcoholism treatment facilities' adjusted base period expenses and provides for an adjustment for inflation. This factor is subject to review and will be adjusted based on actual costs due to inflation at the time of the establishment of the facilities' Final Payment Rate.

COMMENT: The New Jersey Directors Forum and Parkside Lodge commented that, since the reimbursement for depreciation is in reality to provide funding for the replacement of assets, it is unrealistic for the Department of Health to expect the facilities to replace these assets at their original costs. The commenters, therefore, believe that alcoholism treatment facilities should receive a return on equity to account for the excesses in cost for the replacement of assets.

RESPONSE: The Residential Alcoholism Treatment Facilities (RATFs) fall under the regulatory authority of the Health Care Facilities Planning Act of 1971. The intent is for health care facilities to be reimbursed at the level of, but not greater than their total costs. Allowing a provision for a return on equity would violate the intent of the statute and allow facilities to be reimbursed more than their costs.

COMMENT: The New Jersey Director Forum and Seabrook House stated that the Department references the limited amount of expenses which are allowable to the provider in the case of a related lease transaction. The commenters believe it is improper to limit related lease transactions to provider related costs. The commenters do not believe that certain tax advantages should be eliminated in the Department's regulatory scheme as long as the facility is only reflecting actual costs from its operations in its cost reports.

RESPONSE: The purpose of the referenced amendments is to ensure that the appropriate costs for related lease transactions are included in the reimbursement rate.

COMMENT: The New Jersey Directors Forum commented that the Department is recommending certain limitations on the allowance for maintenance of land, land improvements, buildings and fixed equipment. The limitation of two acres for urban facilities and five acres for non-urban facilities are merely limitations which were extracted from the rules governing the reimbursement to nursing homes and are not based upon an analysis of existing land in use by the commenter's facilities throughout New Jersey.

RESPONSE: The Department acknowledges the comments regarding the allowance for the maintenance of land, land improvements, building and fixed equipment. The Department's proposed amendments and rules do not change this section of the rules.

COMMENT: The New Jersey Division Forum, Parkside Lodge, Seabrook House and the Sunrise House Foundation stated that the Department's recommendation regarding the purchase of an existing facility through a bona fide sale after July 1, 1987 would restrict the capital related costs of the new owner to the acquisition costs of the assets as entered on the books of the prior owner less any depreciation taken on the assets by the prior owner.

The Department's proposed amendment which seeks to not recognize fair market value and goodwill as an acceptable valuation of assets for reimbursement purposes will result in unreimbursed costs being shifted

to other payers and the public, which the rate setting system is supposed to avoid.

RESPONSE: The purpose of this amendment is to ensure that the capital cost component in the new owner's reimbursement rate is based upon the appropriate amount of depreciation where an ongoing facility is purchased after July 1, 1987. Since capital costs are a pass-through in the system, the Department's proposed amendment would limit the amount of depreciation to the original acquisition cost of the facility. This would avoid a duplicate reimbursement. Since goodwill and fair market value are not considered elements of costs of a facility's operating expenses, it would be inappropriate to include these components in the reimbursement methodology.

COMMENTS: Parkside Lodge and Kennedy Memorial Hospitals commented that the 70 percent target occupancy was adopted from the hospital/nursing home/Certificate of Need Programs. The commenter believes it is entirely inappropriate to apply this same efficiency standard to their industry given the small number (23) of residential alcoholism treatment facilities in the State of New Jersey.

RESPONSE: In accordance with N.J.A.C. 8:33K-1.9 of the Alcoholism Treatment Bed Standards, alcoholism facilities were required to provide plans demonstrating that at least 90 percent occupancy will be achieved and maintained by the second year of operation. The Department's proposed amendment establishing 70 percent as a reasonable minimum level of occupancy is intended to identify those facilities which are still experiencing low levels of occupancy. This would allow the Department the opportunity to begin evaluating this issue on an individual facility basis.

The Department recognizes that new facilities may need time to establish reasonable occupancy levels. The Department's proposal includes an amendment to N.J.A.C. 8:31C-1.20, Reimbursement rates for new facilities, that will establish a reasonable rate based upon the average of the Department of Health's screened rate with those facilities of equivalent licensed beds.

COMMENT: The New Jersey Directors Forum, Seabrook House and Parkside Lodge stated that property-operating expenses including property taxes, insurance and utilities are being identified with reimbursement limits. Since utility costs and property insurance are not within the control of the facility, they should be considered as pass-throughs in the systems.

RESPONSE: The Department of Health's proposal is recommending that property taxes (land and building) be treated as a pass-through in the system.

The Department maintains its position that property insurance and utilities be screened at 150 percent above the median, in order that the Department can evaluate facilities whose costs are above the screened limit, and if necessary, make an appropriate adjustment.

COMMENT: The preceeding commenters stated that the department is proposing to exclude from the development of the reasonableness limit the costs of management contracts and home office costs. Compensation of owners and related parties should be allowable if these individuals are performing functions which directly relate to the operation of the facility.

RESPONSE: The Department of Health acknowledges the comments regarding management contracts and home office costs. However, the Department's proposal is not intending to change this section of the rules.

COMMENT: The New Jersey Directors Forum and Seabrook House commented that the entire section of the rules relating to equalized compensation and equalized cost should be rescinded in its entirety.

RESPONSE: The Department of Health acknowledges the comments regarding equalized compensation and equalized costs. However, the Department's proposed amendments and rules is not intending to change this section of the rules. The Department will evaluate this issue in the future as more data becomes available from the alcoholism treatment facilities.

COMMENT: The preceding commenters and Parkside Lodge stated that costs included in routine patient care, general services and special patient care costs should be grouped together for screening purposes rather than on a separate cost center basis. It is recommended that the screened limit of 110 percent of the median be increased and a minimum of 85 percent of the facilities' costs should be covered by the screened limits.

RESPONSE: The Department of Health acknowledges the comments. However, the Department's proposed amendments and rules are not intending to change the methodology in the area of routine care, general services or special patient care. The Department intends to evaluate the methodology in these areas as more data from the alcoholism facilities become available.

COMMENT: The New Jersey Director Forum and Seabrook House commented that the economic factor should be weighted between hourly earnings and consumer prices based upon the actual percentages that are representative of a breakdown between labor and goods. This percentage should be 70 percent labor and 30 percent goods. In addition, the Department should use an index which more closely reflects the cost of health care personnel.

RESPONSE: The Department of Health acknowledges the comments regarding the economic factor. However, the Department's proposed amendments and rules do not change this section of the rules. The Department will continue to review the economic factor on an annual basis for reasonableness.

COMMENT: The preceding commenters, Parkside Lodge, Sunrise House Foundation and the Carrier Foundation stated that the Department is proposing a second year "hold-harmless" clause in the rules which would establish the July 1, 1988 rates based upon the greater of the facility's latest approved rate from the Department of Health effective July 1, 1987 or the screened rate calculated pursuant to the proposed amendments and rules. The Department should include an economic factor adjustment to the commenters' current latest approved rate effective July 1, 1987 to account for recognized cost increases in the health care industry. Without an economic increase to the current rates, it would be a serious financial burden on the facilities should the screened rates effective July 1, 1988 not exceed a facility's rates. It is appropriate to recognize the increase in the commenters' rates effective July 1, 1988.

RESPONSE: The purpose of the proposed amendments is to allow the Department of Health to evaluate the second year of data reported by the alcoholism treatment facilities. The hold-harmless clause prevents a facility from being reimbursed lower than the Blue Cross historical rate which was increased by an economic factor and implemented on July 1, 1987. The Blue Cross historical rate was not based upon the Department of Health's screened rate methodology. Therefore, it would be inappropriate to continue to apply adjustments to this rate. In addition, the Department's amendments provide for the alcoholism treatment facilities to be reimbursed at the greater of the Blue Cross historical rate or the Department of Health's screened rate which will be increased by an economic factor and will be adjusted retroactively to July 1, 1988.

COMMENT: Parkside Lodge commented that the proposed amendments state that the "Final Payment Rate will be based upon a certified audit performed by Blue Cross. The facility will be reimbursed at the lower of the approved rate or the Blue Cross certified rate." As a participator in the system, Blue Cross should abide by the rates as established by the Department of Health.

RESPONSE: The Department of Health, under the Health Care Facilities Planning Act of 1971, does not intend for the residential alcoholism facilities rate setting system to allow reimbursement in excess of certified costs. The Department's screened rates are interim rates and may require adjustments specifically in those areas that are considered pass-throughs in the system. The establishment of the Final Payment Rate provides assurance to Blue Cross that rates based on on-site audits of the facility's costs will not exceed actual costs.

COMMENT: The Sunrise House Foundation and the Carrier Foundation stated that the proposed amendments and rules fail to address a component factor for detoxification services. Facilities with detoxification services have certain additional costs that must be included in the rate setting methodology.

RESPONSE: The Department of Health is currently in the process of evaluating the costs associated with detoxification. The Department is working closely with the alcoholism treatment industry and the Alcoholism Rate Setting Advisory Committee (ARSAC) on this issue. To the extent that the Department can measure the impact for providing detoxification services, the appropriate amendments to the rules will be proposed to the Health Care Administration Board.

COMMENT: The Sunrise House Foundation commented that the proposed amendments and rules fail to address the cost of uncompensated care patient days.

RESPONSE: Currently, the Residential Alcoholism Treatment Facilities Rules govern Blue Cross and Blue Shield of New Jersey (which is the major payer under the system) and governmental agencies. It would be unreasonable to require Blue Cross to bear the burden of uncompensated care for the alcoholism facilities, since the system is not considered an all-payer system.

Full text of the adoption follows.

8:31C-1.1 Scope and purpose

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

(e) While the rules have been given due consideration and are deemed to be fair and equitable, it is the intention of the Department to review the dispersion of the data used to establish the medians and reasonableness limits for the reimbursement rates effective July 1, 1988. The Department will recommend to the Health Care Administration Board any modifications to the rules that may be required to resolve identified problems.

(f) The Department of Health may perform a detailed on site review of costs and statistics to verify consistent reporting of data and extraordinary variations in data.

8:31C-1.2 Definitions

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

"Administrative Payment Rate" means the payment rate developed following a review with the rate analyst of the Screened Rate.

. . .

"Director" means the Director of Health Facilities Rate Setting.

"Final Administrative Rate" means the payment rate developed as a result of the rate established following an appeal to the Administrative Law Judge.

"Final Payment Rate" means the payment rate developed from the facility's latest payment rate following the certification of actual costs by Blue Cross and Blue Shield of New Jersey.

"Forms" means the data collection forms which a facility uses to report actual costs.

. . .

"Level I Appeal" means the appeal held with a Department of Health Analyst.

"Level II Appeal" means an appeal held before an Administrative Law Judge.

"Payers" means Blue Cross and Blue Shield of New Jersey, Inc. and government agencies that are contractual purchasers of health care services.

. . .

"Schedules" means the schedules to test the reasonableness of actual expenses and to determine reasonable increases.

"Screened Rate" means the administrative rate determined by applying the rate review guidelines to the facility's most current cost base as described in N.J.A.C. 8:31C-1.3.

8:31C-1.3 Reporting period: cost data

(a) Commencing with calendar years ending December 31, 1987, RATFs will furnish required cost studies to the Department of Health, Health Facilities Rate Setting, within 90 days of the close of each calendar year. For rate review purposes, the period for which these actual data are reported will constitute the "base period" for establishing prospective per diem reimbursement rates commencing six months after the end of the base period. These rates will not be subject to routine retroactive adjustments except for matters as specified in the rules.

(b) Residential Alcoholism Treatment Facilities that fail to submit their actual cost reports by March 31, in a condition that would render them suitable for entry into the data base, shall forfeit their right to proceed under the screened methodology for determining a reasonable reimbursement rate. Where cost studies are received beyond the 90 day filing requirement, prospective per diem reimbursement rates will be established three months after receipt of the required cost studies. There will be no adjustment for inflation. The revised rate will not be subject to a retroactive adjustment to the beginning of the prospective rate period upon determination of the approved rate via the methodology described in this chapter. The Director of Health Facilities Rate Setting, upon review, may apply a 20 percent recoverable reduction per month to the facility's latest approved rate which will remain in effect until the cost report has been received by the Department of Health.

(c) Once the Department has determined that the actual cost study submission is suitable for entry into the data base, it shall be so entered, no further substitutions or rearrangement of costs will be accepted unless it is deemed necessary by those performing the detailed, on site review pursuant to N.J.A.C. 8:31C-1.1.

1. For any facility proceeding under the screened methodology which has requested an Administrative Payment Rate, a date for the detailed review with the analyst shall be set within 60 working days of the issuance of the Screened Rate. At least 10 working days prior to the date so established, the facility shall submit written documentation of all items to be discussed. This documentation will specify each item, the costs associated with the item, and the facility's rationale for the request. Should the facility fail to submit the documentation in the allotted time or fail to appear on the established date, it shall have forfeited its right to an appeal and the Screened Rate will become the Final Administrative Rate.

(d) The Director, Health Facilities Rate Setting, may reduce or waive the penalty specified in (b) above, for "good cause" shown:

1.-2. (No change.)

3. All requests for reduction and/or waiver of the penalty provision shall be submitted in writing, substantiating the reasons for the request in such detail as the Director may require.

(e) The penalty rates indicated in (b) above will be applied to cost studies commencing with the reporting periods ending December 31, 1988.

8:31C-1.4 Rate components

(a) The prospective rates will be calculated by applying standards and reasonableness criteria "limits" to the following rate components.

1. Property operating expenses;
2. Administrative costs;
3. Raw food costs;
4. Routine patient care expenses;
5. General service expenses;
6. Special patient care expenses;

(b) Compensation increases in excess of the economic factor should be made only through improved utilization of personnel, upgrading of the quality of employees, increases in productivity, and other cost containment efforts.

(c) The following components of cost will be limited to actual cost at the time of the development of the Final Payment Rate. Depreciation, interest, and rental and leases will not be increased by the economic factor.

1. Depreciation;
2. Interest;
3. Rental and lease costs;
4. Property taxes (land); and
5. Property taxes (building).

(d) (No change.)

(e) In related lease transactions, the rent paid to the lessor by the provider is not allowable as cost. The provider, however, would include in its costs the property expenses of ownership of the facility. These expenses include only depreciation, interest, property taxes and property insurance for the building and/or equipment. Other expenses of the lessor such as accounting fees, utilities, travel, and other direct or indirect overhead are non-allowable. The effect is to treat the facility as though it were owned by the provider.

8:31C-1.5 Maintenance

(a) An allowance for the maintenance of land, land improvements, buildings, and fixed equipment, will be developed for each RATF as follows:

1. Fringed maintenance salaries and maintenance expenses will be reported for each RATF in the base period.

(b) The reasonableness limit per plant square foot for the RATFs salary region is determined as follows:

A = Median Maintenance Costs
B = Median Labor Cost
C = A - B = Non-Labor Costs
Limited by Region = x 1.1

(c) (No change.)

(d) Reimbursement will be based upon the lower of total eligible expenditures for maintenance in (a)1 or the dollar limit in (c) above.

(e) (No change.)

(f) In establishing the capital-related cost of assets where an ongoing facility is purchased through a bona fide sale after July 1, 1987, the capital-related cost of the new owner would be based on the acquisition cost of the asset as entered on the books of the prior owner, less any depreciation taken on the asset by the prior owner. In addition, the new owner's capital-related costs must be determined using the same useful life and method of depreciation as used for reimbursement purposes in calculating rates for the previous owners.

(g) Fair market value and any goodwill will not be recognized as an acceptable valuation of assets for reimbursement purposes.

8:31C-1.6 Target occupancy levels

(a) A target occupancy level of 70 percent of licensed bed days or actual base period patient days, whichever is greater, will be used to develop reasonable per diem amounts. Target occupancy will be applied to all cost centers excluding raw food, laundry and linen, laboratory, and pharmacy.

(b) If base period patient days exceed 90 percent of licensed bed days, then the occupancy will be entered at 90 percent of licensed bed days.

8:31C-1.7 Property operating expenses

(a) Property operating expenses include property taxes, insurance, and utilities.

1. Property taxes (land and building) will be considered reasonable so long as they are based upon reasonable land area and value.

Renumber existing 5. through 8. as 2. through 5. (No change in text.)

(b) Utility costs will be screened for reasonableness as follows:

1. Base period utility costs per bed will be deemed unreasonable to the exent that they exceed 150 percent of the Statewide median utility cost per bed.

(c) Property insurance costs will be screened for reasonableness as follows:

1. Base period property insurance costs per bed will be deemed unreasonable to the extent that they exceed 150 percent of the Statewide median property insurance cost per bed.

8:31C-1.8 Administrative costs

(a) The administrative screen will be applied to the aggregate reported costs of management, administrator, and other administrative costs for existing licensed RATFs in the base period. Total administrative costs will then be divided by actual patient days for each RATF in the base period. These per diem costs will be ranked in descending order on a Statewide basis. The reasonableness limit will be set at 110 percent of the median cost per day.

1. Compensation and special fringe benefits of all owners, officers, and related parties, management contracts, and home office costs related to chain organizations will be excluded from the development of the reasonableness limit per (a) above. RATFs with such administrative costs will be excluded from the development of the reasonableness limit.

2. Non-working officer, owner, or related party compensation and special fringe benefits are non-allowable.

Renumber existing N.J.A.C. 8:31C-1.13 and 1.14 as N.J.A.C. 8:31C-1.9 and 1.10 (No change in text.)

8:31C-1.11 Equalized compensation and equalized cost

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

(d) The term "equalized costs" means the net amount of equalized compensation plus other expenses, less expense recoveries and nonallowable costs.

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

8:31C-1.12 Routine patient care expenses

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

(c) Reasonableness limits for counseling services will be established as follows:

1. (No change.)

2. Total counseling costs for each RATF in the base period (per (c)1 above) will then be divided by base period patient days. These per diem costs will then be ranked in descending order on a category basis (adult, adolescent).

(3) (No change.)

Renumber existing N.J.A.C. 8:31C-1.17 and 1.18 as N.J.A.C. 8:31C-1.13 and 1.14 (No change in text.)

8:31C-1.15 Economic Factor

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

8:31C-1.16 Appeal process

(a) When a RATF believes that, owing to an unusual situation, the application of these rules results in an inequity, two levels of appeals are available: a Level I Appeal heard by representatives from the Department of Health; and a Level II Appeal heard before an Administrative Law Judge.

1. Level I Appeal: A request for a Level I Appeal must be submitted in writing to the Department of Health, Health Facilities Rate Setting, Room 600, John Fitch Plaza, CN 360, Trenton, New Jersey 08625 within 30 days of receipt of the notification of rates.

i. The first level of appeal will be heard by analysts from the Department of Health. A RATF should be prepared to provide such substantiating material as may be required for an informal discussion of the subject matter.

ii.-iii. (No change.)

iv. Adjustments resulting from the Level I Appeal will be retroactive to the beginning of the prospective rate year.

2. Level II Appeals (Administrative Law Appeal): If a RATF is not satisfied with the results of the Level I Appeal, it may request a hearing before an Administrative Law Judge.

i.-iii (No change.)

iv. After the Administrative Law Judge has filed his or her report, the Commissioner of Health will determine and approve the Final Administrative Rates and the RATF and its payers will be notified in the form of an administrative order over the signature of the Commissioner of Health.

8:31C-1.17 Special rate provisions for rates effective July 1, 1988

(a) For the rate period July 1, 1988 through June 30, 1989 reimbursement rates will be established based upon the greater of the facility's latest approved rate by the Department of Health effective July 1, 1987 through June 30, 1988, or the screened rate calculated pursuant to the previous sections of these guidelines.

1. The latest approved rate will be either the Blue Cross historical rate or the Department of Health's screened rate.

2. Reimbursement rates effective July 1, 1988 through June 30, 1989 will not be subject to an appeal under N.J.A.C. 8:31C-1.16.

(b) For the rate periods July 1, 1989 and thereafter, historical rates will no longer be calculated and, as such, will not be utilized in establishing the effective reimbursement rate.

(c) For the rate periods July 1, 1989 and thereafter, the prospective reimbursement rates will be based upon the methodology described in the previous sections of these guidelines.

8:31C-1.18 Final Payment Rate

The Final Payment Rate will be based upon a certified audit performed by Blue Cross. The facility will be reimbursed at the lower of the approved rate or the Blue Cross certified rate. The Blue Cross certified rate will be subject to adjustments based upon major audit findings.

8:31C-1.19 Unpredictable and uncontrollable costs

Should a facility be faced during the year with unpredictable and uncontrollable changes in its costs, the facility should notify the Director of Facilities Rate Setting who will consider the necessity for an adjustment to give relief from such occurrences.

8:31C-1.20 Reimbursement rates for new facilities

In order to develop a reasonable rate, the Department of Health will evaluate the projected operating costs for the first year of operation, as well as the projection included in the Certificate of Need application. Facilities will be limited to the average of the Department of Health screened rate with those facilities of equivalent licensed beds. The facility will not be entitled to appeal the rate under N.J.A.C. 8:31C-1.16 of the RATF guidelines.

(a)

DIVISION OF HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Nuclear Magnetic Resonance (NMR) Services

Readoption: N.J.A.C. 8:33J

Proposed: February 21, 1989 at 21 N.J.R. 416(a).
Adopted: April 21, 1989 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with the approval of the Health Care Administration Board).
Filed: April 24, 1989 as R.1989 d.276, **without change.**

Authority: N.J.S.A. 26:2H-5 and 26:2H-8.

Effective Date: April 24, 1989.
Expiration Date: April 24, 1994.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:33J.

(b)

Certificate of Need: Nuclear Magnetic Resonance (NMR)/Magnetic Resonance Imaging (MRI) Services

Adopted New Rules: N.J.A.C. 8:33J-1.1 through 1.12
Adopted Repeals: N.J.A.C. 8:33J-1.1 through 1.5

Proposed: February 21, 1989 at 21 N.J.R. 413(b)
Adopted: April 21, 1989 by Molly Joel Coye, M.D., M.P.H., Commissioner of the Department of Health (with approval of the Health Care Administration Board)
Filed: April 24, 1989 as R.1989 d.274, **without change.**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5 and 26:2H-8.

Effective Date: May 15, 1989.
Expiration Date: April 24, 1994.

Summary of Public Comments and Agency Responses:

Only one comment letter was received during the 30-day public comment period for the proposed new NMR/MRI rules and the repeal of the existing NMR/MRI rules. The comment letter was received from the Jersey City Medical Center (JCMC) and is summarized below:

COMMENT: JCMC supports the Department's stated goal of allocating this NMR/MRI imaging modality in a manner that maximizes its availability, quality and effectiveness while containing associated costs. However, the minimum population base of 420,000 (contained at N.J.A.C. 8:33J-1.2) is considered by JCMC to be inappropriate because the need for NMR/MRI "is not driven by population size . . . but rather by clinical needs of the population as well as by the characteristics of the existing health care delivery system". Such characteristics as health status and differences in the development of health care infrastructure in given areas should be included in the need equation. JCMC also notes that there is no population base for CT, a similar modality, and that the limitation of this modality to 10 additional sites (through application of the population base) would not allow for future applications of NMR/MRI technology. This restrictive policy, JCMC states, would continue to encourage private units which cannot be sufficiently monitored (because of the private practice exclusion).

RESPONSE: The Department shares the concerns raised by JCMC regarding the appropriate access to this imaging modality. However, the elimination of a population base criterion or some other criteria that would limit the proliferation of NMR/MRI services at this stage in the evolution of this new technology would totally neglect the Department's concern over the affordability of a technology that is far more costly than CT with fewer clinical applications than that of CT. The historical evolution of CT scanning in New Jersey initially included a population base that was only eliminated from the State's CT rule (N.J.A.C. 8:33G) at a point when CT became a well-accepted diagnostic procedure in a vast array of clinical applications and the need to regionalize the modality was no longer considered appropriate.

The department does not intend to exclude the factors specified by JCMC in its review of additional NMR/MRI services in the future nor does it rule out additional amendments to these rules should emerging clinical applications arise that would require reexamination of the proposed policy.

COMMENT: JCMC states that the clinical applications of NMR/MRI continue to expand and that the proposed methodology (at N.J.A.C. 8:33J-1.3(a)) is inadequate because it places too much emphasis on central nervous system (CNS) CT studies and avoids applications involving other body systems other than the CNS. JCMC also states that the 2,500 minimum utilization volume within two years of initiation (at N.J.A.C. 8:33J-1.3(d)) is "too high for newly established programs", proposing three years as a more reasonable time period.

RESPONSE: The methodology proposed by the department is consistent with the results of the New York State NMR/MRI demonstration project which developed the methodology proposed herein based on the experience of its 14 demonstration sites. This New York study confirmed the fact that the vast majority of NMR/MRI applications continue to be of the CNS. The proposed methodology does include a 10 percent factor for non-CNS imaging studies. While this latter factor can be expected to increase in the future, there is no reliable evidence available to quantify the extent of this growth in the future. The Department does intend to monitor clinical developments and to modify the need methodology in the future to keep pace with these developments.

The proposal to allow a two year period of time to achieve the minimum patient volume of 2,500 cases each year is again supported by the New York State experience as well as that of New Jersey. Those approved NMR/MRI demonstration sites in New Jersey have been in operation for at least one year have been able to achieve this level of utilization within that first year of operation.

COMMENT: JCMC states that "or ability to pay" should be added to the criteria for the regional provision of NMR/MRI services contained at N.J.A.C. 8:33J-1.4(a)1 to 4.

RESPONSE: The "ability to pay" language is already required of each applicant at N.J.A.C. 8:33J-1.11.

COMMENT: JCMC states that a full-time bio-medical physicist should not be required and that part-time or consulting services of an appropriately trained physicist or engineer should be the requirement.

RESPONSE: This comment letter was written prior to the final adoption of the proposed rules by the Statewide Health Coordinating Council and well before its publication for public comment. Language consistent with this comment does appear in the proposed rules at N.J.A.C. 8:33J-1.5(d). This language states that a bio-medical physicist/engineer . . . "shall be available".

COMMENT: JCMC states that N.J.A.C. 8:33J-1.6(a)1 and 1.6(a)2 may be inconsistent with one another since an NMR/MRI unit serving a large number of hospital inpatients representing a large spectrum of diagnostic needs will require greater technical capability than equipment serving an outpatient population. Thus a hospital-oriented unit is likely to cost more than an outpatient unit designed to serve outpatients.

RESPONSE: The concerns stated by JCMC in its comment on this issue are concerns that are common in virtually all competitive certificate of need applications for major movable equipment and services. The type of equipment being sought by each applicant, as well as the patient-mix targeted by each applicant, are just two of numerous factors that will be considered during the public review process. Other potential applicants might argue that the priority being given to inpatient access to this modality unfairly discriminates against a lower cost outpatient applicant. In the final analysis, all such factors must be weighed by the local planning agencies and State review bodies to select the most appropriate settings for the additional resources permitted under the proposed new NMR/MRI rules.

Full text of the adoption follows.

CHAPTER 33J
MAGNETIC RESONANCE IMAGING (MRI) SERVICES

8:33J-1.1 Introduction

(a) Magnetic Resonance Imaging (MRI) is a diagnostic modality which produces pictures that are based on the responses of atomic nuclei in a magnetic field. By depicting the concentration, chemical form and spatial distribution of certain nuclei, MRI can serve to

define body constituents and chemistry, directly and non-invasively. Its potential to offer new insights into the chemistry of physiology and for detecting and diagnosing disease states in clinical medicine is becoming increasingly significant.

(b) Given the limited use of MRI's in clinical settings to date; the need for further research to achieve a better understanding of the range of MRI's clinical applications; the diagnostic categories for which MRI is most suited; the type of MRI systems most appropriate for given clinical settings and applications; the costs and cost impacts of MRI service delivery; and the extent to which costs can be expected to be outweighed by improvements in medical diagnoses and medical outcomes, and incremental and regionalized approach to the initiation of MRI's services in the State continues to be warranted.

(c) This chapter identifies Department of Health policy to guide the introduction of additional MRI services in New Jersey over and above the eight approved MRI demonstration sites previously gaining certificate of need approval under the former MRI demonstration rules at N.J.A.C. 8:33J. This chapter is intended to guide future planning and review activities for MRI services in New Jersey on a case-by-case basis.

8:33J-1.2 Minimum population base

The minimum population base for each magnetic resonance imaging (MRI) service will be one MRI unit for each 420,000 population within a health service area.

8:33J-1.3 Minimum utilization standards

(a) Each applicant for magnetic resonance imaging (MRI) services shall provide written documentation that a projected minimum volume of 2500 patient procedures per unit, per year shall be achieved within two years of initiation of the service. Projected utilization shall be based on the applicant's documentation of CT exams of the central nervous system (CNS), since MRI has been shown to be a valuable diagnostic tool for studies of the CNS. Projected MRI utilization will be calculated as follows:

A = Projected MRI studies of CNS patients =
(CT exams of CNS x .55) - (.10 CT exams of CNS)
B = Projected MRI studies of non-CNS patients = (.10 x A)
Total Projected MRI exams = A + B

(b) Any MRI applicant that is an existing MRI provider shall document all existing utilization data, the source(s) of that existing utilization and in the case of a joint applicant, any additional projected MRI utilization based on the above need methodology.

(c) Each applicant shall demonstrate that the proposed MRI service will function as an integrated component of a comprehensive diagnostic imaging service by providing written documentation that it has access, either on-site or through formal written arrangements, to equipment and qualified personnel for the provision of conventional radiology, computed tomography, ultrasound, angiography and nuclear medicine.

(d) Each applicant seeking the replacement or upgrading of its magnetic resonance imaging (MRI) unit shall document an actual minimum utilization of 2500 patient procedures per unit per year.

(e) Any applicant seeking to provide mobile MRI services shall meet all minimum requirements contained in this subchapter.

8:33J-1.4 Regional provision of MRI services

(a) Each applicant shall document that the proposed MRI service will serve as a regional resource for area physicians and health care facilities. Such documentation shall include, but not be limited to:

1. An established mechanism for the transmission of patient information to the referring physician and facility;

2. An established mechanism to maintain current listings of appropriate clinical applications of MRI for staff, referring physicians, and facilities;

3. A written plan for continuing education and training programs to include the education of physicians and the public of specific indications and contraindications of MRI use; and

4. A written policy regarding patient prioritization that is based on patient need rather than referral source.

8:33J-1.5 Minimum personnel standards

(a) Each applicant for a certificate of need for a magnetic resonance imaging (MRI) unit shall provide the Department with written documentation that the following minimal staff complement will be available within the facility to each MRI unit:

1. One or more licensed physicians who have attained a thorough knowledge of the methods and principles of MRI through continuing medical education (CME) credits, experience or post-graduate education which qualified them to interpret MRI scans in the specialty field appropriate to each physician; and

2. Two full-time equivalent technicians who have documented training and experience in MRI service delivery.

(b) In addition, sufficient supportive personnel consistent with the efficient delivery of quality MRI services should be assigned to the MRI unit (for example, aides, secretary, clerk).

(c) A radiologist or neuroradiologist who may also serve as director of MRI services and who is a board-certified radiologist or neuroradiologist whose primary responsibility over the last three years has been in the interpretation of cross-sectional imaging for all body areas and who has at least 60 hours of instruction in the methods and principles of MRI at a facility with an operational MRI device shall be available.

(d) A bio-medical physicist/engineer who is certified by the American Board of Radiology and has a thorough knowledge of MRI techniques shall be available.

8:33J-1.6 Competitive areawide criteria

(a) Competing applicants seeking to initiate MRI services within the same health service area (as defined in P.L. 93-641 as amended) shall meet the minimum MRI standards and criteria contained herein. Priority will be given to applicants who demonstrate:

1. The lowest capital and operating costs and patient charges consistent with meeting all minimum standards of operation and construction contained in this subchapter;

2. The extent to which hospital inpatients will be provided with improved access to MRI services (the greater the number of inpatients receiving improved access to MRI services, the greater the priority consideration);

3. The greatest proportion of care to the medically indigent in the service area to which the applicant will provide equal access to MRI services;

4. The greatest degree of continuity of care evidenced by the establishment of a system of referral agreements and linkages and joint hospital sponsorship of the proposed MRI service;

5. The extent to which the applicant has historically provided sizeable volumes of diagnostic procedures, in its existing radiology service programs where applicable, in the clinical categories for which MRI has been demonstrated to have the most effective clinical applications;

6. The extent to which a proposed service is to be located in close proximity to approved MRI services as well as the existing utilization and unused capacity of these existing approved MRI providers;

7. Evidence that the existing approved MRI services are operating above minimum utilization levels and that the capacity of these existing MRI services are insufficient to meet projected demand for these services in the health service area; and

8. Proposed charges and physician fees for the proposed MRI services and the extent that they are consistent with alternative providers in the area.

8:33J-1.7 Quality assurance

(a) Each applicant shall provide written documentation of an ongoing quality assurance program for MRI which includes at a minimum:

1. Protocols that ensure that all MRI procedures are medically necessary and will not duplicate other imaging service;

2. A safety manual governing the equipment and its location and security measures that include metal and other hazard detection; and

3. Document evidence of appropriate training of personnel.

8:33J-1.8 MRI site preparation

Each applicant shall provide written documentation that the area housing the MRI unit, including necessary arrangements for mobile

MRI equipment, will be constructed in accordance with standards established by the U.S. Food and Drug Administration (FDA), the equipment manufacturer, the National Electrical Manufacturers Association (NEMA), and applicable Federal and State standards.

8:33J-1.9 Capital and operating costs

The applicant shall provide full written documentation of the purchase and operational costs of the proposed MRI service. The applicant shall identify both direct and indirect cost savings resulting from the introduction of MRI equipment in their specific setting. In addition, the choice of buying or leasing equipment should be justified and include provision for early obsolescence resulting from rapid technological advancement. The cost of remodeling or renovation necessary to accommodate the unit and its operation shall also be identified. Projections of anticipated revenues during the first two years of operation should be supplied within the certificate of need application.

8:33J-1.10 Data reporting

All MRI services gaining certificate of need approval will be required to provide specific MRI data relating to the number of patients receiving these services, operating costs, patient origin, and any additional information deemed necessary by the Department to determine compliance with this section. This information shall be provided in a format developed by the Department and will be submitted by each approved MRI provider no more than twice each year.

8:33J-1.11 Non-discriminatory agreement

Each applicant shall provide written certification of compliance with all Federal and State laws in regard to nondiscriminatory practices to the effect that no patient shall be refused treatment on the basis of race, religion, sex, age, patient diagnosis or ability to pay.

8:33J-1.12 Compliance

(a) Existing MRI providers shall meet the minimum utilization requirements contained in this subchapter within one year of the effective date of this subchapter and each year thereafter or be subject to reimbursement or licensing sanctions, N.J.S.A. 26:2H-7 and 14, respectively.

(b) All certificate of need applications for new MRI equipment shall document the ability to achieve minimum utilization standards and criteria contained in this subchapter within two years from the initiation of the service. Failure to achieve minimum utilization level during the second year of operation or thereafter will result in reimbursement or licensing sanctions.

(a)

Certificate of Need: Advanced Life Support Programs Mobile Intensive Care Unit (MICU) Critical Care Transport Unit (CCTU)

Adopted New Rules: N.J.A.C. 8:33N-1.1 through 1.18

Proposed: February 6, 1989 at 21 N.J.R. 268(b).
Adopted: April 21, 1989 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health (with approval of the Health Care Administration Board).
Filed: April 24, 1989 as R.1989 d.273, **with substantive and technical changes** not requiring additional public review and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:2K-7 et seq. and 26:2H-1 et seq.

Effective Date: May 15, 1989.
Expiration Date: May 15, 1994.

Summary of Public Comments and Agency Responses:
Written comments were received from:
Alert Ambulance Service, Inc.
Amb-Coach Metro Med Transports, Inc.
Invalid Coach Service of N.J. Inc.
Jersey City Medical Center
McCabe Ambulance Service, Inc.
Medical Transportation Association of New Jersey
Mountainside Hospital
Multi-Care Emergency Medical Service
Promedical Ambulance Service
Republic Ambulance Services, Inc.
St. Joseph's Hospital and Medical Center
Stat Ambulance Service
Tri County Mobile Intensive Care Network
Tri State Ambulance Service, Inc.

COMMENT: The majority of the comments received concerned the provisions in the proposed rules on Critical Care Transport Units (CCTUs). These commenters generally objected to the requirement that only hospitals may apply for approval of a CCTU service. They expressed concern that this would unfairly and inappropriately preclude the involvement in CCTU services of emergency ambulance providers, including those which are currently performing inter-hospital transfers in accordance with the Department of Health's existing ambulance licensure requirements at N.J.A.C. 8:40. Specific comments were also made about a number of other CCTU issues such as staffing and equipment requirements.

RESPONSE: After reviewing these comments, the Department has determined that the issues raised in regard to CCTUs are of sufficient importance and complexity that additional time is needed to fully address and resolve them. Accordingly, all provisions and language in the proposed rules concerning CCTUs have been deleted. The Department will develop revised and additional language regarding the certificate of need and other regulatory requirements applicable to CCTUs, taking into account the comments which have been received in response to the proposed rules, and publish other proposed rules regarding CCTUs for public comment at a future time. These rules to be proposed will address the role of emergency ambulance providers in CCTU services. In the interim, no certificate of need applications for CCTU services will be accepted by the Department and inter-hospital transfers will continue to be performed in accordance with existing rules.

The remaining provisions of the proposed rules concerning Mobile Intensive Care Units (MICUs) are adopted with changes as shown below. The following written comments were received concerning the MICU provisions:

COMMENT: Jersey City Medical Center commented that there was an apparent contradiction between the Economic Impact statement for the proposed rules and the provisions of Senate Bill 2981 concerning reimbursement rates for MICU services. The Economic Impact section stated that "With the end of the Medicare reimbursement waiver, the rate setting program of the Department of Health will no longer be setting reimbursement rates for MICU programs."

RESPONSE: The statement concerning MICU reimbursement rates should be clarified as follows: Senate Bill 2981 specifies that, for purposes of payments from the Uncompensated Care Trust Fund, the Hospital Rate Setting Commission shall establish a schedule of reimbursement rates that reflect costs associated with providing MICU services for patients who are classified as charity care. All other costs associated with MICU services are to be excluded from Chapter 83 reimbursement.

COMMENT: Similar comments received from St. Joseph's Hospital and Medical Center, the Tri County Mobile Intensive Care Network, and Mountainside Hospital state that the requirements for back-up MICU vehicles are unreasonably restrictive.

RESPONSE: After reviewing these comments, the Department has decided to modify the language of N.J.A.C. 8:33N-1.9 (now 1.8)(a)2. and 8:33N-1.16 (now 1.15)(g) to make the back-up vehicle requirement less restrictive. For example, while the proposed rules would have required two back-up vehicles for a hospital with two operational vehicles, the revised rules will require only one back-up vehicle for a program with two operational vehicles.

COMMENT: Mountainside Hospital objects to requiring applicants to comply with requirements concerning HIV infected individuals as a condition of certificate of need approval for MICU services. The Hospital has a particular concern about the requirement that the hospital enter into a formal written affiliation agreement with the Department's AIDS Division. The Hospital's view is that such AIDS-related requirements should be adopted through separate rules that are subject to public review and comment prior to adoption.

RESPONSE: The Department agrees that general AIDS-related rules are needed. Proposed rules concerning HIV infected patients which are applicable to all hospitals are currently being developed. The proposed

rules will follow the usual public rulemaking process with opportunity for comment by all affected parties. However, the Department's view is that, in the interim period until such rules are finally adopted, given the urgent need to assure that health care facilities are responsive to the special concerns of HIV infected persons, it is reasonable and appropriate to apply these requirements to review of certificate of need applications. Accordingly, no changes have been made to the HIV criteria in the proposed rules.

COMMENT: The Tri County Mobile Intensive Care Network submitted a comment concerning N.J.A.C. 8:33N-1.7(c)2, which is one of the MICU need criteria. The criterion requires the applicant to submit data showing whether the MICU vehicles currently serving the area are unable to respond to 10 percent or more of the calls they receive. The Network states that this criterion does not consider the fact that, in an efficiently operating network, a 10 percent unavailability could be appropriately (within acceptable response times) covered by a secondary unit for the area, and therefore might not justify approval of an additional MICU.

RESPONSE: The Department agrees with the commenter that, in evaluating the need for additional MICU services, the extent to which secondary units are able to respond within an acceptable time when the primary unit is not available should be, and will be, taken into account. However, the Department notes that the unavailability rate is only one of several need criteria in the rules, which also include criteria regarding population served, response times, and projected call volume. Unless the proposed MICU is the first in an entire county, the rules require an applicant to show compliance with all of these criteria, or with a narrow exception concerning access to services, in order to demonstrate need for an additional MICU. Accordingly, the Department does not believe there is a need to change this criterion.

Note: Additional minor non-substantive changes were made to correct typographical and other errors or to add clarity.

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

CHAPTER 8:33N
CERTIFICATE OF NEED: ADVANCED LIFE SUPPORT PROGRAMS MOBILE INTENSIVE CARE UNIT (MICU) *[AND CRITICAL CARE TRANSPORT UNIT (CCTU)]*

SUBCHAPTER 1. REQUIREMENTS FOR CERTIFICATION OF NEED

8:33N-1.1 Scope

(a) The Department of Health currently licenses emergency medical vehicles that operate in the State of New Jersey. The rules in this chapter set forth the criteria by which the Department of Health will evaluate through its certificate of need program any applications that are submitted for mobile intensive care units (MICUs) (including both those which transport patients and those which do not transport patients) as well *[as critical care transport units (CCTUs) that provide interhospital transport of patients]*.

(b) A certificate of need is required to initiate MICU*[/CCTU]* service; to add operational vehicles (including seasonal vehicles); or to change the primary or secondary service area for existing units.

(c) The standards included in this chapter apply exclusively to and identify standards for review of the certificate of need application for MICU/CCTU services.

8:33N-1.2 Definitions

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

"Advanced life support" (ALS) means an advanced level of prehospital, interhospital, and emergency service care which includes basic life support functions, cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care, and other techniques and procedures authorized by the Commissioner.

"Approved mobile intensive care unit" *[or "approved critical care transport unit"]* means a mobile intensive care unit *[or critical care transport unit]* authorized by the Department to serve a specific population, geographic area, or political entity.

"Available" means ready for immediate use (pertaining to equipment, vehicles, and personnel), or immediately accessible (pertaining to records).

"Base station physician" means any physician based in a hospital who provides medical control to advanced life support personnel by radio or telephone, as part of an authorized mobile intensive care program.

"Basic life support" means a level of prehospital care which includes patient stabilization, airway clearance, external closed chest cardiopulmonary resuscitation, control of hemorrhage, initial wound care, fracture stabilization, victim extrication, and other techniques and procedures authorized by the Commissioner.

"Commissioner" means the New Jersey State Commissioner of Health.

"Consortium" means a group of hospitals providing mobile intensive care service in a region designated by the Commissioner and coordinated by a regional communication coordinating center.

["Critical care transfer" means the transfer of a seriously ill or injured patient from one medical facility to a more specialized medical facility for treatment and/or testing.]

["Critical care transport unit" (CCTU) means a licensed emergency ambulance specially equipped and staffed, at a minimum, with a physician or nurse plus a paramedic and a driver, which provides advanced life support care for patients requiring interhospital transfer.]

"Department" means the New Jersey State Department of Health.

"Emergency medical technician" (EMT) means an individual who has completed a course of instruction and who has been issued certification by the Commissioner to provide basic life support services.

"Governing body" means the organization, person, or persons holding legal responsibility for the operation of a hospital, health care facility, business, or other agency.

"Health care facility" means a facility so defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq.

"HIV" means human immunovirus.

"Interhospital transfer" means medical services provided to a patient before and during transportation between hospital facilities and upon arrival within those facilities.

"Medical control" means direction by a hospital-based physician of basic and/or advanced life support services delivered in the field by authorized personnel from a licensed emergency room.

"Mobile intensive care" means advanced life support as defined in N.J.S.A. 26:2K-7.*[20.]*

"Mobile intensive care nurse" means a registered professional nurse employed or voluntarily engaged in the delivery of mobile intensive care *[or critical care transport]* as a primary crew member of an approved mobile intensive care unit.

"Mobile intensive care paramedic" means a person trained in advanced life support services and certified by the Commissioner to render advanced life support services as part of a mobile intensive care unit.

"Mobile intensive care unit" (MICU) means a specialized emergency medical service vehicle staffed by mobile intensive care paramedics or mobile intensive care nurses trained in advanced life support nursing and operated for the provision of advanced life support services under the direction of an authorized hospital.

"Off-line medical control" means medical control exercised through use of training, protocols, quality-assurance reviews, and direct personnel supervision.

"On-line medical control" means medical control as directed by a hospital-based physician via radio or telephone communication with personnel outside of the hospital.

"Patient" means any person utilizing services licensed under this chapter.

"Primary service area" means the area of the State designated to a specific mobile intensive care program for the provision of advanced life support services.

"Provider" means any person, public or private institution, or agency which is providing mobile intensive care*[/critical transport]* services.

"Regional coordinating center" means a hospital designated by the Commissioner to coordinate the mobile intensive care system within a designated region and having duties and responsibilities as specified in N.J.A.C. 8:41.

"Secondary service area" means the area of the State designated to a mobile intensive care program for the provision of backup advanced life support services.

8:33N-1.3 Exemptions from certificate of need requirements

(a) This chapter shall not apply to providers which are based in other states when the provider is:

1. Transporting a patient through New Jersey from an out-of-State location to an out-of-State location; or

2. Transporting a patient from an out-of-State location to a New Jersey location.

(b) The provisions of this chapter shall not apply to services provided by an agency of the government of the United States.

8:33N-1.4 Submission of a certificate of need application

[(a)] Applications for the establishment of new services or for increasing the number of vehicles of preexisting services will be competitively reviewed pursuant to batching procedures set forth in N.J.A.C. 8:33-1.5. The following schedule will apply for the submission of certificate of need applications for ALS-MICU/CCTU programs:

Deadlines for submission	Cycle Begins
December 1	January 15
June 1	July 15

[(b) No applications for ALS-CCTUs will be accepted until June 1, 1989.]

8:33N-1.5 Types of applications

The application shall specify which type of service the applicant seeks to provide: Mobile Intensive Care Unit (Non-Transporting)*[;]* ***or*** Mobile Intensive Care Unit (Patient Transporting)*[; and/or Critical Care Transport Units]*.

8:33N-1.6 Financial information

(a) The applicant shall demonstrate the financial feasibility of the proposed project.

(b) The applicant shall provide the estimated rate to be charged per call detailing any variations that may occur within that rate.

8:33N-1.7 Need criteria; MICU

(a) There is a need for a minimum of one MICU vehicle per county, without regard to the other criteria noted in this section.

(b) The applicant shall demonstrate compliance with each of the three criteria in (c) below, unless:

1. The criterion in (a) above is applicable; or

2. The Commissioner makes a finding that, despite lack of full compliance with one or more of the *[four]* ***three*** criteria, there is compelling evidence that additional MICU service is needed in the area to assure a minimal acceptable level of access to, and quality of, prehospital emergency ALS service.

(c) The applicant shall supply data regarding its proposed primary service area for a minimum of 12 months prior to the filing of the certificate of need application that will address how each of the following criteria applies to the proposed MICU service:

1. One vehicle per 100,000 residents in the primary service area.

2. The MICU vehicles currently serving the proposed primary service area have response times in excess of 15 minutes and/or are unable to respond to 10 percent or more of the calls they receive. An existing MICU hospital which is proposing to add vehicles shall document that the missed calls are not caused by avoidable downtime.

3. The applicant shall project a minimum level of future utilization of 2.7 ALS completed calls per vehicle per day for the first six months of service and three ALS completed calls per vehicle per day after the first six months of service. The projection shall be based on missed calls and high volume of ALS completed calls by existing MICUs and future population growth.

(d) An existing MICU resource hospital approved for at least one full-time MICU vehicle may apply for a part-time vehicle (less than 24 hours per day, seven days a week) if it can document need for at least 12 hours of service per day and at least 1.5 ALS completed calls per vehicle per day in the proposed primary service area. Any increase in hours of service per day beyond what is specified in the certificate of need approval for a part-time vehicle requires full, batched certificate of need review.

*[8:33N-1.8 Need criteria; CCTU

(a) The applicant for a CCTU certificate of need shall, in conjunction with the area hospitals for which expansion of service is sought, shall provide data for one year prior to application which documents a need for service expansion. This data shall include downtime due to vehicle maintenance and missed calls (including a break down of requests for services unmet).

(b) The applicant for new services shall provide all available data which document the number of hospital critical care transfers that occurred in its proposed service area for a period of 12 months prior to application.]*

8:33N-*[1.9]***1.8*** Back-up vehicle

(a) *[The service]* ***MICU*** providers shall have back-up ***MICU*** vehicles.

1. MICU back-up vehicles do not require certificate of need approval. These vehicles shall be utilized for back-up services only and their use and reason for use documented and submitted to the Office of Emergency Medical Services (OEMS) on a quarterly basis. All back-up MICUs shall comply with all OEMS licensing rules at N.J.A.C. 8:41. Vehicles which transport patients shall also comply with licensing rules at N.J.A.C. 8:40.

2. *[If the provider has a total of one or two approved MICU vehicles, a one-to-one back-up vehicle to operational vehicle is required. For each additional two operational vehicles, one back-up vehicle will be required.]* ***The number of back-up vehicles required shall be as follows:***

Approved Operational Vehicles	Back-up Vehicles Required
1 or 2	1
3 or 4	2
5 or 6	3
7 or 8	4*

[(b) No back-up vehicles are required for CCTU services.]

8:33N-*[1.10]***1.9*** Seasonal vehicle

A mobile intensive care hospital shall not operate an additional vehicle on a seasonal basis without first obtaining a certificate of need in accordance with this chapter.

8:33N-*[1.11]***1.10*** Data requirements

(a) For existing MICU providers, the applicant will provide a copy of the MICU quarterly reports submitted to the Office of Emergency Medical Services for a period to cover no less than 12 months prior to the submission of an application.

(b) Any application for services not including the data requested will be considered incomplete.

8:33N-*[1.12]***1.11*** Licensing track record

All hospital applicants will be evaluated on past licensure track record performance and adherence to past certificate of need conditions.

8:33N-*[1.13]***1.12*** Access

(a) All applicants shall be required to submit with the application a policy which will provide for treating/transporting all patients regardless of ability to pay.

(b) All applicants shall submit with the application proposed eligibility criteria for provision of free service.

(c) All applicants shall provide with the application a copy of the service providers policy for treating/transporting HIV positive individuals.

(d) All applicants shall state in the application that they will comply with State and Federal anti-discrimination laws.

8:33N-*[1.14]***1.13*** Service area

(a) Each applicant shall indicate in the application specific proposed primary and secondary service areas. The primary service area shall be that for which the applicant will be responsible for providing direct services; the secondary service area shall be that for which the applicant will provide back-up services for an existing provider. The HSA and the Department will determine the reasonableness of proposed primary and secondary service areas.

(b) The applicant shall indicate whether and to what extent the proposed primary and secondary service areas are currently included in the primary or secondary service areas of existing MICU providers.

(c) A certificate of need is required to make any change to the primary and secondary service areas designated by the Commissioner.

8:33N-*[1.15]***1.14*** Impact on existing providers

All applicants shall demonstrate that the service to be provided will not adversely impact on the current provider(s).

8:33N-*[1.16]***1.15*** General requirements for all categories of mobile intensive care*[/critical care transport]* programs

(a) All services under this chapter shall comply with all ALS-MICU*[/CCTU]* criteria.

(b) Only New Jersey licensed general hospitals may submit MICU*[/CCTU]* applications. Any contractors to be used in delivering services for the applicant hospital shall be identified in the certificate of need application. ***A detailed description of the services to be provided through any contractor shall also be included in the application.***

(c) A hospital will, within six months of approval as a mobile intensive care*[/critical care transport]* program, begin provision of mobile intensive care*[/critical care transport]* services in the designated service area(s). *[A detailed description of the services to be provided through any contractor shall also be included in the application.]*

(d) A hospital approved by the Commissioner to operate a mobile intensive care program of one or more units shall provide service to the designated area on a 24 hour a day, seven day a week basis, except that seasonal or limited hour vehicles shall operate in accordance with the provisions of the Commissioner's designation. *[This provision is not applicable to critical care transport units.]*

(e) A mobile intensive care program will provide reliable service to all designated service areas. An operational mobile intensive care*[/critical care transport]* unit will be available to respond to a minimum of 90 percent of calls for which it would be dispatched.

(f) Each designated mobile intensive care unit will be capable of a response time not to exceed a maximum of 15 minutes (with an optimal time considered to be six to eight minutes for cardiac arrest patients) from time of dispatch to 90 perent of calls within its primary service area. *[This provision is not applicable to critical care transport units.]*

(g) Each mobile intensive care program will provide a back-up mobile intensive care vehicle service. *[If the provider has a total of one or two approved MICU vehicles, a one-to-one back-up vehicle to operational vehicle ratio is required. For each additional two operational vehicles, one back-up vehicle will be required.]* ***The number of back-up vehicles required shall be as follows:***

Approved Operational Vehicles	Back-up Vehicles Required
1 or 2	1
3 or 4	2
5 or 6	3
7 or 8	4*

(h) Each MICU*[/CCTU]* program shall comply with licensure requirements at N.J.A.C. 8:41. All vehicles which also transport patients shall also comply with licensure requirements at N.J.A.C. 8:40.

(i) Each approved MICU service shall participate in communication coordination with one of the eight currently existing Regional Communication Coordinating Centers as specified in N.J.A.C. 8:41 and document participation in a centralized dispatch procedure in its proposed service area.

(j) The governing body of the hospital shall have granted formal approval of the hospital's certificate of need application. Evidence of this approval shall be submitted with the certificate of need application.

(k) The applicant shall have an intensive/coronary care unit, and an emergency department open 24 hours a day with an in-house physician capable of receiving and providing definitive care to critical patients who have been treated by advanced life support personnel.

(l) Applicant hospitals that do not provide emergency room services or provide emergency room services on a limited basis (less than 24 hours a day) may apply for MICU services only with a co-applicant hospital which is an existing approved MICU resource hospital and which will provide medical direction for the ALS services by qualified emergency physicians 24 hours a day, seven days per week.

(m) Letters of support from basic life support (BLS) providers which indicate intent to utilize the service proposed *[(MICU only)]* or documentation of efforts to obtain such letters shall be submitted as part of the certificate of need application.

[(n) Formal written agreements with contracting hospitals which document intent to use the service proposed (CCTU only). This information shall be submitted as part of the certificate of need application.]

8:33N-*[1.17]***1.16*** Medical director required

The applicant shall designate a licensed physician, experienced in the provision of emergency care, as required by N.J.A.C. 8:41, who shall be responsible for on-line and off-line medical control of the mobile intensive care*[/critical care transport]* program as specified in this chapter.

8:33N-*[1.18]***1.17*** HIV criteria

(a) The following documents shall be submitted with the application:

1. A copy of the HIV education program for all staff;
2. A copy of the universal precautions program appropriate to the service to be provided; and
3. A copy of the institutional/service providers written policy assuring non-discrimination to HIV infected individuals (HIV specific).

(b) All of the documents in (a) above shall be reviewed and approved by the Division on AIDS Prevention and Control.

(c) The applicant shall enter into a formal written affiliation agreement, as specified by the Division on AIDS Prevention and Control.

8:33N-*[1.19]***1.18*** Competitive review

(a) Where need for *[either]* a MICU *[or a CCTU]* has been demonstrated and more than one applicant has filed a certificate of need to serve the same primary service area, the Department may approve only the number of applications necessary to fulfill that need. In making that determination, the Department will give priority to the applicant or applicants which, relative to all competing projects, most clearly demonstrate the fullest compliance with the following:

1. Compliance with all existing rules regarding MICU*[/CCTU]* service;
2. Provision of the highest level of indigent service;
3. Provision of a sliding fee scale pay mechanism;
4. Conformance with need in the area to be served;
5. *[Reception of the endorsement of]* ***Endorsement by*** the Health Systems Agency;
6. Demonstration of the MICU/CCTU program's financial feasibility and cost effectiveness;
7. Submission of formal written agreements with basic life support (BLS) providers which indicate intent to utilize the service proposed *[(MICU only)]*;

[8. Submission of a formal written agreement with contracting hospitals which document intent to use the service proposed (CCTU only);]

*[9.]***8.*** Demonstration of lowest response time; and

*[10.]***9.*** Past licensure track record performance and adherence to past certificate of need conditions.

(a)

DIVISION OF AIDS PREVENTION AND CONTROL

Hospital/Post-Hospital Services Unit

Eligibility Criteria to Participate in Retrovir Drug Program

Adopted Amendment: N.J.A.C. 8:61-2.4

Proposed: March 6, 1989 at 21 N.J.R. 606(b).
Adopted: April 21, 1989 by Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health.
Filed: April 24, 1989 as R.1989 d.275, **without change.**

Authority: N.J.S.A. 26:1A-15.

Effective Date: May 15, 1989.
Expiration Date: October 6, 1991.

Summary of Public Comments and Agency Responses:
No comments received

Full text of the adoption follows.

8:61-2.4 Income eligibility

(a) In order to be eligible for this program, the individual(s) shall be a permanent resident of New Jersey and must have an annual income in accord with the following standards:

Number of Persons in Household	Annual Income
One	$30,000
Two	$40,000
Three	$50,000
Four	$60,000
Five or more	$70,000

1. An applicant and spouse shall be considered separated when each maintains a separate residence and the applicant does not have access to or receive support from the spouse's income.

2. An applicant and spouse shall be considered separated when the spouse has been institutionalized in a long-term facility, either skilled or intermediate, or in a state or county psychiatric hospital at least 30 consecutive days prior to application.

(b) Income shall be determined in accordance with the standards delineated at N.J.A.C. 10:69A-6.2.

DRUG UTILIZATION REVIEW COUNCIL

(b)

Interchangeable Drug Products

Adopted Amendments: N.J.A.C. 8:71

Proposed: December 19, 1988 at 20 N.J.R. 3078(a).
Adopted: April 17, 1989 by the Drug Utilization Review Council, Sanford Luger, Chairman.
Filed: April 18, 1989 as R.1989 d.255, **with portions not adopted but still pending.**

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: May 15, 1989.
Expiration Date: February 17, 1994.

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

The following products and their manufacturers were **adopted:**

Amoxicillin caps 250, 500 mg	**TEVA**
Cephalexin monohydrate tabs 250, 500, 1000	**Vitarine**
Indomethacin caps 50 mg	**Watson**
Meclofenamate caps 50, 100 mg	**Barr**
Prazosin caps 1, 2, 5 mg	**Cord, Lederle**
Thioridazine tabs 100 mg	**Mutual**

The following products were **not adopted but are still pending:**

Amiloride HCl tabs 5 mg	PharmBasics
APAP/Codeine tabs 15, 30, 60 mg	Luchem
Carisoprodol tabs 350 mg	PharmBasics
Chlorpropamide tabs 100, 250 mg	Charlotte
Chlorzoxazone tabs 500 mg	Par
Clorazepate tabs 3.75, 7.5, 15 mg	Danbury
Imipramine tabs 25, 50 mg	Vitarine
Lithium carbonate caps 300 mg	Par
Lorazepam tabs 0.5, 1, 2 mg	Mepha
Methyldopa tabs 250, 500 mg	Pharbita
Nalidixic acid tabs 250, 500, 1000 mg	Barr
Norethindrone/ethinyl estradiol tabs 1/35	Gedeon-Richter
Oxycodone/APAP caps 5/500	Halsey
Prazosin caps 1, 2, 5 mg	Cord, Par, Lederle, Zenith
Procainamide ER tabs 250, 750 mg	Danbury
Propranolol/HCTZ tabs 40/25, 80/25	Danbury
Quinidine gluconate ER tabs 324 mg	Par
SMZ/TMP susp. 200/40/5 ml	Barr
Temazepam caps 15, 30 mg	Danbury
Timolol maleate tabs 5, 10, 20 mg	Par, Lederle
Trazodone tabs 150 mg	Amer. Ther.
Trazodone tabs 50, 100 mg	Mylan

OFFICE OF ADMINISTRATIVE LAW NOTE: See related notices of adoption at 21 N.J.R. 755(b).

(c)

Interchangeable Drug Products

Adopted Amendments: N.J.A.C. 8:71

Proposed: September 19, 1988 at 20 N.J.R. 2356(a).
Adopted: April 17, 1989 by the Drug Utilization Review Council, Sanford Luger, Chairman.
Filed: April 18, 1989 as R.1989 d.256, **with portions not adopted but still pending.**

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: May 15, 1989.
Expiration Date: February 17, 1994.

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

The following products and their manufacturers were **adopted:**

Amitriptyline/perphenazine 2/10, 2/25	**Danbury**
Amitriptyline/perphenazine 4/10, 4/25, 4/50	**Danbury**
Erythromycin ethylsucc/sulfisox 200/600	**ALRA**

The following products were **not adopted but are still pending:**

Albuterol tabs 2, 4 mg	Amer.Ther.
Albuterol tabs 2, 4 mg	Cord
Allopurinol tabs 300 mg	Cord
Amoxicillin caps 250, 500 mg	Lab A
Carisoprodol tabs 350 mg	Cord
Fenoprofen calcium tabs 600 mg	PharmBasics
Fluocinonide cream, oint 0.05%	Clay-Park
Haloperidol tabs 10, 20 mg	Danbury
Lithium carbonate caps 300 mg	Reid-Rowell
Metaproterenol tabs 10 mg	Quantum
Metoclopramide tabs 10 mg	Cord
Prednisone tabs 10, 50 mg	Cord
Propoxyphene HCl/APAP tabs 65/650	Cord
Quinidine sulfate tabs 300 mg	Cord
Salsalate tabs 500, 750 mg	Upsher-Smith
Sulindac tabs 150, 200 mg	Mutual
Theophylline ER tabs 100, 200, 300 mg	Cord
Timolol maleate tabs 5, 10, 20 mg	Cord
Trazodone tabs 50, 100 mg	Cord
Triamcinolone acet. lotion 0.025, 0.1%	Clay-Park

OFFICE OF ADMINISTRATIVE LAW NOTE: See related notices of adoption at 21 N.J.R. 63(c) and 21 N.J.R. 756(a).

(a)

Interchangeable Drug Products
Adopted Amendments: N.J.A.C. 8:71

Proposed: August 1, 1988 at 20 N.J.R. 1766(a).
Adopted: April 17, 1989 by the Drug Utilization Review Council, Sanford Luger, Chairman.
Filed: April 18, 1989 as R.1989 d.257, **with portions not adopted but still pending.**

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: May 15, 1989.
Expiration Date: February 17, 1994.

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

The following product and its manufacturer was **adopted:**

Meclofenamate caps 50, 100 mg	**Par**

The following products were **not adopted but are still pending:**

APAP/codeine elix 120/12/5 ml	Naska
Amiloride/HCTZ tabs 5/50	Par
Amitriptyline/CDP tabs 5/12.5, 10/25	Par
Cyclobenzaprine tabs 10 mg	Par
Diazepam tabs 10 mg	Pharbita
Disopyramide ER caps 100, 150 mg	KV
Divalproex EC tabs 125, 250, 500 mg	Par
Doxepin caps 75, 150 mg	SKF
Erythromycin E.C. pellet caps 250 mg	Abbott
Erythromycin E.C. tabs 250, 333 mg	Abbott
Estrogen tabs 0.3, 0.625, 0.9, 1.25, 2.5 mg	Chelsea
Estrogen tabs 0.3, 0.625, 0.9, 1.25, 2.5 mg	Duramed
Haloperidol tabs 0.5, 1, 2, 5, 10, 20 mg	Chelsea
Lidocaine viscous solution 2%	Naska
Metaproterenol tabs 20 mg	Quantum
Methocarbamol/Aspirin tabs 400/325	Par
Methylprednisolone tabs 2, 4, 8, 16, 24, 32 mg	Par
Norethindrone/ethin. estradiol 10/11-21	Watson
Sulindac tabs 150, 200 mg	Par
Triamcinolone cream 0.5%	Naska
Triamcinolone oint 0.025, 0.1, 0.5%	Naska
Triamcinolone/nystatin oint 1 mg/100 MU	Naska

OFFICE OF ADMINISTRATIVE LAW NOTE: See related notices of adoption at 20 N.J.R. 2769(a), 21 N.J.R. 63(b) and 21 N.J.R. 756(b).

HUMAN SERVICES

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
Notice of Administrative Correction
Manual for Psychological Services
N.J.A.C. 10:67-1.1 and 1.6

Take notice that the Department of Human Services, Division of Medical Assistance and Health Services, has discovered errors in the text of N.J.A.C. 10:67-1.1 and 1.6, Manual for Psychological Services. The correct text as set forth below was filed with the Office of Administrative Law, published as a notice of proposal on September 4, 1984 (see 16 N.J.R. 2333(a)) and published as an adoption on February 19, 1985 (see 17 N.J.R. 452(a)). However, it was, incorrectly, incorporated into N.J.A.C. 10:67-1.1, rather than N.J.A.C. 10:67-1.6. This notice of administrative correction is being made pursuant to N.J.A.C. 1:30-2.7(a)3, as the text of the rule can be seen in the proposal and the adoption.

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

10:67-1.1 Definitions

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

. . .

"Psychological specialist" means an individual, fully licensed by the New Jersey State Board of Psychological Examiners, who limits his practice to his specialty and who:

1. Is a Diplomate of the American Board of Professional Psychology (Diplomate Qualified) or;

2. Has been notified of admissability to the examination by the American Board of Professional Psychology (Diplomate Eligible)

[3. Name of the modality used—individual, group, family therapy, etc.

4. Notations of progress, impediments or treatment complications.

5. Other—this may include dates or information not included in above, but yet important to clinical picture and prognosis.

6. One or more of the following components must be recorded to delineate the visit and establish its uniqueness. All of the components need not be included.

i. Symptoms and complaints;

ii. Affect;

iii. Behavior;

iv. Focus topics;

v. Significant incidents or historical events.]

. . .

10:67-1.6 General policy; recordkeeping

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

(c) For subsequent progress notes made for each patient contact made by a psychologist, in other than a Partial Hospitalization or Personal Care Program, the following are required ingredients of a psychotherapy progress note:

1. Date and duration of service (hour, half-hour, etc.);

2. Signature of provider (if a member of a group)[.];

3. Name of the modality used, individual, group, family therapy;

4. Notations of progress, impediments, or treatment complications;

5. Other, which may include dates or information not included in (c)1 through 4 above, and which may be important to the clinical picture and prognosis.

6. One or more of the following components must be recorded to delineate the visit and establish its uniqueness. Not all of the components need be included:

i. Symptoms and complaints;

ii. Affect;

iii. Behavior;

iv. Focus topics; and

v. Significant incidents or historical events.

(c)

DIVISION OF WELFARE
Notice of Administrative Correction
Public Assistance Manual
Verification of income and resources
N.J.A.C. 10:81-3.5

Take notice that the Division of Welfare has found errors in the New Jersey Administrative Code. The Division had deleted text in N.J.A.C. 10:81-3.5, effective October 4, 1982 (see R.1982 d.482, 14 N.J.R. 1078(a) and 15 N.J.R. 92(a)). However, the text was inadvertently not deleted from the published Code. The administrative correction is made in accordance with N.J.A.C. 1:30-2.7(a)3.

Full text of the corrected rule follows (deletions shown in brackets [thus]).

10:81-3.5 Verification of income and resources

(a) (No change.)

(b) Earned and unearned income:

1.-2. (No change.)

[3. RSDI benefits received by an eligible child between 18 and 21 years of age, who is a full-time student, shall be totally disregarded as income or resource in determining either initial or continuing eligibility. (See Section 125.2(b), Assistance Standards Handbook).]

Renumber 4.-5. as **3.-4.** (No change in text.)

(a)

COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

Rules Governing the Vending Facility Program of the New Jersey Commission for the Blind and Visually Impaired

Adopted New Rules: N.J.A.C. 10:97

Proposed: February 21, 1989 at 21 N.J.R. 424(a)
Adopted: April 17, 1989 by Drew Altman, Commissioner, Department of Human Services.
Filed: April 17, 1989 as R.1989, d.249, **without change.**

Authority: N.J.S.A. 30:1-12, 30:6-15.1 and 15.2, P.L. 74-732, as amended by P.L. 83-565 and P.L. 93-516; 34 CFR 395.

Effective Date: May 15, 1989.
Expiration Date: May 15, 1994.

Summary of Public Comments and Agency Responses:

No comments received.

These rules, proposed for readoption with amendments, expired on April 16, 1989, before the readoption was filed with the Office of Administrative Law. Therefore, the proposed readoption with amendments is adopted as new rules, in accordance with N.J.A.C. 1:30-4.4(f).

Full text of the proposed readoption adopted as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:97.

Full text of the proposed amendments to the readoption adopted as new rules follows:

CHAPTER 97
THE VENDING FACILITY PROGRAM OF THE NEW JERSEY COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

10:97-1.3 Definitions

The following words and terms shall have the indicated meanings, unless the context clearly indicates otherwise.

"Blind person" means a person who, after examination by an ophthalmologist or by an optometrist, whichever such person shall select, has been determined to have:

1. Not more than 20/200 central vision acuity in the better eye with corrective lenses, or

2. An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

"Committee" means Committee of Blind Vendors.

"Federal Set-Aside Funds" means funds which accrue to the Commission from any income from vending machines on Federal property.

"Full Evidentiary Hearing": for purposes of this code Full Evidentiary Hearing and Administrative Hearing are synonymous.

"License" means a written certificate issued by the Commission to a qualified legally blind person permitting the operation of a vending facility.

"Licensee" means a blind operator who has been duly licensed by the Commission.

"Management services" means supervision, inspection, quality control, consultations, bookkeeping services, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors.

"Net profit or net proceeds" means the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses.

"Operator" means a qualified blind person assigned by the Commission to operate a vending facility on Federal or other property. An operator is not an employee of the State of New Jersey.

"Operating agreement" means the agreement which shall be entered into between the Commission and each operator, covering the basic terms and conditions required of each party for the operation of a specific vending facility.

"Permit" means the agreement between the Commission and a department or agency in the control of the maintenance, operation and protection of Federal and non-Federal property whereby the Commission is authorized to establish a vending facility.

"Property manager" means the official responsible for the property where the vending facility is located.

"Ready for employment list" means a roster of blind persons who have successfully completed training for the vending facility operations and are certified by the Commission.

"Revocation of license" means a termination of license for cause after a Full Evidentiary Hearing.

"Secretary" means the Secretary of the United States Department of Education.

"State licensing agency" means the New Jersey Commission for the Blind and Visually Impaired.

"Suspension" means a temporary discontinuation of the Operating Agreement resulting in the halting of operations. The Operating Agreement will be restored when the reason for suspension has been remedied. If the reason for suspension is not or cannot be remedied, the operating agreement will be revoked, after a full evidentiary hearing.

"Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of changes for any lottery authorized by State law and conducted by an agency of a State.

"Vending Facility Program fund-non-Federal" means funds which accrue to the Vending Facility Program from all non-Federal sources.

10:97-6.1 Federal Set Aside Fund

(a) The Federal Set Aside Fund consists of those funds accruing to the program from unassigned vending machine income from Federal locations.

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

10:97-6.2 (Reserved)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Manual of Requirements for Child Care Centers

Adopted Repeal and New Rules: N.J.A.C. 10:122

Proposed: December 19, 1988 at 20 N.J.R. 3079(b).
Adopted: April 21, 1989 by Drew Altman, Commissioner, Department of Human Services.
Filed: April 21, 1989, as R.1989 d.261, 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. 30:1-12 and 30:5B-1 through 15, especially 30:5B-5.

Effective Date: May 15, 1989.
Operative Date: July 1, 1989.
Expiration Date:May 15, 1994.

Agency Note: The Division will operate under the rules adopted September 1, 1985 until July 1, 1989, at which time the new rules will become operative.

Summary of Public Comments and Agency Responses:

The Division received written comments from three sources: The New Jersey Department of Education, the New Jersey Department of Community Affairs, and the the executive director of DOT TOT, a licensed child care center operated by Toddler's Village Child Care Center for employees of the New Jersey Department of Transportation in Ewing Township.

COMMENT: The Bureau of School Improvement Services, Division of General Academic Education, New Jersey Department of Education recommended revising the proposed rules at N.J.A.C. 10:122-1.2(d) to indicate that all programs administered by a public school district are exempt from licensure under provisions of the State Child Care Center Licensing Law, regardless of whether or not their employees are paid by the district. That Department believes the proposed rule was unnecessarily restrictive as written, and could inappropriately subject to licensing those programs operated by a public school district, but whose employees are not compensated for their services.

RESPONSE: The Division agrees and has revised the language of the rule at N.J.A.C. 10:122-1.2(d)2 to indicate that programs operated by a public school district are exempt from licensure under provisions of the State Child Care Center Licensing Law. The revision clarifies the existing exemption by deleting language defining such exempt programs as those whose employees are paid by a public school district. The revised language continues to exempt paid employees and extends the exemption to upaid volunteers of a program that is implemented and managed by a local public school district.

COMMENT: The Construction Code Element, Division of Housing and Development, New Jersey Department of Community Affairs recommended revision of the proposed rules to eliminate reference to specific toilet/child ratios and to cite instead the Plumbing Subcode of the New Jersey Uniform Construction Code (NJUCC) for centers that began operating or changed their use group on or after September 21, 1987. That Department also recommended the inclusion of citations to the Asbestos Hazard Abatement Subcode regarding asbestos precautions and to the Barrier-free and Building Subcodes regarding swimming pool requirements.

RESPONSE: The Division agrees and has revised the rules at 10:122-5.2(g)2 by deleting the proposed toilet/child ratio and by adding a citation to the Plumbing Subcode of the NJUCC for centers that began operating or changed their use group on or after September 21, 1987. The same date was specified in N.J.A.C. 10:122-5.2(g)3 to 5 to clarify requirements for centers operating before that date. In addition, the Division intends to add a chart showing the requirements of this Subcode to the *Technical Assistance Handbook for Child Care Centers,* which the Division is preparing for distribution to all licensed centers. This will enable the Department to keep centers abreast of recent and subsequent changes in these requirements without revising the rules themselves. Further, the Division has revised the rules at 10:122-5.2(j) and (k) to include citations to the applicable requirements of the NJUCC for asbestos precautions and swimming pools.

COMMENT: The executive director of DOT TOT, a licensed child care center operated by Toddler's Village Child Care Center for employees of the New Jersey Department of Transportation in Ewing Township, expressed concern about the proposed rule at N.J.A.C. 10:122-4.2(a)3, requiring a group teacher, in addition to a head teacher, in centers serving more than 60 children. (The present Manual of Standards requires only a head teacher in centers of that size.) The executive director of this center stated that she could not afford to hire a group teacher without raising tuition, thus reducing parents' access to affordable child care.

RESPONSE: The Division believes that the proposed new rule will have minimal economic impact, since only one-third of existing centers are licensed to serve more than 60 children and most of these already have a qualified group teacher on staff. In fact, the Division contacted the executive director of DOT TOT and, after explaining the applicability of the proposed rule, the center director identified an existing staff member at the center who qualifies to serve as group teacher, so that an additional staff member need not be hired. In general, centers serving more than 60 children benefit from economies of scale in other areas, so that those centers that currently lack a qualified group teacher should be able to hire one without incurring prohibitive costs or increasing fees. The child care community had urged the Divison to require a group teacher in all centers serving more than 30 children, which would have affected a much greater number of licensed centers. The Division believes the proposed new rule is necessary to ensure the proper care and supervision of children in larger centers, and will not impose undue economic burdens on most of these centers.

Summary of Changes Made between Proposal and Adoption:

The Division has made several technical changes to correct cross-references, citations, inconsistencies and typographical errors, and has made the following substantive changes not requiring additional public notice and comment:

N.J.A.C. 10:122-4.1 has been revised to clarify the Bureau of Licensing's responsibility for making the final determination on terminating the employment of staff members who have been convicted of a crime. This revised rule reflects the internal policy already followed by the Division in such cases.

N.J.A.C. 10:122-4.3(h) and (i) have been revised to clarify what the word "area" means, within the context of these rules.

N.J.A.C. 10:122-4.5 and 10:122-5.1 have been revised so that centers will not be required to submit to the Bureau of Licensing copies of documentary items on their staff education and experience qualifications, the fire safety inspection certificate and the health approval statement or certificate. The revised rule requires these documents to be maintained on file at the center instead. This change is designed to reduce significantly the amount of paperwork that centers are required to mail to the Bureau and, thereby, reduce the risk of lost or late documents, cut down on the Bureau's and the centers' paperwork processing workload and decrease the time involved in processing a new or renewed application for a license. Recordkeeping requirements at N.J.A.C. 10:122-3.3 have been revised accordingly. Additionally, revisions have been made to N.J.A.C. 10:122-5.1(d) which clarify the basis of the fire safety inspection certificate.

The word "person" in N.J.A.C. 10:122-4.8(a) has been replaced by "adult" to conform with the language of N.J.A.C. 10:122-3.6(a)15.

N.J.A.C. 10:122-7.2 has been revised to clarify and modify requirements for centers serving children with Human Immunodeficiency Virus (HIV), the virus that causes AIDS. Language has been revised at N.J.A.C. 10:122-7.2(a) to clarify the provision that prohibits centers from admitting children who are known to be infected with HIV and who also exhibit certain specified conditions, including drooling, biting and incontinence. In addition, an exception has been added at N.J.A.C. 10:122-7.2(b) to permit children who exhibit such conditions to be admitted to centers that provide care exclusively for HIV-infected children. The Division believes that these provisions will facilitate the operation of new centers that have been or will be developed to serve HIV-infected children exclusively, since the admission of children with these conditions does not pose a risk to other children at such centers.

N.J.A.C. 10:122-8.1 has been revised to clarify the requirement for centers serving sick children to have the center's policies and procedures approved in writing by a licensed physician. The proposed rule requires the center to obtain such approval from its consulting physician only when its governing or advisory board does not include a physician. The revised language requires the center to obtain such approval from the consulting physician regardless of whether the governing or advisory board includes a physician. Recordkeeping requirements at N.J.A.C. 10:122-8.7 have been revised accordingly.

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

CHAPTER 122
MANUAL OF REQUIREMENTS FOR CHILD CARE CENTERS

SUBCHAPTER 1. GENERAL PROVISIONS

10:122-1.1 Legal authority

(a) This manual is promulgated pursuant to the Child Care Center Licensing Law, N.J.S.A. 30:5B-1 to 15.

(b) Under N.J.S.A. 30:5B-1 to 15, the Department of Human Services is authorized to:

1. License certain public and private child care centers that are maintained for the care, development or supervision of six or more children under six years of age for less than 24 hours a day;

2. Inspect and examine the physical plant or facilities and program of a child care center and inspect all documents, records, files or other data maintained pursuant to the above-referenced law during the center's normal operating hours and without prior notice; and

3. Request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine a center's compliance with State and local ordinances, codes and regulations. The inspections shall be conducted and the results reported to the Department within 60 days after the request.

(c) Under N.J.S.A. 18A:70-1 et seq., the Department of Human Services is authorized to issue a physical facility and life/safety approval to a center that was operating prior to May 16, 1984 and that was exempt from the provisions of N.J.S.A. 18A:70-1 et seq. because it was operated by an aid society of a properly organized and accredited church. Such centers are not required to be licensed pursuant to N.J.S.A. 30:5B-1 to 15; under N.J.S.A. 18A:70-1 et seq., they are required to comply with all physical facility and life/safety provisions of this manual of requirements, as specified in N.J.A.C. 10:122-5.1 to 5.3.

(d) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Human Services or its duly authorized agency that it complies with all applicable provisions of this manual of requirements.

(e) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) to (c) above and with provisions of this manual is delegated by the Department of Human Services to the Division of Youth and Family Services, Bureau of Licensing.

(f) When a person intends to care for six or more children under six years of age, he or she shall apply for and secure from the Bureau a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this manual, even if the number and/or ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 10:122-1.2(a).

10:122-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development or supervision of six or more children under six years of age who attend for less than 24 hours a day. For a facility that is located in a sponsor's home, the Bureau shall not count the children residing in the sponsor's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

(b) The term, child care center, shall include, but not be limited to, day care centers; drop-in centers; night-time centers; recreation-type centers sponsored and operated by a county or municipal government recreation and/or park department or agency; day nurseries; nursery and play schools; cooperative child centers; centers for children with special needs; centers serving sick children; infant-toddler programs; employment-related centers; centers that had been licensed by the Department of Human Services prior to the enactment of the Child Care Center Licensing Act of 1984; and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth.

(c) The term, child care center, shall not include the following programs since they do not meet the definition of a child care center:

1. A program serving fewer than six children who are below six years of age;

2. A program, such as that located in a bowling alley, health spa or other facility, in which:

i. Each child attends on a drop-in basis for no more than two hours; and

ii. The parent of each child attending the program is in the same building, is readily accessible at all times on an on-call basis, and is able to resume control of the child immediately;

3. A child care program operating within a geographic area, enclave or facility that is owned and/or operated by the Federal government; and

4. A family day care home that is registered pursuant to the Family Day Care Provider Registration Law, N.J.S.A. 30:5B-16 et seq.

(d) The following programs are exempt from licensure pursuant to N.J.S.A. 30:5B-1 to 15:

1. Foster homes, group homes, and other types of in-home children's residential facilities or institutions, whether public or private, providing live-in care on a 24-hour basis. To qualify for an exemption from licensing under this provision, a facility must provide board, lodging or care for children on a 24-hour live-in basis;

2. Programs operated by *[and whose employees are paid by a]* ***the board of a local*** public school district ***that is responsible for their implementation and management****;

3. Programs operated by and whose employees are paid by a private school which is run solely for educational purposes. Such programs shall include kindergartens, pre-kindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth;

4. Centers or special classes operated:

i. Primarily for religious instruction. To qualify for an exemption from licensing under this provision, a center or special class must:

(1) Be an integral part of a bonafide church or religion;

(2) Serve only children who are two years of age or older;

(3) Provide a program that is composed primarily of religious instruction in which the curriculum is related to religious themes, stories and/or teachings; and

(4) Operate and provide religious instruction for not more than two hours on any day; or

ii. For the temporary care of children while persons responsible for such children are attending religious services. To qualify for an exemption from licensing under this provision, a center or special class must:

(1) Provide care only for the children of participants in religious services that are an integral part of a bonafide church or religion;

(2) Be arranged by and responsible to the church or religion; and

(3) Provide child care only for the duration of time the services are in progress;

5. Special activities programs for children, including athletics, hobbies, art, music, dance, or craft instruction, which are supervised by an adult, agency or institution. To qualify for an exemption from licensing under this provision, a program must:

i. Provide activities that are supervised on a full-time basis by an adult; and

ii. Provide only a single instruction or activity program to children for not more than two hours on any day;

6. Youth camps required to be licensed under the Youth Camp Safety Act of New Jersey, pursuant to N.J.S.A. 26:12-1 et seq. To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp, issued by the New Jersey Department of Health. A youth camp sponsor who also operates a child care center shall also secure a license from the Bureau for the center; or

7. Day training centers operated by the Division of Developmental Disabilities within the Department of Human Services. To qualify for an exemption from licensing under this provision, a center must be operated and funded as a day training center by the Division of Developmental Disabilities, pursuant to N.J.S.A. 30:4.1 et seq.

10:122-1.3 Definitions ***of other terms***

The following words and terms, when used in this manual, shall have the following meanings:

"Bureau" means the Bureau of Licensing, Division of Youth and Family Services, Department of Human Services.

"Child" means any person under six years of age.

"Denial of a license or a Certificate of Life/Safety Approval" means the withholding by the Bureau of an initial license or Certificate of Life/Safety Approval, for which a center has applied.

"Department" means the New Jersey Department of Human Services.

"Director" means the on-site staff member responsible for the daily operation and management of the center.

"Division" means the Division of Youth and Family Services, Department of Human Services.

"Manual of Requirements for Child Care Centers" or "manual" means the provisions contained in N.J.A.C. 10:122-1.1 to 9.9. These provisions constitute minimum baseline requirements below which no center is legally permitted to operate.

"Parent" means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

"Person" means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

"Refusal to renew a license or a Certificate of Life/Safety Approval" means the non-issuance of a license or a Certificate of Life/Safety Approval by the Bureau to a center after its existing license or Certificate of Life/Safety Approval has expired.

"Regular Certificate of Life/Safety Approval" or "Regular Certificate" means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in full compliance with the physical facility and life/safety provisions of this manual, as specified in N.J.A.C. 10:122-5.1 to 5.3.

"Regular license" means a document issued by the Bureau to a center indicating that the center is in full compliance with all applicable provisions of this manual.

"Revocation of a license or a Certificate of Life/Safety Approval" means a permanent removal of a center's current license or Certificate of Life/Safety Approval to operate.

"Shall" denotes a provision of this chapter that a center must meet to qualify for a license.

"Should" denotes a recommendation reflecting goals towards which a center is encouraged to work.

"Sponsor" means any person owning or legally responsible for operating a center. When the sponsor of a center is an entity owned or operated by two or more individuals, the sponsor shall designate one of those individuals to represent the interests and act on behalf of the sponsor.

"Staff member" or "staff" means any person(s) employed by or working for or at a center on a regularly scheduled basis. This includes full-time, part-time, voluntary, substitute, contract or consulting personnel, whether compensated or not.

"Suspension of a license or a Certificate of Life/Safety Approval" means a temporary removal of a center's current license or Certificate of Life/Safety Approval to operate.

"Temporary Certificate of Life/Safety Approval" or "Temporary Certificate" means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in substantial compliance with the physical facility and life/safety provisions of this manual, as specified in N.J.A.C. 10:122-5.1 to 5.3, provided that no serious or imminent hazard affecting the children exists in the center.

"Temporary license" means a document issued by the Bureau to a center that is in substantial compliance with the applicable provisions of this manual, provided that no serious or imminent hazard affecting the children exists in the center.

10:122-1.4 Hours of care

(a) Centers operating during the normal waking hours shall not care for a child on a regular basis for more than 12 hours within a 24-hour period.

(b) Centers operating during the normal sleeping hours shall not care for a child on a regular basis for more than 16 hours within a 24-hour period.

SUBCHAPTER 2. LICENSING PROCEDURES

10:122-2.1 Application for a license

(a) No person shall operate a center without first securing a license from the Bureau. Any person who operates a center that does not have a valid license, or who uses fraud or misrepresentation in obtaining a license or who advertises or provides any service not authorized by a valid license, or who violates any other provision of the Child Care Center Licensing Law, is guilty of a crime of the fourth degree, pursuant to N.J.S.A. 30:5B-13.

(b) A person applying for an initial or renewal license to operate a center shall submit a completed application form to the Bureau at least 45 days prior to the anticipated opening of the center or to the expiration of its existing regular license.

(c) An applicant for an initial or renewal license shall submit with the completed application form a $75.00 licensing fee, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

1. If the application is denied, or the center does not open, the Bureau will, upon request, refund the licensing fee to the applicant.

2. The licensing fee will not be refunded once the Bureau issues the center a license.

10:122-2.2 Issuance of a license

(a) The Bureau shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this manual.

(b) If the Bureau determines that a center is in substantial compliance with but does not meet all applicable provisions of this manual, and provided that there is no serious or imminent hazard to the health, safety, well-being and development of the children, the Bureau shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license.

(c) A temporary license may be issued for a period not to exceed six months. The Bureau may issue as many temporary licenses as it deems necessary. However, a center shall not operate pursuant to temporary licenses for more than 18 months.

(d) Each licensing period, which may include the issuance of one or more temporary licenses and/or one regular license, shall be three years.

1. In determining the expiration date of the first regular license, the Bureau shall compute the three-year licensing period from the date of issuance of the first temporary or regular license.

2. In determining the expiration date of a renewal regular license, the Bureau shall compute the three-year licensing period from the date on which the center's previous regular license expired.

(e) The license shall be posted in a prominent location within the center.

(f) A center shall not make claims contrary to its license either in advertising or in any written or verbal announcement or presentation.

(g) A facility or program caring for children shall not claim in advertising or in any written or verbal announcement or presentation to be a licensed center unless it has secured a license from the Bureau.

(h) A center shall not claim that it is licensed by any State department or agency other than the New Jersey Department of Human Services, or that it is accredited by any State department.

10:122-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor, the sponsor shall apply to the Bureau for either:

1. A separate license for each center in each building; or

2. A single license covering all the buildings that comprise a single center, provided that:

i. The buildings are on the same or contiguous properties;

ii. The programs have the same director; and

iii. The Bureau determines that issuance of a single license would not be detrimental to the health, safety, well-being, and development of the children served.

(c) A center shall not be located near or adjacent to areas determined by the Bureau to be hazardous to the physical health and safety of the children.

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.

2. Prior to approving the site, the Bureau shall determine that the multi-use site does not pose a serious risk to the health, safety or well-being of the children.

3. The Bureau may require the center to:

i. Operate in a separate room, floor and/or section of the building;

ii. Have or use a separate entrance and/or toilet facility; and/or

iii. Meet any other physical plant, staffing, program or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location.

4. The sponsor of a center that has been approved to be located in a multi-use building shall notify the Bureau of any change in use by other occupants of the building, as specified in N.J.A.C. 10:122-3.2(a).

10:122-2.4 Denying, suspending, revoking or refusing to renew a license

(a) The Bureau may deny, suspend, revoke or refuse to renew a license for good cause, including, but not limited to, the following:

1. Failure or refusal to comply with all applicable provisions of the Child Care Center Licensing Law and of this manual;

2. Violation of the terms and conditions of a license;

3. Use of fraud or misrepresentation in obtaining a license or in the subsequent operation of the center;

4. Refusal to furnish the Division with files, reports or records, as required by this manual;

5. Refusal to permit an authorized representative of the Division to gain admission to the center and/or to conduct an inspection or investigation during the center's operating hours;

6. Any activity, policy or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being or development of a child attending a center, or that otherwise demonstrates unfitness by a sponsor or staff member(s) to operate a center;

7. Failure to provide developmental activities that meet the physical, social, emotional and cognitive needs of the children served; or

8. Failure by the sponsor to secure and maintain on file criminal conviction disclosures, as specified in N.J.A.C. 10:122-4.1(b) and (c).

(b) The Bureau shall provide written notice to the sponsor if it intends to deny, suspend, revoke or refuse to renew its application for a license. The notice shall specify the Bureau's reasons for such action.

(c) If the Bureau suspends a center's license to prevent the imminent risk of harm to children served by the center, the Bureau may reinstate the suspended license upon the center's compliance with all applicable provisions of this manual.

(d) If the Bureau denies, revokes or refuses to renew a center's license, as specified in (a) above, the center shall be prohibited from reapplying for licensure for one year from the date of license denial, revocation or refusal to renew. After the one-year period has elapsed, the center may submit to the Bureau a new application for a license.

(e) Each license issued by the Bureau to a center is the property of the State of New Jersey. If the Bureau suspends or revokes a license, the center shall return the license to the Bureau immediately.

10:122-2.5 Administrative hearings

(a) If a center fails to comply with all applicable provisions of this manual or if the Bureau seeks to deny, suspend, refuse to renew or revoke a center's license, the Bureau shall afford the center an opportunity to request an administrative hearing, pursuant to 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.

(b) As long as the Division determines that the children are not at risk and no serious or imminent hazards exist, the Bureau may permit a center that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

10:122-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this manual, the Bureau shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Bureau shall notify the sponsor in writing of the results of the investigation, pursuant to the State Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a.

(c) Whenever the Division, through its Bureau of Licensing, Institutional Abuse Investigation Unit or District Offices, conducts complaint investigations, the center shall cooperate with all Division investigators.

10:122-2.7 Public access to the Bureau's licensing records

Licensing files maintained by the Bureau are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Bureau, except when public access to records is restricted, in keeping with the State Public Records Law or other applicable statutes.

10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval for centers operated by an aid society of a properly organized and accredited church prior to May 16, 1984, pursuant to N.J.S.A. 18A:70-1 to 9

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 10:122-1.1(c), may apply for and secure such a Certificate from the Bureau by ***complying with all provisions of N.J.A.C.*** 10:122-5.1 to 5.3 and 10:122-2.1 to 2.8, except for N.J.A.C. 10:122-2.1(c).

(b) The applicant shall submit to the Bureau a $50.00 fee in the form of a check or money order made payable to the "Treasurer, State of New Jersey", along with the completed application for a Certificate of Life/Safety Approval.

(c) The Bureau shall review the application form and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all provisions of N.J.A.C. 10:122-5. If the center is found to be:

1. In full compliance with such provisions, the Bureau shall issue a Regular Certificate of Life/Safety Approval to the center; or

2. In substantial compliance with such provisions, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Bureau shall issue a Temporary Certificate of Life/Safety Approval.

SUBCHAPTER 3. CENTER ADMINISTRATION

10:122-3.1 Administrative responsibility

The sponsor shall be legally responsible and held accountable by the Bureau for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this manual.

10:122-3.2 Reporting requirements

(a) The center shall notify the Bureau verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1. Injury or illness that results in the admittance to a hospital or death of a child, as specified in N.J.A.C. 10:122-7.10(b);

2. Occurrence of a reportable disease, as specified in N.J.A.C. 10:122-7.10(a);

3. Change in use by other occupants of a multi-use building in which the center is located, as specified in N.J.A.C. 10:122-2.3(d);

4. Permanent closing of the center;

5. Damage to the premises of the center caused by fire, accident or the elements;

6. Proposed use of emergency space including re-location or use of rooms not approved by local municipal officials or by the Bureau, as specified in N.J.A.C. 10:122-5.2(r); and

7. Any conviction(s) or guilty plea(s) of the sponsor, director or any staff member, as specified in N.J.A.C. *[10:122-4.1(b)1iii or]* ***10:122-4.1(b)1 and*** (c)2.

(b) The center shall notify the Bureau verbally, within three working days, of any change(s) to the licensing information previously submitted to the Bureau on the completed application form, including but not limited to changes in location. The center shall notify the Bureau in writing within 30 calendar days of any such change(s).

10:122-3.3 Center records

(a) General requirements for center records are as follows:

1. The center's records shall be open for inspection by authorized representatives of the Bureau;

2. The center's records shall be open for inspection by authorized representatives of the Division's Institutional Abuse Investigation Unit (IAIU) and, provided that they may only secure information about children under the Division's supervision, Division caseworkers.

(b) Requirements for administrative records are as follows:

1. The administrative records specified in (b)2 and 3 below shall be maintained by the center until the end of the current licensing period.

2. The following records shall be maintained in files located either at a central administrative office or at the center:

i. Comprehensive general liability insurance, as specified in N.J.A.C. 10:122-3.4;

ii. A record of:

(1) Monthly fire drills, as specified in N.J.A.C. 10:122-5.2(n)*[2iii]**3***; and

(2) Training sessions for staff members on the use of fire extinguishers and fire alarms and evacuation procedures, as specified in N.J.A.C. 10:122-5.2(p); and

iii. If the center provides transportation:

(1) Vehicle insurance, as specified in N.J.A.C. 10:122-9.6; and

(2) Transportation records, as specified in N.J.A.C. 10:122-9.7.

3. The following records shall be maintained in files located at the center:

i. A current manual;

ii. The building's fire safety inspection certificate, as specified in N.J.A.C. 10:122-5.1(b);

iii. The center's certificate or statement of satisfactory health approval, as specified in N.J.A.C. 10:122-5.1(c);*

*[ii.]**iv.* The Life/Safety and Program Inspection/Violation and Complaint Investigation Summary reports from the Bureau, as well as any letters of enforcement or other actions taken against the center, that cover the current licensing period;

*[iii.]**v.* The documents providing information to parents, as specified in N.J.A.C. 10:122-3.6(a) and 10:122-7.11;

*[iv.]**vi.* A record of each parent's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a) and (b);

*[v.]**vii.* Documentation of the director's or designated staff member's daily, unannounced visits to each group of children, as specified in N.J.A.C. 10:122-4.4(b)2i;

*[vi.]**viii.* Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:122-5.2(b)8;

*[vii.]**ix.* Signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events involving transportation of children away from the center, as specified in N.J.A.C. 10:122-6.8(e) to (g);

*[viii.]**x.* A written policy on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(d);

*[ix.]**xi.* A written policy on the toilet training of children, if applicable, as specified in N.J.A.C. 10:122-7.7(b)3;

*[x.]**xii.* A written plan on the feeding schedules, formulas, and nutritional needs of children under 18 months of age, if served by the center, as specified in N.J.A.C. 10:122-6.3(b);

*[xi.]**xiii.* A written policy on the release of children to parents or authorized person(s), as specified in N.J.A.C. 10:122-6.5(a);

*[xii.]**xiv.* A record of an annual meeting to which all parents and staff members are invited, ***if applicable,*** as specified in N.J.A.C. 10:122-6.8(a)3;

*[xiii.]**xv.* A written policy providing for the direct involvement of parents of enrolled children in the center's operation and activities, as specified in N.J.A.C. 10:122-6.8*[(b)]**(c)***; and

*[xiv.]**xvi.* A written outline of the center's daily activities, as specified in N.J.A.C. 10:122-6.1*[(d)]**(h)***.

(c) The requirements for staff records are as follows:

1. The staff records specified in (c)2 and 3 below shall be maintained by the center for one year after the staff member has stopped working at the center.

2. The following records for the sponsor, director and all staff members shall be maintained in files located either at a central administrative office or at the center:

i. Applications for employment, as specified in N.J.A.C. 10:122-4.1(b)1 and (c);

ii. References on the director and staff members, as specified in N.J.A.C. 10:122-4.1(b)2;

iii. Documentation of applicable education and experience, as specified in N.J.A.C. 10:122-4.5(a) to (c);*

*[iii.]**iv.* A record of each staff member's signature attesting to the receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(e);

*[iv.]**v.* A record of each staff member's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(b); and

*[v.]**vi.* Health information for staff members, as specified in N.J.A.C. 10:122-7.4.

3. The following staff records shall be maintained in files located at the center:

i. Staff attendance sheets, as specified in N.J.A.C. 10:122-4.4(b)3i; and

ii. For centers using a consulting head teacher to meet staffing requirements, a record of the consulting head teacher's two monthly visits to the center, as specified in N.J.A.C. 10:122-4.4(i).

(d) The requirements for children's records are as follows:

1. The children's records specified in (d)2 below shall be maintained by the center for one year after the child is no longer enrolled at the center.

2. The following records for each child shall be maintained in files located at the center:

i. A signed application for enrollment, as specified in N.J.A.C. 10:122-6.8*[(b)]**(c)*3i;

ii. Daily attendance records for children, as specified in N.J.A.C. 10:122-4.4(b)3ii;

iii. Records of the occurrence of any unusual incidents involving a child, as specified in N.J.A.C. 10:122-4.8(c);

iv. For a non-custodial parent:

(1) If applicable, written authorization from the custodial parent to allow visits by or releases to the non-custodial parent, as specified in N.J.A.C. 10:122-6.5(a)2; and

(2) If applicable, a court order denying access, or granting limited access*,* by a non-custodial parent to his or her child***, as specified in N.J.A.C. 10:122-6.5(a)2****;

v. Health information for children, as specified in N.J.A.C. 10:122-7.3; and

vi. Accident and injury records, as specified in N.J.A.C. 10:122-7.6(b).

10:122-3.4 Comprehensive general liability insurance

The sponsor shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a copy of the insurance policy.

10:122-3.5 Telephone requirements

The center shall have its own telephone or accessibility to a telephone located in the same building in which the center is located so that staff members can receive incoming calls and make outgoing calls in a timely manner.

10:122-3.6 Special requirements to prevent child abuse*[/]* ***and/or*** neglect

(a) The center shall give to the parent(s) of every enrolled child and to every staff member a written document indicating that the center is required to:

1. Be licensed by the Bureau of Licensing, Division of Youth and Family Services;

2. Comply with all applicable provisions of the Manual of Requirements for Child Care Centers;

3. Post its license in a prominent location within the center;

4. Retain a current copy of the manual and make it available for parents' review;

5. Indicate how parents can secure a copy of the manual from the Bureau;

6. Make available for parents' review the Bureau's Life/Safety and Program Inspection/Violation and Complaint Investigation Summary report(s) on the center, as well as any letters of enforcement or other actions taken against the center during the center's current licensing period;

7. Post a listing or diagram of those rooms and/or areas that have been approved by the Bureau for children's use;

8. Comply with the inspection/investigation functions of the Division, including the interviewing of staff members and children;

9. Afford parents the opportunity and time to review and discuss with the center director any questions or concerns about the policies

and procedures of the center or whether the center is in compliance with all applicable provisions of the manual;

10. Advise parents that if they believe or suspect that the center is violating any requirement of the manual, they may report such alleged violations to the center sponsor or director or to the Bureau;

11. Afford parents of enrolled children an opportunity to participate in the center's operation and activities;

12. Afford parents of enrolled children the opportunity to visit the center at any time during the center's hours of operation to observe its operation and program activities without having to secure prior approval;

13. Provide parents with advance notice of any field trip, outing or special event involving the transportation of children away from the center and, for each event, secure the written consent of the parent(s) before taking a child on such a field trip, outing or special event;

14. Post a copy of the center's written statement of policy on the disciplining of children by staff members in a prominent location within the center, and make a copy of it available to parents upon request;

15. Indicate through this document that any person who has reasonable cause to believe that a child has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating or frightening treatment, or any other kind of child abuse, neglect or exploitation by any adult, is required by State law to report such allegations to the Division's Office of Child Abuse Control or any District Office immediately, and indicate that such reports may be made anonymously;

16. Indicate through this document how parents and staff members may secure information about child abuse*[/]* ***and/or*** neglect from the Division;

17. Inform parents of the center's policy to release children only to parent(s) or authorized person(s);

18. Inform parents of the center's policy on dispensing medication; and

19. Provide parents with a copy of the center's policy on management of communicable diseases.

(b) The center shall comply with the requirements specified in (a) above by:

1. Providing the document to every parent upon enrollment of each child, and to every person upon becoming a staff member; and

2. Securing and maintaining on file a record of the parent's and staff member's signature attesting to receipt of the document.

SUBCHAPTER 4. STAFF REQUIREMENTS

10:122-4.1 General requirements for sponsor, director, and all staff members

(a) The sponsor, director, and every staff member shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and

3. Possess skills, attributes, and characteristics conducive to and suitable for sponsoring a center or dealing with young children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center for at least 20 percent of the center's weekly operating hours, the sponsor and director, respectively, shall secure and maintain on file:

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number; education and work experience; and disclosure of the presence or absence of criminal conviction(s). The employment application shall be updated to indicate the reason for discontinuance of employment, if applicable; and

2. Two written and/or verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience and/or education and who can attest to the individual's suitability to work with children under the age of six. The verbal references shall be documented in writing by the sponsor or director.

(c) Prior to hiring or utilizing a staff member who will be working at the center for less than 20 percent of the center's weekly operating hours, the director shall secure and maintain on file, the applicant's:

1. Name, address and telephone number;

2. Signed statement disclosing the presence or absence of criminal convictions; and

3. References, as specified in (b)2 above.

(d) The sponsor shall:

1. Maintain on file for himself or herself the information specified in (c)1 and 2 above; and

2. Disclose to the Bureau, in writing, information about and circumstances surrounding any previous denial, suspension, revocation or non-renewal of a license to own or operate a center either by the Bureau or by the licensing agency of another state.

(e) Failure by a sponsor, director or other staff member to comply with the requirements specified in (a) to (d) above and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the sponsor, director or other staff member from his or her position;

2. Reassignment to other duties that do not involve contact with children;

3. Termination from the center; and/or

4. Denial, refusal to renew, suspension or revocation of the center's license.

(f) Evidence of conviction for crimes of violence, anti-social behavior and/or child abuse*[/]* ***and/or*** neglect shall be among those actions that are considered in determining an individual's fitness and suitability to serve as sponsor, director or staff member.

(g) Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as sponsor, director or staff member or from working in the center and shall not automatically result in the removal or termination of a sponsor, director or staff member. *[Such decisions, to be made]* ***The center shall submit a written justification to the Bureau, documenting why it believes the individual should not be precluded from working or holding a position at the center. The Bureau, after assessing the facts*** on a case by case basis, shall *[be proposed by the center to the Bureau]* ***make the final determination***, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

(h) Evidence of a previous denial, suspension, revocation or non-renewal of a license, as specified in (d)2 above, shall not in and of itself result in an automatic disqualification of the prospective sponsor or sponsor to secure a license for another or the same center, but shall constitute grounds for the Bureau to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

10:122-4.2 Staffing requirements

(a) Each center shall have the following staff members:

1. A sponsor, who may also serve as the director and/or as one of the staff members specified in (a)3 below;

2. A director, who may also serve as one of the staff members specified in (a)3 below; and

3. Based on center size, one or more head teachers, group teachers and/or consulting head teachers, as specified in the chart below; and

TYPES OF STAFF MEMBERS REQUIRED AT THE CENTER

Licensed Capacity	Head Teacher(s)		*Group Teacher(s)		Consulting Head Teacher
6- 15	1	or	1	or	1
16- 30	1	or	(1	and	1)
31- 60	1				
61-120	1	and	1		
121-180	1	and	2		
181-240	2	and	2		
241-300	2	and	3		
301-360	3	and	3		
361-420	3	and	4		
421-480	4	and	4		
481-540	4	and	5		

*A staff member who meets the head teacher qualifications, as specified in N.J.A.C. 10:122-4.5(b), may be utilized for a required group teacher.

4. Additional staff members, as necessary, to meet staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3.

(b) As an exception to the requirements of (a) above, centers with a licensed capacity of from six to 30 children, 50 percent or more of whom have special needs as a result of a cognitive, socio-emotional or physical handicap or disorder, shall have a head teacher.

10:122-4.3 Staff/child ratios

(a) The children shall be supervised by a staff member at all times, including during toileting procedures and walking through hallways.

(b) A minimum of two staff members, one of whom shall be at least 18 years of age, shall be on the premises and involved in the care of the children, when:

1. At least six children are present; or

2. Fewer than six children are present but applicable staff/child ratios, governing children below 18 months of age and/or children with special needs, require two staff members.

(c) There shall be a minimum of two staff members accompanying children on any walk, field trip, outing or special event away from the center, even when the appropriate staff/child ratios allow fewer than two staff members.

(d) The following staff/child ratios shall apply, except as specified in (c) above and (e) to (g) below:

Age	Staff/Child Ratio
Under 18 months	*[1.4]* ***1:4***
18 months to 2½ years	1:7
2½ years to 4 years	1:10
4 years	1:15
5 years	1:15

(e) The following staff/child ratios shall apply during rest or sleep when the criteria listed in (e)1, 2 and 3 below are met:

Age	Staff/Child Ratio
Under 2½ years	1:10
2½ years to 6 years	1:20

1. At least one staff member shall be physically present in the room or area in which children are napping and shall be able to summon other staff members without leaving the room or area.

2. A sufficient number of staff members shall be in the facility and readily accessible to ensure compliance with the staff/child ratios specified in (d) above.

3. Naptime preparations shall have been completed and all children above 12 months of age shall be resting or sleeping, while all children 12 months of age or below shall be sleeping.

(f) The following staff/child ratios shall apply for centers serving children, 50 percent or more of whom have special needs, as a result of a cognitive, socio-emotional or physical handicap or disorder:

Age	Staff/Child Ratio
Under 2½ years	1:3
2½ years of age and over (non-ambulatory)	1:3
2½ years of age and over (ambulatory)	1:5

(g) Centers serving children who are sick shall comply with the variation on staff/child ratios for sick children, as specified in N.J.A.C. 10:122-8.3(c).

(h) In computing the required number of staff, the center shall apply the applicable staff/child ratios, as specified in (d) to (g) above, to the actual number of children in attendance at the center. The total number of staff members required for a center shall be the sum total of staff members required per room or area ***within a large room that has been divided by partitions, furniture or other barrier***. The number of staff members per room or area ***within a large divided room*** shall be computed by dividing the number of children in attendance per room or area ***within a large divided room*** at any given time by the staff/child ratio required for the age of the children served. When this resulting figure is any fraction above a whole number, an additional staff member shall be required.

(i) When children of mixed ages requiring different staff/child ratios are in one room ***or area within a large divided room***, the center shall compute the staff/child ratios applicable for each age group separately to the nearest tenth decimal. If the resulting cumulative figure for all age groups is any fraction above a whole number, an additional staff member shall be required.

(j) For purposes of determining whether a required staff/child ratio is met, only those staff members who are involved in the direct care and supervision of children shall be counted.

(k) Staff members who are 14 years of age or older may be counted for purposes of computing the staff/child ratio. However, staff members below 16 years of age shall only be utilized when school is not in session or, if school is in session, only if they are participating in a school/work program.

(l) Staff members who are under 18 years of age *[must]* ***shall*** be directly supervised by and visible to a staff member who is 18 years of age or older.

10:122-4.4 Staff responsibilities

(a) The sponsor shall:

1. Be responsible for hiring or appointing a director; and

2. Ensure that the director operates the center in compliance with all applicable provisions of this manual.

(b) The director shall be responsible for ensuring:

1. That the center complies with all applicable provisions of this manual;

2. The supervision of all staff members, including:

i. Daily unannounced visits by the director or his or her designee, on a random daily time schedule, to each group of children; and

ii. For centers with an audio or visual monitoring system, as specified in N.J.A.C. 10:122-5.3(c)1i, observation of such a system, on a random daily time schedule, by the director or his or her designee;

3. The development and implementation of policies and procedures for the day-to-day operation of the center, including:

i. Maintenance of staff attendance sheets indicating daily hours worked; and

ii. Maintenance of children's daily attendance sheets, including the daily time of arrival and departure for children who attend on an irregular, unscheduled drop-in basis;

4. The orientation of staff members to the operation of the center, including physical layout, job descriptions, and daily policies and procedures;

5. The training of staff members, as specified in N.J.A.C. 10:122-4.7;

6. The development and maintenance on file of administrative, staff and children's records; and

7. The establishment and maintenance of a staff member substitute system.

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

(d) When the director or any head teacher or required group teacher is away from the center for six or more weeks, the sponsor or director shall hire and/or designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 10:122-4.5, to assume the applicable responsibilities of the position, as specified in this section.

(e) The director or his or her designee(s) shall be on the premises at all times when the center is operating.

(f) The head teacher(s) shall:

1. Ensure the development and implementation of the center's child development and activities program;

2. Ensure the appropriateness of program activities according to both the age and developmental level of the child, as specified in N.J.A.C. 10:122-6.1(a); and

3. Be scheduled to work for at least 75 percent of the center's daily operating hours, or at least six hours a day, whichever is less.

(g) The group teacher(s) shall:

1. Be responsible for supervising a specific group(s) of children;

2. Assist the head teacher in implementing the center's child development and activities program; and

3. Assist the head teacher in ensuring that the program activities are appropriate to both the age and developmental level of the children served, as specified in N.J.A.C. 10:122-6.1(a).

(h) The group teacher, when used in lieu of a head teacher for centers having a capacity of up to 30 children, as specified in N.J.A.C. 10:122-4.2(a)3, shall fulfill the responsibilities for head teacher, as specified in (f) above.

(i) The consulting head teacher shall make two on-site visits to the center during each month the program is operating for the purpose of:

1. Conducting staff training;

2. Observing the center's program; and

3. Ensuring that the provisions specified in (f)1 and 2 above are met.

(j) The center shall maintain on file a written record of the date, purpose and nature of each visit by the consulting head teacher.

10:122-4.5 Staff qualifications

(a) The director shall meet the qualification requirements specified in one of the *[following]* six options set forth in the chart below for education and experience:

1. For centers licensed to serve more than 30 children, the options in the chart below apply:

OPTIONS FOR MEETING THE DIRECTOR QUALIFICATIONS

Option	Educational Credentials	and Experience Requirements
A	Master's Degree in: —early childhood education; or —child development/psychology; or —business administration; or —any other field related to young children or business.	(N/A)
B	Bachelor's Degree	One year of managerial or supervisory experience in a child care program, educational institution, business, or program or agency related to children.
C	Child Development Associate (CDA) or Group Teacher Approval Certificate	Two years of managerial or supervisory experience in a child care program, educational institution, business, or program or agency related to children.
D	Six college credits in: —early childhood education; or —child development.	Three years of managerial or supervisory experience in a child care program, educational institution, business, or program or agency related to children.
E	Six college credits in business administration/management	Three years of managerial or supervisory experience in a child care program, educational institution or business, of which one year shall be in a field related to children.
F	High School Diploma or General Education Development (GED) Diploma	Four years of managerial or supervisory experience in a child care program, educational institution or business, of which two years shall be in a field related to children.

2. For centers licensed to serve 30 or fewer children, the following qualifications apply:

i. One of the six options specified in the chart in (a)1 above; or

ii. A high school diploma or GED diploma and:

(1) Two years of managerial or supervisory experience in business and/or recreation fields; or

(2) Two years of experience in a group program for children.

(b) The head teacher or consulting head teacher shall meet the qualification requirements specified in one of the six options set forth in the chart below for education and experience:

1. For all centers, the options in the chart below apply:

OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATIONS

Option	Educational Credentials	and College Credits and Experience
A	Master's Degree in Education	Six credits and one year of experience
B	Master's Degree in any field other than Education	Nine credits and one year of experience
C	Bachelor's Degree in Education, Psychology, Health Care, Nursing, or any other field related to Child Growth and Development	Six credits and two years of experience
D	Bachelor's Degree in any field other than those listed in Option C	Nine credits and three years of experience OR Six credits and four years of experience
E	Teaching Certification from Department of Education in Elementary Education, Nursery School or Teacher of the Handicapped	Six credits and two years of experience
F	Teaching Certification from Department of Education in a field other than those listed in Option E	Nine credits and three years of experience OR Six credits and four years of experience

i. The credits specified in the chart above shall be college credits in early childhood education and/or child development. These credits may be part of the bachelor's or master's degree or constitute additional credits beyond the degree(s).

ii. For conditional approval, the center shall *[submit to the Bureau]* ***maintain on file*** documentation of enrollment in courses leading to the credits specified in the chart above. This conditional approval shall be valid for a maximum of nine months, at which time the center shall *[submit to the Bureau]* ***obtain and maintain on file*** a transcript indicating completion of these credits.

iii. The years of experience specified in the chart above shall be full time experience in a group program for children under six years of age. This experience may include supervised practice teaching and/or student teaching.

2. For centers approved either by the American Montessori Society (AMS) as an affiliated center or by the American Montessori International (AMI-USA) as a recognized or associated center:

i. One of the options specified in the chart in (b)1 above; or

ii. A Montessori Pre-Primary Credential (AMS) or a Montessori Diploma (AMI-USA) and two years of full time experience in a group program for children under six years of age;

3. For recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency:

i. One of the options specified in the chart in (b)1 above; or

ii. Certification as a Recreation Administrator or a Recreation Supervisor from the New Jersey Department of Community Affairs, Board of Recreation Examiners (BRE) and two years of recreation experience; or

iii. Certification as a Recreation Professional from the National Recreation and Park Association (NRPA) and two years of recreation experience.

(c) The group teacher shall possess the following qualifications:

1. Educational requirements as follows:

i. An associate's degree in early childhood education or child development; or

ii. Fifteen college credits, of which a minimum of six credits shall be in early childhood education or child development. The remaining credits shall be from the areas of education, psychology, health care, nursing or any other field related to child growth and development. For conditional approval, the center shall *[submit to the Bureau]* ***maintain on file*** documentation of the following:

(1) When the individual meets the experience requirement in (c)2i below, 12 college credits in the areas in *[(c)2]* ***(c)1ii*** above and documentation of enrollment in a course(s) leading to the remaining three credits. This conditional approval shall be valid for a maximum of nine months, at which time the center shall *[submit to the Bureau]* ***obtain and maintain on file*** documentation showing that the individual has acquired the three additional credits; or

(2) When the individual has three years of teaching experience in a group program for children under six years of age, six college credits in early childhood education or child development. This conditional approval shall be valid for a maximum of two years, at which time the center shall *[submit to the Bureau]* ***obtain and maintain on file***, documentation showing that the individual has acquired the nine additional credits; ***or***

iii. A Child Development Associate (CDA) credential; or

iv. For recreation-type centers sponsored by a county or municipal government recreation and/or park department or agency, certification as a Recreation Technician from the NRPA, or the educational requirements specified in *[(c)1ii]* ***(c)1i, ii*** or iii above;

2. Experience requirements as follows:

i. One year of teaching experience in a group program for children under six years of age, which may include supervised practice teaching and/or student teaching, for those group teachers who meet the requirements specified in (c)1i, ii or iii above;

ii. For centers meeting the requirements in (c)1iv above, one year of recreation experience may be substituted for the experience specified in (c)2i above.

(d) The center shall *[submit to the Bureau]* ***maintain on file*** documentation of the applicable education and experience, as specified in (a) to (c) above.

10:122-4.6 Grouping of children

(a) A group shall consist of the number of children:

1. Occupying an individual room or occupying a specific area within a large room. The area shall be defined by a visible barrier, partition or any other room divider or separation having a height above the eye level of the children who will use that area; or

2. Engaged together in a particular activity at any given time, regardless of whether the room or area within a large room is divided or partitioned.

(b) Each group shall be limited to a maximum of 20 children except during meals, naptime, outdoor activities, specially scheduled events (for example, parties, community speakers, films, etc.), and daily information sharing sessions (for example, "circle time"), which shall not exceed 15 minutes in duration.

(c) For children under 2½ years of age, in addition to (a) and (b) above, a particular staff member shall be assigned to a specific group of children, in accordance with applicable staff/child ratios, as specified in N.J.A.C. 10:122-4.3.

10:122-4.7 Staff training and development

(a) The director shall ensure that all staff members are trained in the following:

1. Understanding center operations, policies and procedures, as specified in N.J.A.C. 10:122-4.4(b)4;

2. Implementing the center's statement of policy on the disciplining of children, as specified in N.J.A.C. 10:122-6.6;

3. Recognizing and reporting child abuse/neglect, as specified in N.J.A.C. 10:122-4.8;

4. Supervising all children, as specified in N.J.A.C. 10:122-4.3(a);

5. Implementing health practices, as specified in N.J.A.C. 10:122-7.1 to 7.11;

6. Evacuating the center, as specified in N.J.A.C. 10:122-5.3(1)1;

7. Using the fire extinguisher and fire alarms, as specified in N.J.A.C. 10:122-5.2(p);

8. Implementing the center's release policy, as specified in N.J.A.C. 10:122-6.5; and

9. Planning for and providing age appropriate activities, as specified in N.J.A.C. 10:122-6.1.

10:122-4.8 Special requirements to prevent child abuse and/or neglect

(a) The sponsor, director or any staff member shall verbally notify the Division's Office of Child Abuse Control or *[district office]* ***District Office*** immediately whenever there is reasonable cause to believe that a child has been subjected to abuse and/or neglect by a staff member(s), or any other *[person]* ***adult*** pursuant to the Child Abuse and Neglect Law (see N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14).

(b) For centers serving children under the Division's supervision, the sponsor, director or any staff member shall report any suspected abuse or neglect of the child by his or her parent(s) or other family members to the Division caseworker assigned to the family.

(c) In addition to the reporting requirements specified in (a) above, the sponsor, director or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse and/or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

(d) The Division, during the course of investigating an allegation of child abuse and/or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The sponsor, director or staff member has been found by the Division's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; and/or

2. The sponsor, director or staff member has committed an act of child abuse and/or neglect, as substantiated by the IAIU; and/or

3. The sponsor, director or staff member has been convicted of such acts.

(e) Whenever the Division makes a determination that corrective action is necessary to protect the children, the sponsor shall carry out the Division's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected sponsor, director or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or

2. When the sponsor, director or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left.

(f) Such suspension, removal or reassignment, as specified in (e)1 and 2 above, shall remain in effect until the results of the Division's investigation have been determined, and a final decision in the matter has been rendered by the Bureau.

(g) Substantiation of the child abuse and/or neglect allegation by the Division's IAIU shall not, in itself, automatically result in the termination of the accused sponsor, director or staff member(s) from his or her position in the center, but shall constitute grounds for possible termination if the person's continued employment at the center would place the children at risk. Such determination shall be made by the Bureau after considering information provided by the sponsor, the affected staff member(s), the IAIU and law enforcement authorities, as applicable and available.

SUBCHAPTER 5. PHYSICAL FACILITY REQUIREMENTS

10:122-5.1 State, county and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Bureau, for one of the following use group classifications:

i. E (Educational) for buildings accommodating children 2½ years of age and/or older and having a total occupancy of 50 or more children;

ii. B (Business) for buildings accommodating children 2½ years of age and/or older and having a total occupancy of more than five and fewer than 50 children; or

iii. I-2 (Institutional) for buildings accommodating six or more children less than 2½ years of age.

2. Plan reviews for centers to be located in newly constructed buildings shall be submitted as follows:

i. In addition to submitting preliminary and final architectural drawings to the local construction official, a sponsor that plans to construct a new or renovate an existing building for use as a center shall submit preliminary and/or final architectural drawings to the Bureau for review and approval prior to beginning construction.

ii. The sponsor shall submit to the Bureau revised final architectural drawings containing all Bureau-required items listed in the plan review, if any, and secure final approval from the Bureau prior to beginning construction.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already E, B or I-2 and that have not had major alterations or renovations since receipt of the CO, the center shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's E, B or I-2 use group classification. The center shall submit a copy of the building's CO to the Bureau.

4. For existing buildings whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a center and that have not had major alterations or renovations, the center shall obtain a Certificate of Continued Occupancy (CCO), or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a center. The center shall submit a copy of the building's CCO to the Bureau.

5. The center shall obtain a new CO issued by the municipality in which the center is located, and submit a copy to the Bureau, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, whenever the center:

i. Changes the building's use group classification to one other than the one prescribed on its original CO;

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises in which the center is located;

iii. Increase***s*** the floor area or the number of stories to the building or premises in which the center is located; or

iv. Relocates to another site.

6. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Bureau

may accept such variation(s) as meeting the applicable requirement(s) of this manual.

(b) An applicant seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:18, 18A and 18B and hereinafter referred to as the NJUFC. The center shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the center's compliance with all applicable provisions of the NJUFC. The center shall *[submit a copy of]* ***maintain on file*** the building's fire safety inspection certificate *[to the Bureau]*.

(c) The center shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The center shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the center complies with applicable provisions of local, county and State health codes and poses no health hazard to the children served. The center shall *[submit a copy of]* ***maintain on file*** the certificate or statement of satisfactory health approval *[to the Bureau]*.

(d) An applicant seeking the renewal of a license or of a Certificate of Life/Safety Approval to continue operating a center shall obtain ***and maintain on file*** a fire safety inspection certificate for the building ***based on a fire inspection conducted within the preceding 12 months,*** and a certificate or statement of satisfactory health approval for the center*[. The center shall submit copies of the building's fire safety inspection certificate and certificate or statement of satisfactory health approval to the Bureau.]* ***based on a health inspection conducted within the preceding 12 months.***

(e) A center that qualifies for a Certificate of Life/Safety Approval shall meet the provisions of N.J.A.C. 10:122-2 and 5.

(f) A center that plans to locate or is already located in a hospital or other health care facility, as defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., shall obtain a letter from the Department of Health, indicating that department's approval. The center shall submit a copy of the approval letter to the Bureau.

10:122-5.2 Physical plant requirements

(a) All electrical outlets that are accessible to the children shall have protective covers.

(b) Indoor maintenance and sanitation requirements are as follows:

1. The center shall be free of moisture resulting from water leaks or seepage.

2. All lally columns in areas used by the children shall have protective padding placed around them from the floor to a height of at least 48 inches.

3. Floors, carpeting, walls, window coverings, ceilings, and other surfaces shall be kept clean and in good repair.

4. Stairways shall be free of tripping hazards, such as toys, boxes, loose steps, uneven treads, torn carpeting, raised strips, or uneven risers.

5. Carpeting shall be securely fastened to the floor.

6. Garbage receptacles shall be:

i. Made of durable, leakproof and nonabsorbent materials;

ii. Covered in a secure manner;

iii. Emptied to the outdoor garbage receptacle when filled; and

iv. Maintained in a sanitary manner.

7. Food waste receptacles shall be lined and maintained in clean and sanitary condition.

8. The center shall be free of rodent or insect infestation and shall take immediate action to remove any infestation that *[should]* ***may*** occur. The center shall maintain on file a record documenting the use of extermination services.

9. Toilets, wash basins, kitchen sinks, and other plumbing shall be maintained in good operating and sanitary condition.

10. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substance shall be stored in a locked cabinet or in an enclosure located in an area not accessible to the children.

11. All windows and other glass surfaces that are not made of safety glass and that are located within 36 inches above the floor shall have protective guards.

12. Ventilation outlets shall be clean and free from obstructions, and filters shall be replaced when saturated.

13. Walls shall be painted or otherwise covered whenever there is evidence of:

i. Excessive peeling or chipped paint; or

ii. Heavily soiled conditions.

14. All shelving shall be secured and not overloaded.

(c) Outdoor maintenance and sanitation requirements are as follows:

1. The building, land, walkways, and outdoor play area shall be free from any hazards to the health, safety or well-being of the children.

2. The outdoor play area shall be graded and provided with drains to dispose of surface water.

3. The building structure shall be maintained to prevent:

i. Water from entering;

ii. Excessive drafts or heat loss; and

iii. Infestation from rodents and insects.

4. The railings of balconies, landings, porches, or steps shall be maintained in safe condition.

5. Garbage receptacles shall be:

i. Made of durable, leakproof and nonabsorbent materials;

ii. Covered in a secure manner and located in an outdoor area; and

iii. Maintained in a sanitary manner.

6. Centers that provide outdoor space shall maintain in proper condition all fencing or other natural or man-made barriers or enclosures.

(d) Lighting requirements are as follows:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields.

2. During program activities, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source.

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by center occupants at night shall be illuminated to provide safe entrance to and egress from the center.

(e) Heating requirements are as follows:

1. A minimum temperature of 68 degrees Fahrenheit shall be maintained in all rooms used by the children.

2. Steam and hot water pipes, radiators, and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

3. The center shall not use portable liquid fuel-burning or wood-burning heating appliances.

(f) Ventilation requirements are as follows:

1. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall be provided with insect screening.

2. All floor or window fans that are accessible to the children shall have a grille, screen, mesh or other protective covering.

(g) Toilet facility requirements are as follows:

1. All centers shall comply with the following:

i. A supply of hot tap water not exceeding 110 degrees Fahrenheit and cold running water shall be provided.

ii. A supply of soap, toilet paper, and individual hand towels or disposable paper towels shall be provided.

iii. Mirrors, dispensers, and other equipment shall be fastened securely.

iv. Platforms shall be available for use by the children when adult size toilets, and/or sinks, and/or urinals are used by the children.

2. For centers that began operating or changed their use group on or after *[January 1, 1988, there shall be a 1:15 toilet/child ratio for all children served, regardless of the ages of the children served.]* ***September 21, 1987, the number of toilets and sinks required shall be determined in accordance with applicable provisions of the Plumbing Subcode of the NJUCC, as specified in N.J.S.A. 52:27D-119 et seq.***

3. For centers in operation prior to *[January 1, 1988]* ***September 21, 1987*** that serve children 18 months of age and older:

i. The minimum number of toilets and sinks required in the center shall be determined in accordance with the following table:

Number of Children	Number of Toilets	Number of Sinks
6- 15	1	1
16- 35	2	2
36- 60	3	3
61- 80	4	4
81-100	5	5
101-125	6	6
126-150	7	7
151-175	8	8
176-200	9	9
201-225	10	10
226-250	11	11
251-275	12	12
276-300	13	13
301-325	14	14
326-350	15	15
351-375	16	16
376-400	17	17
401-425	18	18
426-450	19	19

ii. Urinals may be counted in determining the number of toilets that the center *[must]* ***shall*** have, provided that:

(1) At least two toilets are available at the center; and

(2) Two urinals are counted as one toilet towards determining the maximum occupancy of the center.

4. For centers in operation prior to *[January 1, 1988]* ***September 21, 1987*** that serve children below 18 months of age:

i. In centers serving 15 or fewer children, there shall be at least one toilet and one sink.

ii. In centers serving more than 15 children, there shall be at least two toilets and two sinks.

5. For centers in operation prior to *[January 1, 1988]* ***September 21, 1987*** that serve a mix of children ranging from birth through five years of age, the center shall either:

i. Meet the toilet and sink requirements specified in (g)3 above, based on the total number of children being served at the center, provided that all toilets and sinks are utilized by children of all ages; or

ii. Determine the number of children above and below 18 months of age and meet the toilet and sink requirements for the number of children being served in each age category, as specified in (g)3 and 4 above.

6. The location of toilet facilities shall be as follows:

i. Toilet facilities and sinks shall be located no more than one floor above or below the floor level(s) used by the children in centers that:

(1) Began operating prior to *[the effective date of this manual]* ***July 1, 1989***; or

(2) Began operating on or after *[the effective date of this manual]* ***July 1, 1989*** and serve fewer than 16 children;

ii. At least one toilet facility and sink shall be located on each floor level(s) used by children in centers that began operating on or after *[the effective date of this manual]* ***July 1, 1989*** and serve 16 or more children;

iii. There shall be at least one sink located in each toilet facility in centers to be located in newly constructed buildings.

(h) Kitchen facility requirements are as follows:

1. A center utilizing a kitchen facility and/or food preparation area shall ensure that:

i. The cooking equipment and kitchen facility are kept in clean and sanitary condition and are operated in compliance with applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24; ***and***

ii. The kitchen facility and/or food preparation area is separated from other areas of the center by a door, gate, screen or other barrier to prevent accidental access by children.

2. The kitchen may be used for children's program cooking activities only when it is not being used for preparation of meals for consumption by enrolled children.

(i) Lead paint precautions are as follows:

1. The center shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a center, or on any furniture, toys, or other equipment used therein, in accordance with provisions of the State Lead Paint Law, pursuant to N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary Code, as specified in N.J.A.C. 8:51-7.

2. When lead paint is found in areas of a center not specified in N.J.A.C. 8:51-7, the Bureau shall determine whether the lead paint is hazardous to the health, safety and well-being of the children served and, if considered to be hazardous, the center shall remove the lead paint hazard.

(j) Asbestos precautions are as follows:

1. Coatings containing asbestos shall not be sprayed on any interior or exterior surfaces of a building used as a center, or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2 ***and with applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8***.

2. If the New Jersey Department of Health determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the sponsor shall follow the recommendation of the State Health Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination ***as specified in N.J.A.C. 8:23-8***.

(k) Wading and swimming pool requirements are as follows:

1. Pools that are at least 24 inches in depth shall be defined as swimming pools and subject to the requirements specified in (k)3 below. Pools that are less than 24 inches in depth shall be defined as wading pools.

2. For wading pools that do not have water filtration systems, the center shall change the water after each use by a group of children.

3. The center shall ensure that any swimming pool or natural bathing place used by the children complies with ***applicable*** provisions of the Public Recreational Bathing Rules as specified in N.J.A.C. 8:26*[.]**, ***and with applicable provisions of the Building Subcode and Barrier-free Subcode of the NJUCC, as specified in N.J.A.C. 5:23.****

4. The center shall ensure that the children using swimming pools or natural bathing facilities are supervised in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

5. If a child defecates in the swimming pool, all solid wastes shall be removed and the pool shall be super-chlorinated and not used until the chlorine level returns to levels identified as acceptable in the Public Recreational Bathing Rules, N.J.A.C. 8:26.

(l) Emergency evacuation instruction requirements are as follows:

1. The center shall prepare written emergency evacuation instructions delineating:

i. The location of the first aid kit and any additional first aid supplies;

ii. The name, address and telephone number of the physician retained by the center or of the health facility to be used in emergencies;

iii. The procedure for obtaining emergency transportation;

iv. The hospital and/or clinic to which injured or ill children will be taken;

v. The telephone numbers of the local police and fire departments and ambulance service;

vi. The location of written authorization from parent(s) for emergency medical care for each child;

vii. A diagram showing how the center is to be evacuated in case of emergency; and

viii. The location of fire alarms and fire extinguishers.

2. The emergency evacuation instructions shall be posted in a prominent location on every floor within the center.

(m) Supplemental evacuation requirements are as follows:

1. Cribs, beds, playpens, cots or mats shall be placed at least one foot apart and shall be arranged so as to provide access to a three-foot-wide aisle that leads to an unobstructed exit.

2. To assure the safe and timely evacuation of the children from the center during a fire or other emergency, centers required to secure a Certificate of Life/Safety Approval shall meet the minimum staff/child ratio requirements, as specified in N.J.A.C. 10:122-4.3(d).

(n) Fire prevention requirements are as follows:

1. The center shall conduct fire drills at least once a month.

2. Centers serving sick children shall comply with the fire drill variation provisions specified in N.J.A.C. 10:122-8.4(f).

3. The center shall maintain on file a record of each fire drill, which record shall include:

i. The date and time of day of the drill;

ii. The weather condition at the time of evacuation;

iii. The number of participating children and staff members; and

iv. The total amount of time taken to evacuate the center.

4. All fire extinguishers shall be serviced and tagged at least once a year and recharged, if necessary.

(o) First aid requirements are as follows:

1. A staff member who has current certified basic knowledge of first aid principles and cardiopulmonary resuscitation (CPR), as defined by a recognized health organization (such as the American Red Cross), should be in the center during periods of operation.

2. The following equipment shall be placed in a location that is convenient and accessible to staff members:

i. A standard first aid kit, which is fully re-stocked within 24 hours of use; and

ii. The American Red Cross First Aid Manual or its equivalent.

(p) All staff members shall be instructed in the use of fire extinguishers, alarms, and the emergency evacuation information specified in (l)1 above. The center shall maintain on file a record of the training sessions.

(q) Play equipment, materials, and furniture for indoor and outdoor use shall be of sturdy and safe construction, non-toxic and free of hazards.

(r) Space and room requirements are as follows:

1. All space and rooms within the center to be used by children shall be inspected and approved by the Bureau prior to their use. In making its determination, the Bureau shall consider whether the space is too far removed, remote or isolated from other areas of the center to be used by children.

i. For those rooms or areas that are too far removed, remote or isolated from other centrally located rooms or areas of the center, the Bureau may require the use of additional staff members, above those required for staff/child ratios, before granting approval.

ii. Rooms or areas of the center that are not Bureau-approved for use by children shall be locked and shall not be used by any children. The sponsor shall ensure that the keys to such locked, unapproved rooms or areas are kept in a safe and secure place, accessible only to the sponsor or director.

2. At no time shall a center allow more children in attendance than the number specified on its license or Certificate of Life/Safety Approval.

3. Indoor space requirements for play rooms*[/]* ***and/or*** sleep rooms are as follows:

i. The minimum square footage of usable activity indoor floor space shall be determined by excluding the space used in or by hallways, toilet facilities, offices, storage rooms, staff rooms, furnace rooms, kitchen areas, lockers, closets, and any other stationary equipment or areas that children do not use for sleep or play.

ii. There shall be a minimum of 30 square feet of usable activity indoor floor space for each child in centers that:

(1) Began operating prior to July 1, 1989; or

(2) Began operating on or after July 1, 1989 and serve fewer than 16 children.

iii. There shall be a minimum of 35 square feet of usable activity indoor floor space for each child in centers that began operating on or after July 1, 1989 and serve*[s]* 16 or more children.

iv. Centers serving sick children shall comply with the variation provisions on determining net indoor floor space per child, as specified in N.J.A.C. 10:122-8.4(a).

v. The center shall identify all rooms of the center that have been approved by the Bureau. This identification shall consist of numbers, letters, names or any other means of identification and shall be located either inside or directly outside each room.

4. Separate room or area requirements for children who become ill are as follows:

i. There shall be a room, section of a room, or a separate area in the center to which children who are exhibiting those illnesses, symptoms of illness, and diseases specified in N.J.A.C. 10:122-7.1(c) shall be taken and where they shall be cared for until they can return home, be suitably cared for elsewhere, or be diagnosed as posing no health risk to themselves or others.

ii. The separate room, section or area shall be furnished with sleeping equipment and sheets, blankets or other coverings.

iii. Centers serving only sick children shall comply with the variation provision for separating ill children, as specified in N.J.A.C. 10:122-8.4(b) and (g)2.

5. Outdoor space requirements for children over the age of 10 months are as follows:

i. For children in attendance for three or more consecutive hours, the center shall provide a minimum of 150 square feet of net outdoor space. When more than five children are using such a space at one time, there shall be 30 square feet of net outdoor space for each additional child in addition to the required minimum of 150 square feet.

ii. The outdoor area shall be adjacent to, within close proximity or in the same neighborhood of the center and available for use by the children.

iii. Outdoor areas located near or adjacent to hazardous areas determined by the Bureau to be unsafe (including, but not limited to, streets, roads, driveways, parking lots, railroad tracks, swimming pools, rivers, streams, steep grades, cliffs, open pits, high voltage boosters or propane gas tanks) shall be fenced or otherwise protected by a natural or man-made barrier or enclosure.

iv. If a center can demonstrate to the satisfaction of the Bureau that it cannot meet the outdoor space requirement, the center shall provide, in addition to space for play rooms, a minimum of 150 square feet of net indoor floor space. When more than five children are using such space at one time, there shall be 30 square feet of net indoor floor space for each additional child in addition to the minimum of 150 square feet. The indoor floor space may be either on the site of the center or at another nearby indoor facility, such as a gymnasium, exercise room or other recreational facility.

v. Center serving only sick children shall comply with the variation provisions for outdoor space, as specified in N.J.A.C. 10:122-8.4(g)1.

(s) All balconies, rooftops, verandas and/or all floor levels used by children that are above the first floor and subject the children to an open drop or atrium shall be protected by barriers consisting of safety glass, plexiglass or any other materials approved by the Bureau. Such barriers shall extend at least five feet above the floor level.

(t) In addition to all of the above requirements, the Bureau may also require the center to take whatever steps are necessary to correct any conditions in the building or center that may endanger in any way the health, safety, and well-being of the children served.

10:122-5.3 Special physical facility and monitoring requirements to prevent child abuse and/or neglect

(a) At least five-foot candles of natural or artificial light shall be provided in all rooms used by children during naptime. The illumination shall be measured three feet above the floor at the farthest point from the light source.

(b) Doors in all interior rooms designated for use by children shall remain unlocked.

(c) Monitoring requirements for rooms and/or areas used by children are as follows:

1. Except as noted in (c)2 below, the center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility and/or audibility:

i. A centrally supervised audio or visual monitoring system;

ii. Uncovered and unobstructed glass panels and/or two-way mirrors that comprise at least 10 percent of the square footage of one

interior wall, provided that such panels/mirrors are not in conflict with applicable provisions of the NJUCC and/or the NJUFC;

iii. Security mirror(s) in hallways that reflect actions in the room(s) used by children;

iv. At least one interior door leading to every room designated for use by children, which shall meet one of the following conditions, provided that such conditions are not in conflict with applicable provisions of the NJUCC and/or the NJUFC:

(1) Be left open;

(2) Have uncovered and unobstructed windows or cutouts;

(3) Be of the dutch door variety, with the top half open; or

(4) Be removed; or

v. Any other Bureau-approved monitoring system or equipment.

2. Centers that seek to serve 16 or more children and that are to be located in newly constructed buildings shall equip every room designated for use by children, except for kitchen and toilet facilities, with either uncovered and unobstructed glass panels or two-way mirrors that comprise at least 10 percent of the square footage of at least one interior wall in order to promote maximum visibility in such rooms.

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all the toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members and/or other adults who use the toilet facility for their own toileting needs do so only:

i. When children are not in it; and

ii. After the staff member and/or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

(1) If a center documents to the satisfaction of the Bureau that it lacks the authority to meet the lock/latch provisions noted in (d)1 ii above, the Bureau may approve an alternative means by which the center may comply with the privacy intent of this provision.

2. For existing centers that have an additional toilet facility that has not been counted in determining the maximum number of children who can be served per session and for centers to be located in newly constructed buildings, the center shall ensure that:

i. One toilet facility is reserved and designated for the exclusive use of staff members and/or other adults; and

ii. This designated toilet facility is identified by a sign located on the exterior of its door, indicating that this toilet facility is for the exclusive use of staff members and/or other adults.

SUBCHAPTER 6. PROGRAM REQUIREMENTS

10:122-6.1 Activities

(a) The center shall develop and provide a variety of children's planned daily activities, geared to the age and developmental level of the children served, that:

1. Promote the development of language, thinking and problem-solving skills, curiosity, exploration, large and small muscles, social competence, self-esteem, and positive self-identity; and

2. Are relevant to the cultural background of the children and foster intercultural awareness.

(b) The staff member(s) specified in N.J.A.C. 10:122-4.4 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1. Time frames for each activity are geared to the age and developmental level of each child served and are flexible enough to accommodate spontaneous occurrences or children's suggestions and inquiries;

2. Children have opportunities to choose materials freely;

3. Children are presented with and encouraged to participate in a mixture of active and quiet experiences;

4. Both staff-directed and child-selected activities are provided; and

5. Children are:

i. Encouraged, but not required, to participate in every group activity; and

ii. Provided with the time and space within the area to be apart from the group and to participate in an alternate activity if they choose to do so.

(c) Outdoor experiences shall be provided as follows:

1. Children who are at the center for more than four consecutive hours shall be taken outdoors daily.

2. Children who are at the center for four or fewer consecutive hours shall be taken outdoors at least once a week.

3. A center may depart from the requirements specified in (c)1 and 2 above during inclement weather or for another reason that affects the health, safety or well-being of the children or any individual child.

(d) Centers serving children less than 18 months of age shall provide:

1. At least four of the following types of children's daily activities: sensory; language/dramatic play; manipulative; building; large muscle; music; or other comparable activities; and

2. At least four types of supplies and/or equipment for each activity area chosen by the center, as specified in (d)1 above, as listed below:

i. Sensory activities: crib mobiles; teething toys; busy boxes; baby mirrors; rattles; melody chimes; squeeze toys; or other comparable supplies or equipment.

ii. Language/dramatic play activities: picture books; toy telephones; records; hand puppets; stuffed animals; soft washable dolls; photographs; or other comparable supplies or equipment.

iii. Manipulative activities: squeeze and grip toys; boxes; sorting and stacking toys; three and/or four piece wooden inlay puzzles; puzzle blocks; simple threading toys; mobile pull toys; balls; or other comparable supplies or equipment.

iv. Building activities: soft lightweight blocks; toy cars, trains and/or boats; figures of animals and people; stacking rings and/or cups; nesting toys; or other comparable supplies or equipment.

v. Large muscle activities: low climbers; slides; riding/rocking toys; foam or soft plastic balls; gym mats; play tunnels; or other comparable supplies or equipment.

vi. Music activities: rhythm instruments; record player and records; toys equipped with musical tones; musical mobiles and/or busy boxes; drums, xylophones, and/or pianos; or other comparable supplies or equipment.

3. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of children who are awake and being cared for in cribs, playpens or other Bureau-approved sleeping equipment.

4. Staff members shall carry non-ambulatory infants around the center periodically.

5. Staff members shall provide all children who are developmentally able with opportunities to leave their cribs, playpens or other Bureau-approved sleeping equipment to crawl, toddle, walk, and play.

(e) Centers serving children 18 months of age and older shall provide:

1. At least five of the following types of children's daily activities: *[languagae]* ***language***, science and mathematics; manipulative; large muscle; building; art; music*[,]**;* drama; or other comparable activities; and

2. At least five types of supplies and/or equipment for each daily activity chosen by the center, as listed below:

i. Language activities: books; flannel board; upper and lower case letters; pictures for discussion; materials for recognition, identification and/or classification; poetry; puppets; audio-visual materials; show and tell items; or other comparable supplies or equipment.

ii. Science and math activities: plants and gardening equipment; aquarium with fish and/or other appropriate live animals; water table and supplies; sand table and supplies; cooking supplies; weather chart and/or thermometer; counting equipment; or other comparable supplies or equipment.

iii. Manipulative activities: puzzles; pegs and pegboards; lacing boards; table top building toys; stencils; dominoes; pounding bench; lotto games; or other comparable supplies or equipment.

iv. Large muscle activities: rocking boat; wheel toys; climbers; slides; balance beam; barrels and/or large cartons; parachute; balls

and beanbags; outdoor play equipment; gym mats; or other comparable supplies or equipment.

v. Building activities: unit blocks (minimum of four sizes); transportation toys; farm animals and/or play people; work bench and tools; table top building toys; building logs; or other comparable supplies or equipment.

vi. Art activities: crayons; tempera paint, large brushes and newsprint; finger paint and finger paint paper; construction paper in assorted colors; paste or glue; blunt scissors; collage materials; nontoxic felt tip markers; easels; clay or playdough; or other comparable supplies or equipment.

vii. Music activities: record player and records; piano and/or organ; guitar; rhythm sticks; drums; cymbals and bells; tape recorder; or other comparable supplies or equipment.

viii. Dramatic activities: toy dishes; ironing board; telephones; occupational props and/or uniforms; dress-up clothes; housekeeping area (stove, sink, refrigerator); cradle or doll bed; doll carriage and dolls; puppets; grocery store, post office or hospital; or other comparable supplies or equipment.

(f) Centers that operate during evening hours shall ensure that the activity level for children is reduced in preparation for sleep and shall provide a selection of toys or other materials for quiet activities.

(g) Centers serving sick children shall comply with the variation on developing and providing children's activities, as specified in N.J.A.C. 10:122-8.5(a).

(h) The staff member(s) specified in (b) above shall prepare and maintain on file a written outline of the center's daily activities, as specified in (a) to (g) above.

10:122-6.2 Program equipment for children's daily activities

Centers shall provide a supply of program equipment including play equipment, child-size furniture and supplies that are sufficient to meet the daily activity needs of the children and the program.

10:122-6.3 Food and nutrition

(a) All centers shall comply with the following requirements:

1. Food served to children who are present during normal mealtime hours or required snack periods, as specified in (c) below, shall be provided either by the child's parent or by the center.

2. If the center chooses to provide food, the center shall ensure that all food served to children is prepared by either:

i. The center on-site or off-site; or

ii. A caterer who is licensed, registered, certified or otherwise approved, as appropriate, by the local, county, or State Department of Health, as applicable.

3. If the center chooses to have parents provide food, the center shall have a supply of food at the center for any child whose parent forgets.

4. If the center provides food, the center shall ensure that the food is stored, prepared, and served in a sanitary manner.

5. Centers operating for more than three consecutive hours shall have a working refrigerator.

6. Food brought from outside the center for a child shall be inspected by a staff member for spoilage before it is served.

7. Staff members shall advise parents of any repetitive feeding problems experienced by their child.

8. Staff members shall not force-feed or coerce a child to eat against his or her will.

(b) Feeding requirements for centers serving children less than 18 months of age are as follows:

1. The center shall develop mutually with each child's parent(s) and follow a written plan regarding the feeding schedule, specific formula, nutritional needs, and introduction of new food for each child.

2. The written plan shall be:

i. Maintained on file; and

ii. Made available to each staff member responsible for feeding each child.

3. All food served to a child shall be appropriate to the child's developmental eating ability.

4. Each child's bottle(s) shall be labeled with the child's name.

5. A child who is too young to use a feeding chair or other seating apparatus shall be held when fed.

6. A child who, because of age or developmental readiness, no longer needs to be held for feeding shall be provided with an infant seat, high chair with safety strap, or other age-appropriate seating apparatus.

7. When a child is feeding, the bottle shall not be propped at any time.

(c) Mealtime and snack requirements for centers serving children 18 months of age and above and those children younger than 18 months of age who are developmentally ready to eat regular meals and snacks are as follows:

1. The center shall serve:

i. Breakfast for all children who have not eaten breakfast and are present from 7:00 A.M. to 9:00 A.M.;

ii. Lunch for all children who have not eaten lunch and are:

(1) Present during 11:00 A.M. to 1:00 P.M.; and

(2) Under the center's care for at least five consecutive hours;

iii. Dinner for all children who:

(1) Have not eaten dinner;

(2) Are present from 5:00 P.M. to 7:00 P.M.; and

(3) Remain for the night program; and

iv. A snack for all children who are under the center's care for at least three consecutive hours.

2. Centers that provide meals shall ensure that:

i. Breakfast includes the following:

(1) Fruits or vegetables or full-strength fruit or vegetable juice; and

(2) Enriched or whole grain bread, a bread product or cereal and/or a protein alternative;

ii. Lunch and dinner each include the following:

(1) Meat, poultry, fish or a protein alternative;

(2) Fruits or vegetables;

(3) Bread or bread products; and

(4) Milk, juice or water;

iii. The snack includes one full-strength juice, milk or fruit and one food supplement selected from the lunch and dinner choices specified in (c)2ii above, except on special occasions, such as holidays and birthdays;

iv. Milk is served at least once a day;

v. Drinking water is made available to the children;

vi. For children on special diets (for example, due to health reasons, religious belief or parental request), an alternate choice of food is provided by either the center or the child's parent; and

vii. Individualized written diets and feeding schedules, if submitted to the center by the child's parent(s) or physician, are posted in a location that is accessible to staff members caring for the children, and followed.

10:122-6.4 Rest and sleep

(a) For centers serving children 12 months of age and younger, the following shall apply:

1. The center shall provide opportunities for daily rest and sleep for each child according to the child's individual physical needs.

2. The center shall provide each child with a crib, playpen or other Bureau-approved sleeping equipment for use during rest and sleep.

i. Each crib or playpen shall be equipped with:

(1) A waterproof, snugly fitting mattress;

(2) A clean sheet or other covering and blanket;

(3) Top rails that are at least 19 inches above the mattress; and

(4) Slats that are not more than 2⅜ inches apart.

ii. Any locks or latches on the dropside of a crib shall be safe and secure from accidental release.

(b) For centers serving children over the age of 12 months and under the age of five years, the following shall apply:

1. The center shall provide opportunities for daily rest and/or sleep for each child who:

i. Attends the center for four or more consecutive hours; or

ii. Attends the center for fewer than four consecutive hours, but whose individual physical needs call for a rest period while the child is at the center.

2. An alternative quiet activity shall be provided for those children who have rested or slept for 30 minutes and do not appear to need additional rest or sleep.

3. Each child shall be provided with a crib, playpen, cot, mat or other Bureau-approved sleeping equipment for use during rest and sleep, which shall comply with the requirements specified in (a)2 above.

i. Each cot used for children between 13 and 18 months of age shall not exceed 14 inches above floor level.

ii. Each cot or mat used for rest and sleep shall be covered with a sheet, blanket or other covering. An additional covering shall be provided for use as a covering for each child.

iii. Each mat used for rest and sleep shall be:

(1) Placed on a surface that is warm, dry, clean, and draft-free;

(2) Water-repellent;

(3) At least one inch thick; and

(4) Stored so that there is no contact with the sleeping surface of another mat, or disinfected after each use, as specified in N.J.A.C. 10:122-7.7(a)1.

(c) Centers serving children in attendance for three hours or less after 7:00 P.M. shall meet the sleeping requirements, as specified in (a) and (b) 3 above.

(d) Centers serving children in attendance for more than three hours after 7:00 P.M. shall:

i. Establish bedtime schedules for each child in consultation with the parent(s);

ii. Ensure that any Bureau-approved sleeping equipment, other than a bed or mat, has been fitted with a minimum one-inch thick water-repellent mat or mattress; and

iii. Ensure that each child is changed into sleeping garments.

(e) Sheets, blankets and other coverings shall be:

1. Changed when wet, soiled or damaged; and

2. Changed before use by another child.

(f) When cribs, playpens, cots, mats or other Bureau-approved sleeping equipment are stored with sheets, blankets or other coverings as single units, at least one item of each unit shall be labeled with child-identifying information.

(g) When sheets, blankets and other coverings are not stored with sleeping equipment, each of these items shall be:

1. Labeled for each child; and

2. Stored separately for each child.

(h) During rest and sleep periods, only one child shall occupy a crib, playpen, cot, mat or other Bureau-approved sleeping equipment at one time.

10:122-6.5 Policy on the release of children

(a) The center shall maintain on file a written policy on the release of children, which shall include:

1. The provision that each child may be released only to the child's custodial parent(s) or person(s) authorized by the custodial parent(s), as specified in N.J.A.C. 10:122-6.8(c)3i(3), to take the child from the center and to assume responsibility for the child in an emergency if the custodial parent(s) cannot be reached;

2. The provision that a child shall not be visited by or released to a non-custodial parent unless the custodial parent specifically authorizes the center to allow such visits or releases in writing. This written authorization, including the name, address and telephone number of the non-custodial parent(s), shall be maintained on file. If a non-custodial parent has been denied access, or granted limited access, to the child by a court order, the center shall secure documentation to this effect and maintain a copy on file;

3. Written procedures to be followed by staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, fails to pick up a child at the time of the center's daily closing. The procedures shall require that:

i. The child is supervised at all times;

ii. Staff members attempt to contact the parent(s) or person(s) authorized by the parents; and

iii. An hour or more after closing time, and provided that other arrangements for releasing the child to his or her parent(s) or authorized person(s) have failed and the staff member(s) cannot continue to supervise the child at the center, the staff member shall call the Division's 24-hour Child Abuse Hotline to seek assistance in caring for the child until the parent(s) or person(s) authorized by the child's parent(s) is able to pick up the child; and

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically and/or emotionally impaired to the extent that, in the judgment of the director and/or staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

i. The child may not be released to such an impaired individual;

ii. Staff members attempt to contact the child's other parent or an alternate person(s) authorized by the parent(s); and

iii. If the center is unable to make alternative arrangements, as noted in (a)4ii above, a staff member shall call the Division's 24-hour Child Abuse Hotline to seek assistance in caring for the child.

10:122-6.6 Discipline

(a) The methods of guidance and discipline used shall:

1. Be positive;

2. Be consistent with the age and developmental needs of the children; and

3. Lead to the child's ability to maintain self control.

(b) Staff members shall not discipline children for failing to eat or sleep or for soiling themselves.

(c) Children may be removed from a group activity to another area, provided that the child so removed is either under the supervision of another staff member or continuously visible to a staff member.

(d) The center shall maintain on file a written policy on the disciplining of children by staff members. The policy shall:

1. Reflect the provisions specified in (a) through (c) above and include the acceptable actions that a staff member may take when disciplining a child (that is, discussion with the child, time-out, etc.);

2. Be distributed to every staff member; and

3. Be posted in a prominent location within the center.

(e) The center shall secure and maintain on file each staff member's signature, attesting to receipt of the policy on the disciplining of children by staff members.

10:122-6.7 Special requirements to prevent child abuse and/or neglect and inappropriate staff behaviors toward children

(a) Staff members shall not use hitting, shaking or any other form of corporal punishment of children.

(b) Staff members shall not use abusive language, ridicule, harsh, humiliating or frightening treatment or any other form of emotional punishment of children.

(c) Staff members shall not engage in or inflict any form of child abuse and/or neglect.

(d) Staff members shall not withhold from children food, emotional responses, stimulation, or the opportunities for rest or sleep.

(e) Staff members shall not require a child to remain silent or inactive for an inappropriately long period of time for the child's age.

10:122-6.8 Parent and community participation

(a) The center shall adopt at least one of the following options to ensure the participation of the parents of enrolled children in the activities and operations of the center:

1. A governing board responsible for approving, reviewing, and monitoring the center's policies, budget, staff recruitment and selection, physical environment, and program activities;

2. An advisory committee that offers advice and counsel to the center on its policies, staff recruitment and selection, physical environment, and program activities; or

3. An annual meeting to which all parents and staff members are invited for the purpose of sharing goals, recommendations, and concerns. The center shall maintain on file a record of this meeting.

(b) Centers choosing the options specified in either (a)1 or 2 above shall ensure that the board or committee includes the parents of enrolled children and representatives from the civic, business, educational and/or child care communities. The board or committee shall meet at least quarterly during the center's operating year and the center shall maintain on file a listing of current members of the board

or committee and documentation indicating that the board or committee is functioning.

(c) The center shall adopt, implement, and maintain on file a written policy providing for the direct involvement of parents of enrolled children in the center's operation and activities. This policy shall include the following:

1. An opportunity for parents to volunteer to help in the center's program;

2. An annual open house to which parents are invited for the purpose of observing the program;

3. A parent/staff conference at the time of the child's enrollment for the following purpose(s):

i. To obtain a signed application for enrollment, including:

(1) The child's name, address, birth date, and date of enrollment;

(2) The parent's name, home and work address, and home and work telephone number;

(3) The name, address, and telephone number of any person(s) authorized by the parent(s) to visit the child at the center and/or to take the child from the center, as specified in N.J.A.C. 10:122-6.5(a)1;

(4) The name, address, and telephone number of the child's physician; and

(5) Written authorization from the parent(s) for emergency medical treatment;

ii. To inform parents about the center's days and hours of operation;

iii. To discuss the individual child's habits, dietary and sleep needs, activities, behavior and development;

iv. To discuss the center's policies on releasing children, toilet training children, and dispensing medication;

v. To discuss and distribute the center's policy on the management of communicable disease, as specified in N.J.A.C. 10:122-7.11; and

vi. To discuss and distribute an Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a); and

4. Parent/staff conferences held semi-annually and upon request of the parent and/or staff member(s).

(d) The center shall allow the parent(s) of enrolled children to visit the center at any time during the center's hours of operation to observe its operation and program activities without requiring the parent(s) to secure prior approval.

(e) The center shall provide the parents of prospective enrollees the opportunity to visit the center to observe its operation and program activities, but may require that such visits are arranged in advance and at the convenience of the center director.

(f) Staff member(s) shall inform the parent(s) of enrolled children in advance of any field trip(s), outing(s) or special event(s) involving the transportation of children away from the center. Before taking a child on such a field trip, outing or special event, the center shall either:

1. Secure individual written consent slips signed by a parent for his or her child(ren) for each proposed field trip, outing or special event;

2. Post a notice of a proposed individual field trip, outing or special event in a place of prominence within the center, on which the parent must sign consent for his or her child to attend; or

3. Issue to every parent a written schedule of all field trips, outings or special events to be taken during any given time frame (that is, weekly, monthly, yearly). A parent must sign this schedule, indicating his or her consent for any or all field trips, outings or special events listed.

(g) The center may utilize a blanket permission slip for taking children on walks only if:

1. Walks are within the center's neighborhood;

2. The center makes arrangements for the handling of visits or telephone calls from parents either by:

i. Having someone remain at the center; or

ii. Utilizing a telephone answering machine and posting a notice on the entrance door of the center to inform parents of the children's location;

3. The route of the walk involves no safety hazards; and

4. The walk involves no entrance into a facility unless the facility has been indicated on the blanket permission slip.

(h) The center shall maintain on file a record of signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events.

(i) The center should promote the involvement of representatives of the community to enhance the staff members' and the children's knowledge of community services, programs and resources.

SUBCHAPTER 7. HEALTH REQUIREMENTS

10:122-7.1 Health requirements for all centers

(a) A center that seeks to serve any children who have any of the illnesses, symptoms of illness or diseases specified in (c) and (d) below shall meet all applicable provisions of this subchapter and all provisions of N.J.A.C. 10:122-8.

(b) Under no circumstances shall any center serve or admit any child who has any illnesses, symptoms of illness or diseases that a physician has determined require the child to be:

1. Confined to home under a physician's immediate care; or

2. Admitted to a hospital for medical care and treatment.

(c) The following provisions relate to illnesses and/or symptoms of illness:

1. A center serving well children shall not permit a child who has any of the illnesses*[,]* ***or*** symptoms of illness *[or diseases]* specified below to be admitted to the center on a given day unless medical diagnosis from a licensed physician, which has been communicated to the center in writing, or verbally with a written follow-up, indicates that the child poses no serious health risk to himself or herself or to other children. Such illnesses or symptoms of illness shall include, but not be limited to, any of the following:

i. Severe pain or discomfort;

ii. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours;

iii. Two or more episodes of acute vomiting within a period of 24 hours;

iv. Elevated oral temperature of 101.5 degrees Fahrenheit or over or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;

v. Sore throat or severe coughing;

vi. Yellow eyes or jaundiced skin;

vii. Red eyes with discharge;

viii. Infected, untreated skin patches;

ix. Difficult or rapid breathing;

x. Skin rashes, excluding diaper rash, lasting more than one day;

xi. Weeping or bleeding skin lesions that have not been treated by a physician or nurse;

xii. Swollen joints;

xiii. Visibly enlarged lymph nodes;

xiv. Stiff neck; or

xv. Blood in urine.

2. Once the child is symptom-free, or a licensed physician indicates that the child poses no serious health risk to himself or herself or to other children, the child may return to the center.

3. If a child who has already been admitted to the center manifests any of the illnesses or symptoms of illness specified in (c)1 above, the center shall remove the child from the group of well children to a separate room*[/]* ***or*** area, as specified in N.J.A.C. 10:122-5.2(r)4, until:

i. He or she can be taken from the center; or

ii. The director or his or her designee has communicated verbally with a licensed physician, who indicates that the child poses no serious health risk to himself or herself or to other children, at which time the child may return to the group.

(d) The following provisions relate to excludable communicable diseases:

1. The center shall not permit a child or staff member with an excludable communicable disease, as specified in the table below, to be admitted to or remain at the center, until:

i. A note from the child's or staff member's licensed physician states that the child or staff member, respectively, has been diagnosed and presents no risk to himself, herself or to others; or

ii. The center has contacted the State Department of Health's Communicable Disease Program or local health department pediatric health consultant and is told the child or staff member poses no health risk to others.

TABLE OF EXCLUDABLE COMMUNICABLE DISEASES

Respiratory illnesses	Gastro-intestinal illnesses	Contact illnesses
Chicken Pox	Giardia Lamblia*	Impetigo
German measles*	Hepatitis A*	Lice
Hemophilus influenzae*	Salmonella*	Scabies
Measles*	Shigella*	
Meningococcus*		
Mumps*		
Strep throat		
Tuberculosis*		
Whooping Cough*		

*Reportable diseases, as specified in N.J.A.C. 10:122-7.10(a).

10:122-7.2 Attendance by children and/or staff members known to be infected with Human Immunodeficiency Virus (HIV)

(a) The center should admit a child known to be infected with HIV (also known as HTLV-III or LAV), the virus that causes Acquired Immunodeficiency Syndrome (AIDS), to the center*[, except when:]* ***. However, the center shall exclude a child known to be infected with HIV when:***

1. The child is not toilet-trained or is incontinent;
2. The child is unable to control drooling;
3. The child has a documented history of biting or exhibits biting behaviors; or
4. The child exhibits or exceeds any of the conditions specified in N.J.A.C. 10:122-7.1(c) and (d).

(b) As an exception to the requirements of (a) above, centers that provide care exclusively for children known to be infected with HIV shall not be required to exclude children with the conditions specified in (a)1 to 4 above.

*[(b)]**(c)* If a child known to be infected with HIV is excluded because of any of the conditions specified in (a) above, the center should permit the enrollment and/or attendance of the child once the condition or behavior is no longer present, as documented in writing by the child's licensed physician.

*[(c)]**(d)* The center should not exclude a child known to be infected with HIV in order to protect him or her from possible exposure to the infectious diseases of other persons at the center.

*[(d)]**(e)* The center should not exclude a child solely for the reason that such indiviual lives with or is related to a person known to be infected with HIV.

*[(e)]**(f)* The director shall maintain the confidentiality of any child or staff member known to be infected with HIV.

*[(f)]**(g)* The center shall not require the routine medical screening of children or staff members in centers to detect the presence of HIV.

10:122-7.3 Health and immunization requirements for children

(a) Each child shall have had a health examination performed by a licensed physician within:

1. Six months prior to admission, for children who are 2½ years of age or younger; or
2. One year prior to admission, for children above 2½ years of age.

(b) The center shall maintain on file at the center a record of the health examination documented by the physician. The record shall include:

1. The name and address of the examining physician;
2. The child's medical history indicating, when applicable:

i. Information on any condition or handicap affecting the child's health; and

ii. Any recommendations for needed medical treatment, and/or program or environmental modifications, which the center shall follow, including special requirements as to diet, rest allergies, avoidance of certain activities, and other care; and

3. An up-to-date immunization record appropriate to the child's age, or documentation that the child is under a prescribed medical program to obtain immunizations, in accordance with the provisions of N.J.A.C. 8:57-4.

(c) The center shall ensure that the record specified in (b) above has been submitted to the center, either:

1. Upon the child's admission; or
2. Within 30 days of the child's admission, if the parent cannot obtain prior documentation, provided that upon the child's admission, the parent provides a written statement:

i. Indicating that the requirements in (a) and (b)3 above have been met; and

ii. Giving the information required in (b)2 above, when applicable.

(d) If immunizations are contraindicated for medical reasons, the center shall require the parent to submit to the center a written statement from a licensed physician attesting to the following:

1. The reason the immunization is medically contraindicated; and
2. The specific time period that the immunization is medically contraindicated.

(e) Any child whose parent objects to a physical examination, immunization or medical treatment for his or her child on grounds that it conflicts with the tenets and practice of a recognized religion of which the parent(s) or child is an adherent or member shall be exempt from complying with such requirements, provided that the parent(s) submits to the center upon the child's admission a signed written statement that the physical examination, immunization or medical treatment interferes with the free exercise of the child's religious rights.

(f) The immunization exemption may be suspended by the Bureau during the existence of a health emergency, as determined by the State Commissioner of Health.

(g) Centers operated by a county or municipal government recreation and/or park department or agency whose sessions last four weeks or less shall, upon the child's admission, obtain a written statement from the child's parent:

1. Indicating that the requirements specified in (a) and (b)3 above have been met; and
2. Giving the information required in (b)2 above, when applicable.

10:122-7.4 Health requirements for staff members

(a) Within one year prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test and/or x-ray.

1. If the Mantoux tuberculin test result is insignificant (0 to 9 millimeters (mm) of induration), no further testing shall be required. The Bureau or center may at any time require a staff member to retake the Mantoux tuberculin test if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the indivdual shall have a chest x-ray taken. If the chest x-ray shows significant results, the staff member shall not come in contact with the children unless *[she or he]* ***he or she*** submits to the center a written statement from a licensed physician certifying that he or she poses no threat of tuberculosis contagion.

(b) Prior to beginning work, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall submit a written statement from a licensed physician, indicating that he or she is in good health and poses no health risk to persons at the center. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's working at the center.

(c) The center shall maintain on file the results of each staff member's:

1. Mantoux tuberculin test and/or chest x-ray when indicated; and

2. Physical examination.

(d) The sponsor or director shall exclude a staff member who:

1. Exhibits the illnesses or symptoms of illness or diseases specified in N.J.A.C. 10:122-7.1(c)1 and (d); or

2. Appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced condition that would endanger the health, safety, and well-being of a child while the child is in the staff member's care. The director shall document the action taken to exclude the staff member and maintain such documentation on file. The center shall not permit the staff member to return to the center until the condition is no longer present.

(e) When the affected staff member specified in (d) above serves as the director, then the sponsor shall take the necessary action specified above.

(f) When the affected staff member specified in (d) above is the sponsor, then the Bureau shall take the necessary action specified above.

10:122-7.5 Administration and control of prescription and non-prescription medicines

(a) Centers that choose not to administer medication to a child shall inform the parents of this policy during the enrollment conference.

(b) For centers that choose to administer prescription and non-prescription medication to a child, the following shall apply:

1. Medication shall be administered only after receipt of written approval from the child's parent(s).

2. The director shall designate those staff members who are authorized to administer medication to those children whose parent(s) have authorized it.

3. All medication shall be kept either in a locked cabinet or in an area that is inaccessible to the children.

4. The director shall ensure that the staff member(s) responsible for administering medication are informed of every child's medication needs.

5. Any prescription medication for a child shall be:

i. Prescribed in the name of and specifically for the child; and

ii. Stored in its prescription container, which has been labeled with the child's name, the name of the medication, the date it was prescribed or updated and directions for its administration.

6. The center shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage, age and/or weight of the child, as indicated on the label:

i. Antihistamines/decongestants;

ii. Acetominophens (aspirin substitutes);

iii. Cough suppressants; and

iv. Topical ointments

7. The center may permit the dispensing of non-prescription medication other than those listed in (b)6 above if the child's physician authorizes it in writing.

8. Unused medication shall be returned to the parent(s) when no longer being administered.

9. The center shall maintain on file a record of the following:

i. The child's name and parental authorization for the center to administer medication;

ii. The name of the medication;

iii. The condition for which the medication is being issued;

iv. The instructions for administration, including the dosage and frequency;

v. The time and by whom medication was administered to a child; and

vi. Any adverse effect the medication can have or has had on the child.

10:122-7.6 Accident and injury to a child while in the center's care

(a) When an accident or injury occurs to a child while in the center's care, the center shall take immediate necessary action to protect the child from further harm and immediately notify the child's parent(s) verbally.

(b) The center shall maintain on file a record of accidents and injuries sustained by a child while under the center's supervision. The accident and injury record shall include the following:

1. The name of the child involved in the accident or injury;

2. The date, time, and location of the accident or injury;

3. A written description of the following:

i. The accident;

ii. The injury to the child;

iii. The names of witnesses to the accident or injury; and

iv. The follow-up action taken by the center, including:

(1) Application of first aid; and

(2) Consultation or treatment by a licensed physician, if applicable.

(c) Upon request of the child's parent, the center shall provide a written description of the accident and/or injury by the end of the next operating day.

10:122-7.7 Environmental sanitation requirements

(a) Disinfectants shall be used as follows:

1. The center shall disinfect those items specified in (a)3 below with a solution that shall be either:

i. A commercially prepared disinfectant that indicates it kills bacteria, viruses, and parasites. This solution shall be used in accordance with label instructions; or

ii. A self-made solution consisting of one-quarter cup of houshold bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container.

2. All areas to be disinfected shall first be washed with soap and water.

3. The schedule for disinfecting shall be as follows:

i. The following equipment items or surfaces shall be washed and disinfected after each use:

(1) Toilet training chairs that have first been emptied into a toilet;

(2) Sinks and faucets used for rinsing a toilet training chair;

(3) Diapering surfaces;

(4) Toys mouthed by infants and toddlers before being given to another child;

(5) Mops used for cleaning;

(6) Washcloths made of fabric when used for cleaning children;

(7) Thermometers;

(8) Bottles, nipples and other feeding equipment;

(9) Items used by a child who becomes ill while at the center; and

(10) Mats that are not stored separately.

ii. The following items shall be washed and disinfected at least daily:

(1) Toilets and toilet seats;

(2) Diaper pails and lids;

(3) Sinks and sink faucets;

(4) Drinking fountains;

(5) Water table and water play equipment;

(6) Play tables; and

(7) Smooth surfaced non-porous floors in areas used by children.

iii. The following items shall be washed and disinfected at least weekly:

(1) Cribs, cots, mats, playpens or other Bureau-approved sleeping equipment; and

(2) Sheets, blankets or other coverings.

iv. Tables used by the children for eating shall be washed and disinfected before each meal.

(b) Centers that toilet train children shall:

1. Utilize non-porous toilets, child-size toilets, toilet training chairs (potties) or children's toilet seats for children being toilet trained;

2. Ensure that toilet training chairs are not used in kitchens or in the immediate area where meals are being served; and

3. Advise parents of the center's toilet training policy.

(c) Centers that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and

*[(2)]**2.* The sand is maintained in a safe and sanitary manner.

(d) Pets shall be permitted in a center only under the following circumstances:

1. Pets kept by or located in the center, regardless of ownership, shall be:

i. Domesticated and non-aggressive;

ii. Free from disease;
iii. Vaccinated, if applicable, as prescribed by law or local ordinance. The record of the vaccinations shall be maintained on file, along with the name and address of the licensed veterinarian providing care for the pet(s);
iv. If sick, removed from the area(s) occupied by children, until the pet has been examined by a licensed veterinarian and has been diagnosed as presenting no risk to the children;
v. Effectively controlled by leash, command or cage; and
vi. Prohibited from the following areas:
(1) Areas/surfaces used for food preparation, storage and/or service;
(2) Areas used for cleaning or storing of food utensils and dishes; and
(3) Toilet facilities.
2. Animal waste shall be disposed of in sealed plastic bags in the outdoor garbage receptacle.
(e) The director shall ensure that smoking is prohibited in all rooms and outside play areas while such rooms and areas are occupied by children.
(f) Poisonous plants shall not be kept in the center or in the outside play area used by the children.

10:122-7.8 Personal hygiene requirements
(a) Handwashing requirements are as follows:
1. The center shall ensure that children wash their hands with soap and running water and dry them with paper towels or with cloth towels designated solely for the individual child's use:
i. Before intake of food;
ii. Immediately after using the toilet or having diapers changed;
iii. Immediately after coming into contact with blood, fecal matter, urine, vomit, nasal secretions or other body fluids or secretions; and
iv. Immediately after coming in contact with an animal's body secretions.
2. Staff members shall wash their hands with soap and running water immediately:
i. Before preparing or serving food;
ii. After diapering a child;
iii. After toileting;
iv. After assisting a child in toileting;
v. After caring for a child who appears to be sick;
vi. After coming in contact with an animal's body secretions; and
vii. After coming into contact with blood, fecal matter, urine, vomit, nasal secretions or other body fluids or secretions.
(b) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood or vomit.
(c) Diapering requirements for centers serving children who are not toilet trained are as follows:
1. Staff members shall ensure that:
i. Each child's diaper is changed when wet or soiled; and
ii. Each child's bottom is washed and dried during each diaper change with an individual disposable wash cloth, paper towel or disposable diaper wipes.
2. Diapering area and surface requirements are as follows:
i. Diapering shall not take place in an area or on a surface used for food preparation, service or eating.
ii. The diapering area shall be within 15 feet of a sink that is not used for food preparation.
iii. The diapering surface shall be flat, smooth, clean, dry, nonabsorbent, and in good repair.
3. Diapering supply requirements are as follows:
i. A supply of clean diapers shall always be available.
ii. Diapering supplies, including diapers, shall be stored in an area out of the children's reach but easily accessible to staff members during a diaper change.
iii. Equipment used for cleaning the diapering surface shall be restricted for use in this area only and shall be disposable or laundered in hot soapy water.
iv. Staff members who use disposable rubber gloves during a diaper change shall dispose of these gloves after each use and shall wash their hands.
4. Soiled diapers shall be disposed of as follows:
i. Soiled disposable diapers shall be placed in a closed container that is lined with a leakproof or impervious lining. Such diapers shall be removed from the center daily and placed in a closed garbage receptacle outside the building.
ii. Soiled non-disposable diapers shall be:
(1) Placed in a sealed plastic container that has been labeled with the child's name; and
(2) Returned to the child's parent at the end of that day.
(d) Clothing requirements are as follows:
1. A child's clothing shall be changed when wet or soiled.
2. The center shall ensure that a change of clothing is provided for each child.
3. Soiled clothes shall be:
i. Placed in a sealed plastic container that has been labeled with the child's name and returned to the child's parent at the end of that day for laundering; or
ii. Laundered at the center in a washing machine.
4. For clothing soiled with fecal matter, the stool shall be emptied into the toilet.
(e) Centers that encourage children to brush their teeth while at the center shall individually store toothbrushes to prevent the toothbrushes from touching each other during storage.

10:122-7.9 Illness log
(a) The center shall maintain on file a log of the initial illnesses, symptoms of illness or diseases that are exhibited by each child, as specified in N.J.A.C. 10:122-7.1(c) ***and (d)***. This illness log shall include:
1. The child's name;
2. The date and time the illnesses, symptoms of illness or diseases were observed at the center, or the date and time the center was notified of the child's illnesses, symptoms of illness or diseases by the parent;
3. A description of the symptoms of illness manifested by the child;
4. The action taken by the center to assist:
i. The child who is demonstrating symptoms of illness; and/or
ii. The director in determining if exclusion of the child from the center is necessary;
5. Any significant change in the child's symptoms of illness;
6. The date, if applicable, that:
i. The child was removed from the center;
ii. The child returned to the center with a licensed physician's note attesting to the child's admissibility to the center and recovery from a reportable disease, as specified in N.J.A.C. 8:57; or
iii. The child returned to the center symptom-free.

10:122-7.10 Reporting of illnesses, injuries, and reportable diseases
(a) The director, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 10:122-7.1(d), shall report this knowledge by the next working day to the following:
1. The local health department; and
2. The Bureau of Licensing.
(b) The director shall report the occurrence of any injury or illness that results in the admittance to a hospital or death of a child while under the center's supervison to the Bureau by the next working day after the center learns of the occurrence.
(c) The director, having knowledge that a child has been injured by a dog, cat or other animal that is kept by or located at the center and when no physician attends such child, shall within 12 hours of the injury report the name, age, sex, and address of the child to the local health department.

10:122-7.11 Information to parents regarding the management of communicable diseases
(a) Each center shall develop a written policy on the management of communicable diseases. This policy shall include the following:
1. The list of illnesses*[/]* ***and/or*** symptoms of illness for which a child will be separated from the group and possibly sent home, as specified in N.J.A.C. 10:122-7.1(c);

2. The list of diseases for which a child will not be re-admitted to the center unless accompanied by a statement from the child's licensed physician, as specified in N.J.A.C. 10:122-7.1(d); and

3. Assurance that during any outbreak of an excludable disease at the center, as specified in N.J.A.C. 10:122-7.1(d), each parent whose child may have been exposed to the disease*[,]* shall *[recieve]* ***receive*** a written notice of the outbreak.

(b) A copy of the center's policy on the management of communicable diseases shall be given to the parent of each child enrolled in the center.

(c) Centers serving children who are sick shall comply with the variation on information to parents, as specified in N.J.A.C. 10:122-8.5(b).

SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN

10:122-8.1 Requirements for all centers serving sick children

(a) The provisions of this subchapter shall apply to any center that chooses to serve the following:

1. Only children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 10:122-7.1(c) and (d); or

2. Some children who have illnesses, symptoms of illness or diseases, as specified in N.J.A.C. 10:122-7.1(c) and (d), as part of a sick child care component of a center primarily serving well children.

(b) A center as set forth in (a) above shall also comply with all applicable provisions of this chapter.

(c) The center shall maintain on file written policies and procedures governing its operation, including:

1. Those categories of illness for which the center will provide care;

2. The ages of children who will be served;

3. The center's infection control procedures;

4. The center's admission criteria, which shall include provisions for conducting either:

i. A medical evaluation of arriving children by a New Jersey licensed physician; or

ii. A physical assessment, known as a triage, of arriving children by a registered nurse;

(1) The triage shall include, as appropriate to the demonstrated symptoms, an assessment of the child's temperature; pulse; respiration; skin; eyes; nose; throat; mouth; chest; abdomen; and/or extremities;

5. A provision encouraging the parents, before bringing the child to the center, to call the center each day to:

i. Describe the child's illnesses, symptoms of illness or diseases; and

ii. Determine if the center has an opening for the child;

6. For centers using a registered nurse as the admitting staff member, the physical assessment criteria that are used to determine:

i. Appropriateness of a child's attendance at the center on that day; or

ii. A child's need to be examined by a licensed physician, prior to being admitted to the center on that day;

7. The criteria and procedures for caring for or releasing children whose illnesses, symptoms of illness or diseases have worsened;

8. Methods and frequency of identifying and recording symptomatic changes throughout the day;

9. The preparation, frequency and serving of meals that are appropriate for the child's illnesses, symptoms of illness or diseases; and

10. The center's policy on communicating with parents concerning the child's illnesses, symptoms of illness or diseases.

(d) The center shall arrange for a New Jersey-licensed physician to serve as its consulting physician, providing medical advice and assistance on an on-call basis.

(e) The center shall have a governing board or an advisory board *[to]* ***which shall*** oversee the development of and *[to]* approve in writing its policies and procedures, as specified in (c) above. The governing or advisory board shall include at least two of the following licensed health professionals:

1. A physician licensed by the New Jersey Board of Medical Examiners; and/or

2. A registered nurse licensed by the New Jersey State Board of Nursing; and/or

3. A local health official.

(f) *[If the governing board or advisory board specified in (e) above does not include a New Jersey-licensed physician, the consulting physician specified in (d) above shall approve in writing the policies and procedures developed by the governing board or advisory board.]* ***The consulting physician shall approve in writing the policies and procedures specified in (c) above.***

10:122-8.2 Admission criteria

(a) The center shall not admit a sick child below three months of age unless the child has been seen and diagnosed by his or her licensed physician and the physician indicates in writing that the child can be admitted.

(b) The center shall require that a parent or an adult authorized by the parent accompany each child during admission to the center.

10:122-8.3 Requirements for additional staff for centers serving sick children

(a) The staff requirements for centers serving sick children are as follows:

1. In addition to the staff members required in N.J.A.C. 10:122-4.2, the center shall ensure that a physician licensed by the New Jersey Board of Medical Examiners or a registered nurse licensed by the New Jersey State Board of Nursing is at the center during the hours children are in attendance.

2. The staff member specified in (a)1 above may also serve as the head teacher or group teacher, where applicable, provided that:

i. The person meets the staff qualification requirements for such positions, based on center size and type, as specified in N.J.A.C. 10:122-4.5(b) and (c); or

ii. The person has two years of work experience with children under six years of age.

3. In centers that primarily serve well children and provide sick care only as a component of the overall program, the physician or registered nurse, as specified in (a)1 above, shall be required to be at the center for at least 50 percent of the sick care component's daily operating hours, and shall be on call and available to come to the center immediately at all other times, provided that the following conditions are met:

i. The physician or registered nurse is present at all times when children are being admitted to the center;

ii. Sick care is provided only to children who are regularly enrolled in the center's program serving well children;

iii. No more than eight children are served in the sick care component at any one time;

iv. Children under six months of age are not admitted to the sick child care component at any time;

v. A child must have attended the center's program serving well children for at least 20 days before being allowed admission to the sick care component;

vi. The physician or registered nurse assesses that no child will be placed at risk during the time when the physician or registered nurse is absent; and

vii. The on-call physician or nurse does not serve as the center's head teacher.

4. In centers specified in (a)3 above, the provisions specified in (a)3i to vii above need not be met if the physician or registered nurse remains at the center during all hours the children are in attendance.

(b) The responsibilities of the staff physician or registered nurse are as follows:

1. The physician or registered nurse, as specified in (a)1 above, shall be responsible for developing and implementing the center's medical program, including:

i. Conducting the daily admission assessment of each child, as specified in N.J.A.C. 10:122-8.1(c)4;

ii. Maintaining records on each child, as specified in N.J.A.C. 10:122-8.7(a); and

iii. Reviewing and administering medication, as specified in N.J.A.C. 10:122-7.5(b), as applicable for each child.

(c) The following staff/child ratios shall apply:

Age of Child	Staff/Child Ratio
Birth to 3 months of age	1:1
3 months to 18 months of age	1:3
18 months to 2½ years of age	1:5
2½ years to 6 years of age	1:7

(d) Grouping of children shall be as follows:

1. The center shall group children according to the illnesses categorized below:

i. Upper-respiratory;

ii. Gastro-intestinal;

iii. Chicken pox; and

iv. Any other illness that has been included in the center's admission policy.

(e) Additional staff training shall be provided as follows:

1. The center shall provide training for each new staff member upon beginning work at the center and for all staff members annually.

2. Such training shall include:

i. Basic knowledge of first aid principles;

ii. Recognizing the symptoms of illness;

iii. Feeding sick children;

iv. When and how to call for medical advice;

v. Taking children's temperatures;

vi. Any other care that may be required for admissible illnesses and conditions;

vii. Infection control;

viii. Review of center policies and procedures;

ix. Child development, including activities for children who are sick; and

x. Communicating with parents concerning a child's illness.

10:122-8.4 Requirements for additional physical facilities for centers serving sick children

(a) There shall be a minimum of 50 square feet of net indoor floor space for each child.

(b) An individual room or a specific area within a large room, which is separated from other areas of the room by a partition or room divider, shall be available to separate and prevent contact between children who have different illnesses, symptoms of illness or diseases.

(c) Centers whose policies allow for the care of children who have chicken pox or other illnesses that require isolation shall provide an isolation room for these children. Each isolation room shall have the following:

1. Continuous barriers that are floor to ceiling in height; and

2. Its own toilet facility, unless children using the isolation room can reach and use another toilet facility without coming into contact with other children.

(e) The center shall provide soap for handwashing from a liquid soap dispenser.

(f) The center shall conduct monthly fire drills that may, but are not required to, involve children. The drills must simulate closely the procedures to be followed during an emergency evacuation.

(g) Centers that serve only sick children shall not be required to have the following:

1. An outdoor space for the children's physical activities or its equivalent, as specified in N.J.A.C. 10:122-5.2(r)5; and

2. A room or area in a separate section of the center for children who become ill, as specified in N.J.A.C. 10:122-5.2(r)4.

(h) Centers that have a sick child care component, as specified in N.J.A.C. 10:122-8.1(a)2, shall use separate play rooms*[/]* ***and/or*** areas and separate toilet facilities for sick and well children.

10:122-8.5 Program requirements for centers serving sick children

(a) The center shall develop and provide a variety of children's planned daily activities that are appropriate for the needs and the condition of children who are sick.

(b) The center shall make available to *[prospective]* parents ***of prospective enrollees*** information in writing on the center's program, including:

1. Illnesses, symptoms of illness or diseases for which the center will provide care;

2. The center's admission criteria; and

3. The center's daily admitting procedures.

10:122-8.6 Sanitation and infection control

(a) The center shall ensure that all washable items of play equipment, supplies and toys that one group of sick children, as specified in N.J.A.C. 10:122-8.3(d), have contacted are washed with soap and water and disinfected before allowing them to be used by another group of sick children.

(b) The center shall ensure that all personal items belonging to a child are returned to the parent each day.

10:122-8.7 Requirements for additional records for centers serving sick children

(a) The center shall maintain on file the following additional records:

1. Admission assessment information on each child, as specified in N.J.A.C. 10:122-8.1(c)4;

2. The written policies and procedures developed by the center, as specified in N.J.A.C. 10:122-8.1*[(e)]***(c)*;

3. The written approval of policies and procedures by *[either]* the center's governing board *[or]* ***and by*** advisory board, or the consulting physician, as specified in N.J.A.C. 10:122-8.1(e) and (f);

4. Documentation of the training provided to all staff members, as specified in N.J.A.C. 10:122-8.3(e); and

5. The information to parents document, as specified in N.J.A.C. 10:122-8.5(b).

SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS

10:122-9.1 Scope; use of private passenger vehicles

(a) The provisions of this subchapter shall apply to:

1. Any center that provides or arranges for the provision of transportation for children:

i. To or from their homes or other prearranged sites and the center; and/or

ii. In connection with an activity (such as a field trip) conducted by or through the auspices of the center; and

2. Any person or agency other than the center that provides or arranges for the provision of transportation for compensation for children to or from their homes and a center.

(b) Any center, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Division of Motor Vehicles law, pursuant to N.J.S.A. 39:1-1 et seq. and the rules promulgated thereunder, as specified in N.J.A.C. 13.

(c) The center may authorize staff members and/or parents of enrolled children to utilize their own private passenger vehicles to transport children from the center to and from scheduled center field trips, outings or special events (such as visits to the zoo, library, museum) or to transport children from the center to a hospital, clinic or office for medical treatment, pursuant to N.J.S.A. 18A:39-20.1. However, staff members and/or parents may be authorized to do so only if:

1. The vehicle has a capacity of eight or fewer persons;

2. The driver possesses a valid automobile driver's license issued by the New Jersey Division of Motor Vehicles, hereinafter referred to as DMV;

3. The vehicle has a valid motor vehicle inspection sticker issued by DMV;

4. The vehicle owner possesses vehicle liability insurance at least at the minimum amounts required by New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a;

5. The center maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 10:122-9.7(b); and

6. The center ensures that the driver and/or additional adults apply the safety practices, as specified in N.J.A.C. 10:122-9.5(a) to (d) and (g) to (i).

10:122-9.2 Vehicle definitions

(a) A Type I School Bus means a bus with a capacity of 17 to 58 passengers, as indicated by the vehicle manufacturer.

(b) A Type II School Bus means a bus with a capacity of 10 to 16 passengers, as indicated by the vehicle manufacturer.

(c) A Type II School Vehicle means a vehicle with a capacity of nine or fewer passengers, as indicated by the vehicle manufacturer, and a minimum of three side entry doors.

10:122-9.3 Vehicle requirements

(a) The following requirements shall apply to vehicles utilized by a center that provides or arranges for the transportation of enrolled children to and from the center, as specified in N.J.A.C. 10:122-9.1(a).

(b) Each Type I School Bus shall:

1. Be equipped with school vehicle Type I, "S1" designated license plates and a valid School Bus inspection sticker issued by DMV; and

2. Meet the specifications for Type I School Buses prescribed by New Jersey Department of Education rules, as specified in N.J.A.C. 6:21-5, and that were applicable at the time the bus was manufactured.

(c) Each Type II School Bus shall:

1. Have school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by DMV;

2. For Type II School Buses manufactured prior to April 1, 1977, meet the specifications prescribed by New Jersey Department of Human Services rules that were applicable at the time the bus was manufactured; and

3. For Type II School Buses manufactured after April 1, 1977, be painted in the color of uniform national school bus yellow and meet the specifications prescribed by New Jersey Department of Education rules, as specified in N.J.A.C. 6:21-5.

(d) Each Type II School Vehicle shall:

1. Have school vehicle Type II, "S2" designated license plates and a valid School Bus inspection sticker issued by DMV;

2. Have a maximum seating occupancy that does not exceed the number of seat belts installed;

3. Have a minimum seat width allowance of 12 inches per child;

4. Have seats and back rests securely fastened and facing forward;

5. Allow exiting from any seat in the vehicle with a minimum unobstructed clearance of 10 inches;

6. Have no seat that requires the folding of any seat ahead of it in order to permit exiting. Seats that are not facing forward or that require the folding of any seat ahead of them in order to permit exiting shall be removed or bolted down;

7. Have seats upholstered with springs or foam rubber;

8. Have padding around exposed metal bars in the vehicles to prevent child impact;

9. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and

10. Be equipped with the following:

i. Three triangular portable red reflector warning devices;

ii. A fully charged fire extinguisher, with a gauge and with a minimum underwriters' rating of 2A 10BC, which shall be located at the front and securely mounted to the right of the driver in a way that does not constitute an obstruction or hazard to the passengers;

iii. All-weather radial or snow tires from November 15 to April 1; and

iv. A removable, moisture-free and dust-proof first-aid kit, which shall be located in an accessible place within the vehicle. A sign indicating its location shall be placed on the dashboard. The first-aid kit shall contain the following items:

(1) Two single units, one inch by 2½ yards adhesive tape;

(2) Two single units, sterile gauze pads, three inch by three inch (12 per unit);

(3) One single unit, 3/4 inch by three inch adhesive bandage (100 per unit);

(4) One single unit, two inch bandage compress (12 per unit);

(5) One single unit, three inch bandage compress (12 per unit);

(6) Two single units, two inch by six yards sterile gauze roller bandage;

(7) Two single units, nonsterile triangular bandage, approximately 40 inch by 36 inch by 54 inch with two safety pins;

(8) Three single units, sterile gauze, 36 inch by 36 inch (U.S.P. 2428 count);

(9) Three single units, sterile eye pad (one per unit);

(10) One pair of scissors; and

(11) A pad and sharpened pencil.

10:122-9.4 Driver licensing requirements

(a) The driver of a Type I School Bus shall possess a valid New Jersey Type I School Bus driver's license issued by DMV, or an out-of-State equivalent license, as approved by DMV.

(b) The driver of a Type II School Bus or School Vehicle transporting from one to 16 passengers shall possess either a valid Type I or Type II School Bus driver's license issued by DMV, or an out-of-State equivalent license, as approved by DMV.

10:122-9.5 Vehicle-related safety practices

(a) Children shall never be left unattended in a vehicle.

(b) Children shall be accepted and discharged from the curbside of the vehicle.

(c) The interior and exterior of each vehicle shall be maintained in clean and safe condition, with clear passage to operable doors.

(d) All vehicles that are utilized to transport children below 18 months of age shall be equipped with car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards, in accordance with provisions of DMV law, pursuant to N.J.S.A. 39:3-76.2a.

(e) The driver shall not transport more persons, including children and adults, than:

1. The occupancy of the Type I School Bus, as indicated by the vehicle manufacturer; or

2. The occupancy of the Type II School Bus or School Vehicle, as determined by the number of operable seat belts.

(f) The driver of and/or additional adult(s) on the Type I School Bus shall ensure that:

1. All passengers are seated and remain seated when the bus is in motion; and

2. All passengers below 18 months of age are secured in the proper restraint system, as specified in (d) above, when the bus is in motion.

(g) The driver of and/or additional adult(s) on the Type II School Bus, School Vehicle and private passenger vehicle shall ensure that:

1. All passengers are seated and remain seated when the bus is in motion; and

2. All passengers are secured in an operable seat belt or proper restraint system, as specified in (d) above, when the vehicle is in motion.

(h) The driver or additional adult(s) shall ensure that each child discharged from the vehicle is received by his or her parent or person designated by the child's parent.

(i) There shall be no standees in any vehicle transporting children.

(j) The driver shall conduct two emergency evacuation drills each year for all passengers who ride the Type I or Type II School Bus.

(k) The driver shall conduct a daily check of the vehicle, which shall include all safety equipment, to ensure that the vehicle is in sound operating condition.

(l) The driver shall conduct a check of the vehicle, after each run is completed, to ensure that no child has been left on the vehicle.

10:122-9.6 Vehicle insurance

Each center or person providing transportation services, as specified in N.J.A.C. 10:122-9.1(a), shall secure and maintain vehicle liability insurance for bodily injury or death in minimum amounts of $300,000 per person and $500,000 per accident.

10:122-9.7 Transportation records

(a) The center shall maintain on file a record of children transported, the name and address of each driver, a photostatic copy of his or her valid School Bus driver's license and the year, make and model of each school bus or school vehicle used.

(b) For center-authorized drivers providing periodic transportation in private vehicles, the center shall maintain on file a checklist indicating that the provisions specified in N.J.A.C. 10:122-9.1(c)1 to 4 have been met.

(c) The center shall maintain on file the names and addresses of the person(s) designated as the additional adult(s) and the license numbers of the school bus or vehicle(s) to which they are assigned.

(d) The center shall maintain on file inspection and maintenance records for each school bus or school vehicle used by the center to transport children. Such records shall include:

1. The vehicle's New Jersey registration number, make, serial number, and the number of ply and size of all tires;
2. The nature and date of every vehicle inspection and repair; and
3. For vehicles that have been leased or otherwise contracted for, the name and address of the leaser or contractor furnishing the vehicle.

(e) The records specified in (d) above shall be retained in the center's files for the life of the vehicle.

(f) Documentation of emergency evacuation drills for all passengers who ride the Type I or Type II School Bus shall be maintained in a log book containing the following information:

1. The date of the drill;
2. The number of passengers;
3. The time taken to evacuate the bus; and
4. The signature of the person conducting the drill.

(g) If transportation services are provided by the center, or by a firm under contract to or other arrangement with the center, the center shall maintain on file a copy of its own vehicle liability insurance, or of that firm's name and vehicle liability insurance coverage in the amount(s) specified in N.J.A.C. 10:122-9.6.

10:122-9.8 Special requirements for physically handicapped, non-ambulatory children

(a) For centers providing or arranging for transportation services for physically handicapped children who are non-ambulatory, the following additional requirements shall be met:

1. A ramp device or a hydraulic lift shall be provided with a lift minimum pay load of 600 pounds;
2. Wheelchairs shall be securely fastened and face forward;
3. The arrangements of the wheelchairs shall not impede access to the emergency or exit door;
4. If a ramp device is installed, it shall:
   i. Have a non-skid surface;
   ii. Be securely stored and protected from the elements when not in use; and
   iii. Have at least three feet of length for each foot of incline;
5. Seat belts or other restraints approved by DMV shall be installed for each passenger, including those seated in wheelchairs; and
6. Any aisle leading from a wheelchair position to the emergency or exit door shall be a minimum width of 30 inches.

10:122-9.9 Special requirements to prevent child abuse and/or neglect

(a) When seven or more children who are 2½ years of age or older are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

(b) When between four and 12 children who are below 2½ years of age are being transported, there shall be one adult in addition to the driver who remains in the vehicle when it is in motion, and who remains within sight of the vehicle when it has stopped to accept or discharge children, from the time the first child is picked up until the last child has reached his or her destination.

(c) When 13 or more children who are below 2½ years of age are being transported, there shall be two adults in addition to the driver who remain in the vehicle when it is in motion, and who remain within sight of the vehicle when it has stopped to accept or discharge children, until fewer than 13 children remain, at which time one adult in addition to the driver shall remain until the last child has reached his or her destination.

EMERGENCY ADOPTION

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Medicaid Occupancy Initiative

Adopted Emergency New Rule and Concurrent Proposed New Rule: N.J.A.C. 10:63-3.21

Emergency Amendment Adopted: April 7, 1989 by Drew Altman, Commissioner, Department of Human Services.
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): April 17, 1989.
Emergency New Rule Filed: April 18, 1989 as R.1989 d.254.
Authority: N.J.S.A. 30:4D-6a(4)(a)b(14); 30:4D-7, 7a, b, c; 30:4D-12; L. 1989 c.18, effective February 6, 1989.
Concurrent Proposal Number: PRN 1989-257.
Emergency New Rule Effective Date: April 18, 1989.
Emergency New Rule Expiration Date: June 17, 1989.

Submit comments by June 14, 1989 to:
Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c)) as implemented by N.J.A.C. 1:30-4.4. Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The agency emergency adoption and concurrent proposal follow:

Summary

The text of the rule indicates that the Department of Human Services shall pay a supplement for routine patient care expenses to the prospective per diem Medicaid reimbursement rates of non-governmental long term care facilities (LTCFs) participating in the Medicaid Program that achieve a certain Medicaid occupancy level (reference is made to N.J.A.C. 10:63-3.21(b) below).

The LTCF's Medicaid occupancy level must be above or within two percent of the Statewide average Medicaid occupancy level. Since both the LTCF's Medicaid occupancy level, and the Statewide Medicaid occupancy level, are computed monthly, LTCFs qualify for the supplemental payment on a month-to-month basis.

The Statewide average Medicaid occupancy level shall be calculated using the average number of Medicaid recipients and recipients of public assistance under N.J.S.A. 44:8-107 et seq. (General Public Assistance Law) residing in each LTCF in the State divided by the number of licensed LTCF beds in the State during a calendar month.

Governmental facilities are not included in this calculation. LTCFs that are not participating Medicaid providers, or LTCFs which have conditionally withdrawn from the Medicaid program, are not included in the calculation.

In addition, in making the Statewide average calculation, the term "Medicaid and public assistance recipients" shall include only those residents in an LTCF for which the LTCF receives reimbursement by either Title XIX or General Assistance.

Once the Statewide average Medicaid occupancy level has been determined, there is another calculation which is specific to each LTCF. Each facility's Medicaid occupancy level shall be calculated using the average number of Medicaid recipients and recipients of public assistance residing in the LTCF divided by the total number of licensed beds in that LTCF, during a calendar month. In calculating the LTCF's individual occupancy level, bed reserve days may be used in the determination of Medicaid recipients and recipients of public assistance.

However, the term "Medicaid and public assistance recipients" shall include only those residents in an LTCF for which the LTCF receives reimbursement by either Title XIX or General Assistance. This aspect of the calculation is the same for both the Statewide average level and the individual facility's occupancy level.

If the individual LTCF's occupancy level is above or within two percent of the Statewide average Medicaid occupancy level, then there will be an interim supplemental payment to the prospective per diem reimbursement rate as indicated in the text of the rule below at N.J.A.C. 10:63-3.21(e). The payment is graduated so that those facilities with the higher Medicaid occupancy level will receive greater reimbursement.

The rule further indicates that any payment to an individual LTCF that is not consistent with the provisions of the rule is subject to recovery of both principal and interest and any other penalties that may be applicable under the New Jersey Medicaid Statute, N.J.S.A. 30:4D-1 et seq.

The rule also indicates that another Medicaid rule (N.J.A.C. 10:63-3.19(b)) which limits the rates paid to a facility to the certified lowest semi-private patients will not be applicable to any per diem rate resulting from the supplemental payment until the first full month following the publication of this rule in the New Jersey Register. The purpose of this provision is to enable an LTCF to react to the increase the supplemental payment might have on their rate charged to private patients. After the grace period has elapsed, the Medicaid program will pay the lesser of the Medicaid per diem rate or the lowest semi-private room rate charged to private patients.

Social Impact

This new rule impacts indirectly on Medicaid patients residing in LTCFs. The funds that were appropriated for this supplemental payment to LTCFs have been designated for patient care activities.

The rule potentially impacts on all LTCFs that participate in the New Jersey Medicaid Program. The rule's actual impact will be on those LTCFs who qualify for the supplemental payment because of their individual Medicaid occupancy level.

Economic Impact

The law appropriates $15,000,000 (Federal-State share combined) to fund the supplemental payment. A reserve of approximately one million dollars has been withheld in anticipation of increased Medicaid occupancy and potential facility appeals. If there are unexpended amounts remaining at the end of the applicable billing periods, then the remaining funds shall be used to adjust the supplemental payment.

The economic impact on LTCFs depends on whether their Medicaid occupancy level is sufficiently high enough to qualify for the supplemental payment.

Medicaid patients residing in LTCFs are already required to contribute towards the cost of their care from their available income. This rule does not change this requirement.

Regulatory Flexibility Analysis

This rule impacts on LTCFs, some of which would not be considered small businesses because they employ more than 100 full time employees. However, in the event there are those LTCFs that would be considered a small business, the rule is designed to minimize any adverse economic impact by utilizing existing administrative mechanisms to achieve the necessary reporting requirements. LTCFs are already required to submit an MCNH-30 monthly and the data to determine occupancy will be entered on this form. In addition, the purpose of the data is to determine if the LTCF qualifies for a supplemental payment. Therefore, it is advantageous to the LTCF to supply the necessary data to the Division. In addition, business size-based differentiation of the requirements of the rule is not provided because the supplemental payments must be used for patient care activities, which is beneficial to the health, safety and general welfare of patients in LTCFs.

Full text of the adopted emergency and concurrently proposed new rule follows.

10:63-3.21 Medicaid Occupancy Initiative

(a) For purposes of this section, the term "public assistance" refers specifically to the General Public Assistance Law, N.J.S.A. 44:8-107 et seq.

(b) The Department of Human Services shall pay a supplement for routine patient care expenses to the prospective per diem Medicaid reimbursement rates of non-governmental long term care facilities participating in the Medicaid program that have a Medicaid occupancy level above or within two percent of the Statewide average Medicaid occupancy level.

1. For this purpose, the Statewide average Medicaid occupancy level shall be calculated using the sum of the average number of Medicaid recipients and recipients of public assistance under N.J.S.A. 44:8-107 et seq. residing in each skilled nursing and intermediate care facility in the State divided by the total number of skilled nursing and intermediate care facility licensed beds in the State, during that month. This calculation shall not include either governmental facilities or facilities which have conditionally withdrawn from or do not participate in the Medicaid Program as long term care providers. Medicaid and public assistance recipients shall include only those residents in a facility who receive skilled nursing or intermediate care services for which the facility is being reimbursed by either of these Programs.

2. For this purpose, each facility's Medicaid occupancy level shall be calculated using the average number of Medicaid recipients and recipients of public assistance residing in a long term care facility divided by the total number of licensed beds in the facility, during that month. The calculation of Medicaid occupancy level shall include eligible bed reserve days in the determination of Medicaid recipients and recipients of public assistance under N.J.S.A. 44:8-107 et seq. Medicaid and public assistance recipients shall include only those residents in a facility who receive skilled nursing or intermediate care services for which the facility is being reimbursed by either of these Programs.

(c) For the purpose of making payment under this section, the Department shall determine the Statewide average Medicaid occupancy level and the Medicaid occupancy level using the number of Medicaid recipients and licensed beds for the actual billing month, if available, or for the most recent month available at the time the regular Medicaid monthly billing is being processed.

(d) The supplement will be paid monthly to qualifying facilities for the billing periods between October 1, 1988 to September 30, 1989.

(e) The interim supplement to the prospective per diem reimbursement rates shall be as follows:

i. For facilities which have a Medicaid occupancy level between a percentage which is two percent below the Statewide average Medicaid occupancy level and 79.9 percent, the amount of $2.60 per diem.

ii. For facilities which have a Medicaid occupancy level between 80 percent and 89.9 percent, the amount of $2.85 per diem.

iii. For facilities which have a Medicaid occupancy level between 90 percent and 100 percent, an amount of $3.10 per diem.

(f) The final supplement to the per diem reimbursement rate will be based upon a reconciliation of the actual Statewide census for the periods October 1, 1988 to September 30, 1989 with the total appropriation. Final settlement will be paid to the facilities based upon their actual reported occupancy.

(g) Unexpended amounts on the funds appropriated for this supplement at the end of the one year statutory period shall be used to adjust the payment of the supplement. A reserve of approximately one million ($1,000,000) dollars shall be withheld in anticipation of increased Medicaid occupancy and potential facility appeals.

(h) Any payment of funds to a facility which is inconsistent with the provisions of this section is subject to recovery of both principal and interest and any other penalties which may be applicable under the New Jersey Medicaid Act. The interest and overpayment penalties may only be assessed in those instances where the error is attributable to the facility.

(i) N.J.A.C. 10:63-3.19, which limits the rates paid to a facility to the certified lowest semi-private rate charged to private patients, will not be applicable to any per diem rate resulting from this section until the first full month following the publication of this section in the New Jersey Register.

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Notice of Comment Period Extension
Public Hearing on the Proposed Amendment to the Monmouth County Water Quality Management Plan

Take notice that the Department of Environmental Protection is extending until June 2, 1989 the period for submission of written comments on the Holmdel Township Wastewater Management Plan. Notice of the public hearing on the proposed amendment to the Monmouth County Water Quality Management Plan was published on April 3, 1989 in the New Jersey Register at 21 N.J.R. 936(b). Please refer to that notice for further information.

Submit written comments by June 2, 1989 to:

George Horzepa
Bureau of Water Quality Planning
Division of Water Resources
401 East State Street
CN-029
Trenton, NJ 08625

(b)

DIVISION OF WATER RESOURCES

Announcement: Application Period for Water Supply Rehabilitation and Interconnection Loan Program

Public Notice

Take notice that Christopher A. Daggett, Commissioner of the Department of Environmental Protection, pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261, and the Consolidated Water Supply Loan Regulations, N.J.A.C. 7:1A-1, 2, 3, 4 and 5, announces that the Department will be accepting loan applications until June 30, 1989 for local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly owned water supply transmission facilities and for the interconnection of unconnected or inadequately connected water supply systems. Any political subdivision of the State or agency thereof shall be eligible to apply for the water supply rehabilitation or interconnection loan. Note that N.J.A.C. 7:1A-2.3(a) requires every applicant to schedule an informal pre-application conference with the Division of Water Resources prior to making a formal application for a water supply bond rehabilitation or interconnection loan.

Applications may be obtained and pre-application conferences may be scheduled by contacting the Division of Water Resources as listed below. Any questions concerning the water supply rehabilitation or interconnection loan programs should be addressed to:

Philip Royer
Division of Water Resources
Water Supply Element
401 E. State Street
CN-029
Trenton, New Jersey 08625
(609) 633-7486

Note that all applications for the water supply rehabilitation or interconnection loan program must be received on or before June 30, 1989.

This notice is published as a matter of public information.

(c)

DIVISION OF WATER RESOURCES

Amendment to the Lower Delaware Water Quality Management Plan

Public Notice

Take notice that on September 7, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Lower Delaware Water Quality Management Plan was adopted by the Department. This amendment will allow the replacement of the existing 0.235 million gallons per day (MGD) Leesburg State Prison Sewage Treatment Plant (STP) located in Maurice River Township, Cumberland County, with a new 0.55 MGD STP which will discharge to Riggins Ditch. The existing STP will be converted to a pump station. There will be no encroachment in wetlands from this project, except for an outfall which will be buried and re-vegetated.

(d)

DIVISION OF WATER RESOURCES

Amendment to the Mercer County Water Quality Management Plan

Public Notice

Take notice that on October 19, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Mercer County Water Quality Management Plan was adopted by the Department. This amendment will expand the sewer service area of the City of Trenton Sewage Treatment Plant to include the proposed Mercer County Resource Recovery Facility in Hamilton Township.

(e)

DIVISION OF WATER RESOURCES

Public Hearing on the Proposed Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that an amendment to the Northeast Water Quality Management (WQM) Plan has been submitted for approval. A Wastewater Management Plan for Chatham Township has been prepared. That document allows for the upgrade and expansion of the Chatham Township Water Pollution Control Plant from 0.75 million gallons per day (mgd) to 1.0 mgd to accommodate flows from that facility's existing and proposed sewer service areas as delineated in the Wastewater Management Plan.

This notice is being given to inform the public that a nonadversarial public hearing will be held by the New Jersey Department of Environmental Protection (NJDEP) on the above mentioned plan amendment. The hearing will be held on Thursday, June 29, 1989, from 7 P.M. to 10 P.M. at the Chatham Municipal Building, 58 Meyersville Road, Chatham, New Jersey. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Chatham Municipal Building and at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 9:00 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted by Friday, July 14, 1989. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

(a)

DIVISION OF WATER RESOURCES

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that on November 21, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Northeast Water Quality Management Plan was adopted by the Department. This amendment is to adopt a Wastewater Management Plan for the Township of Livingston. That document allows the Livingston Water Pollution Control Facility a design capacity of 4.2 million gallons per day (12 month average) and no change in the facility's effluent limits (concentration, pounds per day and efficiency will remain the same). The Township of Livingston will be designated as the Wastewater Management Agency.

(b)

DIVISION OF WATER RESOURCES

Amendment to the Sussex County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Sussex County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would adopt a Wastewater Management Plan for the Borough of Branchville. That document allows for the delineation of an on-site groundwater disposal system service area which includes Selective Insurance Company of America and Franklin Mutual Insurance Company, the delineation of an individual subsurface sewage disposal system service area, the formation of a septic wastewater management district, and a wastewater treatment facility for treating the backwash from treatment of the Borough's potable water supply. The Borough of Branchville will be designated as the Wastewater Management Agency.

This notice is being given to inform the public that a plan amendment has been developed for the Sussex County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment are located at the Sussex County Water Resource Management Program, 57 High Street, Newton, New Jersey 07860; and the NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

The Sussex County Board of Chosen Freeholders will hold a **public meeting** on the proposed Sussex County WQM Plan amendment. The public meeting will be held on Tuesday, May 23, 1989 at 8:30 P.M. in the Freeholders Meeting Room of the Sussex County Administration Complex at Don Bosco College, Swartswood Road, Newton, New Jersey.

Interested persons may submit written comments on the amendment to Ms. Lyn Halliday at the Sussex County Water Resource Management Program address cited above; and Mr. George Horzepa, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted by June 14, 1989. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Sussex County Board of Chosen Freeholders with respect to the amendment request. In addition, if the amendment is adopted by Sussex County, the NJDEP must review the amendment prior to final adoption.

The comments received in reply to this notice will also be considered by the NJDEP during its review. Sussex County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(c)

DIVISION OF WATER RESOURCES

Amendment to the Sussex County Water Quality Management Plan

Public Notice

Take notice that on January 3, 1989 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Sussex County Water Quality Management Plan was adopted by the Department. A Wastewater Management Plan (WMP) has been prepared for Hardyston Township. This WMP will amend the Upper Wallkill Valley Water Pollution Control Plant allocation previously approved by the Department. The wastewater facility will remain at 2.5 million gallons per day.

(d)

DIVISION OF WATER RESOURCES

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on September 19, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment will allow the expansion of the Burlington Township sewer service area to include the proposed Society Hill at Burlington (Oxmead Farms) Block 131, Lot 1, Burlington Township, Burlington County. This amendment will also allow the filling of 0.6395 acres of isolated wetlands.

(e)

DIVISION OF WATER RESOURCES

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that on January 19, 1989, pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Tri-County Water Quality Management Plan was adopted by the Department. This amendment will allow the expansion of the Logan Township Municipal Utilities Authority's (MUA) sewer service area to include the proposed Heron Drive sewer extension and its service area: parts of Blocks 43 and 44 located in Logan Township, Gloucester County.

(f)

DIVISION OF WATER RESOURCES

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment will adopt the Winslow Township Wastewater Management Plan. The Wastewater Management Plan will allow the proposed Winslow Township Elementary School No. 5. The wastewater generated from the school will be treated by an on-site wastewater treatment facility designed to treat 15,000 gallons per day that will be discharged to groundwater. Table 4.4 of the Tri-County Water Quality Management Plan will be revised to identify Winslow Township as a Wastewater Management Planning Area.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, Third Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall be extended 15 days after the close of the public hearing.

(a)

DIVISION OF FISH, GAME AND WILDLIFE DIVISION OF SCIENCE AND RESEARCH

Bluefish Consumption Advisory

Take notice that, pursuant to N.J.S.A. 13:1D-9 and 13:1B-23 et seq., the Department of Environmental Protection (Department) hereby issues this notice to amend the existing advisory concerning the consumption of bluefish (Pomatomus saltatrix). This notice revises the current consumption advisory for bluefish by extending it to include all of New Jersey's coastal and offshore waters (coastal waters) and by restricting its application to only those bluefish of a size larger than 24 inches in length or six pounds in weight (large bluefish). As such, the Department advises that the consumption of large bluefish should be limited. Limited consumption means that persons of high risk, including pregnant women, nursing mothers, women of child-bearing age and children, should not eat any large bluefish taken from coastal waters and that all other persons are advised to limit their consumption to one meal a week of such large bluefish. This notice is intended to inform the public of the potential health consequences associated with the consumption of large bluefish, which have been found to contain polychlorinated biphenyls (PCBs), in order that the public may be able to reduce its dietary exposure to PCBs. This limitation on consumption does not apply to the consumption of bluefish of 24 inches or less in length or six pounds or less in weight that make up approximately three-quarters of New Jersey's recreational catch.

The toxicity of PCBs has been well documented, although there is uncertainty regarding the type and magnitude of the effects that would be predicted from consumption of PCB-contaminated fish. PCBs are known to cause cancer in laboratory animals and are, therefore, considered to be a probable human carcinogen. PCBs have also been associated with a number of other adverse health effects, including birth defects and injury to the nervous system. In addition, as in fish, these chemicals can accumulate in the human body. Surveys conducted by the United States Food and Drug Administration (FDA) indicate that fish are the only food group in which detectable levels of PCB contamination are routinely found.

In 1982, the Department adopted a rule by emergency proceedings that established a bluefish consumption advisory for New Jersey coastal waters from the Hudson River estuary to Barnegat Inlet. The rule was based on the results of a comprehensive survey of PCB contamination in finfish and shellfish that had been carried out beginning in 1976 by the Department's Divisions of Science and Research (then the Office of Cancer and Toxic Substances Research) and Fish, Game and Wildlife. This 1982 advisory was adopted as part of a permanent rule by ordinary rulemaking proceedings in 1983.

The data available at the time of the 1982 advisory was limited and did not justify the issuance of a consumption advisory for bluefish taken from New Jersey coastal waters south of Barnegat Inlet. However, since that time both the Department and the Federal government have undertaken more extensive study of PCB levels in bluefish. In 1985, the National Oceanic and Atmospheric Administration (NOAA) led a Federal tudy of PCB levels in bluefish for the entire Atlantic coast. The Department also undertook a Statewide study of PCB levels in bluefish in 1985 and has continued sampling for PCBs in the years 1986-88.

In the Federal study, none of the fish tested with total lengths less than approximately 22 inches contained PCBs at levels in excess of the FDA tolerance level of 2.0 parts per million (ppm). In its studies, DEP used a slightly different threshold (total length of approximately 24 inches) to define large bluefish, and found that only one bluefish less than approximately 24 inches long contained PCBs at a concentration greater than 2.0 ppm. In both studies, however, some large bluefish taken from both northern (north of Barnegat Inlet) and southern (south of Barnegat Inlet) coastal waters contained PCBs at levels greater than the FDA tolerance level.

The results of these more recent studies show that PCB contamination of bluefish in excess of 2.0 ppm is, with extremely rare exceptions, limited to large bluefish. This is consistent with the process of PCB accumulation in fish, in which PCBs accumulate in fatty tissues over the life of the animal; larger, older fish would, therefore, be expected to have higher concentrations of PCBs in their bodies. The results also support the extension of the advisory to large bluefish taken from those waters south of Barnegat Inlet.

The Department recognizes the importance of recreational and commercial harvest of bluefish to the economy of the State. At the same time, however, the Department is aware of the potential public health consequences of PCB contamination and of the need for the public to reduce dietary exposure to PCBs to the greatest extent feasible. Based on this need, the Department issues this advisory to limit consumption of large bluefish (greater than 24 inches in length or 6 pounds in weight) from all of New Jersey's coastal and offshore waters.

The Department will utilize all reasonable and effective methods to publicize and educate the citizens of the State with respect to the contents of this advisory, as well as in the means of proper preparation of bluefish prior to consumption to further reduce dietary exposure to PCBs. New information regarding this advisory will be publicized as it becomes available. Rulemaking consistent with this advisory will also be prepared.

(b)

PINELANDS COMMISSION

Extension for Review of Petition for Rulemaking Pinelands Land Capability Map

N.J.A.C. 7:50-5.3(a)24

Petitioners: Anatole Kalinuk et al.
Authority: N.J.S.A. 13:18A-65.

Take notice that on April 11, 1989, Anatole Kalinuk et al. filed a request for the Pinelands Commission to further delay its action on a pending petition for rulemaking.

A petition for rulemaking was filed with the Pinelands Commission on December 7, 1988. A notice of the petition was published on February 6, 1989 at 21 N.J.R. 345(a). The Pinelands Commission was originally scheduled to receive a report on the petition from the Commission's Executive Director and decide whether the petition warranted a formal rulemaking proposal at its meeting on April 7, 1989. Because the petitioners wish to review comments received by the Pinelands Commission from the public and governmental agencies and submit additional information in response to those comments, the Pinelands Commission was requested and granted one 30 day extension. The petitioners have requested an additional 30 day extension because information concerning critical habitat areas for threatened and endangered wildlife species is extensive and requires additional time to compile.

Take further notice that the Executive Director of the Pinelands Commission has agreed to the 30 day extension. The Pinelands Commission is now scheduled to consider the petition at its meeting of June 2, 1989.

COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT

(c)

DIVISION OF ENERGY PLANNING AND CONSERVATION

Notice of Public Hearings

Draft New Jersey Energy Master Plan

Take notice that the Division of Energy Planning and Conservation, at the direction of the Energy Master Plan Committee created pursuant to P.L. 1987, c.365, announces the availability of the **Draft New Jersey Energy Master Plan** (NJEMP) for review and public comment. In accord with the requirements of N.J.S.A. 52:27F-14b, the Energy Master Plan Committee will hold a series of open public meetings following the schedule stated below, to receive written and oral testimony on the Plan. These hearings will be quasi-legislative in nature. The swearing in of witnesses and cross-examination of presenters will not be permitted.

Upon completion of the hearings, the Division of Energy Planning and Conservation will prepare for consideration by the Committee, a comment and response document which will respond to the concerns of the public and may recommend changes to the draft NJEMP based upon the public testimony. The Committee is composed of the Commissioners or their designees from the following State cabinet level departments: Commerce, Energy and Economic Development; Environmental Protection; Community Affairs; Health; Human Services; Treasury; and Transportation. The Committee will then meet to consider the recommendations in the comment and response document and together with any additions, deletions or revisions formally adopt the NJEMP. The Master Plan Committee will transmit sufficient copies to the Governor and the Legislature for their use.

Upon adoption, the Committee shall print such numbers of the NJEMP as needed for distribution to the public. The Committee at such time as it deems appropriate may charge a fee for the continued printing and distribution of the NJEMP.

The following schedule will be followed for the public hearings: Afternoon and evening sessions will start at the times noted and continue until each person or organization has been given an opportunity to testify:

June 16, 1989, City Council Chamber, Newark—1:00 P.M.; Boro of Madison, Hartley Dodge Memorial (Boro Hall)—7:00 P.M.

June 19, 1989, Mary Roebling Building, 2nd Floor, Trenton—1:00 P.M.; Princeton University, Center For Energy and Environmental Studies, Princeton—7:00 P.M.

June 20, 1989, Atlantic County Office Building, Northfield—1:00 P.M.; Dover Twp. Municipal Bldg., 33 Washington Street, Toms River, Gallery Room—6:30 P.M.

June 21, 1989, City Council Chambers, Camden—1:00 P.M.; Vineland City Hall—7:00 P.M.

Requests to testify should indicate the name of the individual, organization represented, hearing location for presentation of the testimony, and special scheduling requirements. Requests to testify can be submitted up to the first day of public hearing. After that date individuals should appear at a hearing site and indicate their desire to testify to the hearing officer. The Division would appreciate the submission of prefiled testimony to accompany the Request to Testify. A Certified Court Reporter will be present at each hearing location and session. Requests to testify at a specific location, prefiled testimony and requests for additional information should be submitted to:

Edward J. Linky, Esq.
Chief Regulatory Officer
Division of Energy Planning and Conservation
101 Commerce Street
Newark, New Jersey 07102
201-648-2410

HUMAN SERVICES

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Availability of Grants
Federal Dependent Care: School-Age Child Care Planning Grants

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the Division of Youth and Family Services hereby announces the availability of the following grant program.

A. **Name of Program:** Federal Dependent Care: School-Age Child Care Planning Grants (Subsection D of P.L. 99-425).

B. **Purpose:** To distribute grant funds for the purpose of planning, development, establishment, expansion or improvement of school-age child care services. School-age child care services are defined as programs, other than family day care homes, that provide care and supervision for children five to 13 years of age, including before school care, during school care (kindergarten only), after school care, care during regular school holidays, care during school vacations, and care during other school closings.

C. **Amount of Monies in Program:** The amount of monies available is $60,000, with individual grants ranging from a minimum of $5,000 to a maximum of $10,000.

D. **Organizations which may apply for funding under this grant program:** Agencies which apply for grants must be schools, not for profit agencies, or public agencies that provide or plan to provide non-sectarian child care.

E. **Qualifications needed by an applicant to be considered for funding:** Applicants must meet eligibility requirements in section D and intend to use grant funds for the purposes described in section D. Grant funds may not be used to:

1. Pay the cost of operations of any school-age child care program established, expanded, or improved under this grant program;
2. Make cash payments to the recipients of school-age child care services;
3. Subsidize the direct provision of services to clients of school-age child care programs; or
4. Pay for construction or renovation of a school-age child care program.

F. **Procedure for eligible organizations to apply:** Applications can be requested from:

Steven K. Rosen
Office of Child Care Development
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625
609-292-0887

G. **Address for applications to be submitted:** Same as F above.

H. **Deadline by which applications must be submitted:** Completed applications must be submitted by June 9, 1989.

I. **Date by which applicant shall be notified of approval or disapproval:** Applicants shall receive notice of approval or disapproval within 30 days after the deadline for receipt of applications.

INSURANCE

(b)

DIVISION OF ADMINISTRATION

Public Notice
Information on Total Written Car Years Insured Pursuant to Section 29 of P.L. 1988, c.119 (N.J.S.A. 17:29A-6.1)

Take notice that Kenneth D. Merin, Commissioner of Insurance, in accordance with the provisions of Section 28 of P.L. 1988, c.119 (N.J.S.A. 17:29A-6.1), announces the publication of information on total written car years insured. This public notice is to enable the identification of insurers writing motor vehicle insurance in this State whose total written car years insured, on a calendar basis, equals or exceeds two percent on January 1, 1989, of the total written car years insured by insurers writing motor vehicle insurance in this State, for the same calendar year. Any such insurer shall make its own rates for motor vehicle insurance in accordance with the provisions of N.J.S.A. 17:29A-1 et seq., based on the insurer's own loss experience for those lines. The following is information on total written car years insured: Total 2,170,490.

OTHER AGENCIES

(c)

CASINO CONTROL COMMISSION

Petition for Rulemaking
Complimentary Services and Items
N.J.A.C. 19:45-1.1, 1.9, (New Rule) 1.9A and 1.15

Petitioner: Division of Gaming Enforcement
Authority: N.J.S.A. 5:12-69(c), 76(b) and 52:14B-4(f); N.J.A.C. 1:30-3.6

Take notice that on March 30, 1989, the Division of Gaming Enforcement ("Division") filed a rulemaking petition with the Casino Control Commission requesting amendments to N.J.A.C. 19:45-1.1, 1.9, (New Rule) 1.9A and 1.15. The Division proposes these amendments in order to effectuate those modifications to N.J.S.A. 5:12-102(m) relating to

complimentary services as approved by the Legislature and effective January 14, 1988.

Specifically, the petitioner proposes the following changes:

The amendment to N.J.A.C. 19:45-1.1, "Definitions", would include reference to two forms required by proposed new rule N.J.A.C. 19:45-1.9A.

Proposed modifications to N.J.A.C. 19:45-1.9 would clarify the permissible types of complimentary services and items that a casino licensee is entitled to offer to its gaming patrons.

The proposed new rule, N.J.A.C. 19:45-1.9A, sets forth the procedures to be utilized by casino licensees in making transportation expense reimbursements to patrons.

N.J.A.C. 19:45-1.15 would be amended to add to the functions of the general cashiers the requirement to process properly authorized travel expense reimbursements and to include the supporting documentation pertaining to such reimbursement with other forms, records and documents required to be forwarded to the accounting department at the conclusion of gaming activity each day.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 52:14B-4.

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the April 3, 1989 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1989 d.1 means the first rule adopted in 1989.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT MARCH 20, 1989

NEXT UPDATE: SUPPLEMENT APRIL 17, 1989

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
20 N.J.R. 1019 and 1126	May 16, 1988	20 N.J.R. 2949 and 3046	December 5, 1988
20 N.J.R. 1127 and 1316	June 6, 1988	20 N.J.R. 3047 and 3182	December 19, 1988
20 N.J.R. 1317 and 1500	June 20, 1988	21 N.J.R. 1 and 88	January 3, 1989
20 N.J.R. 1501 and 1594	July 5, 1988	21 N.J.R. 89 and 224	January 17, 1989
20 N.J.R. 1595 and 1758	July 18, 1988	21 N.J.R. 225 and 364	February 6, 1989
20 N.J.R. 1759 and 1976	August 1, 1988	21 N.J.R. 365 and 588	February 21, 1989
20 N.J.R. 1977 and 2122	August 15, 1988	21 N.J.R. 589 and 658	March 6, 1989
20 N.J.R. 2123 and 2350	September 6, 1988	21 N.J.R. 659 and 810	March 20, 1989
20 N.J.R. 2351 and 2416	September 19, 1988	21 N.J.R. 811 and 954	April 3, 1989
20 N.J.R. 2417 and 2498	October 3, 1988	21 N.J.R. 955 and 1036	April 17, 1989
20 N.J.R. 2499 and 2610	October 17, 1988	21 N.J.R. 1037 and 1178	May 1, 1989
20 N.J.R. 2611 and 2842	November 7, 1988	21 N.J.R. 1179 and 1474	May 15, 1989
20 N.J.R. 2843 and 2948	November 21, 1988		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:1-10.4	Discovery: requests for admissions	20 N.J.R. 2845(b)	R.1989 d.190	21 N.J.R. 889(a)
1:13A	Lemon Law hearings	21 N.J.R. 91(a)	R.1989 d.189	21 N.J.R. 889(b)
	Most recent update to Title 1: TRANSMITTAL 1989-2 (supplement March 20, 1989)			
AGRICULTURE—TITLE 2				
2:5-2.1, 2.3, 2.5, 2.6, 2.8	Equine infectious anemia	21 N.J.R. 92(a)	R.1989 d.270	21 N.J.R. 1384(a)
2:24-2.1	Over-wintering of bees	20 N.J.R. 2951(a)		
2:69-1.11	Commercial values of primary plant nutrients	21 N.J.R. 813(a)		
2:71-2.2, 2.4	"Jersey Fresh" logo program	21 N.J.R. 591(a)	R.1989 d.235	21 N.J.R. 1118(a)
2:71-2.4, 2.5, 2.6	"Jersey Fresh" logo program	21 N.J.R. 227(a)	R.1989 d.234	21 N.J.R. 1118(b)
2:76-5.3	Soil and water conservation projects: cost sharing	21 N.J.R. 230(a)	R.1989 d.213	21 N.J.R. 981(a)
2:76-9.1, 9.2	Emergency acquisition of development easements on farmland	21 N.J.R. 231(a)	R.1989 d.214	21 N.J.R. 981(b)
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3:1-16	Mortgage loan practices	20 N.J.R. 1021(b)	R.1989 d.191	21 N.J.R. 981(c)
3:1-16.1	Mortgage loan practices	21 N.J.R. 957(a)		
3:11	Lending and investments by State banks	21 N.J.R. 367(a)	R.1989 d.236	21 N.J.R. 1121(a)
3:22-1	Insurance premium finance agreements	21 N.J.R. 661(a)		
3:24-5.1	Licensed check cashing	20 N.J.R. 2353(a)	R.1989 d.219	21 N.J.R. 990(a)
3:33-1	Proposed interstate acquisition: determination of eligibility	21 N.J.R. 814(a)		
3:38-5	Repeal (see 3:1-16)	20 N.J.R. 1021(b)	R.1989 d.191	21 N.J.R. 981(c)
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4:2-16.1, 16.2	Repeal (see 4A:8)	20 N.J.R. 2955(b)		
4:3-16.1, 16.2	Repeal (see 4A:8)	20 N.J.R. 2955(b)		
	Most recent update to Title 4: TRANSMITTAL 1988-3 (supplement September 19, 1988)			
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4A:8	Layoffs	20 N.J.R. 2955(b)		
4A:8	Layoffs: change of public hearing dates	20 N.J.R. 3171(a)		
	Most recent update to Title 4A: TRANSMITTAL 1989-1 (supplement January 17, 1989)			
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5:2-1	Organization of department (see also 5:51-1)	Exempt	R.1989 d.237	21 N.J.R. 1122(a)
5:2-2	Petitions for rules (recodified from 5:29-1)	Exempt	R.1989 d.237	21 N.J.R. 1122(a)
5:10-11.1	Hotels and multiple dwellings: correction to text	———	———	21 N.J.R. 1123(a)
5:11	Relocation assistance and eviction	21 N.J.R. 231(b)	R.1989 d.188	21 N.J.R. 891(a)
5:11	Relocation Assistance and Eviction rules: waiver of Executive Order No. 66(1978) expiration provision	21 N.J.R. 592(a)		
5:11-8.5	Recovery of relocation assistance costs	21 N.J.R. 1039(a)		
5:15	Emergency shelters for the homeless	20 N.J.R. 341(b)	R.1989 d.10	21 N.J.R. 1123(b)
5:17	Retirement community full disclosure	21 N.J.R. 958(a)		

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5:23-2.18A	Utility load management devices: installation programs	21 N.J.R. 233(a)		
5:23-4.3	Uniform Construction Code: assumption of local enforcement powers	20 N.J.R. 1764(a)		
5:23-8	Asbestos Hazard Abatement Subcode	20 N.J.R. 1130(b)		
5:26-1.3, 11.7	Retirement community full disclosure	21 N.J.R. 958(a)		
5:27-3.3	Rooming and boarding houses: emergency eviction of a resident	21 N.J.R. 93(a)		
5:29-1	Petitions for rules (see 5:2-2)	Exempt	R.1989 d.237	21 N.J.R. 1122(a)
5:29-2	Landlord-tenant relations	Exempt	R.1989 d.237	21 N.J.R. 1122(a)
5:50	Administration of funds received under Higher Education Act of 1965	21 N.J.R. 367(b)	R.1989 d.227	21 N.J.R. 1133(a)
5:51-1	Handicapped Persons' Recreational Opportunities Act (recodified from 5:2-1)	Exempt	R.1989 d.237	21 N.J.R. 1122(a)
5:70-6.3	Congregate Housing Services Program: service subsidies formula	21 N.J.R. 816(a)		
5:80-3.3	Housing and Mortgage Finance Agency: return on housing sponsors' equity	21 N.J.R. 94(a)	R.1989 d.259	21 N.J.R. 1331(b)
5:91-5.2, 6.2, 7.1, 7.3	Council on Affordable Housing: mediation process	20 N.J.R. 3050(a)		
5:92-1.3, 11.2, 14.3	Council on Affordable Housing: alternative living arrangements	21 N.J.R. 595(a)	R.1989 d.264	21 N.J.R. 1331(c)
5:92-1.3, 12	Council on Affordable Housing: controls on affordability	21 N.J.R. 592(b)		
5:92-14.4	Council on Affordable Housing: rental unit credit	21 N.J.R. 234(a)	R.1989 d.265	21 N.J.R. 1332(a)
5:100	Ombudsman for the institutionalized elderly	21 N.J.R. 368(a)		
5:100	Ombudsman for the institutionalized elderly: extension of comment period	21 N.J.R. 958(b)		

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6:3-5	Reporting of allegations of child abuse	21 N.J.R. 3(b)	R.1989 d.193	21 N.J.R. 892(a)
6:3-6	Enforcement of drug free school zones	21 N.J.R. 817(a)		
6:8-1.1, 4.3, 7.1	High school core proficiencies	21 N.J.R. 235(a)	R.1989 d.240	21 N.J.R. 1134(a)
6:11-3	Bilingual/ESL certification; basic communication skills certification	21 N.J.R. 95(a)		
6:28	Special education	21 N.J.R. 239(a)	R.1989 d.239	21 N.J.R. 1385(a)
6:30-1.7, 2.3, 2.6	Adult education programs: monitoring and funding	21 N.J.R. 1039(b)		
6:39	High school core proficiencies	21 N.J.R. 235(a)	R.1989 d.240	21 N.J.R. 1134(a)
6:46-4.1, 4.4–4.20, 5.2	Private vocational schools and correspondence schools	21 N.J.R. 262(a)	R.1989 d.241	21 N.J.R. 1137(a)

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7:4A	Historic Preservation Grant Program	21 N.J.R. 958(c)		
7:6	Boating rules	Emergency (expires 6-11-89)	R.1989 d.244	21 N.J.R. 1157(a)
7:6-1.44, 4.7, 9	Lanyard cut-off switch; Greenwood Lake boating; personal watercraft	Emergency (expires 6-11-89)	R.1989 d.245	21 N.J.R. 1157(b)
7:7	Coastal Permit Program	21 N.J.R. 369(a)		
7:7	Coastal Permit Program: extension of comment period	21 N.J.R. 1041(a)		
7:7-2.3	Waterfront development	21 N.J.R. 4(a)	R.1989 d.243	21 N.J.R. 1141(a)
7:7-2.3	Waterfront development: extension of comment period	21 N.J.R. 267(a)		
7:7A-1.4, 2.5, 6, 7	Freshwater wetlands transition areas	21 N.J.R. 596(a)		
7:7A-9.2, 9.4	Freshwater wetlands protection: Statewide general permits for certain activities	20 N.J.R. 1327(a)		
7:7E-3.46	Hudson River waterfront development	20 N.J.R. 1982(a)	R.1989 d.271	21 N.J.R. 1332(b)
7:9-2	Repeal (see 7:9A)	20 N.J.R. 1790(a)		
7:9-4	Surface water quality standards: public hearings	20 N.J.R. 1865(a)		
7:9-4	Surface water quality standards: extension of comment period	20 N.J.R. 2427(a)		
7:9-4.4, 4.5, 4.6, 4.14, 4.15, Indexes A–G	Surface water quality standards	20 N.J.R. 1597(a)		
7:9A	Individual subsurface sewage disposal systems	20 N.J.R. 1790(a)		
7:9A	Individual subsurface sewage disposal systems: extension of comment period	20 N.J.R. 2427(b)		
7:11-2.1–2.5, 2.8–2.14	Sale of water from Delaware and Raritan Canal, Spruce Run/Round Valley system	21 N.J.R. 103(a)		
7:12-1.1, 2.1, 3.2, 4.1, 4.2, 5.1, 9.1, 9.7, 9.8, 9.9, 9.12	Shellfish-growing water classification	21 N.J.R. 1041(b)		

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7:13	Flood hazard area control: extension of comment period	21 N.J.R. 1046(a)		
7:13-7.1(d)	Redelineation of Bound Brook within South Plainfield and Edison	20 N.J.R. 3051(b)		
7:13-7.1(d)	Redelineation of West Branch Rahway River, West Orange	21 N.J.R. 605(a)		
7:13-7.1(d)	Redelineation of Ramapo River in Mahwah	21 N.J.R. 1046(b)		
7:14	Water pollution control	21 N.J.R. 373(a)		
7:14A	New Jersey Pollutant Discharge Elimination System (NJPDES)	21 N.J.R. 707(a)		
7:14A-4.7	Hazardous waste management: polychlorinated biphenyls (PCBs)	21 N.J.R. 1047(a)		
7:14A-5.12	Closure of hazardous waste facilities	20 N.J.R. 2650(a)	R.1989 d.206	21 N.J.R. 991(a)
7:15	Statewide water quality management planning	20 N.J.R. 2198(a)		
7:15-3.4	Correction to proposed new rule	20 N.J.R. 2478(a)		
7:23	Emergency flood control	21 N.J.R. 1051(a)		
7:25-2.18	New Sweden and Oyster Creek wildlife management areas	21 N.J.R. 267(b)	R.1989 d.215	21 N.J.R. 1002(a)
7:25-7.13	Taking of blue crabs	21 N.J.R. 268(a)	R.1989 d.269	21 N.J.R. 1333(a)
7:25-22.1–22.4	Harvesting Atlantic menhaden	21 N.J.R. 107(a)		
7:26-1.1, 1.4, 2.7, 2.11, 2.12, 2.13, 2A.8, 2B.4, 2B.8, 3.1–3.5, 3.7, 4.1–4.5, 4.7–4.10, 16.2, 16.3, 16.13	Solid waste facility and transporter registration fees	20 N.J.R. 2668(a)	R.1989 d.216	21 N.J.R. 1002(b)
7:26-1.4, 7.4, 7.7, 8.2, 8.3, 8.4, 8.13, 9.1, 9.2, 10.6, 10.7, 10.8, 11.3, 11.4, 12.1	Hazardous waste management: polychlorinated biphenyls (PCBs)	21 N.J.R. 1047(a)		
7:26-1.4, 9.8, 9.9, 9.10, 9.11, 9.13, App. A, 12.3, 12.5	Closure of hazardous waste facilities	20 N.J.R. 2650(a)	R.1989 d.206	21 N.J.R. 991(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow: Essex County	20 N.J.R. 1048(a)		
7:26-7.3, 7.4, 7.5, 7.6	Hazardous waste management	20 N.J.R. 867(a)	R.1989 d.173	21 N.J.R. 893(a)
7:26-8.2, 12.3	Radioative mixed wastes	21 N.J.R. 1053(a)		
7:26-9.10, 9.13, App. A	Hazardous waste facility liability coverage: corporate guarantee option	21 N.J.R. 823(a)		
7:26-10.6, 11.3	Interim status hazardous waste facilities: closure and post-closure requirements	21 N.J.R. 1054(a)		
7:26-12.4	Hazardous waste management: permit standards	21 N.J.R. 108(a)	R.1989 d.217	21 N.J.R. 1010(a)
7:26B-1.3, 1.5, 1.6, 1.7, 1.8, 1.9, 3.3, 5.2, 7.5, 9.2, 10.1, 13.1	Environmental Cleanup Responsibility Act rules	21 N.J.R. 402(a)		
7:27-16.1, 16.2, 16.5, 16.6	Volatile organic substance emissions and ozone concentrations	20 N.J.R. 3052(a)		
7:27-23.2, 23.3, 23.4, 23.5	Volatile organic substances in consumer products	21 N.J.R. 1055(a)		
7:27A-3	Air pollution control: civil administrative penalties and adjudicatory hearings	21 N.J.R. 729(a)		
7:28-25	Radiation laboratory fee schedule	21 N.J.R. 826(a)		
7:45-1.2, 1.3, 2.6, 2.11, 4.1, 6, 9, 11.1–11.5	Delaware and Raritan Canal State Park review zone rules	21 N.J.R. 828(a)		

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8:8	Collection, processing, storage and distribution of blood	21 N.J.R. 407(a)	R.1989 d.246	21 N.J.R. 1412(a)
8:31B-3.16	Hospital reimbursement: labor cost component	21 N.J.R. 661(b)		
8:31B-3.16, 3.22, 3.24, 3.26, 3.38, 3.51–3.55, 3.58, 3.59, 3.73, App. II, IX, 5.1–5.3	Hospital reimbursement: extension of comment period for proposed changes published January 17, 1989	21 N.J.R. 606(a)		
8:31B-3.16, 3.22, 3.24, 3.26, 3.38, 3.73, App. II, IX	Hospital reimbursement: 1989 rate setting	21 N.J.R. 135(a)		
8:31B-3.16, 3.22, 3.24, 3.26, 3.38, 3.73, App. II, IX	1989 hospital rate setting: correction to Summary statement	21 N.J.R. 413(a)		
8:31B-3.22, 3.23, 3.24, App. XI	Hospital reimbursement: graduate medical education	21 N.J.R. 1059(a)		

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8:31B-3.51–3.55, 3.58, 3.59	Hospital reimbursement: appeals	21 N.J.R. 131(a)		
8:31B-5.1, 5.2, 5.3	Hospital reimbursement: Diagnosis Related Groups	21 N.J.R. 138(a)		
8:31C	Residential alcoholism treatment: facility rate setting	20 N.J.R. 2960(a)	R.1989 d.272	21 N.J.R. 1419(a)
8:33-1.5, 2.8	Applications to convert licensed acute care beds to non-acute categories	21 N.J.R. 272(a)		
8:33G	Computerized tomography services: certificate of need process	21 N.J.R. 1061(a)		
8:33J	Nuclear magnetic resonance services	21 N.J.R. 416(a)	R.1989 d.276	21 N.J.R. 1423(a)
8:33J-1.1–1.2	Magnetic resonance imaging services	21 N.J.R. 413(b)	R.1989 d.274	21 N.J.R. 1423(b)
8:33K	Residential alcoholism treatment facilities: bed standards	21 N.J.R. 150(a)	R.1989 d.218	21 N.J.R. 1011(a)
8:33M	Rehabilitation hospitals and comprehensive rehabilitation services: need review process	21 N.J.R. 1062(a)		
8:33N	Advanced life support programs: mobile intensive care units and critical care transport units	21 N.J.R. 268(b)	R.1989 d.273	21 N.J.R. 1425(a)
8:38-1.1, 1.4	HMOs and vision care services	21 N.J.R. 6(a)	R.1989 d.180	21 N.J.R. 895(a)
8:39-19.7	Hot water temperature in long-term care facilities	21 N.J.R. 417(a)		
8:42A	Licensure of alcoholism treatment facilities	20 N.J.R. 3059(a)		
8:42A	Licensure of alcoholism treatment facilities: correction to proposal	21 N.J.R. 833(a)		
8:43B-11.1, 11.3, 11.4	Rehabilitation hospitals: standards for licensure	21 N.J.R. 1067(a)		
8:43H	Rehabilitation hospitals: standards for licensure	21 N.J.R. 1067(a)		
8:60-1.4, 2.1 (12:120-1.4, 2.1)	Asbestos removal defined	20 N.J.R. 1049(a)	R.1989 d.247	21 N.J.R. 1333(b)
8:61-2.4	Retrovir reimbursement program	21 N.J.R. 606(b)	R.1989 d.275	21 N.J.R. 1429(a)
8:70-1.5	Interchangeable drug products: substitution of unlisted generics	20 N.J.R. 2623(a)		
8:71	Interchangeable drug products (see 20 N.J.R. 2769(a); 21 N.J.R. 63(b), 756(b))	20 N.J.R. 1766(a)	R.1989 d.257	21 N.J.R. 1430(a)
8:71	Interchangeable drug products (see 21 N.J.R. 63(c), 756(a))	20 N.J.R. 2356(a)	R.1989 d.256	21 N.J.R. 1429(c)
8:71	Interchangeable drug products (see 21 N.J.R. 755(b))	20 N.J.R. 3078(a)	R.1989 d.255	21 N.J.R. 1429(b)
8:71	List of Interchangeable Drug Products (see 21 N.J.R. 755(a))	21 N.J.R. 7(a)		
8:71	Interchangeable drug products	21 N.J.R. 662(a)		
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9:6A-4.3	Managerial employees at State colleges: annual salary increases	20 N.J.R. 3079(a)	R.1989 d.220	21 N.J.R. 1011(b)
9:7-3.2	1989-90 Tuition Aid Grant Award Table	21 N.J.R. 109(a)	R.1989 d.185	21 N.J.R. 897(a)
9:7-4.4	Garden State Scholarships supplemental awards eligibility	21 N.J.R. 110(a)	R.1989 d.186	21 N.J.R. 898(a)
9:7-6.4	Garden State Graduate Fellowships: approved programs	20 N.J.R. 2624(a)	R.1989 d.184	21 N.J.R. 898(b)
9:7-8.1	Vietnam Veterans Tuition Aid: eligibility	20 N.J.R. 2625(a)	R.1989 d.183	21 N.J.R. 899(a)
9:9-11	Stafford Loan Program: institution compliance standards	21 N.J.R. 963(a)		
9:11	Educational Opportunity Fund Program	20 N.J.R. 2506(a)	R.1989 d.222	21 N.J.R. 1012(a)
9:11-1.1	Educational Opportunity Fund grants: student eligibility	20 N.J.R. 1768(b)	R.1989 d.224	21 N.J.R. 1012(b)
9:11-1.6, 1.8, 1.9, 1.20	EOF grants: eligibility procedure; refunds	20 N.J.R. 1769(a)	R.1989 d.221	21 N.J.R. 1011(c)
9:11-1.7	EOF grants: award amounts	20 N.J.R. 1770(a)	R.1989 d.223	21 N.J.R. 1013(a)
9:12	Educational Opportunity Fund Program	20 N.J.R. 2506(a)	R.1989 d.222	21 N.J.R. 1012(a)
9:12-2.6, 2.9	EOF grants: eligibility procedure; refunds	20 N.J.R. 1769(a)	R.1989 d.221	21 N.J.R. 1011(c)
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10:31	Mental illness screening and screening outreach programs	20 N.J.R. 2427(d)		
10:37-5.6–5.11, 5.16–5.24	Repeal (see 10:31)	21 N.J.R. 273(a)		
10:41-4	Human rights committees for developmentally disabled persons	20 N.J.R. 2552(a)		
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10:45	Guardianship services for developmentally disabled persons	21 N.J.R. 607(a)		
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10:46	Services for developmentally disabled: withdrawal of proposal concerning determination of eligibility	21 N.J.R. 1086(a)		

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10:48-3	Lead toxicity control among developmentally disabled	20 N.J.R. 2555(a)		
10:48-3	Lead Toxicity Control Program: comment period	20 N.J.R. 2688(a)		
10:49-1.1	Medicaid program: newborn care	21 N.J.R. 965(a)		
10:49-1.1, 1.7-1.10, 1.14, 1.17, 1.19, 1.20, 1.22, 1.24, 1.26	Medicaid Administration Manual	21 N.J.R. 417(b)		
10:63-3.9-3.12	Reimbursement of long-term care facilities: fixed property and movable equipment	20 N.J.R. 2560(a)		
10:63-3.10	Reimbursement of long-term care facilities under CARE Guidelines: correction	20 N.J.R. 2968(a)		
10:63-3.21	Long-term care facilities: Medicaid occupancy level supplemental payment	Emergency (expires 6-17-89)	R.1989 d.254	21 N.J.R. 1456(a)
10:67-1.1, 1.6	Psychological Services: correction to text	———	———	21 N.J.R. 1430(b)
10:70-3.4	Medicaid program: newborn care	21 N.J.R. 965(a)		
10:72-3.4	Medicaid program: newborn care	21 N.J.R. 965(a)		
10:81-3.5	Verification of income and resources: administrative correction	———	———	21 N.J.R. 1430(c)
10:81-4.5	AFDC program: voluntary restricted payments	21 N.J.R. 7(b)	R.1989 d.205	21 N.J.R. 1013(b)
10:81-6.17	Emergency fair hearings: repealed text	———	———	21 N.J.R. 1014(a)
10:81-8.22, 8.23	Public Assistance Manual: Medicaid coverage of newborn children	21 N.J.R. 967(a)		
10:81-11.4	Direct child support payments to AFDC clients	21 N.J.R. 423(a)		
10:81-11.6	Child Support Program: incentive payment methodology	21 N.J.R. 663(a)		
10:81-14.5, 14.18	REACH Program: post-AFDC child care	21 N.J.R. 1086(b)		
10:82-5.10	Emergency Assistance in AFDC: temporary shelter allowances	20 N.J.R. 1147(a)		
10:85-3.2	General Assistance: residency and municipal responsibility	21 N.J.R. 835(a)		
10:85-3.2	GAM application process: correction to text	———	———	21 N.J.R. 1147(a)
10:85-3.3	General Assistance: income and eligibility	21 N.J.R. 836(b)		
10:97	Vending Facility Program for blind and visually impaired	21 N.J.R. 424(a)	R.1989 d.249	21 N.J.R. 1431(a)
10:120	Youth and Family Services hearings	20 N.J.R. 2742(a)		
10:122	Requirements for child care centers	20 N.J.R. 3079(b)	R.1989 d.261	21 N.J.R. 1431(b)
10:133	Personal Attendant Services Program	21 N.J.R. 273(b)		
10:141-1.4	Charity Racing Days for Developmentally Disabled: distribution of proceeds	21 N.J.R. 610(a)		

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10A:9-1.3, 5.2	Application of time credits to mandatory minimum term	21 N.J.R. 664(a)		
10A:16-2.9	Infirmary care	21 N.J.R. 969(a)		
10A:16-11	Special Medical Units	21 N.J.R. 111(a)		
10A:17-8	Recreation and leisure time activities	21 N.J.R. 665(a)		
10A:18-2.5, 4.4	Correspondence between inmates at different facilities; exchange of publications	21 N.J.R. 837(a)		
10A:18-2.6, 2.19, 2.20, 2.22	Inmate correspondence	20 N.J.R. 2854(a)		
10A:18-2.7	Inspection of outgoing correspondence	21 N.J.R. 277(a)	R.1989 d.204	21 N.J.R. 1014(b)
10A:18-4.7	Inspection of outgoing publications	21 N.J.R. 277(b)	R.1989 d.203	21 N.J.R. 1014(c)
10A:33	Juvenile Detention Commitment Programs	21 N.J.R. 667(a)		
10A:34-2.16, 2.20	Municipal detention facilities: surveillance of detainees; reporting deaths	21 N.J.R. 969(b)		

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11:1-10	Foreign and alien property and casualty insurers: admission requirements	21 N.J.R. 426(a)		
11:2-1, 19	Repeal (see 11:17-3, 5.7)	20 N.J.R. 1152(a)	R.1989 d.192	21 N.J.R. 899(b)
11:2-3	Credit life and credit accident and health insurance: preproposal	20 N.J.R. 2969(b)		
11:2-11.1, 11.6, 11.15, 11.18, 23.3, 23.5, 23.8	Life and health insurance advertising: third-party endorsements	21 N.J.R. 970(a)		
11:2-24	High-risk investments by insurers	21 N.J.R. 838(a)		
11:3-16	Private passenger automobile rate filings	21 N.J.R. 611(a)		
11:3-17	Rating organizations: private passenger automobile filings	21 N.J.R. 973(a)		

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11:3-20	Private passenger automobile insurers: financial disclosure and excess profits reporting	21 N.J.R. 667(b)	R.1989 d.277	21 N.J.R. 1335(a)
11:3-20A	Private passenger automobile insurers: computation of excess profits	21 N.J.R. 842(a)		
11:3-22.1, 22.3, Forms A, B	Automobile coverage option survey: PIP and tort threshold	21 N.J.R. 619(a)	R.1989 d.267	21 N.J.R. 1358(a)
11:3-24	Automobile coverage: policy constants	20 N.J.R. 3104(a)	R.1989 d.278	21 N.J.R. 1358(b)
11:3-25	Automobile coverage: residual market equalization charges	21 N.J.R. 278(a)	R.1989 d.279	21 N.J.R. 1361(a)
11:3-26, 27, 28	Unsatisfied Claim and Judgment Fund rules	21 N.J.R. 688(a)	R.1989 d.268	21 N.J.R. 1363(a)
11:3-29	Automobile insurance personal injury protection: medical fee schedules	21 N.J.R. 842(b)		
11:4-32	Health service corporations: notice of increased rates	21 N.J.R. 973(b)		
11:5-1.16	Real estate listing agreements	20 N.J.R. 2185(a)		
11:5-1.18	Supervision of real estate offices	20 N.J.R. 1160(a)		
11:5-1.23	Real estate offers and broker's obligations	20 N.J.R. 2186(a)		
11:5-1.34	Discriminatory commission—split policies	20 N.J.R. 1163(a)		
11:5-2	Organization of Real Estate Commission	Exempt	R.1989 d.258	21 N.J.R. 1364(a)
11:14	Auto body repair facilities: licensure rules	21 N.J.R. 280(a)	R.1989 d.195	21 N.J.R. 908(a)
11:17-3, 5.7	Insurance producer licensing: professional qualifications	20 N.J.R. 1152(a)	R.1989 d.192	21 N.J.R. 899(b)
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge	20 N.J.R. 2010(a)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge: correction	20 N.J.R. 2186(b)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge: public hearing	20 N.J.R. 2478(d)		
11:18	Medical Malpractice Reinsurance Recovery Fund surcharge: extension of open hearing record	20 N.J.R. 2855(a)		

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12:16-4.8	Employee remuneration for lodging and meals, room and board	21 N.J.R. 689(b)		
12:17-1.6	Unemployment insurance benefits: temporary separation from work	20 N.J.R. 1333(a)		
12:17-2.4, 2.5	Requalification for unemployment insurance benefits	20 N.J.R. 1522(a)		
12:17-7.1, 7.2, 7.3	Unemployment Compensation and Temporary Disability: disclosure of information	21 N.J.R. 975(a)		
12:45-1	Vocational rehabilitation services	20 N.J.R. 3107(a)		
12:45-2	Transportation for employees of sheltered workshops	21 N.J.R. 690(a)		
12:46–12:49	Repeal (see 12:45-1)	20 N.J.R. 3107(a)		
12:56-2.1	Wage and hour compliance: trainees in company programs	21 N.J.R. 692(a)		
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12:100-4.2, 10, 17	Safety standards for firefighters	21 N.J.R. 1090(a)		
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12:100-11	Public employee safety and health: control of hazardous energy sources	21 N.J.R. 620(a)	R.1989 d.238	21 N.J.R. 1144(a)
12:120-1.4, 2.1 (8:60-1.4, 2.1)	Asbestos removal defined	20 N.J.R. 1049(a)	R.1989 d.247	21 N.J.R. 1333(b)

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12A:55	Solar energy systems: criteria for sales and use tax exemption	21 N.J.R. 282(a)		
12A:100-1.2, 1.3, 1.4	Commission on Science and Technology: Innovation/Partnership program	21 N.J.R. 433(a)	R.1989 d.225	21 N.J.R. 1146(a)
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13:10	Multiple dwelling reports concerning racial composition	21 N.J.R. 11(b)	R.1989 d.211	21 N.J.R. 1016(a)

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13:27-4.5, 4.6, 4.7, 4.8, 4.10, 4.12, 4.13	Architectural practice and responsibility	21 N.J.R. 433(b)		
13:27-8.16, 9.5	Architects and certified landscape architects: change of address; service of process	21 N.J.R. 114(b)	R.1989 d.202	21 N.J.R. 1016(b)
13:29-6	Practice of accountancy: continuing education	20 N.J.R. 2532(a)	R.1989 d.194	21 N.J.R. 908(c)
13:29-6	Continuing professional education for accountants: public hearing and comment period	20 N.J.R. 3114(a)		
13:29-6.5	Practice of accountancy: clarification concerning CPE credits	———	———	21 N.J.R. 1147(b)
13:29-6.8	Accountancy continuing education credit hours: administrative correction	———	———	21 N.J.R. 1366(a)
13:35-6.10	Advertising and solicitation by physicians	21 N.J.R. 696(a)		
13:35-1A	Board of Medical Examiners: pre-proposed repeal	21 N.J.R. 697(a)		
13:35-1A	Board of Medical Examiners: withdrawal of pre-proposal	21 N.J.R. 937(a)		
13:38-1, 2.1, 2.3, 2.5, 2.7, 6.1	Practice of optometry: advertising; access to optometrist; patient records	20 N.J.R. 2361(b)	R.1989 d.252	21 N.J.R. 1366(b)
13:38-2.11	Practice of optometry: delegation of duties to ancillary personnel	20 N.J.R. 2363(a)		
13:38-2.11	Practice of optometry: public hearing on delegation of duties to ancillary personnel	20 N.J.R. 2995(b)		
13:38-2.11	Practice of optometry: public hearing on delegation of duties to ancillary personnel	21 N.J.R. 284(a)		
13:38-2.11	Practice of optometry: withdrawal of proposal on delegation of duties to ancillary personnel	21 N.J.R. 881(a)		
13:39	Board of Pharmacy rules	20 N.J.R. 1648(a)		
13:39A-3.2	Unlawful practices and arrangements by physical therapists: preproposal	20 N.J.R. 2242(a)		
13:39A-5.1	Educational requirements for licensure as physical therapist	20 N.J.R. 2243(a)		
13:44D	Public movers and warehousemen	20 N.J.R. 2364(a)		
13:44D	Public movers and warehousemen: public hearing and extension of comment period	20 N.J.R. 2681(a)		
13:45A-2	Motor vehicle advertising practices	21 N.J.R. 115(a)	R.1989 d.253	21 N.J.R. 1368(a)
13:45A-11.1	Advertising and sale of new merchandise	20 N.J.R. 2247(a)		
13:45B-4	Temporary help service firms	20 N.J.R. 2684(a)		
13:45B-5	Booking agencies	20 N.J.R. 2684(a)	R.1989 d.209	21 N.J.R. 1016(c)
13:47-2.8	Legalized games of chance: organization ID numbers	21 N.J.R. 698(a)		
13:47-7.1	Bingo games	21 N.J.R. 698(b)		
13:47A-2.10	Investment advisory contracts: performance fee compensation	21 N.J.R. 12(a)		
13:47C	Weights and measures: general commodities	21 N.J.R. 1096(a)		
13:75	Practice and procedure before Violent Crimes Compensation Board	21 N.J.R. 881(b)		

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14:3-9.6	Solid waste: filing contracts for service (preproposal)	20 N.J.R. 1669(a)		
14:3-10.3, 10.5, 10.15	Solid waste: out-of-state solid waste collectors (preproposal)	20 N.J.R. 1669(c)		
14:3-10.15	Annual filing of customer lists by solid waste collectors; annual reports	20 N.J.R. 2629(a)		
14:3-10.20	Solid waste: itemized billing (preproposal)	20 N.J.R. 1670(a)		
14:3-10.21	Solid waste: violations, penalties (preproposal)	20 N.J.R. 1670(b)		
14:3-10.22	Solid waste: contracts (preproposal)	20 N.J.R. 1669(b)		
14:9-4.3	Solid waste: decals for vehicles (preproposal)	20 N.J.R. 1671(a)		
14:9-4.4	Solid waste: container identification (preproposal)	20 N.J.R. 1671(b)		
14:10-6	Telecommunications: Alternative Operator Service (AOS) providers	20 N.J.R. 3115(a)		
14:17	Office of Cable Television: practice and procedure	21 N.J.R. 440(a)	R.1989 d.266	21 N.J.R. 1374(a)
14:18-15.1	Preproposal: Statewide cable TV access channel for educational and public affairs programming	20 N.J.R. 1063(a)		

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16:20B-1.1–1.4, 2.1, 3.1, 3.2, 4.1–4.3, 5.1, App. I, II	New Jersey Transportation Trust Fund: municipal aid	21 N.J.R. 626(a)	R.1989 d.228	21 N.J.R. 1149(a)
16:26-3	Reimbursed highway safety lighting	21 N.J.R. 628(a)	R.1989 d.230	21 N.J.R. 1151(a)
16:28-1.17	Speed limit zones along Route 147 in Cape May County	21 N.J.R. 119(a)	R.1989 d.178	21 N.J.R. 913(a)
16:28-1.25	Speed limit zones along Route 23 in Sussex County	21 N.J.R. 119(b)	R.1989 d.177	21 N.J.R. 913(b)
16:28-1.49	Speed limits on Route 35 in Monmouth County	21 N.J.R. 698(c)		
16:28-1.49	Speed limits along Route 35 in Woodbridge	21 N.J.R. 1097(a)		
16:28-1.72, 1.75	Speed limit zones along U.S. 206 in Atlantic and Burlington counties, and Route 36 in Monmouth County	21 N.J.R. 435(a)	R.1989 d.248	21 N.J.R. 1375(a)
16:28-1.76	Speed limit zones along Route 15 in Sussex County	21 N.J.R. 699(a)		
16:28A-1.6	Handicapped parking space on Route 7 in Belleville	21 N.J.R. 883(a)		
16:28A-1.13, 1.25, 1.46, 1.110	Restricted parking and standing along U.S. 22 in Lopatcong, Route 35 in Eatontown, U.S. 130 in Westville, and Route 91 in North Brunswick	21 N.J.R. 883(b)		
16:28A-1.18	No parking zones along Route 27 in South Brunswick and Franklin Township	21 N.J.R. 700(a)		
16:28A-1.18, 1.71	Parking and standing restrictions along Route 27 in Linden and Route 67 in Fort Lee	21 N.J.R. 978(a)		
16:28A-1.19, 1.109	Restricted parking along Route 28 in Elizabeth, and no stopping or standing zones along Route 324 in Logan Township	21 N.J.R. 701(a)		
16:28A-1.21	Bus stop zones along U.S. 30 in Lindenwold	21 N.J.R. 1097(b)		
16:28A-1.31, 1.46	Bus stop zones along Route 45 in Mannington Township and U.S. 130 in Delran Township	21 N.J.R. 701(b)		
16:28A-1.53	Parking alone Route 179 in Lambertville: administrative correction	———	———	21 N.J.R. 1152(a)
16:28A-1.55	Time limit parking zones along U.S. 202 in Bernardsville	21 N.J.R. 436(a)	R.1989 d.250	21 N.J.R. 1376(a)
16:28A-1.105	Bus stop zones along Route 54 in Atlantic County	21 N.J.R. 120(a)	R.1989 d.176	21 N.J.R. 914(a)
16:30-9.1	Use of Route 35 bridge over Manasquan River in Point Pleasant and Brielle	21 N.J.R. 437(a)	R.1989 d.251	21 N.J.R. 1376(b)
16:31-1.26	No left turn from Route 27 in Metuchen	21 N.J.R. 702(a)		
16:31-1.27	Prohibited turns along Route 17 in Rutherford	21 N.J.R. 884(a)		
16:44-1.2, 1.4	Classification of prospective bidders	Emergency (expires 5-29-89)	R.1989 d.226	21 N.J.R. 1023(a)
16:53	Autobus specifications and inspection fees	21 N.J.R. 1098(a)		
16:53B	Jurisdictional assignments for railroad overhead bridges	21 N.J.R. 1103(a)		
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16:62-1.1, 1.2, 3.2, 3.5, 5.1, 9.1, 10.1	Land use within airport hazard areas	20 N.J.R. 3007(a)	R.1989 d.242	21 N.J.R. 1376(c)
16:62-5.1, 9.1	Land uses within airport hazard areas: preproposal	20 N.J.R. 1534(a)		
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17:3-4.3	Teachers' Pension and Annuity Fund: school year members	21 N.J.R. 980(a)		
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17:4-6.4	Police and Firemen's Retirement System: outstanding loans at retirement	21 N.J.R. 630(a)		
17:6-1.4	Consolidated Police and Firemen's Pension Fund: candidates for commission membership	21 N.J.R. 438(a)		
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17:9-2.18, 3.1	State Health Benefits Program: continuation of coverage for disabled children	21 N.J.R. 885(a)		
17:9-7.2	State Health Benefits Program: reenrollment after termination of covered public employment	21 N.J.R. 886(b)		
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18:5	Cigarette Tax	21 N.J.R. 123(a)	R.1989 d.197	21 N.J.R. 1018(b)
18:6	Unfair Cigarette Sales Act rules	21 N.J.R. 124(a)	R.1989 d.199	21 N.J.R. 1019(a)
18:7	Corporation Business Tax	21 N.J.R. 14(a)	R.1989 d.196	21 N.J.R. 1019(b)
18:7-8.8	Corporation Business Tax: allocable receipts	21 N.J.R. 438(b)		
18:7-8.10	Corporation Business Tax: sales of certain services to a regulated investment company	21 N.J.R. 1106(a)		
18:18	Motor Fuels Tax	21 N.J.R. 125(b)	R.1989 d.198	21 N.J.R. 1020(a)
18:19	Motor fuels retail sales	21 N.J.R. 126(a)	R.1989 d.201	21 N.J.R. 1020(b)
18:24-1.4, 12.5	Sales and Use Tax: receipts	21 N.J.R. 1107(a)		
18:24-5.11	Fabricator/contractor sales and use tax liability	21 N.J.R. 439(a)		
18:26-3.2, 11.1, 12.11	Transfer inheritance and estate tax	21 N.J.R. 285(a)	R.1989 d.210	21 N.J.R. 1021(a)
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19:25-11.10, 11.11, 16.34	Political communications and reporting of expenditures: correction to public hearings time	21 N.J.R. 938(c)		
19:25-15	Public financing of general election for Governor	21 N.J.R. 1109(a)		
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19:25-16.30	Communication expenditures by non-gubernatorial candidates	21 N.J.R. 704(a)		
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19:45-1.9	Junket activities and representatives	20 N.J.R. 2644(a)	R.1989 d.187	21 N.J.R. 933(b)
19:45-1.25	Verification of cash equivalents	20 N.J.R. 1789(a)		
19:45-1.37	Slot machines and bill changers: administrative correction	———	———	21 N.J.R. 933(a)
19:47-2.15	Blackjack irregularities	20 N.J.R. 3014(a)	R.1989 d.231	21 N.J.R. 1155(a)
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