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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: DECEMBER 21, 1992
See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT JANUARY 19, 1993

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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

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

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EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR
Governor Jim Florio
Executive Order No. 81(1993)
Tribute to Thurgood Marshall

Issued: January 29, 1993.
Effective: January 29, 1993.
Expiration: Indefinite.

WHEREAS, Associate Justice Thurgood Marshall devoted his long and distinguished life to advancing the cause of equality and justice in the United States; and

WHEREAS, Justice Marshall, born the son of a Pullman waiter, rose from the ranks of systematic racial segregation and legalized discrimination to become one of the greatest civil rights leaders in our history; and

WHEREAS, while serving as Chief Counsel to the National Association for the Advancement of Colored People, Justice Marshall masterminded the legal strategy that resulted in the dismantling of racial segregation throughout American society; and

WHEREAS, this strategy culminated in the landmark case of *Brown v. Board of Education,* in which Justice Marshall argued that segregated schools were inherently unequal, and therefore in violation of the equal protection clause of the Fourteenth Amendment to the U.S. Constitution; and

WHEREAS, the Supreme Court accepted Justice Marshall's arguments, and held that racial segregation by the government is constitutionally intolerable; and

WHEREAS, the Supreme Court's holding in *Brown v. Board of Education* resulted in the profound transformation of American legal, social, and political life; and

WHEREAS, after Justice Marshall's achievements at the NAACP, President Lyndon Johnson appointed him to be the first African-American Solicitor General; and

WHEREAS, in 1967, President Johnson appointed Justice Marshall to become the first African-American Associate Justice of the Supreme Court; and

WHEREAS, Justice Marshall served for twenty-four distinguished years on the nation's highest Court, and in that time demonstrated a deep and unswerving dedication to the motto inscribed above the entrance to the Supreme Court building: "Equal justice under law"; and

WHEREAS, in his twenty-four years on the Supreme Court, Justice Marshall's wisdom and sensitivity breathed the spirit of fairness and compassion into every area of the law; and

WHEREAS, in marking the passing of this national hero, we should renew our pledge to eradicate discrimination from every sphere of society, and deepen our commitment to building a society that treats every human being with equal respect and dignity, regardless of race, ethnicity, gender, or income; and

WHEREAS, it is entirely fitting and proper for the State of New Jersey to mourn the passing, and honor the memory of Thurgood Marshall, and to rededicate ourselves to the just and moral principles to which he devoted his life;

NOW, THEREFORE, I, JIM FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours beginning on Monday, February 1, 1993 and through and including Wednesday, February 3, 1993 in recognition and mourning of the passing of Associate Justice Thurgood Marshall.

2. This order shall take effect immediately.

RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF MARKETS

Equine Advisory Board Rules

Proposed Amendments: N.J.A.C. 2:34-2.1 and 2.2

Authorized By: Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Authority: N.J.S.A. 5:5-88.
Proposal Number: PRN 1993-90.

Submit written comments by March 31, 1993:
Jack Gallagher, Acting Director
Division of Markets
State Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5536

The agency proposal follows:

Summary

The Equine Advisory Board rules are a compilation of the procedures used to regulate the non-racing breeder award program and the New Jersey Bred All Breed Horse Show. These rules provide definitions of eligibility, classes, fees and procedures for the determination of awards from equine promotion fund monies collected pursuant to N.J.S.A. 5:5-88. The reason for the current proposed amendments is to insure the rules are complete and well understood by those participating in the regulated programs.

At N.J.A.C. 2:34-2.1(f)3, grammatical corrections have been made.

At N.J.A.C. 2:34-2.2, a new paragraph (a)1 is being added and which is basically recodified from paragraph (b)2 to provide emphasis regarding the Department's reliance on the decisions of the individual breed groups regarding qualifications and awards. Recodification of the existing paragraphs in subsection (a) follows. At N.J.A.C. 2:34-2.2(a)6 specific wording has been established to determine in which classes a two year old can be shown under saddle. At new paragraph (a)8, a provision governing the closing date of entries and the specific postmarks that will and will not be accepted are added. Also added at that cite is the fact that no cash will be accepted and a horse will not be allowed to compete until all fees are paid. The new N.J.A.C. 2:34-2.2(a)8i, establishes that post entries will be accepted at two times the regular fee provided all other requirements have been met and subparagraph (a)8ii establishes there will be no phone entries accepted. New provisions at paragraph (a)9 and 10 provide that no refunds will be made once a horse has performed and a specific refund policy will be in effect. A specific policy is established of a $30.00 penalty if a check is refused. Proposed new paragraph (a)11 pertains to the location of exhibitor numbers and the fact that the proper number must be on the correct horse. Amended paragraph (a)15 (formerly (a)11) indicates the prize monies will be calculated using specific percentages instead of a set sum. Proposed new paragraph (a)19 provides that the Horse Park of New Jersey and the New Jersey Equine Advisory Board are not responsible for injury to any person, horse or property injured on these grounds. Proposed new paragraph (a)21 includes specific conditions required for a veterinarian certificate to be presented to excuse the horse from competition.

Social Impact

The provision of funds and subsequent awarding of prize monies to owners and breeders of non-racing breeds is designed to have a positive social impact on the development of the horse industry in New Jersey. The changes in these rules make the responsibilities of the owners and breeders of these horses very clear and should enhance the interest and type of competition generated as part of the New Jersey Bred program. The Department of Agriculture sees a positive result from the promulgation of these rules as they specifically clarify the procedures that have evolved over the past 20 years.

Economic Impact

The great majority of competitors for the year-end non-racing breeder awards are private horse owners. It is the intent of the New Jersey Equine Advisory Board to provide positive economic incentive to those owners and breeders through the awarding of prize money in variously sponsored competitions.

In the amendments to N.J.A.C. 2:34-2.2 entry and stall fee refunds are discussed and the percentages for the awarding of the prize money at the New Jersey Bred All Breed Horse Show are shown. Both amendments are seen as a potential economic benefit to participants.

With the continued development of the non-racing breeder award program and the New Jersey Bred All Breed Horse Show, a broader positive economic impact is realized by horsemen participating in these programs.

Regulatory Flexibility Analysis

Although the vast majority of competitors affected by these amendments are individual owners and breeders, in some instances they may be considered small businesses. However, the rules pertain basically to the ways in which certain awards are determined and granted by the Equine Advisory Board.

The amendments include compliance requirements regarding entries to be made in a timely fashion, timely requests for refunds, the participant's responsibility to enter the proper horse in the proper class and the reporting and recordkeeping requirements regarding veterinarian certification excusing a horse from competition. These requirements will cause only minor administrative costs to be incurred, and the only professional services required are those of a veterinarian for certification excusing a horse from competition. The Department of Agriculture has determined, in accordance with the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that the rules do not impose unduly burdensome recording, recordkeeping or compliance requirements on either the individual owners or those considered small businesses and, therefore, no varying standards based on business size are offered.

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

2:34-2.1 Qualifications for year-end and non-racing breeder awards

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

(f) Each breed's share of the year-end money is determined by:

1. (No change.)

2. The number of horses entered in specific breed futurities. For a futurity run by a New Jersey breed group at a separate location, each New Jersey Bred horse's owner must sign an owner's eligibility certification form which, along with a photocopy of the entry blank, must be sent by the breed group to the New Jersey Department of Agriculture within two weeks of the show; **and**

3. The number of animals who race at the Trotting Bred **Pony** Association **races**. All owners must sign an eligibility certification form which, along with a photocopy of the entry blank, must be sent by the Trotting Bred Association to the Department of Agriculture within two weeks of the race.

(g)-(i) (No change.)

2:34-2.2 Conduct of the New Jersey Bred All Breed Horse Show

(a) The New Jersey Bred All Breed Horse Show, or any other show conducted by the New Jersey Department of Agriculture, shall be governed as follows:

1. It is the policy of the New Jersey Department of Agriculture to accept the decisions of the individual breed groups regarding which horses are qualified to enter and show at the New Jersey Bred All Breed Horse Show, and to receive non-racing breeder awards, as well as the tabulation of breeder award points. Such decisions and tabulations must not be in opposition to the intent of this chapter. Any disagreement with the decision of the groups must be presented to the officers and/or directors of the particular breed group pursuant to (b) below.

Recodify existing 1.-4. as **2.-5.** (No change in text.)

[5.]**6.** Foals dropped later than two months prior to show date will not be accepted as entries. No horse under three years of age may compete in under saddle classes, **except that two year olds will be allowed to compete in under saddle classes specifically designed for only two year olds.**

[6.]**7.** (No change in text.)

8. All entries must be postmarked (meter marks shall not be accepted) no later than the closing date of entries in order for entry to appear in the program. A check or money order (no cash) for the entry and stall fees must accompany the entry blank. No horse will be allowed to compete until all fees are paid.

i. Post entries will be accepted at two times the regular fee. Any entry received postmarked after closing date will be considered a post entry and will be accepted at two times the regular entry fee provided it meets all other New Jersey bred requirements. Entry fees must be paid by money order or check. No cash will be accepted. Post entries not completely in order when received will not be accepted.

ii. Phone entries are not accepted.

9. There shall be no refunds once a horse has performed in a class, or if entered and not exhibited, after the start of the show.

10. All entry and stall fees will be refunded upon request before the closing date of entries minus a $10.00 office charge per horse. After this date, entry fees only will be refunded upon receipt of a veterinarian's certificate; however, there will be a charge of $10.00 on each horse entered. The actual refund will not be made until after completion of the show. There is a penalty of $30.00 if a check is refused.

11. Exhibitor numbers will be provided for each entry in this show at the Secretary's booth. It is the exhibitor's responsibility to make certain the proper horse is entered in the proper class with the proper number. Horses entered in the wrong class will be disqualified.

Recodify existing 8.-10. as **12.-14.** (No change in text.)

[11.]**15.** Two horses are required to fill a class at the All Breed Horse Show. If Classes with A and B sections do not have two entries each, A and B sections will be combined. Other classes will be combined only as specified in the prize list. Two horses are required to be shown and judged in order to receive both prize money and points.

i. Prize money will be paid as follows:

Four horses or more in class ..... [$100.00] **50 percent**; [50.00] **25 percent**; [30.00] **15 percent**; [20.00] **10 percent.**
Three horses in class ..... [$100.00] **50 percent**; [50.00] **25 percent**; [30.00] **15 percent.**
Two horses in class ... [$100.00] **50 percent**; [50.00] **25 percent.**
One horse in class ..... [$100.00] **50 percent**; no points.

[ii. Prize money for A and B classes over the 12 class limit is as follows:

Four horses or more in class $50.00; 25.00; 15.00; 10.00
Three horses in class $50.00; 25.00; 15.00
Two horses in class $50.00; 25.00
One horse in class ..... $50.00; no points]

[iii.]**16.** If only one horse reports for judging, show money will be paid but no points will be given. However, that horse shown and judged will receive credit for the All Breed Horse Show[—], one of the horse's required three New Jersey shows.

Recodify existing 12.-13. as **17.-18.** (No change in text.)

19. The Horse Park of New Jersey at Stone Tavern, Inc., the New Jersey Department of Agriculture, the New Jersey Bred All Breed Horse Show committee and the New Jersey Equine Advisory Board will not be responsible for injury to any person, horse or property incurred on the grounds.

[14.]**20.** (No change in text.)

21. A veterinarian certificate excusing a horse from competition must be dated on or before the start of its competition and be postmarked within five days of the competition. This must be supplied on the veterinarian's letterhead and have the signature of the veterinarian.

[15.]**22.** (No change in text.)

(b) Any appeal from the provisions of this section shall be made within 20 days of the horse show date, or within 20 days of notification to owners of a decision.

1. (No change.)

[2. It is the policy of the New Jersey Department of Agriculture to accept the decisions of the individual breed groups regarding which horses are qualified to enter and to receive non-racing breeder awards, as well as the tabulation of breeder award points. Such decisions and tabulations must not be in opposition to the intent of this section. Any disagreement with the decision of the groups must be presented to the officers and/or directors of the particular breed group in question.]

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

ENVIRONMENTAL CLAIMS ADMINISTRATION

Processing of Damage Claims under the Sanitary Landfill Facility Contingency Fund Act

Proposed Readoption with Amendments: N.J.A.C. 7:1I

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Authority: N.J.S.A. 13:1B-3, 13:1D-9 and 13:1E-100 et seq., particularly N.J.S.A. 13:1E-106 and 13:1E-114.
DEPE Docket Number: 08-93-01.
Proposal Number: PRN 1993-99.

A **public hearing** will be held at 10:00 A.M. on Wednesday, March 24, 1993 at:

Department of Environmental Protection and Energy
1st Floor Hearing Room
401 East State Street
Trenton, New Jersey

Submit written comments by March 31, 1993 to:

Richard J. McManus, Director
Department of Environmental Protection and Energy
Office of Legal Affairs
CN 402
Trenton, New Jersey 08625-0402

The agency proposal follows:

Summary

The Department of Environmental Protection and Energy ("Department" or "DEPE") is proposing to amend and readopt the rules governing the processing of claims filed under the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13-100 et seq. (the "Act"). The Act's purpose is to provide compensation for damages proximately resulting from the operation or closure of sanitary landfill facilities.

Rules governing the processing of claims were originally adopted in 1983 and revised in 1988 to assure the continued availability of funds for people who could satisfy the requirements for compensation. The original rules defined "damages" to include "the diminution in fair market value of any real property." The rules, revised in 1988, are due to expire on July 18, 1993.

The Act was enacted in 1981 and is funded by a tax imposed on the owner or operator of every sanitary landfill located in New Jersey. The Legislature recognized in the Act that the improper operation or closure of sanitary landfills could threaten the public and the environment and designed the statute to provide the financial means to ameliorate such threats or actual damage emanating from landfills, N.J.S.A. 13:1E-101.

Rules governing the processing of Sanitary Fund Claims were promulgated by the Department in 1983. These rules were quite general in nature, but provided that damages would be considered for compensation only where the claimant could produce "substantial evidence" demonstrating that the damages proximately resulted from the operation or closure of any sanitary landfill. The rules repeated the statutory definition of "damages" contained in N.J.S.A. 13:1E-106, but specifically added to the definition "the diminution in fair market value of any real or personal property." The rules also established guidelines to govern the form and content of claims and noted that claims would be processed in the order in which they were filed except in cases of extreme hardship or imminent hazard.

The Environmental Claims Administration (ECA) was created in 1987 and was given the responsibility of processing damage claims filed under the Act. By 1988 the ECA had received approximately 1,100 claims. Of these, approximately 900 or 80 percent were claims for property value

diminution filed by residents living near the GEMS landfill in Gloucester Township, Camden County. GEMS is presently undergoing Phase I remediation which is about 95 percent complete.

The large number of claims filed in response to one landfill (GEMS), despite the fact that there are between 300 and 400 landfills in New Jersey, caused the Department to review the claims process. The Department's analysis of the program resulted in revised rules in 1988, which required the sale or attempted sale of the property in order to be eligible for compensation. The Summary to the 1988 rule proposal noted that:

The Department has determined that current claims handling policies result in claims being filed in a pattern correlated to the landfill itself. These policies in the area of property value diminution appear to create the very condition which the law intended to remedy. The purpose of these new rules is to preclude this situation and to provide for the efficient processing of claims against the fund.

The amended rules were adopted and became effective on July 18, 1988. They consist of the following six chapters:

N.J.A.C. 7:1I-1, General Provisions, establishes the scope, construction and purpose of the chapter and delineates the liabilities of owners and operators and the Fund for damages. The proposed new rules clarify the requirements that were in the previous subchapter 1.

N.J.A.C. 7:1I-2, Filing and Processing of Claims, establishes the time limitation for filing claims, describes how the claim is to be filed and sets forth how the Department will process the claim.

N.J.A.C. 7:1I-3, Eligibility for and Proof of Damages, provides eligibility criteria and establishes for each type of claim (real or personal property, property value diminution damages to natural resources, personal injuries, and threats to public health, safety or welfare) the evidence which must be submitted by the claimant to prove his or her damages.

N.J.A.C. 7:1I-4, Amounts of Damage Awards, sets forth the standards by which the Department will pay damages based on evidence.

N.J.A.C. 7:1I-5, Settlement and Investigation of Claims, requires notification to the Department of any private settlement by a claimant. The subchapter also addresses the Department's claims investigation process and the settlement of a claim against the Fund and also sets forth the current adjudicatory hearing process.

N.J.A.C. 7:1I-6, Payment of Claim, delineates the standard claims payment process as well as exceptions, provides conditions of payment, and standards for the filing and satisfaction of liens.

Although the current rules were a major improvement over the original rules adopted November 18, 1983, the Department has found deficiencies in the criteria for evaluating and processing property value diminution claims. The Department's fiduciary responsibility is to ensure that payments from the Fund for property value diminution damages result from the operation or closure of a sanitary landfill facility and not other factors. The proposed readoption with amendments to the rules reflects the Department's experience since 1988 in processing property value diminution claims. These amendments are necessary to ensure the Fund's solvency and the appropriate and efficient expenditures of the Fund's assets. There are no other substantive changes to the rules at this time. A proposal to revise the rules in their entirety will be issued in August, 1993.

The Act provides that the Fund is strictly liable for all direct and indirect damages, no matter by whom sustained, proximately resulting from the operations or closure of any sanitary landfill. These damages shall include, but are not limited to: the cost of restoration, repairing or replacing any real or personal property damaged or destroyed, N.J.S.A. 13:1E-106(a)(1). Proposed new rules N.J.A.C. 7:1I-7 establish the criteria for measuring property value diminution damage and for processing claims for such damages.

Generally, N.J.A.C. 7:1I-7 requires that a property value diminution claim is eligible for compensation only if the claimant has sold the subject property (exceptions to this requirement are discussed in more detail below). The New Jersey Supreme Court recently unanimously upheld the requirement in the Department's current regulations for claims against the Sanitary Landfill Facility Contingency Fund (the "SLFC Fund"), N.J.A.C. 7:1I. *Citizens for Equity v. New Jersey Department of Environmental Protection,* Dkt. No. A-28/29, September Term 1991. Essentially, the claimant will not incur damages from property value diminution until the subject property is sold; without a sale, the claimant will not realize a loss even if the value of the property has declined. Case law interpreting the Internal Revenue Code (especially 26 U.S.C. §1001) takes the same approach in determining when a loss or gain has been realized. In *Citizens,* the Supreme Court ruled that the Act delegates the authority to the Department to authorize a sale in order to receive compensation for property value damage. The Court noted that the sale requirement in the current rules is neither arbitrary nor unreasonable. In fact, the court suggested that the original rules, adopted in 1983, have been too permissible.

N.J.A.C. 7:1I-7 also contains provisions intended to ensure that the sale of the subject property is conducted in good faith. The good faith requirement is necessary, because the availability of compensation from the Fund could be expected to reduce any incentive to sell the subject property for the highest price possible; the claimant could rationally accept a much lower price if the Fund would pay any difference.

As noted above, the current rules governing claims against the SLFC Fund include procedures for property value diminution claims. As discussed below, N.J.A.C. 7:1I-7 provides a different (and, in the Department's belief, better) method of handling such claims as proposed in these amendments to the SLFC Fund regulations.

The most important difference between the proposed readoption with amendment to the existing current SLFC Fund rules is that the proposed amended rules require far less intervention by the Department in the sale of the subject property. Under the present SLFC Fund rules, the Department establishes the initial sale price of the subject property, and allows monthly reductions of the price. Under the proposed amended rules, the Department evaluates the circumstances of the sale as it occurs, leaving the claimant the discretion to establish a sale price in good faith. A more detailed discussion of the proposed amendments to the rules follows.

With the following exceptions, the six subchapters of the existing rules remain unchanged by this readoption with amendments.

N.J.A.C. 7:1I-1.5, Definitions, "discovery" is defined as the time at which the claimant discovers, or by the exercise of reasonable diligence and intelligence should have discovered, that he or she has incurred damages. This is consistent with the Department's policy on claims filed under the current rules and also with parallel rules for the Spill Compensation Fund, N.J.A.C. 7:1J.

N.J.A.C. 7:1I-1.9, Relaxation of Procedure Requirements, has been added to allow the Department, in its discretion, to relax any of the procedural requirements of this chapter if the Department determines that strict adherence to such requirements would result in unfairness or injustice.

At N.J.A.C. 7:1I-2.2(b), CN402 has been changed to CN028 to reflect the new mailing address.

N.J.A.C. 7:1I-3.3, Criteria for claims based on real property value diminution damage, has been deleted.

N.J.A.C. 7:1I-3.4, Criteria for damages to natural resources, has been recodified as N.J.A.C. 7:1I-3.3.

N.J.A.C. 7:1I-3.5, Criteria for personal injuries damage, has been recodified as N.J.A.C. 7:1I-3.4.

N.J.A.C. 7:1I-3.6, Criteria for damages based on threats to the environment and public health, safety or welfare, has been recodified as N.J.A.C. 7:1I-3.5.

N.J.A.C. 7:1I-4.2, Real property damages property value diminution, has been deleted.

N.J.A.C. 7:1I-4.3, Damages to natural resources, has been recodified as N.J.A.C. 7:1I-4.2.

N.J.A.C. 7:1I-4.4, Personal injuries, has been recodified as N.J.A.C. 7:1I-4.3.

N.J.A.C. 7:1I-4.5, Threats to the environment and the public health, safety or welfare, has been recodified as N.J.A.C. 7:1I-4.4.

These changes are technical and not substantive in nature. This renumbering was necessary to have numerical consistency.

N.J.A.C. 7:1I-6.2(b) Conditions of payment, has been amended with the deletion of the lien provision in the release agreement.

N.J.A.C. 7:1I-6.3, Lien for non-sale based settlements, has been deleted.

Proposed new N.J.A.C. 7:1I-7, Property Value Diminution Claims, contains the following sections:

N.J.A.C. 7:1I-7.1 provides that claims for diminution of property value are compensable only to the extent that the diminution is directly attributable to the operation or closure of a sanitary landfill. Under the Act, the Fund cannot pay compensation for diminution which results from causes other than the operation or closure of a sanitary landfill. If the diminution results wholly or in part from other factors, such as a general decline in the real estate market, the part of the diminution resulting from those other factors would be ineligible for compensation. In addition, a diminution in the value of improvements added to the subject property after the date of discovery of damages is not com-

pensable; by improving the subject property, the claimant would have aggravated his or her damages from property value diminution.

N.J.A.C. 7:1I-7.2 establishes requirements which must be satisfied if a property value diminution claim is to be eligible for compensation. Eligibility is based upon the Fund's conclusion that the sale of the subject property was conducted in good faith. The good faith determination is based upon any appraisals of the subject property under N.J.A.C. 7:1I-7.3 (discussed below), and upon information and documents submitted under N.J.A.C. 7:1I-7.5 (also discussed below). In addition, to satisfy the good faith requirement, the claimant is required to list the subject property for sale with one or more licensed real estate brokers who are members of a multiple listing service (or, for non-residential property, which is not normally listed with a multiple listing service, its commercial equivalent).

N.J.A.C. 7:1I-7.3 provides for the Fund to obtain two appraisals of the subject property, to be used in assigning a value to the claim under N.J.A.C. 7:1I-7.4: one appraisal stating the value of the subject property as affected by the sanitary landfill, and one appraisal stating the value absent the effect of the sanitary landfill. The appraisals will state the value of the subject property as of the time of sale (except for specific types of claims, discussed below, which the Fund may settle without a sale; for those claims, the appraisal will be as of the date of the settlement offer). The appraisals are performed by independent appraisers which the Department selects. The Fund pays for the appraisals.

The appraisals will be based upon factors normally applied by qualified real estate appraisers, including sales of comparable properties, income generated by the subject property, including the replacement cost of the subject property. In certain cases, there may be insufficient information to support a meaningful appraisal reflecting the effects of a sanitary landfill; N.J.A.C. 7:1I-7.3(b) therefore allows the Fund to refrain from obtaining the appraisals in these cases.

N.J.A.C. 7:1I-7.4 provides the method for determining the amount of a property value diminution claim eligible for compensation. If the claimant sells the subject property for a price at least equal to the appraised value of the property as affected by the landfill, the amount eligible will be the difference between the appraised value without considering the landfill, and the sale price. However, if the sale price is less than the appraised value as affected by the landfill, it is likely that circumstances other than the landfill were responsible for part of the price reduction. For this reason, the amount eligible for compensation would be the difference between the appraised value without considering the landfill, and the appraised value as affected by the landfill.

The Fund may further adjust the amount eligible for compensation, if information other than the sale price and the appraisals support a conclusion that these factors alone do not accurately show the diminution in property value. For example, if the cleanup of the sanitary landfill were completed just before the sale, an appraisal would be misleading if it were based on sales of comparable properties which occurred while the cleanup was in progress.

Under N.J.A.C. 7:1I-7.5, the claimant is required to submit documents which will assist the Department in determining that a sale was in good faith. These documents, which include listing agreements, contracts of sale, settlement statements, and affidavits by the claimant and the claimant's realtor, should indicate if a sale is not arm's length, or if the claimant has received consideration other than the sale price in payment for the subject property.

N.J.A.C. 7:1I-7.6 and 7.7 create exceptions to the requirement that the subject property must be sold for the claim to be eligible for compensation. Under N.J.A.C. 7:1I-7.6, the Fund may settle the claim if the claimant is legally unable to sell the subject property as a result of the sanitary landfill facility. For example, many municipalities require that a certificate of occupancy (C/O) be issued before property is conveyed; however, the landfill may have caused the property to become ineligible for a C/O. The provision does not authorize settlement without a sale if the landfill has created practical rather than legal impediments to a sale, because in such circumstances there should still be a price at which a buyer will purchase the subject property.

Once any legal impediments to a sale are removed (for example, after the landfill is cleaned up), the claimant may sell the property for a price higher than the value on which the settlement was based. For example, the Fund may have paid a $20,000 settlement based upon an appraised decline in property value from $100,000 to $80,000; after the cleanup, the claimant may sell the property for $95,000, indicating that the settlement was $15,000 too high. To protect the assets of the Fund from this type of excessive settlement, the proposed amendments provide that as a condition of the settlement, the claimant will grant the Fund a lien on the subject property in the amount of the settlement. In the example described above, the Fund would release the lien upon repayment of the $15,000 excess settlement. The rule provides that the amount of the repayment required will never exceed the amount of the settlement, plus interest.

Settlement of a property value diminution claim without a sale is also appropriate when, as a result of the landfill, emergency relocation of the claimant is necessary. N.J.A.C. 7:1I-7.7 therefore authorizes the Fund to suspend any or all requirements of N.J.A.C. 7:1I-7.2, 7.3, 7.4 and 7.5 and immediately award compensation if the Fund determines that environmental conditions at a property create a substantial risk of imminent harm to the health and safety of the occupants of the property.

The Department recognizes that a claimant may have begun efforts to sell the subject property before filing the claim, and therefore without knowledge of the requirements of the proposed amendments to the rules. To avoid the harsh result of certain denial of the claim, N.J.A.C. 7:1I-7.8 provides the Fund with the discretion to consider settling the claim in this circumstance, despite the claimant's inability to comply with all of the requirements of the proposed amended rules. The claimant is required to submit all of the documents normally required under N.J.A.C. 7:1I-7.5, but need not submit the listing agreement or realtor's affidavit if these documents are unavailable.

The proposed amended rules will apply to all claims processed after the operative date, including claims which were filed before that date. In light of the requirements of the proposed amended rules (including the requirement for a sale of the subject property), claimants with claims already pending may desire to suspend their claims until they are ready to sell. Accordingly, under N.J.A.C. 7:1I-7.9, the Department will notify all claimants with claims already pending of the requirements of the amended rules; within 60 days after the receipt of notice, each such claimant will be required to notify the Department of his or her election to pursue the claim, suspend it or withdraw it.

A claimant can reactivate a suspended claim at any time upon written request, enabling the claimant to choose the most appropriate time to sell the subject property. In addition, the claim will be reactivated if the Fund notifies the claimant that the remediation of the landfill has been completed. If the remediation of the landfill has been completed, it is the Department's position that any property value diminution remaining is not attributable to the landfill; accordingly, the claim would be denied upon this reactivation. The Fund may also reactivate a claim upon the conclusion of litigation or private settlement between the claimant and any landfill owner or operator, which litigation or settlement concerns the damages which are the subject of the claim.

Social Impact

The existing claims rules in N.J.A.C. 7:1I have had a positive social impact, by providing claimants with a means of obtaining reimbursement for losses suffered in connection with the operation or closure of a sanitary landfill facility. The proposed amendments to the rules will increase this positive social impact upon claimants, by providing them with specific, orderly procedures for making claims. The Department will be less involved in the sales process for property diminution claims. Accordingly, there will be less Department control and influence on the sales price. The real estate market and its associated factors will be the main elements affecting real property value.

Economic Impact

The existing claims rules in N.J.A.C. 7:1I have had a positive economic impact upon persons who have suffered damages caused by the operation or closure of sanitary landfill facilities. The existing rules have provided a method for these persons to obtain compensation for such damages.

The proposed amendments to the current rules generally will preserve this positive economic impact, by clarifying and codifying the Department's claims processing practices regarding property value diminution claims. However, the new rules are likely to have a negative economic impact upon certain persons making certain types of claims, resulting from new provisions designed to ensure that payments from the Fund serve the sole purpose of compensating for property diminution damages resulting from the operation of closure of sanitary landfills.

The Department expects the proposed amended rules at N.J.A.C. 7:1I-7, governing property value diminution claims to have a positive economic impact. The proposed amended rules establish procedures for submission and processing of property value diminution claims, which minimize the role of the Department in the sale of property that has its value adversely affected by a sanitary landfill, and to the greatest

extent practicable, allow the market to establish the amount of property value diminution. The Department's approach in the proposed amended rules is to encourage the seller of the affected property to act in good faith to obtain the highest price which the market will allow, and to rely upon appraisals and upon evidence of the good faith nature of the sale in evaluating the seller's claim. The Department believes that this approach will result in less property value diminution than an approach which attempted to control the seller's efforts to sell the affected property.

As discussed above, N.J.A.C. 7:1I-7 generally requires that a property value diminution claim is eligible for compensation only if the claimant has sold the subject property (exceptions to this requirement are discussed in the Summary above). Until a sale occurs, the property owner has not suffered anything more than speculative and contingent damages; even if the value of the property has temporarily declined as a result of a discharge, the property owner will not have realized any actual loss, because the property may recover its value by the time a sale occurs. For this reason, the Department expects that the sale requirement will have no economic impact upon the property owner, and will have a positive impact by preserving the assets of the Fund.

The Department expects no significant economic impact to result from the provisions of N.J.A.C. 7:1I-7 intended to ensure that the sale of the subject property is conducted in good faith. A person selling real property affected by a sanitary landfill would be likely to comply with most of these requirements (such as retaining a broker who is a member of a multiple listing service, keeping copies of documents such as the contract of sale, deed, and settlement statement) automatically, and the other requirements (such as keeping a record of all offers to purchase the property, submitting an affidavit concerning the good faith circumstances of the sale, and obtaining an affidavit by the claimant's realtor attesting to routine circumstances of the sale) impose no significant cost.

Environmental Impact

The proposed amendments to the current rules will increase the positive environmental impact of the existing claims rules. As discussed in the Economic Impact statement above, the proposed amendments to the rules are designed to prevent certain types of potential overpayments of claims, which would otherwise reduce the assets of the Fund available to pay for other claims and the proper closure of sanitary landfills. The improper operation or closure of sanitary landfill facilities can result in the contamination of surface and ground waters, including potable water supplies. Migration of methane gas from sanitary landfill facilities can pose a threat to nearby residents and property. Therefore, it is essential that adequate funds are reserved to ensure proper closure activities at sanitary landfill facilities.

Regulatory Flexibility Analysis

With respect to property value diminution claims, the owners of properties which are the subjects of such claims may be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments to the current rules require such claimants to submit several documents to be eligible for compensation from the Fund. Claimants also must obtain professional services from real estate brokers, through a multiple listing service (or its commercial equivalent, for claims involving commercial property or other property not normally sold through a multiple listing service). However, the Department does not believe that this requirement imposes substantial costs upon small business claimants, because it is likely that such claimants would retain a real estate broker to market their properties even if the proposed rule did not so require. Compliance with the proposed new rules will not require any initial capital cost or annual costs.

The proposed new rules make no special provision for property value diminution claimants who qualify as small businesses, because any such special provisions would impair the Fund's obligation to protect and insure that the taxes credited to the Fund are spent in a proper manner and for the intended purposes.

Owners and operators of sanitary landfills participating in private settlements with claimants under N.J.A.C. 7:1I-5.1, may need or elect to retain an attorney or other professionals to assist in such negotiations or settlements. The extent of the professional services which may be necessary depends upon the nature and complexity of the issues arising in the negotiations or settlements, and not upon requirements imposed under the proposed amendments to the rules. For this reason, and because different treatment of small business could result in prejudice to the rights of claimants to compensation, the proposed amended rules do not contain different requirements for small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:1I.

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

7:1I-1.5 Definitions

The following words and terms, when used in this chapter, shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found at N.J.A.C. 7:26-1.4.

...

"Discovery means the time at which the claimant discovers, or by the exercise of reasonable diligence and intelligence should have discovered, that he or she has incurred damages.

...

7:1I-1.9 Relaxation of procedural requirement

(a) Except as provided by (b) below, the Department may relax any of the procedural requirements of this chapter if the Department determines that strict adherence to such requirements would result in unfairness or injustice.

(b) Notwithstanding (a) above, the Department shall not relax procedural requirements of this chapter if such requirements of this chapter are imposed by the Act, by other applicable State or Federal statutes, or by applicable decision, order or decree of a court of competent jurisdiction.

7:1I-2.2 Filing of claims

(a) (No change.)

(b) The claim, once signed and certified under oath, shall be mailed by certified mail, return receipt requested, or delivered by hand to the Sanitary Landfill Facility Contingency Fund, Environmental Claim Administration, New Jersey Department of Environmental Protection and Energy, CN [402] **028**, Trenton, New Jersey 08625.

[71I-3.3 Criteria for claims based on real property value diminution damage

(a) Claims for real property value diminution as a result of the operation or closure of a sanitary landfill are compensable upon sale of the property. The claimed property must be located within one-half mile of the landfill area except:

1. Claims for property value diminution which were filed prior to March 7, 1988 are not subject to the one-half mile limitation, or to the criteria at (d) below if the damaged property was sold prior to July 18, 1988, but shall meet all other criteria of this section. Damaged property shall be considered sold prior to July 18, 1988 if a binding agreement of sale was entered into prior to this date.

2. Claims for property value diminution which include physical intrusion are not subject to the one-half mile limitation but shall meet all other criteria of this section.

(b) All claims filed subsequent to the effective date of this chapter for which the property has been sold prior to receipt of an appraisal of the subject property value from the Department are barred from compensation.

(c) The Department shall notify each claimant who filed a claim before March 7, 1988 of the requirements of this chapter. Such claimants shall then have 60 days from receipt of such notice to inform the Department by certified mail return receipt requested, of their intent to pursue their claim for property value diminution pursuant to this chapter, immediately for those damages. If a claimant requests suspension of their claim, the claimant may at any time during the period of suspension, request reactivation of the claim. At the end of the suspension period provided in (d) below, the claim will be established based on the date of receipt of the reactivation request.

(d) All claims suspended pursuant to (c) above will remain in suspension until one of the following occurs:

i. The Department receives written notice for the claimant, stating that the claimant desires to reinstate the claim; or

ii. The claimant receives written notice from the Department, stating that the construction phase of the landfill remediation has been completed to the satisfaction of the Department.

(e) Notices provided in (d)i and ii above shall be sent by certified mail, return receipt requested, or by other means which provide a receipt for delivery.

(f) The Department may, in its discretion, reactivate a claim upon the conclusion of litigation between the claimant and parties allegedly responsible for the damages which are the subject of the claim, which litigation concerns such damages. For the purpose of this subsection (f), litigation shall be deemed to have concluded upon the occurrence of any of the following: a complete settlement of the litigation; or the entry of a judgment or order completely resolving the litigation, followed by the expiration of time allotted to appeal or otherwise challenge such judgment or order.

(g) The Department may, in its discretion, extend the suspension period set forth in (d) above, or again suspend claims reactivated automatically under (d) above, or by the Department's action under (f) above. The Department shall notify all affected claimants of such an extension or resuspension, either by certified mail, return receipt requested, or by notice published in the New Jersey Register.

(h) The Department will provide a claimant with the Department's appraisal of the value of the subject property absent any landfill effects. Claimant shall, within 90 days of receipt of such appraisal, offer the property for sale with a multiple listing service at no less than the Department's appraisal value for at least 60 days and attempt to sell in good faith. The claimant shall submit to the Department a copy of the brokerage agreement. Failure to list the property for sale within 90 days of receipt of the appraisal will result in denial of the claim. If no offers are received from responsible buyers for that price, the claimant may reduce the price by 2.5 percent per month. Any variation from the above formula allowing for a larger or smaller percent reduction or an accelerated or decelerated timeframe for reductions shall be approved in advance by the Department.

(i) Within 60 days after the settlement date for the property or effective date of this rule, whichever occurs last, the claimant shall submit to the Department, as evidence of the sale and that the sale was a good faith sale, the following:

1. All written offers for the property;
2. The contract of sale for the property;
3. The settlement sheet(s), including that one required by the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C.A. 2601 et seq.;
4. The deed;
5. An affidavit from the claimant stating the total sale price of the property, that no other money or other compensation has been received from any person for the property and that the documents submitted pursuant to (e)1 through 4 above are true copies of the original documents used in the sale transaction; and
6. An affidavit from the claimant's realtor providing the following information:

i. How long the property was up for sale;
ii. What the initial listing price was;
iii. A list of any changes in the listing price;
iv. A record of all inquiries, showings or open houses held for the purpose of selling the claimant's property. This record shall include the names and addresses of all persons who inquired about, were shown or attended open houses held for the purpose of selling the property and will include a detailed description of the specific statements of these persons concerning the property;

(1) Claimants who filed claims prior to March 7, 1988 and sold property prior to July 18, 1988 will not be required to submit the names and addresses of the persons who inquired about, were shown or attended open houses held for the purpose of sale of the property; and

v. The number of offers received, the amount of each offer and date received.

(j) Claimants who satisfied the criteria of (a) through (d) above and have been unable to sell the property after one year of continuous good faith attempts to sell, measured from the date of listing, shall be eligible to recover damages calculated in accordance with N.J.A.C. 7:1I-4.2(b). If the property is sold within two years of settlement, claimant shall satisfy all requirements of (e) above, and any paid settlement shall be subject to adjustment pursuant to N.J.A.C. 7:1I-4.2(b)1.]

Recodify existing N.J.A.C. 7:1I-3.4 through 3.6 as **3.3 through 3.5** (No change in text.)

[7:1I-4.2 Real property damages; property value diminution

(a) Upon satisfactory sale of a property pursuant to the requirements of N.J.A.C. 7:1I-3.3, the Department will pay the claimant damages in an amount equal to the Department's appraisal of the property value absent the landfill minus the actual selling price.

(b) In the event that a claimant makes good faith attempt to sell the property in accordance with the requirements of N.J.A.C. 7:1I-3.3 and cannot do so within one year measured from the date of the initial real estate listing, the Department will, upon verification of the good faith nature of the attempt, appraise the value of the property absent the landfill and survey sales based claims settlements in the area to determine the average percentage diminution for the area. The Department shall pay, as damages, the dollar value arrived at by multiplying the appraised value of the property absent the landfill by the average diminution percentage determined for the area.

1. If a sale occurs within two years after initial settlement with the Fund, upon satisfaction of all requirements of N.J.A.C. 7:1I-3.3(f), a further claim may be awarded based on a comparison of the initial settlement paid with actual diminution. Actual diminution shall be determined by subtracting the sales price received from the appraisal value of the property absent the landfill. The Department may pay the difference between the two figures where the actual diminution is greater than the initial settlement paid. If the initial settlement paid is greater than the actual diminution upon sale, the claimant shall be liable to the Fund for the excess settlement received. Payback of excess settlement received must be made within 10 days of property settlement.

i. In order to qualify for additional payments under this subsection the claimant may not reduce the asking price by more than 2.5 percent per month after initial settlement with the Fund without written permission from the Fund.

(c) The Department will not, in compensating damages claimed under (a) or (b) above, include in its calculation of the appraisal of the value of the damaged property, the values of any improvements to the property made after the date of discovery of damages.

(d) If settlement under this section occurs more than two months after the Department's appraisal, the Department will adjust the appraisal value used in calculating settlement or determining adjustments to initial settlement to reflect appreciation or depreciation of real estate values in the area.]

Recodify existing N.J.A.C. 7:1I-4.3 through 4.5 as **4.2 through 4.4** (No change in text.)

[7:1I-6.3 Lien for non-sale settlements

(a) For property diminution claims, the Department may file a lien against real property settled on a non-sales basis in the amount of the Department's settlement with the claimant. Such lien will remain on the property for a period of two years after initial settlement. In the event of a sale within two years of settlement, any amount in excess of the Department's appraised value of the property including the effects of landfill shall be reimbursed by the claimant to the Fund. The reimbursement shall not exceed the amount of the initial payment of the claim between the claimant and the Department.

(b) For the purpose of (a) above, the appraised value of the property including the effects of the landfill shall be calculated by subtracting the initial settlement amount from the Department's appraisal of the value of the property absent the landfill as adjusted pursuant to N.J.A.C. 7:1I-4.2(d).

(c) Liens filed pursuant to this section will be released by the Department within two years of initial settlement only upon receipt of an affidavit from the claimant setting forth the sale price and, when such price indicates that an excess settlement from the Fund has been paid to the claimant, a cashiers check or certified check in the amount of any such excess.]

SUBCHAPTER 7. PROPERTY VALUE DIMINUTION CLAIMS

7:1I-7.1 Extent of eligibility

Claims for diminution of property value shall be eligible for compensation from the Fund only to the extent that such diminution approximately results from the operations or closure of a sanitary landfill. A diminution of property value may be deemed attributable to a sanitary landfill notwithstanding the lack of any physical intrusion of the sanitary landfill onto the subject property. A diminution in the claim of any improvements to the subject property made after the date of discovery of damages shall not be eligible for compensation from the Fund.

7:1I-7.2 Requirements for eligibility

(a) Except for claims settled under N.J.A.C. 7:1I-7.6 or 7.7, claims for diminution of property value are not eligible for compensation by the Fund unless the claimant has sold the subject property and the Fund determines that the claimant's sale of the subject property was in good faith, based upon the appraisals made pursuant to N.J.A.C. 7:1I-7.3 and the information submitted pursuant to N.J.A.C. 7:1I-7.5.

(b) Within 30 days after filing the claim, the claimant shall list the subject property for sale with one or more licensed real estate brokers who are members of a multiple listing service (or its commercial equivalent, for nonresidential property). The claimant shall so list the subject property for sale continuously, until entering into an agreement for the sale of the subject property; provided, however, that discontinuities made necessary by the claimant's good faith choice to list the subject property with another broker shall not be deemed to violate this requirement. One discontinuity of less than 14 days shall be presumed to be in good faith.

7:1I-7.3 Appraisal of subject property

(a) After the claimant has elected under N.J.A.C. 7:1I-7.9 to pursue the claim, or in the case of a new claim filed after the operative date of this chapter, the Fund shall obtain appraisals of the value of the subject property. The appraisals shall be as of the time of the sale of the subject property (or, for claims under N.J.A.C. 7:1I-7.6 or 7.7, as of the date the Fund makes the settlement offer). One such appraisal shall state the value of the subject property as affected by the sanitary landfill (unless the Fund elects not to obtain such appraisal, pursuant to (b) below), and one appraisal shall state the value of the subject property absent the effect of the sanitary landfill. The appraisals may, in the Fund's discretion, be based upon one or more of the following factors:

1. Sales of comparable properties in the immediate area;
2. Income generated by the subject property;
3. Replacement cost of the subject property; and/or
4. Such other factors as are ordinarily considered by real estate appraisers who are members of the Appraisal Institute or who are licensed or certified to perform real estate appraisals in New Jersey.

(b) The Fund may elect not to obtain an appraisal of the subject property as affected by the sanitary landfill if the Fund determines, in its discretion, that there is insufficient information to obtain a meaningful appraisal of the subject property reflecting the effect of the sanitary landfill. Without limiting the discretion of the Fund under this subsection, the Fund may determine that there is insufficient information if fewer than three comparable properties which have been affected by the sanitary landfill have been sold as of the date on which the claim is filed.

7:1I-7.4 Valuation of a claim

(a) If the Fund has obtained appraisals pursuant to N.J.A.C. 7:1I-7.3(a), the amount of the claim eligible for compensation from the Fund shall be equal to the difference between (a)1 and 2 below, adjusted in accordance with (c) below:

1. The appraised value of the subject property determined pursuant to N.J.A.C. 7:1I-7.3(a), excluding the effect of the sanitary landfill on such value; and

2. The greater of:

i. The appraised value of the subject property determined pursuant to N.J.A.C. 7:1I-7.3(a), reflecting the effect of the sanitary landfill on such value; or

ii. The price actually obtained by the claimant upon the sale of the subject property, without closing adjustments.

(b) If, pursuant to N.J.A.C. 7:1I-7.3(b), the Fund has elected not to obtain an appraisal of the subject property as affected by the sanitary landfill, the amount of the claim eligible for compensation from the Fund shall be equal to the difference between (b)1 and 2 below, adjusted in accordance with (c) below:

1. The appraised value of the subject property determined pursuant to N.J.A.C. 7:1I-7.3(a), excluding the effect of the sanitary landfill on such value; and

2. The price actually obtained by the claimant upon the sale of the subject property, without closing adjustments.

(c) The Fund may, in its discretion, adjust the amount determined pursuant to (a) or (b) above by considering other information available to the Fund which supports a conclusion that the amount determined pursuant to (a) or (b) above does not accurately reflect the diminution in the value of the subject property resulting from the sanitary landfill. Such information may include, but is not limited to, any of the following:

1. Information concerning sales of comparable properties considered in establishing an appraisal pursuant to N.J.A.C. 7:1I-7.3(a), indicating that factors other than the sanitary landfill affected the sale prices of such properties. Such information may include, without limitation, the prices of comparable properties within and outside the area in which the sanitary landfill may have affected real property values; the time elapsed between listing for sale and execution of an agreement of sale for comparable properties within and outside the area in which the sanitary landfill may have affected real property values; and specific terms of the agreements of sale (such as financing terms, personal property included in the sale, and apportionments of closing costs);

2. Information concerning sales of comparable properties considered in establishing an appraisal pursuant to N.J.A.C. 7:1I-7.3(a), indicating that such properties have characteristics which distinguish them from the subject property, and which affect the values of such properties;

3. Information concerning the sale of the subject property, indicating that the difference between the sale price and the appraised value of the property reflected factors other than the sanitary landfill. Such information may include, but is not limited to, the time elapsed between listing of the subject property for sale and execution of an agreement of sale; the length of time the subject property was offered for sale, the nature and number of any offers to purchase the subject property; the difference between the initial listing price and the sale price; the number and extent of intermediate reductions in the listing price; specific terms of the agreement of sale for the subject property (such as financing terms, personal property included in the sale and apportionments of closing costs); data concerning the real estate market generally at the time of the sale of the subject property; and other evidence of the good faith nature of the sale required to be submitted under N.J.A.C. 7:1I-7.5; and

4. The effect of the completion of the construction phase of the sanitary landfill remediation or of other amelioration of the damages resulting from the sanitary landfill.

7:1I-7.5 Evidence of good faith sale

(a) Except as provided in N.J.A.C. 7:1I-7.7 and 7.8, within 10 days after the closing of a sale of the subject property, the claimant shall submit the following documents to the Department:

1. Copies of all listing agreements for the sale of the subject property;
2. Copies of all written offers to purchase the subject property;
3. A copy of the contract of sale of the subject property;
4. Copies of all settlement statements, including, without limitation, the HUD-1 Uniform Settlement Statement form if required by 24 CFR 3500.8;
5. A copy of the deed conveying the subject property together with a copy of the transmittal letter forwarding the deed to the county clerk or register of deeds and mortgages for recording;
6. An affidavit by the claimant, signed by the person required to sign the claim and certified in accordance with N.J.A.C. 7:1I-2.2, stating the following:

i. The sale price of the subject property without closing adjustments;

ii. That neither the claimant nor any person not listed on the settlement statements has received any money or other compensation from any party in connection with the subject property, except as set forth on the settlement statements; and

iii. That the documents submitted pursuant to (a)1 through 5 above are delivered in connection with the sale of the subject property; and

7. An affidavit by the claimant's realtor, stating the following:

i. That the realtor is a member of the multiple listing service, and listed the property for sale with the multiple listing service (unless the subject property is of a type not normally sold through a multiple listing service);

ii. The period of time the subject property was offered for sale, and the period of time the property was listed for sale with the multiple listing service;

iii. The initial listing price;

iv. All changes in the listing price, and the dates of such changes;

v. A record of all inquiries received from potential purchasers regarding the subject property, and of all showings or open houses held in the course of offering the subject property for sale, including the names and addresses of all persons who inquired about the subject property, were shown the subject property, or attended open houses at the subject property, and a description of the responses of these persons to the subject property; and

vi. A record of the amount and date of each offer made for the purchase of the subject property.

(b) A determination by the Fund that the claimant arrived at the sale price in good faith shall not preclude the Fund from determining that any other aspect of the sale of the subject property was not in good faith.

(c) The Fund may deny the claim or adjust the amount eligible for compensation, if based upon the evidence required under (a) above, the Fund determines that any aspects of the sale of the subject property was not in good faith.

7:1I-7.6 Settlement based upon legal inability to sell the subject property

(a) If, solely as a result of the sanitary landfill, the claimant is legally unable to sell the subject property (for example, if a certificate of occupancy cannot be issued for the subject property as a result of the sanitary landfill, and the subject property is located in a municipality in which a certificate of occupancy is required for the sale), the Fund may, in its discretion, offer to settle the claimant's claim against the Fund in accordance with this section.

(b) If the Fund elects to settle a claim pursuant to this section, the Fund shall determine the amount of the claim eligible for compensation pursuant to N.J.A.C. 7:1I-7.4. An offer by the Fund to settle the claim shall be in such amount.

(c) The making, acceptance or rejection of such settlement offer pursuant to (b) above shall be in accordance with N.J.A.C. 7:1I-5.3.

(d) As a condition of the settlement of the claim pursuant to this section, the claimant shall cause all persons having an ownership interest in the subject property (including, without limitation, any dower or courtesy interest preserved pursuant to the N.J.S.A. 3B:28-1) to execute, acknowledge and deliver to the Department a document, in recordable form, granting to the Fund a lien on the subject property securing repayment of the full amount of the settlement. The Department shall forward such document to the county clerk or register of deeds and mortgages of the county in which the subject property is located. Such document shall be prepared and recorded at the claimant's expense.

(e) The Fund shall execute, acknowledge and deliver to the claimant a discharge of the lien upon payment of the following amount (provided however, that if the payment amount calculated below is less than zero, the Fund shall execute, acknowledge and deliver the discharge of the lien upon the claimant's written request without the payment of any money; and provided further, that if the payment amount calculated below exceeds the amount of the settlement, the Fund shall execute, acknowledge and deliver the discharge of the lien upon repayment of the settlement amount by the claimant, plus interest at the rate for post-judgment interest established in the Rules Governing the Courts of the State of New Jersey, as such rate is in effect as of the date of the settlement):

$$\text{Payment amount} + SP - (AV - S)$$

where:

1. SP equals the sale price of the subject property, as adjusted pursuant to the criteria listed in N.J.A.C. 7:1I-7.4(c), if the Fund determines that the actual sale price does not accurately reflect the diminution in the value of the subject property resulting from the sanitary landfill;

2. AV equals the appraised value of the subject property, absent the effects of the sanitary landfill, as adjusted under N.J.A.C. 7:1I-7.4(c); and

3. S equals the amount of the settlement made pursuant to this section.

7:1I-7.7 Settlement when emergency relocation is necessary

If the Fund determines, in its discretion, that environmental conditions at the subject property which result from the sanitary landfill create a substantial risk of imminent harm to the health and safety of the occupants of the subject property, the Fund may suspend any or all of the requirements of N.J.A.C. 7:1I-7.2, 7.3, 7.4 and 7.5 and may immediately award compensation to enable the occupants of the property to relocate temporarily or permanently. Such an award may include all or part of the purchase price, relocation costs, and assumption of the costs of property encumbrances.

7:1I-7.8 Contract for sale of property entered into before filing of claims

(a) If a claimant has entered into a contract for the sale of property before filing a property value dimunition claim with respect to such property, the Fund may, in its discretion, settle such a claim in accordance with this section.

(b) Claims made pursuant to this section shall be eligible for compensation only to the extent provided in N.J.A.C. 7:1I-7.1, and only if the subject property satisfies the eligibility requirements set forth in N.J.A.C. 7:1I-7.2.

(c) Subject to the limitation in N.J.A.C. 7:1I-7.1, the Fund shall determine the amount of the settlement offer pursuant to N.J.A.C. 7:1I-7.4.

(d) Together with the claim (or, if the claim is made before closing), the claimant shall submit to the Department all documents required pursuant to N.J.A.C. 7:1I-7.5; provided, however, that the Department may, in its discretion, refrain from requiring submission of the documents normally required under N.J.A.C. 7:1I-7.5(a)1 and (a)7.

7:1I-7.9 Suspension of claims

(a) The Department shall send notice of the requirements of this chapter to each claimant who filed a property value diminution claim before the effective date of this chapter. Within 60 days after receipt of such notice, each claimant shall notify the Department of his or her election to:

1. Pursue the claim;

2. Suspend the claim for the period provided in (c) below; or

3. Withdraw the claim.

(b) If a claimant fails to notify the Department of his or her election under (a) above, the claimant shall be deemed to have suspended the claim for the period provided in (c) below.

(c) All claims suspended pursuant to (a) or (b) above will remain in suspension until one of the following occurs:

1. The Department receives notice from the claimant, stating that the claimant desires to reinstate the claim; or

2. The claimant receives notice from the Department, stating that the construction phase of the sanitary landfill remediation has been completed to the satisfaction of the Department, and that the Fund is therefore denying the claim; provided, however, that if the Department has required as a condition of its satisfaction that a restriction running with the subject property be recorded with the applicable county clerk or register of deeds, the claimant may make a claim for diminution resulting from such restriction in accordance with the requirements of this chapter.

(d) At any time during the period of suspension under (c) above, a claimant may request reinstatement of the claim by notice to the Department.

(e) At the end of the suspension period provided in (c) above, the claim will be automatically reactivated, unless the claimant has previously withdrawn the claim.

(f) Upon reactivation of a suspended claim:

1. The Fund shall confirm the reactivation by written notice to the claimant;

2. The claim will be processed in accordance with this chapter; and

3. Within 30 days after receiving notice of the reactivation the claimant shall list the subject property for sale with one or more

licensed brokers who are members of a multiple listing service (or its commercial equivalent, for claims involving commercial property or other properties not normally offered for sale through a multiple listing service).

(g) Upon the claimant's second suspension of the claim, the Fund shall dismiss the claim, without prejudice. If the claimant subsequently files a new claim for the same damages contained in the original dismissed claim, the new claim will be deemed to have been filed as of the date of filing of the original dismissed claim.

(a)

NEW JERSEY HISTORIC TRUST
Historic Preservation Revolving Loan Program
Proposed New Rules: N.J.A.C. 7:4B

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Authority: N.J.S.A. 13:1B-3 and 13:1B-15.111 et seq.
DEPE Docket Number: 09-93-01.
Proposal Number: PRN 1993-100.

Submit written comments by March 31, 1993 to:

Richard J. McManus
Administrative Practice Officer
Office of Legal Affairs, 4th Floor
New Jersey Department of Environmental Protection and Energy
CN 401
Trenton, New Jersey 08625; and

Harriette Hawkins
Executive Director
New Jersey Historic Trust
CN 404
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules provide the procedures and criteria under which the New Jersey Historic Trust (Trust) will make loans for the preservation, improvement, restoration, rehabilitation, and acquisition of historic properties. The loan fund has been established by the Historic preservation Revolving Loan Fund Act (P.L. 1991 c.41). Properties must be owned, acquired by, or on long-term lease to county and municipal governments and to tax-exempt nonprofit organizations. The minimum term required of a lease arrangement is 20 years.

The New Jersey Historic Trust, a body corporate and politic in the DEPE, is a nonprofit historic preservation organization created to preserve and protect New Jersey's historic resources. The Trust is governed by an 11-member board of trustees. Eight members are private citizens appointed by the Governor, with the advice and consent of the Senate. Three members serve ex-officio, representing the State Treasurer, the New Jersey Historical Commission, and the Commissioner of the Department of Environmental Protection and Energy.

On November 3, 1987, the voters of New Jersey approved overwhelmingly by referendum the Green Acres, Cultural Centers, and Historic Preservation Bond Act (P.L. 1987, c.265) (the Act). The Act authorized the sale of $100,000,000 in State bonds, for among other purposes, to finance in the amount of $3 million a Trust revolving loan fund to assist "bricks and mortar" capital preservation projects.

The proposed new rules establish eligibility criteria for these historic preservation loans. These criteria define who is eligible to obtain a loan; what types of property can be the subject of an activity funded by a loan; and what activities are eligible for funding.

As required by the Act, N.J.A.C. 7:4B-2.1 provides that an applicant for a loan may be an agency or instrumentality of county or municipal government or a nonprofit organization which qualifies as tax-exempt under section 501(c) of the Internal Revenue Code. An applicant is not eligible if it is in default on any existing obligations to the DEPE, as per DEPE's agreement with Treasury. Defaults may be cured before processing of an application.

Eligible (individually, as part of a historic district, or as part of a thematic listing) properties constitute those listed in the National or State Register of Historic Places or those properties certified as eligible for listing by the Deputy State Historic Preservation Officer. Unless the purpose of the loan is to fund the acquisition of property, the applicant must either own the subject property, or possess the property under a long-term lease which gives the applicant sufficient control to guarantee continuing preservation and maintenance of the property, and public access to the property. (N.J.A.C. 7:4B-2.2).

N.J.A.C. 7:4B-2.3(a) establishes that the activities eligible for funding include preservation, rehabilitation, restoration, improvement, and acquisition of eligible property. This provision also lists specific types of costs directly related to those activities, which are also eligible for funding. However, N.J.A.C. 7:4B-2.3(b) lists certain other costs which may arise in connection with the historic preservation activity, but which are not eligible for funding because they are not historic preservation or used for capital funds.

N.J.A.C. 7:4B-3.1 sets forth the procedures for applying for a historic preservation loan. The Trust will accept applications continuously; there is no limited application period each year. The applicant is required to submit a written application on a form provided by the Trust with required documents. These documents shall contain information sufficient to enable the Trust to determine whether the applicant and the proposed project are eligible for a historic preservation loan, and the amount which should be allocated to the project under N.J.A.C. 7:4B-3.1. Security may be required based on such criteria as the loan applicant's creditworthiness and the mortgagability of the asset to be acquired or the physical structure where capital improvement takes place.

Under N.J.A.C. 7:4B-4.1, the minimum amount for a historic preservation loan is $25,000. The maximum amount is 15 percent of the amount in the Historic Preservation Revolving Loan Fund as of the beginning of the fiscal year in which an application is submitted. Loan amounts will be for a maximum of 40 percent of project funding for all public entities and will not exceed 90 percent of project funding for nonprofit organizations. An interest rate of up to four percent per annum is set by statute for this program. Repayment and penalty provisions are also described in these rules.

The minimum loan amount of $25,000 was established due to the high level of transaction costs required by the review, evaluation and processing of historic preservation loan applications. The review and evaluation process requires a technical and financial review of the proposed project. These reviews involve extensive internal review of submitted financial, legal and construction documents and site visit(s). The maximum of 15 percent of the available revolving loan fund balance to be loaned to any one applicant during a fiscal year was established so funds may be reasonably distributed Statewide and to maximize the effectiveness of the program. The maximum of 40 percent and 90 percent of project funding for public and nonprofit entities, respectively, are designed to leverage the financial resources of the loan fund, to guarantee a certain minimum level of financial commitment by the revolving loan applicants and to stimulate wider support of historic preservation projects. The interest rate charged a loan recipient up to the 4% maximum will be based on the entity's ability to repay the loan (based on loan review and evaluation) and the absolute value of the loan.

The proposed new rules also outline the criteria and procedures for reviewing loan requests (N.J.A.C. 7:4B-4.2). The criteria used to evaluate historic preservation loan applications will include the following: significance of the resource; physical condition of the property; plans for the preservation of the structure; compliance with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* (Revised 1992); administrative capability of the applicant to carry out the project; availability of applicant's portion of project budget requirements; security available for the loan; financial plans for continued preservation of the project site; and degree and kind of public access.

A sign acknowledging that the project is being funded with assistance available through the New Jersey Historic Preservation Revolving Loan Program administered by the New Jersey Historic Trust, New Jersey Department of Environmental Protection and Energy, shall be prominently located and maintained on the project site (N.J.A.C. 7:4B-7.1(a)).

Social Impact

The proposed new rules will have a positive social impact, by assisting in the preservation, improvement, restoration, rehabilitation, and acquisition of the States historic resources. The preservation of these historic properties will help maintain an important element of the State"s historic heritage which would otherwise be lost. All properties assisted through the Historic Preservation Revolving Loan Progam must demonstrate public benefit by assuring continued preservation of the historic

properties and by providing public access to the property. These projects will serve as catalysts for further preservation and/or revitalization of the surrounding communities. This program will benefit the owners and/or lease holders of these properties by making available low cost funds for the preservation of these structures. It is anticipated that many of the projects funded under this program will be applicants who might not qualify for assistance under existing programs.

Economic Impact

The proposed new rules will facilitate the distribution of revolving loan funds and provide the means by which revolving loan funds are made available for historic preservation projects. It is anticipated that the preservation and restoration of historic properties with revolving loan funds provided under the Historic Preservation Revolving Loan Program will play an important part in neighborhood revitalization and stablization efforts, and generate jobs for the building trades. This fund will be replenished as loans are repaid and thereby provide a long-term source of funds for preservation. An increase in community tax ratable property may result from the revolving loan funding. Economic costs which an applicant may be likely to incur could include consulting services of a preservation professional fund raiser and the professional services of an accountant and attorney.

Environmental Impact

The proposed new rules will result in a positive environmental effect because they will provide loan funds for the preservation, improvement, restoration, and rehabilitation of historic properties within the State of New Jersey. The Historic Preservation Revolving Loan Program will also help conserve open space. Further, it will serve as a catalyst for the revitalization of many of the State's older neighborhoods.

Regulatory Flexibility Analysis

Nonprofits, some of which may be considered small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., often have as one of their primary purposes the acquisition of buildings and land for preservation purposes. Therefore, the costs involved in acquiring building and land under this program are often part of the nonprofit's normal operating costs. The nonprofit benefits, however, in that the cost of acquisition which includes land, survey, and appraisal costs, is eligible for 50 percent reimbursement by the Trust under this program.

Nonprofits must follow the aplication procedures and comply with the conditions imposed by the Trust. The administrative costs of applying for, and complying with, the conditions of the loan are minor and are minimized by the following: Trust staff is available for technical assistance in the application process; the documentation required by the Trust generally is produced during normal acquisition activities, so the nonprofits can rely on existing staff and available resources; and all requirements are clearly explained prior to the commencement of the project, thereby reducing any unnecessary work.

The nonprofit will need to retain the services of certain businesses such as appraisal, survey, title insurance, accounting and legal firms. Most professional services will be contracted by the nonprofits and are eligible for 50 percent reimbursement under the program. The nonprofit must keep billing records to comply with Trust requirements.

There will be some costs associated with complying with loan requirements and conditions. However, no fixed or firm estimate of those costs is possible because each project will be unique and the resources available to the nonprofit to comply, without expending funds, will vary. Among the factors which will affect total cost of compliance are the following: availability of volunteer labor, donations by interested parties, location of the project site, and the cost of acquisition.

Complying with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Revised 1992) may involve extra costs but these are reimbursable capital expenditures. If an easement is taken on the property, these Standards guide future preservation work and the easement requires that the property be adequately maintained (N.J.A.C. 7:4B-6.1). Thus, some additional costs may be generated for easement properties because of the review process which governs changes to a property and the cyclical maintenance program needed to maintain a historic building in good working order.

Full text of the proposed new rules follows:

CHAPTER 4B
HISTORIC PRESERVATION REVOLVING LOAN PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

7:4B-1.1 Purpose

This chapter shall constitute the rules of the New Jersey Historic Trust in the Department of Environmental Protection and Energy for the Historic Preservation Bond Program providing for the award of loans on a competitive basis for historic preservation projects, for the preservation, improvement, restoration, rehabilitation or acquisition of historic properties owned by county and municipal governments and by tax-exempt nonprofit organizations in accordance with the P.L.1987, c.265 and P.L.1991, c.41.

7:4B-1.2 Definitions

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

"Acquisition" means the process of obtaining an interest in real property for the purpose of preserving or enhancing the historic, cultural or architectural significance of the property. Acquisition may include purchase of title, development rights, life estates, remainder interests, easements or other interests in real property which would result in the preservation of a historic property.

"Act" means the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265.

"Applicant" means the county or municipal government or nonprofit organization that submits an application for a historic preservation loan.

"Approved project period" means the amount of time prescribed in the project agreement during which the loan recipient must complete the approved historic preservation project.

"County and municipal government" includes all legal subunits and coequal units of county and municipal government.

"Deputy State Historic Preservation Officer" means the Administrator, Historic Preservation Office, Department of Environmental Protection and Energy, designated by the Commissioner of the Department of Environmental Protection and Energy to administer the State Historic Preservation Program to identify and nominate eligible properties to the National Register of Historic Places.

"Historic" as applied to any property, structure, facility or site means any area, site, structure or object approved for listing or which has been certified by as meeting the criteria for listing in the New Jersey or National Register of Historic Places as set forth at N.J.A.C. 7:4. The State Historic Preservation Officer is responsible for identifying and nominating eligible properties to the National Register of Historic Places.

"Historic preservation cost" means the expenses incurred in connection with the historic preservation project for which loan assistance is provided.

"Historic preservation loan" means moneys approved by the New Jersey Historic Trust for funding of a historic preservation project and subject to the terms of an agreement between the Trust and the recipient.

"Historic preservation project" means work directly related to the acquisition, improvement, restoration, stabilization, and/or rehabilitation of a historic property, structure, facility or site.

"Improvement" means the act of upgrading the basic physical condition of a property in a manner consistent with the Standards for the Treatment of Historic Properties (Revised 1992) adopted by the Secretary of the United States Department of the Interior now in effect and as may subsequently be modified, changed or amended. This type of activity includes upgrading mechanical systems, providing appropriate barrier-free access for handicapped persons, and bringing a property into conformance with building costs.

"Loan agreement" means a document executed by the New Jersey Historic Trust and a loan recipient which provides loan assistance of a specified amount for a historic preservation project approved by the Trust.

"Loan recipient" means the county or municipal government or nonprofit organization named in an agreement executed with the Trust to receive loan funds for a historic preservation project.

"National Register of Historic Places" means the list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§470 et seq.).

"Nonprofit organization" means a corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq. and qualified for tax-exempt status under the Internal Revenue Code of 1986 (26 U.S.C. §501(c)).

"Preservation" means the act or process of applying measures to sustain the existing form, integrity, and material of a historic property.

"Reconstruction" is defined as the act of process or depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

"Rehabilitation" is defined as the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions of features which convey its historical, cultural, or architectural values.

"Restoration" is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

"Secretary of the Interior's Standards" means the Standards for the Treatment of Historic Properties (Revised 1992) adopted by the Secretary of the United States Department of the Interior now in effect and as may subsequently be modified, changed or amended, incorporated herein by reference.

"Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished where the location itself maintains historic or archaeological value regardless of the value of any existing structure.

"State Historic Preservation Officer" means the Commissioner of the Department of Environmental Protection and Energy designated by the Governor to administer the State Historic Preservation Program and to identify and nominate eligible properties to the National Register of Historic Places. The State Historic Preservation Officer establishes the procedures and criteria located at N.J.A.C. 7:4 for receiving and processing nominations and approval of areas, sites, structures and objects both publicly and privately owned, for listing in the State Register of Historic Places.

"State Register of Historic Places" means the New Jersey Register of Historic Places consisting of areas, sites, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection and Energy is authorized to expand and maintain under the "New Jersey Register of Historic Places Act," N.J.S.A. 13:1B-15.128 et seq.

"Structure" means a work constructed by man and made up of interdependent and interrelated parts in a definite pattern or organization. Structures are distinguished from buildings by their functional and utilitarian nature. Generally, a structure is built for a purpose other than to create shelter.

"Trust" means the New Jersey Historic Trust, a body corporate and politic with corporate succession established in the Department of Environmental Protection and Energy under N.J.S.A. 13:1B-15.111 et seq.

SUBCHAPTER 2. ELIGIBILITY FOR HISTORIC PRESERVATION

7:4B-2.1 Eligible applicants

(a) County and municipal governments and tax-exempt nonprofit organizations are eligible to submit applications for historic preservation loans.

(b) No historic preservation loan will be made to nonprofits or governmental units which are in default on prior obligations to the New Jersey Department of Environmental Protection and Energy.

7:4B-2.2 Eligible property

(a) A historic preservation project is eligible for a historic preservation loan only if, at the time the Trust receives the loan application, the property which is the subject of the project is:

1. Individually listed in the National or State Register of Historic Places;
2. Located within a historic district listed in the National or State Register of Historic Places and identified in the nomination of the district as contributing to the significance of the district;
3. Included in a thematic listing of historic resources in the State National Register of Historic Places; or
4. Certified by the Deputy State Historic Preservation Officer that the property, structure, facility or site is approved for listing or meets the criteria for listing in the State Register of Historic Places as set forth in N.J.A.C. 7:4.

(b) Unless the purpose of the historic preservation loan is to fund an acquisition, a historic preservation project is eligible for a historic preservation loan only if, at the time the Trust receives the loan application, the property which is the subject of the project is:

1. Owned in fee simple by the applicant; or
2. If the property is not owned in fee simple by the applicant, the applicant shall have possession and sufficient control over the property pursuant to a long-term lease to guarantee the continuing preservation, on-going maintenance and public access requirements for the historic property under this chapter. No historic preservation project proposed for leased property shall be approved for funding unless:

i. The lease may not be revoked at will by the lessor;

ii. The unexpired term of the lease is:

(1) For property owned by a county or municipality and leased to the applicant, five years or more as of the date the Trust receives the application for a historic preservation loan; or

(2) For property owned privately and leased to the applicant, 20 years or more as of the date the Trust receives the application for a historic preservation loan; and

iii. The application for the historic preservation loan is endorsed by all owners, lessors and lessees of the leased premises as the case may be.

7:4B-2.3 Historic preservation activities eligible for funding

(a) The following activities are eligible for funding by the historic preservation loan program:

1. Preservation;
2. Rehabilitation;
3. Restoration;
4. Improvement;
5. Acquisition;
6. The following non-construction activities related directly to the development, implementation, operation and monitoring of a historic preservation project:

i. Architectural plans, designs, specifications, cost estimates and other contract documents;

ii. Feasibility studies;

iii. Historic structure reports;

iv. Preservation plans;

v. Historic landscape reports;

vi. Archaeological reports;

vii. Architectural reports;

viii. Engineering reports;

ix. Historic research reports;

x. Project completion reports;

xi. Preparation of a successful loan application;

xii. Construction permits;
xiii. Architectural fees for construction administration services;
xiv. Consultant fees for preparation of reports required by the Trust; and
xv. Market feasibility studies;
7. Project signs, required under N.J.A.C. 7:4B-5.1;
8. Interpretive signs or plaques approved by the Trust for funding as part of a historic preservation loan; and
9. The following expenses to acquire title or permanent interest in a property, or to refinance the acquisition of an eligible property:
i. Survey costs;
ii. Appraisal fees;
iii. Title searches;
iv. Title insurance;
v. Recording fees;
vi. Inspection fees;
vii. Legal fees associated with acquisition; and
10. Costs to market the property for resale.

(b) Costs incurred in the following activities are not eligible for funding by the historic preservation loan program because they are not historic preservation activities and/or funds are to be used only for capital or acquisition expenses:

1. Construction of new buildings, structures or major new additions to existing buildings or structures, except if such construction is a minor and necessary component of a historic preservation project approved for funding;
2. Reconstruction of buildings or structures which formerly existed, except if such building or structure is a minor and necessary component of a historic preservation project approved for funding;
3. Personnel or administrative overhead or any other indirect cost;
4. Ceremonial expenses;
5. Expenses for publicity (with the exception of the required project sign);
6. Bonus payments of any kind;
7. Charges for contingency reserves;
8. Charges in excess of the lowest bid when the loan recipient is required to use competitive bidding, unless the Trust agrees in advance to the higher cost;
9. Charges for deficits or overdrafts;
10. Damage judgments arising from construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise;
11. Services, materials, or equipment obtained under any other State program;
12. Costs of discounts not taken;
13. Contract cost overruns, not approved, that exceed all allowable amounts as per the contract specifications;
14. Fundraising;
15. Lobbying;
16. Work including construction, research and preparation of plans and reports not included in the scope of work set forth in the project agreement;
17. The following costs of acquisition are not eligible:
i. Broker's or realtor's fees;
ii. Legal fees not directly related to acquisition;
iii. Loan discounts or origination fees are generally not eligible for reimbursement unless financial hardship can be demonstrated; and
iv. Other loan application fees;
18. Real property taxes, except in loans for acquisition where the purchase of tax liens is necessary to acquire the property;
19. Increases in land costs in excess of the approved fair market value;
20. Work which does not comply with the Secretary of the Interior's Standards;
21. Work performed on behalf of a county or municipal government which has not been awarded in compliance with the State Contracts Law, N.J.S.A. 52:32-1 et seq. or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. when applicable;
22. Work performed on behalf of a nonprofit organization which has not been awarded in compliance with the State Contracts Law or the Local Public Contracts Law if the cost of the contract for work performed as part of the historic preservation project funded with a historic preservation loan exceeds $50,000;
23. Routine periodic maintenance work except if it is a minor and necessary component of a historic preservation project; and
24. Relocation of structures, buildings or objects unless the following conditions are met:
i. Relocation of the structure, building or object is necessary for its preservation; or
ii. The relocation re-establishes the historic orientation, the immediate setting, and general environment of the property; and
iii. The Deputy State Historic Preservation Officer determines that the property, as relocated, will continue to meet the criteria for listing in the National Register of Historic Places.

SUBCHAPTER 3. HISTORIC PRESERVATION LOAN APPLICATION PROCESS

7:4B-3.1 Procedures

(a) Revolving loan applications will be accepted and reviewed from all eligible applicants on a continuous basis.

(b) To apply for a historic preservation loan, the applicant shall submit a written application, on a form provided by the Trust with specified documents attached to the following address: New Jersey Historic Trust, New Jersey Department of Environmental Protection and Energy, 506-508 East State Street, CN 404, Trenton, New Jersey 08625-0404. The applicant shall include in the application the information listed in (c) below.

(c) The applicant shall include the following information in the application:

1. A statement of and documentation supporting the significance and condition of the property;
2. A narrative description of the proposed project;
3. Cost estimates for proposed work and/or acquisition;
4. Black and white photographs and color slides of the property;
5. Long-range plans for the future preservation of the property;
6. The names and addresses of all owners, all parties with an ownership interest, and if applicable, evidence of ownership or an interest in ownership of the property for which a loan is requested;
7. As applicable, the names of lessors and lessees, and a copy of a long-term lease meeting the requirements of N.J.A.C. 7:4B-2.2(b)2;
8. Evidence of security may be required depending on the loan applicant's creditworthiness and the mortgagibility of the asset to be acquired or on which capital improvement takes place;
9. Evidence of recipient's ability to repay the loan will include information pertaining to source(s) of funds, projected income statements, and previous years annual financial statements as requested by the Trust;
10. If the property for which a historic preservation loan is requested is not listed in the State or National Register of Historic Places, a certification by the Deputy State Historic Preservation Officer that, as of the date of the Trust's receipt of the application, the historic property for which a loan is requested is approved for listing or meets the criteria for listing in the State Register of Historic Places as set forth in N.J.A.C. 7:4-2;
11. A resolution of the governing body of the applying county or municipality, or a resolution of the board of directors of the applying nonprofit organization, recommending the historic preservation project for funding under the Program; and
12. Any other information reasonably necessary to enable the Trust to determine whether the applicant and the proposed historic preservation project are eligible for a historic preservation loan, and the amount which should be allocated to the project under N.J.A.C. 7:4B.

(d) If an application is incomplete, the Trust will notify the applicant and state what is necessary to make the application complete. If the applicant does not submit the necessary information within 30 days after the date of mailing of the notice, the application will be deemed rejected without prejudice.

(e) Applicants not funded will be advised of the reasons for rejection and may submit a revised or new application.

(f) Application materials for projects not funded shall be retained by the Trust for 90 days following the final disposition of the request for loan funds. The materials shall be returned if the applicant submits a written request to the Trust within the 90 day period. After 90 days the Trust may discard all application materials for non-funded projects.

SUBCHAPTER 4. ALLOCATION OF HISTORIC PRESERVATION LOAN FUNDS

7:4B-4.1 Allocation of historic preservation loan funds

(a) Historic preservation loan funds shall be allocated in accordance with an evaluation of applications received by the Trust. The Trust shall evaluate applications based on the following criteria:

1. The balance in the revolving loan fund;
2. The aggregate amount of loans for which requests are pending;
3. Any minimum reserve amount established for the fund; and
4. The extent to which a proposed historic preservation project meets the criteria in N.J.A.C. 7:4B-4.2.

(b) The minimum loan amount to be accepted for review is $25,000. The maximum loan amount to be accepted for review will not exceed 15 percent of the available revolving loan fund balance as of the beginning of the fiscal year (July 1) in which the application is submitted.

(c) Loan amounts will be for a maximum of 40 percent of project funding for all public entities and will not exceed 90 percent of project funding for nonprofit organizations.

(d) The Trust reserves the right to limit the funding to less than the amount requested in an application and to specify the particular aspect(s) of the project it will fund.

7:4B-4.2 Criteria for review and evaluation of applications for historic preservation loans

(a) All applications for eligible historic preservation projects shall, for the purpose of determining priority for funding, be evaluated on the basis of the following competitive criteria:

1. The significance of the resource, which shall involve consideration of the following:

i. The degree to which a property is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of the State, according to the evaluation criteria for the National Register of Historic Places;

ii. The degree of significance locally or at the regional, state, or national level; and

iii. The degree to which a property retains its historical features and setting;

2. The physical condition of the property; evidence of conditions which require priority attention, including any immediate threat of collapse, demolition or inappropriate use or development, notice of code violations, and deterioration requiring stabilization;

3. Plans for the preservation of the structure, which shall involve consideration of the following:

i. Plans for use and interpretation of the historic property;

ii. Preservation and maintenance plans;

iii. Visibility of the resource and ability of project to serve as a catalyst for further preservation of historic resources; and

iv. The potential impact of project on the community;

4. Compliance with the Secretary of the Interior's Standards reflected in:

i. Project plans, specifications and any other documents for work that has not been done for which the application for a historic preservation loan has been submitted; or

ii. Work underway or completed that is part of an on-going historic preservation project for which the application for a historic preservation loan is submitted;

5. The administrative capability of applicant, which shall involve consideration of the following:

i. Completeness of the project concept;

ii. The place of the project in long-range plans of applicant;

iii. The quality of project consultants;

iv. Financial resources of applicant, including the ability of applicant to repay the loan. Letters of rejection from commercial lenders ("turndown letters") may be required as part of the evaluation of the applicant's financial need;

v. A realistic time frame for project; and

vi. The applicant's qualifications and experience in managing historic preservation projects;

6. The availability of funds to meet project budget requirements;

7. The security available for the loan, including, but not limited to, any real or personal property, personal or corporate guarantees, and financial instruments;

8. Financial plans for the continued preservation of the historic structure after the expenditure of historic preservation loan funds; and

9. The degree and kind of public access.

(b) Funds shall be distributed to achieve a geographical, racial and ethnic balance as well as a balance between sizes and types of projects, and historical or cultural period of the resources assisted by the program.

SUBCHAPTER 5. LOAN DISBURSEMENT AND REPAYMENT

7:4B-5.1 Loan disbursement and repayment

(a) After the project agreement has been fully executed, the Trust shall deposit the revolving loan payment into a separate account established by the recipient specifically for the project for which the loan is made. Payments shall be made in one or more installments, at the discretion of the Trust.

(b) Any changes in the scope of the project funded by this loan must be reviewed and approved in advance by the Trust.

(c) Any use of funds provided through this program that are not in accordance with the project agreement will constitute default of the loan agreement and the loan shall immediately become payable to the New Jersey Historic Trust Revolving Loan Fund with interest.

(d) Specific loan terms, conditions and repayment information will be provided in the project agreement:

1. An amortization or loan repayment schedule will be provided in the project agreement. The schedule will indicate installment dates and loan repayment amounts;

2. The precise terms, conditions, and repayment schedule is based on the loan recipient's ability to pay which is calculated from information obtained during the loan review process. The maximum term of the loan will not exceed 20 years from the date the first payment is made until the date the final payment is due; and

3. The recipient may prepay the loan in whole or in part at any time without penalty.

(e) The precise interest rate is based on the recipient's ability to repay the loan and the absolute value of the loan. Interest shall accrue on the amount of funds provided by the Trust at a rate of no more than four percent per annum:

1. The amount of interest due is calculated from the date of disbursement to the date the last payment of principal is due;

2. Failure to make a payment within 30 days of the scheduled payment due date will result in the assessment of a late fee; and

3. Late fees will be computed on a schedule provided in the project agreement.

(f) If a project is withdrawn or aborted, any costs incurred will remain the responsibility of the recipient. Any funds from this program which have been advanced to the recipient are payable immediately to the New Jersey Historic Trust Revolving Loan Fund with interest.

(g) If a property is sold or there is a change in use during the life of the loan, the principal balance will become immediately due and payable.

SUBCHAPTER 6. EASEMENT

7:4B-6.1 Easement on the historic property

(a) To assure the continued preservation of loan-assisted historic properties and to assure that public benefit shall continue to accrue from the use of the public funds, the Trust may require that an easement agreement be executed and recorded between all parties having an ownership interest in the historic property. The easement agreement shall include:

1. Provision for the continued preservation of the historic property; and

2. Limitations on the right to change the use, alter, demolish or convey the property.

(b) The period of the easement shall be determined by the aggregate total of loan assistance made available under this chapter, as follows:

1. From $25,000 to $50,000—10 years;
2. From $50,001 to $100,000—15 years; and
3. From $100,001 to $450,000—20 years

(c) When the term of the loan exceeds the easement term for a particular loan value category, the loan term prevails as the period of the easement.

SUBCHAPTER 7. PROJECT SIGNS

7:4B-7.1 Project signs

(a) At the initiation of a historic preservation project funded by a historic preservation loan, a sign acknowledging that the project is being funded with assistance available through the New Jersey Historic Preservation Revolving Loan Program administered by the New Jersey Historic Trust, New Jersey Department of Environmental Protection and Energy, shall be prominently located and maintained on the project site.

(b) The project sign shall be fabricated and erected by the loan recipient in accordance with specifications contained in the project agreement.

(c) The costs of fabricating and erecting the project sign are eligible for funding under N.J.A.C. 7:4B-2.3(a)9. The costs of replacing or maintaining the project sign are not eligible for funding.

(a)

HAZARDOUS WASTE REGULATION PROGRAM

Handling of Substances Displaying the Toxicity Characteristic

Proposed Amendments: N.J.A.C. 7:14A-4.7, and 7.26-8.8, 8.12 and 8.19

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Authority: N.J.S.A. 13:1E-1 et seq., specifically 13:1E-6.

DEPE Docket Number: 05-93-1.

Proposal Number: PRN 1993-93.

Submit written comments by March 31, 1993 to:

Richard J. McManus, Director
Office of Legal Affairs
New Jersey Department of Environmental Protection and Energy
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Environmental Protection and Energy (Department) is proposing to amend its hazardous waste rules to clarify and simplify language specifying proper procedures for the handling of substances displaying the Toxicity Characteristic. Amendments to the Toxicity Characteristic rules were promulgated on August 5, 1991. They contained typographical errors. The present amendments at N.J.A.C. 7:14A-4.7 and 7.26-8.8, 8.12 and 8.19 will maintain conformity with the Federal rules concerning the Toxicity Characteristic, and correct these technical errors.

The amendment at N.J.A.C. 7:14A-4.7(b) removes a citation to Federal testing standards at 40 CFR §265.273(a), and replaces it with equivalent language, thus making the standards clearer.

The first amendment at N.J.A.C. 7:26-8.8 places a colon instead of period at the end of the first paragraph. The second correction is of the following table, where the term EP Toxic waste is replaced with Toxicity Characteristic. The addition of additional text at subsection (d), citing appendix VII, 40 C.F.R. §261, alerts the regulated community to the incorporation of that appendix below at N.J.A.C. 7:26-8.19.

The first of three amendments at N.J.A.C. 7:26-8.12 refers the community to the rulemaking petition process at N.J.A.C. 7:1-1.2. The second corrects an error in the citation of a Federal table, by changing the designation of the table from the incorrect roman numeral to the correct arabic numeral and also makes it clear that the Department intends that substances listed in the Federal table be handled as hazardous in New Jersey until such time as the Department amends its table. Other amendments correct typographical errors in the waste listings.

The incorporation by reference of Appendix II, 40 C.F.R. §261 at N.J.A.C. 7:26-8.19 maintains conformity with Federal language. It does not place any additional burden upon the regulated community, but refers the community to the Federal requirements to aid them in compliance.

Social Impact

The proposed amendments will have a positive social impact on New Jersey. They will maintain the equivalence between New Jersey hazardous waste regulations and the corresponding Federal rules. These amendments will simplify compliance wih the toxicity characteristic for the regulated community by clarifying requirements and correcting errors in these requirements.

Economic Impact

The proposed amendments will have no negative economic impact because they will impose no new requirements on the regulated community. The amendments at N.J.A.C. 7:14A-4.7(b) and 7:26-8.8, 8.12 and 8.19 will simply describe existing requirements more clearly.

Environmental Impact

The proposed amendments are expected to have a positive environmental impact. The corrected and clarified language will make it easier for the regulated community to comply with the rules by correcting errors and eliminating the need at N.J.A.C. 7:14 for the community to refer to another document, by directly citing the procedure for petitioning for a rule, and by eliminating potentially unclear language, thus preventing accidental and intentional neglect of analysis procedures, and subsequent release of hazardous wastes.

Regulatory Flexibility Statement

The proposed amendments will impose no additional reporting, recordkeeping or compliance burden upon the regulated community. Therefore, no negative impact upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is expected. The amendments serve to clarify and correct errors in the affected rules.

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

7:14A-4.7 Standards for hazardous waste land treatment units

(a) (No change.)

(b) An owner or operator who has fully complied with the requirements for existing facilities as defined in N.J.A.C. 7:26-1.4 and N.J.A.C. 7:26-12 shall: [comply with the regulations specified in 40 CFR Part 265, subpart M, in lieu of the standards and requirements of this section, until final disposition of the permit application is made.]

1. Comply with N.J.A.C. 7:26-9.4(b)1; and

2. Before placing a hazardous waste in or on a land treatment facility:

i. Determine the concentrations in the waste of any substances which equal or exceed the maximum concentrations contained in Table I of N.J.A.C. 7:26-8.12(b) that cause a waste to exhibit the Toxicity Characteristic;

ii. For any waste listed in N.J.A.C. 7:26-8.13, 8.14 or 8.15, determine the concentration of any substances which caused the waste to be listed as a hazardous waste;

iii. If food chain crops are grown, determine the concentrations in the waste of each of the following constituents: arsenic, cadmium, lead, and mercury, unless the owner or operator has written documented data that show that the constituent is not present; and

iv. Place results from each waste analysis, or the documented information, in the operating record of the facility.

(c)-(o) (No change.)

7:26-8.8 Criteria for listing hazardous waste by category, class or type

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

(d) The Department will indicate its basis for listing the classes or types of wastes listed in this section by employing one or more of the following Hazard Codes[.]:

Ignitable Waste	(I)
Corrosive Waste	(C)
Reactive Waste	(R)
Toxicity Characteristic	(E)
Acute Hazardous Waste	(H)
Toxic Waste	(T)

The Department has incorporated the Federal 40 C.F.R. §261 Appendix VII at N.J.A.C. 7:26-8.19. Appendix VII identifies the constituent which caused the EPA Administrator to list the waste as a Toxicity Characteristic Waste (E) or Toxic Waste (T) in §261.31 and 261.32.

(e) (No change.)

7:26-8.12 Characteristics of toxicity

(a) A solid waste exhibits the characteristic of toxicity if, using test methods described in Appendix II of 40 CFR 261, Subpart D or equivalent methods approved by the Department **under N.J.A.C. 7:1-1.2,** the extract from a representative sample of the waste contains any of the contaminants listed in Table I, and **any additional contaminants listed at** Table [I] **1** at 40 CFR 261.24 as amended, at a concentration equal to or greater than the respective value given in those tables. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering **using the methodology outlined in Appendix II,** is considered to be the extract for the purposes of this section.

(b) A solid waste that exhibits the characteristic of toxicity, but is not listed as a hazardous waste in this subchapter, has the EPA Hazardous Waste Number specified in Table I, or Table [I] **1** at 40 CFR 261.24 as amended, which corresponds to the toxic contaminant causing it to be hazardous.

Table I

Maximum Concentration of Contaminants for Characteristic of Toxicity

EPA Hazardous Waste Number	Contaminant	Chemical Abstract Service (CAS) Number	Maximum Concentration (milligrams per liter)
	...		
D025	p-Cresol	[108-44-50] **106-44-5**	200.0*
	...		
D038	Pyridine	110-86-1	5.0**
	...		
D042	2,4,6 Trichlorophenol	[86-06-2] **88-06-2**	2.0

7:26-8.19 Incorporation by reference

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

(e) The Department incorporates by reference 40 C.F.R. Part 261, Appendix II, for use in complying with N.J.A.C. 7:26-8.12.

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Bureau of Shellfisheries

Oyster Management

Proposed Amendments: N.J.A.C. 7:25A-1.2, 1.4, 1.9 and 4.3

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Authority: N.J.S.A. 50:1-5, 50:3-8.

DEPE Docket Number: 07-93-01.

Proposal Number: PRN 1993-101.

Submit written comments by March 31, 1993 to:

Richard McManus, Director
Office of Legal Affairs
Department of Environmental Protection and Energy
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to the oyster seed bed section (N.J.A.C. 7:25A-1.9) authorizes the Division with the advice of the Delaware Bay Section of the Shellfisheries Council to allow the sale of oysters directly from the oyster seed beds during Bay season. The amended rule will include a size limit, and provisions for bagging and tagging oysters to be taken to market. The proposed amendment to N.J.A.C. 7:25A-4.3(a)1 adds a provision for a minimum charge per bushel of oysters taken for sale, to be deposited in the Oyster Cultch Fund. The amended N.J.A.C. 7:25A-1.9 retains the provision for review of harvest and for closure of beds during Bay season on the recommendation of the Council, and also provides that the Division, with the advice of the Council, may require harvesters authorized to harvest seed oysters from the natural seed beds to move specified quantities of seed oysters from one location on the natural seed beds to another during any period open for harvest from the seed beds. Amendments are also made to the chapter's purpose section to reflect these changes, and to correct the definition of "Department."

Social Impact

The proposed amendment to N.J.A.C. 7:25A-1.9 allows the sale of oysters from the seed beds during Bay season with the advice of the Council in years when enough large oysters are available to be sold without further grow-out on the planting grounds. This provision will have a positive impact on the members of the industry who have, in the past, seen promising plantings of seed oysters destroyed by disease and predation that can occur in the higher salinity planting grounds before they could be marketed.

Economic Impact

The economic impact of the amendments will be positive for oystermen who will be able to directly market the larger oysters taken from the seed beds. In past years, disease and predation have sometimes caused the loss of even the largest oysters harvested and replanted during Bay season. The amended rules will allow the Division, with the advice of the Council, to help the harvesters make better use of the available seed resource.

Environmental Impact

A new provision in amended N.J.A.C. 7:25A-1.9 allows the Division, with the advice of Council, to require oystermen who wish to harvest from the seed beds to transplant seed oysters from one selected seed bed to another. This process will allow beneficial management of the seed oyster population in Delaware Bay. The rest of the rule amendment will not alter current practice other than allowing the direct sale of large oysters from the seed beds. There will be a net benefit to the oyster population, an important component of the Bay's ecosystem, and thereby will have a positive environmental impact.

Regulatory Flexibility Statement

The proposed amendments apply to all commercial fishermen with a validily licensed vessel to harvest oysters in the Delaware Bay. The

approximately 95 oyster fishermen operating in Delaware Bay would be considered small businesses as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Although these small businesses must comply with the proposed amendments as described in the Summary above, there will be no need of additional professional services or increased costs of compliance. In developing the proposed amendments and new rule, the Department has balanced its environmental responsibilities against the economic impact to small businesses and has determined that to minimize the impact of the amendments would adversely effect the environment and, therefore, no exemption from coverage is provided.

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

7:25A-1.2 Purpose

The purpose of this subchapter is to provide an orderly procedure for the licensing of oyster vessels, the leasing of oyster grounds in Section E in Delaware Bay, and the taking of seed oysters from the State's natural seed beds **and the possible direct sale of those oysters.**

7:25A-1.4 Definitions

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

...

"Department" means the Department of Environmental Protection **and Energy**.

...

7:25A-1.9 Oyster seed beds

(a) The [division] **Division**, with the advice of the Delaware Bay Section of the Shellfisheries Council and the [Oyster] **Haskin Shellfish** Research Laboratory of Rutgers University, shall determine the season for the taking of seed oysters from the natural seedbeds above the southwest line in Delaware Bay and shall determine which of the natural seed beds above the southwest line shall be opened. Reasonable notice shall be given by the Division to all oyster dredge boat license holders of the dates, of the beds to be opened and the conditions attendant on the opening. Oyster seed beds shall be closed as determined in accordance with [(f)](i) below. Daily harvest shall be from 7:00 A.M. to 3:30 P.M. Monday through Friday.

(b) Seed oysters (seed) may be taken for the purpose of planting or replanting at the times and in the manner prescribed on leased grounds:

1. Below the southwest line; or

2. In the Atlantic Coast Section only on days and at times designated by prior written agreement with the Division; or

3. In Section E.

(c) Any vessel unable to plant its seed oysters because of mechanical problems, water conditions or other verifiable emergency must immediately contact the Shellfish Office by VHF radio, Channel 68, or by telephoning (609) 785-0730.

[(c)](d) All seed oysters shall be planted on the day taken by spreading them loosely on the bottom, not in bags, baskets, or other containers. All oysters taken from the natural beds are considered to be seed oysters until planted in the manner prescribed in this section. Seed oysters shall not be marketed or sold for any other purpose **except that the Division with the advice of the Council may designate times, manner and section(s) of the natural seed beds from which seed oysters may be taken for market, barter, or other trade during any period when the natural seed beds are legally opened.**

[(d) Seed oysters taken during the seed season shall not be sorted by size, or placed in any bag, bushel basket or other container, and shall remain on deck until planted, unless written exemption for the containerization of the seed oysters is provided by the Department upon the advice of the Council.]

(e) Oysters taken pursuant to (d) above for market, barter or other trade shall be bagged or containerized in one bushel bags or containers on board the harvesting vessel with harvest tags furnished by the Division. Tags shall remain in place until the oysters are delivered for sale by the harvester.

1. The minimum size limit for seed oysters taken for market, barter or other trade shall be 2½ inches in height from hinge to lip.

[(e) Any vessel unable to plant its seed oysters because of mechanical problems, water conditions or other verifiable emergency must immediately contact the Shellfish Office by VHF radio, Channel 68, or by telephoning (609) 785-0730.]

(f) The Division with the advice of the Council may require harvesters authorized to harvest seed oysters from the natural seed beds to move specified quantities of seed oysters (other than those culled for market, barter or other trade) from one location on the natural seed beds to another during any period open for harvest from the seed beds as provided in (d) above.

[(f)](g) An Advisory Committee shall be appointed by the Commissioner and shall be composed of two members of the Council, two members of the [Oyster] **Haskin Shellfish** Research Laboratory of Rutgers University, and the Director of the Division or his or her designee.

[(g)](h) Physical tests of all areas opened pursuant to this subchapter shall be made near the end of each week by the Advisory Committee described in [(f)] (g) above. These tests shall be the determining factor in the Advisory Committee's recommendation to close any or all beds opened by regulation.

[(h)](i) Based upon the data and tests referred to in [(g)] (h) above and the recommendation of the Advisory Committee described in [(f)] (g) above, the Council, with the approval of the Commissioner, may immediately close those beds as may be necessary for the preservation and improvement of the shellfish industry.

1. It shall be illegal to harvest seed oysters from any closed beds.

2. It shall be prima facie evidence of the violation of (i)1 above if any vessel is observed by Radar or LORAN or other reliable means to be on closed beds with dredge in water.

Recodify existing (i)-(r) as (j)-(s) (No change in text.)

7:25A-4.3 Fee

(a) A fee shall be collected from harvesters by dealers for each bushel of oysters landed at their permitted landing sites.

1. The fee shall be initially set at $0.35 per bushel **except for seed oysters harvested for market, barter, or other trade. The fee for these oysters shall be initially set at the minimum rate of $1.25 per bushel.**

2.-4. (No change.)

5. The fee for seed oysters taken for market, barter, or other trade, as provided for in N.J.A.C. 7:25A-1.9(d), will be collected by the Division of Fish, Game and Wildlife prior to harvest through the purchase of tags as provided for in N.J.A.C. 7:25A-1.9(e).

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

(a)

HAZARDOUS WASTE REGULATION

Identification and Listing of Hazardous Waste: F024 and F025 Listing

Proposed Amendments: N.J.A.C. 7:26-8.13, 8.16 and 8.19

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Authority: N.J.S.A. 13:1E-1 et seq., specifically 13:1E-6.

DEPE Docket Number: 06-93-01.

Proposal Number: PRN 1993-94.

Submit written comments by March 31, 1993 to:

Richard J. McManus, Director
Office of Legal Affairs
New Jersey Department of Environmental Protection and Energy
CN 402
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Department of Environmental Protection and Energy (Department) is proposing to amend its current hazardous waste listings at N.J.A.C. 7:26-8.13 to include a generic category of waste generated during the manufacture of chlorinated aliphatic hydrocarbons by free radical catalyzed processes having carbon chain lengths ranging from one to and including five (EPA Hazardous Waste No. F025). This listing will maintain consistency between the State and Federal programs. The Department is required to promulgate equivalent amendments in order to retain authorization of its hazardous waste program under the Federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901 et seq. (1976). The Federal amendments were published at 54 F.R. 50968, December 11, 1989 and 56 F.R. 643, January 8, 1991. The Department is also proposing to amend the waste listing F024, to clarify the listing description of this waste and to bring it into exact conformance with Federal language. This use of Federal language is not mandatory but will simplify the use of the waste listing and the addition of Federal amendments to it.

The Department is also proposing at N.J.A.C. 7:26-8.19, to incorporate by reference 40 C.F.R. §261 Appendix VIII, to maintain consistency between the State and Federal programs. The constituents listed in Appendix VIII are already listed at N.J.A.C. 7:26-8.16. The Federal regulations at 40 C.F.R. §261 Appendix VIII include cross references which may be of interest to the regulated community, but are not necessary for compliance and would be potentially confusing if listed in their entirety at N.J.A.C. 7:26-8.16. Therefore, the regulations will direct the reader to N.J.A.C. 7:26-8.19, where such large appendices and documents are incorporated by reference into subchapter 8.

Social Impact

The proposed amendments will have a positive social impact in New Jersey. The listing of F025 will maintain equivalence between New Jersey hazardous waste regulations and corresponding Federal rules. New Jersey will consequently retain authorization to implement the RCRA hazardous waste program. This amendment and the amendment to F024 will simplify compliance for the regulated community and remove the need for the regulated community to refer to both Federal and State regulations in handling waste.

Economic Impact

The listing of the two F-wastes pursuant to section 3001(e)(2) of the Hazardous and Solid Waste Amendments (HSWA) became effective at the Federal level June 11, 1990. The regulated community was then required to handle these substances appropriately, and will incur no extra costs due to the State listing. EPA, when adopting the listing and amendment of the F-wastes, anticipated that most generators of F025 wastes were already handling these substances as hazardous wastes, due to their likely contamination with the same constituents as F024. They would therefore have incurred no further costs due to the Federal listing.

Also, the Department concurs with EPA's estimation that all businesses generating aliphatic chlorinated hydrocarbons are large businesses. Therefore, the amendments to the F-waste list will have no negative effect on small businesses. No amendment in this rule will impose new reporting, recordkeeping or other requirements on the regulated community.

Environmental Impact

The proposed amendments will have a positive environmental impact. The substances meeting the listing description of F025 are hazardous due to contamination with constituents. Handling them as hazardous waste will protect human health and the environment. The changes to the present F024 listing will remove ambiguities in the description which might lead to accidental or intentional mishandling of these substances. The amendment to N.J.A.C. 7:26-8.19 will aid State waste handlers who seek further information concerning the Federal listing of wastes.

Regulatory Flexibility Statement

The proposed amendments will impose no new requirements because the substances being listed here are already regulated by Federal regulations. Therefore, the amendments will have no negative effect on small businesses.

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

7:26-8.13 Hazardous waste from non-specific sources

(a) Industry	EPA Hazardous Waste Number	Hazardous Waste	Hazard Code
	...		
	F024	[Wastes] **Process wastes**, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes, from the production of **certain** chlorinated aliphatic hydrocarbons[,] **by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those** having carbon [content] **chain lengths ranging** from one to **and including** five, [utilizing free radical catalyzed processes] **with varying amounts and positions of chlorine substitution.** (This listing does not include [light ends, spent filters and filter aids, spent desiccants, wastewater] **wastewaters**, wastewater treatment sludges, spent catalysts, and wastes listed in **N.J.A.C.** 7:26-8.14.)	(T)
	F025	**Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.**	
	...		

7:26-8.16 Hazardous constituents

(a) Waste streams containing the hazardous constituents listed below, classified as hazardous waste by the generator or the Department pursuant to N.J.A.C. 7:26-8.6 and 8.7, shall be manifested with the corresponding waste code numbers. **The generator may also refer to 40 C.F.R. §261 Appendix VIII, incorporated by reference at N.J.A.C. 7:26-8.19(e).** Test methods approved by the Department shall be used in determining whether the waste in question contains a given hazardous constituent. (NOTE: The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.) These wastes and their corresponding Hazardous Waste Numbers and Chemical Abstract Service (CAS) Registry Numbers are:

(No change in text of list.)

(b) (No change.)

7:26-8.19 Incorporation by reference

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

(e) The Department incorporates by reference the Federal listing of hazardous constituents at 40 C.F.R. Part 261, Appendix VIII.

HEALTH

(a)

EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICES

Youth Camp Safety Act Standards

Proposed Readoption: N.J.A.C. 8:25

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner Designate, Department of Health.

Authority: N.J.S.A. 26:12-1 et seq., specifically, N.J.S.A. 26:12-5.

Proposal Number: PRN 1993-103.

Submit comments by March 31, 1993 to:

Ronald S. Ulinsky, Program Manager
Public Health Sanitation and Safety Program
Consumer Health Services
3635 Quakerbridge Road
CN 369
Trenton, New Jersey 08625-0369

The agency proposal follows:

Summary

Pursuant to Executive Order 66(1978), N.J.A.C. 8:25 expires on May 19, 1993. The Division of Epidemiology, Environmental, and Occupational Health Services has reviewed the rules and determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated.

The rules of the Youth Camp Safety Act Standards address the general operation of youth camps, covering the areas of purpose, scope, definition of terms, general provisions, health, safety, waterfront safety, and sanitation.

Subchapter 1 contains the purpose, scope, separability, and definitions. Subchapter 2 addresses modification and waiver of standard, site, plans, facilities and equipment, staff, general care of children, records and report, liability insurance, and sanitation, safety and fire hazards. Subchapter 3 covers health records and supervision, medications and supplies, health history records, and nutrition and meal service. Subchapter 4 contains general provisions for emergency procedures and drills, dangerous substances, fire-fighting equipment, fire safety, vehicle transportation, vehicle-related safety practices, vehicle insurance and records, and special requirements for physically handicapped, nonambulatory children. Subchapter 5 addresses swimming areas, waterfront staff, swimming procedures, and watercraft. Subchapter 6 covers general provisions of sanitation, heating, lighting, ventilation and screening, sewage disposal, solid waste disposal, toilets, lavatories and showers, food service, milk supply and water supply, insect rodent and weed control, farm and domestic animals, maintenance and certification fees.

The Youth Camp Safety Act Standards were originally adopted on January 9, 1974. The purpose of these rules is to promote, protect, and safeguard the health and well-being of the youth of the State who are attending day and resident camps by providing for the establishment of standards for the safe operation of such camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

Through enforcement of the rules and input from industry and professional organizations, it was determined in 1991 that issues pertaining to aquatics, camper health, transportation, and child abuse were not clearly addressed in the existing Youth Camp Safety Act Standards. A comprehensive review of the rules was completed by the Department of Health, the Advisory Council on Youth Camp Safety, and a committee comprised of representatives of various State agencies, professional camping associations, academic authorities on aquatic programs, and national professional health organizations. The results of their efforts were the proposed amendments that appeared in the March 4, 1991 New Jersey Register. (See 23 N.J.R. 651(a).) The adoption of the amendments in the May 20, 1991 New Jersey Register (see 23 N.J.R. 1665(b)) addressed changes in aquatic certification programs and clearly defined the responsibilities of the youth camp operator in regard to camper health, transportation, and safety issues. Since a substantive rule revision project was completed in 1991, it is the Department's intention to readopt these rules without changes at this time. This course of action is supported by the Advisory Council on Youth Camp Safety.

Social Impact

The protection of children attending summer youth camps is an ongoing concern, especially with the increase in demand for child day care. The number of youth camps licensed and inspected by the State Health Department has increased over the years to the present number of 512 licensed camps. The types of activities and services provided by youth camps have expanded from the traditional swimming, archery, and field sports to include rope courses, motor cross, and specialized sports camps. The changes in trends for more youth camps and expanded services reinforce the necessity for minimum safety standards.

Economic Impact

The economic impact of these rules is extremely varied and not easily quantified. Actual costs for conducting youth camps depend upon the type of camp conducted (for example, sports, specialized populations, and scouting). The cost varies according to the size of the camp, the number of staff required to maintain the camp, and the type and number of activities offered at each camp.

Administrative costs associated with enforcing the provisions of these rules also vary, but primarily concern inspection activities. For example, approximately 2,100 inspection hours were spent during the 1992 summer months between June and September, while during the remainder of the year one full-time supervisor was assigned to the program.

The Department foresees no change in the financial impact of having the present rules readopted without change.

Regulatory Flexibility Analysis

All youth camps that accommodate five or more children under 18 years of age for a period of two days or more fall under the provisions of the Youth Camp Safety Standards. Approximately 30 percent of the licensed youth camps have enrollments of less than 50 children. Some of the youth camps may be considered small businesses, as defined in the Regulatory Flexibility Act at N.J.S.A. 52:14B-17. The impact of complying with existing State standards depends on the types of activities offered by the camp. Staffing requirements are dependent on the number of hazardous activities offered by the camps. For example, a camp program that offers aquatics, archery, horseback riding, and riflery would need an adult activity specialist with a current certification from a recognized organization in the specialized field. This activity specialist could also function as a camp counselor to fulfill camper supervision requirements. Recordkeeping and camp policies and procedures are required of all camps, whether they are large or small businesses, to insure proper safeguards are addressed. Emergency procedures, daily health surveillance, lost camper procedures, fire drills, disciplinary policies, health history forms, and other required forms must be established by each camp. These issues must be addressed by all camps, regardless of size, to provide adequate safeguards for the children attending the youth camps. It would be inappropriate to exempt any of the youth camps which may be considered small businesses under N.J.S.A. 52:14B-16 et seq., due to the overriding concern for public health and safety.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:25.

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Notice of Public Hearing

Standards for Licensure of Residential Health Care Facilities

Proposed Repeal and New Rule: N.J.A.C. 8:43

Take notice that on Wednesday, March 17, 1993, the Division of Health Facilities Evaluation of the Department of Health will hold a **public hearing** on the proposed repeal and new rule at N.J.A.C. 8:43, published in the January 4, 1993 New Jersey Register at 25 N.J.R. 25(a). Pursuant to N.J.S.A. 52:14B-4(a)(3), this hearing will be held for the purpose of receiving additional public comment regarding the proposed new licensure rules for residential health care facilities.

The hearing will take place at 10:00 A.M. in the Conference Room at 300 Whitehead Road, Trenton, New Jersey 08625.

(b)

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING

Ambulatory Care Facilities

Standards for Licensure

Readoption with Amendments: N.J.A.C. 8:43A

Proposed Repeal and New Rules: N.J.A.C. 8:43A-1 through 11 and 8:43A-13 through 19

Proposed New Rules: N.J.A.C. 8:43A-20 through 29

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner Designate, 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 1993-82.

Submit comments by March 31, 1993 to:
Robert J. Fogg, Director
Licensing, Certification and Standards
Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The current text of the Manual of Standards for Licensure of Ambulatory Care Facilities, N.J.A.C. 8:43A, traces its existence, for the most part, to the adoption of new rules by the Department in 1985. At that time, the previous rules were reorganized, simplified, and updated in such a way as to emphasize the commonalities within the diverse ambulatory care services network in New Jersey (see 16 N.J.R. 3254(a); 17 N.J.R. 2110(b)). Although N.J.A.C. 8:43A has functioned effectively in the promotion of patient health and safety, the Department has undertaken and completed a comprehensive revision of the rules with the purpose of improving the format and readability of the rules. These new standards are intended to address new types of ambulatory care services and to assure consistency with current licensure rules for other types of health care facilities. While this chapter does not expire until July 27, 1995, the Department is proposing these repeals, new rules and amendment to N.J.A.C. 8:43A-12 as part of a readoption in order to provide a full five year term for the revised chapter.

The current N.J.A.C. 8:43A serves as the basis for licensure of a variety of types of facilities which share the characteristic of providing preventive, diagnostic, and/or treatment services to persons who come to the facility to receive services and depart from the facility on the same day. Ambulatory care facilities provide such basic services as medical, nursing, laboratory, and social work services. The spectrum of ambulatory care facilities includes, for example, family planning clinics, renal dialysis facilities, hospital outpatient departments, ambulatory surgical facilities, computerized tomography facilities, and outpatient methadone maintenance programs. The proposed rules explicitly recognize several new categories of ambulatory care facilities and services, including primary care, magnetic resonance imaging, extracorporeal shock wave lithotripsy, freestanding radiological facilities, birth centers, and cardiac rehabilitation. The proposed rules also attempt to accommodate the special situation presented by satellites of separately licensed ambulatory care facilities.

In preparing the proposed manual, the Department benefitted from the participation, by invitation, of representatives of the various types of service providers in a series of separate meetings. Among the participants were representatives of the Family Planning Association of New Jersey, the birth centers currently operating in New Jersey, the New Jersey Radiological Society, the New Jersey Primary Care Association, the Renal Advisory Committee of the Chronic Renal Disease Program of the Department, the Trans-Atlantic Renal Council, the New Jersey Renal Administrators Association, facilities currently providing drug abuse treatment services, and the facilities currently providing extracorporeal shock wave lithotripsy services in New Jersey. In order to give all interested persons ample opportunity to comment on a draft of the proposed manual, an open public meeting was scheduled and announced in the New Jersey Register (see 24 N.J.R. 3603(a)). The meeting was held on November 5, 1992, in Trenton and comments were received and incorporated.

One striking feature of the proposed rules is the change in format from one in which rules for very particular classes of facilities are scattered throughout the manual to one in which such rules are segregated into discrete subchapters applicable only to those classes of facilities. Whereas the former scheme has the advantage of reducing the need for cross-references, the latter enhances the usability of the rules by concentrating rules pertinent to a given facility, thus reducing the time required to locate rules of interest to the user. The Department believes that, based on user recommendations, the proposed format represents an improvement which will facilitate both compliance with and enforcement of the rules.

The proposed rules incorporate the reorganization described above, amendments to subchapter 12, Surgical and Anesthesia Services, which was adopted in 1990 (see 22 N.J.R. 1496(a) and 3392(b)), and the addition of subchapters 20 through 29, which include service-specific subchapters and a new subchapter on satellite facilities.

A summary of the proposed new rules and amendments follows:

The first subchapter defines terms used throughout the manual and specifies the qualifications required of various categories of personnel. The proposed rules introduce definitions of a number of terms which are not defined in the current rules but are necessary, given the scope of the proposed rules. Accordingly, N.J.A.C. 8:43A-1.3 defines "affiliated community perinatal center," "birth center," "cardiac rehabilitation program," "community perinatal center—birthing center," "family planning services," "Maternal and Child Health Consortium," "maternal and child health service region," "primary care" and "satellite." The qualifications of the physician specialists and of the medical director are written in terms of successful completion of an accredited or approved residency program and in terms of status as a diplomate of one of the specialty boards. Revised qualifications of dietitians, drug counselors, and social workers are delineated in N.J.A.C. 8:43A-1.9, 1.11, and 1.27, respectively. The latter recognizes the authority of the newly established New Jersey State Board of Social Work Examiners. The other requirements delineated at N.J.A.C. 8:43A-1.4 to 1.28 have not changed in this proposed new version of the chapter.

Licensure procedures are the subject of subchapter 2. A new fee schedule is proposed at N.J.A.C. 8:43A-2.2(b). In contrast to the current rules, this proposed rule would increase the fee above the basic annual fee of $500.00 for a facility which provides one or more services in addition to its principal service. A licensure application fee of $500.00 is proposed for the processing of the initial license. A lower basic annual fee of $250.00 would be required of satellite facilities. In no case could the total annual fee exceed $2,000. Proposed N.J.A.C. 8:43A-2.3 contains provisions which collectively would ensure that each licensee would provide only those services which it is licensed to provide and that these services would be specified on the license itself. A new rule, N.J.A.C. 8:43A-2.7, would give the manual the flexibility to be applied to new forms of ambulatory care services as they become available. Proposed N.J.A.C. 8:43A-2.9 sets forth the procedure for applying for a waiver.

The rules in proposed subchapters 3 through 5 apply at a more general organizational level than do those in the more service-specific subchapters which follow. N.J.A.C. 8:43A-3.1 specifies the services which all ambulatory care facilities must provide directly or through written agreement, those which must be provided on the premises, and the nature of the written agreement for services not directly provided. Proposed N.J.A.C. 8:43A-3.4(b) lists particular statistical data to be collected and submitted to the Department. It is expected that such data could prove to be useful in the process of health planning. Among the rules concerning personnel in N.J.A.C. 8:43A-3.5 is a requirement for orientation and annual in-service education in particular areas, such as infection prevention and control (see N.J.A.C. 8:43A-3.5(d)1), and a requirement for the presence of a person certified in basic cardiac life support (see N.J.A.C. 8:43A-3.5(e)). Requirements for a policy and procedure manual are found at proposed N.J.A.C. 8:43A-3.6. The proposed section on employee health includes new requirements for rubeola screening and Mantoux tuberculin skin testing at N.J.A.C. 8:43A-3.7(c) and (d), respectively. The section concerning the reporting of information to the New Jersey State Board of Medical Examiners has been rewritten so as to agree with the Professional Medical Conduct Reform Act, P.L. 1989, c.300 (see N.J.A.C. 8:43A-3.10). The responsibilities of the governing authority and the administrator are enumerated in proposed N.J.A.C. 8:43A-4 and 5, respectively.

Subchapter 6 concerns patient care policies and services. Proposed N.J.A.C. 8:43A-6.2(a) addresses the establishment and composition of a patient care policy committee. N.J.A.C. 8:43A-6.3(a)6 introduces a new requirement for a policy and procedure regarding advance directives, which would pertain to patients receiving surgical services, anesthesia services other than minor conduction block, or chronic dialysis services. This proposed rule is similar to the hospital licensure rule N.J.A.C. 8:43G-5.2(a)6. Also similar to the hospital licensure rules is proposed N.J.A.C. 8:43A-6.9, which would require the facility to become smoke-free within three months of the effective date of the rule. (An exception is made in the case of drug abuse treatment facilities (see N.J.A.C. 8:43A-26.2)). Other sections of the subchapter treat medical histories and physical examinations, information for patients, communication assistance, suitability of equipment and supplies, financial arrangements, and calibration of instruments.

Standards for medical services and nursing services are contained in subchapters 7 and 8, respectively. Both types of services must be provided in the facility, though patients may be referred to physicians outside of the facility for additional medical services. The rules require designation of a director of each service and delineate the directors' responsibilities. Whereas N.J.A.C. 8:43A-7.2 requires the medical director to be "avail-

able" at all times, N.J.A.C. 8:43A-8.2 requires the director of nursing services to be on the premises during the facility's hours of operation. If a cardiac rehabilitation program is provided, a higher level of physician presence is required by proposed N.J.A.C. 8:43A-7.3(a)5.

Subchapter 9 addresses the provision of pharmaceutical services. If the facility has an institutional pharmacy, a pharmacist must be designated as being responsible for the functions enumerated in proposed N.J.A.C. 8:43A-9.1(b). Particular areas to be covered by policies and procedures approved by the patient care policy committee with regard to the administration, control, and storage of medications are specified in N.J.A.C. 8:43A-9.3(b). Patient safety is the objective of the rules for administration of medication at N.J.A.C. 8:43A-9.4. For example, proposed N.J.A.C. 8:43A-9.4(d) requires that each patient be identified prior to drug administration. Among the rules for drug storage at N.J.A.C. 8:43A-9.5 are requirements for Schedule II drugs to be stored under double lock and key and for a declining inventory of all controlled dangerous substances to be kept.

Counseling services and laboratory and radiological services are addressed by subchapters 10 and 11, respectively. In the interest of quality of care, N.J.A.C. 8:43A-10.2 requires that certain social work services be provided by a social worker, while N.J.A.C. 8:43A-10.3 establishes a similar requirement for dietary counseling.

As noted above, the existing rules for surgical and anesthesia services were revised in 1990. Consequently, this proposal calls for a limited number of amendments to subchapter 12 rather than for a comprehensive revision. The proposed changes generally fall into the following four categories: (1) textual additions to or deletions from the subchapter made necessary by reorganization of the manual; (2) changes made to bring the rules into agreement with amendments to the hospital licensing standards which became effective in August 1991 (see 23 N.J.R. 2527(a)); (3) changes intended to clarify original intent; and (4) new substantive changes. The relocation of rules from the current subchapters 8 and 13, for example, resulted in proposed N.J.A.C. 8:43A-12.3(n) and 12.4(a)13. Other relocations account for the deletion of the definition of "anesthesiologist" from subchapter 12 and for the proposal of N.J.A.C. 8:43A-12.4(a)15ii through vi, 12.5(e), and 12.6(a)2 through 9. Proposed amendments based on adopted hospital amendments include changes to the definition of "supervision" in N.J.A.C. 8:43A-12.2, 12.3(h), 12.3(j)2iv, and 12.3(l). Examples of rule clarification include N.J.A.C. 8:43A-12.3(c) and 12.7(j). Among the new substantive changes is proposed N.J.A.C. 8:43A-12.4(a)15i, which requires designation of a person with training or experience in surveillance, prevention, and control of nosocomial infection to be responsible for infection prevention and control services. Proposed N.J.A.C. 8:43A-12.6(a)1 requires that an emergency call system be available to the operating room. If an ambulatory surgical facility does not have an institutional pharmacy, proposed N.J.A.C. 8:43A-12.16 requires that there be a consultant pharmacist designated. N.J.A.C. 8:43A-12.17(a) cross-references specific sections of the construction guidelines cited more generally in subchapter 19, Physical Plant and Functional Requirements. Finally, proposed N.J.A.C. 8:43A-12.3(k)2iv and 12.18 provide greater flexibility in the case of local anesthesia or minor conduction blocks.

The intent of subchapter 13 is to ensure that a complete medical record is maintained for each patient and that the record, while accessible to staff and the patient, is kept confidential. Proposed N.J.A.C. 8:43A-13.2 requires designation of an employee to coordinate medical record services. Particular required components of the medical record are enumerated in N.J.A.C. 8:43A-13.3. Proposed rules added to address the use of facsimile communications systems, N.J.A.C. 8:43A-13.4(b)2, and fees charged to patients for copies of medical records, N.J.A.C. 8:43A-13.5(b) through (c), derive from corresponding hospital licensing standards in N.J.A.C. 8:43G-15. The time limit of 30 days for completion of the medical record is specified at N.J.A.C. 8:43A-13.4(c).

Infection prevention and control is the subject of subchapter 14. Proposed N.J.A.C. 8:43A-14.1(b) states that a person with a health care background shall be designated to direct infection prevention and control services, but also goes on to require a higher level of training or experience if the facility is one of the listed types which are especially susceptible to infection control problems. The establishment of an infection control committee is required by N.J.A.C. 8:43A-14.2(a). Infection prevention and control policies, procedures, and measures are addressed in proposed N.J.A.C. 8:43A-14.2(b) and N.J.A.C. 8:43A-14.3. Sources of cross-referenced publications are listed. Rules on the use and sterilization of patient care items at N.J.A.C. 8:43A-14.4 include requirements regarding expiration dates. The rules proposed at N.J.A.C. 8:43A-14.5 for the care and use of sterilizers include requirements concerning the documentation to be maintained for each sterilization load and biological monitoring of ethylene oxide and steam sterilizers.

In order to promote patient safety, subchapter 15 contains sections regarding disaster planning, drills and inspections, and emergency medical services. N.J.A.C. 8:43A-15.1 requires written plans, policies, and procedures. The importance of ensuring that patients receive necessary services during an evacuation or other emergency is recognized by N.J.A.C. 8:43A-15.1(d). A number of items are identified as requiring testing or inspection at proposed N.J.A.C. 8:43A-15.2. These include manual pull alarms, fire extinguishers, the fire detection system, the automatic sprinkler system, emergency lighting, elevators, the heating and ventilation system, and the hot water used in the facility. In treating emergency medical services, N.J.A.C. 8:43A-15.3 notes the need to choose policies appropriate to the kinds of emergencies most likely to befall the classes of patients and cases typically seen at the facility.

Policies and procedures concerning patient rights are discussed at proposed N.J.A.C. 8:43A-16.1. Specific rights enumerated at N.J.A.C. 8:43A-16.2 include, for example, the patient's right to receive an understandable explanation of the patient's complete medical/health condition and treatment options, the right to refuse medication and treatment, and the right to voice grievances to facility personnel, to the governing authority, or to outside representatives of the patient's choice.

The requirements of subchapter 17 include a list of housekeeping, sanitation, and safety conditions at N.J.A.C. 8:43A-17.3(a) which must be satisfied. Proposed N.J.A.C. 8:43A-17.4 through 17.6 address waste removal, the water supply, and laundry services, respectively.

Subchapters 18 and 19 also generally apply to all types of licensed ambulatory care facilities. The quality assurance activities enumerated at proposed N.J.A.C. 8:43A-18.2(a) provide for monitoring and evaluation of patient care services, staffing, infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment, patient care statistics, and discharge planning services. Follow-up of quality assurance program findings and the implementation of corrective actions are covered at N.J.A.C. 8:43A-18.2(e). Proposed N.J.A.C. 8:43A-19.1 lists codes and guidelines incorporated by reference to serve as general physical plant requirements for new construction or alterations, whereas N.J.A.C. 8:43A-19.2 addresses construction and alterations completed prior to the effective date of the proposed new rules.

As discussed above, the proposed rules have been reorganized in such a way that 10 additional subchapters now appear at proposed N.J.A.C. 8:43A-20 through 29 for the purpose of addressing specific types of services. A typical service-specific subchapter in this group cites the other subchapters which pertain to that type of service-specific facility along with particular rules which do not apply. These citations are followed by rules developed especially for that type of facility. Subchapter 20, for example, states that facilities which provide family practice services must comply with subchapters 1 through 19, with the exception of subchapter 12, and then proceeds to add a requirement at N.J.A.C. 8:43A-20.2 for a family practice physician to be available during the facility's hours of operation.

Subchapter 21 treats the area of family planning, prenatal, postpartum, and gynecological services. N.J.A.C. 8:43A-21.2 maintains the current distinction between the annual licensure fee for a facility which provides, primarily or solely, family planning services and the fee for other types of ambulatory care facilities. Service-specific rules include a requirement for the availability of an obstetrician-gynecologist at N.J.A.C. 8:43A-21.3, a requirement for obtaining the patient's obstetrical and gynecological history if appropriate at N.J.A.C. 8:43A-21.4, and two specific requirements pertaining to the medical records of prenatal patients at N.J.A.C. 8:43A-21.5.

In the case of facilities which provide pediatric services, an additional rule at proposed N.J.A.C. 8:43A-22.2 states that the facility must have a pediatrician or a family practice physician on the medical staff. In addition, N.J.A.C. 8:43A-22.3 specifies several items to be included in the complete medical record for pediatric patients.

Subchapter 23 includes rules specific to facilities which provide primary care services. Proposed N.J.A.C. 8:43A-23.2 requires that the person designated to be responsible for infection prevention and control services in such facilities have training or experience in surveillance, prevention, and control of nosocomial infection. New rules regarding the use of mobile vans are introduced at proposed N.J.A.C. 8:43A-23.3. The remainder of the subchapter lists construction guidelines incorporated by reference, with a special provision at N.J.A.C. 8:43A-23.5 for facilities in which four or fewer workers are present at any one time.

Chronic dialysis is the subject of subchapter 24. Whereas many of the proposed rules derive from the current licensure manual, others represent an attempt to achieve consistency between the proposed rules and those in the corresponding subchapter of the hospital licensing standards, such as N.J.A.C. 8:43G-30.6(a) and (b), which require development and implementation of a written plan of care for each patient. Proposed N.J.A.C. 8:43A-24.3 addresses patient services, including this care plan issue. N.J.A.C. 8:43A-24.4 contains more specific information concerning the qualifications of the medical director than does the more general rule at N.J.A.C. 8:43A-1.14. It also includes a service-specific requirement regarding the coordinator of medical records. Various nurse staffing ratios are listed at N.J.A.C. 8:43A-24.5. Infection prevention and control issues particular to chronic dialysis, such as screening for hepatitis, reuse of dialyzers, and analysis of water and dialysate, are treated at N.J.A.C. 8:43A-24.6. Proposed N.J.A.C. 8:43A-24.7 through 24.9 address home care dialysis services, quality assurance, and patient rights, respectively. Physical plant requirements specific to chronic dialysis facilities, such as the minimum gross floor area to be allocated for each dialysis machine, are given at N.J.A.C. 8:43A-24.10.

Subchapter 25 includes staffing and physical plant requirements to be applied specifically to facilities providing computerized tomography, magnetic resonance imaging, or radiological services. Subchapter 29 serves a similar function with respect to extracorporeal shock wave lithotripsy services. N.J.A.C. 8:43A-29.3 contains specific operational requirements intended to promote patient safety.

In focusing specifically upon drug abuse treatment services, subchapter 26 substitutes proposed N.J.A.C. 8:43A-26.2 and 26.4, respectively, for the more generally applicable rules at N.J.A.C. 8:43A-6.9 and 8.2 concerning smoking in the facility and designation of a director of nursing services. Other types of services which a facility providing drug abuse treatment services must either provide, arrange provision of, or refer certain patients to are listed at N.J.A.C. 8:43A-26.3. Requirements for frequency of counseling are set forth at N.J.A.C. 8:43A-26.5. If a facility providing methadone detoxification or methadone maintenance does not have an institutional pharmacy, then a consultant pharmacist must be designated in accordance with N.J.A.C. 8:43A-26.6.

Rules specific to satellites of licensed ambulatory care facilities at proposed N.J.A.C. 8:43A-27 recognize that particular activities and documentation of the licensed facility need not be duplicated at the satellite site. Proposed N.J.A.C. 8:43A-27.2 through 27.5 provide satellite-specific alternatives to the more generally applicable rules exempted at N.J.A.C. 8:43A-27.1(a)1. Moreover, the rules at N.J.A.C. 8:43A-27.1(a)2 through 6 adapt the rules referenced therein to the special situation presented by satellite facilities.

Subchapter 28 sets forth licensing standards specific to the delivery of services by birth centers. N.J.A.C. 8:43A-28.2 identifies several service restrictions placed on birth centers, such as prohibiting the use of general anesthesia and restricting the type of surgical procedures performed. N.J.A.C. 8:43A-28.3 and 28.11 require the birth center to establish formal agreements with a Community Perinatal Center (CPC) for the medical care of a woman and/or infant in the event of complications and/or emergencies. The rules specify that the CPC must be designated as either Intermediate or Intensive. The term "Community Perinatal Center," which is new to licensing standards, emanates from the Department's establishment of a regionalized perinatal service delivery system at N.J.A.C. 8:33C. In keeping with the regionalized delivery system, N.J.A.C. 8:43A-28.3(a) requires the birth center to be a formal member of a Maternal and Child Health consortium and to be designated as a Community Perinatal Center—Birthing Center. The designation of a clinical director and the delineation of her or his responsibilities are addressed in N.J.A.C. 8:43A-28.4 and 28.5. The individual fulfilling this role may be either a certified nurse midwife or an obstetrician. N.J.A.C. 8:43A-28.6 requires the birth center to establish formal consultative relationships/written agreements with physicians, specifically obstetricians and pediatricians. The agreement must ensure that the physician has admitting privileges at the CPC and is available at all times. N.J.A.C. 8:43A-28.7, 28.8, and 28.12 identify additional policies/procedures, patient care services, and supplies/equipment for birth centers. N.J.A.C. 8:43A-28.9 addresses the labor and delivery process and requires the same standard of care as found in the obstetric licensing standards for hospitals, with respect to a requirement for two staff members to be present when a patient is in active labor and for a health professional certified in neonatal resuscitation to be present for each delivery. Lastly, the content of the newborn medical record is delineated at N.J.A.C. 8:43A-28.10.

Social Impact

Chapters 136 and 138 of P.L. 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., and amendments thereto, enjoin the Department of Health to protect and promote the health of the citizens of this State. The Act also mandates the Department to develop "standards and procedures relating to the licensing of health care facilities and the institution of additional health care services" to ensure the efficient and effective delivery of health care services.

Since its adoption in 1985, the current Manual of Standards for Licensure of Ambulatory Care Facilities, N.J.A.C. 8:43A, has worked well as an instrument through which the Department could fulfill obligations following from the Health Care Facilities Planning Act. The rules have been effective despite the diversity of facilities and services to which the rules pertain. The effectiveness of these rules was enhanced by the incorporation of anesthesia-specific rules in 1990. The proposed new rules and amendments represent an attempt to further improve the manual by increasing the ease with which the manual may be used, by extending the scope of the rules to other types of ambulatory care services, by generally revising the rules to bring them into agreement, where appropriate, with more recently developed licensure rules for other types of health care facilities, and by specifically revising the rules to reflect comments received within the Department and from providers of ambulatory health care services.

The Department expects that the proposed rules will benefit ambulatory care patients, the provider agencies and professionals, and the Department's own survey and regulatory programs. In general, health facility licensure rules embody minimum operational and physical plant standards intended to protect the health and safety of patients. Extension of the licensure rules at N.J.A.C. 8:43A to types of ambulatory care facilities not presently covered would extend this protection to additional populations of patients, including those receiving outpatient magnetic resonance imaging, extracorporeal shock wave lithotripsy, and birth center services. The Department of Health recognizes the social impact of the availability of ambulatory care for patients in this State. For many patients, ambulatory care may be used as an alternative to inpatient care. This alternative often provides clearcut benefits in terms of lower cost and shorter and more comfortable recuperation periods. In addition, ambulatory care facilities often provide state-of-the-art technologies and services that are not available in other settings.

As the ambulatory care industry continues to expand, regulation is necessary to protect the health, safety, and welfare of patients. It is necessary that facilities employ staff who are qualified to provide services at the level of skill required and who reflect current standards of practice in the various professional disciplines; that facilities provide adequate continuity and coordination of services; and that adequate recordkeeping, administration, and direction are provided to support patient care services.

Ambulatory care serves many types of patients from all age groups, including many diagnostic categories. Because of this variation in patients served, the proposed chapter is designed to provide ambulatory care facilities with the flexibility and scope to determine policies, procedures, and methods of service delivery best suited to their individual organizational structures and patient populations. Rules thus aimed at accommodating the facility's specific configuration of services will foster effective managerial and administrative practices, resulting in efficient and effective use of resources and sustaining the quality of patient care.

The proposed rules at N.J.A.C. 8:43A are newly organized to facilitate use of the manual by providers, inspection personnel, and others. Rather than dispersing rules applicable to a given type of facility throughout the manual, as is the case with the current manual, the proposed manual localizes service-specific rules in a series of separate subchapters which follows the generally applicable subchapters 1 through 19. This format is intended to preserve the most useful characteristics of both the current manual and the manual which preceded it historically.

A number of the proposed rules are expected to have a direct social impact on patients. Subchapter 3 of the proposed new chapter, for example, contains several elements which have an impact on the health, safety, and social welfare of patients and facility personnel alike. N.J.A.C. 8:43A-3.7 addresses new requirements for Mantoux tuberculin testing, as well as measles and rubella testing and vaccination programs. The rising incidence of tuberculosis and measles in New Jersey is a serious public health problem, and these rules are designed to protect both patients and employees from the transmission of these diseases. Subchapter 3 also addresses the social problem of child abuse and neglect; identification and reporting as well as staff training are mandated. Also in subchapter 3 is found the requirement to comply with

State law regarding the reporting of medical misconduct or restriction of privileges, thus helping to safeguard the health and safety of patients. The facility is further mandated to comply with all requirements to report to professional licensing boards, again in the interest of the public safety and welfare. It is noted that two proposed changes are intended to increase the information concerning facilities which is available to consumers and to the Department. The licensure procedures at proposed N.J.A.C. 8:43A-2.3 would enable the Department to list the services of a facility directly on the facility's license. The information collected in accordance with N.J.A.C. 8:43A-3.4(b) would assist the Department in its health planning activities.

Proposed N.J.A.C. 8:43A-6.3(a)6 contains provisions regarding the matter of advance directives for health care. This rule requires the facility to specify the circumstances under which an inquiry will be made of designated patients regarding the existence and location of an advance directive. Subchapter 6 also contains a prohibition on smoking in ambulatory care facilities, stated at N.J.A.C. 8:43A-6.9; this rule is intended to promote the health and comfort of patients, staff, and visitors.

In a continuing effort to promote anesthesia services that are safe and of high quality, the proposed rules contain amendments to Subchapter 12, Surgical and Anesthesia Services. This subchapter was adopted in 1990 and closely paralleled the anesthesia rules in the Licensing Manual for Hospitals. As noted in the Summary above, rule changes were made for both technical and substantive reasons. The requirement that a physician who supervises the administration of anesthesia be immediately available has been clarified to mean "present in the facility and available to respond and proceed immediately to the anesthetizing location," a requirement which provides a measure of safety to the anesthetized patient. The rule at N.J.A.C. 8:43A-12.3(h) delineates the activities that are permitted and not permitted to be performed by a supervising physician. For patient protection, N.J.A.C. 8:43A-12.6 requires the provision of emergency equipment in the surgical service. Finally, N.J.A.C. 8:43A-12.4(a)15 requires the designation of a trained professional to be responsible for infection control in the surgical suite.

The proposed chapter contains an updated and revised chapter at N.J.A.C. 8:43A-14, Infection Prevention and Control Services. The Department views infection control to be a paramount public health issue, particularly in this era of increased transmission of infectious disease. The proposed new rules mandate the implementation of Federal regulations and/or guidelines published by the Centers for Disease Control and Occupational Safety and Health Administration for the use of Universal Precautions and for the prevention of iatrogenic infections. The proposed new rules also mandate compliance with Federal and State law for the collection, storage, handling, and disposal of regulated medical waste. These rules are aimed at the protection of the health and safety of patients, personnel, and the public at large, but are limited in application to those facilities which provide those services most susceptible to infection control problems.

Proposed N.J.A.C. 8:43A-15 significantly expands the rules for disaster and emergency planning, including the types of tests and inspections of systems and equipment to be performed. Protocols and procedures for emergencies, as well as staffing requirements, are spelled out in detail with the intent of providing a high level of protection for patients and staff.

Proposed N.J.A.C. 8:43A-16 reflects the Department's strong commitment to ensuring the rights of all patients in licensed health care facilities. Subchapter 16 requires facilities to develop policies and procedures to safeguard the patient's interests; to assure patients the ability to lodge complaints or grievances; and to prevent potentially harmful or exploitative situations. N.J.A.C. 8:43A-16.2(a) requires that the patient be given written and verbal notification of these rights, receive an explanation of his or her medical condition and planned treatment, and be free from restraints or drugs used for discipline or the convenience of staff. Such provisions serve both the facilities and their patients by clearly delineating specific rights and providing guidance as to the communication and implementation of these rights.

An essential component of any health care facility's self-evaluation is a strong quality assurance program. Proposed N.J.A.C. 8:43A-18 mandates a written quality assurance plan as well as an ongoing process for monitoring and evaluating patient care and other services. The rules require that effective corrective actions be implemented when appropriate to ensure a continually high level of care in the facility.

As noted in the Summary, subchapters 20 through 29 are service-specific and set forth licensing regulations for the following services: Family Practice; Family Planning, Prenatal, Postpartum, and Gynecological; Pediatric; Primary Care; Chronic Dialysis; Computerized Tomography (CT), Magnetic Resonance Imaging (MRI), and Radiological; Drug Abuse Treatment; Satellites; Birth Centers; and Extracorporeal Shock Wave Lithotripsy. The Department believes that this methodology will permit optimal organization and delivery of services which are very different from one another but also have basic elements in common; the Department's intent is thereby to maximize the positive impact on the rules on the health, safety, and social welfare of patients served by these facilities.

Economic Impact

Ambulatory care facilities provide a means by which health care costs may be contained. The variety of services which are offered through these diverse types of facilities on an outpatient basis allows patients and third-party payors to avoid, in many cases, higher costs associated with inpatient care in hospitals. Adoption of the proposed rules at N.J.A.C. 8:43A would enable the Department to continue to inspect and license ambulatory care facilities on the basis of compliance with reasonable, functional standards and, thus, would promote the provision of safe, cost-effective patient care.

Although implementation of some of the proposed rules would involve expenditures on the part of the licensed facilities, the Department has attempted to introduce such rules only when the cost would be justified by a compensatory benefit to patients. Proposed N.J.A.C. 8:43A-14.1(b) requires designation of a person with training or experience in surveillance, prevention, and control of nosocomial infection to be responsible for the direction, provision, and quality of infection prevention and control services. The cost of the required training might be borne by the facility. The rule, however, restricts this higher requirement only to those facilities which provide primary care, hospital outpatient, ambulatory surgical, or chronic dialysis services—services which the Department considers to be especially susceptible to infection control problems. Similarly, proposed N.J.A.C. 8:43A-12.16 and 26.6 limit the requirement for a consultant pharmacist to ambulatory surgical facilities and to facilities providing methadone detoxification or methadone maintenance services, and then only in cases in which the facility does not have an institutional pharmacy.

A listing of those requirements which may result in a cost to the regulated
entities follows:

N.J.A.C. 8:43A-1.4 through 1.28 specify the minimum qualifications which practitioners of the specified medical arts must have (in most cases, certification or licensing by the appropriate board of examiners).

Licensure costs are as listed in the Summary, with the exception of a fee of $100.00 for a family planning facility or service.

N.J.A.C. 8:43A-2 specifies the requirements for application, including the submission of plans. While there is a cost involved in the preparation of plans, such plans serve several uses, among them a use to the facility as a guide in construction.

N.J.A.C. 8:43A-2 also provides for requests for waivers of certain requirements, documented appropriately. An applicant may also elect to seek assistance in the preparation of waivers, and may thus incur an expense. Documentation submitted in support of the waivers would be based upon the individual situation.

The appeal of an action against a licensee may entail costs for professional services, such as those of an attorney; however, such services are not specifically required by the rules. The rules encourage settlement with the Department through conference; however, should the issue be referred to the Office of Administrative Law as a contested case, costs of the hearing would be incurred by the Department and the facility contesting.

Subchapter 3, which requires the provision of preventive, diagnostic and/or treatment services, will create costs for the applicant/licensee, which will vary with the type and extent of services provided. The development of policy and procedure manuals for general administration, staff education, and orientation will create a cost, although the updating of such manuals should incur less cost than their development. Employee health screening requirements, presumably borne by the facility, would include an annual physical and testing for rubella, rubeola, tuberculosis, and, in the case of dialysis facilities, hepatitis. Most of the reporting requirements involve only telephone and mail contacts, and should entail minimal expense.

Other subchapters contain requirements for patient instruction and health education, the safety and maintenance of the physical plant, proper maintenance and calibration of equipment, storage and accoun-

tability for medications and medical supplies, all of which will cost the applicant/licensee varying amounts, depending upon the type and extent of the services provided. The development of bylaws may be accomplished by volunteers serving as a board; however, legal assistance may be utilized to complete the task.

The balance of the chapter, as delineated in the Summary, includes requirements for: the provision of each service offered; general record maintenance; infection control; disposal of tissue, regulated medical waste and other waste; drills, tests and inspections; emergency procedures; support services, such as housekeeping; and quality assurance planning and review functions. All physical plants must conform to the requirements of several uniform codes and guidelines, such as the fire and building codes and the barrier-free requirements of N.J.A.C. 5:23-7. Each of these requirements imposes a cost; however, the amounts cannot be determined for the entire regulated public, since each applicant/licensee is expected to implement the requirements in an individual manner.

It is not the case that all of the proposed rules have an associated cost. An example of a proposed rule which could in fact promote cost savings, in this case by drug abuse treatment facilities, may be found at N.J.A.C. 8:43A-26.4(a). Unlike the more generally applicable proposed N.J.A.C. 8:43A-8.2, which requires the director of nursing services or designee to be on the premises of the facility during its hours of operation, this facility-specific rule requires that the director of nursing services or designee be on the premises whenever medications are being administered and at other times as determined by the facility and allows for exceptions under specific conditions. Also, the deletion in the proposed manual of the current N.J.A.C. 8:43A-9.3(a)11, which prohibits the use of drug samples in the facility, could result in savings for many types of ambulatory care facilities.

A number of the proposed rules would have rather direct financial benefits for patients. The provisions at N.J.A.C. 8:43A-6.8, for instance, would help to protect the patient financially by requiring that the patient be informed of predetermined fees for services expected to be provided and by placing restrictions on the assessment of additional charges. Proposed N.J.A.C. 8:43A-13.5(b) would serve a similar purpose by imposing limitations on the fees which may be charged to a patient for a copy of the patient's medical record.

Regulatory Flexibility Analysis

The rules in this chapter apply to the approximately 190 ambulatory care facilities which are licensed in New Jersey. Among these facilities are approximately 47 outpatient drug abuse treatment facilities, 42 family planning clinics, 16 facilities providing chronic dialysis services, two birth centers, and three facilities providing extracorporeal shock wave lithotripsy services. Ambulatory care facilities can be considered small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The proposed rules were written with the intention of protecting patient health and safety without imposing unnecessary requirements on the facilities. Accordingly, the proposed rules address such essential activities as the establishment of patient care policies and procedures to facilitate continuity of care to patients, the establishment of an infection prevention and control program, and the maintenance of patient medical records. The costs of these requirements, and the professional services they might require, are discussed in the Economic Impact above. The Department maintains the general appropriateness and necessity of these rules for all ambulatory care facilities, regardless of facility size. Where physical or operational size can reasonably be considered to be a relevant factor in the application of specific rules, however, exceptions have been made. The case of "small primary care outpatient facilities," addressed at proposed N.J.A.C. 8:43A-23.5, serves as an example. Other examples may be found in proposed subchapter 27 on satellites of licensed ambulatory care facilities.

Subchapter 27 attempts to eliminate any unnecessary burden on satellite facilities, with particular attention to reporting requirements, documentation requirements, and requirements which would result in unnecessary duplication of services. Accordingly, proposed N.J.A.C. 8:43A-27.1(a)2 and 27.4 require only that policies and procedures pertinent to services provided at the satellite be available at the satellite facility. N.J.A.C. 8:43A-27.1(a)3 allows the satellite to rely on its affiliated licensed facility for the reporting of certain events to the Department. Other proposed rules which explicitly permit the sharing of programs, personnel, or space between a satellite and its affiliated licensed facility include N.J.A.C. 8:43A-27.1(a)5 and 6, 27.3, and 27.5(a).

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:43A.

Full text of the repealed subchapters may be found in the New Jersey Administrative Code at N.J.A.C. 8:43A-1 through 11 and 13 through 19.

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

SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS

8:43A-1.1 Scope

The rules in this chapter pertain to all health care facilities which provide ambulatory care services, including, but not limited to, primary care, hospital outpatient, ambulatory surgical, family practice, family planning, outpatient drug abuse treatment, chronic dialysis, outpatient physical therapy, computerized tomography, magnetic resonance imaging, extracorporeal shock wave lithotripsy, and radiological services. These rules also pertain to abortion facilities, rehabilitation agencies, and birth centers. Ambulatory care facilities provide preventive, diagnostic, and treatment services to persons who come to the facility to receive services and depart from the facility on the same day. The rules in this chapter constitute the basis for the licensure of ambulatory care facilities by the New Jersey State Department of Health.

8:43A-1.2 Purpose

The goal of this chapter is to protect the health and safety of patients who receive ambulatory care services by establishing minimum rules and standards of care with which an ambulatory care facility must comply in order to be licensed to operate in New Jersey.

8:43A-1.3 Definitions

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

"Advance directive" means a written statement of the patient's instructions and directions for health care in the event of future decision making incapacity. An advance directive may include a proxy directive or an instruction directive, or both.

"Affiliated community perinatal center" means a licensed hospital designated within a maternal and child health service region with which the birth center has a formal agreement for transfer and back-up services. This hospital must be designated as either a community perinatal center—intermediate or intensive or a regional perinatal center, in accordance with N.J.A.C. 8:33C.

"Ambulatory care facility" means a health care facility or a distinct part of a health care facility which provides preventive, diagnostic, and treatment services to persons who come to the facility to receive services and depart from the facility on the same day.

"Available" means ready for immediate use (pertaining to equipment) or capable of being reached (pertaining to personnel), unless otherwise defined.

"Birth center" means a health care facility or a distinct part of a health care facility which provides routine prenatal and intrapartal care to low-risk maternity patients who are expected to deliver neonates of a weight greater than 2,499 grams and of 36 weeks gestational age and who require a stay of less than 24 hours after birth. "Routine intrapartal care" means labor and delivery services not requiring surgical intervention.

"Bylaws" means a set of rules adopted by the facility for governing its operation. A charter, articles of incorporation, or a statement of policies and objectives is an acceptable equivalent.

"Cardiac rehabilitation program" means a health care service in which an individualized program of physical exercise is prescribed for each cardiac patient.

"Chronic dialysis" means dialysis rendered to a patient with end stage renal disease in whom recovery of renal function is not expected.

"Cleaning" means the removal by scrubbing and washing, as with hot water, soap or detergent, and vacuuming of infectious agents and of organic matter from surfaces on which and in which infectious agents may find conditions for surviving or multiplying.

"Clinical note" means a written, signed, and dated notation made by a health care professional who renders a service to the patient. Clinical notes are written into the patient's medical record the day service is rendered.

"Clinical practitioner" means a physician, dentist, podiatrist, certified nurse midwife, physician assistant, or nurse practitioner.

"Commissioner" means the New Jersey State Commissioner of Health.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products which occurs through transmission of that agent or its products from a reservoir to a susceptible host.

"Community perinatal center-birthing center" means a licensed birth center designated within a maternal and child health service region, in accordance with N.J.A.C. 8:33C.

"Conspicuously posted" means placed at a location within the facility accessible to and seen by patients and the public.

"Contamination" means the presence of an infectious or toxic agent in the air, on a body surface, or on or in clothes, bedding, instruments, dressings, or other inanimate articles or substances, including water, milk, and food.

"Controlled Dangerous Substances Acts" means the Controlled Substances Act of 1970 (Title II, Public Law 91-513) and the New Jersey Controlled Dangerous Substances Act of 1970, N.J.S.A. 24:21-1 et seq.

"Counseling" means provision of information intended to direct the behavior of a patient. Counseling services include, but are not limited to, dietary counseling, social work, and/or drug counseling services.

"Current" means up-to-date, extending to the present time.

"Department" means the New Jersey State Department of Health.

"Disinfection" means the killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and physical means, directly applied.

"Documented" means written, signed, and dated.

"Drug" means a substance as defined in the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39. The word "medication" is used interchangeably with the word "drug" in this chapter.

"Drug abuse treatment services" means methadone detoxification, methadone maintenance, and/or drug-free counseling programs.

"Drug administration" means a procedure in which a prescribed drug is given to a patient by an authorized person in accordance with all laws and rules governing such procedures. The complete procedure of administration includes removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the prescriber's orders, giving the individual dose to the patient, seeing that the patient takes it (if oral), and recording the required information, including the method of administration.

"Epidemic" means the occurrence in a facility of one or more cases of an illness in excess of normal expectancy for that illness, derived from a common or propagated source.

"Family planning services" means comprehensive reproductive health care services including contraception, pregnancy detection, options counseling, diagnosis and/or treatment of sexually transmitted diseases, routine gynecological and cancer screening services, health promotion activities, and Level I infertility services. Family planning services may also include prenatal and postpartum care, other gynecological services including colposcopy and cryotherapy, menopausal services, and/or Level II and III infertility care.

"Full-time" means relating to a time period established by the facility as a full working week, as defined and specified in the facility's policies and procedures.

"Governing authority" means the organization, person, or persons designated to assume legal responsibility for the management, operation, and financial viability of the facility.

"Health care facility" means a facility so defined in N.J.S.A. 26:2H-1 et seq.

"Hospital" means a health care facility as defined in the Licensing Standards for Hospitals, N.J.A.C. 8:43G.

"Job description" means written specifications developed for each position in the facility, containing the qualifications, duties and responsibilities, and accountability required of employees in that position.

"Licensed nursing personnel" (licensed nurse) means registered professional nurses or practical nurses licensed by the New Jersey State Board of Nursing.

"Maternal and Child Health Consortium (MCHC)" means a voluntarily formed non-profit organization, consisting of all inpatient or ambulatory perinatal and pediatric care providers and related community organizations in a maternal and child health service region, as described at N.J.A.C. 8:35A.

"Maternal and child health service region" means the perinatal and pediatric service delivery area described at N.J.A.C. 8:33C.

"Medical record" means all records in the facility which pertain to the patient's health care.

"Medication" means a substance as defined by the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39. The word drug is used interchangeably with the word medication in this chapter.

"Monitor" means to observe, watch, or check.

"Plan of care" means a written plan which is based upon the patient assessments performed by all services participating in the patient's care and which includes care and treatment to be provided. Each professional discipline which provides care to the patient develops its own portion of the plan of care.

"Prescriber" means a person who is authorized to write prescriptions in accordance with Federal and State laws.

"Primary care" means the provision by a health care facility of preventive, diagnostic, treatment, management, and reassessment services to individuals with acute or chronic illness. The term is used in reference to facilities providing family practice, general internal medicine, general pediatrics, obstetrics, gynecology, and/or clinical preventive services, including community health centers providing comprehensive primary care. Comprehensive primary care may include the provision of sick and well care to all age groups, from perinatal and pediatric care to geriatric care. Primary care is further characterized by the fact that it represents the initial point of contact between an individual and the health care system, by the assumption of responsibility for the person regardless of the presence or absence of disease, by the ongoing responsibility for coordination of medical care for the person, by its family-centeredness, and by its community orientation.

"Satellite" means a affiliate of a separately licensed ambulatory care facility. A satellite is located at a site distinct from that of the separately licensed ambulatory care facility, but shares the same governing authority and provides the same principal service as the separately licensed ambulatory care facility.

"Secondary care" means care delivered by a specialist or subspecialist following referral by the primary care source. This may include ambulatory or inpatient care.

"Signature" means at least the first initial and full surname and title (for example, R.N., L.P.N., D.D.S., M.D., D.O.) of a person, legibly written with his or her own hand. If electronic signatures are used, they shall be used in accordance with N.J.A.C. 8:43A-13.4.

"Staff education plan" means a written plan which describes a coordinated program for staff education for each service, including inservice programs and on-the-job training.

"Staff orientation plan" means a written plan for the orientation of each new employee to the duties and responsibilities of the service to which the employee has been assigned, as well as to the personnel policies of the facility.

"Sterilization" means a process of destroying all microorganisms, including those bearing spores, in, on, and around an object.

"Tertiary care" means specialized inpatient or outpatient care.

8:43A-1.4 Qualifications of the administrator of the ambulatory care facility

The administrator shall have a baccalaureate degree and two years of full-time, or full-time equivalent, administrative or

supervisory experience in a health care facility. Each additional year of full-time, or full-time equivalent, administrative or supervisory experience and/or training in a health care facility may be substituted for each year of the four-year degree requirement. Four years of such experience and/or training may be used to satisfy the degree requirement.

8:43A-1.5 Qualifications of anesthesiologists

An anesthesiologist shall be a physician who has successfully completed a residency program in anesthesiology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or who was made a Fellow of the American College of Anesthesiology before 1972.

8:43A-1.6 Qualifications of certified nurse midwife

Each certified nurse midwife shall meet the requirements of the New Jersey State Board of Medical Examiners at N.J.A.C. 13:35-2A.

8:43A-1.7 Qualifications of certified registered nurse anesthetists (CRNA)

Each certified registered nurse anesthetist shall meet the requirements of the New Jersey State Board of Nursing at N.J.A.C. 13:37-13.

8:43A-1.8 Qualifications of dentists

Each dentist shall be so licensed by the New Jersey State Board of Dentistry.

8:43A-1.9 Qualifications of dietitians

Each dietitian shall be registered or eligible for registration by the Commission on Dietetic Registration (Office on Dietetic Credentialing, 216 W. Jackson Boulevard—7th Floor, Chicago, Illinois 60606-6995).

8:43A-1.10 Qualifications of the director of nursing services

The director of nursing services shall be a registered professional nurse and shall have at least one year of full-time, or full-time equivalent, experience in nursing supervision and/or nursing administration in a licensed health care facility.

8:43A-1.11 Qualifications of drug counselors

(a) Each drug counselor shall:

1. Be certified by the Alcohol and Other Drugs of Abuse Counsel or Certification Board of New Jersey, Inc. (90 Monmouth Street, Suite One, Red Bank, NJ 07701);

2. Be certified by the American Academy of Health Care Providers in the Addictive Disorders (260 Beacon Street, Somerville, MA 02143);

3. Be a social worker, in accordance with N.J.A.C. 8:43A-1.27;

4. Have a baccalaureate degree in a social science and one year of full-time equivalent experience in drug abuse counseling; or

5. Be currently enrolled in a program leading to one of the credentials required by (a)1 through 4 above and under the supervision of a person who has one of the credentials required by (a)1 through 4 above and at least three years of experience in drug counseling.

8:43A-1.12 Qualifications of family practice physicians

A family practice physician shall be a physician who has successfully completed a residency program in family practice accredited by the Accreditation Council for Graduate Medical Education or a residency program in general practice approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Family Practice or the American Osteopathic Board of General Practice.

8:43A-1.13 Qualifications of licensed practical nurses

Each licensed practical nurse shall be so licensed by the New Jersey State Board of Nursing.

8:43A-1.14 Qualifications of the medical director

The medical director shall be a physician who has successfully completed a residency program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association in a medical specialty related to services provided by the facility, or who is a diplomate of one of the certifying boards approved by the American Board of Medical Specialties or one of the certifying boards of the American Osteopathic Association in a medical specialty related to services provided by the facility. If the facility provides chronic dialysis services, the medical director shall be a nephrologist, in accordance with N.J.A.C. 8:43A-24.4(a).

8:43A-1.15 Qualifications of nephrologists

A nephrologist shall be a physician who has successfully completed a residency program in nephrology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine in the subspecialty of nephrology.

8:43A-1.16 Qualifications of nurse practitioners

Each nurse practitioner shall be so certified by the New Jersey State Board of Nursing.

8:43A-1.17 Qualifications of obstetrician-gynecologists

An obstetrician-gynecologist shall be a physician who has successfully completed a residency program in obstetrics/gynecology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Obstetrics and Gynecology or the American Osteopathic Board of Obstetrics and Gynecology.

8:43A-1.18 Qualifications of pediatricians

A pediatrician shall be a physician who has successfully completed a residency program in pediatrics accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Pediatrics or the American Osteopathic Board of Pediatrics.

8:43A-1.19 Qualifications of pharmacists

Each pharmacist shall be so registered by the New Jersey State Board of Pharmacy.

8:43A-1.20 Qualifications of physician assistants

Each physician assistant shall be so licensed by the New Jersey State Board of Medical Examiners.

8:43A-1.21 Qualifications of physicians

(a) Each physician shall be licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey.

(b) For any of the rules in this chapter requiring a physician to be Board-certified within his or her medical specialty, it shall be deemed acceptable to possess Board-certification from a foreign Board within the specified medical specialty where the American Board offers reciprocity with or officially recognizes the foreign board-certification credential.

8:43A-1.22 Qualifications of podiatrists

Each podiatrist shall be so licensed by the New Jersey State Board of Medical Examiners.

8:43A-1.23 Qualifications of radiation physicists/health physicists

Each radiation physicist/health physicist shall meet the requirements for certification as a specialist in radiation safety by the American Board of Radiology or the American Association of Physicists in Medicine, or shall have a master's degree with a major in medical radiation physics, health physics or radiologic health.

8:43A-1.24 Qualifications of radiologic technologists

Each radiologic technologist shall be so licensed by the New Jersey State Department of Environmental Protection.

8:43A-1.25 Qualifications of radiologists

A radiologist shall be a physician who has successfully completed a residency program in radiology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the

American Board of Radiology or the American Osteopathic Board of Radiology.

8:43A-1.26 Qualifications of registered professional nurses

Each registered professional nurse shall be so licensed by the New Jersey State Board of Nursing.

8:43A-1.27 Qualifications of social workers

Each social worker shall be certified or licensed by the New Jersey State Board of Social Work Examiners and shall comply with the Social Workers' Licensing Act of 1991 (N.J.S.A. 45:15BB et seq.) and amendments thereto and with all rules of the New Jersey State Board of Social Work Examiners. Prior to the implementation by the Board of procedures for applying for certification or licensure, each social worker shall have a master's degree in social work from a graduate school of social work accredited by the Council on Social Work Education (1744 R Street NW, Washington, D.C. 20036).

8:43A-1.28 Qualifications of urologists

A urologist shall be a physician who has successfully completed a residency program in urology accredited by the Accreditation Council for Graduate Medical Education or a residency program in urological surgery approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Urology or the American Osteopathic Board of Surgery in the subspecialty of urological surgery.

SUBCHAPTER 2. LICENSURE PROCEDURES

8:43A-2.1 Certificate of need

(a) According to N.J.S.A. 26:2H-1 et seq., and amendments thereto, a health care facility shall not be instituted, constructed, expanded, or licensed to operate except upon application for, and receipt of, a certificate of need issued by the Commissioner.

(b) Application forms for a certificate of need and instructions for completion may be obtained from:

Certificate of Need Program
Division of Health Planning and Resources Development
New Jersey State Department of Health
CN 360
Trenton, New Jersey 08625

1. Application forms for a certificate of need in the case of transfer of ownership may be obtained from:

Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

(c) The facility shall implement all conditions imposed by the Commissioner as specified in the certificate of need approval letter. Failure to implement the conditions may result in the imposition of sanctions in accordance with N.J.S.A. 26:2H-1 et seq., and amendments thereto.

8:43A-2.2 Application for licensure

(a) Following receipt of a certificate of need or a determination that a certificate of need is not required, any person, organization, or corporation desiring to operate an ambulatory care facility shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Director
Licensing, Certification and Standards
Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

(b) The Department shall charge a nonrefundable fee of $500.00 for the filing of an application for licensure of an ambulatory care facility and $500.00 for the initial license and annual renewal thereof. The licensing fee permits a facility to offer one of the services or centers listed in N.J.A.C. 8:43A-2.3(a) below. The facility shall submit an additional nonrefundable fee of $250.00 for each service or center listed in N.J.A.C. 8:43A-2.3(a) which is provided in addition to the principal service of the facility. For a single license, the total fee which may be assessed for the filing of an application for licensure and for the annual renewal of the license shall not exceed $2,000.

1. The Department shall charge a nonrefundable fee of $250.00 for the filing of an application for licensure of a satellite of a separately licensed ambulatory care facility and for the annual renewal of the satellite license. This fee permits a satellite to offer one of the services or centers listed in N.J.A.C. 8:43A-2.3(a) below. The satellite shall submit an additional nonrefundable fee of $250.00 for each service or center listed in N.J.A.C. 8:43A-2.3(a) which is provided in addition to the principal service of the satellite. For a single satellite license, the total fee which may be assessed for the filing of an application for licensure of the satellite and for the annual renewal of the license shall not exceed $2,000.

(c) Each applicant for a license to operate a facility shall complete all information requested on the licensure application. An appointment may be requested with the Licensing, Certification and Standards Program.

(d) Each applicant must demonstrate that they have the capacity to operate an ambulatory care facility in accordance with the rules in this chapter. An application for a license may be denied if the applicant cannot demonstrate that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care are fit and adequate and that there is reasonable assurance that the health care facility will be operated in accordance with the standards required by these rules. The Department may consider an applicant's prior history in operating a health care facility either in New Jersey or in other states in making this determination. Any evidence of licensure violations representing a serious risk of harm to patients may be considered by the Department, as well as any record of criminal convictions representing a risk of harm to the safety or welfare of patients.

8:43A-2.3 Types of services requiring a license

(a) None of the following services or centers shall be provided by an ambulatory care facility unless the facility license indicates that the service is provided by the facility:

1. Surgical center;
2. Family planning services;
3. Birth center;
4. Chronic dialysis services;
5. Diagnostic radiological center and/or magnetic resonance imaging services;
6. Extracorporeal shock wave lithotripsy services;
7. Drug abuse treatment services;
8. Primary care services, including family practice, pediatric, and/or prenatal, postpartum, or gynecological services; and
9. Physical rehabilitation services.

(b) The license issued by the Department shall specify the services which the facility is licensed to provide. The facility shall obtain a determination of the applicability of Certificate of Need rules prior to requesting that any service be added to the license. The facility shall provide only those services for which it is licensed or authorized to provide by the Department.

(c) Any person, organization, or corporation applying for a license to operate an ambulatory care facility shall specify on the application the services to be provided.

(d) As of the effective date of this chapter, each facility shall specify, upon annual renewal of its license, the types of services to be provided, if the facility wishes to change the specification of services on the facility license.

(e) If a facility wishes to add any health care service during the annual licensure period, including any health care service not listed in (a) above, the facility shall obtain the authorization of the Licensing, Certification, and Standards Program of the Department prior to providing the additional service. Such authorization shall be based upon compliance with this chapter, and may be contingent upon an on-site inspection by representatives of the Department. This rule applies regardless of whether or not it is determined that a Certificate of Need is required.

8:43A-2.4 Newly constructed or expanded facilities

(a) Any ambulatory care facility which intends to undertake any alteration, renovation, or new construction of the physical plant, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction Services of the Department for review and approval prior to the initiation of any work, in accordance with N.J.A.C. 8:43A-19.

(b) The licensure application for a newly constructed or expanded facility shall include written approval of final construction of the physical plant by:

Health Facilities Construction Services
Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

(c) An on-site inspection of the construction of the physical plant shall be made by representatives of Health Facilities Construction Services to verify that the building has been constructed in accordance with the architectural plans approved by the Department.

8:43A-2.5 Surveys and temporary license

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Health Facilities Inspection Program of the Department shall be conducted to determine if the facility complies with the rules in this chapter.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Health Facilities Inspection Program of the Department when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more resurveys of the facility prior to occupancy.

(b) A temporary license may be issued to a facility when the following conditions are met:

1. A preliminary conference (see N.J.A.C. 8:43A-2.2(c)) for review of the conditions for licensure and operation has taken place between the Licensing, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility's compliance with N.J.S.A. 26:2H-1 et seq. and the rules pursuant thereto;

2. Written approvals are on file with the Department from the local zoning, fire, health and building authorities;

3. Written approvals of the water supply and sewage disposal system from local officials are on file with the Department for any water supply or sewage disposal system not connected to an approved municipal system; and

4. Survey(s) by representatives of the Department indicate that the facility complies with the rules in this chapter.

(c) No facility shall admit patients to the facility until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department.

(d) Survey visits may be made to a facility at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all facility documents and patient records and conferences with patients.

(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.

(f) The temporary license shall be conspicuously posted in the facility.

(g) The temporary license is not assignable or transferable, and it shall be immediately void if the facility ceases to operate or if its ownership changes.

8:43A-2.6 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the facility is operated as required by N.J.S.A. 26:2H-1 et seq. and by the rules pursuant thereto.

(b) A license shall be granted for a period of one year or less, as determined by the Department.

(c) The license shall be conspicuously posted in the facility.

(d) The license is not assignable or transferable, and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(e) The license, unless suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date. The facility will receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

(f) The license may not be renewed if local rules, regulations, and/or requirements are not met, in accordance with the provisions of N.J.A.C. 8:43A-2.10(a).

8:43A-2.7 Conditional license

A conditional license may be issued to a health care facility providing a type or category of health care service neither listed in N.J.A.C. 8:43A-2.3(a) nor otherwise addressed by this chapter. The facility shall comply with the standards set forth as a condition of the license.

8:43A-2.8 Surrender of license

The facility shall notify each patient, each patient's physician, and any guarantors of payment at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days after the voluntary surrender, revocation, non-renewal, or suspension of license.

8:43A-2.9 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of N.J.S.A. 26:2H-1 et seq. and the rules in this chapter, waive sections of these rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of patients or the public.

(b) A facility seeking a waiver of these rules shall apply in writing to the Director of the Licensing, Certification and Standards Program of the Department.

(c) A written request for waiver shall include the following:

1. The specific rule(s) or part(s) of the rule(s) for which waiver is requested;

2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon compliance;

3. An alternative proposal which would ensure patient safety; and

4. Documentation to support the request for waiver.

(d) The Department reserves the right to request additional information before processing a request for waiver.

8:43A-2.10 Action against a license

(a) If the Department determines that operational or safety deficiencies exist, it may require that all admissions to the facility or to services provided within the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his or her designee shall notify the facility in writing of such determination.

(b) The Commissioner may order the immediate removal of patients from a facility whenever he or she determines that there exists imminent danger to any person's health or safety.

(c) The provisions of this section shall apply to facilities with a temporary license and to facilities with a full license.

(d) The Commissioner may issue a penalty on a facility for violation of licensure requirements of this chapter pursuant to N.J.S.A. 26:2H-13 and 14.

(e) The Commissioner may suspend or revoke the license of a facility for failure to correct any violation of this chapter posing an imminent harm to patients pursuant to N.J.S.A. 26:2H-14.

8:43A-2.11 Hearings

(a) If the Department proposes to suspend, revoke, deny, or refuse to renew a license or authorization, the licensee or applicant may request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1

et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Prior to transmittal of any hearing request to the Office of Administrative Law, the Department may schedule a conference to attempt to settle the matter.

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:43A-3.1 Provision of services

(a) The facility shall provide preventive, diagnostic, and/or treatment services to patients. Medical services and nursing services, as required by this chapter, shall be provided in the facility. Medical services, nursing services, counseling services, pharmaceutical services, and laboratory and radiological services shall be provided directly by the facility or through written agreement.

(b) The facility shall have a written agreement for services not provided directly by the facility. The written agreement shall specify each party's responsibilities. If the service is provided in the facility, the written agreement shall require that services be provided in accordance with the rules in this chapter. If the service is provided outside of the facility, the written agreement shall require the provision of written documentation to the facility, including, but not limited to, documentation of services rendered and recommendations made by the party providing the service.

8:43A-3.2 Compliance with laws and rules

(a) The facility shall comply with applicable Federal, State, and local laws, rules, and regulations.

(b) If a health care facility licensed by the Department provides ambulatory care services in addition to other health care services, the facility shall comply with the rules in this chapter and with the rules for licensure of facilities which provide the other health care services.

8:43A-3.3 Ownership

(a) The ownership of the facility and the property on which it is located shall be disclosed to the Department. Proof of this ownership shall be available in the facility or at a designated location. Any proposed change in ownership shall be reported to the Director of the Licensing, Certification and Standards Program of the Department in writing at least 30 days prior to the change and in conformance with requirements for Certificate of Need applications.

(b) No facility shall be owned, managed, or operated by any person convicted of a crime relating adversely to the person's capability of owning, managing, or operating the facility.

8:43A-3.4 Submission of documents and data

(a) The facility shall, upon request, submit in writing any documents which are required by the rules in this chapter to the Director of the Licensing, Certification and Standards Program of the Department.

(b) The facility shall collect and submit to the Department, upon request, at least the following statistical data:

1. Number of patient visits, by payment source;
2. Number of distinct patients served, by payment source;
3. Number of new patients accepted; and
4. Number of practitioners, by type and level, providing services in the facility.

8:43A-3.5 Personnel

(a) The facility shall develop written job descriptions and ensure that personnel are assigned duties based upon their education, training, and competencies, and in accordance with their job descriptions.

(b) All personnel who require licensure, certification, or authorization to provide patient care shall be currently licensed, certified, or authorized under the appropriate laws or rules of the State of New Jersey or under the applicable standards of the appropriate body.

(c) Staffing schedules shall be implemented to ensure continuity of care to patients. Provision shall be made for substitute staff with equivalent qualifications to replace absent staff members.

(d) The facility shall develop and implement a staff orientation plan and a staff education plan, including plans for each service and designation of person(s) responsible for training.

1. All personnel shall receive orientation at the time of employment and at least annual in-service education regarding, at a minimum, emergency plans and procedures, the infection prevention and control program, universal precautions, policies and procedures concerning patient rights, and, if appropriate, given the patient population of the facility, identification of cases of child abuse and/or elder abuse.

(e) At least one person who is currently certified in basic cardiac life support by the American Heart Association or the American Red Cross, or currently certified by the Department as an emergency medical technician—ambulance (EMT-A), shall be in the facility at all times during the facility's hours of operation. If a cardiac rehabilitation program is provided, at least one person who is currently certified in advanced cardiac life support by the American Heart Association shall be in the facility at all times during the facility's hours of operation.

8:43A-3.6 Policy and procedure manual

(a) A policy and procedure manual(s) for the organization and operation of the facility shall be developed, implemented, and reviewed at intervals specified in the manual(s). Each review of the manual(s) shall be documented, and the manual(s) shall be available in the facility to representatives of the Department at all times. The manual(s) shall include at least the following:

1. A written statement describing the program's treatment philosophy, objectives, and staffing patterns, and the services provided by the facility;

2. An organizational chart delineating the lines of authority, responsibility, and accountability for the administration and patient care services of the facility;

3. A description of the quality assurance program for patient care and staff performance, including methods for at least annual review of staff qualifications and credentials and of staff orientation and education;

4. Definition and specification of hours of operation, including all times in which patients are present in the facility, business hours, and full working week;

5. A system for referral of patients to sources of secondary and tertiary health care;

6. A requirement for at least one member of the medical staff to maintain admitting privileges at a hospital;

7. Policies and procedures for the maintenance of personnel records for each employee, including at least the employee's name, previous employment, educational background, credentials, license number with effective date and date of expiration (if applicable), certification (if applicable), verification of credentials, records of physical examinations, job description, records of staff orientation and staff education, and evaluations of job performance;

8. Policies and procedures for complying with applicable statutes and protocols to report child abuse and/or neglect, abuse or mistreatment of elderly or disabled adults, sexual abuse, specified communicable disease, rabies, poisonings, and unattended or suspicious deaths. These policies and procedures shall include, but not be limited to, the following:

i. The designation of a staff member(s) to be responsible for coordinating the reporting of diagnosed and/or suspected cases of child abuse and/or neglect in compliance with N.J.S.A. 9:6-1 et seq., recording the notification to the Division of Youth and Family Services in the medical record, and serving as a liaison between the facility and the Division of Youth and Family Services;

ii. The notification of any suspected case of patient abuse or exploitation to the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly, pursuant to N.J.S.A. 52:27G-7.1 et seq., if the patient is 60 years of age or older;

iii. The development of written protocols for the identification and the treatment of children and elderly or disabled adults who are abused and/or neglected; and

iv. The provision at least annually of education and/or training programs to appropriate persons regarding the identification and

reporting of diagnosed and/or suspected cases of child abuse and/or neglect; sexual abuse; domestic violence; abuse of the elderly or disabled adult; and the facility's policies and procedures.

Note: Copies of N.J.S.A. 9:6-1 et seq. can be obtained from the local district office of the Division of Youth and Family Services (DYFS) or from the Office of Program Support, Division of Youth and Family Services, New Jersey State Department of Human Services, CN 717, Trenton, New Jersey 08625.

(b) The policy and procedure manual(s) shall be available and accessible to all patients, staff, and the public.

8:43A-3.7 Employee health

(a) The policy and procedure manual of the facility shall include policies and procedures to ensure that physical examinations of employees are performed upon employment and subsequently. Policies and procedures shall specify the circumstances under which other persons providing direct patient care services shall receive a physical examination. Policies and procedures shall specify the content and the frequency of the examinations.

(b) Each employee who cannot document the result of a previous rubella screening test shall be given a rubella screening test using the rubella hemagglutination inhibition test or other rubella screening test approved by the Department. Each new employee who cannot document the result of a previous rubella screening test shall be given the rubella screening test upon employment. An employee who can document seropositivity from a previous rubella screening test or who can document inoculation with rubella vaccine shall not be required to have a rubella screening test.

1. Each employee tested shall be informed in writing by the facility of the results of his or her rubella screening test.

2. Each employee's personnel record shall contain documentation of all tests performed and the results.

3. A list shall be maintained of all employees who are seronegative and unvaccinated, to be used in the event that an employee is exposed to rubella and a determination is needed as to whether or not the employee may continue to work.

(c) Each employee born in 1957 or later shall be given a measles (rubeola) screening test using the hemagglutination inhibition test, or other rubeola screening test, within six months of the effective date of this chapter. Each new employee born in 1957 or later shall be given a measles (rubeola) screening test upon employment. An employee who can document receipt of a live measles vaccine on or after the first birthday, physician-diagnosed measles, or serologic evidence of immunity shall not be required to have a measles (rubeola) screening test.

1. Each employee tested shall be informed in writing by the facility of the results of his or her measles (rubeola) screening test.

2. Each employee's personnel record shall contain documentation of all tests performed and the results.

3. A list shall be maintained of all employees who are seronegative and unvaccinated.

(d) Each employee, including members of the medical staff employed by the facility, shall receive a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative within six months of the effective date of this chapter. Each new employee shall be given a Mantoux tuberculin skin test upon employment. Subsequent tests shall be performed in accordance with facility policy. Employees who can document negative Mantoux skin test results (zero to nine millimeters of induration) within the last year, employees who can document positive Mantoux skin test results (10 or more millimeters of induration), employees who have received appropriate medical treatment for tuberculosis, and employees for whom a Mantoux skin test is medically contraindicated shall not be required to receive a Mantoux tuberculin skin test.

1. If the Mantoux tuberculin skin test reaction is between zero and nine millimeters of induration, the test shall be repeated one to three weeks later.

2. If the Mantoux tuberculin skin test reaction is 10 or more millimeters of induration, a chest X-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy.

(e) The policy and procedure manual of the facility shall address employee safety and shall include procedures for the care of employees who become ill at the facility or who are injured at the facility.

8:43A-3.8 Reportable events

(a) The facility shall notify the Department immediately by telephone at (609) 588-7725, or at (609) 392-2020 after business hours, of any event occurring within the facility which jeopardizes the health or safety of patients or employees. Events which shall be reported to the Department include, but are not limited to, the following:

1. All fires, disasters, accidents, or other unanticipated events which result in serious injury or death of patients or staff, in evacuation of patients from the facility, or in closure of the facility for six or more hours;

2. All deaths of patients occurring in the facility;

3. Occurrence of epidemic disease in the facility; and

4. All alleged or suspected crimes which endanger the life or safety of patients or staff and which have also been reported at the time of occurrence to the local police department.

(b) Events reported by telephone to the Department in accordance with this section shall be confirmed in writing within seven days of the event, unless the Department determines that a written report is unnecessary. The written report shall contain information concerning injuries to patients or staff, disruption of services, extent of damages, and corrective actions taken.

(c) Resignation or termination of employment of the administrator, and the name and qualifications of the administrator's replacement, shall be reported to the Department in writing within seven days of the resignation or termination.

8:43A-3.9 Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility during business hours to patients and the public:

1. All waivers granted by the Department;

2. The list of deficiencies from the last annual licensure inspection and certification survey report (if applicable), and the list of deficiencies from any valid complaint investigation during the past 12 months;

3. A statement of patient rights;

4. The names of the members of the governing authority, and the addresses to which correspondence may be sent; and

5. The hours of operation and the business hours of the facility.

8:43A-3.10 Information reportable to State Board of Medical Examiners

(a) In accordance with the Professional Medical Conduct Reform Act, P.L. 1989, c.300, the facility shall notify the Medical Practitioner Review Panel established by the New Jersey State Board of Medical Examiners if a practitioner who is employed by, who is under contract to render professional services to, or who has privileges at the facility:

1. Voluntarily resigns from the staff if the facility is reviewing the practitioner's conduct or patient care or has expressed, through any member of the medical or administrative staff, an intention to do so;

2. Voluntarily relinquishes any partial privileges to perform a specific procedure if the facility is reviewing the practitioner's conduct or patient care or has expressed, through any member of the medical or administrative staff, an intention to do so;

3. Has full or partial privileges summarily or temporarily revoked or suspended, permanently reduced, suspended or revoked, has been discharged from the staff or has had a contract to render professional services terminated or rescinded for reasons relating to the practitioner's incompetency, misconduct, or impairment;

4. Agrees to the placement of conditions or limitations on the exercise of clinical privileges or practice within the health care facility including, but not limited to, second opinion requirements, nonroutine concurrent or retrospective review of admissions or care, nonroutine supervision by one or more members of the staff, or the completion of remedial education or training;

5. Is granted a leave of absence pursuant to which the practitioner may not exercise clinical privileges or practice within the facility

and if the reasons provided in support of the leave relate to any physical, mental, or emotional condition or drug or alcohol use, which might impair the practitioner's ability to practice with reasonable skill and safety; or

6. Is a party to a medical malpractice liability suit in which the facility is also a party and in which there is a settlement, judgement, or arbitration award.

(b) For the purposes of (a) above, "practitioner" means physician, medical resident or intern, or podiatrist.

(c) Notifications required by (a) above shall be provided within seven days of the date of the action, settlement, judgement or award and shall be submitted on forms approved by the Department of Health for that purpose. The facility shall submit a completed supplemental form to the New Jersey State Board of Medical Examiners if so requested by the Board.

8:43A-3.11 Reporting to professional licensing boards

The facility shall comply with all requirements of the professional licensing boards for reporting termination, suspension, revocation, or reduction of privileges of any health professional licensed in the State of New Jersey.

SUBCHAPTER 4. GOVERNING AUTHORITY

8:43A-4.1 Responsibility of the governing authority

(a) The facility shall have a governing authority which shall assume legal responsibility for the management, operation, and financial viability of the facility. The governing authority shall be responsible for, but not limited to, the following:

1. Services provided and the quality of care rendered to patients;
2. Provision of a safe physical plant equipped and staffed to maintain the facility and services;
3. Adoption and documented review of written bylaws, or their equivalent, in accordance with a schedule established by the governing authority;
4. Appointment, reappointment, assignment of privileges, and curtailment of privileges of health care professionals, and written confirmation of such actions;
5. Ensuring development and review of all policies and procedures in accordance with a schedule established by the governing authority;
6. Establishment and implementation of a system whereby patient and staff grievances and/or recommendations, including those relating to patient rights, can be identified within the facility. This system shall include a feedback mechanism through management to the governing authority, indicating what action was taken;
7. Determination of the frequency of meetings of the governing authority and its committees, or equivalent, conducting such meetings, and documenting them through minutes;
8. Delineation of the duties of the officers of any committees, or equivalent, of the governing authority. When the governing authority establishes committees, their purpose, structure, responsibilities, and authority, and the relationship of the committee to other entities within the facility, shall be documented;
9. Establishment of the qualifications of members and officers of the governing authority, the procedures for electing and appointment officers, and the terms of service for members, officers, and committee chairpersons or equivalent; and
10. Approval of the medical staff bylaws or equivalent.

SUBCHAPTER 5. ADMINISTRATION

8:43A-5.1 Appointment of administrator

The governing authority shall appoint an administrator who shall be accountable to the governing authority. The administrator, or an alternate who shall be designated in writing to act in the absence of the administrator, shall be available in the facility during its hours of operation.

8:43A-5.2 Administrator's responsibilities

(a) The administrator shall be responsible for, but not limited to, the following:

1. Ensuring the development, implementation, and enforcement of all policies and procedures, including patient rights;
2. Planning for, and administration of, the managerial, operational, fiscal, and reporting components of the facility;
3. Participating in the quality assurance program for patient care and staff performance;
4. Ensuring that all personnel are assigned duties based upon their education, training, competencies, and job descriptions;
5. Ensuring the provision of staff orientation and staff education; and
6. Establishing and maintaining liaison relationships and communication with facility staff and services, with support services and community resources, and with patients.

SUBCHAPTER 6. PATIENT CARE POLICIES AND SERVICES

8:43A-6.1 Establishment and implementation of policies and procedures

The facility shall establish and implement written patient care policies and procedures governing the services provided.

8:43A-6.2 Patient care policy committee

(a) The facility shall establish a patient care policy committee, or its equivalent, consisting of, but not limited to, the administrator, the medical director, and a representative of the nursing service. A representative of each service offered by the facility shall attend all patient care policy committee meetings in which policies or procedures for that particular service are developed or reviewed.

(b) All patient care policies and procedures shall be reviewed by the patient care policy committee, in accordance with a schedule established by the governing authority, at least triennially. Each review shall be documented.

8:43A-6.3 Policies and procedures

(a) Patient care policies and procedures shall facilitate continuity of care to patients and shall include, but not be limited to, policies and procedures concerning the following:

1. Services to be provided, including preventive, diagnostic, and treatment services;
2. Patient rights;
3. The referral of patients to other health care providers and the use of consultant services, in order to provide a continuum of care for the patient;
4. The provision of emergency and after-hours care and treatment, including a definition of emergency;
5. Methods for obtaining and documenting informed consent, including definition or a listing of types of procedures for which informed consent will be required;
6. Advance directives, including, but not limited to, the following:

i. The circumstances under which an inquiry will be made of adult individuals receiving surgical services, anesthesia services other than minor conduction block, or chronic dialysis services regarding the existence and location of an advance directive;

ii. Requirements for provision of a written statement of patient rights regarding advance directives, approved by the Commissioner or his or her designee, to such patients upon admission; and

iii. Requirements for documentation in the medical record;

7. Admission of patients, including limitations on admission based on diagnosis, type or degree of disability, medical condition, patient age, or other factors. These limitations shall not conflict with applicable Federal and State laws prohibiting discrimination in the admission of patients or in the provision of health care services;
8. The facility's registration and appointment system;
9. Follow-up of broken appointments, including specification of the circumstances under which such follow-up will be performed;
10. The provision of screening services, if offered, including indications for, and frequency of, such services;
11. Medical histories and physical examinations;
12. Initiation, implementation, review, and revision of a written plan of care, including indication of the types of patients for whom a plan of care will be written;
13. A system whereby, whenever possible, the patient is cared for by the same health care professionals;
14. Methods for ensuring visual and auditory privacy of patients;

15. Immunization records, if applicable;
16. Patient instruction and health education;
17. The provision of telephone consultation to patients during the facility's hours of operation;
18. Discharge, termination by the facility, transfer, and readmission of patients, including criteria for each;
19. The safe-keeping of patients' valuables, when required; and
20. Other activities, as required by this chapter.

(b) All patient care policies and procedures shall be available within the facility.

8:43A-6.4 Medical history and physical examination

(a) The facility shall specify in its policies and procedures the circumstances under which the patient's medical history will be obtained, the contents of the medical history, and the frequency of updating. The contents shall include at least past surgical procedures and medical/health conditions, allergies, adverse reactions to drugs, and current medications.

(b) The facility shall specify in its policies and procedures the circumstances under which a physical examination will be performed, the frequency, and the contents. The contents shall include at least an assessment of body systems.

8:43A-6.5 Instructions and information for patients

The facility shall provide printed and/or written instructions and information for patients, with multilingual instructions as indicated. Information shall include, but not be limited to, tests and/or procedures needed, possible complications, a telephone number to call when needed, and instructions for obtaining care in an emergency.

8:43A-6.6 Communication assistance

The facility shall provide interpretation services, when necessary, for patients who do not speak English and for patients who are deaf. The facility shall provide other communication assistance, as needed, for patients who are blind.

8:43A-6.7 Suitability of equipment and supplies

The facility shall provide equipment and supplies which are appropriate to the treatment needs of patients of the types and ages served by the facility.

8:43A-6.8 Financial arrangements

(a) Records shall be maintained of all financial arrangements with patients, with copies furnished to the patient. The policies and procedures of the facility shall specify the form of retention and the retention schedule.

(b) Patients shall be informed, in advance, of the fees which are charged by the facility for the types of services and supplies expected to be provided to the patient, on the basis of a predetermined fee schedule. The facility shall post the fee schedule or a notice that the schedule is available in the facility. Patients shall be notified if physician or other practitioner fees will be billed separately.

(c) Policies and procedures shall require physicians and other practitioners to disclose, in advance, any separate charges, upon request of the patient.

(d) No additional charges, expenses, or other financial liabilities shall be assessed in excess of the predetermined rate, except:

1. Upon written approval and authority of the patient, who shall be given a copy of the written approval; or

2. In the event of a health emergency involving the patient and requiring immediate, special services or supplies to be furnished during the period of the emergency.

(e) Agreements with third-party payors and/or other payors, referral systems for patients' financial assistance, and sources of financial assistance available to the patient shall be described for the patient.

(f) Any sliding fee scales or special payment plans established by the facility shall be described and shall be made available for the patient to review upon the patient's request.

8:43A-6.9 Smoking in facility

The facility shall become smoke-free within three months of the effective date of this section. "Smoke-free" means a total ban on smoking in the facility by employees, visitors, and patients. Prior to the time at which the facility becomes smoke-free, the policy of the facility regarding smoking in the facility shall be in accordance with N.J.S.A. 26:3D-1 et seq.

8:43A-6.10 Calibration of instruments

All instruments of measurement shall be calibrated in accordance with manufacturers' instructions. A record of instrument calibration shall be maintained.

8:43A-6.11 Acupuncture services

If the facility provides acupuncture services, such services shall be provided in accordance with N.J.S.A. 45:2C-1 et seq.

SUBCHAPTER 7. MEDICAL SERVICES

8:43A-7.1 Provision of medical services

Medical services, as required by this chapter, shall be provided in the facility. Medical services shall be provided directly by the facility or through written agreement. Patients may be referred to physicians outside of the facility for additional medical services as required to provide a continuum of care for the patient.

8:43A-7.2 Designation of medical director

The governing authority shall designate a physician to serve as medical director. The medical director shall designate, in writing, a physician to act in the absence of the medical director. The medical director, or his or her designee, shall be available to the facility at all times.

8:43A-7.3 Medical director's responsibilities

(a) The medical director shall be responsible for the direction, provision, and quality of medical services provided to patients. He or she shall be responsible for, but not limited to, the following:

1. Developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the medical service. All medical policies and procedures shall be reviewed at least annually;

2. Participating in planning and budgeting for the medical service;

3. Coordinating and integrating the medical service with other patient care services to provide a continuum of care for the patient;

4. Ensuring that medical staffing patterns are implemented;

5. If the facility provides a cardiac rehabilitation program, ensuring that a physician is present in the facility at all times during the facility's hours of operation to supervise nonphysician personnel;

6. Assisting in developing and maintaining written job descriptions for the medical staff, participating in the review of credentials and delineation of privileges of medical staff members, and assigning duties based upon education, training, competencies, and job descriptions;

7. Participating in staff orientation and staff education activities; and

8. Approving the contents, locations, and frequency of checking contents, including expiration dates, of emergency kits or carts, equipment, and supplies, and assigning responsibility for these checks.

8:43A-7.4 Medical policies and medical staff bylaws

(a) The medical director shall be responsible for developing, implementing, and reviewing written medical policies, including medical staff bylaws, in cooperation with the medical staff. These shall be approved by the governing authority and shall include, but not be limited to, the following:

1. A plan for medical staff meetings and their documentation through minutes;

2. A mechanism for establishing and implementing procedures relating to credentials review, delineation of qualifications, medical staff appointments and reappointments, evaluation of medical care, and the granting, denial, curtailment, suspension, or revocation of medical staff privileges;

3. Specifications for verbal orders, including who may give verbal orders and who may receive them; and

4. A system for completion of entries in the patient medical record by members of the medical staff, including, but not limited to,

specification of a time limit for completion of the medical record, not to exceed 30 days following the patient's last treatment or discharge. Entries shall be signed in accordance with N.J.A.C. 8:43A-13.4 and the facility's policies and procedures.

SUBCHAPTER 8. NURSING SERVICES

8:43A-8.1 Provision of nursing services

Nursing services, as required by this chapter, shall be provided in the facility. Nursing services shall be provided directly by the facility or through written agreement.

8:43A-8.2 Designation of director of nursing services

The facility shall designate in writing a registered professional nurse as the director of nursing services, who shall be on the premises of the facility during its hours of operation. A registered professional nurse shall be designated in writing to act in the absence of the director of nursing services.

8:43A-8.3 Responsibilities of director of nursing services

(a) The director of nursing services shall be responsible for the direction, provision, and quality of nursing services provided to patients. The director of nursing services shall be responsible for, but not limited to, the following:

1. Developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the nursing service. All nursing policies and procedures shall be reviewed at least annually;

2. Participating in planning and budgeting for the nursing service;

3. Coordinating and integrating the nursing service with other patient care services to provide a continuum of care for the patient;

4. Ensuring that nursing staffing patterns are implemented;

5. Assisting in developing and maintaining written job descriptions for nursing personnel, and assigning duties based upon education, training, competencies, and job descriptions; and

6. Participating in staff orientation and staff education activities.

8:43A-8.4 Responsibilities of licensed nursing personnel

(a) Licensed nursing personnel shall provide nursing care to patients in accordance with the State of New Jersey Nursing Practice Act, N.J.S.A. 45:11-23 et seq., as interpreted by the New Jersey State Board of Nursing, and written job descriptions. Services provided shall be documented in the patient's medical record.

(b) The nursing care needs of the patient shall be assessed only by a registered professional nurse.

8:43A-8.5 Nursing portion of the medical record

(a) In accordance with written job descriptions and with these rules, nursing personnel shall enter the following in the patient's medical record:

1. The nursing portion of the patient plan of care, in accordance with the facility's policies and procedures;

2. Clinical notes; and

3. A record of medications administered. After each drug administration, the following shall be documented by the nurse who administered the drug: name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the nurse who administered the drug.

SUBCHAPTER 9. PHARMACEUTICAL SERVICES

8:43A-9.1 Provision of pharmaceutical services through an institutional pharmacy

(a) If the facility has an institutional pharmacy, the pharmacy shall be licensed by the New Jersey State Board of Pharmacy and shall possess a current Drug Enforcement Administration registration and a Controlled Dangerous Substance registration from the Department in accordance with the Controlled Dangerous Substances Acts.

(b) If the facility has an institutional pharmacy, the facility shall designate a pharmacist who shall be responsible for the direction, provision, and quality of pharmaceutical services. The pharmacist shall be responsible for, but not limited to, the following:

1. Together with the patient care policy committee, developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for the pharmaceutical service;

2. Participating in planning and budgeting for the pharmaceutical service;

3. Coordinating and integrating the pharmaceutical service with other patient care services to provide a continuum of care for the patient; and

4. Assisting in developing and maintaining written job descriptions for pharmacy personnel, if any, and assigning duties based upon education, training, competencies, and job descriptions.

8:43A-9.2 Scope

N.J.A.C. 8:43A-9.3 through 9.5 shall apply to all ambulatory care facilities, regardless of whether or not the facility has an institutional pharmacy.

8:43A-9.3 Policies and procedures

(a) The facility shall develop and implement written policies and procedures, approved by the patient care policy committee, for the administration, control, and storage of medications. The patient care policy committee shall review the policies and procedures and document the review at least annually.

(b) The facility's policies and procedures for the administration, control, and storage of medications shall include, but not be limited to, policies and procedures for the following:

1. Documenting and reviewing adverse drug reactions and medication errors;

2. Discontinuing drug orders, including, but not limited to, the length of time drug orders may be in effect, for drugs not specifically limited as to duration of use or number of doses when ordered, including intravenous infusion solutions;

3. The control of the administration of toxic and dangerous drugs, including at least narcotics, sedatives, anticoagulants, antibiotics, oxytocics, corticosteroid products, intravenous infusion solutions, and other drugs specified in the facility's policies and procedures;

4. The use of parenterals, if used, including the labeling of intravenous infusion solutions, such that a supplementary label is affixed to the container of any intravenous infusion solution to which drugs are added;

5. The purchase, storage, safeguarding, accountability, use, and disposition of drugs, in accordance with the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39, and the Controlled Dangerous Substances Acts and amendments thereto;

6. The procurement, storage, use, and disposition of needles and syringes in accordance with all applicable Federal and State laws and rules, including those specified at N.J.A.C. 8:43A-14.6(b). All needles and syringes shall be kept in locked storage areas;

7. The control of drugs subject to the Controlled Dangerous Substances Acts and amendments thereto, in compliance with the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39, and all other Federal and State laws and regulations concerning procurement, storage, dispensing, administration, and disposition. Such policies and procedures shall include, but not be limited to, the following:

i. Provision for a verifiable record system for controlled drugs;

ii. Policies and procedures to be followed in the event that the inventories of controlled drugs cannot be verified or drugs are lost, contaminated, unintentionally wasted, or destroyed. A report of any such incident shall be written and signed by the persons involved and any witnesses present; and

iii. In all areas of the facility where drugs are dispensed, administered, or stored, procedures for the intentional wasting of controlled drugs, including the disposition of partial doses, and for documentation, including the signature of a second person who shall witness the disposition;

8. The security of the keys or codes to locked drug storage areas, including specification of the personnel who may retain the keys or security codes. Only licensed nursing or medical personnel shall retain the keys or security codes to storage areas in which drugs subject to the Conrolled Dangerous Substances Acts and amendments thereto are kept;

9. The control and limitation of use of drugs marked "sample";
10. The maintenance of records of prescribers' Controlled Dangerous Substance registration numbers and Drug Enforcement Administration registration numbers for New Jersey; and
11. Up-to-date pharmaceutical reference materials to be provided at locations specified in the facility's policies and procedures and made available to medical and nursing staff.
i. The telephone number of the designated Statewide or regional New Jersey Poison Information and Education System (1-800-962-1253) shall be provided at locations specified in the facility's policies and procedures.
ii. Current Federal and State drug law information shall be available to the pharmaceutical service.
iii. A list of abbreviations, metric apothecary conversion charts, and a list of chemical symbols, approved by the medical staff, shall be kept in areas where medications are prepared for administration.

8:43A-9.4 Administration of medications
(a) All medications administered shall be prescribed in writing. Each written order shall specify the name of the drug, dose, frequency, and route of administration and shall be signed and dated by the prescriber.
(b) Medications shall be dispensed only in accordance with prescriber orders and all Federal and State laws and rules. Medications shall be administered only in accordance with prescriber orders, medical staff policy, and all Federal and State laws and rules by licensed or authorized medical, dental, or nursing personnel.
(c) Medications shall not be removed from their original prescription containers until the time of drug administration.
(d) Each patient shall be identified prior to drug administration.
(e) Drugs dispensed for one patient shall not be administered to another patient.
(f) Drug allergies shall be documented in the patient's medical record and on its outside front cover. Other allergies shall be documented in the patient's medical record.
(g) Medication errors and adverse drug reactions shall be reported immediately to the nurse in charge and to the prescriber, and an entry shall be made in the patient's medical record. The incident shall be reported in accordance with procedures established by the facility. The incident shall be reported to the pharmacy, in accordance with policies and procedures approved by the patient care policy committee.

8:43A-9.5 Storage of drugs
(a) All drugs, except intravenous infusion solutions, shall be kept in locked storage areas. Drug storage and preparation areas shall be kept locked when not in use.
(b) All drugs shall be stored under proper conditions, as indicated by the United States Pharmacopoeia, product labeling, and/or package inserts.
(c) Drugs for external use shall be kept separate from drugs for internal use.
(d) All drugs in Schedule II of the Controlled Dangerous Substances Acts and amendments thereto shall be stored in a separate, locked, permanently affixed compartment within the locked medication cabinet, medication room, refrigerator, or mobile medication cart.
(e) A declining inventory of all drugs in Schedules I through V of the Controlled Dangerous Substances Acts and amendments thereto shall be made at the termination of each shift and shall be retained wherever these drugs are maintained.
(f) Drugs in single dose or single use containers which are open or which have broken seals, drugs in containers missing drug source or exact identification (such as lot number), and outdated, recalled, or visibly deteriorated medications shall be returned to the institutional pharmacy for disposal. In the absence of an institutional pharmacy, such drugs shall be brought to a location specified in the facility's policies and procedures for disposal in accordance with Federal and State laws.

SUBCHAPTER 10. COUNSELING SERVICES

8:43A-10.1 Provision of counseling services
(a) The facility shall provide, directly or through written agreement or through a documented referral mechanism, dietary counseling and social work services. All patients who have been identified as needing, or who have requested, other counseling services such as, but not limited to, genetic, psychological, and drug abuse counseling shall be referred to appropriate providers.
(b) The facility shall establish and implement written policies and procedures concerning the identification of the need for counseling services and referral to counseling services. The policies and procedures, which shall be reviewed at least annually, shall include, but not be limited to, policies and procedures for the following:
1. The provision, direction, and method to assure the quality of counseling services provided to patients;
2. The development and implementation of written objectives, standards of practice, and an organizational plan for counseling services;
3. Coordinating and integrating the counseling services with other patient care services in the facility and with services in the community to provide a continuum of care for the patient;
4. Staff orientation and staff education programs for the counseling staff; and
5. Entering in the patient's medical record:
i. The counseling service elements of the patient plan of care; and
ii. Clinical notes.

8:43A-10.2 Provision of social work services
Social work services which fall within the scope of practice defined by the Social Workers' Licensing Act of 1991 (N.J.S.A. 45:15BB-1 et seq.) and the New Jersey State Board of Social Work Examiners shall be provided by a social worker.

8:43A-10.3 Provision of dietary counseling
Dietary counseling which falls outside of the scope of practice defined by the State of New Jersey Nursing Practice Act and the New Jersey State Board of Nursing shall be provided by a dietitian.

SUBCHAPTER 11. LABORATORY AND RADIOLOGICAL SERVICES

8:43A-11.1 Provision of laboratory and radiological services
(a) The facility shall provide laboratory and radiological services directly or through written agreement.
(b) Laboratory services shall be provided only by facilities which are licensed or approved by the Department, in accordance with N.J.A.C. 8:44 and 8:45.
(c) Radiological services shall be provided only by facilities which are registered by the New Jersey State Department of Environmental Protection, Bureau of Radiological Health, in accordance with N.J.A.C. 7:28.
(d) The facility shall establish and implement policies and procedures for obtaining, identifying, storing, and transporting laboratory specimens.

SUBCHAPTER 12. SURGICAL AND ANESTHESIA SERVICES

8:43A-12.2 Definitions
The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
...
["Anesthesiologist" means a physician who has successfully completed an approved residency program in anesthesiology, or who is a diplomate of either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or who was made a Fellow of the American College of Anesthesiology before 1972.]
...
"Supervision" means responsibility by a physician who is credentialed in accordance with medical staff bylaws, and who is immediately available for overseeing the administration and monitoring of

anesthesia by anesthesia personnel. **"Immediately available" means that the supervising physician is present in the facility and is available to respond and proceed immediately to the anesthetizing location.**

8:43A-12.3 Surgical and anesthesia staff; qualifications

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

(c) There shall be a physician director of anesthesia services who is a diplomate of either the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or who was made a Fellow of the American College of Anesthesiology before 1972. The medical director of the facility may serve as physician director of anesthesia services, **if the medical director possesses the qualifications of a physician director of anesthesia services as specified in this subsection.**

(d)-(g) (No change.)

(h) The supervision of any anesthesia, except those agents utilized for conscious sedation or minor conduction blocks, shall be provided by a physician who is credentialed in accordance with medical staff bylaws[,] **and** who is immediately available[, and who has no direct patient care responsibilities]. **The supervising physician may concurrently be responsible for patient care if he or she is available to attend to supervisory duties without jeopardizing the life or safety of patients under his or her care. While supervising anesthesia personnel, the supervising physician shall not perform surgery, except minor surgery as defined by medical staff policy, or administer anesthesia to patients under his or her direct care.**

(i) (No change.)

(j) The monitoring of patients who have been administered an anesthetic agent for the purpose of creating conscious sedation shall be provided by an individual who is continuously present for the primary purpose of anesthesia monitoring, who is separate from the individual performing the procedure, and who is one of the following:

1. (No change.)

2. Under the supervision of a physician who has been credentialed in accordance with medical staff bylaws to administer or supervise anesthetic agents used for conscious sedation and who is immediately available:

i.-iii. (No change.)

iv. A registered professional nurse who is certified in [advanced] **basic** cardiac life support [by the American Heart Association] and who has training and experience in the use of monitoring devices; or

3. (No change.)

(k) Minor conduction blocks shall be administered only by the following:

1. (No change.)

2. Under the supervision of a physician who has been credentialed in accordance with medical staff bylaws to administer or supervise minor conduction blocks and who is immediately available:

i. (No change.)

ii. A registered nurse anesthetist who is a qualified candidate for certification under a program governed or approved by the AANA, provided that no national examination for such certification has been administered since the nurse became a qualified candidate for certification; [or]

iii. (No change.)

iv. A certified nurse midwife, a physician assistant, or a nurse practitioner, as permitted by the scope of practice rules of the New Jersey State Board of Medical Examiners and the New Jersey State Board of Nursing, as applicable; or

3. (No change.)

(l) Minor conduction blocks shall be monitored continuously by **licensed** medical or **licensed** nursing personnel.

(m) (No change.)

(n) A facility providing surgical services shall have a registered professional nurse other than the director of nursing services to serve as circulating nurse. There shall also be at least one registered professional nurse other than the director of nursing services present whenever a patient is in the postanesthesia care unit. (One person may satisfy both of these requirements if there is no patient in the operating room or no patient in the postanesthesia care unit.)

8:43A-12.4 Policies and procedures

(a) The facility shall develop and implement written bylaws, rules, regulations, policies, and procedures for surgical and anesthesia services, in accordance with the governing authority and medical staff bylaws. The policies and procedures shall be reviewed annually and revised as needed, and shall include at least the following:

1.-10. (No change.)

11. Methods to ensure that gross and microscopic tissue removed surgically or by any other procedure, including termination of pregnancy in accordance with the regulations of the New Jersey State Board of Medical Examiners, N.J.A.C. 13:35-4.2, is examined by a pathologist and a report of the findings is documented in the patient's medical[/health] record;

i. The facility shall ensure that the tissue is disposed of in accordance with N.J.A.C. 8:43A-[14.6]**14.7** of this chapter whether it is examined on the facility's premises or off the facility's premises;

12. (No change.)

13. Requirements for written documentation of surgical procedures performed, including [complete findings and techniques used (as specified in N.J.A.C. 8:43A-13.2(c)12), to be completed] **at least a description of the findings, procedures used, specimens removed, patient's condition, any unusual events occurring during the procedure, postoperative diagnosis, and names of the surgeon and assistants. This operative note shall be written or dictated** immediately following the procedure by the person performing the surgery and incorporated into the patient's medical[/health] record;

14. Policies and procedures for the provision of written instructions to the patient (multilingual, if indicated) on pre- and postsurgical care, including, but not limited to, restrictions on food and beverages before surgery and procedures for obtaining help in the event of **surgical wound infection or other** postoperative problems; [and]

15. Policies and procedures regarding infection prevention and control, including, but not limited to, the following:

i. Designation of a person with training or experience in surveillance, prevention, and control of nosocomial infection who shall be responsible for the direction, provision, and quality of infection prevention and control services;

ii. Use of aseptic technique and scrub procedures;

iii. Gowning and operating room attire, including changing of masks between procedures;

iv. Traffic control;

v. Cleaning of the operating room after each procedure; and

vi. Care of operating room equipment and anesthesia equipment; and

[15.]**16.** Procedures for a systematic review and evaluation of patient care and surgical and anesthesia practices and techiques, as part of the [audit and] quality assurance [(evaluation) system] **program** of the facility.

i. (No change.)

ii. Quality assurance activities shall include at least the monitoring of outcomes for patients receiving anesthetic agents **and postdischarge follow-up of surgical procedures.**

iii. (No change.)

8:43A-12.5 Records

(a) (No change.)

(b) A preanesthesia note, reflecting evaluation of the patient and of the patient record prior to administration of anesthesia, shall be made or reviewed by the physician administering or supervising the administration of anesthesia and entered into the medical [/health] record of each patient receiving anesthesia at any anesthetizing location.

(c) (No change.)

(d) Postanesthesia notes shall be entered into the patient's medical [/health] record early in the postoperative period by a member of the facility's anesthesia team and after the patient's discharge from the postanesthesia care unit by a member of the postanesthesia care unit staff.

(e) The patient's medical record shall include a pathologist's report of gross and microscopic tissue surgically removed.

8:43A-12.6 Surgical service emergency equipment

(a) Emergency equipment available to the operating room in a surgical service shall include at least the following:

1. Emergency call system;

2. Oxygen;

3. Mechanical ventilatory assistance equipment including airways, manual breathing bag, and ventilator;

4. Cardiac defibrillator;

5. Cardiac monitoring equipment;

6. Tracheostomy set;

7. Laryngoscopes and endotracheal tubes;

8. Suction equipment with catheter tip; and

9. Emergency drugs and supplies specified by the medical staff in the facility's policies and procedures.

8:43A-[12.6]**12.7** Anesthesia supplies and equipment; safety systems

(a)-(i) (No change.)

(j) There shall be a written [protocol to identify those situations in which] **policy to ensure that** surgery [may] **does not** proceed when there are disabled alarms, depleted batteries and inactive sensors in oxygen monitors, improperly positioned breathing-circuit sensors, or other insufficiencies.

[(k) Each facility shall have until April 1, 1991, to purchase equipment necessary to comply with the provisions of this section. Thereafter, facilities either shall have such equipment in place or else shall have written proof that, by April 1, 1991, an order for such equipment has been received by a manufacturer or legitimate vendor of the equipment. Such proof shall include an anticipated date of delivery. All such equipment shall be properly installed in a timely fashion after delivery and shall be used in conformance with this section.]

8:43A-[12.7]**12.8** Anesthesia supplies and equipment; maintenance and inspections

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

(c) All anesthesia equipment shall be inspected before each use. A record of each inspection shall be [maintained for each machine and shall also be noted] **included** in the patient's anesthesia record. Each record may consist of a single phrase or check mark in a box on a form.

8:43A-[12.8]**12.9** Anesthesia supplies and equipment; patient monitoring

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

(e) End-tidal carbon dioxide monitoring shall be performed continuously during administration of all general anesthesia **to intubated patients**, unless such monitoring is not clinically feasible for the patient.

(f)-(i) (No change.)

[(j) Each facility shall have until April 1, 1991, to purchase equipment necessary to comply with the provisions of this section. Thereafter, facilities either shall have such equipment in place or else shall have written proof that, by April 1, 1991, an order for such equipment has been received by a manufacturer or legitimate vendor of the equipment. Such proof shall include an anticipated date of delivery. All such equipment shall be properly installed in a timely fashion after delivery and shall be used in conformance with this section.]

8:43A-[12.9]**12.10** (No change in text.)

8:43A-[12.10]**12.11** Postanesthesia care policies and procedures

(a) (No change.)

(b) The postanesthesia care unit shall have written policies and procedures which are reviewed annually, revised as needed, and implemented. These shall include at least:

1.-7. (No change.)

8. A requirement that patients who receive anesthesia, excluding minor conduction blocks, not drive themselves home after discharge and that they be accompanied home by another person who accepts responsibility for the patient. If the patient fails to comply with the requirement, the circumstances shall be documented in the patient's medical [/health] record.

Recodify existing 8:43A-12.11 and 12.12 as **12.12 and 12.13.** (No change in text.)

8:43A-[12.13]**12.14** Postanesthesia care patient services

(a)-(f) (No change.)

(g) The postanesthesia care unit shall have immediate access to end-tidal carbon dioxide monitoring, **if general anesthesia is administered to intubated patients in the facility.**

(h)-(j) (No change.)

8:43A-[12.14]**12.15** Postanesthesia care units and equipment

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

(d) Equipment and services available in the postanesthesia care unit shall include at least emergency equipment and drugs, pulse oximetry, electrocardiographic monitoring, body temperature monitoring, equipment necessary for intubation and extubation, respirometer, various means of oxygen delivery, constant and intermittent suction, blood pressure monitoring, adjustable lighting, peripheral nerve stimulator, equipment which ensures protection of the patient's privacy, and immediate access to a ventilator and to end-tidal carbon dioxide monitoring **in accordance with N.J.A.C. 8:43A-12.14(g).**

1. (No change.)

(e) (No change.)

8:43A-12.16 Designation of consultant pharmacist

If an ambulatory surgical facility does not have an institutional pharmacy, the facility shall designate a consultant pharmacist who shall review all facility policies and procedures concerning the administration, control, and storage of medications at least semiannually. The consultant pharmacist shall not be affiliated with the pharmacy which provides pharmaceutical services for the facility.

8:43A-12.17 Physical plant

(a) New ambulatory surgical facilities shall comply with Chapter 9, Sections 9.1 and 9.2, and with Chapter 9, Section 9.5, Outpatient Surgical Facility, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, incorporated herein by reference. (American Institute of Architects-Press, 1735 New York Ave., NW, Washington, D.C. 20006)

(b) When the ambulatory surgical facility is part of an acute care hospital's surgical suite, support services may be shared to avoid duplication. When inpatients and outpatients are served in the same suite, the functional program shall describe in detail scheduling and techniques used to separate inpatients from outpatients.

8:43A-12.18 Exceptions for local anesthesia

Facilities in which local anesthesia or minor conduction blocks only are administered are exempt from complying with the requirements for anesthesia services in this subchapter, except that such facilities shall comply with the following: N.J.A.C. 8:43A-12.1, 12.3(e), 12.3(k), 12.3(l), 12.4(a)1, 12.4(a)2, 12.4(a)4, and 12.4(a)6. The facility shall also comply with N.J.A.C. 8:43A-12.9(g), except that the frequency of determining and charting blood pressure, pulse rate, and respirations may be determined by the facility and specified in the policies and procedures of the facility.

SUBCHAPTER 13. MEDICAL RECORDS

8:43A-13.1 Maintenance of medical records

(a) A current, complete medical record shall be established and maintained for each patient and shall contain documentation of all services provided.

(b) Written objectives, policies and procedures, an organizational plan, and a quality assurance program for medical record services shall be developed and implemented. All medical records policies and procedures shall be reviewed at least annually.

(c) Original medical records or components of medical records shall not leave facility premises unless they are under court order or subpoena or removed in order to safeguard the record in the case of a physical plant emergency or natural disaster. Off-site storage of records may be used only with the approval of the

Department and only if such storage arrangements will ensure retrieval and delivery of the patient's medical record to the facility within one hour on a seven day per week, 24 hour per day, basis and immediate availability of medical record information through telephone and facsimile communications systems.

(d) A record system shall be maintained in which the patient's complete medical record is filed as one unit, and there shall be a system of access and identification for the medical records of all patients.

8:43A-13.2 Assignment of responsibility

An employee shall be designated to act as coordinator of medical record services. The facility shall designate an employee to act in the absence of the coordinator to ensure staff access to the medical record at all times during the hours of operation.

8:43A-13.3 Contents of medical records

(a) The complete medical record shall include, but not be limited to, the following:

1. Patient identification data, including name, date of admission, address, date of birth, race, religion (optional), sex, and the name, address, and telephone number of the person(s) to be notified in an emergency;
2. The patient's complaint or purpose of the visit;
3. The diagnosis or medical impressions;
4. Orders for laboratory, radiological, diagnostic, and/or screening tests and their results;
5. All orders for treatment, medication, and diets, signed by the prescriber;
6. Documentation of the medical history and physical examination, if performed, signed and dated by the examiner;
7. Patient assessments developed by each service providing care to the patient;
8. A patient plan of care, in accordance with the facility's policies and procedures;
9. Clinical notes, which shall be entered on the day service is rendered;
10. A medication sheet indicating at least the name, date, dosage, and duration of all medications prescribed;
11. A record of medications administered, including the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person who administered the drug;
12. Documentation of drug allergies in the medical record and on its outside front cover and documentation of other allergies in the medical record;
13. An immunization record, in accordance with the facility's policies and procedures;
14. A record of referrals to or from other health care providers;
15. Documentation of any consultations ordered or provided;
16. Documentation that informed consent was obtained for any procedure or treatment provided which is specified in the facility's policies and procedures as requiring informed consent;
17. Documentation regarding an advance directive, if applicable;
18. The patient's signed acknowledgement that the patient has been informed of patient rights, either verbally or through written copy, and has been offered a copy;
19. Instructions given to the patient and/or family for follow-up care;
20. A record of any treatment, drug, or service offered by personnel of the facility and refused by the patient;
21. The discharge plan, where applicable, and a discharge summary sheet containing the patient's name, address, dates of admission and discharge, and a summary of the treatment and medication rendered during the patient's stay; and
22. Any authorizations granted by the patient for release of the patient's medical record.

8:43A-13.4 Requirements for entries

(a) All orders for patient care shall be prescribed in writing and signed and dated by the prescriber, in accordance with the laws of the State of New Jersey. All orders, including verbal orders, shall be verified or countersigned in writing within seven days.

(b) All entries in the medical record shall be typewritten or written legibly in ink, dated, and signed by the person entering them, or, if a computerized medical records system is used, authenticated.

1. If computer-generated orders with a physician's electronic signature are used, the facility shall develop a procedure to assure the confidentiality of each electronic signature and to prohibit the improper or unauthorized use of any computer-generated signature.
2. If a facsimile communications system (FAX) is used, entries into the medical record shall be in accordance with the following procedures:

i. The physician shall sign the original order, history and/or examination at an off-site location;

ii. The original shall be transmitted by FAX system to the facility for inclusion into the medical record;

iii. The physician shall submit the original for inclusion into the medical record within seven days, unless a plain-paper laser facsimile process was used; and

iv. The copy transmitted by FAX system shall be replaced by the original, unless a plain-paper laser facsimile process was used.

(c) The medical record shall be completed within the time frame specified in the medical records policies and procedures, which shall be no longer than 30 days from the last treatment or discharge.

(d) The medical record shall be available to the facility's health care practitioners involved in the patient's care at all times during the hours of operation.

8:43A-13.5 Medical records policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding medical records including, but not limited to, policies and procedures for the following:

1. The protection of medical record information against loss, tampering, alteration, destruction, or unauthorized use. The patient's written consent shall be obtained for release of medical record information;
2. The specific period of time, not to exceed 30 days, within which the medical record shall be completed following treatment or discharge; and
3. The transfer of patient information when the patient is transferred to another health care facility, or if the patient has been an inpatient and becomes an outpatient at the same facility, to ensure continuity of care.

(b) A patient, the patient's legally authorized representative, or a third party insurer where permitted by law may request or authorize, in writing, that a copy of the patient's medical record be provided to one of them or released to a third party. The ambulatory care facility or its subcontractor shall furnish a legible, written copy of the record at a fee based on actual costs. ("Legally authorized representative" within this section means spouse, immediate next of kin, legal guardian, executor, or an individual with power of attorney.) A copy of the medical record from an individual admission shall be provided within 30 days of request, in accordance with the following:

1. The fee for copying records shall not exceed $1.00 per page or $100.00 per record for the first 100 pages. For records which contain more than 100 pages, a copying fee of no more than $0.25 per page may be charged for pages in excess of the first 100 pages, up to a maximum of $200.00 for the entire record;
2. In addition to per page costs, the following charges are permitted:

i. A search fee of no more than $10.00 per patient per request; and

ii. A postage charge of actual costs for mailing, not to exceed $5.00;

3. No charges shall be assessed other than those permitted in (b)1 and 2 above;
4. The facility shall establish a policy assuring access to copies of medical records for patients who do not have the ability to pay; and
5. The facility shall establish a fee policy providing an incentive for use of abstracts or summaries of medical records. The patient or his or her authorized representative, however, has a right to receive a full or certified copy of the medical record.

(c) The Department shall periodically reevaluate the reasonableness of the fee scale contained in (b) above.

(d) Access by the patient to the medical record shall be limited only to the extent necessary to protect the patient. A verbal explanation for any denial of access shall be given to the patient or legal guardian by the physician, and there shall be documentation of this in the medical record. In the event that direct access to a copy by the patient is medically contraindicated (as documented by a physician in the patient's medical record), the medical record shall be made available to a legally authorized representative of the patient or the patient's physician.

8:43A-13.6 Preservation, storage, and retrieval of medical records

(a) All medical records shall be preserved in accordance with N.J.S.A. 26:8-5 et seq.

(b) If the facility plans to cease operation, it shall notify the Department in writing, at least 14 days before cessation of operation, of the location where medical records will be stored and of methods for their retrieval.

SUBCHAPTER 14. INFECTION PREVENTION AND CONTROL SERVICES

8:43A-14.1 Administrator's responsibilities

(a) The administrator shall ensure the development and implementation of an infection prevention and control program.

(b) The administrator shall designate a person with a health care background who shall be responsible for the direction, provision, and quality of infection prevention and control services. The designated person shall be responsible for, but not limited to, developing and maintaining written objectives, a policy and procedure manual, an organizational plan, and a quality assurance program for the infection prevention and control service. If the facility provides primary care, hospital outpatient, ambulatory surgical, or chronic dialysis services, the designated person shall have had training or experience in surveillance, prevention, and control of nosocomial infection.

8:43A-14.2 Infection control policies and procedures

(a) The facility shall establish an infection control committee which shall include the medical director and representatives from at least administration and the nursing service.

(b) The infection control committee, with assistance from each service in the facility, shall develop, implement, and review, at least annually, written policies and procedures regarding infection prevention and control, including, but not limited to, policies and procedures regarding the following:

1. In accordance with N.J.A.C. 8:57 (Chapter II of the State Sanitary Code, Reportable Diseases), a system for investigating, reporting, and evaluating the occurrence of all infections or diseases which are reportable or conditions which may be related to activities and procedures of the facility;

2. A system for identifying and monitoring nosocomial infections, in conformance with the "CDC Definitions for Nosocomial Infections, 1988" (order number PB 88-187117) incorporated herein by reference;

3. Infection control practices, including universal precautions, in accordance with the Occupational Safety and Health Administration (OSHA) rule 29 CFR Part 1910.1030, Occupational Exposure to Bloodborne Pathogens, incorporated herein by reference;

4. Control measures or studies to be initiated following identification of an infection control problem;

5. Aseptic technique, employee health in accordance with N.J.A.C. 8:43A-3.7, and staff training;

6. Care of patients with communicable diseases;

7. Exclusion from work, and authorization to return to work, for personnel with communicable diseases;

8. Surveillance techniques to minimize sources and transmission of infection;

9. Sterilization, disinfection, and cleaning practices and techniques used in the facility, including, but not limited to, the following:

i. Care of utensils, instruments, solutions, dressings, articles, and surfaces; and

ii. Selection, storage, use, and disposition of single use and other patient care items; and

10. Collection, handling, storage, decontamination, disinfection, sterilization, and disposal of regulated medical waste and all other solid or liquid waste.

NOTE: Centers for Disease Control publications can be obtained from:

National Technical Information Service
U.S. Department of Commerce
5285 Port Royal Road
Springfield, VA 22161

or

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

Copies of the OSHA rule 29 CFR Part 1910.1030, which was published in the Federal Register on December 6, 1991, can be obtained from:

OSHA Office of Publications
U.S. Department of Labor
Room N3101
200 Constitution Ave., NW
Washington, DC 20210

8:43A-14.3 Infection prevention measures

(a) The facility shall follow all Category I recommendations in the current editions of the following Centers for Disease Control publications, as amended and supplemented, incorporated herein by reference, unless the facility's infection control committee makes a documented exception for a specific guideline:

1. Guideline for Prevention of Catheter-Associated Urinary Tract Infections;

2. Guideline for Prevention of Intravascular Infections;

3. Guideline for Prevention of Surgical Wound Infections;

4. Guideline for Prevention of Nosocomial Pneumonia; and

5. Guideline for Handwashing and Hospital Environmental Control.

(b) The guidelines listed in (a) above may be obtained from the Centers for Disease Control, Atlanta, Georgia 30333, or the sources listed at N.J.A.C. 8:43A-14.2.

8:43A-14.4 Use and sterilization of patient care items

(a) Single use patient care items shall not be reused. Dialyzers may be reused in accordance with N.J.A.C. 8:43A-24.6(f) and the other rules in this chapter. Other patient care items which are reused shall be reprocessed and reused in accordance with manufacturers' recommendations.

(b) Instruments or medical devices which are introduced directly into the bloodstream or into normally sterile areas of the body shall be sterilized.

(c) Instruments or medical devices that come in contact with mucous membranes shall be sterilized or disinfected using high-level disinfection procedures approved by the Environmental Health Services Program of the Department of Health.

(d) All hinged instruments shall be processed in an open position.

(e) Sterlized materials shall be marked with an expiration date and shall not be used after the expiration date.

(f) Sterilized materials shall be packaged and labeled so as to maintain sterility and so as to permit identification of expiration dates.

(g) Sterilized materials shall be marked with an expiration date not to exceed the time following sterilization recommended by the manufacturer.

8:43A-14.5 Care and use of sterilizers

(a) Sterilizers shall be kept clean.

(b) Sterilizer drains shall be flushed at least weekly, unless otherwise specified by the manufacturer, and a record shall be maintained.

(c) At the completion of each sterilization load, the time, temperature, and pressure readings shall be checked and recorded.

(d) A record of each sterilization load, including the date, the load number, the contents of the load, and the expiration dates of the contents, shall be maintained for at least one year.

(e) Biological monitoring with live spores shall be performed on each ethylene oxide sterilizer at least daily and following repair of the sterilizer.

(f) For steam sterilizers used to sterilize instruments, biological monitoring with live spores shall be performed on each sterilizer at least weekly and following repair of the sterilizer.

8:43A-14.6 Regulated medical waste

(a) Regulated medical waste shall be collected, stored, handled, and disposed of in accordance with applicable Federal and State laws and regulations.

(b) The facility shall comply with the provisions of N.J.S.A. 13:1E-48.1 et seq., the Comprehensive Regulated Medical Waste Management Act, and all rules promulgated pursuant to the aforementioned act.

8:43A-14.7 Disposition of tissue

All tissue, including gross and microscopic tissue, removed surgically or by any other procedure, including termination of pregnancy in accordance with the rules of the New Jersey State Board of Medical Examiners, N.J.A.C. 13:35-4.2, shall be incinerated, interred in accordance with N.J.S.A. 26:6, or disposed of through the application of an alternative technological process approved specifically for a given case by the New Jersey State Department of Health in consultation with the New Jersey State Department of Environmental Protection.

SUBCHAPTER 15. EMERGENCY SERVICES AND DISASTER PLANS

8:43A-15.1 Disaster planning

(a) The facility shall have written emergency plans, policies, and procedures which shall include plans and procedures to be followed in case of potential hazards that could necessitate an evacuation, including internal and external disasters such as fire, natural disaster, bomb threats, or industrial or radiological accidents.

(b) The written, comprehensive emergency plan shall be filed with the Department of Health, and the Department shall be notified when the plan is changed. Copies of emergency plans shall also be forwarded to both municipal and county emergency management officials for their review.

(c) Procedures for emergencies shall include at least:

1. Protocols for notification of emergency service providers and officials;
2. Locations of emergency equipment and alarm signals;
3. Evacuation routes;
4. Procedures for evacuating patients;
5. Identification of one or more facilities to which patients would be referred in the event of extended closure of the facility;
6. Procedures for reentry after evacuation;
7. Tasks and responsibilities assigned to all personnel and identification of the person in the facility designated to coordinate emergency activities;
8. Protocols for removal and return of records, medications, supplies, and equipment after evacuation; and
9. Alternative procedures if patients cannot be returned to the facility.

(d) The facility shall ensure that patients receive necessary services during the evacuation or other emergency.

(e) A written evacuation diagram that includes evacuation procedure, location of fire exits, alarm boxes, and fire extinguishers shall be conspicuously posted throughout the facility.

(f) All employees shall be trained in procedures to be followed in the event of a fire and instructed in the use of fire-fighting equipment and patient evacuation as part of their initial orientation and at least annually thereafter.

8:43A-15.2 Drills, tests, and inspections

(a) Drills of emergency plans shall be conducted on each shift at least quarterly. The facility shall maintain documentation of all drills, including the date, hour, description of the drill, participating staff, and signature of the person in charge. The drills on each shift shall include at least one drill for emergencies due to fire and one drill for emergencies due to disasters other than fire, such as storm, flood, other natural disaster, bomb threat, or radiological accident.

(b) The facility shall perform quarterly tests of the building's manual pull alarm system and shall maintain documentation of test dates, locations of manual pull alarms tested, persons testing the alarms, and results of the tests.

(c) Fire extinguishers shall be examined annually and maintained in accordance with manufacturers' requirements, National Fire Protection Association (N.F.P.A.) 10, as amended and supplemented, and N.J.A.C. 5:18, the New Jersey Uniform Fire Code.

(d) The facility shall request, at least annually, that a fire inspection be performed by the local fire code authority, and the request shall be documented. The date of inspection, the results, and the inspector or agent conducting the inspection shall be documented.

(e) There shall be at least a semiannual inspection of the fire detection system. The date of inspection, the results, and the inspector or agent conducting the inspection shall be documented.

(f) There shall be at least a semiannual inspection of the automatic sprinkler system, if applicable. The date of inspection, the results, and the inspector or agent conducting the inspection shall be documented.

(g) There shall be at least monthly testing of emergency lighting. A logbook shall be maintained which shall include the date of each test, the results, and the person conducting the test.

(h) There shall be an elevator inspection, if applicable, in accordance with N.J.A.C. 5:23-12.3 of the Elevator Safety Subcode. The date of inspection, the results, and the licensed official or inspector conducting the inspection shall be documented.

(i) There shall be at least an annual inspection of the heating and ventilation system. The date of inspection, the results, and the inspector or agent conducting the inspection shall be documented.

(j) The temperature of the hot water used in the facility shall be tested and documented in accordance with the policies and procedures of the facility.

8:43A-15.3 Emergency medical services

(a) The facility shall have written policies and procedures that are reviewed annually, revised as needed, and implemented as needed to meet medical emergencies based on the types of patients and cases that are typically treated at the facility.

(b) The facility shall be able to respond to medical emergencies occurring on the premises during its hours of operation.

(c) Emergency medical services not provided at the facility shall be provided by a hospital or hospitals by written agreement. The facility shall have a written plan for emergency transportation of patients.

(d) The facility shall have written policies and procedures regarding emergency kits and, if required, emergency carts which are appropriate to the patient population served by the facility and approved by the medical director. The policies and procedures shall be reviewed annually, revised as needed, and implemented, and shall:

1. Specify the locations, contents, frequency of checking contents (including expiration dates), and assignments of responsibility for checking contents; and
2. Ensure that emergency kits are secure but are not kept under lock and key.

(e) At least one person who is trained in the use of emergency equipment shall be available whenever there is a patient in the facility.

SUBCHAPTER 16. PATIENT RIGHTS

8:43A-16.1 Policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding the rights of patients. These policies and procedures shall be available to patients, staff, and the public and shall be conspicuously posted in the facility.

(b) The staff of the facility shall receive in-service education concerning the implementation of policies and procedures regarding patient rights annually and as part of new employee orientation.

(c) The facility shall comply with all applicable State and Federal statutes and rules concerning patient rights.

8:43A-16.2 Rights of each patient

(a) Each patient receiving services in an ambulatory care facility shall have the following rights:

1. To be informed of these rights, as evidenced by the patient's written acknowledgement, or by documentation by staff in the medical record, that the patient was offered a written copy of these rights and given a written or verbal explanation of these rights, in terms the patient could understand. The facility shall have a means to notify patients of any rules and regulations it has adopted governing patient conduct in the facility;

2. To be informed of services available in the facility, of the names and professional status of the personnel providing and/or responsible for the patient's care, and of fees and related charges, including the payment, fee, deposit, and refund policy of the facility and any charges for services not covered by sources of third-party payment or not covered by the facility's basic rate;

3. To be informed if the facility has authorized other health care and educational institutions to participate in the patient's treatment. The patient also shall have a right to know the identity and function of these institutions, and to refuse to allow their participation in the patient's treatment;

4. To receive from the patient's physician(s) or clinical practitioner(s), in terms that the patient understands, an explanation of his or her complete medical/health condition or diagnosis, recommended treatment, treatment options, including the option of no treatment, risk(s) of treatment, and expected result(s). If this information would be detrimental to the patient's health, or if the patient is not capable of understanding the information, the explanation shall be provided to the patient's next of kin or guardian. This release of information to the next of kin or guardian, along with the reason for not informing the patient directly, shall be documented in the patient's medical record;

5. To participate in the planning of the patient's care and treatment, and to refuse medication and treatment. Such refusal shall be documented in the patient's medical record;

6. To be included in experimental research only when the patient gives informed, written consent to such participation, or when a guardian gives such consent for an incompetent patient in accordance with law, rule and regulation. The patient may refuse to participate in experimental research, including the investigation of new drugs and medical devices;

7. To voice grievances or recommend changes in policies and services to facility personnel, the governing authority, and/or outside representatives of the patient's choice either individually or as a group, and free from restraint, interference, coercion, discrimination, or reprisal;

8. To be free from mental and physical abuse, free from exploitation, and free from use of restraints unless they are authorized by a physician for a limited period of time to protect the patient or others from injury. Drugs and other medications shall not be used for discipline of patients or for convenience of facility personnel;

9. To confidential treatment of information about the patient. Information in the patient's medical record shall not be released to anyone outside the facility without the patient's approval, unless another health care facility to which the patient was transferred requires the information, or unless the release of the information is required and permitted by law, a third-party payment contract, or a peer review, or unless the information is needed by the New Jersey State Department of Health for statutorily authorized purposes. The facility may release data about the patient for studies containing aggregated statistics when the patient's identity is masked;

10. To be treated with courtesy, consideration, respect, and recognition of the patient's dignity, individuality, and right to privacy, including, but not limited to, auditory and visual privacy. The patient's privacy shall also be respected when facility personnel are discussing the patient;

11. To not be required to perform work for the facility unless the work is part of the patient's treatment and is performed voluntarily by the patient. Such work shall be in accordance with local, State, and Federal laws and rules;

12. To exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, or any attendance at religious services, shall be imposed upon any patient; and

13. To not be discriminated against because of age, race, religion, sex, nationality, or ability to pay, or deprived of any constitutional, civil, and/or legal rights solely because of receiving services from the facility.

8:43A-16.3 Notice

(a) The administrator shall provide all patients and/or their families upon request with the name, addresses, and telephone numbers of the following offices where complaints may be lodged:

Division of Health Facilities
Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625-0367
Telephone: (800) 792-9770
and
State of New Jersey
Office of the Ombudsman for the
Institutionalized Elderly
CN 808
Trenton, New Jersey 08625
Telephone: (800) 624-4262

(b) The administrator shall also provide all patients and/or their families upon request with the names, addresses, and telephone numbers of offices where information concerning Medicare and Medicaid coverage may be obtained.

(c) Addresses and telephone numbers contained in (a) and (b) above shall be conspicuously posted throughout the facility, including, but not limited to, the admissions waiting area or room, the patient service area of the business office, and other public areas.

SUBCHAPTER 17. HOUSEKEEPING, SANITATION AND SAFETY

8:43A-17.1 Provision of services

(a) The facility shall provide and maintain a sanitary and safe environment for patients.

(b) The facility shall provide housekeeping, laundry, and pest control services.

(c) Written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program for housekeeping, sanitation, and safety services shall be developed and implemented.

(d) The facility shall perform a documented review of housekeeping, sanitation, and safety services at least annually.

8:43A-17.2 Housekeeping

(a) A written work plan for housekeeping operations shall be established and implemented, with categorization of cleaning assignments as daily, weekly, monthly, or annually within each area of the facility.

(b) Housekeeping personnel shall be trained in cleaning procedures, including the use, cleaning, and care of equipment.

8:43A-17.3 Patient care environment

(a) The following housekeeping and sanitation conditions shall be met:

1. The facility and its contents shall be clean to sight and touch and free of dirt and debris;

2. All rooms shall be free of condensation, mold growth, and noxious odors;

3. All equipment and materials necessary for cleaning, disinfecting, and sterilizing (if applicable) shall be provided;

4. Thermometers which are accurate to within three degrees Fahrenheit shall be kept in a visible location in refrigerators, freezers, and storerooms used for perishable and other items subject to deterioration;

5. Articles in storage shall be elevated from the floor and away from walls, ceilings, and air vents;

6. Unobstructed aisles shall be provided in storage areas;

7. Effective and safe controls shall be used to minimize and eliminate the presence of rodents, flies, roaches and other vermin in the facility. The premises shall be kept in such condition as to prevent the breeding, harborage, or feeding of vermin. All openings to the outer air shall be effectively protected against the entrance of insects;

8. Toilet tissue, soap, and disposable towels or air driers shall be provided in each bathroom at all times. Soap and disposable towels or air driers shall be provided at each handwashing sink at all times;

9. Draperies, upholstery, and other fabrics or decorations shall be fire-resistant and flameproof;

10. Latex foam pillows shall be prohibited;

11. Equipment requiring drainage shall be drained to a sanitary connection, in accordance with State and local codes;

12. During warm weather conditions, the temperature of the facility shall not exceed 82 degrees Fahrenheit. The facility shall establish a written heat emergency action plan which specifies procedures to be followed in the event that the indoor air temperature is 82 degrees Fahrenheit or higher for a continuous period of four hours or longer. The facility shall provide adequate ventilation in all areas used by patients; and

13. The temperature in the facility shall be kept at a minimum of 72 degrees Fahrenheit (22 degrees Celsius) when patients are in the facility.

(b) The following safety conditions shall be met:

1. Nonskid wax shall be used on all waxed floors;

2. Throw rugs or scatter rugs shall not be used in the facility;

3. All equipment shall have unobstructed space provided for operation;

4. Pesticides shall be applied in accordance with State Pesticide Control Regulations, N.J.A.C. 7:30;

5. All household and cleaning products in the facility shall be identified, labeled, and securely stored in a cabinet, closet, or room which is inaccessible to patients;

6. Combustible materials shall not be stored in heater rooms or within 18 feet of any heater located in an open basement;

7. Paints, varnishes, lacquers, thinners, and all other flammable materials shall be stored outside the building. Minimum supplies may be kept in the building in a locked storage room or in closed, locked metal cabinets or containers in a non-patient area of the facility; and

8. All furnishings shall be clean and in good repair, and mechanical equipment shall be in good working order. Equipment shall be kept covered to protect from contamination and accessible for cleaning and inspection. Broken or worn items shall be repaired, replaced, or removed promptly.

8:43A-17.4 Waste removal

(a) All solid or liquid waste which is not regulated medical waste, garbage, and trash shall be collected, stored, and disposed of in accordance with the rules of the New Jersey State Department of Environmental Protection and the New Jersey State Department of Health. Solid waste shall be stored in insectproof, rodentproof, fireproof, nonabsorbent, watertight containers with tightfitting covers and collected from storage areas regularly so as to prevent nuisances such as odors. Procedures and schedules shall be established and implemented for the cleaning of storage areas and containers for solid or liquid waste, garbage, and trash, in accordance with N.J.A.C. 8:24.

(b) If garbage compactors are used, their installation and use shall be in compliance with all State and local codes.

8:43A-17.5 Water supply

(a) The water supply used for drinking or culinary purposes shall be adequate in quantity, of a safe and sanitary quality, and from a water system which shall be constructed, protected, operated, and maintained in conformance with the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., N.J.A.C. 7:10, and local laws, ordinances, and regulations. There shall be no back siphonage conditions present. Copies of the Safe Drinking Water Act can be obtained from the Department of Environmental Protection, Bureau of Potable Water, CN 209, Trenton, New Jersey 08625.

(b) The temperature of the hot water used for handwashing shall be maintained between 95 degrees and 120 degrees Fahrenheit (35 to 49 degrees Celsius). If the facility provides the means for patient bathing, the temperature of the hot water used for patient bathing shall be maintained between 95 degrees and 110 degrees Fahrenheit (35 to 43 degrees Celsius).

(c) The sewage disposal system shall be maintained in good repair and operated in compliance with State and local laws, ordinances, rules and regulations.

8:43A-17.6 Laundry services

(a) If laundry services are provided, written policies and procedures shall be established and implemented for the facility's laundry services, including, but not limited to, policies and procedures for the following:

1. The provision of clean laundry for each patient, including blankets, if required. Linen shall be changed between each instance of patient use;

2. Collection of soiled laundry so as to avoid microbial dissemination into the environment, and placement in impervious bags or containers that are closed at the site and time of collection. Containers shall be in good repair, kept clean, and identified for use with either clean or soiled laundry;

3. Protection of clean laundry from contamination during processing, transporting, and storage; and

4. The sanitizing of equipment surfaces that come into contact with laundry.

(b) Soiled laundry shall be stored in a ventilated area separate from any other supplies. Soiled laundry shall not be stored, sorted, rinsed, or laundered in patient areas, bathrooms, areas of food preparation and/or storage, or areas in which clean laundry and/or equipment are stored.

(c) If the facility has an in-house laundry, written policies and procedures shall be followed to reduce the number of bacteria in the fabrics during laundering. There shall be a receiving, holding, and sorting area with handwashing facilities accessible to the area. The walls, floors, and ceilings of the area shall be clean and in good repair. Ventilation shall be adequate to prevent heat and odor buildup.

SUBCHAPTER 18. QUALITY ASSURANCE PROGRAM

8:43A-18.1 Quality assurance plan

(a) The facility shall establish and implement a written plan for a quality assurance program for patient care. The quality assurance plan shall be reviewed at least annually and revised as necessary. The plan shall specify a timetable and the individual responsible for coordinating the quality assurance program and shall provide for ongoing monitoring of staff and patient care services.

(b) There shall be a multidisciplinary committee responsible for the direction of the quality assurance program. The committee shall include at least representation from the medical staff, nursing staff and administration. The committee shall establish a mechanism to include participation of all disciplines in the identification of areas for review that affect patient care throughout the facility.

8:43A-18.2 Quality assurance activities

(a) There shall be an ongoing process for monitoring and evaluating patient care services, staffing, infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment, patient care statistics, and discharge planning services.

(b) Evaluation of patient care throughout the facility shall be criteria-based, so that certain review actions are taken or triggered when specific quantified, predetermined levels of outcomes or potential problems are identified.

(c) The quality assurance process shall incorporate periodic review of patient medical records.

(d) The quality assurance process shall include evaluation by patients of care and services provided by the facility. If the families of patients are routinely involved in the care and services provided

by the facility, the quality assurance process shall include a means for obtaining input from families of patients.

(e) The administrator shall follow up on the findings of the quality assurance program to ensure that effective corrective actions have been taken, including at least policy revisions, procedural changes, educational activities, and follow-up on recommendations, or that additional actions are no longer indicated or needed.

(f) The quality assurance program shall identify and establish indicators of quality care specific to the facility, which shall be monitored and evaluated.

(g) The results of the quality assurance program shall be submitted to the governing authority at least annually and shall include at least deficiencies found and recommendations for corrections or improvements. Deficiencies which jeopardize patient safety shall be reported to the governing authority immediately.

SUBCHAPTER 19. PHYSICAL PLANT AND FUNCTIONAL REQUIREMENTS

8:43A-19.1 Physical plant general compliance for new construction or alteration

(a) New buildings and alterations and additions to existing buildings for freestanding ambulatory care facilities shall conform with the New Jersey Uniform Construction Code, N.J.A.C. 5:23-3.2, subchapters of the current model code of the Building Officials and Code Administrators International (BOCA), Inc. (4051 W. Flossmoor Road, Country Club Hills, IL 60477-5795), appropriate to Use Group B, as amended and supplemented, and the current edition of the Guidelines for Construction and Equipment of Hospital and Medical Facilities (The American Institute of Architects Press, 1735 New York Ave., NW, Washington, D.C. 20006, as amended and supplemented, incorporated herein by reference.

(b) New buildings and alterations and additions to existing buildings for ambulatory care facilities which are part of an acute care hospital shall conform with the New Jersey Uniform Construction Code, N.J.A.C. 5:23-3.2, subchapters of the current model code of the Building Officials and Code Administrators International (BOCA), Inc. (4051 W. Flossmoor Road, Country Club Hills, IL 60477-5795), appropriate to Use Group I-2, as amended and supplemented, and the current edition of the Guidelines for Construction and Equipment of Hospital and Medical Facilities (The American Institute of Architects Press, 1735 New York Ave., NW, Washington, D.C. 20006), as amended and supplemented, incorporated herein by reference.

8:43A-19.2 Physical plant general compliance for construction or alteration completed prior to the effective date of this chapter

Existing buildings constructed or altered prior to the effective date of this chapter shall be in conformance with Federal, State, and local standards in effect at the time of construction, alteration, or approval of plans by the Department.

8:43A-19.3 Plan review fees

(a) Prior to any construction, plans shall be submitted for review and approval, in accordance with the provisions of this chapter, to:

Health Facilities Construction Services
Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625

(b) Review fees shall be paid, pursuant to N.J.A.C. 8:31-1.1.

8:43A-19.4 Alterations and repairs

(a) If alterations or repairs costing in excess of 50 percent of the physical value of the structure are made within any period of 12 months, requirements for new structures shall apply to the entire structure, including those portions not altered or repaired.

(b) If alterations or repairs costing between 25 percent and 50 percent of the physical value of the structure are made within any period of 12 months, only the altered or repaired portions need to conform to the requirements for new structures.

(c) If alterations or repairs costing under 25 percent of the physical value of the structure are made within any period of 12 months, the construction official and appropriate subcode officials shall determine to what degree the portions so altered or repaired shall be made to conform to the requirements for new structures.

8:43A-19.5 Provision for the handicapped

Facilities shall be available and accessible to the physically handicapped pursuant to the New Jersey Uniform Construction Code, N.J.A.C. 5:23-7, Barrier-Free Subcode, and P.L. 100-336, the Americans with Disabilities Act of 1990 and Accessibility Guidelines for Buildings and Facilities, as amended and supplemented, incorporated herein by reference. (Available from the Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.)

8:43A-19.6 Common elements for ambulatory health care facilities

All new ambulatory health care facilities shall comply with Chapter 9, Section 9.2, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, and other sections appropriate to the specific service(s) provided therein, all of which is incorporated herein by reference.

8:43A-19.7 Small ambulatory care facilities

Chapter 9, Section 9.4, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, is incorporated by reference herein and shall apply to new small ambulatory care facilities. "Small ambulatory care facility" means a facility which provides ambulatory care services and in which the space and equipment are utilized by four or fewer workers at any one time.

SUBCHAPTER 20. FAMILY PRACTICE SERVICES

8:43A-20.1 Additional requirements

An ambulatory care facility which provides family practice services shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter.

8:43A-20.2 Medical staff to be provided

If an ambulatory care facility provides family practice services, the medical director shall be a family practice physician or the facility shall have a family practice physician on the medical staff. The family practice physician shall be available during the facility's hours of operation. ("Available" means capable of being reached.)

SUBCHAPTER 21. FAMILY PLANNING, PRENATAL, POSTPARTUM, AND GYNECOLOGICAL SERVICES

8:43A-21.1 Additional requirements and exceptions

(a) An ambulatory care facility which provides family planning, prenatal, postpartum, and/or gynecological services shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter. If the facility also provides surgical or anesthesia services, then the facility shall also comply with N.J.A.C. 8:43A-12.

1. An ambulatory care facility which provides only family planning services need not comply with N.J.A.C. 8:43A-2.2(b) for the purpose of licensure.

8:43A-21.2 Application for licensure

The Department shall charge a nonrefundable fee of $100.00 for the filing of an application for licensure of an ambulatory care facility which provides, primarily or solely, family planning services and for the annual renewal of the license. The corresponding fee for each satellite of the facility which also provides, primarily or solely, family planning services shall be $100.00. If such a facility or satellite provides a service listed in N.J.A.C. 8:43A-2.3(a) as an additional, secondary service, the facility or satellite shall submit an additional nonrefundable fee of $250.00 per additional service for the filing of the application for licensure and for the annual renewal of the license.

8:43A-21.3 Medical staff to be provided

If an ambulatory care facility provides prenatal, postpartum, gynecological, and/or family planning services, the medical director

shall be an obstetrician-gynecologist or the facility shall have an obstetrician-gynecologist on the medical staff. The obstetrician-gynecologist shall be available during the facility's hours of operation. ("Available" means capable of being reached.)

8:43A-21.4 Medical history

In addition to complying with N.J.A.C. 8:43A-6.4(a), the facility shall obtain the patient's obstetrical and gynecological history, if appropriate, including a history of psychological and social problems.

8:43A-21.5 Medical records

(a) The complete medical record for prenatal patients shall include, but not be limited to, documentation of assessment of uterine growth, fetal heart tones, estimated delivery date, urine tests for protein, blood pressure, weight gain, and an updated assessment of obstetrical risk.

(b) The facility shall establish and implement written policies and procedures regarding the transfer of patient information when the patient is transferred to another health care facility, or if the patient has been an inpatient and becomes an outpatient at the same facility, to ensure continuity of care. In the case of a prenatal patient, a copy or summary of the patient's prenatal medical record shall be transferred, no later than 34 weeks gestation, from the facility to the inpatient facility where delivery is to take place. The facility shall also request a copy or summary of the patient's labor, delivery and postpartum record from the inpatient facility prior to any scheduled postpartum visits.

SUBCHAPTER 22. PEDIATRIC SERVICES

8:43A-22.1 Additional requirements

An ambulatory care facility which provides pediatric services shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter.

8:43A-22.2 Medical staff to be provided

A facility which provides pediatric services shall have a pediatrician or a family practice physician on the medical staff and available during the facility's hours of operation. ("Available" means capable of being reached.)

8:43A-22.3 Medical records

The complete medical record for pediatric patients shall include, but not be limited to, documentation of assessment of growth, including at least a record of weight and length or height, documentation of a basic developmental assessment, including sensory screenings, and a record of immunization.

SUBCHAPTER 23. PRIMARY CARE

8:43A-23.1 Additional requirements

(a) An ambulatory care facility which provides primary care services, as defined at N.J.A.C. 8:43A-1.3, shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter. If the facility provides family practice services, then the facility shall also comply with the rules in N.J.A.C. 8:43A-20. If the facility provides primary care to a pediatric population, then the facility shall also comply with the rules in N.J.A.C. 8:43A-22.

1. If a facility provides primary care services only, the requirement at N.J.A.C. 8:43A-8.2 for a registered professional nurse to be on the premises during the hours of operation may be satisfied by a physician, if permitted by the policies and procedures of the facility.

8:43A-23.2 Infection prevention and control

The administrator shall designate a person with training or experience in surveillance, prevention, and control of nosocomial infection who shall be responsible for the direction, provision, and quality of infection prevention and control services.

8:43A-23.3 Mobile vans

(a) If a facility wishes to provide services through use of one or more mobile vans, the facility shall obtain the prior authorization of the Licensing, Certification and Standards Program of the Department. Such authorization may be contingent upon an on-site inspection by representatives of the Department.

(b) Policies and procedures for the use of mobile vans in the provision of primary care services shall address at least patient care, control of drugs, medical records, and infection prevention and control.

8:43A-23.4 Freestanding primary care outpatient facilities

New freestanding facilities which provide primary care services shall comply with Chapter 9, Sections 9.1, 9.2, and 9.3, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, incorporated herein by reference.

8:43A-23.5 Small primary care outpatient facilities

(a) Small primary care outpatient facilities may be located within existing commercial, residential, licensed child care, educational, or other types of buildings or may be small, freestanding, new or converted structures. "Small primary care outpatient facility" means a facility which provides primary care services and in which the space and equipment are utilized by four or fewer workers at any one time.

(b) New small primary care outpatient facilities shall comply with Chapter 9, Sections 9.1, 9.2, 9.3, and 9.4, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, incorporated herein by reference.

SUBCHAPTER 24. CHRONIC DIALYSIS SERVICES

8:43A-24.1 Additional requirements

Hospital facilities which provide renal dialysis services within the hospital shall comply with N.J.A.C. 8:43G-30. All other ambulatory care facilities which provide chronic dialysis services shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter.

8:43A-24.2 Minimum program size and transfer agreements

(a) A facility providing chronic dialysis services shall have at least nine machines/stations. Facilities licensed prior to the effective date of this chapter shall have until January 1, 1994, to establish this minimum number of machines/stations. An open treatment area shall contain no more than 20 machines/stations.

(b) A facility providing chronic dialysis services shall have a written transfer agreement with at least one hospital-based chronic dialysis unit with acute dialysis capacity and with at least one facility having a renal transplantation program.

8:43A-24.3 Patient services

(a) The facility's policy on dialyzer reuse shall be explained to all chronic dialysis patients, and the facility shall document each patient's decision regarding consent to dialyzer reuse. If the patient declines reuse, arrangements shall be made for the patient to receive single-use treatment in the facility.

(b) In addition to complying with N.J.A.C. 8:43A-6.4, the facility shall ensure that a medical history is obtained and a physical examination is performed for each chronic dialysis patient within seven days of initiation of treatment and that these are updated at least every five years.

(c) A written plan of care shall be developed for each chronic dialysis patient by a multidisciplinary team which includes, at least, a nephrologist, a transplant surgeon or designee, a registered professional nurse, a dietitian, and a licensed social worker or a social worker hired prior to 1976 who receives consultation from a licensed social worker. The plan of care shall specify goals and expected outcomes.

(d) The written plan of care for each chronic dialysis patient shall be discussed with the patient and/or family, implemented within four weeks of admission to the facility, reviewed by the multidisciplinary team at least every six months, and revised as needed.

(e) Each member of the multidisciplinary team shall enter clinical notes into the chronic dialysis patient's medical record.

(f) If a chronic dialysis patient is referred by, or transferred from, another health care facility, the facility providing chronic dialysis services shall provide the referring or transferring facility with

copies of summaries of the patient's progress, a description of dietary care, and results of laboratory tests upon discharge from the facility providing chronic dialysis services or upon request.

(g) Chronic dialysis patients shall be dialyzed in chairs which can be inclined so that the patient's head is lower than his or her feet, except when the patient is dialyzed in a hospital bed.

8:43A-24.4 Qualifications of the medical director and medical records coordinator

(a) The medical director of a facility which provides chronic dialysis services shall be a nephrologist. A medical director designated prior to July 1, 1993, shall have the qualifications of a nephrologist as specified at N.J.A.C. 8:43A-1.15. A medical director designated on or after July 1, 1993, shall be a diplomate of either the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine in the subspecialty of nephrology.

(b) The coordinator of medical records designated in accordance with N.J.A.C. 8:43A-13.2 shall be a medical records practitioner or shall function in consultation with a person so qualified. The medical records practitioner shall:

1. Be certified or eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART) by the American Medical Record Association (875 North Michigan Avenue, Suite 1850, John Hancock Center, Chicago, Illinois 60611); or

2. Be a graduate of a program in medical record science accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the Council on Education of the American Medical Records Association.

8:43A-24.5 Nurse staffing

(a) A facility providing chronic dialysis services shall have at least one registered professional nurse, licensed practical nurse, or trained technician on duty for every three patients receiving dialysis services on the premises. In all cases, there shall be at least one registered professional nurse on duty for every nine patients receiving dialysis services on the premises, including the registered professional nurse required by N.J.A.C. 8:43A-8.2.

(b) Members of the nursing staff of facilities which provide chronic dialysis services shall receive on-site training in renal dialysis techniques, as determined by the facility, before they are permitted to work without direct supervision.

(c) If home (self) care dialysis training services are provided, a registered professional nurse shall direct the home (self) care dialysis training program. Training of patients may be assigned to licensed practical nurses. In no case shall training be conducted by less than one licensed nurse for every two patients on the premises receiving home (self) care dialysis training.

(d) If self care dialysis services are provided on the premises, there shall be a minimum of one licensed nurse on duty for every six patients on the premises receiving self care dialysis.

(e) If pediatric dialysis services are provided, there shall be a minimum of two registered professional nurses, licensed practical nurses, or trained technicians on duty for every three patients receiving chronic pediatric dialysis services on the premises. There shall be a minimum of one registered professional nurse in the pediatric dialysis service whenever services are being provided. The registered professional nurse may be considered as one of the total number of required nursing service staff members.

(f) If an administrator performs both administrative and other functions, written documentation of the administrator's time spent in each function shall be maintained. The administrator's time spent in administrative functions shall not be included in the computation of staffing levels for nursing services.

8:43A-24.6 Infection prevention and control

(a) The administrator shall designate a person with training or experience in surveillance, prevention, and control of nosocomial infection who shall be responsible for the direction, provision, and quality of infection prevention and control services.

(b) The facility shall have written infection control policies and procedures specific to the chronic dialysis service, which shall include universal precautions.

(c) All staff members of the chronic dialysis service and all chronic dialysis patients shall be screened for hepatitis in accordance with the current edition of the Centers for Disease Control publication "Hepatitis Surveillance," as amended and supplemented, available from the Centers for Disease Control, Atlanta, Georgia 30333, incorporated herein by reference.

(d) Facilities which provide chronic dialysis services shall comply with the Occupational Safety and Health Administration (OSHA) rule 29 CFR Part 1910.1030, incorporated herein by reference, as it pertains to hepatitis B vaccination.

(e) Chronic dialysis patients with communicable or transmittable diseases shall be treated in accordance with Centers for Disease Control guidelines.

(f) If dialyzers are reused, reuse shall conform with guidelines in the Association for the Advancement of Medical Instrumentation (AAMI) publication, "Recommended Practice for Reuse of Hemodialyzers," incorporated herein by reference.

(g) A facility providing chronic dialysis services shall establish and implement policies and procedures regarding cleaning and disinfecting of patient reclining chairs, beds (including mattresses), and dialysis machines between each instance of patient use, and daily cleaning and disinfecting of floors and walls in the dialysis area.

(h) Water treatment equipment, water, and dialysate shall satisfy the requirements specified in the Association for the Advancement of Medical Instrumentation (AAMI) publication entitled "American National Standard for Hemodialysis Systems," as amended and supplemented, incorporated herein by reference.

1. Water and dialysate shall be microbiologically analyzed monthly. Water samples shall be taken immediately beyond the last water treatment device and at other locations in each treatment area so as to ensure that water throughout the distribution lines conforms with AAMI standards. Chemical analysis of the water shall be performed every six months.

2. A DPD test kit or similar method shall be used daily to detect the presence of chloramine and to measure chloramine levels in water used to prepare dialysate. The level of chloramine shall not exceed the AAMI standard of 0.1 ppm.

3. Written records of analysis procedures and results and of equipment maintenance shall be maintained in the facility.

Note: AAMI publications can be obtained from:
Association for the Advancement of Medical Instrumentation
Suite 602
1901 North Fort Meyer Drive
Arlington, VA 22209

(i) All food served to patients in the dialysis service shall be provided in completely disposable food service equipment. The facility shall comply with N.J.A.C. 8:24.

(j) The facility shall have policies and procedures as to whether or not chronic dialysis patients shall be permitted to bring their own food into the dialysis treatment area. If permitted, the facility shall develop a policy regarding the categories of food permitted, food preparation and storage, and utensils to be used.

8:43A-24.7 Home care dialysis services

(a) If home (self) care dialysis services are provided, the facility shall establish, implement, and review, at least annually, written policies and procedures including, but not limited to, policies and procedures for the following:

1. Development of a written outline of the home (self) care training program, including didactic and practical sessions, for the unsupervised performance of dialysis treatments by patients and family;

2. Surveillance of the patient's home adaptation through visitation of the patient's home by a registered professional nurse, including the frequency of home visitation and documentation of the results of surveillance visits in the patient's medical record;

3. Availability of teaching materials for patient use during and after home (self) care dialysis training and at times other than during the dialysis procedure;
4. Provision of consultation to the patient by a social worker and a dietitian;
5. Installation and maintenance of equipment in the home;
6. Testing and treatment of the water in the home; and
7. Ordering of supplies for the home on an ongoing basis.

8:43A-24.8 Quality assurance

If chronic dialysis services are provided, the quality assurance program shall monitor those indicators required by the Trans-Atlantic Renal Council (180 Tices Lane, East Brunswick, NJ 08816) and shall monitor care provided to home dialysis patients.

8:43A-24.9 Patient rights

Each chronic dialysis patient shall be afforded rights in accordance with the principles set out in the Trans-Atlantic Renal Council's Bill of Rights for renal dialysis patients, incorporated herein by reference.

8:43A-24.10 Physical plant requirements for all chronic dialysis facilities

(a) Each machine/station in the chronic dialysis service shall have a cubicle curtain for privacy. One handwashing sink shall be available for every three machines/stations. These handwashing sinks shall be distributed throughout the treatment area so as to ensure immediate accessibility to staff at all times.

(b) The gross floor area allocated for each machine shall be at least 100 square feet with a net usable area of at least 80 square feet. There shall be at least 30 inches clear around each machine and lounge, except that one side of the machine may be installed flush against the wall. There shall be at least a four-foot space between beds and/or lounges.

(c) There shall be a separate clean holding area or room within the chronic dialysis suite for storage of clean supplies. If the facility has a clean utility room, then the clean utility room shall contain a minimum of 120 square feet with handwashing facilities.

(d) There shall be a separate soiled utility room within the chronic dialysis suite. The soiled utility room shall contain a minimum of 120 square feet and shall contain a sink equipped for handwashing. The floor of the soiled utility room shall be monolithic with integral base.

(e) A separate janitors' closet shall be provided exclusively for the chronic dialysis suite. The closet shall contain a floor receptor or service sink and storage space for housekeeping supplies and equipment.

(f) A separate, handicapped accessible toilet room with handwashing facilities shall be provided for patients.

(g) A staff lounge/locker room and toilet facilities with handwashing facilities shall be provided.

(h) The nurses' station shall be designed and located so as to permit visual observation of each patient station.

(i) Door(s) to patients' toilet room(s) shall be equipped with hardware which permits access from the exterior by staff in any emergency.

(j) If home training rooms are provided, each room shall be equipped with a sink for handwashing.

(k) Storage space shall be provided for wheelchairs and stretchers, if stretchers are provided, out of direct line of traffic.

(l) A room shall be provided for the storage of equipment used in patient care.

(m) An examination room shall be provided with a minimum of 80 square feet of clear floor area exclusive of the work counter and lavatory for handwashing.

(n) Water supply systems shall be designed to supply water to the fixtures and equipment at a minimum pressure of 15 pounds per square inch during periods when fixtures and equipment are in use.

(o) Office space shall be provided for administration, nursing services, social work services, and dietary counseling services.

(p) Space for conferences, consultation, and other purposes shall be provided.

(q) A waiting area with access to a telephone, toilet facilities, and a drinking fountain shall be provided.

(r) Each toilet facility for patients shall be served by an emergency call system. Calls shall activate a signal at the nurses' station.

(s) There shall be a drug distribution station for the chronic dialysis service. The drug distribution station shall contain handwashing facilities and a work counter. Provisions shall be made for the controlled storage, preparation, and distribution of medications.

(t) If a nourishment station for the chronic dialysis service is provided, the nourishment station shall contain a sink, a work counter, a refrigerator, storage cabinets, and equipment for serving nourishments as required.

SUBCHAPTER 25. COMPUTERIZED TOMOGRAPHY (CT), MAGNETIC RESONANCE IMAGING (MRI), AND RADIOLOGICAL SERVICES

8:43A-25.1 Additional requirements and exceptions

(a) An ambulatory care facility which provides computerized tomography, magnetic resonance imaging, or radiological services shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter. If the facility also provides surgical or anesthesia services, then the facility shall also comply with N.J.A.C. 8:43A-12.

1. An ambulatory care facility which provides only computerized tomography, magnetic resonance imaging, or radiological services need not comply with N.J.A.C. 8:43A-3.6(a)6, 13.3(a)7 and 13.3(a)8 for the purpose of licensure.

2. If the facility provides only magnetic resonance imaging services, a radiologic technologist may satisfy the requirement for an administrator at N.J.A.C. 8:43A-5.1.

3. If the facility provides only magnetic resonance imaging services, the part of N.J.A.C. 8:43A-3.1(a) which requires nursing services to be provided in the facility shall not apply.

4. If the facility provides only magnetic resonance imaging services, the part of N.J.A.C. 8:43A-6.2(a) which requires a representative of the nursing service to serve on the patient care policy committee shall not apply.

5. If the facility provides only magnetic resonance imaging services, the part of N.J.A.C. 8:43A-18.1(b) which requires a representative of the nursing staff to serve on the committee responsible for the quality assurance program shall not apply.

6. An ambulatory care facility which provides only computerized tomography, magnetic resonance imaging, or radiological services may satisfy the requirements at N.J.A.C. 8:43A-14.2 for an infection control committee by requiring the person responsible for the infection prevention and control program to ensure that the medical director and other professional staff participate in the development and implementation of the program, including the development, implementation, and review of the policies and procedures required by N.J.A.C. 8:43A-14.2(b).

8:43A-25.2 Additional staffing

(a) In addition to providing other staff as required by the rules in this chapter, a facility providing computerized tomography services shall have at least the following staff:

1. One radiologist available during the facility's hours of operation and on the premises whenever a contrast medium is being used;

2. One radiologic technologist on the premises during the facility's hours of operation; and

3. A radiation physicist/health physicist who shall be available for safety evaluations of equipment and of storage and handling practices, and for staff education.

(b) In addition to providing other staff as required by this chapter, a facility providing magnetic resonance imaging services shall have at least the following staff:

1. A medical director available who is a radiologist and whose primary responsibility during the last three years has been in the interpretation of cross-sectional imaging for all body areas. ("Available" means capable of being reached);

2. One radiologist available during the facility's hours of operation and on the premises whenever a contrast medium is being used;

3. One full-time equivalent technician with documented training and experience in MRI service delivery and one other staff member, both of whom shall be on the premises during the facility's hours of operation; and

4. A radiation physicist/health physicist with documented training and experience in MRI techniques who shall be available.

(c) In addition to providing other staff as required by the rules in this chapter, a facility providing radiological services directly in the facility shall have a radiologist available. ("Available" means capable of being reached.) Radiologists shall supervise and interpret all radiologic procedures, unless performed by clinical practitioners in specialty areas who are trained and experienced in these procedures.

8:43A-25.3 Safety

A facility providing magnetic resonance imaging (MRI), computerized tomography, or other diagnostic services shall develop and implement policies and procedures intended to ensure patient safety during use of all diagnostic equipment.

8:43A-25.4 Physical plant; computerized tomography and magnetic resonance imaging services

A new ambulatory care facility which provides computerized tomography or magnetic resonance imaging services shall comply with Chapter 9, Section 9.1, and Chapter 7, Sections 7.10 and 7.11, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1987 edition, as amended, incorporated herein by reference. Existing facilities shall be in compliance with these standards or the corresponding standards in effect at the time of construction, alteration, or approval.

8:43A-25.5 Physical plant; radiological services

(a) If radiological services are provided in a freestanding facility, the suite shall contain the following:

1. A radiographic room(s), which, if computerized tomography or magnetic resonance imaging services are provided, shall have an area of at least 250 square feet;

2. A film processing room;

3. A viewing area;

4. Film storage facilities for active, inactive, and unexposed film;

5. Office space for medical staff and administrative functions;

6. A waiting area for ambulatory patients and patients requiring wheelchairs or stretchers;

7. A dressing area(s) with convenient access to public toilets;

8. A toilet room(s) with handwashing facilities for staff, visitors, and patients;

9. Handwashing facilities, which shall be available to each procedure room;

10. A control desk and reception area;

11. Storage facilities, including at least the following:

i. A room or closet for storage of the clean linen supply; and

ii. A room for storage of soiled linen; and

12. A janitors' closet, which shall contain a floor receptor or service sink and storage for housekeeping supplies and equipment.

SUBCHAPTER 26. DRUG ABUSE TREATMENT SERVICES

8:43A-26.1 Additional requirements and exceptions

(a) An ambulatory care facility which provides drug abuse treatment services shall comply with N.J.A.C. 8:43A-1 through 11 and rules in subchapters 13 through 19, and this subchapter.

1. An ambulatory care facility which provides only drug abuse treatment services need not comply with N.J.A.C. 8:43A-6.9 and 8.2 for the purpose of licensure.

8:43A-26.2 Smoking in facility

(a) The facility shall become smoke-free within three months of the effective date of this section. "Smoke-free" means a total ban on smoking in the facility by employees and visitors. Prior to the time at which the facility becomes smoke-free, the policy of the facility regarding smoking in the facility shall be in accordance with N.J.S.A. 26:3D-1 et seq.

1. If the facility permits patients to smoke after the facility becomes smoke-free, smoking by patients shall only be permitted in accordance with N.J.S.A. 26:3D-1 et seq. and in a designated area with outside ventilation. The ventilation system shall prevent contaminated air from recirculating through the facility and shall prevent backstreaming of smoke into nonsmoking areas of the facility.

8:43A-26.3 Additional services

A facility providing drug abuse treatment services shall provide, or arrange provision of, educational services, vocational counseling and training, and job placement to patients whose plans of care indicate a need for such services. In the case of patients who require legal services, the facility shall refer the patient to an agency providing legal services.

8:43A-26.4 Nurse staffing

(a) Ambulatory care facilities which provide drug abuse treatment services shall designate in writing a registered professional nurse as the director of nursing services. The director of nursing services, or a registered professional nurse designated in writing to act in the absence of the director of nursing services, shall be on the premises of the facility whenever medications are being administered and at times specified by the facility in the policy and procedure manual.

1. If the policies and procedures of the facility ensure that the conditions below are satisfied, then the facility need not comply with (a) above:

i. Medications, including methadone, shall not be dispensed or administered in the facility;

ii. For each patient, the drug counselor to whom the patient is assigned shall obtain health-related information from the patient using a protocol or form approved by the medical director and shall record the information in the patient medical record. If the drug counselor determines that there is a need for immediate intervention by a physician or nurse, the counselor shall immediately notify the medical director or registered professional nurse or shall immediately provide the patient with an appropriate referral;

iii. A physician or a registered professional nurse shall review each patient's health-related information within 15 days of the interview of the patient by the drug counselor. The physician or registered professional nurse shall determine the need for direct assessment by a physician or registered professional nurse or for referral to another health care provider. Direct assessment shall be ordered or referral made on the basis of this determination;

iv. A registered professional nurse shall be available to the facility at all times during its hours of operation; and

v. The administrator shall ensure that the duties of the director of nursing services, as specified at N.J.A.C. 8:43A-8.3, are performed.

(b) In facilities providing methadone detoxification or methadone maintenance services, there shall be at least one registered professional nurse present in the facility for 150 or fewer patients and at least one additional licensed nurse present in the facility for each additional 150 or fewer patients, during all hours when medications are administered.

8:43A-26.5 Drug abuse counseling services

(a) If the facility provides drug abuse treatment services, drug abuse counseling services shall be provided directly in the facility to patients.

(b) A facility providing drug abuse treatment services shall, in addition to complying with N.J.A.C. 8:43A-10, comply with the following:

1. Each patient shall be assigned to a drug counselor, with assignment documented in the patient's medical record. A drug counselor's caseload shall not exceed 50 patients;

2. All outpatient methadone detoxification programs shall provide a minimum of one counseling session per week to each patient during the first four months after initiation of treatment and at least one counseling session every two weeks thereafter until discharged;

3. All outpatient methadone maintenance programs shall assign each patient to one of the following stages and provide counseling to the patient in accordance with the following schedule:

i. Stage I. At least one counseling session per week during the first three months of treatment;

ii. Stage II. At least one counseling session every two weeks from the beginning of the fourth month to the end of the ninth month of treatment;

iii. Stage III. At least one counseling session per month from the beginning of the tenth month to the end of the second year of treatment; and

iv. Stage IV. At least one counseling session every three months after completion of two years of treatment;

4. A patient in an outpatient methadone maintenance program who becomes symptomatic of drug or alcohol abuse for the first time after admission shall return to a minimum of one counseling session per week until symptoms cease and shall remain in his or her present stage of treatment;

5. A patient in an outpatient methadone maintenance program who becomes symptomatic of drug or alcohol abuse for a second or subsequent time after admission may be returned to a lower stage of treatment; and

6. Drug abuse counseling services shall include the provision of individual counseling and the availability of group, family, and/or vocational counseling.

(c) If an administrator performs both administrative and other functions, written documentation of the administrator's time spent in each function shall be maintained. The administrator's time spent in administrative functions shall not be included in the computation of staffing levels for nursing or counseling services.

8:43A-26.6 Designation of consultant pharmacist

If a facility providing methadone detoxification or methadone maintenance services does not have an institutional pharmacy, the facility shall designate a consultant pharmacist who shall review all facility policies and procedures concerning the administration, control, and storage of medications at least semiannually. The consultant pharmacist shall not be affiliated with the pharmacy which provides pharmaceutical services for the facility.

8:43A-26.7 Medical records

The complete medical record for patients receiving drug abuse treatment services shall include, but not be limited to, a copy of the Alcohol and Drug Abuse Data System (ADADS) form (See Appendix A) or other management information system form approved by the Division of Alcoholism, Drug Abuse and Addiction Services of the Department, incorporated herein by reference.

8:43A-26.8 Notices

The hours of operation and the business telephone number of the facility shall be posted so as to be visible from the outside of the main entrance of the facility.

8:43A-26.9 Employee health

The Mantoux tuberculin skin test required by N.J.A.C. 8:43A-3.7(d) shall be repeated on an annual basis for all employees.

SUBCHAPTER 27. SATELLITES OF LICENSED AMBULATORY CARE FACILITIES

8:43A-27.1 Additional requirements and exceptions

(a) A satellite of a licensed ambulatory care facility, as defined at N.J.A.C. 8:43A-1.3, shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter. If the satellite also provides surgical or anesthesia services, then the satellite shall also comply with N.J.A.C. 8:43A-12.

1. A satellite of a licensed ambulatory care facility need not comply with N.J.A.C. 8:43A-2.4(c), 5.1, 6.3(b) and 13.1(c) for the purpose of licensure.

2. The requirements at N.J.A.C. 8:43A-3.6(a) and (b) regarding the availability and accessibility of the policy and procedure manual of the facility shall apply only to those policies and procedures which pertain to the services provided at the satellite facility.

3. The reporting of events as required by N.J.A.C. 8:43A-3.8 may be performed by the licensed facility with which the satellite is affiliated.

4. The information which N.J.A.C. 8:43A-3.9(a)1 and 2 require to be available in the facility may be kept at the licensed facility with which the satellite is affiliated rather than at the satellite itself.

5. The infection prevention and control program required by N.J.A.C. 8:43A-14.1 may be developed at the licensed facility with which the satellite is affiliated, but shall also be implemented at the satellite facility.

6. The written plan for a quality assurance program for patient care required by N.J.A.C. 8:43A-18.1(a) may be developed at the licensed facility with which the satellite is affiliated, but shall also be implemented at the satellite facility.

8:43A-27.2 On-site inspection

An on-site inspection of the construction of the physical plant shall be made by representatives of Health Facilities Construction Services to verify that the building has been constructed in accordance with the architectural plans approved by the Department. The Department may choose to accept an equivalent inspection by a local agency in lieu of an inspection by representatives of Health Facilities Construction Services.

8:43A-27.3 Appointment of administrator

The facility shall appoint an administrator of the satellite who shall be accountable to the governing authority. The administrator of the satellite may be the same person as the administrator of the licensed facility with which the satellite is affiliated. The administrator of the satellite, or an alternate who shall be designated in writing to act in the absence of the administrator, shall be available in the satellite facility during its hours of operation.

8:43A-27.4 Patient care policies

All patient care policies and procedures which pertain to the services provided at the satellite facility shall be available in the satellite facility.

8:43A-27.5 Medical records

Original medical records or components of medical records shall remain on the premises of the satellite or the licensed facility with which the satellite is affiliated unless they are under court order or subpoena or removed in order to safeguard the record in the case of a physical plant emergency or natural disaster. Off-site storage of records may be used only with the approval of the Department and only if such storage arrangements will ensure retrieval and delivery of the patient's medical record to the facility within one hour on a seven day per week, 24 hour per day, basis and immediate availability of medical record information through telephone and facsimile communications systems.

(b) The satellite facility shall develop and implement a system for the establishment and maintenance of medical records for patients who come to the satellite facility on an unscheduled basis.

SUBCHAPTER 28. BIRTH CENTERS

8:43A-28.1 Additional requirements

(a) A birth center shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter.

1. A birth center need not comply with N.J.A.C. 8:43A-7.2 through 7.4 and 8.2 and 8.3 for the purpose of licensure.

(b) No hospital, health care facility or other health care provider shall advertise or claim itself to be a "birth center" unless separately licensed as a birth center under this chapter.

8:43A-28.2 Service restrictions

(a) Surgical procedures provided in the birth center shall be limited to those normally performed during and after uncomplicated childbirth, such as episiotomy and repair, and shall not include operative obstetrics or cesarean sections.

(b) Labor shall not be induced, inhibited, stimulated or augmented with pharmacological agents.

(c) General or conduction anesthesia shall not be administered at the birth center.

(d) The birth center is generally exempt from complying with requirements for anesthesia services at N.J.A.C. 8:43A-12. If anesthetic agents are administered for the purpose of creating

conscious sedation, the birth center shall comply with the rules at N.J.A.C. 8:43A-12 which pertain to conscious sedation. Minor conduction blocks and local anesthesia may be administered by a certified nurse midwife in accordance with the scope of practice rules of the Board of Medical Examiners at N.J.A.C. 8:43A-2A.4 and those personnel enumerated at N.J.A.C. 8:43A-12.3(k). The birth center shall establish and implement policies and procedures which address the administration of minor conduction blocks and local anesthesia.

(e) All mothers and infants shall be discharged or transferred within 24 hours from the time of the infant's birth.

8:43A-28.3 Structural organization

(a) The birth center shall be a formal member of a Maternal and Child Health Consortium and shall have been designated as a community perinatal center—birthing center by the Department of Health, in accordance with N.J.A.C. 8:33C.

(b) The birth center shall demonstrate a formal agreement with an affiliated community perinatal center, as defined at N.J.A.C. 8:43A-1.3, located within 20 minutes transport time for medical care of a woman or an infant when complications arise during the antepartum, intrapartum, postpartum or newborn period.

8:43A-28.4 Designation of the clinical director

The governing authority shall designate either an obstetrician in accordance with N.J.A.C. 8:43A-1.17 or a certified nurse midwife to serve as clinical director. The clinical director shall designate, in writing, an obstetrician or a certified nurse midwife to act in the absence of the clinical director. The clinical director, or his or her designee, shall be available to the facility at all times.

8:43A-28.5 Clinical director's responsibilities

(a) The clinical director shall be responsible for the direction, provision, and quality of clinical services provided to patients. He or she shall be responsible for, but not limited to, the following:

1. Developing and maintaining written objectives, policies, a procedure manual, an organizational plan, and a quality assurance program. All policies and procedures shall be reviewed at least annually;

2. Assisting in developing and maintaining written job descriptions for the clinical staff and assigning duties based upon education, training, competencies and job descriptions;

3. Participating in staff orientation and staff education activities;

4. Approving the contents, locations, and frequency of checking contents, including expiration dates, of emergency kits or carts, equipment, and supplies, and assigning responsibility for these checks;

5. Developing specifications for verbal orders, including who may give verbal orders, who may receive them, and how soon they must be verified or countersigned in writing; and

6. Establishing a system for completion of entries in the patient medical record.

8:43A-28.6 Physical consultation

(a) The birth center shall have a formal consultative relationship with an obstetrician. He or she shall be responsible for the quality of medical care provided, shall approve the birth center's admission criteria and all policies, procedures and protocols related to the medical management of care, and shall be available for consultation and referral.

(b) The birth center shall have a formal consultative relationship with an obstetrician for the purpose of clinical emergencies who has obstetrical privileges that include admission and care of maternity patients at the affiliated community perinatal center. The clinical director of the birth center may fulfill N.J.A.C. 8:43A-28.6(a) and (b), if he or she is an obstetrician.

(c) The birth center shall have a written agreement for services of a pediatrician or group of pediatricians with admitting privileges at the affiliated community perinatal center. This agreement shall ensure that a pediatrician is available at all times.

(d) Any certified nurse midwife practicing in the birth center shall have a written agreement with one or more obstetricians as required by the New Jersey State Board of Medical Examiners rules at N.J.A.C. 13:35-2A.3.

8:43A-28.7 Additional policies and procedures

(a) There shall be written policies and procedures for the prenatal, intrapartal and postpartal care of each patient. The policies and procedures shall be reviewed annually and revised as needed.

(b) The discharge protocol shall include assurance that, within 48 hours after discharge, each patient is called by a designated individual to determine the status of the patient and her newborn. A referral to a home health agency shall be made if clinically indicated.

(c) The birth center shall have a written protocol that sets forth the process to be followed in completing and filing all vital records with the local register who has jurisdiction over the municipality where the birth center is located.

(d) The birth center shall have a written protocol to be followed in completing and reporting all newborn screening tests to the Department of Health.

8:43A-28.8 Additional patient care services

(a) A certified nurse-midwife and/or physician shall perform an initial physical assessment of the patient and an evaluation of the patient's medical and emotional needs.

(b) A certified nurse-midwife and/or physician shall develop and implement a plan of care, if needed, for each patient with the patient's participation. The plan shall include at least care and treatment to be provided for the duration of the pregnancy, including laboratory studies and provision for the patient's health, psychosocial and nutritional needs.

(c) Each patient shall have at least the following prenatal laboratory tests and diagnostic procedures performed:

1. Urinalysis for glucose and protein;

2. Hemoglobin and hematocrit repeated at 28 weeks;

3. Sickle cells preparation (when appropriate);

4. Rh factor and blood typing;

5. Serological test for syphilis at the first prenatal visit, and in the last trimester of pregnancy or at delivery. If the patient is exposed to an infected partner, a serological test for syphilis shall be performed no sooner than three weeks after exposure;

6. Papanicolaou smear at the first prenatal visit if not documented within the previous six months;

7. Tuberculin test with indicated follow-up if in close contact with a diagnosed case of tuberculosis or from a high-incidence area so designated by the Department;

8. Rubella titer. If this is negative, rubella vaccine with appropriate counseling regarding timing of future pregnancies shall be offered to the patient after delivery and prior to discharge from the birth center;

9. One hour glucose tolerance test at 28 weeks gestation, if indicated by risk factors;

10. Maternal serum alpha-fetoprotein testing offered at 15 to 20 weeks; and

11. Heptitis B virus screen with appropriate follow-up.

(d) Each patient shall be individually counseled about her progress in pregnancy by a certified nurse-midwife, physician, or a registered professional nurse at every visit, and a progress note shall be recorded in the patient's medical record.

(e) Each patient shall be examined at least once a month during the first seven months of gestation. Thereafter, the patient shall be seen every two weeks until 36 weeks and once a week thereafter. The examination shall be performed by either a certified nurse midwife or a physician.

(f) The results of all tests performed during patient examinations shall be documented in the patient's medical record including at a minimum: blood pressure, weight, dipstick urine analysis for glucose and protein, uterine growth, fetal heart rate, abdominal inspection and palpation, any unusual symptoms reported by the patient, and any physical evidence of abnormality. Evaluation of nutritional status and breast and pelvic examinations shall be documented on a regular basis.

8:43A-28.9 Labor and delivery patient services

(a) All deliveries shall be attended by a certified nurse-midwife, an obstetrician or a family practice physician.

(b) There shall be a second staff member present whenever a patient in active labor is in the facility. This individual shall be a registered professional nurse or an additional certified nurse midwife or physician.

(c) There shall be a health professional certified in neonatal resuscitation present for each delivery.

(d) A complete physical examination of the newborn shall be completed within two hours after birth.

8:43A-28.10 Newborn medical records

(a) The newborn's medical record shall be maintained as a separate record and shall include at least:

1. The date and time of birth;
2. The birth weight and length and head circumference;
3. The condition of the newborn at birth, including the one- and five-minute Apgar scores, details of any physical abnormalities, and any pathological states observed and treatment given;
4. A copy of vital records;
5. Documentation of eye prophylaxis, administration of any other medication or treament and response, administration of Vitamin K, and performance in inborn error and hearing screenings; and
6. A record of follow-up of mother and newborn following discharge from the birth center.

8:43A-28.11 Maternal-fetal transport and neonatal transport

(a) There shall be a formal transfer/transport agreement between the birth center and the affiliated community perinatal center identified at N.J.A.C. 8:43A-28.3(b).

(b) The birth center shall maintain a written compilation of indicators necessitating transfer and a written agreement for acceptance of such transfer patients developed by the affiliated community perinatal center and its staff, in collaboration with the birth center and its staff.

(c) The birth center shall develop a system to ensure continuity of care between the birth center and the transfer hospital, including escort of the patient to the admitting facility by a clinical staff member of the birth center.

8:43A-28.12 Supplies and equipment

(a) The birth center shall be equipped with at least the following:

1. A scrub sink with elbow, wrist, knee, or foot control;
2. Equipment for administering intravenous solutions to adults and newborns;
3. A supply of intravenous solutions including plasma expanders and glucose;
4. Emergency drug supplies;
5. A sphygmomanometer, stethoscope, fetoscope, and thermometer;
6. An infant scale;
7. One sterile pack for use in each birth room with at least one additional pack available. There shall be a written schedule for resterilization;
8. A least one infant warmer. If only one infant warmer is available, it must be transportable into all birth rooms;
9. An infant transport incubator, if not provided by the emergency transport service;
10. Resuscitation equipment for mother and infant;
11. Oxygen with a selection of mask sizes; and
12. Intubation equipment, including laryngoscopes and endotracheal tubes appropriate for adults and newborns.

8:43A-28.13 Additional quality assurance

(a) The quality assurance program shall, in addition to the requirements at N.J.A.C. 8:43A-18, include the following:

1. Review of all transfers of mothers and neonates to hospital care to determine the appropriateness and quality of the transfer; and
2. Review of all problems or complications of pregnancy, labor and postpartum and the appropriateness of the clinical judgement of the practitioner in obtaining consultation and attending to the problem.

SUBCHAPTER 29. EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY SERVICES

8:43A-29.1 Additional requirements

An ambulatory care facility which provides extracorporeal shock wave lithotripsy services shall comply with N.J.A.C. 8:43A-1 through 11 and 13 through 19, and this subchapter. If the facility also provides surgical or anesthesia services, then the facility shall also comply with N.J.A.C. 8:43A-12.

8:43A-29.2 Additional staffing

(a) In addition to providing other staff as required by the rules in this chapter, a facility providing extracorporeal shock wave lithotripsy services shall have at least the following staff:

1. A urologist who shall be able to arrive at the facility within 30 minutes of being called; and
2. An anesthesiologist who shall be able to arrive at the facility within 30 minutes of being called.

(b) Urologists and anesthesiologists participating in the provision of extracorporeal shock wave lithotripsy services shall be certified by the American Lithotripsy Society (13 Elm Street, Manchester, MA 01944) or the American Urological Association, Inc. (1120 North Charles Street, Baltimore, MD 21201).

8:43A-29.3 Safety

(a) A facility providing extracorporeal shock wave lithotripsy services shall comply with the following:

1. The policies and procedures of the facility shall identify the staff qualified to participate in the provision of lithotripsy services;
2. Lithotripters shall be inspected at least semiannually by a qualified person. Preventive maintenance shall be documented; and
3. The facility shall develop and implement operational policies addressing at least the following:
   i. The maximum number of shocks and/or voltage allowable;
   ii. Bilateral treatment;
   iii. Females of childbearing age;
   iv. Patient weight limitations; and
   v. Patients with pacemakers.

8:43A-29.4 Physical plant; extracorporeal shock wave lithotripsy services

(a) The lithotripsy suite of any facility which provides extracorporeal shock wave lithotripsy services shall conform with Chapter 9, Section 9.1B through I, of the Guidelines for Construction and Equipment of Hospital and Medical Facilities (1987 edition, The American Institute of Architects Press) incorporated herein by reference, and shall contain at least the following components:

1. A treatment room, which shall have a minimum of 360 square feet of floor space exclusive of fixed cabinets and built-in shelves. Handwashing facilities shall be located within the treatment room;
2. A cystoscopy room, which shall have a minimum clear area of 250 square feet exclusive of fixed cabinets and built-in shelves. A scrub sink shall be located adjacent to the entrance of the cystoscopy room;
3. Patient holding, induction, and preparation room(s), which shall be equipped with cabinets and handwashing facilities;
4. Patient clothing change areas. The facility shall provide areas in which male and female patients may change from street clothes into appropriate attire and prepare for treatment. These areas shall contain lockers and toilet facilities;
5. A postanesthesia care unit, which shall be designed so as to provide clearance space of at least three feet between patient stretchers and between patient bedsides and adjacent walls. The postanesthesia care unit shall satisfy the requirements of N.J.A.C. 8:43A-12.15 and shall contain at least the following:
   i. A nurses station with charting facilities;
   ii. A medication distribution station with handwashing facilities;
   iii. Toilet facilities; and
   iv. A clean holding area or room for the storage of clean and sterile equipment and linens;
6. A reception and information counter and desk;
7. A waiting area with access to a telephone, toilet facilities, and a drinking fountain;

8. A clerical space or room for business transactions and record storage, which shall be separate from public areas for purposes of confidentiality;

9. An enclosed soiled workroom, which shall contain a clinical sink or equivalent flushing-type fixtures, a work counter, and a sink equipped for handwashing;

10. A clean workroom or clean supply room. The clean workroom shall contain a work counter, a sink equipped for handwashing, and space for clean and sterile supplies;

11. A staff lounge and toilet facilities. Separate or combined lounges for male and female staff shall be provided;

12. A clinical report preparation area, which may be accessible from the lounge area;

13. An equipment storage room; and

14. A janitors' closet, which shall contain a floor receptor or service sink and storage for housekeeping supplies and equipment.

(b) New facilities shall comply with (a) above and with subsequent amendments and supplements to the 1987 edition of the standards referenced therein, which are incorporated herein by reference.

APPENDIX A

ADA-6
Jan. 91

New Jersey State Department of Health

DRUG AND ALCOHOL ADMISSION RECORD

H-4152

Name of Client (First, Middle Initial, Last)	Social Security Number	Telephone Number
	— —	( )

Street Address | City | State | Zip Code

1. Provider Number	2. Case # (1st 3rd 1st 3rd)	3. Sex (M/F)	4. Birthdate (mmddyy)	5. In-House Case No. (optional)	6. Admission Date (mmddyy)

IMPORTANT: After completion of above, separate the Admission Record (Parts 1 and 2) from the Discharge Record (Parts 3 and 4).
USE BALL POINT PEN ONLY. All * fields require coded responses; see codes on the reverse side.

7. Client Type*	8. Treatment Setting at Intake*	9. Is use of methadone planned as part of treatment?	10. Resid. Code (Co. Municip.)	11. Post Office Zip Code
		1 [ ] Yes 2 [ ] No		

12. Living Arrangements (Check ALL that apply)

A [ ] Alone
B [ ] With Children
C [ ] With Sibling(s)
D [ ] With Parent(s)
E [ ] With Spouse
F [ ] Living as Married
G [ ] With Foster Parent(s)
H [ ] With Other Relative(s)
I [ ] With Friend(s)
J [ ] In Group Quarters
K [ ] Homeless

13. Legal Status (Check ALL that apply)

A [ ] No Legal Problem
B [ ] Case Pending (Criminal)
C [ ] Probation
D [ ] Parole
E [ ] DWI License Suspension
F [ ] Jail/Prison Inmate
G [ ] DYFS/Family Court Case
H [ ] Other-Specify_____

14. Household Income Per Year (Enter: 000 if None; 999 if unknown)	15. Household Size (No. of Persons)	16. Race*	17. Indicate Hispanic Origin* (5 if not applicable)
$,000			

18. Marital Status*	19. Highest School Grade Completed	20. Is Client a Full-Time Student?	21. Employment Status*	22. Referral Source*
		1 [ ] Yes 2 [ ] No		

23. Number of Past Drug/Alcohol Treatment Episodes: (Enter: 00 if None; 99 if unknown)

24. Self-Help Groups Ever Participated In (Check ALL That Apply)

A [ ] None
B [ ] Narcotics Anonymous
C [ ] Alcoholics Anonymous
D [ ] Other
Specify:_____

25. Health Coverage*

A
B

26. Reimbursement Source*

A
B

[Agencies receiving public funds should note instructions]

27. Check all drugs USED within the past 6 months

___ A. Alcohol
___ B. Heroin
___ C. Non-Prescription Methadone
___ D. Other Opiates or Synthetics
___ E. Cocaine/Crack
___ F. Marijuana/Hashish
___ G. Methamphetamine
___ H. Other Amphetamines
___ I. Other Stimulants
___ J. Benzodiazepines
___ K. Other Tranquilizers
___ L. Barbiturates
___ M. Other Sedatives or Hypnotics
___ N. PCP
___ O. Other Hallucinogens
___ P. Inhalants
___ Q. Over-the-Counter
___ R. Other

27a. Drugs ABUSED	Primary	Secondary	Tertiary
Drug* (Use code letters at left)			
Route of Administration* (see codes below)			
Frequency* (see codes below)			
Age at First Use (99 if unknown)			

ROUTE CODES:	FREQUENCY CODES:
1 - Oral	1 - Not Used in Past Month
2 - Smoking	2 - Less Than Weekly
3 - Inhalation	3 - 1-2 Times Per Week
4 - Intramuscular/ Sub-Cutaneous	4 - 3 to 6 Times Per Week
5 - Intravenous	5 - Daily
	6 - 2 or More Times Per Day

28. Does Client Smoke Tobacco? 1 [ ] Yes 2 [ ] No

If yes, How many cigarettes per day? No. = (Packs X 20) Pipe = PP Cigar = CC

29. SPECIAL USE 5 10 15 20 25 30 35

Name of Agency | Name of Worker

APPENDIX A

ADA-6
Jan. 91

New Jersey State Department of Health
DRUG AND ALCOHOL DISCHARGE RECORD

Name of Client (First, Middle Initial, Last) | Social Security Number — — | Telephone Number ( )

Street Address | City | State | Zip Code

1. Provider Number	2. Case # (1st 3rd 1st 3rd)	3. Sex (M/F)	4. Birthdate (mmddyy)	5. In-House Case No. (optional)	6. Admission Date (mmddyy)

STOP! - Before continuing, remove tissue carbon which extends at bottom. Use Ball Point Pen ONLY.
Press firmly. All * fields require coded responses; see code list on the reverse side.

7. Treatment Setting at Discharge*	8. Date of Admission to Discharge Setting (mmddyy)	9. Date of Discharge (mmddyy)

10. Units of Service (non-residential)

(Days/Sessions)

11. Units of Service for Codependents Not Reported Separately (0 If None)

(Sessions)

12. Reason for Termination (Check One)

1[ ] Treatment Plan Completed
2[ ] Client Dropped Out
3[ ] Administrative/Therapeutic Discharge
4[ ] Deceased
5[ ] Hospitalized (Medical)
6[ ] Hospitalized (Psychiatric)
7[ ] Incarcerated
8[ ] Other (Specify): _____

13. Significant Problems and Conditions Present at Admission or Identified During Treatment (Check ALL that apply)

[ ] Not Applicable
A[ ] Mental Health Problem
B[ ] Compulsive Gambling
C[ ] Physical Disability/Handicap
D[ ] Victim of Physical Abuse/Neglect
E[ ] Victim of Sexual Abuse
F[ ] Pregnancy
G[ ] Suicide Attempt
H[ ] Runaway Behavior
I[ ] Neglect/Abuse of Clients' Children
J[ ] Child of Substance Abuser
K[ ] Batterer
L[ ] Criminal Activity
M[ ] Other: _____

14. Referrals for Alcohol/Drug Treatment at Discharge* (99 If None)

Setting Code

Non-Agency Referrals (Check ALL that apply)

1[ ] Employee/Student Assistance Program
2[ ] Alcoholics Anonymous
3[ ] Narcotics Anonymous
4[ ] Family-Oriented Self Help Program
5[ ] Other Self-Help Program, Specify: _____

15. Psychiatric Diagnoses (Excluding Drug and Alcohol)
[Required for Mental Health Agencies Optional for Others.]

A ____.____

B ____.____

16. Referrals for Supportive Services (Check ALL that apply)

A[ ] None
B[ ] Clergy
C[ ] Educational
D[ ] Legal
E[ ] Medical
F[ ] Mental Health
G[ ] Public Welfare
H[ ] Pre-Natal
I[ ] Family Services
J[ ] Vocational Rehab.
K[ ] Housing
L[ ] Social Services
M[ ] Employment
N[ ] Food Stamps/Food
O[ ] Women's Center
P[ ] Other _____

17. Evaluation of Client Goal Achievement* (Each item must be answered)
(Enter Code : A-Achieved, B-Partially Achieved, C- Not Achieved, D-Not Applicable)

1[ ] Alcohol/Drug Problem
2[ ] Educational
3[ ] Psycho/Social
4[ ] Employment/Vocational
5[ ] Family Situation
6[ ] Health
7[ ] Legal

18. Is Client Using at Discharge:

A[ ] No B[ ] Alcohol? C[ ] Other Drugs?

19. Employment Status*

20. SPECIAL USE 5 10 15 20 25 30 35

Name of Agency | Name of Worker

APPENDIX A

CODE LIST FOR ADMISSION AND DISCHARGE FORMS

7. TYPE OF CLIENT *(ADMISSION FORM)*

1 Alcohol/Drug Abuser
2 Parent
3 Spouse
4 Child
5 Other Relative
6 Non-Family

8. TREATMENT SETTING AT INTAKE *(ADMISSION FORM)*
7. TREATMENT SETTING AT DISCHARGE *(DISCHARGE FORM)*
14. REFERRALS FOR ALCOHOL/DRUG TREATMENT *(DISCHARGE FORM)*

01 Counselor/Coordinator
10 Hospital Detox/IMU
15 Residential Detox
20 Short-Term Residential
25 Therapeutic Community/ Long-Term Residential
30 Extended Care
40 Outpatient Care
49 Outpatient Methadone Maintenance
50 Intensive Outpatient
59 Outpatient Detox
60 Halfway House
70 Intervention/Referral

16. RACE *(ADMISSION FORM)*

1 Alaskan Native
2 American Indian
3 Asian/Pacific Islander
4 Black
5 White
6 Other

17. HISPANIC ORIGIN *(ADMISSION FORM)*

1 Puerto Rican
2 Mexican
3 Cuban
4 Other Hispanic
5 Not of Hispanic Origin

18. MARITAL STATUS *(ADMISSION FORM)*

1 Never Married
2 Married
3 Widowed
4 Separated
5 Divorced/Annulled
9 Not Assessed

21. EMPLOYMENT STATUS *(ADMISSION FORM)*
19. EMPLOYMENT STATUS *(DISCHARGE FORM)*

1 Employed Full-Time
2 Employed Part-Time
3 Unemployed-Seeking Work
4 Not in Labor Force
9 Not Assessed

22. REFERRAL SOURCE *(ADMISSION FORM)*

01 Self
02 Family/Friend
03 Alcohol/Drug Treatment Agency/Practitioner
04 Criminal Justice System/Police
05 IDRC/IDP
06 Hospital/Other Health Care Facility
07 Comm. Mental Health/Counseling Service
08 Physician/Psychiatrist
09 Employer/EAP
10 School
11 DYFS
12 Other Social Service Agency
13 Self-Help Group
14 Service Force
15 Other

25. HEALTH COVERAGE *(ADMISSION FORM)*

00 None
01 Medicare
02 Medicaid
03 Blue Cross/Blue Shield
04 Commercial Insurance
05 HMO
98 Other
99 Unknown

26. REIMBURSEMENT SOURCE *(ADMISSION FORM)*

00 None
01 Medicare
02 Medicaid
03 Blue Cross/Blue Shield
04 Commercial Insurance
05 HMO
06 DYFS
07 Div. of Vocational Rehabilitation
08 Municipal Welfare
09 County/State Contract
10 Self Pay
98 Other

(a)

DIVISION OF HEALTH FACILITIES EVALUATION

Hospital Licensing Standards
Funding for Regionalized Services
Proposed New Rules: N.J.A.C. 8:43G-5.10

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner Designate, 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, and N.J.S.A. 26:2-119 et seq.

Proposal Number: PRN 1993-83.

Submit comments by March 31, 1993 to:
Robert J. Fogg, Acting Director
Licensing, Certification and Standards
New Jersey Department of Health
CN 367
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Health is proposing to amend the Hospital Licensing Standards through the addition of a new rule at N.J.A.C. 8:43G-5.10. The purpose of the new rule is to assure that all licensed acute care hospitals participate in regional services, specifically the New Jersey Poison Control Information and Education System (NJPIES). The enactment of P.L. 1992, c.160 on November 30, 1992, has significantly impacted the Department's ability to assure ongoing maintenance of essential services absent a hospital rate-setting system and, therefore, jeopardizes the continuation of certain vital public health services such as NJPIES, making this new rule necessary.

Social Impact

The New Jersey Poison Control Information and Education System is a vital source of information about exposures to potentially poisonous substances. NJPIES provides a vast array of informational services; its areas of expertise include occupationally related toxic exposures, poisonous substances, prescription drugs and other medications. NJPIES also operates the New Jersey AIDS Hotline and the Rabies Hotline which was implemented in July 1990. In addition to providing informational services, NJPIES is very active in designing and implementing preventive educational services for the public.

The services of NJPIES are available 24 hours a day, seven days a week. The staff is comprised of 16 information specialists, each of whom has a background in medicine, nursing or pharmacy. These information specialists are "backed-up" by physicians trained in basic primary care disciplines with special competence in medical toxicology.

The volume of calls to NJPIES has increased each year since its inception in 1983. The number of calls in 1990 totalled 99,734. At the current rate of growth, it is projected that the volume of calls will exceed 100,000 a year for poison calls alone. A review of the origin of calls in 1990 demonstrated that call volume was well correlated with county population. This finding shows that the services of NJPIES are used and valued by the entire State of New Jersey.

Economic Impact

The system-wide cost of operating NJPIES was $850,000 in 1992. The direct financial impact on the 85 hospitals which supported the system was $10,000 per hospital. It is anticipated that this level of payment for membership will continue, or could conceivably increase, depending on inflationary effects or reductions in the Department's appropriation for this program. Presently, the Department provides approximately $450,000 to support the NJPIES program.

Regulatory Flexibility Statement

The proposed new rule in the hospital licensing standards would not affect small businesses, as the term is defined in the Regulatory Flexibility Act, 52:14B-16 et seq. The hospitals in New Jersey which are regulated by N.J.A.C. 8:43G all employ more than 100 people. Businesses other than hospitals would not be affected. Therefore, a regulatory flexibility analysis is not required.

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

8:43G-5.10 [Department education programs; advisory (Reserved)]
Funding for regionalized services

All hospitals providing emergency room services shall be members in good standing of the New Jersey Poison Information and Education System established pursuant to N.J.S.A. 26:2-119 et seq.

(b)

DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICES

Worker and Community Right to Know Act
Right to Know Hazardous Substance List
Special Health Hazard Substance List
Pre-Proposal for Repeal and New Rule: N.J.A.C. 8:59, Appendices A and B

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner Designate, Department of Health.

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

Pre-Proposal Number: PPR 1993-2.

A **public hearing** will be held:
Friday, March 26, 1993
10:00 A.M. to 5:00 P.M.
Department of Personnel
Human Resources Development Institute
600 College Road East
Princeton, N.J. 08540

Persons who wish to testify should call Eva McGovern at 609-984-2202.

Address comments and inquiries to:
Richard Willinger, Program Manager
Right to Know Program
Occupational Health Service
New Jersey Department of Health
CN 368
Trenton, New Jersey 08625-0368
(609) 984-2202

The agency pre-proposal follows:

Summary

N.J.A.C. 8:59 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. 34:5A-1 et seq. Appendix A was amended on October 1, 1984. The chapter was readopted on September 29, 1989.

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 was originally called the Workplace Hazardous Substance List. However, since the list incorporates an Environmental Hazardous Substance List and Hazardous Material Tables regulated by the Department of Environmental Protection and Energy in their implementation of Community Right to Know, and the chemicals overlap, the list is now called the Right to Know Hazardous Substance List.

Appendix B, a subgroup of Appendix A, indicated by the symbol "#" in front of the name of the substance, contains a list of hazardous substances "which, because of their known carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity, and 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 for public employers is that it must be reported on the Right to Know Survey, it must be listed on all container labels if present in more than 1.0 percent of a mixture, and public employees must receive training about the chemical.

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 can not claim trade secrecy for that substance and must report it on the Right to Know Survey (for public employers) or 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 reported on the survey and listed on containers labels if present in a mixture at more than 0.1 percent.

The Appendices are necessary 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.

It is now proposed to change the Appendices by adding and deleting substances to the Right to Know Hazardous Substance List and Special Health Hazard Substance List, adding and deleting special health hazard codes to the Special Health Hazard Substance List, and adding and deleting Substance Numbers, DOT numbers, Chemical Abstracts Service numbers, and Reference Source numbers to the Right to Know Hazardous Substance List. The changes are being made as a repeal of existing rules and promulgation of new rules because the changes number in the hundreds, and to depict the changes as deletions and additions would be impractical.

The proposed changes to Appendix A and Appendix B are in the form of a pre-proposal because of existing regulatory requirements. According to the existing rule, "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 pre-proposal for a rule pursuant to the requirements of N.J.A.C. 1:30-3.2." (N.J.A.C. 8:59-9.3(d)).

Furthermore, "Notice of proposal 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." (N.J.A.C. 8:59-9.3(f)).

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

Approximately four years ago, on May 15, 1989, the Department made a similar pre-proposal to repeal and adopt a modified Right to Know Hazardous Substance List and Special Health Hazard Substance List; however, the changes were never proposed and adopted. The current pre-proposal is a much more comprehensive updating of the Reference Sources and the elimination of unnecessary listings from the DOT list. A summary of the comments made on the May 15, 1989, pre-proposal and the Department's responses are listed below because of the important issues that they raise.

Written comments about the Right to Know Hazardous Substance List and Special Health Hazard Substance List were received from eight organizations, two of whom also testified at a public hearing. Comments were received from Atlantic Electric, DuPont, Flavor and Extract Manufacturers Association and Fragrance Materials Association (combined), the Forum for Scientific Excellence, GPU Nuclear Corporation, Monsanto Chemical Company, and Royce Associates.

Atlantic Electric commented favorably about the inclusion of synonyms and generics on the Right to Know Hazardous Substance List and their use on container labels. From the comments submitted, however, there appears to be some misunderstanding about the use of these names on container labels. For synonyms, only the synonyms listed on the Right to Know Hazardous Substance List may be used on container labels. No other synonyms may be used.

In regard to the use of generic names, in most cases generic names can not be used on container labels. Their primary use is for reporting products on Right to Know Surveys and Community Rights to Know Surveys for products which are hazardous but whose hazardous ingredients are unknown. Generic names (that is, those designated as "gen" on the Right to Know Hazardous Substance List) will only be allowed on container labels for the approximately thirty generic categories that have a CAS number next to the generic name on the List. The only generic name that can be used without a CAS number would be "Fuel Oil" for labeling heating oil and diesel fuel.

The intent of the Right to Know Law is to identify chemical ingredients by their exact chemical names. Therefore, the law does not allow the use of broad generic categories such as "solvents," on container labels. The solvents in a product must be listed on the label by chemical name and, if all ingredients are not known, the phrase "Contents Partially Unknown" must be added.

Atlantic Electric proposed that the List be revised to reflect the quantities of each substance that are hazardous as the Environmental Protection Agency (EPA) has done. The New Jersey Right to Know law covers public employees in addition to the emergency responders which EPA covers. A hazard to an employee who works with a hazardous chemical can occur from almost any quantity of the substance, depending on its use and exposure, therefore it would not be appropriate to set a hazard threshold. A more appropriate analogy would be the hazardous chemicals covered by the Occupational Safety and Health Administration's Hazard Communication Standard which covers private employees and contains no hazard threshold.

Atlantic Electric and DuPont requested that the Department make it easier to identify what substances are being added, deleted, or changed on the Right to Know Hazardous Substance List by highlighting or printing a separate list of the changes. The Department has done this by the use of the symbols "chg," "+" and "@" in the List. "Chg" indicates a change to the chemical name, CAS number or DOT number, "+" indicates an addition to the Special Health Hazard Substance List, and "@" indicates a deletion from the Special Health Hazard Substance List.

To further enable an interested party to compare the old and new lists, a diskette of each list is available for $25.00 each, which will enable a comparison of the lists on a computer system. A printed list of additions, deletions and changes can be requested, but the requestor must indicate the specific change requested (for example, a list of the chemicals being added, a list of those being deleted).

The Flavor and Extract Manufacturers Association and Fragrance Materials Association (hereinafter referred to as FEMA/FMA) claimed that the addition of U.S. Department of Transportation (DOT) substances to the Right to Know Hazardous Substance List was arbitrary and in violation of the Right to Know Act. The Department disagrees.

The DOT list, 49 CFR Part 172.102, has been a part of the Right to Know Hazardous Substance List since its creation in 1984. This list has since been incorporated into the other DOT Hazardous Materials List, 49 CFR Part 172.101. The Department has the authority to rely on another agency's list of hazardous substances and to incorporate it into the Right to Know Hazardous Substance List. Public employees covered by the Right to Know Act not only consist of workers in public facilities, but include emergency responders such as firefighters and police officers who could encounter any of the substances on the DOT's Hazardous Materials Table in the course of their work.

FEMA/FMA claimed that the Department had arbitrarily failed to include qualifications on the hazards of substances adopted from the list of other agencies, such as the Environmental Protection Agency's (EPA) list of extremely hazardous substances which contains threshold planning quantities. The Department has not adopted these threshold planning quantities for the reasons discussed above.

FEMA/FMA also commented about labeling containers using generic DOT categories such as "cosmetics, flammable, n.o.s." As discussed previously, these generic category names cannot be used on labels. Only the generic categories which have CAS numbers can be used on labels, with one exception. "Fuel Oil" is the only generic name that can be used on a label without a CAS number.

FEMA/FMA contended that the Special Health Hazard Substance List (SHHSL) was overinclusive and exceeded the statutory authority for including substances on the list. Specifically, they contended that the law only allows known human carcinogens and teratogens to be included on the SHHSL. This is not accurate. The law does not restrict the Department to cover only the small number of known human carcinogens and teratogens. The carcinogens and teratogens which are included on the list include both known human and known animal carcinogens and teratogens.

Finally, the two organizations alleged that special health hazard substances must pose a "special hazard" to workers in addition to their "known carcinogenicity, nutagenicity, etc". These substances do pose a special hazard to workers by being present on-site and causing actual or potential exposure to the workers with consequent actual or potential serious health hazards.

The Forum for Scientific Excellence (FSE) claimed that many hazardous substances were missing from the Right to Know Hazardous Substance List and that many special health hazard codes were missing from the hazardous substances listed. Among the list of chemicals submitted to the Department for review were chemicals alleged to be carcinogens, explosives, flammables, neurotoxins, corrosives, and a teratogen.

In the case of the neurotoxins, they cannot be added to the Special Health Hazard Substance List with that designation because the Right to Know Act only allows carcinogens, mutagens, teratogens, flammables, corrosives and reactives to be included on the special health hazard list. Sixty-five of the 66 neurotoxins on the list submitted by FSE are already listed on the Right to Know Hazardous Substance List. The neurotoxicity of these substances is or will be explained on the Hazardous Substance Fact Sheet written about each substance.

Of the substances alleged to be carcinogenic, the Department has determined that three meet the definition of a carcinogen in the Right to Know Regulations, N.J.A.C. 8:59-10.2(a)1, and will be added to the Special Health Hazard Substance List. The remaining 66 substances will not be given this designation because they do not meet the definition of a special health hazard substance. The proposed teratogen meets the definition of a teratogen in the regulations, N.J.A.C. 8:59-10.2(a)3, and will be added to the RTKHSL and Special Health Hazard Substance List.

Of the substances alleged to be flammable, explosive/reactive, and corrosive, the Department has determined that two of them meet the definition of flammable, reactive and/or explosive, or corrosive in the Right to Know Regulations, N.J.A.C. 8:59-10.2(a)4, 5 and 6, and will be added to the Special Health Hazard Substance List. The remaining 89 will not be added because they do not meet the definition of a special health hazard substance.

Among the categories recommended by FSE for inclusion on the Right to Know Hazardous Substance List were manufacturing processes. While some manufacturing processes are certainly hazardous, the Right to Know Hazardous Substance List can only cover individual and some generic categories of hazardous substances, not processes.

GPU Nuclear suggested that all synonyms on the Right to Know Hazardous Substance List have Chemical Abstracts Service numbers listed next to them to realize the benefit of cross-referencing. In order for the synonym listed to be able to be used without reference to the original chemical name listing, all of the information about the chemical (for example, substance number, CAS number, DOT number, SHH codes and Source Numbers) would have to be listed with the synonym. This would unduly lengthen the list and make it more difficult to pick out the synonyms.

Monsanto Chemical Company, a manufacturer of butyl benzyl phthalate (BBP), claimed that BBP was not hazardous and, therefore, should not be added to the Right to Know Hazardous Substance List. They claimed that Source 18 (EPA), from which the chemical was derived, plans to delist BBP from its Section 313 List of Toxic Chemicals, and that Source 20 (EPA), from which the chemical was also derived, is an inappropriate basis for inclusion of a material on the New Jersey list. Source 20 is the list of Hazardous Substances and Reportable Quantities established pursuant to CERCLA (Superfund).

The addition of BBP to the Right to Know Hazardous Substance List will not be changed. While EPA may decide to delist BBP as a toxic air emission under Section 313 of SARA, Title III, the petitioner does not claim that they are planning to delist it from their list of hazardous substances under CERCLA (Superfund). The fact that EPA has BBP on this list constitutes sufficient documented scientific evidence that it is hazardous. Only if EPA delists BBP from both lists will the Department consider delisting it from the Right to Know Hazardous Substance List.

Royce Associates testified at the public hearing and in written testimony that pure metal zinc is not hazardous and the listing of "Zinc" on the Right to Know Hazardous Substance List was incorrect and should be changed. They suggested using the listing "Zinc (fume or dust)" which appears in one of the Reference Sources, #18-EPA, SARA-Title III, Section 313. The Department agrees that this is a more appropriate listing and will modify the Right to Know Hazardous Substance List to say "Zinc (Dust and Fume)".

A. Appendix A—Right to Know Hazardous Substance List

The Department proposes to add 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 come from new sources being added to the List, from the U.S. Environmental Protection Agency's List of Acutely Toxic Chemicals (Source #16), Section 313 List of Toxic Chemicals from SARA-Title III (Source #18), List of Extremely Hazardous Substances from SARA-Title III (Source #19), List of Hazardous Substances from CERCLA (Source #20), and the RCRA List of Hazardous Wastes (Source #21).

In addition, the Department proposes to add generic categories of hazardous substances and materials to the Right to Know Hazardous Substance List. These substances and materials are cited by 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). The Department has thorougly reviewed the DOT list and has deleted materials from the DOT list which are not hazardous substances.

The Department also proposes to add synonyms to the Right to Know Hazardous Substance List in order to enable employers, employees and the general public to find hazardous chemicals that are commonly known by more than one chemical name. A few of the synonyms have Chemical Abstracts Service numbers after them to reflect the fact that they are different isomers of chemicals that are known by the same chemical 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 may already be in use on labels.

A list of substances, generic categories, and synonyms being added to the Right to Know Hazardous Substance List is available from the Right to Know Program, New Jersey Department of Health, CN 368, Trenton, NJ 08625-0368. Please indicate whether you are requesting the changes from the October 1984 list or the last published list dated December 1989.

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 which is extensively used by responders to locate important information about hazardous chemicals in the Emergency Response Guidebook.

All of the reference source citations are being updated to reflect the most current editions of the cited publications. The new reference sources and their 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, December 1985.

Source #17—1990 Emergency Response Guidebook, Office of Hazardous Materials Transportation, Research and Special Programs Administration, U.S. Department of Transportation, March 31, 1990.

Source #18—List of Toxic Chemicals, Section 313, Title III—Emergency Planning and Community Right to Know, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part 372.65, July 1, 1990, through August 1991.

Source #19—List of Extremely Hazardous Substances and Their Threshold Planning Quantities, Section 302, Title III—Emergency Planning and Community Right to Know, Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part 355—Emergency Planning and Notification, Appendix A, July 1, 1990.

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, July 1, 1990, as amended in 55 FR 30185, July 24, 1990.

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, July 1, 1989.

Five of these new reference sources are from the U.S. Environmental Protection Agency and one 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.

The revised Right to Know Hazardous Substance List being printed herein incorporates all of the additions, deletions and modifications of

hazardous substance listings to the List. The public can obtain additional copies of the revised Right to Know Hazardous Substance List from the address listed above. Copies are also available on diskette in DBase III+ or ASCII for $25.00 (to cover costs).

B. Appendix B—Special Health Hazard Substance List (SHHSL)

The Department proposes to add special health hazard codes to certain substances. Of these substances, some are already on the SHHSL because of existing special health hazard codes, while others are being added to the SHHSL for the first time.

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

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, 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. A list of the substances for which special health hazard codes are being added or deleted is available from the Department, at the above address.

C. Appendix A and Apendix 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 effect of these new Appendices will be greater protection of the health and welfare of New Jersey's public employees, emergency responders and citizens, through updated information regarding those substances which are hazardous or are special health hazards.

In the past seven years, hundreds of thousands of public employees have been trained about the health and safety hazards of the hazardous substances they work with and 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. Tens of 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 employees, emergency responders and the public.

The worker protection provisions of the rule 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. Tens of thousands of emergency responders in fire and police departments across the State are also affected by the rules.

Economic Impact

The addition of several hundred chemicals to the Right to Know Hazardous Substance List and the Special Health Hazard Substance List could increase reporting costs for public employers, if those chemicals are present at public work sites and are not now being reported. Public employers are already reporting and labeling most of the substances on the revised list. Private employers are not required to report these substances to the Department of Health.

Employers, both public and private, are currently required by the universal labeling provisions of the Right to Know law to label containers with the five chemicals most present in the container. Public employers' labeling requirements could increase, if chemicals below the "top five" listed are hazardous. Chemicals on the Right to Know Hazardous Substance list do not have to be listed on a label by private employers if they are below the top five ingredients, unless they appear on the DEPE's Environmental Hazardous Substance list, a much smaller list.

The addition of approximately 100 chemicals to the Special Health Hazard List has the effect of removing the opportunity for the employer to claim those chemicals as a trade secret. The presence of the chemicals would have to be revealed. The economic impact of classification as a special health hazard is unknown, but would be related to the particular circumstances surrounding the manufacture of each chemical.

Regulatory Flexibility Analysis

The addition of several hundred chemicals to the Hazardous Substance list and the Special Health Hazard list will place requirements on public and private employers. Many of the private employers could be considered small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The small businesses affected by the labeling requirements are usually able to comply through their purchasing practices, since many of the wholesalers they buy from would have already placed the required labels on the containers. For that reason, and for reasons of public health and safety, the Department has determined that there should not be any differentiation provided in these appendices which would specifically benefit small businesses.

Full text of the preproposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:59, Appendices A and B.

Full text of the preproposed new rules follows:

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 is assigned to each hazardous substance and is 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 this 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, DOT number, Special Health Hazard Code, common name, or chemical name of this substance has been changed.
add	—Indicates that the name listed is a substance or synonym that has been added.
#	—Indicates that a substance is on the Special Health Hazard Substance List.
+	—Indicates that this substance is an addition to the Special Health Hazard Substance List.
@	—Indicates that this substance is a deletion from 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 the 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 section. The source numbers are located in the right column, one line below the common name.

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RIGHT TO KNOW HAZARDOUS SUBSTANCE LIST

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
2958	ACENAPHTHENE	83-32-9		8 20
2959	ACENAPHTHYLENE	208-96-8		8 20
3140 add	ACEPHATE	30560-19-1		8
2057	ACETAL	105-57-7	1088	3
0001	# ACETALDEHYDE	75-07-0	1089	(CA,F4,R2) 1 2 3 6 7 8 15 17 18 20 21
0002	ACETALDEHYDE AMMONIA ETHANOL, 1-AMINO-	75-39-8	1841	3 17
0003	ACETALDEHYDE OXIME ACETALDEHYDE, OXIME	107-29-9	2332	3 17
syn	ACETALDEHYDE, TRICHLORO- see CHLORAL			
syn	ACETALDOXIME see ACETALDEHYDE OXIME			
2890	+ ACETAMIDE	60-35-5		(CA) 6 7 18
syn	ACETAMIDE, N-(4-ETHOXYPHENYL)- see PHENACETIN			
2960	ACETAMIDE, N-(AMINOTHIOXOMETHYL)-	591-08-2		20 21
0004	# ACETIC ACID	64-19-7	2789+	(CO) 1 2 3 15 17 20
0005	# ACETIC ANHYDRIDE ACETIC ACID, ANHYDRIDE	108-24-7	1715	(CO) 1 2 3 4 15 17 20
syn	ACETOIN see ACETYL METHYL CARBINOL			
0006	# ACETONE 2-PROPANONE	67-64-1	1090	(F3) 1 2 3 4 6 8 10 15 17 18 20 21
0007	# ACETONE CYANOHYDRIN PROPANENITRILE, 2-HYDROXY-2-METHYL-	75-86-5	1541	(R2) 3 4 6 10 15 16 17 18 19 20 21
2058 gen	ACETONE OIL		1091	3 17
2059	ACETONE THIOSEMICARBAZIDE	1752-30-3		16 19
0008	# ACETONITRILE METHYL CYANIDE	75-05-8	1648	(F3) 1 2 3 4 6 8 10 15 17 18 20 21
syn	ACETOPHENETIDIN see PHENACETIN			
2961	ACETOPHENONE	98-86-2		8 15 17 20 21
syn	ACETOZONE see ACETYL BENZOYL PEROXIDE			
0009	ACETYL ACETONE PEROXIDE 2,4-PENTANEDIONE, PEROXIDE	37187-22-7	2080	3 17
syn	ACETYLACETONE see PENTANE-2,4-DIONE			
0010	# 2-ACETYLAMINOFLUORENE ACETAMIDE, N-9H-FLUOREN-2-YL-	53-96-3		(CA) 1 4 5 6 18 20 21
0011	ACETYL BENZOYL PEROXIDE PEROXIDE, ACETYL BENZOYL	644-31-5	2081	3 17
0012	# ACETYL BROMIDE	506-96-7	1716	(CO) 3 17 20
0013	# ACETYL CHLORIDE	75-36-5	1717	(CO,F3,R2) 3 8 15 17 20 21

RIGHT TO KNOW HAZARDOUS SUBSTANCE LIST

SUBSTANCE NUMBER	COMMON NAME / CHEMICAL NAME	CAS	DOT	SHH CODE(S) SOURCE NUMBER(S)
0014	ACETYL CYCLOHEXANE SULFONYL PEROXIDE PEROXIDE, ACETYL CYCLOHEXYLSULFONYL	3179-56-4	2082+	3 17
0015	# ACETYLENE ETHYNE	74-86-2	1001	(F4,R3) 2 3 4 15 17
syn	ACETYLENE DICHLORIDE see 1,2-DICHLORDETHYLENE			
0016	ACETYLENE TETRABROMIDE ETHANE, 1,1,2,2-TETRABROMO-	79-27-6	2504	1 2 3 15 17
0017	# ACETYL IODIDE	507-02-8	1898	(CO) 3 17
0018	ACETYL METHYL CARBINOL 2-BUTANONE, 3-HYDROXY-	513-86-0	2621	3 17
0019	# ACETYL PEROXIDE PEROXIDE, DIACETYL	110-22-5	2084	(R4) 3 15 17
0020	+ ACETYLSALICYLIC ACID BENZOIC ACID, 2-(ACETYLOXY)-	50-78-2	1851	(TE) 1 2 3 17
3141 add	1-ACETYL-2-THIOUREA	591-08-2		20 21
syn	ACID BUTYL PHOSPHATE see BUTYL ACID PHOSPHATE			
syn	ACID SLUDGE see SLUDGE ACID			
2064	ACRIDINE	260-94-6	2713	3 7 17
0021 chg	# ACROLEIN 2-PROPENAL	107-02-8	1092	(F3,R2) 1 2 3 6 7 12(B) 14 15 16 17 18 19 20 21
0022	+ ACRYLAMIDE 2-PROPENAMIDE	79-06-1	2074	(CA) 1 2 3 4 6 7 16 17 18 19 20 21
0023	# ACRYLIC ACID 2-PROPENOIC ACID	79-10-7	2218	(CO,R2) 1 2 3 6 7 8 15 17 18 20 21
0024	# ACRYLONITRILE 2-PROPENENITRILE	107-13-1	1093	(CA,F3,R2) 1 2 3 4 5 6 7 8 10 14 15 16 17 18 19 20 21
2065	ACRYLYL CHLORIDE	814-68-6		16 19
0025	# ACTINOMYCIN D	50-76-0	1851	(CA,MU,TE) 1 3 7 13(A, E, H, V, X) 17
3072 gen chg	ADHESIVES		1133	3 17
0026	ADIPIC ACID HEXANEDIOIC ACID	124-04-9	9077	3 15 20
0027	ADIPONITRILE HEXANEDINITRILE	111-69-3	2205	3 4 8 10 15 16 17 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 5 7 17
3142 add	+ AF-2[2-(2-FURYL)-3-(5-NITRO-2-FURYL)ACRYLAMIDE]			(CA) 7
3075	+ AFLATOXIN B1 CYCLOPENTA(1)FURO(3',2':4,5)FURO(2,3,-h)(1)BENZOPYRAN-1,11-DIONE * 2M3M6a,9a-TETRAHYDRO-o-4-METHOXY	1162-65-8		(CA) 5 7
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
2070 gen	AIR, COMPRESSED		1002+	3 17

3143 add	ALACHLOR	15972-60-8		8 14
3144 add	ALAR	1596-84-5		8
syn	ALCOHOL (ETHYL) see ETHYL ALCOHOL			
2079 gen	ALCOHOL, n.o.s.		1987+	3 17
syn	ALDEHYDE AMMONIA see ACETALDEHYDE AMMONIA			
2081 gen	ALDEHYDES, n.o.s.		1989+	3 17
0031	ALDICARB PROPANAL, 2-METHYL-2-(METHYLTHIO)-, O-((METHYLAMINO)CARBONYL)- * OXIME	116-06-3	2757	3 14 16 19 20 21
3145 add	ALDICARBSULFONE	1646-88-4		8
0032	ALDOL BUTANAL, 3-HYDROXY-	107-89-1	2839+	3 15 17
0033	# 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 7 8 14 15 16 18 19 20 21
syn	ALIPHATIC NAPHTHA see VM & P NAPHTHA			
2083 gen	ALKALI METAL ALLOYS, LIQUID		1421	3 17
2084 gen	ALKALI METAL AMALGAM, n.o.s.		1389	3 17
2085 gen	ALKALI METAL AMIDES, n.o.s.		1390	3 17
2086 gen	ALKALI METAL DISPERSIONS, n.o.s. or ALKALI EARTH * METAL DISPERSIONS, n.o.s.		1391	3 17
2087 gen	ALKALINE BOILER OR WATER TREATMENT COMPOUND		1760	3 17
2088 gen	ALKALINE CORROSIVE LIQUID, n.o.s.		1719	3 17
2089 gen	ALKALINE EARTH METAL ALLOYS, n.o.s.		1393	3 17
2090 gen	ALKALINE EARTH METAL AMALGAMS, n.o.s.		1392	3 17
2091 gen chg	ALKALINE EARTH METAL DISPERSIONS, n.o.s.		1391	3 17
2093 gen	ALKALOIDS, n.o.s. or ALKALOID SALTS, n.o.s., POISONOUS		1544+	3 17
0034	# ALKANE SULFONIC ACID METHANESULFONIC ACID	75-75-2	2584	(CO) 3
2094 gen	ALKYLAMINES or POLYALKYLAMINES, n.o.s.		2733+	3 17
2097 gen	ALKYL, ARYL, or TOLUENE SULFONIC ACID		2584+	3
2101 gen	ALKYL PHENOL, n.o.s.		2430+	3 17
3146 gen add	ALKYL SUFONIC ACID		2584+	17
syn	ALLENE see PROPADIENE			
2102	ALLETHRIN	584-79-2	2902	3 17
3147 add	ALLY	74223-64-6		8
0035	# ALLYL ACETATE ACETIC ACID, 2-PROPENYL ESTER	591-87-7	2333	(F3) 3 15 17
0036	# ALLYL ALCOHOL 2-PROPEN-1-OL	107-18-6	1098	(F3) 1 2 3 6 14 15 16 17 18 19 20 21
0037	# ALLYL AMINE 2-PROPEN-1-AMINE	107-11-9	2334	(F3) 3 15 16 17 19
0038	# ALLYL BROMIDE 1-PROPENE, 3-BROMO-	106-95-6	1099	(F3) 3 15 17
0039	# ALLYL CHLORIDE 1-PROPENE, 3-CHLORO-	107-05-1	1100	(F3) 1 2 3 4 6 7 8 10 15 17 18 20
0040	# ALLYL CHLOROCARBONATE CARBONOCHLORIDIC ACID, 2-PROPENYL ESTER	2937-50-0	1722	(CO,F3) 3 15 17
syn add	ALLYL CHLOROFORMATE see ALLYLCHLOROCARBONATE			
syn	ALLYL ETHER see DIALLYLETHER			
0041	# ALLYL ETHYL ETHER 1-PROPENE, 3-ETHOXY-	557-31-3	2335	(F4,R4) 3 17
0042	ALLYL FORMATE FORMIC ACID, 2-PROPENYL ESTER	1838-59-1	2336	3 17
0043	ALLYL GLYCIDYL ETHER OXIRANE, (2-PROPENYLOXY)METHYL -	106-92-3	2219	1 2 3 4 10 17
0044	# ALLYL IODIDE 1-PROPENE, 3-IODO-	556-56-9	1723	(CO,F3) 3 17
0045	@ ALLYL ISOTHIOCYANATE 3-ISOTHIOCYANATOPROPENE	57-06-7	1545	3 7 17
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,F3,R2) 3 15 17
0053	# ALPRAZOLAM ((4H-S-TRIAZOLO(4,3-alpha))1,4) BENZODIAZEPINE, 8-CHLORO-1- * METHYL-6-PHENYL	28981-97-7		(TE) 13(Y,EE)
syn add	alpha-ALUMINA see ALUMINUM OXIDE			
0054	ALUMINUM (DUST AND FUME)	7429-90-5	1383+	1 2 3 6 12 (A) 15 17 18
2103 gen	ALUMINUM ALKYL		3051	3 15 17
2104 gen	ALUMINUM ALKYL CHLORIDE		2221+	3 17
2107 gen	ALUMINUM ALKYL HALIDES		2221+	3 15 17
2108	ALUMINUM BOROHYDRIDE	16962-07-5	2870	3 17
0055	# ALUMINUM BROMIDE	7727-15-3	1725+	(CO) 3 17
0056	ALUMINUM CARBIDE	12656-43-8	1394	3 17
0057	# ALUMINUM CHLORIDE	7446-70-0	1726+	(CO,R2) 2 3 15 17
0058	ALUMINUM FERROSILICON ALUMINUM IRON SILICIDE	12003-41-7	1395	3 17
0059	ALUMINUM FLUORIDE	7784-18-1		1 2 4
0060	ALUMINUM HYDRIDE	7784-21-6	2463	3 17
syn	ALUMINUM LITHIUM HYDRIDE see LITHIUM ALUMINUM HYDRIDE			
0061	ALUMINUM NITRATE NITRIC ACID, ALUMINUM SALT	13473-90-0	1438	2 3 17
2891	ALUMINUM OXIDE	1344-28-1		1 2 6 18
0062	# ALUMINUM PHOSPHATE PHOSPHORIC ACID, ALUMINUM SALT (1:1)	7784-30-7	1760	(CO) 2 3 17
0063	ALUMINUM PHOSPHIDE	20859-73-8	1397	1 3 14 16 17 19 20 21
2109 gen	ALUMINUM PHOSPHIDE PESTICIDE		3048	17
2110 gen	ALUMINUM POWDER		1309+	2 3 17
0064 chg	# ALUMINUM RESINATE RESIN ACIDS AND ROSIN ACIDS, ALUMINUM SALTS	61789-65-9	2715	(F3) 3 17

0066	ALUMINUM SILICON ALUMINUM SILICIDE (AlSi)	12042-55-6	1398	3
0068	ALUMINUM SULFATE SULFURIC ACID, ALUMINUM SALT (3:2)	10043-01-3	9078+	3 17 20
3149 add	AMDRO	67485-29-4		8
3150 add	AMETRYN	834-12-8		8
0069	# 2-AMINOANTHRAQUINONE 9,10-ANTHRACENEDIONE, 2-AMINO-	117-79-3		(CA) 5 6 18
syn	4-AMINOAZOBENZENE see C.I. SOLVENT YELLOW 1			
3151 add	+ ortho-AMINOAZOTOLUENE	97-56-3		(CA) 5 7
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 17
0071	2-AMINO-5-DIETHYL AMINOPENTANE 1,4-PENTANEDIAMINE, N1,N1-DIETHYL-	140-80-7	2946	3 17
3152 add	AMINODIMETHYLBUTRONITRILE		9262	17
0072 chg	# 4-AMINODIPHENYL 1,1'-BIPHENYL -4-AMINE	92-67-1		(CA) 1 2 4 5 6 7 18
0073	# 2-(2-AMINOETHOXY)ETHANOL ETHANOL, 2-(2-AMINOETHOXY)-	929-06-6	1760	(CO) 3 17
0074	AMINOETHYLETHANOLAMINE ETHANOL, 2- (AMINOETHYL)AMINO -	111-41-1		12(A,B,F,I) 15
0075	# N-AMINOETHYLPIPERAZINE 1-PIPERAZINEETHANAMINE	140-31-8	2815	(CO) 3 15 17
syn add	1-(2-AMINOETHYL)PIPERAZINE see N-AMINOETHYLPIPERAZINE			
0076	# 1-AMINO-2-METHYLANTHRAQUINONE 9,10-ANTHRACENEDIONE, 1-AMINO-2-METHYL-	82-28-0		(CA) 5 6 7 18
3153 add	5-(AMINOMETHYL)-3-ISOXAZOLOL	2763-96-4		20
3154 add	+ 2-(AMINO-5-(5-NITRO-2-FURYL)-1,3,4-THIADIAZOLE			(CA) 7
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)
0078	AMINOPHENOLS PHENOL, AMINO-	27598-85-2	2512	3 17
0079	AMINOPROPYLDIETHANOLAMINE ETHANOL, 2,2'- (3-AMINOPROPYL)IMINO BIS-	4985-85-7	1760	3 17
0080	# AMINOPROPYLMORPHOLINE 4-MORPHOLINEPROPANAMINE	123-00-2	1760	(CO) 3 17
3155 add	AMINOPROPYLPIPERAZINE		1760	17
2112	AMINOPTERIN	54-62-6	2588	3 16 17 19
0081	2-AMINOPYRIDINE 2-PYRIDINAMINE	504-29-0	2671	1 2 3 17
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 17 19
2114	AMITON OXALATE	3734-97-2	2783+	3 16 17 19
3156 add	AMITRAZ	33089-61-1		8
0083 chg	# AMITROL 1H-1,2,4-TRIAZOL-3-AMINE	61-82-5		(CA) 1 2 5 6 7 14 20 21
0084	# AMMONIA	7664-41-7	1005+	(CO) 1 2 3 4 6 12(A) 15 16 17 18 19 20
0085	AMMONIUM ACETATE ACETIC ACID, AMMONIUM SALT	631-61-8	9079	3 8 20
0086	AMMONIUM ARSENATE ARSENIC ACID (H3AsO4), DIAMMONIUM SALT	7784-44-3	1546	1 2 3 6 17 18
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 chg	# AMMONIUM BIFLUORIDE AMMONIUM FLUORIDE	1341-49-7	1727+	(CO) 1 2 3 17 20
syn	AMMONIUM BISULFATE see AMMONIUM HYDROGEN SULFATE			
0090	# AMMONIUM BISULFITE SULFUROUS ACID, MONOAMMONIUM SALT	10192-30-0	2693	(CO) 3 17 20
0091	AMMONIUM CARBAMATE CARBAMIC ACID, MONOAMMONIUM SALT	1111-78-0	9083	3 17 20
3157 add	AMMONIUM BROMATE			3
0092	AMMONIUM CARBONATE CARBONIC ACID, AMMONIUM SALT	506-87-6	9084	3 17 20
3158 add	AMMONIUM CHLORATE			3
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 12(D) 16
0095	AMMONIUM CHROMATE CHROMIC ACID, DIAMMONIUM SALT	7788-98-9	9086	1 2 3 6 18 20
0097	AMMONIUM DICHROMATE CHROMIC ACID, DIAMMONIUM SALT	7789-09-5	1439	1 2 3 6 15 17 18 20
0098	AMMONIUM DINITRO-o-CRESOLATE o-CRESOL, 4,6-DINITRO-, AMMONIUM SALT	2980-64-5	1843	3 17
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 15 17 20
0100	AMMONIUM FLUOROBORATE BORATE(1-), TETRAFLUORO-, AMMONIUM	13826-83-0	9088	1 2 3 17 20
0101	AMMONIUM FLUOSILICATE CRYPTONALITE	1309-32-6	2854	1 2 3 4 17
3159 add	AMMONIUM HYDROGEN FLUORIDE	1341-49-7	1727+	3 17
0102	# AMMONIUM HYDROGEN SULFATE SULFURIC ACID, MONOAMMONIUM SALT	7803-63-6	2506	(CO) 3 17
2115 gen	AMMONIUM HYDROSULFIDE SOLUTION	12124-99-1	2683	3 17
0103 chg	# AMMONIUM HYDROXIDE	1336-21-6	2672+	(CO) 3 17 20
0104	AMMONIUM METAVANADATE VANADATE, AMMONIUM	7803-55-6	2859	3 17 20 21
3160 add	AMMONIUM METHACRYLATE	16325-47-6		8
0105	AMMONIUM MOLYBDATE MOLYBDIC ACID, DIAMMONIUM SALT	13106-76-8		1 2
syn	AMMONIUM NICKEL SULFATE see NICKEL AMMONIUM SULFATE			
0106	# AMMONIUM NITRATE NITRIC ACID, AMMONIUM SALT	6484-52-2	1942+	(R3) 3 6 15 18

2119 gen		AMMONIUM NITRATE FERTILIZER, n.o.s.		2072+	3 17
0107 chg	#	AMMONIUM NITRATE PHOSPHATE	57608-40-9	2070	(R3) 3
0108		AMMONIUM OXALATE ETHANEDIOIC ACID, DIAMMONIUM SALT	1113-38-8	2449	3 17 20
3056		AMMONIUM OXALATE	5972-73-6	2449	3 17 20
3057		AMMONIUM OXALATE	6009-70-7	2449	3 17 20
0109	#	AMMONIUM PERCHLORATE PERCHLORIC ACID, AMMONIUM SALT	7790-98-9	1442	(R4) 3 15 17
3161 add		AMMONIUM PERFLUOROOCTANOATE	3825-26-1		2
0110	#	AMMONIUM PERMANGANATE PERMANGANIC ACID, AMMONIUM SALT	13446-10-1	9190	(R3) 3 15 17
syn		AMMONIUM PEROXYDISULFATE see AMMONIUM PERSULFATE			
0111		AMMONIUM PERSULFATE PEROXYDISULFURIC ACID, DIAMMONIUM SALT	7727-54-0	1444	3 17
0112 chg	#	AMMONIUM PICRATE PHENOL, 2,4,6-TRINITRO-, AMMONIUM SALT	131-74-8	1310	(F3,R3) 3 17 20 21
syn		AMMONIUM PLATINIC CHLORIDE see AMMONIUM CHLOROPLATINATE			
syn		AMMONIUM PLATINIC CHLORIDE see AMMONIUM TETRACHLOROPLATINATE			
0113	#	AMMONIUM POLYSULFIDE AMMONIUM SULFIDE ((NH4)2 (S3))	12259-92-6	2818	(CO) 3 17
2127 gen		AMMONIUM POLYVANADATE		2861	3 17
2128		AMMONIUM SILICOFLUORIDE, SOLID	16919-19-0	2854	3 17 20
0114		AMMONIUM SULFAMATE SULFAMIC ACID, MONOAMMONIUM SALT	7773-06-0	9089	1 2 3 8 20
0115	#	AMMONIUM SULFIDE	12135-76-1	2683	(CO) 3 17 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
3162 add		AMMONIUM THIOGLYCOLATE			12(A)
syn		AMMONIUM VANADATE see AMMONIUM METAVANADATE			
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,B) 17
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 17 20
1643 chg	#	sec-AMYL ACETATE ACETIC ACID, sec-PENTYL ESTER	626-38-0	1104	(F3) 1 2 3 15 17 20
3023		tert-AMYL ACETATE	625-16-1	1104	3 17 20
0123	#	AMYL ACID PHOSPHATE PHOSPHORIC ACID, PENTYL ESTER	12789-46-7	2819	(CO) 3 17
0124	#	AMYL ALCOHOL 1-PENTANOL	71-41-0	1105	(F3) 3 15 17
syn		AMYLALDEHYDE see VALERALDEHYDE			
0125	#	AMYL AMINE 1-PENTANAMINE	110-58-7	1106	(F3) 3 15 17
syn		n-AMYL BROMIDE see BROMOPENTANE			
0126		AMYL BUTYRATE BUTANOIC ACID, PENTYL ESTER	540-18-1	2620	3 15 17
0127	#	AMYL CHLORIDE PENTANE, 1-CHLORO-	543-59-9	1107	(F3) 3 15 17
0128	#	AMYLENE, NORMAL PENTENE	25377-72-4	1108	(F4) 3 15 17
syn		AMYLENE see METHYLBUTENE			
0129	#	AMYL FORMATE FORMIC ACID, PENTYL ESTER	638-49-3	1109	(F3) 3 15 17
3099		tert-AMYL HYDROPEROXIDE	3425-61-4	3067	17
0130	#	AMYL MERCAPTAN 1-PENTANETHIOL	110-66-7	1111	(F3) 3 4 10 15 17
3163 add		AMYLMETHYLKETONE	110-43-0	1110	3 17
0131	#	AMYL NITRATE NITRIC ACID, PENTYL ESTER	1002-16-0	1112	(R2) 3 15 17
0132	#	AMYL NITRITE NITROUS ACID, 3-METHYL BUTYL ESTER	110-46-3	1113	(R2) 3 15 17
3164 add		tert-AMYLPEROXYBENZOATE		3044	17
3165 add		tert-AMYLPEROXYPIVALATE		2957	17
0134	#	AMYL TRICHLOROSILANE SILANE, TRICHLOROPENTYL-	107-72-2	1728	(CO,R2) 3 15 17
3166 gen add	+	ANDROGENIC (ANABOLIC) STEROIDS			(CA) 7
0135	#	ANILINE BENZENAMINE	62-53-3	1547	(MU) 1 2 3 6 7 8 15 16 17 18 19 20 21
0136		ANILINE HYDROCHLORIDE BENZENAMINE, HYDROCHLORIDE	142-04-1	1548	3 15 17
syn		ANILINE, 2,4,6-TRIMETHYL- see 2,4,6-TRIMETHYL ANILINE			
1421	#	o-ANISIDINE BENZENAMINE, 2-METHOXY-	90-04-0	2431	(CA) 1 2 3 6 7 15 17 18
2893		p-ANISIDINE BENENAMINE, 4-METHOXY-	104-94-9	2431	1 2 6 7 17 18
1422	#	o-ANISIDINE HYDROCHLORIDE BENZENAMINE, 2-METHOXY-, HYDROCHLORIDE	134-29-2		(CA) 5 6 7 18
0137		ANISOLE BENZENE, METHOXY-	100-66-3	2222	3 15 17
0138	#	ANISOYL CHLORIDE BENZOYL CHLORIDE, METHOXY-	1300-64-7	1729	(CO) 3 17
0139		ANTHRACENE	120-12-7		3 6 7 8 15 18 20
0140		ANTHRAQUINONE	84-65-1		12(A) 15
2131 gen		ANTI-FREEZE		1142	3 17
0141		ANTIMONY	7440-36-0	1549+	1 2 3 4 6 8 17 18 20
2223 gen		ANTIMONY compounds, n.o.s.		1549+	1 2 3 6 20
2866 gen		ANTIMONY, inorganic compounds		1549+	1 2 3 6 17 18 20
syn add		ANTIMONY CHLORIDE see ANTIMONY TRICHLORIDE			

0142	ANTIMONY LACTATE PROPANOIC ACID, 2-HYDROXY-, ANTIMONY(3+) SALT (3:1)	58164-88-8	1550	1 2 3 6 17 18
0143	# ANTIMONY PENTACHLORIDE ANTIMONY CHLORIDE (SbCl5)	7647-18-9	1730+	(CO) 1 2 3 6 15 17 18 20
0144	# ANTIMONY PENTAFLUORIDE ANTIMONY FLUORIDE (SbF5)	7783-70-2	1732	(CO) 1 2 3 6 15 16 17 18 19
0145	ANTIMONY POTASSIUM TARTRATE ANTIMONATE(2-), BIS .mu.- 2,3-DIHYDROXYBUTANEDIOATO(4-)-01, * 02:03,04 DI-, DIPOTASSIUM, TRIHYDRATE, STEREOISOMER	28300-74-5	1551	1 2 3 6 17 18 20
0146	# ANTIMONY TRIBROMIDE STIBINE, TRIBROMO-	7789-61-9	1549	(CO) 1 2 3 6 17 18 20
0147	# ANTIMONY TRICHLORIDE STIBINE, TRICHLORO-	10025-91-9	1733	(CO) 1 2 3 6 17 18 20
0148	# ANTIMONY TRIFLUORIDE STIBINE, TRIFLUORO-	7783-56-4	1549	(CO) 1 2 3 6 17 18 20
0149	ANTIMONY TRIOXIDE ANTIMONY OXIDE	1309-64-4	9201	1 2 3 6 18 20
2132	ANTIMYCIN A	1397-94-0	2588	3 16 17 19
syn	ANTU see alpha-NAPHTHYL THIOUREA			
3167 add	APOLLO	74115-24-5		8
0150	# ARAMITE SULFUROUS ACID, 2-CHLOROETHYL 2- 4-(1,1-DIMETHYLETHYL)PHENOXY - * 1-METHYLETHYL ESTER	140-57-8	2588	(CA) 3 7
0151	ARGON	7440-37-1	1006+	2 3 17
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	
syn	AROCLOR 1260 see POLYCHLORINATED BIPHENYLS	11096-82-5	2315	
0152 chg	# ARSENIC	7440-38-2	1558	(CA) 1 2 3 4 5 6 7 8 10 17 18 20 21
2867 gen	ARSENIC, inorganic compounds		1556+	1 3 4 6 7 8 10 14 18 20
3168 gen add	ARSENIC, organic compounds			1 6 18
syn add	ARSENIC, WHITE see ARSENIC TRIOXIDE			
0153	ARSENIC ACID	7778-39-4	1554+	1 2 3 4 6 7 8 17 18 20 21
2133 gen	ARSENICAL DUST or FLUE DUST		1562	3 4 6 17 18
2136 gen	ARSENICAL PESTICIDE, n.o.s.		2994+	1 3 6 7 17 18 20
0154	ARSENIC BROMIDE ARSENOUS TRIBROMIDE	7784-33-0	1555	1 2 3 4 6 7 8 17 18
0155	ARSENIC CHLORIDE	37226-49-6	1560	1 2 3 4 6 7 8 15 17 18
2138 gen	ARSENIC COMPOUND, n.o.s.		1556+	1 2 3 6 7 17 18 20
0156 chg	ARSENIC DISULFIDE ARSENIC SULFIDE	1303-32-8	1557	1 3 4 6 7 8 17 18 20
0157	ARSENIC IODIDE ARSENOUS TRIIODIDE	7784-45-4	1557	1 3 4 6 7 8 17 18 20
0158	# ARSENIC PENTOXIDE ARSENIC OXIDE (As2O5)	1303-28-2	1559	(CA) 2 3 4 5 6 7 8 16 17 18 19 20 21
syn add	ARSENIC SULFIDE see ARSENIC TRISULFIDE			
0159	ARSENIC TRICHLORIDE	7784-34-1	1560	1 2 3 4 6 7 8 16 17 18 19 20
0161	# ARSENIC TRIOXIDE ARSENIC OXIDE (As2O3)	1327-53-3	1561	(CA) 1 2 3 4 5 6 7 8 14 16 17 18 19 20 21
0162 chg	# ARSENIC TRISULFIDE ARSENIC SULFIDE	1303-33-9	1557	(CA) 1 3 6 7 8 15 17 18 20
syn	ARSENOUS OXIDE see ARSENIC TRIOXIDE			
syn	ARSENOUS TRICHLORIDE see ARSENIC TRICHLORIDE			
0163 chg	# ARSINE	7784-42-1	2188	(CA) 1 2 3 4 6 10 16 17 18 19
2962	ARSINE, DIETHYL-	692-42-2		6 18 20 21
3169 add	ARYLSULFONIC ACID		2584+	17
0164	# ASBESTOS	1332-21-4	2590+	(CA) 1 2 3 4 5 6 7 8 10 17 18 20
3170 add	+ ASBESTOS, ACTINOLITE	77536-66-4		(CA) 7
0165	# ASBESTOS, AMOSITE ASBESTOS, GRUNERITE	12172-73-5	2590+	(CA,MU) 1 2 3 5 7 8 17
0166	# ASBESTOS, ANTHOPHYLLITE	77536-67-5	2590+	(CA) 1 2 3 5 7 8 17
syn	ASBESTOS, BLUE see ASBESTOS, CROCIDOLITE			
0167	# ASBESTOS, CHRYSOTILE	12001-29-5	2590	(CA) 1 2 3 5 7 8 17
0168	# ASBESTOS, CROCIDOLITE	12001-28-4	2212	(CA) 1 2 3 5 7 8 17
3283 add	# ASBESTOS, TREMOLITE	77536-68-6	2950+	(CA) 1 2 3 5 7 8 17
syn	ASBESTOS, WHITE see ASBESTOS, CHRYSOTILE			
3171 add	ASCARIDOLE			3
0169	ASPARAGINASE	9015-68-3	1851	3 13(P) 17
syn	ASPHALT (PETROLEUM DERIVED) see ASPHALT FUMES			
3172 add	ASPHALT, CUTBACK		1999	3 15
0170	ASPHALT FUMES	8052-42-4	1999	2 3 4 15 17

3173 add	ASSURE	76578-14-8		8
3174 add	ASULAM			8
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	2763+	(MU) 1 2 3 8
2894	# AURAMINE ANILINE, 4,4'-(IMIDOCARBONYL)BIS(N,N-DIMETHYL)-	492-80-8		(CA) 3 6 7 8 18 20 21
3175 add	AVERMECTIN B1	65195-55-3		8
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) 3 7 20 21
0174	# AZATHIOPRINE 1H-PURINE, 6- (1-METHYL-4-NITRO-1H-IMIDAZOL-5-YL)THIO -	446-86-6	1851	(CA,MU) 3 5 7 17
2140	AZINPHOS-ETHYL	2642-71-9	2783+	3 16 17 19
syn	AZINPHOS-METHYL see GUTHION			
syn add	AZIRIDINE see ETHYLENEIMINE			
0175	1-AZIRIDINYL PHOSPHINE OXIDE (TRIS) AZIRIDINE, 1,1',1'-PHOSPHINYLIDYNETRIS-	545-55-1	2501	3 7 17
3176 add	AZOBENZENE	103-33-3		7 8
0176	2,2'-AZODI-(2,4-DIMETHYL-4-METHOXYVALERONITRILE) PENTANENITRILE, 2,2'-AZOBIS 4-METHOXY-2,4-DIMETHYL -	15545-97-8	2955	3 17
0177	2,2'-AZODI-(2,4-DIMETHYLVALERONITRILE) PENTANENITRILE, AZOBIS 2,4-DIMETHYL-	28604-91-3	2953	3 17
0178	AZODI-(1,1'-HEXAHYDROBENZONITRILE) CYCLOHEXANECARBONITRILE, AZOBIS-	25551-14-8	2954	3 17
0179	AZODIISOBUTYRONITRILE PROPANENITRILE, 2,2'-AZOBIS 2-METHYL-	78-67-1	2952	3 15 17
2141	2,2'-AZODI (2-METHYLBUTYRONITRILE)		3030	17
3298 gen add	AZO DYES			12(A)
2142	BACITRACIN	1405-87-4	1851	3 16 17
0180	BARIUM	7440-39-3	1400	1 2 3 6 8 17 18 20
2144 gen	BARIUM ALLOYS		1399+	3 6 17 18
0181	BARIUM AZIDE	18810-58-7	1571	1 2 3 6 17 18
0182	BARIUM BROMATE BROMIC ACID, BARIUM SALT	13967-90-3	2719	1 2 3 6 17 18
0183	# BARIUM CHLORATE CHLORIC ACID, BARIUM SALT	13477-00-4	1445+	(R2) 1 2 3 6 15 17 18
3074	# BARIUM CHROMATE BARIUM CHROMATE (VI)	10294-40-3		(CA) 5 6 7 18
2146 gen	BARIUM COMPOUND, n.o.s.		1564	2 3 6 17 18
3177 gen add	BARIUM COMPOUND, SOLUBLE			1 6 18
0184	BARIUM CYANIDE	542-62-1	1565	1 2 3 6 8 17 18 20 21
0185	BARIUM HYPOCHLORITE HYPOCHLOROUS ACID, BARIUM SALT	13477-10-6	2741	1 2 3 6 17 18
syn	BARIUM METAL, NON-PYROPHORIC see BARIUM			
0186	BARIUM NITRATE NITRIC ACID, BARIUM SALT	10022-31-8	1446	1 2 3 6 15 17 18
0187	BARIUM OXIDE	1304-28-5	1884	1 2 3 6 17 18
0188	BARIUM PERCHLORATE PERCHLORIC ACID, BARIUM SALT	13465-95-7	1447	1 2 3 6 17 18
0189	BARIUM PERMANGANATE PERMANGANIC ACID, BARIUM SALT	7787-36-2	1448	1 2 3 6 17 18
0190	BARIUM PEROXIDE	1304-29-6	1449	1 2 3 6 15 17 18
2148	BARIUM SELENATE		2630	3 6 17 18
2149	BARIUM SELENITE	13718-59-7	2630	1 3 6 17 18
3178 add	BAYGON	114-26-1		8
3179 add	BAYLETON	43121-43-3		8
3180 add	BAYTHROID	68359-37-5		8
0191	BENDIOCARB 1,3-BENZODIOXOL-4-OL, 2,2-DIMETHYL-, METHYLCARBAMATE	22781-23-3	2757	3 14
3181 add	BENEFIN	1861-40-1		8
3182 add	BENTAZON	25057-89-0		8
0192	BENOMYL CARBAMIC ACID, 1-(BUTYLAMINO)CARBONYL-1H-BENZIMIDAZOL-2-YL-, * METHYL ESTER	17804-35-2	2588	1 2 3 8
0195	# BENZAL CHLORIDE BENZENE, DICHLORO METHYL-	98-87-3	1886	(MU) 3 6 7 16 18 19 20 21
0196	BENZALDEHYDE	100-52-7	1989	3 8 15 17
2895	BENZAMIDE	55-21-0		6 18
0193	# BENZ(a)ANTHRACENE	56-55-3		(CA,MU) 5 7 8 20 21
0194	# BENZ(a)ANTHRACENE, 7,12-DIMETHYL-	57-97-6		(CA,MU,TE) 20 21
2963	+ BENZ(c)ACRIDINE	225-51-4		(CA) 7 8 20 21
syn	BENZENAMINE, 2-METHYL-,HYDROCHLORIDE see o-TOLUIDINE * HYDROCHLORIDE			
syn	BENZENAMINE, 3-(TRIFLUOROMETHYL)- see 3-TRIFLUOROMETHYL * ANILINE			
syn	1,2-BENZENEDICARBOXYLIC ACID ANHYDRIDE see PHTHALIC * ANHYDRIDE			
0197	# BENZENE	71-43-2	1114	(CA,F3,MU) 1 2 3 4 5 6 7 8 10 15 17 18 20 21
syn	BENZENEAMINE,N,N-DIMETHYL-4-PHENYLAZO- see * 4-DIMETHYLAMINOAZOBENZENE			
2155	BENZENEARSONIC ACID	98-05-5	1557	3 16 17 19
2966	BENZENE, 1-BROMO-4-PHENOXY-	101-55-3		3 20 21
2156	BENZENE, 1-(CHLOROMETHYL)-4-NITRO-	100-14-1	2811	3 16 19
syn	BENZENE, CHLORO-, NITRO-, (TRIFLUOROMETHYL)- see * NITROCHLOROBENZOTRIFLUORIDE			
3183 add	BENZENEDIAZONIUM CHLORIDE			3
3184 add	BENZENEDIAZONIUM NITRATE			3

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		3 20 21
3185 add	BENZENE-1,3-DISULFONYDRAZIDE		2971	17
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		3 8 20 21
syn	BENZENE, PENTACHLORONITRO- see QUINTOZENE			
0200	# BENZENE PHOSPHOROUS DICHLORIDE PHOSPHORUS DICHLORIDE, PHENYL-	644-97-3	2798	(CO) 3 17
0201	# BENZENE PHOSPHOROUS THIODICHLORIDE PHOSPHORDICHLORIDOTHIOUS ACID, PHENYL ESTER	14684-25-4	2799	(CO) 3 17
3186 add	BENZENE SULFONYDRAZIDE		2970	17
0202	# BENZENE SULFONYL CHLORIDE	98-09-9	2225	(CO) 3 16 17 20 21
0203	BENZENETHIOL PHENYLMERCAPTAN	108-98-5	2337	1 2 3 4 10 16 17 19 20 21
0204	# BENZIDINE 1,1'-BIPHENYL-4,4'-DIAMINE	92-87-5	1885	(CA) 1 2 3 4 5 6 7 8 9 17 18 20 21
3187 gen add	+ BENZIDINE BASED DYES			(CA) 9
3188 gen add	+ BENZIDINE COGENER DYES			(CA) 11
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
syn	BENZIN see COAL TAR NAPHTHA			
syn	BENZINE see VM & P NAPHTHA			
syn	BENZINE, LIGROINE see VM & P NAPHTHA			
syn	1,2-BENZISOTHIAZOLIN-3-ONE,1,1-DIOXIDE, AND SALTS see * SACCHARIN			
0208	# BENZO(b)FLUORANTHENE BENZ(e)ACEPHENANTHRYLENE	205-99-2		(CA) 3 5 7 8 20
0210	# BENZO(j)FLUORANTHENE	205-82-3		(CA) 5 7
2969	+ BENZO(k)FLUORANTHENE	207-08-9		(CA) 3 5 7 8 20
2970	BENZO(jk)FLUORANTHENE	206-44-0		3 7 8 20 21
0209	BENZOIC ACID	65-85-0	9094	3 8 15 20
2160 gen	BENZOIC DERIVATIVE PESTICIDES, n.o.s.		2769+	3 17
syn	BENZOIC TRICHLORIDES see BENZOTRICHLORIDE			
0211	BENZONITRILE	100-47-0	2224	3 17 20
2968	BENZO(ghi)PERYLENE	191-24-2		3 7 8 20
0207	# BENZO(a)PYRENE	50-32-8		(CA,MU) 1 2 3 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 6 7 8 15 17 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 8 15 16 17 18 19 20 21
0213	# BENZOTRIFLUORIDE BENZENE, TRIFLUOROMETHYL-	98-08-8	2338	(F3) 3 15 17
0214	# BENZOYL CHLORIDE	98-88-4	1736	(CO) 3 6 7 15 17 18 20
0215	# BENZOYL PEROXIDE PEROXIDE, DIBENZOYL	94-36-0	2085+	(F4,R4) 1 2 3 4 6 7 15 17 18
0216	# BENZYL BROMIDE BENZENE, BROMOMETHYL-	100-39-0	1737	(CO) 3 17
0217	# BENZYL CHLORIDE BENZENE, CHLOROMETHYL-	100-44-7	1738	(CO,MU) 1 2 3 4 6 7 8 10 15 16 17 18 19 20 21
0218	# BENZYL CHLOROFORMATE CARBONOCHLORIDIC ACID, PHENYLMETHYL ESTER	501-53-1	1739	(CO) 3 17
syn	BENZYL CYANIDE see PHENYLACETONITRILE			
0219	# BENZYL DIMETHYLAMINE BENZENEMETHANAMINE, N,N-DIMETHYL-	103-83-3	2619	(CO) 3 17
3189 add	BENZYLIDINE CHLORIDE		1886	3 17
0220	BENZYL IODIDE BENZENE, IODOMETHYL-	620-05-3	2653	3 17
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,B) 17
3190 add	+ BENZYL VIOLET 4B	1694-09-3		(CA) 7
3080	# BERYL	1302-52-9		(CA) 5 6 7 18
0222	# BERYLLIUM	7440-41-7	1567	(CA) 1 2 3 4 5 6 7 8 15 17 18 20 21
2868 gen	BERYLLIUM, inorganic compounds		1566+	1 2 3 6 18
3079	# BERYLLIUM-ALUMINUM ALLOY	12770-50-2		(CA) 1 2 5 6 7 18
3088	# BERYLLIUM CARBONATE BERYLLIUM, bis(CARBONATO(2-1)DIHYDROXITRI)-	6104-24-3		(CA) 1 2 6 7 18

0223	# BERYLLIUM CHLORIDE	7787-47-5	1566	(CA) 1 2 3 5 6 7 8 17 18 20
2163 gen	BERYLLIUM compounds, n.o.s.		1566	1 2 3 6 17 18 20
0224	# BERYLLIUM FLUORIDE	7787-49-7	1566	(CA) 1 2 3 5 6 17 18 20 21
3085	# BERYLLIUM HYDROGEN PHOSPHATE BERYLLIUM HYDROGEN PHOSPHATE (1:1)	13598-15-7		(CA) 1 2 6 7 18
3083 chg	# BERYLLIUM HYDROXIDE	13327-32-7		(CA) 1 2 5 6 7 18
0225	BERYLLIUM NITRATE NITRIC ACID, BERYLLIUM SALT	13597-99-4	2464	1 2 3 6 17 18 20
0226	# BERYLLIUM OXIDE	1304-56-9	1566	(CA) 1 2 3 5 6 7 8 18
3191 add	+ BERYLLIUM PHOSPHATE	15398-15-7		(CA) 5 6 18
3084	# BERYLLIUM SULFATE BERYLLIUM SULFATE (1:1)	13510-49-1		(CA) 1 2 5 6 7 18
3091	# BERYLLIUM SULFATE TETRAHYDRATE BERYLLIUM SULFATE TETRAHYDRATE (1:1:4)	7787-56-6		(CA) 1 2 6 7 18
3192 add	+ BERYLLIUM ZINC SILICATE	39413-47-3		(CA) 5 6 18
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 17
2856	BICYCLO(2.2.1.)HEPTANE-2-CARBONITRILE, 5-CHLORO-6- * ((((METHYLAMINO)CARBONYL)OXY)IMINO)-	15271-41-7	2992	3 16 17 19
3193 add	BIDRIN	141-66-2		8
2165 gen	BIFLUORIDE, n.o.s.	18130-74-0	1740	3 17
3194 add	BIPHENTHRIN	82657-04-3		8
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			
2168 gen	BIPYRIDILIUM PESTICIDES, TOXIC, n.o.s.		3016+	3 17
0230	# BIS(AMINOPROPYL)AMINE 1,3-PROPANEDIAMINE, N-(3-AMINOPROPYL)-	56-18-8	2269	(CO) 3 17
0231	# BIS(AMINOPROPYL)PIPERAZINE PIPERAZINE,1,4-BIS(3-AMINOPROPYL)-	7209-38-3	1760	(CO) 3 17
2971	BIS (2-CHLOROETHOXY) METHANE	111-91-1		3 8 20 21
1965	# 5-(BIS(2-CHLOROETHYL)AMINO) URACIL 2,4(1H,3H)-PYRINIDINEDIONE, 5- BIS(2-CHLOROETHYL)AMINO -	66-75-1		(CA,MU) 3 7 20 21
0232	# BIS (2-CHLOROETHYL) ETHER ETHANE, 1,1'-OXYBIS 2-CHLORO-	111-44-4	1916	(CA) 1 2 3 6 7 8 15 16 17 18 19 20 21
0233	# BISCHLOROETHYL NITROSOUREA UREA, N,N'-BIS(2-CHLOROETHYL)-N-NITROSO-	154-93-8		(CA,MU) 5 7 13(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 4 5 6 7 16 17 18 19 20 21
0235	BIS(2-CHLORO-1-METHYLETHYL)ETHER PROPANE, 2,2'-OXYBIS 1-CHLORO-	108-60-1	2490	3 6 7 15 18 20 21
2170	BIS(CHLOROMETHYL)KETONE 2-PROPANONE, 1,3-DICHLORO-	534-07-6	2649	3 16 17 19
0236	1,2-BIS-(DIMETHYLAMINO)-ETHANE 1,2-ETHANEDIAMINE, N,N,N',N'-TETRAMETHYL-	110-18-9	2372	3
3195 add	BIS[2-(DIMETHYLAMINO)ETHYL] ETHER	3033-62-3		4 10
0237	BIS (2-ETHYLHEXYL) ADIPATE HEXANEDIOIC ACID, BIS(2-ETHYLHEXYL) ESTER	103-23-1		5 6 7 8 15 18
0238	# BIS (2-ETHYLHEXYL) PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, BIS(2-ETHYLHEXYL) ESTER	117-81-7		(CA,TE) 1 2 3 4 6 8 10 15 18 20 21
0239	BISMUTH TELLURIDE	1304-82-1		1 2
3196 add	BISPHENOL A 4,4'-ISOPROPYLIDENEDIPHENOL	80-05-7		6 8 18
2171 gen	BISULFITES, INORGANIC, AQUEOUS SOLUTION, n.o.s.		2693	3 17
2172	BITOSCANATE	4044-65-9	1588	3 16 17 19
3197 gen add	+ BITUMENS			(CA) 7
0240	BLADEX PROPIONITRILE, 2-(4-CHLORO-6-(ETHYLAMINO)-1,3,5-TRIAZIN-2- * YL)AM-2-METHYL-	21725-46-2	2588	3 8 14 16 17
syn	BLEACHING POWDER see CALCIUM HYPOCHLORITE			
3198 gen add	+ BLEOMYCINS			(CA) 7
syn	BLUE ASBESTOS see ASBESTOS, CROCIDOLITE			
3199 add	BOMYL	122-10-1		14
2176 gen	BORATE AND CHLORATE MIXTURES		1458	3 17
3200 gen add	BORATES			8
syn	BORATE, TETRASODIUM SALT see SODIUM BORATES			
syn	BORAX see SODIUM BORATES			
2177 gen	BORDEAUX ARSENITE, liquid or solid		2759	3 17
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 17
syn	BORNYL CHLORIDE see PINANE HYDROPEROXIDE			
3201 add	BORON	7440-42-8		8
0243	BORON OXIDE	1303-86-2		1 2
0244	# BORON TRIBROMIDE BORANE, TRIBROMO-	10294-33-4	2692	(CO) 1 2 3 17
0245	# BORON TRICHLORIDE BORANE, TRICHLORO-	10294-34-5	1741	(CO) 3 16 17 19
0246	BORON TRIFLUORIDE BORANE, TRIFLUORO-	7637-07-2	1008	1 2 3 4 15 16 17 19
0247	BORON TRIFLUORIDE ACETIC ACID COMPLEX BORANE, TRIFLUORO-COMPOUND WITH ACETIC ACID (1:1)	753-53-7	1742	3 17

0248	#	BORON TRIFLUORIDE DIETHYL ETHERATE BORON, TRIFLUORO 1,1'-OXYBIS ETHANE -, (T-4)-	109-63-7	2604	(CO) 1 2 3 17
0249	#	BORON TRIFLUORIDE DIHYDRATE BORANE, TRIFLUORO-, DIHYDRATE	13319-75-0	2851	(CO) 1 2 3 17
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 17 19
3202 add		BORONTRIFLUORIDE PROPIONIC ACID COMPLEX		1743	3 17
syn		BOX TOE GUM see NITROCELLULOSE			
2178 gen		BRAKE FLUID, HYDRAULIC		1118	3 17
3204 add		BRODIFACOUM	56073-10-0		14
0251 chg	a	BROMACIL 2,4(1H,3H)-PYRIMIDINEDIONE, 5-BROMO-6-METHYL-3-(1-METHYLPROPYL)-	314-40-9		1 2
2179		BROMADIOLONE	28772-56-7	3027	14 16 17 19
3205 gen add		BROMINATED DIBENZOFURANS			8
2180 gen		BROMATES, INORGANICS, n.o.s.		1450	3 17
0252	#	BROMINE	7726-95-6	1744	(CO) 1 2 3 15 16 17 19
syn		BROMINE, and solutions see BROMINE			
3206 add		BROMINE AZIDE			3
0253	#	BROMINE CHLORIDE	13863-41-7	2901	(CO) 3 17
0254	#	BROMINE PENTAFLUORIDE BROMINE FLUORIDE (BrF_5)	7789-30-2	1745	(CO,R3) 1 2 3 15 17
0255	#	BROMINE TRIFLUORIDE BROMINE FLUORIDE	7787-71-5	1746	(CO,R3) 3 4 15 17
2182 gen		BROMOACETIC ACID, Solid or Solution	79-08-3	1938	3 17
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 17
0258		BROMOBENZENE BENZENE, BROMO-	108-86-1	2514	3 15 17
0259		BROMOBENZYL CYANIDE ACETONITRILE, BROMOPHENYL	5798-79-8	1694	3 6 17 18
0260		2-BROMOBUTANE BUTANE, 2-BROMO-	78-76-2	2339	3 17
syn add		BROMOCHLORODIFLUOROMETHANE (HALON 1211) see * CHLORODIFLUOROBROMOMETHANE			
syn add		BROMOCHLOROMETHANE see CHLOROBROMOMETHANE			
3207 add		BROMODICHLOROMETHANE	75-27-4		8
3208 add		p-BROMODIPHENYL ETHER	101-55-3		8
0261		BROMOETHYL ETHYL ETHER ETHANE, 1-BROMO-2-ETHOXY	592-55-2	2340	17
3209 add		2-BROMOETHYL ETHYL ETHER		2340	3 17
0262		BROMOFORM METHANE, TRIBROMO- -	75-25-2	2515	1 2 3 6 8 17 18 20 21
syn		BROMOMETHANE see METHYL BROMIDE			
0263	#	BROMOMETHYLBUTANE BUTANE, 1-BROMO-3-METHYL-	107-82-4	2341	(F3) 3 17
0264	#	2-BROMO-2-METHYLPROPANE PROPANE, 2-BROMO-2-METHYL	507-19-7	2342	(F3) 3 17
0265	#	1-BROMO-2-METHYLPROPANE PROPANE, 1-BROMO-2-METHYL	78-77-3	2342	(F3) 3
0266		BROMOPENTANE PENTANE, BROMO-	29756-38-5	2343	15 17
0267		BROMOPROPANE PROPANE, BROMO-	26446-77-5	2344	3 17
0268	#	3-BROMOPROPYNE PROPYNE, 3-BROMO-	106-96-7	2345	(F3,R4) 3 15 16 19
3210 add		BROMOTRICHLOROMETHANE	75-62-7		8
0269		BROMOTRIFLUOROETHYLENE ETHENE, BROMOTRIFLUORO-	598-73-2	2419	3 17
syn add		BROMOTRIFLUOROMETHANE see TRIFLUOROBROMOMETHANE			
3211 add		BROMOXYNIL	1689-84-5		8
3212 add		BROMOXYNIL OCTANOATE	1689-99-2		8
0270		BRUCINE STRYCHNIDIN-10-ONE, 2,3-DIMETHOXY-	357-57-3	1570	3 17 20 21
0271	#	BUSULFAN 1,4-BUTANEDIOL, DIMETHANESULFONATE	55-98-1	1851	(CA,MU,TE) 3 5 7 13(F, H, T, U, V, Y, EE) 17
syn		BUTADIENE see 1,3-BUTADIENE			
0272	#	1,3-BUTADIENE BUTADIENE	106-99-0	1010	(F4,R2) 1 2 3 5 6 15 16 18
syn		1-BUTANAMINE, N-BUTYL-N-NITROSO- see * N-NITROSODI-N-BUTYLAMINE			
0273	#	BUTANE N-BUTANE	106-97-8	1011	(F4) 1 2 3 15 17
3213 add		BUTANEDIOGLYCOLDIGYLCIDYL ETHER			10
0274		BUTANEDIONE 2,3-BUTANEDIONE	431-03-8	2346	3 15 17
syn		1-BUTANETHIOL see BUTYL MERCAPTAN			
syn		2-BUTANONE see METHYL ETHYL KETONE			
syn		2-BUTANONE PEROXIDE see METHYL ETHYL KETONE PEROXIDE			
syn add		BUTENE see BUTYLENE			
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 17
0276		BUTOXYL 1-BUTANOL, 3-METHOXY-, ACETATE	4435-53-4	2708	3 17
1329	#	n-BUTYL ACETATE ACETIC ACID, BUTYL ESTER	123-86-4	1123	(F3) 1 2 3 15 17 20
1644 chg	#	sec-BUTYL ACETATE ACETIC ACID, 1-METHYLPROPYL ESTER	105-46-4	1123	(F3) 1 2 3 15 20
1786 chg	#	tert-BUTYL ACETATE ACETIC ACID, 1,1-DIMETHYLETHYL ESTER	540-88-5	1123	(F3) 1 2 3 20
0277	#	BUTYL ACID PHOSPHATE PHOSPHORIC ACID, DIBUTYL ESTER	12788-93-1	1718	(CO) 3 17
0278	#	BUTYL ACRYLATE 2-PROPENOIC ACID, BUTYL ESTER	141-32-2	2348	(R2) 1 2 3 6 7 15 17 18
1330	#	n-BUTYL ALCOHOL 1-BUTANOL	71-36-3	1120	(F3) 1 2 3 6 8 15 17 18 20 21
1645 chg	#	sec-BUTYL ALCOHOL 2-BUTANOL	78-92-2	1120	(F3) 1 2 3 6 15 18

1787 chg	# tert-BUTYL ALCOHOL 2-PROPANOL, 2-METHYL-	75-65-0	1120	(F3) 1 2 3 6 15 18
0279	BUTYL ALDEHYDE OXIME BUTANAL OXIME	110-69-0	2840	3 15 17
0280	# BUTYLAMINE 1-BUTANAMINE	109-73-9	1125	(F3) 1 2 3 15 17 20
3059 chg	# sec-BUTYLAMINE	13952-84-6		(F3) 3 15 20
3025	tert-BUTYLAMINE	75-64-9		3 15 20
0281	BUTYLANILINE BENZENAMINE, N-BUTYL	1126-78-9	2738	3 15 17
3214 add	BUTYLATE	2008-41-5		8
syn	BUTYLATED HYDROXYTOLUENE see 2,6-DI-tert-BUTYL-p-CRESOL			
0282	BUTYL BENZENE BENZENE, BUTYL-	104-51-8	2709	3 15 17
2896 chg	BUTYL BENZYL PHTHALATE PHTHALIC ACID, BENZYL BUTYL ESTER	85-68-7		3 6 7 8 15 18 19 20
0283	# BUTYL BROMIDE BUTANE, 1-BROMO-	109-65-9	1126	(F3) 3 15 17
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 8 15 17
3215 add	tert-BUTYLCHLORIDE	507-20-0		8 15
0285	# BUTYLCHLOROFORMATE CARBONOCHLORIDIC ACID, BUTYL ESTER	592-34-7	2743	(CO) 3 17
3216 add	sec-BUTYLCHLOROFORMATE		2742	17
1788	tert-BUTYL CHROMATE CHROMIC ACID, BIS(1,1-DIMETHYLETHYL)- ESTER	1189-85-1		1 2 6 18
syn	tert-BUTYL CUMENE PEROXIDE see tert-BUTYL CUMYL PEROXIDE			
2184	tert-BUTYL CUMYL PEROXIDE	3457-61-2	2091	3 17
syn	BUTYLCYCLOHEXYLCHLOROFORMATE see tert-BUTYLCYCLOHEXYLCHLORO * FORMATE			
1789	tert-BUTYLCYCLOHEXYLCHLOROFORMATE CARBONOCHLORIDIC ACID, (1,1-DIMETHYLETHYL)CYCLOHEXYL ESTER	70042-58-9	2747	3 17
2185	N-BUTYL-4,4-DI(tert-BUTYL-PEROXY) VALERATE	995-33-5	2140	3 17
0286	# BUTYLENE BUTENE	25167-67-3	1012	(F4) 3 15 17
syn add	BUTYLENE OXIDE see TETRAHYDROFURAN			
0287	# 1,2-BUTYLENE OXIDE OXIRANE, ETHYL-	106-88-7		(F3,MU) 3 6 15 17 18
0288	# BUTYL ETHER BUTANE, 1,1'-OXYBIS-	142-96-1	1149	(F3) 3 15 17
0289	BUTYL FORMATE FORMIC ACID, BUTYL ESTER	592-84-7	1128	3 15 17
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 15 17
1402	n-n-BUTYL-IMIDAZOLE 1H-IMIDAZOLE, 1-BUTYL-	4316-42-1	2690	3 17
1332 chg	n-BUTYLISOCYANATE BUTANE, 1-ISOCYANATO-	111-36-4	2485	3 15 17
1791 chg	tert-BUTYLISOCYANATE PROPANE, 2-ISOCYANATO-2-METHYL-	1609-86-5	2484	3 17
2188	tert-BUTYL ISOPROPYL BENZENE HYDROPEROXIDE	30026-92-7	2091	3 17
2189	BUTYL ISOVALERATE	109-19-3		15 16
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 15 17
0290	# BUTYL MERCAPTAN 1-BUTANETHIOL	109-79-5	2347	(F3) 1 2 3 4 10 15 17
0291	BUTYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, BUTYL ESTER	97-88-1	2227	3 15 17
3104	BUTYL METHYL ETHER	628-28-4	2350	3 17
1792	tert-BUTYL MONOPEROXYMALEATE 2-PROPENEPEROXOIC ACID, 3-CARBOXY-, 1-(1,1-DIMETHYLETHYL) ESTER, * (Z)-	1931-62-0	2101+	3 17
0292	# BUTYL NITRITE NITROUS ACID, BUTYL ESTER	544-16-1	2351	(F3) 3 17
syn add	tert-BUTYL PEROXIDE see DI-tert-BUTYLPEROXIDE			
1793	# tert-BUTYL PEROXYACETATE ETHANEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	107-71-1	2096+	(F3,R4) 3 15 17
syn	BUTYL PEROXYBENZOATE see tert-BUTYLPEROXYBENZOATE			
1794	# tert-BUTYL PEROXYBENZOATE BENZENECARBOPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	614-45-9	2098+	(F3,R4) 3 15 17
syn	BUTYL PEROXYCROTONATE see tert-BUTYL PEROXYCROTONATE			
1795	tert-BUTYL PEROXYCROTONATE 2-BUTENEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	23474-91-1	2183	3 17
0293	BUTYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIBUTYL ESTER	19910-65-7	2169	3 17
2191	tert-BUTYL PEROXYDIETHYL-ACETATE		2144	3 17
1796	tert-BUTYL PEROXY(2-ETHYL)-HEXANOATE HEXANEPEROXOIC ACID, 2-ETHYL-, 1,1-DIMETHYLETHYL ESTER	3006-82-4	2886+	3 17
1797	tert-BUTYL PEROXYISOBUTYRATE PROPANEPEROXOIC ACID, 2-METHYL-, 1,1-DIMETHYLETHYL ESTER	109-13-7	2142+	3 17
2193 gen	tert-BUTYL PEROXYISONONANOATE		2104	3 17
1798	tert-BUTYL PEROXYISOPROPYL CARBONATE CARBONOPEROXOIC ACID, OO-(1,1-DIMETHYLETHYL) O-(1-* METHYLETHYL) ESTER	2372-21-6	2103	3 17
1799	tert-BUTYL PEROXYNEODECANOATE NEODECANEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	26748-41-4	2177+	3 17
2194	3-tert-BUTYL PEROXY-3-PHENYLPHTHALIDE		2596	3 17
2195 gen	tert-BUTYL PEROXY-PHTHALATE		2105	3 17
1800	# tert-BUTYL PEROXYPIVALATE PROPANEPEROXOIC ACID, 2,2-DIMETHYL-, 1,1-DIMETHYLETHYL ESTER	927-07-1	2110+	(F3,R4) 3 15 17
3218 add	tert-BUTYLPEROXYSTEARYLCARBONATE		3062	17
2196	tert-BUTYL PEROXY-3,5,5-TRIMETHYLHEXANOATE	13122-18-4	2104	3 17
0294	BUTYL PHENOL PHENOL, BUTYL-	28805-86-9	2228+	3
1440	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			
3219 add	BUTYLPHTHALATEBUTYLGLYCOLATE	85-70-1		8 15
0295	# BUTYL PROPIONATE PROPANOIC ACID, BUTYL ESTER	590-01-2	1914	(F3) 3 15 17

	BUTYLTOLUENE see p-tert-BUTYLTOLUENE			
syn add				
1620	p-tert-BUTYLTOLUENE BENZENE, 1-(1,1-DIMETHYLETHYL)-4-METHYL-	98-51-1		1 2 3 17
0296	# BUTYL TRICHLOROSILANE SILANE, BUTYLTRICHLORO-	7521-80-4	1747	(CO) 3 15 17
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 17
0298	1,4-BUTYNEDIOL 2-BUTYNE-1, 4-DIOL	110-65-6	2716	3 17
0299	# BUTYRALDEHYDE BUTANAL	123-72-8	1129	(F3) 3 6 15 17 18
	BUTYRALDOXIME see BUTYL ALDEHYDE OXIME			
syn				
0300	# BUTYRIC ACID BUTANOIC ACID	107-92-6	2820	(CO) 3 15 17 20
0301	# BUTYRIC ANHYDRIDE BUTANOIC ACID, ANHYDRIDE	106-31-0	2739	(CO) 3 15 17
3220 add	+ beta-BUTYROLACETONE			(CA) 7 15
	BUTYRONE see DIPROPYLKETONE			
syn add				
0302	# BUTYRONITRILE BUTANENITRILE	109-74-0	2411	(F3) 3 4 10 15 17
0303	# BUTYRYL CHLORIDE BUTANOYL CHLORIDE	141-75-3	2353	(CO) 3 17
0304	CACODYLIC ACID ARSINIC ACID, DIMETHYL-	75-60-5	1572	1 2 3 17 20 21
0305	# CADMIUM	7440-43-9	2570	(CA,TE) 1 2 3 4 5 6 7 8 10 17 18 20
2869 gen	CADMIUM, inorganic compounds		2570	3 6 18 20
0306	# CADMIUM ACETATE ACETIC ACID, CADMIUM SALT	543-90-8	2570	(CA) 1 2 3 5 6 8 18 20
0307	CADMIUM BROMIDE	7789-42-6	2570	1 2 3 6 18 20
0308	# CADMIUM CHLORIDE	10108-64-2	2570	(CA,MU) 1 2 3 5 6 7 8 18 20
2199 gen	CADMIUM COMPOUNDS, n.o.s.		2570	3 6 7 14 17 18 20
2200	# CADMIUM OXIDE	1306-19-0	2570	(CA) 1 2 3 5 6 7 16 18 19 20
	CADMIUM SALTS see CADMIUM COMPOUNDS, n.o.s.			
syn add				
2201	CADMIUM STEARATE	2223-93-0	2570	3 6 16 18 19 20
3073	# CADMIUM SULFATE CADMIUM SULFATE (1:1)	10124-36-4		(CA) 1 2 5 6 7 18 20
3081	# CADMIUM SULFIDE	1306-23-6		(CA) 5 6 7 18 20
	CAESIUM see CESIUM			
syn add				
0309	# CALCIUM	7440-70-2	1401	(R2) 3 15 17
3221 gen add	CALCIUM ALLOYS, NONPYROPHORIC		1401	3 15 17
3222 gen add	CALCIUM ALLOYS, PYROPHORIC		1855	3 17
0310	# CALCIUM ARSENATE ARSENIC ACID, CALCIUM SALT	7778-44-1	1573	(CA) 1 3 5 6 7 8 16 17 18 19 20
0311 chg	CALCIUM ARSENITE ARSONIC ACID, CALCIUM SALT	52740-16-6	1574	1 2 3 5 6 7 8 17 18 20
	CALCIUM BISULFIDE see CALCIUM HYDROGEN SULFITE			
syn				
0312	# CALCIUM CARBIDE	75-20-7	1402	(F4,R2) 3 15 17 20
0313	CALCIUM CHLORATE CHLORIC ACID, CALCIUM SALT	10137-74-3	1452+	2 3 15 17
0314	CALCIUM CHLORITE CHLOROUS ACID, CALCIUM SALT	14674-72-7	1453	2 3 17
0315 chg	# CALCIUM CHROMATE CHROMIC ACID, CALCIUM SALT	13765-19-0		(CA,MU) 1 2 5 6 7 8 18 20 21
0316	CALCIUM CYANAMIDE CYANAMIDE, CALCIUM SALT (1:1)	156-62-7	1403	1 2 3 6 17 18
0317	CALCIUM CYANIDE	592-01-8	1575	1 2 3 6 8 14 15 17 18 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 17
0321	# CALCIUM HYDROGEN SULFITE SULFUROUS ACID, CALCIUM SALT (2:1)	13780-03-5	2693	(CO) 3 17
2203	CALCIUM HYDROSULFITE		1923	3 17
0322	CALCIUM HYDROXIDE	1305-62-0		1 2
0323	# CALCIUM HYPOCHLORITE HYPOCHLOROUS ACID, CALCIUM SALT	7778-54-3	1748+	(R2) 3 15 17 20
2204 gen	CALCIUM MANGANESE SILICON		2844	3 17
0324	CALCIUM NITRATE NITRIC ACID, CALCIUM SALT	10124-37-5	1454	3 17
0325	CALCIUM OXIDE	1305-78-8	1910	1 2 3 15 17
0326	CALCIUM PERCHLORATE PERCHLORIC ACID, CALCIUM SALT	13477-36-6	1455	3 17
0327	CALCIUM PERMANGANATE PERMANGANIC ACID, CALCIUM SALT	10118-76-0	1456	3 17
0328	CALCIUM PEROXIDE	1305-79-9	1457	3 17
0329	CALCIUM PHOSPHIDE	1305-99-3	1360	3 17
0330	CALCIUM RESINATE RESIN ACIDS AND ROSIN ACIDS, CALCIUM SALTS	9007-13-0	1314+	3 17
0331	CALCIUM SELENATE SELENIC ACID, CALCIUM SALT (1:1)	14019-91-1	2630	1 2 3 6 17 18
0332	CALCIUM SILICIDE	12737-18-7	1405	3 17
2205	CALCIUM SILICON	12013-56-8	1406	3 17
	CAMPHECHLOR see TOXAPHENE			
syn				
0333 chg	# CAMPHENE BICYCLO (2.2.1) HEPTANE, 2,2-DIMETHYL-3-METHYLENE-	79-92-5	9011	(F3) 3 17
0334	CAMPHOR BICYCLO (2.2.1) HEPTAN-2-ONE, 1,7,7-TRIMETHYL-	76-22-2	2717	1 2 3 15 17
	CAMPHOR, NATURAL OR SYNTHETIC see CAMPHOR			
syn				
0335	CAMPHOR OIL OILS, CAMPHOR	8008-51-3	1130	3 15 17

2207	CANTHARIDIN	56-25-7			7 16 19
0336	# CAPROIC ACID HEXANOIC ACID	142-62-1	1760+	(CO) 3 15 17	
syn	CAPROIC ALDEHYDE see HEXALDEHYDE				
0337	CAPROLACTAM 2H-AZEPIN-2-ONE, HEXAHYDRO-	105-60-2			1 2 3 7 8
2208	CAPRYLYL PEROXIDE (N-OCTANOYL PEROXIDE)	7530-07-6	2129		3 17
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 8
0339	# CAPTAN 1H-ISOINDOLE-1,3(2H)-DIONE, 3A,4,7,7A-TETRAHYDRO-2- * (TRICHLOROMETHYL)THIO -	133-06-2		(MU) 1 2 6 7 8 18 20	
2209	CARBACHOL CHLORIDE	51-83-2			16 19
2210 gen	CARBAMATE PESTICIDES, TOXIC, n.o.s.		2992+		3 17
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
3333 add	+ CARBANIC ACID, METHYL NITROSO-ETHYL ESTER	615-53-2		(CA,MU) 7 20 21	
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	CARBAMIMIDOSELENOIC ACID SELENOUREA	630-10-4			3 8 20 21
0340	CARBARYL 1-NAPHTHALENOL, METHYLCARBAMATE	63-25-2	2757		1 2 3 4 6 7 8 17 18 20
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 17 19 20
syn add	CARBOLIC ACID see PHENOL				
syn add	CARBON BISULFIDE see CARBON DISULFIDE				
0342	CARBON BLACK	1333-86-4	1361		1 2 3 4 7 17
0343	CARBON DIOXIDE	124-38-9	1013+		1 2 3 4 17
0344	# CARBON DISULFIDE	75-15-0	1131	(F3) 1 2 3 4 6 8 10 14 15 16 17 18 19 20 21	
0345	# CARBON MONOXIDE	630-08-0	1016+	(F4) 1 2 3 4 15 17	
syn	CARBON OXYFLUORIDE see CARBONYL FLUORIDE				
0346	CARBON TETRABROMIDE METHANE, TETRABROMO-	558-13-4	2516		1 2 3 17
0347	# CARBON TETRACHLORIDE METHANE, TETRACHLORO	56-23-5	1846	(CA) 1 2 3 4 5 6 7 8 10 15 17 18 20 21	
syn	CARBON TETRAFLUORIDE see TETRAFLUOROMETHANE				
syn add	CARBONYL CHLORIDE see PHOSGENE				
0348	CARBONYL FLUORIDE CARBONIC DIFLUORIDE	353-50-4	2417		1 2 3 17 20 21
0349	CARBONYL SULFIDE CARBON OXIDE SULFIDE	463-58-1	2204		3 6 15 17 18
2218	CARBOPHENOTHION	786-19-6	3018		3 16 19
3223 add	CARBOSULFAN	55285-14-8			8
3224 add	CARBOXIN	5234-68-4			8
3225 add	CARMINE	860-22-0			12(A)
syn	CARMUSTINE see BISCHLOROETHYL NITROSOUREA				
2219	CARVONE	2244-16-8	1224		3 16
3226 gen add	CASE OIL		1257		3
2220 gen	CASINGHEAD GASOLINE		1257		3 17
syn add	CAUSTIC POTASH see POTASSIUM HYDROXIDE				
0350	CASTOR BEAN POMACE		2969		3 12(B, G) 15 17
0351	CASTRIX PYRIMIDINE, 2-CHLORO-4-(DIMETHYLAMINO)-6-METHYL-	535-89-7	2588		3 14 16 19
3446 add	+ CATECHOL	120-80-9			(MU) 1 2 3 6 7 18
2221 gen	CAUSTIC ALKALI LIQUIDS, n.o.s.		1719		3 17
syn	CAUSTIC SODA see SODIUM HYDROXIDE				
syn	CDEC see SULFALLATE				
syn add	CELLOSOLVE see 2-ETHOXYETHANOL				
syn	CELLOSOLVE ACETATE see 2-ETHOXYETHYLACETATE				
2224 gen	CELLULOID, IN BLOCKS, RODS, ROLLS, SHEETS, TUBES, ETC.		2000+		3 15 17
3227 add	CELLULOSE	9004-34-6			1 2
2226 gen	CEMENT, LIQUID, n.o.s.		1133		3 17
syn add	CEMENT DUST, PORTLAND see CALCIUM OXIDE				
0352	CERIUM	7440-45-1	1333		3 17
0353	CESIUM	7440-46-2	1407		3 17
0354	# CESIUM HYDROXIDE	21351-79-1	2681+	(CO) 1 2 3 17	
0355	CESIUM NITRATE NITRIC ACID, CESIUM SALT	7789-18-6	1451		3 17
0356	CHLORAL ACETALDEHYDE, TRICHLORO-	75-87-6	2075		3 16 17 20 21
0357	CHLORAMBEN BENZOIC ACID, 3-AMINO-2,5-DICHLORO-	133-90-4	2588		1 3 6 8 18
0358	# CHLORAMBUCIL BENZENEBUTANOIC ACID, 4- BIS(2-CHLOROETHYL)AMINO -	305-03-3	1851	(CA,MU,TE) 3 5 7 13(E, F, N, R, Y,EE) 17 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 17	

syn	CHLORATE and BORATE MIXTURES see BORATE and CHLORATE * MIXTURES			
2231 gen	CHLORATE and MAGNESIUM CHLORIDE MIXTURES		1459	3 17
syn	CHLORATE OF POTASH see POTASSIUM CHLORATE			
syn	CHLORATE OF SODA see SODIUM CHLORATE			
2232 gen	CHLORATES, INORGANIC, n.o.s.		1461	3 17
0361	# CHLORDANE	57-74-9	2762	(CA) 1 2 3 6 7 8 14 16 17 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(Y,EE) 17
0363	# CHLORDIAZEPOXIDE HYDROCHLORIDE 3H-1,4-BENZEDIAZEPINE-4-OXIDE HYDROCHLORIDE, 7-CHLORO-2-METHYL- * AMINO-5-PHENYL	438-41-5	1851	(TE) 3 13(Y,EE) 17
3228 add	+ CHLOROENDIC ACID	115-28-6		(CA) 5
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 17
3229 add	CHLORIMURON-ETHYL	90982-32-4		8
2973 gen	CHLORINATED BENZENES			20
3230 add	CHLORINATED CAMPHENE	8001-35-2		2
0366	CHLORINATED DIPHENYL OXIDE BENZENE, 1,1'-OXY BISCHLORO	55720-99-5		1 2 6 18
2974 gen	CHLORINATED ETHANES			20
syn	CHLORINATED FLUOROCARBON see 1,1,2-TRICHLORO- * 1,2,2-TRIFLUOROETHANE			
2975 gen	CHLORINATED NAPHTHALENE			20
3231 add gen	CHLORINATED PARAFFINS (C12, 60% CHLORINE)			5
2976 gen	CHLORINATED PHENOLS			6 18 20
0367	CHLORINE	7782-50-5	1017	1 2 3 4 6 12(A) 15 16 17 18 19 20
syn	CHLORINE CYANIDE see CYANOGEN CHLORIDE			
0368	CHLORINE DIOXIDE CHLORINE OXIDE	10049-04-4		1 2 3 6 8 18
syn	CHLORINE DIOXIDE HYDRATE, FROZEN see CHLORIC ACID			
0369	# CHLORINE PENTAFLUORIDE CHLORINE FLUORIDE (ClF5)	13637-63-3	2548	(CO) 1 2 3 4 17
0370	CHLORINE TRIFLUORIDE CHLORINE FLUORIDE (ClF3)	7790-91-2	1749	1 2 3 15 17
2234 gen	CHLORITE, INORGANIC, n.o.s.		1462	3 17
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 17 20 21
0372	CHLOROACETALDEHYDE ACETALDEHYDE, CHLORO-	107-20-0	2232	1 2 3 16 17 20 21
0373	# CHLOROACETIC ACID ACETIC ACID, CHLORO-	79-11-8	1750+	(CO) 3 6 15 16 17 18 19
0374	CHLOROACETONE 2-PROPANONE, 1-CHLORO-	78-95-5	1695	2 3 17
0375	CHLOROACETONITRILE ACETONITRILE, CHLORO-	107-14-2	2668	3 17
syn	CHLOROACETOPHENONE see alpha-CHLOROACETOPHENONE			
0048	alpha-CHLOROACETOPHENONE ETHANONE, 2-CHLORO-1-PHENYL-	532-27-4	1697	1 2 3 6 15 17 18
syn	2-CHLOROACETOPHENONE see alpha-CHLOROACETOPHENONE			
0377	# CHLOROACETYL CHLORIDE ACETYL CHLORIDE, CHLORO-	79-04-9	1752	(CO) 1 2 3 15 17
2977 gen	+ CHLOROALKYL ETHERS			(CA) 8 20
0378	# CHLOROANILINES BENZENAMINE, CHLORO-	27134-26-5	2019+	(F3) 3 17
2964	p-CHLOROANILINE	106-47-8	2019+	3 8 20 21
1466	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 8 15 17 18 20 21
syn	CHLOROBENZILATE see ETHYL-4,4'-DICHLOROBENZILATE			
0380	CHLOROBENZOTRIFLUORIDE BENZENE, CHLORO (TRIFLUOROMETHYL)-	52181-51-8	2234	1 2 3 15 17
1464	p-CHLOROBENZOYL PEROXIDE PEROXIDE, BIS(4-CHLOROBENZOYL)	94-17-7	2114+	3 17
1465	p-CHLOROBENZYL CHLORIDE BENZENE, 1-CHLORO-4-(CHLOROMETHYL)-	104-83-6	2235	3 17
1423	o-CHLOROBENZYLIDENE MALONONITRILE .PROPANEDINITRILE, (2-CHLOROPHENYL)METHYLENE -	2698-41-1		1 2
0381	CHLOROBROMOMETHANE BROMOCHLOROMETHANE	74-97-5	1887	1 2 3 8 17
2237	1-CHLORO-3-BROMOPROPANE	109-80-6	2688	3 17
syn add	2-CHLORO-1,3-BUTADIENE see beta-CHLOROPRENE			
syn add	1-CHLOROBUTANE see BUTYL CHLORIDE			
3232 add	2-CHLOROBUTANE	78-86-4		8
0382 chg	# CHLOROBUTANES BUTANE, CHLORO-	25154-42-1	1127	(F3) 3 15 17
0383	CHLOROCRESOLS PHENOL, CHLOROMETHYL-	1321-10-4	2669	3 17
2917	4-CHLORO-m-CRESOL	59-50-7		3 20 21
3233 add	CHLOROCYCLOPENTADIENE	41851-50-7		8
2978	CHLORODIBROMOMETHANE	124-48-1		3 8 20
2238	3-CHLORO-4-DIETHYLAMINO-BENZENEDIAZONIUM ZINC CHLORIDE		3033	6 17 18
0384	CHLORODIFLUOROBROMOMETHANE METHANE, BROMOCHLORODIFLUORO-	353-59-3	1974	1 2 3 6 17 18
0385	CHLORODIFLUOROETHANE ETHANE, 1-CHLORO-1,1-DIFLUORO-	75-68-3	2517	1 2 3 15 17
0386	CHLORODIFLUOROMETHANE METHANE, CHLORODIFLUORO-	75-45-6	1018	1 2 3 7 17
syn add	CHLORODINITROBENZENE see DINITROCHLOROBENZENE			
syn add	1-CHLORO-2,4-DINITROBENZENE see DINITROCHLOROBENZENE			

	CHLORODIPHENYL see POLYCHLORINATED BIPHENYLS			
syn add				
	CHLORODIPHENYL OXIDE see CHLORINATED DIPHENYL OXIDE			
syn				
	CHLOROETHANE see ETHYL CHLORIDE			
syn				
	CHLOROETHANOL see ETHYLENE CHLOROHYDRIN			
syn				
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) 5 7 13(Q)
2954 chg	# 2-CHLOROETHYL VINYL ETHER	110-75-8		(F3) 3 15 20 21
0388	# CHLOROFORM METHANE, TRICHLORO-	67-66-3	1888	(CA) 1 2 3 4 5 6 7 8 10 15 16 17 18 19 20 21
2240 gen	CHLOROFORMATE, n.o.s., flash point equals 73F		2742+	3 17
3234 add	CHLOROISOCYANURIC ACID			1 2 15 20
	CHLOROMETHANE see METHYL CHLORIDE			
syn				
0422	2-CHLORO-3-METHYL ANILINE BENZENEAMINE, 2-CHLORO, 3-METHYL	29027-17-6	2339	3
0417	2-CHLORO-4-METHYL ANILINE BENZENAMINE, 2-CHLORO, 4-METHYL-	615-65-6	2239	3
0420	2-CHLORO-5-METHYL ANILINE BENZENAMINE, 2-CHLORO, 5-METHYL-	95-81-8	2239	3
0419	+ 3-CHLORO-2-METHYL ANILINE BENZENAMINE, 3-CHLORO, 2-METHYL-	87-60-5	2239	(CA) 3 7
0418	3-CHLORO-4-METHYL ANILINE BENZENAMINE, 3-CHLORO, 4-METHYL	95-74-9	2239	3
0424	4-CHLORO-3-METHYL ANILINE BENZENAMINE, 4-CHLORO, 3-METHYL	7149-75-9	2239	3
0421	5-CHLORO-2-METHYL ANILINE BENZENAMINE, 5-CHLORO, 2-METHYL-	95-79-4	2239	3
0423	6-CHLORO-2-METHYL ANILINE BENZENAMINE, 6-CHLORO, 2-METHYL-	87-63-8	2239	3
0389	# CHLOROMETHYLCHLOROFORMATE CARBONOCHLORIDIC ACID, CHLOROMETHYL ESTER	22128-62-7	2745	(CO) 3
	CHLOROMETHYL ETHER see BIS (2-CHLOROMETHYL) ETHER			
syn				
0390	CHLOROMETHYL ETHYL ETHER ETHANE, CHLOROMETHOXY-	3188-13-4	2354	3 17
0391	# CHLOROMETHYL METHYL ETHER METHANE, CHLOROMETHOXY-	107-30-2	1239	(CA,CO,R2,F3) 1 2 3 4 6 7 8 16 17 18 19 20 21
0392	3-CHLORO-4-METHYL PHENYL ISOCYANATE BENZENE, 2-CHLORO-4-ISOCYANATO-1-METHYL-	28479-22-3	2236	3 17
3094	# 4-CHLORO-2-METHYLPHENOXYACETIC ACID ACETIC ACID, ((4-CHLORO-o-TOLYL)OXY)-	94-74-6		(CA) 7 8
3093 chg	a 2-(4-CHLORO-2-METHYLPHENOXYL)PROPANOIC ACID PROPIONIC ACID, 2-((4-CHLORO-o-TOLYL)OXY)-	93-65-2		7 8
	3-CHLORO-2-METHYLPROPENE see METHYL ALLYL CHLORIDE			
syn add				
2424	beta-CHLORONAPHTHALENE	91-58-7		3 6 8 20 21
0393	CHLORONITROANILINE BENZENAMINE, CHLORONITRO-	41587-36-4	2237	3 17
0394	CHLORONITROBENZENE BENZENE, CHLORONITRO-	25167-93-5	1578	3 15 17
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 17
0398	CHLOROPENTAFLUOROETHANE ETHANE, CHLOROPENTAFLUORO-	76-15-3	1020	1 2 3 6 17 18
0399	3-CHLOROPEROXYBENZOIC ACID BENZENECARBOPEROXOIC ACID, 3-CHLORO-	937-14-4	2755+	3 17
0400	CHLOROPHACINONE 1,3-INDANDIONE,2-((p-CHLOROPHENYL)PHENYLACETYL)-	3691-35-8	3027+	14 16 17 19
0403	a 2-CHLOROPHENOL PHENOL, 2-CHLORO-	95-57-8	2021+	3 5 8 20 21
0402	# 3-CHLOROPHENOL (CHLOROPHENATE) PHENOL, m-CHLORO	108-43-0	2904+	(CO) 3 6 18
0401	# 4-CHLOROPHENOL PHENOL, p-CHLORO	106-48-9	2904+	(CO) 3 6 15 18
3094	# 4-CHLORO-o-PHENYLENEDIAMINE o-PHENYLENEDIAMINE, 4-CHLORO	94-74-6		(CA) 5 7
2957	4-CHLOROPHENYL PHENYL ETHER	7005-72-3		3 20
0404	CHLOROPHENYLTRICHLOROSILANE SILANE, TRICHLORO(CHLOROPHENYL)-	26571-79-9	1753	3 17
0405	CHLOROPICRIN METHANE, TRICHLORONITRO-	76-06-2	1580+	1 2 3 14 15 17
3235 add	CHLOROPIVALOYL CHLORIDE		9263	17
0406	# CHLOROPLATINIC ACID PLATINATE, HEXACHLORO-, DIHYDROGEN-	16941-12-1	2507	(CO) 1 2 3 17
0407	# beta-CHLOROPRENE 1,3-BUTADIENE, 2-CHLORO-	126-99-8	1991	(F3,MU) 1 2 3 4 6 7 10 15 17 18
	CHLOROPROPANE see PROPYL CHLORIDE			
syn add				
2241	2-CHLOROPROPANE	75-29-6	2356	3 15
	CHLOROPROPANOL see PROPYLENE CHLOROHYDRIN			
syn add				
	2-CHLORO-1-PROPANOL see PROPYLENE CHLOROHYDRIN			
syn add				
0408	3-CHLOROPROPANOL 1-PROPANOL, 3-CHLORO-	627-30-5	2849	3 17
0409	2-CHLOROPROPENE PROPENE, 2-CHLORO-	557-98-2	2456	3 15 17
0410	# CHLOROPROPIONIC ACID PROPANOIC ACID, CHLORO-	28554-00-9	2511	(CO) 3 15 17
2711	3-CHLOROPROPIONITRILE	542-76-7	2404	3 15 16 17 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 7 13(Y,EE) 17
2242 gen	CHLOROSILANE, n.o.s.		2987+	17
1424	o-CHLOROSTYRENE BENZENE, CHLOROETHENYL-	1331-28-8		1 2
0413	# CHLOROSULPHONIC ACID CHLOROSULFURIC ACID	7790-94-5	1754	(CO,R3) 3 17 20
0414	CHLOROTETRAFLUOROETHANE ETHANE, CHLOROTETRAFLUORO-	63938-10-3	1021	1 2 3 17
0415	CHLOROTHALONIL 1,3-BENZENEDICARBONITRILE, 2,4,5,6-TETRACHLORO-	1897-45-6		6 7 8 18
0416	# CHLOROTOLUENES BENZENE, CHLOROMETHYL-	25168-05-2	2238	(CO) 3 15 17
1425	o-CHLOROTOLUENE BENZENE, 1-CHLORO-2-METHYL-	95-49-8	2238	1 2 8
	p-CHLORO-o-TOLUIDINE see 3-CHLORO-2-METHYLANILINE			
syn add				
0397	4-CHLORO-o-TOLUIDINE HYDROCHLORIDE BENZENAMINE, 4-CHLORO-2-METHYL-, HYDROCHLORIDE	3165-93-3	1579	3 17 20 21
3106	CHLOROTRIFLUOROETHANE	1330-45-6	1983	1 2 3 17
3236 add	CHLOROTRIFLUOROETHYLENE	79-38-9	1082	3 17

0425	CHLOROTRIFLUOROMETHANE METHANE, CHLOROTRIFLUORO-	75-72-9	1022	3 17
3237 add	CHLOROTRIFLUOROPYRIDINE		9270	17
2246	CHLOROXURON	1982-47-4	2588	3 16 19
3238 add	CHLORPROPHAM	101-27-3		8
0426	CHLORPYRIFOS PHOSPHOROTHIOIC ACID, O,O-DIETHYL O-(3,5,6-TRICHLORO-2- * PYRIDINYL) ESTER	2921-88-2	2783	1 2 3 8 14 17 20
syn	CHOLANTHRENE, 3-METHYL see 3-METHYLCHOLANTHRENE			
2247	CHLORTHIOPHOS	21923-23-9	3018	3 16 19
0428	# CHROMIC ACETATE ACETIC ACID, CHROMIUM (3+) SALT	1066-30-4	9101	(CA) 1 2 3 5 6 18 20
0429 chg	# CHROMIC ACID	7738-94-5	1463+	(CA,CO) 1 3 4 5 6 15 17 18 20
syn add	CHROMIC ANHYDRIDE see CHROMIUM OXIDE			
2248	CHROMIC CHLORIDE	10025-73-7		6 16 18 19
0430	# CHROMIC FLUORIDE CHROMIUM FLUORIDE	7788-97-8	1756+	(CO) 1 2 3 6 17 18
0431	# CHROMIC SULFATE SULFURIC ACID, CHROMIUM(3+) SALT (3:2)	10101-53-8	9100	(CA) 1 2 3 6 18 20
syn add	CHROMIC TRIOXIDE see CHROMIUM OXIDE			
0432	# CHROMIUM	7440-47-3		(CA,MU) 1 2 3 4 5 6 7 12(A, B) 18 20
2245 gen	CHROMIUM compounds			6 18 20
2870 gen	CHROMIUM, inorganic compounds			6 18
0433	CHROMIUM (II) CHROMIUM, ion (Cr2+)	22541-79-3		1 2 6 18
0434 chg	@ CHROMIUM(III) OXIDE	1308-38-9		1 2 5 6 18
0435	CHROMIUM NITRATE NITRIC ACID, CHROMIUM (3+)	13548-38-4	2720	1 2 3 6 17 18
0437	# CHROMIUM OXIDE	1333-82-0	1463+	(CA) 2 3 5 6 7 15 17 18
0436	# CHROMIUM OXYCHLORIDE CHROMIUM, DICHLORODIOXO-	14977-61-8	1758	(CO) 1 2 3 6 15 17 18
syn add	CHROMIUM TRIOXIDE see CHROMIC ACID			
0439	# CHROMOSULFURIC ACID SULFURIC ACID, CHROMIUM SALT	14489-25-9	2240	(CO) 1 2 3 6 18
0440	CHROMOUS CHLORIDE	10049-05-5	9102	1 2 3 6 18 20
syn	CHROMYL CHLORIDE see CHROMIUM OXYCHLORIDE			
0441	# CHRYSENE	218-01-9		(CA) 1 2 3 4 7 8 20 21
syn add	CHRYSOTILE see ASBESTOS, CHRYSOTILE			
3517 add	C.I. ACID BLUE 1	129-17-9		6
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	1602+	3 6 17
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	1602+	3 17
0442	C.I. ACID GREEN 3	4680-78-8	1602+	3 6 17 18
3513 add	C.I. ACID GREEN 5	5141-20-8		6
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 17
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 17
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 17
0447	C.I. AZOIC COUPLING COMPONENT 3	91-92-9	1602+	3 17
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 17
2249	C.I. BASIC GREEN 1	633-03-4	1602+	3 16 17 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 17 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 17 18
3239 add	C.I. BASIC RED 9, MONOHYDROCHLORIDE	569-61-9		5 7
0450	@ C.I. BASIC YELLOW 2, MONOHYDROCHLORIDE BENZENAMINE, 4,4'-CARBONIMIDOYLBIS N,N-DIMETHYL-, * MONOHYDROCHLORIDE	2465-27-2	1602+	3 17
0451	# C.I. DIRECT BLACK 4, DISODIUM SALT 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 17
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 17
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 10 17 18
0454	C.I. DIRECT BLACK 114	61703-05-7	1602+	3 11 17
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 17
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 17
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 17
0461	# C.I. DIRECT BLUE 2, TRISODIUM SALT 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 17
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 17 18
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 17

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 7 8 17 20 21
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 17
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 17
0456	C.I. DIRECT BLUE 25, TETRASODIUM SALT 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 17
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 17
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 17
0471	# C.I. DIRECT BROWN 2, DISODIUM SALT 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 17
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 17
0467	# C.I. DIRECT BROWN 6, DISODIUM SALT 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 17
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 17
0475	# C.I. DIRECT BROWN 31, TETRASODIUM SALT 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 17
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 17
0472	# C.I. DIRECT BROWN 59, DISODIUM SALT 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 17
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 17
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 17 18
0470	# C.I. DIRECT BROWN 111	12222-20-7	1602+	(CA) 3 9 17
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 17
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 17
0480	# C.I. DIRECT GREEN 1, DISODIUM SALT 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 17
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 17
0481	# C.I. DIRECT GREEN 6, DISODIUM SALT 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 17
0482	# C.I. DIRECT GREEN 8, TRISODIUM SALT 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 17
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 17
0485	# C.I. DIRECT ORANGE 1	54579-28-1	1602+	(CA) 3 9 17
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 17
0486	# C.I. DIRECT ORANGE 8	64083-59-6	1602+	(CA) 3 9 17
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 17
0492	# C.I. DIRECT RED 1, DISODIUM SALT 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 17
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 17
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 17
0493	# C.I. DIRECT RED 10, DISODIUM SALT 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 17
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 17
0489	# C.I. DIRECT RED 13, DISODIUM SALT 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 17
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 17
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 17
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 17
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 17
0498	# C.I. DIRECT VIOLET 1, DISODIUM SALT 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 17
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 17
0500	# C.I. DIRECT VIOLET 22, TRISODIUM SALT 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 17
0502	# C.I. DIRECT YELLOW 20	6426-62-6	1602+	(CA) 3 9 17
0503	C.I. DISPERSE YELLOW 3 ACETAMIDE, N- 4- (2-HYDROXY-5-METHYLPHENYL)AZO PHENYL -	2832-40-8	1602+	3 6 17 18
0504	C.I. FOOD RED 5 2,7-NAPHTHALENEDISULFONIC ACID, 4- (2,6-DIMETHYLPHENYL)AZO -3- * HYDROXY-, DISODIUM SALT	3761-53-3	1602+	3 6 17 18
3516 add	C.I. FOOD RED 6	3564-09-8		6
0505	C.I. FOOD RED 15 XANTHYLIUM, 9-(2-CARBOXYPHENYL)-3,6-BIS(DIETHYL AMINO)-, * CHLORIDE	81-88-9	1602+	3 6 17 18
0506	C.I. SOLVENT ORANGE 7 2-NAPHTHALENOL, 1- (2,4-DIMETHYLPHENYL)AZO -	3118-97-6	1602+	3 6 17 18
0508	+ C.I. SOLVENT YELLOW 1 BENZENAMINE, 4-(PHENYLAZO)-	60-09-3	1602+	(CA) 3 6 7 17 18
0507	C.I. SOLVENT YELLOW 3 BENZENAMINE, 2-METHYL-4- (2-METHYLPHENYL)AZO -	97-56-3	1602+	3 6 7 17 18
0509	C.I. SOLVENT YELLOW 14 2-NAPHTHALENOL, 1-(PHENYLAZO)-	842-07-9	1602+	3 6 17 18

syn	C.I. SOLVENT YELLOW 34 see AURAMINE			
add				
0510	# CISPLATIN CIS-DIAMINEDICHLOROPLATINUM(II)	15663-27-1	1851+	(CA,MU) 3 7 17
0511	# CITRUS RED NO. 2 2-NAPHTHALENOL, 1- (2,5-DIMETHOXYPHENYL)AZO -	6358-53-8	1602+	(CA) 3 7 8 17
0512	C.I. VAT YELLOW 4 DIBENZO (b,def) CHRYSENE-7,14-DIONE	128-66-5	1602+	3 6 17 18
2253	CLEANING COMPOUND		1142	
gen				3 17
2254	CLEANING COMPOUND, LIQUID, CORROSIVE		1760	
gen				3 15 17
0513	+ CLOMIPHENE CITRATE ETHANAMINE, 2-(4-(2-CHLORO-1,2-DIPHENYLETHENYL)PHENOXY)-N,N- * DIETHYL,-	50-41-9		(TE) 7 13(Y,EE)
3240	CLONITRALID	50-65-7		
add				14
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)
0516	COAL DUST			1 2
syn	COAL FACINGS see COAL GROUND BITUMINOUS, SEA COAL			
add				
2255	+ COAL GAS		1023	(CA) 3 7 17
gen				
3241	COAL GROUND BITUMINOUS, SEA COAL		1361	
add				3 17
syn	COAL OIL see KEROSENE			
0519	+ COAL TAR (COAL TAR PITCH)	65996-93-2	1137	(CA) 1 2 3 4 7 15
0517	# COAL TAR CREOSOTE CREOSOTE	8001-58-9	1993	(CA) 1 3 4 6 7 8 15 17 18 20 21
2256	COAL TAR DISTILLATE	65996-92-1	1137+	
gen				3 17
3242	COAL TAR DYE, LIQUID	8001-31-8	2801	
add				3 17
0518	COAL TAR NAPHTHA	8030-30-6	2553	
				1 3 4 17
3243	COAL TAR PRODUCTS			
gen				4
add				
2259	COATING SOLUTION		1139	
gen				3 17
0520	COBALT	7440-48-4		1 2 4 6 12 (B) 16 18
2222	COBALT COMPOUNDS			
gen				6 18
0521	# COBALT CARBONYL COBALT, DI-mu-CARBONYLHEXACARBONYLDI-, (Co-Co)	10210-68-1	2811	(F3) 1 2 3 6 16 18 19
chg				
2260	COBALT, ((2,2'-(1,2-ETHANEDIYLBIS(NITRILOMETHYLIDENE)BIS * (PHENALOTO))(2-)-N,N',O,O')-	62207-76-5		6 16 18 19
0522	COBALT HYDROCARBONYL COBALT, TETRACARBONYLHYDRO-	16842-03-8		1 2 6 18
0523	COBALT NAPHTHENATE NAPHTHENIC ACID, COBALT SALT	61789-51-3	2001	3 6 15 17 18
0524	COBALTOUS BROMIDE COBALT BROMIDE	7789-43-7	9103	3 6 18 20
0525	COBALTOUS FORMATE FORMIC ACID, COBALT SALT	544-18-3	9104	3 6 18 20
2261	COBALTOUS SULFAMATE	14017-41-5	9105	3 6 18 20
2262	COBALT RESINATE, PRECIPITATED	68956-82-1	1318	
gen				3 6 17 18
0526	COCCULUS PICROTOXIN	124-87-8	1584	3 16 17 19
0527	# COKE OVEN EMISSIONS		1049	(CA) 1 3 4 5 7 8 17 20
chg				
2263	COLCHICINE	64-86-8	1851	3 16 17 19
syn	COLLODION see NITROCELLULOSE			
syn	COLOGNE SPIRITS see ETHYL ALCOHOL			
syn	COLUMBIAN SPIRITS see METHYL ALCOHOL			
2271	COMPRESSED OR LIQUIFIED GASES, n.o.s.		1955+	
gen				3 17
0528	COPPER	7440-50-8		1 2 3 6 8 18 20
2215	COPPER compounds			
gen				6 18 20
2871	COPPER, inorganic compounds			
gen				6 18 20
0529	COPPER ACETOARSENITE COPPER, BIS(ACETO)HEXAMETA-ARSENITOTETRA-	12002-03-8	1585	3 6 16 17 18 19 20
3244	COPPER ACETYLIDE	12540-13-5		
add				3 6 18
3245	COPPER AMINEAZIDE			
add				3 6 18
0530	COPPER ARSENITE ARSENIC ACID, COPPER (2+) SALT (1:1)	10290-12-7	1586	3 6 17 18 20
2278	COPPER-BASED PESTICIDE, TOXIC, n.o.s.		2775+	
gen				3 6 17 18
0531	COPPER CHLORATE CHLORIC ACID, COPPER SALT	26506-47-8	2721	3 6 17 18 20
0532	COPPER CHLORIDE	1344-67-8	2802	3 6 17 18 20
syn	COPPER CYANIDE see CUPRIC CYANIDE or CUPROUS CYANIDE			
add				
2279	COPPER SELENATE	15123-69-0	2630	3 6 17 18 20
2280	COPPER SELENITE	10214-40-1	2630	3 6 17 18 20
3246	COTTON DUST			
add				1 2 4 12(A, B)
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 17 19 20
2294	COUMARIN DERIVATIVE PESTICIDE, n.o.s.		3024+	
gen				17
2297	COUMATETRALYL	5836-29-3	3027	16 17 19
2298	CREOSOTE SALTS		1334	
gen				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 7 18
3509	+ CRESOLS		2076	(CO)
gen	PHENOL, METHYL-			1 2 3 4 6
add				10 15 17 18 20 21
1161	# m-CRESOL PHENOL, 3-METHYL-	108-39-4	2076	(CO) 1 2 3 4 6 8 15 17 18 20 21
1426	# o-CRESOL PHENOL, 2-METHYL-	95-48-7	2076	(CO_2,R2) 1 2 3 4 6 15 16 17 18 19 20 21

1468	# p-CRESOL PHENOL, 4-METHYL-	106-44-5	2076	(CO) 1 2 3 4 6 8 15 17 18 20 21
0537	CRESYLIC ACID PHENOL, METHYL-	1319-77-3	2022+	1 2 3 4 6 10 15 17 18 20 21
syn	o-CRESYLIC ACID see o-CRESOL			
syn	CRIMIDINE see CASTRIX			
syn	CROCIDOLITE see ASBESTOS, CROCIDOLITE			
0538	# CROTONALDEHYDE 2-BUTENAL	123-73-9	1143	(F3,MU,R2) 1 3 15 16 17 19 20 21
2888	CROTONALDEHYDE, inhibited	4170-30-3	1143	2 3 16 19 20 21
0539	# CROTONIC ACID 2-BUTENOIC ACID	3724-65-0	2823	(CO) 3 15 17
0540	CROTONYLENE 2-BUTYNE	503-17-3	1144	3 17
0541 chg	CRUFOMATE PHOSPHORAMIDIC ACID, METHYL-, 2-CHLORO-4-(1,1- * DIMETHYLETHYL)PHENYL METHYL ESTER	299-86-5		1 2
syn	CRYOLITE see SODIUM ALUMINUM FLUORIDE			
0542	# CUMENE BENZENE, (1-METHYLETHYL)-	98-82-8	1918	(F3) 1 2 3 6 8 15 17 18 20 21
0543	# CUMENE HYDROPEROXIDE HYDROPEROXIDE, 1-METHYL-1-PHENYLETHYL	80-15-9	2116	(R4) 3 6 15 17 18 20 21
0544	CUMYL PEROXYNEODECANOATE NEODECANEPEROXOIC ACID, 1-METHYL-1-PHENYLETHYL ESTER	26748-47-0	2963	3 17
2299 gen	CUMYL PEROXYPIVALATE		2964	3 17
0545	# CUPFERRON BENZENAMINE, N-HYDROXY-N-NITROSO-, AMMONIUM SALT	135-20-6		(CA) 5 6 18
0546	CUPRIC ACETATE ACETIC ACID, COPPER(II) SALT	142-71-2	9106	3 6 18 20
syn	CUPRIC ACETOARSENITE see COPPER ACETOARSENITE			
syn	CUPRIC ARSENITE see COPPER ARSENITE			
syn	CUPRIC CHLORATE see COPPER CHLORATE			
syn	CUPRIC CHLORIDE see COPPER CHLORIDE			
0533 chg	CUPRIC CYANIDE	14763-77-0	1587	1 2 3 6 17 18 20 21
0547	CUPRIC NITRATE NITRIC ACID, COPPER(II) SALT	3251-23-8	1479	3 6 15 17 18 20
0548	CUPRIC OXALATE ETHANEDIOIC ACID, COPPER (II) SALT (1:1)	814-91-5	2449	3 6 18 20
0549	CUPRIC SULFATE SULFURIC ACID, COPPER(II) SALT (1:1)	7758-98-7	9109	3 6 18 20
2300	CUPRIC SULFATE, AMMONIATED	10380-29-7	9110	3 6 18 20
0550	CUPRIC TARTRATE BUTANEDIOIC ACID, 2,3-DIHYDROXY-, COPPER SALT	815-82-7	9111	3 6 18 20
0551	# CUPRIETHYLENEDIAMINE COPPER, BIS(1,2-ETHANE DIAMINE-N,N')-	13426-91-0	1761	(CO) 3 6 17 18
3061 chg	CUPROUS CYANIDE	544-92-3	1587	1 2 3 6 8 18 20 21
syn	CUT-BACKS see ASPHALT FUMES			
0552	# CYANAMIDE	420-04-2		(R3) 1 2 6 15 18 20
syn	CYANAZINE see BLADEX			
0553	CYANIDE	57-12-5	1588+	1 2 3 4 6 8 17 18 20 21
2872 gen	CYANIDE, inorganic compounds		1588+	1 2 3 6 17 18 20
2308 gen	CYANIDE compounds, n.o.s.		1588+	1 2 3 6 18 20
syn	CYANOBENZENE see BENZONITRILE			
0554	# CYANOGEN ETHANEDINITRILE	460-19-5	1026	(F4,R3) 1 2 3 6 8 15 17 18 20 21
2302	CYANOGEN BROMIDE	506-68-3	1889	1 2 3 6 15 16 17 18 19 20 21
0556	CYANOGEN CHLORIDE	506-77-4	1589	1 2 3 6 8 17 18 20 21
2303	CYANOGEN IODIDE	506-78-5	1588	1 2 3 6 16 17 18 19 20
2304	CYANOPHOS	2636-26-2	3018	1 2 3 6 16 17 18 19 20
syn	CYANURIC CHLORIDE see CYANURIC TRICHLORIDE			
2305	CYANURIC FLUORIDE	675-14-9		1 2 6 16 18 19 20
0557	# CYANURIC TRICHLORIDE 1,3,5-TRIAZINE, 2,4,6-TRICHLORO-	108-77-0	2670	(CO) 1 2 3 6 17 18 20
0558	# CYCASIN beta-D-GLUCOPYRANOSIDE, ((METHYL-ONN-AZOXY)METHYL)-	14901-08-7		(CA) 5 7
0559	# CYCLOBUTANE	287-23-0	2601	(F4) 3 15 17
0560	# CYCLOBUTYLCHLOROFORMATE CARBONOCHLORIDIC ACID, CYCLOBUTYL ESTER	81228-87-7	2744	(CO) 3 17
0561	1,5,9-CYCLODODECATRIENE	4904-61-4	2518	3 15 17
0562	# CYCLOHEPTANE	291-64-5	2241	(F3) 3 15 17
0563	CYCLOHEPTATRIENE 1,3,5-CYCLOHEPTATRIENE	544-25-2	2603	3 17
0564 chg	# CYCLOHEPTENE	628-92-2	2242	(F3) 3 17
0565	# CYCLOHEXANE	110-82-7	1145	(F3) 1 2 3 6 15 17 18 20 21
syn	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			
0568	CYCLOHEXANETHIOL	1569-69-3		4 10 15 17
0569	CYCLOHEXANOL	108-93-0	1986	1 2 3 15
0570	CYCLOHEXANONE	108-94-1	1915	1 2 3 4 8 10 15 17 20 21
0571	CYCLOHEXANONE PEROXIDE	12262-58-7	2117+	3 17
0572 chg	# CYCLOHEXENE	110-83-8	2256	(F3) 1 2 3 15 17
0573	# CYCLOHEXENYL TRICHLOROSILANE SILANE, (3-CYCLOHEXENYL)TRICHLORO-	10137-69-6	1762	(CO) 3 17
0574	# CYCLOHEXIMIDE GLUTARIMIDE, 3-(2-(3,5-DIMETHYL-2-OXOCYCLOHEXYL)-2- * HYDROXYETHYL)-	66-81-9	2811	(MU) 3 14 16 17 19

0575	CYCLOHEXYL ACETATE ACETIC ACID, CYCLOHEXYL ESTER	622-45-7	2263	3 15 17
0576	# CYCLOHEXYLAMINE	108-91-8	2357	(CO,F3,MU) 1 2 3 15 16 17 19
	2-CYCLOHEXYL-4,6-DINITROPHENOL see DINEX			
syn add				
0577	CYCLOHEXYL ISOCYANATE CYCLOHEXANE, ISOCYANATO-	3173-53-3	2488	3 17
	CYCLOHEXYL MERCAPTAN see CYCLOHEXANETHIOL			
syn				
0578	# CYCLOHEXYL TRICHLOROSILANE SILANE, TRICHLOROCYCLOHEXYL-	98-12-4	1763	(CO) 3 15 17
0579	CYCLONITE 1,3,5-TRIAZINE, HEXAHYDRO-1,3,5-TRINITRO-	121-82-4	0072+	1 2 3 8
0580	# CYCLOOCTADIENE	29965-97-7	2520	(F3) 3 17
2307	CYCLOOCTADIENE PHOSPHINE		2940	17
0581	CYCLOOCTATETRAENE 1,3,5,7-CYCLOOCTATETRAENE	629-20-9	2358	3 17
0582	CYCLOPENTADIENE 1,3-CYCLOPENTADIENE	542-92-7		1 2
0583	# CYCLOPENTANE	287-92-3	1146	(F3) 1 2 3 15 16 17
0584	CYCLOPENTANOL	96-41-3	2244	3 15 17
0585	# CYCLOPENTANONE	120-92-3	2245	(F3) 3 15 17
0586	# CYCLOPENTENE	142-29-0	2246	(F3) 3 15 17
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 13(C, F, G, H, U, V, Y,EE) 20 21
0588	# CYCLOPROPANE	75-19-4	1027	(F4) 3 15 17
0589	# CYCLOTETRAMETHYLENETETRANITRAMINE 1,3,5,7-TETRAZOCINE, OCTAHYDRO-1,3,5,7-TETRANITRO-	2691-41-0	0226+	(CO) 3 8
3247 add	CYCLOTETRAMETHYLENETRINITRAMINE	2691-41-0	0072+	3
	CYCLOTRIMETHYLENETRINITRAMINE see CYCLONITE			
syn add				
3248 add	CYHALOTHRIN/KARATE	68085-85-8		8
0590	CYHEXATIN STANNANE, TRICYCLOHEXYLHYDROXY-	13121-70-5		1 2
0591	CYMENE BENZENE, METHYL(1-METHYLETHYL)-	25155-15-1	2046	3 17
3249 add	CYPERMETHRIN	52315-07-8		8
3250 add	CYROMAZINE	66215-27-8		8
3249	CYPERMETHRIN	52315-07-8		8
0592	# CYSTOSINE ARABINOSIDE CYTOSINE, 1-beta-D-ARABINO-FURANOSYL	147-94-4		(MU,TE) 13(F,S)
0593	2,4-D ACETIC ACID, (2,4-DICHLORO-PHENOXY)-	94-75-7	2765	1 2 3 6 7 8 14 17 18 20 21
1922	# DACARBAZINE 1H-IMIDAZOLE-4-CARBOXAMIDE, 5-(3,3-DIMETHYL-1-TRIAZENYL)-	4342-03-4		(CA) 5 7
3251 add	DACTHAL	1861-32-1		8
	DALAPON, SODIUM SALT see 2,2-DICHLOROPROPIONIC ACID			
syn add				
3252 add	DAMINOZIDE	596-84-5		14
3253 add	DANITOL	39515-41-8		8
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 7 20 21
	DAUNORUBICIN see DAUNOMYCIN			
syn				
0595	# DBCP PROPANE, 1,2-DIBROMO-3-CHLORO-	96-12-8	2872	(CA) 1 3 4 5 6 7 17 18 20 21
	DDD see 1,1-DICHLORO-2,2-BIS(p-CHLOROPHENYL)ETHANE			
syn				
2979	DDE DICHLORODIPHENYLDICHLOROETHYLENE	72-55-9	2761	3 8 20
0596	# DDT DICHLORODIPHENYLTRICHLOROETHANE	50-29-3	2761	(CA,MU,TE) 1 2 3 4 5 7 8 17 20 21
3254 add	DDT METABOLITES			20
0597	DECABORANE	17702-41-9	1868	1 2 3 15 16 17 19
	DECABROMODIPHENYL OXIDE see DECABROMODIPHENYL ETHER			
syn				
0598	DECABROMODIPHENYL ETHER BENZENE, 1,1'-OXYBIS 2,3,4,5,6-PENTABROMO-	1163-19-5		6 8 18
0599	DECAHYDRONAPHTHALENE NAPHTHALENE, DECAHYDRO-	91-17-8	1147	3 15 17
	DECALIN see DECAHYDRONAPHTHALENE			
syn				
0600	DECANE	124-18-5	2247	3 15 17
0601	1-DECANETHIOL	143-10-2		4 10
0602	DECANOYL PEROXIDE PEROXIDE, BIS(1-OXODECYL)	762-12-9	2120	3 17
0603	DECEMTHION PHOSPHORODITHIOIC ACID, S-((1,3-DIHYDRO-1,3-DIOXO-2H-ISOINDOL-2- * YL)METHYL) O,O-DIMETHYL ESTER	732-11-6	2783+	3 8 14 16 19
3255 add	2,4-D,DIETHANOLAMINE SALT			14
3256 add	2,4-D,DIMETHYLAMINE SALT	7008-39-1		14
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 8 14 16 19
	DEMETON-S-METHYL see METHYL-S-DEMETON			
syn				
3500	DENATURATED ALCOHOL		1986	3 15 17
2930	2,4-D ESTERS	25168-26-7	2765	3 7 14 20
2941	2,4-D ESTERS	94-11-1	2765	3 7 14 20
2942	2,4-D ESTERS	94-79-1	2765	3 7 20
2943	2,4-D ESTERS	94-80-4	2765	3 7 14 20
2944	2,4-D ESTERS	1320-18-9	2765	3 7 20
2945	2,4-D ESTERS	1928-38-7	2765	3 7 14 20
2946	2,4-D ESTERS	1928-61-6	2765	3 7 20
2947	2,4-D ESTERS	2971-38-2	2765	3 7 20
2948	2,4-D ESTERS	53467-11-1	2765	3 7 20
2949	2,4-D ESTERS	1929-73-3	2765	3 7 14 20

3257 add	2,4-D ETHYL ESTER	533-23-3		14
3258 add	2,4-D ETHYLHEXYL ESTER	1928-43-4		14
0605	# DEUTERIUM	7782-39-0	1957	(F4) 3 15 17
0606	DIACETONE ALCOHOL 2-PENTANONE, 4-HYDROXY-4-METHYL-	123-42-2	1148	1 2 3 4 10 15 17
0607	DIACETONE ALCOHOL PEROXIDE 2-PENTANONE, 4-HYDROXY-4-METHYL-, PEROXIDE	54693-46-8	2163	3 15 17
syn	DIACETYL see BUTANEDIONE			
3259 add	+ N,N'-DIACETYLBENZIDINE	613-35-4		(CA) 7
syn	DIACETYLPEROXIDE see ACETYLPEROXIDE			
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 7 18 20 21
0609	DIALLYLAMINE 2-PROPEN-1-AMINE, N-2-PROPENYL-	124-02-7	2359	3 17
0610	# DIALLYLETHER 1-PROPENE, 3,3'-OXYBIS-	557-40-4	2360	(F3,R2) 3 15 17
0611	+ 2,4-DIAMINOANISOLE 1,3-BENZENEDIAMINE, 4-METHOXY-	615-05-4		(CA) 4 6 7 10 18
2899 chg	# 2,4-DIAMINOANISOLE SULFATE m-PHENYLENEDIAMINE, 4-METHOXY-, SULFATE	39156-41-7		(CA) 5 6 7 18
0612	+ 4,4'-DIAMINODIPHENYL ETHER BENZENAMINE, 4,4'-OXYBIS-	101-80-4		(CA) 5 6 7 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 7 8 18 20
2980 chg	2,6-DIAMINOTOLUENE	823-40-5		20
2981 chg	3,4-DIAMINOTOLUENE 4-METHYL-1,2-BENZENEDIAMINE	496-72-0		20
2134	+ DIAMINOTOLUENES, mixed isomers BENZENEDIAMINE, AR-METHYL	25376-45-8	1709	(MU) 3 6 7 10 17 18 20 21
0614	DIAMYLAMINE 1-PENTANAMINE, N-PENTYL-	2050-92-2	2841	3 15 17
syn	o-DIANISIDINE see 3,3'-DIMETHOXYBENZIDINE			
syn add	o-DIANISIDINE-BASED DYES see 3,3'-DIMETHOXYBENZIDINE			
0615	DIASTASE AMYLASE	9000-92-4		12(A)
0616	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 7 13(Y,EE) 17
0618	DIAZINON PHOSPHOROTHIOIC ACID, O,O-DIETHYL O- 6-METHYL-2-(1-METHYLETHYL)-* 4-PYRIMIDINYL ESTER	333-41-5	2783	1 2 3 14 17 20
0619	DIAZODINITROPHENOL 1,2,3-BENZOXDIAZOLE, 5,7-DINITRO-	87-31-0	0074	3
0620	DIAZOMETHANE METHANE, DIAZO-	334-88-3		1 2 3 6 7 18
2310	2-DIAZO-a-NAPHTHOL-4-SULFOCHLORIDE		3042	17
2311	2-DIAZO-1-NAPHTHOL-5-SULFOCHLORIDE		3043	17
0621	# DIBENZ(a,h)ACRIDINE	226-36-8		(CA) 5 7
0623	# DIBENZ(a,j)ACRIDINE	224-42-0		(CA) 5 7 8
0622	# DIBENZ(a,h)ANTHRACENE	53-70-3		(CA,MU) 5 7 8 20 21
0624	# DIBENZO(a,e)PYRENE	192-65-4		(CA,MU) 5 7
0625	# DIBENZO(a,h)PYRENE DIBENZO (b,def) CHRYSENE	189-64-0		(CA) 5 7
0626	# DIBENZO(a,i)PYRENE BENZO (rst) PENTAPHENE	189-55-9		(CA) 5 7 20 21
3260 add	+ DIBENZO(a,l)PYRENE	191-30-0		(CA) 5 7
syn	1,2:7,8-DIBENZOPYRENE see DIBENZO(a,i)PYRENE			
2238	DIBENZOFURAN (1,1'-BIPHENYL)-2,2'-DIYL OXIDE	132-64-9		3 6 8 18
syn add	DIBENZOYLPEROXIDE see BENZOYL PEROXIDE			
0627	# DIBENZYL DICHLOROSILANE SILANE, DICHLORODIS(PHENYL METHYL)	18414-36-3	2434	(CO) 3 17
0628	DIBENZYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, BIS(PHENYLMETHYL) ESTER	2144-45-8	2149	3 17
0629	# DIBORANE	19287-45-7	1911	(F4,R3) 1 2 3 15 16 17 19
3261 add	DIBROMOACETYLENE	624-61-3		3
0630	DIBROMOBENZENE BENZENE, DIBROMO-	26249-12-7	2711	3 17
3262 add	1,4-DIBROMOBENZENE	106-37-6		8
0631	DIBROMOBUTANONE 1,1-DIBROMO-3-BUTANONE	3479-86-5	2648	17
syn add	DIBROMOCHLOROMETHANE see CHLORODIBROMOMETHANE			
syn	1,2-DIBROMO-3-CHLOROPROPANE see DBCP			
syn add	DIBROMOCHLOROPROPANE see DBCP			
3263 add	DIBROMODICHLOROMETHANE	594-18-3		8
syn add	DIBROMODIFLUOROMETHANE see DIFLUORODIBROMOMETHANE			
3264 add	p,p'-DIBROMODIPHENYL ETHER	2050-47-7		8
syn add	DIBROMOETHANE see ETHYLENE DIBROMIDE			
syn	1,2-DIBROMOETHANE see ETHYLENE DIBROMIDE			
syn add	DIBROMOMETHANE see METHYLENE BROMIDE			
3265 add	DIBROMOTETRAFLUOROETHANE (HALON 2402)	124-73-2		6 18
0632	# DIBUTYLAMINE 1-BUTANAMINE, N-BUTYL-	111-92-2	2248	(CO) 3 15 17
syn add	DIBUTYLAMINOETHANOL see 2-N-DIBUTYLAMINOETHANOL			
1334	2-n-DIBUTYLAMINOETHANOL 2-(DIBUTYLAMINO)-ETHANOL	102-81-8	2873	1 2 3 15 17
0814	2,6-DI-tert-BUTYL-p-CRESOL PHENOL, 2,6-BIS(1,1-DIMETHYLETHYL)-4-METHYL-	128-37-0		1 2 7
0813	DI(4-tert-BUTYLCYCLOHEXYL)-PEROXYDICARBONATE PEROXYDICARBONIC ACID, BIS 4-(1,1-* DIMETHYLETHYL)CYCLOHEXYL ESTER	15520-11-3	2154+	3 17

	DIBUTYLETHER see BUTYL ETHER			
syn add				
	N,N'-DIBUTYL HEXAMETHYLENEDIAMINE see HEXAMETHYLENE-* DIAMINE, N,N'DIBUTYL-			
syn				
0815	DI-tert-BUTYL PEROXIDE PEROXIDE, BIS(1,1-DIMETHYLETHYL)	110-05-4	2102	3 15 17
0816	2,2-DI(tert-BUTYLPEROXY)-BUTANE PEROXIDE, (1-METHYLPROPYLIDENE)BIS (1,1-DIMETHYLETHYL)	2167-23-9	2111+	3 17
0817	1,1-DI(tert-BUTYLPEROXY)-CYCLOHEXANE PEROXIDE, CYCLOHEXYLIDENEBIS (1,1-DIMETHYLETHYL)	3006-86-8	2179+	3 17
0809	DI-sec-BUTYL PEROXY-DICARBONATE PEROXYDICARBONIC ACID, BIS(1-METHYLPROPYL) ESTER	19910-65-7	2150+	3
Z313 gen	DI-N-BUTYL PEROXYDICARBONATE		2170+	3 17
Z314 gen	1,4-DI-(2-tert-BUTYLPEROXY ISOPROPYL)BENZENE or 1,3-* DI-(2-tert-BUTYLPEROXY ISOPROPYL)BENZENE or mixtures		2112	3 17
3266 add	DIBUTYLPHENYLPHOSPHATE	2528-78-7		2
2315	DI-tert-BUTYLPEROXYPHTHALATE	2155-71-7	2107+	3 17
2318 gen	2,2-DI(tert-BUTYLPEROXY)PROPANE		2883+	3 17
0818	1,1-DI(tert-BUTYLPEROXY)-3,3,5-TRIMETHYLCYCLOHEXANE PEROXIDE, (3,3,5-TRIMETHYLCYCLOHEXYLIDENE)BIS (1,1-* DIMETHYLETHYL)	6731-36-8	2145+	3 17
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 8 15 16 18 20 21
0634	DICAMBA BENZOIC ACID, 3,6-DICHLORO-2-METHOXY-	1918-00-9	2769	3 8 20
0635	DICETYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIHEXADECYL ESTER	26322-14-5	2895+	3 17
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 17
syn add	1,3-DICHLOROACETONE see BIS(CHLOROMETHYL)KETONE			
0639	# DICHLOROACETYL CHLORIDE ACETYL CHLORIDE, DICHLORO-	79-36-7	1765	(CO) 3 15 17
0640	DICHLOROACETYLENE DICHLOROETHYNE	7572-29-4		1 2 3 17
0641	DICHLOROANILINE BENZENAMINE, AR,AR-DICHLORO-	27134-27-6	1590	3 15 17
2320	DICHLOROBENZALKONIUM CHLORIDE	8023-53-8		16
0642	1,2-DICHLOROBENZENE BENZENE, 1,2-DICHLORO-	95-50-1	1591	1 2 3 6 7 8 15 17 18 20 21
2301	1,3-DICHLOROBENZENE BENZENE, 1,3-DICHLORO-	541-73-1	9255	3 6 8 18 20 21
0643	+ 1,4-DICHLOROBENZENE BENZENE, 1,4-DICHLORO-	106-46-7	1592	(CA) 1 2 3 5 6 7 15 17 18 20 21
2321 chg	a DICHLOROBENZENES, mixed isomers	25321-22-6		3 6 18 20
0644	# 3,3'-DICHLOROBENZIDINE 1,1'-BIPHENYL-4,4'-DIAMINE, 3,3'-DICHLORO-	91-94-1		(CA,MU) 1 2 3 4 5 6 7 8 18 20 21
3267 add	3,3'-DICHLOROBENZIDINEDIHYDROCHLORIDE	612-83-9		5
0645 chg	2,4-DICHLOROBENZOYL PEROXIDE PEROXIDE, BIS(2,4-DICHLOROBENZOYL)	133-14-2	2137	3 17
0646	1,1-DICHLORO-2,2-BIS-(p-CHLOROPHENYL)ETHANE BENZENE, 1,1'-(2,2-DICHLOROETHYLIDENE)BIS 4-CHLORO-	72-54-8	2761	3 8 17 20 21
2341	DICHLOROBROMOMETHANE	75-27-4		3 6 18 20
0647	# DICHLOROBUTENE BUTENE, DICHLORO-	11069-19-5	2924	(CO) 3 17
2829	trans-1,4-DICHLOROBUTENE	110-57-6	2924	3 16 17 19
3070	1,4-DICHLORO-2-BUTENE	764-41-0	2924	3 17 20 21
3268 add	+ 3,3'-DICHLORO-4,4'-DIAMINODIPHENYL ETHER			(CA) 7
0648	DICHLORODIFLUOROETHYLENE ETHENE, DICHLORODIFLUORO-	27156-03-2	9018	1 2 3 17
0649	DICHLORODIFLUOROMETHANE METHANE, DICHLORODIFLUORO-	75-71-8	1028	1 2 3 6 17 18 20 21
syn add	DICHLORODIMETHYLETHER, SYMMETRICAL see BIS(2-CHLORO METHYL) * ETHER			
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 4 8 10 15 17 20 21
0652	# 1,2-DICHLOROETHANE ETHANE, 1,2-DICHLORO-	107-06-2	1184	(CA,F3,MU) 1 2 3 4 5 6 7 8 10 15 17 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 6 15 17 18
3269 add	cis-1,2-DICHLOROETHYLENE	156-59-2		8
2921	trans-1,2-DICHLOROETHYLENE	156-60-5		8 20 21
syn	DICHLOROETHYL ETHER see BIS (2-CHLOROETHYL) ETHER			
3270 add	1,1-DICHLORO-1-FLUOROETHANE		9274	17
3109	DICHLOROFLUOROMETHANE	75-43-4	1029	1 2 3 17
0654	DICHLOROISOCYANURIC ACID 1,3,5-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE, 1,3-DICHLORO-	2782-57-2	2465	1 2 3 15 17 20
3501 add	DICHLOROISOPROPYL ETHER	108-60-1	2490	3 15 17 20 21
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 17
0656	DICHLOROPENTANE PENTANE, DICHLORO-	30586-10-8	1152	3 15 17
2344	2,4-DICHLOROPHENOL PHENOL, 2,4-DICHLORO	120-83-2	2020	3 6 7 8 15 18 20 21
2952	2,6-DICHLOROPHENOL	87-65-0		3 20 21

syn add	2,4-DICHLOROPHENOXYACETIC ACID see 2,4-D			
0673 chg	# 2,4-DICHLOROPHENOXYACETIC ACID ESTER PHENOL, 2,4-DICHLORO-ACETATE	6341-97-5	2765	(CA) 3 7
0672	2,6-DICHLOROPHENOXYACETIC ACID ESTER PHENOL, 2,6-DICHLORO-ACETATE	28165-71-1	2765	3 4
syn	2,4-DICHLOROPHENOXYACETIC ESTER see 2,4-D ESTERS			
3271 add	4-(2,4-DICHLOROPHENOXY)BUTYRIC ACID (2,4-DB)	94-82-6		8
3076 chg	# 2-(2,4-DICHLOROPHENOXY)PROPANOIC ACID 2-(2,4-DICHLOROPHENOXY)PROPIONIC ACID	120-36-5	.	(CA) 7
0657	1,2-DICHLORO-3-PHENYL ISOCYANATE BENZENE, 1,2-DICHLORO-3-ISOCYANATO-	41195-90-8	2250	1 2 3 20
0658	1,2-DICHLORO-4-PHENYL ISOCYANATE BENZENE, 1,2-DICHLORO-4-ISOCYANATO-	102-36-3	2250	1 2 3 16 19 20
0659	1,3-DICHLORO-2-PHENYL ISOCYANATE BENZENE, 1,3-DICHLORO-2-ISOCYANATO-	39920-37-1	2250	1 2 3 20
0660	1,3-DICHLORO-5-PHENYL ISOCYANATE BENZENE, 1,3-DICHLORO-5-ISOCYANATO-	34893-92-0	2250	1 2 3 20
0661	1,4-DICHLORO-2-PHENYL ISOCYANATE BENZENE, 1,4-DICHLORO-2-ISOCYANATO-	5392-82-5	2250	1 2 3 20
0662	2,4-DICHLORO-1-PHENYL ISOCYANATE BENZENE, 2,4-DICHLORO-1-ISOCYANATO-	2612-57-9	2250	1 2 3 20
0663	# DICHLOROPHENYL TRICHLOROSILANE SILANE, TRICHLORO(DICHLOROPHENYL)-	27137-85-5	1766	(CO) 3 16 17 19
2982 chg	# DICHLOROPROPANE	26638-19-7	1279	(F3) 3 15 17 20
2919	1,1-DICHLOROPROPANE	78-99-9		3 17 20
0664	# 1,2-DICHLOROPROPANE PROPANE, 1,2-DICHLORO-	78-87-5	1279	(F3) 1 2 3 6 7 15 17 18 20 21
2923 chg	1,3-DICHLOROPROPANE	142-28-9	1279	3 17 20
2983 chg	1,2-DICHLOROPROPANE - 1,3-DICHLOROPENE mixture	8003-19-8	1279	3 17 20
0665	1,3-DICHLOROPROPANOL 2-PROPANOL, 1,3-DICHLORO-	96-23-1	2750	3 15 17
3272 add	2,3-DICHLOROPROPANOL	616-23-9	2750	8 17
syn	DICHLOROPROPANONE see BIS(CHLOROMETHYL)KETONE			
2984	DICHLOROPROPENE	26952-23-8		2 3 15 17 20
0666	# 1,3-DICHLOROPROPENE 1,3-DICHLORO-1-PROPENE	542-75-6	2047	(CA,F3) 1 3 5 6 7 8 15 18 20 21
2929	2,3-DICHLOROPROPENE	78-88-6		3 6 15 18 20
0668	# 2,2-DICHLOROPROPIONIC ACID PROPANOIC ACID, 2,2-DICHLORO-	75-99-0	1760	(CO) 1 2 3 8 17 20
syn	1,3-DICHLOROPROPYLENE see 1,3-DICHLOROPROPENE			
0670	DICHLOROSILANE SILANE, DICHLORO-	4109-96-0	2189	3 15 17
0671	DICHLOROTETRAFLUOROETHANE ETHANE, 1,2-DICHLORO-1,1,2,2-TETRAFLUORO-	76-14-2	1958	1 2 3 6 17 18
syn	DICHLOROTRIAZINETRIONE and its salts see * DICHLOROISOCYANURIC ACID			
3273 add	3,5-DICHLORO-2,4,6-TRIFLUOROPYRIDINE		9264	17
0674	DICHLORVOS PHOSPHORIC ACID, 2,2-DICHLOROETHENYL DIMETHYL ESTER	62-73-7	2783	1 2 3 6 7 8 14 16 17 18 19 20
0675	DICOFOL BENZENEMETHANOL, 4-CHLORO-alpha-(4-CHLOROPHENYL)-alpha- * (TRICHLOROMETHYL)-	115-32-2	2588	3 6 7 8 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 17
2323	DICYCLOHEPTADIENE		2251	17
0678	# DICYCLOHEXYLAMINE CYCLOHEXANAMINE, N-CYCLOHEXYL-	101-83-7	2565	(CO) 3 15 17
0679	DICYCLOHEXYLAMMONIUM NITRATE CYCLOHEXANAMINE, N-CYCLOHEXYL-, NITRATE	3882-06-2	2687	3 17
3274 add	DICYCLOHEXYLAMMONIUM NITRITE	3129-91-7	2687	17
syn add	DICYCLOHEXYLMETHANE-4,4'-DIISOCYANATE see * METHYLENE BIS(4-CYCLOHEXYL ISOCYANATE)			
0680	DICYCLOHEXYL PEROXY-DICARBONATE PEROXYDICARBONIC ACID, DICYCLOHEXYL ESTER	1561-49-5	2153+	3 17
0681	# DICYCLOPENTADIENE 4,7-METHANO-1H-INDENE, 3A,4,7,7A-TETRAHYDRO-	77-73-6	2048	(F3) 1 2 3 15 17
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 17
2326 gen	DI-2,4-DICHLOROBENZOYL PEROXIDE		2137+	3 17
2329 gen	1,2-DI-(DIMETHYLAMINO)ETHANE		2372	3 17
2330 gen	DIDYMIUM NITRATE		1465	3 17
0683	# DIELDRIN 2,7:3,6-DIMETHANONAPHTH 2,3-B OXIREME, 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 4 7 8 14 17 20 21
0684	# DIENOESTROL PHENOL, 4,4-(DIETHYLIDENE-ETHYLENE)DI-	84-17-3	1851	(CA) 3 7 17
0685	# 1,2:3,4-DIEPOXYBUTANE 2,2'-BIOXIRANE	1464-53-5	1955	(CA) 3 5 6 7 16 17 18 19 20 21
syn add	DI-2,3-EPOXYPROPYLETHER see DIGLYCIDYLETHER			
syn add	DIESEL FUEL see FUEL OIL			
0686	DIETHANOLAMINE ETHANOL, 2,2'-IMINOBIS-	111-42-2		1 2 3 6 15 18
syn add	DIETHANOLNITROSAMINE see N-NITROSODIETHANOLAMINE			
syn	DIETHOXYDIMETHYL SILANE see DIMETHYLDIETHOXYSILANE			
syn	DIETHOXYLETHANE see ETHYLENE GLYCOL DIETHYL ETHER			
0687 chg	# DIETHOXYMETHANE ETHANE, 1,1'- METHYLENEBIS(OXY) BIS-	462-95-3	2373	(F3) 3 17
2331	Z,5-DIETHOXY-4-MORPHOLINOBENZENEDIAZONIUM ZINC CHLORIDE		3036	6 17 18
0688	3,3-DIETHOXYPROPENE 1-PROPENE, 3,3-DIETHOXY-	3054-95-3	2374	3 17
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 17 20
0691	DIETHYLAMINOETHANOL ETHANOL, 2-(DIETHYLAMINO)-	100-37-8	2686	1 2 3 15 17
0692	# 3-(DIETHYLAMINO) PROPYLAMINE 1,3-PROPANEDIAMINE, N,N-DIETHYL-	104-78-9	2684	(CO) 3 15 17
0693	DIETHYL ANILINE BENZENAMINE, N,N-DIETHYL-	91-66-7	2432	3 15 17

0694	DIETHYLBENZENE BENZENE, DIETHYL-	25340-17-4	2049	3 15 17
2332	DIETHYLCARBAMAZINE CITRATE	1642-54-2	1851	3 16 17 19
0695	+ DIETHYLCARBAMOYL CHLORIDE CARBAMIC CHLORIDE, DIETHYL-	88-10-8		(CA) 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 17
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 15 17
0699	DIETHYLENEGLYCOL DINITRATE ETHANOL, 2,2'-OXYBIS-, DINITRATE	693-21-0	0075	3
syn	1,4-DIETHYLENE DIOXIDE see 1,4-DIOXANE			
0700	# DIETHYLENE TRIAMINE 1,2-ETHANEDIAMINE, N-(2-AMINOETHYL)-	111-40-0	2079	(CO) 1 2 3 15 17
0701	# DIETHYL ETHER ETHANE, 1,1'-OXYBIS-	60-29-7	1155	(F4) 1 2 3 8 15 17 20 21
0702	DIETHYLETHYLENE DIAMINE N,N-DIETHYL-1,2-ETHANEDIAMINE	100-36-7	2685	3 15 17
syn add	DI-(2-ETHYLHEXYL)ADIPATE see BIS(2-ETHYLHEXYL)ADIPATE			
0703	DI(2-ETHYLHEXYL) PEROXY-DICARBONATE PEROXYDICARBONIC ACID, BIS(2-ETHYLHEXYL) ESTER	16111-62-9	2123+	3 17
2334	DI(2-ETHYLHEXYL)PHOSPHORIC ACID	298-07-7	1902	15 17
syn	DI(2-ETHYL HEXYL) PHTHALATE see BIS(2-ETHYLHEXYL) PHTHALATE			
1007	# 1,2-DIETHYL HYDRAZINE	1615-80-1		(CA) 3 7 20 21
0704	# DIETHYL KETONE 3-PENTANONE	96-22-0	1156	(F3) 1 2 3 15 17
0705 chg	# DIETHYL MAGNESIUM MAGNESIUM, DIETHYL-	557-18-6	1367	(F3,R4) 3 17
syn add	DIETHYL-p-NITROPHENYLPHOSPHATE see PARAOXON			
0708	DIETHYL-p-NITROSOANILINE N,N-DIETHYL-4-NITROSOBENZENAMINE	120-22-9		3
syn	DIETHYL OXALATE see ETHYL OXALATE			
0706	DIETHYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIETHYL ESTER	14666-78-5	2175	3 17
0707	DIETHYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIETHYL ESTER	84-66-2		1 2 3 6 8 15 18 20 21
2335	DIETHYL-p-PHENYLENEDIAMINE	93-05-0	1673	3 16
syn add	o-o-DIETHYL-o-PYRAZINYLPHOSPHOROTHIOATE see ZINOPHOS			
3003	o,o-DIETHYL S-METHYL DITHIOPHOSPHATE	3288-58-2		20 21
0709	# DIETHYLSTILBESTROL PHENOL, 4,4'-(1,2-DIETHYL-1,2-ETHENEDIYL)BIS-, (E)-	56-53-1	1851	(CA,MU,TE) 3 5 7 8 17 20 21
0710	# DIETHYL SULFATE SULFURIC ACID, DIETHYL ESTER	64-67-5	1594	(CA,MU) 3 5 6 7 15 17 18
0711 chg	# DIETHYL SULFIDE ETHANE, 1,1'-THIOBIS-	352-93-2	2375	(F3) 3 17
0712	DIETHYLTHIOPHOSPHORYL CHLORIDE PHOSPHOROCHLORIDOTHIOIC ACID, O,O-DIETHYL ESTER	2524-04-1	2751	3 17
0713	# DIETHYLZINC ZINC, DIETHYL-	557-20-0	1366	(F3,R3) 3 6 8 15 17 18
3275 add	DIFENZOQUAT	43222-48-6		8
3276 add	DIFLUBENZURON	35367-38-5		8
0714	DIFLUORODIBROMOMETHANE METHANE, DIBROMODIFLUORO-	75-61-6	1941	1 2 3
0715	1,1-DIFLUOROETHANE ETHANE, 1,1-DIFLUORO-	75-37-6	1030	1 2 3 17 20
syn add	1,1-DIFLUOROETHYLENE see VINYLIDENE FLUORIDE			
syn add	DIFLUOROMONOCHLOROETHANE see CHLORODIFLUOROETHANE			
0716	# DIFLUOROPHOSPHORIC ACID PHOSPHORODIFLUORIDIC ACID	13779-41-4	1768	(CO) 1 2 3 17 20
2336	DIGITOXIN	71-63-6	1851	3 16 17 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
syn add	DIGLYCIDYLRESORCINOL ETHER see RESORCINOL DIGLYCIDYLETHER			
2337	DIGOXIN	20830-75-5	1851	3 16 17 19
0719	2,2-DIHYDROPEROXY PROPANE HYDROPEROXIDE, (1-METHYLETHYLIDENE)-BIS-	2614-76-8	2178	3 17
0720	# DIHYDROPYRAN 2H-PYRAN, 3,4-DIHYDRO-	110-87-2	2376	(F3) 3 15 17
syn add	2,3-DIHYDROPYRAN see DIHYDROPYRAN			
2421	1,2-DIHYDRO-3,6-PYRIDAZINEDIONE	123-33-1		3 7 8 20 21
syn add	DIHYDROSAFROLE see 1,2-METHLYENEDIOXY-4-PROPYLBENZENE			
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-,	128-46-1	1851	(TE) 3 13(Y) 17
0723	DI(1-HYDROXYCYCLO-HEXYL) PEROXIDE DICYCLOHEXYL PEROXIDE	1758-61-8	2148	3 17
0724	# DI-ISOBUTYLAMINE 1-PROPANAMINE, 2-METHYL-N-(2-METHYLPROPYL)-	110-96-3	2361	(F3) 3 15 17
0725	# DI-ISOBUTYLENE PENTENE, 2,4,4-TRIMETHYL-	25167-70-8	2050	(F3) 3 15 17
syn add	DIISOBUTYLKETONE see 2,6-DIMETHYLHEPTANONE			
0726	DI-ISOBUTYRYL PEROXIDE PEROXIDE, BIS(2-METHYL-1-OXOPROPYL)	3437-84-1	2182	3 17
syn	1,6-DIISOCYANATO HEXANE see HEXAMETHYLENE DI-ISOCYANATE			
0727	# DI-ISOOCTYL ACID PHOSPHATE ISOOCTANOL HYDROGEN PHOSPHATE	27215-10-7	1902	(CO) 3 17
0728	# DIISOPROPYLAMINE 2-PROPANAMINE, N-(1-METHYLETHYL)-	108-18-9	1158	(F3) 1 2 3 15 17
2338 gen	DI-ISOPROPYLBENZENE HYDROPEROXIDE, maximum 72% solution	26762-93-6	2171	3 17
0729	# DI-ISOPROPYLETHANOLAMINE ETHANOL, 2- BIS(1-METHYLETHYL)AMINO-	96-80-0	2825	(CO) 3 15 17
0730	# DIISOPROPYL ETHER PROPANE, 2,2'-OXYBIS-	108-20-3	1159	(F3) 1 2 3 15 17
3277 add	DIISOPROPYLMETHYLPHOSPHONATE	1445-75-6		8
syn add	DIISOPROPYLFLUOROPHOSPHATE see ISOFLUOROPHATE			
0731	# DI-ISOPROPYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, BIS(1-METHYLETHYL) ESTER	105-64-6	2133+	(F4,R4) 3 15 17

2339	DI-ISOTRIDECYL PEROXYDICARBONATE		2889	3 17
0732	# DIKETENE 2-OXETANONE, 4-METHYLENE-	674-82-8	2521	(R2) 3 15 17
syn	DILAUROYL PEROXIDE see LAUROYL PEROXIDE			
2342	DIMEFOX	115-26-4	2902	3 16 19
3278 add	DIMETHIPIN	55290-64-7		8
0733	# DIMETHOATE PHOSPHORODITHIOIC ACID, O,O-DIMETHYL, S-(2-(METHYLAMINO) * -2-OXOETHYL) ESTER	60-51-5	2783+	(MU) 3 8 14 16 19 20 21
0734	# 3,3'-DIMETHOXYBENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE, 3,3'-DIMETHOXY-	119-90-4		(CA) 3 5 6 7 15 18 20 21
0735	1,1-DIMETHOXYETHANE ETHANE, 1,1-DIMETHOXY-	534-15-6	2377	3 17
3279 add	1,2-DIMETHOXYETHANE	110-71-4	2252	3 17
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 8 15 17 20 21
0738	# 2-DIMETHYLAMINOACETO-NITRILE ACETONITRILE, (DIMETHYLAMINO)-	926-64-7	2378	(F3) 3 17
0739	# 4-DIMETHYLAMINOAZOBENZENE BENZENAMINE, N,N-DIMETHYL-4-(PHENYLAZO)-	60-11-7		(CA,MU,TE) 1 3 4 5 6 7 18 20 21
2343	4-DIMETHYLAMINO-6-(2-DIMETHYLAMINOETHOXY) TOLUENE-2-DIAZONIUM- * ZINC CHLORIDE		3039	17
3111	DIMETHYLAMINOETHANOL DIMETHYLETHANOLAMINE	108-01-1	2051	3 12(J) 15 17
0740	DIMETHYLAMINOETHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, 2-(DIMETHYLAMINO)ETHYL ESTER	2867-47-2	2522	3 15 17
3280 add	+ trans-2-[(DIMETHYLAMINO)METHYLIMINO]-5-[2-(5-NITRO-2- * FURYL)VINYL]-1,3,4-OXADIAZOLE			(CA) 7
0227	beta-DIMETHYLAMINOPROPIONITRILE PROPIONITRILE, 3-(DIMETHYLAMINO)	1738-25-6		4 10 15
0741	DIMETHYLANILINE BENZENAMINE, N,N-DIMETHYL-	121-69-7	2253	1 2 3 6 8 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 3 4 5 6 7 15 18 20 21
0743	DI(2-METHYLBENZOYL) PEROXIDE BIS(2-METHYLBENZOYL) PEROXIDE	3034-79-5	2593	3 17
syn	alpha,alpha-DIMETHYLBENZYLHYDROPEROXIDE see CUMENE * HYDROPEROXIDE			
0744 chg	# 2,3-DIMETHYLBUTANE BUTANE, 2,3-DIMETHYL-	79-29-8	2457	(F3) 3 15 17
0745	# 1,3-DIMETHYLBUTYLAMINE 2-PENTANAMINE, 4-METHYL-	108-09-8	2379	(F3) 3 15 17
0746	# DIMETHYLCARBAMOYL CHLORIDE CARBAMIC CHLORIDE, DIMETHYL-	79-44-7	2262	(CA,MU) 2 3 5 6 7 10 17 18 20 21
0747	# DIMETHYL CARBONATE CARBONIC ACID, DIMETHYL ESTER	616-38-6	1161	(F3) 3 15 17
syn	DIMETHYL CHLOROTHIOPHOSPHATE see DIMETHYL THIOPHOSPHORYL- * CHLORIDE			
0748	# 1,4-DIMETHYLCYCLOHEXANE CYCLOHEXANE, 1,4-DIMETHYL-	589-90-2	2263	(F3) 3 15
3281 add	DIMETHYLCYCLOHEXANE (o,m,p)		2263	3 17
0749	# DIMETHYLCYCLOHEXYL AMINE CYCLOHEXANAMINE, N,N-DIMETHYL	98-94-2	2264	(CO) 3
3282 add	2,3-DIMETHYLCYCLOHEXYLAMINE		2264	17
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 17
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 8 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 17
2345	2,5-DIMETHYL-2,5-DI(tert-BUTYLPEROXY)HEXYNE-3	1068-27-5	2158+	3 17
0752	# DIMETHYL DICHLOROSILANE DICHLORODIMETHYLSILANE	75-78-5	1162	(CO,F3) 3 15 16 17 19
0753	DIMETHYLDIETHOXYSILANE SILANE, DIETHOXYDIMETHYL-	78-62-6	2380	3 17
3112	2,5-DIMETHYL-2,5-DI(2-ETHYLHEXANOYLPEROXY)HEXANE		2157	3 17
0754	2,5-DIMETHYL-2,5-DIHYDRO-PEROXYHEXANE HYDROPEROXIDE, (1,1,4,4-TETRAMETHYL-1,4-BUTANEDIYL)BIS-	3025-88-5	2174	3 17
0755	# DIMETHYLDIOXANE 1,4-DIOXANE, DIMETHYL-	25136-55-4	2707	(F3) 3 15 17
0756	# DIMETHYLDISULFIDE DISULFIDE, DIMETHYL	624-92-0	2381	(F4) 3 16 17
3284 add	2,5-DIMETHYL-2,5-DI-(3,5,5-TRIMETHYL HEXANOYLPEROXY)HEXANE		3060	17
syn add	DIMETHYLETHANOLAMINE see DIMETHYLAMINOETHANOL			
0758	# DIMETHYL ETHER METHANE, OXYBIS-	115-10-6	1033	(F4) 3 15
0759	DIMETHYLFORMAMIDE N,N-DIMETHYLFORMAMIDE	68-12-2	2265	1 2 3 8 15 17
0760	2,6-DIMETHYLHEPTANONE 4-HEPTANONE, 2,6-DIMETHYL	108-83-8	1157	1 2 3 4 10 15 17
syn add	DIMETHYLHEXANEDIHYDROPEROXIDE see 2,5-DIMETHYL- * 2,5-DIHYDROPEROXYHEXANE			
0761 chg	# 1,1-DIMETHYLHYDRAZINE HYDRAZINE, 1,1-DIMETHYL-	57-14-7	1163	(CA,CO,F3) 1 2 3 5 6 7 8 15 16 17 18 19 20 21
1008	# 1,2-DIMETHYLHYDRAZINE	540-73-8	1163	(CA,MU) 3 7 20 21
syn add	DIMETHYLHYDRAZINE, UNSYMMETRICAL see 1,1-DIMETHYLHYDRAZINE			
0762	DIMETHYLMAGNESIUM MAGNESIUM, DIMETHYL-	2999-74-8	1368+	3 17
0763 chg	@ DIMETHYL MERCURY MERCURY, DIMETHYL-	593-74-8		1 2
3016	alpha,alpha-DIMETHYL PHENETHYLAMINE	122-09-8		3 20 21
syn add	DIMETHYL-p-NITROSOANILINE see p-NITROSODIMETHYLANILINE			
0764	2,4-DIMETHYLPHENOL PHENOL, 2,4-DIMETHYL-	105-67-9		3 6 8 18 20 21
3285 add	2,6-DIMETHYLPHENOL	576-26-1		8
3286 add	3,4-DIMETHYLPHENOL	95-65-8		8
syn	DIMETHYL PHOSPHOROCHLORIDOTHIOATE see DIMETHYL THIOPHOS- * PHORYL CHLORIDE			
0765	DIMETHYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIMETHYL ESTER	131-11-3		1 2 3 6 8 15 16 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 17
0767	# DIMETHYLPROPYLAMINE 1-PROPANAMINE, N,N-DIMETHYL-	926-63-6	2266	(CO) 3 17

0768	# DIMETHYL SULFATE SULFURIC ACID, DIMETHYL ESTER	77-78-1	1595	(CA,CO,MU) 1 2 3 5 6 7 8 15 16 17 18 19 20 21
0769	# DIMETHYL SULFIDE METHANE, THIOBIS-	75-18-3	1164	(R4) 3 15 16 17
3287 add	DIMETHYLTEREPHTHALATE	120-61-6		8 15
0770	# DIMETHYL THIOPHOSPHORYL CHLORIDE PHOSPHOROCHLORIDOTHIOIC ACID, O,O-DIMETHYL ESTER	2524-03-0	2267	(CO) 3 16 17 19
3288 add	+ DIMETHYLVINYL CHLORIDE	513-37-1		(CA) 5
0771 chg	# DIMETHYLZINC ZINC, DIMETHYL-	544-97-8	1370	(F4,R2) 3 6 17 18
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 17
0774	DINEX PHENOL, 2-CYCLOHEXYL-4,6-DINITRO-	131-89-5	9026	3 8 14 17 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 17
0777	# DINITROBENZENE BENZENE, DINITRO	25154-54-5	1597	(R4) 1 2 3 17 20
3017	m-DINITROBENZENE	99-65-0		1 2 3 6 8 18 20
3018	o-DINITROBENZENE	528-29-0		1 2 3 6 8 15 18 20
3019	p-DINITROBENZENE	100-25-4		1 2 3 6 18 20
0778	# DINITROCHLOROBENZENE BENZENE, CHLORODINITRO-	25567-67-3	1577	(R4) 3 15 17
0779	4,6-DINITRO-o-CRESOL PHENOL, 2-METHYL-4,6-DINITRO-	534-52-1	1598	1 2 3 4 6 14 16 17 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 20
2950	2,4-DINITROPHENOL	51-28-5	0076+	3 6 8 18 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 17
0781	DINITRORESORCINOL 1,3-BENZENEDIOL, DINITRO-	35860-51-6	0078+	3 17
0782	DINITROSOBENZENE BENZENE, DINITROSO-	25550-55-4	0406	3
2352	DINITROSO-DIMETHYL TEREPHTHALAMIDE		2973	17
2353	DINITROSOPENTAMETHYLENE TETRAMINE	101-25-7	2972	7 17
2985	+ DINITROTOLUENE	25321-14-6		(CA,MU) 2 3 4 6 10 15 17 18 20
0783	# 2,4-DINITROTOLUENE BENZENE, 1-METHYL-2,4-DINITRO-	121-14-2	1600+	(CA,MU,R3) 1 3 6 8 10 15 18 20 21
0784	+ 2,6-DINITROTOLUENE BENZENE, 2-METHYL-1,3-DINITRO-	606-20-2	1600+	(MU,R3) 1 3 4 6 10 15 18 20 21
3071	3,4-DINITROTOLUENE	610-39-9		3 20
0785	DI-N-NONANOYL PEROXIDE PEROXIDE, BIS(1-OXONONOYL)	762-13-0	2130	3 17
2354	DINOSEB	88-85-7	2902	3 8 14 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 17
0787	DI-N-OCTYL PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, DIOCTYL ESTER	117-84-0		3 6 15 16 18 20 21
syn add	DI-sec-OCTYLPHTHALATE see BIS(2-ETHYLHEXYL)PHTHALATE			
0789	# 1,4-DIOXANE	123-91-1	1165	(CA,F3) 1 2 3 4 5 6 7 8 10 15 17 18 20 21
0790	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 17
0792	DIPENTENE CYCLOHEXENE, 1-METHYL-4-(1-METHYLETHENYL)-	138-86-3	2052	3 15 17
0793	DIPEROXYAZELAIC ACID NONANEDIPEROXOIC ACID	1941-79-3	2958	3 17
3289 add	DIPEROXYDODECANEDIACID		3063	17
0794	DIPHACINONE 1H-INDENE-1,3(2H)-DIONE, 2-(DIPHENYLACETYL)-	82-66-6	3027	4 14 16 17 19
3290 add	DIPHENAMID	957-51-7		8
3291 add	DI-(2-PHENOXYETHYL)PEROXYDICARBONATE		3058+	17
0795	DIPHENYL 1,1'-BIPHENYL	92-52-4		1 2 3 6 8 15 18
0796	DIPHENYLAMINE BENZENAMINE, N-PHENYL-	122-39-4		1 2 8 15
0797	DIPHENYLAMINECHLORO-ARSINE PHENARSAZINE, 10-CHLORO-5,10-DIHYDRO-	578-94-9	1698	1 3 6 7 17 18 20
0798	DIPHENYLCHLOROARSINE ARSINOUS CHLORIDE, DIPHENYL-	712-48-1	1699	1 3 6 7 17 18 20
0799	# DIPHENYL DICHLOROSILANE DICHLORODIPHENYLSILANE	80-10-4	1769	(CO) 3 15 17
syn add	DIPHENYLHYDRAZINE see 1,2-DIPHENYLHYDRAZINE			
0800	# 1,2-DIPHENYLHYDRAZINE HYDRAZINE, 1,2-DIPHENYL-	122-66-7		(CA) 3 5 6 8 18 20 21
syn add	DIPHENYLMETHANE-DIISOCYANATE see METHYLENE BISPHENYL * ISOCYANATE			
syn add	DIPHENYLMETHANE-4,4'-DIISOCYANATE see METHYLENE BISPHENYL * ISOCYANATE			
0801	# DIPHENYLMETHYL BROMIDE BENZENE, 1,1'-(BROMOMETHYLENE)BIS-	776-74-9	1770	(CO) 3 17
2356	DIPHENYLOXIDE-4,4'-DI-SULFOHYDRAZIDE	80-51-3	2951	17
syn add	DIPHOSGENE see PHOSGENE			

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 17
0803	# DIPROPYLAMINE 1-PROPANAMINE, N-PROPYL-	142-84-7	2383	(F3) 3 15 17 20 21
2359	4-DIPROPYLAMINOBENZENE-DIAZONIUM ZINC CHLORIDE		3034	6 17 18
0804	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 17
0806	DIPROPYL KETONE 4-HEPTANONE	123-19-3	2710	1 2 3 15 17
syn add	DI-N-PROPYLNITROSAMINE see N-NITROSODI-N-PROPYLAMINE			
0788	DI-N-PROPYL PEROXYDICARBONATE PEROXYDICARBONIC ACID, DIPROPYL ESTER	16066-38-9	2176	3 17
0807 chg	# DIQUAT DIPYRIDO 1,2-A:2',1'-C PYRAZINEDIIUM, 6,7-DIHYDRO-	2764-72-9	2781	(MU) 1 2 3 4 20
0808	DIQUAT DIPYRIDO 1,2-A:2',1'-C PYRAZINEDIIUM, 6,7-DIHYDRO-, DIBROMIDE	85-00-7	2781	1 2 3 4 8 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			
2362 gen	DISINFECTANTS, n.o.s., LIQUID OR SOLID		1601+	3 17
3292 add	2,4-D ISOBUTYL ESTERS, MIXED	1713-15-1		14
3293 add	+ DISODIUM HYDROGEN ARSENATE	7778-43-0		(CA) 5
0810	DISTEARYL PEROXYDI-CARBONATE PEROXYDICARBONIC ACID, DIOCTADECYL ESTER	52326-66-6	2592	3 17
syn	DISUCCINIC ACID PEROXIDE see SUCCINIC * ACID PEROXIDE			
0811	DISULFIRAM THIOPEROXYDICARBONIC DIAMIDE, TETRAETHYL-	97-77-8	2588	1 2 3 7 10
0812	DISULFOTON PHOSPHORODITHIOIC ACID, O,O-DIETHYL S- 2-(ETHYLTHIO)ETHYL ESTER	298-04-4	2783	1 2 3 8 14 16 17 19 20 21
3294 add	1,4-DITHIANE	505-29-3		8
2367	DITHIAZANINE IODIDE	514-73-8	2588	3 16 19
2368	DITHIOBIURET	541-53-7	2771	3 16 19 20 21
2371 gen	DITHIOCARBAMATE PESTICIDES, n.o.s.		3006+	3 17
2373 gen	DI(3,5,5-TRIMETHYL-1,2-DIOXOLANYL-3) PEROXIDE, paste		2597	3 17
2374	DI(3,5,5-TRIMETHYLHEXANOYL) PEROXIDE		2128	3 17
0819	DIURON UREA, N'-(3,4-DICHLOROPHENYL)-N,N-DIMETHYL-	330-54-1	2767	1 2 3 8 20
0820	# 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 17
syn	DMBA see BENZ(a)ANTHRACENE, 7,12-DIMETHYL			
syn add	DNC see 4,6-DINITRO-o-CRESOL			
syn add	DNOC see 4,6-DINITRO-o-CRESOL			
syn add	DNOCHP see DINEX			
3295 add	DODECANETHIOL	112-55-0		4 10 15
0822	# DODECYLBENZENE SULFONIC ACID BENZENESULFONIC ACID, DODECYL-	27176-87-0	2584	(CO) 3 17 20
0823	# DODECYL TRICHLOROSILANE TRICHLORODODECYLSILANE	4484-72-4	1771	(CO) 3 17
syn	DOXORUBICIN see ADRIAMYCIN			
3296 add	2,4-DIPROPYLENE GLYCOL BUTYLETHER ESTERS	1928-45-6		14
syn	DRY ICE see CARBON DIOXIDE			
3297 add	2,4-D, SODIUM SALT	2702-72-9		14
syn	DTBP see DI-tert-BUTYL PEROXIDE			
syn	DURSBAN see CHLORPYRIFOS			
syn	EDTA see ETHYLENEDIAMINE TETRA-ACETIC ACID			
2387	EMETINE, DIHYDROCHLORIDE	316-42-7	1544	3 16 19
syn add	EMERY see ALUMINUM OXIDE			
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 8 14 16 17 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		3 4 8 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 4 7 8 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
0827	EPIBROMOHYDRIN OXIRANE, BROMOMETHYL-	3132-64-7	2558	3 17
0828	# EPICHLOROHYDRIN OXIRANE, CHLOROMETHYL-	106-89-8	2023	(CA,MU,R2) 1 2 3 4 5 6 7 8 10 12 (B) 15 16 17 18 19 20 21
0829	EPN PHOSPHONOTHIOIC ACID, PHENYL-, O-ETHYL O-(4-NITROPHENYL) ESTER	2104-64-5	2783+	1 2 3 8 14 16 19
0830	EPOXY ETHYLOXY PROPANE (ETHOXYMETHYL)-OXIRANE	4016-11-9	2752	3 17
syn add	1,2-EPOXY-3-ETHYLOXYPROPANE see EPOXYETHYLOXY PROPANE			
0831	# 2,3-EPOXY 1-PROPANOL OXIRANEMETHANOL	556-52-5		(MU) 1 2
syn	EPOXY RESINS see EPICHLOROHYDRIN			

2391	ERGOCALCIFEROL	50-14-6	1851	3 16 17 19
2392	ERGOTAMINE TARTRATE	379-79-3	1544	3 16 19
3089	# ERIONITE	66733-21-9		(CA) 7
syn	ERYTHRITOL ANHYDRIDE see BUTANEDIONE			
0832	# ESTRADIOL ESTRA-1,3,5(10)-TRIENE-3,17-DIOL (17beta)-	50-28-2	1851	(CA) 3 5 7 17
0833	# ESTRONE ESTRA-1,3,5(10)-TRIEN-17-ONE, 3-HYDROXY-	53-16-7	1851	(CA) 3 5 7 17
syn	ETHANAMINE, N-ETHYL-N-NITROSO- see N-NITROSODIETHYLAMINE			
0834	# ETHANE	74-86-0	1035+	(F4) 2 3 15 17
2920	ETHANEDIYL BISCARBAMODITHIOIC 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 add	1-ETHANETHIOL see ETHYL MERCAPTAN			
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 12(A) 15 17
2394	ETHANOL, 1,2-DICHLORO-, ACETATE	10140-87-1	1993	3 16 17 19
syn	ETHENAMINE, N-METHYL-N-NITROSO- see NITROSOMETHYLVINYLAMINE			
syn	ETHENE, CHLORO- see VINYL CHLORIDE			
3299 add	ETHEPHON	16672-87-0		8
syn add	ETHER see DIETHYL ETHER			
0836	# ETHINYLOESTRADIOL 19-NORPREGNA-1,3,5(10)-TRIEN-20-YNE-3,17-DIOL, (17alpha)-	57-63-6	1851	(CA,MU) 3 5 7 17
0837	ETHION PHOSPHORODITHIOIC ACID, S,S'-METHYLENE O,O,O',O'- * TETRAETHYL ESTER	563-12-2	2783	1 2 3 8 14 16 17 19 20
0838	# ETHIONAMIDE ISONICOTINAMIDE, 2-ETHYLTHIO-	536-33-4	1851	(TE) 3 7 13(Y,EE, FF) 17
syn add	ETHOPROP see ETHOPROPHOS			
2395	ETHOPROPHOS	13194-48-4	3018	3 14 16 19
0839	+ 2-ETHOXYETHANOL ETHANOL, 2-ETHOXY-	110-80-5	1171	(TE) 1 2 3 4 6 10 15 17 18 20 21
0840	2-ETHOXYETHYLACETATE ETHANOL, 2-ETHOXY-, ACETATE	111-15-9	1172	1 2 3 15
syn add	ETHOXYPROPANE see ETHYL PROPYL ETHER			
0841	# ETHYL ACETATE ACETIC ACID ETHYL ESTER	141-78-6	1173	(F3) 1 2 3 8 15 17 20 21
syn	ETHYL ACETONE see METHYL PROPYL KETONE			
0842	ETHYL ACETYLENE 1-BUTYNE	107-00-6	2452	3 17
0843	# ETHYL ACRYLATE 2-PROPENOIC ACID, ETHYL ESTER	140-88-5	1917	(F3,R2) 1 2 3 5 6 7 15 17 18 20 21
0844 chg	# ETHYL ALCOHOL ETHANOL	64-17-5	1170	(F3) 1 2 3 13(Y) 15 17
syn	ETHYLALDEHYDE see ACETALDEHYDE			
0845	# ETHYL ALUMINUM DICHLORIDE ALUMINUM, DICHLOROETHYL-	563-43-9	1924	(F3,R3) 2 3 15 17
0846	# ETHYL ALUMINUM SESQUICHLORIDE ALUMINUM, TRICHLOROTRIETHYLDI-	12075-68-2	1925	(F3,R3) 2 3 15 17
0847	# ETHYLAMINE ETHANAMINE	75-04-7	1036+	(F4) 1 2 3 15 17 20
0848	ETHYL AMYL KETONE 3-OCTANONE	541-85-5	2271	1 2 3 17
0849	2-ETHYLANILINE BENZENAMINE, 2-ETHYL-	578-54-1	2273	3 17
0850	ETHYLANILINE BENZENAMINE, N-ETHYL-	103-69-5	2272+	3 15 17
0851	# ETHYL BENZENE BENZENE, ETHYL-	100-41-4	1175	(F3) 1 2 3 6 8 15 17 18 20
0852	ETHYLBENZYLANILINE BENZENEMETHANAMINE, N-ETHYL-N-PHENYL-	92-59-1	2274	3 15 17
0853	ETHYLBENZYLTOLUIDINE BENZENEMETHANAMINE, N-ETHYL-N-(3-METHYL-PHENYL)-	119-94-8	2753	3 17
2396	ETHYLBIS(2-CHLOROETHYL)AMINE	538-07-8	2810	3 16 17 19
0854	# ETHYL BORATE BORIC ACID (H3BO3), MONOETHYL ESTER	34099-73-5	1176	(F3) 3 15 17
0855	ETHYL BROMIDE ETHANE, BROMO-	74-96-4	1891	1 2 3 15 17
0856	ETHYL BROMOACETATE ACETIC ACID, BROMO-, ETHYL ESTER	105-36-2	1603	3 15 17
0857	ETHYLBUTANOL 1-BUTANOL, 2-ETHYL	97-95-0	2275	3 15
0858	ETHYLBUTYL ACETATE HEXANOIC ACID, ETHYL ESTER	123-66-0	1177	3 15 17
0859	# ETHYLBUTYL ETHER BUTANE, 1-ETHOXY-	628-81-9	1179	(F3) 3 15 17
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 17
0862	# ETHYL BUTYRATE BUTANOIC ACID, ETHYL ESTER	105-54-4	1180	(F3) 3 15 17
syn	ETHYL CARBONATE see DIETHYL CARBONATE			
0863	# ETHYL CHLORIDE ETHANE, CHLORO-	75-00-3	1037	(F4) 1 2 3 4 6 8 10 15 17 18 20
0864	# ETHYL CHLOROACETATE ACETIC ACID, CHLORO-, ETHYL ESTER	105-39-5	1181	(F3) 3 15 17
syn add	ETHYL CHLOROCARBONATE see ETHYL CHLOROFORMATE			
0865	# ETHYL CHLOROFORMATE CARBONOCHLORIDIC ACID, ETHYL ESTER	541-41-3	1182	(CO,F3) 3 6 15 17 18
0866	ETHYL-2-CHLOROPROPIONATE PROPANOIC ACID, 2-CHLORO-, ETHYL ESTER	535-13-7	2935	3
0867	# ETHYL CHLOROTHIOFORMATE CARBONOCHLORIDOTHIOIC ACID, O-ETHYL ESTER	2812-73-9	2826	(CO) 3 17
0869	# ETHYL CROTONATE 2-BUTENOIC ACID, ETHYL ESTER-	623-70-1	1862	(F3) 3 15 17
syn add	ETHYL CYANIDE see PROPIONITRILE			
0870	ETHYL CYANOACETATE ACETIC ACID, CYANO-, ETHYL ESTER	105-56-6	2666	1 2 3 6 15 17 18 20

2397 gen	ETHYL-3,3-DI(tert-BUTYL-PEROXY)BUTYRATE		2598+	3 17
2399	ETHYL-3,3-DI(tert-BUTYL-PEROXY)BUTYRATE		2184+	3 17
0871	ETHYL DICHLOROARSINE ARSONOUS DICHLORIDE, ETHYL-	598-14-1	1892	1 3 6 17 18
0205	# ETHYL-4,4'-DICHLOROBENZILATE BENZILIC ACID, 4,4'-DICHLORO-, ETHYL ESTER	510-15-6		(CA) 3 6 7 16 18 20 21
0872	# ETHYL DICHLOROSILANE SILANE, DICHLOROETHYL-	1789-58-8	1183	(CO,F3) 3 15 17
3300 add	S-ETHYLDIPROPYLTHIOCARBAMATE	759-94-4		8
0873	# ETHYLENE ETHENE	74-85-1	1962+	(F4,R2) 2 3 6 7 15 17 18
3301 add	+ ETHYLENE BISDITHIOCARBAMATE			(CA) 8
0874	# ETHYLENE CHLOROHYDRIN ETHANOL, 2-CHLORO-	107-07-3	1135	(MU) 1 2 3 15 16 17 19
syn add	ETHYLENE CYANOHYDRIN see GYCOL CYANOHYDRIN			
0875	# ETHYLENEDIAMINE 1,2-ETHANEDIAMINE	107-15-3	1604	(CO) 1 2 3 12(A, B) 15 16 17 19 20
3302 add	ETHYLENEDIAMINE DIPERCHLORATE			3
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 10 15 16 17 18 20 21
syn	ETHYLENE DICHLORIDE see 1,2-DICHLOROETHANE			
2400 chg	ETHYLENE FLUORONYDRIN	371-62-0		16 19
0878	ETHYLENE GLYCOL 1,2-ETHANEDIOL	107-21-1	1142	1 2 3 6 8 15 18
0879	# ETHYLENE GLYCOL DIETHYL ETHER ETHANE, 1,2-DIETHOXY-	629-14-1	1153	(F3) 3 15 17
0880	ETHYLENE GLYCOL DINITRATE 1,2-ETHANEDIOL, DINITRATE	628-96-6		1 2 3 4
syn add	ETHYLENE GLYCOL MONOBUTYL ETHER see 2-BUTOXYETHANOL			
syn add	ETHYLENE GLYCOL MONOETHYL ETHER see 2-ETHOXYETHANOL			
syn	ETHYLENE GLYCOL MONOMETHYL ETHER see 2-METHOXYETHANOL			
0881	# ETHYLENEIMINE AZIRIDINE	151-56-4	1185	(CA,F3,MU,R3) 1 2 3 4 6 7 15 16 17 18 19 20 21
0882	# ETHYLENE OXIDE OXIRANE	75-21-8	1040	(CA,MU,R3) 1 2 3 4 5 6 7 10 12(A) 15 16 17 18 19 20 21
0883	# ETHYLENE THIOUREA 2-IMIDAZOLIDINETHIONE	96-45-7		(CA,TE) 3 4 5 6 7 10 18 20 21
syn	ETHYL ETHER see DIETHYL ETHER			
syn	ETHYL FLUID see MOTOR FUEL ANTI-KNOCK COMPOUNDS			
0884	# ETHYL FLUORIDE ETHANE, FLUORO-	353-36-6	2453	(F4) 1 2 3 15 17
0885	# ETHYL FORMATE FORMIC ACID, ETHYL ESTER	109-94-4	1190	(F3) 1 2 3 15 17
0886	ETHYL HEXALDEHYDE HEXANAL, 2-ETHYL-	123-05-7	1191	3 17
0888	2-ETHYL HEXYLAMINE HEXYLAMINE, 2-ETHYL-	104-75-6	2276	3 15
0889	# ETHYL HEXYLCHLOROFORMATE CARBONOCHLORIDIC ACID, 2-ETHYLHEXYL ESTER	24468-13-1	2748	(CO) 3 17
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 17
0892	ETHYL ISOCYANATE ISOCYANATOETHANE	109-90-0	2481	3 17
0893	ETHYL LACTATE PROPANOIC ACID, 2-HYDROXY-, ETHYL ESTER	97-64-3	1192	3 15 17
0894	# ETHYL MERCAPTAN ETHANETHIOL	75-08-1	2363	(F4) 1 2 3 4 10 15 17
0895	a ETHYL MERCURIC CHLORIDE MERCURY, CHLOROETHYL-	107-27-7	2777	1 2 3 6 18
0896	ETHYLMERCURIC PHOSPHATE MERCURATE(2-), ETHYL PHOSPHATO(3-)-O -, DIHYDROGEN	2235-25-8	3012	1 2 3 6 16 17 18
syn	(ETHYLMERCURIC)-p-TOLUENESULPHONANILIDE see n-(ETHYLMERCURIC) * p-TOLUENESULFONANILIDE			
1337	n-(ETHYLMERCURIC)-p-TOLUENESULPHONANILIDE MERCURY, ETHYL (-p-TOLUENESULPHONANILIDATO)-	517-16-8		1 2 6 18
0897	# ETHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, ETHYL ESTER	97-63-2	2277	(F3) 3 15 17 20 21
3303 add	+ ETHYL METHANE SULPHONATE	62-50-2		(CA) 3 7 8
syn	ETHYL METHYL ETHER see METHYL ETHYL ETHER			
syn add	ETHYL METHYL KETONE see METHYL ETHYL KETONE			
syn	ETHYL MORPHINE see 2-METHYL-5-ETHYLPYRIDINE			
1338	n-ETHYLMORPHOLINE MORPHOLINE, 4-ETHYL-	100-74-3		1 2 15
0898	# ETHYL NITRATE NITRIC ACID, ETHYL ESTER	625-58-1	1993	(F3,R4) 3 15 17
0899	# ETHYL NITRITE NITROUS ACID, ETHYL ESTER	109-95-5	1194	(F4,R4) 3 15 17
syn add	N-ETHYL-N-NITROSOUREA see N-NITROSO-N-ETHYL UREA			
0900	ETHYL ORTHOFORMATE ETHANE, 1,1',1''- METHYLIDYNETRIS(OXY) TRIS-	122-51-0	2524	3 17
0901	ETHYL OXALATE ETHANEDIOIC ACID, DIETHYL ESTER	95-92-1	2525	3 15 17
syn add	ETHYL PARATHION see PARATHION			
0902	# ETHYL PHENYL DICHLOROSILANE SILANE, DICHLOROETHYLPHENYL	1125-27-5	2435	(CO) 3 17
0903	ETHYLPHOSPHONOTHIOIC-DICHLORIDE PHOSPHONOTHIOIC DICHLORIDE, ETHYL-	993-43-1	1760	3 17
0904	# ETHYL PHOSPHONOUS DICHLORIDE PHOSPHONOUS DICHLORIDE, ETHYL-	1498-40-4	2845	(CO) 3 17
0905	# ETHYL PHOSPHORODICHLORIDATE PHOSPHORODICHLORIDIC ACID, ETHYL ESTER	1498-51-7	1760	(CO) 3 17
syn	ETHYL PHTHALATE see DIETHYL PHTHALATE			
3304 add	ETHYL PHTHALYL ETHYL GLYCOLATE	84-72-0		8 15
0906	1-ETHYL PIPERIDINE PIPERIDINE, 1-ETHYL-	766-09-6	2386	3 17
0907	# ETHYL PROPIONATE PROPANOIC ACID, ETHYL ESTER	105-37-3	1195	(F3) 15 17
0908	# ETHYL PROPYL ETHER PROPANE, 1-ETHOXY-	628-32-0	2615	(F3) 3 15 17

0909	ETHYL SILICATE SILICIC ACID, TETRAETHYL ESTER	78-10-4	1292	1 2 3 15 17
syn add	ETHYL SULFATE see DIETHYL SULFATE			
syn	ETHYL SULFIDE see DIETHYL SULFIDE			
0910	# ETHYL SULFURIC ACID SULFURIC ACID, MONOETHYL ESTER	540-82-9	2571	(CO) 3 17
2402	ETHYL THIOCYANATE	542-90-5	2902	1 2 3 16 17 19 20
0911	ETHYL-P-TOLUIDINE N-ETHYL-4-METHYLBENZENAMINE	622-57-1	2754	3 17
0912	# ETHYLTRICHLOROSILANE SILANE, TRICHLOROETHYL-	115-21-9	1196	(CO,F3) 3 15 16 17 19
3305 add	EXPRESS	10200-48-0		8
2915	FAMPHUR PHOSPHOROTHIOIC ACID, O,O-DIMETHYL ESTER, O-ESTER with * p-HYDROXY-N,N-DIMETHYL BENZENE-SULFONAMIDE	52-85-7		3 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 8 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
3134	FENVALERATE (PYDRIN) BENZENEACETIC ACID,4 CHLORO-ALPHA-(1-METHYLETHYL), * CYANO(3-PHENOXYPHENYL)METHYL ESTER	51630-58-1	2902+	3 8
0917	FERBAM IRON, TRIS(DIMETHYLCARBAMODITHIOATO-S,S')-, (OC-6-11)-	14484-64-1	2588+	1 2 3 7
0918	FERRIC AMMONIUM CITRATE 1,2,3-PROPANETRICARBOXYLIC ACID, 2-HYDROXY-, * AMMONIUM IRON(III) SALT	1185-57-5	9118	2 3 20
0919 chg	FERRIC AMMONIUM OXALATE FERRATE, TRIS ETHANEDIOATO-O,O' -, TRIAMMONIUM-	14221-47-7		2 20
0920	FERRIC ARSENATE ARSENIC ACID, IRON(III) SALT (1:1)	10102-49-5	1606	1 3 6 17 18
0921	FERRIC ARSENITE IRON(III) O-ARSENITE PENTAHYDRATE	63989-69-5	1607	1 3 6 17 18
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 17 20
1036	FERRIC OXIDE IRON OXIDE FUME	1309-37-1	1376	1 2 3 4
0925	FERRIC SULFATE SULFURIC ACID, IRON(III) SALT (3:2)	10028-22-5	9121	2 3 20
0926	FERROCERIUM	69523-06-4	1323	3 17
0927	FERROSILICON	8049-17-0	1408	3 17
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 17 18
0930	# FERROUS CHLORIDE IRON CHLORIDE	7758-94-3	1759+	(CO) 2 3 17 20
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 17
syn add	FIBERGLASS see FIBROUS GLASS			
0933	FIBROUS GLASS			2 4 17
2433	FLUENETIL	4301-50-2	2902	3 16 19
0934	# FLUOBORIC ACID BORATE(1-), TETRAFLUORO-, HYDROGEN	16872-11-0	1775	(CO) 1 2 3 17
0935	FLUOMETURON UREA, N,N-DIMETHYL-N-((3-TRIFLUOROMETHYL)PHENYL)	2164-17-2		6 7 8 18
syn add	FLUORANTHENE see BENZO(jk)FLUORANTHENE			
2993	FLUOREME	86-73-7		3 7 8 20
syn add	FLUORIC ACID see HYDROGEN FLUORIDE			
0936	FLUORIDES			1 2
0937	# FLUORINE	7782-41-4	1045+	(R3) 1 2 3 8 12 (A) 15 16 17 19 20 21
syn	FLUORINE MONOXIDE see OXYGEN DIFLUORIDE			
2434	FLUOROACETAMIDE	640-19-7	2811+	3 14 16 19 20 21
0938	FLUOROACETIC ACID ACETIC ACID, FLUORO-	144-49-0	2642	1 2 3 16 17 19
syn add	FLUOROACETIC ACID, SODIUM SALT see SODIUMFLUOROACETATE			
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 17
syn	FLUOROFORM see TRIFLUOROMETHANE			
0940	# FLUOROPHOSPHORIC ACID	13537-32-1	1776	(CO) 1 2 3 17
2438 gen	FLUOROSILICATES, n.o.s.		2856	3 17
syn	FLUOROSILICIC ACID see SILICOFLUORIC ACID			
0941	# FLUOROSULPHONIC ACID FLUOROSULFURIC ACID	7789-21-1	1777	(CO) 3 17
0942	FLUOROTOLUENE BENZENE, FLUOROMETHYL-	25496-08-6	2388	1 2 3 17
syn	FLUOROURACIL see 5-FLUOROURACIL			
1966 chg	# 5-FLUOROURACIL 2,4(1H,3H)-PYRIMIDINEDIONE, 5-FLUORO-	51-21-8	1851	(CA,MU,TE) 3 7 13(C,F,G ,H,R) 16 17 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) 17
3306 add	FLURIDONE	59756-60-4		8
3307 add	FLUROXENE	406-90-6		4
3308 add	FLURPRIMIDOL	56425-91-3		8

3309 add	FLUTOLANIL	66332-96-5		8
3310 add	FLUVALINATE	69409-94-5		8
3111 add	FOLPET	133-07-3	2902+	3 8 17
3312 add	FOMESAFEN	72178-02-0		8
0945	FONOFOS PHOSPHONODITHIOIC ACID, ETHYL-, O-ETHYL S-PHENYL ESTER	944-22-9	2783+	1 2 3 8 14 16 19
0946	# FORMALDEHYDE	50-00-0	1198+	(CA,MU) 1 2 3 4 5 6 7 8 10 12 (B,C) 15 16 17 18 19 20 21
syn	FORMALDEHYDE CYANOHYDRIN see GLYCOLONITRILE			
syn add	FORMALIN see FORMALDEHYDE			
0947	FORMAMIDE	75-12-7	1993	1 2 3 15 17
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 8 15 17 20 21
2439	FORMOTHION	2540-82-1	3018	3 16 19
2440	FORMPARANATE	17702-57-7		16 19
3313 add	+ 2-(2-FORMYLHYDRAZINO)-4-(5-NITRO-2-FURYL)THIAZOLE	3570-75-0		(CA) 7
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
2443 gen	FUEL, AVIATION, TURBINE ENGINE		1863	3 17
2444 gen	FUEL OIL		1993	3 15 17
syn	FUEL OIL #1 see KEROSENE			
2445 gen	FUEL, PYROPHORIC, n.o.s.		1375	3 17
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
0951	# FUMARYL CHLORIDE 2-BUTENEDIOYL DICHLORIDE, (E)-	627-63-4	1780	(CO) 3 17
0952	# FURAN	110-00-9	2389	(F4) 3 8 15 16 17 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 8 15 17 20 21
0954	FURFURYL ALCOHOL 2-FURANMETHANOL	98-00-0	2874	1 2 3 4 10 15 17
0955	# FURFURYLAMINE 2-FURANMETHANAMINE	617-89-0	2526	(F3) 3 15 17
3314 add	FURMECYCLOX	60568-05-0		8
3114	FUSEL OIL	8013-75-0	1201	3 17
0956	# GALLIUM	7440-55-3	2803	(CO) 3 17
3315 add	GALLIUM ARSENIDE	1303-00-0		1 4 6 7 18 20
2448	GALLIUM TRICHLORIDE	13450-90-3		16 19
2451 gen	GASOHOL		1203	3 17
2452 gen	GAS OIL	64741-44-2	1202	3 15 17
0957 gen	# GASOLINE	8006-61-9	1203	(F3) 1 2 3 15 17
0958	GERMANIUM HYDRIDE GERMANE	7782-65-2	2192	2 3 17
syn add	GERMANIUM TETRAHYDRIDE see GERMANIUM HYDRIDE			
0959	GLUCOSE OXIDASE OXIDASE, GLUCOSE	9001-37-0		12(A)
3316 add	GLUFOSINATE-AMMONIUM	77182-82-2		8
3317 add	+ GLU-P-1(2-AMINO-6-METHYLDIPYRIDO[1,2-a:3',2'-d]IMIDAZOLE)	67730-11-4		(CA) 7
3318 add	+ GLU-P-2(2-AMINODIPYRIDO[1,2-a:3',2'-d]IMIDAZOLE)	67730-10-3		(CA) 7
0960	GLUTARALDEHYDE PENTANEDIAL	111-30-8		1 2
3319 add	GLYCERIN MIST	56-81-5		12
3320 add	GLYCEROL-1,3-DINITRATE	623-87-0		3
2453	GLYCEROL-alpha-MONOCHLOROHYDRIN	96-24-2	2689	3 17
syn	GLYCERYL TRINITRATE SOLUTION see NITROGLYCERIN			
0961	# GLYCIDALDEHYDE OXIRANECARBOXALDEHYDE	765-34-4	2622	(CA) 3 7 8 17 20 21
syn	GLYCIDOL see 2,3-EPOXY 1-PROPANOL			
syn	GLYCIDYLALDEHYDE see GLYCIDALDEHYDE			
3321 gen add	GLYCIDYL ETHERS			4
3322 add	GLYCOL CYANOHYDRIN	109-78-4		1 2 6 15 18 20
2265 gen	GLYCOL ETHERS, n.o.s.			4 6 10 18
0962 chg	+ GLYCOLONITRILE ACETONITRILE, HYDROXY-	107-16-4	1648	(F3) 3 4 10 16 17 19
3139	GLYPHOSATE GLYCINE, N-(PHOSPHONOMETHYL)-	1071-83-6	2902+	3
3326 add	+ GRISEOFULVIN	126-07-8		(CA) 7
syn	GUAIACOL see 4-METHOXYPHENOL			
syn	GUANIDINE, 1-METHYL-3-NITRO-1-NITROSO- see 1-METHYL-3-NITRO-1 * NITROSO-GUANIDINE			
3324 gen add	GRAIN DUST			1 2 4 12(A, 8)
3325 add	GRAPHITE	7782-42-5		1 2
0964	GUANIDINE NITRATE GUANIDINE, MONONITRATE	506-93-4	1467	3 17
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 17 19 20

3327 add	GYPSUM	10101-41-4		1
0967	HAFNIUM	7440-58-6	2545+	1 2 3 17
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) 17
2994 gen	HALOETHERS			20
2658 gen	HALOGENATED IRRITATING LIQUIDS, n.o.s.		1610	3 17
2995 gen	HALOMETHANES			20
syn add	HALON 1211 see CHLORODIFLUOROBROMOMETHANE			
syn add	HALON 1301 see TRIFLUOROBROMOMETHANE			
syn add	HALON 2402 see DIBROMOTETRAFLUOROETHANE			
0969	HALOTHANE ETHANE, 2-BROMO-2-CHLORO-1,1,1-TRIFLUORO-	151-67-7	1851	2 3 4 17
3328 add	HALOXYFOP-METHYL			8
3329 add	HARMONY	79277-27-3		8
2461 gen	HAZARDOUS WASTE, n.o.s.		9189	3
0970	# 7H-DIBENZO(c,g)CARBAZOLE	194-59-2		(CA) 5 7 8
syn add	HEATING OIL see FUEL OIL			
0972	HELIUM	7440-59-7	1046+	2 3 17
syn	HEMPA see HEXAMETHYL PHOSPHORAMIDE (HEMPA)			
syn add	HENDECANE see UNDECANE			
3330 add	HEPALDEHYDE		3056	17
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 7 8 14 18 20 21
2996	HEPTACHLOR AND METABOLITES		2761	3 20
2997	HEPTACHLOR EPOXIDE	1024-57-3	2761	3 8 20
1339	# n-HEPTANE HEPTANE	142-82-5	1206	(F3) 1 2 3 4 15 17
0975	1-HEPTANETHIOL	1639-09-4		4 10
0976	# HEPTENE	81624-04-6	2278	(F3) 3 15 17
3331 add	HEXABROMOBENZENE	87-82-1		8
3332 add	HEXABROMODIPHENYL ETHER	36483-60-0		8
0977	HEXACHLOROACETONE 2-PROPANONE, 1,1,1,3,3,3-HEXACHLORO-	116-16-5	2661	3 17
0978	# HEXACHLOROBENZENE BENZENE, HEXACHLORO-	118-74-1	2729	(CA) 3 5 6 7 8 17 18 20 21
0979	# HEXACHLOROBUTADIENE 1,3-BUTADIENE, 1,1,2,3,4,4, HEXACHLORO-	87-68-3	2279	(CA) 1 2 3 6 7 8 15 17 18 20 21
3334 add	+ HEXACHLOROCYCLOHEXANE (MIXTURE	608-73-1		(CA) 5 7 8 20
0566	# alpha-HEXACHLOROCYCLOHEXANE CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, alpha-ISOMER	319-84-6		(CA) 3 5 7 8 20
0567	# beta-HEXACHLOROCYCLOHEXANE CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, beta-ISOMER	319-85-7		(CA) 3 5 7 8 20
3013	delta-HEXACHLOROCYCLOHEXANE	319-86-8		3 5 8 20
syn	gamma-HEXACHLOROCYCLOHEXANE see LINDANE			
0980	# HEXACHLOROCYCLOPENTADIENE 1,2,3,4,5,5-HEXACHLORO-1,3-CYCLOPENTADIENE	77-47-4	2646	(CO) 1 2 3 6 8 16 17 18 19 20 21
3335 add	HEXACHLORODIBENZO-p-DIOXIN (MIXTURE)	19408-74-3		8
0981	# HEXACHLOROETHANE ETHANE, HEXACHLORO-	67-72-1	9037	(CA) 1 2 3 4 6 7 8 10 17 18 20 21
0982	HEXACHLORONAPHTHALENE NAPHTHALENE, HEXACHLORO-	1335-87-1		1 2 6 16 18
0983	HEXACHLOROPHENE PHENOL, 2,2'-METHYLENEBIS 3,4,6-TRICHLORO-	70-30-4	2875	3 7 8 17 20 21
2998	HEXACHLOROPROPENE	1888-71-7		3 20 21
0984	1-HEXADECANETHIOL	2917-26-2		4 10
3336 add	HEXADECYLTRICHLOROSILANE	5894-60-0	1781	3 15 17
0985	# HEXADIENE	42296-74-2	2458	(F3) 3 17
0986	HEXAETHYL TETRAPHOSPHATE TETRAPHOSPHORIC ACID, HEXAETHYL ESTER	757-58-4	1611+	3 17 20 21
syn add	HEXAETHYLTETRAPHOSPHATE & COMPRESSED GAS MIXTURE see * HYDROHEXAPHTHALIC ANHYDRIDE			
0987	HEXAFLUOROACETONE 2-PROPANONE, 1,1,1,3,3,3-HEXAFLUORO-	684-16-2	2420	1 2 3 17
0988	HEXAFLUOROACETONE HYDRATE 2-PROPANONE, 1,1,1,3,3,3-HEXAFLUORO-, MONOHYDRATE	10543-95-0	2552	1 2 3 17
0989	HEXAFLUOROETHANE ETHANE, HEXAFLUORO-	76-16-4	2193	1 2 3 17
0990	# HEXAFLUOROPHOSPHORIC ACID PHOSPHATE(1-), HEXAFLUORO-, HYDROGEN	16940-81-1	1782	(CO) 1 2 3 17
0991	HEXAFLUOROPROPYLENE 1-PROPENE, 1,1,2,3,3,3-HEXAFLUORO-	116-15-4	1858	1 2 3 17
0992	HEXAFLUOROPROPYLENE OXIDE OXIRANE, TRIFLUORO(TRIFLUOROMETHYL)-	428-59-1	1956	1 2 3 17
syn	HEXAHYDROCRESOL see METHYLCYCLOHEXANOL			
syn add	HEXAHYDROPHTHALIC ANHYDRIDE see HYDROHEXAPHTHALIC ANHYDRIDE			
syn add	HEXAHYDRO-1,3,5-TRINITRO-1,3,5-TRIAZINE see CYCLONITE			
0993	# HEXALDEHYDE HEXANAL	66-25-1	1207	(F3) 3 15 17
syn add	HEXAMETHYLENEAMINE see HEXAMINE			
0994	# HEXAMETHYLENE DIAMINE 1,6-HEXANEDIAMINE	124-09-4	2280+	(CO) 3 17
2462	HEXAMETHYLENEDIAMINE, N,N'-DIBUTYL-	4835-11-4	2735	3 16 19
0995	HEXAMETHYLENE DIISOCYANATE HEXANE, 1,6-DIISOCYANATO-	822-06-0	2281	1 2 3 4 12 (A) 17 20
2463	HEXAMETHYLENEIMINE	111-49-9	2493	3 17
syn	HEXAMETHYLENE TETRAMINE see HEXAMINE			
0973	# HEXAMETHYL PHOSPHORAMIDE (HEMPA) HEXAMETHYLPHOSPHORIC TRIAMIDE	680-31-9		(CA) 2 5 6 7 10 18
2465 gen	3,3,6,6,9,9-HEXAMETHYL-1,2,4,5-TETRAOXOCYCLONONANE		2166+	3 17

0996	HEXAMINE 1,3,5,7-TETRAAZATRICYCLO 3.3.1.13,7 DECANE	100-97-0	1328	3 12(A) 17
1340	# n-HEXANE HEXANE	110-54-3	1208	(F3) 1 2 3 4 8 10 15 17
0998	1-HEXANETHIOL	111-31-9		4 10
3337 add	2,2',3',4,4'6-HEXANITRODIPHENYLAMINE	131-73-7		3
0999	HEXANITRODIPHENYLAMINE BENZENAMINE, N-PHENYL-, HEXANITRO DERIV.	35860-31-2	0079	3
3338 add	HEXANITROETHANE	918-37-6		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 17
3339 add	HEXAZINONE	15235-04-2		8
1002	# 1-HEXENE	592-41-6	2370	(F3) 3 15 17
syn add	HEXOLITE see CYCLONITE			
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 17
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 4 5 6 7 8 15 16 17 18 19 20 21
syn	HYDRAZINE, 1,2-DIETHYL- see 1,2-DIETHYLHYDRAZINE			
3115	HYDRAZINE HYDRATE	7803-57-8	3030	3 17
2360	HYDRAZINE SULFATE	10034-93-2		5 6 8 18
syn	HYDRAZOBENZENE see 1,2-DIPHENYL HYDRAZINE			
2467 gen	HYDRIDES, METAL, n.o.s.		1409	3 17
1009	# HYDRIODIC ACID	10034-85-2	1787+	(CO) 3 15 17
2468 gen	HYDROCARBON GASES, n.o.s.		1964+	3 17
syn	HYDROCHLORIC ACID see HYDROGEN CHLORIDE			
syn	HYDROCYANIC ACID see HYDROGEN CYANIDE			
syn add	HYDROFLUORIC ACID see HYDROGEN FLUORIDE			
syn add	HYDROFLUOROBORIC ACID see FLUOROBORIC ACID			
syn	HYDROFLUOROSILICIC ACID see SILICOFLUORIC ACID			
1010	# HYDROGEN (COMPRESSED OR LIQUIFIED)	1333-74-0	1049+	(F4) 2 3 15 17
3340 add	HYDROGENATED TERPHENYLS	61788-32-7		1 2
1011	# HYDROGEN BROMIDE HYDROBROMIC ACID	10035-10-6	1048+	(CO) 1 2 3 15 17
1012	# HYDROGEN CHLORIDE HYDROCHLORIC ACID	7647-01-0	1050+	(CO) 1 2 3 6 15 16 17 18 20
2909	HYDROGEN CHLORIDE GAS (only)	7647-01-0	1050+	1 2 3 6 8 15 18 19 20
1013	# HYDROGEN CYANIDE HYDROCYANIC ACID	74-90-8	1051+	(F4,R2) 1 2 3 4 6 8 14 15 16 17 18 19 20 21
1014	# HYDROGEN FLUORIDE HYDROFLUORIC ACID	7664-39-3	1052+	(CO) 1 2 3 4 6 15 16 17 18 19 20 21
syn	HYDROGEN IODIDE, ANHYDROUS see HYDRIODIC ACID			
syn	HYDROGEN IODIDE SOLUTION see HYDRIODIC ACID			
1015	# HYDROGEN PEROXIDE	7722-84-1	2984+	(CO,MU,R3) 1 2 3 7 15 16 17 19
syn add	HYDROGEN PHOSPHIDE see PHOSPHINE			
1016	HYDROGEN SELENIDE	7783-07-5	2202	1 2 3 16 17 19
syn add	HYDROGEN SULFATE see SULFURIC ACID			
1017	# HYDROGEN SULFIDE	7783-06-4	1053	(F4) 1 2 3 4 6 8 15 16 17 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 7 8 15 16 17 18 19
syn	HYDROSILICOFLUORIC ACID see SILICOFLUORIC ACID			
3341 add	3-(2-HYDROXYETHOXY)-4-PYRROLIDIN-1-YLBENZENEDIAZONIUM * CHLORIDE		3035	17
2475	1-HYDROXY-1'-HYDROPEROXY DICYCLOHEXYL PEROXIDE	78-18-2	2119+	3 17
1020	# HYDROXYLAMINE SULFATE	10039-54-0	2865	(CO) 3 17
3342 add	2-HYDROXYPROPYL ACRYLATE	999-61-1		1 2 3
1021	# HYDROXYUREA UREA, HYDROXY-	127-07-1	1851	(CA,MU,TE) 3 15(F, O, V) 17
2477 gen	HYPOCHLORITE SOLUTIONS with less than 5% AVAILABLE CHLORINE		1791	3 17
3343 add	IMAZALIL	35554-44-0		8
3344 add	IMAZAQUIN	81335-37-7		8
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
3052 chg	# INDENO (1,2,3-cd) PYRENE	193-39-5		(CA) 3 5 7 8 20 21
1025	INDIUM	7440-74-6		1 2
3345 gen add	INDIUM COMPOUNDS			1 2
2480	INDOMETHACIN	53-86-1	1851	3 16 17
2484 gen chg	INKS		1210	3 17
1026	IODINE	7553-56-2	1851	1 2 3 17

1027	# IODINE MONOCHLORIDE IODINE CHLORIDE (ICl)	7790-99-0	1792	(CO) 3 17
1028	IODINE PENTAFLUORIDE IODINE FLUORIDE (IF5)	7783-66-6	2495	3 17
1029	2-IODOBUTANE BUTANE, 2-IODO-	513-48-4	2390	3 17
1030	IODOFORM METHANE, TRIIODO-	75-47-8	1851	1 2 3 17
1031	1-IODO-2-METHYLPROPANE	513-38-2	2391	3 17
1032	2-IODO-2-METHYLPROPANE	558-17-8	2391	3 17
1033	IODO PROPANE PROPANE, IODO-	26914-02-3	2392	3
3346 add	IPRODIONE	36734-19-7		8
3347 add	+ IQ(2-AMINO-3-METHYLIMIDAZO[4,5-f]QUINOLINE)	76180-96-6		(CA) 7
2490	IRIDIUM TETRACHLORIDE	10025-97-5		16
1034	# IRON CHLORIDE	7705-08-0	1773+	(CO) 2 3 17 20
1035	# IRON DEXTRAN COMPLEX IRON DEXTRAN	9004-66-4		(CA) 5 7 8
syn add	IRON OXIDE (DUST & FUME) see FERRIC OXIDE			
syn add	IRON OXIDE, SPENT see FERRIC OXIDE			
1037	# IRON PENTACARBONYL IRON CARBONYL (Fe(CO)5), (TB-5-11)-	13463-40-6	1994	(F3) 1 2 3 15 16 17 19
syn add	IRON SESQUICHLORIDE see IRON CHLORIDE			
1038	# ISOAMYL ACETATE 1-BUTANOL, 3-METHYL-, ACETATE	123-92-2		(F3) 1 2 3 15 20
1039	ISOAMYL ALCOHOL 1-BUTANOL, 3-METHYL-	123-51-3	1105	1 2 3 15 17
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 17
1041	# ISOBUTYL ACETATE ACETIC ACID, 2-METHYLPROPYL ESTER	110-19-0	1213	(F3) 1 2 3 15 17 20
1042	# ISOBUTYL ACRYLATE 2-PROPENOIC ACID, 2-METHYLPROPYL ESTER	106-63-8	2527	(F3) 3 15 17
1043	# ISOBUTYL ALCOHOL 1-PROPANOL, 2-METHYL-	78-83-1	1212	(F3) 1 2 3 8 15 17 20 21
1044	# ISOBUTYLAMINE 1-PROPANAMINE, 2-METHYL-	78-81-9	1214	(F3) 3 15 17 20
syn	ISOBUTYL BROMIDE see BROMOMETHYLPROPANE			
3348 add	ISOBUTYLCHLOROFOMATE		2742	17
1045	# ISOBUTYLENE 1-PROPENE, 2-METHYL-	115-11-7	1055	(F4) 3 15 17
1046	# ISOBUTYL FORMATE FORMIC ACID, 2-METHYLPROPYL ESTER	542-55-2	2393	(F3) 3 15 17
syn	ISOBUTYL IODIDE see IODO METHYLPROPANE			
1047	ISOBUTYL ISOBUTYRATE PROPANOIC ACID, 2-METHYL-, 2-METHYLPROPYL ESTER	97-85-8	2528	3 15 17
1048	ISOBUTYL ISOCYANATE 1-ISOCYANATO-2-METHYLPROPANE	1873-29-6	2486	1 2 3 17 20
syn	ISOBUTYL KETONE see 2,6-DIMETHYL HEPTANONE			
1049	ISOBUTYLMETHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, 2-METHYLPROPYL ESTER	97-86-9	2283	3 17
syn add	ISOBUTYLMETHYLKETONE PEROXIDE see METHYLISOBUTYLKETONE * PEROXIDE			
1050	ISOBUTYL PROPIONATE PROPANOIC ACID, 2-METHYLPROPYL ESTER	540-42-1	2394	3 17
1051 chg	# ISOBUTYRALDEHYDE PROPANAL, 2-METHYL-	78-84-2	2045	(F3) 3 6 15 17 18
1052	# ISOBUTYRIC ACID PROPANOIC ACID, 2-METHYL-	79-31-2	2529	(CO) 3 15 17 20
1053	# ISOBUTYRIC ANHYDRIDE PROPANOIC ACID, 2-METHYL-, ANHYDRIDE	97-72-3	2530	(CO) 3 15 17
1054	# ISOBUTYRONITRILE PROPANENITRILE, 2-METHYL-	78-82-0	2284	(F3) 3 4 10 15 16 17 19
1055	ISOBUTYRYLCHLORIDE PROPANOYL CHLORIDE, 2-METHYL-	79-30-1	2395	3 17
syn add	ISOBUTRYL PEROXIDE see DI-ISOBUTRYL PEROXIDE			
2496 gen	ISOCYANATES, n.o.s.		2206+	1 2 3 17 20
1056	ISOCYANATOBENZO-TRIFLUORIDE BENZENE, ISOCYANATO (TRIFLUOROMETHYL)-	71121-36-3	2285	3 17
syn	ISOCYANIC ACID, 3,4-DICHLOROPHENYL ESTER see 1,2-DICHLORO-4 * PHENYLISOCYANATE			
2498	ISODODECANE	31807-55-3		15 17
2499	ISODRIN	465-73-6	2761	3 16 19 20 21
2500	ISOFLUORPHATE DIISOPROPYLFLUOROPHOSPHATE	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 17
1059	ISOHEXENE PENTENE, 2-METHYL-	27236-46-0	2288	3 17
1060	ISONONANOYL PEROXIDE PEROXIDE, BIS(1-OXOISONONYL)	58449-37-9	2128	3 17
1061	# ISOOCTANE PENTANE, 2,2,4-TRIMETHYL-	540-84-1	1262	(F3) 3 15 17
1062	# ISOOCTENE	11071-47-9	1216	(F3) 3 17
1063	ISOOCTYL ALCOHOL ISOOCTANOL	26952-21-6	1987	1 2 3 15
1064	# ISOPENTANE BUTANE, 2-METHYL-	78-78-4	1265	(F4) 3 15 17
1065	# ISOPENTANOIC ACID BUTANOIC ACID, 3-METHYL-	503-74-2	1760	(CO) 3 15 17
2501 gen	ISOPENTENES		2371	3 17
syn	ISOPENTYL ALCOHOL see ISOAMYL ALCOHOL			
1066	ISOPHORONE 2-CYCLOHEXEN-1-ONE, 3,5,5-TRIMETHYL-	78-59-1	1224	1 2 3 4 8 10 15 20
1067	# ISOPHORONEDIAMINE CYCLOHEXANEMETHANAMINE, 5-AMINO-1,3,3-TRIMETHYL-	2855-13-2	2289	(CO) 3 17
1068	ISOPHORONE DIISOCYANATE CYCLOHEXANE, 5-ISOCYANATO-1-(ISOCYANATOMETHYL)-1,3,3-TRIMETHYL-	4098-71-9	2290	1 2 3 4 16 17 19
1069	# ISOPRENE 1,3-BUTADIENE, 2-METHYL-	78-79-5	1218	(F4,R2) 3 15 17 20
syn	ISOPROPANOL see ISOPROPYL ALCOHOL			
1070 chg	ISOPROPANOLAMINE DODECYLBENZENESULFONATE BENZENESULFONIC ACID, 4-DODECYL-, compound WITH 1-AMINO-2- * PROPANOL (1:1)	54590-52-2		20
3026	ISOPROPANOLAMINE DODECYLBENZENESULFONATE	42504-46-1		20

1071	# ISOPROPENYL ACETATE 1-PROPEN-2-OL, ACETATE	108-22-5	2403	(F3) 3 15 17
1072	ISOPROPENYL BENZENE BENZENE, (1-METHYLETHENYL)-	98-83-9	2303	1 2 3 15 17
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 17
syn	ISOPROPYLACETONE see METHYL ISOBUTYL KETONE			
1075	# ISOPROPYL ACID PHOSPHATE PHOSPHORIC ACID, MONO(1-METHYLETHYL) ESTER	1623-24-1	1793	(CO) 3 17
1076	# ISOPROPYL ALCOHOL 2-PROPANOL	67-63-0	1219	(F3) 1 2 3 4 7 10 15 17
2381 chg	+ ISOPROPYL ALCOHOL (manufacture-strong acid process)	67-63-0	1219	(CA) 3 6 7 10 15 17 18
1077	# ISOPROPYLAMINE 2-PROPANAMINE	75-31-0	1221	(F4) 1 2 3 15 17
syn	ISOPROPYLANILINE see n-ISOPROPYLANILINE			
1354	n-ISOPROPYLANILINE BENZENAMINE, N-(1-METHYLETHYL)-	643-28-7		1 2
syn	ISOPROPYL BENZENE see CUMENE			
1078	ISOPROPYL BUTYRATE BUTANOIC ACID, 1-METHYLETHYL ESTER	638-11-9	2405	3 17
1079	ISOPROPYL CHLOROACETATE ACETIC ACID, CHLORO-, 1-METHYLETHYL ESTER	105-48-6	2947	3 17
1080	# ISOPROPYL CHLOROFORMATE CARBONOCHLORIDIC ACID, 1-METHYLETHYL ESTER	108-23-6	2407	(CO) 3 16 17 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	15 16 17
1082	ISOPROPYL GLYCIDYL ETHER OXIRANE, (1-METHYLETHOXY)METHYL -	4016-14-2		1 2 4 10
syn add	4,4'-ISOPROPYLIDENEDIPHENOL see BISPHENOL A			
1083	ISOPROPYL ISOBUTYRATE PROPANOIC ACID, 2-METHYL-, 1-METHYLETHYL ESTER	617-50-5	2406	3 17
1084	ISOPROPYL ISOCYANATE PROPANE, 2-ISOCYANATO-	1795-48-8	2483	3 17
1085	ISOPROPYL MERCAPTAN 2-PROPANETHIOL	75-33-2	2703	3 17
1621	# n-ISOPROPYL-alpha-(2-METHYLHYDRAZINO)-p-TOLUAMIDE	671-16-9		(CA,MU) 7 15
2505	ISOPROPYLMETHYLPYRAZOLYL DIMETHYLCARBAMATE	119-38-0	2992	3 16 17 19
1086	ISOPROPYL NITRATE NITRIC ACID, 1-METHYLETHYL ESTER	1712-64-7	1222	3 17
syn	ISOPROPYL PEROXYDICARBONATE see DI-ISOPROPYL PEROXY- * DICARBONATE			
syn add	ISOPROPYL PHOSPHORIC ACID see ISOPROPYL ACID PHOSPHATE			
1087	ISOPROPYL PROPIONATE PROPANOIC ACID, 1-METHYLETHYL ESTER	637-78-5	2409	3 17
syn	ISOSAFROLE see 1,2-METHYLENEDIOXY-4-PROPENYL BENZENE			
2508	ISOSORBIDE DINITRATE MIXTURE with not less than 60% lactose, * mannose, starch or calcium	87-33-2	2907	3 17
3349 add	ISOXABEN	82558-50-7		8
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) 17
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 7 20 21
1091	KEROSENE KEROSINE	8008-20-6	1223	3 4 10 15 17
1092	KETENE ETHENONE	463-51-4		1 2
2510 gen	KETONES, LIQUID, n.o.s.		1224	3 17
1093	KRYPTON	7439-90-9	1056+	3 17
3550 add	LACTOFEN	77501-63-4		8
2514	LACTONITRILE	78-97-7		15 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) 3 7 20 21
1095	LAUROYL PEROXIDE PEROXIDE, BIS(1-OXODODECYL)	105-74-8	2893+	3 7 15 17
1096	# LEAD	7439-92-1		(TE) 1 2 3 4 6 7 8 18 20
1097	# LEAD ACETATE	301-04-2	1616	(CA,TE) 1 2 3 4 5 6 8 17 18 20 21
2873 gen	LEAD, inorganic compounds		2291+	1 2 3 4 6 8 17 18 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 17 18 20 21
1099	LEAD ARSENITE ARSENOUS ACID, LEAD(2+) SALT	10031-13-7	1618	1 2 3 4 6 8 17 18 20
1100	# LEAD AZIDE	13424-46-9	0129	(TE) 1 2 3 4 6 8 18 20
1101 chg	# LEAD CHLORIDE	7758-95-4	2291	(TE) 1 2 3 4 6 8 17 18 20
1102 chg	# LEAD CHROMATE CHROMIC ACID, LEAD SALT	7758-97-6	2291	(CA) 1 2 3 4 5 6 7 8 18 20
2266 gen	LEAD compounds, n.o.s.			6 7 18 20
2515 gen	LEAD COMPOUNDS, SOLUBLE, n.o.s.		2291	3 6 17 18 20
1103	# LEAD CYANIDE	592-05-2	1620	(TE) 1 2 3 4 6 8 17 18 20
1104	LEAD DIOXIDE LEAD OXIDE (PbO2)	1309-60-0	1872	1 2 3 4 6 8 17 18 20
1105	LEAD FLUOBORATE BORATE(1-), TETRAFLUORO-, LEAD(2+)	13814-96-5	2291	1 2 3 4 6 8 17 18 20
1106	# LEAD FLUORIDE	7783-46-2	2811	(TE) 1 2 3 4 6 8 17 18 20
1107	# LEAD IODIDE	10101-63-0	2811	(TE) 1 2 3 4 6 8 18 20
1108	# LEAD NITRATE NITRIC ACID, LEAD (2+) SALT	10099-74-8	1469	(TE) 1 2 3 4 6 8 15 17 18 20
1109	# LEAD PERCHLORATE PERCHLORIC ACID, LEAD (2+) SALT	13637-76-8	1470	(TE) 1 2 3 4 6 8 17 18 20

syn	LEAD PEROXIDE see LEAD DIOXIDE			
add				
1110	# LEAD PHOSPHATE	7446-27-7	2291	(CA) 1 2 3 4 5 6 7 8 18 20 21
2293	LEAD PHOSPHITE, DIBASIC	15845-52-0	2989	3 4 6 8 17 18 20
1111	LEAD STEARATE OCTADECANOIC ACID, LEAD SALT	7428-48-0	2811	1 2 3 4 6 8 18 20
1112	LEAD STYPHNATE 1,3-BENZENEDIOL, 2,4,6-TRINITRO-, LEAD(2+) SALT	15245-44-0	0130	1 2 3 4 6 8 18 20
2999	LEAD SUBACETATE	1335-32-6		1 2 3 4 6 18 20 21
1113	LEAD SULFIDE	1314-87-0	2291	1 2 3 4 6 8 18 20
1114 chg	# LEAD SULPHATE SULFURIC ACID, LEAD (2+) SALT 1:1	7446-14-2	1794	(CO,TE) 1 2 3 4 6 8 17 18 20
3032 chg	LEAD SULPHATE	15739-80-7	1794	1 2 3 4 6 8 18 20
syn	LEAD TETRAETHYL see TETRAETHYL LEAD			
add				
syn	LEAD TETRAMETHYL see TETRAMETHYL LEAD			
add				
1115	# LEAD THIOCYANATE THIOCYANIC ACID, LEAD (2+) SALT	592-87-0	2291	(TE) 1 2 3 4 6 8 15 18 20
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
syn	LIME see CALCIUM OXIDE			
syn	LIME-NITROGEN see CALCIUM CYANAMIDE			
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 7 8 14 15 16 17 18 19 20 21
3352 add	LINURON	330-55-2		8
1118	LIQUEFIED PETROLEUM GAS	68476-85-7	1075	1 2 3 15 17
1119	LITHIUM	7439-93-2	1415	3 15 17
1120	LITHIUM ACETYLIDE ETHYLENEDIAMINE	50475-76-8	2813	3 17
1121	LITHIUM ALUMINUM HYDRIDE ALUMINATE(1-), TETRAHYDRO-, LITHIUM	16853-85-3	1410+	2 3 15 17
1122	LITHIUM AMIDE	7782-89-0	1412	3 17
1123	LITHIUM BOROHYDRIDE BORATE(1-), TETRAHYDRO-, LITHIUM	16949-15-8	1413	3 17
1124	# LITHIUM CARBONATE CARBONIC ACID, DILITHIUM SALT	554-13-2		(TE) 13(Y,EE)
1125	LITHIUM CHROMATE CHROMIC ACID, DILITHIUM SALT	14307-35-8	9134	1 2 3 6 18 20
1126 chg	LITHIUM FERROSILICON FERRATE(1-), SILANETETRAYL-, LITHIUM	64082-35-5	2830	3 17
1127	# LITHIUM HYDRIDE	7580-67-8	2805+	(F4,R2) 1 2 3 15 16 17 19
1128	# LITHIUM HYDROXIDE MONOHYDRATE	1310-66-3	2680	(CO) 3 17
1129	LITHIUM HYPOCHLORITE HYPOCHLOROUS ACID, LITHIUM SALT	13840-33-0	1471	3 17
1130	LITHIUM NITRATE NITRIC ACID, LITHIUM SALT	7790-69-4	2722	3 17
1131	LITHIUM NITRIDE	26134-62-3	2806	3 17
1132	LITHIUM PEROXIDE	12031-80-0	1472	3 17
1133 chg	LITHIUM SILICON	68848-64-6	1417	3 17
3353 add	LONDAX	83055-99-6		8
1134	LONDON PURPLE	8012-74-6	1621	3 17
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) 17
syn	LPG see LIQUEFIED PETROLEUM GAS			
syn	LYE SOLUTION see SODIUM HYROXIDE			
syn	LYNESTRENOL see ETHINYLOESTRADIOL			
syn	MACE see alpha-CHLOROACETOPHENONE			
1136	# MAGNESIUM	7439-95-4	1869+	(R2) 3 17
2523	MAGNESIUM ALKYL		3053	17
2524 gen	MAGNESIUM ALUMINUM PHOSPHIDE		1419	3 17
syn	MAGNESIUM AMIDE see MAGNESIUM DIAMIDE			
1137	MAGNESIUM ARSENATE ARSENIC ACID, MAGNESIUM SALT	10103-50-1	1622	1 3 6 7 17 18 20
2525 chg	MAGNESIUM BISULFITE	13774-25-9	2693	3 17
1138	MAGNESIUM BROMATE BROMIC ACID, MAGNESIUM SALT	7789-36-8	1473	3 17
1139	MAGNESIUM CHLORATE CHLORIC ACID, MAGNESIUM SALT	10326-21-3	2723	3 17
1140	MAGNESIUM DIAMIDE MAGNESIUM AMIDE	7803-54-5	2004	3 17
1141	MAGNESIUM DIPHENYL	555-54-4	2005	3 17
syn	MAGNESIUM GRANULES, COATED see MAGNESIUM			
1142	MAGNESIUM HYDRIDE	60616-74-2	2010	3 17
1143	MAGNESIUM NITRATE NITRIC ACID, MAGNESIUM SALT	10377-60-3	1474	3 15 17
1144	MAGNESIUM OXIDE MAGNESIUM OXIDE	1309-48-4		1 2
1145	MAGNESIUM PERCHLORATE PERCHLORIC ACID, MAGNESIUM SALT	10034-81-8	1475	3 15 17
1146	MAGNESIUM PEROXIDE	14452-57-4	1476	3 17
1147	MAGNESIUM PHOSPHIDE	12057-74-8	2011	3 17
1148	MAGNESIUM SILICIDE	39404-03-0	2624	3 17
1149	MAGNESIUM SILICOFLUORIDE SILICATE (2-), HEXAFLUORO-, MAGNESIUM, HEXAHYDRATE	18972-56-0	2853	1 2 3 17
1150	# MALATHION BUTANEDIOIC ACID, (DIMETHOXYPHOSPHINOTHIOYL)THIO -, * DIETHYL ESTER	121-75-5	2783	(MU) 1 2 3 4 7 8 17 20
1151	MALEIC ACID 2-BUTENEDIOIC ACID	110-16-7	2215	3 17 20

1152	MALEIC ANHYDRIDE 2,5-FURANDIONE	108-31-6	2215	1 2 3 6 8 15 17 18 20 21
syn	MALEICHYDRAZIDE see 1,2-DIHYDRO-3,6-PYRIDAZINEDIONE			
add				
3354	MALONICETHYLESTER NITRILE		2666	
add				17
1153	MALONONITRILE PROPANEDINITRILE	109-77-3	2647	3 4 10 16 19 20 21
1154	# MANEB MANGANESE, (ETHYLENEBIS(DITHIOCARBAMATO))-	12427-38-2	2968+	(CA) 1 2 3 6 7 8 17 18
1155	MANGANESE	7439-96-5		1 2 6 8 18
2342	MANGANESE compounds, n.o.s.			
gen				1 2 6 18
1156	MANGANESE CYCLOPENTADIENYL TRICARBONYL MANGANESE, TRICARBONYL(eta 5-2,4-CYCLOPENTADIEN-1-YL)-	12079-65-1		1 2 6 18
1157	MANGANESE DIOXIDE MANGANESE OXIDE	1313-13-9	1479	1 2 3 6 18
syn	MANGANESE ETHYLENE-BIS-DITHIOCARBAMATE see MANEB			
add				
1158	MANGANESE NITRATE NITRIC ACID, MANGANESE(2+) SALT	10377-66-9	2724	1 2 3 6 17 18
2526	MANGANESE RESINATE	9008-34-8	1330	1 2 3 6 17 18
syn	MANGANESE, TRICARBONYL METHYLCYCLOPENTADIENYL see METHYL- * CYCLOPENTADIENYL MANGANESE TRICARBONYL			
1159	MANGANESE TRIOXIDE MANGANESE OXIDE	1317-34-6		1 2 6 18
1160	MANNITOL HEXANITRATE d-MANNITOL, HEXANITRATE	15825-70-4	0133	3
syn	MATTING ACID see SULFURIC ACID			
add				
syn	MDI see METHYLENE BISPHENYL ISOCYANATE			
3355	+ MEA-alpha-C(2-AMINO-3-METHYL-9H-PYRIDO[2,3-b]INDOLE			(CA) 7
syn	MECHLORETHAMINE see NITROGEN MUSTARD			
syn	MECRYLATE see METHYL 2-CYANOACRYLATE			
syn	MEKP see METHYL ETHYL KETONE PEROXIDE			
1162	# MELPHALAN L-PHENYLALANINE, 4- BIS(2-CHLOROETHYL)AMINO -	148-82-3	1851	(CA,MU) 3 5 7 13(A, E, H,EE) 17 20 21
2534	MEMTETRAHYDROPHTHALIC ANHYDRIDE	25134-21-8	1760	3
1163	p-MENTHANE HYDROPEROXIDE MENTHANE-8-HYDROPEROXIDE	80-47-7	2125	3 17
2535	MEPHOSFOLAN	950-10-7	3018	3 16 19
3356	MEPIQUATCHLORIDE	24307-26-4		
add				8
1164	# MEPROBAMATE 1,3-PROPANEDIOL, 2-METHYL-2-PROPYL-, DICARBAMATE	57-53-4	1851	(TE) 3 13(Y,EE) 17
2536	MERCAPTANS AND MIXTURES, LIQUID, n.o.s.		1228+	
gen				3 17
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	(TE) 1 2 3 4 6 16 17 18 19 20
syn	MERCURIC AMMONIUM CHLORIDE see MERCURY AMMONIUM CHLORIDE			
add				
1167	MERCURIC ARSENATE ARSENIC ACID, MERCURY(2+) SALT (1:1)	7784-37-4	1623	1 2 3 4 6 17 18 20
1168	MERCURIC BENZOATE MERCURY (II) BENZOATE	583-15-3	1631	1 2 3 6 18 20
1169	MERCURIC BROMIDE	7789-47-1	1634	1 2 3 4 6 17 18 20
1170	MERCURIC CHLORIDE	7487-94-7	1624	1 2 3 4 6 16 17 18 19 20
syn	MERCURIC CHLORIDE, AMMONIATED see MERCURY AMMONIUM CHLORIDE			
1171	MERCURIC CYANIDE MERCURY CYANIDE	592-04-1	1636	1 2 3 4 6 15 17 18 20
1172	MERCURIC IODIDE MERCURY (II) IODIDE	7774-29-0	1638	1 2 3 4 6 17 18 20
1173	MERCURIC NITRATE NITRIC ACID, MERCURY(II) SALT	10045-94-0	1625	1 2 3 4 6 17 18 20
syn	MERCURIC OLEATE see MERCURY OLEATE			
add				
2537	MERCURIC OXIDE	21908-53-2	1641	1 2 3 4 6 16 17 18 19 20
1174	# MERCURIC OXYCYANIDE MERCURY CYANIDE OXIDE	1335-31-5	1642	(R3) 1 2 3 4 6 17 18 20
1175	MERCURIC POTASSIUM CYANIDE MERCURATE(-2), TETRAKIS(CYANO-C)-,DIPOTASSIUM, (T-4)-	591-89-9	1626	1 2 3 4 6 17 18 20
syn	MERCURIC POTASSIUM IODIDE see MERCURY POTASSIUM IODIDE			
add				
syn	MERCURIC SALICYLATE see MERCURY SALICYLATE			
add				
1176	MERCURIC SUBSULFATE MERCURY OXIDE SULFATE	1312-03-4	2025	1 2 3 4 6 18 20
1177	MERCURIC SULFATE SULFURIC ACID, MERCURY(II) SALT (1:1)	7783-35-9	1645+	1 2 3 4 6 17 18 20
syn	MERCURIC SULOCYANATE see MERCURY THIOCYANATE			
syn	MERCURIC THIOCYANATE see MERCURY THIOCYANATE			
1178	MERCUROL	12002-19-6	1639	1 2 3 6 17 18 20
syn	MERCUROUS ACETATE see MERCURIC ACETATE			
syn	MERCUROUS BROMIDE see MERCURIC BROMIDE			
1179	MERCUROUS CHLORIDE	7546-30-7		1 2 4 6 18 20
syn	MERCUROUS GLUCONATE see MERCURY GLUCONATE			
1189	MERCUROUS IODIDE	7783-30-4	1638	1 2 3 4 6 18 20
1181	MERCUROUS NITRATE NITRIC ACID, MERCURY(1+) SALT	10415-75-5	1627	1 2 3 4 6 17 18 20
1191	MERCUROUS OXIDE	15829-53-5	1641	1 2 3 4 6 17 18 20
1182	MERCUROUS SULFATE SULFURIC ACID, DIMERCURY(1+) SALT	7783-36-0	1628	1 2 3 4 6 17 18 20
1183	@ MERCURY	7439-97-6	2809	1 2 3 4 6 8 17 18 20 21

syn	MERCURY ACETATE see MERCURIC ACETATE			
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 17 18 20
2540 gen	MERCURY-BASED PESTICIDES, TOXIC, n.o.s.		3012+	1 2 3 6 14 17 18 20
syn	MERCURY BISULFATE see MERCURIC SULFATE			
1185	MERCURY BROMIDE MERCURY BROMIDE (HgBr)	10031-18-2	1634	1 2 3 4 6 17 18 20
1186	MERCURY(1)BROMIDE(1:1) MERCURY BROMIDE (Hg2Br2)	15385-58-7	1634	1 2 3 4 6 18 20
1180	MERCURY CHLORIDE MERCURY CHLORIDE (Hg2Cl2)	10112-91-1		1 2 4 6 18 20
2874	MERCURY COMPOUNDS, INORGANIC		2025+	1 2 3 4 6 18 20
3357 gen add	MERCURY COMPOUND, ORGANIC			1 2 6 18 20
2414 gen	MERCURY COMPOUNDS, n.o.s.			6 18
syn	MERCURY CYANIDE see MERCURIC CYANIDE			
1187	MERCURY FULMINATE FULMINIC ACID, MERCURY SALT	628-86-4	0135	1 2 3 4 6 18 20 21
1188	MERCURY GLUCONATE	63937-14-4	1637	1 2 3 4 6 17 18 20
syn	MERCURY IODIDE see MERCURIC IODIDE			
syn	MERCURY NUCLEATE see MERCUROL			
1190	MERCURY OLEATE 9-OCTADECENOIC ACID (Z)-, MERCURY(2+) SALT	1191-80-6	1640	1 2 3 6 18 20
syn	MERCURY OXIDE see MERCUROUS OXIDE			
syn	MERCURY OXYCYANIDE see MERCURIC OXYCYANIDE			
1192	MERCURY POTASSIUM IODIDE MERCURATE (2-), TETRAIODO-, DIPOTASSIUM	7783-33-7	1643	1 2 3 4 6 17 18 20
1193	MERCURY SALICYLATE MERCURY, 2-HYDROXYBENZOATO(2-)-O1,O2 -	5970-32-1	1644	1 2 3 4 6 17 18 20
1194	MERCURY THIOCYANATE THIOCYANIC ACID, MERCURY (2+) SALT	592-85-8	1646	1 2 3 4 6 17 18 20
3358 add	+ MERPHALAN	531-76-0		(CA) 7
3359 add	MERPHOS	150-50-5		8
3360 add	MERPHOS OXIDE	78-48-8		8
syn	MESITYLENE see 1,3,5-TRIMETHYLBENZENE			
1195	MESITYL OXIDE 3-PENTEN-2-ONE, 4-METHYL-	141-79-7	1229	1 2 3 4 6 10 15 17 20
1196	# MESTRANOL 19-NORPREGNA-1,3,5(10)-TRIEN-20-YN-17-OL, 3-METHOXY-, * (17 alpha)-	72-33-3	1851	(CA,MU) 3 5 7 17
3361 add	METAL AXYL	57837-19-1		8
1197	# METALDEHYDE 1,3,5,7-TETROXOCANE, 2,4,6,8-TETRAMETHYL-	108-62-3	1332	(F3) 3 15 17
2549	METHACROLEIN DIACETATE	10476-95-6		16 19
1198	METHACRYLALDEHYDE 2-PROPENAL, 2-METHYL-	78-85-3	2396	3 17
1199	# METHACRYLIC ACID 2-PROPENOIC ACID, 2-METHYL-	79-41-4	2531	(CO_2,R2) 1 2 3 15
2550	METHACRYLIC ANHYDRIDE	760-93-0	2531	3 16 17 19
syn	METHACRYLONITRILE see METHYLACRYLONITRILE			
2551 chg	+ METHACRYLOYL CHLORIDE	920-46-7		(R2, F3) 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 17
1201	METHAMIDOPHOS PHOSPHORAMIDOTHIOIC ACID, O, S-DIMETHYL ESTER	10265-92-6	2783+	3 8 14 16 19
1202	# METHANE	74-82-8	1971+	(F4) 2 3 15 17
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 METHYL METHANE SULPHONATE	66-27-3		(CA,MU) 7 8
3362 add	METHANESULFONYL CHLORIDE		9265	17
2553	METHANESULFONYL FLUORIDE	558-25-8		16 19
syn	METHANETHIOL see METHYL MERCAPTAN			
syn	METHANOL see METHYL ALCOHOL			
1205 chg	# METHAPYRILENE 1,2-ETHANEDIAMINE, N,N-DIMETHYL-N'-2-PYRIDINYL-N'-(2- * THIENYLMETHYL)-	91-80-5	1851	(CA) 3 17 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 8 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 8 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 7 13(C, F, G, O, Y,EE) 17
1210	METHOXYCHLOR BENZENE, 1,1'-(2,2,2-TRICHLOROETHYLIDENE)BIS 4-METHOXY-	72-43-5	2761	1 2 3 6 7 8 18 20 21
1211	+ 2-METHOXYETHANOL	109-86-4	1188	(TE) 1 2 3 4 6 10 15 17 18
1212	2-METHOXYETHYL ACETATE 2-METHOXYACETATE ETHANOL	110-49-6	1189	1 2 3 10 15 17
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 17
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			1 2
syn	1-METHOXY-2-PROPANOL see PROPYLENE GLYCOL MONOMETHYL ETHER				
1217	# METHYL ACETATE ACETIC ACID, METHYL ESTER	79-20-9	1231		(F3) 1 2 3 15 17
syn	METHYL ACETONE see METHYL ETHYL KETONE				
1218	# METHYL ACETYLENE 1-PROPYNE	74-99-7			(F4,R2) 1 2 15
syn add	beta-METHYL ACROLEIN see CROTONALDEHYDE				
1219	# METHYL ACRYLATE 2-PROPENOIC ACID, METHYL ESTER	96-33-3	1919		(F3,R2) 1 2 3 6 7 8 15 17 18
1220	METHYLACRYLONITRILE 2-PROPENENITRILE, 2-METHYL-	126-98-7			1 2 8 15 16 17 19 20 21
1221	# METHYLAL METHANE, DIMETHOXY-	109-87-5	1234		(F3,R2) 1 2 3 15 17
1222	# METHYL ALCOHOL METHANOL	67-56-1	1230		(F3) 1 2 3 4 6 8 10 15 17 18 20 21
1223	METHYL ALLYL CHLORIDE 1-PROPENE, 3-CHLORO-2-METHYL-	563-47-3	2554		3 5 17
2555	METHYL ALUMINUM SESQUIBROMIDE	12263-85-3	1926		3 15 17
1224	# METHYL ALUMINUM SESQUICHLORIDE ALUMINUM, TRICHLOROTRIMETHYLDI-	12542-85-7	1927		(F3,R3) 3 15 17
1225	# METHYLAMINE METHANAMINE	74-89-5	1061+		(F4) 1 2 3 15 17 20
1227	METHYL AMYL ACETATE 2-PENTANOL, 4-METHYL, ACETATE	108-84-9	1233		1 2 3 15 17
1228	METHYL AMYL ALCOHOL 2-PENTANOL, 4-METHYL-	108-11-2	2053		1 2 3 15 17
1279	METHYL (N-AMYL) KETONE 2-HEPTANONE	110-43-0	1110		1 2 3 4 10 15 17
1229	METHYLANILINE BENZENAMINE, N-METHYL-	100-61-8	2294		1 2 3 17
3508 add	+ 2-METHYLAZIRIDINE 1,2-PROPYLENEIMINE	75-55-8			(CA) 3 5 7 20
3363 add	+ METHYLAZOXYMETHANOL	590-96-5			(CA) 7
3364 add	+ METHYLAZOXYMETHANOL ACETATE	592-62-1			(CA) 7
1230	METHYLBENZOATE BENZOIC ACID, METHYL ESTER	93-58-3	2938		3 15 17
0049	alpha-METHYLBENZYL ALCOHOL BENZENEMETHANOL, alpha-METHYL-	98-85-1	2937		3 17
1231	+ METHYL BROMIDE METHANE, BROMO-	74-83-9	1062+		(MU) 1 2 3 4 6 7 10 14 15 16 17 18 19 20 21
1232	METHYL BROMOACETATE ACETIC ACID, BROMO-, METHYL ESTER	96-32-2	2643		3 17
2925	1-METHYL BUTADIENE	504-60-9			3 20 21
syn add	2-METHYL-1,3-BUTADIENE see ISOPRENE				
syn	2-METHYL-2-BUTANETHIOL see AMYL MERCAPTAN				
syn add	METHYLBUTANONE see METHYL ISOPROPYL KETONE				
syn add	3-METHYLBUTAN-2-ONE see METHYL ISOPROPYL KETONE				
1233 chg	# METHYLBUTENE BUTENE, 2-METHYL-	563-46-2	2459		(F3,R2) 3 15
3365 add	+ 2-METHYL-2-BUTENE	513-35-9	2460		(F3) 3 15 17
3366 add	+ 3-METHYL-1-BUTENE	563-45-1	2461		(F4) 3 15 17
1401	n-METHYLBUTYLAMINE 1-BUTANAMINE, n-METHYL-	110-68-9	2945		3 15 17
syn	METHYL-1,3-BUTYLENE GLYCOL ACETATE see BUTOXYL				
1293	METHYL-tert-BUTYL ETHER ETHYL, tert-BUTYL METHYL	1634-04-4	2398		3 6 17 18
1280 chg	# METHYL N-BUTYL KETONE 2-HEXANONE	591-78-6	1224		(F3) 1 2 3 4 10 15
1234	# METHYL BUTYRATE BUTANOIC ACID, METHYL ESTER	623-42-7	1237		(F3) 3 15 17
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 4 6 7 10 15 17 18 20 21
1236	METHYL CHLOROACETATE ACETIC ACID, CHLORO-, METHYL ESTER	96-34-4	2295		3 15 17
2556	METHYL-2-CHLOROACRYLATE	80-63-7	2810		3 16 17 19
syn	METHYL CHLOROCARBONATE see METHYL CHLOROFORMATE				
1237	METHYL CHLOROFORM ETHANE, 1,1,1-TRICHLORO-	71-55-6	2831		1 2 3 4 6 7 8 10 15 17 18 20 21
1238	METHYL CHLOROFORMATE CARBONOCHLORIDIC ACID, METHYL ESTER	79-22-1	1238		3 8 16 17 19 20 21
1239	METHYL-2-CHLOROPROPIONATE PROPANOIC ACID, 2-CHLORO-, METHYL ESTER	17639-93-9	2933		3
syn add	METHYL CHLORMETHYL ETHER see CHLOROMETHYLMETHYL ETHER				
3369 add	4-(2-METHYL-4-CHLOROPHENOXY)BUTYRIC ACID	94-81-5			8
syn add	2-(2-METHYL-4-CHLOROPHENOXY)PROPIONIC ACID see 2-(4-CHLORO- * 2-METHYLPHENOXYL)PROPANOIC ACID				
syn add	2-METHYL-4-CHLOROPHENOXYACETIC ACID see 4-CHLORO-2-METHYL * PHENOXYACETIC ACID				
1240	METHYL CHLOROSILANE CHLOROMETHYLSILANE	993-00-0	2534		3 17
0427	# 3-METHYLCHOLANTHRENE BENZ(j)ACEANTHRYLENE, 1,2-DIHYDRO-3-METHYL-	56-49-5			(CA,MU) 3 20 21
3367 add	+ 5-METHYLCRYSENE	3697-24-3			(CA) 5 7
syn add	METHYLCYANIDE see ACETONITRILE				
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 17
1243	METHYL CYCLOHEXANOL CYCLOHEXANOL, METHYL-	25639-42-3	2617		1 2 3 15 17
1438	o-METHYLCYCLOHEXANONE METHYLCYCLOHEXANONE	583-60-8	2297		1 2 3 15 17
3368 add	METHYLCYCLOHEXANONE PEROXIDE	66903-23-9	3046		17
1244	METHYLCYCLOPENTADIENYL MANGANESE TRICARBONYL MANGANESE, TRICARBONYL (1,2,3,4,5-eta)-1-METHYL-2,4- * CYCLOPENTADIEN-1-YL -	12108-13-3			1 2 6 16 18 19
1245	# METHYL CYCLOPENTANE CYCLOPENTANE, METHYL-	96-37-7	2298		(F3) 3 15 17

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	919-86-8	3018	3 14 16 19
1247	# METHYL DICHLOROACETATE ACETIC ACID, DICHLORO-, METHYL ESTER	116-54-1	2299	(CO) 3 17
1248	METHYL DICHLOROARSINE ARSENOUS DICHLORIDE, METHYL-	593-89-5	1556	1 2 3 6 17 18
1249	# METHYL DICHLOROSILANE SILANE, DICHLOROMETHYL-	75-54-7	1242	(CO,F3,R2) 3 15 17
syn	METHYL DISULFIDE see DIMETHYLDISULFIDE			
1250	# 4,4'-METHYLENEBIS (2-CHLOROANILINE) BENZENAMINE, 4,4'-METHYLENEBIS 2-CHLORO-	101-14-4		(CA) 1 2 3 4 5 6 7 18 20 21
1251	METHYLENE BIS(4-CYCLOHEXYLISOCYANATE) 1,1'-METHYLENEBIS 4-ISOCYANATOCYCLOHEXANE	5124-30-1		1 2 4
syn add	4,4'-METHYLENE BIS(N,N'-DIMETHYL)ANILINE see 4,4'- * METHYLENEBIS(N,N'-DIMETHYL)BENZENEAMINE			
1252	# 4,4'-METHYLENEBIS (N,N-DIMETHYL) BENZENAMINE ANILINE, 4,4'-METHYLENEBIS (N,N-DIMETHYL)-	101-61-1		(CA,MU) 5 6 8 18
1253	METHYLENE BISPHENYL ISOCYANATE ISOCYANIC ACID, METHYLENE DI-p-PHENYLENE ESTER	101-68-8	2489	1 2 3 4 6 7 12(A, C) 17 18
1254 chg	+ METHYLENE BROMIDE METHANE, DIBROMO-	74-95-3	2664	(MU) 3 6 10 17 18 20 21
1255 chg	# METHYLENE CHLORIDE METHANE, DICHLORO-	75-09-2	1593	(CA,MU,TE) 1 2 3 4 5 6 7 10 15 16 17 18 20 21
3370 add	+ 4,4'-METHYLENE DIAMINE DIHYDROCHLORIDE	13552-44-8		(CA) 5
1256 chg	# 4,4'-METHYLENE DIANILINE BENZENAMINE, 4,4'-METHYLENEBIS-	101-77-9	2651	(CA) 2 3 4 5 6 7 10 15 17 18
0198	# 1,2-METHYLENEDIOXY-4-PROPENYL-BENZENE 1,3-BENZODIOXOLE, 5-(1-PROPENYL)-	120-58-1		(CA) 3 6 7 18 20 21
0199	# 1,2-METHYLENEDIOXY-4-PROPYL-BENZENE 1,3-BENZODIOXOLE, 5-PROPYL-	94-58-6		(CA) 3 7 8 20 21
syn	METHYL ETHER see DIMETHYL ETHER			
1257	# METHYL ETHYL ETHER ETHANE, METHOXY-	540-67-0	1039	(F4) 3 15 17
1258 chg	# METHYL ETHYL KETONE 2-BUTANONE	78-93-3	1193+	(F3) 1 2 3 4 6 8 10 15 17 18 20 21
1259	METHYL ETHYL KETONE PEROXIDE 2-BUTANONE, PEROXIDE	1338-23-4	2127+	1 2 3 15 20 21
1260	# 2-METHYL-5-ETHYLPYRIDINE 2-PICOLINE, 5-ETHYL-	104-90-5	2300	(CO,F3) 3 15 17
1261	METHYL FLUORIDE METHANE, FLUORO-	593-53-3	2454	1 2 3 17
1262	# METHYL FORMATE FORMIC ACID, METHYL ESTER	107-31-3	1243	(F4) 1 2 3 15 17
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 17 18 19 20 21
3371 add	METHYL-3-HYDROXYBUTYRATE	1487-49-6		3
1266 chg	# METHYL IODIDE METHANE, IODO-	74-88-4	2644	(CA,MU) 1 2 3 4 6 7 10 17 18 20 21
1267	METHYL ISOAMYL KETONE 2-HEXANONE, 5-METHYL-	110-12-3	2302	1 2 3 4 10 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 6 8 10 15 17 18 20 21
1269	METHYL ISOBUTYL KETONE PEROXIDE 2-PENTANONE, 4-METHYL-, PEROXIDE	37206-20-5	2126	3 17
1270	# METHYL ISOCYANATE METHANE, ISOCYANATO-	624-83-9	2480	(F3,R3) 1 2 3 6 8 15 16 17 18 19 20 21
2557	METHYL ISOPROPENYL KETONE, inhibited	814-78-8	1246	3 15 17
1271	METHYL ISOPROPYL KETONE 2-BUTANONE, 3-METHYL-	563-80-4	2397	1 2 3 17
1272	METHYL ISOTHIOCYANATE METHANE, ISOTHIOCYANATO-	556-61-6	2477	3 16 17 19
1273	METHYL ISOVALERATE BUTANOIC ACID, 3-METHYL-, METHYL ESTER	556-24-1	2400	3 17
syn add	METHYLLACTONITRILE see ACETONE CYANOHYDRIN			
1274	METHYL MAGNESIUM BROMIDE MAGNESIUM, BROMOMETHYL-	75-16-1	1928	3 17
1275	# METHYL MERCAPTAN METHANETHIOL	74-93-1	1064	(F4) 1 2 3 4 15 16 17 19 20 21
1276	# METHYL MERCURY DICYANDIAMIDE MERCURY, (3-CYANOGUANIDINO)-METHYL	502-39-6	2777	(TE) 1 2 3 6 16 18 19
1277	# METHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, METHYL ESTER	80-62-6	1247	(F3,R2) 1 2 3 6 7 15 17 18 20 21
syn add	METHYLMETHANE SULPHONATE see METHANE SULFONIC ACID, * METHYL ESTER			
1278	# METHYLMORPHOLINE 4-METHYLMORPHOLINE	109-02-4	2535	(CO,F3) 3 15 17
1281	METHYL NITRITE NITROUS ACID, METHYL ESTER	624-91-9	2455	17
3372 add	+ 2-METHYL-1-NITROANTHRAQUINONE	129-15-7		(CA) 7
0963 chg	# 1-METHYL-3-NITRO-1-NITROSO-GUANIDINE GUANIDINE, N-METHYL-N'-NITRO-N-NITROSO-	70-25-7	1325	(CA,MU) 3 7 20 21
3373 add	+ N-METHYL-N-NITROSOCARBAMIC ACID, ETHYL ESTER	615-53-2		(CA,MU) 7 20 21
1297	# N-METHYL-N-NITROSOETHYLCARBAMATE	615-53-2		(CA,MU) 7 20 21
syn add	N-METHYL-N-NITROSOUREA see N-NITROSO-N-METHYL UREA			
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 8 14 15 16 17 19 20 21
1284	METHYLPENTADIENE PENTADIENE, METHYL-	54363-49-4	2461	3 17
1285	METHYLPENTANE PENTANE, METHYL-	43133-95-5	2462	3 17
2558	2-METHYL-2-PENTANOL	590-36-3	2560	3
syn add	4-METHYL-2-PENTANONE see METHYL ISOBUTYL KETONE			
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 17 19
2560 chg	METHYL PHOSPHONIC DICHLORIDE	676-97-1	9206+	3 16 17 19
1287	METHYL PHOSPHONOTHIOIC DICHLORIDE PHOSPHONOTHIOIC DICHLORIDE, METHYL-	676-98-2	1760	3 17
1288	# METHYL PHOSPHONOUS DICHLORIDE PHOSPHONOUS DICHLORIDE, METHYL-	676-83-5	2845	(CO) 3 17
1289	1-METHYLPIPERIDINE PIPERIDINE, 1-METHYL-	626-67-5	2399	3 17
3122	METHYLPROPENYL KETONE	625-33-2	1246	17
1290	# METHYL PROPIONATE PROPANOIC ACID, METHYL ESTER	554-12-1	1248	(F3) 3 15 17
3502 add	METHYL PROPYL BENZENE	28729-54-6	2046	17
1291	# METHYL PROPYL ETHER PROPANE, 1-METHOXY-	557-17-5	2612	(F3) 3 15 17
1292	# METHYL PROPYL KETONE 2-PENTANONE	107-87-9	1249	(F3) 1 2 3 4 10 15
1282	METHYL SILICATE SILICIC ACID, TETRAMETHYL ESTER	681-84-5	2606	1 2 3 17
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 17
2562	METHYL THIOCYANATE	556-64-9	1935	3 16 19
1967	# 6-METHYL-2-THIOURACIL 4(1H)-PYRIMIDINONE, 2,3-DIHYDRO-6-METHYL-2-THIOXO-	56-04-2		(CA) 3 7 20 21
1295	METHYL TRICHLOROACETATE ACETIC ACID, TRICHLORO-, METHYL ESTER	598-99-2	2533	3 17
1296	# METHYL TRICHLOROSILANE TRICHLOROMETHYLSILANE	75-79-6	1250	(CO,F3,R2) 3 15 16 17 19
1299	# METHYL VALERALDEHYDE PENTANAL, 2-METHYL	123-15-9	2367	(F3) 3 15 17
1301	# METHYL VINYL KETONE 3-BUTEN-2-ONE	78-94-4	1251	(F3,R2) 3 15 16 17 19
3374 add	METOLACHLOR	51218-45-2		8
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 8
1303	# METRONIDAZOLE 1H-IMIDAZOLE-1-ETHANOL, 2-METHYL-5-NITRO-	443-48-1	1851	(CA,MU) 3 5 7 17
3507 add	MEVINPHOS PHOSDRIN	7786-34-7	2783	1 2 3 14 16 17 19 20
1304	MEXACARBATE PHENOL, 4-(DIMETHYLAMINO)-3,5-DIMETHYL-, METHYLCARBAMATE (ESTER)	315-18-4	2757	3 14 16 17 19 20
3511 add	MICA MICA SILICATE	12001-26-2		1 2
1305	# MICHLERS KETONE METHANONE-BIS 4-(DIMETHYLAMINO) PHENYL -	90-94-8	1224	(CA) 3 5 6 18
syn	MINERAL OIL see OIL MIST, MINERAL			
syn	MINERAL SPIRITS see STODDARD SOLVENT			
2564 gen	MINING REAGENT, LIQUID		2022	3 17
1306 chg	# 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		(CA) 5 7 8
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	(CA,MU) 1 3 7 13(F, H) 16 17 19 20 21
3375 add	MOLINATE	2212-67-1		5
1309	MOLYBDENUM	7439-98-7		1 2
3376 gen add	MOLYBDENUM COMPOUNDS			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 17
1312	+ MOLYBDENUM TRIOXIDE	1313-27-5		(CA) 1 2 6 18
syn add	MONOCHLOROACETONE see CHLOROACETONE			
syn add	MONOCHLOROETHYLENE see VINYL CHLORIDE			
3377 add	+ MONOCROTALINE	315-22-0		(CA) 7
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 add	MONOETHANOLAMINE see ETHANOLAMINE			
syn add	MONOETHYLAMINE see ETHYLAMINE			
syn	MONOFLUOROPHOSPHORIC ACID see FLUOROPHOSPHORIC ACID			
1315	# MORPHOLINE	110-91-8	2054+	(CO,F3) 1 2 3 15 17
3378 add	+ 5(MORPHOLINOMETHYL)-3-[(NITROFURFURYLIDENE)AMINO]- * 2-OXAZOLIDINONE	3795-88-8		(CA) 7
syn	MOTHBALLS see NAPHTHALENE			
2568 gen	MOTOR FUEL ANTI-KNOCK COMPOUND		1649	3 15 17
2569 gen	MOTOR FUEL, n.o.s.		1203	3 17
syn	MOTOR SPIRIT see GASOLINE			
syn	MURIATIC ACID see HYDROGEN CHLORIDE			
2571	MUSCIMOL	2763-96-4	2811	3 16 19 20 21
2572	MUSK XYLENE	81-15-2	2956	17
1319 chg	# MUSTARD GAS ETHANE, 1,1'-THIOBIS-2-CHLORO-	505-60-2	1955	(CA) 3 5 6 7 16 17 18 19
3379 add	+ NAFENOPIN	3771-19-5		(CA) 7
syn	NALED see DIMETHYL 1,2-DIBROMO-2,2-DICHLOROETHYL PHOSPHATE			
syn	NAPHTHA see VM & P NAPHTHA or COAL TAR NAPHTHA			
syn	NAPHTHA DISTILLATE see COAL TAR NAPHTHA			
1322	NAPHTHALENE	91-20-3	1334+	1 2 3 6 8 15 17 18 20 21
1323	NAPHTHALENE DIISOCYANATE NAPHTHALENE, DIISOCYANATO-	25551-28-4	2207	3 4
2924	1,4-NAPHTHALENEDIONE	130-15-4		3 20 21

syn	NAPHTHA, PETROLEUM see PETROLEUM NAPHTHA			
2575 gen	NAPHTHA, SOLVENT		1256	3 15
1325 chg	# 1-NAPHTHYLAMINE 1-NAPHTHALENAMINE	134-32-7	2077	(CA,MU) 1 3 4 6 7 15 17 18 20 21
1324	# 2-NAPHTHYLAMINE 2-NAPHTHALENAMINE	91-59-8	1650	(CA,MU) 1 2 3 4 5 6 7 10 17 18 20 21
syn	alpha-NAPHTHYLAMINE see 1-NAPHTHYLAMINE			
syn	beta-NAPHTHYLAMINE see 2-NAPHTHYLAMINE			
1326	NAPHTHYLTHIOUREA THIOUREA, NAPHTHALENYL-	30553-04-9	1651	7 17
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 17
1328	2-NAPHTHYLUREA UREA, 2-NAPHTHALENYL	13114-62-0	1652	3
3380 add	NAPROPAMIDE	15299-99-7		8
2576	NAPTHENIC ACID	1338-24-5	9137	3 20
2578 gen	# NATURAL GAS, with a high METHANE content	74-82-8	1972+	(F4) 3 15 17
2579 gen	NATURAL GASOLINE		1257	3 17
0438 chg	NEOCHROMIUM BASIC CHROMIUM SULFATE	64093-79-4	2240	1 2 6 7 17 18 20
1335 chg	# NEOHEXANE BUTANE, 2,2-DIMETHYL-	75-83-2	1208	(F3) 3 15 17
1336	NEON	7440-01-9	1065+	2 3 17
syn	NEOPENTANE see DIMETHYLPROPANE			
3381 add	NIAX CATALYST ESN	62765-93-9		4 10
1341	# NICKEL	7440-02-0		(CA) 1 2 3 4 5 6 7 8 12(A) 16 18 20
2875 gen	NICKEL, inorganic compounds			1 2 4 6 18 20
3382 add	+ NICKEL ACETATE	373-02-4		(CA) 5 6 7 18
1342	NICKEL AMMONIUM SULFATE SULFURIC ACID, AMMONIUM NICKEL(2+) SALT (2:2:1)	15699-18-0	9138	1 2 3 4 6 17 18 20
3086	# NICKEL CARBONATE NICKEL (II) CARBONATE (1:1)	3333-67-3		(CA) 1 2 5 6 7 18 20
1343	# NICKEL CARBONYL	13463-39-3	1259	(CA,F3,R3) 1 2 3 4 5 6 8 15 16 17 18 19 20 21
2581 gen	NICKEL CATALYST, FINELY DIVIDED, ACTIVATED OR SPENT		1378+	1 2 3 4 6 15 17 18 20
1344	NICKEL CHLORIDE	7718-54-9	9139	1 2 3 4 6 17 18 20
2366 gen	NICKEL compounds, n.o.s.			1 2 6 18 20
1345	NICKEL CYANIDE	557-19-7	1653	1 2 3 4 6 17 18 20 21
1346 chg	# NICKEL HYDROXIDE	12054-48-7	9140	(CA) 1 2 3 4 5 6 7 17 18 20
3078	# NICKELOCENE NICKEL, COMPOUND WITH pi-CYCLOPENTADIENYL (1:2)	1271-28-9		(CA) 1 2 5 6 7 18 20
1347	NICKEL NITRATE NITRIC ACID, NICKEL(2+) SALT	13138-45-9	2725	1 2 3 4 6 15 17 18 20
3035 chg	NICKEL NITRATE	14216-75-2	2725	1 2 3 4 6 17 18 20
2582	NICKEL NITRITE	17861-62-0	2726	1 2 3 4 6 17 18 20
3082	+ NICKEL OXIDE NICKEL (II) OXIDE (1:1)	1313-99-1		(CA) 1 2 4 5 6 7 18 20
3383 gen add	NICKEL, SOLUBLE SALTS			6 8 18
3077	+ NICKEL SUBSULFIDE NICKEL SUBSULFIDE (3:2)	12035-72-2		(CA) 1 2 4 5 6 7 8 18 20
1348	NICKEL SULFATE SULFURIC ACID, NICKEL(2+) SALT (1:1)	7786-81-4	9141	1 2 3 4 6 12(B) 18 20
syn add	NICKEL SULFIDE-ROASTING, FUME & DUST see NICKEL SUBSULFIDE			
1349	NICOTINE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, (S)-	54-11-5	1654	1 2 3 15 16 17 19 20 21
2583 gen	NICOTINE, COMPOUNDS AND PREPARATIONS, n.o.s.		1655	3 17
1350	NICOTINE HYDROCHLORIDE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, HYDROCHLORIDE, (S)-	2820-51-1	1656	3 17
1351	NICOTINE SALICYLATE BENZOIC ACID, 2-HYDROXY-, COMPD. WITH (S)-3-(1-METHYL-2-* PYRROLIDINYL)PYRIDINE (1:1)	29790-52-1	1657	3 17
1352	NICOTINE SULFATE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, (S)-, SULFATE	65-30-5	1658	3 16 17 19
1353	NICOTINE TARTRATE PYRIDINE, 3-(1-METHYL-2-PYRROLIDINYL)-, (S)-, R-(R*,R*) -2,3-* DIHYDROXYBUTANEDIOATE	3275-73-8	1659	3 17
3384 add	+ NIRIDAZOLE	61-57-4		(CA) 7
syn	NITRAMINE see TETRYL			
1355	NITRAPYRIN PYRIDINE, 2-CHLORO-6-(TRICHLOROMETHYL)-	1929-82-4		1 2 8
syn add	NITRATE OF SODA & POTASH MIXTURE see SODIUM NITRATE &* POTASH MIXTURES			
2584 gen	NITRATES, INORGANIC, n.o.s.		1477	3 17
1356	# NITRIC ACID	7697-37-2	2031+	(CO) 1 2 3 4 6 15 16 17 18 19 20
1357	NITRIC OXIDE NITROGEN OXIDE (NO)	10102-43-9	1660	1 2 3 4 8 16 17 19 20 21
1358	# NITRILOTRIACETIC ACID GLYCINE, N,N-BIS(CARBOXYMETHYL)-	139-13-9		(CA) 5 6 18
2587 gen	NITRITES, INORGANIC, n.o.s.		2627	3 17
3385 add	+ 5-NITROACENAPHTHENE	602-87-9		(CA) 7
3386 add	m-NITROANILINE	99-09-2	1661	3
1359 chg	# o-NITROANILINE BENZENAMINE, 2-NITRO-	88-74-4	1661	(R3) 3
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
3387 add	o-NITROANISOLE	91-23-6	2730	3 17
1360	p-NITROANISOLE BENZENE, 1-METHOXY-4-NITRO-	100-17-4	2730	3
1361	NITROBENZENE BENZENE, NITRO-	98-95-3	1662	1 2 3 6 8 15 16 17 18 19 20 21
1362	# NITROBENZENESULFONIC ACID BENZENESULFONIC ACID, NITRO-	31212-28-9	2305	(CO) 3 17
syn add	NITROBENZOL see NITROBENZENE			
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 17
0229 chg	a 4-NITROBIPHENYL 1,1'-BIPHENYL, 4-NITRO-	92-93-3		1 2 3 4 6 7 15 18
3388 add	NITROBROMOBENZENE		2732	3 17
3389 add	NITROCARBONITRATE			3 17
1366	# NITROCELLULOSE CELLULOSE, NITRATE	9004-70-0	2556	(F4,R3) 3 15 17
3503 add	NITROCHLOROBENZENE	25167-93-5	1578	3 15 17
3390 add	m-NITROCHLOROBENZENE	121-73-3	1578	3
1549	# p-NITROCHLOROBENZENE BENZENE, 1-CHLORO-4-NITRO-	100-00-5	1578	(CO) 1 2 3 15 17
1369	1-NITRO-2-CHLOROBENZO-3-TRIFLUORIDE BENZENE, 2-CHLORO, 1-NITRO,-3-(TRIFLUOROMETHYL)-	39974-35-1	2307	1 2 17
1368	1-NITRO-4-CHLOROBENZO-2-TRIFLUORIDE BENZENE, 4-CHLORO, 1-NITRO,-2-(TRIFLUOROMETHYL)-	118-83-2	2307	1 2 17
1367	2-NITRO-1-CHLOROBENZO-4-TRIFLUORIDE BENZENE, 1-CHLORO, 2-NITRO, -4-(TRIFLUOROMETHYL)-	121-17-5	2307	1 2 17
1371	2-NITRO-4-CHLOROBENZO-1-TRIFLUORIDE BENZENE, 4-CHLORO, 2-NITRO,-1-(TRIFLUOROMETHYL)-	25889-38-7	2307	1 2 17
syn add	3-NITRO-4-CHLOROBENZOTRIFLUORIDE see 2-NITRO-1-CHLOROBENZO- * 4-TRIFLUORIDE			
1370	4-NITRO-1-CHLOROBENZO-2-TRIFLUORIDE BENZENE, 1-CHLORO, 4-NITRO,-2-(TRIFLUOROMETHYL)-	777-37-7	2307	1 2 17
1372	NITROCRESOLS PHENOL, METHYLNITRO-	12167-20-3	2446	3 17
2588	NITROCYCLOHEXANE	1122-60-7	2810	3 15 16 17 19
syn	4-NITRODIPHENYL see 4-NITROBIPHENYL			
1373	# NITROETHANE ETHANE, NITRO-	79-24-3	2842	(F3,R3) 1 2 3 15 17
1374	# NITROFEN BENZENAMINE, 4-ETHOXY-N- (5-NITRO-2-FURANYL)METHYLENE -	1836-75-5	2588	(CA) 3 5 6 7 18
3391 add	+ 1-[(5-NITROFURFURYLIDENE)AMINO]-2-IMIDAZOLIDINONE	555-84-0		(CA) 7
3392 add	+ N-[4-(5-NITRO-2-FURYL)-2-THIAZOLYL]ACETAMIDE	531-82-8		(CA) 7
1375	NITROGEN (COMPRESSED OR LIQUIFIED)	7727-37-9	1066+	2 3 15 17
1376	NITROGEN DIOXIDE NITROGEN OXIDE (NO2)	10102-44-0	1067+	1 2 3 4 8 12(A) 16 17 19 20 21
syn	NITROGEN DIOXIDE see NITROGEN TETROXIDE	10544-72-6		
2589 gen	NITROGEN FERTILIZER SOLUTION		1043	3
3393 add	NITROGEN FLUORIDE OXIDE	13847-65-9	9271	17
1377	# NITROGEN MUSTARD ETHANAMINE, 2-CHLORO-N-(2-CHLOROETHYL)-N-METHYL-	51-75-2	2810	(CA,MU,TE) 3 6 7 8 13 (F, H, L, Q, Y, EE) 16 18 19
3394 add	+ NITROGEN MUSTARD HYDROCHLORIDE	55-86-7		(CA) 5 8
3395 add	+ NITROGEN MUSTARD N-OXIDE	126-85-2		(CA) 7 8
1378	# NITROGEN MUSTARD N-OXIDE HYDROCHLORIDE DIETHYLAMINE,2,2'-DICHLORO-N-METHYL,N-OXIDE, HYDROCHLORIDE	302-70-5		(CA) 8
syn add	NITROGEN PEROXIDE see NITROGEN DIOXIDE			
syn add	NITROGEN TETRAOXIDE see NITROGEN TETROXIDE			
1379	NITROGEN TETROXIDE NITROGEN OXIDE (N2O4)	10544-72-6	1066	3 4 15 17 20
1380	NITROGEN TRIFLUORIDE NITROGEN FLUORIDE (NF3)	7783-54-2	2451	1 2 3 15 17
1381	NITROGEN TRIOXIDE NITROGEN OXIDE (N2O3)	10544-73-7	2421	3 4 17
1383	# NITROGLYCERIN 1,2,3-PROPANETRIOL, TRINITRATE	55-63-0	0143+	(R4) 1 2 3 4 6 15 18 20 21
1384	NITROGUANIDINE GUANIDINE, NITRO-	556-88-7	0282+	3 8
1385	# NITROHYDROCHLORIC ACID AQUA REGIA	8007-56-5	1798	(CO) 3 17
syn	NITROMANNITE see MANNITOL HEXANITRATE			
1386	# NITROMETHANE METHANE, NITRO-	75-52-5	1261	(F3,R4) 1 2 3 15 17
syn	NITROMURIATIC ACID see NITROHYDROCHLORIC ACID			
1387	NITRONAPHTHALENE NAPHTHALENE, NITRO-	27254-36-0	2538	3 15 17
3396 add	2-NITRONAPHTHALENE	581-89-5		4 10
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 6 18 20
3001	NITROPHENOL, mixed isomers	25154-55-6	1663	3 17 20
1392 chg	# 2-NITROPROPANE PROPANE, 2-NITRO-	79-46-9	2608	(CA,F3) 1 2 3 4 5 6 7 8 10 15 18 20 21
1394	# 1-NITROPROPANE PROPANE, 1-NITRO-	108-03-2	2608	(R2) 1 2 3 15 17
3002 gen	NITROSAMINES			10 20
1406	# N-NITROSODI-N-BUTYLAMINE 1-BUTANAMINE, N-BUTYL-N-NITROSO-	924-16-3		(CA,MU) 3 5 6 7 8 10 18 20 21
syn	NITROSODI-N-BUTYLAMINE see N-NITROSODI-N-BUTYLAMINE			
1403	# N-NITROSODIETHANOLAMINE ETHANOL, 2,2'-(NITROSOIMINO)BIS-	1116-54-7		(CA) 3 5 7 8 10 17 20 21
syn	NITROSODIETHANOLAMINE see N-NITROSODIETHANOLAMINE			
1404	# N-NITROSODIETHYLAMINE ETHANAMINE, N-ETHYL-N-NITROSO-	55-18-5		(CA,MU) 3 5 6 7 8 10 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 4 5 6 7 8 10 16 18 19 20 21

syn	NITROSODIMETHYLAMINE see N-NITROSODIMETHYLAMINE			
1550	p-NITROSODIMETHYLANILINE BENZENAMINE, N,N-DIMETHYL-4-NITROSO-	138-89-6	1369	3 17
syn	NITROSODIMETHYLANILINE see p-NITROSODIMETHYLANILINE			
1408	N-NITROSODIPHENYLAMINE BENZENAMINE, N-NITROSO-N-PHENYL-	86-30-6		6 7 8 18 20
1551	# p-NITROSODIPHENYLAMINE BENZENAMINE, 4-NITROSO-N-PHENYL-	156-10-5		(CA) 5 6 7 18
syn	NITROSODIPHENYLAMINE see N-NITROSODIPHENYLAMINE or * p-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) 3 5 6 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) 3 5 6 7 18 20 21
syn	NITROSO-N-ETHYLUREA see N,NITROSO-N-ETHYLUREA			
syn add	NITROSOGUANIDINE see 1-METHYL-3-NITRO-1-NITROSO-GUANIDINE			
3397 add	+ 3-(N-NITROSOMETHYLAMINO)PROPIONITRILE			(CA) 7
3398 add	+ 4-(N-NITROSOMETHYLAMINO)-1-(3-PYRIDYL)-1-BUTANONE	64091-91-4		(CA) 7
3399 add	+ N-NITROSOMETHYL ETHYLAMINE	10595-95-6		(CA) 7 8
syn	NITROSO-N-METHYLUREA see N-NITROSO-N-METHYLUREA			
3400 add	N-NITROSO-N-METHYLURETHANE	615-53-2		7 20 21
2907 chg	# NITROSOMETHYLVINYLAMINE VINYLAMINE, N-METHYL-N-NITROSO-	4549-40-0		(CA) 3 5 6 7 18 20 21
1411	# N-NITROSO-N-METHYLUREA UREA, N-METHYL-N-NITROSO-	684-93-5		(CA) 3 5 6 7 18 20 21
1409	# N-NITROSOMORPHOLINE MORPHOLINE, 4-NITROSO-	59-89-2		(CA,MU) 3 5 6 7 8 18
syn	NITROSOMORPHOLINE see N-NITROSOMORPHOLINE			
2900	# N-NITROSONORNICOTINE NICOTINE, 1'-DEMETHYL-1'-NITROSO-	16543-55-8		(CA) 5 6 7 18
1412 chg	# N-NITROSOPIPERIDINE PIPERIDINE, 1-NITROSO-	100-75-4		(CA) 5 6 7 18 20 21
syn	NITROSOPIPERIDINE see N-NITROSOPIPERIDINE			
3000	# N-NITROSOPYRROLIDINE	930-55-2		(CA) 3 5 7 8 20 21
1413	# N-NITROSOSARCOSINE GLYCINE, N-METHYL-N-NITROSO-	13256-22-9		(CA) 5 7
syn	NITROSOSARCOSINE see N-NITROSOSARCOSINE			
1395	NITROSTARCH STARCH, NITRATE	9056-38-6	0146+	3 17
1396	NITROSYL CHLORIDE	2696-92-6	1069	3 17
1397	# NITROSYLSULFURIC ACID SULFURIC ACID, MONOANHYDRIDE WITH NITROUS ACID	7782-78-7	2308	(CD) 3 17
1398	# NITROTOLUENE BENZENE, METHYLNITRO-	1321-12-6	1664	(R4) 1 2 3 15 17 20
3020 chg	m-NITROTOLUENE	99-08-1	1664	1 2 3 15 20
3021 chg	o-NITROTOLUENE	88-72-2	1664	1 2 3 15 20
3022 chg	p-NITROTOLUENE	99-99-0	1664	1 2 3 15 20
3401 add	NITROTOLUIDINE		2660	3 17
1444	# 5-NITRO-o-TOLUIDINE BENZENAMINE, 2-METHYL-5-NITRO-	99-55-8	2660	(CA) 3 17 20 21
3402 add	NITROUREA	556-89-8	0147	3
1399	NITROUS OXIDE NITROGEN OXIDE	10024-97-2	1070+	2 3 4 17
1308	m-NITROXYLENE 1,2-DIMETHYL-4-NITROBENZENE	99-51-4	1665	3 17
1400	NITROXYLOL BENZENE, DIMETHYLNITRO-	25168-04-1	1665	3 17
3403 add	NONABROMODIPHENYL ETHER	63936-56-1		8
1414	# NONANE	111-84-2	1920	(F3) 1 2 3 15 17
1415	1-NONANETHIOL	1455-21-6		4 10
1416	# NONYL TRICHLOROSILANE SILANE, TRICHLORONONYL-	5283-67-0	1799	(CO) 3 17
2591	NORBORMIDE	991-42-4	2588	3 16 19
3404 add	3,5-NORBORNADIENE	121-46-0	2251	15 17
syn add	NORDHAUSEN ACID see SULFURIC ACID			
syn	NORETHINDRONE see NORETHISTERONE			
1417	# NORETHISTERONE 19-NORPREGN-4-EN-20-YN-3-ONE, 17-HYDROXY-, (17alpha)-	68-22-4	1851	(CA,MU) 3 5 7
3405 add	NORFLURAZON	27314-13-2		8
syn	NOVOLDIAMINE see 2-AMINO-5-DIETHYLAMINOPENTANE			
3406 add	NUSTAR	85509-19-9		8
3407 add	OCTABROMODIPHENYL ETHER	32536-52-0		8
1427	OCTACHLORONAPHTHALENE NAPHTHALENE, OCTACHLORO-	2234-13-1		1 2 6 18
1428	1-OCTADECANETHIOL	2885-00-9		4 10
1429	# OCTADECYL TRICHLOROSILANE SILANE, TRICHLOROOCTADECYL-	112-04-9	1800	(CO) 3 15 17
1430	# OCTADIENE	63597-41-1	2309	(CO) 3 17
1431	OCTAFLUOROBUT-2-ENE 2-BUTENE, 1,1,1,2,3,4,4,4-OCTAFLUORO-	360-89-4	2422	3 17
1432	OCTAFLUOROCYCLOBUTANE CYCLOBUTANE, OCTAFLUORO-	115-25-3	1976	3 17
1433	OCTAFLUOROPROPANE PROPANE, OCTAFLUORO-	76-19-7	2424	3 17
syn	OCTAHYDRO-1,3,5,7-TETRANITRO-1,3,5,7-TETRAZOCINE see * CYCLOTETRAMETHYLENETETRANITRAMINE			
syn	OCTAMETHYL DIPHOSPHORAMIDE see DIPHOSPHORAMIDE, OCTAMETHYL-			
1434	# OCTANE	111-65-9	1262	(F3) 1 2 3 4 10 15 17
1435 chg	1-OCTANETHIOL	111-88-6	3023	4 10 15 17
syn	OCTANOYL PEROXIDE see DI-N-OCTANOYL PEROXIDE			
syn	OCTYL ALDEHYDE see 2-ETHYL HEXALDEHYDE			

2592	tert-OCTYL HYDROPEROXIDE		2160	17
syn	tert-OCTYL MERCAPTAN see 1-OCTANETHIOL			
2594	tert-OCTYL PEROXY-2-ETHYLHEXANOATE		2161	17
1436	# OCTYL TRICHLOROSILANE SILANE, TRICHLOROOCTYL-	5283-66-9	1801	(CO,R2) 3 17
syn	OESTRADIOL-17beta see ESTRADIOL			
add				
3408	+ OESTROGENS, CONJUGATED			(CA) 7
syn	OESTRONE see ESTRONE			
add				
2595	OIL GAS		1071	
gen				3 17
1437	OIL MIST, MINERAL MINERAL OIL			1 2 15
syn	OIL OF MIRBANE see NITROBENZENE			
add				
syn	OIL OF VITRIOL see SULFURIC ACID			
add				
syn	OLEUM see SULFURIC ACID FUMING			
add				
2598	ORGANIC PEROXIDE, n.o.s.		2255+	
gen				3 17
2601	ORGANIC PHOSPHATE COMPOUND, SOLID (POISON B)		2783	
gen				3 17
2602	ORGANIC PHOSPHORUS COMPOUND, MIXED WITH COMPRESSED GAS		1955	
gen				3 17
2605	ORGANOCHLORINE PESTICIDES, TOXIC, n.o.s.		2996+	
gen				3 17
2608	ORGANOPHOSPHOROUS PESTICIDES, TOXIC, n.o.s.		3018+	
gen				3 12(A) 17
2611	ORGANORHODIUM COMPLEX	PMN82-14-7	2811	
				3 16 17 19
2614	ORGANOTIN PESTICIDES, TOXIC, n.o.s.		3020+	
gen				3 17
2616	OROTIC ACID	65-86-1		
				16 19
3409	ORYZALIN	19044-88-3		
add				8
1441	OSMIUM TETROXIDE OSMIUM OXIDE	20816-12-0	2471	
				1 2 3 6 16 17 18 20 21
2617	OUABAIN	630-60-4	1851	
				3 16 17 19
3410	OXADIAZON	19666-30-9		
add				8
1445	# OXALIC ACID ETHANEDIOIC ACID	144-62-7	2449	(CO) 1 2 3 15
2618	OXAMYL	23135-22-0	2757+	
				3 8 16 17 19
1446	# 1,2-OXATHIOLANE 2,2-DIOXIDE 1,3-PROPANE SULTONE	1120-71-4		(CA,MU) 2 5 6 7 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 7 13(Y,EE) 17
2619	OXETANE, 3,3-BIS(CHLOROMETHYL)	78-71-7		
				16 19
syn	4,4'-OXYDIANILINE see 4,4'-DIAMINODIPHENYL ETHER			
add				
2625	OXYDISULFOTON	2497-07-6	3018	
				3 16 19
3411	OXYFLUORFEN	42874-03-3		
add				8
1448	OXYGEN (COMPRESSED OR LIQUIFIED)	7782-44-7	1072+	
				3 15 17
1449	OXYGEN DIFLUORIDE OXYGEN FLUORIDE	7783-41-7	2190	
				1 2 3 17
1450	# OXYMETHOLONE ANDROSTAN-3-ONE, 17-HYDROXY-2-(HYDROXYMETHYLENE)-17-METHYL-, * (5alpha, 17beta)-	434-07-1	1851	(CA) 3 5 7 17
1451	OZONE	10028-15-6	1693	
				1 2 3 12(A) 16 17 19
3412	PACLOBUTRAZOL	76738-62-0		
add				8
1452	PANCREATIN	8049-47-6	1851	
				3 12(A) 17
3413	+ PANFURANS (CONTAINING DIHYDROXYMETHYLFURATRIZINE)	794-93-4		(CA)
add				7
1453	PAPAIN	9001-73-4		
				12(A,G)
3414	PARAFFIN WAX FUME	8002-74-2		
add				1 2
1454	PARAFORMALDEHYDE	30525-89-4	2213	
				3 15 17 20
1455	# PARALDEHYDE 1,3,5-TRIOXANE, 2,4,6-TRIMETHYL-	123-63-7	1264	(F3) 3 15 17 20 21
1456	PARAMETHANE HYDROPEROXIDE HYDROPEROXIDE, 4-METHYL-1-(1-METHYLETHYL) CYCLOHEXYL	52061-60-6	2125	
				3 17
1457	PARAOXON PHOSPHORIC ACID, DIETHYL P-NITROPHENYL ESTER	311-45-5	2783	
				3 4 14 20 21
1458	PARAQUAT 4,4'-BIPYRIDINIUM, 1,1'-DIMETHYL-, DICHLORIDE	1910-42-5	2588	
				1 2 3 8 14 16 19
2630	PARAQUAT METHOSULFATE	2074-50-2	2588	
				3 14 16 19
1459	PARATHION PHOSPHOROTHIOIC ACID, O,O-DIETHYL O-(4-NITROPHENYL) ESTER	56-38-2	2783+	
				1 2 3 4 6 7 8 14 15 16 18 19 20 21
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			
3415	PENDIMETHALIN	40487-42-1		
add				8
syn	PENICILLIN see BENZYLPENICILLIN			
1470	# PENTABORANE	19624-22-7	1380	(F3,R2) 1 2 3 15 16 17 19
3416	PENTABROMODIPHENYL ETHER	32534-81-9		
add				8
3417	PENTACHLOROBENZENE	608-93-5		
add				3 8 20 21
3418	PENTACHLOROCYCLOPENTADIENE	25329-35-5		
add				8
1471	PENTACHLOROETHANE ETHANE, PENTACHLORO-	76-01-7	1669	
				3 4 7 10 16 17 20 21
1472	PENTACHLORONAPHTHALENE NAPHTHALENE, PENTACHLORO-	1321-64-8		
				1 2
syn	PENTACLORONITROBENZENE see QUINTOZENE			
add				

1473	PENTACHLOROPHENOL PHENOL, PENTACHLORO-	87-86-5	2020	1 2 3 6 7 8 14 15 16 18 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 17
1476	# PENTANE	109-66-0	1265	(F4) 1 2 3 4 10 15 17
1477	PENTANE-2,4-DIONE 2,4-PENTANEDIONE	123-54-6	2310	3 15 17
syn	1-PENTANETHIOL see AMYL MERCAPTAN			
syn	PENTANOIC ACID see VALERIC ACID			
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 17
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			
2637	# PERCHLORIC ACID	7601-90-3	1802+	(R3) 3 15 17
syn	PERCHLOROETHYLENE see TETRACHLOROETHYLENE			
1480	PERCHLOROMETHYL MERCAPTAN METHANESULFENYL CHLORIDE, TRICHLORO-	594-42-3	1670	1 2 3 16 17 19 20
1481	PERCHLORYL FLUORIDE	7616-94-6	1955+	1 2 3 17
syn add	PERFLUORO-2-BUTENE see OCTAFLUOROBUT-2-ENE			
3419 add	PERFLUOROETHYLVINYL ETHER		3154	17
3420 add	PERFLUOROMETHYLVINYL ETHER	1187-93-5	3153	17
3421 add	PERFLUOROPROPANE	76-19-7	2424	17
syn add	PERMANGANATE OF POTASH see POTASSIUM PERMANGANATE			
3422 add	PERMETHRIN	52645-53-1	2902+	3 8
syn add	PEROXIDES, ORGANIC see ORGANIC PEROXIDE			
1482	# PEROXYACETIC ACID ETHANEPEROXOIC ACID	79-21-0	2131	(CO,R4) 3 6 15 16 17 18 19
syn	PETROL see GASOLINE			
2647 gen	PETROLEUM CRUDE OIL		1267	3 15 17
2648 gen	PETROLEUM DISTILLATES, n.o.s.		1268	1 3 4 15 17
3504 add	PETROLEUM ETHER		1271	3 10 15 17
syn	PETROLEUM GASES, LIQUEFIED see LIQUEFIED PETROLEUM GAS			
3333 add	PETROLEUM NAPHTHA		1255	3 17
3505 add	PETROLEUM SPIRITS		1271	3 17
1483	# PHENACETIN N-(4-ETHOXYPHENYL)ACETAMIDE	62-44-2	1851	(CA) 3 5 7 17 20 21
1484	PHENACYL BROMIDE ETHANONE, 2-BROMO-1-PHENYL-	70-11-1	2645	3 17
3004	PHENANTHRENE	85-01-8		3 7 8 15 20
syn	PHENARAZINE CHLORIDE see DIPHENYLAMINECHLORO-ARSINE			
2653	PHENARSAZINE OXIDE	58-36-6	1557	3 19
1485	# PHENAZOPYRIDINE HYDROCHLORIDE 2,6-PYRIDINEDIAMINE, 3-(PHENYLAZO)-, MONOHYDROCHLORIDE	136-40-3		(CA) 5 7
3423 add	PHENCAPTON	2275-14-1	2783	3
1486	PHENETIDINE BENZENAMINE, AR-ETHOXY-	1321-31-9	2311	3 17
3424 add	PHENMEDIPHAM	13684-63-4		8
3425 add	+ PHENOBARBITAL	50-06-6		(CA) 7
1487	# PHENOL CARBOLIC ACID	108-95-2	1671+	(MU) 1 2 3 4 6 8 12(B) 15 16 17 18 19 20 21
2654	PHENOL, 3-(1-METHYLETHYL)-, METHYLCARBAMATE	64-00-6	2757+	3 16 17 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			
3426 add gen	+ PHENOXYACETIC ACID HERBICIDES	94-75-7		(CA) 7
3427 add	+ PHENOXYBENZAMINE HYDROCHLORIDE	63-92-3		(CA) 5 7
2657 gen	PHENOXY PESTICIDES, TOXIC, n.o.s.		3000+	3 17
1490	PHENYLACETONITRILE BENZENEACETONITRILE	140-29-4	2470	3 15 16 17 19
1491	# PHENYLACETYL CHLORIDE BENZENEACETYL CHLORIDE	103-80-0	2577	(CO) 3 17
syn	PHENYLBUTANE see BUTYL BENZENE			
1492	PHENYLCARBYLAMINE CHLORIDE CARBONIMIDIC DICHLORIDE, PHENYL-	622-44-6	1672	3 17
1493	# PHENYLCHLOROFORMATE CARBONOCHLORIDIC ACID, PHENYL ESTER	1885-14-9	2746	(CO) 3 17
1494	PHENYLDICHLOROARSINE ARSONOUS DICHLORIDE, PHENYL-	696-28-6	1556	1 3 16 17 19 20 21
1316 chg	m-PHENYLENEDIAMINE 1,3-BENZENEDIAMINE	108-45-2	1673	3 7 8 11
1495	o-PHENYLENEDIAMINE 1,2-BENZENEDIAMINE	95-54-5	1673	3 15
1586	p-PHENYLENEDIAMINE 1,4-BENZENEDIAMINE	106-50-3	1673	1 2 3 6 7 12(B) 18
1496	PHENYL ETHER BENZENE, 1,1'-OXYBIS-	101-84-8		1 2 15
syn	PHENYL ETHYLENE see STYRENE MONOMER			
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 17
2659	PHENYLHYDRAZINE HYDROCHLORIDE	59-88-1	2572	3 16 17 19
1501	PHENYL ISOCYANATE ISOCYANATOBENZENE	103-71-9	2487	3 17
syn	PHENYL MERCAPTAN see BENZENETHIOL			
add				
1502 chg	# PHENYLMERCURIC ACETATE MERCURY, (ACETATO-O)PHENYL-	62-38-4	1674	(TE) 1 2 3 6 8 15 16 17 18 19 20 21
2660 gen	PHENYLMERCURIC COMPOUND, SOLID, n.o.s.		2026	3 6 17 18
1503	a PHENYLMERCURIC HYDROXIDE MERCURY, HYDROXYPHENYL-	100-57-2	1894	1 2 3 6 17 18
1504	# PHENYLMERCURIC NITRATE MERCURY, (NITRATO-O)PHENYL-	55-68-5	1895	(TE) 1 2 3 6 17 18
1418	n-PHENYL-beta-NAPHTHYLAMINE N-PHENYL-2-NAPHTHALENAMINE	135-88-6		2 4 7 10
syn	PHENYLPHENOL see o-PHENYLPHENOL			
1439	o-PHENYLPHENOL 1,1'-BIPHENYL -2-OL	90-43-7		6 7 15 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 17
2663	PHENYLSILATRANE	2097-19-0		16 19
2664	PHENYLTHIOUREA	103-85-5		3 16 19 20 21
1506	# PHENYL TRICHLOROSILANE TRICHLOROPHENYLSILANE	98-13-5	1804	(CO) 3 15 16 17 19
2667 gen	PHENYL UREA PESTICIDES, TOXIC, n.o.s.		3002+	3 17
1507	# PHENYTOIN 2,4-IMIDAZOLIDINEDIONE, 5,5-DIPHENYL-	57-41-0	1851	(CA,TE) 3 5 7 17
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 14 16 19
3429 add	PHOSALONE	2310-17-0		8 14
syn	PHOSDRIN see MEVINPHOS			
2670	PHOSFOLAN	947-02-4	2783+	3 16 19
1510	PHOSGENE CARBONIC DICHLORIDE	75-44-5	1076	1 2 3 4 6 8 15 16 17 18 19 20 21
syn	PHOSMET see DECEMTHION			
add				
1512	9-PHOSPHABICYCLOMONANE 9-PHOSPHABICYCLO 3.3.1 NONANE	13387-02-0	2940	3 17
1511	# 9-PHOSPHABICYCLOMONANE 9-PHOSPHABICYCLO 4.2.1 NONANE	13396-80-0	2940	(CO) 3 17
1513	PHOSPHAMIDON PHOSPHORIC ACID, 2-CHLORO-3-(DIETHYLAMINO)-1-METHYL-3-OXO-1-PRO	13171-21-6	2783	3 14 16 19
1514	# PHOSPHINE HYDROGEN PHOSPHIDE	7803-51-2	2199	(F4) 1 2 3 8 15 16 17 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 17 19
2672	PHOSPHONOTHIOIC ACID, METHYL-, O-(4-NITROPHENYL) O- * PHENYL ESTER	2665-30-7	3018	3 16 17 19
2673	PHOSPHONOTHIOIC ACID, METHYL-, S-(2-(BIS(METHYL * ETHYL)AMINO)ETHYL)O-ETHYL ESTER	50782-69-9		3 16 17 19
1516	# PHOSPHORIC ACID	7664-38-2	1805	(CO) 1 2 3 6 15 17 18 20
2674	PHOSPHORIC ACID, DIMETHYL 4-(METHYLTHIO)PHENYL ESTER	3254-63-5	3018	3 16 17 19
syn	PHOSPHORIC ACID TRIETHYLENEIMINE see 1-AZIRIDINYL * PHOSPHINE OXIDE (TRIS)			
1517	# PHOSPHORIC ANHYDRIDE PHOSPHORUS OXIDE	1314-56-3	1807	(CO) 3 16 17 19
syn	PHOSPHORODITHIOIC ACID,o,o-DIETHYL-S-METHYL ESTER see * o,o-DIETHYL-S-METHYL DITHIOPHOSPHATE			
add				
2910	PHOSPHOROTHIOTIC ACID, O,O-DIMETHYL-S-(2-METHYLTHIO)ETHYL * ESTER	2587-90-8		19
1519	PHOSPHOROUS ACID, ortho PHOSPHONIC ACID	13598-36-2	2834	3 17
syn	PHOSPHOROUS PENTOXIDE see PHOSPHORIC ANHYDRIDE			
syn	PHOSPHORUS see PHOSPHORUS, AMORPHOUS, RED			
1520	PHOSPHORUS, AMORPHOUS, RED PHOSPHORUS (RED)	7723-14-0	1338	2 3 6 14 15 16 17 18 19 20
syn	PHOSPHORUS BROMIDE see PHOSPHORUS TRIBROMIDE			
add				
syn	PHOSPHORUS CHLORIDE see PHOSPHORUS TRICHLORIDE			
add				
1521	PHOSPHORUS HEPTA-SULPHIDE PHOSPHORUS SULFIDE	12037-82-0	1339	3 17
1522	# PHOSPHORUS OXYBROMIDE PHOSPHORYL BROMIDE	7789-59-5	2576+	(CO) 3 17
1523	PHOSPHORUS OXYCHLORIDE PHOSPHORYL CHLORIDE	10025-87-3	1810	1 2 3 15 16 17 19 20
1524	# PHOSPHORUS PENTABROMIDE PHOSPHORANE, PENTABROMO-	7789-69-7	2691	(CO) 3 17
1525	# PHOSPHORUS PENTACHLORIDE PHOSPHORANE, PENTACHLORO-	10026-13-8	1806	(CO) 1 2 3 16 17 19
1526	PHOSPHORUS PENTAFLUORIDE PHOSPHORANE, PENTAFLUORO-	7647-19-0	2198	1 2 3 17
1527	PHOSPHORUS PENTASULFIDE PHOSPHORUS SULFIDE	1314-80-3	1340	1 2 3 15 17 20 21
syn	PHOSPHORUS PENTOXIDE see PHOSPHORIC ANHYDRIDE			
1528	PHOSPHORUS SESQUISULFIDE PHOSPHORUS SULFIDE	1314-85-8	1341	3 15 17
1529	# PHOSPHORUS TRIBROMIDE PHOSPHOROUS TRIBROMIDE	7789-60-8	1808	(CO) 3 17
1530	# PHOSPHORUS TRICHLORIDE PHOSPHOROUS TRICHLORIDE	7719-12-2	1809	(CO,R2) 1 2 3 6 15 16 17 19 20
1531	PHOSPHORUS TRIFLUORIDE PHOSPHOROUS TRIFLUORIDE	7783-55-3		1 2 17
1532	# PHOSPHORUS TRIOXIDE PHOSPHORUS OXIDE	1314-24-5	2578	(CO) 3 17
1533	PHOSPHORUS TRISULFIDE PHOSPHORUS SULFIDE	12165-69-4	1343	3 17
1534	# PHOSPHORUS (YELLOW) PHOSPHORUS (WHITE)	7723-14-0	1381+	(F3) 1 2 3 6 8 14 15 17 18 19
3005 gen	PHTHALATE ESTERS			20
1535	PHTHALIC ANHYDRIDE 1,3-ISOBENZOFURANDIONE	85-44-9	2214	1 2 3 6 8 12(A, B, G) 15 17 18 20 21

2676 gen	PHTHALIMIDE DERIVATIVE PESTICIDES, *LIQUID, TOXIC, n.o.s.*		3008+	3 17
1317	m-PHTHALODINITRILE 1,3-BENZENEDICARBONITRILE	626-17-5		1 2
2680	PHYLLOQUINONE	84-80-0	1851	3 16 17
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 8 14
1537	PICOLINE PYRIDINE, METHYL-	1333-41-1	2313	3 17
2955	2-PICOLINE	109-06-8	2313	3 15 20 21
syn add	PICRATE OF AMMONIA see AMMONIUM PICRATE			
syn	PICRIC ACID see 2,4,6-TRINITROPHENOL			
2683	PICRITE		1336	17
syn	PICROTOXIN see COCCULUS			
1538	PINANE HYDROPEROXIDE HYDROPEROXIDE, 2,6,6-TRIMETHYLBICYCLO 3.1.1 HEPTYL	28324-52-9	2162	3 17
syn	PINDONE see PIVAL			
0052	alpha-PINENE BICYCLO 3.1.1 HEPT-2-ENE, 2,6,6-TRIMETHYL-	80-56-8	2368	3 15
1539	# PINENE BICYCLO 3.1.1 HEPTANE, 2,6,6-TRIMETHYL-, DIDEHYDRO * DERATIVE	1330-16-1	2368	(F3) 3 17
2684	PINE OIL	8002-09-3	1272	3 15 17
1540	# PIPERAZINE	110-85-0	2579	(CO) 3 12(B) 15 17
1541	PIPERAZINE DIHYDROCHLORIDE	142-64-3		1 2 12(E)
1542	PIPERAZINE HYDROCHLORIDE	6094-40-2		12(A)
1543	# PIPERIDINE	110-89-4	2401	(F3,R3) 3 15 16 17 19
2685	PIPROTAL	5281-13-0	2902	3 16
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
3430 add	PIRIMPHOS-METHYL	29232-93-7		8
1546	PIVAL 1H-INDENE-1,3(2H)-DIONE, 2-(2,2-DIMETHYL-1-OXOPROPYL)-	83-26-1	2472	1 2 3 14 17
syn add	PIVALOYL CHLORIDE see TRIMETHYL ACETYLCHLORIDE			
2687 gen	PLASTICS, NITROCELLULOSE BASED, SPONTANEOUSLY COMBUSTIBLE		2006	3 17
syn	PLATINIC CHLORIDE see CHLOROPLATINIC ACID			
2688	PLATINOUS CHLORIDE	10025-65-7		1 2 16
1547	PLATINUM	7440-06-4		1 2 12(B)
2689	PLATINUM TETRACHLORIDE	13454-96-1		1 2 16
3431 add	PLICATIC ACID	16462-65-0		12(A)
3512 add	POLYBROMINATED BIPHENYLS	13654-09-6		6
1552	# POLYBROMINATED BIPHENYLS	59536-65-1		(CA) 5 6 18
1553	# POLYBROMINATED BIPHENYLS	67774-32-7		(CA) 5 6 18
1554	# POLYCHLORINATED BIPHENYLS	1336-36-3	2315	(CA,TE) 1 3 4 5 6 7 8 10 17 18 20
3432 add	POLYCHLORINATED DIBENZOFURAN			10
3514 add	POLYCHLORINATED TRIPHENYLS	2642-23-8		6
2700 gen	POLYSTYRENE BEADS, EXPANDED, MIXTURE WITH FLAMMABLE LIQUID		2211	3
3433 add	POLYVINYL ALCOHOL (POLYMER MIXTURE)	9002-89-5		5 15
1555	# POTASSIUM	7440-09-7	2257	(R2) 3 17
1556	# POTASSIUM ARSENATE ARSENIC ACID, MONOPOTASSIUM SALT	7784-41-0	1677	(CA) 1 2 3 5 6 7 8 15 17 18 20
1557	# POTASSIUM ARSENITE ARSENIC ACID, POTASSIUM SALT	10124-50-2	1678	(CA) 1 2 3 5 6 7 8 16 17 18 19 20
syn	POTASSIUM BICHROMATE see POTASSIUM DICHROMATE			
syn	POTASSIUM BIFLUORIDE see POTASSIUM HYDROGEN FLUORIDE			
syn	POTASSIUM BISULFIDE see POTASSIUM HYDROGEN SULFATE			
2701	POTASSIUM BISULFITE		2693	17
1558	POTASSIUM BOROHYDRIDE BORATE(1-), TETRAHYDRO-, POTASSIUM	13762-51-1	1870	3 17
1559	+ POTASSIUM BROMATE BROMIC ACID, POTASSIUM SALT	7758-01-2	1484	(CA) 3 7 15 17
1560	POTASSIUM CHLORATE CHLORIC ACID, POTASSIUM SALT	3811-04-9	1485+	3 15 17
1561	# POTASSIUM CHROMATE CHROMIC ACID, DIPOTASSIUM SALT	7789-00-6	9142	(CA) 1 2 3 5 6 7 18 20
2702 chg	POTASSIUM CUPROCYANIDE	13682-76-0	1679	1 2 3 6 17 18 20
1562	POTASSIUM CYANIDE	151-50-8	1680	1 2 3 6 8 15 17 16 18 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	1 2 3 6 15 17 18 20
syn add	POTASSIUM DICHLORO-S-TRIAZINETRIONE see POTASSIUM * DICHLOROISOCYANURATE			
1564	# POTASSIUM DICHROMATE CHROMIC ACID, DIPOTASSIUM SALT	7778-50-9	1479	(CA) 1 2 3 5 6 7 15 17 18 20
2703 gen	POTASSIUM DITHIONITE		1929	17
1565	# POTASSIUM FLUORIDE	7789-23-3	1812	(CO) 1 2 3 17
1566	POTASSIUM FLUOROACETATE ACETIC ACID, FLUORO-, POTASSIUM SALT	23745-86-0	2628	1 2 3 17
1567	POTASSIUM HEXACHLOROPLATINATE PLATINATE(2-), HEXACHLORO-, DIPOTASSIUM, (OC-6-11)-	16921-30-5		1 2 12(D)
syn	POTASSIUM HEXAFLUOROSILICATE see POTASSIUM SILICOFLUORIDE			
syn add	POTASSIUM HYDRATE see POTASSIUM HYDROXIDE			
1568	# POTASSIUM HYDROGEN FLUORIDE POTASSIUM FLUORIDE	7789-29-9	1811	(CO) 1 2 3 17
1569	# POTASSIUM HYDROGEN SULFATE SULFURIC ACID, MONOPOTASSIUM SALT	7646-93-7	2509	(CO) 3 17

1570	POTASSIUM HYDROSULFITE DITHIONOUS ACID, DIPOTASSIUM SALT	14293-73-3	1929	3 17
1571	# POTASSIUM HYDROXIDE POTASSIUM HYDRATE	1310-58-3	1813+	(CO) 1 2 3 15 17 20
1572	POTASSIUM HYPOCHLORITE HYPOCHLOROUS ACID, POTASSIUM SALT	7778-66-7	1791	3 17
3434 add	POTASSIUM METABISULFITE	16731-55-8	2693	3
1573	POTASSIUM METAVANADATE VANADATE, POTASSIUM	13769-43-2	2864	3 17
1574	POTASSIUM NITRATE NITRIC ACID, POTASSIUM SALT	7757-79-1	1486	3 15 17
1575	POTASSIUM NITRITE NITROUS ACID, POTASSIUM SALT	7758-09-0	1488	3 17
1576	# POTASSIUM OXIDE	12136-45-7	2033	(CO) 3 17
1577	# POTASSIUM PERCHLORATE PERCHLORIC ACID, POTASSIUM SALT	7778-74-7	1489	(R2) 3 15 17
1578	POTASSIUM PERMANGANATE PERMANGANIC ACID, POTASSIUM SALT	7722-64-7	1490	3 15 17 20
1579	# POTASSIUM PEROXIDE	17014-71-0	1491	(R2) 3 15 17
1580	POTASSIUM PERSULFATE PEROXYDISULFURIC ACID, DIPOTASSIUM SALT	7727-21-1	1492	3 15 17
1581	POTASSIUM PHOSPHIDE	20770-41-6	2012	3 17
2705 gen	POTASSIUM SALTS OF NITRO-AROMATIC DERIVATIVES, explosive		0158	3
2706	POTASSIUM SELENATE	7790-59-2	2630	3 6 17 18
2707	POTASSIUM SELENITE	10431-47-7	2630	3 6 17 18
1582	POTASSIUM SILICOFLUORIDE SILICATE(2-), HEXAFLUORO-, DIPOTASSIUM	16871-90-2	2655	1 2 3 17
2708	POTASSIUM SILVER CYANIDE	506-61-6	1588	3 6 8 16 18 19 20 21
1583	# POTASSIUM SULFIDE	1312-73-8	1382+	(CO) 3 15 17
1584	POTASSIUM SUPEROXIDE	12030-88-5	2466	3 17
1585	POTASSIUM TETRACHLOROPLATINATE PLATINATE, TETRACHLORO-, DIPOTASSIUM,	10025-99-7		1 2 12(D)
1587	# PRAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-1- * (CYCLOPROPYLMETHYL)- PHENYL-	2955-38-6	1851	(TE) 3 13(EE) 17
1588	PREDNISOLONE PREGNA-1,4-DIENE-3,20-DIONE, 11,17,21-TRIHYDROXY-, (11beta)-	50-24-8	1851	3 7 13(Z,AA) 17
1589	PREDNISONE PREGNA-1,4-DIENE-3,11,20-TRIONE, 17,21-DIHYDROXY-	53-03-2	1851	3 7 13(Z,AA) 17
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) 17
3435 add	PROCHLORAZ	67747-09-5		8
1591	# PROGESTERONE PREGN-4-ENE-3,20-DIONE	57-83-0	1851	(CA,MU) 3 5 7 17
2710	PROMECARB	2631-37-0	2757+	3 16 17 19
3436 add	PROMETON	1610-18-0		8
3437 add	PROMETRYN	7287-19-6		8
1592	# PRONAMIDE BENZAMIDE, 3,5-DICHLORO-n-(1,1-DIMETHYL-2-PROPYNYL)-	23950-58-5		(CA) 3 8 20 21
3438 add	PROPACHLOR	1918-16-7		8
1593	PROPADIENE 1,2-PROPADIENE	463-49-0	2200	3 17
syn	PROPANAL see PROPIONALDEHYDE			
add				
syn	1-PROPANAMINE see PROPYLAMINE			
1594	# PROPANE	74-98-6	1978	(F4) 1 2 3 15 17
syn	1,3-PROPANE SULTONE see 1,2-OXATHIOLANE-2,2-DIOXIDE			
add				
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 10 17
3439 add	PROPANIL	709-98-8		8
syn	PROPANOIC ACID see PROPIONIC ACID			
add				
1596	PROPARGITE SULFUROUS ACID, 2- 4-(1,1-DIMETHYLETHYL)PHENOXY CYCLOHEXYL 2- * PROPYNYL ESTER	2312-35-8	2765	3 8 20
1597	# PROPARGYL ALCOHOL 2-PROPYN-1-OL	107-19-7	1986	(F3,R3) 1 2 3 8 15 17 20 21
syn	PROPARGYL BROMIDE see 3-BROMOPROPYNE			
3440 add	PROPAZINE	139-40-2		8
3441 add	PROPHAM	122-42-9		8
3442 add	PROPICONAZOLE	60207-90-1		8
0228	# beta-PROPIOLACTONE 2-OXETANONE	57-57-8		(CA,CO,MU) 1 2 3 4 5 6 7 15 16 18 19
1598	# PROPIONALDEHYDE PROPANAL	123-38-6	1275	(F3) 3 6 15 17 18
1599	# PROPIONIC ACID PROPANOIC ACID	79-09-4	1848	(CO) 1 2 3 15 17 20
1600	# PROPIONIC ANHYDRIDE PROPANOIC ACID, ANHYDRIDE	123-62-6	2496	(CO) 3 15 17 20
1601	# PROPIONITRILE PROPANENITRILE	107-12-0	2404	(F3) 3 4 10 15 16 17 19 20 21
syn	PROPIONITRILE, 3-CHLORO- see 3-CHLOROPROPIONITRILE			
1602	# PROPIONYL CHLORIDE PROPANOYL CHLORIDE	79-03-8	1815	(CO,F3) 3 15 17
1603	PROPIONYL PEROXIDE PEROXIDE, BIS(1-OXOPROPYL)	3248-28-0	2132	3 17
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 17
1605	# PROPYL ALCOHOL 1-PROPANOL	71-23-8	1274	(F3) 1 2 3 15 17
syn	sec-PROPYL ALCOHOL see ISOPROPYL ALCOHOL			
1606	# PROPYLAMINE 1-PROPANAMINE	107-10-8	1277	(F3) 3 15 17 20 21
1607	# PROPYL BENZENE BENZENE, PROPYL-	103-65-1	2364	(F3) 3 15 17
2062	PROPYL CHLORIDE CHLOROPROPANE	540-54-5	1278	3 15 17

1608	# PROPYLCHLOROFORMATE CARBONOCHLORIDIC ACID, PROPYL ESTER	109-61-5	2740	(CO) 3 16 17 19
1609	# PROPYLENE 1-PROPENE	115-07-1	1077	(F4) 2 3 6 7 15 17 18
1610	PROPYLENE CHLOROHYDRIN 1-PROPANOL, 2-CHLORO-	78-89-7	2611	3 15 17
1611	# PROPYLENEDIAMINE 1,2-PROPANEDIAMINE	78-90-0	2258	(CO,F3) 3 15 17
syn	PROPYLENE DICHLORIDE see 1,2-DICHLOROPROPANE			
2712	PROPYLENE GLYCOL, ALLYL ETHER	1331-17-5		16
1612	PROPYLENE GLYCOL DINITRATE 1,2-PROPANEDIOL, DINITRATE	6423-43-4		1 2
1613 chg	+ PROPYLENE GLYCOL MONOMETHYL ETHER 2-PROPANOL, 1-METHOXY-	107-98-2	3092	(F3) 1 2 15 17
1614 chg	+ PROPYLENE IMINE 2-METHYLAZIRIDINE	75-55-8	1921	(CA) 1 2 3 5 6 7 16 17 18 19 20 21
1615 chg	# PROPYLENE OXIDE OXIRANE, METHYL-	75-56-9	1280	(CA,F4,MU,R2) 1 2 3 5 6 7 8 10 15 16 17 18 19 20
2713	PROPYLENE TETRAMER	6842-15-5	2850	3 17
syn add	1,2-PROPYLENIMINE see 2-METHYLAZIRIDINE			
syn	PROPYL ETHER see DIPROPYL ETHER			
1616	# PROPYL FORMATE FORMIC ACID, PROPYL ESTER	110-74-7	1281	(F3) 3 15 17
1617	PROPYL ISOCYANATE 1-ISOCYANATOPROPANE	110-78-1	2482	3 17
1618 chg	PROPYL MERCAPTAN 1-PROPANETHIOL	107-03-9	2402	3 17
1420	# n-PROPYL NITRATE NITRIC ACID, PROPYL ESTER	627-13-4	1865	(F3,R3) 1 2 3 15 17
3443 add	PROPYLPEROXYDICARBONATE		2133	17
1968 chg	# 6-PROPYL-2-THIOURACIL 4(1H)-PYRIMIDINONE, 2,3-DIHYDRO-6-PROPYL-2-THIOXO-	51-52-5		(CA,MU) 5 7
1619	# PROPYL TRICHLOROSILANE SILANE, TRICHLOROPROPYL-	141-57-1	1816	(CO,F3,R2) 3 15 17
2715	PROTHOATE	2275-18-5	2783+	3 16 19
syn add	PRUSSIC ACID see HYDROGEN CYANIDE			
2716	PSEUDOCUMENE	95-63-6	1263	3 6 16 18
3444 add	PURSUIT	81335-77-5		8
syn add	PYDRIN see FENVALERATE			
1024 chg	# PYRENE	129-00-0		(CA) 3 5 7 8 16 19 20
3064 gen chg	PYRETHRINS	121-21-1		12(A,B) 20
1623 chg	PYRETHRUM PYRETHRINS AND PYRETHROIDS	8003-34-7		1 2 20
1624	# PYRIDINE	110-86-1	1282	(F3) 1 2 3 6 8 15 17 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 4 16 17 19
syn	PYROCATECHOL see 1,2-DIHYDROXYBENZENE			
syn	PYROPHORIC FUEL, n.o.s. see FUEL, PYROPHORIC, n.o.s.			
2884 gen	PYROSULFURIC ACID		1831	3
1625	# PYROSULPHURYL CHLORIDE PYROSULFURYL CHLORIDE	7791-27-7	1817	(CO) 3 17
syn add	PYROXYLIN see NITROCELLULOSE			
1626	# PYRROLIDINE	123-75-1	1922	(F3) 3 15 17
syn add	QUARTZ, RESPIRABLE see SILICA, QUARTZ			
syn add	QUICK LIME see CALCIUM OXIDE			
1627	QUINACRINE HYDROCHLORIDE 1,4-PENTANEDIAMINE, N,N,N,N-(6-CHLORO-2-METHOXY-9-ACRIDINYL)-N, * N-DIETHYL-, DIHYDROCHLORIDE	69-05-6		13(Y,EE)
3447 add	QUINALPHOS	13593-03-8		8
1628	# QUINOLINE	91-22-5	2656	(MU) 3 6 15 17 18 20
1629	# QUINOLINE, 4-NITRO-, 1-OXIDE	56-57-5	1851	(CA,MU) 3 17
syn	QUINONE see p-BENZOQUINONE			
1630	# QUINTOZENE BENZENE, PENTACHLORONITRO-	82-68-8	2588	(CA) 3 6 7 8 18 20 21
2730 gen	RADIOACTIVE MATERIAL, n.o.s.		2982+	3 4 17
3007 chg	RADIONUCLIDES		2982	3 20
3448 add	RADIUM 226, 228	7440-14-4		8
3449 add	RADON 224	14859-67-7		8
syn	R-12 see DICHLORODIFLUOROMETHANE			
syn	R-22 see CHLORODIFLUOROMETHANE			
syn	RDX see CYCLONITE			
1631	RED SQUILL	507-60-8	1681	3 14
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	1851	(CA,MU) 3 5 7 17 20 21
1633	# RESIN FAST BLACK WP		1602+	(CA) 3 9
2748 gen	RESIN OIL		1286	3
2749 gen chg	RESIN SOLUTION		1866+	3 17
3450 add	RESMETHRIN	10453-86-8		8
1634	RESORCINOL 1,3-BENZENEDIOL	108-46-3	2876	1 2 3 7 15 17 20 21
2054	+ RESORCINOL DIGLYCIDYL ETHER OXIRANE, 2,2' - [1,3-PHENYLENEBIS (OXYMETHYLENE)] BIS-	101-90-6		(CA) 5 7 10
1635	RHODIUM	7440-16-6		1 2
3451 add gen	RHODIUM COMPOUNDS			1 2

1636	RHODIUM TRICHLORIDE RHODIUM (III) CHLORIDE (1:3)	10049-07-7		1 2 16
syn	ROAD ASPHALT, LIQUID see ASPHALT FUMES			
1637	ROMNEL 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 15 17
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 8
syn	ROZOL see CHLOROPHACINONE			
1639	RUBIDIUM	7440-17-7	1423	3 17
1640	# RUBIDIUM HYDROXIDE	1310-82-3	2678+	(CO) 3 15 17
1641	a SACCHARIN 1,1-DIOXIDE-1,2-BENZISOTHIAZOL-3(2H)-ONE	81-07-2		3 5 6 7 8 18 20 21
1642	# SAFROLE 1,3-BENZODIOXOLE, 5-(2-PROPENYL)-	94-59-7	1851+	(CA,MU) 3 5 6 7 15 17 18 20 21
2756	SALCOMINE	14167-18-1		16 19
syn add	SALTPETER see POTASSIUM NITRATE			
syn add	SAND ACID see SILICOFLUORIC ACID			
2757	SARIN	107-44-8		16 19
3452 add	SAVEY	78587-05-0		8
2761 gen	SELENATES, n.o.s., or SELENITES, n.o.s.		2630	3 6 8 17 18 20
1647	# SELENIC ACID	7783-08-6	1905	(CO) 1 2 3 6 8 17 18 20
syn	SELENIOUS ACID see SELENOUS ACID			
1648	SELENIUM	7782-49-2	2658	1 2 3 6 7 8 17 18 20 21
2347 gen	SELENIUM compounds, n.o.s.			1 2 6 7 8 18 20
syn	SELENIUM DIOXIDE see SELENIUM OXIDE			
1649	SELENIUM DISULFIDE	7488-56-4	2657	1 2 3 6 8 17 18 20
1650	SELENIUM HEXAFLUORIDE SELENIUM FLUORIDE (SeF6),	7783-79-1	2194	1 2 3 6 8 17 18 20
1651 chg	# SELENIUM OXIDE	7446-08-4	2811	(MU) 1 2 3 6 8 17 18 20 21
1652	# SELENIUM OXYCHLORIDE SELENINYL CHLORIDE	7791-23-3	2879	(CO) 1 2 3 6 8 16 17 18 19 20
1653	# SELENIUM SULFIDE	7446-34-6	2630	(CA) 1 2 3 5 6 8 18 20 21
syn add	SELENOUREA see CARBAMIMIDOSELENOIC ACID			
2762	SELENOUS ACID	7783-00-8	2928+	1 2 3 6 8 16 18 19 20 21
2765	SEMICARBAZIDE HYDROCHLORIDE	563-41-7	2811	3 7 16 19
1654	SESONE ETHANOL, 2-(2,4-DICHLOROPHENOXY)-, HYDROGEN SULFATE, SODIUM SALT	136-78-7		1 2
3453 add	SETHOXYDIM	74051-80-2		8
2766 gen	# SHALE OIL		1288	(CA) 3 7 17
2767 gen	SHELLAC	9000-59-3	1263	3 17
syn	SILANE see SILICON TETRAHYDRIDE			
2768	SILANE, (4-AMINOBUTYL)DIETHOXYMETHYL-	3037-72-7		15 16 19
1656	SILICA, AMORPHOUS (FUSED) SILICA, FUSED	60676-86-0		1 2 7
3510 add	SILICA, AMORPHOUS PRECIPITATE & GEL			1 2
1657	+ SILICA, CRISTOBALITE SILICA, CRYSTALLINE-CRISTOBALITE	14464-46-1		(CA) 1 2 4 7 10
1658	SILICA, GRAPHITE SILICON CARBIDE	409-21-2		1 3
1660	+ SILICA, QUARTZ SILICA, CRYSTALLINE-QUARTZ	14808-60-7		(CA) 1 2 4 7
1661	SILICATE, PORTLAND CEMENT	65997-15-1		1 2
1662	SILICATE, SOAPSTONE			1 2 12(A)
1663	+ SILICA, TRIDYMITE SILICA, CRYSTALLINE-TRIDYMITE	15468-32-3		(CA) 1 2 7
1664 chg	SILICA, TRIPOLI	1317-95-9		1 2 4
1665	SILICOFLUORIC ACID SILICATE (2-), HEXAFLUORO-, DIHYDROGEN	16961-83-4	1778	1 2 3 17
syn	SILICOFLUORIDES, n.o.s. see FLUOROSILICATES, n.o.s.			
syn add	SILICON CARBIDE see SILICA, GRAPHITE			
syn add	SILICON CHLORIDE see SILICON TETRACHLORIDE			
3125	SILICON POWDER	7440-21-3	1346	1 2 3 17
1666	SILICON TETRACHLORIDE SILANE, TETRACHLORO-	10026-04-7	1818	3 17
1667	SILICON TETRAFLUORIDE SILANE, TETRAFLUORO-	7783-61-1	1859	3 17
1668 chg	SILICON TETRAHYDRIDE SILANE	7803-62-5	1859+	1 2 3
1669	SILVER	7440-22-4		1 2 3 6 8 18 20
3008 gen	SILVER and compounds			2 6 18 20
1670	SILVER ARSENITE ARSENOUS ACID, TRISILVER(1+) SALT	7784-08-9	1683	1 3 6 17 18
1671	SILVER CYANIDE	506-64-9	1684	3 6 8 17 18 20 21
1672	SILVER NITRATE NITRIC ACID SILVER(1+) SALT	7761-88-8	1493	2 3 6 15 17 18 20
1673	SILVER PICRATE PHENOL, 2,4,6-TRINITRO-, SILVER(1+) SALT	146-84-9	1347	2 3 6 17 18
3454	SIMAZINE s-TRIAZINE,2-CHLORO-4,6-BIS(ETHYLAMINO)-	122-34-9	2902+	3 8
2770 gen	SLUDGE ACID	64742-24-1	1906	3 17
syn add	SOAPSTONE see SILICATE, SOAPSTONE			
syn add	SODA CHLORATE see SODIUM CACODYLATE			

2772 gen	SODA LIME	8006-28-8	1907	3 17
1674	# SODIUM	7440-23-5	1428	(R2) 3 15 17 20
syn add	SODIUM ACIDSULFATE see SODIUM HYDROGEN SULFATE			
3455 add	SODIUM ACIFLUORFEN	62476-59-9		8
1675	# SODIUM ALUMINATE SODIUM ALUMINUM OXIDE	11138-49-1	1819+	(CO) 3 17
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 17
1678	SODIUM AMALGAM MERCURY ALLOY, BASE	11110-52-4	1424	1 2 3 4 17 20
1679	SODIUM AMIDE	7782-92-5	1425	3 17
1680	SODIUM AMMONIUM VANADATE SODIUM VANADATE	13718-26-8	2863	3 17
2773	SODIUM ANTHRAQUINONE-1-SULFONATE	128-56-3		16
1681	SODIUM ARSANILATE ARSONIC ACID, (4-AMINOPHENYL)-, MONOSODIUM SALT	127-85-5	2473	1 2 3 6 17 18
1682	# SODIUM ARSENATE ARSENIC ACID, SODIUM SALT	7631-89-2	1685	(CA,TE) 1 2 3 4 5 6 7 8 16 17 18 19 20
1683	# SODIUM ARSENITE ARSENEMOUS ACID, SODIUM SALT	7784-46-5	1686+	(CA,MU,TE) 1 2 3 4 5 6 7 8 14 16 17 18 19 20
1684	# SODIUM AZIDE	26628-22-8	1687	(MU) 1 2 3 8 14 16 17 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 17 20
0241 chg	SODIUM BORATES BORATE, TETRASODIUM SALTS	1303-96-4		1 2
2063	SODIUM BOROHYDRIDE	16940-66-2	1426	3 17
1686	SODIUM BROMATE BROMIC ACID, SODIUM SALT	7789-38-0	1494	3 17
1687	SODIUM CACODYLATE ARSINIC ACID, DIMETHYL-, SODIUM SALT	124-65-2	1688	1 3 16 17 19
1688	# SODIUM CHLORATE CHLORIC ACID, SODIUM SALT	7775-09-9	1495+	(R2) 3 14 15 17
1689	# SODIUM CHLORITE CHLOROUS ACID, SODIUM SALT	7758-19-2	1496+	(CO,R2) 3 15 17
1690	SODIUM CHLOROACETATE ACETIC ACID, CHLORO-, SODIUM SALT	3926-62-3	2659	3 17
1691	SODIUM CHLOROPLATINATE PLATINATE(2-), HEXACHLORO-DISODIUM, TETRAHYDRATE	1307-82-0		1 2 12(D)
1692 chg	# SODIUM CHROMATE CHROMIUM SODIUM OXIDE	7775-11-3		(CA) 1 2 5 6 7 8 16 20
2774	SODIUM CUPROCYANIDE SOLID		2316	1 2 3 6 17 18
2775	SODIUM CUPROCYANIDE SOLUTION		2317	1 2 3 6 17 18
1693	SODIUM CYANIDE	143-33-9	1689	1 2 3 4 6 8 14 15 16 17 18 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	1 2 3 17 20
syn add	SODIUM DICHLORODISOCYANURATE see SODIUM DICHLORO-ISOCYANATE			
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 15 17 18 20
3456 add	SODIUM DIETHYL DITHIOCARBAMATE	148-18-5		7 8
1696	SODIUM DINITRO-ortho-CRESOLATE o-CRESOL, 4,6-DINITRO-, SODIUM SALT	2312-76-7	0234+	3 17
1697 chg	# SODIUM DITHIONITE DITHIONOUS ACID, DISODIUM SALT	7775-14-6	1384	(F3,R4) 3 15 17
1698	SODIUM DODECYLBENZENE SULFONATE BENZENE SULFONIC ACID, DODECYL-, SODIUM SALT	25155-30-0	9146	3 20
1699	SODIUM FLUORIDE	7681-49-4	1690	1 2 3 14 15 17 20
1700	SODIUM FLUOROACETATE ACETIC ACID, FLUORO-, SODIUM SALT	62-74-8	2629	1 2 3 14 16 17 19 20 21
1701	SODIUM FLUOROSILICATE SILICATE(2-), HEXAFLUORO-, DISODIUM	16893-85-9	2674	1 2 3 17
syn	SODIUM HEXACHLOROPLATINATE (IV) see SODIUM CHLOROPLATINATE			
syn add	SODIUM HYDRATE see SODIUM HYDROXIDE			
1702	# SODIUM HYDRIDE	7646-69-7	1427	(F3,R2) 3 15 17
1703	# SODIUM HYDROGEN FLUORIDE SODIUM FLUORIDE	1333-83-1	2439	(CO) 1 2 3 17 20
1704	# SODIUM HYDROGEN SULFATE SULFURIC ACID, MONOSODIUM SALT	7681-38-1	1821+	(CO) 3 17
syn add	SODIUM HYDROGEN SULFITE see SODIUM BISULFITE			
1705	# SODIUM HYDROSULFIDE SODIUM SULFIDE	16721-80-5	2318+	(CO) 3 17 20
syn add	SODIUM HYDROSULFITE see SODIUM DITHIONITE			
1706	# SODIUM HYDROXIDE SODIUM HYDRATE	1310-73-2	1823+	(CO) 1 2 3 4 15 17 20
1707	SODIUM HYPOCHLORITE HYPOCHLOROUS ACID, SODIUM SALT	7681-52-9	1791	3 17 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 chg	SODIUM METHYLATE METHANOL, SODIUM SALT	124-41-4	1431+	3 17 20
1710	# SODIUM MONOXIDE SODIUM OXIDE	12401-86-4	1825	(CO) 3 17
1711	SODIUM NITRATE NITRIC ACID, SODIUM SALT	7631-99-4	1498	3 15 17
3457 gen add	SODIUM NITRATE & POTASH MIXTURES		1478	3 17

2258	SODIUM NITRITE	7632-00-0	1500	3 20
1712	SODIUM PENTACHLOROPHENATE PHENOL, PENTACHLORO-, SODIUM SALT	131-52-2	2567	3 16 17
1713	SODIUM PERCARBONATE CARBONOPEROXOIC ACID, DISODIUM SALT	4452-58-8	2467	3 17
1714	SODIUM PERCARBONATE CARBONIC ACID DISODIUM SALT, COMPOUND * WITH HYDROGEN PEROXIDE	15630-89-4	2467	3 17
1715	SODIUM PERCARBONATE PEROXYDICARBONIC ACID, DISODIUM SALT	3313-92-6	2467	3 17
1716	# SODIUM PERCHLORATE PERCHLORIC ACID, SODIUM SALT	7601-89-0	1502	(R2) 3 15 17
1717	SODIUM PERMANGANATE PERMANGANIC ACID, SODIUM SALT	10101-50-5	1503	3 17
1718	# SODIUM PEROXIDE	1313-60-6	1504	(R2) 3 15 17
1721	SODIUM PERSULFATE PEROXYDISULFURIC ACID, DISODIUM SALT	7775-27-1	1505	3 17
1722	# SODIUM PHENOLATE PHENOL, SODIUM SALT	139-02-6	2497	(CO) 3 17
syn	SODIUM PHENOXIDE see SODIUM PHENOLATE			
3458 add	+ SODIUM o-PHENYLPHENATE	132-27-4		(CA) 7
1723	SODIUM PHOSPHATE, DIBASIC PHOSPHORIC ACID, DISODIUM SALT	7558-79-4	9147	3 20
1724	SODIUM PHOSPHATE, TRIBASIC PHOSPHORIC ACID, TRISODIUM SALT	7601-54-9	9148	3 20
1725	SODIUM PHOSPHIDE	12058-85-4	1432	3 17
2780 gen	SODIUM PICRAMATE, WET, greater than 20% water	831-52-7	1349+	3 17
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 6 16 17 18 19
1727	SODIUM SELENITE SELENIOUS ACID, DISODIUM SALT	10102-18-8	2630	1 2 3 6 16 17 18 19 20
3047	SODIUM SELENITE	7782-82-3	2630	3 6 18 20
syn add	SODIUM SILICOFLUORIDE see SODIUM FLUOROSILICATE			
1728	# SODIUM SULFIDE	1313-82-2	1385+	(CO) 3 15 17
1729	SODIUM SUPEROXIDE	12034-12-7	2547	3 15 17
2783	SODIUM TELLURITE	10102-20-2		16 19
1730	SPIRAMYCIN	8025-81-8		12(A,B)
syn add	SPIRITS OF NITROGLYCERIN see NITROGLYCERIN			
syn add	SPIRITS OF SALT see HYDROGEN CHLORIDE			
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 17

1732	STANNIC PHOSPHIDE TIN PHOSPHIDE	25324-56-5	1433	1 2 3 17
1733	STANNOUS CHLORIDE TIN CHLORIDE	7772-99-8	1759	1 2 3 17
1734	STANNOUS FLUORIDE TIN FLUORIDE	7783-47-3		1 2
3460 add	+ STERIGMATOCYSTIN			(CA) 7
1735	STIBINE	7803-52-3	2676	1 2 3 17
1736	STODDARD SOLVENT	8052-41-3	1268	1 2 3 4 10 15
1737	STREPTOMYCIN	57-92-1	1851	2 3 13(F, Y) 17
1738	# STREPTOZOCIN D-GLUCOPYRANOSE, 2-DEOXY-2- (METHYLNITROSOAMINO) * CARBONYL AMINO-	18883-66-4	1851	(CA,MU) 3 5 17 20 21
1739	STRONTIUM	7440-24-6	1434	3
1740	STRONTIUM ARSENITE	15195-06-9	1691	1 2 3 6 7 17 18 20
1741	STRONTIUM CHLORATE CHLORIC ACID, STRONTIUM SALT	7791-10-8	1506	3 17
1742	# STRONTIUM CHROMATE CHROMIC ACID, STRONTIUM SALT (1:1)	7789-06-2	9149	(CA) 1 3 5 6 7 18 20
1743	STRONTIUM NITRATE NITRIC ACID, STRONTIUM SALT	10042-76-9	1507	3 15 17
1744	STRONTIUM PERCHLORATE PERCHLORIC ACID, STRONTIUM SALT	13450-97-0	1508	3 17
1745	STRONTIUM PEROXIDE	1314-18-7	1509	3 15 17
1746 chg	STRONTIUM PHOSPHIDE	12504-16-4	2013	3 17
3009	STRONTIUM SULFIDE	1314-96-1		21
1747	STRYCHNINE STRYCHNIDIN-10-ONE	57-24-9	1692	1 2 3 8 14 16 17 19 20 21
2789	STRYCHNINE, SULFATE	60-41-3	1692	3 16 19
syn	STYPHNIC ACID see TRINITRORESORCINOL			
1748 chg	# STYRENE MONOMER	100-42-5	2055	(F3,R2) 1 2 3 4 6 7 8 10 15 17 18 20
1749	# STYRENE OXIDE OXIRANE, PHENYL-	96-09-3		(CA,MU,TE) 3 6 7 15 18
2794 gen	SUBSTITUTED NITROPHENOL PESTICIDES, TOXIC, n.o.s.		2779+	3 17
1750	SUBTILISINS (Proteolytic Enz as 100% pure cryst enzyme) BACILLUS SUBTILIS BPN	1395-21-7		1 2 12(A)
1751	SUCCINIC ACID PEROXIDE BUTANOIC ACID, 4,4'-DIOXYBIS 4-OXO-	123-23-9	2135+	3 17
1752	SUCCINONITRILE BUTANEDINITRILE	110-61-2		4 10 15
1753	# SULFALLATE CARBAMODITHIOIC ACID, DIETHYL-, 2-CHLORO-2-PROPENYL ESTER	95-06-7	2902	(CA) 3 5 7 15
1754	SULFAMETHOXAZOLE BENZENESULFONAMIDE, 4-AMINO-N-(5-METHYL-3-(ISOXAZOLYL)-	723-46-6	1851	3 7 13(Y,EE) 17
1755	SULFATHIAZOLE BENZENESULFONAMIDE, 4-AMINO-N-2-THIAZOLYL-	72-14-0	1851	3 12(A,B) 17
1756	SULFOTEPP THIODIPHOSPHORIC ACID, O-TETRAETHYL ESTER	3689-24-5	1704+	1 2 3 8 14 16 17 19 20 21
2795	SULFOXIDE, 3-CHLOROPROPYL OCTYL	3569-57-1		16 19
1757	SULFUR	7704-34-9	1350+	3 15 17
1758	# SULFUR CHLORIDE	10025-67-9	1828	(CO,R2) 3 15 17
syn add	SULFUR DICHLORIDE see SULFUR CHLORIDE			

1759	SULFUR DIOXIDE	7446-09-5	1079	1 2 3 4 12 (A) 15 16 17 19
	SULFUR FLOWER see SULFUR			
syn add				
1760	SULFUR HEXAFLUORIDE SULFUR FLUORIDE	2551-62-4	1080	1 2 3 17
1761	# SULFURIC ACID	7664-93-9	1830+	(CO,R2) 1 2 3 4 6 15 16 17 18 19 20
1762 chg	# SULFURIC ACID, FUMING SULFURIC ACID, MIXED WITH SULFUR TRIOXIDE	8014-95-7	1831	(CO) 1 2 3 4 17 20
	SULFURIC ANHYDRIDE see SULFUR TRIOXIDE			
syn add				
3048	SULFUR MONOCHLORIDE	12771-08-3	1828	1 2 3 15 20
1764	# SULFUROUS ACID SOLUTION SULFUROUS ACID (H2SO3)	7782-99-2	1833	(CO) 3 17
1765	SULFUR PENTAFLUORIDE SULFUR FLUORIDE (S2F10)	5714-22-7		1 2
1766	SULFUR TETRAFLUORIDE SULFUR FLUORIDE	7783-60-0	2418	1 2 3 16 17 19
1767	# SULFUR TRIOXIDE	7446-11-9	1829	(CO) 3 16 17 19
1768	# SULFURYL CHLORIDE	7791-25-5	1834	(CO,R2) 3 15 17
1769	SULFURYL FLUORIDE	2699-79-8	2191	1 2 3 17
1770	SULPHAMIC ACID SULFAMIC ACID	5329-14-6	2967	3 17
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
	SYMCLOSENE see TRICHLOROISOCYAMURIC ACID			
syn				
3462 add	SYSTHANE	88671-89-0		8
2796	TABUN	77-81-6	1955	3 16 19
1773	TALC	14807-96-6		1 2 12(A)
	2,4,5-T see 2,4,5-(TRICHLOROPHENOXY) ACETIC ACID			
syn				
1774	2,4,5-T AMINE PHENOL,2,4,5-TRICHLORO-COMPOUND WITH AMINE(1:1)	42589-07-1	2765	3 20
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
3463 add	TANNIC ACID	1401-55-4		7 8 12(B) 15
1775	TANTALUM	7440-25-7		1 2
1776	2,3,6-TBA BENZOIC ACID, 2,3,6-TRICHLORO-	50-31-7	3004	3 14
	TCA see TRICHLOROACETIC ACID			
syn				
	TCDD see 2,3,7,8-TETRACHLORODIBENZO-p-DIOXIN			
syn				
2800 gen	TEAR GAS (IRRITATING SUBSTANCES, LIQUID OR SOLID), n.o.s.		1693	3 17
3464 add	TEBUTHIURON	34014-18-1		8
1777	TELLURIUM	13494-80-9		1 2 16 19
3465 gen add	TELLURIUM COMPOUNDS			1 2
1778	TELLURIUM HEXAFLUORIDE TELLURIUM FLUORIDE	7783-80-4	2195	1 2 3 16 17 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) 17
1780	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 17 19 20 21
3466 add	TERBACIL	5902-51-2		8
2801	TERBUFOS	13071-79-9	2903	3 16 19
3467 add	TERBUTYRN	886-50-0		8
2901	TEREPHTHALIC ACID 1,4-BENZENEDICARBOXYLIC ACID	100-21-0		15
2802 gen	TERPENE HYDROCARBONS, n.o.s.	68956-56-9	2319	3 17
3518 add	TERPENEPOLYCHLORINATES	8001-50-1		6
1782	m-TERPHENYL	92-06-8		1 2 15
1783	o-TERPHENYL	84-15-1		1 2 15
1784	p-TERPHENYL	92-94-4		1 2
1785	TERPINOLENE CYCLOHEXENE, 1-METHYL-4-(1-METHYLETHYLIDENE)-	586-62-9	2541	3 17
	TERTIARY ALCOHOL see ALCOHOL, n.o.s.			
syn add				
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 chg	# TESTOSTERONE ANDROST-4-EN-5-ONE, 17-HYDROXY-	58-22-0	1851	(CA,TE) 3 13(BB,Y) 17
3468 add	TETRABROMODIPHENYL ETHER	40088-47-9		8
1805	TETRABROMOETHANE ETHANE, TETRABROMO-	25167-20-8	2504	3 15 17
	TETRABROMOETHANE see ACETYLENE TETRABROMIDE	79-27-6		
syn				
2965	1,2,4,5-TETRACHLOROBENZENE	95-94-3		3 8 15 20 21
3469 add	TETRACHLOROCYCLOPENTADIENE	695-77-2		8
1806	# 2,3,7,8-TETRACHLORODIBENZO-p-DIOXIN DIBENZO(b,e)(1,4)-DIOXIN, 2,3,7,8-TETRACHLORO-	1746-01-6		(CA,TE) 3 4 5 7 10 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
syn	TETRACHLOROETHANE see 1,1,2,2-TETRACHLOROETHANE			
add				
2992	1,1,1,2-TETRACHLOROETHANE	630-20-6		3 4 7 8 10 20 21
1809	# 1,1,2,2-TETRACHLOROETHANE ETHANE, 1,1,2,2-TETRACHLORO-	79-34-5	1702	(CA) 1 2 3 4 6 7 8 10 17 18 20 21
1810	# TETRACHLOROETHYLENE ETHENE, TETRACHLORO-	127-18-4	1897	(CA) 1 2 3 4 5 6 7 8 10 15 17 18 20 21
1811	TETRACHLORONAPHTHALENE NAPHTHALENE, TETRACHLORO-	1335-88-2		1 2
2916	2,3,4,6-TETRACHLOROPHENOL	58-90-2		3 8 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 7 8 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) 17
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 17
1817	# TETRAETHYL LEAD PLUMBANE, TETRAETHYL-	78-00-2	1649	(R3) 1 2 3 6 8 15 16 17 18 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 7 15 17
1820	TETRAFLUOROHYDRAZINE NITROGEN FLUORIDE (N2F4)	10036-47-2	1955	1 2 3 17
1821	TETRAFLUOROMETHANE METHANE, TETRAFLUORO-	75-73-0	1982	3 17
1822	TETRAHYDROBENZALDEHYDE CYCLOHEXENECARBOXALDEHYDE	1321-16-0	2498	17
3470	1,2,3,6-TETRAHYDROBENZALDEHYDE	100-50-5	2498	
add				3 15 17
syn	1,2,3,4-TETRAHYDROBENZENE see CYCLOHEXENE			
1823	# TETRAHYDROFURAN FURAN, TETRAHYDRO-	109-99-9	2056	(F3) 1 2 3 15 17 20 21
1824	TETRAHYDROFURFURYLAMINE 2-FURANMETHANAMINE, TETRAHYDRO-	4795-29-3	2943	3 17
3471	TETRAHYDRONAPHTHYLHYDRO PEROXIDE		2136	
add				17
1825	TETRAHYDROPHTHALIC ANHYDRIDE 1,3-1SOBENZOFURANDIONE, 3A,4,7,7A-TETRAHYDRO-	85-43-8	2698	3 17
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 17
1828	TETRALIN HYDROPEROXIDE HYDROPEROXIDE, 1,2,3,4-TETRAHYDRO-1-NAPHTHALENYL	771-29-9	2136	3 17
syn add	TETRAMETHOXYSILANE see METHYL SILICATE			
1829	# TETRAMETHYL AMMONIUM HYDROXIDE METHANAMINIUM, N,N,N-TRIMETHYL-, HYDROXIDE	75-59-2	1835	(CO) 3 17
1830	1,1,3,3-TETRAMETHYL BUTYL HYDROPEROXIDE HYDROPEROXIDE, 1,1,3,3-TETRAMETHYLBUTYL	5809-08-5	2160	3 17
2804	1,1,3,3-TETRAMETHYLBUTYLPEROXY-2-ETHYL HEXANOATE, * technical pure	22288-43-3	2161	3 17
syn	TETRAMETHYLDIAMINOBENZOPHENONE see MICHLERS KETONE			
1831	# TETRAMETHYL LEAD PLUMBANE, TETRAMETHYL-	75-74-1	1649	(F3,R3) 1 2 3 6 15 16 17 18 19
1832	TETRAMETHYLMETHYLENEDIAMINE METHANEDIAMINE, N,N,N',N'-TETRAMETHYL-	51-80-9	9069	3 17
1833	TETRAMETHYL SILANE SILANE, TETRAMETHYL-	75-76-3	2749	3 17
1834	TETRAMETHYL SUCCINONITRILE BUTANEDINITRILE, TETRAMETHYL-	3333-52-6		1 2 4 10
1835	TETRANITRO-ANILINE BENZENAMINE, TETRANITRO-	53014-37-2	0207	3
1836	TETRANITROMETHANE METHANE, TETRANITRO-	509-14-8	1510	1 2 3 16 17 19 20 21
2805	TETRAPROPYLORTHOTITANATE	3087-37-4	2413	3 17
1837	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	479-45-8	0208	
chg	BENZENAMINE, N-METHYL-N,2,4,6-TETRANITRO-			1 2 3
2807	THALLIC OXIDE	1314-32-5	1707	3 6 8 16 18 20 21
1840	THALLIUM	7440-28-0	1707	1 2 3 6 18 20
3062	THALLIUM ACETATE	563-68-8		1 2 3 6 8 18 20 21
syn add	THALLIUM(1)CARBONATE see THALLOUS CARBONATE			
2808	THALLIUM CHLORATE	13453-30-0	2573	3 6 17 18
syn add	THALLIUM CHLORIDE see THALLOUS CHLORIDE			
2809	THALLIUM COMPOUNDS, n.o.s.		1707	
gen				3 6 17 18 20
1841	THALLIUM NITRATE NITRIC ACID, THALLIUM(1+) SALT	10102-45-1	2727	1 2 3 6 8 17 18 20 21
2810	THALLIUM SALT, n.o.s.		1707	
gen				3 6 17 18
3010	THALLIUM SELENIDE	12039-52-0		3 6 17 18 20 21
1842	THALLIUM SULFATE SULFURIC ACID, THALLIUM SALT	10031-59-1	1707	1 2 3 6 16 17 18 19 20 21
syn	THALLIUM(I)SULFATE see THALLIUM SULFATE			
2811	THALLOUS CARBONATE THALLIUM(1)CARBONATE	6533-73-9	1707	1 2 3 6 16 17 18 19 20 21
2812	THALLOUS CHLORIDE	7791-12-0	1707	1 2 3 6 8 16 18 19 20 21
2813	THALLOUS MALONATE	2757-18-8	1707	3 6 16 18 19
syn	THALLOUS SULFATE see THALLIUM SULFATE			
2887	THALLOUS SULFATE	7446-18-6	1707	1 2 3 6 16 17 18 19 20 21
1843	4-THIAPENTANAL PROPANAL, 3-(METHYLTHIO)-	3268-49-3	2785	3 17

1844	# THIOACETAMIDE ETHANETHIOAMIDE	62-55-5		(CA) 3 5 6 7 18 20 21
1845	THIOACETIC ACID ETHANETHIOIC ACID	507-09-5	2436	3 17
3472 add	THIOBENCARB	28249-77-6		8
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
2818	THIOCARBAZIDE	2231-57-4	2588	3 16 17 19
syn add	THIOCARBONYL CHLORIDE see THIOPHOSGENE			
2819	THIOCYANIC ACID, (2-BENZOTHIAZOLYLTHIO)METHYL ESTER	21564-17-0	2902	1 2 3 16 17 20
1847	+ 4,4'-THIODIANILINE BENZENAMINE, 4,4'-THIOBIS-	139-65-1		(CA) 6 7 18
2820	THIOFANOX	39196-18-4	2757	3 16 19 20 21
2821 gen	THIOGLYCOL		2966	3 17
1848	# THIOGLYCOLIC ACID ACETIC ACID, MERCAPTO-	68-11-1	1940	(CO) 1 2 3 17
1849	THIOLACTIC ACID PROPANOIC ACID, 2-MERCAPTO-	79-42-5	2936	3 17
2822	THIOMETON	640-15-3	3018	3 16
syn	THIONAZIN see ZINOPHOS			
1850	# THIONYL CHLORIDE	7719-09-7	1836	(CO,RZ) 1 2 3 15 17
3473 add	THIOPHANATE-METHYL	23564-05-8		8
1851	# THIOPHENE	110-02-1	2414	(F3) 3 15 17
syn	THIOPHENOL see BENZENETHIOL			
1852	THIOPHOSGENE CARBONOTHIOIC DICHLORIDE	463-71-8	2474	3 17
3129	THIOPHOSPHORYL CHLORIDE	3982-91-0	1837	3 17
2823	THIOSEMICARBAZIDE	79-19-6	2811	3 16 17 19 20 21
1853	# THIOUREA	62-56-6	2877	(CA,MU) 3 5 6 7 17 18 20 21
2824	THIOUREA, (2-CHLOROPHENYL)- 1-(o-CHLOROPHENYL)THIOUREA	5344-82-1	2588	3 16 17 19 20 21
2825	THIOUREA, (2-METHYLPHENYL)-	614-78-8	2811	3 16 17 19
1854	THIRAM THIOPEROXYDICARBONIC DIAMIDE, TETRAMETHYL-	137-26-8	2771	1 2 3 7 8 17 20 21
1855	THORIUM	7440-29-1	9170+	3 17
1856	# THORIUM DIOXIDE THORIUM OXIDE	1314-20-1		(CA) 5 6 18
1857	THORIUM NITRATE NITRIC ACID, THORIUM SALT	13823-29-5	9171+	3 15 17
1858	TIN	7440-31-5		1 2
syn add	TIN CHLORIDE FUMING see TIN TETRACHLORIDE			
syn add	TIN PERCHLORIDE see TIN TETRACHLORIDE			
1859	# TIN TETRACHLORIDE STANNANE, TETRACHLORO-	7646-78-8	1827	(CO) 1 2 3 17
1860	TITANIUM	7440-32-6	2546+	3 17
1861	TITANIUM DIOXIDE TITANIUM OXIDE	13463-67-7		1 2 6
1862	TITANIUM HYDRIDE	11140-68-4	1871	3 17
Z827 gen	TITANIUM SPONGE, Granules or Powder		2878	3 17
1863	# TITANIUM SULFATE TITANIUM OXO(SULFATO)-	13825-74-6	1760	(CO) 3 17
1864	# TITANIUM TETRACHLORIDE	7550-45-0	1838	(CO) 3 6 15 16 17 18 19
1865	# TITANIUM TRICHLORIDE	7705-07-9	2869+	(CO) 3 17
syn add	TNT see 2,4,6-TRINITROTOLUENE			
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 8 10 15 17 18 20 21
syn add	TOLUENEDIAMINE see DIAMINOTOLUENES			
syn add	2,4-TOLUENE DIAMINE see 2,4-DIAMINOTOLUENE			
syn add	TOLUENE-2,6-DIAMINE see 2,6-DIAMINOTOLUENE			
syn add	TOLUENE-3,4-DIAMINE see 3,4-DIAMINOTOLUENE			
1869	TOLUENE-2,4-DIISOCYANATE BENZENE, 2,4-DIISOCYANATO-1-METHYL-	584-84-9	2078	1 2 3 4 5 6 10 12(A,B,G) 15 16 17 18 19 20
1868 chg	# TOLUENE-2,6-DIISOCYANATE BENZENE, 1,3-DIISOCYANATO-2-METHYL-	91-08-7	2078	(CA) 3 5 6 7 10 16 18 19 20
1870	# TOLUENE SULFONIC ACID BENZENESULFONIC ACID, METHYL-	25231-46-3	2584+	(CO) 3 15 17
1318	m-TOLUIDINE BENZENAMINE, 3-METHYL-	108-44-1	1708	1 2 3
1442	# o-TOLUIDINE 2-METHYLBENZENAMINE	95-53-4	1708	(CA,MU) 1 2 3 5 6 7 15 18 20 21
1622	p-TOLUIDINE BENZENAMINE, 4-METHYL-	106-49-0	1708	1 2 3 15 20 21
1443	# o-TOLUIDINE HYDROCHLORIDE BENZENAMINE, 2-METHYL-, HYDROCHLORIDE	636-21-5		(CA) 3 5 6 7 18 20 21
syn	o-TOLUIDINE-5-NITRO- see 5-NITRO-o-TOLUIDINE			
syn add	TOLUOL see TOLUENE			
1871	# TOXAPHENE	8001-35-2	2761	(CA,TE) 1 2 3 5 6 7 8 14 16 17 18 19 20 21
2939 chg	2,4,5-TP ESTERS	32534-95-5	2765	3 20
1872	TRAGACANTH GUM GUM TRAGACANTH	9000-65-1		12(A,B)

		TREMOLITE see ASBESTOS, TREMOLITE			
syn					
1874	#	TREOSULFAN 1,2,3,4-BUTANETETROL, 1,4-DIMETHANESULFONATE, S-(R*,R*) -	299-75-2		(CA) 7
3474 add		TRIALLATE	2303-17-5		8
1875		TRIALLYLAMINE 2-PROPEN-1-AMINE, N,N-DI-2-PROPENYL-	102-70-5	2610	3 17
1876		TRIALLYL BORATE BORIC ACID (H3BO3), TRI-2-PROPENYL ESTER	1693-71-6	2609	3 17
2830		TRIAMIPHOS	1031-47-6	2783	3 16 19
3475 add		TRIASULFURON	82097-50-5		8
2834 gen		TRIAZINE PESTICIDES, TOXIC, n.o.s.		2763+	3 17
syn		TRIAZIQUONE see 2,3,5-TRIS(1-AZIRIDINYL)-p-BENZOQUINONE			
syn add		TRI(1-AZIRIDINYL)PHOSPHINE OXIDE see 1-AZIRIDINYL PHOSPHINE * OXIDE (TRIS)			
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) 17
3476 add		1,2,4-TRIBROMOBENZENE	615-54-3		8
3477 add		TRIBROMOCHLOROMETHANE	594-15-0		8
3478 add		TRIBROMODIPHENYL ETHER	49690-94-0		8
1878		TRIBUTYL ALUMINUM ALUMINUM, TRIBUTYL-	1116-70-7	1930+	3 15 17
1879	#	TRIBUTYLAMINE 1-BUTANAMINE, N,N-DIBUTYL-	102-82-9	2542	(CO) 3 15 17
1880		TRIBUTYL PHOSPHATE PHOSPHORIC ACID TRIBUTYL ESTER	126-73-8		1 2 15
1881		TRIBUTYLTIN ACETATE STANNANE, ACETOXYTRIBUTYL	56-36-0		1 2 14
3479 add		TRIBUTYLTIN OXIDE	56-35-9		8
syn		1,1,1-TRICHLOROETHANE see METHYL CHLOROFORM			
1882		TRICHLORFON PHOSPHONIC ACID, (2,2,2-TRICHLORO-1-HYDROXYETHYL)-, * DIMETHYL ESTER	52-68-6	2783+	3 6 7 14 17 18 20
1883	#	TRICHLOROACETIC ACID ACETIC ACID, TRICHLORO-	76-03-9	1839+	(CO) 1 2 3 17
1884		TRICHLOROACETYL CHLORIDE ACETYL CHLORIDE, TRICHLORO-	76-02-8	2442	3 16 17 19
1885		1,2,3-TRICHLOROBENZENE BENZENE, 1,2,3-TRICHLORO-	87-61-6	2321	3
1887		1,2,4-TRICHLOROBENZENE BENZENE, 1,2,4-TRICHLORO-	120-82-1	2321	1 2 3 6 8 15 18 20
1886		TRICHLOROBENZENES BENZENE, TRICHLORO-	12002-48-1	2321	3 17
1888		TRICHLOROBUTENE BUTENE, TRICHLORO-	51023-22-4	2322	3 17
2836		TRICHLORO(CHLOROMETHYL)SILANE	1558-25-4	1250	3 16 19
3480 add		TRICHLOROCYCLOPENTADIENE	77323-84-3		8
syn		TRICHLORO(DICHLOROPHENYL)SILANE see DICHLOROPHENYL TRI- * CHLOROSILANE			
syn		1,1,1-TRICHLOROETHANE see METHYL CHLOROFORM			
1889	#	1,1,2-TRICHLOROETHANE ETHANE, 1,1,2-TRICHLORO-	79-00-5	2811	(CA) 1 2 4 6 7 8 10 15 17 18 20 21
syn		TRICHLOROETHENE see TRICHLORDETHYLENE			
1890	#	TRICHLORDETHYLENE TRICHLOROETHENE	79-01-6	1710	(CA,MU) 1 2 3 4 6 7 8 10 15 17 18 20 21
syn		TRICHLOROETHYLSILANE see ETHYLTRICHLOROSILANE			
1891		TRICHLOROFLUOROMETHANE METHANE, TRICHLOROFLUORO-	75-69-4		1 2 6 8 15 18 20 21
1892		TRICHLOROISOCYANURIC ACID 1,3,5-TRICHLORO-1,3,5-TRIAZINE-2,4,6(1H,3H,5H)-TRIONE	87-90-1	2468	1 2 3 17 20
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 17 20
2926		2,3,4-TRICHLOROPHENOL	15950-66-0	2020	3 17 20
2927		2,3,5-TRICHLOROPHENOL	933-78-8	2020	3 17 20
2928		2,3,6-TRICHLOROPHENOL	933-75-5	2020	3 17 20
1895		2,4,5-TRICHLOROPHENOL PHENOL, 2,4,5-TRICHLORO-	95-95-4	2020	3 6 7 8 15 17 18 20 21
1894	#	2,4,6-TRICHLOROPHENOL PHENOL, 2,4,6-TRICHLORO-	88-06-2	2020+	(CA) 3 5 6 7 8 15 18 20 21
2956		3,4,5-TRICHLOROPHENOL	609-19-8	2020	3 17 20
1896	#	2,4,5-(TRICHLOROPHENOXY) ACETIC ACID ACETIC ACID, (2,4,5-TRICHLOROPHENOXY)-	93-76-5	2765	(MU) 1 2 3 7 8 14 17 20 21
1899		TRICHLOROPHENOXYPROPIONIC ACID PROPIONIC ACID, 2-(2,4,5-TRICHLORO-PHENOXY)-	93-72-1	2765	3 8 17 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 8 15
1903	#	TRICHLOROSILANE SILANE, TRICHLORO-	10025-78-2	1295	(CD,F4,R2) 3 15 17
3481 add		TRICHLORO-S-TRIAZINETRIONE	87-90-1	2468	3 17
1904		1,1,2-TRICHLORO 1,2,2-TRIFLUOROETHANE ETHANE, 1,1,2-TRICHLORO-1,2,2-TRIFLUORO-	76-13-1		1 2 6 8 18
3130		TRICRESYLPHOSPHATE	1330-78-5	2574	3 17
1905		TRIETHANOLAMINE DODECYLBENZENESULFONATE ETHANOL, 2-2',2''-NITRILOTRIS-DODECYLBENZENESULFONATE (SALT)	27323-41-7	9151	3 20
2838		TRIETHOXYSILANE	998-30-1	2810	3 16 17 19
1906	#	TRIETHYL ALUMINUM ALUMINUM, TRIETHYL	97-93-8	1102	(F3,R3) 3 15
1907	#	TRIETHYLAMINE N,N-DIETHYLETHANAMINE	121-44-8	1296	(F3) 1 2 3 8 15 17 20
3482 add		TRIETHYLENEGLYCOL DIGLYCIDYL ETHER	1954-28-5		7 10

1908	# TRIETHYLENE TETRAMINE 1,2-ETHANEDIAMINE, N,N'-BIS(2-AMINOETHYL)-	112-24-3	2259	(CO) 3 15 17
1909	TRIETHYL PHOSPHITE PHOSPHOROUS ACID, TRIETHYL ESTER	122-52-1	2323	3 17
1910	TRIETHYLTIN CHLORIDE STANNANE, CHLOROTRIETHYL	994-31-0		1 2
1911	# TRIFLUOROACETIC ACID ACETIC ACID, TRIFLUORO-	76-05-1	2699	(CO) 3 17
3483 add	TRIFLUOROACETYLCHLORIDE	354-32-5	3057	17
3484 add	TRIFLUOROAMINE OXIDE	13847-65-9		17
1912	TRIFLUOROBROMOMETHANE METHANE, BROMOTRIFLUORO-	75-63-8	1009	1 2 3 6 17 18
1913	# TRIFLUOROCHLOROETHYLENE ETHENE, CHLOROTRIFLUORO-	79-38-9	1082	(F4) 3 15 17
syn add	TRIFLUOROCHLORMETHANE see CHLOROTRIFLUOROMETHANE			
1914	TRIFLUOROETHANE ETHANE, TRIFLUORO-	27987-06-0	2035	3 17
1915	TRIFLUOROMETHANE METHANE, TRIFLUORO-	75-46-7	1984	3 17
1917	2-TRIFLUOROMETHYL ANILINE BENZENAMINE, 2-(TRIFLUOROMETHYL)-	88-17-5	2942	3 17
1916	3-TRIFLUOROMETHYL ANILINE BENZENAMINE, 3-(TRIFLUOROMETHYL)-	98-16-8	2948	3 16 17 19
3485 add	3-TRIFLUOROMETHYLPHENYL ISOCYANATE	329-01-1	9268	17
1918	TRIFLURALIN BENZENAMINE, 2,6-DINITRO-N,N-DIPROPYL-4-(TRIFLUOROMETHYL)-	1582-09-8	2588	3 6 8 18
1919	# TRIISOBUTYL ALUMINIUM ALUMINUM, TRIS(2-METHYLPROPYL)-	100-99-2	1930	(F3,R3) 3 15 17
1920	TRIISOBUTYLENE 1-PROPENE, 2-METHYL-, TRIMER	7756-94-7	2324	3 17
2840 gen	TRIISOCYANATOISOCYANURATE OF ISOPHORONEDIISOCYANATE, SOLUTION		2906	3 17
1921	TRIISOPROPYL BORATE BORIC ACID (H3BO3), TRIS(1-METHYLETHYL) ESTER	5419-55-6	2616	3 15 17
1922	TRIMELLITIC ANHYDRIDE 5-ISOBENZOFURANCARBOXYLIC ACID, 1,3-DIHYDRO-1,3-DIOXO-	552-30-7		1 2 4 10 12 (A, G, N)
1923	TRIMETHADIONE 2,4-OXAZOLIDINEDIONE, 3,5,5-TRIMETHYL-	127-48-0	1851	3 13(Y,EE) 17
1924	TRIMETHOPRIM 2,4-PYRIMIDINEDIAMINE, 5-((3,4,5-TRIMETHOXY-PHENYL)METHYL)-	738-70-5	1851	3 13(Y,EE) 17
3131 chg	TRIMETHOXY SILANE	2487-90-3	9269	17
1925	# TRIMETHYLACETYL CHLORIDE PROPANOYL CHLORIDE, 2,2-DIMETHYL-	3282-30-2	2438	(CO) 3 17
1926	# TRIMETHYL ALUMINUM ALUMINUM, TRIMETHYL	75-24-1	1103	(F3,R3) 2 3 15 17
1927	# TRIMETHYLAMINE N,N-DIMETHYLMETHANAMINE	75-50-3	1083+	(F4) 1 2 3 15 17 20
2841	2,4,6-TRIMETHYL ANILINE	88-05-1	2810	3 16 17 19
1929	TRIMETHYL BENZENE BENZENE, TRIMETHYL-	25551-13-7	2325	1 2 17
syn	1,2,4-TRIMETHYL BENZENE see PSEUDOCUMENE			
1928	1,3,5-TRIMETHYLBENZENE MESITYLENE	108-67-8	2325	3 15 16 17
1930	# TRIMETHYLBORATE BORIC ACID, TRIMETHYL ESTER	121-43-7	2416	(F3) 3 15 17
1931	# TRIMETHYLCHLOROSILANE CHLOROTRIMETHYLSILANE	75-77-4	1298	(CO,F3,R2) 3 15 16 17 19
1932	# TRIMETHYLCYCLOHEXYLAMINE CYCLOHEXYLAMINE, TRIMETHYL-	34216-34-7	2326	(CO) 3 17
1933	# TRIMETHYLHEXAMETHYLENEDIAMINE 1,6-HEXANEDIAMINE, TRIMETHYL-	25620-58-0	2327	(CO) 3 17
1934	TRIMETHYLHEXAMETHYLENEDI-ISOCYANATE HEXANE, 1,6-DIISOCYANATOTRIMETHYL-	28679-16-5	2328	3 17
syn	TRIMETHYL NORPINANYL 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 17
1935	TRIMETHYL PHOSPHITE PHOSPHOROUS ACID, TRIMETHYL ESTER	121-45-9	2329	1 2 3 15 17
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 8 15 17 20 21
1939	TRINITROBENZENESULFONIC ACID BENZENESULFONIC ACID, 2,4,6-TRINITRO-	2508-19-2	0386	3
1940	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	1 2 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 chg	# 2,4,6-TRINITROPHENOL PHENOL, 2,4,6-TRINITRO-	88-89-1	0154+	(F4,R4) 1 2 3 6 15 18
syn add	TRINITROPHENYLMETHYLNITRAMINE see TETRYL			
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 8 15
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 chg	TRIPHENYLTIN CHLORIDE STANNANE, CHLOROTRIPHENYL	639-58-7		1 2 16 19
1953	TRIPHENYLTIN HYDROXIDE STANNANE, HYDROXYTRIPHENYL	76-87-9	2588	1 2 3 4 14 17
1954	# TRIPROPYL ALUMINUM ALUMINUM, TRIPROPYL-	102-67-0	2718	(F3,R3) 3 15 17
1955	# TRIPROPYLAMINE 1-PROPANAMINE, N,N-DIPROPYL-	102-69-2	2260	(CO) 3 15 17
1956	# TRIPROPYLENE 1-PROPENE, TRIMER	13987-01-4	2057	(F3) 3 15 17
1461	# 2,3,5-TRIS(1-AZIRIDINYL)-p-BENZOQUINONE 2,5-CYCLOHEXADIENE-1,4-DIONE, 2,3,5-TRIS(1-AZIRIDINYL)-	68-76-8		(MU) 6 7 18
syn	TRIS(1-AZIRIDINYL)PHOSPHINE OXIDE, SOLUTION see 1- * AZIRIDINYL PHOSPHINE OXIDE(TRIS)			
1515	# TRIS(1-AZIRIDINYL)-PHOSPHINE SULFIDE AZIRIDINE, 1,1',1''-PHOSPHINOTHIOYLIDYNETRIS-	52-24-4		(CA,MU) 5 7
2847	TRIS(2-CHLOROETHYL)AMINE	555-77-1	2810	3 16 17 19
1957	# TRIS (2,3-DIBROMOPROPYL) PHOSPHATE 1-PROPANOL, 2,3-DIBROMO-, PHOSPHATE (3:1)	126-72-7		(CA) 3 5 6 18 20 21

syn	TROCLOSENE POTASSIUM see POTASSIUM DICHLOROISOCYANURATE			
3486 add	+ TRP-P-1(3-AMINO-1,4-DIMETHYL-5H-PYRIDO[4,3-b]INDOLE)			(CA) 7
3487 add	+ TRP-P-2(3-AMINO-1-METHYL-5H-PYRIDO[4,3-b]INDOLE)			(CA) 7
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		1 2 4 12(B)
3488 gen add	TUNGSTEN COMPOUNDS			1 2
1961	# TUNGSTEN HEXAFLUORIDE TUNGSTEN FLUORIDE (W16)	7783-82-6	2196	(CO) 1 2 3 17
1962	# TURPENTINE	8006-64-2	1299	(F3) 1 2 3 15 17
syn add	UDMH see 1,1-DIMETHYLHYDRAZINE			
1963	UNDECANE	1120-21-4	2330	3 15 17
1964	1-UNDECANETHIOL	5332-52-5		4 10
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 MUSTARD see 5-[BIS(2-CHLOROETHYL)AMINO]URACIL			
syn	URACIL, 6-PROPYL-2-THIO- see 6-PROPYL-2-THIOURACIL			
1969	URANIUM	7440-61-1	2979+	1 2 3 8 17
1970	URANIUM HEXAFLUORIDE URANIUM FLUORIDE	7783-81-5	2977+	1 2 3 17
3490 add	URANIUM NITRATE HEXAHYDRATE SOLUTION		2980	17
3491 gen add	URANIUM, SOLUBLE SALTS			8
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 17 20
1976	URANYL CHLORIDE URANIUM (VI), DICHLORODIOXY	7791-26-6		1 2
1977	URANYL DIOXIDE URANIUM DIOXIDE	1344-57-6		1 2
1978 chg	URANYL NITRATE URANIUM, BIS(NITRATO-O)DIOXO-	10102-06-4	2981	1 2 3 15 17 20
1980 chg	URANYL NITRATE HEXAHYDRATE URANIUM, BIS(NITRATO-O)DIOXO-, HEXAHYDRATE	13520-83-7	2980	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	UREA NITRATE UREA, MONONITRATE	124-47-0	1357+	3 17
1985	UREA PEROXIDE UREA, compound with HYDROGEN PEROXIDE	124-43-6	1511	3 17
1986	# URETHANE CARBAMIC ACID, ETHYL ESTER	51-79-6		(CA,MU,TE) 3 5 6 7 18 20 21
1987	# VALERALDEHYDE PENTANAL	110-62-3	2058	(F3) 1 2 3 15 17
1988	# VALERIC ACID PENTANOIC ACID	109-52-4	1760	(CO) 3 15 17
1989	# VALERYL CHLORIDE PENTANOYL CHLORIDE	638-29-9	2502+	(CO) 3 17
2850	VALINOMYCIN	2001-95-8	2588	3 4 16 17 19
1990	VANADIUM (DUST AND FUME)	7440-62-2		1 2 4 6 12 (B) 18
1991	VANADIUM CARBIDE	11130-21-5		4
3492 gen add	VANADIUM COMPOUNDS			4
1992	# VANADIUM OXYTRICHLORIDE VANADIUM, TRICHLOROOXO-	7727-18-6	2443	(CO) 3 4 17
1993	VANADIUM PENTOXIDE VANADIUM OXIDE	1314-62-1	2862	1 2 3 4 8 12(B) 16 17 19 20 21
1994	# VANADIUM TETRACHLORIDE VANADIUM CHLORIDE	7632-51-1	2444	(CO) 3 4 15 17
1995	# VANADIUM TRICHLORIDE VANADIUM CHLORIDE	7718-98-1	2475	(CO) 3 4 17
1996	VANADIUM TRIOXIDE VANADIUM OXIDE	1314-34-7	2860	3 4 12(B) 17
1997	VANADYL SULFATE VANADIUM, OXOSULFATO(2-)-O-	27774-13-6	2931+	3 17 20
syn	VANADYL TRICHLORIDE see VANADIUM OXYTRICHLORIDE			
syn	VARNOLINE see STODDARD SOLVENT			
syn	VARSOL see STODDARD SOLVENT			
3493 add	VERNAM	1929-77-7		8
3494 add	VINCLOZOLIN	50471-44-8		8
1998	# VINYL ACETATE ACETIC ACID, ETHENYL ESTER	108-05-4	1301	(F3,R2) 1 2 3 4 6 7 8 10 15 16 17 18 19 20
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 6 7 10 15 17 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 17
2001	# VINYL CHLORIDE ETHENE, CHLORO-	75-01-4	1086	(CA,F4,MU) 1 2 3 4 5 6 7 10 15 17 18 20 21
2002	VINYL CHLOROACETATE ACETIC ACID, CHLORO-, ETHENYL ESTER	2549-51-1	2589	3 17
3495 add	4-VINYLCYCLOHEXENE	100-40-3		7 15

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 17
2005	# VINYL FLUORIDE ETHENE, FLUORO-	75-02-5	1860	(F4,R2) 3 4 7 15 17
2006	# VINYLIDENE CHLORIDE ETHENE, 1,1-DICHLORO-	75-35-4	1303	(CA,F4,MU,R2) 1 2 3 4 6 7 10 15 16 17 18 20 21
2007	# VINYLIDENE FLUORIDE ETHENE, 1,1-DIFLUORO-	75-38-7	1959	(F4,R2) 3 4 7 15 17
2008	# VINYL ISOBUTYL ETHER PROPANE, 1-(ETHENYLOXY)-2-METHYL-	109-53-5	1304	(F3,R2) 3 15 17
2009	# VINYL METHYL ETHER ETHENE, METHOXY-	107-25-5	1087	(F4,R2) 3 15 17
2852	VINYLNORBORNENE	3048-64-4		16
3496 add	VINYL PYRIDINE	1337-81-1	3073	17
2010	VINYL TOLUENE BENZENE, ETHENYLMETHYL-	25013-15-4	2618	1 2 3 15 17
2011	# VINYL TRICHLOROSILANE SILANE, TRICHLOROETHENYL-	75-94-5	1305	(CO,F3,R2) 3 15 17
0206	+ VM & P NAPHTHA	8032-32-4	1115+	(F4) 1 2 3 10 15 17
2012	# WARFARIN 2H-1-BENZOPYRAN-2-ONE, 4-HYDROXY-3-(3-OXO-1-PHENYLBUTYL)-	81-81-2	3027	(TE) 1 2 3 8 14 16 17 19 20 21
2860	WARFARIN SODIUM COUMADIN SODIUM	129-06-6	3027	16 17 19
2851 gen	WASTE OIL		1270	3
2854 gen	WAX, LIQUID		1993	3 17
syn add	WHITE PHOSPHORUS see PHOSPHORUS (YELLOW)			
syn	WHITE SPIRITS see STODDARD SOLVENT			
syn add	WOOD ALCOHOL see METHYL ALCOHOL			
2013	XENON	7440-63-3	2036+	3 17
2902 chg	# m-XYLENE	108-38-3	1307	(F3) 2 3 6 15 18 20 21
2903 chg	# o-XYLENE	95-47-6	1307	(F3) 2 3 6 15 18 20 21
2904 chg	# p-XYLENE	106-42-3	1307	(F3) 2 3 6 15 18 20 21
1320	m-XYLENE alpha, alpha'-DIAMINE m-PHENYLENEBIS(METHYLAMINE)	1477-55-0		1 2
2014	# XYLENES DIMETHYLBENZENE	1330-20-7	1307	(F3) 1 2 3 4 6 8 10 15 17 18 20 21
2015	XYLENOL PHENOL, DIMETHYL-	1300-71-6	2261	3 17 20
2016 chg	# 2,6-XYLIDINE BENZENEAMINE, 2,6-DIMETHYL-	87-62-7		(CA) 6 18
2017	XYLIDINE BENZENAMINE, AR,AR-DIMETHYL-	1300-73-8	1711	1 2 3 15 17
2018	XYLYL BROMIDE XYLENE, BROMO-	28258-59-5	1701	3 17
2858	XYLYLENE DICHLORIDE	28347-13-9	2811	3 16 17 19
2019	YTTRIUM	7440-65-5		1 2
3498 add gen	YTTRIUM COMPOUNDS			2
2020	ZEOLITE	1318-02-1		4
2021	ZINC (DUST AND FUME)	7440-66-6	1436+	3 6 8 15 17 18 20
2022 chg	ZINC ACETATE ACETIC ACID, ZINC SALT	557-34-6		6 8 18 20
2859 chg	ZINC AMMONIUM CHLORIDE	52628-25-8		6 8 18 20
3050	ZINC AMMONIUM CHLORIDE	14639-97-5		6 8 18 20
3051	ZINC AMMONIUM CHLORIDE	14639-48-6		6 8 18 20
2023	ZINC AMMONIUM NITRITE	63885-01-8	1512	3 6 8 17 18
2024	ZINC ARSENATE	1303-39-5	1712	1 3 6 7 8 17 18 20
2025	ZINC ARSENITE ARSENIOUS ACID, ZINC SALT	10326-24-6	1712	1 2 3 6 7 8 17 18 20
2880 gen	ZINC ASHES	69012-86-8	1435	3 6 8 17 18
3087	# ZINC BERYLLIUM SILICATE SILICIC ACID, BERYLLIUM ZINC SALT	39413-47-3		(CA) 1 2 6 7 8 18
2881 gen	ZINC BISULFITE solution		2693	6 8 17 18
2026 chg	ZINC BORATE BORIC ACID, ZINC SALT	1332-07-6		6 8 18 20
2882	ZINC BROMATE	14519-07-4	2469	3 6 8 17 18
2027 chg	ZINC BROMIDE	7699-45-8		6 8 18 20
2028 chg	ZINC CARBONATE CARBONIC ACID, ZINC SALT (1:1)	3486-35-9		6 8 18 20
2029	ZINC CHLORATE CHLORIC ACID, ZINC SALT	10361-95-2	1513	3 6 8 15 17 18
2030	# ZINC CHLORIDE	7646-85-7	2331	(CO) 1 2 3 6 8 17 18 20
2031	# ZINC CHROMATE CHROMIC ACID, ZINC SALT (1:1)	13530-65-9		(CA) 1 2 5 6 7 8 18
3012 gen	ZINC compounds			6 8 18 20
2032	ZINC CYANIDE	557-21-1	1713	1 2 3 6 8 17 18 20 21
2863	ZINC, DICHLORO(4,4-DIMETHYL-5-((((METHYLAMINO) * CARBONYL)OXY)IMINO)PENTANE NITRILE)-	58270-08-9	2588	3 6 16 18 19
2033	ZINC DITHIONITE DITHIONOUS ACID, ZINC SALT (1:1)	7779-86-4	1931	3 6 17 18 20
syn add	ZINC ETHYL see DIETHYL ZINC			
2034	ZINC FLUORIDE	7783-49-5	9158	1 2 3 6 18 20
syn add	ZINC FLUOROSILICATE see ZINC SILICOFLUORIDE			
2035	ZINC FORMATE FORMIC ACID, ZINC SALT	557-41-5	9159	3 6 18 20
syn	ZINC HYDROSULFITE see ZINC DITHIONITE			
syn	ZINC MURIATE see ZINC CHLORIDE			
2036	ZINC NITRATE NITRIC ACID, ZINC SALT	7779-88-6	1514	3 6 17 18 20

2055	ZINC OXIDE (DUST AND FUME)	1314-13-2		1 2 4 6 18
2038	ZINC PERMANGANATE PERMANGANIC ACID, ZINC SALT	23414-72-4	1515	3 6 17 18
2039	ZINC PEROXIDE	1314-22-3	1516	3 6 17 18
2040	ZINC PHENOLSULFONATE BENZENESULFONIC ACID, 4-HYDROXY-, ZINC SALT (2:1)	127-82-2	9160	3 6 18 20
2041	ZINC PHOSPHIDE	1314-84-7	1714	3 6 8 14 16 17 18 19 20 21
2042	ZINC POTASSIUM CHROMATE CHROMATE (1-),HYDROXYOCTA OXODIZINCATEDI-, POTASSIUM	11103-86-9		1 2 6 16 18
2883	ZINC RESINATE	9010-69-9	2714	3 6 17 18
2864	ZINC SELENATE		2630	1 2 3 6 17 18 20
2865	ZINC SELENITE	13597-46-1	2630	1 2 3 6 17 18 20
2043	ZINC SILICOFLUORIDE SILICATE(2-), HEXAFLUORO-, ZINC (1:1)	16871-71-9	2855	1 2 3 6 17 18 20
2044 chg	ZINC SULFATE SULFURIC ACID, ZINC SALT (1:1)	7733-02-0		3 6 18 20
2045	# ZINEB ZINC, ETHYLENE BIS(DITHIOCARBAMATE)	12122-67-7	2588	(CA,MU) 3 6 7 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 15 17
3499 gen add	ZIRCONIUM COMPOUNDS			1 2
2048	ZIRCONIUM HYDRIDE	77049-96-1	1437	1 2 3 17
2049	ZIRCONIUM NITRATE NITRIC ACID, ZIRCONIUM (4+) SALT	13746-89-9	2728	1 2 3 17 20
2050	ZIRCONIUM PICRAMATE PICRAMIC ACID, ZIRCONIUM SALT	63868-82-6	1517	1 2 3 17
2051	ZIRCONIUM POTASSIUM FLUORIDE ZIRCONATE (2-), HEXAFLUORO-, DIPOTASSIUM,	16923-95-8	9162	1 2 3 20
2052	ZIRCONIUM SULFATE SULFURIC ACID, ZIRCONIUM (4+) SALT (2:1)	14644-61-2	9163	1 2 3 17 20
2053	# ZIRCONIUM TETRACHLORIDE ZIRCONIUM CHLORIDE	10026-11-6	2503	(CO) 1 2 3 15 17 20

(a)

DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION AND ENERGY
DIVISION OF ENVIRONMENTAL SAFETY, HEALTH AND ANALYTICAL PROGRAMS

Worker and Community Right to Know Act
Trade Secrets and Definitions
Jointly Proposed Amendments: N.J.A.C. 8:59-3.1, 3.2, 3.3, 3.7, 3.8, 3.9, 3.14, 3.15, 3.16; N.J.A.C. 7:1G-6.1, 6.2, 6.3, 6.7, 6.8, 6.9, 6.14, 6.15 and 6.16
Proposed Amendments: N.J.A.C. 7:1G-1.2, 6.4, 6.5, 6.6, 6.10, 6.11 and 6.13; N.J.A.C. 8:59-3.5, 3.6, 3.11, 3.13 and 3.17

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

Jointly Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner Designate, Department of Health, and Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

DEPE Docket Number: 10-93-01.

Proposal Number: PRN 1993-105.

A **public hearing** will be held:
Friday, March 26, 1993
10:00 A.M. to 5:00 P.M.
Department of Personnel
Human Resources Development Institute
600 College Road East
Princeton, N.J. 08540

Persons who wish to testify should call Eva McGovern at 609-984-2202.

Submit written comments by March 31, 1993 to:
Richard Willinger, Program Manager
Right To Know Program
Occupational Health Service
New Jersey Department of Health
CN 368
Trenton, New Jersey 08625-0368
and
New Jersey Department of Environmental Protection and Energy
Office of Legal Affairs
401 East State Street
CN 402
Trenton, New Jersey 08625-0402

The agency proposal follows:

Summary

The Right to Know trade secret rules, originally jointly adopted on October 1, 1984 pursuant to the Worker and Community Right to Know Act, N.J.S.A. 34:5A-15, and readopted on September 29, 1989, establish a comprehensive system for the submission, evaluation and disclosure of trade secret claims from covered employers. The Department of Health (DOH) and the Department of Environmental Protection and Energy (DEPE) are proposing to amend these rules, found at N.J.A.C. 8:59-3 (Department of Health) and N.J.A.C. 7:1G-6 (Department of Environmental Protection and Energy) to allow employers seeking to protect certain trade secret information from disclosure on container labels, to retain the information at the business location until the information is needed to evaluate a trade secret claim or to assist emergency responders or medical personnel in an emergency. Currently, information claimed as a trade secret for labeling must be submitted to DOH where it is kept in a secure location until such time as it may be needed to evaluate and determine the validity of a pending trade secret claim or to provide needed information in an emergency. The proposed amendments will reduce the risk of unauthorized disclosure of this information without increasing the potential for harm to public health or the environment.

Amendments that are being proposed throughout the rules replace Workplace Survey with the name Right to Know Survey, which is the new name for the survey form sent to public employers. The Department of Environmental Protection and Energy is also proposing to redefine the environmental survey in N.J.A.C. 7:1G-1.2 to designate the Community Right to Know Survey and the Release and Pollution Prevention Report as components of the environmental survey. Definitions of Community Right to Know Survey and Release and Pollution Prevention Report have also been added to N.J.A.C. 7:1G-1.2 in this proposal.

Three additional reporting requirements for the environmental survey were added at N.J.A.C. 7:1G-1.2 to reflect the 1991 amendments to the New Jersey Worker and Community Right to Know Act at N.J.S.A. 34:5A-3. Also, changes throughout the proposal reflect the change in the name of the Department of Environmental Protection to the Department of Environmental Protection and Energy.

N.J.A.C. 8:59-3.2 and 3.4(b) (N.J.A.C. 7:1G-6.2 and 6.4(b)) are being amended to allow employers to maintain trade secret information for container labeling at their own places of business rather than having to file the information with the Departments of Health or Environmental Protection and Energy. This is explained in greater detail below.

The amendment to N.J.A.C. 8:59-3.4(a) (N.J.A.C. 7:1G-6.4(a)) clarifies the Departments' obligation to maintain confidentiality of information claimed as trade secrets.

The amendment to N.J.A.C. 8:59-3.4(c) (N.J.A.C. 7:1G-6.4(c)) clarifies that copies of the surveys required to be filed elsewhere shall conceal trade secret information.

The names of the persons and programs in the Departments of Health and Environmental Protection and Energy to whom trade secret claims should be sent have been changed in N.J.A.C. 8:59-3.4(e) and N.J.A.C. 7:1G-6.4(e) to reflect reorganizations in both departments.

N.J.A.C. 8:59-3.4(f) (N.J.A.C. 7:1G-6.4(f)) and 3.4(g) (6.4(g)) specify procedures for submitting confidential information by referring to N.J.A.C. 8:59-3.4(e) (N.J.A.C. 7:1G-6.4(e)).

N.J.A.C. 7:1G-6.4(l) has been added to clarify the independent obligation of those employers covered under Title III of the Federal Superfund Amendments and Reauthorization Act to claim confidentiality of trade secrets under that Act.

The Department of Environmental Protection and Energy is amending N.J.A.C. 7:1G-6.5 to delete references to the emergency services information survey (ESIS) and is incorporating the reporting requirements of the ESIS into the section dealing with Part I of the environmental survey as that survey currently includes the ESIS.

N.J.A.C. 8:59-3.6 (N.J.A.C. 7:1G-6.6) has been amended to reflect requirements for public and private sector employers when claiming confidentiality for trade secrets for reporting and/or labeling. N.J.A.C. 8:59-3.6 (N.J.A.C. 7:1G-6.6) has been divided into two parts to distinguish procedures for claiming confidentiality for trade secrets for the purposes of reporting and labeling. N.J.A.C. 8:59-3.6(a) (N.J.A.C. 7:1G-6.6(a)) covers public employer claims for reporting. A new subsection, N.J.A.C. 8:59-3.6(b) (N.J.A.C. 7:1G-6.6(b)), has been created for trade secret claims for labeling. While it is highly unlikely for a public employer to file a trade secret claim and none have been received in the nine years of the Act's existence, a public employer is entitled to file such a claim. N.J.A.C. 7:1G-6.6(b) has been amended to specify procedures for private employers when claiming confidentiality for trade secrets for chemical inventory reporting on the environmental survey.

In N.J.A.C. 8:59-3.6(a), reference to the trade secret section of the workplace survey has been deleted since such a document no longer exists. Since the trade secret claim for labeling is not being made on the survey, the requirement to submit new information about the claim has been deleted in N.J.A.C. 8:59-3.6(a)2. The trade secret claim requirements in former N.J.A.C. 8:59-3.6(a)3 referred to labeling claims made between filing surveys. Since labeling claims are not required to be made on surveys, this subsection has been deleted.

Former N.J.A.C. 8:59-3.6(b) is being combined with subsection (a) and sets forth the method of concealing trade secret information for public employers on the Right to Know Survey. This subsection is updated to reflect that a trade secret registry number would be listed on the survey or on a label. The one example of a trade secret registry number is deleted and the employer is referred to the greater variety of examples listed in N.J.A.C. 8:59-3.6(b)2. Finally, the "P" will no longer be required to be placed after the trade secret registry number to indicate that it is a pending trade secret claim.

Since Right to Know universal labeling, N.J.A.C. 8:59-11, went into effect in March 1990, the Department of Health has received many trade secret claims from private employers who wanted to keep secret the ingredients of their products in order to maintain their competitive position in the business world. While many claims have been received,

very few requests for trade secret information have been received over this same period of time. Businesses in New Jersey are expending funds to file trade secret claims with the Department, while there is little demand from the public, employees, emergency responders or the medical community for this information. The cost greatly outweighs the benefit. In light of this, the Department of Health has determined that it would not be detrimental to the public's interest or the health and safety of public employees and emergency responders to allow private industry to maintain their trade secret information for labeling at their own places of business.

N.J.A.C. 8:59-3.6(b) provides employers with the choice of submitting trade secret information for labeling to the Department of Health or maintaining the information on site and submitting it upon request. They must still assign trade secret registry numbers and label their containers with these numbers.

Instead of submitting confidential information with a trade secret claim, a private employer claiming trade secret protection for labeling could notify the Department of Health in writing that he intends to conceal the names of chemicals and their Chemical Abstracts Service (CAS) numbers on a label. The employer would have to submit annual certifications to the Department that this trade secret information is being maintained.

A change is being made in assigning trade secret numbers to allow a private employer to assign one trade secret number to a product with multiple ingredients rather than to each ingredient, as long as the employer maintains the chemical names and CAS numbers of all the secret ingredients. The Department of Health has determined that this modification for assigning trade secret numbers will reduce the cost of compliance with the law for private employers without adversely affecting the health and safety of emergency responders or being detrimental to the public interest. Any ingredients in the product that are not trade secrets must be listed on the label. A Right to Know inspector will be able to view the area where trade secret information is being maintained by the private employer in order to confirm that he is adhering to the rules.

Many employers who have already filed trade secret claims for labeling would like the information returned. The Department of Health will return trade secret information to employers upon request. The person who signed the letter submitting trade secret claims for an employer should write to the Program Manager of the Right to Know Program at the NJ Department of Health, CN 368, Trenton, NJ 08625-0368, advising him of the method by which they would like the trade secret information returned.

N.J.A.C. 7:1G-6.6(b) clarifies that private employers shall submit two copies of their surveys to DEPE with summary information regarding the claim. DEPE may request complete information in order to make a determination on the validity of the trade secret claim. This would occur when DEPE receives a request for trade secret information from a member of the public, an employee, or other state agencies.

The structure of N.J.A.C. 8:59-3.6(c)7 (N.J.A.C. 7:1G-6.6(c)7) and 3.9(a)3 (6.9(a)3) is very unwieldy in its present wording. Certain words are being deleted to make it easier to understand without changing the meaning.

N.J.A.C. 8:59-3.6(c)8 has been added to facilitate access and release of trade secret information in the event of emergency.

N.J.A.C. 8:59-3.6(j) is being amended to restrict the posting of notices of ongoing trade secret claim determinations for the benefit of employees to public employers since only they are covered by the worker provisions of the Act. N.J.A.C. 7:1G-6.6(j) is being deleted, as this is a requirement for public employers rather than private employers.

A new N.J.A.C. 7:1G-6.6(l) is being added to advise public employers seeking to claim confidentiality for trade secrets for labeling and/or reporting and private employers claiming confidentiality for labeling to refer to N.J.A.C. 8:59-3 for trade secret claim requirements.

N.J.A.C. 8:59-3.7(d) is being amended to remove the reference to the former trade secret section of the workplace survey.

N.J.A.C. 8:59-3.7(f) (N.J.A.C. 7:1G-6.7(f)) is being amended, at the request of the Office of Administrative Law, to allow necessary staff of administrative law judges to have access to information regarding trade secret claims filed with the department or maintained by the employer pursuant to the Act, in order to conduct hearings on the validity of the trade secret claims. Rules have been adopted by the Office of Administrative Law, N.J.A.C. 1:21, to maintain the confidentiality and security of trade secret information.

N.J.A.C. 8:59-3.8(c) (N.J.A.C. 7:1G-6.8(c)) is being amended to clarify that trade secret determinations shall be made jointly by both departments when a private employer is making the same trade secret claim for reporting and labeling.

N.J.A.C. 8:59-3.11(b) (N.J.A.C. 7:1G-6.11(b)) and 3.13(b) (6.13(b)) are being amended to limit notifications of trade secret claim determinations and appeals to public employers for the same reasons set forth in N.J.A.C. 8:59-3.6(j) above.

N.J.A.C. 8:59-3.14(a)2 (N.J.A.C. 7:1G-6.14(a)2) is being amended to state how a survey must be modified and redistributed when a trade secret claim is denied.

N.J.A.C. 8:59-3.14(a)3 (N.J.A.C. 7:1G-6.14(a)3) is being deleted as this requirement is specified in N.J.A.C. 8:59-3.14(a)2.

N.J.A.C. 8:59-3.15 has been amended to include other suitable indemnification, since this meets the same objective.

N.J.A.C. 8:59-3.16(a) (N.J.A.C. 7:1G-6.16(a)) is being amended to include employees or agents of county or local government agencies.

The labeling deadlines contained in N.J.A.C. 8:59-3.17(a) are no longer applicable and are being deleted. A sentence is being added to clarify that a trade secret claim must be filed with DOH or maintained by the employer prior to affixing a label to a container. N.J.A.C. 8:59-3.17(b) is being clarified to explain that it applies to containers which are received by an employer. There is no DEPE counterpart to this section since labeling is under the purview of the Department of Health.

Social Impact

The proposed amendments are not expected to cause any adverse social impact. The major consequences of the amendments will be to allow employers to maintain their trade secret information instead of filing it with the Department of Health for container labeling. This will have a positive impact on industry, as the risk of unauthorized disclosure of trade secrets will be greatly reduced.

Few requests for trade secrets have been received over the past few years. Those persons who have made such requests have been referred to the employers who filed the trade secret claims. The requestors were supplied by them with all of the information needed. This responsiveness by industry indicates that there should not be an instance when an emergency responder or member of the health profession will not be able to obtain the hazard information they need for diagnosis or treatment, or for an emergency. DOH will still have the right to obtain trade secret information for labeling and make an independent determination of the validity of such claims.

Economic Impact

There is expected to be a positive economic impact for industry, as the potential for business losses due to unauthorized disclosure of trade secrets is reduced. There will also be savings in the actual cost of claiming trade secret protection for labeling.

Environmental Impact

These amendments are expected to have no environmental impact, as the information previously submitted to and held by the Department of Environmental Protection and Energy as trade secrets will continue to be available to DEPE. Trade secret information for labeling, previously held by the Department of Health, will be able to be accessed through the employer in an emergency.

Regulatory Flexibility Analysis

The Right to Know trade secret rules, applicable to both public and private employers, whether large or small businesses, in accordance with N.J.S.A. 43:5A-15, are being amended to delete the requirement for the filing of trade secret claims. This deletion will have a positive economic impact on the more than 50 categories of employers covered, some of whom may be small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Since the rules must protect the public health and safety, there has been no differentiation made based upon business size in these rules.

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

OFFICE OF ADMINISTRATIVE LAW NOTE: The following rule text first shows proposed joint amendments, then the proposed amendments affecting only Department of Environmental Protection and Energy rules, and finally proposed amendments affecting only Department of Health rules.

SUBCHAPTER 3. (SUBCHAPTER 6.) TRADE SECRETS

8:59-3.1 (7:1G-6.1) Authority

(a) This subchapter is promulgated pursuant to the Worker and Community Right to Know Act, L.1983, c.315, N.J.S.A. 34:5A-1 et seq., in particular, N.J.S.A. 34:5A-15 and [32]**30** and N.J.S.A. 13:1D-9.

(b) This subchapter is a jointly adopted rule of the Department of Health (see N.J.A.C. 8:59-3) and the Department of Environmental Protection **and Energy** (see N.J.A.C. 7:1G-6).

8:59-3.2 (7:1G-6.2) Purpose

(a) Trade secret claims will be filed **or maintained** by employers who are subject to the Act to maintain the confidentiality of information requested on the [workplace survey] **Right to Know Survey[,] or the** environmental survey [or emergency services information survey] and **for** the names of substances on container labels. It is the purpose of this subchapter to prescribe:

1. The procedures and guidelines for filing [a] trade secret [claim] **claims and maintaining trade secret information;**

2.-7. (No change.)

8:59-3.3 (7:1G-6.3) Definitions

"Department" means, for purposes of this subchapter, both the [State] **New Jersey** Department of Health and the New Jersey Department of Environmental Protection **and Energy,** unless otherwise indicated.

8:59-3.7 (7:1G-6.7) Confidentiality and security of trade secret information

(a) All trade secret [claims and] information in support of a trade secret claim, pending or approved, shall be treated as confidential in accordance with (b) through (h) below.

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

(d) The department shall communicate only with the employer's chief executive officer or his designated representatives, such designation to be made in writing, regarding the trade secret claim. The individual signing the trade secret [section of the workplace survey or the environmental survey] **claim submitted to the department** shall be considered the designated representative if no other communication is received from the employer.

(e) (No change.)

(f) Except as provided in N.J.A.C. 8:59-3.15 (6.15), no person other than the Commissioner and his designated representatives [including] **and** administrative law judges **and their necessary staff** conducting hearings on trade secret claims, shall have access to information regarding a trade secret claim. [Said] **All** designated representatives shall be employees of the **State** [department]. Designations shall be made in writing. Designated persons other than administrative law judges shall sign an agreement [developed by the department protecting] **to protect** the confidentiality of the information before access is granted. [Pursuant to rules adopted by the Office of Administrative Law to maintain the confidentiality and security of trade secret information, administrative] **Administrative** law judges shall have access to trade secret information as necessary to preside over pre-hearing activities, conduct the hearing, render an initial decision, and return the record to either the Department of Environmental Protection **and Energy** or the Department of Health **pursuant to N.J.A.C. 1:21.**

(g)-(h) (No change.)

8:59-3.8 (7:1G-6.8) Decision-making agency on a **trade secret** claim

(a) The Department of Health [shall] **is authorized to** approve or deny a trade secret claim concerning:

1. Information reported on the [workplace survey] **Right to Know Survey.**

2. (No change.)

(b) The Department of Environmental Protection **and Energy)** is authorized to approve or deny a trade secret claim concerning **information reported on an environmental survey**[:].

[1. Information reported on the Environmental Survey.

2. Information reported on the Emergency Services Information Survey.]

(c) [Where a trade secret claim is made regarding the name of an environmental hazardous substance which is not emitted from a facility into the air or water or onto the land, which is not a special health hazard substance which meets the criteria established pursuant to N.J.A.C. 8:59-10, and for which public disclosure is not required by any other act, a decision to approve or deny the claim shall be made by the Department only after consultation with the Commissioner of the Department of Health or his designee. The department shall provide notice of a proposed determination to the Department of Health at least 15 days prior to said determination.] **Trade secret claims for labeling and reporting filed with both departments shall be approved or denied jointly by the Department of Health and the Department of Environmental Protection and Energy.**

8:59-3.9 (7:1G-6.9) Criteria for determination of **the validity of a trade secret** claim

(a) Any formula, plan, pattern, process, production data, information, or compilation of information shall be considered a trade secret if the employer establishes that its secrecy is certified by an appropriate official of the Federal government as necessary for national defense purposes, or if the employer establishes that:

1.-2. (No change.)

Employers shall be notified of this determination by the department prior to disclosure of the trade secret information. A contractor shall not receive any trade secret information unless:

3. It is used in the research and development or [fabrication and] production of an article [of trade or service] or of a mixture; and

4. (No change.)

(b) (No change.)

(c) In determining whether a trade secret claim meets the requirements of (a) or (b) above, the department shall consider information provided by the employer or any other person, including the information in (c)1 through 6 below:

1.-3. (No change.)

4. The value of the information[,] to the employer or the employer's competitor;

5.-6. (No change.)

8:59-3.14 (7:1G-6.14) Disclosure of information determined not to be a trade secret

(a) After a trade secret claim has been denied and all appeals and the right to bring an appeal [has] **have** been exhausted, the department shall take the following action:

1. Modify the employer's [workplace survey,] **Right to Know Survey or** environmental survey [or emergency services information survey], as the case may be, on file with the department to substitute the omitted information for the trade secret docket or registry number and add the information wherever else appropriate; **and**

2. Direct the employer to modify the [workplace survey,] **Right to Know Survey** or environmental survey on file at [its] **his** facility to [substitute the omitted information for the trade secret docket or registry number] **include the information for which the trade secret claim was denied** and add the information wherever else appropriate; to send modified copies of [its] **the** revised [workplace] **Right to Know Survey** [and] **or** environmental survey to [the Department of Environmental Protection/Health, the county health department, county clerk or designated county lead agency, to the local fire department, and local police department] **the appropriate department and all county and local agencies that are required by law, rule or regulation to receive the survey** containing this information; and to replace the trade secret registry number with the chemical name and Chemical Abstracts Service number on its fact sheets and container labels, if applicable[; and].

[3. Direct the employer to modify the emergency services information survey to add the omitted information, where appropriate, and to send modified copies of its revised survey to the Department of Environmental Protection, local fire department and local police department.]

8:59-3.15 (7:1G-6.15) Restricted access to trade secret information **retained by the Department**

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

(c) A contractor of the State and its employees may be granted access to trade secret information protected by this subchapter if the department determines that such disclosure is necessary for the completion of any work contracted for in connection with the implementation of the Act, and that the requirements of (c)1 through 3 below have been satisfied. Such approval shall restrict access to the trade secret information to persons approved by the department.

1. [It] **The contractor** has submitted a plan to the department which describes measures for adequately protecting trade secret information from unauthorized disclosure, and such plan has been approved by the department;

2. [It] **The contractor** has provided written documentation demonstrating, to the satisfaction of the department, that [it] **the contractor** maintains Professional Liability Insurance **or suitable indemnity insurance** and Comprehensive General Liability Insurance **in forms and** in amounts to be set by the department; and

3. In addition to the requirement of (e) below, [it] **the contractor** has signed an agreement developed by the department, protecting trade secret information from unauthorized disclosure. The agreement shall include a provision whereby the contractor assumes liability for any damages to an employer resulting from the intentional or negligent release of trade secret information by the contractor and its employees.

(d)-(g) (No change.)

8:59-3.16 (7:1G-6.16) Penalties for unauthorized disclosure of trade secret information

(a) Any officer or employee of the State, contractor of the State, physician or osteopath, or employee of a county health department, county clerk, or designated county lead agency, local fire department, or local police department, **or any other person** who has access to any confidential information, and who willingly and knowingly discloses the confidential information to any person not authorized to receive it, is guilty of a crime of the third degree.

(b) (No change.)

7:1G-1.2 Definitions

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

...

"Community Right To Know Survey" means the reporting form which combines the chemical inventory reporting requirements of the environmental survey Part I, the Emergency Services Information Survey, and the Superfund Amendments and Reauthorization Act, Section 312.

"Environmental Survey" means a written form, entitled Part I or **the Community Right to Know Survey, and** Part II **or the Release and Pollution Prevention Report**, [as the case may be,] prepared by the Department of Environmental Protection **and Energy** and transmitted to an employer, on which the employer shall provide certain information concerning each of the environmental hazardous substances at the facility, including, but not limited to, the following:

1.-12. (No change.)

13. The total quantity of environmental hazardous substances generated at the facility, including hazardous substances generated as nonproduct output;

14. The quantity of environmental hazardous substances recycled on-site and off-site; and

15. Information pertaining to pollution prevention activities at the facility.

...

"Release and Pollution Prevention Report" means the reporting form which is used to fulfill the environmental release and pollution prevention reporting requirements of the environmental survey, Part II.

7:1G-6.4 General provisions

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

(c) On the [workplace survey] **Right to Know Survey[,] and the** environmental survey [and emergency services information survey] which the employer [is required to send] **sends** to [the] county **and local government agencies** [health department, county clerk, or designated county lead agency; local fire department; and local police department;] and which [it] **the employer** retains on file at the facility[, for employee inspection] **for inspection by an enforcement officer or employees,** the employer shall conceal or omit information claimed to be a trade secret, and shall note on the surveys where information has been claimed to be a trade secret.

(d) Any [workplace survey] **Right to Know Survey[,] or** environmental survey[, and emergency services information survey] shall only be made available to the public with trade secret information concealed **as required in subsection (c) above** indicating pending or approved trade secret [information] **claim** status [as required in subsection (c) above].

(e) All documents containing the information claimed to be a trade secret and supporting information **which are submitted,** shall be submitted to the appropriate department by certified mail return receipt requested, by personal delivery, or by other means which requires verification of receipt, the date of receipt, and the name of the person who receives the document at the department. Such documents concerning the [workplace survey] **Right to Know Survey** or labeling of containers shall be mailed or delivered to:

[Chief, Occupational Health Program]
Manager, Right to Know Program
New Jersey Department of Health
CN 368, Trenton, NJ 08625-**0368**

Such documents concerning the environmental survey [and the emergency services information survey] shall be mailed or delivered to:

[Director, Office of Science and Research]
Chief, Bureau of Hazardous Substances Information
New Jersey Department of Environmental Protection **and Energy**
CN 405, Trenton, NJ 08625-**0405**

(f) The top of each page of any document containing the information for which a trade secret claim is being made **and submitted pursuant to (e) above,** shall display the word "CONFIDENTIAL" in bold type or stamp. If the documents submitted in support of the trade secret claim are to be kept confidential, they shall be similarly stamped.

(g) The outside of the envelope containing the information claimed to be a trade secret and any other envelopes containing information in support of such claim **submitted pursuant to (e) above,** shall display the word "CONFIDENTIAL" in bold type on both sides. This envelope shall be enclosed in a plain envelope addressed for mailing.

(h)-(k) (No change.)

(l) Compliance with this subchapter does not constitute satisfaction of Federal trade secret claim requirements for substances exceeding the Federal reporting thresholds of Title III of the Superfund Amendments and Reauthorization Act.

7:1G-6.5 Prohibited claims

(a) A trade secret claim may not be made to the Department of Environmental Protection **and Energy** for the following information:

1.-2. (No change.)

3. The following information requested on Part I of the environmental survey:

i.-iii. (No change.)

iv. [(Reserved)] **Name and United States Department of Transportation Identification Number of a hazardous material also listed in N.J.A.C. 7:1G-2 where the employer is otherwise required to report emissions of such substances into the air or water or onto the land; and**

v. **The United States Department of Transportation designated Hazard Class of any hazardous material.**

4. (No change.)

[5. The following information requested on the emergency services information survey:
i. Name of the employer;
ii. Location of the facility;
iii. Name and United States Department of Transportation Identification Number of hazardous materials also listed in N.J.A.C. 7:1G-2 where the employer is otherwise required to report emissions of such substances into the air or water onto the land;
iv. The United States Department of Transportation designated Hazard Class of any hazardous material; and
v. (Reserved)]

7:1G-6.6 Procedure for filing [a claim] **trade secret claims and maintaining trade secret information**

(a) An employer who claims that disclosing information on an environmental survey [or emergency services information survey] would reveal a trade secret shall file a trade secret claim with the Department of Environmental Protection **and Energy** [within 90 days of receipt of a survey] **in accordance with (b) below.** [If the trade secret claim has been filed previously, an employer shall submit only new pertinent information affecting the pending or approved trade secret claim.]

[(b) An employer filing a trade secret claim on the environmental survey or emergency services information survey shall submit two sets of either or both surveys, as the case may be, to the department. The first set shall contain all information requested by the department, including any information claimed to be a trade secret. The employer shall clearly indicate on the first set by highlighting, underlining, or otherwise marking any information claimed to be a trade secret. The top of each page of the first set shall display the word "CONFIDENTIAL" in bold type or stamp. The second set, which will go into the public files, shall be identical to the first set except that it shall not contain information which the employer alleges to be a trade secret. In order to provide the public notice that information has been omitted from the second set, under a claim of confidentiality, the second set shall indicate "trade secret claimed" or "TSC" where such omissions have been made.]

(b) The following procedure shall apply to employers claiming trade secret protection on the environmental survey:

1. An employer shall submit two versions of the survey. The first version shall contain all information requested by the department, including any information claimed to be a trade secret. The employer shall clearly indicate on this version, by highlighting, underlining or otherwise marking any information claimed to be a trade secret. The top of each page shall display the word "CONFIDENTIAL" in bold type or stamp.

2. An employer shall submit a second version to the Department which will go into the public files. This version shall be identical to the first version except that it shall not contain information which the employer alleges to be a trade secret. In order to provide public notice that information has been omitted from this version under a claim of confidentiality, the second version shall indicate "trade secret claimed" or "TSC" where such omissions have been made.

3. The surveys shall be accompanied by the summary information in (c) below when the claim is initially submitted. If the trade secret claim has been filed previously, an employer shall submit only new pertinent information affecting the pending or approved claim.

4. The Department may request complete trade secret information from an employer in order to make a determination on the trade secret claim or for public health or medical emergencies. The employer shall submit the information to the Department within 30 days of the request unless emergency circumstances apply, in which case the information shall be submitted within a shorter period of time, as specified by the Department.

(c) An employer shall submit a summary of the following information at the time of submittal of the trade secret claim except as provided in (k) below:

1.-6. (No change.)

7. Whether it is used in the research and development or [fabrication and] production of an article [of trade or service] or of a mixture, when the trade secret claim concerns any formula, plan, pattern, process, production data, information, or compilation of information.

(d) The [department] **Department** may at any time subsequent to the filing of a trade secret claim, request, in writing, the information listed in (d)1 through 5 below. Within 30 days of [receipt of] such [a] **written** request, an employer shall answer the request in writing. The department may extend the period for submitting an answer for good cause shown.

1.-5. (No change.)

(e)-(h) (No change.)

(i) An employer shall update **trade secret** information affecting a pending or approved trade secret claim within 60 days of the employer's knowledge or receipt of new pertinent information.

(j) [At the time an employer receives notification from the department that a determination of a trade secret claim is being considered, this notification shall be posted on bulletin boards readily accessible to employees. Every employer who employs persons whose native language is Spanish shall also post the notice in Spanish, such notice to be provided by the department. The notice shall state for which survey the claim was made and shall invite any person to submit comments on the claim to the department.] **(Reserved)**

(k) (No change.)

(l) Private employers claiming confidentiality for trade secrets for container labeling and public employers claiming confidentiality for labeling or for reporting on Right to Know surveys shall comply with the regulations at N.JA.C. 8:59-3.6.

7:1G-6.10 Request for trade secret information

(a) Any person may submit, at any time, a written request for the disclosure of information for which a trade secret claim is pending or has been approved, to the appropriate department at the address provided in N.J.A.C. 8:59-3.4 (7:1G-6.4). The request shall state the requestor's name, address, and affiliation, and may include information concerning the validity of a pending or approved trade secret claim. The names of employees making requests for trade secret information on a [workplace survey] **Right to Know Survey** or a label shall be kept confidential.

(b) (No change.)

7:1G-6.11 Notification of determination of **the validity of a trade secret** claim

(a) (No change.)

[(b) Within 15 days of receiving an approval of a trade secret claim from the department, an employer shall post on bulletin boards readily accessible to employees a notice of the determination. Every employer who employs persons whose native language is Spanish shall also post the notice in Spanish, such notice to be provided by the department.]

7:1G-6.13 Appeal of determination

(a) (No change.)

(b) [Within 15 days after filing a request for an administrative hearing, an employer shall post on bulletin boards readily accessible to employees a notice of the request. Every employer filing a request shall send a copy of the notice to the county health department, county clerk, or designated county lead agency in which the employer's facility is located. Every employer filing a claim who employs persons whose native language is Spanish shall also post a notice in Spanish. The notice shall state for which survey the request was made and the date of the request, and shall invite any person to submit comments to the department and to provide testimony at the administrative hearing on the trade secret claim.] **(Reserved)**

(c) (No change.)

(d) Within 45 days of receipt of the administrative law judge's initial decision containing a recommendation on a matter referred to in (c) above, the department shall affirm, reject, or modify the recommendation. The department shall inform the employer of its decision on the administrative law judge's recommendation by certified mail return receipt requested. The department's action shall be considered final agency action for purposes of the "Administrative Procedure Act", N.J.S.A. 52:14B-1 **et seq.**, and shall be subject only to [judical] **judicial** review as provided in the Rules of Court.

(e) (No change.)

8:59-3.5 Prohibited claims

(a) A trade secret claim may not be made to the Department of Health for the following information:

1.-2. (No change.)

3. The following information requested on the [workplace survey] **Right to Know Survey**:

i.-ii. (No change.)

8:59-3.6 Procedure for filing [a claim] **trade secret claims and maintaining trade secret information**

(a) [The following procedure shall apply when filing a trade secret claim:] **Reporting shall be done as follows:**

1. [An] **A public** employer who claims that disclosing information on a [workplace survey] **Right to Know Survey** would reveal a trade secret shall [file a trade secret claim with the Department of Health by completing the trade secret section of the workplace survey and submitting the summary information required in (c) below within 90 days of receipt of the survey. If the trade secret claim has been filed previously, an employer shall submit only new pertinent information affecting the pending or approved trade secret claim.

2. An employer who claims that labeling a container at its facility with the chemical name and Chemical Abstracts Service number of the hazardous or other substance in the container would reveal a trade secret, shall file a trade secret claim with the Department of Health by completing the trade secret section of the workplace survey and submitting the summary information required in (c) below within 90 days of receipt of the survey. If the trade secret claim has been filed previously, an employer shall submit only new pertinent information affecting the pending or approved trade secret claim.

3. An employer shall submit a trade secret registry number to the department for substances required to be labeled pursuant to N.J.A.C. 8:59-5 for which a trade secret claim was not made on the workplace survey. Trade secret claims for labeling such substances shall be filed with the Department of Health before employees open the container containing the substance or within five working days of the container's arrival at the employer's facility, whichever is sooner. The summary information required in (c) below shall be submitted within 15 days of submission of the trade secret claim.

(b) An employer filing a trade secret claim shall list all information for which a trade secret claim is being made in the trade secret section of the workplace survey. The employer shall] list a trade secret registry number in place of [information for which a] the trade secret [claim is being made] information in the [section of the survey] **Right to Know Survey** to be distributed to the [fire, police, and county health department, county clerk, or designated county lead agency] **Department and all county and local agencies which are required by law, rule or regulation to receive the survey**. The employer shall derive the registry number by adding a numeral beginning with "5000" at the end of its **New Jersey** Department of Labor employer identification number (EIN) separated by a dash and preceded by the words, "Trade secret registry #". [For example: "Trade secret registry (EIN number)—5000."] **See (b)2 below for examples.** Each new trade secret claim shall be numbered consecutively. [A "P" shall be placed after the registry number for pending trade secret claims.] **A second version of the Right to Know Survey which includes both the trade secret registry number and the trade secret information shall be filed with the Department along with the information required in (c) below, at the time of submission of the first survey.**

2. A public employer may assign trade secret registry numbers to ingredients or products.

(b) Labeling shall be done as follows:

1. An employer who claims that labeling a container at his facility with the chemical name and Chemical Abstracts Service number of the hazardous or other substance in the container would reveal a trade secret, shall file a trade secret claim with the Department of Health by submitting the trade secret information and the summary information required in (c) below, or notify the Department, in writing, that the employer intends to conceal the chemical name and Chemical Abstracts Service number of ingredients on a label for one or more ingredients or products. If a notification is filed, the employer shall file an initial and annual notifications with the Department certifying that the trade secret information required in (b)4 below is being maintained. These notifications shall contain the prefix of the trade secret registry numbers assigned.

2. An employer shall derive the trade secret registry number to use on containers by adding a numeral beginning with "5000" at the end of its New Jersey Department of Labor employer identification number (EIN), separated by a dash, and preceded by the words "Trade Secret Registry #." Each new trade secret registry number shall be numbered consecutively. Examples of acceptable numbers include:

Trade Secret Registry Number 12345600-5000
Trade Secret Registry # 12345600-5000
TSRN 12345600-5000
NJ TSRN 12345600-5000

3. Trade secret registry numbers may be assigned to ingredients or products. If assigned to products, the employer must keep a list of those ingredients in the product which are considered trade secrets. Those ingredients in the product which are not trade secrets must be listed on the label in accordance with N.J.A.C. 8:59.

4. If an employer chooses fo file a notification with the Department pursuant to (b)1 above, he shall maintain the trade secret information on site or at the corporate facility. This information shall include the chemical names and Chemical Abstracts Service numbers of all trade secret ingredients and products and the trade secret registry numbers that the employer has assigned to the ingredients and products.

5. A Right to Know enforcement officer shall be allowed to see the area where the trade secret information is kept and the system which has been established by the employer to maintain the trade secret information, but shall not be allowed to see the trade secrets unless authorized to do so by the employer or this Subchapter.

6. Trade secret numbers shall be affixed to containers in accordance with N.J.A.C. 8:59-3.17.

7. The Department may request complete trade secret information from an employer in order to make a determination on the validity of the trade secret claim or for public health or medical emergencies. The employer shall submit the information to the Department within 30 days of the request unless emergency circumstances apply, in which case the information shall be submitted within a shorter period of time as specified by the Department. Trade secret information submitted to the Department shall include the information required in (c) below.

8. Trade secret information which is currently on file with the Department will be returned to the employer upon request.

(c) An employer shall submit a summary of the following information at the time of submittal of the trade secret claim **except when a notification is filed pursuant to (b) above**:

1.-6. (No change.)

7. Whether it is used in the research and development or [fabrication and] production of an article [of trade or service] or of a mixture, when the trade secret claim concerns any formula, plan, pattern, process, production data, information, or compilation of information.

8. The name(s) and emergency phone number(s) of the employer representative(s) available in case of a public health or medical emergency, who is (are) authorized by the employer to release trade secret information to the Department, or to others under such circumstances.

(d)-(i) (No change.)

(j) At the time [an] **a public** employer receives notification from the department that a determination of a trade secret claim is being considered, this notification shall be posted on bulletin boards readily accessible to employees. Every **public** employer who employs persons whose native language is Spanish shall also post the notice in Spanish, such notice to be provided by the department. The notice shall state for which survey the claim was made and shall invite any person to submit comments on the claim to the department.

8:59-3.11 Notification of determination of **the validity of a trade secret** claim

(a) (No change.)

(b) Within 15 days of receiving an approval of a trade secret claim from the department, [an] **a public** employer shall post on bulletin

boards readily accessible to employees a notice of the determination. Every **public** employer who employs persons whose native language is Spanish shall also post the notice in Spanish, such notice to be provided by the department.

8:59-3.13 Appeal of determination

(a) (No change.)

(b) Within 15 days after filing a request for an administrative hearing, [an] **a public** employer shall post on bulletin boards readily accessible to employees a notice of the request. Every **public** employer filing a request shall send a copy of the notice to the county health department, county clerk, or designated county lead agency in which the employer's facility is located. Every **public** employer filing a claim who employs [employees] **persons** whose native language is Spanish shall also post a notice in Spanish. The notice shall state for which survey the request was made and the date of the request and shall invite any person to submit comments to the department and provide testimony at the administrative hearing on the trade secret claim.

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

8:59-3.17 Labeling

(a) An employer shall affix a label with the trade secret registry number to the container in which a hazardous **or other** substance claimed as a trade secret is held [by March 1, 1985 for substances on the Workplace Hazardous Substance List and by August 29, 1986 for all substances present at the facility] in accordance with the requirements of N.J.A.C. 8:59-5 **or N.J.A.C. 8:59-11, as appropriate. A trade secret claim shall be filed in accordance with N.J.A.C. 8:59-3.6 prior to affixing the label to the container.**

(b) An employer shall affix a label with the trade secret registry number to [the] **a** container **received by an employer** in which a substance claimed as a trade secret is held before employees open the container or within five working days of the container's arrival at the employer's facility, whichever is sooner, and shall file a trade secret claim in accordance with N.J.A.C. 8:59-3.6.

(a)

DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICES

Worker and Community Right to Know Act Rules

Proposed Amendments: N.J.A.C. 8:59-1, 2, 5, 6, 9, 11 and 12

Authorized By: Bruce Siegel, M.D., M.P.H., Commissioner Designate, Department of Health.

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

Proposal Number: PRN 1993-116.

A **public hearing** will be held:
Friday, March 26, 1993
10:00 A.M. to 5:00 P.M.
Department of Personnel
Human Resources Development Institute
600 College Road East
Princeton, N.J. 08540

Persons **who wish to testify** should call Eva McGovern at 609-984-2202.

Submit written comments by March 31, 1993 to:
Richard Willinger, Program Manager
Right to Know Program
Occupational Health Service
New Jersey Department of Health
CN 368
Trenton, NJ 08625-0368
(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 Jaunary 21, 1985, and September 8, 1986, readopted with amendments on September 29, 1989, and further amended on June 17, 1991.

The chapter establishes a comprehensive system for the disclosure and dissemination of information about hazardous substances in the workplace and the environment to public employees, emergency responders, and community residents. The system includes an inventory of hazardous substances on survey forms at the facility sites of public employers, the labeling of all containers at public and private facilities, the education and training of public employees who are exposed or potentially exposed to hazardous substances, and the availability of surveys and Hazardous Substance Fact Sheets to public employees and community residents.

The Act was passed to address the significant incidences of illnesses 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 public workers how to handle substances properly and respond to spills and other emergencies, to inform public workers and residents about the health hazards of hazardous substances in case they are suffering adverse effects from hazardous substances now and to avoid illness in the future, to train emergency responders how to respond to spills and other emergencies, to inform community residents about the health hazards of substances that may be contaminating their environment, and to reduce illnesses and injuries among the population.

The Department continually reviews the rules in order to improve implementation of the law. It is now proposed to further amend the rules to make them less burdensome on regulated public and private employers, while continuing to meet the goals of the Right to Know law to protect the health and safety of public employees, emergency responders and members of the community.

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.

Amendments to the Trade Secret regulations, N.J.A.C. 8:59-3 (N.J.A.C. 7:1G-6), are being proposed jointly with the Department of Environmental Protection and Energy (DEPE) elsewhere in this issue of the New Jersey Register.

In 1987, the U.S. Department of Labor revised its Standard Industrial Classification (SIC) code manual which caused the addition, deletion and changing of some SIC codes. The list of covered employers which precedes the rule is being amended to make the names of all Major Group Numbers, Group Numbers, and Industry Numbers consistent with the new SIC Manual, with N.J.A.C. 8:59-11.3(b), and with DEPE's list of covered SIC codes.

The proposed amendments to N.J.A.C. 8:59 are discussed by subchapter, as follows:

1. N.J.A.C. 8:59-1, General Information

The list of the types of products excluded from the definition of "hazardous substance" is being expanded to include some of the same categories that are also excluded by the OSHA Hazard Communication Standard, such as tobacco or tobacco products; wood or wood products; food, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers; and food, drugs, or cosmetics intended for personal consumption by employees while in the workplace. This change affects both the public and private sectors.

The definition of "research and development laboratory" is being clarified to reflect the current practice of the Departments of Health and Environmental Protection and Energy to exclude pilot plants. Even though they are a type of research and development activity, pilot plants are small-scale replicas of production facilities and contain much larger quantities of hazardous substances than normally found in a research and development laboratory. This change affects both the public and private sectors.

The definition of "technically qualified person" is being expanded to include: (1) persons who have successfully completed a State Department of Health approved instructor training course; (2) persons who have fulfilled the requirements of Firefighter Instructor Level I as certified by the Department of Community Affairs, for purposes of teaching the recruit firefighting training course established by the Department of Community Affairs; and (3) persons who have received provisional or permanent certification pursuant to N.J.A.C. 8:59-12. These changes only affect the public sector.

There are currently two Department approved instructor training courses; one that is given on a monthly basis by the Department of Health in conjunction with the Human Resources Development Institute of the Department of Personnel, and one that is given by Chemical Communications Systems in conjunction with the Management Institute of Rowan College in Glassboro, New Jersey.

2. N.J.A.C. 8:59-2, Right to Know Survey

This subchapter only affects the public sector.

N.J.A.C. 8:59-2.2(a) is being amended to specify the type of information that is required to be reported by public employers on the 1992 Right to Know Survey and subsequent surveys. This information includes the names of hazardous products, U.S. Department of Transportation (USDOT) Number, type of container, percentages of hazardous ingredients in the product, amount of inventory of the product, physical state of the product, number of employees exposed or potentially exposed to the product, Special Health Hazard Codes of the ingredients, and location of large quantities. Large quantities are defined as hazardous products in quantities greater than 100 pounds, gallons, or cubic feet.

3. N.J.A.C. 8:59-3, Trade Secrets

See proposed amendments elsewhere in this issue of the New Jersey Register. This subchapter affects both the public and private sectors.

4. N.J.A.C. 8:59-4, Hazardous Substance Fact Sheets

There is no change proposed for this subchapter which only affects the public sector.

5. N.J.A.C. 8:59-5, Labeling

This subchapter affects both the public and private sectors.

N.J.A.C. 8:59-5.1(d) is being amended to reflect the fact that USDOT Hazardous Material Tables 172.101 and 172.102 have been combined into one table—172.101.

N.J.A.C. 8:59-5.1(l) is being amended to reflect the fact that employees of prisons and jails are entitled to information about the hazardous and non-hazardous ingredients of containers in their facilities.

N.J.A.C. 8:59-5.1(o) is being added to allow retain samples to be labeled by placing a label on the shelf or on the box that contains the retain samples.

N.J.A.C. 8:59-5.1(p) is being added to allow batch samples of certain sizes that are taken to a laboratory for quality control testing and are tested during the batch operation to be labeled by placing a label on the box or other container in which the sample is being held.

N.J.A.C. 8:59-5.1(q) is being added to allow shipping containers that are shipped into or out of a facility and are not direct use containers, to be labeled according to the shipping container requirements of the U.S. Department of Transportation (DOT). Shipping containers no longer have to be in a warehouse, storage or transfer facility to merit this exception to Right to Know labeling, nor do shipping containers need an equivalent DOT name if the container has no DOT label. If DOT regulations do not require a DOT label on a shipping container, that will be acceptable for purposes of Right to Know labeling. Since DOT has extensive regulations for the hazard classification and labeling of shipping containers, the Department believes that the health and safety of public employees and emergency responders will be adequately protected by allowing DOT labeling on shipping containers.

N.J.A.C. 8:59-5.1(r) is being added to encourage employers to use the labeling system developed by the National Paint and Coatings Association called the Hazardous Materials Information System (HMIS). This is a system favored by firefighters because it contains an easily understood hazard warning. In conjunction with chemical ingredient identification required under the Right to Know law, an emergency responder will have all necessary information. The NFPA 704 system developed by the National Fire Protection Association (NFPA) is not as complete as HMIS because it uses a diamond with four quadrants that are not always identified, and it does not take into account chronic health hazards in its health hazard warning. If the NFPA triangle is modified to identify the hazard categories contained in the quadrants, and includes chronic health effects in the health hazard warning, it would be as beneficial as HMIS.

N.J.A.C. 8:59-5.3 is being expanded. The existing paragraph will become N.J.A.C. 8:59-5.3(a), which is being amended to clarify that if a Chemical Abstracts Service number does not exist for a substance, a CAS number does not have to be included on a Right to Know label. A new subsection (b) is being added to allow Research and Development laboratories (R & D Labs) to use the labeling required by the Occupational Safety and Health Administration (OSHA) Laboratory Standard in lieu of New Jersey Right to Know labeling or alternative labeling, with two modifications. These modifications require containers that are filled from incoming containers to be labeled with the same hazard warning and chemical identification information as is present on the incoming container, and require New Jersey Right to Know labeling on containers that are larger than five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters). A clarification is made in both sections that R & D Labs must apply for R & D status pursuant to new subsection (c) and must receive approval of R & D status from the Department.

The amendments about retain samples, batch samples, and the OSHA Laboratory Standard were formulated by a task force set up by the Right to Know Advisory Council, and was comprised of representatives of covered industries and universities, the Research and Development Council of New Jersey, public interest groups, and labor unions. The container size specified in N.J.A.C. 8:59-5.3(b) was increased by the Department from two kilograms to 2.3 kilograms, and 0.5 gallons was added, to be consistent with amendments to N.J.A.C. 8:59-5.6.

N.J.A.C. 8:59-5.3(c) is being added to set forth the procedure used by the Departments of Health and Environmental Protection and Energy for making the determination that a covered employer's facility (or part of the facility) meets the definition of a Research and Development Laboratory. Research and Development Laboratories are entitled to use alternative labeling in the Research and Development Laboratory and do not have to file a survey for the Research and Development Laboratory part of the facility.

N.J.A.C. 8:59-5.5(a) is being amended to include the correct citation for the Federal Insecticide, Fungicide and Rodenticide Act.

N.J.A.C. 8:59-5.5(b) is being amended to reflect the fact that the USDOT has combined Hazardous Materials Tables 172.101 and 172.102 into one table—171.101.

N.J.A.C. 8:59-5.5(d) is being amended to track the language of the OSHA Hazard Communication Standard to exempt from Right to Know labeling any food, food additive, color additive, drug, cosmetic, or medical or veterinary device, including materials intended for use as ingredients in such products (for example, flavors and fragrances), when they are subject to the labeling requirements of that Act. At the present time, FDCA labeling is only allowed in limited circumstances. This amendment will expand the exception to cover all FDCA labeled containers.

N.J.A.C. 8:59-5.5(j) is being added to make it clear that distilled spirits, wine and malt beverages intended for nonindustrial use which are regulated by the Federal Alcohol Administration Act, are exempt from Right to Know labeling. The language of the OSHA Hazard Communication Standard is used.

The definition of "hazardous substance" is being amended in N.J.A.C. 8:59-5.6(a) to expand the categories of products that are excluded from Right to Know labeling to include some of the same categories that are covered by the OSHA Hazard Communication Standard, such as tobacco or tobacco products; wood or wood products; food, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers; and food, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

N.J.A.C. 8:59-5.6(a)4 is being amended to provide an exclusion for labeling of consumer products below a certain size. A threshold that is identical to the one being set in N.J.A.C. 8:59-5.6(g) for non-consumer products, is being set—five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters)—at or below which consumer products are totally exempted from Right to Know labeling.

While Right to Know labeling will not be required for consumer products below this threshold, if the product is used by a public employee more often than a consumer would use them, any hazardous substances in the product would still need to be reported by a public employer on the Right to Know Survey, Material Safety Data Sheets and Hazardous Substance Fact Sheets would still need to be maintained in the Right to Know Central File, and public employees would still need to be trained about these hazardous chemicals.

Right to Know labeling will be required for consumer products that are greater than the threshold of five pounds and 0.5 gallons for both public and private employers if the product is used by the employee more often than a consumer would use it, or is present in more than a normal consumer quantity. A normal consumer quantity is defined as less than a case, so the product must be present in a case or more.

Many employers have questioned whether certain solid articles meet the definition in N.J.A.C. 8:59-5.6(a)1 which excludes them from labeling. A new subsection, (d), is being added to specify products which the Department considers to be solid articles which meet the definition in subsection (a) and are excluded from labeling. These products include ammunition, bars of soap, chalk, pastels, flashlight batteries, glue sticks, grinding wheels, pens, pills and capsules, photocopier toners and de-

velopers in self-contained cartridges, polaroid film, sorbent sample tubes, and themometers. Among the solid articles are products which contain some amount of liquid or powder which, by the design and use of the article, are not released by the product and do not cause exposure to workers and emergency responders.

A new subsection is being added at N.J.A.C. 8:59-5.6(e) to specify those products which the Department considers to be consumer products which meet the definition in paragraph (a)4 and are excluded from labeling. Typewriter correction fluid falls into this category. Hopefully, this will correct a misinterpretation that has persisted for many years about whether typewriter correction fluid is covered by the law. It is not covered.

Employers may write to the Department of Health (Attention: Right to Know Program) at CN 368, Trenton, NJ 08625-0368, to request a letter determination as to whether their product fits within the "solid article" or "consumer product" labeling exclusion. Letter interpretations have been developed for arts and crafts materials for the Art and Craft Materials Institute, and for printing inks for the National Association of Printing Ink Manufacturers, among others. Letters about specific products are available upon request.

N.J.A.C. 8:59-5.6(f) is being added to exclude offices from the Right to Know labeling requirement. Small containers of office supplies in offices present little or no health or safety hazard and the effort to label them outweighs the benefits. However, a distinction is made between offices and rooms in an office building which contain hazardous chemicals, such as storage rooms where cleaning and maintenance supplies are kept, and print shops. Containers in these rooms would still have to be labeled.

N.J.A.C. 8:59-5.6(g) is being added to set a threshold for the labeling of all containers. Private employers have claimed that they should not have to label small containers because emergency responders are not interested in small quantities of hazardous substances. The Department agrees that small quantities of hazardous substances are not as important to emergency responders as large quantities, and that a threshold should be set. However, this threshold will not apply to substances which appear on the Special Health Hazard Substance List, N.J.A.C. 8:59-10. The Department may set lower thresholds, either individually or generically, for these substances.

The labeling threshold applies to public employers as well as private employers. However, there is no OSHA Hazard Communication Standard to protect public employees from the hazards of hazardous substances below this threshold, as there is in the private sector. Therefore, public employers who choose not to label containers with Right to Know labeling below this threshold must instead comply with the labeling requirements of the OSHA Hazard Communication Standard, 29 CFR 1910.1200, for containers below the threshold. Public employers must realize that this threshold only applies to labeling; all hazardous substances in products below the threshold must still be reported on the Right to Know Survey, Material Safety Data Sheets and Hazardous Substance Fact Sheets must still be maintained in the Right to Know Central File for these chemicals, and public employees must still be trained about these chemicals.

In N.J.A.C. 8:59-5.6(h), public employers have the choice of continuing to label containers according to the Right to Know Act rather than shifting over to the OSHA Hazard Communication Standard for small containers. All containers **larger** than the threshold must still be labeled according to the Right to Know Act.

The threshold is being applied to both the public and private sectors to maintain consistency among covered employers. However, since the focus in the public sector remains on the protection of the employee and employees work closely with hazardous chemicals resulting in exposure greater than to an emergency responder, public employers will be required to implement the labeling provisions of the Hazard Communication Standard if they choose the threshold option, in order to provide health and safety protection for public employees.

The threshold being proposed is five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) for individual containers, and 120 pounds (54.4 kilograms) or 12 gallons (45.4 liters) for the same product at a single location. The higher number reflects a quantity 24 times that of the lower number because many products are sold in quantities of six or twelve to a shipping case. Five pounds was chosen because it was the number proposed by the New Jersey Business and Industry Association in their testimony at the Annual Right to Know Public Hearing in March 1991.

A "single location" is defined to include both indoor and outdoor areas. Indoors, a single location would be a room, however, the room could be as small as a storage room or as large as a warehouse. Outdoors, a single location would be an area that is physically separate from other areas.

This amendment to the rules should significantly reduce the number of containers requiring labeling and consequently reduce the cost of private and public employers to comply with law.

N.J.A.C. 8:59-5.7(b) has been divided into three paragraphs concerning individual substance names, synonyms and generic names. Paragraph (b)3 has been clarified to explain that the generic names "Fuel Oil" and "Petroleum Oil" can be used on labels without CAS numbers since they do not have CAS numbers. Since diesel fuel and heating oil are reported on the Right to Know Survey as "Fuel Oil," they should also be labeled as "Fuel Oil." This does not mean that the phrases diesel fuel and heating oil should be taken off the label, only that "Fuel Oil" should be added.

6. N.J.A.C. 8:59-6, Education and Training Program

This subchapter only affects the public sector.

N.J.A.C. 8:59-6.2(a) is being amended to reflect the fact that the Department had given an extension for the training of volunteer firefighters to October 1, 1990, to be identical with that of other volunteers.

In light of the fact that it is difficult for a public employer to train volunteers within 30 days, especially volunteer firefighters, N.J.A.C. 8:59-6.2(b) is being amended to give public employers up to six months to provide an initial Right to Know education and training program for new volunteers. The suggestion for this amendment came form the Bureau of Fire Safety, Department of Community Affairs. It is recommended, however, that volunteer firefighters receive their training about hazardous substances prior to being involved in fire suppression activities involving hazardous chemicals.

N.J.A.C. 8:59-6.3(b) is being amended to add a requirement that a public employer must explain to employees the requirements for labeling and other forms of warning required by the OSHA Hazard Communication Standard if the public employer chooses to use HazCom Standard labeling for containers that are less than the threshold quantity set forth in N.J.A.C. 8:59-5.6(g).

The reference to a fact sheet about the hazards of photocopiers is being deleted from N.J.A.C. 8:59-6.3(f) because this fact sheet is not available.

A new subsection, (g), is being added to N.J.A.C. 8:59-6.3 to specify the required contents of the annual Right to Know education and training program. Annual training should include a review of the current provisions of the Right to Know Act, any regulatory changes, OSHA Hazard Communication Standard labeling if the public employer chooses to use it, chemical specific training for all new hazardous products as well as existing commonly used hazardous products, and a walkthrough of the facility to identify the location of new hazardous products. Hands-on training with personal protective equipment is not required if performed during initial training.

N.J.A.C. 8:59-6.4, which was reserved, is now being used to list the documentation that must be maintained by a public employer for its initial and annual education and training programs. The section also specifies that certain documentation must be maintained for the duration of an employee's employment, and that for the rest of the documentation, once a Right to Know inspector conducts an inspection and reviews and approves the training programs, it can be disposed of except for documentation of the current year's program.

N.J.A.C. 8:59-6.6, has been added to explain the relationship between the training requirements of the Hazardous Waste Operations and Emergency Response Standard, 29 CFR 1910.120(q), adopted under the Public Employees Occupational Safety and Health Act (PEOSHA), and the training requirements of the Worker and Community Right to Know Act. The New Jersey State Police, Office of Emergency Management, through committee, has developed two training courses to meet the requirements of 29 CFR 1910.120(q)—the New Jersey Hazmat Emergency Response Course-Awareness, and New Jersey Hazmat Emergency Response Course-Operational. The Department of Health has worked with the State Police to incorporate Right to Know information into these two courses and will allow these courses to substitute for Right to Know training if the Operational Course Manual dated May 10, 1990, or later, is used.

Other organizations have developed, or will be developing, Awareness and Operational training courses. The Department of Health will allow them to be used for Right to Know training compliance only after the Department has reviewed them and approved the sections of the course

that pertain to the information required to be taught under the Right to Know law.

In addition, there may be some hazardous materials kept around the firehouse. Many of them may fit within the solid article or consumer product exclusion of the Act and are excluded from training. If there are any hazardous products which do not fit within these exclusions, firefighters must receive training about them. Training about the use of personal protective equipment must also be given to the firefighters. If this has been done in another course, it does not have to be repeated. It needs to be emphasized that the Right to Know Act does not require double training.

Documentation of the qualifications of the Awareness and Operational course trainers needs to be obtained, and a roster of attendance needs to be maintained. During annual training, which can be combined with the annual refresher training required by 29 CFR 1910.120(q), the Right to Know brochure must be distributed. However, meeting the "demonstrated competency" requirement of 29 CFR 1910.120(q) cannot be substituted for Right to Know annual training.

The training requirements of police officers, which are different from firefighters, are explained in N.J.A.C. 8:59-6.6(c). Not all police officers need to receive Right to Know training, even though they may need to receive training under 29 CFR 1910.120(q). Only those police officers involved in activities which expose or potentially expose them to hazardous substances need to receive Right to Know training. Examples of this include officers who work with photographic chemicals and who give breathalyzer tests. In the example of breathalyzer tests, since there is only one chemical involved, training can be in the abbreviated form described in N.J.A.C. 8:59-6.3(f). This involves having a supervisor in the department review the Material Safety Data Sheet and Hazardous Substance Fact Sheet on the chemical with the officer, answer questions, and provide him or her with a copy of the Right to Know brochure. In addition, the new rule clarifies that ammunition is excluded from training because it is considered a solid article.

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

This subchapter, which is not being changed, only affects the public sector.

8. N.J.A.C. 8:59-8, Enforcement

This subchapter, which is not being changed, affects both the public and private sectors.

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

This subchapter affects both the public and private sectors.

N.J.A.C. 8:59-9.3(b) is being amended to reflect the fact that many of the sources from which the List's hazardous substances come, have been updated or otherwise modified, such as:

The OSHA Subpart Z list of Toxic and Hazardous Substances has been updated.

The ACGIH TLV booklet of chemical substances has been updated.

The USDOT's Hazardous Materials Tables 172.101 and 172.102 have been combined into one table—172.101.

The NIOSH list of occupational health standards has been updated.

The NTP list of carcinogens has been updated.

The NJDEPE Environmental Hazardous Substance List has been updated.

The older IARC Supplement is being deleted, leaving the most recent Supplement.

The Carcinogen Assessment Group's name has been changed to Human Health Assessment Group and its list of carcinogens is now contained on the Integrated Risk Information System (IRIS) database.

USEPA's list of restricted use pesticides has been updated.

USDOT's Emergency Response Guidebook has been updated.

USEPA's SARA-Title III Section 313 list of toxic chemicals has been updated.

USEPA's SARA-Title III list of Extremely Hazardous Substances has been updated.

USEPA's CERCLA list of hazardous substances has been updated.

USEPA's RCRA list of hazardous waste has been updated.

10. N.J.A.C. 8:59-10, Special Health Hazard Substance List

This subchapter, which is not changed, affects both the public and private sectors.

11. N.J.A.C. 8:59-11, Community Right to Know; Labeling, Private Employers

This subchapter only affects the private sector.

N.J.A.C. 8:59-11.1 is amended to add the full citation to the case of *New Jersey Chamber of Commerce v. Hughey.*

N.J.A.C. 8:59-11.3(b) is amended to clarify that the definition of "employer" includes owner/operators of the businesses covered by the listed Standard Industrial Classification (SIC) codes. It is not necessary for a business to have employees to be covered by the Right to Know law.

In 1987, the U.S. Department of Labor revised its Standard Industrial Classification (SIC) code manual which caused the addition, deletion and changing of some SIC codes. N.J.A.C. 8:59-11.3(b) is being amended to make the names of all Major Group Numbers, Group Numbers, and Industry Numbers consistent with the new SIC Manual, and to make DOH's list of covered SIC codes consistent with DEPE's list.

While there is no change proposed to N.J.A.C. 8:59-11.6, the Department would like to call attention to the extensive labeling requirements in chapter 5, which directly affect the requirements of private employees to label containers.

12. N.J.A.C. 8:59-12, Certification of Consultants and Consulting Agencies

This subchapter only affects the public sector.

N.J.A.C. 8:59-12.1(g) is being amended to require consultants and consulting agencies to inform the Department every month of upcoming Right to Know education and training programs, rather than every two months, because some consultants have complained that it is not possible in many cases to know of upcoming training sessions two months in advance. It also requires them to provide the Department with at least a week's notice before the date of the first training program listed in the notification.

Throughout this subchapter, the phrase "permanent certification" is being replaced by the word "certification."

N.J.A.C. 8:59-12.3(b) is being amended to state that if certification has not been granted after a two year period, a consultant need not renew his or her provisional certification.

N.J.A.C. 8:59-12.4(c) is being added to limit certification of consultants to two years. At the end of two years, the consultant must apply for renewal of the certification and pay the fee specified in N.J.A.C. 8:59-12.9.

N.J.A.C. 8:59-12.6(c) is being amended to state that if certification has not been granted after a two year period, a consulting agency need not renew its provisional certification.

N.J.A.C. 8:59-12.7(c) is being added to limit certification of consulting agencies to two years. At the end of two years, the consulting agency must apply for renewal of the permanent certification and pay the fee specified in N.J.A.C. 8:59-12.9.

N.J.A.C. 8:59-12.11(c) is being added to address the situation of how and when consultants may reapply for certification after their provisional certification has been revoked. Consultants may not reapply for certification until six months have elapsed after revocation, must present documentation that they have taken appropriate courses to develop knowledge in the areas that they were found to be deficient, and, upon receiving probationary provisional certification, must conduct training programs under the supervision of the Department.

N.J.A.C. 8:59-12.11(d) is being added to address the situation of how and when consulting agencies may reapply for certification after their provisional certification or certification has been revoked. Consulting agencies may not reapply for certification until six months have elapsed after revocation, must present documentation that its consultant trainers have taken appropriate courses to develop knowledge in the areas that they were found to be deficient, and, upon receiving probationary provisional certification, its consultant trainers must conduct training programs under the supervision of the Department.

Social Impact

The rules are being modified in many areas to make it easier and less costly for both public and private employers to comply with the Worker and Community Right to Know Act. The basic purpose of the Right to Know Act to protect the health and safety of public employees, emergency responders, and members of the community will not be adversely affected by these changes, and will be improved by the information required to be reported on the survey for use by emergency responders.

In the area of education and training for public employees, a wider range of people is being allowed to give the training program. More guidance is being provided to employers about the required contents of the annual training program. The documentation required to be maintained by a public employer is set forth in a comprehensive list, rather than being spread out throughout the rules, and is not being expanded.

In regard to the Right to Know Survey, the types of information required to be reported are set forth. This will make the hazardous chemical inventory information reported on the survey more useful to emergency responders.

In the area of labeling, a modified labeling scheme for retain and batch samples is being allowed, the labeling exemption for products covered by the federal Food, Drug and Cosmetic Act is being expanded to cover all such products, and specific solid articles that are excluded from labeling are listed.

Other major labeling changes include exempting offices in administrative buildings from labeling, allowing shipping containers that are not direct use containers to be labeled pursuant to USDOT, and setting a threshold for labeling small containers and consumer products. Employers are also encouraged to implement the Hazardous Materials Information System (HMIS) or a modified National Fire Protection Association (NFPA) 704 labeling system to benefit emergency responders and complement Right to Know labeling. These changes more closely focus labeling requirements to the needs of emergency responders in the private sector and will reduce the cost of comlying with the law for both public and private employers without sacrificing health and safety.

The procedure that is currently used to grant research and development laboratory exemptions is set forth in the rules for the first time, and R & D Laboratories are allowed to comply with the labeling requirements of the OSHA Laboratory Standard instead of Right to Know labeling. Again, costs will be reduced without any loss in health and safety protection.

Finally, certain modifications are made to the rules regulating consultants and consulting agencies which provide education and training for public employees in regard to when a certification must be renewed and what procedure will be followed when a certification is revoked or suspended. These measures will help ensure the quality of the education and training provided to public employees.

Economic Impact

All of the amendments being proposed will substantially reduce the economic impact on the public and private employers who constitute the regulated public. The lower threshold requirements should prove to be a benefit.

The amendments to the definitions of a technically qualified person provide an alternative which may be less costly to public employers.

The number of containers required to be labeled will be reduced, eliminating costs such as printing. No supplemental labels are required. More specific reporting requirements added at N.J.A.C. 8:59-2.2(a)4, 5, and 6 may increase the time required to complete the report, which could increase costs. The addition of subsections (o), (p) and (q) to N.J.A.C. 8:59-5.1 regarding the labeling of retains, batch samples and containers not in direct use are expected to decrease costs. The changes to N.J.A.C. 8:59-5.3 will decrease costs for research and development labs. Changes made at N.J.A.C. 8:59-5.5(d) and (j) will provide exemptions for certain products labeled under Food and Drug Administration or Bureau of Alcohol, Tobacco and Firearms laws and regulations. Amendments to N.J.A.C. 8:59-5.6(a)4 establish thresholds at a level which should provide an economic benefit to the regulated groups. The amendment to N.J.A.C. 8:59-5.7(b) may decrease costs in labeling, since one term, "Fuel Oil," can be used for both diesel fuel and heating oil.

The amendment to N.J.A.C. 8:59-6.6 will make it easier for firefighters to comply with the requirements, since they will now be able to take the State Police course. The amendment to subsection (c) will not cause costs to be incurred, since few police personnel will be required to take the course.

The consequence of the amendments to N.J.A.C. 8:59-9.3(b) is that those chemicals designated as hazards cannot be claimed as a trade secret. The economic effect of this change in status cannot be specifically determined, but it may be negative.

The requirements at N.J.A.C. 8:59-11.3(b) could increase costs, if any member of the regulated public had previously misinterpreted list changes.

The amendments to N.J.A.C. 8:59-12.1(g) may increase costs to consultants, since reports will now have to be filed every month, and notification of training must now be submitted at least one week in advance of the first training session in that month. Costs to consultants of suspension or revocation will equal at least six months' loss of revenue, in accordance with the new requirements at N.J.A.C. 8:59-12.11(c).

Costs decreased by deleting the requirement for renewal of a provisional license, at N.J.A.C. 8:59-12.3(b) are balanced by an increase in costs caused by the requirement to renew which has been added at N.J.A.C. 8:59-12.4(c). Costs for training would increase.

The redefinition of research and development to exclude pilot plants could increase costs, as the pilot plants would be subject to more stringent requirements.

Regulatory Flexibility Analysis

The amendments and their cost-related impacts delineated in the Summary and the Economic Impact above, respectively, affect public and private employers whose business involves those industries specified at N.J.A.C. 8:59. Some of the private employers affected may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Consultants are often small businesses, and consultants will incur more costs for training and application. However, most of the amendments will prove beneficial to small businesses. Therefore, no differentiation in requirements or exemptions are provided based on business size.

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

The following is a complete listing of employer groups who are currently covered by the Right to Know law:

SIC	Description
	AGRICULTURAL SERVICES
0782	Lawn and garden services
20	FOOD AND KINDRED PRODUCTS (ENTIRE GROUP)
21	TOBACCO [MANUFACTURING] **PRODUCTS** (ENTIRE GROUP)
22	TEXTILE MILL PRODUCTS (ENTIRE GROUP)
23	APPAREL AND OTHER TEXTILE PRODUCTS (ENTIRE GROUP)
24	LUMBER AND WOOD PRODUCTS (ENTIRE GROUP)
25	FURNITURE AND FIXTURES (ENTIRE GROUP)
26	PAPER AND ALLIED PRODUCTS (ENTIRE GROUP)
27	PRINTING AND PUBLISHING (ENTIRE GROUP)
28	CHEMICALS AND ALLIED PRODUCTS (ENTIRE GROUP)
29	PETROLEUM AND COAL PRODUCTS (ENTIRE GROUP)
30	RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS (ENTIRE GROUP)
31	LEATHER AND LEATHER PRODUCTS (ENTIRE GROUP)
32	STONE, CLAY AND GLASS PRODUCTS (ENTIRE GROUP)
33	PRIMARY METAL INDUSTRIES (ENTIRE GROUP)
34	FABRICATED METAL PRODUCTS (ENTIRE GROUP)
35	**INDUSTRIAL** MACHINERY [EXCEPT ELECTRICAL] **AND EQUIPMENT** (ENTIRE GROUP)
36	[ELECTRICAL AND ELECTRONIC EQUIPMENT] **ELECTRONIC AND OTHER ELECTRIC EQUIPMENT** (ENTIRE GROUP)
37	TRANSPORTATION EQUIPMENT (ENTIRE GROUP)
38	INSTRUMENTS AND RELATED PRODUCTS (ENTIRE GROUP)
39	MISCELLANEOUS MANUFACTURING INDUSTRIES (ENTIRE GROUP)

	TRANSPORTATION BY AIR
4512	Air transportation, scheduled
4513	**Air courier services**
[4582]**4581**	Airports [and], flying fields, **and airport terminal services**
[4583	Airport terminal services]
46	PIPELINES, EXCEPT NATURAL GAS (ENTIRE GROUP)
	TRANSPORTATION SERVICES
[4742]**4741**	Rental of railroad cars [with care of lading]
[4743	Rental of railroad cars without care of lading]
[4782	Inspection and weighing services connected with transportation]
4783	Packing and crating
[4784]**4785**	Fixed facilities **and inspection and weighing services** for [handling] motor vehicle transportation[, not elsewhere classified]
4789	[Services incidental to transportation] **Transportation services**, not elsewhere classified
	COMMUNICATION
4812	**Radiotelephone communications**
[4811]**4813**	Telephone [communication] **communications**, [(wire or radio)] **except radiotelephone**
[4821]**4822**	Telegraph [communication (wire or radio)] **and other message communications**
49	ELECTRIC, GAS, AND SANITARY SERVICES (ENTIRE GROUP)
	WHOLESALE TRADE—DURABLE GOODS
5085	Industrial supplies
5087	Service establishment equipment and supplies
5093	Scrap and waste materials
	WHOLESALE TRADE—NONDURABLE GOODS
5122	Drugs, drug proprietaries, and druggists' sundries
5162	**Plastics materials and basic forms and shapes**
[5161]**5169**	Chemicals and allied products, **not elsewhere classified**
5171	Petroleum bulk stations and terminals
5172	Petroleum and petroleum products wholesalers, except bulk stations and terminals
5181	Beer and ale
5182	Wines and distilled alcoholic beverages
5191	Farm supplies
5193	**Flowers, nursery stock, and florists' supplies**
5194	Tobacco and tobacco products
5198	Paints, varnishes, and supplies
5199	Nondurable goods, not elsewhere classified
	AUTOMOBILE DEALERS AND GASOLINE SERVICE STATIONS
5511	Motor vehicle dealers (new and used)
5521	Motor vehicle dealers (used only)
5541	Gasoline service stations
	PERSONAL SERVICES
7216	Dry cleaning plants, except rug cleaning
7217	Carpet and upholstery cleaning
7218	Industrial launderers
	AUTOMOTIVE REPAIR, SERVICES, AND GARAGES
[7531]**7532**	Top, [and] body [repair shops] , **and upholstery repair shops and paint shops**
7533	**Automotive exhaust system repair shops**
7534	Tire retreading and repair shops
[7535	Paint shops]
7536	**Automotive glass replacement shops**
7537	**Automotive transmission repair shops**
7538	General automotive repair shops
7539	Automotive repair shops, not elsewhere classified
	MISCELLANEOUS REPAIR SERVICES
7692	Welding repair
	HEALTH SERVICES
8062	General medical and surgical hospitals
8063	Psychiatric hospitals
8069	Specialty hospitals, except psychiatric
	EDUCATIONAL SERVICES
8211	Elementary and secondary schools
8221	Colleges, universities, and professional schools
8222	Junior colleges and technical institutes
8249	Vocational schools, [except vocational high schools,] not elsewhere classified
	ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED SERVICES
8734	Testing [Laboratories] **laboratories**

8:59-1.3 Definitions

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

...

"Hazardous substance" means any substance, or substance contained in a mixture, included on the 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.-3. (No change.)

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 a public or private 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[.];

6. Tobacco or tobacco products;

7. Wood or wood products;

8. Foods, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers; or

9. Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

...

"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 **or pilot plant activities**, 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.

...

"Technically qualified person" means

[a] **1.** 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 a]

2. A person who 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 30 hour requirement may be met by the combination of one or more hazardous materials training courses[.];

3. For training purposes, a person who has successfully completed a Department of Health approved instructor training course;

4. For purposes of teaching the recruit firefighting training course established by the Department of Community Affairs, a person who has fulfilled the requirements of Firefighter Instructor Level I as certified by the Department of Community Affairs; or

5. A person who has received certification pursuant to N.J.A.C. 8:59-12.

...

8:59-2.2 Completion of Right to Know Survey

(a) A public employer shall report the hazardous substances which are present at its facility on the Right to Know Survey [in alphabetical order on each page of the survey.] **as follows:**

1. 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 Right to Know Hazardous Substance List.

2. Hazardous substances which are special health hazard substances shall be reported on the Right to Know Survey in accordance with N.J.A.C. 8:59-10.1(b).

3. Hazardous substances other than special health hazard substances which are included in a mixture shall be reported on the 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.

4. The name of the product in which the hazardous substance is contained shall be reported on the Right to Know Survey in alphabetical order. For each product, the type of container, greatest amount of the product in the prior 12 months (inventory), physical state of the product (unit), number of employees exposed or potentially exposed to the product, and the exact location of the product on site, shall be reported.

5. The name of the hazardous ingredients of a product shall be listed in alphabetical order underneath the product name. For each ingredient, the New Jersey Right to Know Hazardous Substance List Substance Number, Chemical Abstracts Service number (CAS), United States Department of Transportation Hazardous Materials Identification Number (DOT No.), percentage of the hazardous ingredients in the product (mixture), and the Special Health Hazard Codes of the ingredients, shall be reported.

6. The Right to Know Survey inventory pages shall be divided into large quantities of hazardous products at single locations and all other products, to be called small quantities. Large quantity is defined as a product present in a quantity greater than 100 pounds, gallons or cubic feet (inventory range codes 12 through 20). The Department shall have the discretion not to require the reporting of location of product for small quantities.

(b)-(i) (No change.)

8:59-5.1 General provisions

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

(d) Labels shall be affixed to containers before containers are opened or within five working days of the container's arrival at the facility, whichever is sooner. No employer may use the contents of a container unless that container is appropriately labeled. 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] **Part** 172.101 [and 172.102] requirements, may be used.

(e)-(k) (No change.)

(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 **and other** substances **in containers that** they are entitled to under the Act, although in a modified manner.

(m)-(n) (No change.)

(o) Retains are samples of product that are stored by an employer for quality control and historical purposes. In the area, such as a room, cabinet, or shelves, where retains are stored, the labeling information required by this subchapter may be placed on a shelf or on a box that contains one or more retain samples. Retains that are removed from the storage area shall be labeled with the same labeling information that appears on the box or shelf.

(p) Batch samples are samples of product that are taken to a laboratory for quality control testing, that are one gallon (3.8 liters) or smaller for non-hazardous materials and one pint (473 milliliters) or smaller for hazardous materials, and that are tested during the batch operation. Batch samples may be labeled according to this subchapter by means of a label on a box or other container in which the sample is being held. Any samples that are removed from the laboratory shall contain labeling information as required by this subchapter.

(q) Containers in which products are shipped into or out of a facility that are not direct use containers may be labeled pursuant to the requirements of the United States Department of Transportation (USDOT) for hazardous materials being shipped. This requirement would require product or chemical name and hazard classification on the label if the product is hazardous and meets a minimum threshold. If USDOT regulations do not require a name or hazard classification on the shipping container, then none shall be required under this subchapter.

(r) Employers are encouraged to use the labeling system developed by the National Paint and Coatings Association called the Hazardous Materials Information System (HMIS) for containers that are 55 gallons or larger, in conjunction with Right to Know labeling. This system supplements Right to Know chemical identities with hazard warning information on a scale from 0 to 4 on health, flammability and reactivity, in an easy to understand manner. The National Fire Protection Association (NFPA) 704 system would also be acceptable in conjunction with Right to Know labeling, if the employer labeled the different quadrants of the triangle with the type of hazard contained therein and included chronic health effects in the hazard warning for health effects.

8:59-5.3 Research and development laboratories

(a) Alternative labeling system requirements follow:

[Employers] **1. Instead of labeling pursuant to this subchapter, employers who follow the procedure in (c) below and are approved by the Department as a research and development laboratory** may label containers in [a] **the** research and development laboratory by means of a code or number system[,]. [if the] **The** code or number system [will] **must** enable a public employee or emergency responder to readily make a cross reference to a hazardous substance fact sheet or documentary material retained on file by the employer at the facility which will provide the public employee or emergency responder 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, **if it exists,** or the trade secret registry number assigned to the substance.

2. The code or number system shall be designed to allow the public employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the substances in the container, shall be designed to allow the public employee access to this information without the permission or assistance of management, and shall be available to the public employee at close proximity to his or her specific job location or locations.

(b) OSHA Laboratory Standard requirements follow:

1. Instead of labeling pursuant to this subchapter or (a) above, employers who follow the procedure in (c) below and are approved by the Department as a research and development laboratory, may label containers that are five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) or smaller in a research and development laboratory in accordance with the Occupational Safety and Health Standard adopted by the United States Occupational Safety and Health Administration (OSHA) entitled "Occupational Exposure to Hazardous Chemicals in Laboratories" (Laboratory Standard), 29 CFR Part 1910, Section 1450 (1910.1450), promulgated on January 31, 1990, at 55 FR 3300.

2. Public employees shall have free and ready access at all times to the chemical name and Chemical Abstracts Service number of the substances in the containers through alternative information sources, shall have access to this information without the permission or assistance of management, and shall have this information available at close proximity to his or her specific job location or locations.

3. All other requirements of the Laboratory Standard shall also be complied with by the public employer, including the chemical hygiene plan, information and training, and hazard identification. Such training shall be given to all public employees exposed or potentially exposed to hazardous chemicals in the research and

development laboratory, including maintenance personnel and persons washing laboratory equipment.

4. A container that is filled from an incoming container shall be labeled with the same hazard warning and chemical identification information as is present on the incoming container.

5. Containers that are larger than five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) shall be labeled with the universal labeling information required by this subchapter.

(c) An employer that wishes to obtain a research and development laboratory exemption shall comply with the following procedure:

1. For public employers, the employer shall submit to the Department of Health a completed research and development laboratory exemption application on forms approved by the Department.

2. For private employers, the employer shall submit to the Department of Environmental Protection and Energy (DEPE) a completed research and development laboratory exemption application on forms approved by DEPE.

3. The application forms required in (c)1 and 2 above shall contain the following information:

i. The name and address of the employer and facility (if different), location of the facility, and New Jersey Employer Identification Number of the emoloyer;

ii. An 8½ × 11 inch map of the facility indicating the designated research and development area(s) of the facility. The map should indicate if research and development activities are limited to specific locations within the facility or if the entire facility is dedicated to research and development activities;

iii. The percentage of total work hours devoted to research and development activities in the designated area(s);

iv. Written verification from the local fire department stating that an acceptable communications program has been established with them to assist them in responding to emergencies at the research and development laboratory;

v. A description of the technical qualifications of each supervisor of the research and development laboratory area(s); and

vi. A signed certification that the information contained in the research and development laboratory exemption application is true, accurate and complete.

4. Upon receipt of a completed research and development laboratory exemption application, the Department of Health and Department of Environmental Protection and Energy shall jointly make a determination to grant or deny the application. A letter will be sent by the Department of Health (to public employers) or the DEPE (to private employers) to the applicant advising them of the approval or denial or the application. The research and development laboratory exemption shall become effective upon receipt by the employer of a letter from the Department of Health or DEPE approving the application.

8:59-5.5 Exceptions to labeling requirements; Federal and State labeling laws

(a) The labeling requirement of N.J.A.C. 8:59-5.1 shall not apply to containers affixed with labels pursuant [ot] to the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, 61 Stat. 163 (7 U.S.C. [121] **136** 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] **Table**, Title 49 Code of Federal Regulations [Parts] **Part** 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 Right to Know Hazardous Substance List.

(c) (No change.)

(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 and "inactive" chemicals as defined by FDCA are included on the label according to N.J.A.C. 8:59-5.1(c). If all active 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.] **Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device including materials intended for use as ingredients in such products (for example flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and regulations issued under that Act, shall be exempt from the labeling requirements of N.J.A.C. 8:59-5 when they are subject to the labeling requirements under the Federal Food, Drug, and Cosmetic Act by the Food and Drug Administration.** A public employer shall make available to public employees on request, all hazardous substance fact sheets prepared by the Department relevant to the above products, including hazardous substance fact sheets on inactive ingredients as defined by the FDCA.

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

(j) Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulations issued under that Act, shall be exempt from the labeling requirements of N.J.A.C. 8:59-5 when they are subject to the labeling requirements of the Federal Alcohol Administration Act and labeling regulations issued under that Act by the Bureau of Alcohol, Tobacco and Firearms.

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.-3. (No change.)

4. Any product which contains a hazardous or other substance in the same form and concentration as a product packaged for distribution and used by the general public, if the primary use container of the product is five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) or smaller. Consumer products above this threshold shall be exempt from labeling only if the product [Any hazardous or other substance present] **is** in the same form and concentration as a product packaged for distribution and use by the general public to which a public or private employee's exposure during handling is not significantly greater than a consumer's exposure during the principal use of the [toxic or other substance] **product, and the product is** present in normal consumer quantities. **A normal consumer quantity shall be defined as less than a case of the product;** [or]

5. Any fuel in a motor vehicle[.];

6. Tobacco or tobacco products;

7. Wood or wood products;

8. Foods, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers; or

9. Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace.

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

(d) Articles that are excluded by (a)1 above shall include solid articles that contain some amount of liquid or powder which, due to the design and use of the article, is not released from the article and thus do not cause any exposure to public employees and emergency responders. The following solid articles meet the requirements of (a)1 above and are excluded from labeling:

1. Ammunition;
2. Bars of soap;
3. Chalk;
4. Pills and capsules;
5. Polaroid film;
6. Flashlight batteries;
7. Glue sticks;
8. Photocopier toners and developers in self-contained cartridges;
9. Grinding wheels;
10. Pens;
11. Pastels;
12. Sorbent sample tubes; and
13. Thermometers.

(e) Consumer products that meet the requirements of (a)4 above in all cases and are excluded from labeling include typewriter correction fluid (for example, "Wite-Out," "Liquid Paper").

(f) All offices that are used for office work shall be exempt from labeling containers in that office. Rooms in an office building that are used for storage of cleaning supplies, printing, storage of maintenance materials, and other non-office work activity shall not be included in this exemption.

(g) All containers that are five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) or smaller shall be exempt from labeling, unless the number of such containers in a single location exceeds 120 pounds (54.4 kilograms) or 12 gallons (45.4 liters) and are not contained in shipping containers, in which case they shall be labeled according to this subchapter. A single location is defined as an indoors room, which can range from a small storage room to a large warehouse area, or, if outdoors, an open area that is physically separate from other open areas. The thresholds specified by this subsection shall not apply to Special Health Hazard Substances. The Department shall set lower thresholds for substances which appear on the Special Health Hazard Substance List, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30.

(h) Public employers have the option of choosing the threshold set forth in (g) above or of continuing to comply with the labeling requirements of N.J.A.C. 8:59-5 for all containers. This threshold shall only apply to public employers if the public employer complies with the labeling requirements of the OSHA Hazard Communication Standard, 29 CFR 1910.1200, for all containers which are lower than this threshold. Even though public employers who choose the threshold will not be required to label containers according to the requirements of the Right to Know Act under the threshold quantity, the hazardous substances in these containers still have to be reported on the Right to Know Survey, Material Safety Data Sheets and Hazardous Substance Fact Sheets still have to be maintained in the Right to Know Central File for these chemicals, and public employees still have to receive training about these chemicals.

8:59-5.7 Common name

(a) (No change.)

(b) For hazardous substances listed on the Right to Know Hazardous Substance List[,]:

[the] **1. 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 Right to Know Hazardous Substance List, no other name may be used for purposes of labeling containers[.];

2. Any synonym (designated as "syn") listed on the Right to Know Hazardous Substance List shall be considered an acceptable common name for purposes of labeling containers[.]; **and**

3. Generic names (designated as "gen") listed on the Right to Know Hazardous Substance List can only be used on container labels if there is a CAS number next to the generic name, except for Fuel Oil and Petroleum Oil **which can be used without a CAS number. The phrase "Fuel Oil" should be used to label diesel fuel and heating oil.**

(c) (No change.)

8:59-6.2 Program for employers

(a) By December 31, 1985, a public employer shall have provided current employees with a complete education and training program, and shall provide an education and training program for these employees annually thereafter. [Volunteer firefighters shall receive an education and training program by March 6, 1990. All other volunteers] **Volunteers** shall [receive] **have received** an education and training program by October 1, 1990.

(b) A public employer shall provide new or reassigned employees with an education and training program within the first month of employment or reassignment **with the exception of volunteers who shall receive an education and training program within six months of becoming a volunteer.**

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

8:59-6.3 Contents of program

(a) (No change.)

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

1.-5. (No change.)

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

7. If a public employer chooses the option in N.J.A.C. 8:59-5.6 to label containers that are five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) or smaller, according to the labeling requirements of the OSHA Hazard Communication Standard, 29 CFR 1910.1200, the public employer shall explain to employees the Standard's requirement for labeling and other forms of warning.

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

(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. (No change.)

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

3. (No change.)

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

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

(g) An education and training program shall be given annually by a public employer to all employees who received the initial education and training set forth in (b) above, and who continue to be exposed or potentially exposed to products which contain hazardous chemical ingredients. The program shall be conducted by a technically qualified person. The contents of the program shall include, at a minimum:

1. Summary information about the Worker and Community Right to Know Act, including any changes in the rules. If a public employer chooses the option in N.J.A.C. 8:59-5.6 to label containers that are five pounds (2.3 kilograms) or 0.5 gallons (1.9 liters) or smaller, according to the labeling requirements of the OSHA Hazard Communication Standard, 29 CFR 1910.1200, the public employer shall explain to employees the Standard's requirements for labeling and other forms of warning;

2. Chemical specific training for all new hazardous products and existing commonly used hazardous products. The Material Safety Data Sheets (MSDSs) and Hazardous Substance Fact Sheets (HSFSs) for these products shall be reviewed and the health effects, safety hazards, methods of controlling exposure, and appropriate work practices for the products, shall be explained. Any new information on the MSDSs and HSFSs for the commonly used hazardous products shall be reviewed. The program shall incorporate occupational health principles relevant to the employees while discussing these products. Hands-on training in the use of appropriate personal protective equipment need not be given if it was given during the initial education and training program; and

3. A walkthrough of the facility to identify the location of any new hazardous products. The walkthrough can be conducted by a supervisor.

8:59-6.4 [(Reserved)] **Documentation for program**

(a) A public employer must maintain the following documentation of all initial and annual Right to Know education and training programs:

1. The date and location of the training program;

2. The name and qualifications of the instructor. This shall include a resume or, in the case of consultants who are certified pursuant to N.J.A.C. 8:59-12, proof of current certification;

3. Rosters of attendance which shall include the names and signatures of participants for each session. If the classroom and walkthrough sessions are given at different times, separate rosters must be maintained. The participant's title or job description shall also be listed. For emergency responders who have taken the State Police or other Department approved Hazardous Materials Emergency Responder Awareness and Operational training courses, certificates from these courses shall be sufficient proof of attendance at these courses;

4. Whether the course is an initial or annual program;

5. The course objectives, which shall include both cognitive (learned) and behavioral goals;

6. A detailed course outline or detailed description of covered topics, which shall include the length of time for each major topic and which describes the methods of instruction of the topics;

7. If a videotape is used to cover required subjects, a brief written description of the videotape, including title, producer and the subject covered. In place of this description, a copy of the videotape may be kept with the education and training program records;

8. Copies of all materials handed out to participants; and

9. The methods used to evaluate the effectiveness of the program such as tests, exercises or written evaluations.

(b) The documentation required in (a) above shall be provided by a public employer, upon request, to a Right to Know Enforcement Officer.

(c) Rosters of attendance at initial and annual education and training programs, dates and locations of the programs, and whether it is an initial or annual program, shall be maintained by a public employer for the duration of the employee's employment. The balance of the material required in (a) above shall be maintained until a Right to Know Enforcement Officer reviews and approves the training programs during an inspection, after which time this material may be disposed of for programs conducted prior to the year of inspection.

8:59-6.6 29 CFR 1910.120(q) Hazardous Waste Operations and Emergency Response Training

(a) The Public Employees Occupational Safety and Health Act Standard 29 CFR 1910.120(q) Hazardous Waste Operations and Emergency Response, requires training for emergency responders such as firefighters, both paid and volunteer, and police officers. This section will explain 29 CFR 1910.120(q)'s relationship to the requirements of the Worker and Community Right to Know Act.

(b) Firefighter training requirements are as follows:

1. Firefighters will be in compliance with Right to Know training requirements by taking the New Jersey Hazmat Emergency Response Course—Awareness, and the New Jersey Hazmat Emergency Response Course—Operational (using the manual dated May 10, 1990 or later), both developed by a committee under the auspices of the New Jersey State Police, Office of Emergency Management. In addition, firefighters should receive training on any hazardous materials in the firehouse which do not fit within the solid article or consumer product exemptions, if not already covered in other training. Training on the use of personal protective equipment must be given if not covered in other training. Instructors must provide documentation to the fire company that they are "technically qualified persons" and a signed attendance roster must be maintained at the firehouse.

2. Annual Right to Know training can be combined with the annual refresher training required by 29 CFR 1910.120(q), however, "demonstrated competency" will not be allowed as a substitute for Right to Know annual training. A Right to Know brochure must be distributed to all firefighters during the annual training course.

3. Awareness and Operational courses developed by other organizations may be used in place of the State Police program for Right to Know compliance upon submission to and approval by the Department of Health, Right to Know Program.

(c) All police officers are not required to receive Right to Know training, even though they may be required to take the New Jersey Hazmat Emergency Response Course—Awareness under 29 CFR 1910.120(q). Only those police officers who are exposed or potentially exposed to hazardous substances during the course of their work must receive Right to Know training. Examples of police work that are covered include working with photographic chemicals and giving breathalyzer tests. In the example of the breathalyzer test, since only one hazardous chemical is being used, abbreviated training as described in N.J.A.C. 8:59-6.3(f) can be given. Since ammunition meets the solid article exception, training does not have to be provided on this product.

8:59-9.3 Modification of the list

(a) (No change.)

(b) The Right to Know Hazardous Substance List shall be 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—**Occupational Safety and Health Standards**, Subpart Z—Toxic and Hazardous Substances, [amended in Federal Register, Vol. 54, No. 12, January 19, 1989, p. 2332-2983] **July 1, 1990**.

2. (Source #2) "**1990-1991** Threshold Limit Values (TLVs) for Chemical Substances in the Work Environment [Adopted by ACGIH for 1988-1989]," American Conference of Governmental Industrial Hygienists (ACGIH), [1988] **1990**.

3. (Source #3) **Office of Hazardous Materials Transportation [Bureau], Research and Special Programs Administration,** U.S. Department of Transportation, [Title] 49 CFR Part 172.101—Hazardous Materials Table, [October 1, 1982] **December 31, 1991** [, 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 **Safety and** 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. 15, July 19, 1985] **Vol. 37, No. S-7, August 26, 1988**.

5. (Source #5) "[Fourth] **Fifth** Annual Report on Carcinogens, **Summary 1989**," National Toxicology Program, **National Institute of Environmental Health Sciences,** U.S. Department of Health and Human Services, NTP [85-002, 1985] **89-239, 1989**.

6. (Source #6) "Environmental Hazardous Substance List," New Jersey Department of Environmental Protection **and Energy**, N.J.A.C. [7:1G] **7:1G-2, as amended by P.L. 1991, c.235 on August 1, 1991**.

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 **on the Evaluation of Carcinogenic Risks to Humans,** Supplement 7, **Groups 1, 2A and 2B, International Agency for Research on Cancer** (IARC), **World Health Organization,** 1987.

8. (Source #8) ["Chemicals Having Substantial Evidence of Carcinogenicity," Carcinogens Assessment Group] **Integrated Risk Information System (IRIS) Database, Human Health Assessment Group (HHAG)**, 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] **April 1, 1991**.

9. (Source #14):

i. "Prohibited and Restricted Use Pesticide List," New Jersey Department of Environmental Protection **and Energy**, N.J.A.C. [7:30-2] **7:30-2.3, November 21, 1988**.

ii. [List of] **Pesticides classified for** restricted use [pesticides], United States Environmental Protection Agency, [Title] 40 CFR [part 162.31, July 1, 1983] **Part 152.175, July 1, 1989**.

10. (Source #16) List of Acutely Toxic Chemicals, Chemical Emergency Preparedness Program, U.S. Environmental Protection Agency, [November] **December** 1985.

11. (Source #17) **1990** Emergency Response Guidebook, **Office of Hazardous** Materials Transportation [Bureau], **Research and Special Programs Administration,** U.S. Department of Transportation, [1987] **March 31, 1990.**

12. (Source #18) List of Toxic Chemicals, Section 313, **Title III—Emergency Planning and Community Right to Know,** Superfund Amendments and Reauthorization Act of 1986 (SARA), **Office of Pesticides and Toxic Substances,** U.S. Environmental Protection Agency, [52 FR 21151] **40 CFR Part 372.65, July 1, 1990, as amended through August 1991.**

13. (Source #19) List of Extremely Hazardous Substances **and Their Threshold Planning Quantities (TPQ), Section 302, Title III—Emergency Planning and Community Right to Know,** Superfund Amendments and Reauthorization Act of 1986 (SARA), U.S. Environmental Protection Agency, 40 CFR Part [300,] **355** [Subpart I]—Emergency Planning and [Community Right to Know] **Notification,** Appendix [D, 52 FR 34541, September 29, 1986] **A, July 1, 1990.**

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, **July 1, 1990, as** amended in [51 FR 34541, September 29, 1986] **55 FR 30185, July 24, 1990.**

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, **July 1, 1989.**

(c)-(g) (No change.)

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,* 838 F2d 621 (3rd Cir. 1989), cert. den. [____ US ____, 57 U.S.L.W. 3859] **109 S.Ct. 3246, 106 L.Ed.2d 593** (July 3, 1989).

8:59-11.3 Definitions

(a) (No change.)

(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, **including an owner/operator with no employees,** 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] **Garden Services;**

Major Group Numbers 20 through 39 inclusive (manufacturing industries);

Major Group Number 45 (Transportation by Air), only [Industry Number 4512—Air Transportation, scheduled] **Group Numbers 451 Air Transportation, Scheduled, And Air Courier Services,** and [Group Number] 458—[Air Transportation Services] **Airports, Flying Fields, and Airport Terminal Services;**

Major Group Number 46 (Pipelines, Except Natural Gas);

Major Group Number 47 (Transportation Services), only Group Numbers 474—Rental of Railroad Cars, and 478—Miscellaneous Services Incidental to Transportation;

Major Group Number 48 (Communication), only Group Numbers 481—Telephone [Communication] **Communications,** and 482—Telegraph [Communication] **and Other Message Communications;**

Major Group Number 49 (Electric, Gas and Sanitary Services);

Major [group] **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] **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 **(except Industry Number 5192—Books, Periodicals and Newspapers);**

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 75 ([automotive repair, services, and garages] **Automotive Repair, Services, and Garages**), only Group Number 753—Automotive Repair Shops;

Major Group Number 76 ([miscellaneous repair services] **Miscellaneous Repair Services**), only Industry Number 7692—Welding Repair;

Major Group Number 80 ([health services] **Health Services**), only Group Number 806—Hospitals;

Major Group Number 82 ([educational services] **Educational Services**), only Group Numbers 821—Elementary and Secondary Schools, and 822—Colleges, [and] Universities, **Professional Schools, and Junior Colleges,** and Industry Number 8249—Vocational Schools, **Not Elsewhere Classified;** and

Major Group Number 87 (Engineering, Accounting, Research, Management, and [related] **Related** Services), only Industry Number 8734—Testing Laboratories.

8:59-12.1 General provisions

(a)-(f) (No change.)

(g) All consultants and consulting agencies shall inform the Department of Health, every [two months] **month,** of upcoming Right to Know education and training programs to be conducted, and shall permit representatives of the Department of Health to attend, evaluate and monitor the Right to Know education and training programs. **This notification shall be submitted at least one week prior to the first training session in that month.**

(h)-(i) (No change.)

8:59-12.3 Provisional certification of consultants

(a) (No change.)

(b) Provisional certification of consultants shall be granted upon the submission of the above documents and the Department's review and approval of same, and shall be effective until [permanent] certification is granted or denied[, but shall in no case be effective for more than two years].

8:59-12.4 [Permanent certification] **Certification** of consultants

(a) In order to secure [permanent] certification, a consultant shall possess a current provisional certification, shall demonstrate, during one or more Right to Know education and training programs, the knowledge, skills and ability to effectively convey the information required by N.J.A.C. 8:59-6 to employees participating in the program, and shall provide documentation required by N.J.A.C. 8:59-6 to the public employer.

(b) (No change.)

(c) Certification shall be effective for two years. At the end of two years from the date of issuance of the certification, the consultant must renew the certification.

8:59-12.5 Renewal of [permanent] certification of consultants

(a) An applicant for renewal of [permanent] certification as a consultant shall submit the following to the Department 60 days prior to the expiration of the certification:

1.-3. (No change.)

(b) An applicant for renewal of [permanent] certification as a consultant shall comply with all requirements of N.J.A.C. 8:59-6 and 8:59-12.

8:59-12.6 Provisional certification of consulting agencies

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

(c) Provisional certification of consulting agencies shall be granted upon the submission of the documents in (a) and (b) above and the Department's review and approval of same, and shall be effective

until [permanent] certification is granted or denied[, but shall in no case be effective for more than two years].

8:59-12.7 [Permanent certification] **Certification** of consulting agencies

(a) In order to secure [permanent] certification, a consulting agency shall possess a current provisional certification as a consulting agency, demonstrate, during one or more Right to Know education and training programs, that the program's contents contain the information required by N.J.A.C. 8:59-6 and the instructors possess the knowledge, skills and ability to effectively convey the information to the employees participating in the program, and that all documentation required by N.J.A.C. 8:59-6 has been provided to the public employer.

(b) (No change.)

(c) Certification shall be effective for two years. At the end of two years from the date of certification, the consulting agency must renew the certification.

8:59-12.8 Renewal of [permanent] certification of consulting agencies

(a) An applicant for renewal of [permanent] certification as a consulting agency shall submit the following to the Department 60 days prior to the expiration of the certification:

1.-3. (No change.)

(b) An applicant for [permanent] certification renewal as a consulting agency shall comply with all requirements of N.J.A.C. 8:59-6 and 8:59-12.

8:59-12.9 Fees

(a) (No change.)

(b) Fees for an individual consultant shall be as follows:

1. (No change.)
2. Renewal of [permanent] certification—$100.00.

(c) Fees for a consulting agency shall be as follows:

1. (No change.)
2. Renewal of [permanent] certification—$200.00.

(d) (No change.)

8:59-12.11 Suspension or revocation of certification

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

(c) A consultant whose provisional certification or certification is suspended or revoked may not reapply for provisional certification until six months have elapsed after the date of suspension or revocation. When reapplying for provisional certification, the consultant shall present documentation of having taken appropriate courses to develop appropriate knowledge in the areas in which they were found to be deficient. The fee for initial certification application shall apply. If provisional certification is granted, it shall be considered probationary provisional certification and all training conducted by the consultant shall be done under the supervision of the Department of Health.

(d) A consulting agency whose provisional certification or certification is suspended or revoked may not reapply for provisional certification until six months have elapsed after the date of suspension or revocation. When reapplying for provisional certification, the consulting agency shall present documentation that its consultant trainers have taken appropriate courses to develop appropriate knowledge in the areas in which they were found to be deficient. The fee for initial certification application shall apply. If provisional certification is granted, it shall be considered probationary provisional certification and all training conducted by the consulting agency's trainers shall be done under the supervision of the Department of Health.

(a)

DRUG UTILIZATION REVIEW COUNCIL

List of Interchangeable Drug Products

Proposed Amendments: N.J.A.C. 8:71

Authorized By: Drug Utilization Review Council, Henry Kozek, Secretary.

Authority: N.J.S.A. 24:6E-6(b).

Proposal Number: PRN 1993-104.

A **public hearing** concerning these proposed amendments will be held on Monday, March 29, 1993 at 2 P.M., at the following address:

Room 804, Eighth Floor
Department of Health
Health-Agriculture Bldg.
Trenton, New Jersey 08625-0360

Submit written comments by March 31, 1993 to:

Mark A. Strollo, R.Ph., M.S.
Drug Utilization Review Council
New Jersey Department of Health
Room 501, CN 360
Trenton, New Jersey 08625-0360
609-292-4029

The agency proposal follows:

Summary

The List of Interchangeable Drug Products is a generic formulary, or list of acceptable generic drugs which pharmacists must use in place of brand-name prescription medicines, passing on the resultant savings to consumers.

For example, the proposed guanabenz acetate 4 mg and 8 mg tablets could be used as a less expensive substitute for Wytension, a branded prescription medicine. Similarly, the proposed nystatin 100,000 units per ml, suspension could be substituted for the more costly branded product, Mycostatin.

The Drug Utilization Review Council is mandated by law to ascertain whether these proposed medications can be expected to perform as well as the branded products for which they are to be substituted. Without such assurance of "therapeutic equivalency," any savings would accrue at a risk to the consumer's health. After receiving full information on these proposed generic products, including negative comments from the manufacturers of the branded products, the advice of the Council's own technical experts, and data from the generics' manufacturers, the Council will decide whether any of these proposed generics will work just as well as their branded counterparts.

Every proposed manufacturer must attest that they meet all Federal and State standards, as well as having been inspected and found to be in compliance with the U.S. Food and Drug Administration's regulations.

Social Impact

The social impact of the proposed amendments would primarily affect pharmacists, who would need to either place in stock, or be prepared to order, those products ultimately found acceptable.

Many of the proposed items are simply additional manufacturers for products already listed in the List of Interchangeable Drug Products. These proposed additions would expand the pharmacist's supply options.

Physicians and patients are not adversely affected by this proposal because the statute (N.J.S.A. 24:6E-6 et seq.) allows either the prescriber or the patient to disallow substitution, thus refusing the generic substitute and paying full price for the branded product.

Economic Impact

The proposed amendments will expand the opportunity for consumers to save money on prescriptions by accepting generic substitutes in place of branded prescriptions. The full extent of the saving to consumers cannot be estimated because pharmacies vary in their prices for both brands and generics.

Some of the economies occasioned by these amendments accrue to the State through the Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program, and prescription plan for employees. A 1988 estimate of average savings per substituted Medicaid prescription was $7.31. However, the number of prescriptions that will be newly substituted due to these proposed amendments cannot be accurately assessed in order to arrive at a total savings.

Regulatory Flexibility Analysis

The proposed amendments impact many small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq; specifically, over 1500 pharmacies and several small generic drug manufacturers which employ fewer than 100 employees.

However, there are no reporting or recordkeeping requirements for pharmacies, and small generic drug manufacturers have minimal initial reports, and no additional ongoing reporting or recordkeeping requirements. Further, these minimal requirements are offset by the increased economic benefits accruing to these same small generic businesses due to these proposed amendments.

Full text of the proposed amendments follows:

Alprazolam tabs 0.25mg, 0.5mg, 1mg, 2mg	Greenstone
Amoxicillin chewable tabs 250mg	Biocraft
Auralgan ear drops substitute	Ambix
Benzoyl peroxide gel 5%, 10%	Glades/Stiefel
Carbidopa/levodopa tabs 10/100, 25/100, 25/250	Geneva
Desonide cream 0.05%	Copley
Diflunisal tabs 250mg, 500mg	Purepac
Erythromycin topical gel 2%	Glades/Stiefel
Erythromycin topical sol'n 2%	Paddock
Guaifenesin SR tabs 600mg	Theraids
Guaifenesin syrup 100mg/5ml	Halsey
Guanabenz acetate tabs 4mg, 8mg	Zenith
Hydrocortisone acetate supp. 25mg	Bio-Pharm
Hydrocortisone acetate supp. 25mg	Paddock
Indomethacin supp. 50mg	G&W
Iodinated glycerol elixir 60mg/5ml	Roxane
Ketoprofen caps 50mg, 75mg	Geneva
Lactulose syrup 10g/15ml	Roxane
Lactulose syrup 10g/15ml	UDL Labs
Loperamide HCl caps 2mg	Roxane
Methazolamide tabs 25mg, 50mg	Geneva
Methotrexate tabs 2.5mg	Barr
Metoprolol tabs 50mg, 100mg	Geneva
Morphine sulfate supp 5, 10, 20, 30mg	Paddock
Naproxen sodium tabs 275mg, 550mg	Geneva
Naproxen tabs 250mg, 375mg, 500mg	Geneva
Nortriptyline caps 10mg, 25mg, 50mg, 75mg	Geneva
Novahistine DH elixir substitute	Halsey
Nystatin oral suspension 100,000μ/ml	Roxane
Oxazepam caps 10mg, 15mg, 30mg	Geneva
Pindolol tabs 5mg, 10mg	Geneva
Pindolol tabs 5mg, 10mg	Purepac
Pindolol tabs 5mg, 10mg	Zenith
Piroxicam caps 10mg, 20mg	TEVA
Piroxicam caps 10mg, 20mg	Zenith
Procainamide HCl SR tabs 500mg, 750mg	Copley
Robitussin AC syrup substitute	Halsey
Robitussin CF syrup substitute	Halsey
Robitussin DAC syrup substitute	Halsey
Sulfamethoxazole/trimethoprim tabs 400/80	Roxane
Sulfamethoxazole/trimethoprim tabs 800/160R	Roxane
Theophylline SR tabs 450mg	Sidmak
Thiothixene HCl intensol 5mg/ml	Roxane
Triazolam tabs 0.125mg, 0.25mg	Greenstone
Trimethobenzamide HCl supp. 100mg, 200mg	Bio-Pharm
Trimethobenzamide HCl supp. 100mg, 200mg	Paddock
Tussi-Organidin DM liquid substitute	Bio-Pharm
Tussi-Organidin DM liquid substitute	Roxane
Tussi-Organidin liquid substitute	Roxane
Verapamil tabs 80mg, 120mg	Geneva

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Statewide Respite Care Program Manual

Proposed Readoption with Amendments: N.J.A.C. 10:14

Authorized By: William Waldman, Acting Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4F-1 et seq.
Agency Control Number: 92-P-31.
Proposal Number: PRN 1993-117.

Submit comments by March 31, 1993, to:

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

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the Statewide Respite Care Program Manual (N.J.A.C. 10:14) is due to expire on May 16, 1993. The Division of Medical Assistance and Health Services (Division) has reviewed the rules and has determined them to be necessary, adequate, reasonable, proper and responsive for the purpose for which they were originally promulgated. Accordingly, the Division is proposing to readopt N.J.A.C. 10:14, with amendments based upon changes in the administration and structure of the Respite Care Program.

The Statewide Respite Care Program (SRCP) provides relief and support to family and other uncompensated caregivers from the demands of the daily care of frail elderly and other functionally impaired persons. The respite program operates on a budget of $4,000,000.00 providing services to approximately 2,100 families during calendar year 1992. The program was originally funded with Federal/State matching funds under the "NJ Respite Pilot Project," and accordingly was structured and operated under Federal guidelines. As of September 30, 1992, the Federal funding has terminated; the program is now fully State-funded. The program presently operates under the aegis of the Department of Human Services, through the combined efforts of the Division of Medical Assistance and Health Services (DMAHS) and the Division of Youth and Family Services (DYFS).

The DYFS Regional Contract System manages the contracts with the county sponsor agencies, with oversight from DMAHS. Staff of the Office of Special Initiatives, DMAHS, oversees the contract administration and provides on-site monitoring, monthly case reviews and quarterly financial report reviews.

County sponsor agencies, which may be county offices on aging, home care agencies, hospitals or county social service agencies, administer the program. These agencies are responsible for outreach, intake, eligibility determination, and care planning, as well as providing and monitoring the services. The sponsor agency may provide services directly or may purchase services from community agencies.

An underlying objective of the respite care program is to give families an alternative to nursing home placement of the elderly or impaired family member, through delay, reduction or prevention of the need for institutionalization. Services are available for emergency and crisis situations as well as for routine respite for the caregivers. Services available through the Statewide Respite Care Program include companion services, homemaker/home health aides, medical or social adult day care and temporary care in licensed medical facilities.

Persons eligible for assistance through the Respite Care Program are frail elderly and other functionally impaired adults, that is, having a chronic physical or mental disease, illness or disability as certified by the physician, and as a consequence of the condition, requiring substantial assistance of a caregiver. There is a cap of $3,000.00 per year on services per case.

Subchapter 1 presents the rationale for the SRCP, lists the laws on which the program is based, defines the population to which the program

is targeted and defines words and terms with a specific focus on the SRCP.

Subchapter 2 sets forth the administrative structure of the SRCP. There is no change associated with this readoption.

Subchapter 3 describes the application process. The process includes all activity relating to the application process from receipt to an official decision of eligibility. Provision is made for an authorized agent for those situations when the applicant is unable to complete the intake process. The subchapter also defines the responsibilities of various parties, the applicant's responsibility to complete the application accurately and to provide complete documentation, and to inform the sponsor of certain changes in personal situation, the sponsor's responsibility to process the application, and the sponsor's responsibility to provide written determination of eligibility.

Subchapter 4 describes eligibility standards. Income and liquid resource levels are defined for functionally impaired adult applicants. The maximum income level shall be 300 percent of the Federal Supplemental Security Income standard for an individual living alone. The Division has elected to retain this standard because it is based upon established Federal law and has been found to be a valid indicator of income eligibility for this type of program. In addition, the income eligibility for nursing facilities allows up to 300 percent of the same SSI standard. The resource standard cannot exceed $40,000. This standard is developed by the State.

Subchapter 5 describes qualifications of sponsors and providers. Since the program is administered at the county level by nonprofit agencies, the necessary qualifications and requirements are defined. The subchapter also defines the qualifications and requirements of service providers.

Subchapter 6 describes fees. The subchapter also defines the reimbursement rates for services, the limitations on service, the sliding fee scale for co-payments, the billing process for co-payments, a process for the reduction or waiver of co-payment, and program reporting.

Subchapter 7 describes the appeals process.

There are substantive changes associated with this readoption. These proposed amendments are generally the result of policies applicable to a program that is now State-funded and State-administered. The SRCP operated under a Federal grant from July 1, 1988 to September 30, 1992 under the provisions of P.L. 99-509, section 9414 and P.L. 100-203, section 4118. Adjustments to program reimbursement and guidelines during this period were permissible under HCFA authorized waivers in accordance with Section 1115 of the Social Security Act. Some of the changes recognize existing administrative practices and are now being codified at this time.

There are some amendments proposed to N.J.A.C. 10:14-1 regarding definitions, scope, etc. The proposed amendment defines an adult as a person who is 18 years or older. The reason for this age limit is that persons who are "adults" may not be covered by other programs in the Department of Human Services that are age-limited.

In addition to the age limit, an applicant is newly defined as a functionally impaired person 18 years of age or older who would be at risk of long-term institutional placement if his/her regular caregiver could not continue in that role without the assistance of temporary home and community services. The term "applicant" is now being defined to distinguish between a person who applies for respite care and one who is found eligible to receive services. Previously, only the term "eligible person" was contained in the Definitions Section. In the rule text, references are made to "applicant".

Also in Subchapter 1, at N.J.A.C. 10:14-1.3(b), the term "temporary" has been added in defining the situation of the caregiver in cases to be given priority for respite care services.

Also in the Definitions section at N.J.A.C. 10:14-1.4, the term "Emergency Care" has been changed to the term "Emergency" to reflect the fact that there is no separate respite service called emergency care, no difference in the type(s) of service available, or the reimbursement for services provided during an emergency. For this same reason, there is a proposed amendment at N.J.A.C. 10:14-6.1(e) deleting text referring to emergency care to clarify that emergencies are circumstances experienced by the caregiver and eligible individual; they are not a category of service. The Statewide Respite Care Program allows for provision of services to individuals in "emergency" situations, as defined at N.J.A.C. 10:14-1.4

With respect to qualification and requirements for sponsors (N.J.A.C. 10:14-5.1) the requirements remain basically the same. The proposed amendments refer the reader to the definition of respite care contained in the definitions section (N.J.A.C. 10:14-1.4). At the same time, the respite services are being deleted from N.J.A.C. 10:14-5.1(a)2. The reason for this recodification is to ensure the sponsor agencies provide the respite care services that are listed in the definition.

There is also a proposed amendment requiring sponsor agencies to determine eligibility for all individuals who apply for respite care. This is basically a clarification of an existing requirement as codified as N.J.A.C. 10:14-5.1(b)3. The remaining subsections are recodified in sequence. The text remains the same, except for N.J.A.C. 10:14-5.1(b)4 (formerly N.J.A.C. 10:14-5.1(b)3) which requires sponsors to make an assessment before collecting a co-payment.

The qualifications for provider agencies (N.J.A.C. 10:14-5.2) remain the same except that subsection (d) is being deleted because there are no Federal reporting requirements. The remaining subsections are recodified.

At N.J.A.C. 10:14-5.2, a new subsection (h) is added that requires that private duty nurses utilized by the Statewide Respite Care Program be employed by agencies licensed by the New Jersey Division of Consumer Affairs, Department of Law and Public Safety, in accordance with the provisions of N.J.S.A 56:8-1.1 and N.J.S.A. 34:8-43 et seq.

The Division has added two definitions to indicate services available under the respite care program. First, the definition of "campership" has been added to indicate a day or overnight accredited camp for functionally impaired adults. Second, the definition of private duty nursing is being added to indicate an hourly service delivered by licensed nursing personnel in the eligible person's home. The definition of respite care has been amended to include both of the services described in this paragraph. With respect to homemaker/home health services, the definition is being proposed for deletion. The definition of "homemaker services" is being amended to include "homemaker/home health aide services" which include a general description of the activities including assistance with eating, grooming, hygiene and toileting.

There are some amendments proposed to N.J.A.C. 10:14-3 which are generally technical in nature, that is, the term "applicant" is being used consistently and uniformly and replaces such terms as "beneficiary," "client," etc.

At N.J.A.C. 10:14-3.2(a)1, the term "legal guardian" has been added to the list of authorized agents able to initiate application for respite services on behalf of an incompetent or incapable individual. The addition of the term is a clarification of existing practice, wherein legal guardians have been permitted to make such applications.

The rule is amended to indicate that the sponsor agency will provide the applicant with a written statement of eligibility determination within 30 days of receipt of the application. This language clarifies existing policy. The rule is amended to indicate at N.J.A.C. 10:14-3.3(e) to indicate that an "eligible person" shall be notified of his or her right to a hearing if respite care services are reduced. The existing policy covered only terminations and/or suspensions from the program; the proposed amendment requires the agency to provide notification of a reduction in services and the corresponding right to an administrative hearing.

With respect to N.J.A.C. 10:14-4, the changes are basically technical. The term "beneficiary" is proposed for deletion and replaced by the term "eligible person".

The proposed amendments to N.J.A.C. 10:14-6, Fees, indicate that if there is no Medicaid participating nursing facility available, the respite care program may pay a licensed nursing facility (NF) at the lowest semi-private rate. The reason for this policy is that there are some instances where it is not possible to locate a Medicaid participating NF on short notice.

At N.J.A.C. 10:14-6.2 a new subsection (c) is added stating that placement in a licensed nursing facility or in a licensed residential health care facility or a campership shall not exceed 14 days in a calendar year. Limitation in the number of days for out-of-home respite placements has been a feature of the program since its inception. This limitation is intended to serve as a cost containment feature, as well as comporting with the scope of respite services which are short-term and temporary in nature.

This subchapter also reflects a prior adjustment to the rates for companion or sitter services for both weekdays and weekends. The rates started at $5.50 per hour for weekdays and up to $6.50 per hour for weekends, were raised to $6.00 and $7.00 respectively in 1990 and to a maximum of $7.00 and $8.00 per hour respectively in 1992.

The rate for social day care was increased from $20 per session to $30 per session effective April 1, 1992 and is now being codified with this proposed readoption.

Reimbursement for campership service shall be up to $75.00 per day.

The limit for respite services for each eligible person is being raised. When the Statewide Respite Care Program was initiated, a service limitation of $1,200.00 was established for the first year, because the program was in operation for only six months of that year. The service limitation for 1989, 1990 and 1991 was $2,400.00 and was increased to $3,000.00 per year for each eligible person in 1992. A sponsor may request an extension of the eligible person's service limit by writing to the Division of Medical Assistance and Health Services.

With respect to the proposed amendments in N.J.A.C. 10:14-6, the following explanation is provided. With respect to N.J.A.C. 10:14-6.1, the Division is deleting the reference to the semi-annual review of reimbursement rates because this standard is no longer operative. The Department reviews have occurred when Medicaid rates change, rather than at periodic intervals.

The existing co-payment amounts in N.J.A.C. 10:14-6.3 are being amended. When the program was Federally funded, co-payments were required. The Division has elected to retain the use of co-payment at the conclusion of the Federal waivers for certain clients who are able to pay towards the cost of their care based upon their available income. The proposed amendment reflects the reduced amount of the co-payment. The maximum percentage will be 25 percent while the number of categories has been reduced to six. The Division believes this modification is more equitable for persons eligible for respite care.

At N.J.A.C. 10:14-6.3(d), the rule is being amended to indicate that sponsor agencies will suspend respite service when co-payments which have been assessed are not received by the sponsor agency within 90 days of billing. Notice of this action will be provided to the eligible person by the sponsor agency 10 days prior to the effective date of the proposed suspension of services.

At N.J.A.C. 10:14-6.3(f), provisions for reduction, in addition to waiver, of co-pay are now being added to the rule text because it has been found that although eligible individuals may have difficulty meeting the full amount of co-pay required, a reduced amount is affordable. Co-pay is a viable source of program income, and the Division does not wish to preclude the collection of a reduced amount of co-pay where that is possible. Proposed amendments to N.J.A.C. 10:14-6.3(f)2 delete references to "extreme" financial hardship and "as the result of extraordinary and catastrophic financial burden" when describing financial hardship, which is set forth as one reason for reduction or waiver of co-payment. The deletion of such qualifiers is because the Division has found that ordinary living expenses (rent, mortgage, medical care, etc.) may leave elderly and disabled clients with insufficient income to meet the co-pay requirement. Also, the condition for waiver of co-pay at N.J.A.C. 10:14-6.3(f)3 is being deleted because the Community Care Program for the Elderly and Disabled (CCPED) and the Model Waiver programs referred to in the rule eliminated client cost-share requirements as of May 1, 1989.

There are some technical changes to N.J.A.C. 10:14-6.4 regarding already-existing requirements for a sponsor agency to file reports with the Department of Human Services to indicate the services rendered, care provided, etc.

Social Impact

The proposed readoption impacts upon all SRCP eligible persons or applicants because the program and eligibility requirements affect their ability to obtain respite services. Because the eligibility requirements are unchanged in the proposed readoption, the pool of applicants remains unchanged.

The increase in some rates for respite care services, while assuring the willingness of providers to offer services, will, in some instances, reduce the amount of service which an individual can receive within the $3,000 limitation of services.

The proposed readoption also impacts upon eligible persons because it provides additional services, i.e., private duty nursing and campership.

The proposed readoption has a beneficial social impact in that the additional services which are permitted will provide more service options and therefore increased relief to caregivers.

The Division is also proposing an amendment allowing a right to a hearing for an eligible person whose respite services have been reduced; existing rule text had covered only termination or suspension of respite services (See N.J.A.C. 10:14-3.3(e)1).

The rules should be continued because the social situation is, essentially, unchanged. The eligibility standards are not changed.

Economic Impact

The proposed readoption will have a limited positive economic impact on SRCP applicants or eligible persons. The financial eligibility criteria is unchanged. The co-payment sliding scale has been changed so that eligible persons will pay a lower portion of their costs of care than previously required.

As noted in the Social Impact statement above, the increase in some rates for respite care services, while assuring the willingness of providers to offer services, will, in some instances, reduce the amount of service which an individual can receive within the $3,000 limitation of services.

The proposed regulations will have a positive economic impact on service providers because some of the reimbursement rates are changed to reflect the increased costs associated with providing the services.

The SRCP is not an entitlement program; services may be provided only up to the limit of the program's appropriation. Therefore, the changes in the allowable payment rates will not affect expenditures made by the Division of Medical Assistance and Health Services.

Regulatory Flexibility Analysis

The proposed readoption with amendments imposes some recordkeeping or other compliance requirements upon sponsor agencies and upon providers of respite care services, some of whom may be considered small business under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Recordkeeping and compliance requirements are already specified in the New Jersey Medicaid Statutes, N.J.S.A 30:4D-12. These statutory requirements, which are an expression of existing policy in Medicaid, require the sponsor agency and the provider to keep sufficient records and other information as required by regulations.

In addition to the requirements cited above, specific sponsor agency and provider recordkeeping and compliance requirements for the Statewide Respite Care Program are specified at N.J.A.C. 10:14-3.3, responsibilities in the application process; N.J.A.C. 10:14-5.1 and 5.2, which sets forth qualifications and requirements of sponsors and provider agencies, respectively, and N.J.A.C. 10:14-6.4, regarding procedures for program reporting. These requirements are being imposed on all sponsor and provider agencies, regardless of business size, in order to ensure the health and safety of clients in the Statewide Respite Care Program.

The Division has tried to minimize any adverse economic impact by imposing minimal requirements to assure compliance with State law or regulations. Neither the sponsor agencies nor the entities which provide respite care services are required to hire additional professional staff, such as accountants, unless they choose to do so.

There should be no capital costs associated with the proposed rule changes.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:14.

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

10:14-1.2 Scope of service

(a) This chapter shall apply to all activities and persons participating in the Statewide Respite Care Program, including but not limited to applicants, [recipients] **eligible persons**, caregivers and sponsors.

(b) Pursuant to N.J.S.A. 30:4F-7 et seq., the New Jersey Statewide Respite Care Program is limited to the provision of and payment for short-term, intermittent respite care for frail elderly and functionally [disabled] **impaired** adults.

10:14-1.3 Target population; priority of services

(a) The target population is limited to those individuals providing basic, daily care [of] **to** the eligible person, who are at risk of severe illness, fatigue, or stress due to the demands of their caregiving responsibilities.

(b) Situations to be given priority in receiving services are those where the eligible person is at risk of institutionalization due to **the temporary** incapacity of a caregiver.

10:14-1.4 Definitions

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

"Applicant" means a functionally impaired person 18 years of age or older who would be at risk of long-term institutional placement if his or her regular caregiver could not continue in that role without the assistance of temporary home and community support services, including respite care.

"Campership" means a day or overnight accredited camp program for functionally impaired adults.

...

"Companion [and] **or** sitter services" means a non-medical, basic supervision service which is provided for the eligible person in his or her home on a short-term, intermittent basis. Companion [and] **or** sitter services are intended for those eligible persons who do not require any personal care assistance, medical assistance, or housekeeping services during the time when respite care services are provided.

...

"Eligible person" means [a functionally impaired person 18 years of age or older who would be at risk of long-term institutional placement if his or her regular caregiver could not continue in that role without the assistance of temporary home and community support services, including respite care] **an applicant who meets the eligibility criteria as set forth in this chapter.**

"Emergency" [care] means providing respite care in the case of a sudden or unexpected event that impairs the ability of the caregiver to continue in that role. Such circumstances include, but are not limited to, sudden illness of a caregiver, the caregiver's spouse or children; a natural disaster; a death in the family of the caregiver; or an accident affecting the caregiver, the caregiver's spouse, or the caregiver's children.

"Funtionally impaired" means the presence of a chronic physical or mental disease, illness, or disability as certified by the physician or a sponsor-provided assessment team, which causes physical dependence on others, and which leaves a person unable to attend to his or her basic daily needs without the substantial assistance or continuous supervision of a caregiver.

["Home health services" means the provision of services by a licensed home health agency which may include skilled nursing care, homemaker/home health aide service, physical, occupational, medical social services, and speech/language pathology services. Covered home health services are provided according to medical, nursing, and other health-related needs, as documented in the individual service plan.]

"Homemaker/**home health aide** services" means services which include personal care **(that is eating, grooming, hygiene and toileting)**, household tasks, and activities provided to [recipients] **eligible persons** in their homes. [by a homemaker or home health agency.]

...

"Medical day care" means a program of medically supervised, [health and] health related services provided in an ambulatory care center to persons who are nonresidents of that center.

"Peer support" means the provision of mutual support services for caregivers involved in the Statewide Respite Care Program. [The sponsor agency selected in each county is responsible for setting up a program of peer support.]

["Personal care" means the provision of services to assist a person to provide for his or her personal needs (that is, eating, grooming, hygiene, toileting) and activities of daily living.]

"Private Duty Nursing" means hourly service delivered by licensed nursing personnel in the eligible person's home.

...

"Respite" or "respite care" means the provision of temporary, short-term care for, or the supervision of, an eligible person on behalf of the caregiver in emergencies or on an intermittent basis to relieve the daily stress and demands of caring for the functionally impaired adult. Respite may be provided hourly, daily, overnight, or on weekends and may be provided by paid or volunteer staff. The term includes, but is not limited to, companion or sitter services, homemaker and personal care services, adult day care, short-term inpatient care in a [facility] licensed **nursing facility, residential health care facility or overnight camp program,** [or certified to provide intermediate care or skilled nursing care, emergency care,] **private duty nursing** and peer support and training for caregivers.

...

"Social adult day care" means [a program, for six or more people, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or young disabled adults who need care in a group setting outside the home] **a comprehensive social and health related outpatient program for the frail, moderately handicapped, slightly confused recipient who needs care during the day.**

"Sponsor" means a county or regional agency, either public or private non-profit, which contracts with the Department of Human Services to administer the local program and arranges for services for eligible [applicants] **persons** after making an eligibility determination.

SUBCHAPTER 3. APPLICATION PROCESS

10:14-3.1 General provisions

(a) (No change.)

(b) All applications for eligibility determination shall be made [with] **to** the sponsor agency in [each] **the** county **where the applicant resides.** The sponsor agency shall make a determination of eligibility and perform appropriate assessments within 30 days after the receipt of an application.

10:14-3.2 Authorized agent

(a) Where the [eligible person] **applicant** is incompetent or incapable of filing an [eligible] application on his or her own behalf, the sponsor agency shall recognize any of the following persons, listed in order of priority, as an authorized agent for the purpose of initiating such application:

1. A legal guardian;

[1.]**2.** A close relative of the [eligible person] **applicant** by blood or marriage, such as a parent, spouse, son, daughter, brother or sister;

[2.]**3.** A representative payee designated by the Social Security Administration;

[3.]**4.** A staff person of a public or private social service agency, of which the person is a client, who has been designated by the [client] **applicant** to so act; or

[4.]**5.** A friend of the [eligible person] **applicant.**

10:14-3.3 Responsibilities in the application process

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

(c) The applicant has the responsibility to:

1. Complete the eligibility application forms truthfully, legibly, and accurately; and

2. [Assist] **Provide** the sponsor agency [in obtaining] **with** documentation that supports statements made on the eligibility application, when required.

(d) The [beneficiary] **applicant/eligible person** has the responsibility to notify the sponsor agency whenever one of the following occurs:

1. [He or she moves out of the State of New Jersey] **His or her address changes;**

2. His, her or their annual income changes to an amount that will change their eligibility for services or their co-payment requirement;

3. His or her marital status changes; or

4. [He or she moves anywhere within the State of New Jersey] **His or her liquid resources change to exceed $40,000.**

(e) The sponsor agency shall provide the applicant with [a copy of] the written **statement of eligibility** determination [of eligibility] within 30 days of receipt of the application.

1. When the respite services are terminated, **reduced** or suspended, the "eligible person" shall be given written notification of the determination and the right to a hearing as provided in N.J.A.C. 10:14-7.

SUBCHAPTER 4. ELIGIBILITY

10:14-4.1 Eligibility standards

(a) For the purposes of the Statewide Respite Care Program, an eligible person shall meet the following eligibility standards:

1. (No change.)

2. The maximum income level, not including the income of the spouse or family of the individual, shall be 300 percent of the Federal Supplemental Security Income standard for an individual living alone, in effect under section 1611(a)(1)(A) of the Social Security Act[s] (as increased pursuant to section 1617 of such Act). In the case of an individual and a spouse who are both dependent on the caregiver, the couple's combined income shall be subject to this same income standard; and

3. (No change.)

4. An eligible **person shall have** [individual means an individual whose] liquid resources (as declared by **that** [the] individual) **that** do not exceed $40,000. **In the case of an individual and a spouse who are both dependent on the caregiver, the couple's combined liquid resources shall not exceed $40,000.**

10:14-4.2 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants, **eligible persons or caregivers** [or beneficiaries] obtained or maintained under the Statewide Respite Care Program shall be confidential and shall not be released without the written consent of the applicant [or beneficiary or], **eligible person,** their authorized agent[.], **or caregiver.**

(b) The prohibition against unauthorized disclosure in (a) above shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or [beneficiaries] **eligible persons** cannot be identified.

2. The release to the Attorney General, or other legal representative of the State, of information or files relating to the claim of any applicant, [beneficiary] **eligible person,** or their authorized agent challenging the program's statute, rules, or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted.

3.-4. (No change.)

SUBCHAPTER 5. SPONSORS AND PROVIDERS

10:14-5.1 Qualifications and requirements of sponsors

(a) The Commissioner, **based upon the recommendations from the county Human Services Advisory Councils,** shall designate one sponsor agency for the Statewide Respite Care Program in each county in New Jersey, subject to the following qualifications:

1. A sponsor agency shall be a public or private nonprofit agency and shall contract annually with the Department of Human Services to administer the local respite program.

2. Each sponsor agency shall demonstrate its ability to purchase respite services from provider agencies and individuals in the county and shall provide evidence of its capability to deliver the full range of respite services mandated by the program **as defined in N.J.A.C. 10:14-1.4, the definition for Respite or Respite Care.** [These respite services shall include, but not be limited to, companion or sitter services, homemaker and personal care services, adult day care, short-term inpatient care in a facility meeting standards for licensing or certification as a skilled nursing or intermediate care facility, emergency care, and peer support and training for caregivers.]

(b) Each sponsor agency shall satisfy the following requirements:

1. Annually determine the maximum number of eligible persons to be served in its respective county based on the financial allocation made by the Department of Human Services. The sponsor shall not admit or serve more eligible persons than can be afforded with available resources.

2. Maintain a waiting list of those persons eligible for respite care, but not able to receive it.

3. Determine the eligibility of all applicants for service under the Statewide Respite Care Program.

[3.]**4.** Determine sources of payment for respite services for each eligible person[, for] **and assess and** collect[ing] all co-payments through retrospective billing[, and for determining the eligibility of all individuals who apply for services under the Statewide Respite Care Program].

[4.]**5.** Verify the income of each eligible person applying for services under the Statewide Respite Care Program [to] **and** determine the eligible person's ability to contribute to the cost of the respite services. This income verification shall be determined on an annual basis, or sooner if circumstances change.

[5.]**6.** Develop a Service Plan for each person served under the Statewide Respite Care Program.

[6.]**7.** Submit monthly statistical and[/or] financial reports on the respite program in its respective county to the Department of Human Services.

[7.]**8.** Agree to comply with the program rules contained in this chapter.

(c) Any breach of contract provisions or of (a) and (b) above by the sponsor agency may constitute grounds for contract cancellation upon reasonable notice of such by the Department of Human Services.

10:14-5.2 Qualifications and requirements for provider agencies

(a) Provider agencies [in each county] shall be accountable to the sponsor agency for the provision of respite services and shall enter into contracts with the designated sponsor agency.

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

[(d) Provider agencies shall submit monthly reports to the sponsor agency in their county to comply with State and Federal requirements.]

[(e)](**d**) An individual desiring to provide services under the Statewide Respite Care Program shall enter into a sub-contract with the sponsor agency as a provider and be subject to all requirements of provider agencies.

[(f)](**e**) All individuals providing respite care which includes homemaker/home health aide or personal care [(assistant)] services shall be certified homemaker/home health aides.

[(g)](**f**) The sponsor agency and/or Department of Human Services shall reserve the right to cease purchasing services from any provider agency when any breach of the rules contained in this chapter occurs, constituting grounds for contract cancellation upon reasonable notice.

[(h)](**g**) All medical day care centers utilized for the Statewide Respite Care Program shall be licensed to provide medical day care in accordance with N.J.A.C. 8:43F-2.

(h) Private duty nurses utilized by the Statewide Respite Care Program shall be employed by agencies licensed by the New Jersey Division of Consumer Affairs, Department of Law and Public Safety, in accordance with the provisions of N.J.S.A. 56:8-1.1 and N.J.S.A. 34:8-43 et seq.

SUBCHAPTER 6. FEES

10:14-6.1 Provider reimbursement and payment levels

(a) The Department of Human Services shall determine reimbursement and payment levels for the respite services to be provided under the program. [The reimbursement rates and payment levels shall be reviewed semiannually to determine appropriateness and compatibility with rates paid for similar services provided under other respite programs.]

(b) Reimbursement levels for services provided under the Statewide Respite Care Program shall be those levels used by the Division of Medical Assistance and Health Services for Medicaid reimbursements for homemaker, home health aide, and [personal care assistant] **private duty nursing** services. N.J.A.C. 10:60[-2.2(f)1.i-ii]; nursing home and hospital inpatient care, N.J.A.C. 10:63-1.7[(a)] and N.J.A.C. 8:1-1 et seq.; and medical day care. N.J.A.C. 10:65-2[.1(a)2].

1. In the event that a Medicaid participating nursing facility is not available a licensed nursing facility may be utilized at the lowest semi-private rate.

(c) Reimbursement for companion [and] or sitter services shall be up to [$5.50] **$7.00** per hour for services rendered on weekdays and [$6.50] **$8.00** per hour for services rendered on weekends.

(d) **Enrolled Medicaid providers** [Reimbursement] for social adult day care shall be **reimbursed at the Medicaid rate. Providers not enrolled with Medicaid shall be reimbursed** up to [$20.00] **$30.00** for a full-day session.

(e) [Reimbursement for emergency care shall be based on the type of service received and shall be the reimbursement level for that service under non-emergency circumstances.] **Reimbursement for campership service shall be up to $75.00 per day.**

10:14-6.2 Service and cost limitations for eligible persons

(a) [For the first year of the Statewide Respite Care Program,] [e]Each eligible person shall receive [not more than $1200.00] **up to $3000.00** of respite services **in a calendar year.** Those service levels shall be adjusted based on funding available to the Department of Human Services.

(b) A sponsor may request an exception to an eligible person's service level. The request shall be made in writing to:

Office of Special Initiatives
Division of Medical Assistance and Health Services
CN 712
Trenton, NJ 08625-0712

(c) Placement in a licensed nursing facility or in a licensed residential health care facility or a campership shall not exceed 14 days in a calendar year.

10:14-6.3 Sliding fee scale for co-payments

(a) Co-payment fees shall apply to [individuals] **eligible persons** rendered respite care services in accordance with the co-payment fee scale set forth in (b) below. In all cases the point at which cost-sharing shall be initiated will be based upon the most current Supplemental Security [Program] Income (SSI) guidelines in effect under section 1611(c)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act). The threshold beyond which an [indiviudal] **eligible person** becomes ineligible for program services, is 300 percent of the SSI guidelines.

(b) The sliding fee scale shall be as follows:

Income as a percentage of the Monthly SSI level	Percent of Costs To Be Paid By Eligible Person
[Less the 10%	0%
100%-Federal Poverty Level	0%
Federal Poverty Level to 145%*	1%]
146%-[160%] **175%**	5%
[161%-175%] **176%-207%**	10%
[176%-191%] **208%-238%**	15%
[192%-207%] **239%-269%**	20%
[208%-222%] **270%-300%***	25%
[223%-238%	30%]
[239%-253%	35%]
[254%-269%	40%]
[270%-285%	45%]
[286%-300%**	50%]

[*For one person in the community]
*Institutional SSI level

(c) All co-payments shall be [collected] **billed** by the sponsor agency [retrospectively] within six weeks [after the] **following** provision of the services [prescribed by] **contained in** the service plan.

(d) When co-payment is not made within 90 days of billing, the sponsor agency shall suspend service until payment is made. The sponsor agency shall provide written notice of this action to the eligible person 10 days prior to the effective date of the proposed suspension of services.

[(d)](e) The sponsor agency shall not be held liable for the uncollected co-payment, as long as sponsor agency has expended reasonable efforts to collect any or all co-payments.

[(e)](f) Sponsor agencies may see a **reduction or** waiver of co-payment through submission of a written request to the **Department of Human Services, Office of Special Initiatives, Division of Medical Assistance and Health Services, CN 712, Trenton, New Jersey 08625.** [Department Program [Director] **Office**.] Requests for **reduction or** waiver of co-payment shall only be considered for the following reasons:

1. Death of the client[:];
2. Demonstrated [extreme] financial hardship. [as a result of extraordinary and catastrophic financial burden;]

[3. Dual participation of the client in both the Statewide Respite Care Program and the Community Care Program for the Elderly and Disabled (CCPED) or the Home and Community Based Services Waivers for Blind or Disabled Children and Adults (Model Waiver) Program.]

[(f)](g) No **reduction or** waiver of co-payment may be made without written Departmental approval.

10:14-6.4 Procedures for **program** reporting [on implementation of program]

(a) Each sponsor agency shall [file] **submit** monthly [reports] **data** to the Department of Human Services, **Division of Medical Assistance and Health Services, Office of Special Initiatives** [on] **in a** [forms supplied] **format specified** by the Department [of Human Services] containing the following information:

1. The number of eligible persons served by all provider agencies in the county;
2. The number of [hours] **units** of respite care provided per type of respite care to all eligible persons in the county;
3. [Financial data on the administration of] **Expenditures for** [the] program **administration**;
4. Financial data on the services provided; and
5. Other information necessary for successful [evaluation] **management** of the program.

SUBCHAPTER 7. APPEALS

10:14-7.1 Appeals process

An applicant who is denied participation in the program because he or she does not qualify as an eligible person has the right to request a 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 within 21 days of receipt of the written determination. There shall be no right to a hearing if an individual has been determined to be an "eligible person" but respite services cannot be provided under N.J.A.C. 10:14-5.1(b). **Appeals shall be directed to:**

Administrative Hearing Unit
Office of Legal and Regulatory Liaison
Division of Medical Assistance and Health Services
Department of Human Services
CN 712
Trenton, New Jersey 08625

(a)

DIVISION OF FAMILY DEVELOPMENT

Public Assistance Manual
Case Closing Criteria and Application Fee
Proposed New Rule: N.J.A.C. 10:81-11.16A
Proposed Amendments: N.J.A.C. 10:81-11.4 and 11.20

Authorized By: William Waldman, Acting Commissioner, Department of Human Services.
Authority: 45 C.F.R. 303.11 and N.J.S.A. 44:10-3.
Proposal Number: PRN 1993-52.

Submit comments by March 31, 1993 to:
Marion E. Reitz, Director
Division of Family Development
CN 716
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule at N.J.A.C. 10:81-11.16A dealing with case closing criteria will define under what conditions a IV-D case may be

closed. Federal regulations mandate that the state IV-D agency establish a system for case closure in accordance with certain standards. This system is designed to limit those cases the State may close to those cases which have no reasonable expectation of establishing paternity, of obtaining a support order or of collecting child support. Presently, there are no criteria for closing a IV-D case referred to at N.J.A.C. 10:81-11. The Federal regulation at 45 CFR 303.11 establishes a criteria by which States can close a case. With the exception of those cases where location only services were requested, the IV-D client is not receiving public assistance and requests the case be closed or good cause for not pursuing paternity or support has been determined, a written notice must be sent out 60 calendar days prior to closing the case. If the custodial parent then provides information in response to the notice that could lead to paternity or support, the case must be kept open. Once a case has been closed, all records for the case must be retained for three years. Under New Jersey's case closing criteria, the State is allowed to close a case if it meets one of the following criteria as proposed at N.J.A.C. 10:81-11.16A:

- Arrearages are less than $150.00 or unenforceable and there is no longer a current support order. An unenforceable order has been determined to be an order in which the case has been submitted for tax offset unsuccessfully for four years, the non-custodial parent has been unable to be located for four years, no current order is in effect and no collections have been received for four years.
- The non-custodial parent is deceased, there has been no support collection for at least 18 months and no further action can be taken.
- Paternity cannot be established because paternity establishment action is barred by the statute of limitations, a genetic test has excluded the putative father and no other putative father can be identified or it has been determined by the IV-D agency that paternity establishment is not in the best interest of the child.
- The location of the non-custodial parent remains unknown after regular attempts, using multiple sources over a three-year period for cases in which assistance is granted but an order has not been established and over a four-year period for cases that have an order established.
- The non-custodial parent cannot pay support for the duration of the child's minority because the parent is institutionalized, incarcerated or deemed permanently disabled with no evidence of support potential and there has been no support collection for at least 18 months.
- The parent is a citizen of and has lived in a foreign country for at least two years and does not work for a copmany with headquarters in the United States, has no reachable domestic assets and there has been no support collection for 18 months.
- Location services only were requested or the IV-D client is not receiving public assistance, no arrearages are owed to the State and the client requests that the case be closed.
- The State has determined that it is not in the best interest of the child to pursue support.
- The IV-D client is not receiving public assistance and the IV-D agency has been unable to contact the client for six months.
- The IV-D client is not receiving public assistance and it has been documented that the client has not cooperated with the IV-D agency and in order for support to be pursued any further, the client's cooperation is essential.

The proposed amendments at N.J.A.C. 10:81-11.4 and 11.20 increase the application fee charged non-AFDC applicants from $5.00 to $6.00. As a result of increased costs of case processing in the seven years since the current fee went into effect, this one dollar fee increase is necessary as an offset. Text is deleted at N.J.A.C. 10:81-11.4(d)1v(2) to remove an obsolete effective date.

The proposed amendment at N.J.A.C. 10:81-11.20(a), changing the reference from (l)1 to (j)1, is being made because the old reference is incorrect.

Social Impact

The new rule at N.J.A.C. 10:81-11.16A, regarding case closing criteria, will have a positive impact. Case closing standards are designed to restrict those cases the state may close to those cases which have no reasonable expectation of establishing paternity, of obtaining a support order or of collecting support. The process will limit the cases closed and time will not be wasted on those cases with no collection potential.

The proposed amendments at N.J.A.C. 10:81-11.4 and 11.20 may meet with minimal resistance from a few applicants due to the fee increase. However, it is anticipated that the one dollar increase should not prevent anyone from applying for IV-D services.

Economic Impact

The proposed new rule at N.J.A.C. 10:81-11.16A concerning case closing criteria is expected to have a positive economic impact. Limiting case closure to those cases which have no collection potential will affect both the client and the county IV-D Agency positively. To the advantage of the client, the case will not be closed if there is a reasonable chance that an order can be enforced. On the other hand, the county IV-D Agency will not waste time, effort and manpower employing enforcement techniques on cases which have no collection potential. This proposed amendment will allow the county IV-D agency to eliminate unserviceable cases.

The use of the case closing criteria will save money by cutting down on staff time as well as paper used for the documents generated. Currently, cases of low collection potential continue to be worked by staff and the Automated Child Support Enforcement System, which is New Jersey's statewide computer system for child support, continues to generate documents for the case and submit it for various interfaces which all costs the State money. The practice of this procedure will eliminate unserviceable cases, allowing more time to be devoted to those that are potentially more serviceable.

The proposed amendments at N.J.A.C. 10:81-11.4 and 11.20 are expected to have a positive economic impact. The cost to the client is minimal. As a result of increased costs of case processing in the seven years since the current fee went into effect, this one dollar fee increase is necessary as an offset.

Regulatory Flexibility Statement

The proposed amendment and new rule have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment and new rule impose no reporting, recordkeeping or other compliance requirements on small businesses, therefore a regulatory flexibility analysis is not required. The rule amendments and new rule govern a public assistance program designed to certify eligibility for the Aid to Families with Dependent Children Program by a governmental agency rather than a private business establishment.

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

10:81-11.4 Assignment of support rights

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

(d) IM worker's responsibility: The IM worker shall advise the AFDC client that upon signing an application (PA-1J) for AFDC or AFDC/Medicaid Only, he or she assigns to the county welfare agency any rights to past due support and future support and subsequent to its completion, he or she shall be responsible for informing the county welfare agency of any payments which may be received either directly or through the probation department from an absent parent. Additionally, the AFDC client shall be informed of his or her cooperation responsibilities (see N.J.A.C. 10:81-11.5).

1. Referral to CWA/IV-D Unit: The IM worker, at the time of application for AFDC-C or Medicaid Only, shall complete the appropriate parts of the IV-D referral document and route this form to the CWA/IV-D Unit within two working days of issuance of an assistance check, or determination of eligibility, but no later than 45 days of initial application. Information describing available IV-D services and the individual's rights and responsibilities must be provided to all applicants within five days of the IV-D referral.

i.-iv. (No change.)

v. Continuing IV-D services for families that lose AFDC eligibility: The IV-D agency is required to pay all amounts collected representing support to the family. A IV-D agency may not recover costs from either parent.

(1) (No change.)

(2) The application for non-AFDC services will require a [$5.00] **$6.00** fee on all cases where an application is filed [on or after October 1, 1985].

10:81-11.16A Closing criteria for IV-D cases

(a) In order to be eligible for closure, a IV-D case must meet at least one of the following criteria:

1. In the case of a child who has reached the age of majority, there is no longer a current support order, and arrearages are $150.00 or less or unenforceable under State law;

2. In the case of a child who has not reached the age of majority, there is no longer a current support order, and arrearages are $150.00 or less or unenforceable under State law.

i. As used in (a)1 and 2 above, an unenforceable order must meet all of the following criteria:

(1) The case has been submitted for tax offset unsuccessfully for four years;

(2) Non-custodial parent has been unable to be located for four years;

(3) No current order is in effect; and

(4) No collections have been received for four years;

3. The non-custodial parent or putative father is deceased and there has been no support collection for at least 18 months and no further action including a levy against the estate can be taken;

4. Paternity cannot be established because:

i. The child is at least 18 years old and action to establish paternity is barred by a statute of limitation;

ii. A genetic test or a court administrative process has excluded the putative father and no other putative father can be identified; or

iii. The IV-D agency has determined that it would not be in the best interest of the child to establish paternity;

5. The location of the non-custodial parent remains unknown. Regular attempts using multiple sources over a period of three years for welfare-owned cases and over a period of four years for probation-owned cases have been continuously unsuccessful;

6. The non-custodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential and there has been no collection for at least 18 months.

i. When the non-custodial parent is institutionalized, and there has been no collection for at least 18 months, a thorough investigation to ascertain if he or she has any assets shall be completed. The institution should also be contacted to determine a release date. A determination must also be made that no income or assets are available to the non-custodial parent which could be levied or attached for support;

7. The non-custodial parent is a citizen of, and has lived in, a foreign country for at least two years; does not work for the Federal government or a company headquarters or offices in the United States; and has no reachable domestic income or assets; the State has been unable to establish reciprocity with the country; and there has been no support collection for at least 18 months;

8. The IV-D agency has provided location-only services requested by the custodial parent, legal guardian, attorney or agency of a child who is not receiving aid under Title IV-A of the Act;

9. The non-AFDC custodial parent requests closure of a case and there is no assignment to the State of medical support or of arrearages which accrued under a support order. The closing of a case at the custodial parent's request is subject to the court's approval;

10. There has been a finding of good cause and the State or local IV-A, IV-E, or Medicaid agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative;

11. In a non-AFDC case receiving IV-D services, the IV-D agency is unable to contact the custodial parent within a six-month period despite attempts by both telephone and at least one registered letter; or

12. In a non-AFDC case receiving IV-D services, the IV-D agency documents the circumstances of the custodial parent's non-cooperation and an action by the custodial parent is essential for the next step in providing IV-D services.

(b) In those cases meeting any of the criteria in (a)1 through 7 and (a)11 and 12 above, the custodial parent must be notified, in writing, 60 calendar days prior to closure of the case of the intent to close the case. The case must be kept open if the custodial parent supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order.

1. If the case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of any order.

(c) The IV-D agency must retain all records for cases closed for a minimum of three years.

(d) If the IV-D agency has complied with the State's case closing criteria, as outlined at (a) through (c) above, the State may close a case regardless of a support order or the amount of arrearages owed.

(e) Case closure does not affect the support order or arrearages which have accrued under the order; it only means that services under the IV-D program will no longer be provided. The support order remains in effect and arrearages continue to accrue for the life of the order. These arrearages are judgments by operation of law and subject to enforcement. Once the IV-D case is closed, the responsibility for monitoring and enforcing the obligation falls on the support recipient.

10:81-11.20 Rules concerning application fee for non-AFDC applicants

(a) Non-AFDC individuals, who do not have an active support order and who do not know the location of the obligor, shall file an application with the CWA/CSP unit. (Individuals with an active support order or those without an active support order who know the whereabouts of the obligor shall file the application for IV-D services at the appropriate county probation department.) See N.J.A.C. 10:81-[11.9(j)1]**11.9(l)1** regarding Form CSP-111, Application for Non-Public Assistance Child Support and Paternity Services.

(b) Each non-AFDC applicant shall pay an application fee in the amount of [$5.00] **$6.00**.

1. (No change.)

(c) The [$5.00] **$6.00** fee shall be deposited in the Administration Account as an offset against CSP administrative costs.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Producer Licensing

Proposed Readoption: N.J.A.C. 11:17

Authorized By: Samuel F. Fortunato, Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1C-6(e), 17:1-8.1 and 17:22A-1 et seq.

Proposal Number: PRN 1993-118.

Submit comments by March 31, 1993 to:

Verice M. Mason
Assistant Commissioner
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625-0325

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 11:17 expires on April 18, 1993. As required by the Executive Order, the Department of Insurance (Department) has reviewed these rules and has determined that subchapters 1, 2 and 3 are necessary, reasonable and proper for the purpose for which they were originally promulgated. Subchapter 4 is reserved. The first six sections of subchapter 5 consist of transition rules which are no longer necessary and have been proposed for repeal in the September 21, 1992 New Jersey Register at 24 N.J.R. 3216(a). The proposal called for those sections to be reserved. No change was proposed to N.J.A.C. 11:17-5.7.

The readoption of N.J.A.C. 11:17 is necessary because it contains insurance producer licensing and professional qualification requirements which implement the New Jersey Insurance Producer Licensing Act (N.J.S.A. 17:22A-1 et seq.).

Subchapter 1 sets forth the purpose and scope of the chapter and the definitions of certain words and terms that appear in the chapter.

Subchapter 2 contains the licensing rules, regarding term of license; license authorities; application filing requirements for initial licenses; temporary certificate; license renewal; additional authorities; legal and business names; addresses; branch offices; business relationships; limited insurance representatives; licensing information requirements; fees; denial of license; termination and cancellation of license; reinstatement after termination; and licensee records.

Subchapter 3 sets forth requirements with regard to insurance education programs, prelicensing education, licensing examinations, continuing education and professional designations recognized by the Department.

As noted above, all of subchapter 4 and the first six sections of subchapter 5 are or will be reserved. N.J.A.C. 11:17-5.7 contains further requirements relating to approved education programs.

The proposal at 24 N.J.R. 3216(a) included a number of proposed amendments to subchapters 1 and 2 (N.J.A.C. 11:17-1.2 and 2.3 through 2.15). The Department plans to propose amendments to subchapter 3 dealing with professional qualifications, including continuing education, in the near future. All of these amendments, both proposed and anticipated, are outside the scope of this readoption.

Social Impact

N.J.A.C. 11:17 provides for the implementation of the New Jersey Insurance Producers Licensing Act and should be continued. It is essential to have in place clearly stated rules for the licensing and continued education of insurance producers and limited insurance representatives.

As contemplated when initially adopted, these rules will continue to have a positive social impact by greatly improving the professionalism of insurance producers and the quality of insurance services rendered to the public. The rules' professional qualification requirements (prelicensing education, examination and continuing education) for licensed insurance producers are comparable to those in other regulated occupations in New Jersey.

Insurance is a complicated subject requiring comprehensive and continuously changing knowledge and expertise. The prelicensing education and continuing education requirements of these rules ensure that licensed insurance producers in New Jersey will obtain and maintain the necessary knowledge and expertise to properly advise insurance consumers.

The rules place an affirmative responsibility on insurance producers to update their skills in order to obtain a renewal license. The rules also address a public need by protecting the interests of insurance consumers in helping them make informed insurance decisions with the assistance of knowledgeable insurance producers and limited insurance representatives.

Economic Impact

The proposed readoption of N.J.A.C. 11:17 is not expected to vary the economic impact of these rules on insurance producers, limited insurance representatives or the Department.

The fee structure set forth in N.J.A.C. 11:17-2.12 is designed to be revenue neutral as required by the Act. Taking this factor into consideration, the Department anticipates no change in the level of fees at the present time.

Additionally, no change is expected as a result of the readoption of these rules in the prelicensing and continuing education costs incurred by insurance producers or the proprietary professional schools that provide the educational services set forth in subchapter 3.

Regulatory Flexibility Analysis

This proposed readoption applies to "small businesses" as this term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Included among these small businesses are over 3,700 insurance producer businesses and 92 proprietary professional schools located in New Jersey.

To provide for uniform and consistent applicability of these rules and to avoid the granting of a prescribed advantage to those entities that qualify as "small businesses," no differential treatment has been accorded small businesses by these rules and no such treatment will be accorded pursuant to this proposed readoption.

No change will be incurred as a result of the proposed readoption with respect to routine reporting and recordkeeping requirements or the attendant cost factors that these rules impose on insurance producers and proprietary professional schools. These tasks may continue to be accomplished by existing staff; no professional services are required.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:17.

LABOR

(a)

DIVISION OF PROGRAMS

Application and Review Process for Individual Training Grants under the Workforce Development Partnership Act

Proposed New Rules: N.J.A.C. 12:23-3

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

Authority: P.L. 1992, chapters 43 through 49.

Proposal Number: PRN 1993-114.

Submit written comments by March 31, 1993 to:

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

The agency proposal follows:

Summary

The New Jersey Workforce Development Partnership Program (WDP) is a seven-bill legislative package which was signed into law (P.L. 1992, chapters 43 to 49) on July 7, 1992. A more detailed description of the substantive provisions of the WDP was earlier published in the February 1, 1993 New Jersey Register at 25 N.J.R. 449(a). Chapter 43 provides for employment and training services for New Jersey's eligible unemployed, employed, and displaced workers and is designed to provide an opportunity for increased occupational development, increased productivity, and earning power. This will be accomplished through training grants for eligible workers to be used at approved training institutions for vocational and remedial training under the Workforce Development Partnership Program in order to enhance the individual's marketable skills and earning power. These proposed new rules, N.J.A.C. 12:23-3, establish the standards for individual training grants.

N.J.A.C. 12:23-3.1 sets forth the criteria to be used in determining an individual's eligibility for Workforce Development Partnership Grants for training.

N.J.A.C. 12:23-3.2 establishes that training grants will be paid directly to training providers for individuals enrolled in the WDP Program.

N.J.A.C. 12:23-3.3 sets forth the individual training grant approval criteria, including the qualifications for job counselors.

N.J.A.C. 12:23-3.4 sets forth the maximum amount for individual training grants and additional grants for remedial education.

N.J.A.C. 12:23-3.5 provides that WDP Program funds are to be used only when other State and Federal funds are not available and provides for the recovery by the Department of WDP grants when other sources of funding are available.

N.J.A.C. 12:23-3.6 sets forth the order and availability of services and funding to be provided under the Job Training Partnership Act (JTPA) and WDP Programs and further explains the interrelationship of the two programs.

N.J.A.C. 12:23-3.7 establishes the procedure by which disputed grant denials may be reviewed and reconsidered by the Department.

N.J.A.C. 12:23-3.8 sets forth the Department's authority to recover WDP grants which are overpaid due to false or fraudulent representations.

Social Impact

The Workforce Development Partnership Program and the proposed regulations are anticipated to have a positive impact on displaced workers in the State. Individuals who receive grants for the enhancement of job skills should have available to them a greater range of potential employers upon completion of the training. This should result in an increase in earning power and a general improvement in the social and economic status of individuals who would otherwise have reduced employment opportunities. In addition, the attainment of marketable

skills is expected to result in greater self-esteem and to substantially reduce the traumatizing experience of long-term unemployment.

Subchapter 3 will ensure that the resources made available under the WDP Act are directed to those displaced and disadvantaged workers who will benefit from such services and training provided under the WDP Program. This subchapter also ensures that the funds made available under the WDP Act are used only after existing State and Federal funds have been exhausted.

Economic Impact

The creation and retention of employment in New Jersey are critical to improving the State's economy. The wide range of employment and training services and financial assistance available through the Department of Labor can help stimulate the economy, resulting in increased job creation and business retention.

Workers are positively impacted by being able to obtain retraining at an educational and/or training institution that should result in elevated work skills and increased earning power. The New Jersey economy also benefits by having a better trained workforce for the future. Workforce Development Partnership Program services and training will enhance workers' ability to retain or obtain employment, thus generating a stable stream of tax revenue. At the same time, the general economy will be strengthened through stimulation from the earnings of employed workers.

The cost of the WDP Program is financed through a payroll tax on employees and employers in the State which is offset by an equal reduction in the unemployment tax. However, WDP services are expected to favorably impact the fund through the development of a stable workforce generating tax revenues and contributions to the Unemployment Insurance Trust Fund.

The authorization of WDP grants will also have a positive economic impact on the State's educational and training providers by the influx of up to $50 million for enrollment in the training programs they provide.

Regulatory Flexibility Analysis

The proposed new rules will have minimal impact in terms of imposing additional burdens upon businesses of any type, including small businesses, in New Jersey. Through a relatively simple application and review process administered by the Department of Labor, eligible individuals will be able to access financial assistance for their training needs. Small businesses may be required to assist individuals in the application process and be required to provide periodic progress and attendance reports and keep related records. Inasmuch as these are minimal requirements, no lesser reporting, recordkeeping and compliance requirements can be established for small businesses without impairing the effectiveness of the program.

Full text of the proposed new rules follows:

SUBCHAPTER 3. INDIVIDUAL TRAINING GRANTS

12:23-3.1 Eligibility

(a) Individual training grants may be approved for qualified displaced workers as defined at N.J.A.C. 12:23-1.1, who receive employment counseling by approved job counselors resulting in an Employability Development Plan.

(b) In order to be eligible for an individual training grant under the Workforce Development Partnership Program, an individual must be permanently separated from his or her employment, or laid off and unlikely to return to the previous employment due to a substantial reduction in work opportunities in the individual's job classification at his or her former worksite.

(c) An individual seeking training or other services under the Workforce Development Partnership Program must make an application for such services at an office of the Employment Service in the New Jersey Department of Labor or other agency designated by the Department.

12:23-3.2 Grant payments

Payment of individual training grants will be issued on behalf of the individual directly to the training service provider. In no case will direct payments be made to the individual awarded the training grant.

12:23-3.3 Approval of training grants

(a) Training grants will be approved only if:

1. It is for a labor demand occupation, either listed by the New Jersey Occupational Information Coordinating Committee (NJOICC) or approved by a qualified job counselor, acting on behalf of the NJOICC based on documented local labor market data and conditions, and projected labor market conditions.

i. For purposes of this section, "qualified job counselor" means an individual who is engaged in employment counseling and who meets the requirements specified by the Commissioner of Labor.

ii. A qualified job counselor must have a Bachelor's degree including or supplemented by:

(1) Fifteen college semester hours in vocational guidance or other courses directly related to vocational counseling preparation;

(2) One year of related professional counseling experience; and

(3) Knowledge of State and Federal education laws, employment and training laws, wage and hour laws, and temporary disability and unemployment insurance laws.

iii. Substitution of experience for education is allowed, provided the 15 college credits have been successfully completed. Master's degrees in psychology, education, social work and personnel administration may be substituted for the one year of experience.

iv. The job counselor must be an employee of the Department or an employee of an organization or agency designated by the Commissioner to deliver Workforce Development Partnership Program services.

v. An individual who is employed as a counselor and who does not meet the qualifications specified above, may continue in this function provided that such individual meets the requirements by January 1, 1996;

2. It is for training in a labor demand occupation which will enhance the worker's marketable skills and/or earning power;

3. The training services are provided in New Jersey by a training entity approved by the Commissioner pursuant to P.L. 1992, c.43, secs. 8 and 13 and N.J.A.C. 12:23-4;

4. It is determined by the individual assessment, evaluation and counseling that the individual is expected to successfully complete the training as indicated in the employability development plan;

5. The training is vocational, remedial, or a combination thereof; and

6. Sufficient funding exists in accordance with the Act.

12:23-3.4 Amount of individual training grants

(a) The maximum training grant is $4,000 per worker. This single $4,000 grant may be allocated over more than one fiscal year to support long-term training as identified in the employability development plan. As part of the employability development plan, the counselor will also determine the need for, source and amount of an additional grant for remedial education. Such grant for remedial education will not exceed $1,000.

(b) The Commissioner has the right to annually adjust the amounts available for both vocational and remedial training based on the cost of the services and the availability of other sources of funding to provide these services.

12:23-3.5 Other funding sources

(a) The program shall provide individual training grants only if funding from Federal or other sources is not available. Displaced workers potentially eligible for individual training grants shall be required to apply for all Federal, State and other sources of financial aid or assistance.

(b) Service providers shall apply all financial aid awards for tuition, fees and supplies first against those costs before using WDP funds. The service provider shall notify the Department of any and all such awards immediately after having received notice of such award from the awarding agency.

1. All eligible participants are to be made aware of their right and obligation to apply for financial aid.

2. PELL grants, other tuition assistance or other student aid must be used first for the cost of tuition and fees. WDP funds may be used to supplement these awards.

3. An individual who is potentially eligible for a PELL and/or any other grant but whose grant award cannot be estimated will be eligible for the full amount of the individual training grant allowed under this subchapter provided the Department is reimbursed by the service provider when the other such grant is received.

4. If an individual's eligibility for a PELL or other grant has not been determined at the time of enrollment, but the individual becomes eligible after a Workforce Development Partnership Program (WDP) grant payment has been made, the amount of the WDP grant must be recalculated. The amount of the PELL or other grant(s) and the WDP grant will be combined. If the total of the combined grants exceeds the total cost of the training, the differnece between the total of the combined grants and the training cost must be reimbursed by the training provider to the Department.

12:23-3.6 Coordination with the Job Training Partnership Act

(a) With regard to the Job Training Partnership Act (JTPA), Federal funding shall be considered unavailable when training cannot begin within 60 days of the execution of the Employability Development Plan and/or when JTPA funds are exhausted at the end of the fiscal year.

(b) To insure coordination of services and optimum resource utilization, the Service Delivery Area, as defined in Section 101, Title 1 of the Job Training Partnership Act (JTPA), will be required to describe the relationship of the JTPA with the WDP in the two-year job training plan as defined in Section 104, Title 1 of the JTPA.

(c) No individual training grant will be issued to an individual within one year of the completion date of a previous state or Federal job training program.

12:23-3.7 Request for reconsideration of grant denials

(a) If an individual is denied a training grant under the Workforce Development Partnership Program, he or she may file a request for reconsideration of the denial. A review of all appropriate facts regarding the denial of the training grant will be conducted within the Department of Labor in the following sequence:

1. Lead Counselor;
2. Regional Manager; and
3. Director of Division of Programs.

(b) A request to the next level of authority for reconsideration must be made within 14 calendar days of the date the denial is issued. The Director's decision will be final.

12:23-3.8 Refunds

The Department has the authority to recover all training grants improperly paid as a result of false or fraudulent representations.

(a)

DIVISION OF PROGRAMS

Application and Review Process for Approved Training under the Workforce Development Partnership Act

Proposed New Rules: N.J.A.C. 12:23-4

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

Authority: P.L. 1992, chapters 43 through 49.

Proposal Number: PRN 1993-113.

Submit written comments by March 31, 1993 to:

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

The agency proposal follows:

Summary

The New Jersey Workforce Development Partnership Program (WDP), signed into law on July 7, 1992, is a seven pronged legislative package which provides a cohesive plan to upgrade and improve the skills level of the State's workforce. A more detailed description of the substantive provisions of the Workforce Development Partnership Program was earlier published in the February 1, 1993 New Jersey Register at 25 N.J.R. 449(a).

To accomplish the program's workforce training goals, the Program makes available additional unemployment benefits for eligible individuals. The regular unemployment compensation system provides for the payment of benefits to individuals who become unemployed through no fault of their own. It establishes eligibility criteria for benefits, the funding for benefits and the requirements of the Department of Labor for the administration of the program. Chapter 46 of the Workforce Development Partnership Program amends the unemployment insurance law to provide that individuals enrolled in an approved training program shall be eligible for unemployment insurance benefits. Specifically, N.J.S.A. 43:21-4(c) provides that an individual must be able, available and actively seeking work in order to be eligible for benefits. The amendments to this section set forth in chapter 46 deem individuals in approved training to be exempt from the availability for work and active search for work requirements. In addition, certain disqualifications that could be imposed for individuals who voluntarily leave temporary work or refuse an offer of work to enter training are eliminated.

These proposed new rules delineate the conditions under which a training program for eligible individuals will be approved and the waiver of certain eligibility requirements in order to qualify for additional unemployment benefits.

N.J.A.C. 12:23-4.1 describes the requirements for training to be approved for eligibility purposes for individuals receiving unemployment benefits.

N.J.A.C. 12:23-4.2 defines full-time training.

N.J.A.C. 12:23-4.3 prescribes the conditions under which an active search for work waiver shall be granted.

N.J.A.C. 12:23-4.4 exempts an individual from disqualification for benefits for leaving temporary work or refusing an offer of work in order to enter approved training.

N.J.A.C. 12:23-4.5 sets forth the conditions under the courses of study at an institution of higher education shall be considered approved training.

N.J.A.C. 12:23-4.6 defines remedial and basic skills training.

Social Impact

The Workforce Development Program is anticipated to have a positive impact on dislocated workers in the State. The proposed new rules describe the conditions under which an individual in a training program shall be eligible for unemployment benefits. The financial well-being of the individual in training will thus be sustained while a marketable skill is learned. By addressing the training needs and basic financial needs during training it is anticipated that Program's activities will result in a readily employable worker who will not be subject to the negative effects of long term or cyclical unemployment.

Economic Impact

The creation and retention of employment in New Jersey are critical to improving the State's economy. The wide range of employment and training services and financial assistance available through the Department of Labor under the Workforce Development Partnership Program can help stimulate the economy, resulting in increased job creation and business retention.

The stated purpose of the unemployment compensation law is to provide a safeguard against economic insecurity. Chapter 43 and these proposed new rules expand upon that concept by allowing eligible unemployed individuals to obtain a marketable skill while receiving unemployment benefits. This should result in increased income for the individual, which in turn will favorably impact the State's economy.

In addition, by expanding the pool of skilled workers in critical occupations, the workforce of the State will be more attractive to employers. It is anticipated that a more skilled workforce will aid in business retention and increase the ability of the State to attract out of state employers.

The cost of the WDP is financed through a payroll tax on employees and employers in the state which is offset by an equal reduction in the unemployment tax. However, WDP training and related services should expect to favorably impact the fund through the development of a stable workforce generating tax revenue and contributions to the Unemployment Insurance Trust Fund.

Regulatory Flexibility Analysis

The proposed new rules will have minimal impact in terms of imposing additional burdens upon businesses of any type, including small businesses, in New Jersey. Through a relatively simple certification process administered by the Department of Labor, individuals will be able to maintain eligibility for unemployment compensation while in training. Service providers, which may include small businesses, will be required to assist individuals in the certification process and to keep related records. As these minimal requirements are necessary for effective operation of this aspect of the program, no lesser requirements are provided for affected small businesses.

Full text of the proposed new rules follows:

SUBCHAPTER 4. APPROVED TRAINING UNDER THE WORKFORCE DEVELOPMENT PARTNERSHIP ACT

12:23-4.1 Approved training

(a) Training will be approved only if:

1. It is for a labor demand occupation as defined at N.J.A.C. 12:23-1;

2. The training is provided by an entity located in New Jersey and approved by the Commissioner pursuant to P.L. 1992, c.43, sec. 8;

3. The individual may reasonably be expected to complete the training;

4. It does not include on the job training or training for which an individual receives wages except as permitted under N.J.A.C. 12:23-4.4; and

5. It is vocational, remedial, or a combination of both, in nature.

(b) If the conditions in (a) are met, approval will not be denied for the following reasons:

1. The training includes remedial education needed by the individual to succeed in the vocational component of the training;

2. The training is part of a college degree program which will enhance the individual's marketable skills and/or earning power;

3. The length of the training program; or

4. The lack of a prior guarantee of employment upon completion of the program.

12:23-4.2 Full-time training

(a) Training will be considered full-time only if:

1. It consists of not less than 20 hours per week of classroom work and structured assignments for individuals in training provided by a service provider other than an institution of higher education;

2. It consists of not less than 12 credit hours for individuals pursuing a degree at an institution of higher education; or

3. It consists of a minimum of nine credit hours for individuals pursuing a post-graduate degree at an institution of higher education.

12:23-4.3 Active search for work

(a) An individual in approved training must meet the requirements of N.J.S.A. 43:21-4(c), except that he or she will not be required to actively seek work if the service provider certifies to the Department that the individual is in approved training. If there is an interruption in the training of more than four calendar weeks, the work search waiver does not apply.

(b) A work search waiver may be granted to an individual who is enrolled in an approved training program which will commence within four weeks.

(c) Work search waivers will be granted only to individuals in full-time training.

12:23-4.4 Acceptance of temporary work

(a) An individual who is working in temporary employment shall not be subject to disqualification for voluntarily leaving work under N.J.S.A. 43:21-5(a) if such individual leaves work to begin approved training.

(b) An individual who is in an approved training program and accepts employment during a scheduled break in the training shall not be subject to disqualification for voluntarily leaving work under N.J.S.A. 43:21-5(a) or failing to apply for or accept suitable work under N.J.S.A. 43:21-5(c) if such individual leaves work to return to the approved training program.

12:23-4.5 Courses of study at institution of higher education

Courses of study at institutions of higher education will be approved only if the majority of the credit hours during a semester are in a field of study which will lead to a degree that is specific to a labor demand occupation.

12:23-4.6 Remedial and basic skills courses

Courses of a remedial nature, for purposes of this subchapter, will be considered fields of study in reading, writing or mathematics which will enable the participant to acquire the necessary skills to attain a minimum level of proficiency needed in a designated occupation as indicated in the Dictionary of Occupational Titles.

(a)

DIVISION OF PROGRAMS

Application and Review Process for Additional Unemployment Benefits under the Workforce Development Partnership Act

Proposed New Rules: N.J.A.C. 12:23-5

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

Authority: P.L. 1992, chapters 43 through 49, specifically chapter 47.

Proposal Number: PRN 1993-115.

Submit written comments by March 31, 1993 to:

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

The agency proposal follows:

Summary

The Unemployment Insurance Law (N.J.S.A. 43:21-1 et seq.) was enacted to alleviate personal hardship due to involuntary unemployment and to stabilize the economy. Benefits are available to unemployed workers who meet certain qualifying and eligibility requirements. The New Jersey Workforce Development Partnership Program, signed into law on July 7, 1992 (P.L. 1992, chapters 43 to 49), is a seven-bill legislative package which provides a cohesive plan to upgrade and improve the State's workforce. A more detailed description of the program plan was earlier published and is contained in the February 1, 1993 issue of the New Jersey Register at 25 N.J.R. 449(a).

Chapter 43 provides for employment and training services for eligible unemployed and displaced workers and is designed to provide an opportunity for increased occupational development, increased productivity, and earning power through training grants to eligible individual workers.

To enable eligible displaced workers to access training which is of a better quality and longer duration than previously allowed, chapter 47 authorizes up to 26 weeks of additional unemployment insurance benefits.

These proposed new rules constitute the fifth installment in the chapter governing the Workforce Development Partnership Program and address eligibility and qualification requirements for additional unemployment benefits during training.

N.J.A.C. 12:23-5.1 provides the eligibility criteria for individuals to qualify for additional unemployment benefits during training.

N.J.A.C. 12:23-5.2 sets forth requirements for filing claims for additional unemployment benefits during training.

N.J.A.C. 12:23-5.3 provides a work search waiver for individuals receiving additional unemployment benefits during training.

N.J.A.C. 12:23-5.4 provides a waiver of the disqualification of an individual who refuses an offer of suitable work while receiving additional unemployment benefits during training.

N.J.A.C. 12:23-5.5 requires an individual to notify the Department of Labor of his or her intent to enter training within a specified time period in order to qualify for additional unemployment benefits during training.

N.J.A.C. 12:23-5.6 requires the training service provider to certify to the Department that an individual's attendance and progress is satisfac-

tory in order to be eligible for additional unemployment benefits during training.

N.J.A.C. 12:23-5.7 makes claimants who are attending out-of-State training facilities ineligible for additional unemployment benefits during training.

N.J.A.C. 12:23-5.8 allows an individual who is receiving additional unemployment benefits during training the option to either file a new claim for benefits or continue receiving additional benefits when the benefit year ending date is reached.

N.J.A.C. 12:23-5.9 establishes the Department's authority to recover improperly paid benefits.

N.J.A.C. 12:23-5.10 describes the appeal process for requesting review of the decision to deny additional unemployment benefits.

Social Impact

The establishment of the Workforce Development Partnership Program and the services available from this program will have a positive impact on both employers and workers in New Jersey. The additional unemployment benefits during training made available under the Workforce Development Partnership Program will also have a positive social impact on the State's eligible unemployed and displaced workers by providing financial security for these individuals while they receive training. The availability of additional unemployment benefits to individuals in training will enable greater numbers of eligible unemployed workers to take advantage of the services afforded under the Workforce Development Program. These program services will enhance an eligible individual's ability to retain or obtain employment, thus generating both tax revenues and contributions rather than depleting the Unemployment Insurance Trust Fund. At the same time, the general economy will be strengthened through stimulation from the earnings of employed workers.

Economic Impact

The creation and retention of employment in New Jersey are critical to improving the State's economy. The wide range of employment and training services and financial assistance available through the Department of Labor can help stimulate the economy, resulting in increased job creation and business retention.

The Workforce Development Partnership Program will have a positive economic impact on eligible unemployed and displaced workers in the State by awarding additional unemployment benefits during training. These additional benefits will provide the financial security necessary for eligible workers to obtain new or improved job skills in order to enhance their employability. The availability of additional unemployment benefits will also permit a greater number of individuals to participate in training.

The additional unemployment benefits during training are paid out of the Unemployment Insurance Trust Fund. These costs will have a negative effect on the fund. However, the Workforce Development Partnership Program is expected to favorably impact the fund through the development of a stable workforce which will generate tax revenues and contributions to the Unemployment Insurance Trust Fund. The additional unemployment benefits program will also have a positive economic effect by infusing approximately $100 million into the State's economy.

Regulatory Flexibility Analysis

The proposed new rules will have minimal impact in terms of imposing additional burdens upon businesses of any type, including small businesses, in New Jersey. Through a relatively simple certification process administered by the Department of Labor, individuals in attendance will be able to maintain eligibility for additional unemployment compensation while in training. Service and training providers, which may include small businesses, will be required to assist individuals in the certification process and to keep related records. No lesser requirements can be imposed upon small businesses without impairing the integrity of the program.

Full text of the proposed new rules follows:

SUBCHAPTER 5. ADDITIONAL UNEMPLOYMENT BENEFITS DURING TRAINING

12:23-5.1 Eligibility requirements

(a) An individual will be eligible for additional unemployment benefits during training only if the individual:

1. Has exhausted all entitlement to unemployment insurance compensation and any State or Federally funded extension;

2. Is permanently separated from employment and is unlikely to return to such employment due to a substantial reduction in work opportunities in the individual's job classification at his or her former worksite;

3. Was entitled to not less than 26 times the weekly benefit amount on the most recent new claim for unemployment compensation filed in accordance with N.J.S.A. 43:21-1 et seq.;

4. Was eligible or potentially eligible for unemployment insurance benefits on or after July 7, 1992. No additional benefits shall be paid pursuant to this subchapter after December 31, 1977;

5. Meets the criteria listed in N.J.S.A. 43:21-4(c)(4)(A) and (B), as amended by P.L. 1992, c.46, and complies with the requirements set forth at N.J.A.C. 12:23-4 for approved training; and

6. Is in a full-time training program which has been approved by the Department of Labor through an employability development plan.

(b) No additional benefits shall be paid pursuant to the provisions of this subchapter for any week during which the individual receives training allowances or stipends pursuant to the provisions of any Federal law or any other state law. As used in this subchapter, "training allowances or stipends" means discretionary, cash-in-hand payments available to the individual to be used as the individual sees fit, but does not mean direct or indirect compensation for training costs, such as the costs of tuition, books and supplies.

12:23-5.2 Claims for additional unemployment benefits during training

(a) Initial claims for additional unemployment benefits during training may be dated no earlier than the Sunday of the calendar week in which the training commences.

(b) Weekly claims for additional benefits during training must be authorized by the Department based on a signed certification submitted to the Department by the training provider of the individual's active participation in the approved training program. Individuals who fail to comply with this section may be denied additional unemployment benefits.

12:23-5.3 Work search waiver

An individual receiving additional unemployment benefits during training must meet the requirements of N.J.S.A. 43:21-4(c), with the exception that the individual does not have to actively seek work.

12:23-5.4 Refusal of suitable work

An individual who refuses an offer of work because of attendance at training while receiving additional unemployment benefits shall not be disqualified under N.J.S.A. 43:21-5(c).

12:23-5.5 Intent to enter training

(a) An individual filing a new initial unemployment claim must notify the Department of his or her intention to enter the Workforce Development Partnership Program not later than 60 days after the date of the individual's permanent separation from employment or not later than 30 days after the Department provides notice to the individual of the benefits and services available under the WDP Program, whichever is later.

(b) For purposes of this section, intention to enter the Workforce Development Partnership Program (WDP) means that the individual agrees to enter WDP counseling within the time limitations set forth in (a) above, whether or not the counseling occurs within these time limitations, and upon receiving counseling agrees to enter the training program identified in the Employability Development Plan. Individuals who agree to enter counseling within the stated time limits but choose not to pursue the identified training will not be granted an extension of those time limits.

12:23-5.6 Certification of attendance by training service providers

A claimant will not be eligible for additional unemployment benefits unless the training service provider certifies to the Department that the claimant's attendance and progress has been satisfactory.

12:23-5.7 Out-of-State training

An individual who is attending a vocational training program provided by a facility located outside the State of New Jersey is not eligible for additional benefits during training.

12:23-5.8 Claim options

An individual in an approved training program who has reached the benefit year ending date and who has sufficient earnings and employment for a new claim for benefits will have an option to file a new claim for benefits or continue receiving additional unemployment benefits during training.

12:23-5.9 Overpayments

Overpayments of additional unemployment benefits during training improperly paid due to false or fraudulent representations shall be recovered by the Department in accordance with N.J.S.A. 43:21-16.

12:23-5.10 Appeals

Denials of claims for additional unemployment benefits during training may be appealed in accordance with N.J.S.A. 43:21-6 and N.J.A.C. 12:20.

(a)

OFFICE OF WAGE AND HOUR COMPLIANCE WAGE AND HOUR

Apprentice and Student Learner in Cooperative Vocational Education Program Student Learner; Individualized Training Plan

Proposed Amendment: N.J.A.C. 12:58-1.2

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

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 34:2-21.1 et seq.

Proposal Number: PRN 1993-111.

Submit written comments by March 31, 1993 to:

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

The agency proposal follows:

Summary

N.J.A.C. 12:58, Child Labor, consists of rules which set forth standards for complying with the statutory requirements of New Jersey's Child Labor Act, N.J.S.A. 34:2-21.1 et seq., which is designed to provide a safe work environment for minors.

The rule at N.J.A.C. 12:58-1.2 sets forth the exemption from the chapter's requirements for apprentices and student learners in cooperative vocational education programs. Primary jurisdiction for cooperative vocational education programs lies with the Department of Education, and the rules promulgated by the Department of Education are to be found in the New Jersey Administrative Code at N.J.A.C. 6:43, Vocational and Technical Education Programs and Standards. These rules at N.J.A.C. 6:43-3.5 through 3.9 address the protection of pupils Statewide from exploitation and exposure to hazardous employment situations. The rules at N.J.A.C. 6:43-3.5 through 3.9 include existing Federal and State child labor laws and guidelines regarding cooperative vocational education programs, employment, related training and program standards, training site assignment and supervision and general cooperative vocational education program standards.

The Department of Labor proposes amended rules which are consistent with N.J.A.C. 6:43, Vocational and Technical Education Programs and Standards. The amended rules will assure consistency between the Department of Labor and the Department of Education requirements. The Department of Education has informed the Department of Labor that the proposed change is in accordance with the rules at N.J.A.C. 6:43-3.5 through 3.9.

The proposed amendment to N.J.A.C. 12:58-1.2(d), Apprentice and student learner in cooperative vocational education program, provides an expanded listing of the provisions required in the written agreement covering the employment of a student learner in the Cooperative Vocational Education Program. The proposed amendment also sets forth the training plan and supervisory requirements and hours of work and hazardous work limitations.

Social Impact

The proposed amendment provides conformity and consistency with the Department of Education's readopted rules at N.J.A.C. 6:43-3.5 through 3.9. The Department of Education's rules benefit pupils enrolled in cooperative vocational education programs by requiring that standards be consistent Statewide and that district boards of education ensure that these programs comply with federal and state child labor laws. For the 1991-92 school year, the Department of Education reported that 6,214 pupils enrolled in the programs earning wages in excess of $22.6 million and were provided with 4,133,233 hours of New Jersey industry-sponsored training.

Economic Impact

No adverse economic impact was anticipated by the Department of Education in its adoption of N.J.A.C. 6:43-3.5 through 3.9. Employers will continue to pay pupil wages and benefits. The adoption of the Department of Labor amended rules will have no additional impact on employers, student learners, district boards of education or the Department's operating costs inasmuch as these rules simply conform to those already adopted by the Department of Education.

Regulatory Flexibility Statement

The adoption of the proposed amendment to N.J.A.C. 12:58-1.2 will impose no additional reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., other than those already required by the Department of Education. Therefore, a regulatory flexibility analysis is not required.

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

12:58-1.2 Apprentice and student learner in cooperative vocational education program

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

(d) "Student learner" means a person:

1. (No change.)

2. Between the ages of 16 years and 18 years of age; [and]

3. Employed under a written agreement which provides that:

i. Work in a particularly hazardous occupation is incidental to the minor's training;

ii. Work is intermittent and of short duration, and under the direct and close supervision of a qualified and experienced person; **and**

iii. Safety instruction is given by the school and correlated by the employer with on-the-job training[; and].

[iv. A schedule of organized and progressive work processes to be performed once the job is prepared.]

4. For whom an individualized training plan of organized and progressive training to be "performed on-the-job" and related school instruction has been developed. Each training plan will contain:

i. Tasks to be performed by the student learner on the job;

ii. A progression of in-school learning experiences that relate to the on-the-job training; and

iii. An outline that identifies safety instruction and occupational competencies to be learned at the training site and in school;

5. For whom training site supervision must be conducted by the school coordinator at intervals not to exceed once every two weeks, to ensure that the student learner is free from exploitation and that a safe training environment is maintained;

6. Who may perform certain permitted hazardous occupations only at those sites registered with the Department of Education/ Vocational Division prior to the placement of student learners and on whose employment certificate will be placed the registration number of the site to identify the student as a cooperative education student learner; and

7. For whom training site experiences may not exceed five hours on any day that school is in session nor may the combination of school and work exceed eight hours on any day that school is in session.

(a)

DIVISION OF WORKPLACE STANDARDS

Safety and Health Standards for Public Employees Employer Defined; Process Safety Management of Highly Hazardous Chemicals

Proposed Amendments: N.J.A.C. 12:100-4.1 and 4.2

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

Authority: N.J.S.A. 34:1-20, 31:1A-3(e), 34:6A-25 et seq., specifically 34:6A-30.

Proposal Number: PRN 1993-112.

Submit written comments by March 31, 1993, to:

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

The agency proposal follows:

Summary

The Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6a-25 et seq., requires the Department of Labor to establish health and safety standards for public employees.

On November 5, 1984, rules were promulgated by the Commissioner of Labor which adopted the Federal Occupational Safety and Health Administration (OSHA) standards by reference at N.J.A.C. 12:100, Safety and Health Standards for Public Employees.

The Federal Occupational Safety and Health Administration issued in the February 24, 1992 Federal Register, Volume 57, No. 36 page 6403, a final rule, 29 CFR Part 1910.119, on Process Safety Management of Highly Hazardous Chemicals effective May 26, 1992.

This final rule contains requirements for the safe management of hazards associated with processes using highly hazardous chemicals. It establishes procedures for the protection of employees to prevent or minimize the consequences of chemical accidents involving highly hazardous chemicals. Since employees have been and continue to be exposed to the hazards of toxicity, fires and explosions from catastrophic releases of highly hazardous chemicals in their work places, the requirements in the standard are intended to eliminate or mitigate the consequences of such releases.

Regardless of the industry that produces or uses the highly hazardous chemicals, there exists a potential for an accidental release if such chemicals are not properly controlled. This, in turn, creates possibilities for grave and serious harm such as the Bhopal, India catastrophe resulting in more than 2,000 deaths; the October, 1989 Phillips 66 Chemical Plant incident resulting in 24 deaths and 132 injuries; and the July 1990 Arco Chemical incident resulting in 17 deaths. The record is replete with information concerning many other releases of highly hazardous chemicals. These events provided an impetus for OSHA to develop regulations directed at eliminating or reducing the potential for such events to occur. OSHA standards do exist for the protection of employees exposed to certain specific toxic substances (see Subpart Z of 29 CFR Part 1910). The final new standard is a performance standard, rather than a specification rule, since OSHA considered this approach to be the better means for ensuring that each affected facility addressed its individual situation.

The very nature of the subject matter of the proposed new standard, that is, the processing and use of hazardous chemicals, limits its applicability even within the public sector. However, chlorine is one of the highly hazardous chemicals listed and is a product which is widely used in the public sector in areas such as sewage treatment plants, water treatment plants, swimming pools. The threshold quantity of 1,500 pounds of chlorine is well within the use capacity of nearly all of the types of facilities just listed.

The final standard, 29 CFR Part 1910.119, consists of the following paragraphs (a) through (p), together with appendices A, B, C, and D. Appendix A is mandatory; appendices B, C and D are not.

Paragraph (a) sets forth the application and scope of the Federal standard for the purpose of minimizing the consequences of toxic, reactive, flammable, or explosive chemicals. Paragraph (b) contains the definition of terms used in the final rule. Paragraph (c) sets forth the requirement for employee participation in the process safety management program. Paragraph (d) imposes on the employer the duty to develop and maintain written safety information identifying workplace chemical and process hazards as well as identifying the equipment and technology used in the process. Paragraph (e) requires the employer to identify, evaluate and control the hazards in a process. Paragraph (f) requires the employer to develop and implement written operating procedures consistent with the process safety information. Paragraph (g) requires the employer to provide operators with training appropriate to the process and to document such training. Paragraph (h) identifies the contractors affected, sets out the employer's responsibility to obtain and evaluate the contractor's safety performance and program, and describes the contractor's responsiblity to assure proper employee training to safely perform the job. Paragraph (i) mandates the performance of a pre start-up safety review by the employer for new facilities or modified facilities. Paragraph (j) contains requirements for maintaining the mechanical integrity of the process equipment to ensure proper design, installation and operation. Paragraph (k) requires the employer to issue permits for hot work operations. Paragraph (l) requires the employer to thoroughly evaluate any contemplated changes to a process in order to assess the potential impact on the safety and health of the employee. Paragraph (m) requires the employer to investigate every incident which results in, or could reasonably have resulted in, a major accident at the workplace. Paragraph (n) requires the employer to establish and implement an emergency action plan. Paragraph (o) requires the employer to evaluate the effectiveness of the safety management system at least once every three years. The last paragraph affords protection of trade secrets without compromising employee safety.

Appendix A lists highly hazardous chemicals, toxics and reactives. Appendix B sets forth the block flow diagram; appendix C sets forth the compliance guidelines and recommendation for process safety management; and appendix D provides sources of further information.

N.J.S.A. 34:6A-30 states in part:

... the Commissioner shall provide, at the minimum, for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the Secretary under the authority of the Occupational Safety and Health Act of 1970.

This final Federal rule, 29 CFR Part 1910.119, is a new rule as described above and is the rule which the Division of Workplace Standards proposes for adoption by the State.

This new Federal rule, 29 CFR Part 1910.119 "Process Safety Management of Highly Hazardous Chemicals" may be adopted by reference by amending N.J.A.C. 12:100-4.2(a).

The operative date of the proposed standard on Process Safety Management will be 90 days after an adoption notice is published in the New Jersey Register.

In addition, the Department is clarifying its intent concerning the applicability of this subchapter's requirements by amending N.J.A.C. 12:100-4.1 to define "employer" as meaning a public employer, and that "employer" does not include any private employer performing under this subchapter on behalf of, or with the knowledge and ratification of, a public employer.

Social Impact

The proposed amendment incorporating by reference the Federal rule for the protection of employees from large accidental releases of hazardous chemicals, such as chlorine, will ensure that employees, contractors, and contract employees are provided appropriate information and training in the prevention and mitigation of catastrophic incidents.

The proposed amendment concerning the definition of employer should have a beneficial impact of resolving any uncertainty as to the application of the subchapter.

Economic Impact

The costs of compliance with the Process Safety Management regulation will be incrementally small, since the Federal regulations incorporated by reference are written in general, performance oriented terms which allow employers to use methods of compliance appropriate to the working conditions covered by the standard.

The proposed amendment concerning the definition of employer should not have any economic impact, as it serves only to clarify the Department's intent and does not represent a change in policy.

Regulatory Flexibility Statement

Only public employers in the State of New Jersey will be affected by the proposed amendment to N.J.A.C. 12:100-4.2. As is clarified by the proposed amendment to N.J.A.C. 12:100-4.1, the reporting, recordkeep-

ing and other compliance requirements of the Federal regulations incorporated by reference would not be imposed on any small business, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., acting on behalf of a government entity. Therefore, a regulatory flexibility analysis is not required.

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

12:100-4.1 Scope of subchapter; **"employer" defined**

(a) This subchapter shall apply to general industry safety and health standards adopted by reference.

(b) As used in this subchapter, the term employer shall mean public employer and shall not include any private employer performing under this subchapter on behalf of, or with the knowledge and ratification of, a public employer.

12:100-4.2 Adoption by reference

(a) The standard contained in 29 CFR Part 1910, General Industry Standards with all amendments published in the Federal Register through [March 6, 1989] **February 24, 1992** are proposed as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

1.-19. (No change.)

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

COMMERCE AND ECONOMIC DEVELOPMENT

(a)

NEW JERSEY DEVELOPMENT AUTHORITY FOR SMALL BUSINESSES, MINORITIES', AND WOMEN'S ENTERPRISES

Direct Loan Program

Proposed Amendment: N.J.A.C. 12A:31-1.4

Authorized By: New Jersey Development Authority for Small Businesses, Minorities', and Women's Enterprises, Barbara Lancaster, Chair.

Authority: N.J.S.A. 34:1B-47, specifically N.J.S.A. 34:1B-50(t).

Proposal Number: PRN 1993-81.

Submit comments by March 31, 1993 to:

Richard L. Timmons, Assistant Deputy Director
New Jersey Economic Development Authority
CN 990
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment changes the method of determining the interest rate that the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises ("NJDA") charges to borrowers on its direct loan financings from using the Federal Discount Rate as an index, to the use of Moody's "A" rated utility index. This will result in a slightly higher interest rate to borrowers; however, it will provide NJDA with the capability to recover their costs to administer the program and increase its capital base to expand its direct loan program and to assist more businesses.

Social Impact

The most significant social impact of the proposed amendment will be to enable NJDA to remain self-sustaining by increasing the source of funds necessary to offset its costs in order to continue to fulfill its legislative mandate to provide financial assistance to small and minority and women owned businesses in New Jersey that are not able to obtain financing from other sources. In addition, the amount of funds available to lend to other qualified businesses will be increased.

Economic Impact

This proposed amendment will have a negligible impact on the individual borrower of funds from NJDA in that the interest rate would still be less than that available from conventional lenders. It will have a beneficial impact on the State by enabling NJDA to continue and to expand its program of financial assistance to small and minority and women owned businesses.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, as this proposed amendment imposes no reporting, recordkeeping or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment changes the basis for determining the interest rate to be charged on direct loans.

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

12A:31-1.4 Allocation of direct loan assistance

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

(e) The interest rate on direct loans shall be equal to[:] **100 basis points above two-thirds of the value of Moody's "A" Rated Utility Index at the time of the loan closing, with a minimum of five percent.**

[1. For fixed asset loans, the lower of the Federal Discount Rate at the time of approval or at the time of the loan closing, with a minimum of five percent;

2. For working capital loans and contract financing, the lower of the Federal Discount Rate plus two hundred (200) basis points at the time of approval or at the time of the loan closing, with a minimum of five percent.]

LAW AND PUBLIC SAFETY

(b)

DIVISION OF ALCOHOLIC BEVERAGE CONTROL AMUSEMENT GAMES CONTROL BUREAU

Amusement Games Control

Proposed Readoption: N.J.A.C. 13:3

Authorized By: Catherine A. Costa, Director, Division of Alcoholic Beverage Control and Amusement Games Control Commissioner.

Authority: N.J.S.A. 5:8-79, 79.1, 85 and 107.

Proposal Number: PRN 1993-84.

Submit written comments by March 31, 1993 to:

William J. Yorke
Executive Officer
Legalized Games of Chance Control Commission
Division of Consumer Affairs
31 Clinton Place, P.O. Box 46000
Newark, NJ 07101

The agency proposal follows:

Summary

The Bureau of Amusements Games Control is responsible for the licensing and regulating of amusement games, located at New Jersey's seashore resorts, amusement parks and agriculture fairs.

N.J.A.C. 13:3 was originally adopted in 1966 and pursuant to Executive Order No. 66(1978) is scheduled to expire on April 25, 1993. As part of the last readoption in August of 1988, the Bureau made extensive amendments to the rules in order to address problems that had existed within their provisions. In addition amendments were adopted to increase the price to play and prize values so as to encourage the continued viability of the amusement games industry while at the same time assuring the amusement games remain the family-oriented amusement activity.

On November 30, 1992 Governor Jim Florio, pursuant to N.J.S.A. 52:14C-1 et seq. filed with the President of the Senate and Speaker of the Assembly Executive Reorganization Plan No. 004-1992 which will transfer the duties and responsibilities of the Amusement Games Control Commissioner to the Legalized Games of Chance Control Commission. The proposed effective date of the transfer is February 1, 1993. As a result of this transfer, the Commissioner finds it is mandatory that a stable, viable and proven regulatory system be in place during the period

of transition. By maintaining a stable regulatory framework, the transfer and purpose of the Executive Reorganization Plan can be accomplished in an efficient manner with a minimum amount of disruption.

In light of the statutory stated purpose of the Amusement Games Control Bureau and the Executive Reorganization Plan, the Bureau of Amusement Games has reviewed the rules proposed for readoption and determined them to be necessary, adequate, reasonable, efficient, understandable, and proper for the purpose for which they were intended, namely, the licensing and regulation of amusement games. In addition, the Bureau finds that the rules will continue to maintain a stable regulatory framework during the period of transition and transfer of the duties and responsibilities from the Commissioner of Amusement Games to the Legalized Games of Chance Control Commission as directed by the Executive Reorganization Plan.

The Bureau is proposing the readoption of these rules in compliance with Executive Order No. 66(1978) and thereby seeks to establish a new five year expiration date.

Following is a summary of the provisions of the seven subchapters of N.J.A.C. 13:3.

N.J.A.C. 13:3-1.1 through 1.19 deal with the municipal issuance of amusement games licenses, including where the games can be held, who is eligible to hold a license, the amending of a license and municipal responsibilities in issuing a license.

N.J.A.C. 13:3-2.1 through 2.6 discuss the State's issuance of amusement games licenses, including licensing fees and the duration of a license.

N.J.A.C. 13:3-3.1 through 3.17 deal with the conduct of the licenses and the operation of the game. This subchapter contains the rules that specify the maximum price to play, prize values and types of prizes that may be awarded.

N.J.A.C. 13:3-4.1 through 4.5 deal with the financial reporting obligations of the licensees, as well as what records must be available for inspection.

N.J.A.C. 13:3-5.1 through 5.9 relate to the procedures that must be followed by the licensee and the Bureau in any disciplinary proceedings that may be brought against the licensee.

N.J.A.C. 13:3-6.1 through 6.6 deal with the licensee's right to appeal in any disciplinary proceedings, as well as the Commissioner's powers during an appeal proceeding.

N.J.A.C. 13:3-7.1 through 7.9 deal with the certification process, criteria for certification, information that must be supplied, the amendment and decertification process details the different types of certifications for amusement games.

Social Impact

Amusement games have been part of the New Jersey tourism industry since construction of the first boardwalk in the late 1800's. Since the legalization of the industry in 1959, it has grown and expanded into a multi-million dollar industry becoming a significant part and draw for the State's overall multi-billion dollar tourism industry. In the last review and readoption in 1988, amendments were adopted to accommodate changes involving the increased use of electronic games, the practice of accumulating tickets or tokens for prizes and the industry's needs in the future. The Commissioner is satisfied that readoption of the rules will ensure a positive social impact on both the public and the industry by maintaining the balance of encouraging a viable amusement game industry while ensuring the games remain and continue to attract family oriented activity in the various resorts. The rules effectively maintain this balance and will thus continue to offer the best value for the entertainment dollar of the citizens of New Jersey as well as for its visitors and tourists in a family oriented atmosphere.

Failure to readopt these rules will not only cause massive confusion within the industry and various shore communities, but will leave the citizens of the State, its visitors and tourists unprotected against fraud in the conduct of amusement games and therefore cause the industry to lose public support and credibility.

Economic Impact

N.J.A.C. 13:3 has provided effective procedures for licensing and regulating of amusement games in the State while encouraging the continued viability of the industry. By providing for a joint municipal and State procedure in licensing, the rules have maintained a balance of ensuring that specific local economic and social needs are addressed while maintaining Statewide uniformity of licensing and regulation. The overall Bureau review of the rules finds that they continue to maintain the necessary economic balance of ensuring a viable industry and at the same time address the local social and economic factors in each particular community. Therefore, readoption of the rules will have a continuing positive economic impact on the industry, general public and State and local regulatory authorities. Failure to readopt the rules would cause the annual licensing of industry members and certification of games to be delayed if not prevented. This failure would cause a major negative economic disruption not only to the industry but to local communities and the citizens and visitors to the State of New Jersey.

The rules proposed for readoption impact economically on members of the amusement games industry by setting forth the application processes for individual games certificates and municipal and State licensure (and amendments thereto), including fees for each. Subchapter 3 sets maximum fees for participation in games, limits the type and value of prizes permitted, prohibits redemption of prizes for money, and requires the posting of signs for game rules and instructions. No person other than the licensee, and no police officer, may hold an interest in an amusement games business. Licensees are required under subchapter 4 to maintain true books of account to be made available for inspection to retain for one year invoices for merchandise to be awarded as prizes, and to annually file with the Commissioner a report of the conduct of games for the preceding year. The costs of compliance with these requirements will vary with the nature and extent of the licensees' amusement games business, and will be related to the administrative costs of application, bookkeeping, and report production, and the costs of record storage and sign production. A licensee may employ a bookkeeper or accountant to maintain its books.

Members of the industry have requested that the Commissioner investigate and approve an increase in the charge of play for certain games. They have indicated that due to the increases in labor costs, inflation and insurance, an increase is necessary in order to be competitive and offer the widest variety of play and prizes. Pursuant to N.J.S.A. 5:8-107, any proposed increase involving the charge of play can only be considered after a public hearing. In light of this requirement and the transfer of duties and responsibilities as set out in the Executive Reorganization Plan it has been determined by the Commissioner that this issue should be left to the Legalized Games of Chance Control Commission which will review this request along with others that may result as part of the reorganization. It is believed that this method would be the most economically feasible and prudent course to follow. In all other respects, the Commissioner is satisfied that the rules are reasonable, necessary and proper.

Regulatory Flexibility Analysis

When each license is looked at individually, all of the more than 1,200 licenses come within the Regulatory Flexibility Act's definition of small business as defined in N.J.S.A. 52:14B-17. However, the reporting, recordkeeping and other compliance requirements are imposed uniformly on all licensees and are a prerequisite to effective licensing and regulation of amusement games in the State pursuant to N.J.S.A. 5:8-78 et seq. and 5:8-100 et seq. These requirements and these costs are discussed in the Economic Impact above. The proposed readoption of the rules will not add any additional reporting, recordkeeping or other requirements. The Bureau has not received any specific complaints of excess recordkeeping or capital or annual costs specifically related to the regulations' requirement. Therefore, it is anticipated that the proposed readoption will not adversely impact on any licensees.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:3.

(a)

DIVISION OF MOTOR VEHICLES

Driver Control Service
Administrative Hearings

Proposed Amendments: N.J.A.C. 13:19-1.1 and 1.7

Authorized By: Stratton C. Lee, Jr., Director, Division of Motor Vehicles.
Authority: N.J.S.A. 39:2-3 and 39:5-30, and 52:14B-10.
Proposal Number: PRN 1993-97.

Submit written comments by March 31, 1993 to:
Stratton C. Lee, Jr., Director
Division of Motor Vehicles
Attention: Legal Services Office
225 East State Street
CN 162
Trenton, New Jersey 08666

The agency proposal follows:

Summary

N.J.A.C. 13:19-1.1 is proposed for amendment to clarify that the provisions of N.J.A.C. 13:19-1, Administrative hearings, do not apply to hearings in "emergent" fatal accident cases (that is, fatal accident cases in which the Division has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30), inasmuch as requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30. The proposed amendment to N.J.A.C. 13:19-1.1 conforms the rule to existing Division procedures. Hearings in "non-emergent" fatal accident cases (that is, fatal accident cases in which the Division has initiated administrative suspension action against a licensee pursuant to subsection a of N.J.S.A. 39:5-30) are not affected by this amendment, the provisions of N.J.A.C. 13:19-1 will continue to apply to hearings in such cases. N.J.A.C. 13:19-1.1 provides that the provisions of N.J.A.C. 13:19-1 apply to administrative hearings in cases involving revocation, suspension or refusal to renew licenses, including cases involving imposition of insurance surcharges pursuant to N.J.S.A. 17:29A-35. The proposed amendment of N.J.A.C. 13:19-1.1 clarifies that the provisions of N.J.A.C. 13:19-1 have no applicability to hearings in fatal accident cases involving administrative license suspension action initiated by the Division pursuant to subsection b, c, or e of N.J.S.A. 39:5-30, since requests for hearings and the scheduling and conduct of same in such cases must conform to the statutory requirements imposed by subsection b or e of N.J.S.A. 39:5-30.

N.J.A.C. 13:19-1.7 is proposed for amendment to reflect the correct title of individuals who conduct prehearing conferences at the Division of Motor Vehicles. The term "driver improvement specialist" in the title of N.J.A.C. 13:19-1.7 and in subsection (b) of the rule has been changed to "driver improvement analyst" to accurately reflect the title of the persons who conduct such prehearing conferences at the Division.

Social Impact

The proposed amendment to N.J.A.C. 13:19-1.1 shall have a positive social impact by clarifying for the public in general, and licensed drivers in particular, that the administrative hearing provisions of N.J.A.C. 13:19-1 are not applicable to hearings in fatal accident cases in which the Division has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30, inasmuch as such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30. As it only serves to correct an individual's title, the proposed amendment to N.J.A.C. 13:19-1.7 shall have no social impact. The amendments have no social impact upon the Division of Motor Vehicles.

Economic Impact

The proposed amendment to N.J.A.C. 13:19-1.1 does not impact economically upon the public, licensed drivers or the State. The amendment merely clarifies that the administrative hearing provisions of N.J.A.C. 13:19-1 are not applicable to hearings in fatal accident cases in which the Division has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30, since requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30. Since this amendment, and the individual's title correction at N.J.A.C. 13:19-1.7, are merely clarifications and impose no additional requirements upon individuals, they do not impact economically upon any person or entity.

Regulatory Flexibility Statement

The proposed amendments have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments impose no reporting, recordkeeping or other compliance requirements upon small businesses; therefore, a regulatory flexibility analysis is not required. The amendments merely clarify that in fatal accident cases in which the Division has initiated administrative driver license suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30, requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30, and provide the correct title of the individual at DMV who conducts prehearing conferences.

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

13:19-1.1 Applicability

The provisions of this subchapter shall apply to administrative hearings in cases involving revocation, suspension or refusal to renew licenses, including cases involving imposition of insurance surcharges pursuant to N.J.S.A. 17:29A-35. **However, the provisions of this subchapter shall not apply to hearings in fatal accident cases in which the Division has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30; requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30.**

13:19-1.7 Driver improvement [specialist] **analyst**

(a) (No change.)

(b) The person conducting such prehearing conference shall be referred to as a driver improvement [specialist] **analyst.**

(b)

STATE BOARD OF COSMETOLOGY AND HAIRSTYLING

Board of Cosmetology and Hairstyling Rules

Proposed Readoption with Amendments: N.J.A.C. 13:28

Authorized By: Board of Cosmetology and Hairstyling, Richard C. Griswold, Executive Director.
Authority: N.J.S.A. 45:5B-6.
Proposal Number: PRN 1993-106.

Submit written comments by March 31, 1993 to:
Richard C. Griswold, Executive Director
State Board of Cosmetology and Hairstyling
Post Office Box 45003
Newark, New Jersey 07101

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), the rules of the State Board of Cosmetology and Hairstyling, found at N.J.A.C. 13:28, will expire on May 16, 1993. This chapter was initially promulgated on May 16, 1988 in order to implement the provisions of the Cosmetology and Hairstyling Act of 1984 (the "Act"), N.J.S.A. 45:5B-1 et seq.

In accordance with the requirements of the Act, the rules proposed for readoption establish standards for the provision of cosmetology and hairstyling services and instruction in a safe and sanitary manner and in a manner not intended to deceive or mislead the general public. Licensing and examination requirements for five different categories of practicing licenses, shops and schools are included in this chapter. As required by the Executive Order, the Board has reviewed these rules and has determined that, as amended herein, they are necessary, reasonable and proper for the purposes for which they were originally intended.

Following is a brief summary of each of the six subchapters of N.J.A.C. 13:28. The summary includes a description of the amendments to each subchapter and the rationale therefor.

Subchapter 1 details licensure, examination, reexamination and temporary permit requirements and procedures for obtaining duplicate copies of lost licenses. Amendments to N.J.A.C. 13:28-1.2 delete the oral examination requirement based upon an amendment to the Act. See P.L. 1991, c. 313, which became effective November 14, 1991. Additional amendments to N.J.A.C. 13:28-1.2 delete references to expired statutory provisions and clarify, by insertion of appropriate statutory citations, that subsection (c) now refers only to applicants for licensure by endorsement. Proposed new rule N.J.A.C. 13:28-1.6 places an affirmative duty upon licensees to notify the Board of any address change no later than 30 days following the change of address. This new rule is intended to enhance the Board's ability to contact its licensees.

Subchapter 2 contains 11 sections dealing with licensed shops. For enforcement purposes, a new subsection (c) is proposed to N.J.A.C. 13:28-2.6. The new subsection clarifies that the offering of cosmetology and hairstyling services in an unlicensed residential shop, as well as the rendering of such services, is prohibited.

N.J.A.C. 13:28-2.9 permits the offering of ancillary services related to the enhancement of personal appearance if performed in a safe and sanitary manner by adequately trained personnel. Explicit requirements are set out for the safe offering of electrolysis and tanning services. A new subsection is proposed specifically prohibiting permanent cosmetic application in a licensed shop. N.J.S.A. 45:5B-37 permits the Board to adopt regulations prohibiting ancillary beautification services which the Board determines pose a health hazard to the public. Permanent cosmetic application is proposed to be prohibited based upon a June 12, 1991 formal opinion of the Board of Medical Examiners that cosmetic tattooing involves significant risks and should be performed only by licensed medical personnel and under a physician's care.

Amendments to N.J.A.C. 13:28-2.10 provide the Board's new address.

Subchapter 3, Safety and Sanitation, has been significantly expanded by adding a new N.J.A.C. 13:28-3.2 which details acceptable methods for sanitizing implements and tools. The Board has received many inquiries from licensees concerning proper sanitizing methods, and the proposed regulation is based upon Department of Health advice in that regard. N.J.A.C. 13:28-3.1 sets out general standards for keeping equipment and premises of a shop clean. Amendments to this section merely reverse the order of existing subsections (e) and (f). Existing N.J.A.C. 13:28-3.2 (which has been recodified as N.J.A.C. 13:28-3.3) requires practitioners to maintain standards of personal cleanliness and to use safe practice techniques. The word "clothes" in subsection (b) has been changed to "outer garments" for clarification.

Subchapter 4 informs licensed shop owners that their premises are subject to inspection by the Board and that owners, as well as shop supervisors and other personnel, are responsible for non-compliance with Board regulations and applicable law.

The Board's fee schedule is set forth in subchapter 5.

Subchapter 6 contains rules for licensed schools of cosmetology and hairstyling. An amendment to N.J.A.C. 13:28-6.2 deletes reference to course hours since, in addition to the 1,200 hour course, a 200 hour manicuring course may now be offered.

An amendment to N.J.A.C. 13:28-6.8 adds a cross-reference for clarification.

N.J.A.C. 13:28-6.10 requires that new classes start on the first Monday of each month or the following working day if the first Monday is a holiday. The Board recognizes that schools may find a different starting date beneficial in some instances. Accordingly, a proposed amendment to this section would permit a starting date other than the first Monday of each month, upon notice to the Board.

N.J.A.C. 13:28-6.16 prohibits the conducting of other businesses on school premises and permits demonstrations by outside persons only where there is no conflict with class schedules. The requirement that the school obtain Board approval prior to permitting demonstrations on the school premises has been deleted. The Board has found that prior approval is unnecessary as long as schools have excess space and demonstrations do not disrupt school operation.

N.J.A.C. 13:28-6.20 details minimum requirements for school equipment and facilities. A marcel stove and two steamers or heat caps (paragraphs (b)3 and 13) have been deleted as unnecessary and outdated. Amendments to existing paragraph (b)16 and subsection (f) are for clarification.

N.J.A.C. 13:28-6.21 sets out student standards and requirements and defines the status of junior and senior students. References to 1,200 hours have been deleted, as these rules also apply to courses other than the 1,200 hour course. Reference to the oral exam has also been deleted based upon the recent amendment to the Act.

The word "cap" has been changed to "clipper" in N.J.A.C. 13:28-6.29 and 6.31 in order to update course curricula.

Social Impact

The rules proposed for readoption establish standards of competency and integrity for Board licensees, ensure that students at licensed schools receive thorough and reliable instruction, and provide various procedures for the orderly administration of the Board's operations. The rules have enabled the Board to ensure that members of the public who are recipients of the services regulated by the Act and registered students receiving instruction at licensed schools of cosmetology and haristyling are protected from unsafe, fraudulent and deceptive practices. It is therefore anticipated that readoption of the existing rules will have an advantageous social impact upon consumers, students, licensees and the Board's own regulatory process in that these high standards will be maintained.

Proposed amendments to N.J.A.C. 13:28-2.9 and proposed new rule N.J.A.C. 13:28-3.2 will enhance consumer protection by specifically prohibiting permanent cosmetic application in a licensed shop, a procedure deemed by the Medical Board to pose a health hazard to the public, and by outlining appropriate methods of sanitizing implements and tools.

Proposed amendments to N.J.A.C. 13:28-1.6 and 2.6 will enhance the Board's ability to contact its licensees and to take action against licensees intending to engage in a prohibited practice.

Licensed schools will benefit from the proposed amendments to subchapter 6. Schools wishing to commence classes on a date other than the first Monday of each month will now have the flexibility to do so, and schools which rent excess space for demonstrations will no longer have to seek Board approval prior to a demonstration. Amendments to N.J.A.C. 13:28-6.20 and 6.29 update course curricula and delete requirements for outdated equipment, thereby enhancing the learning environment.

Economic Impact

The readoption impacts economically upon licensed schools and shops, as well as five categories of licensees: barbers, beauticians, cosmetologist-hairstylists, manicurists, and teachers.

Applicants for practicing licenses will incur costs in connection with completing and documenting educational and examination requirements and must pay the various licensing fees set forth in the fee schedule, N.J.A.C. 13:28-5.1. Pursuant to N.J.S.A. 45:1-3.2, the Board is required to assess licensing fees in an amount sufficient to fund the Board's operation.

In addition to the licensing fees set forth in subchapter 5, licensed shops must meet minimum requirements for floor space, equipment, supervision, sanitation, etc., as specified in subchapter 2, and licensed schools must meet minimum requirements for floor space, equipment, curricula, teaching staff ratio, etc., as set forth in subchapter 6. Although compliance costs cannot be estimated with any certainty, the rules proposed for readoption should not have a significant economic impact on licensed shops or schools inasmuch as the requirements represent no change from the current rules and reflect standard business practice for licensed shops and schools. However, shops and schools which do not meet these requirements will incur expenses in order to do so. The bond which schools are required to post with the State pursuant to N.J.A.C. 13:28-6.33 is required by statute. See N.J.S.A. 45:5B-32.

The proposed amendments should not significantly increase the economic impact of the regulations upon schools, shops and licensees since, in general, the amendments merely reflect statutory amendments and update and clarify existing regulations. More specifically, the economic impact of the requirement in proposed new N.J.A.C. 13:28-1.6 to notify the Board of an address change should result in only an insignificant expenditure of time and therefore only minimal expense to those licensees required to report an address change. Licensed shops currently offering permanent cosmetic application will experience the financial loss resulting from a decreased customer base, since they will no longer be able to offer this service. The Board estimates that only a negligible percentage of the 7,300 licensed shops currently offer permanent cosmetic application. Proposed new N.J.A.C. 13:28-3.2 will not have an economic impact upon licensed shops since it merely clarifies appropriate sanitizing methods. Since the amendment to N.J.A.C. 13:28-6.16 deletes the requirement of prior Board approval for demonstrations, schools which rent excess space for demonstrations may benefit economically by not having to expend the time to obtain such approval. The amendment to N.J.A.C. 13:28-6.20 deleting a marcel stove

from the list of minimum school equipment will benefit licensed shops in that they will have less equipment to purchase.

No direct impact on consumers is anticipated as a result of this readoption, since all expenses to the licensee have been in place for some time and the readoption does not significantly increase any amounts. The economic impact upon the Board is expected to be favorable in that readoption will enable it to continue to perform its necessary statutory and regulatory functions. Failure to readopt would jeopardize the Board's functioning, since the fee schedule is the source of the Board's operating funds.

Regulatory Flexibility Analysis

The rules proposed for readoption will apply to approximately 7,300 licensed shops and 32 licensed schools, all of which would be considered small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent that individual practicing licensees would be considered small business under the criteria of the Act, the following analysis also applies to approximately 60,000 current Board licensees.

Compliance requirements for individual applicants include completion of high school and a training program; submission to the Board of an application form and supporting documents; payment of licensing fees; and adherence to minimum practice requirements, as set forth in N.J.A.C. 13:28-3.2, such as the requirements to wash hands before and after serving each patron and to be attired in clean outer garments. The Board does not anticipate that applicants and practicing licensees will require additional professional services in order to comply with these requirements.

Licensed shops are required to submit an application and supporting documents to the Board; to pay licensing fees; to report to the Board changes of address, transfers of ownership, and the name of the licensee who will be in charge of a shop in the absence of an experienced practicing licensee. Licensed shops must also comply with posting requirements for licenses and notices and with minimum requirements for floor space, equipment, supervision, sanitation, and the offering of ancillary services, as set forth in subchapter 2.

Licensed schools must submit an application form and supporting documents to the Board, pay the licensing fees set forth in subchapter 5, and comply with minimum requirements for floor space, teacher-student ratios, clinical work performed at the school, equipment and curricula. School reporting requirements include submission to the Board of the following: student registration cards, class schedules, notices of ownership transfer or relocation, employment contracts for supervising teachers, notices of interruption or termination of a student's training, certification of a student's completion of the curriculum, evaluation of transfer students, examination applications, and a list of teachers and student teachers. School recordkeeping requirements include maintenance of student registers and sign-in sheets for a five-year period.

For both licensed shops and licensed schools, recourse to other providers of professional services may be required in order to provide proper facilities and equipment.

Compliance costs are as stated in the economic impact statement. Generally, compliance costs are expected to be insignificant since the rules proposed for readoption generally represent no major departures from existing regulations and current practice. Furthermore, licensing fees are reproposed without change. As required by N.J.S.A. 45:1-3.2, licensing fees have been set at the minimum amount necessary to fund the Board's operations. Since the rules proposed for readoption with amendments implement the Board's statutory requirement to protect the public safety and general welfare through the establishment of standards for the provision of cosmetology and hairstyling services and instruction in a safe and sanitary manner, no differentiation in compliance requirements based upon business size is feasible.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:28.

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

13:28-1.2 Examination and reexaminations

(a) Applicants shall be subject to testing in all areas of cosmetology and hairstyling appropriate for the license sought, and such examination shall be in [three] **two** parts: practical[, oral] and written.

(b) (No change.)

(c) An applicant who fails one [or more] part[s] of the examination shall be reexamined only on the part[(s)] failed; provided, however, that an applicant for a cosmetology and hairstyling license **by endorsement** pursuant to N.J.S.A. 45:5B-[18 and 19] **29 and 30** who fails one [or more] part[(s)] of the examination shall retake the complete examination.

(d) (No change.)

13:28-1.6 Notification of change of address

(a) Licensees shall notify the Board in writing of any change from the address currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board no later than 30 days following the change of address.

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(c) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

13:28-2.6 Shops within residential premises

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

(c) Cosmetology and hairstyling services shall not be rendered or offered to be rendered upon residential premises which are not licensed pursuant to N.J.S.A. 45:5B-9.

13:28-2.9 Ancillary services

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

(d) Permanent cosmetic application such as, but not limited to, tattooing and permanent make-up, is prohibited on any licensed premises.

13:28-2.10 Posting of licenses and required notices

(a) All shops shall display the following in a location clearly visible to all patrons:

1.-3. (No change.)

4. The following notice:

NOTICE

This shop and the operators herein are licensed to engage in the practice of cosmetology and hairstyling by the State Board of Cosmetology and Hairstyling, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which this practice is conducted may notify the State Board of Cosmetology and Hairstyling [at 1100 Raymond Boulevard, Newark, New Jersey 07102] or the New Jersey Division of Consumer Affairs, [1100 Raymond Boulevard] **Post Office Box 45003**, Newark, New Jersey [07102] **07101**.

13:28-3.1 Premises

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

[(e) All tools, implements and electrical appliances used within a licensed shop shall be maintained in a sanitary and safe manner. Tools and utensils applied directly to patrons shall be thoroughly cleaned and sanitized after each and every use.]

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

(f) All tools, implements and electrical appliances used within a licensed shop shall be maintained in a sanitary and safe manner. Tools and utensils applied directly to patrons shall be thoroughly cleaned and sanitized after each and every use in accordance with the provisions of N.J.A.C. 13:28-3.2.

13:28-3.2 Sanitizing implements and tools

(a) A licensee shall sanitize all implements and tools by:

1. Cleaning all instruments thoroughly with a mild alkaline detergent to remove any soil, blood or any other foreign material;

2. Rinsing all instruments with tap water after cleaning;

3. Processing all instruments with a chemical disinfectant registered by the Environmental Protection Agency as being tuberculocidal when used at a recommended dilution;

4. Following manufacturer's instructions when using chemical disinfectant; and

5. Storing clean instruments in a dry sanitizer.

(b) A licensee shall discard after each use all emery boards that cannot be sanitized.

13:28-[3.2]**3.3** Personnel

(a) (No change.)

(b) All practitioners shall be attired in clean [clothes] **outer garments.**

(c)-(f) (No change.)

13:28-6.2 Application procedure for school licenses

(a) (No change.)

(b) Upon receipt of a completed application the School Committee shall review the application. A complete application shall include: a school bond; school bulletin; a certificate of incorporation or partnership agreement where applicable; personnel data form(s); floor plan; employment contract (one year minimum) with the supervising teacher; hour by hour breakdown of the [1,200 hour] course; a sample enrollment agreement (contract); sample certificate of completion; sample advertisements; certified-audited financial data; and the required licensing fee as set forth in N.J.A.C. 13:28-5.1.

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

13:28-6.8 Student registration cards

(a) (No change.)

(b) A student registration card is valid from the date of issue until the particular student's education is completed in the course in which the student is enrolled, as long as the student is not absent from school for **a** period of more than three months.

1. In instances where absences exceed three months, the student shall be dropped for the school's time sheets and must obtain a new registration card, **pursuant to N.J.A.C. 13:28-6.21(n),** in order to resume training.

(c) (No change.)

13:28-6.10 Commencement of classes

School classes shall commence on the first Monday of each month, provided, however, that if a holiday falls on the first Monday, school classes shall commence on the first working day following the holiday. **The Board may, at its discretion, approve a date for the commencement of school classes other than the first Monday of each month provided the licensed school obtains Board approval at least 30 days prior to the commencement of classes.**

13:28-6.16 Other trades; demonstrations

(a) (No change.)

(b) A school shall not rent space for demonstrations to outside companies, individuals, corporations, associations, partnerships or other entities unless such space is in excess of the required minimum footage for school premises pursuant to N.J.A.C. 13:28-6.7. Demonstrations shall not conflict with the regular school operation [and may only be conducted after Board approval].

13:28-6.20 Equipment

(a) (No change.)

(b) The minimum equipment required for schools shall be as follows:

1.-2. (No change.)

[3. One marcel stove;]

Recodify existing 4.-12. as **3.-11.** (No change in text.)

[13. Two steamers or heat caps;]

Recodify existing 14. and 15. as **12. and 13.** (No change in text.)

[16.]**14.** One teachers' [rest room] **lavatory** for schools having three or more teachers.

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

(f) Each school shall have separate [lecture rooms] **classrooms** for junior and senior students.

(g)-(i) (No change.)

13:28-6.21 Student standards and rquirements

(a)-(n) (No change.)

(o) Examinations shall be administered by the school to the student [at least 50 hours] prior to completion of his or her course in accordance with the standard procedures followed by public educational institutions in the State in all courses of instruction. The examination shall be written[,] **and** practical [and oral].

(p) All students shall complete a course of study [consisting of 1,200 hours] in conformance with the [curriculum] **curricula** adopted by the Board.

(q) (No change.)

13:28-6.22 Application submission by schools

The school shall submit applications for each student for examination within 30 days after the student's completion of [1,200 hours of] **the** course **of** study. Each application must be accompanied by two recent photographs, a copy of a high school or equivalency diploma and the appropriate fees pursuant to N.J.A.C. 13:28-5.1.

13:28-6.31 Curriculum for 500 hour course for student teachers

TIME DISTRIBUTION FOR INSTRUCTIONAL UNITS AND CLINICAL PRACTICE

	Hours of Class and Subject Related Instruction	Hours of Practical Instruction	Total
...			
Hair & Basic Layer & [cap] **clipper** cut—razor, scissors, thinning shears, tapering	20	30	50
...			

(a)

DIVISION OF CRIMINAL JUSTICE

Arson Investigators: Training Requirements

Proposed Readoption with Amendments: N.J.A.C. 13:76

Authorized By: Robert T. Winter, Director, Division of Criminal Justice.

Authority: N.J.S.A. 40A:14-7.1 and 52:17B-97 et seq.

Proposal Number: PRN 1993-98.

Submit comments by March 31, 1993 to:

Robert T. Winter, Director
Division of Criminal Justice
Richard J. Hughes Justice Complex
25 Market Street
CN 085
Trenton, NJ 08625

The agency proposal follows:

Summary

N.J.A.C. 13:76 provides the training requirements and certification procedures for any paid members of a paid or part-paid municipal fire department or force, assigned full-time or part-time to an arson investigation unit, with the same powers and authority of police officers within the municipality, while engaged in the actual performance of arson investigation duties.

Pursuant to Executive Order 66(1978), this chapter expires on June 27, 1993. The Division of Criminal Justice (Division) has reviewed these rules and found them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. It should be noted that certain minor amendments to certain of these rules are proposed in order to clarify some of the language and to update the rules. For example, the basic arson investigation course is now conducted by the Police Services Section in the Division. A synopsis of the contents of this chapter follows.

N.J.A.C. 13:76-1 sets forth the scope and applicability of these rules and provides appropriate definitions.

The notification and reporting requirements for a municipality contemplating the creation of an arson investigation unit pursuant to N.J.S.A. 40A:14-7.1 and, in turn, a county prosecutor's notification and commentary responsibilities following receipt of such municipal notice are provided by N.J.A.C. 13:76-2.

The training prerequisites for a person assigned to an arson investigation unit and the procedures for certification of such an individual as an arson investigator are set forth in N.J.A.C. 13:76-3. N.J.A.C. 13:76-4

contains the in-service training requirements for a certified arson investigator and the procedures for certification renewal.

Municipal responsibility for all costs and expenses involved in the training of arson investigation unit personnel is provided for in N.J.A.C. 13:76-5. A municipality's duty to notify the county prosecutor, and the prosecutor's duty, in turn, to notify the Division, of the termination of the assignment of an arson investigator is set forth in N.J.A.C. 13:76-6.

Proposed new rule N.J.A.C. 13:76-7.1 subjects an arson investigator, when exercising law enforcement powers, to the authority of the Attorney General.

Social Impact

By setting forth the training and certification requirements for arson investigators, these rules advance efficient law enforcement. The readoption of these rules will allow the Division to continue to meet the growing demand for the training of arson investigators.

Economic Impact

The readoption of these rules will not impose any significant economic impact upon the State. There will be an economic impact upon those municipalities who choose to assign individuals to an arson investigation unit pursuant to N.J.S.A. 40A:14-7.1. Such impact will include municipal responsibility for the costs and expenses for enrollment and attendance in all the required prerequisite and continued in-service training.

Regulatory Flexibility Statement

These rules only apply to municipalities assigning fire department members to an arson investigation unit, and not to small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, no regulatory flexibility analysis is required.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:76.

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

13:76-1.3 Definitions

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

...

"Basic Course for Investigators" means the curriculum prescribed by the Police Training Commission and [sponsored] **conducted** by the Police Services Section, Division of Criminal Justice, Department of Law and Public Safety, as an appropriate course of training for arson investigators.

"Basic Arson Investigation Course" means the curriculum prescribed and [sponsored] **conducted** by the [Training] **Police Services** Section, Division of Criminal Justice, Department of Law and Public Safety, as an appropriate arson investigation course.

"In-Service Training" means the curricula prescribed and [sponsored] **conducted** by the [Training] **Police Services** Section, Division of Criminal Justice, Department of Law and Public Safety, to provide selected advanced arson investigation training as may be deemed necessary.

"Equivalent course" means a course of instruction recognized by the Police Training Commission as being acceptable in lieu of the Basic Course for Investigators, or a course of instruction recognized by the [Training] **Police Services** Section, Division of Criminal Justice, as being acceptable in lieu of the Basic Arson Investigation Course or In-Service Training.

...

SUBCHAPTER 7. AUTHORITY OF THE ATTORNEY GENERAL

13:76-7.1 Authority of the Attorney General

All certified arson investigators, while in the actual performance of arson investigation duties, shall be subject to and comply with all applicable policies established by the Attorney General. These shall include rules and regulations, directives, advisory opinions and guidelines.

PUBLIC UTILITIES

(a)

BOARD OF REGULATORY COMMISSIONERS

Administrative Orders

Natural Gas

Reproposed New Rules: N.J.A.C. 14:11-8

Authorized By: Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman, and Jeremiah F. O'Connor and Carmen J. Armenti, Commissioners.

Authority: N.J.S.A. 48:2-13, 48:3-9, 48:10-2 et seq.

BRC Docket Number: AX92020133.

Proposal Number: PRN 1993-91.

Submit written comments by March 31, 1993 to:

Edward D. Beslow, Esq.
Board of Regulatory Commissioners
44 South Clinton Avenue
CN 350
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the provisions of N.J.A.C. 14:11, Administrative Orders, expired on January 27, 1992. The rules had served over an extended time in the regulation of public utilities subject to the jurisdiction of the Board of Regulatory Commissioners (formerly the Board of Public Utilities) (Board) in such areas as petitions for relief, reporting of accidents, utility tariffs and the construction, operation and maintenance of pipelines for the transmission of natural gas within and through the State of New Jersey.

In the May 4, 1992 New Jersey Register at 24 N.J.R. 1684(b), the Board proposed rules which in many ways were identical to the expired rules which can be found in the New Jersey Administrative Code at N.J.A.C. 14:11, except for those changes which were specifically identified therein. Those proposed changes were, for the most part, to correct previous typographical errors, to conform to current rule form, to reflect the Board's designation as the Board of Regulatory Commissioners, and to eliminate references to solid waste operations as the regulation of that industry is no longer within the jurisdiction of the Board pursuant to Reorganization Plan No. 002-1991 effective August 19, 1991.

The remaining rules were deemed necessary in that they relate directly to the provision of safe, adequate and proper service by New Jersey utilities. Thus, although this chapter was proposed as a new rulemaking, it continues procedures previously in effect.

Subsequent to the aforementioned date of publication, the Board's staff recommended certain modifications to subchapter 8 which deals with natural gas. The Board considers several of these changes to differ sufficiently from the original proposal to require additional notice and comment. See N.J.A.C. 1:30-4.3(a). Accordingly, the Board has bifurcated subchapter 8 from the remainder of N.J.A.C. 14:11 in order that it may be reproposed as a new rule. The Board has acted on the remainder of N.J.A.C. 14:11 which became effective upon its publication elsewhere in this issue of the New Jersey Register.

The substantive provisions of the rules proposed to be adopted by the Board are summarized as follows:

N.J.A.C. 14:11-8.1 sets forth the scope of the subchapter dealing with the construction, operation and maintenance of natural gas transmission and distribution lines.

N.J.A.C. 14:11-8.2 provides that all gas pipelines must comply with the applicable provisions of the Federal Code for Pressure Piping.

N.J.A.C. 14:11-8.3 pertains to the classification of gas pipelines.

N.J.A.C. 14:11-8.4 provides that gas pipelines to be operated in excess of 250 psig shall not be installed within 100 feet of any building intended for human occupancy unless such installation is approved by the Board.

N.J.A.C. 14:11-8.5 pertains to the specifications regarding welds on steel pipe.

N.J.A.C. 14:11-8.6 pertains to the quality control applicable to field welding.

N.J.A.C. 14:11-8.7 sets forth the accepted fabrication requirements pertaining to the construction of gas pipelines.

N.J.A.C. 14:11-8.8 pertains to construction in those areas where a gas pipeline intersects a railroad or highway.

N.J.A.C. 14:11-8.9 pertains to construction in those areas where a gas pipeline is under or adjacent to a railroad or highway.

N.J.A.C. 14:11-8.10 pertains to the appropriate spacing of shut-off valves.

N.J.A.C. 14:11-8.11 limits the installation of automatic valves to those circumstances that indicate that they will contribute to safer operation.

N.J.A.C. 14:11-8.12 requires that pressure relieving devices be operated in such a manner as to avoid hazards to persons and nearby property.

N.J.A.C. 14:11-8.13 requires adequate inspection of pipe to insure that it is free of nicks and other forms of damage that would tend to produce a concentration of stresses or otherwise reduce the strength of the pipe.

N.J.A.C. 14:11-8.14 pertains to the minimum cover that is required above the top of the pipe.

N.J.A.C. 14:11-8.15 requires the proper marking of any portion of the pipeline that protrudes above the ground.

N.J.A.C. 14:11-8.16 sets forth the requirements regarding corrosion protection.

N.J.A.C. 14:11-8.17 provides for the testing of a gas pipeline after it has been constructed and before it has been placed in operation.

N.J.A.C. 14:11-8.18 provides for the purging of air from pipelines that have been classed as Location 2, 3 or 4 piping systems.

N.J.A.C. 14:11-8.19 sets forth the standard applicable to gas piping in gas compressor stations.

N.J.A.C. 14:11-8.20 pertains to the installation of adequate pressure relief devices and the safe disposal of gas released from such devices.

N.J.A.C. 14:11-8.21 requires that each compressor station with installed horsepower in excess of 1,000 and operating at pressures of more than 250 psig shall be provided with remote emergency shut-down devices.

N.J.A.C. 14:11-8.22 sets out the clearance necessary between compressor stations and buildings not under the control of the utility which are intended for human occupancy.

N.J.A.C. 14:11-8.23 sets forth measures designed to prevent fires.

N.J.A.C. 14:11-8.24 sets forth standards for all electric wiring, fixtures and devices within compressor buildings.

N.J.A.C. 14:11-8.25 requires that all compressor stations be provided with adequate natural draft ventilating devices.

N.J.A.C. 14:11-8.26 pertains to the standards for gas piping in meter and regulator stations.

N.J.A.C. 14:11-8.27 sets forth standards for all electric wiring, fixtures and devices within meter and regulator buildings.

N.J.A.C. 14:11-8.28 pertains to the location of ventilation and protection devices at meter and regulator stations.

N.J.A.C. 14:11-8.29 requires sufficient odorization of natural gas.

N.J.A.C. 14:11-8.30 pertains to the recording and reporting of all reportable accidents.

N.J.A.C. 14:11-8.31 pertains to the reporting of service interruptions affecting customers.

N.J.A.C. 14:11-8.32 pertains to the filing of notice with the Board prior to and during the construction or reconstruction of any gas pipeline intended to be subjected to pressure in excess of 125 psig.

N.J.A.C. 14:11-8.33 sets forth those provisions that must be contained in a statement to the Board before a pipeline is placed in operation.

N.J.A.C. 14:11-8.34 provides that whenever the Board participates in the payment of the expense for the construction of a bridge or passage over or under and across a railroad right-of-way or for the installation of protective devices at railroad grade crossings, the design work may be performed by a competent consultant.

The significant differences between the proposal of N.J.A.C. 14:11-8 set out in the May 4, 1992 Register and the proposal set forth herein may be summarized as follows:

At N.J.A.C. 14:11-8.1, the reproposed rule clarifies that the rules apply to transmission and distribution pipelines which transport natural gas in New Jersey.

At N.J.A.C. 14:11-8.2, the reproposed rule recognizes that all gas pipelines are to be constructed, operated and maintained in accordance with the Code of Federal Regulations, Title 49, Part 192 (Federal Code) which is currently in effect and administered by the United States Department of Transportation, Office of Pipeline Safety. Prior thereto, the industry and the State utilized ASA B31.8. The term "Federal Code" replaces the term "Standard Code."

At N.J.A.C. 14:11-8.3, the reproposed rule provides that the classification of gas pipelines shall be in accordance with the Federal Code.

At N.J.A.C. 14:11-8.5, the reproposed rule eliminates reference to the specifications of the American Gas Association and provides that the welds on steel pipe shall conform to the American Petroleum Institute Standard 1104 and the Federal Code. This is designated as "Welding Standards" in place of the term "Welding Specifications."

At N.J.A.C. 14:11-8.6, the reproposed rule adds that inspections pertaining to the quality of field welding, in addition to the standards set out in Welding Standards, may be by any other acceptable methods, the conditions for which are set forth in the Federal Code.

At N.J.A.C. 14:11-8.7, the reproposed rule provides, in subsection (d), that mitre welds shall be made in accordance with the Federal Code.

At N.J.A.C. 14:11-8.8, the reproposed rule eliminates the prior section in its entirety and, in its place, provides that the installation of gas pipelines, where the pipelines intersect with a railroad or State highway, shall be in accordance with the specifications and standards established by the authority or agency having jurisdiction over the right-of-way.

At N.J.A.C. 14:11-8.16, the original proposed rule did not provide for any amendments of this section. The reproposed rule eliminates former subsection (a), pertaining to general corrosion protection measures, in its entirety. In its place the rule provides that any buried or submerged metallic pipeline installed after July 31, 1971, shall require an external protective coating and a cathodic protection system in accordance with the Federal Code except in certain specific situations. In addition, former subsection (b), pertaining to reports to the Board setting forth reasons why protective measures are not needed, was eliminated and replaced with language that will require that any pipeline installed prior to August 1, 1971 shall conform to the provisions of the Federal Code. The Board has also proposed the addition of subsection (e) which would require that all unprotected bare steel service lines be subjected to biannual flame ionization surveys. In the event that 20 percent of such lines within a defineable area have exhibited leaks, replacement of all bare steel service lines within that area would be required.

At N.J.A.C. 14:11-8.17, the testing measures set forth in former subsection (a) have been eliminated and replaced with a statement that the testing of all natural gas pipelines shall be performed in accordance with the provisions of the Federal Code.

At N.J.A.C. 14:11-8.30, with regard to the amount of damages necesssary to require the filing of an accident report, the reproposed rule increases the amount from $500.00 to $1,000.

At N.J.A.C. 14:11-8.34, the reproposed rule eliminates former subsection (c) which made the rule effective on all Board orders directing construction or reconstruction of bridges or grade crossing protection issued on or after April 20, 1972.

Social Impact

The reproposed rules relate directly to the provision of safe, adequate and proper service by New Jersey gas utilities. Said rules are necessary to ensure, among other things, that utility plant is constructed, installed, operated and maintained in a manner that will protect the safety and well-being of the public and that gas utilities will expeditiously and completely report all accidents that may occur as a result of the operation of their plant and equipment.

Economic Impact

As a result of the reproposed rules, gas utilities, as they have in the past, will incur expenses for, among other things, inspecting and testing their plant; reporting accidents and construction information; and maintaining required records. Since all expenses associated with compliance with these proposed rules represent appropriate business activities, all reasonable levels of costs associated therewith will be allowed to be passed along to ratepayers through rates for service.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the reproposed new rules do not impose reporting, recordkeeping or other compliance requirements on small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed rules apply to New Jersey gas utilities, none of which are small businesses.

Full text of the reproposed new rules follows:

14:11-8.1 Scope

Unless otherwise ordered or permitted by the Board, the rules in this subchapter shall be observed and followed in connection with the construction, operation and maintenance of transmission and distribution pipelines for the transportation of natural gas within and through the State of New Jersey.

14:11-8.2 Compliance with Federal Code

Any gas pipeline constructed after the effective date of this subchapter shall be constructed, operated and maintained in compliance with the Code of Federal Regulations, Title 49, Part 192, hereinafter referred to as the "Federal Code," incorporated herein by reference, or such other standard as the Board may from time to time prescribe. Any such pipeline which comes within the scope of the provisions of N.J.S.A. 48:10-2 to 10-9 and which was constructed prior to the effective date of these rules shall be deemed to be subject to any provisions of the Federal Code pertaining to operation and maintenance.

14:11-8.3 Classification of system

(a) Natural gas pipelines shall be classified in accordance with the provisions of the Federal Code. However, no portion of a gas pipeline subjected to pressures of 125 pounds per square inch gauge (psig) or more shall be classified as less than Location Class 3 when such portion of the pipeline is constructed within 300 feet of, or if said pipeline is to be operated at a pressure in excess of 500 psig within 500 feet of the following:

1. A place of residence;
2. A building used for public gathering;
3. Any school building, playground, or building devoted to institutional use;
4. Property that is zoned as residential; or
5. A building devoted to a business in which more than three people are employed when such structures are in existence or under construction at the date of execution of the right-of-way agreement or at the date of filing with the clerk of the Superior Court of a complaint in a condemnation action. This additional classification shall not apply to buildings which are under control of the gas pipeline company.

14:11-8.4 Proscribed areas

Gas pipelines which are to be operated at a maximum pressure in excess of 250 psig shall not be installed within 100 feet of any building intended for human occupancy which is in existence prior to or under construction at the date of execution of the right-of-way agreement or at the date of filing with the clerk of the Superior Court of a complaint in a condemnation action, unless such installation is authorized and approved by the Board.

14:11-8.5 Welding

Welds, other than factory welds, on steel pipe of the physical and chemical properties for which the effective American Petroleum Institute Standard 1104 and Federal Code, hereinafter referred to in this subchapter as Welding Standards, are applicable shall be made in accordance with such Welding Standards, incorporated herein by reference.

14:11-8.6 Quality control of field welding

All pipeline and piping welders shall be qualified in accordance with the requirements for the qualification of welders as set forth in Welding Standards. Throughout the construction period, representative samples of welds made by each welder or welding crew shall be removed from the line and tested to destruction in accordance with the provisions of the Welding Standards or shall be radiographically examined in accordance with the Welding Standards or examined by any other acceptable methods, the conditions for which are set forth in the Federal Code. In any pipeline construction project involving five miles or more of 16 inch O.D. or larger pipe, at least 20 percent of the welds in construction classified under paragraph 2 as Location Class 3 or Class 4 piping and at least 10 percent of the welds in construction classified under paragraph 2 as Location Class 1 or Class 2 pipeline, shall be examined radiographically in accordance with the Welding Standards or examined by other methods deemed to be at least equally acceptable.

14:11-8.7 Fabrication details

(a) The requirements set forth in (b) through (d) below in addition to the requirements of the Federal Code shall be applicable to the construction of gas pipelines.

(b) Straight pipe may be bent cold in the field by any of the accepted methods of smooth bending provided that the wall thickness and strength of the pipe after bending is not less than that required under the applicable provisions of the Federal Code for straight pipe of the same diameter and grade.

(c) Branch connections fabricated by welding shall be of the reinforced type made in accordance with the rules for reinforced connections as provided in the Federal Code. However, line taps may be made under pressure in the sizes and at the pressure at which the line tapping equipment is recommended for use by the manufacturer, provided that all proper safeguards against injury to persons and property are taken.

(d) Mitre welds shall be made in accordance with the Federal Code.

14:11-8.8 Crossings

At points where a natural gas pipeline intersects a railroad or a New Jersey State Highway, such pipeline shall be installed in accordance with the specifications and standards established by the authority or agency having jurisdiction over the right-of-way.

14:11-8.9 Lines under or adjacent to railroads and highways

(a) Every gas pipeline constructed and operated within the boundaries of a railroad right-of-way or a public hard surface highway or street or within 25 feet thereof, shall conform to the standards and requirements of the Federal Code for gas pipelines in Location Class 3 or 4.

(b) In the construction of any gas pipeline parallel to railroad tracks, consideration shall be given to the character of the railroad traffic and the pressure and diameter of the gas pipeline in establishing the following:

1. The minimum amount of cover required over such pipeline;
2. The minimum proximity of the gas pipeline to the railroad track;
3. The need for additional valves to permit the prompt shutting off of gas in the event of pipeline failure or any other emergency; and
4. The need, if any, for casing.

(c) Whenever reasonably possible to avoid doing so, a gas pipeline subjected to or intended to be subjected to pressure in excess of 125 psig, should not be installed beneath and parallel to or within 25 feet of any public hard surface road or street. When such a gas pipeline is so installed the construction shall conform, as far as casing is concerned, to the provisions of N.J.A.C. 14:11-8.8 to the extent reasonably practicable.

(d) Notwithstanding the provisions of N.J.A.C. 14:11-8.8, all applicable rules of other State or local agencies having jurisdiction which exceed the requirements of said rules shall be effective.

14:11-8.10 Valve spacing

(a) Shut-off valves shall be installed and maintained at strategic points on the pipeline system at intervals which will permit sections of the line to be isolated.

(b) In areas outside the boundaries of cities and villages where there are no houses within 300 feet of the pipeline, the appropriate length of such sections shall not be greater than 16 miles; and where houses are located within 300 feet of the pipeline, the appropriate length of such sections shall not be greater than eight miles.

(c) Within the boundaries of cities and villages or in the vicinity thereof, sufficient additional valves shall be provided and other appropriate steps taken to provide means for promptly turning off the gas and rapidly reducing the pressure in any section of pipe in the event of a pipeline failure or other emergency.

(d) Each pipeline company shall designate a representative or representatives in New Jersey who are familiar with the location and operation of the shut-off valves. The names, addresses and telephone numbers of these representatives shall be furnished to the Secretary of the Board and to the clerks of the municipalities through which the line is laid. Such representatives shall be available at all times for emergency services.

14:11-8.11 Automatic valves

Automatic valves should only be installed where the particular circumstances indicate that they will contribute to safer operation.

14:11-8.12 Blow-offs

Automatic blow-off or pressure relieving devices shall be installed in such a manner that the released gas will not present a hazard to nearby persons or property. Manually operated blow-off valves shall be operated in such a manner as to avoid hazard to nearby property or persons.

14:11-8.13 Installation of pipe

Inspection for storage and handling of pipe shall be adequate to assure that the pipe installed will be free of nicks or other forms of damage which would tend to produce a concentration of stresses or otherwise reduce the strength of the pipe below the minimum required under the applicable provisions of the Federal Code for the services conditions at which it is intended to operate the pipeline.

14:11-8.14 Minimum cover of mains

(a) Gas pipelines within the scope of this subchapter shall be laid with a cover of not less than 24 inches above the top of the pipe except where interference with other subsurface structures makes it impracticable to maintain this depth of cover, in which event the pipe shall be cased or protected with a suitable shield of metal. Gas pipelines shall be laid so as to avoid other subsurface structures and such pipelines shall not be laid within the distance of less than 12 inches from any other subsurface structure whenever reasonably practicable to avoid doing so. A structure providing a space in which a substantial volume of an explosive mixture might accumulate in the event that gas escapes from the pipeline shall be avoided when reasonably practicable to do so and preference shall be given to crossing over rather than under such structures.

(b) Whenever conditions permit, gas pipelines within cities and villages shall be laid with a cover of not less than 36 inches above the top of the pipe.

14:11-8.15 Projections

Any portion of a pipeline which protrudes above the ground shall be conspicuously painted, marked or fenced or otherwise protected against damage or tampering.

14:11-8.16 Corrosion control

(a) Except as provided in (b) below, each buried or submerged metallic pipeline installed after July 31, 1971, shall require an external protective coating and a cathodic protection system designed to protect the pipeline in its entirety in accordance with the Federal Code, installed and placed in operation within one year after completion of construction. An operator need not comply with this provision if tests, investigations or experience demonstrate that:

1. A corrosive environment does not exist with regard to copper pipelines; or

2. Corrosion during the life of a temporary pipeline (not to exceed five years of service) will not be detrimental to public safety.

(b) Each buried or submerged metallic pipeline installed prior to August 1, 1971, shall conform to the requirements as set forth in the Federal Code.

(c) Whenever pipe coating is applied, the following additional precautions shall be taken by the company:

1. Tests and inspections shall be made before backfill to insure that the coating is adequate and satisfactory;

2. During backfill, precautions shall be taken to insure the coating is not damaged; and

3. On completion of backfill, tests shall be made to ascertain if the coating is adequate and satisfactory.

(d) After installation of a pipeline, periodic inspection or tests of the line shall be conducted to determine whether or not the pipe metal is adequately protected. Each company shall maintain a suitable log, indicating the character and results of periodic inspection tests.

(e) Each operator shall perform flame ionization surveys on all unprotected bare steel service lines at intervals not exceeding 24 months. The survey results shall be summarized and maintained by the utility, along with the original surveys. Replacement of all bare steel service lines within a definable area shall be required when records indicate that 20 percent or more of the services within that definable area have exhibited leaks.

14:11-8.17 Testing

(a) Testing of all natural gas pipelines shall be performed in accordance with the provisions of the Federal Code.

(b) The Board shall be notified at least two working days prior to pressure testing of any gas pipeline. Officials of municipalities wherein a line is to be tested shall also be notified in order that proper and adequate police protection may be provided.

(c) When water is used for testing, suitable provisions shall be made for disposal of the water on completion of the test. Suitable precautions shall also be taken to avoid contamination of local streams or water supplies in the event of a line failure.

(d) Test pressure, in accordance with the aforementioned, shall be maintained wherever possible for a period of 24 hours but in no event for a period of less than 12 hours.

14:11-8.18 Purging

Air shall be purged from pipelines classed under N.J.A.C. 14:11-8.3 as Location Class 2, 3, or 4 piping systems by introducing a suitable quantity of inert gas into the pipelines ahead of the combustible gas, or by any other suitable method which prevents formation of an explosive mixture in the pipeline.

14:11-8.19 Piping

Gas piping in gas compressor stations shall be installed in accordance with the provisions of the Federal Code applicable to compressor station piping.

14:11-8.20 Relief devices

Pressure relief or other adequate protective devices of sufficient capacity and sensitivity shall be installed and maintained to assure that the maximum allowable working pressure of the station piping is not exceeded. Suitable provisions shall be made for safely disposing of the gas released from such devices. Periodic tests and inspections shall be made to assure continued sensitivity of these devices.

14:11-8.21 Remote safety shut-down

Each compressor station with installed horsepower of more than 1,000 and operating at pressures in excess of 250 psig shall be provided with remote emergency shut-down devices which will allow the station to be shut down from a remote point, away from the compressor building.

14:11-8.22 Clearance

Compressor stations to be located on gas pipelines shall not be constructed in areas where such construction is prohibited under applicable zoning regulations and laws. At locations where a compressor station is constructed, the distance between a building not under the control of the pipeline company and intended for human occupancy and the main compressor room of the compressor station which is intended to operate at pressures in excess of 250 psig shall not be, at the time of construction of the station, less than the distance indicated in the following table:

Installed Horsepower	Distance from Structure in Feet
Under 1,000	250
1,000 and over	500

14:11-8.23 Fire prevention

Supplies of gasoline, lubricants, paints and other similar combustible materials in excess of those required in actual operation shall be stored at a safe distance from the compressor building. Gas engine crankcases shall be vented outside the building with a vent not smaller than the connection provided by the compressor manufacturer. Warning signs adequate to indicate the danger involved shall be placed in conspicuous locations around the compressor station area.

14:11-8.24 Electric installations

All electric wiring, fixtures and devices within compressor buildings shall be designed and installed in accordance with Article 500 of the current edition of the National Electrical Code and shall meet the requirements thereof for Class I locations and shall also conform to applicable provisions of the current edition of the National Electrical Safety Code, incorporated herein by reference.

14:11-8.25 Ventilation

Compressor stations shall be provided with adequate natural draft ventilating devices.

14:11-8.26 Piping

All gas piping in meter and regulator stations shall comply with the requirements of the Federal Code for such piping.

14:11-8.27 Electric installations

All electric wiring fixtures and devices in meter and regulator station buildings shall be designed and installed in accordance with Article 500 of the current edition of the National Electrical Code and shall meet the requirements thereof for Class I locations, and shall also conform to applicable provisions of the current edition of the National Electrical Safety Code.

14:11-8.28 Ventilation and protection, transmission lines

Meter and regulator stations located on gas pipelines shall be provided with adequate ventilation. Any such station constructed underground shall be provided with double duct ventilation, each duct to be of a size sufficient to insure adequate ventilation but not less than four inches in diameter and shall extend a suitable height above ground level. All regulator stations located on gas pipelines shall be provided with a sufficient number of relief valves or other protection devices to insure that the complete failure of one or more regulator stations shall not impose pressures on any part of the transmission system beyond those which it is designed for or protected against.

14:11-8.29 Odorization

(a) All gas transmitted by gas pipelines having an insufficient odor of its own to serve as a warning agent in the event of the escape of unburnt gas shall be odorized with a suitable odorant. The Board shall be notified of the type of odorant used and the rates at which it will be added to the gas and the location of the odorization stations. A suitable log shall be kept showing the quantity of odorant added and the volume of gas odorized. Periodic tests should be made at various points in each transmission system to determine the adequacy of the odorization of the gas and a suitable record of such tests should be maintained.

(b) Equipment for introduction of the odorant into the gas shall be so designed as to provide a uniform level of odor in the gas. The equipment and facilities for handling the odorant shall be located where the escape of odorant would not be a nuisance.

14:11-8.30 Accidents

(a) Each gas pipeline company shall keep a record of and report to the Board all accidents which come within the meaning of reportable accidents as defined in this subsection, occurring in connection with the operation of the utility's plant property or facilities within the State.

(b) For the guidance of gas pipeline companies, a reportable accident is defined as an accident other than a motor vehicle accident that results in one or more of the following circumstances:

1. Death of a person;
2. Serious disabling or incapacitating injuries to persons, including employees of the company;
3. Damage to the property of the company which materially affects its service to the public; and
4. Damage to the property of others amounting to more than $1,000.

(c) The Board shall be notified promptly by the speediest means of communication available of all accidents which are clearly reportable and those which there is good reason to believe may result in "reportable accidents" as defined herein. If such notification is not given in any case for the reason that the accident is not considered reportable, and it subsequently develops that the accident is reportable, the gas pipeline company involved shall notify the Board immediately after it has been ascertained that such accident is reportable.

14:11-8.31 Interruptions

Service interruptions affecting customers in New Jersey shall be reported to the Board promptly by the speediest means of communication available. However, interruptions to service made in accordance with provisions set forth in contracts between gas pipeline companies and their customers need not be reported.

14:11-8.32 Proposed construction

(a) At least 30 days prior to the construction or major reconstruction of any gas pipeline intended to be subjected to pressure in excess of 125 psig, a report shall be filed with the Board setting forth the specifications of such pipeline.

(b) Every gas pipeline company shall, on the 15th day of each month, submit a report to the Board setting forth the progress of such construction or major reconstruction as of the end of the preceding month.

14:11-8.33 Compliance; supplementary data on tests

(a) Before a pipeline is placed in operation, a statement shall be submitted to the Board certifying that the pipeline has been tested and meets the requirements of the Federal Code and other rules herein for the maximum service pressure at which it will be operated. This statement shall also include:

1. Pressures at which the lines were tested;
2. The computation of maximum allowable working pressures in conformity with the provisions of the Federal Code; and
3. The results of leakage or tightness tests made on the line.

(b) No gas pipeline shall be operated at pressures in excess of the pressure for which it was certified to the Board.

(c) In instances where gas pipelines which come within the scope of N.J.S.A. 48:10-2 to 10-9 were placed in service prior to the effective date of these rules, a statement shall be filed with this Board within 60 days of the effective date of said rules indicating:

1. The nature of such test such pipeline was subject to before being placed in service;
2. The pressures at which the lines were tested;
3. Computation of maximum allowable working pressure; and
4. The results of leakage or tightness tests made on such line.

14:11-8.34 Design consultants

(a) Whenever the Board participates in the payment of the expense of the construction of a bridge or passage over or under and across a railroad right-of-way where such right-of-way intersects a road, street or avenue, the design work for such construction shall be performed by the Board, the railroad or by a competent consultant engaged by the Board as may be directed by the Board.

(b) Whenever the Board participates in the payment of the expense of the installation of protective devices at railroad grade crossings, the design work may be performed by a competent consultant engaged by the Board.

STATE

(a)

DIVISION OF COMMERCIAL RECORDING

Commercial Recording Filing and Expedited Service Rules

Proposed Readoption with Amendments: N.J.A.C. 15:2

Authorized By: Daniel J. Dalton, Secretary of State.

Authority: P.L. 1992, c.124 and P.L. 1988, c.94, N.J.S.A. 52:16A-11.

Proposal Number: PRN 1993-107.

Submit written comments by March 31, 1993 to:

Colleen McCann
Department of State
CN 300
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to the requirements of Executive Order No. 66(1978), N.J.A.C. 15:2 expires on May 2, 1993. The Department of State has

reviewed the rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated, as required by the Executive Order. The Department proposes to readopt these rules without change, with the exception of N.J.A.C. 15:2-1.4, which must be updated to reflect a recent statutory change that raised the expedited service fee from $5.00 to $10.00 (see P.L. 1992, c.124). Summaries of the subchapters follow.

Subchapter 1, consistent with P.L. 1992, c.124 and N.J.S.A. 52:16A-11, delineates the Division of Commercial Recording's Expedited (8.5 business hour turnaround) service, and associated fees and payment methods. Based on P.L. 1992, c.124, full text of the revised transaction fees (from $5.00 to $10.00 for expedited transactions, per P.L. 1992, c.124) is provided in this notice of proposal.

Subchapter 2, consistent with P.L. 1988, c.94 and N.J.S.A. 52:16A-11, details document preclearance service, preclearance procedures and associated fees and payment methods.

Subchapter 3, also consistent with P.L. 1988, c.94, clarifies the process and procedures for determining the availability of corporation names.

Social Impact

Part of the overall complex of recording and information retrieval services provided by the Division of Commercial Recording, the rules proposed for readoption facilitate commercial activity in the State.

Expedited service helps to insure timely response to critical transactions such as corporate and Uniform Commercial Code filings and searches.

Preclearance service helps to insure that complicated filings are processed smoothly, without time-consuming rejections.

The name availability rule helps to clarify the complex process of distinguishing corporate names, thereby facilitating corporate filings.

Economic Impact

The economic impact of the expedited and preclearance fees is direct. Clients pay $10.00 per transaction for expedited service and $100.00 for preclearance service. However, the associated value of efficient and timely commercial recording services far exceeds the fee amounts. The proposed amendment reflects a statutory fee increase.

There is no direct fee impact associated with the name availability rules. Yet again, the rules produce general economic benefits that are associated with efficient commercial recording services.

Regulatory Flexibility Analysis

Both large and small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., are potentially affected by the expedited and preclearance fees. That is, businesses seeking the services must pay the fees. Experience indicates that service companies (abstractors), law firms, banks and financial reporting firms utilize and will continue to utilize the Division of Commercial Recording's expedited and preclearance services most frequently. As is necessary for operational efficiency, all businesses seeking preclearance of documents must comply with the cover sheet and timely submission requirements of N.J.A.C. 15:2-2.2. No other costs are anticipated, nor are professional services required. The rules do not impose recordkeeping requirements, reporting or other compliance requirements.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 15:2.

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

15:2-1.4 Fees for expedited service

(a) Fees for over the counter corporation service shall be as follows:

1. Filing of document:

i. Without certified copy; statutory fee plus [$5.00] **$10.00**;

ii. With copy to be certified: statutory filing fee, certification fee of $25.00 plus [$5.00] **$10.00**;

2. Request for copy of annual report requested at the same time:

i. One report—$2.00 plus [$5.00] **$10:00**;

ii. Two reports—$4.00 plus [$5.00] **$10:00**;

iii. Three reports—$6.00 plus [$5.00] **$10:00**;

iv. Four reports—$8.00 plus [$10.00] **$15:00**;

v. Five reports—$10.00 plus [$10.00] **$15.00**;

vi. Six reports—$12.00 plus [$10.00] **$15.00**;

vii. Seven reports—$14.00 plus [$15.00] **$20.00**;

viii. Eight reports—$16.00 plus [$15.00] **$20.00**;

ix. Nine reports—$18.00 plus [$15.00] **$20.00**;

x. Ten reports—$20.00 plus [$20.00] **$25.00**.

3. Certificate of standing:

i. Short form standing certificate which includes registered agent and registered office: $25.00 plus [$5.00] **$10.00**;

ii. Long form standing certificate which includes registered agent, registered office, incorporators, officers, directors, and number of authorized shares: $25.00 plus [$5.00] **$10.00**;

4. Status report(s) which includes name availability, the name and address of the registered agent, corporation or limited partnership name, whether corporation charter is still valid, and whether the corporation or limited partnership has filed a fictitious/alternate name. Fees for report(s) requested, at the same time are as follows:

i. One report—$5.00 plus [$5.00] **$10:00**;

ii. Two reports—$10.00 plus [$5.00] **$10:00**;

iii. Three reports—$15.00 plus [$5.00] **$10:00**;

iv. Four reports—$20.00 plus [$10.00] **$15:00**;

v. Five reports—$25.00 plus [$10.00] **$15.00**;

vi. Six reports—$30.00 plus [$10.00] **$15.00**;

vii. Seven reports—$35.00 plus [$15.00] **$20.00**;

viii. Eight reports—$40.00 plus [$15.00] **$20.00**;

ix. Nine reports—$45.00 plus [$15.00] **$20.00**;

x. Ten reports—$50.00 plus [$20.00] **$25.00**.

5. Certificate of name availability one to three names: $25.00 plus [$5.00] **$10.00**.

6. For each page photocopied: $1.00 per page.

7. For each request for an uncertified copy of a document filed with this office, other than the annual report, the fee is [$5.00] **$10.00** plus $1.00 per page photocopies.

8. There shall be an additional charge of $25.00 to certify any document.

(b) Fees for over the counter U.C.C. service shall be as follows:

1. Filing of a U.C.C. 1, a U.C.C. 1 with assignment, U.C.C. 3 or a separate assignment: $25.00 plus [$5.00] **$10.00**;

2. Search request: $25.00 plus [$5.00] **$10.00**;

3. Search request and photocopies: $25.00 plus [$5.00] **$10.00** plus $1.00 per page photostated;

4. Request for copy(ies): [$5.00] **$10.00** plus $1.00 per page photocopied;

5. Filing U.C.C. 1 and search request to reflect filing: $50.00 plus [$5.00] **$10.00**.

(c) Expedited telephone service shall be provided for:

1. (No change.)

2. The fees for status report(s) requested at the same time are as follows:

i. One report—$5.00 plus [$5.00] **$10:00**;

ii. Two reports—$10.00 plus [$5.00] **$10:00**;

iii. Three reports—$15.00 plus [$5.00] **$10:00**;

iv. Four reports—$20.00 plus [$10.00] **$15:00**;

v. Five reports—$25.00 plus [$10.00] **$15.00**;

vi. Six reports—$30.00 plus [$10.00] **$15.00**;

vii. Seven reports—$35.00 plus [$15.00] **$20.00**;

viii. Eight reports—$40.00 plus [$15.00] **$20.00**;

ix. Nine reports—$45.00 plus [$15.00] **$20.00**;

x. Ten reports—$50.00 plus [$20.00] **$25.00**.

TRANSPORTATION

(a)

DIVISION OF TRANSPORTATION SYSTEMS PLANNING

BUREAU OF ACCESS AND DEVELOPMENT IMPACT ANALYSIS

State Highway Access Management Code Access Standards; Permits

Proposed Amendments: N.J.A.C. 16:47-3.8, 3.16, 4.3, 4.6, 4.7, 4.13, 4.14, 4.15, 4.16, 4.19, 4.27, 4.30, 4.33, 4.41, and 5.2, and Appendices B, C, D, E, N-1 and N-2

Proposed New Rule: N.J.A.C. 16:47 Appendix N

Authorized By: Kathy Stanwick, Deputy Commissioner, Department of Transportation

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-4.41 and State Highway Access Management Act, P.L. 1989 c.32.

Proposal Number: PRN 1993-92.

Submit comments by March 31, 1993 to:

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

The agency proposal follows:

Summary

Effective April 20, 1992, the New Jersey Department of Transportation adopted new rules at N.J.A.C. 16:47, to implement the provisions of the State Highway Access Management Act, P.L. 1989, c.32 (N.J.S.A. 27:7-91) (see 23 N.J.R. 1525(a), 24 N.J.R. 1518(b)). Since the rules were adopted, the Department has conducted 42 training sessions for Department personnel, during which it became apparent that several changes were necessary to ensure that the Access Code could be implemented in a clear, fair and consistent manner. Additionally, feedback from developers pointed out minor changes that would facilitate their work, without harm to the public or to the Department.

The changes proposed, in addition to clarifying requirements and correcting errors in citation, will do the following:

1. Allow a developer only one year between the preapplication meeting and the actual application;
2. Define when a subdivision is legally created, for the purposes of the Access Code;
3. Require the permittee to notify the Department in writing if the work permitted is tolled (that is, forced to stop because of legal proceedings or requirements), and requires that permittee to pay for any actions needed to alleviate dnagerous conditions or hazards during the period of time the work is stopped;
4. Require an applicant to submit a copy of the deed or preliminary subdivision approval when applying for a lot consolidation or subdivision permit;
5. Require a major development fee to be paid, whether the applicant is a developer or a government entity, when an application for a street permit based on a major development is made;
6. Allow tolerances for access point dimensions to give developers more flexibility and to make enforcement easier;
7. Allow blue backgrounds for signs, in addition to the currently-allowed green backgrounds, to conform to the Uniform Manual on Traffic Control Devices; and
8. Allow LOS E driveway locations to decrease their reserve capacity to zero cars, in a manner consistent with LOS A, B, C and D.

In order of citation, the changes are as follows:

N.J.A.C. 16:47-3.8 was amended to allow tolerances for access point dimensions of five feet for driveway width and ten feet for driveway locations. The text was also changed at paragraph (h)1 to agree with Figure C-3 and N.J.A.C. 16:41.

N.J.A.C. 16:47-3.16(a) is amended to define that a subdivision is legally created, for purposes of the Access Code, on the date the municipality gives preliminary approval of the subdivision.

N.J.A.C. 16:47-4.3(n)5 is amended to add the provision for "blue background" signs in addition to "green background" signs to comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways," wherein information signs guiding motorists to sites such as hospitals, informational centers, etc., have white lettering on blue background.

N.J.A.C. 16:47-4.6(l) is amended to require the permittee to notify the Department in writing if the permittee is tolled (barred or prevented from completing the construction authorized by a permit); to require the permittee to restore any disturbed areas considered hazardous to the public at the permittee's expense; and to reserve the right for the Department to reevaluate the permit conditions if the tolling extends beyond five years from the date of the permit.

N.J.A.C. 16:47-4.7 is amended to provide consistency with the wording in N.J.A.C. 16:47-4.40 regarding lot consolidation or subdivision and simplify the application process under companion permits.

N.J.A.C. 16:47-4.13 is amended at subsection (e) to establish reasonable limitations on the period of time between the preapplication meeting and time of application submission. The Department believes that one year provides adequate time to prepare and submit an application.

N.J.A.C. 16:47-4.13(m) is amended to correct the reference to "applicant" to "permittee."

Proposed N.J.A.C. 16:47-4.14(b)49 adds travel demand management plans as an option to the major access permits with planning review.

N.J.A.C. 16:47-4.15(b) is amended to correct the reference to N.J.A.C. 16:47-4.17 to 4.16.

Proposed N.J.A.C. 16:47-4.16(b)24 adds travel demand management plans as an option to the concept review checklist.

At N.J.A.C. 16:47-4.19, the requirements for application for a street intersection have been broadened to allow a developer or a county or a municipal official to apply, and to allow the permit documents issued by the Department to be signed by a county or municipal official. The additional text at subsection (c) clarifies that the application fee assessed will be based upon the estimated street traffic at the intersection, in accordance with the standards at Appendix N.

N.J.A.C. 16:47-4.27 has been amended to assure that applicants for new driveways and applicants for improvements to established driveways are evaluated by the same reserve capacity standards.

A citation at N.J.A.C. 16:47-4.30 has been corrected.

N.J.A.C. 16:47-4.33(a) contains a deletion of the word "not", which aligns the rule to the Department's original intent, that is, to allow Department projects which have advanced beyond Phase 2 to use rules which were in existence at the time the project was begun. Subsection (b) has been amended to specify what may be considered an adjustment of access, and that any one of these may be considered a modification of access.

The requirement that a copy of the deed or preliminary subdivision approval be forwarded with a lot consolidation or a subdivision application has been added at N.J.A.C. 16:47-4.41(b)18, in order to allow the Department to readily evaluate the applicant's compliance with N.J.S.A. 40:55D-38b10.

Changes to N.J.A.C. 16:47-5.2(b)5 delete the term "intensity," replacing it with "size," since there is no definition of intensity, and land use is described by size and type. The amendment to N.J.A.C. 16:47-5.2(b)6 clarifies that the list required shall be of those applications for development which have been filed with the municipal planning board or zoning board of adjustment.

Changes in Appendices B, C and D correct a typographical error, delete the inappropriate need for an interchange on an access level 6 highway, correct the radius of 10 feet at C-3 to a maximum of 15 feet, to be consistent with C-2 and N.J.A.C. 16:47-3.8(h), and delete the term "optimum" (since the standard is not "optimum," but "minimum" and **must** be attained).

The amendment to Appendix E, which divides permit categories into minor, major, and major with planning review, effects changes in Access application threshold for major with planning review.

Appendices N-1 and N-2 have been recodified as M-1 and M-2 and Appendix N, a new appendix depicting street intersection and improvement permit applications, has been added.

These modifications do not pose a substantive burden on the affected public.

Social Impact

The proposed amendments as delineated in the Summary, will effectuate technical changes to the Access Code providing clarity in language, promoting consistency in implementation, and bringing the code into conformity with current practices. These changes will not result in a significant social impact on the public, but will make the Access Code easier to use, which will provide a benefit to the regulated public—that is, anyone who seeks access from his or her property to highways under the jurisdiction of the New Jersey Department of Transportation.

Economic Impact

The proposed amendments do not economically impact the general public. There are no increases in permit fees, nor are there substantial changes proposed which would increase the cost for applicants to comply with the Code. In fact, the proposed use of companion permits will, in many cases, prove to be an economic benefit, through the reduced costs to the applicant/permittee, as well as the addition of landscaping and subdivision to the categories. There is clarification, however, regarding the permit fee charged for street applications related to major development. A major development application fee shall be charged regardless of who submits the street application (county, municipality, or developer). In addition, should a permittee be barred or prevented from proceeding with any development for whatever reason, the permittee may incur expenses required to restore any disturbed area. If a permittee must stop work, he may not do so and leave potentially hazardous conditions uncorrected. The costs of these requirements vary with the specific conditions and circumstances of any project, and cannot be quantified without such information.

Regulatory Flexibility Analysis

The proposed amendments regulate all potential applicants/permittees who seek access to those highways which are under the jurisdiction of the New Jersey Department of Transportation, some of whom may be small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Most of the changes, as delineated in the Summary and the Economic Impact, will prove beneficial to the regulated public. The amendments include a process by which permits for several activities may be considered at one time, via a "companion" application, thereby saving the costs of individual application fees for each activity. A reporting requirement has been added; however, it is anticipated that this requirement to report the tolling of any construction activity will not impose additional costs other than those of mailing or carrying the materials required to the Department. The requirement that copies of tax maps or deeds be submitted with an application may add the costs of one more copy of the map or deed. No changes are anticipated in the costs to the applicant for professional services. The size and nature of the individual application will dictate the costs to the applicant, with the larger applications generally bearing the greater cost. The Department does not believe that any additional requirements are needed to address the specific situation of small businesses.

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

16:47-3.8 Access point control dimensions for streets and driveways

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

(e) Driveway width (W) shall be as follows:

1.-2. (No change.)

3. The driveway width construction may vary from the driveway width shown in the permit by up to five feet, provided that the maximum width and other requirements of this subsection are not violated.

(f)-(g) (No change.)

(h) Radius (R) shall be as follows:

1. Residential: [30] **15** feet maximum. Refer to Figure C-3, Appendix C.

2. (No change.)

(i)-(q) (No change.)

(r) The driveway location may vary from the location shown in the permit by up to 10 feet, provided that the edge clearance, corner clearance and distance between access points requirements in this subsection are met.

16:47-3.16 Municipal and county actions

(a) As of September 21, 1992, no lot abutting a State highway shall be subdivided in a manner which would create additional lots abutting that highway unless all the abutting lots created are conforming under the Access Code or restricted from access to the State highway. **Subdivisions are considered to be created on the date of preliminary municipal approval.** Direct access from subdivided lots to a State highway shall only be permitted by the Department if the access meets the requirements of conforming lots under this Access Code. Nonconforming lots in existence as of September 21, 1992 shall not be subdivided in a manner which would make them less conforming, except that those nonconforming lots on State highways classified as access level 2 may be subdivided because of the creation of new street intersections.

(b)-(h) (No change.)

16:47-4.3 Permit process

(a)-(m) (No change.)

(n) The Department may revoke any permit after the Commissioner determines that reasonable alternative access is available for the lot served by the permit and that elimination of direct access will benefit the safety and efficiency of the State highway. The permit shall not be revoked until the alternative access is completed and available for use. Prior to revocation, the Department shall:

1.-4. (No change.)

5. Erect on the State highway and on connecting local highways suitable signs directing motorists to the new access location. When the Department provides signing for alternative access, it shall use generic, white messages on green **or blue** background signs of no more than eight square feet. The signing shall be placed in locations designated by the Commissioner and be maintained for a period of one year after the opening of the alternative access, after which time the Department may remove the signs; and

6. (No change.)

(o)-(r) (No change.)

16:47-4.6 Permits and permit fees

(a)-(k) (No change.)

(l) If, after issuance of a permit by the Department, a permittee is barred or prevented, directly or indirectly, from proceeding with the development by a legal action instituted by any State agency, political subdivision, or any other individual or party or by a directive or order issued by any State agency, political subdivision, or court of competent jurisdiction, the period of time prescribed by this Code for construction of an access point intersecting a State highway shall be tolled during the pendency of said legal action, directive, or order. **The permittee shall notify the Regional Maintenance Office in writing and include supporting documentation within 30 days of any action that may invoke this provision. If construction has already commenced, the permittee shall immediately contact the Regional Maintenance Office to ensure that the cessation of work does not create a hazard. The permittee shall restore any disturbed area at a time and in a manner prescribed by the Department or the Department may do so at the permittee's expense.** The remaining access construction time shall again begin to run from the date on which the legal directive or order is removed. The permittee shall notify the Regional Maintenance Office in writing within 30 days of the date of such resolution or removal. **The Department reserves the right to reevaluate the access permit conditions if the tolling time extends beyond five years from the date of the permit.**

(m)-(n) (No change.)

16:47-4.7 Companion Department permits

Access permits do not cover all types of occupancy of the Department's right-of-way. Other permit applications may be required in conjunction with the access application. These applications will become companion applications to the access application. They will be reviewed together. All of the required permits will be issued at the same time. The Department may accept one access application for combining activities for access, drainage, curb, sidewalk, [and] lot consolidation **or subdivision, and landscape** and issue a single access permit to authorize all of these activities.

16:47-4.13 Major access permits with a planning review process

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

(e) **An application shall be received by the Department within 12 months of the date of the pre-application meeting. If an applicant fails to meet this requirement, the applicant shall request another pre-application meeting pursuant to N.J.A.C. 16:47-4.12(a) and (b).** The Regional Maintenance Office will notify the applicant in writing of acceptance or rejection of the application and verify the type of permit within 10 days of receipt. The Regional Maintenance Office will forward those applications it deems acceptable for review to the Major Permits Unit, the Bureau of Traffic Engineering and Safety Programs, the Bureau of Electrical Engineering and the Bureau of Access and Development Impact Analysis. The Major Permits Unit will send a written notice of acceptability of the application for review to the applicant within 30 days of receipt by the Department.

(f)-(l) (No change.)

(m) A Certificate of Acceptance will be issued to the permittee and a copy sent to the municipal building inspector within 10 calendar days of the Regional Maintenance Office's finding that the access conforms to the conditions of the permit. The Certificate of Acceptance may be issued after substantial completion of the construction within State right-of-way and prior to the completion of all work if the [applicant] **permittee** provides a performance bond or other guarantee acceptable to the Department to ensure the work will be completed.

(n)-(o) (No change.)

16:47-4.14 Major access permits with planning review checklist

(a) (No change.)

(b) The following information shall be submitted with the application:

1.-46. (No change.)

47. Location of any access easement on the lot; [and]

48. Applicability of the Pinelands Act; **and**

49. Travel demand management plan (optional).

(c) (No change).

16:47-4.15 Concept review process

(a) (No change.)

(b) When seeking to obtain conceptual approval for a major access permit before preparing full-scale plans, the applicant shall submit a concept review application with plans or a sketch, including the support information listed in N.J.A.C. 16:47-[4.17]**4.16**. A traffic impact study shall be included if a planning review is required.

(c) (No change.)

16:47-4.16 Concept review checklist

(a) (No change.)

(b) The following information shall be included in the application:

1.-21. (No change.)

22. Copies of transmittals of duplicate applications to the municipal clerk and county planning boards; [and]

23. Location of any access easements on the lot; **and**

24. Travel demand management plan (optional).

16:47-4.19 Street intersections

(a) For new streets, applications for street intersections shall be accompanied by the items listed below. These applications [are not required to] **shall** be signed by [the county or] **a** municipal **official, a county official, or a developer** [engineer involved]. When the Department responds to the applicant and furnishes permit documents for signature, the permit must be signed by **an official of** the county or [municipal engineer involved] **municipality.**

1.-4 (No change.)

(b) For existing streets, the following application requirements apply:

1. (No change.)

2. Applications [involving no] **that do not involve an** increase in the number of lanes intersecting the State highway are street improvement applications. These applications shall be accompanied by eight copies of a plan with the intersection enlarged at a scale of one inch equals 30 feet showing such detail as curb, gutter, sidewalk, curb radii, and drainage structures. These applications [and permits] shall be signed by [the] **a county official,** [or] municipal **official, or a developer** [engineer involved]. **When the Department responds to the applicant and furnishes permit documents for signature, the permit shall be signed by an official of the county or municipality.**

(c) If a local government or a developer seeks either a street intersection permit or street improvement permit as a result of traffic associated with development generating an increase of 500 or more daily trips, the application shall be signed by either a municipal official, a county official, or a developer. The fee shall be the fee for either a major access application or a major access application with planning review, whichever is deemed appropriate, based on the estimated street traffic at the State highway intersection, in accordance with Appendix N.

16:47-4.27 Unsignalized intersection standards

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

(d) For driveways in:

1. Urban areas with a no-build LOS of E or better, the reserve capacity may decrease to 0. [No-build reserve capacities below 0 shall not be decreased.] Reserve capacities for new driveways shall not be less than 0.

2. (No change.)

16:47-4.30 Traffic impact studies for major access and concept review applications

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

(d) A traffic impact study shall include a traffic analysis. Extensive documentation is required for the Department to review and accept the traffic volumes presented in a traffic analysis. The logic and calculations that provide these volumes must be shown.

1.-2. (No change.)

3. The traffic assignment shall follow logically from the trip distribution. Any special conditions must be explained.

i. (No change.)

ii. Entering and exiting traffic shall be routed on public roadways and the applicant's lot. Routing on any other lot shall meet the requirements of N.J.A.C. 16:47-3.12[(m)](**n**).

4.-5. (No change.)

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

16:47-4.33 Department initiated projects and permits

(a) The Department, either in conjunction with its construction projects or through separate access projects, may construct, revoke or modify highway access to provide access conforming to this chapter. The Department project design may use [regulations] **rules** in existence at the time it initiated the design of those projects that have [not] advanced beyond the completion of Phase 2 of the Department's plan development process.

(b) The Department's activities shall be classified as one of the following:

1. Adjustment of access:

i. This is restricted to **changing the width of an access point by five feet or less, changing the location of an access point by 10 feet or less, or** moving **an** access [points] **point** away from the centerline of the highway, such as when the highway is widened.

ii.-iii. (No change.)

2. Modification of access:

i. This is restricted to changing the number of access points, changing the width of an access point by more than five feet, [and] **or** changing the location of an access point by more than 10 feet. The changes shall be in accordance with the requirements of N.J.A.C. 16:47-3.4, 3.5 and 3.8. The modifications shall enable continuation of the apparent existing use on the lot;

ii.-iii. (No change.)

3. (No change.)

(c) (No change.)

16:47-4.41 Lot consolidation or subdivision permits checklist

(a) (No change.)

(b) The following information shall be submitted for both the lot consolidation and subdivision applications:

1.-15. (No change.)

16. Dimensions from the lot line to the edge of pavement; [and]

17. Copies of transmittals of duplicate applications to the municipal clerk and county planning board; **and**

18. A copy of the deed or the preliminary subdivision approval.

16:47-5.2 Application requirements for change in classification

(a) (No change.)

(b) The application shall include:

1.-4. (No change.)

5. Existing land uses and [intensity] **size** of use;

6. A list of lots for which development applications have been filed **with the municipal planning board or zoning board of adjustment** and the nature of such applications;

7.-12. (No change.)

APPENDIX B

STATE HIGHWAY ACCESS LEVEL BY ROUTE AND MILEPOST ACCESS LEVEL (AL)

1.-6. (No change.)

DESIRABLE TYPICAL SECTIONS CODES (DTS) AND RIGHT OF WAY WIDTHS (R.O.W.) DESCRIPTION

2A-8C (No change.)

...

	MILEPOST				
ROUTE	BEGIN	END	AL	DTS	CELL
...					
322	6.30	10.85	4	4D	[39]**32**
...					

APPENDIX C

ACCESS PERMITTED ON STATE HIGHWAYS BASED ON DESIRABLE TYPICAL SECTION

		PERMISSIBLE TURNING MOVEMENTS				LEFT TURN TREATMENTS			
ACCESS LEVEL	DIVIDED OR UNDIVIDED	AT INTERCHANGE	AT STREET	AT CONFORMING LOT DRIVEWAY	AT NONCONFORMING LOT DRIVEWAY	LEFT TURNS AT INTERCHANGE	LEFT TURNS VIA JUGHANDLE	LEFT TURNS VIA LEFT-TURN LANE	LEFT TURNS WITHOUT LEFT-TURN LANE
1.	DIVIDED	L & R	NONE	NONE	NONE	YES	NO	NO	NO
2.	DIVIDED	L & R	L & R	NONE	R	YES	YES	NO	NO
3.	DIVIDED	L & R	L & R	L & R	L & R	YES	YES	NO	NO
4.	EITHER	L & R	L & R	L & R	L & R	YES	MAYBE	YES	NO
5.	UNDIVIDED	L & R	L & R	L & R	L & R	YES	NA	MAYBE	YES
6.	UNDIVIDED	[L & R]NA	L & R	L & R	NA	YES	NA	MAYBE	YES

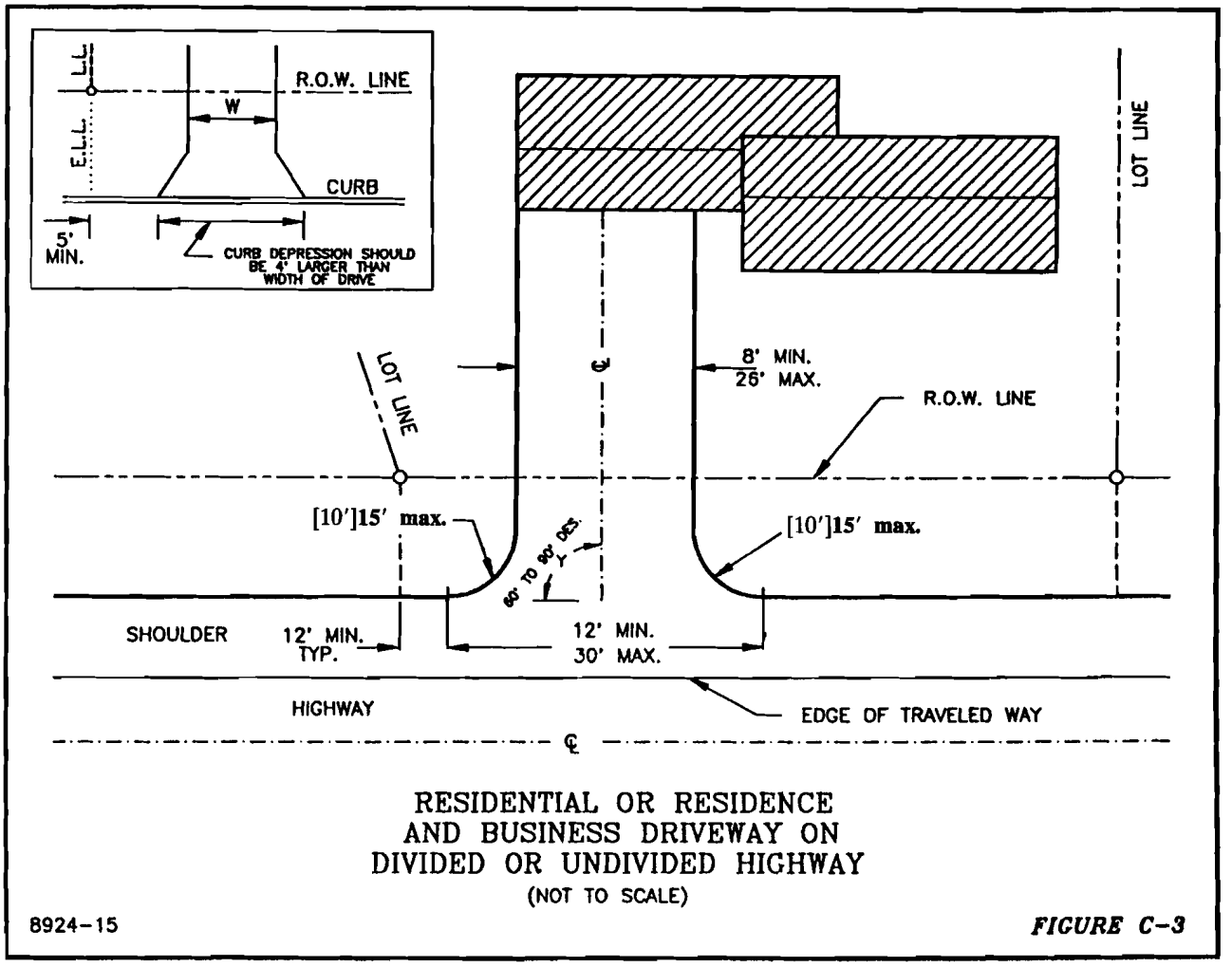
		APPLICABLE SPACING REQUIREMENTS			APPLICABLE DRIVEWAY DESIGN CRITERIA		
ACCESS LEVEL	DIVIDED OR UNDIVIDED	INTERCHANGE	SIGNALIZED	UNSIGNALIZED	SAFETY PER DESIGN MANUAL	CORNER CLEARANCE	EDGE CLEARANCE
1.	DIVIDED	YES	NA	NA	YES	NA	NA
2.	DIVIDED	YES	YES	YES	YES	YES	YES
3.	DIVIDED	YES	YES	YES	YES	YES	YES
4.	EITHER	YES	YES	YES	YES	YES	YES
5.	UNDIVIDED	YES	YES	YES	YES	YES	YES
6.	UNDIVIDED	YES	YES	YES	YES	YES	YES

GENERAL NOTES

L = LEFT
R = RIGHT
NA = NOT APPLICABLE
ALL TURNING MOVEMENTS REFER TO BOTH INGRESS AND EGRESS.
A TRAFFIC SIGNAL IS REQUIRED AT ALL JUGHANDLES.
IF A JUGHANDLE IS AT A STREET, THEN PERMISSIBLE MOVEMENTS APPLY TO BOTH.
IF TRAFFIC AT ACCESS POINT MEETS WARRANTS FOR A TRAFFIC SIGNAL, THEN THE SIGNALIZED SPACING STANDARDS MUST BE MET.
THE DEPARTMENT INTENDS TO MINIMIZE MEDIAN OPENINGS OR DIVIDED HIGHWAYS BY ELIMINATING THOSE NOT ASSOCIATED WITH JUGHANDLES AND LEFT TURN LANES.

8924C1

FIGURE C-1



RESIDENTIAL OR RESIDENCE
AND BUSINESS DRIVEWAY ON
DIVIDED OR UNDIVIDED HIGHWAY
(NOT TO SCALE)

8924-15 *FIGURE C-3*

APPENDIX C, Figure C-4—APPENDIX C, Figure C-24 (No change.)

APPENDIX D [Optimum] Spacing of Signalized Intersections for Various Progressive Speeds and Cycle Lengths

(No change in table.)

APPENDIX E

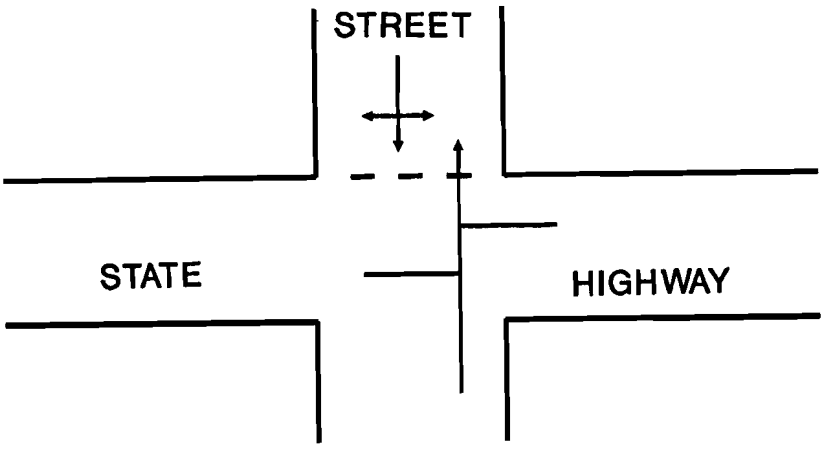
ACCESS APPLICATION THRESHOLDS

Category	Land Use Code	Use	Units	For Major + 500 Trips per day	For Major with planning 200 peak Hour Trips
...					
Business	150-140 (No change.)				
	130	Industrial Park	1,000 sf	71.8	219.8
		Flexspace (use LUC 770)	1,000 sf	33.2	[127.2] **119.8**
		Distribution Centers	1,000 sf	50.7	222.0
			acre	6.1	25.8
...					
Office	710 (No change.)				
	750	Office Park	1,000 sf	43.8	[110.3] **83.5 AM peak**
	760 (No change.)				
	770	Business Park	1,000 sf	33.2	[127.2] **119.8**
	714-720 (No change.)				
...					
Entertainment	443	Movie Theater w/o Matinee	seat	223	[625] **556 Seat peak**
	444-740 (No change.)		screens	2	4

...

APPENDIX N

STREET INTERSECTION AND IMPROVEMENT PERMIT APPLICATIONS



NEW STREET: All traffic to and from a proposed street is considered in determining the type of permit application.

WIDENING EXISTING STREET OR STREET IMPROVEMENT: All additional traffic to and from the existing street is considered in determining the type of permit application.

Recodify existing Appendices N-1 and N-2 as **M-1 and M-2**. (No change in text.)

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

Public Employees' Retirement System School Year Members

Proposed Repeal and New Rule: N.J.A.C. 17:2-4.3

Authorized By: Board of Trustees, Public Employees' Retirement System, Wendy Jamison, Secretary.
Authority: N.J.S.A. 43:15A-17.
Proposal Number: PRN 1993-109.

Submit comments by March 31, 1993 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions and Benefits
CN 295
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rule does not contain any actual substantive changes to the current rule governing school year members who do not work a full 12 months during a calendar year but rather is a restatement of the current rule in order to clarify matters. Numerous inquiries arise involving members who are employed by a school district that has a regular school year that is less than 12 months. Those employees who work the entire school year which only totals 10 months of a calendar year will receive credit for 12 months within the Public Employees' Retirement System. However, if those same employees are absent from work and not paid for such periods during the normal 10 months of the school year, they will not receive pension credit for those periods of absences during the school year. Twelve month school employees can only receive a maximum of 12 months of pension credit for any period of 12 consecutive months of eligible service.

Social Impact

As a restatement and clarification of the current rule, the proposed new rule may assist current and future PERS members, employed in school districts where their normal work year is something less than 12 months, in understanding how their service credit accrues.

Economic Impact

Since the proposed new rule is merely a restatement of the current rule in effect, and is an attempt to provide clarification regarding the requirements, there are no economic effects upon PERS members.

Regulatory Flexibility Statement

A Regulatory Flexibility Analysis is not required because this proposed repeal and new rule does not impose reporting, recordkeeping or other compliance requirements upon small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules of the Division of Pensions and Benefits apply only to public employers and public employees.

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

17:2-4.3 School year members; **10 and 12 months**

[Members whose salaries for a school year are considered as a full year's compensation shall be given service credit in the proportion that the time employed bears to the duration of the school year, but not more than one year's credit shall be given during any consecutive 12 months.]

(a) Ten month members who are employed and are compensated for employment for the full normal school year by the board of education are entitled to receive 12 months of service credit. Members will not receive service credit for months during the normal school year when they are not actively employed and did not receive salary.

(b) A 12 month member is presumed to work each month of the fiscal year.

(c) Not more than one year's service credit will be given during any period of 12 consecutive months.

(a)

STATE INVESTMENT COUNCIL

Repurchase Agreements; Permissible Investments

Proposed Amendment: N.J.A.C. 17:16-33.1

Authorized By: State Investment Council, Roland M. Machold, Director, Division of Investment.

Authority: N.J.S.A. 52:18A-91.

Proposal Number: PRN 1993-95.

Submit comments by March 31, 1993 to:

Roland M. Machold
Administrative Practice Officer
Division of Investment
CN 290
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 17:16-33.1 would allow the Director of the Division of Investment to invest and reinvest moneys of any fund, including the Cash Management Fund, in repurchase agreements of any bank or securities broker. The current rule limits these investments to banks only.

Social Impact

The addition of qualifying securities brokers to the institutions which are eligible for repurchase agreements will add competition to the State's transactions in such agreements, and will marginally increase the State's revenues and funding available to support social programs. The rule provides that repurchase agreements can only be purchased from brokers currently on the "Approved List of Issuers of Commercial Paper" as permitted under N.J.A.C. 17:16-31.

Economic Impact

The proposed amendments only serve to add securities brokers to the eligible list of dealers and do not in any way impose an economic impact on the taxpayers of the State. Additional bidders may, on the margin, increase the State's earnings on its short-term investments.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed amendments impose no reporting, recordkeeping or compliance requirements on small businesses as the term is defined in N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

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

17:16-33.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, the Director may invest and reinvest moneys of any fund, including the State of New Jersey Cash Management Fund in repurchase agreements of any bank **or securities broker,** provided that:

1. The seller is a bank or trust company or a wholly-owned subsidiary of such bank or trust company which:

i. Is headquartered in the United States; and

ii. Is not controlled by a foreign entity[.] **; or**

2. The seller is a securities broker which:

i. Is headquartered in the United States;

ii. Is not controlled by a foreign entity; and

iii. Is currently on the "Approved List of Issuers of Commercial Paper" as permitted under N.J.A.C. 17:16-31.

[2.]**3.** (No change in text.)

[3.]**4.** The security sold by the bank **or securities broker** and subject to repurchase is an obligation of the United States Government or an obligation of the following United States Government agencies:

i.-iv. (No change.)

(b)

STATE INVESTMENT COUNCIL

Common Stocks and Convertible Securities (Trust Funds); Permissible Investments

Proposed Amendment: N.J.A.C. 17:16-42.2

Authorized By: State Investment Council, Roland M. Machold, Director, Division of Investment.

Authority: N.J.S.A. 52:18A-91.

Proposal Number: PRN 1993-96.

Submit comments by March 31, 1993 to:

Roland M. Machold
Administrative Practice Officer
Division of Investment
CN 290
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Division of Investment's auditors, Ernst & Young, noted that this rule included a dividend requirement for eligible stock issuers, but that this requirement had been routinely waived by the Council when certain new companies had been recommended by the Division. The independent auditors for the Division suggested in their management letter that the dividend requirement in N.J.A.C. 17:16-42.2(b) be eliminated. In addition, a reference to insurance law is obsolete and should be eliminated. These eliminations necessitate that the subsequent subsections be recodified from (c) through (f) to (b) through (e).

Social Impact

The proposed amendments will add clarity to the Division's rules and will respond to the recommendation of the Division's independent auditors.

Economic Impact

There is no economic impact of the proposed amendment.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed amendments impose no reporting, recordkeeping or compliance requirements on small businesses as the term is defined in N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

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

OFFICE OF ADMINISTRATIVE LAW NOTE: The following text of N.J.A.C. 17:16-42.2(b) proposed for deletion includes the full text of that subsection, a portion of which was erroneously not published in the New Jersey Administrative Code.

17:16-42.2 Permissible investments

(a) (No change.)

[(b) Regular dividends, either cash or stock, must have been paid on the common stock for five years next preceding the date of purchase of securities under this article (includes dividends paid by predecessor companies) from earnings equal to or greater than the dividend paid. This requirement may be waived by the State Investment Council providing the earnings of the corporation satisfy the requirements of the New Jersey Life Insurance Company Law.]

[(c)](b) The convertible preferred stocks and bonds must [be legal for investment by life insurance companies organized under the laws of this State, provided further that convertible bonds] meet the following requirements:

1.-3. (No change.)

Recodify existing (d)-(f) as (c)-(e) (No change in text.)

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION

Public Financing; General Elections for the Office of Governor

Proposed Amendments: N.J.A.C. 19:25-15.3, 15.4, 15.5, 15.6, 15.10, 15.11, 15.12, 15.14, 15.16, 15.17, 15.21, 15.22, 15.24, 15.27, 15.28, 15.29, 15.30, 15.31, 15.32, 15.35, 15.43, 15.45, 15.48, 15.49, 15.50, 15.54 and 15.64

Proposed New Rule: N.J.A.C. 19:25-15.65

Authorized By: Election Law Enforcement Commission, Frederick M. Herrmann, Ph.D., Executive Director.

Proposal Number: PRN 1993-102.

A **public hearing** concerning this proposal will be conducted on Monday, March 15, 1993 at 10 A.M. at:

Election Law Enforcement Commission
28 West State Street, 12th Floor
Trenton, New Jersey

To reserve time to speak, telephone the Commission offices at (609) 292-8700 by Thursday, March 11, 1993.

Submit written comments by March 31, 1993 to:

Nedda Gold Massar, Esq.
Election Law Enforcement Commission
CN 185
Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

The New Jersey Election Law Enforcement Commission (hereafter, the Commission) proposes a new rule and amendments to its rules concerning the public financing of general election candidates for Governor (N.J.A.C. 19:25-15). These proposed changes are derived from the Commission's experience in administering past gubernatorial public financing programs and have also been necessitated by enactment of statutory changes concerning gubernatorial debate sponsors.

Further amendments are proposed to implement statutorily-mandated adjustments for inflation to various limits and thresholds in the public financing provisions of the New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-27 et seq.). Applying methodology first described by the Commission in 1988 and adopted in the Commission's December, 1992 report to the Legislature, the Commission determined that costs relevant to gubernatorial campaigns had risen by 17.91 percent during the period from 1989 to the 1993 gubernatorial election; see "1993 Gubernatorial Cost Index Report." Also see Proposed Amendments to the Public Financing of Primary Election for Governor at 24 N.J.R. 3690(b) (October 19, 1992), adopted at 24 N.J.R. 4561(a) (December 21, 1992), which amendments made parallel adjustments to the primary election gubernatorial regulations. It is therefore necessary to amend Commission rules governing the general election for Governor to reflect the revised thresholds and limits.

Specific descriptions of the changes follow:

1. N.J.A.C. 19:25-15.3, Definitions for this subchapter, has been amended to change the definition of "debate sponsor" to delete the requirement that the sponsor applicant be a private organization. This change was contained in P.L. 1991, c.317, and appears at N.J.S.A. 19:44A-46(c).

2. N.J.A.C. 19:25-15.5(a), Pre-candidacy activity, has been amended to conform to the text of the primary election regulation, which requires that written records be kept of all pre-candidacy activity and to establish the four-year period of retention for all such written records. Subsection (d) has been modified to conform to the text of the primary election regulation at N.J.A.C. 19:25-16.5(d).

3. N.J.A.C. 19:25-15.17(b), Matching of funds, has been changed to require that the bank account established by a publicly-financed gubernatorial candidate for the deposit of contributions eligible to be matched with public funds be specifically named the "Matching Fund Account of (name of candidate)." The use of this specific account title will avoid confusion and facilitate audit and review of campaign activity. The Commission further proposes changes to subsection (d) to require that lists of contributors submitted as documentation with applications for public matching funds be identified by the candidate by type of contributor to speed the processing of candidate submissions for public matching funds. This procedure will reduce the administrative burden upon Commission staff, permit more efficient processing of claims for public funds, and ultimately speed up the distribution to candidates of public funds. For the same reasons, the Commission is proposing changes to subsections (d), (f), and (g) to require that additional copies of all public funds submission documents be filed with each request for public funds. A new subsection, (k), has been added to require that each application for public matching funds be accompanied by an alphabetized cumulative list of all contributors from which Commission staff can monitor compliance with the contribution limit and which may be disclosed to the public. A publicly-financed candidate may elect to disclose to the public all contributors or only those contributors whose aggregate contributions exceed $100.00. These changes conform the general election public matching fund submission procedures to those adopted for the primary election.

4. A new subsection, (c), has been added to N.J.A.C. 19:25-15.24, Use of public funds, to require that publicly-financed campaigns obtain media affidavits from radio and television outlets at the time their advertisements are broadcast, certifying that the media time paid for with public funds was actually aired. The Commission believes that such documentation of media time purchased and used is necessary to determine whether refunds for unused media time are owed to the campaign and therefore potentially available for return to the State.

The Commission also proposes to add a new subsection, (d), requiring that the purpose of each disbursement from the candidate's public funds account be specifically identified on campaign reports and on submissions for public funds. Disclosure of this information permits Commission staff to monitor that public funds are being spent only for the uses permitted by the statute (N.J.S.A. 19:44A-35).

N.J.A.C. 19:25-15.24 has also been amended to include a new subsection, (e), to establish strict campaign and submission reporting requirements which apply when a publicly-financed campaign reimburses with public funds a non-public fund account for a disbursement which might have been made with public funds. These reporting procedures are necessary to permit verification that public matching funds are being used in accordance with the statutorily permitted uses of public funds pursuant to N.J.S.A. 19:44A-35. These changes to N.J.A.C. 19:25-15.24 conform the general election rules to procedures established for the primary election.

Former subsection (c) has been recodified as subsection (f), with no change in the text.

5. A new subsection, (c), has been added to N.J.A.C. 19:25-15.27, Travel expenses, to clarify that reporting requirements attach to the use by a gubernatorial campaign of any government-owned or leased vehicle and to establish the appropriate method for valuation of such expenditures for transportation. The new subsection also requires that reimbursement to a governmental entity for the use of governmental vehicles must be made immediately. These proposed changes conform the general election regulation to procedures adopted for the primary election.

6. N.J.A.C. 19:25-15.28(a), Independent expenditures, has been changed to include within its requirements independent expenditures made by continuing political committees, and to complete a citation. This proposed change will conform the general election regulation to the text of the primary election regulation.

7. N.J.A.C. 19:25-15.29(c)1, Coordinated expenditures, has been changed to add the conjunction "and," to conform the general election regulation text to the text of the primary election regulation.

8. N.J.A.C. 19:25-15.31, Computation of value of goods and services, has been amended to revise the two examples of computation of the value of goods and services to account for the increase of the contribution limit from $1,500 to $1,800.

9. N.J.A.C. 19:25-15.43, Disclosure of information, has been changed to clarify that the list of contributors to a publicly-financed campaign, which is disclosed to the public by the Commission and which is derived from documents submitted as part of applications for public matching funds, will include contributions of all types, not just contributions submitted for match with public funds, by contributors whose aggregate contributions exceed $100.00. A candidate may also authorize disclosure of all contributors, including those whose aggregate contributions do not exceed $100.00. This proposed change will conform the general election rules to the primary election rules.

10. N.J.A.C. 19:25-15.50(a), Application to sponsor debates, has been amended to delete the requirement that a gubernatorial general election debate sponsor be a private organization and to clarify that the sponsor's prior debate experience be in a televised debate or debates among candidates for Statewide office. New subsection (b) has been added to include a new category of debate sponsor organization which is exempt from the requirement to demonstrate prior experience in televised debates for Statewide office. These changes were contained in P.L. 1991, c.317, and appear at N.J.S.A. 19:44A-46.

Former subsection (b) now appears as subsection (c), with no change in the text of the subsection.

11. N.J.A.C. 19:25-15.54(b), Complaint alleging failure to participate in a debate, has been amended to conform the method of service of a general election complaint to the method adopted in the primary election rules.

12. New rule N.J.A.C. 19:25-15.65, Complaint alleging violation of general election expenditure limit, has been added to establish procedural steps which must be taken by a party requesting Commission consideration of an alleged violation of the general election expenditure limit. The procedures established are identical to those adopted for the gubernatorial primary election.

13. References to the gubernatorial general election contribution limit contained in Subchapter 15, Public Financing; General Elections for the Office of Governor, have been amended to increase the limit on contributions from $1,500 to the 1993 adjusted amount of $1,800. These references include: N.J.A.C. 19:25-15.3 (Definitions); N.J.A.C. 19:25-15.4(c) (Appointment of treasurers and depositories); N.J.A.C. 19:25-15.6 (Contribution limits; applicability); N.J.A.C. 19:25-15.10(a) and (b) (Non-participating candidates; generally); N.J.A.C 19:25-15.11(a)4 (Limitations on participating candidates); N.J.A.C. 19:25-15.12(a) and (c) (Who may or may not contribute; generally); N.J.A.C. 19:25-15.14(b) and (c) (Contributions eligible for match; generally); N.J.A.C. 19:25-15.16(a) and (b) (Limitation on contributions eligible for match); N.J.A.C. 19:25-15.17(c) (Matching of funds); N.J.A.C. 19:25-15.30 (Borrowing of funds; repayment); N.J.A.C. 19:25-15.31(a)1 (Computation of value of goods and services); N.J.A.C. 19:25-15.32(b) (Establishment of State committee account; contribution limit); N.J.A.C. 19:25-15.35 (Notice by State committee to contributor); N.J.A.C. 19:25-15.45(a) (Postelection contribution; postelection payment of expenses); and N.J.A.C. 19:25-15.64(a)3i (Contributions and loans prior to candidacy).

14. References to the qualification threshold for candidates applying to receive public matching funds have been amended to increase the qualification threshold from the 1989 amount of $150,000 to the 1993 threshold of $177,000. The Commission proposes that the following be amended to include the adjusted qualification threshold; N.J.A.C. 19:25-15.3 (Definitions); N.J.A.C. 19:25-15.17(c) and (g) (Matching of funds); N.J.A.C. 19:25-15.48(a) (Candidate statement of qualification before participation in public financing); and N.J.A.C. 19:25-15.49(a) (Statement of candidates electing to participate in debates).

15. N.J.A.C. 19:25-15.11(a)3 (Limitations on participating candidates) has been amended to reflect that the 1993 gubernatorial general election expenditure limit for candidates receiving public matching funds has been adjusted and increased from $5,000,000 to $5,900,000.

16. N.J.A.C. 19:25-15.21, Receipt of public funds; generally, has been amended to adjust and revise upward from $50,000 to $59,000 the threshold amount in contributions for which 1993 gubernatorial general election candidates may not receive public matching funds.

17. N.J.A.C. 19:25-15.22(b), Receipt of public funds; limitation, has been amended to adjust upward the maximum amount of public matching funds which may be received by a 1993 gubernatorial general election candidate to $3,900,000. The 1989 general election public fund cap was $3,300,000.

Social Impact

The Commission's proposed amendments will affect primarily publicly-financed gubernatorial candidates and their campaign treasurers in the general election and may also affect individuals contemplating a gubernatorial candidacy as independents who are engaged in pre-candidacy activity and continuing political committees making independent expenditures. The proposed amendments establish recordkeeping requirements associated with "testing the waters" activity, clarify recordkeeping requirements for expenditures by gubernatorial candidates, require improved documentation by campaigns of disbursements for radio and television, and impose uniform reporting and disclosure requirements for reimbursement using public funds. The proposed changes advance the ability of the Commission to monitor campaigns' compliance with the limits and thresholds applicable to publicly-financed general gubernatorial election candidates and benefit the public with improved disclosure. They enhance the Commission's ability to identify and recapture unspent gubernatorial campaign funds available for return to the State.

The amendment implementing N.J.S.A. 19:44A-46 removing the requirement that a gubernatorial debate sponsor be a private organization and providing for an additional category of debate sponsors will have the positive impact of expanding the pool of potential gubernatorial debate sponsor organizations. The Commission believes that its new rule establishing specific procedural steps for a party alleging a violation of the general election expenditure limit has the desirable effect of creating certainty and reducing frivolous complaints in the electoral process.

The proposed amendments serve to notify gubernatorial general election candidates of the revised limits and thresholds contained within the gubernatorial public financing provisions of the New Jersey Campaign Contributions and Expenditures Reporting Act. Because the proposed amendments adjust the key elements of the program to keep pace with changes in the costs of campaigns, the Commission believes that the gubernatorial public financing program will remain a viable option for general election candidates, and therefore will have a positive social impact on candidates and the public.

Economic Impact

The Commission believes that the proposed amendments concerning recordkeeping and reporting will have only a minimal economic impact on prospective and actual general election candidates for governor. Individuals or committees engaged in "testing the waters" activity are already required by existing Commission regulations to keep records of receipt and disbursments. Clarifying that such records be kept for a fixed period of time imposes little, if any, additional financial burden.

All gubernatorial candidates are required to make and maintain detailed records of all receipt and expenditure activity. Therefore, the additional costs associated with maintaining documentation of media purchases and travel expenditures and with detailed reporting of disbursements and reimbursements on campaign reports are marginal. The Commission believes that the benefit to the public of enhanced disclosure and the possibility that unspent campaign funds may be identified and returned to the State outweigh the economic burden upon prospective and actual gubernatorial campaigns. Requiring campaigns to identify contributors by type assures more complete and accurate disclosure because candidates and treasurers possess immediate knowledge of or access to those who contribute to them.

Each gubernatorial candidate who qualifies for receipt of public matching funds has demonstrated to the Commission that he or she has raised and spent at least $177,000 on his or her campaign. The Commission believes that the cost to such a campaign of providing an alphabetized contributor list as part of a submission for public matching funds and the cost of the additional copies of reports to be filed with the Commission are reasonable expenditures for campaigns of such size and complexity. Requiring that gubernatorial campaigns provide this additional documentation will permit more cost-effective use of Commission staff and be offset for the campaigns by the increased speed with which submissions for matching funds may be processed.

The economic impact of the proposed new rule establishing steps required to lodge a complaint for violation of the general election expenditure limit is imposed upon the entity making the complaint. Scarce Commission economic resources may therefore be allocated for consideration of those matters where sufficient evidence has been provided by a complaining party.

The economic impact of the statutorily required adjustments to the limits and thresholds applicable to public financing of the general election will be upon 1993 gubernatorial general election candidates and their treasurers. The Commission anticipates that the Gubernatorial Public Financing Program will operate to serve candidates and the public as it has in past elections, but with adjustments for inflation to the limits and thresholds in the law contained in these amendments.

Regulatory Flexibility Statement

The Commission's proposed amendments and new rule do not impose any recordkeeping, reporting, or other compliance 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 to provide goods or services to 1993 gubernatorial general election candidates, the reporting and recordkeeping requirements generated by the amendments contained in this proposal are solely on the 1993 gubernatorial and prospective candidates purchasing such goods and services.

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

19:25-15.3 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 N.J.S.A. 19:44A-44, no amount of the candidate's own funds in the aggregate in excess of [$1,500] **$1,800**, 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 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 regulations.

...

"Debate sponsor" means the [private] organization or organizations to which the Commission has delegated the responsibility for conducting one or both of the televised interactive general election debates.

...

"Qualified candidate" means:

1. Any candidate for election to the office of Governor whose name appears on the general election ballot and who has deposited and expended [$150,000] **$177,000** pursuant to N.J.S.A. 19:44A-32; and who, not later than September 1 preceding 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 made on the candidate's behalf for monies for general 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 general election debates; or

2. Any candidate for election to the office of Governor whose name does not appear on the general election ballot, but who has deposited and expended [$150,000] **$177,000** pursuant to N.J.S.A. 19:44A-32 and who, not later than September 1 preceding a general election in which the office of Governor 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 general 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 general election debates.

...

19:25-15.4 Appointment of treasurers and depositories

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

(c) No political committee, other than the principal campaign committee designated pursuant to (a) above, may contribute to any candidate or expend on behalf of such candidate more than [$1,500] **$1,800.**

19:25-15.5 Pre-candidacy activity

(a) All funds or other benefits received and payments made pursuant to N.J.A.C. 19:25-3.1 by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example, "testing the waters") are not contributions or expenditures. All funds so received shall be deposited in a separate depository established solely for that purpose. The individual **or committee** shall keep **written** records of all such funds received and payments made **for a period of not less than four years after the transaction to which they relate occurred or four years after the date of the election to which they are relevant, whichever is longer.**

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

(d) The separate depository established pursuant to (a) above may be designated by that individual as [or incorporated with] the matching fund account under N.J.A.C. 19:25-15.17(b), provided that the account and all the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-15.17(b).

19:25-15.6 Contribution limits; applicability

(a) No candidate for the office of Governor, whether or not intending to participate in public funding, and no campaign treasurer or deputy campaign treasurer of such candidate shall knowingly accept from any person, candidate, political committee, or continuing political committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of [$1,500] **$1,800** in any general election.

(b) No State committee, and no campaign treasurer or deputy campaign treasurer of such State committee, shall knowingly accept from any person, candidate, political committee, or continuing political committee any contribution in aid of the candidacy of or in behalf of any candidate for the office of Governor in the aggregate in excess of [$1,500] **$1,800** in any general election, whether or not such candidate intends to participate in public funding.

19:25-15.10 Non-participating candidates; generally

(a) A non-participating candidate is subject to the [$1,500] **$1,800** limitation on contributions from a person, political committee or continuing political committee, pursuant to N.J.S.A. 19:44A-29.

(b) A non-participating candidate is subject to the [$1,500] **$1,800** limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) (No change.)

19:25-15.11 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 this subchapter, is subject to the following limitations:

1.-2. (No change.)

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed [$5,000,000] **$5,900,000**, 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. 19:25-15.26.

4. Contributions by any candidate in excess of [$1,500] **$1,800** 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.

19:25-15.12 Who may or may not contribute; generally

(a) No person, political committee or continuing 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 election to the office of Governor in a general election, in the aggregate in excess of [$1,500] **$1,800**. Any such contribution in excess of [$1,500] **$1,800** must be promptly returned to the

contributor, and evidence of repayment shall be submitted to the Commission.

(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] **$1,800** 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 contributions and the degree to which the decisions whether to contribute, to what candidate and in what amount are independent decisions.

19:25-15.14 Contributions eligible for match; generally

(a) (No change.)

(b) Only contributions in cash or by check, money order or negotiable instrument 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] **$1,800** and the overall expenditure limit contained in N.J.S.A. 19:44A-7 except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-15.26. The total of all contributions eligible for match from any person or political committee, or continuing political committee shall not exceed [$1,500] **$1,800** in the aggregate.

(c) A maximum of [$1,500] **$1,800** in the aggregate of a candidate's own funds may be deposited in the matching fund account.

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

19:25-15.16 Limitation on contributions eligible for match

(a) Any contributions 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] **$1,800** contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a 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] **$1,800** limitation.

(c) (No change.)

19:25-15.17 Matching of funds

(a) (No change.)

(b) The campaign treasurer or deputy campaign treasurer of the candidate shall open a matching fund account in a national or a State bank pursuant to N.J.S.A. 19:44A-32 **which shall be designated Matching Fund Account of (name of candidate) and** in which only contributions eligible for match may be deposited. The campaign treasurer or deputy campaign treasurer of such candidate shall deposit in such matching fund account, funds to be matched in aid of the candidacy of or in behalf of such candidate. Such deposit shall be made within 10 days of receipt and shall include only moneys received in accordance with this subchapter and N.J.S.A. 19:44A-29 and N.J.S.A. 19:44A-11 and 12.

(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 general election and that he or she has received and deposited into his or her matching fund account contributions eligible for match of at least [$150,000] **$177,000** from persons, political committees, or continuing political committees each of whose contributions in the aggregate does not exceed [$1,500] **$1,800** and that at least [$150,000] **$177,000** of such contributions have 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) The statement referred to in (c) above shall include an original and [one photocopy] **two photocopies** of a typed or printed list of contributors showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each contribution by the candidate and of the deposit into the matching fund account, the dollar amount of each contribution submitted for match, **the type of contributor of each contribution from a list of contributor types to be provided by the Commission,** and the total amount of all contributions submitted for match. The list of contributors shall be segregated by deposit. The statement shall also include **an original and two photocopies of** a typed or printed list of contributors of contributions not eligible or submitted for match and any other receipt (for example, in-kind contributions, contributions intended to be repaid, or interest on invested funds), showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each such contribution by the candidate, [and] the dollar amount of each such contribution, **and the type of contributor of each contribution from a list of contributor types to be provided by the Commission.** The statement shall also include an original and [one photocopy] **two photocopies** of a list of repayment by the candidate of any contribution, including any loan described under N.J.A.C. 19:25-15.30.

(e) (No change.)

(f) The certification shall include [two] **three** photocopies of the face of each check or other written instrument as described in N.J.A.C. 19:25-15.14 for each contribution which the candidate submits to receive matching funds. Where a check is endorsed by some person other than the principal campaign committee, the face and back must be photocopied. The photocopies shall be segregated by deposit, sorted in the order in which the contributors are listed pursuant to (d) above and accompanied by copies of the relevant receipted deposit slips.

(g) The initial certification shall include [two] **three** photocopies of checks, receipted bills, contracts or the like, as proof of the expenditure of at least [$150,000] **$177,000.**

(h)-(j) (No change.)

(k) Each submission for public matching fund payments shall include an original and two photocopies of a cumulative list of all contributions received by a candidate from the beginning of his or her candidacy which list shall contain for each contribution the full name and full mailing address (number, street, city, state, zip code) of the contributor, the date or dates of receipt of contributions by the candidate, the aggregate total amount contributed by each contributor and the type of contributor from a list of contributor types to be provided by the Commission, and which list shall:

1. Be arranged alphabetically by contributor name and which shall contain written authorization by the candidate for public disclosure of all contributions to the candidate; or

2. Be separated into an alphabetical list of all contributors whose contributions in the aggregate exceed $100.00 and an alphabetical list of all contributors whose contributions are in the aggregate $100.00 or less and which shall contain authorization by the candidate for public disclosure only of contributors whose contributions in the aggregate exceed $100.00.

19:25-15.21 Receipt of public funds; generally

The campaign treasurer or deputy campaign treasurer of any qualified candidate for election to the office of Governor in a general election shall promptly receive in behalf of such qualified candidate public moneys in an amount equal to twice the amount of each contribution eligible for match and deposited in such qualified candidate's matching fund account, described in N.J.S.A. 19:44A-32, except that no payment shall be made to any candidate from such fund for general election campaign purposes for the first [$50,000] **$59,000** deposited in such candidate's matching fund account.

19:25-15.22 Receipt of public funds; limitation

(a) (No change.)

(b) The maximum amount which any qualified candidate may receive from public funds shall not exceed [$3,300,000] **$3,900,000.**

19:25-15.24 Use of public funds

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

(c) Any disbursement made from a candidate's public fund account which results in the purchase of time on radio and television stations pursuant to (a) above shall be documented by signed media affidavits of the radio or television station, to be obtained by the candidate, his or her campaign treasurer, or deputy campaign treasurer within 14 days following the actual use of such media time. Such media affidavits shall be maintained pursuant to N.J.A.C. 19:25-15.42.

(d) Any disbursement made from a candidate's public fund account shall be identified on campaign reports and submissions for public matching funds to include the check number, date of payment, full name of payee, full payee mailing address, amount of payment, and a complete statement of the purpose of the disbursement which includes the applicable permitted use of public funds contained in (a) above.

(e) A reimbursement made to a depository or matching fund account of a candidate from the public fund account of that candidate for an expenditure or expenditures permitted under (a) above shall:

1. Be made by individual check from the public fund account in the exact amount of the expenditure or expenditures being reimbursed;

2. Be specifically identified as a reimbursement on the report required pursuant to N.J.A.C. 19:25-15.20(b) and on campaign reports required by the Act; and

3. Contain a list of the previously paid expenditure or expenditures permissible under (a) above for which the reimbursement is being made.

[(c)]**(f)** (No change in text.)

19:25-15.27 Travel expenses

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

(c) If any individual, including a candidate, uses a government-owned or government-leased vehicle for transportation to aid or promote a campaign for nomination for election to the Office of Governor, such use shall:

1. Be reported as a travel expense pursuant to (b) above:

2. Be valued for purposes of reports required to be filed under the Act and for purposes of the expenditure limit contained in the Act (N.J.S.A. 19:44A-7) by the reasonable commercial value of the transportation services to the candidate pursuant to N.J.A.C. 19:25-15.31; and

3. Be reimbursed immediately from campaign funds to the appropriate government entity providing the conveyance or vehicle.

19:25-15.28 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7, but all such expenditures shall be subject to all the reporting and disclosure requirements of the act. Each person, [or] political committee, **or continuing political committee** making independent expenditures who is required to file [election] reports pursuant to N.J.A.C. 19:25-12.7 **or 12.8** shall include in the reports required under the act a sworn statement on a form provided by the [commission] **Commission** that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) (No change.)

19:25-15.29 Coordinated expenditures

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

(c) A reference to a gubernatorial candidate appearing in campaign literature or material circulated to voters by direct mail and paid for by non-gubernatorial candidates, as hereinafter defined, or by political party committees, as defined in N.J.A.C. 19:25-1.7, shall be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of no more than a single use of the gubernatorial candidate's name in the text, **and** a single use of the gubernatorial candidate's name within a slate or listing of the names of gubernatorial and non-gubernatorial candidates, and a single photograph or depiction of the gubernatorial candidate provided that a photograph or depiction of each non-gubernatorial candidate larger or of equal size to the gubernatorial candidate's photograph or depiction is included; and

2.-3. (No change.)

(d)-(h) (No change.)

19:25-15.30 Borrowing of funds; repayment

Any candidate, the candidate's 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 or the State committee may in any way endorse or guarantee such loan in the aggregate in excess of the [$1,500] **$1,800** 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 N.J.S.A. 19:44A-29 not later than 20 days prior to the general election. Certification of such repayment shall be made by the borrower to the Commission not later than 15 days prior to the date of the general 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 general election.

19:25-15.31 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], **$200.00 per hour** 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] **$400.00 per hour**. In this example, the amount of [$500.00] **$200.00 per hour** 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] **$200.00 per hour** 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] **$200.00 per hour**. 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] **nine hours**. If the candidate obtained the use of the helicopter for [four days] **10 hours** 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] **$1,800**.

2. Example 2: Candidate Y in example 1, wishes to obtain the use of the helicopter from the owner for [three days] **15 hours**, and the campaign committee for the candidate pays to the owner the reasonable commercial value of [$1,000] **$400.00** for each [day] **hour**, or a total of [$3,000] **$6,000**. 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. (No change.)
(b) (No change.)

19:25-15.32 Establishment of State committee account; contribution limit

(a) (No change.)

(b) Upon or after establishment of a State committee account by a State committee, such State committee may allocate and deposit certain contributions received by it in such account. Only a contribution of up to [$1,500] **$1,800**, or up to [$1,500] **$1,800** of a contribution in excess of [$1,500] **$1,800** may be so deposited, and only if such deposit does not result in the contributor exceeding a contribution of [$1,500] **$1,800** in the aggregate to such or on behalf of such candidate.

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

19:25-15.35 Notice by State committee to contributor

(a) The campaign treasurer or deputy campaign treasurer of any State committee depositing any contribution in a State committee account of such State committee must give written notice of such deposit to the contributor within 48 hours of such deposit, and such notice shall contain the following information:

1. (No change.)

2. The allocated contribution counts toward the [$1,500] **$1,800** the contributor may contribute to a candidate for the office of Governor;

3.-5. (No change.)

19:25-15.43 Disclosure of information

The statements and certifications submitted by a candidate in accordance with N.J.A.C. 19:25-15.17 shall not be public records and shall not be available for public inspection; provided, however, the Commission shall from time to time publish a listing which shall contain the information included in the statements and certifications for each contribution [approved for match], except that it shall not include the name, address or amount of contribution of any contributor whose contributions in the aggregate are $100.00 or less unless the candidate authorizes such disclosure in writing.

19:25-15.45 Postelection contribution; postelection payment of expenses

(a) Any person, political committee, or continuing political committees otherwise eligible to make political contributions to a candidate or a State committee may make a contribution in aid of the candidacy of a candidate after the date of such general election provided such person or political committee does not exceed [$1,500] **$1,800** in the aggregate for such general election.

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

19:25-15.48 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 September 1 preceding a general election for the office of Governor must on or before September 1 preceding the general election for Governor file:

1. A certified statement of qualification containing evidence that [$150,000] **$177,000** has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial general election campaign expenses. Evidence that [$150,000] **$177,000** has been deposited and expended shall be filed with the Commission on September 1 preceding a general election 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] **$177,000** 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 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] **$177,000** has been expended for general election expenses shall include two photocopies of checks, receipted bills, contracts, or similar documents as evidence of the expenditure of at least [$150,000] **$177,000**.

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

19:25-15.49 Statement of candidates electing to participate in debates

(a) A candidate who has not by September 1 preceding a general election applied to the Commission for public matching funds may elect to participate in the series of interactive gubernatorial general election debates by:

1. (No change.)

2. Filing a statement of qualification containing evidence that [$150,000] **$177,000** has been deposited and expended pursuant to N.J.S.A. 19:44-32 for gubernatorial general election expenses. The statement of qualification shall contain the same information as that required at N.J.A.C. 19:25-15.48(a).

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

19:25-15.50 Application to sponsor debates

(a) To be eligible for selection by the Commission to sponsor one or both of the interactive gubernatorial general election debates, [a private] **an organization**:

1.-2. (No change.)

3. Must have previously sponsored one or more televised debates **among candidates** for Statewide office in New Jersey since 1976.

(b) Any association of two or more separately owned news publications or broadcasting outlets, including newspapers, radio stations or networks, and television stations or networks, having between or among them a substantial readership or audience in this State, and any association of print or broadcast news or press service correspondents having among them a substantial readership or audience in this State, shall be eligible to sponsor any such gubernatorial general election debate, without regard to whether that association or any of its members shall previously have sponsored any debate among candidates for Statewide office.

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

19:25-15.54 Complaint alleging failure to participate in debate

(a) (No change.)

(b) Service of a complaint alleging failure to participate in a general election debate shall be made by the complainant [in person] **by personal service** or by certified mail, return receipt requested upon the respondent candidate, the debate sponsor, and any person named in the complaint.

19:25-15.64 Contributions and loans prior to candidacy

(a) Each candidate for the office of Governor who did not participate in the preceding primary election, whether or not intending to participate in public funding of the general election for Governor, 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 contributions in excess of [$1,500] **$1,800** in the aggregate from a person, political committee, or continuing political committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of [$1,500] **$1,800** in the aggregate have been received for that purpose, and the amount of each contribution in excess of [$1,500] **$1,800** 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] **$1,800** and the dates and amounts of all such contributions; and

ii. (No change.)

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

19:25-15.65 Complaints alleging violation of general election expenditure limit

(a) Any complaint filed with the Commission alleging violation by a general election candidate receiving public matching funds of

the general election expenditure limit in N.J.A.C. 19:25-15.11(a)3 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 alleged violation of the general election expenditure limit.

(b) Service of a complaint alleging violation of the general election expenditure limit shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, and any person named in the complaint.

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Fee for Modifying or Restructuring Payment Terms for a Loan or Loan Guarantee Project

Proposed Amendment: N.J.A.C. 19:30-6.4

Authorized By: New Jersey Economic Development Authority, Richard L. Timmons, Assistant Deputy Director.

Authority: N.J.S.A. 34:1B-1, specifically N.J.S.A. 34:1B-5(l).

Proposal Number: PRN 1993-108.

Submit comments by March 31, 1993 to:

Richard L. Timmons, Assistant Deputy Director
New Jersey Economic Development Authority
CN 990
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed rule amendment adds an additional fee of $500.00 that the New Jersey Economic Development Authority ("NJEDA") will charge under its loan programs for modifying or restructuring payment terms. This will result in a nominal fee to borrowers; however, it will provide NJEDA with the opportunity to recover some of the cost incurred to restructure loans.

Social Impact

The most significant social impact will be to enable NJEDA to remain self-sustaining by increasing the source of funds necessary to offset its costs in order to continue to fulfill its legislative mandate to provide financial assistance to businesses in New Jersey that are not able to obtain financing from other sources. In addition, the amount of funds available to lend to other qualified businesses will be increased.

Economic Impact

This change will have an impact on the individual borrower of funds from NJEDA who need to have their loan restructured. The amount of the fee is below that charged by conventional lending sources and will be offset by the economic advantages obtained by the borrower from the restructured loan.

Regulatory Flexibility Analysis

The recipient of a loan or a loan guarantee from NJEDA may be a small business, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Should such a small business seek to modify or restructure the payment terms for its loan or loan guarantee, it will be required to pay the $500.00 fee. As this fee is intended to permit NJEDA to recoup some of its costs incurred in the modification or restructuring of a loan, and such costs are not directly related to the borrower's business size, no lesser fee or exemption is provided for small businesses.

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

19:30-6.4 Post-closing fees

(a) The fees in this section are due and payable upon the closing of the bond amendment, approval of change of ownership, or signing of modification consent, waiver, etc.

1.-7. (No change.)

8. For modifying or restructuring payment terms for a loan or loan guarantee project, a fee of $500.00 shall be charged.

(b) (No change.)

(b)

CASINO CONTROL COMMISSION

Applications

Proposed Readoption: N.J.A.C. 19:41

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63c, 69a, 70a-c, 70e, 89, 90, 91, 92, 93, 139 and 141.

Proposal Number: PRN 1993-86.

Submit written comments by March 31, 1993 to:

Mary S. LaMantia, Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 19:41 is scheduled to expire on May 12, 1993. The rules were initially promulgated in 1978 to implement provisions of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., concerning the Casino Control Commission's (Commission) responsibility to ascertain that certain qualification criteria be met with regard to the licensing of casinos (N.J.S.A. 5:12-82, 83, 84, 85 and 86); casino service industries (N.J.S.A. 5:12-92); and casino employees (N.J.S.A. 5:12-89, 90 and 91). N.J.A.C. 19:41 also implements the Commission's obligation to prescribe the methods and forms of application; methods, procedures and forms for delivery of information; and methods of identification of applicants (N.J.S.A. 5:12-70a, 70b and 70c). The rules in subchapter 11 outline the requirements for vendor registration and standards for the licensure of casino service industry enterprises. Subchapter 12 states the requirements for labor organization registration in accordance with N.J.S.A. 5:12-93. Finally, the rules set forth fees for licensure and registration, in accordance with N.J.S.A. 5:12-139 and 141.

N.J.A.C. 19:41 was readopted without change in 1983 (15 N.J.R. 532(b), 15 N.J.R. 931(b)). In 1988, the rules were readopted with several amendments to the fee schedule in subchapter 9. See 20 N.J.R. 763(a), 20 N.J.R. 1209(a).

Since the 1988 readoption, the Commission has continued to update and amend the rules and procedures in N.J.A.C. 19:41. Subchapters 2 and 13, relating to casino hotel facilities and casino license conservatorships, were recently recodified to a new casino licensing chapter, N.J.A.C. 19:43. Several other rules that simply reiterated statutory language, and thus served no useful purpose, were repealed at that time. See 24 N.J.R. 3225(a), 24 N.J.R. 4563(a).

1991 amendments to N.J.A.C. 19:41-11.1 extended the time period for the filing of a vendor registration form by a casino licensee from 10 to 20 days. 23 N.J.R. 2486(b); 23 N.J.R. 3347(a). Also in 1991, new rules were adopted to establish a procedure whereby the Commission may administratively suspend a license or registration, or dismiss an application, when a required fee or civil penalty remains unpaid. 23 N.J.R. 3249(a), 24 N.J.R. 298(a).

The Commission recently conducted a comprehensive review of its licensing fee structure. Adopted amendments to subchapter 9 allow the Commission to adjust the hourly fee rates if the projected fiscal year budgets for the regulatory agencies so warrant, resulting in a more accurate matching of costs with services provided and reducing the year-end assessment to casino licensees. See 24 N.J.R. 1247(a), 24 N.J.R. 2295(a). Other recent adopted amendments update the licensure and registration fees assessed upon casino employees, casino service industries and labor organizations. See 24 N.J.R. 4337(a), 25 N.J.R. 713(a).

The rules in N.J.A.C. 19:41 are reasonable and proper for the purposes for which they were originally promulgated. These rules assure that the regulatory agencies have available to them all the information necessary to determine whether an applicant meets the qualifications set forth in the Casino Control Act. Since chapter 41 will be subject to ongoing reassessment as part of the Commission's comprehensive regulatory review, the chapter is proposed for readoption at this time without amendment.

Social Impact

The rules in N.J.A.C. 19:41 benefit the public, the casino industry and the regulatory agencies. If the rules were not readopted, it would be extremely difficult for the Commission to assure that persons with unacceptable backgrounds do not gain entry to the casino industry. Such rules are thus essential to assure the public trust and confidence in the credibility and integrity of the regulatory process and of casino operations, in accordance with the goals of the Act, N.J.S.A. 5:12-1(b)(6).

Economic Impact

Licensees, registrants and applicants expend time and money in order to comply with the requirements of N.J.A.C. 19:41. The application fees set forth in N.J.A.C. 19:41-9 implement the Legislature's intent that the Casino Control Commission and the Division of Gaming Enforcement should be financed exclusively through fees assessed upon licensees and applicants who benefit from the existence of the regulatory process. Readoption will continue to ensure that, to the extent possible, each applicant is assessed a fair share of the investigatory and processing costs attributable to that applicant.

Applicants also incur costs in compiling and submitting information and documentation to the regulatory agencies. However, without this information, the legislative directive prohibiting the participation of unfit persons and entities could not be satisfied.

Regulatory Flexibility Analysis

N.J.A.C. 19:41, Applications, contains the methods, procedures, fees and forms for the licensure and registration of casinos, casino service industries, and casino employees. As such, the rules impose application requirements upon certain casino service industry enterprises which may qualify as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Further, the standards and procedures for application in N.J.A.C. 19:41-8 apply to all applicants, including casino service industry applicants. N.J.A.C. 19:41-9 sets forth fees for licensure and registration, in accordance with N.J.S.A. 5:12-139 and 141. Casino service industry license fees are set forth at N.J.A.C. 19:41-9.8 and 9.9. Standards for the filing of vendor registration forms by the casino licensee on behalf of a vendor are set forth in subchapter 11, as are standards and procedures for casino service industry licensure.

Such information is necessary for the Commission to fulfill its obligation to exclude unqualified and unfit persons and entities from participation in the casino industry. Thus, the public interest would not be served by excluding small businesses from the application requirements in this chapter.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:41.

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Jackpot Payout Slips

Proposed Amendment: N.J.A.C. 19:45-1.40

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 69, 70(l) and (m), 99(a)(4) and (12).

Proposal Number: PRN 1993-87.

Submit written comments by March 31, 1993 to:

Leonard J. DiGiacomo, Senior Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and Boardwalk
Atlantic City, NJ 08401

The agency proposal follows:

Summary

The rules of the Commission provide that casino licensees may prepare jackpot payout slips either manually or by computer. A three-part form is used for manually prepared jackpot payout slips so that any information recorded on the form while it is in a locked dispenser will appear on each part of the form simultaneously. Computer-generated slips are prepared in duplicate and the information otherwise required to appear on a manually prepared triplicate is recorded in machine-readable computer stored data.

Among other things, jackpot payout slips must contain the asset number of the slot machine where the jackpot was registered, the winning combination of characters, the date on and the shift during which the jackpot occurred, and the amount paid. As of June 15, 1992, casino licensees are also required to record on the slip the serial number of any casino check issued to pay the winning patron.

At least daily, a casino licensee's accounting department receives the original and duplicate of each jackpot payout slip and confirms the accuracy of the information thereon by comparing them either with the manually prepared triplicate or with the computer stored data. Among other things, the accounting department ensures that the triplicate or stored data-recorded serial number of any casino check issued to a winning patron matches the serial number of such check as recorded on the original and the duplicate jackpot payout slip.

After the rule was amended to require casino check serial numbers to appear in stored data, Trump's Castle Associates, a casino licensee, submitted a revision to its internal procedures and administrative and accounting controls which did not comport with the rule. Nevertheless, the Division of Gaming Enforcement, after reviewing the submission, advised the Commission that it did not object to the implementation of the revised procedures.

Regulatory goals are not necessarily advanced by requiring a casino licensee's accounting department to confirm that the casino check serial number is identically recorded on each part of the manually-prepared payout slip. Although the serial number of a casino check is crucial for purposes of verifying the check when it is presented to another casino, N.J.A.C. 19:45-1.25(e) through (h), the manually prepared triplicate of the payout slip is not used to make that verification. Moreover, the Commission, which only recently required casino check serial numbers to appear on jackpot payout slips, does not examine the recorded serial number when conducting a gross revenue audit.

Given the lack of a compelling regulatory interest demanding inclusion of casino check serial numbers on triplicates of jackpot payout slips, there is likewise no need to require that those numbers be in stored data. Thus, the proposed amendment deletes the requirement for recording on triplicates of jackpot payout slips, or for storing in computer generated data, the serial number of any casino check issued to a patron winning a jackpot.

Of course, the State has a continuing regulatory interest in assuring that a particular casino check can be readily identified as having been issued incident to a specific slot machine jackpot payout. Accordingly, the serial numbers of those checks will continue to be recorded on the original and duplicate of all jackpot payout slips, without regard to whether those slips are manually-prepared or computer-generated.

Coincidentally, serial numbers probably will continue to appear on the triplicate of a manually prepared jackpot payout slip because, once the number is written on the original of the slip, it automatically will be included, by the design of the locked dispenser, on each of the accompanying copies of the form. However, the proposed amendment makes it clear that the accounting department will no longer be obligated to confirm that the serial number of the original and duplicate agrees with the number on the triplicate.

Nevertheless, the accounting department will continue to ensure that all information required to be recorded on the manually—produced triplicate of a jackpot payout slip or to be stored in computer data does agree with the information on the original and duplicate of that slip. The accounting department must now make that comparison within a reasonably practicable time after receipt of the original or the duplicate.

Social Impact

The proposed amendment to N.J.A.C. 19:45-1.40, which eliminates the requirement that serial numbers of casino checks appear either on the triplicates of jackpot payout slips or in stored data, will have no social impact.

Economic Impact

Under the proposed amendment, casino establishments which generate jackpot payout slips by computer will no longer be required to incur the costs needed to convert to or to maintain a system which records casino check serial numbers in stored data. Those casino licensees which already computer-store such data will have the option to continue doing so or, if cost-effective, they may alter their systems accordingly. Further, the Commission anticipates that the proposed amendment will have a negligible cost impact on those computer com-

panies from which casino establishments might procure computer conversion or maintenance services.

Regulatory Flexibility Statement

No regulatory flexibility analysis is required because the proposed amendment will only affect the operation of New Jersey casino licensees, none of which is a "small business" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16, et seq.

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

19:45-1.40 Jackpot payouts of cash or slot tokens that are not paid directly from the slot machine

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

(d) For establishments in which jackpot payout slips are computer prepared, each series of jackpot payout slips shall be a two-part form, at a minimum, and shall be inserted in a printer that will: simultaneously print an original and a duplicate and store, in a machine-readable form, all information printed on the original and duplicate, **other than the serial number of any casino check issued to the patron who won the jackpot for which the slip was prepared**; and discharge the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a jackpot payout slip.

(e) On originals, duplicates, triplicates, or in stored data, the preparer shall record, at a minimum, the following information:

1.-2. (No change.)

3. The date **on** and **the** shift during which the jackpot occurred;

4. (No change.)

[5. The serial number of any casino check issued, if applicable;]

Recodify existing 6.-7. as **5.-6.** (No change in text.)

(f) The time of preparation of the jackpot **and the serial number of any casino check issued incident to the jackpot** shall be recorded at a minimum, on the original and duplicate upon preparation **of the jackpot payout slip**.

(g)-(i) (No change.)

(j) At the end of each gaming day, at a minimum, the original and duplicate of the jackpot payout slip shall be forwarded as follows:

1. The slot cashier shall forward the original to the master coin bank cashier in exchange for coin, currency or credit, after which the original shall be forwarded to the accounting department, [for agreement] **which, as reasonably practicable after receipt, shall confirm that the information required to appear thereon pursuant to (e) above agrees** with the **information required to appear on the** triplicate or **in** stored data **pursuant to (e) above**; or, if prepared in the master coin bank, the master coin bank cashier shall forward the original directly to the accounting department, [for agreement] **which, as reasonably practicable after receipt, shall confirm that the information required to appear thereon pursuant to (e) above agrees** with the **information required to appear on the** triplicate or **in** stored data **pursuant to (e) above**;

2. The general cashier shall forward the original to the main bank cashier in exchange for coin, currency or credit, after which the original shall be forwarded to the accounting department, [for agreement] **which, as reasonably practicable after receipt, shall confirm that the information required to appear thereon pursuant to (e) above agrees** with the **information required to appear on the** triplicate or **in** stored data **pursuant to (e) above**; and

3. The duplicate jackpot payout slip shall be forwarded directly to the accounting department for recording on the Slot Win Sheet, agreement with the meter reading stored on the Slot Meter Sheet, and **confirmation, as reasonably practicable after receipt of the duplicate, that the information required to appear on the duplicate pursuant to (e) above** [agreement] **agrees** with the **information required to appear on the** triplicate or **in** stored data **pursuant to (e) above.**

(a)

CASINO CONTROL COMMISSION

Gaming Equipment

Proposed Readoption: N.J.A.C. 19:46

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63c, 69a, 70f, 70i and 100.

Proposal Number: PRN 1993-88.

Submit written comments by March 31, 1993 to:

Mary S. LaMantia, Assistant Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 19:46 is scheduled to expire on April 28, 1993. The rules were initially promulgated in 1978 to implement provisions of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., concerning the Commission's responsibility to regulate the use and operation of gaming devices and the manufacture, distribution, sale and servicing of gaming devices and equipment. N.J.S.A. 5:12-70f, 70i and 100.

N.J.A.C. 19:46 regulates the physical characteristics and procedures for the use of all gaming devices and equipment. The rules provide minimum specifications concerning gaming chips, plaques, tokens, table layouts, slot machines and bill changers, and devices used in the conduct of gaming, such as cards, dice and dealing shoes. The rules also address the possession and transportation of slot machines and slot machine density and configuration within a casino room.

The Commission has continually reviewed and updated the requirements set forth in N.J.A.C. 19:46. The rules were readopted without change in 1983 and again in 1988 (see 15 N.J.R. 429(b), 15 N.J.R. 932(a); 20 N.J.R. 638(a), 20 N.J.R. 1209(c)), with numerous modifications effected through the amendment process in the intervening years.

A number of new rules and amendments to N.J.A.C. 19:46 have recently been promulgated as a result of legislative amendments to the Act. Several adoptions implemented newly authorized games and variations of authorized games, including sic bo (23 N.J.R. 2922(a), 23 N.J.R. 3820(b)); pokette (24 N.J.R. 2140(a), 24 N.J.R. 4279(b)); pai gow (24 N.J.R. 558(a), 24 N.J.R. 3753(a)); pai gow poker (24 N.J.R. 569(a), 24 N.J.R. 3742(a)); and red dog (23 N.J.R. 2231(a), 23 N.J.R. 3348(a)). The Commission also amended its rule regarding the permissible number and density of slot machines, N.J.A.C. 19:46-1.27, in response to statutory revisions. See 24 N.J.R. 2138(a), 24 N.J.R. 3338(b). Other amendments eliminated the minimum requirements for nickel and quarter denomination slot machines. See 23 N.J.R. 3252(a), 23 N.J.R. 649(a).

The Commission has reviewed N.J.A.C. 19:46 and determined the rules to be necessary, reasonable and proper for the purposes for which they were originally promulgated. These rules are essential to assure the fair operation of authorized games and to assure consistency and control over the gaming equipment and devices used in gaming activities. Since the rules are continually reviewed and reevaluated, the chapter is proposed for readoption at this time without amendment.

Social Impact

N.J.A.C. 19:46 has been effective in preserving the integrity of casino gaming by providing for standardization and consistency of gaming equipment. These controls have created an orderly gaming atmosphere, adding to the sense of fairness and security felt by casino patrons. The Casino Control Act recognizes that an essential element of the regulation of casino gaming is maintenance of the public trust and confidence in the credibility and integrity of the regulatory process and of casino gaming. N.J.S.A. 5:12-1(b)(6).

The specifications and controls in N.J.A.C. 19:46 benefit the casino industry by preventing tampering and counterfeiting, and protecting against the financial losses that would result from such activities or the use of flawed or altered equipment. The rules also facilitate effective supervision and surveillance of gaming operations. Without the uniformity of gaming devices and equipment provided by these rules, both detection and enforcement would be hampered.

Economic Impact

The rules benefit the casino industry and the public by assuring control and security over equipment used in gaming operations. Without these rules, the potential for economic loss to patrons and casino licensees would be enhanced due to the greater likelihood of imperfect or altered equipment. Casino licensees and applicants do incur costs of compliance with the present procedures, as do the regulatory agencies in enforcing and monitoring compliance. Nonetheless, the time and expense involved are far outweighed by the benefits of a controlled and secure system. To the extent that any reduction in the costs of compliance may be effected through regulatory amendment, without posing a threat to the integrity of casino gaming, such changes have been and will continue to be proposed.

Regulatory Flexibility Statement

N.J.A.C. 19:46 primarily affects the operations of casino licensees, none of which qualify as a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Some businesses offering slot machines for use in Atlantic City, or who intend to transport slot machines within, into or out of the State, may meet the definition of small business. Compliance with the reporting and recordkeeping requirements set forth in N.J.A.C. 19:46-1.23 will involve some time and expense for these companies. At N.J.A.C. 19:46-1.28, complying with the requirement to provide models of each machine proposed for use and the submission of three copies of pertinent diagrams and schematics will involve expenses on the part of the manufacturer. Some manufacturers of gaming equipment may likewise qualify as small businesses, and will incur some costs in complying with the minimum specifications set forth in N.J.A.C. 19:46 in the manufacture of the equipment. However, these requirements are essential to ensure the integrity of gaming in New Jersey, and must be applied consistently. Therefore, no exemption or differing standard is provided for small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:46.

(a)

CASINO CONTROL COMMISSION

Rules of the Games

Proposed Readoption: N.J.A.C. 19:47

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63c, 69a, 70f and 100.

Proposal Number: PRN 1993-89.

Submit written comments by March 31, 1993 to:

Mary S. LaMantia, Assistant Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 19:47 is scheduled to expire on April 28, 1993. The rules in N.J.A.C. 19:47 were initially promulgated in 1978 to implement provisions of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., concerning the Commission's responsibility to define and limit the rules of authorized games and the methods of operation and odds associated with such games. N.J.S.A. 5:12-70f and 100.

The Commission has continually reviewed and updated the requirements set forth in N.J.A.C. 19:47. The rules were readopted without change in 1983 and again in 1988 (see 15 N.J.R. 429(b), 15 N.J.R. 932(a); 20 N.J.R. 639(a), 20 N.J.R. 1209(d)), with numerous modifications effected through the amendment process in the intervening years.

A number of new rules and amendments to N.J.A.C. 19:47 have recently been promulgated as a result of legislative amendments to the Act. Several adoptions implemented newly authorized games and variations of authorized games, including sic bo (23 N.J.R. 2922(a), 23 N.J.R. 3820(b)); pokette (24 N.J.R. 2140(a), 24 N.J.R. 4279(b)); pai gow (24 N.J.R. 558(a), 24 N.J.R. 3753(a)); pai gow poker (24 N.J.R. 569(a), 24 N.J.R. 3742(a)); and red dog (23 N.J.R. 2231(a), 23 N.J.R. 3348(a)).

Other recent amendments allow casino licensees the option to offer variations of blackjack, including surrender (21 N.J.R. 3447(a), 22 N.J.R. 249(b)); splitting pairs (23 N.J.R. 1783(b), 23 N.J.R. 3354(b)); "double exposure" blackjack (23 N.J.R. 1782(c), 23 N.J.R. 3353(a)); optional payout odds on specified winning card combinations (23 N.J.R. 1781(a), 23 N.J.R. 3351(a)); and five cards totalling 21, (23 N.J.R. 28(b), 23 N.J.R. 3355(a)).

The Commission has reviewed N.J.A.C. 19:47 and determined the rules to be necessary, reasonable and proper for the purposes for which they were originally promulgated. These rules provide minimum guidelines regarding the rules of the games, and permit the casino industry maximum flexibility to modify rules in response to patron demand. Implementation of these rules has ensured fair and consistent games to patrons while protecting the economic viability of the industry and encouraging maximum patron participation. The rules are essential to assure the fair operation of authorized games.

Readoption will enable the Commission to continue to fulfill its statutory mandate to ensure the public trust and confidence in the integrity of gaming operations. Since the rules are continually reviewed and reevaluated, the chapter is proposed for readoption at this time without amendment.

Social Impact

The readoption of N.J.A.C. 19:47 will continue to benefit the public and the casino industry. The standards and procedures set forth have been effective in assuring fairness to the player, encouraging participation, preventing cheating and protecting casinos and patrons against unfair play. These safeguards have generated a reputation for honesty and integrity for the Atlantic City casino industry. Failure to readopt would enhance the danger of unfair gaming practices and reflect adversely on Atlantic City. Failure to maintain public trust in the integrity of gaming operations would undermine the basic public policy of the Casino Control Act. N.J.S.A. 5:12-1(b)(6).

Economic Impact

Readoption of N.J.A.C. 19:47 will continue to benefit the casino industry and the public. By regulating the rules, odds and operation of gaming, N.J.A.C. 19:47 assures the gaming patron of fair play and a fair return. The procedural controls protect both the casino and the player against the possibility of cheating and resulting financial losses.

While casino licensees will incur some costs in complying with the standards and procedures in N.J.A.C. 19:47, such compliance is essential to the integrity of gaming operations in Atlantic City. To the extent that any reduction in the costs of compliance may be effected through regulatory amendment, without posing a threat to the integrity of casino gaming, such changes have been and will continue to be proposed.

Regulatory Flexibility Statement

N.J.A.C. 19:47 affects the operations of casino licensees, none of which qualifies as a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. A regulatory flexibility analysis is, therefore, not required.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:47.

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Readoption: N.J.A.C. 5:23

Proposed: April 20, 1992 at 24 N.J.R. 1420(b).
Adopted: February 1, 1993 by Stephanie R. Bush, Commissioner, Department of Community Affairs.
Filed: February 3, 1993 as R.1993 d.106, **without change.**

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

Effective Date: February 3, 1993.
Expiration Date: February 3, 1998.

Summary of Public Comments and Agency Responses:
A comment was received from Robert H. Karen, President, New Jersey Builders Association (NJBA).

COMMENT: NJBA believes that the Department should discontinue use of the BOCA National Building Code and, instead, should adopt "a more cost-effective, affordability-sensitive model code." NJBA cites "questionable life/safety benefits in relation to the ultimate cost impact to the consumer" as a result of requiring use of the BOCA code, with particular mention being made of standards for barrier-free accessibility, seismic design and fire suppression and states that "it has become incredibly difficult for design professionals, builders and code enforcement officials to stay current with the numerous annual amendments made to the BOCA National Model Codes."

RESPONSE: Of the three model building codes in use in the United States—the other two being published by the Southern Building Code Congress International (SBCCI) and the International Conference of Building Officials (ICBO)—the code published by the Building Officials and Code Administrators International, Inc. (BOCA) is generally recognized as the most comprehensive and the first to respond to technological advances. It is also the most widely used code, use of the SBCCI code being limited to the states of the Deep South and use of the ICBO code being common only in the West.

The three code organizations jointly constitute the Council of American Building Officials (CABO), which issues a simplified code for construction of one- and two-family dwellings that has been incorporated into the State Uniform Construction Code as the one- and two-family dwelling subcode, use of which may allow builders of such dwellings to avoid certain allegedly onerous requirements that are unique to BOCA.

BOCA has responded to complaints about frequent changes by discontinuing the practice of issuing annual supplements. Changes are now made only on a triennial basis.

For all of these reasons, the Department has concluded that the Legislature's original determination in section 5 of the State Uniform Construction Code Act, N.J.S.A. 52:27D-123, that the building code should be the model code published by BOCA remains valid.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:23.

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code
General License Requirements
Elevator Inspectors

Adopted Amendments: N.J.A.C. 5:23-5.4 and 5.5

Proposed: December 7, 1992 at 24 N.J.R. 4309(a).
Adopted: February 1, 1993 by Stephanie R. Bush, Commissioner, Department of Community Affairs.
Filed: February 3, 1993 as R.1993 d.105, **without change.**

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

Effective Date: March 1, 1993.
Expiration Date: February 3, 1998.

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

Full text of the adoption follows.

5:23-5.4 Licenses required
(a)-(f) (No change.)
(g) For the period July 1, 1992 to June 30, 1996, interim rules for elevator subcode officials and inspectors shall be as follows:
1. Except as otherwise provided in (f)2 below, no person shall be appointed to the position of elevator subcode official or appointed as an elevator inspector unless he or she shall have been licensed in accordance with this subchapter.
2. No person serving as an elevator subcode official, or holding employment as an elevator inspector, on June 30, 1992 shall continue to serve in such capacity, or hold such employment, after June 30, 1996, unless he or she shall have been licensed in accordance with this subchapter.

5:23-5.5 General license requirements
(a)-(b) (No change.)
(c) The following persons shall be exempt from the requirements of this section and shall be issued a license upon submission of an application and payment of the required fee:
1.-2. (No change.)
3. Inspectors with civil service status or tenure:
i. A license of the appropriate type and specialty shall be issued to any person holding or receiving, prior to January 1, 1978, tenure or permanent civil service status.
(d) (No change.)

(c)

DIVISION OF HOUSING AND DEVELOPMENT

Rooming and Boarding Houses
Appropriate Placement

Adopted Amendment: N.J.A.C. 5:27-3.5

Proposed: December 7, 1992 at 24 N.J.R. 4310(a).
Adopted: February 1, 1993 by Stephanie R. Bush, Commissioner, Department of Community Affairs.
Filed: February 3, 1993 as R.1993 d.104, **without change.**

Authority: N.J.S.A. 55:13B-4.

Effective Date: March 1, 1993.
Expiration Date: May 2, 1995.

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

Full text of the adoption follows.

5:27-3.5 Appropriate placement

(a) No licensee shall accept as a resident in a boarding house a person who is not capable of self-evacuation with or without assistive devices, who is not certified by a physician to be free of communicable diseases and not in need of nursing care or who requires services not available in such boarding house.

(b) In the event that a resident ceases to be capable of self-evacuation, acquires a communicable disease or requires nursing care, supervision of self-administration of medication or services not available in the boarding house, it shall be the responsibility of the licensee to so notify the county welfare board forthwith so that the resident may be transferred to a facility suitable to his needs.

(c) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

Organization of the Department of Education

Adopted Amendments: N.J.A.C. 6:5-2.3 and 2.4

Adopted Repeal and New Rule: N.J.A.C. 6:5 Appendix

Adopted: February 2, 1993 by State Board of Education, Mary Lee Fitzgerald, Secretary, State Board of Education and Commissioner, Department of Education.

Filed: February 4, 1993 as R.1993, d.107.

Authority: N.J.S.A. 18A:52:14B-3(1).

Effective Date: February 4, 1993.

Expiration Date: October 22, 1995.

These amendments, repeal and new rule are organizational in nature and, as such, in accordance with N.J.S.A. 52:14B-4(b), may be adopted without prior notice or hearing and are effective upon filing.

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

6:5-2.3 Basic composition of the Department

(a) (No change.)

(b) The basic organizational design of the Department is indicated in the Organizational Chart (see Appendix to this subchapter, incorporated herein by reference) with the executive functions as follows:

1. (No change.)

2. The [Deputy] Commissioner **may designate an assistant commissioner** [serves] **to serve** as Acting Commissioner during the Commissioner's absence [and reports directly to the Commissioner].

6:5-2.4 Reporting responsibilities

The following senior managers, with corresponding divisions, report directly to the Commissioner:

1. The Assistant Commissioner for Administration and Policy.

[1.]**2.** The Assistant Commissioner for [the Division of] Urban Education **and Field Services.**

[2. The Assistant Commissioner for the Division of County and Regional Services.] The following organizational units and their chief officers report directly to the Assistant Commissioner for [the Division of County and Regional Services] **Urban Education and Field Services**:

i. The county superintendent of schools in each of the 21 counties[.]**; and**

ii. The State district superintendents for State-operated school districts.

3. The Assistant Commissioner for [the Division of Educational] **Academic** Programs and [Student Services] **Standards.**

4. The Assistant Commissioner for [the Division of Finance] **Financial Services.**

5. The Assistant Commissioner for [The Division of Adult and Occupational Education] **Professional Development and Licensing.**

[6. The Director for the Division of Compliance.

7. The State District Superintendent(s) for the State-operated school district(s).

(b) The following senior managers, with corresponding divisions, report directly to the Deputy Commissioner:

1. The Assistant Deputy Commissioner for the Division of Executive Services;]

[2.]**6.** The Assistant Commissioner for the [Division of] State Library.

[3. The Director for the Division of Administration.

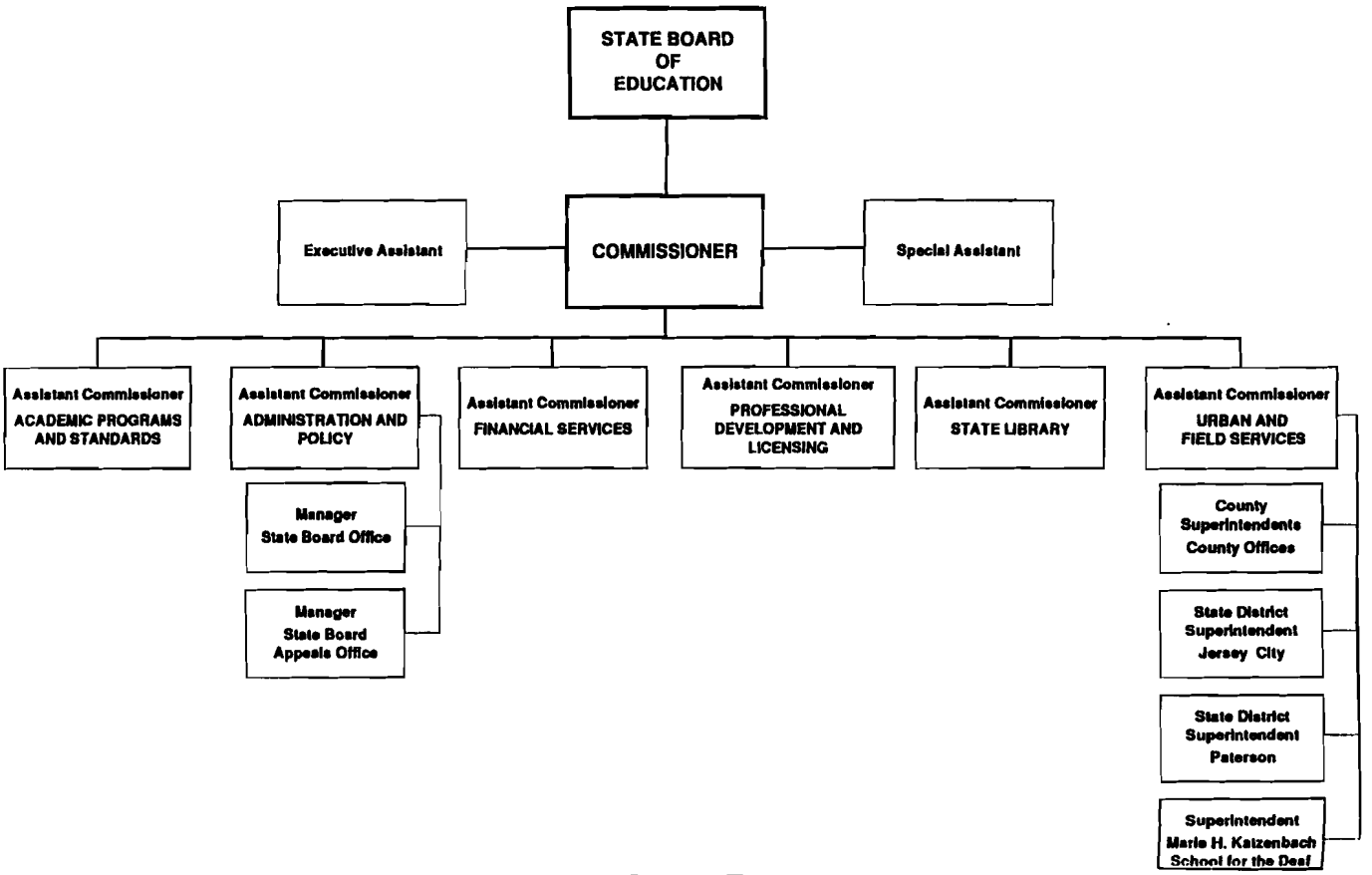
4. The Director for the Division of Direct Services.

5. The Director for the Division of Special Education.

7. The Director for the Division of Teacher Preparation and Certification.]

AGENCY NOTE: The Current Appendix to N.J.A.C. 6:5, the organizational chart, is to be deleted and replaced with the following new organizational chart:

State of New Jersey
Department of Education
February 1993



(a)

STATE BOARD OF EDUCATION

Educational Improvement Plans in Special Needs Districts

Fiscal Requirements for District and School Educational Improvement Plans; Demonstrably Effective Improvement Strategies and Programs

Adopted New Rules: N.J.A.C. 6:8-9.4 and 9.8

Adopted Amendments: N.J.A.C. 6:8-9.1, 9.2, 9.5 and 9.6

Proposed: December 21, 1992 at 24 N.J.R. 4467(b).

Adopted: February 2, 1993 by the State Board of Education, Mary Lee Fitzgerald, Secretary, State Board of Education and Commissioner, Department of Education.

Filed: February 4, 1993 as R.1993 d.112, **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:7D-3, 27, 28, 32 and 35.

Effective Date: March 1, 1993.

Expiration Date: December 11, 1996.

Summary of Public Comments and Agency Responses:

Three individuals spoke at the January 20, 1993 monthly public testimony session provided by the State Board of Education, one individual provided written testimony and one letter containing comments was received.

Written comments received from the following:

Jean Paashaus

Beryl Zankel
Superintendent of Schools
Passaic School District

Oral testimony from the following on January 20, 1993:

Carolyn Gibson
Administrative Assistant to the Superintendent
Trenton Public Schools

Charles Valentine
Assistant Superintendent
Vineland Public Schools

Thomas O'Neill
Executive Director
The Partnership for New Jersey

COMMENT: One commenter expressed concern that the categories of demonstrably effective strategies are too broad and the decision-making process is usurped from the school board by the school planning team.

RESPONSE: The amended rules require the Commissioner to develop a list of specific strategies and programs for special needs districts. A minimum amount of money must be targeted to the implementation of these strategies and programs at the school level. Although the school planning team selects the strategies and programs, the school board approves all educational improvement plans, and thus retains the decision-making authority at the district level.

COMMENT: Two commenters asserted that the imposition of the educational improvement plans and the rules governing them is an extra burden on the special needs districts which is unfair and inequitable.

RESPONSE: The purpose of the educational improvement plan process is to encourage meaningful planning at the district and school levels, and, at the same time, provide the department with an accoun-

tability mechanism. With the increased funding provided to the special needs districts comes increased accountability to ensure that those funds result in improved outcomes for students. The Department is working on amendments to the New Jersey Administrative Code which will integrate the new monitoring process and the EIP process so that no unnecessary demands are made on special needs districts.

COMMENT: One commenter wrote that monitoring is paperwork unless real technical assistance is available.

RESPONSE: Monitoring must be accompanied by technical assistance to maximize the effectiveness of the effort. Processes used for the development, implementation, verification and evaluation of educational improvement plans in the special needs districts emphasize assistance from Department staff.

COMMENT: One commenter noted that the rule amendments address the concerns of the Quality Education Commission and the Business Coalition for Education for increasing site-based management and the accountability that needs to accompany it. These rules can promote a collaborative relationship between the Department and the districts. The targeting of money at the school level to demonstrably effective strategies and programs is a step towards real site-based management, one that should be taken by all schools, not only by special needs schools.

RESPONSE: The rule amendments that link fiscal accountability to the implementation of demonstrably effective improvement strategies and programs can lead to a partnership between the Department and the special needs districts to improve student outcomes. In addition, the targeting of money at the school level requires involvement of teachers, administrators, parents and students in selecting demonstrably effective strategies and programs that meet local needs.

Summary of Agency-Initiated Changes:

The Department has made a minor change to N.J.A.C. 6:8-9.4(a) to replace the phrase "current expense budget" with the phrase, "permitted net budget." This change was made to clarify the intention that the amount targeted at the district depends on the permitted budget increases.

Due to recent administrative changes within the Department, references to the Division of Urban Education in N.J.A.C. 6:8-9.2, 9.5 and 9.6 have been changed to read, "Division of Urban Education and Field Services." In addition, references to the director of the urban assistance center have been replaced by "the Department."

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

6:8-9.1 District educational improvement plans

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

(c) The plan shall be reviewed by the *[director of the urban assistance center and the]* county superintendent ***and the staff of the Division of Urban Education and Field Services*** and approved by the Commissioner based on the requirements specified in (a) above and N.J.A.C. 6:8-9.3.

(d)-(f) (No change.)

6:8-9.2 School educational improvement plans

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

(e) The Division of Urban Education ***and Field Services*** shall conduct an on-site review of selected school plans each year.

(f) (No change.)

6:8-9.4 Fiscal requirements for district and school educational improvement plans

(a) Special needs districts shall at a minimum dedicate 70 percent of all *[current expense]* ***permitted net*** budget increases above the state average cap percentage increase to the implementation and/or continuation of demonstrably effective improvement strategies and programs, identified as per N.J.A.C. 6:8-9.8. Part of this minimum amount shall be allocated to schools as specified in (b) below.

(b) For the 1993-94 school year, the district shall allocate a minimum of $50.00 per pupil to each school for the implementation and/or continuation of demonstrably effective improvement strategies and programs selected by the school planning team. Beginning with the 1994-95 school year, the district shall increase the amount allocated to each school to a minimum of $100.00 per pupil. The provisions of this subsection shall apply to all special needs districts, regardless of the amount of funds dedicated pursuant to (a) above.

(c) If the Commissioner determines that the amount of funds dedicated to demonstrably effective improvement strategies and programs at the district or school level is insufficient to meet student needs, the Commissioner shall order a reallocation pursuant to N.J.A.C. 6:8-9.1(e).

Recodify existing N.J.A.C. 6:8-9.4 through 9.6 as 6:8-9.5 through 9.7 (No change in text.)

6:8-9.5 Assistance by the Division of Urban Education ***and Field Services***

(a) Staff from the Division of Urban Education ***and Field Services*** shall assist district and school staff in developing, implementing and evaluating the district and school educational improvement plans by:

1.-4. (No change.)

6:8-9.6 Verification and evaluation of educational improvement plans in the special needs districts

(a) (No change.)

(b) Staff from the Division of Urban Education ***and Field Services*** are responsible for verifying the implementation of district educational improvement plans as follows:

1. (No change.)

2. An annual verification visit shall be conducted in each special needs district. Within two weeks of completion of the visit, a findings letter shall be sent by the *[director of the urban assistance center]* ***Department*** to the chief school administrator. This letter shall analyze the extent to which the district is successfully implementing each objective in the district educational improvement plan and shall include commendations, and recommendations which must be acted upon within a designated time frame.

3. (No change.)

(c) The district shall develop and implement a process to verify the progress of each school educational improvement plan, beginning with the 1993-94 school year. The verification process shall include the use of the school planning team in tracking and reporting progress at the school to the chief school administrator. During the verification visits for the district educational improvement plans, the Division of Urban Education ***and Field Services*** shall review the process and shall visit schools to ensure that the process is being implemented.

(d)-(g) (No change.)

6:8-9.8 Demonstrably effective improvement strategies and programs

(a) For the 1993-94 school year, the Commissioner, in consultation with experts in the field, shall develop a list of demonstrably effective improvement strategies and programs in the areas listed in N.J.A.C. 6:8-9.3(a)6 to be used by special needs districts as per N.J.A.C. 6:8-9.4 in developing the 1993-94 educational improvement plans at the district and school levels.

(b) Beginning with the 1994-95 school year, special needs districts and schools shall select from a list of demonstrably effective improvement strategies and programs, in meeting the requirements in N.J.A.C. 6:8-9.4, to be developed as follows:

1. By July 15, 1993 and annually thereafter, the Commissioner shall convene an advisory panel which includes researchers and practitioners from institutions and agencies such as colleges and universities, educational laboratories, foundations, business and industry, social and human services agencies, and school districts to review and update the list of improvement strategies and programs.

2. By October 1, 1993 and annually thereafter, the advisory panel shall present its recommendations to the Commissioner.

3. After reviewing the recommendations of the advisory panel, the Commissioner shall present a recommended list of strategies and programs to the State Board for approval. Advanced notice(s) of the State Board meeting at which the recommended list of demonstrably effective improvement strategies and programs will be considered shall be published in the New Jersey Register.

4. Once the list of demonstrably effective improvement strategies and programs has been approved by the State Board, the list shall be published in the New Jersey Register.

(c) Districts may request special approval from the Commissioner to implement demonstrably effective improvement strategies and programs which are not included on the recommended list.

(d) Districts may request special approval from the Commissioner to allocate some of these designated funds to address critical facilities needs.

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

ENVIRONMENTAL REGULATION—LAND USE REGULATION PROGRAM

Ninety-Day Construction Permits
Freshwater Wetlands Protection Act Rules
Coastal Permit Program Rules
Fees

Adopted Amendments: N.J.A.C. 7:1C-1.5, 1.6 and 1.7; 7:7-1.7; and 7:7A-16.1

Proposed: August 17, 1992 at 24 N.J.R. 2768(a).

Adopted: February 2, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Filed: February 4, 1993 as R.1993 d.111, **with substantive and technical changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 13:1D-9, 13:1D-29 et seq., specifically 13:1D-33, 13:9B-1 et seq., specifically 13:9B-9 and 13:9B-17, and 13:18A-1 et seq.

DEPE Docket Number: 22-92-06.

Effective Date: March 1, 1993.

Expiration Date: June 15, 1995, N.J.A.C. 7:1C;
May 12, 1994, N.J.A.C. 7:7;
March 16, 1997, N.J.A.C. 7:7A.

Summary of Public Comments and Agency Responses:

On August 17, 1992, the Department of Environmental Protection and Energy (the "Department") proposed amendments to N.J.A.C. 7:1C-1.5, 1.6 and 1.7; 7:7-1.7; and 7:7A-16.1. A public hearing concerning the amendments was held on September 2, 1992 by the Department in Trenton, New Jersey. Two members of the public, representing the New Jersey Builders Association and Schoor, DePalma and Canger Environmental Services, Inc., were present and provided comments at the hearing. The Department received written comments from 22 parties on or prior to September 16, 1992, the last day of the commenting period, and six more thereafter.

Robert A. Tudor, Administrator, Land Use Regulation Program, served as hearing officer at a hearing held on September 2, 1992. Mr. Tudor recommended that the Department adopt the rules with the changes described in the responses to specific comments below as set forth in the adopted rules. A copy of the record of the public hearing is available from Ida Engelhardt, Office of Legal Affairs, NJDEPE, CN 402, Trenton, NJ 08625.

Individuals that provided comments were:
Sterling Baker, R.J.P. Builder's Inc.*
Gregory De Lozier, New Jersey Association of Realtors
Philip Deacon, Deacon Homes/Development Corporation*
Anthony DiLodovico, Schoor, DePalma and Canger Environmental Services Inc.
Erwin Fisch, Edison-Tyler Estates, Inc.*
Lester Fromkin, Samuel Fromkin Construction*
Lewis Fromkin, Samuel Fromkin Construction*
Michael Gross, New Jersey Shore Builders Association
Dennis Hayes, Handex of New Jersey, Inc.
Jeffrey A. Horn, The New Jersey Association for Commercial Real Estate
Jirair Hovnanian, J.S. Hovnanian & Sons, Inc.*
Peter Hovnanian, J.S. Hovnanian & Sons, Inc.*
Stephen Hovnanian, J.S. Hovnanian & Sons, Inc.*
Jack James, Building Contractors of New Jersey
Ronald Jackson, New Jersey State Chamber of Commerce
Michael E. Merkle, The Linpro Company*
Michael G. McGuinness, New Jersey Builders Association
Joseph Mutinsky, Centex Real Estate Corporation, New Jersey Division*
Patrick O'Keefe, New Jersey Builders Association
Peter S. Reinhart, Hovnanian Companies
Joseph Riggs, Swedeland Forge
Walter Riley, Appleton Development Company*
Michael Seidner, Calvert Woods Associates, Inc.*
John Serkies, Department of Commerce and Economic Development
Alan Veverka, D.W. Smith Associates
Thomas Vitiello, The Thomas Group, Inc.
Anthony V. Siccardi, The Linpro Company*
W.E. Ziegenfuss, Scarborough Corporation

*A form letter was used by the commenter.

With the exception of two commenters who requested clarifications on the proposal, the commenters expressed their dismay over the Department's proposed fee increases and each enumerated some or all of the following five reasons in support of their position:

1. The magnitude of the increase is too great, amounting to several hundred percent in some cases;
2. The timing of the fee increase is poor, given the state of the economy and efforts by the Legislature to revive the construction industry;
3. The length of time required by the Department to process the permits does not justify the fee increase, even though improvements have been made in this area in the recent years;
4. The Department does not have the control to prevent money from being appropriated from the Environmental Services Account when there is a surplus in the Account; and
5. The fees are being increased because portions of the programs' revenue from other sources have been reduced.

Twelve individuals voiced their comments through form letters. Several commenters also raised questions concerning the proposed definition change for "major stream encroachment project" at N.J.A.C. 7:1C-1.5(a)4i(3) and feared that this change has greater implications than fee modifications.

Interested persons may inspect the public hearing record, or obtain a copy upon payment of the Department's normal copying charge, by contacting:

Robert Santaloci
Office of Legal Affairs
Department of Environmental Protection and Energy
401 E. State Street
CN 402
Trenton, New Jersey

The Department's responses to the comments are organized into general and specific categories. Comments (1) through (10) are general comments concerning the proposal as a whole; comments (11) through (21) are specific comments directed at a particular section of the proposal:

General Comments:

COMMENT (1): A few commenters asked the Department to extend the comment period by an additional 30 days, to allow people who may be on vacation a chance to come back and take a look at the proposal (New Jersey Builders Association, RPJ Builders and Appleton Builders). One commenter further stated that the proposal contained too many major changes for adequate review and submittal of comments within a 30-day period (New Jersey Builder Association).

RESPONSE: Although the official comment period ended on September 16, 1992, the Department did review the comments received beyond this date, the Department found that they provided no substantive concerns not already raised in the timely-submitted comments. Accordingly, the Department concluded that while an extension of the commenting period may result in an increase in the total number of comments received, such extension would be unlikely to result in any additional substantive comments received by the Department. Therefore, the Department decided not to extend the comment period.

COMMENT (2): One commenter objected to the approach or method the Department used to construct the proposed fee changes as well as to the number of substantive changes of the proposal. The commenter recommended that the Department rescind the proposal and reformulate the fee levels and annual adjustment procedures through an advisory committee composed of affected parties. The commenter further recommended that the Department separate out non-fee related changes from this proposal in order for these changes to receive adequate attention and review (New Jersey Builders Association).

RESPONSE: The Department does meet regularly with a builders advisory group, and will continue to discuss these issues with that group and others. The immediate adoption of these new fees, however, is critical to the operation and maintenance of the affected programs. Any delay in this proposal's adoption would jeopardize these programs' operations and subsequently result in a need to lay off staff and to subsequent permit processing delays.

These programs currently have insufficient revenue to cover their direct, indirect and operating costs. In addition to salaries of permit review personnel, these expenses include: office rental, office supplies and equipments (for example, the purchase and maintenance of computers and vehicles), fringe benefits (for example, health insurance, workmen compensation and pension), and utilities (for example, telephone, lighting, etc.).

The Department does not see the need to further divide the proposal. The non-fee related changes are very minor wording or procedural changes; they were consolidated with the fee related changes as a matter of efficiency and standard practice. However, upon reading the comments, the Department realizes that the proposed modification of the definition of "major element" in the Stream Encroachment Permit Fee Structure at N.J.A.C. 7:1C-1.5(a)4i(3) could be construed as an affirmation of the Department's current jurisdictional interpretation of the Stream Encroachment Regulations, which many commenters find objectionable. In order to avoid any confusion as to the purpose and intent behind this particular modification, the Department decided not to adopt this definition change. Instead, the Department plans to propose clarification of the jurisdictional issue through the revisions to the Stream Encroachment Regulations that are currently under preparation by the Department. Accordingly, this proposed change has been deleted.

COMMENT (3): Two commenters disagree with the Department's statement in the proposal summary that during fiscal year 1990-1991, the various 90-Day Permit Program fees counted for only a fraction of the cost for running these programs. The commenters further assert that a clarification is needed on this since surplus moneys have been diverted from these accounts in the past (New Jersey Builders Association and New Jersey Shore Builders Association).

RESPONSE: Although not every itemized transaction of the Environmental Services Fund was stated in the proposal, the information concerning the fee revenue and operation expenses for the affected fee programs presented in the proposal is correct. The facts concerning the Department of Treasury's annual assessment (referred by the commenters as diversions of the Environmental Services Fund) are:

1. Pursuant to the Appropriation Act of 1988, the Department of Treasury started anticipating an annual assessment of $750,000 from the Environmental Service Fund. This transfer of funds, contrary to assertions by many commenters, did not channel any money out of these programs. It is simply a budgeting mechanism to account for indirect services incurred by these programs. This money is used to cover the costs for office space, utilities, administrative support staff and associated non-salary expenses. In other words, these transfers of moneys reflect real program expenses, not a diversion of the fund for any other uses.

2. While a lump sum of $750,000 has been assessed annually from the Environmental Services Fund since 1988, not every fee-support program in this account has made its fair share contribution to the assessment. For example, of the 11 programs in this account, no funds were ever taken from CAFRA and Coastal Wetlands Permit Programs because there was no money available. The Waterfront Development Permit Program made a one time contribution of $90,000 in 1990. The Stream Encroachment Program contributed $750,000, $403,939 and $230,000 in 1988, 1989 and 1990 respectively. Since N.J.S.A. 58:16A-63(a) provides that all monetary penalties recovered by the Stream Encroachment Program shall be paid to the Environmental Services Fund, the fund balance included $1,463,306 in fines paid in between 1987 and 1991. This balance exceeds the total contribution from the Stream Encroachment Program. In essence, the fines from the Stream Encroachment Program have subsidized a portion of the fee-programs' direct costs in the past few years.

COMMENT (4): One commenter recommended that the Department phase the increases over several years in order to soften their impact on new projects (New Jersey Department of Commerce and Economic Development).

RESPONSE: As previously stated in the proposal Summary, the coastal construction permit fees have not had an increase for over a decade, and the Stream Encroachment Permit fees have not had an increase in the last eight years. Increases have been held back as long as possible. However, with all sources of revenue shrinking (including the depletion of any previously accumulated surplus) and no prospects for new or increased revenue sources on the horizon, the Department is left with no alternative but to increase the fees. The Department has determined that it cannot risk disrupting the permit program functions, as inadequately supported permit programs would result in permit processing delays. Such delays potentially would have a much greater negative effect on the financial viability of construction projects than the proposed fee increases. Therefore, the Department has determined that the phasing of the increases over a period of several years is not a viable option at this time.

COMMENT (5): One commenter noted that the proposal failed to address the economic consequences of the proposal, such as its impacts on employment, and requested that the Department provide this information as well as an opportunity for a second hearing on the proposal if a request were to be made upon reviewing the additional information. The commenter further questioned why the Department, in its statement that "the proposed fee increases will result in an increase for construction permits for the first year in which the fees are charged," limits the impact of the proposal to just the first year? (New Jersey Builders Association).

RESPONSE: The "economic consequences" of the proposal are not as extensive as suggested by the commenter. The new fees, at their proposed level of increases, will still constitute a small part of the total project cost and will not result in an appreciable difference in this total. While the Department recognizes that any fee increase is undesirable, it stands by its initial assessment that the fee increases will have a limited economic impact.

Using the same example that the New Jersey Builders Association used to illustrate the magnitude of the proposed fee increases in their comments, the Department would like to take this opportunity to explain why an increase from $2,000 to $8,000 in application fee for a 100 unit residential CAFRA project is reasonable, and why the new fee (a 300 percent increase) is expected to have a minimal effect on the construction industry and the economy in general.

The existing $2,000 fee is the sum of a $1,000 base fee plus $10.00 per dwelling unit, and the new $8,000 fee is the sum of a $3,000 base fee plus $50.00 per dwelling unit. If one assumes that these units are affordable housing and the development cost of each of the units is $60,000, the fee would be increased from $20.00 to $80.00 per unit. The new fee, constituting 0.133 percent of the unit cost, is still considerably below the level of change in unit cost that would trigger a change in the financial viability of the project. Therefore, the Department determined that the proposed and adopted increases would not significantly impact construction projects subject to the permitting requirements of CAFRA.

The reason that the Department limited its assessment of the economic impact of these amendments, to just the first year is because, under the adoption, it is only during the first year that there is certainty that the fees will increase. Incremental increases or decreases in fees after the first year will occur on an annual basis as determined in accordance with the adopted annual fee adjustment provision.

COMMENT (6): Many commenters recommended that the Department re-examine its current review procedures to find out ways to increase its efficiency without having to resort to these huge increases (a large percentage of the commenters listed at the beginning of the summary).

RESPONSE: The Department has found and will continue to find ways to increase its efficiency. The joint permit application fee provision proposed at N.J.A.C. 7:1C-1.5(d), for example, is a time and effort reduction measure that resulted from the major organizational change within the Department two years ago. The four affected permit programs plus the Freshwater Wetlands Program were consolidated within the Land Use Regulation Program (LURP). A project in need of more than one permit from the LURP can now take advantage of the fee reduction from the joint permit review procedure that the Department has initiated to eliminate redundancy in review. The LURP is drafting checklists to replace response letters to shorten its response time for determining

whether an application is complete. The LURP has extensively automated its offices and increased its data management capability to provide for project status updates and other recordkeeping functions, such as staff time spent on a particular application. The Department is open to new ideas and welcomes recommendations for improving the LURP's efficiency and effectiveness.

As previously stated in the proposal summary, the new fees were not set at the level to fully recoup the administrative cost of these programs. The Department will have to rely on an increased operating efficiency as one of many measures to narrow the gap between revenue and expenditure.

COMMENT (7): One commenter is opposed to the increases because the increases will be passed on to the consumers and make housing less affordable to the citizens of New Jersey. The commenter further asserted that the proposed fee increases contradict the State Housing Policy, which promotes affordable housing (New Jersey Shore Builders Association).

RESPONSE: The Department does not dispute the fact that the increases in fees will be passed onto the consumers. However, the 90-Day Construction Rules are developed to implement the mandates of Ninety-Day Construction Law which directs that the regulated communities to bear their fair share of the review cost. The Department, after weighing the consequences of adopting or not adopting these fee increases, concluded that leaving the existing fees at their present level may result in a higher increase in construction/development cost from permitting delays than the proposed fee increases (See responses to comments (2) and (4)).

COMMENT (8): One commenter stated that they would support modest fee increases if such increases resulted in expedited permit processing and more efficiency in the permit processing procedures (New Jersey Shore Builders Association).

RESPONSE: It is an ongoing objective of the Department to improve the permit programs' efficiency. Increased efficiency may be accomplished in many ways independent of any fee increases. Yet, without these fee increases, the affected program(s) would be impaired and project review would be delayed. The adopted fee increases would minimize the potential for such delays.

COMMENT (9): One commenter wanted to see how the Department accounts for the fees charged (New Jersey Builders Association).

RESPONSE: As explained in the proposal Summary, the Department developed the fees based on the estimated staff time required for the review and processing of a typical permit application within the various permit categories. The cost of processing the permits is then calculated by adding the base salary, fringe benefits, indirect cost and operating cost associated with program staff time. The Department then made some modifications to this base calculation to ensure that the fees will be reasonable. The fee for small waterfront developments, for example, were adjusted lower, so that it would not be disproportionately high relative to the construction cost of these developments. In addition, the Department has proposed the fee rebate option that entitles those who may be paying significantly more than the actual review cost to obtain a refund.

COMMENT (10): One commenter wanted to know what permit activities are supported by permit fees (New Jersey Shore Builders Association).

RESPONSE: The permit activities supported by permit fees include: preapplication conferences, pre-review (administrative review of an application's completeness), application review, site inspection, public hearing, policy consistency determination, permit denial/issuance, condition compliance/enforcement actions, clerical support, administrative hearing costs and/or legal expenses.

The Department believes that the above responses address the issues and concerns raised over the expenditures from the Environmental Services Account and the need for the proposed fee increases. The Department provides the following general response with regard to the timing of this proposal:

The Department is aware of the hardship experienced by everyone in the current economic climate. One of the reasons for the increase is indeed because of the reduction in other revenue sources, such as State appropriations and Federal grants. These other sources of revenue have been reduced in real dollar amounts, and yet they have allowed and continue to allow the application fees to remain lower than actual costs.

Although the size and type of permit projects seeking permits has changed as a function of the economy, records show that the number of permit applications per year has not dramatically changed in the last three years. The decrease in State funds and the constant dollar figure available in Federal funds to subsidize expenses are the primary factors that triggered the proposed fee increases. Admittedly, the timing is not in anyone's favor. However, because the Department believes that the economic consequences of not adopting the proposal will be worse than adopting it for both the Department and the regulated community, the decision was made to adopt the proposed fee increases. The Department intends to rectify this time lag problem through the proposed annual fee adjustment provision to ensure that these programs' budgets will reflect, as closely as possible, their actual costs and revenues.

N.J.A.C. 7:1C-1.5 Fees

N.J.A.C. 7:1C-1.5(a)1 Waterfront Development Permits

COMMENT (11): One commenter suggested that the Waterfront Development Permit application fees for the repair or reconstruction of municipal capital improvements such as sewer lines or pump stations be charged at a flat rate of $250.00, whether there is an increase in size or not. The commenter states that these projects do not require extensive review since they would be constructed at relatively the same location as the existing facilities (Schoor, DePalma and Canger Environmental Services, Inc.).

RESPONSE: A review of past projects involving the repair or reconstruction of municipal sewer lines or stormwater lines showed that some of these projects did require substantial review effort due to environmental problems associated with either the existing lines or with the areas where the lines cross. These findings resulted in the need for upgrading the design or realigning the existing facilities. Therefore, the Department disagrees with the commenter that all municipal infrastructure reconstruction and repair projects require little or no review and should only be charged a flat perfunctory review fee. The Department will consider appropriate fee adjustment, after it has had a chance to determine the range of projects that would fall under this classification and the level of review typically required for this class of activities.

Agency Initiated Change: The rule at N.J.A.C. 7:1C-1.5(a)1ii has been revised upon adoption to include the text describing the fees required for upland Waterfront Developments qualifying as CAFRA projects based on size and scope, outside of the CAFRA review zone. An inadvertent typographical error was made in the proposal which resulted in the deletion of this entire fee class. This was an obvious and apparent error since the Construction Permit Law, N.J.S.A. 13:1D-29 et seq., requires the Department to assess a reasonable application review fee for the construction permit programs. The correction of this mistake conforms with the intent of the proposal and adoption since the obvious intent of the Department was to increase the overall fee schedule of the 90 Day rules to generate the funds necessary to run the Program. The Department had previously been charging a fee for this class of projects and had intended to continue this practice. Since this class of projects requires an extensive review similar to CAFRA projects the fees are based on the same sliding scale. The inclusion of this fee class and schedule is required to continue to provide the Department with the resources necessary to review these large scale upland Waterfront Developments.

N.J.A.C. 7:1C-1.5(a)1iii Waterfront Development Permits

Agency-Initiated Change: The Department modified the wording at N.J.A.C. 7:1C-1.5(a)1iii(1) to clarify the intended result that this fee schedule only applies to single family or duplex residential developments. This is done to avoid the possibility of this fee schedule being misinterpreted for application of other proposed residential site improvements not associated with private single family or duplex developments. At N.J.A.C. 7:1C-1.5(a)1iii(2) the Department corrected a typographical error, and replaced the "V" shown in the proposal with a "+" for the fee schedule for Waterfront Development Permit Applications in the $0 to $50,000 construction cost category.

N.J.A.C. 7:1C-1.5(a)2 Wetlands permits

Agency-Initiated Change: The Department further refined the fee schedule and created a subcategory with a reduced application fee of $250.00 for Type A wetlands permits associated with single family and duplex residential site developments. This fee reduction from the proposed $500.00 is consistent with the proposed and adopted reduction in Waterfront Development Permit fees for private, residential dock and pier construction associated with single family or duplex housing developments. Both fees are reduced to a level commensurate with the construction costs of such facilities.

N.J.A.C. 7:1C-1.5(a)3 CAFRA permits

Agency-Initiated Change: Additional clarification is provided for determining the number of acres to be used for the fee calculation for mixed-use facilities. The adoption language specifies two different methods: one for mixed-use facilities that are large complexes containing separate and distinct use districts/buildings, and the other for mixed-use facilities that contain mixed-uses within the same building or area. For fee calculation purposes, the acreage of the former should only include the acreage of the non-residential use portion of the project shown on the site plan and the acreage of the latter should be the entire site.

N.J.A.C. 7:1C-1.5(a)4 Stream encroachment permits

COMMENT (12): Several commenters objected to the proposed change at N.J.A.C. 7:1C-1.5(a)4i(3) on the definition of a major stream encroachment project and contended that the change further expands the Department's jurisdiction over developments outside the floodplain, which they assert the Department has no jurisdiction of under the Flood Hazard Control Act, N.J.S.A. 58:16A-50 et seq. One commenter further suggested that the Department not adopt the proposed change at this time and reconsider this change after the jurisdictional issue is clarified through the revisions to the Flood Hazard Area Control Act Rules that are currently under consideration by the Department so that this issue may be examined in a proper forum.

RESPONSE: The Department had no intention of bringing any jurisdictional issues into the fee schedule changes and has deleted this modification until this issue has been deliberated in the context of the Flood Hazard Control Act Rules.

Agency-Initiated Changes: The Department corrected a typographical error at N.J.A.C. 7:1C-1.5(a)4vi and replaced the word "or" with "and" for the fee determination for individual driveway culvert and fill for one single family residence. In addition, the Department found that the second set of deletion brackets at N.J.A.C. 7:1C-1.5(a)4vii of the proposal had been shown in error, and has made the correction by inserting "fill associated with the development of a single family residential lot or for" back into this provision.

N.J.A.C. 7:1C-1.5(h) Annual fee adjustment

COMMENT (14): A few commenters wanted to know if the annual fee adjustment formula of this proposal supersedes the annual fee adjustment formula for the Treatment Works Approval Program adopted by the Department in 1989. In addition, a commenter wanted to know why there have not been any changes to the fees for Treatment Works approval after the rule adoption? (Does this mean that it was not a good idea, or that the Department was receiving more money and did not want to decrease the fees?) If there were changes, why weren't the changes incorporated into this proposal? (New Jersey Builders Association, Schoor, DePalma and Canger Environmental Services, Inc. and Hanfex of New Jersey)

RESPONSE: The annual fee adjustment of this adoption applies to the CAFRA, Waterfront Development, Wetlands (coastal) and Stream Encroachment Permit fees. This adoption will not alter the existing annual fee adjustment formula for the Treatment Works Approval Program.

Although the fees for Treatment Works Approvals also need to be adjusted upward to recoup that program's costs, the Department has decided to propose these increases with rules proposing other substantive and administrative changes to the program. These rules will be proposed by March 1993. This is an example where the Department has determined that a particular program's fee revenue and operational efficiency cannot be analyzed separately and that the program's efficiency and effectiveness need to be improved upon first before the Department can begin to address the issues related to application fees.

COMMENT (15): Two commenters objected to automatic annual fee adjustments procedure which does not allow the regulated community an opportunity for comment and suggested that fee adjustments be made only after they have gone through a public review process (New Jersey Shore Builders Association and Association for Commercial Real Estate, NAIOP).

RESPONSE: The Department welcomes public participation in its decision-making process and has incorporated a 45 day comment period into the adopted annual fee adjustment procedure. The Department will evaluate the comments submitted and notify the public of its finding and final adjusted fees with their operative dates in a second public notice in the New Jersey Register. Furthermore, anticipated fee increases may be discussed during the Program's meetings with the Builders' Advisory Group or the Environmental Advisory Group. These meetings are regularly conducted in order to discuss issues relevant to the permitting programs. In addition, the Program is available to meet with anyone else who wants to discuss these issues.

COMMENT (16): If the formula for calculating fee increases does not take surplus funds into account, it should.

RESPONSE: The proposed amendments do call for the inclusion of any surplus funds into the calculation of the annual adjustment. Surplus moneys not rebated are included in "the total amount to be available from sources other than fees" See N.J.A.C. 7:1C-1.5(h)2.

COMMENT (17): One commenter objected to the proposed formula for calculating annual fee increases on the grounds that the proposed basis for calculation is ambiguous. For instance, will the State appropriations be based on budget proposals or the actual appropriation (New Jersey Builders Association).

RESPONSE: The Department has identified and defined each factor to be used for the calculation of the adjustment factor in the proposal. The State appropriations to be used for the calculation will be based on the budget proposal, not the actual appropriation since the annual adjustments will need to be prepared as part of the budget proposal for the Department. The proposed language at N.J.A.C. 7:1C-1.5(h)2 states "**[p]roject** the total amount to be available from sources other than fees, such as State Appropriations or Federal grants". This language makes it clear that for this calculation, the projected, not the actual, State appropriation would be used.

N.J.A.C. 7:1C-1.5(k)

COMMENT (18): One commenter believes that the Department should allow for rebates of any amount regardless of whether or not the two proposed conditions, that is the $7,000 and 25 percent thresholds, are met (New Jersey Builders Association).

RESPONSE: As stated in the proposal Summary, it would defeat the purpose of this rebate offer if it were made available without any limitations. The amount of work associated with processing rebate requests, if unchecked, would result in an increase in all fees to cover the cost of the rebate program. It is not possible for the Department to accurately predict the exact review cost of a permit application prior to review. There are always going to be cases where the actual permit process costs are going to be more or less than the application fee. The objective of this rebate program is to make the fees as reasonable and fair as practicable, while achieving a reasonable fit between fees collected and application review costs. The Department is not proposing to readjust each application fee by the exact review cost for each application. It should be noted that the Department does not receive any reimbursement or additional fee from applicants when the actual review cost of an application turns out to be significantly higher than the application fee.

N.J.A.C. 7:1C-1.5(l) Rebate deadlines

COMMENT (19): One commenter wanted to see that the cut-off dates for rebate requests be clarified by specific language or reference the appropriate regulation which describes how these dates are derived (New Jersey Builders Association).

RESPONSE: The applicable date for N.J.A.C. 7:1C-1.5(l)1 can be determined by either of the applicable appeal deadlines set forth at N.J.A.C. 7:1C-1.9(a) or (b) on appeals. The applicable date for N.J.A.C. 7:1C-1.5(l)2 varies depending on the level(s) of appeal taken. The New Jersey Court Rules, 1969, provide that appeals to the Superior Court, Appellate Division, shall be taken within 45 days from the date of the Commissioner's final decision (or the Coastal Areas Review Board's decision for some CAFRA applications). R. 2:4-1(a). If appeal is taken to the Supreme Court from the final judgment of the Appellate Division as of right, appeal must be taken within 45 days of their entry. R. 2:4-1. If appeal is taken to the Supreme Court on certification from a final judgment of the Appellate Division, the petitioner shall within 20 days after its entry serve its petition for certification. R. 2:12-3(a).

N.J.A.C. 7:1C-1.7 Review of application

COMMENT (20): One commenter recommended that exceptions be made to the certificate of filing requirements for projects that are under administrative consent orders so that the Department may begin review without waiting for Pinelands Commission to actually issue a certificate of filing (Schoor, DePalma and Canger Environmental Services, Inc.).

RESPONSE: Because the purpose behind this procedural requirement is to facilitate a coordinated review between the two agencies, the Department has decided not to grant the requested exception. Projects under Administrative Consent Orders may qualify for expedited review

by the Pinelands Commission under N.J.A.C. 7:50-4.82 for a certificate of filing. Accordingly, the Department does not expect this requirement to cause any delays in this Department's review.

COMMENT (21): One commenter made recommendations to modify several procedural requirements contained in sections of N.J.A.C. 7:1C that were not part of this proposal (New Jersey Builders Association).

RESPONSE: The Department appreciates receiving these recommendations and will consider them in preparing its next proposal for these rules. These rules are due to expire on June 15, 1995 pursuant to Executive Order No. 66(1978). The Department will evaluate the recommended changes with either the readoption proposal or with the anticipated fee/procedural changes proposal as a result of the Treatment Works Approval Program modification, whichever comes up next.

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

7:1C-1.5 Fees

(a) Fees shall be charged for the review of any application for a construction permit in accordance with the following schedule:

1. Waterfront development permits:

i. The fee for any work requiring a General Permit or consisting solely of capital repairs or reconstruction with all work taking place above the mean high water elevation on piles or other support structures or taking place landward of the mean high water line or the identical structural replacement of piles or other supports in the same location shall be $250.00. Regulated activities eligible for a General Permit include, but are not limited to, the following: minor reconstruction or maintenance of currently serviceable legal existing structures in all navigable waters, minor construction of new bulkheads in man-made tidal lagoons and minor maintenance dredging in man-made tidal lagoons.

ii. The permit fee for any waterfront development taking place landward of the mean high water line and qualifying as a CAFRA facility, based on size and use, as defined in N.J.A.C. 7:7-2.1 shall be as set forth in (a)3 below.

*[ii.]***iii.*** The permit fee for any waterfront development taking place landward of the mean high water line and not qualifying as a CAFRA facility, based on size and use, as defined in N.J.A.C. 7:7-2.1 shall be as follows:

(1) The fee for Residential Facilities shall be $500.00 for the first residential dwelling unit plus $125.00 for each additional dwelling unit;

(2) The fee for Non-Residential Facilities shall be $700.00 plus one-half of one percent of the non-residential construction cost, up to a maximum of $4,000; and

(3) The fee for mixed Residential and Non-Residential Facilities shall be the sum of the Residential and Non-Residential Facilities fees as calculated under (a)1ii(1) and (2) above.

*[iii.]***iv.*** The permit fee for all other waterfront developments taking place waterward of the mean high water line shall be as follows:

(1) The permit fee for residential site improvements ***for a single private residential unit or duplex***, including without limitation: shore structures (bulkheads, riprap) piers and docks, walkways and activities associated with a ***single*** private residential unit or duplex, shall be $250.00 plus one-half of one percent of the construction cost above $10,000.

(2) The permit fee for all other activities requiring a waterfront development permit shall be based on the following schedule:

Construction Costs	Fees
$0 to $50,000	$1,450 *[V]* *+* ½ of one percent of construction costs
$50,001 to $100,000	$1,700 + one percent of construction costs above $50,000
$100,001 to $200,000	$2,200 + 1¼ percent of construction costs above $100,000
$200,001 to $350,000	$3,450 + 1½ percent of construction costs above $200,000
greater than $350,000	$5,700 + one percent of construction costs above $350,000

2. Wetlands permits: The fee for a Type A or Type B permit (N.J.A.C. 7:7-2.2) shall be one percent of the construction costs, or a minimum of ***$250.00 for residential dock construction associated with a single family or duplex dwelling unit and*** $500.00 ***for all other regulated activities***.

3. CAFRA permits:

i. The fee for Residential Facilities shall be $3,000 plus:

(1) $50.00 per dwelling unit for the first 300 units;

(2) $40.00 per dwelling unit for units 301 to 600; and

(3) $30.00 per dwelling unit for all units in excess of 600.

ii. The fee for Non-Residential Facilities shall be $3,500 plus $500.00 per acre included in the site plan.

iii. The fee for mixed Residential and Non-Residential Facilities shall be $3,500 plus $500.00 per ***Non-Residential*** acre included in the site plan plus a per unit fee calculated in accordance with (a)3i above. ***If the mixed-use facility has no separate and distinct district/building designated for Non-Residential use(s), then the Non-Residential acreage shall be the acreage of the entire site.***

4. Stream encroachment permits:

i. As used in this paragraph, the following terms shall have the following meanings:

(1)-(2) (No change.)

(3) "Major stream encroachment project" means a project that requires hydrologic and/or hydraulic review to determine the impact on flood carrying capacity of the stream or stormwater detention basin(s) for compliance with Stormwater Management Regulations, N.J.A.C. 7:8, or involves fill or structures necessitating review for compliance with the 20 percent "net fill" limitation specified in N.J.A.C. 7:13. In addition, developments involving more than one acre in a flood plain for commercial use and *[developments or subdivisions involving]* ***subdivision of*** more than 10 acres ***for residential development*** shall also be classified as major projects.

ii. For each project element of minor stream encroachment projects, the fee shall be $300.00 for each project element that is to be reviewed, except that no fee shall be charged for such projects in a drainage area of less than 320 acres which has been approved by the appropriate municipal or county engineer, or a professional engineer for State agency projects, and the certification of such approval has been submitted to and acknowledged by the Department. Each individual stream encroachment shall constitute a project element.

iii. (No change.)

iv. For each project element of major projects, the fee shall be $2,000 for each project element that is to be reviewed. These project elements shall include, but not be limited to, the following: bridges, culverts, small dams, channel modifications, stream enclosures, stormwater detention basins, fill, structures and retaining walls more than four feet high, channel realignment and channel relocation. The fee for major stream encroachment projects shall include channel work for a distance of 300 feet upstream and downstream except as provided below at (a)4vi.

v. For major stream encroachment projects outside the channel but within the 100 year flood plain and requiring the establishment of an encroachment line, the fee shall be $2,000 for each 1,000-foot reach of the channel or portion thereof.

vi. For major stream encroachment projects that consist of an individual driveway culvert *[or]* ***and*** fill for one single family residence, the fee shall be $1,000 for the culvert and $400.00 for the fill.

vii. Except as provided at (a)4vi above, an additional fee shall not be charged for projects involving ***fill associated with the development of a single family residential lot or for*** fill associated with bridges and culverts.

5. (No change.)

(b) (No change.)

(c) The Department shall assess a single permit fee for a project which requires more than one of the following permits, if the permit applications are submitted and processed simultaneously: CAFRA permits; waterfront development permits; coastal wetlands permits; stream encroachment permits; or freshwater wetlands permits (including individual permits, general permits, and transition area waiv-

ers) issued under N.J.A.C. 7:7A. The permit fee for the project is equal to the sum of the following:

1. The single highest permit fee for the above listed permits required for the project; and

2. Seventy-five percent of the sum of the permit fees for all other permits required for the project.

(d) For the purposes of this section, a major modification is one which will result in a significant change in the scale, use, design or impact of the project as approved. A minor modification is one which will not result in a significant change in the scale, use, design or impact of the project as approved.

1. The fee for a request for an approval of a major modification of the approved project shall be the greater of;

i. One-half of the total permit fee attributable to that portion of the approved project to be modified; or

ii. One-quarter of the total permit fee attributable to the entire approved project.

2. The fee for a request for an approval of a minor modification of a CAFRA project or a waterfront development project qualifying as a CAFRA facility based on size and use as defined in N.J.A.C. 7:7-2.1 shall be $200.00 and shall be $75.00 for all other waterfront development, coastal wetlands and stream encroachment projects.

Recodify existing (d)-(f) as (e)-(g) (No change in text.)

(h) The Department shall annually adjust the fees for each activity provided in this section for waterfront development permits, coastal wetlands permits, CAFRA permits and stream encroachment permits. For each such permit program, the Department shall calculate a fee adjustment factor annually, and multiply each fee within that program by that fee adjustment factor. The Department shall calculate the fee adjustment factor by taking the following steps:

1. Project the total amount of money required to fund each 90-day permit program in the coming year. This projection shall be based upon the following data:

i. The number and type of Department staff required to perform each activity for which fees are charged;

ii. The total salaries of those staff members;

iii. The cost of fringe benefits for those staff members, calculated as a percentage of salaries, which percentage is set by the New Jersey Department of the Treasury based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iv. Indirect costs attributable to those staff members. "Indirect costs" means costs incurred for a common or joint purpose, benefiting more than one cost objective, and not readily assignable to the cost objective specifically benefited without effort disproportionate to the results achieved. Indirect costs shall be calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the total of salaries and fringe benefits;

v. Operating expenses (including, without limitation, expenses for postage, telephone, travel, supplies and data system management) attributable to those staff members; and

vi. The budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with each of the permit programs listed in the introductory language of (h) above.

2. Project the total amount to be available from sources other than fees, such as State appropriations or Federal grants;

3. Subtract the amount in (h)2 above from the amount in (h)1 above. The remainder is the fee revenue necessary for the coming year;

4. Divide the fee revenue necessary for the coming year by the fee revenue which was necessary for the current year;

5. Divide the volume of permit applications the Department received in the current year by the volume it expects to receive in the coming year. In projecting the expected volume of permit applications, the Department shall consider the following factors:

i. The volume of permit applications received in previous years;

ii. Based on (h)5i above, any trends toward an increasing or decreasing volume of permit applications;

iii. Information indicating a trend toward increasing or decreasing construction activity in various areas of the State; and

iv. Other data concerning economic trends reasonably likely to influence the volume of permit applications; and

6. Multiply the number provided in (h)5 above by the number provided in (h)4 above. This result is the fee adjustment factor.

(i) Each year, the Department shall prepare an Annual Ninety-Day Construction Permit Fee Schedule Report. Promptly after completing the report, the Department shall publish in the New Jersey Register a notice of *[administrative change, pursuant to N.J.A.C. 1:30-2.7(c)]* ***opportunity for public input*** setting forth the adjusted fees *[and the operative date thereof]*. The notice shall state that the report is available and direct interested persons to contact the Department for a copy of the report ***and to provide comments within 45 days of the notice date***. The Department shall ***promptly*** provide a copy to each person requesting a copy. ***The Department will evaluate the comments submitted and publish its findings and the final adjusted fees with their operative dates in a notice of administrative change, pursuant to N.J.A.C. 1:30-2.7(c).***

(j) The Department will not make the adjustment of fees provided in (h) above or prepare the report described in (i) above for any one-year period ending June 30, if in that period the Department proposes or promulgates amendments to any fees for waterfront development permits, wetlands permits, CAFRA permits or stream encroachment permits.

(k) An applicant who has paid a fee calculated under (a)1, 2, or 3 above of more than $7,000 may request a rebate of part of that fee, at the time provided in (l) below. The Department shall refund to the applicant the amount by which that fee exceeds the Department's actual costs incurred in connection with the review of the Waterfront Development, coastal wetlands, or CAFRA application (including, without limitation, costs incurred in processing and reviewing the application and in addressing any appeal of the permit decision), as shown by Department timekeeping records, if:

1. The Department's timekeeping records show that the fee exceeds the Department's actual costs incurred in connection with the application by more than 25 percent; and

2. The Department's timekeeping records show that the fee exceeds the Department's actual costs incurred in connection with the application by more than $2,000.

(l) An applicant requesting a rebate under (j) above shall make the request in writing, to:

Administrator
Land Use Regulation Program
Department of Environmental Protection & Energy
CN 401
Trenton, NJ 08625

The request shall be received by the Department within 20 days after the applicable date in (l)1 or (l)2 below, but not before such applicable date:

1. If neither the applicant nor any other person appeals the Department's decision to approve, condition or disapprove the permit application, the last day on which such an appeal could have been timely filed (without considering any extensions of such time which may be available under any other provision of this title); or

2. If the applicant or another person has appealed the Department's decision to approve, condition or disapprove the permit application, the date as of which any disposition of such appeal can no longer be further appealed.

7:1C-1.6 DEPE Bulletin

(a) The Department shall publish in the "DEPE Bulletin", a report of the receipt of each new application and each agency action on applications currently before it. This publication will be distributed free of charge to all municipalities, counties, and other interested persons. Publication in the "DEPE Bulletin" constitutes constructive notice to all interested persons of Department actions on construction permits.

(b) (No change.)

7:1C-1.7 Review of application

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

(d) Except as provided in N.J.A.C. 7:50-4.1, an application subject to these rules for development of any land within the Pinelands Area as defined in N.J.S.A. 13:18A-11 is not complete unless and until the applicant has in his or her possession a Certificate of Filing, a Certificate of Compliance or an Approval Resolution from the Pinelands Commission for the proposed development of that land. Pursuant to N.J.S.A. 13:18A-10(c), no approval shall be granted for an application subject to these rules for any development in the Pinelands Area unless that development conforms to all applicable provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50).

7:7-1.7 Procedure where more than one permit is required

(a) (No change.)

(b) The fee to be submitted for such an application shall be calculated in accordance with N.J.A.C. 7:1C-1.5(c).

7:7A-16.1 Payment of fees

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

(d) The Department shall assess a single permit fee for a project which requires a permit under this chapter (including individual permits, general permits, and transition area waivers) and one or more of the following permits: CAFRA permit issued pursuant to the Coastal Area Facility Review Act, N.J.S.A. 13:19-1; waterfront development permit issued pursuant to the Waterfront Development Act, N.J.S.A. 12:5-3; coastal wetlands permit issued pursuant to the Wetlands Act of 1970, N.J.S.A. 13:9A-1; or stream encroachment permit pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50. The permit fee for the project is equal to the sum of the following:

1. The single highest permit fee for the above listed permits required for the project; and

2. Seventy-five percent of the sum of the permit fees for all other permits required for the project.

(a)

OFFICE OF POLLUTION PREVENTION

Pollution Prevention Program Requirements

Adopted New Rules: N.J.A.C. 7:1K

Proposed: October 19, 1992 at 24 N.J.R. 3609(a).

Adopted: February 1, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Filed: February 3, 1993 as R.1993 d.108, **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. 13:1B-1 et seq.; N.J.S.A. 13:1D-9; N.J.S.A. 13:1D-35 et seq. and N.J.S.A. 34:5A-1 et seq.

DEPE Docket Number: 43-92-09.

Effective Date: March 1, 1993.

Expiration Date: March 1, 1998.

On October 19, 1992 at 24 N.J.R. 3609(a), the Department of Environmental Protection and Energy (Department) proposed a new chapter, N.J.A.C. 7:1K, to implement the Pollution Prevention Act (Act), P.L. 1991, c.235 (codified at N.J.S.A. 13:1D-35 et seq. and N.J.S.A. 34:5A-1 et seq.) The Act, which requires the Department to implement a comprehensive program for making pollution prevention a primary technique in the control of hazardous substances and their environmental and health effects throughout the State, was signed on August 1, 1991 by Governor Jim Florio. Among other mandates, Section 6(a) of the Act requires the Department to adopt, within 18 months of its enactment, rules and regulations necessary for the implementation of the Act. See N.J.S.A. 13:1D-40(a).

A public hearing to accept testimony on the proposed new chapter was held on November 9, 1992. The public comment period on the proposal closed on December 4, 1992.

The Department received written comments from 29 commenters during the public comment period on the proposal ending December 4, 1992, and 13 individuals testified at the public hearing on November 9, 1992. The following is a list of people who made either oral or written comments directly related to the proposed new rules:

Name	Affiliation	Reference No.
Rick Engler	New Jersey Industrial Union Council	1
Barbara Klag	Schering-Plough Corp.	2
Simon Shute	DuPont, Inc.—Chambers Works	3
Cindy House	Merck & Co., Inc.	4
John Sandstedt	Sybron Chemicals Inc.	5
Eugene DeStefano	New Jersey Alliance for Action	6
Alan Bogard	Exxon Chemical Co.	7
Marcy McKinley	Fisher Scientific Co.	8
Peter Downing	Fidelity Chem. Products Corp.	9
Tim Dillingham	Sierra Club—New Jersey Chapter	10
Marie Curtis	New Jersey Environmental Lobby	11
Frank Zemo	Masters Assoc. of Metal Finishers, Inc.	12
Dolores Phillips	New Jersey Environmental Federation	13
Brendan Collins Jeanne Dworetzky	Ballard Spahr Andrews & Ingersoll	14
Glen Howarth	General Motors	15
Joseph Pattok	Society of the Plastics Industry, Inc.	16
John Lopez	Givaudan-Roure	17
Michael Wallace	Sandoz Pharmaceuticals Corp.	18
K. Stephen Tsingas James Klickovich	Atlantic Electric	19
Marwan Fanek	Safety-Kleen	20
Thomas Detweiler	Chemical Industry Council of New Jersey	21
James Connolly	Hoffmann-LaRoche	22
Hillel Gray	National Environmental Law Center	23
Ruth Ivory-Moore	Mobil Oil Corporation	24
D.M. Lucas	Chevron U.S.A., Inc.	25
Jim Sinclair	New Jersey Business and Industry Assoc.	26
Otto Stahl	National Manufacturing Co., Inc.	27
Kevin Gashlin	New Jersey Technical Assistance Program	28
David Norwine	Masters Assoc. of Metal Finishers, Inc.	29

Summary of Hearing Officer Recommendations and Agency Response:

Jeanne M. Herb, Director, Office of Pollution Prevention, served as hearing officer at the November 19, 1992 public hearing on proposed N.J.A.C. 7:1K. After reviewing the testimony presented at the public hearing, Jeanne Herb recommended that the Department adopt the rules at N.J.A.C. 7:1K as proposed. John R. Weingart, Assistant Commissioner for Environmental Regulation, has reviewed the hearing officer's report and concurs with the recommendations. The Department accepts the recommendation to adopt these rules as proposed.

Ms. Herb's recommendations are set forth in more detail in the hearing officer's report. A copy of the administrative record on the proposal, which includes the hearing officer's report, is available upon payment of the Department's normal charges for copying. Persons requesting copies should contact:

Department of Environmental Protection
and Energy
Office of Legal Affairs
401 East State St.
CN 402
Trenton, NJ 08625-0402

Summary of Public Comments and Agency Responses:

The outline of the Summary of Public Comments and Agency Responses is as follows:

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B. Co-product; intermediate product; product
C. Treatment
D. Other Definitions

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II. POLLUTION PREVENTION ADVISORY BOARD

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B. Reporting pre-1987 Pollution Prevention Progress
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SUBCHAPTERS 8-11. CONFIDENTIALITY

XII. CONFIDENTIALITY
A. Confidentiality

SUBCHAPTER 12. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

XII. ENFORCEMENT AND PENALTIES
A. Enforcement and Penalties

OTHER ISSUES

XV. OTHER ISSUES
A. Commercial Recyclers' Use of Inventory Data
B. Environmental Management Hierarchy
C. Cost of Pollution Prevention Planning
D. Incorporation Pollution Prevention Planning into Other Department Programs
E. TRI Reporting Status v. Reporting Status Under the Act
F. Pollution Prevention Conditions in Existing Permits

[NOTE: Unless otherwise noted, references throughout this document are to the proposed rules and not the adopted rules. On adoption, the Department has recodified certain parts of the rules to accommodate additions or deletions, but to maintain consistency with the comments received, this notice reflects the numbering system contained in the proposal.]

INTRODUCTION

In developing the Pollution Prevention Program Requirements, N.J.A.C. 7:1K, the Department has tried to strike a balance between providing incentives to encourage voluntary implementation of pollution prevention planning techniques and providing adequate guidance and oversight (including enforcement) to ensure the success of the program. This dichotomy is embodied in various places throughout the Act. For example, the Act requires priority industrial facilities to conduct pollution prevention planning, but does not require facilities to implement pollution prevention methods or reach their pollution prevention goals. Likewise, the Act requires very specific reporting on the use, release and generation as nonproduct output of hazardous substances, but also provides flexibility for minimizing this reporting burden through grouping, targeting and other mechanisms.

The Department believes that the interrelationship of three issues in particular, Pollution Prevention Plan (Plan) submittal criteria, Plan review criteria, and enforceable Plan review criteria, forms the framework for a pollution prevention program that achieves the balance of incentives and oversight envisioned by the Act. In the proposal, the Department did not propose any specific Plan **submittal** criteria but simply reiterated the statutory authority to require Plan submittal, found at N.J.S.A. 13:1D-43(a). Universally, comments on the proposal submitted by members of the regulated community indicated that allowing facilities to keep Plans on site would act as an incentive to more comprehensive and aggressive pollution prevention planning. Therefore, in keeping with its incentive-based approach, the Department has decided to propose a future amendment to delay its implementation of the Plan submittal authority at N.J.S.A. 13:1D-43(a), except for situations where facilities are applying for an out-of-process recycling authorization under N.J.A.C. 7:1K-4.7 or a facility-wide permit under N.J.A.C. 7:1K-7.2.

The decision to allow Plans to remain on site at each facility was a difficult one for the Department to make. As discussed in the proposal, the Department's main motivation for requiring Plan submittal was to provide a means of monitoring and evaluating the pollution prevention planning program during its initial implementation, and to facilitate the trends analysis research required by N.J.S.A. 13:1D-45. Therefore, once this policy change is implemented, the Department will be conducting many site visits during the initial years of the program to study Plan development and evaluate administrative completeness of Plans. If the Department determines otherwise, it may reconsider its decision to allow Plans to be kept on-site in the context of a future rulemaking proposal.

In the proposal, the Department also proposed three substantive, enforceable Plan **review** criteria at N.J.A.C. 7:1K-3.9(d). These criteria were as follows: administrative completeness (N.J.A.C. 7:1K-3.9(d)1); whether a facility has grouped pollution treatment and control systems with processes and sources as prohibited by N.J.A.C. 7:1K-4.2(d) (N.J.A.C. 7:1K-3.9(d)2); and compliance with the definition of "pollution prevention" at N.J.A.C. 7:1K-1.5 (N.J.A.C. 7:1K-3.9(d)3). At this time, the Department has adopted these criteria without change. However, as part of a package of amendments that will follow this adoption, the Department will propose to limit its enforceable Plan review to a determination of whether a Plan is administratively complete. The Department will shift the second two criteria, grouping and pollution prevention, to a set of non-enforceable Plan review criteria that will include new criteria to be proposed as more is learned by the Department and the

public, including the regulated community, about which aspects of pollution prevention planning seem to have the most significance. The remaining non-enforceable portions of these Plan review criteria will form the basis for the Department's on-site review of Plans.

The Department intends to conduct Pollution Prevention Plan reviews at priority industrial facilities for three purposes. First, the Department will conduct spot checks to make sure that facilities have prepared complete Plans. Second, the Department will conduct substantive reviews of Plans and provide facilities with written comments. Third, the Department will review facilities' plans on site to study whether the flexibility provided in these rules proves to be an incentive to more comprehensive and aggressive pollution prevention planning or whether it serves to simply establish loopholes that facilities use to avoid comprehensive and aggressive pollution prevention planning.

Under this scenario, the Department will also enforce against the following: untimely submission of Pollution Prevention Plan Summaries and Pollution Prevention Plan Progress Reports, failure to prepare a Plan, and administrative incompleteness of Plan Summaries and Plan Progress Reports. The Department has not adopted proposed N.J.A.C. 7:1K-5.2(b)2 and 6.2(b)2, which would have imposed additional substantive review criteria on Plan Summaries and Plan Progress Reports. However, the Department has reserved these paragraphs for the future development of additional criteria as appropriate.

In summary, the Department believes that the rules at N.J.A.C. 7:1K will allow the pollution prevention program to balance regulatory oversight and incentives through a combination of limited Plan submittal, on site Plan review and enforcement as necessary.

The public comments and Department responses are summarized as follows:

SUBCHAPTER 1. GENERAL PROVISIONS

I. Definitions

A. Definitions: In-process Recycling/Out-of-Process Recycling/ Pollution Prevention/Nonproduct Output

a. Summary of Issue

During the rulemaking process for N.J.A.C. 7:1K, there was considerable discussion on the issue of what constitutes "pollution prevention." This is an important issue because one of the objectives of the Act is to establish pollution prevention as the preferred practice in the environmental management hierarchy, the sequence of which is (1) pollution prevention, (2) recycling, (3) treatment, (4) disposal.

The definitions of three particular terms, "pollution prevention," "in-process recycling," and "non-product output," are crucial to the determination of whether a particular practice is or is not pollution prevention. The Act's definition of "pollution prevention," N.J.S.A. 13:1D-37, specifies five general practices that constitute pollution prevention: raw material substitution, product reformulation, production process redesign, improved operation of equipment, and **in-process recycling** (emphasis added). This definition also stipulates that pollution prevention does **not** include out-of-process recycling. Therefore, there is a clear statutory distinction between in-process recycling, which is pollution prevention under the Act, and out-of-process recycling, which is not.

Because the Act does not define either "in-process recycling" or "out-of-process recycling," there was consensus during the rulemaking process that it would be advisable for the Department to promulgate a definition of "in-process recycling" in order to clarify what practices are pollution prevention. Since any recycling activity which is not in-process recycling is considered out-of-process recycling, adding this definition would also clarify what is **not** pollution prevention.

Drawing the line between in-process and out-of-process recycling has been a point of great contention during the rulemaking process. In general, industry representatives have argued for a broader and more inclusive definition of "in-process recycling" than that advocated by environmental interest groups, in order to count as many practices as possible as pollution prevention. After considering these competing viewpoints, the Department proposed the following definition of "in-process recycling" at N.J.A.C. 7:1K-1.5:

> "In-process recycling" means returning a hazardous substance to a production process using dedicated equipment that is directly connected to and physically integrated with a production process or production processes and is operated in a manner that prevents the generation of nonproduct output or the multi-media release of hazardous substances.

As stated in the proposal, this definition was designed to limit in-process recycling to closed-loop recycling systems. The Department acknowledged that this definition was likely to eliminate certain activities at batch operations, including re-use of materials which require storage between batches, from being considered pollution prevention. However, the Department also stated that it would develop a special reporting section in the Pollution Prevention Plan Progress Report to allow facilities to highlight and report on these batch re-use activities. See proposed N.J.A.C. 7:1K-6.1(c).

There has also been considerable debate about how to define "nonproduct output" for the purposes of these rules. The Act defines "nonproduct output" as "all hazardous substances or hazardous wastes that are generated prior to storage, recycling, pollution treatment, control, or disposal and that are not intended for use as a product." The Act envisions that nonproduct output will be used as a tool to track pollution prevention reductions since pollution prevention is also defined to occur prior to treatment, control, storage, recycling, and disposal. To clarify its understanding of the statutory intent of the term "nonproduct output," the Department proposed to add a reference to "out-of-process" to modify the term "recycling" as used in the Act's definition. N.J.A.C. 7:1K-1.5. This change was made in order to allow pollution prevention reductions made through in-process recycling to be reflected in nonproduct output reporting. Without this change, facilities may have mistakenly measured nonproduct output prior to all recycling, including in-process recycling, which would have been inconsistent with the Act's definition of "pollution prevention" and which would have obscured the reporting of nonproduct output reductions.

b. Comments and Responses

1. Comment on defining "out-of-process recycling"

COMMENT: One commenter (24) suggested that the Department add a definition of "out-of-process recycling" to proposed N.J.A.C. 7:1K-1.5. The commenter was concerned that without such a definition, all methods of recycling that do not meet the definition of in-process recycling would be considered out-of-process recycling.

RESPONSE: As discussed in the summary of issue, above, the Department intends to classify any recycling practice that does not meet the N.J.A.C. 7:1K-1.5 definition of "in-process recycling" as out-of-process recycling. As such, it would only complicate these rules to provide a definition of "out-of-process" recycling. Therefore, the Department does not plan to define this term in the rules.

2. Comments on inflexible definition of "in-process recycling"

COMMENTS: The Department received numerous comments from industry representatives (2, 3, 4, 5, 7, 8, 9, 16, 17, 18, 21, 25, 26) contending that the proposed definition of "in-process recycling" in N.J.A.C. 7:1K-1.5, was too restrictive and inflexible. These commenters claimed that no recycling system could meet the stringent test of being "operated in a manner that **prevents** (emphasis added) the generation of nonproduct output or the multi-media release of hazardous substances" because all systems must use either vents or filters or general small quantities of residual. As a result, the commenters predicted that the proposed definition would preclude virtually all recycling systems from being considered pollution prevention. Several commenters (2, 3, 4, 8, 9, 18, 21, 25, 26) suggested that this phrase be eliminated from the proposed definition or that the Department change the word "prevent" to either "minimize" or "reduce."

RESPONSE: The Department included this phrase in the definition of "in-process recycling" for three reasons: (1) to ensure that in-process recycling systems do not increase worker exposure to hazardous chemicals; (2) to ensure that storage does not take place; and (3) to impose an operational standard for the physical integrity of the system, thereby limiting in-process recycling systems to "closed-loop" or "hard-piped" systems. Under the Act, multi-media releases are defined to include releases to the workplace. N.J.S.A. 13:1D-37. Therefore, if multi-media releases are prevented, worker exposure is also prevented. In addition, since nonproduct output is to be measured prior to storage, if nonproduct output is prevented, storage is as well.

After reviewing the comments received on this issue, the Department believes that using the word "prevent" in the definition of "in-process recycling" creates an inconsistency with the Act by holding this method to a higher standard than other forms of pollution prevention. Based on the proposed definition, in-process recycling systems would need to "prevent" the generation of nonproduct output, while other pollution prevention techniques (that is, process changes, improved operation and maintenance) could "reduce" nonproduct output consistent with the definition of "pollution prevention" in the Act.

The Department also acknowledges that some recycling systems it intended to be covered under the proposed definition of "in-process recycling" would, in fact, not qualify as in-process recycling because these systems must use certain equipment that would not meet the "prevent" criterion. The Department's intent was and is to allow application of the following types of equipment within in-process recycling systems:

- vents on reflux condensers and distillation columns
- filters used in piping systems
- valves on product storage tanks

However, because these types of equipment can be sources of non-product output and multi-media releases, their use would also be precluded by the term "prevent" in the proposed definition.

The Department believes that recycling systems using the above types of equipment should be considered in-process recycling if everything else in the system complies with the other criteria in the "in-process recycling" definition. Therefore, on adoption, the Department has substituted the word "reduce" for "prevent" in the "in-process recycling" definition. The Department believes that this change is necessary to establish the same standard for in-process recycling as established by the Act for other categories of pollution prevention. More importantly, the Department believes that this results in an environmentally protective definition that meets the spirit and intent of the Act by promoting pollution prevention through reductions in multi-media releases, nonproduct output generation, and worker exposures.

3. Comment on broad definition of "in-process recycling"

COMMENT: One commenter (18) urged the Department to broadly define "in-process recycling" to include central recovery systems. The commenter argued that this is important for batch operations, which may include numerous process steps, variable process conditions, and multiple campaigns.

RESPONSE: Under the present definition of "in-process recycling," a central recovery system can be considered pollution prevention if it is physically integrated and directly connected to the production process. Instances were hazardous substances generated at the end of the process are moved to a central recovery system in barrels or containers would be excluded from this definition. The Department recognizes that this may create special difficulties for batch operations, but believes that adopting a broader definition of this term would be counterproductive to the goals of the Act.

4. Comments on excluding worker handling from definition of "in-process recycling"

COMMENT: One commenter (23) proposed to strengthen the definition of "in-process recycling" by excluding worker handling.

RESPONSE: The Department shares some of the same concerns expressed by the commenters. One of the goals of pollution prevention planning is to consider impacts on workers along with environmental impacts. As discussed above, the proposed definition of "in-process recycling" was intended to ensure that there would be no increased worker exposure or storage associated with a pollution prevention practice. However, after reevaluating these issues, the Department now believes that the proposed language creates inconsistencies with other pollution prevention techniques and may preclude many recycling systems from legitimately being considered in-process recycling.

As discussed above, to correct these inconsistencies, the Department substituted the word "reduce" in the N.J.A.C. 7:1K-1.5 definition of "in-process recycling" for "prevent" on adoption of this definition. By requiring in-process recycling systems to be physically integrated with and directly connected to the process, the existing definition does not allow practices involving worker handling of drums and containers to be considered in-process recycling. However, the worker safety issue will be addressed regardless of whether the term "prevent" or "reduce" is used in the definition because either term only endorses practices that result in improvements in multi-media releases.

5. Comment on stricter definition of "in-process recycling" as incentive to move up environmental hierarchy

COMMENT: Several members of the environmental and public interest community (13, 23) suggested that the proposed definition of "in-process recycling" be strengthened in order to encourage facilities to move up the hierarchy of chemical management practices. These commenters provided several examples of pollution prevention options that are available for batch operations and other systems. The examples included (1) limiting the increasing customization and variety of products, and (2) identifying compatible products which do not require tank cleaning between batches so that the "heels" can also be used for the next product.

RESPONSE: The Department does not believe that strengthening the proposed definition of "in-process recycling" is necessary to encourage facilities to move up the hierarchy of environmental management practices. In fact, as proposed, the definition would have eliminated many legitimate in-process recycling systems from being classified as pollution prevention techniques. For this reason, the Department has substituted the word "reduce" for the word "prevent" on adoption of the definition.

The Department believes that the best way to encourage facilities to move up the environmental management hierarchy and embrace pollution prevention planning is to design a flexible, incentive-based pollution prevention planning program. A key incentive of the Department's pollution prevention program will be its focus on the cost-saving aspects of pollution prevention. In addition, the success of the program will depend on many government and private industry initiatives. A narrow definition of "in-process recycling" might have some value for encouraging facilities to embrace pollution prevention planning, but other types of incentives are more likely to play a significant role in shifting the focus of the State's environmental protection efforts towards pollution prevention.

6. Comments on defining "storage"

COMMENTS: Two industry commenters (21, 22) recommended that the Department define "storage" in the rules in order to clarify the proposed definition of "in-process recycling." In addition, one commenter (23) recommended that the Department specifically exclude storage from those practices determined to be in-process recycling.

One industry commenter (21) recommended the following definition of "storage":

> "Storage" means the removal of a hazardous material from a production process where the intention of removal is disposal, treatment or out-of-process recycling. All material in storage is non-product output and may not be reclassified as in-process recycled material unless the production process is modified so that it is not removed from the process.

RESPONSE: The issue of defining storage highlights the difficulty of trying to apply the in-process recycling concept to batch operations. Typically, in-process recycling is considered in the context of continuous operations, where a hazardous substance may be reused in the process without the need for storage. However, in batch operations, it is often necessary for a hazardous substance that is to be reused to be stored or "held" for some period of time until the next applicable batch that can use the hazardous substance is initiated.

In general, the Department received comments from industry advocating that it allow storage units that are physically integrated and directly connected to the process to be components of the in-process recycling system. The environmental community, on the other hand, recommended prohibiting any storage in in-process recycling systems since such storage may increase risks in the form of worker exposure and accidents.

The Department acknowledges the difficulty the storage issue poses in trying to apply in-process recycling to batch operators. However, the Department does not agree that the industry commenter's recommended definition would clarify the definition of "in-process recycling." First, the commenter's recommended definition of "storage" establishes a circular argument where the "intention of removal" is evaluated based on subsequent activities (treatment and out-of-process recycling) that already preclude the system from being considered "in-process recycling." Should the Department decide to adopt a definition of "storage," such definition would, instead, help facilities **distinguish** in-process recycling activities from these activities, rather than encourage reliance on them.

Second, the use of the term "intention" in the suggested definition creates significant uncertainty and is very difficult to interpret. For example, the term "intention" has created significant debate in interpreting the Act's definition of "product." As a result, it was necessary for the Department to clarify the definition of "product" by adopting a definition of "co-product." The Department does not want to create the same dilemma in the definition of "in-process recycling."

Therefore, the Department does not plan to include a definition of "storage" in these rules, and will leave it up to the regulated community to interpret this term. The Department believes that the proposed definition of "in-process recycling" provides a sufficient framework for determining what can and cannot be considered in-process recycling.

7. Comments on defining "process holdup"

COMMENTS: Two commenters (21, 22) suggested that the Department define a new term, "process holdup," as a type of in-process recycling. These commenters recommended that "process holdup" be defined to allow hazardous substances to be retained within a process

for subsequent reuse. The commenters contended that the new definition would provide needed flexibility for batch operations.

RESPONSE: Although batch operators may find it difficult as a general rule to implement in-process recycling, specific types of "process holdups" may already qualify as in-process recycling operations under the proposed definition. Under the existing definition, the Department considers any "holdup" which occurs within the actual process equipment and which is not transferred to a separate storage vessel to be in-process recycling. For example, a hazardous substance that is held in a reactor or mixing tank until the next batch is run will not be considered non-product output under this definition. Specific examples and guidance on process holdups will be provided in the Pollution Prevention Plan Guidance Document. Since the Department believes that the existing definition of "in-process recycling" is sufficiently flexible to allow this type of activity, it does not plan to add a separate definition of "process holdup."

8. Comment on limiting "in-process recycling" to closed and fixed equipment

COMMENT: One commenter (23) suggested that the definition of "in-process recycling" require all equipment to be "closed and fixed" in addition to being "dedicated."

RESPONSE: The Department formulated the definition of "in-process recycling" to ensure that only recycling activities that are fully dedicated and integrated into a process be considered pollution prevention. However, the Department did not intend to dictate a facility's choice of systems to be used in order to meet the conditions of reducing nonproduct output with dedicated and physically integrated equipment.

Adding the term "fixed" to the definition, as suggested by the commenter, will not add to facilities' understanding of what distinguishes an in-process recycling system from an out-of-process recycling system. From a technical perspective, adding this term could also lead to confusion. For instance, flexible leakproof teflon-lined stainless steel tubing, a type of equipment which is considered safer for some applications than traditional piping because of the reduced rupture hazard, might not be considered "fixed." The Department does not intend to exclude this, or other similarly safe equipment, from the definition of "in-process recycling." However, any materials which are stored or transferred in containers would not be considered in-process recycling.

Similarly, the Department is concerned that adding the term "closed" to the definition of "in-process recycling" would only increase the confusion over what is and what is not in-process recycling. The term "closed" implies that only "closed loop" systems will be considered in-process recycling which is not the Department's intent as discussed in comment 2 in this section. Therefore, the Department will not be adopting this suggestion.

9. Comment on limiting "in-process recycling" to hard-piped or totally enclosed systems

COMMENT: Two commenters (8, 17) requested changes to the phrase "directly connected" as used in the proposed definition of "in-process recycling." These commenters contended the proposed language would restrict in-process systems to "hard-piped" or "totally enclosed" systems, thereby precluding many pollution prevention options for "batch" operations.

RESPONSE: The Department believes that in-process recycling systems should be limited to "hard-piped" systems. A hard-piping system ensures that the recycling operation is truly "in-process" and that it reduces the generation of nonproduct output and potential worker exposures, as intended by the Act. The Department interprets the phrase "hard-pipe" to include manifold systems, dry disconnects and other piping arrangements that provide flexibility to connect different pieces of equipment without having separate pipes between each piece of equipment. More specific examples will be provided in the Pollution Prevention Plan Guidance Document.

The Department interprets the phrase "directly connected" to limit in-process recycling systems to "hard-piped" systems. However, the phrase "operated in a manner that prevents the generation of non-product output and the multimedia release of hazardous substances" does more to limit the physical integrity and the design of the system than the phrase "directly connected." As such, the adopted definition does not limit in-process recycling to closed-loop systems.

As discussed above, the Department's decision to change "prevent" to "reduce" on adoption of this definition should also address some of the commenter's concerns.

10. Comment on considering any "on-site" recycling activity as "in-process recycling"

COMMENT: One commenter (8) recommended that instead of being restricted to "directly connected" equipment, the definition of "in-process recycling" should apply to any "on-site" equipment.

RESPONSE: The Department disagrees. Such a change would allow **any** "on-site" recycling equipment, no matter how far removed from a process, to be considered in-process recycling and, therefore, pollution prevention. As a result, the suggested change would drastically alter the definition of "in-process recycling" by focusing this determination on a facility level instead of a production level. It is axiomatic that "in-process" recycling must be defined with reference to the process.

On-site and off-site recycling are recognized terms used in the Department's hazardous waste management program and in the federal and State Right-to-Know reporting programs. If the Legislature intended for on-site recycling to be considered pollution prevention, it could have just as easily used this term instead of "in-process recycling." Changing the focus of the pollution prevention from a process-level to a facility-level is obviously beyond the scope of the definition of "pollution prevention" at N.J.S.A. 13:1D-37.

11. Comment in inconsistency of "in-process recycling" definition with Form R

COMMENT: One industry commenter (4) was concerned that the proposed definition of "in-process recycling" is inconsistent with the interpretation of the definition of "in-process recycling" on the U.S. Environmental Protection Agency's Form R, which is used for reporting under 42 U.S.C. §11023. The commenter also contended that the proposed definition is inconsistent with past interpretations of the reporting requirements (Form DEQ-100/114) under the New Jersey Worker and Community Right-to-Know Act, N.J.S.A. 34:5A-1 et seq.

RESPONSE: Neither the U.S. EPA's Form R nor New Jersey's Form DEQ-100/114 contains a definition of "in-process recycling," and the instructions for completing these forms do not provide any guidance on or discussion of this term. Without a more detailed identification of where these "interpretations" are found, it is difficult for the Department to respond directly to the comment.

The only classes of recycling reported on these forms are on-site and off-site recycling. Assuming that the commenter is implying that any on-site recycling be considered pollution prevention, the Department believes that this would be inconsistent with the scope of the Act. See above Comment.

12. Comment on definition of "in-process recycling" as inconsistent with RCRA

COMMENT: One commenter (2) was concerned that the proposed definition of "in-process recycling" is inconsistent with the classification of hazardous waste under the Federal RCRA regulations and N.J.A.C. 7:26-8.1. The commenter noted that the "in-process recycling" definition would allow recycling of a hazardous substance to a process other than the one that originally generated the substance, and that this would be considered "treatment" necessitating a Part B permit under RCRA.

RESPONSE: The commenter has correctly identified an inconsistency between the pollution prevention and hazardous waste regulations. The Department acknowledged this inconsistency in the second pre-proposal and the proposal when it stated that the definitions of "nonproduct output" and "in-process recycling" would not affect the classification or status of the materials under the State's solid or hazardous waste statutes or regulations.

The definitions in the pollution prevention program rules at N.J.A.C. 7:1K-1.3 do not impact or in any way change the definitions or the procedures for classifying hazardous waste under RCRA or N.J.A.C. 7:26-8.1. For example, the proposed definition of "in-process recycling" is not limited to a single process or system. If an in-process system recycles between two different processes, in many cases, such a purification or distillation activity may be considered recycling or treatment under N.J.A.C. 7:26. Depending on the activity, it may require various approvals under the hazardous waste regulations, such as a Hazardous Waste Facility Permit under N.J.A.C. 7:26-12.1 or an authorization for storage of less than 90 days under N.J.A.C. 7:26-9.3(b).

c. Conclusion

The Department has adopted the proposed definition of "in-process recycling" with one minor modification, as follows:

> "In-process recycling" means returning a hazardous substance to a production process using dedicated equipment that is directly connected to and physically integrated with a production process or production processes and is operated in a manner that [prevents] **reduces** the generation of nonproduct output or the multi-media release of hazardous substances."

The Department believes that this definition provides a sound general framework for industrial facilities to use in determining whether a system is in-process or out-of-process recycling. Because of the diversity of manufacturing operations and the potential for confusion, the Department is reluctant to discuss the specific details of manufacturing operations or to add additional layers of definitions to these rules.

The Department will provide guidance on the storage issue and its relation to in-process recycling in the forthcoming Pollution Prevention Plan Guidance Document. In the initial years of the pollution program, the Department will also analyze the extent to which these rules in general, and the definition of "in-process recycling" specifically, are applied by regulated facilities. These findings will be discussed in the report to the Legislature required by N.J.S.A. 13:1D-45.

B. Definitions: Co-product/Intermediate Product/Product

a. Summary of Issue

The Act sets up a binary system of classification for materials that exit a production process: that is, the material exiting the production process is either **product** or it is **nonproduct output**. The Act defines "product" as: "a desired result of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced." N.J.S.A. 13:1D-37. "Nonproduct output" is defined by the Act to be: "all hazardous substances or hazardous wastes that are generated prior to storage, recycling, treatment, control or disposal, and that are not intended for use as a product." N.J.S.A. 13:1D-37.

Comments received from industry representatives during the pre-proposal process generally indicated that the binary product/nonproduct output system was overly simplistic and did not reflect actual conditions occurring in the marketplace. These commenters were particularly concerned about the terms **desired** and **in the channels of commerce** in the definition of "product," since (1) a production process may generate more than one product, (2) some materials generated by a production process may be transferred to another company or a different facility of the same parent company without financial transaction (that is, without entering the "channels of commerce"), and (3) some materials may not necessarily be a "desired" result of the process but may nonetheless be sold. Further, all these scenarios are complicated by the fact that the availability of a buyer for a desired or undesired material will depend on market fluctuations. Industry was concerned that certain material that would not meet the statutory definition of "product" because it is not "desired" should not count as nonproduct output because it may enter the marketplace.

As proposed, the N.J.A.C. 7:1K-1.5 definition of "product" was intended to address the issue of a production process generating more than one product by allowing a production process to yield more than one product. Industry's second concern about materials that are transferred without financial transaction was addressed in N.J.A.C. 7:1K-1.5 through the proposed definition of "intermediate product" as:

> a desired result of a production process that is made into a product in a subsequent processing step at the same industrial facility, without the need for treatment prior to its being made into a product. An intermediate product is not considered nonproduct output. Increases in quantities of intermediate products do not count towards use reduction or nonproduct output reduction goals.

Industry's third concern about "undesired" materials in the marketplace was addressed in N.J.A.C. 7:1K-1.5 through the proposed definition of "co-product" as

> an incidental result of a production process that is not a primary product of the production process and that is sold in trade in the channels of commerce to the general public in the same form as it is produced, for any purpose except the purpose of energy recovery. A co-product is not considered nonproduct output. Increases in quantities of co-product do not count toward use reduction or nonproduct output reduction goals."

b. Comments, Responses and Department Recommendations

1. Comment on classifying industrial facilities as "general public" for purposes of "product" definition

COMMENT: One commenter (20) recommended that the phrase "to the general public" be removed from the proposed definition of "product." Alternatively, the commenter suggested that the Department clarify that industrial facilities purchasing material also fall under "general public."

RESPONSE: The phrase "to the general public" is taken directly from the statutory definition of "product," N.J.S.A. 13:1D-37. Therefore, the Department does not intend to write this phrase out of the definition. The Department agrees that industrial facility purchases should be considered part of the "general public," but believes this is already implied by the definition.

2. Comment on clarifying "secondary product"

COMMENT: Another commenter (23) requested clarification on the Department's discussion of "secondary product" as a means of allowing more than one product to be manufactured from a production process. The commenter suggested that if the process make more than one "bona fide product" it should be considered a product and stated that there is nothing in the Act limiting the number of products manufactured from a process.

RESPONSE: In the response to comments on the second pre-proposal, the Department indicated that it would propose a definition of "secondary product" that would allow more than one product to be identified for each process. 24 N.J.R. 3622. However, prior to proposing these rules the Department reevaluated the need for this definition and decided that it was not necessary. The Department interprets the definition of "product" in the Act to already allow more than one product to be identified for a production process. Through an oversight, the Department failed to modify the response document to reflect this interpretation.

In order to address any confusion that may exist on this issue, the Department has clarified the definition of "product" on adoption to clearly state that it encompasses "one or more" desired result(s) of a production process.

3. Comment on inflexible definition of "co-product"

COMMENT: Several industry commenters (4, 5, 7, 21, 25) contended that the proposed definition of "co-product" was inflexible and that reductions attributed to sale of co-products should be considered pollution prevention. These commenters suggested that any action reducing the quantity of material actually disposed of as waste or released to the environment should be classified as pollution prevention.

RESPONSE: The proposed definition of "co-product" was developed in response to comments received during the pre-proposal process and is intended to provide flexibility by allowing for market fluctuations where materials can be products one day and nonproduct output another. During the pre-proposal process, many commenters requested that the Department allow the sale of unintended materials or "byproducts" to reduce the quantity of nonproduct output reported in annual progress reports. The proposed definition of "co-product" was developed to address these concerns; however, the Department did not intend to allow any increased sale from year to year to be considered pollution prevention. Therefore, the proposed definition excludes increased sales of co-products from counting towards pollution prevention reduction goals.

The Department disagrees with the commenters' contention that any action which reduces disposal quantities should be considered pollution prevention. Under the Act, the focus of pollution prevention is at the point of generation (sources and production processes) and **not** the point of release or disposal. The sale of unintended materials is a completely market-driven activity—the only chance to reduce the quantity of the material is to sell the material—and therefore cannot be considered pollution prevention.

The Department believes that if a material is not an intended result of a production process, the facility should consider reducing the generation of the material at its source, which can in effect increase the quantity of the intended product generated from the process and increase the efficiency of the process.

4. Comment on identifying pollution prevention at source level

COMMENT: Two commenters (10, 23) asserted that the proposed definition of "co-product" changes the focus of pollution prevention away from the source and allows pollution prevention to be contingent on later events which are driven by market fluctuations. These commenters believed that there should be only two production outcomes: product and nonproduct output. These commenters felt that if the status of nonproduct output changes in response to market conditions, then it should be reclassified as product.

RESPONSE: The Department agrees, in part, with the commenters. Under the Act, "pollution prevention" is defined with reference to the source of generation. However, there is an important distinction between a nonproduct output reduction and a pollution prevention reduction that contributes towards the goals developed in the pollution prevention plan. For this reason, the Department constructed the proposed definition of

"co-product" to specifically exclude increased sales of co-products from being considered pollution prevention. Under this definition, co-products may only reduce the facility's reported quantities of nonproduct output, but may not "count" as pollution prevention.

The Department believes that the co-product concept is necessary to enable facilities to account for variations in market demand, and that it would be unwise to ignore this issue simply for the sake of adhering to a strict binary classification. The "co-product" concept reflects the real-world marketplace, and results in a reporting system that is more complicated but more fair.

5. Comment on role of market conditions in defining "co-products"

COMMENT: Two commenters (10, 23) were concerned with the Department's attempt to accommodate market fluctuations with a definition of "co-product." These commenters contended that establishing a "market test" for nonproduct output is a convoluted approach in that it ignores the market-based reality that companies establish and use production processes to make products, not nonproduct outputs that might be occasionally sold. One commenter (23) proposed an alternative market test which would require facilities to consider if it is more economical not to generate the material in the first place.

One commenter (23) provided a hypothetical example of an aerospace manufacturer that has two outputs of hazardous materials: chromium aerospace components and chromium "waste." Assuming that the "waste" can always be either reused or sold, the commenter felt that the "waste" should always be considered nonproduct output since the company is in the aerospace business and not in the chromium business.

RESPONSE: The commenters appear to believe that the phrase "intended result," as used in the Act's definition of "product," should be used to limit a facility to one business and to require it to base a process solely on this business. Any material or activity that is not dedicated to that business would then be unintended and, therefore, not a product. While this view has merit conceptually, in reality the Department does not believe that processes can be used to strictly define "businesses." Even with only one production process, companies can be in several "businesses" at the same time and can get in and out of markets on a ongoing basis.

The pollution prevention planning program is intended to be a flexible, facility-driven program where decisions regarding products and process will not result in differing levels of oversight and regulation by the Department. Therefore, the Department believes that the facility should have complete flexibility in identifying its products, co-products, processes and markets.

In the example provided by the commenter, the Department believes that the chromium "waste" produced by the aerospace company would not always be a waste or nonproduct output. Consistent with the definition of "co-product," if the company sells the unconverted chromium it would not be counted as nonproduct output. However, the Department would not consider this a pollution prevention activity. In addition, the company would be required to report in its Pollution Prevention Plan Progress Report on the percentage of nonproduct output reduction that is attributable to sales of co-products and not pollution prevention techniques.

Finally, the Department agrees in theory that it would be consistent with the Act to define co-products using the market test suggested by the commenter (23). However, in practice, requiring a market test through the regulatory definition of "co-product" would be too restrictive and would impede the flexibility built into the rules.

6. Comment on tracking co-products

COMMENT: Two commenters (10, 23) were concerned that tracking and recordkeeping for co-products would require facilities to look far beyond the source level.

RESPONSE: The Department agrees with the commenters' interpretation, but does not expect this to be a problem. Since the source is the point at which pollution prevention is tracked, any definition of "co-product" that does not classify co-products as pollution prevention will necessarily involve some form of tracking beyond the source. Otherwise, the Department will be unable to ensure that increased sales of co-products are not considered pollution prevention.

7. Comment on energy recovery as co-products

COMMENTS: One commenter (17) recommended that the Department modify the proposed definition of "co-product" to encompass materials that are used for energy recovery. The commenter contended that this was justified because these materials are often cleaner burning than fossil fuels and can reduce our needs for fossil fuels.

RESPONSE: The Department does not believe that materials sold for energy recovery should be considered co-products. The sale of materials for energy recovery is often a "treatment" or "disposal" activity, not an activity whose goal is re-use or recovery of materials for use as raw material. The USEPA makes this distinction for the purposes of reporting under 42 U.S.C. §11023. The Department desires to maintain consistency between the Federal and State programs on this issue in order to facilitate reporting.

8. Comment on pre-proposed definition of "intermediate product"

COMMENT: One commenter (24) noted that the pre-proposed definition of "intermediate product" included the phrase "... without the need for **pollution** (emphasis added) treatment," and recommended that the phrase "... without the need for treatment prior to its being made into a final product..." be eliminated from the proposed definition.

RESPONSE: The Department agrees with the commenter that adding the term "pollution" to "pollution treatment" helps clarify the meaning of "treatment" in the definition of "intermediate product." The Department used the term "pollution treatment" in its discussion of the definition of "intermediate product" in the proposal (see 24 N.J.R. 3622) but omitted this term in the proposed definition. The Department has corrected this omission on adoption of the definition of "intermediate product," N.J.A.C. 7:1K-1.5.

However, the Department disagrees with the commenter's second point regarding eliminating the reference to "treatment" in the definition of "intermediate product." The stipulation that no treatment occur prior to the substance being made into an intermediate product is necessary to make this definition consistent with the definitions of "nonproduct output" and "pollution prevention." In other words, if pollution treatment occurred, the hazardous substance would constitute nonproduct output. As such, the Department has not adopted the commenter's suggestion.

9. Comment on clarifying "subsequent" processing step for "intermediate products"

COMMENT: One commenter (23) requested clarification on the "subsequent processing step" that is needed to make an intermediate product under the definition proposed at N.J.A.C. 7:1K-1.5. This commenter suggested that the Department restrict the "subsequent" step to "production processes." The commenter also recommended that the Department exclude recycling systems (along with treatment systems) from the proposed definition.

The commenter proposed an alternative definition of "intermediate product" as:

> a desired result of a production process, **in the same form as it is produced for trade in the channels of commerce,** that is made into a product in a subsequent [processing step] **production process** at the same facility, without the need for treatment **or recycling** prior to its being made into a product.

RESPONSE: The Department agrees with the commenter that "production process" is a more accurate term than "processing step" in the context of the proposed "intermediate product" definition and has made this clarification on adoption of the definition. However, since "in-process recycling" is part of a process, it would be inconsistent to exclude recycling from this definition and the Department has not adopted the rest of the suggested language. As discussed above, the Department does not believe that it would be appropriate to restrict intermediate products to the same form as produced for trade in the channels of commerce, since this would cause intermediate products to fall under the Act's definition of "product" and would preclude transfers of intermediates within the facility.

C. Treatment

a. Summary of Issue

During the pre-proposal process, several commenters suggested that the Department not allow pollution treatment and control systems to be grouped with manufacturing processes. See 24 N.J.R. 3642. The Department included this restriction in proposed N.J.A.C. 7:1K-4.2(d).

The definition of "treatment" is also important because the Act defines "nonproduct output" as all hazardous substances or hazardous wastes that are generated prior to storage, recycling, **treatment**, control or disposal. See N.J.S.A. 13:1D-37.

b. Comments and Responses

1. Comment on defining "treatment"

COMMENT: Two commenters (21, 22) recommended that the Department adopt a definition of "treatment" in order to clarify other

definitions of the pollution prevention planning program including, "pollution prevention," "in-process recycling," and "nonproduct output."

RESPONSE: The Department believes that developing a definition of "treatment" which would be simple, clear and generally applicable across the broad range of industries affected by the Act would be almost impossible and of limited practical value. In addition, the Department is concerned that adopting such a definition would make the regulatory framework for pollution prevention planning program too prescriptive. Therefore, the Department does not intend to propose a definition of "treatment."

2. Comment on defining "treatment" to include waste treatment codes

COMMENT: Two commenters (21, 22) suggested that the Department adopt a definition of "treatment" to include those operations which are reported to the U.S. Environmental Protection Agency under the Form R Waste Treatment Codes. One of these commenters (22) stressed that a careful definition of "treatment" is needed for the pollution prevention planning program because many items are currently permitted as "control devices" by other programs.

As an example, the commenter identified an apparently inconsistent overlap between the concepts of "pollution prevention" and "treatment" as used in proposed N.J.A.C. 7:1K and the concepts of "equipment" and "control apparatus" as used in the Department's Air Pollution Control rules, N.J.A.C. 7:26. According to the commenter, a condenser that condenses processed gases and/or vapors and returns them directly back to the process should qualify as "in-process recycling" under the pollution prevention planning program, but would be categorized as a "control apparatus" by the air pollution control program. The commenter was concerned that because of the "control apparatus" classification, the Department would consider the condenser to be "treatment" and not pollution prevention.

RESPONSE: The Department recognizes that the definitions of "pollution prevention" and "in-process recycling" overlap with the definitions used in other regulatory programs, including the definitions used on the U.S. Environmental Protection Agency's Form R pursuant to 42 U.S.C. §11023; the definition of "treatment" in the Hazardous Waste and New Jersey Pollutant Discharge Elimination System rules, N.J.A.C. 7:26-1.4 and N.J.A.C. 7:14A-1.9, respectively; and the definition of "control apparatus" in the Air Pollution Control rules, N.J.A.C. 7:27-8.1. However, the Department does not agree that adopting the Form R list of treatment codes, as suggested by the commenters, is appropriate or would address this overlap.

Turning to the commenter's condenser example, as long as the condenser system meets the N.J.A.C. 7:1K-1.5 definition of "in-process recycling," the Department would classify this apparatus as an in-process recycling system. The air pollution control rules, N.J.A.C. 7:26, will not govern or even enter into the determination of "in-process recycling" in the pollution prevention planning program.

During the initial implementation of the program, the Department does not believe that it is necessary, much less possible, to identify and correct in advance all the possible scenarios of apparent inter-program inconsistencies. However, as the need arises, the Department will identify these conflicts and propose changes to N.J.A.C. 7:1K or other Department rules.

D. Other Definitions

a. Summary of Issue

The Act contains a number of specific definitions of key terms, but does not contain definitions for other important terms. In order to provide guidance on some of these terms, the Department proposed a number of regulatory definitions at N.J.A.C. 7:1K-1.5. The Department received comments on the Act's definitions as well as comments on the proposed regulatory definitions.

b. Comments and Responses

1. Comment on definition of "facility"

COMMENT: One commenter (17) recommended that the term "contiguous," as it is used in the statutory and proposed regulatory definition of "facility," be clarified to mean "touching adjacent properties."

RESPONSE: While it is true that the Department historically has been involved in controversy regarding the term "contiguous," these disagreements have been in the context of environmental remediation programs. In these programs, disputes have arisen because it is not always clear where boundaries should be drawn between physical structures and contaminated land. By contrast, the pollution prevention planning program regulates the well-established universe of manufacturing facilities that are also subject to regulation under 42 U.S.C. §11023. In this context, the extent of the physical plants that are considered to be "facilities" have historically not been in dispute. Therefore, the Department does not believe that this term needs to be clarified for the purposes of the pollution prevention planning program and has adopted the definition of "facility" as proposed.

2. Comment on definition of "pilot facility"

COMMENT: One commenter (21) recommended that the phrase "not primarily involved in the production of goods for commercial sale" be removed from the definition of "pilot facility" at proposed N.J.A.C. 7:1K-1.5 in order to be consistent with the statutory definition of this term.

RESPONSE: The statutory definition of pilot facility is circular and does not include any meaning of the term "pilot." See N.J.S.A. 13:1D-37. Therefore, the phrase "not primarily involved in the production of goods for commercial sale" was included in the proposed definition to interpret the meaning of this term. This interpretation is quite broad in scope and is consistent with the use of the term "pilot" in other Department programs.

The proposed definition was developed with the input of industry representatives participating in the Industrial Advisory Group (IAG) and is part of the "Procedure for NJDEPE Air Pollution Control Pilot Plant Permits" dated August 14, 1989. The Department believes that this phrase will help the public and the regulated community understand the statutory definition without altering its substantive meaning. Therefore, the Department has adopted the definition of "pilot facility" as proposed.

3. Comment on definition of "industrial facility"

COMMENT: One commenter (20) felt that the proposed definition of "industrial facility" was overly broad, and suggested that the Department exclude commercial chemical recycling facilities and commercial treatment, storage, or disposal facilities (TSD's) from its scope.

RESPONSE: The definition of "industrial facility" included in the proposed rules is identical to the definition in the Act. While it is true that the list of facilities that meet the definition of "industrial facility" is extensive, the planning requirements of the Act only apply to the subset of "priority industrial facilities" in Standard Industrial Classification Codes 20 through 39 (manufacturing facilities).

There are two mechanisms by which an industrial facility not in SIC Codes 20 through 39 can be classified as a priority industrial facility for the purposes of the Act. One mechanism is through the designation of an entire additional SIC code to the universe of priority industrial facilities pursuant to N.J.S.A. 13:1D-42(h). This mechanism requires rulemaking and notice to the Legislature, and the Act prohibits its use before January 1, 1995. The other mechanism is through the designation of individual facilities as priority industrial facilities pursuant to N.J.S.A. 13:1D-40(c) and 44(a) and N.J.A.C. 7:1K-3.2. As proposed, this mechanism will require the Department to issue a directive designating the facility as a priority industrial facility, and will afford a directed facility the opportunity to appeal its designation.

Regardless of whether the commenter's facility or any other industrial facility is subject to the Act's reporting requirements, the Department urges these facilities to maximize their process efficiencies and save money by evaluating their pollution prevention opportunities.

4. Comment on definition of "pollution prevention"

COMMENT: One commenter (3) suggested that the Department either delete or clarify the phrase "or destructive results" as it appears in the statutory and proposed regulatory definition of "pollution prevention." The commenter noted that an early version of the Act contained this phrase in two places in this definition. The phrase was later dropped from one place in the definition but was retained in the other, leading to confusion.

RESPONSE: Even if the phrase "or destructive results" appeared in two places in an early version of the Act, it appears only once in the definition of "pollution prevention" in the final version of the Act and the Department is bound by this construction. In the context of this definition, the phrase "or destructive results" appears to be a broad description of harm association with the use or release of hazardous substances. Beyond this broad interpretation, the Department does not have any further explanation or insight into this phrase that would warrant clarification of the statutory definition. Therefore, the definition of "pollution prevention" has been adopted without the change requested by the commenter.

SUBCHAPTER 2. POLLUTION PREVENTION ADVISORY BOARD

II. Pollution Prevention Advisory Board

a. Summary of Issue

In addition to establishing the Office of Pollution Prevention, the Act established in the Department the Pollution Prevention Advisory Board, a 13-member board composed of representatives of industry, labor, environmental groups and appropriate scientific disciplines. The composition, role and duties of the Pollution Prevention Advisory Board are described in detail at N.J.S.A. 13:1D-39. The Department proposed to codify these provisions in N.J.A.C. 7:1K-2.

b. Comment and Response

COMMENT: One commenter (17) recommended that the Department not adopt proposed N.J.A.C. 7:1K-2 since it merely repeats N.J.S.A. 13:1D-39.

RESPONSE: Although proposed N.J.A.C. 7:1K-2 is redundant with N.J.S.A. 13:1D-39, the Department believes that it is helpful to have this subchapter as part of the Pollution Prevention Planning Requirements, N.J.A.C. 7:1K. In this fashion, the Pollution Prevention Planning Requirements will outline the full scope of the Department's pollution prevention planning program, and any facility subject to these rules will be fully informed about the Board's existence and duties.

SUBCHAPTER 3. POLLUTION PREVENTION PLANNING REQUIREMENTS

III. Priority Industrial Facilities

A. Designation of Individual Priority Industrial Facilities

a. Summary of Issue

There are two mechanisms by which an industrial facility not in SIC Codes 20 through 39 (that is, not subject to 42 U.S.C. §11023) can be classified as a priority industrial facility for the purposes of the Act. The first mechanism is through the designation of individual facilities as priority industrial facilities pursuant to N.J.S.A. 13:1D-40(c) and 44(a). The second mechanism is through designation of an entire SIC Code to the class of priority industrial facilities pursuant to N.J.S.A. 13:1D-42(h). See Section III-B, below.

Based on N.J.S.A. 13:1D-40(c) and 44(a), the Department proposed criteria and a procedure at N.J.A.C. 7:1K-3.2 for designating individual facilities as priority industrial facilities for pollution prevention planning purposes. As proposed, this mechanism will require the Department to issue a directive designating the facility as a priority industrial facility, and will afford a directed facility the opportunity to appeal its designation.

b. Comments and Responses

1. Comment on designation as final agency action

COMMENT: One commenter (20) objected to the term "final agency action" in proposed N.J.A.C. 7:1K-3.2(d)2, and believed that this was an effort to deprive the regulated community of its right to litigate a directive issued under this section.

RESPONSE: "Final agency action" is a common legal term which is used to signify that an affected party has exercised all available administrative remedies or administrative appeals. Once final agency action has occurred, any further appeals must be taken in a judicial forum. The intent of this section was to inform, not deprive, the regulated community of its litigation rights.

2. Comment on exempting commercial recycling facilities and Treatment, Storage or Disposal (TSD) facilities from N.J.A.C. 7:1K

COMMENT: A commenter (20) suggested that the Department exempt commercial waste recycling and Treatment, Storage or Disposal (TSD) facilities from all pollution prevention planning requirements because hazardous substances and hazardous wastes are the equivalent of raw materials for a manufacturing process and therefore cannot be reduced.

RESPONSE: The Department disagrees. For pollution prevention planning purposes, recycling and treatment operations are no different from manufacturing processes since their process efficiencies can be examined for improvement. For example, if a commercial recycling operation for solvents uses a recovery still, it can be examined to determine whether there are any leaks or equipment improvements that can raise the recovery percentages of the solvent. Therefore, it would not be appropriate to exempt these facilities from all pollution prevention planning requirements.

3. Comments on criteria for designating priority industrial facilities

COMMENTS: Several commenters (14, 17, 19, 20) objected to the Department's four criteria, proposed N.J.A.C. 7:1K-3.2(c), for designating industrial facilities not subject to 42 U.S.C. §11023 as priority industrial facilities. These commenters felt that the proposed criteria give the Department too much authority to single out specific facilities for pollution prevention planning, and could make pollution prevention planning a punitive tool for the Department. One commenter (20) stated that the proposed criteria were too broad and were an attempt to substitute the Department's agenda for legislative intent. Another commenter (14) was concerned that the proposed criteria could be applied to require facilities that do not use, release or generate hazardous substances to conduct pollution prevention planning.

RESPONSE: The Act clearly states that the Department may direct individual facilities to conduct pollution prevention planning **only where the Department has made a written finding that preparation of a pollution prevention plan "could result in a reduction in the use or release of hazardous substances or the generation of hazardous waste or nonproduct output at the industrial facility and a reduction in the threat posed to the environment or public health by the use or release of hazardous substances or the generation of hazardous waste or nonproduct output at the industrial facility."** N.J.S.A. 13:1D-40(c) (emphasis added). The Department interprets this section to require documentation and justification of each designation decision. In addition, the Department proposed a procedure to allow the facility to comment on and appeal these findings prior to final designation. Therefore, it is unlikely that the Department will abuse this authority as suggested by the commenters.

While much of the focus of the Act is on the reducing the use, generation and release of hazardous substances, the Act also contains pollution prevention planning requirements for hazardous wastes. In fact, most of the N.J.S.A. 13:1D-41 pollution prevention planning requirements apply to the use or generation of hazardous wastes (as well as hazardous substances) by industrial facilities. In addition, N.J.S.A. 13:1D-40(c) contains several criteria for designating priority industrial facilities, including "the toxicity and volume of the hazardous substances **or hazardous wastes** (emphasis added) used, generated or released at the industrial facility."

The Department emphasizes that to be designated as a priority industrial facility, a facility must first qualify as an "industrial facility" under the Act, N.J.S.A. 13:1D-37 and these rules, N.J.A.C. 7:1K-1.5.

Because the Department believes that proposed N.J.A.C. 7:1K-3.2 is fully consistent with the spirit and intent of the Act, it has adopted this section without change.

4. Comment on designation procedure

COMMENT: One commenter (19) suggested adding the following language to N.J.A.C. 7:1K-3.2(b): **"and only after the Department follows the procedures listed in 7:1K-3.2(c), (d) and (e):"**;

RESPONSE: As proposed, the Department is already required to follow the procedures listed in N.J.A.C. 7:1K-3.2(c), (d) and (e) and to base its written finding on the criteria in N.J.A.C. 7:1K-3.2(b). Therefore, the Department has not added the suggested language.

5. Comment on alternate designation procedure

COMMENT: One commenter (19) suggested that the first three lines of proposed N.J.A.C. 7:1K-3.2(c) be deleted and rewritten as follows:

> Prior to issuing a draft directive designating an industrial facility for pollution prevention, the Department will publish the list of facilities (or facility) in the New Jersey Register and provide ample time for public comments. At least one public hearing will be held. At the end of the public comment period, if the Department decides (based on cost benefit analysis which substantiates such) to proceed with the designation (inclusion of SIC Code(s) to the Pollution Prevention Program Planning Program), the Department will then issue the list of SIC Codes to the New Jersey State Legislature as provided under N.J.S.A. 13:1D-42(h). One year after this date, the Department will follow the following procedure:

RESPONSE: The Department believes that as originally proposed, the designation procedure provides sufficient opportunity for notice and comment to facilities that are subject to designation. The Department can find no statutory basis or rational reason for imposing such burdensome procedures on itself or the regulated community when a clear procedure is already articulated in the Act and has been incorporated into these rules. The commenter's reference to N.J.S.A. 13:1D-42(h) is misplaced, since the requirement to submit a list of SIC Codes to the Legislature applies to designation of an entire SIC code

and not designation of individual priority industrial facilities. The Department has adopted this section as proposed.

6. Comment on proposed N.J.A.C. 7:1K-3.2(b)1

COMMENT: The commenter (19) recommended that proposed N.J.A.C. 7:1K-3.2(b)1 be rewritten as follows:

> The industrial facility uses or manufactures a hazardous substance currently reportable under SARA Title III, Section 313 (TRI Reporting) and only if it is determined by the Department to pose a significant and immediate risk to human health and is used in quantities greater than 10,000 lbs. a year.

This commenter also asked the Department to define "significant risk" as used in the proposed criterion.

RESPONSE: See Section IV (Modified Thresholds), below.

7. Comment on proposed N.J.A.C. 7:1K-3.2(b)2

COMMENT: One commenter (14) felt that under proposed N.J.A.C. 7:1K-3.2(b)2, the Department would have too much authority to define a "region" of the State and to calculate volumes of hazardous substances or hazardous wastes used to identify facilities that contribute 10 percent of the total amount of hazardous substances or hazardous wastes used in the State or region of the State. The commenter suggested that the Department either delete this criterion or clarify it through additional rulemaking.

RESPONSE: Proposed N.J.A.C. 7:1K-3.2(b)2 is derived directly from N.J.S.A. 13:1D-40(c), which instructs the Department to consider "the extent to which the industrial facility contributed to the total amount of hazardous substances used, generated or released in the State or a region of the State ..." prior to designating an individual facility as a priority industrial facility. Any facility designated as a priority industrial facility under this section will have an opportunity to comment on the definition of "region" through an appeal of the draft directive under N.J.A.C. 7:1K-3.2(d).

8. Comments on proposed N.J.A.C. 7:1K-3.2(b)3

COMMENTS: Several commenters (14, 17, 19, 20) contended that the phrase "history of unpermitted releases or noncompliance" in proposed N.J.A.C. 7:1K-3.2(b)3 is too vague and should be deleted. One of these commenters (14) suggested narrowing this criterion to read:

> The industrial facility has a **significant ongoing** history of unpermitted releases **of hazardous substances and** non-compliance with the terms of any permit **or** certificate, **regulating the use or discharge of hazardous substances** issued to the owner or operator ...";

Another commenter (19) suggested that this criterion should require a history of "willful and significant" unpermitted releases or non-compliance.

RESPONSE: Proposed N.J.A.C. 7:1K-3.2(b)3 is derived directly from N.J.S.A. 13:1D-40(c), which instructs the Department to consider "the history of unpermitted releases at the industrial facility" and "the past performance of the industrial facility and the compliance of the industrial facility with [certain permits]" prior to designating an individual facility as a priority industrial facility. While the Department agrees that the statutory term "history" can be applied subjectively, the Department believes that the use of the terms "significant" and "serious," as suggested by the commenters, would be equally problematic. In any event, a facility designated as a priority industrial facility under this section will have the opportunity to comment on the Department's written findings by appealing the Department's written directive under N.J.A.C. 7:1K-3.2(d).

9. Comment on proposed N.J.A.C. 7:1K-3.2(b)4

COMMENT: One commenter (14) stated that proposed N.J.A.C. 7:1K-3.2(b)4 is so broad that it would encompass nearly every facility in the State. The commenter suggested either deleting this criterion or amending it to read:

> The industrial facility is the subject of **current** emergency management actions **relating to the use, manufacture, generation or release of any hazardous substances in excess of the threshold amount** taken by the Department ...

RESPONSE: The Department agrees with the commenter that this criterion could be interpreted to apply to almost any industrial facility in the State. The Department's original intent in proposing this criterion was to allow the use of pollution prevention planning as a tool in addressing emergency environmental situations such as inadequate landfill capacity or lack of available sludge management options. On adoption, the Department has revised this subsection to make it more specific. However, since it is impossible to predict whether the presence of hazardous substances in quantities less than the threshold will lead to these types of emergency situations, the Department has not adopted any reference to "threshold" as suggested by the commenter.

B. Designation of entire SIC Code as Priority Industrial Facility

a. Summary of Issue

N.J.S.A. 13:1D-42(h) provides for the designation of an entire SIC Code to the class of priority industry facilities required to conduct pollution prevention planning under the Act. The Act requires the Department to conduct this designation through rulemaking and notice to the Legislature. In addition, the Act specifically prohibits the use of this designation mechanism before January 1, 1995.

b. Comments and Responses

1. Comment on omission of N.J.S.A. 13:1D-42(h) procedure

COMMENT: One commenter (19) was concerned that the proposed rules did not contain a procedure for designating an entire SIC Code as a priority industrial facility as authorized by N.J.S.A. 13:1D-42(h).

RESPONSE: There are two reasons why the Department did not include a procedure for implementing N.J.S.A. 13:1D-42(h). First, since the Department is not authorized to designate an entire SIC Code until January 1, 1995, it appeared premature to propose a description procedure. Second, at this early stage in the pollution prevention planning program the Department does not have enough information by which to single out any SIC Codes for designation.

To clarify this matter, the Department has reserved a section at N.J.A.C. 7:1K-3.3 regarding designation of entire SIC Codes as priority industrial facilities.

2. Comment on designation of SIC Code 4911

COMMENT: One commenter (19) argued that SIC Code 4911, which covers establishments engaged in the generation, transmission, and/or distribution of electric energy for sale, should be specifically excluded from future designations of priority industrial facilities by SIC Code.

RESPONSE: The pollution prevention planning and reporting requirements of the Act apply to "priority industrial facilities," which are defined as those facilities required to report pursuant to 42 U.S.C. §11023 as well as certain other facilities designated by the Department on an individual basis or by SIC Code. At the national level, there are proposals before Congress to expand the universe of facilities which are required to report pursuant to 42 U.S.C. §11023. Any expansion at the Federal level of the universe of facilities required to report pursuant to 42 U.S.C. §11023 would be beyond the Department's control and would automatically subject these facilities to the pollution prevention planning and reporting requirements of the Act.

At this time, the Department is not actively involved in efforts to expand the list of facilities regulated under 42 U.S.C. §11023. However, it it unlikely that the Department would be opposed to the addition of any facilities within the two-digit Code group 49, since this group includes incinerators and other waste treatment facilities which possibly do have significant environmental impacts that could be reduced through pollution prevention planning. In particular, coal-burning facilities within SIC Code 4911 have been shown to emit potentially environmentally significant quantities of at least one hazardous substance, mercury.

As discussed above, the Department is not authorized to designate facilities as priority industrial facilities by SIC Code until January 1, 1995, and this procedure will require rulemaking and notice to the Legislature before it is initiated. Given this limitation, and given the potentially detrimental environmental impact of facilities in SIC Code 4911, the Department does not intend to adopt the commenter's suggestion at this time.

IV. Modifying Hazardous Substance Planning Thresholds

a. Summary of Issue

Pursuant to N.J.S.A. 13:1D-40(d), the Department may establish a pollution prevention planning threshold quantity of up to 10,000 pounds for any hazardous substance used or manufactured at an industrial facility below which information on the hazardous substance need not be included in a Pollution Prevention Plan, Plan Summary or Plan Progress Report. In proposed N.J.A.C. 7:1K-3.4(a), the Department proposed to establish a facility-wide pollution prevention planning threshold of 10,000 pounds for all hazardous substances regulated under the Act. The Department also proposed a procedure at N.J.A.C. 7:1K-3.4(b) for establishing pollution prevention planning thresholds of less than 10,000 for particular regulated hazardous substances.

In addition, the Department proposed to look at whether "the industrial facility uses or manufactures a hazardous substance determined

by the Department to pose a significant risk to human health or the environment in quantities less than 10,000 pounds per year" as one of the criteria for the designation of an industrial facility not regulated by 42 U.S.C. §11023 as a priority industrial facility. See proposed N.J.A.C. 7:1K-3.2(b)1.

b. Comments and Responses

1. Comment on threshold setting vs. designation as a priority industrial facility

COMMENT: One commenter (14) stated that the Department's criteria for designating an industrial facility not subject to 42 U.S.C. §11023 as a priority industrial facility (proposed N.J.A.C. 7:1K-3.2(b)1) were inconsistent with the Department's procedure for establishing pollution prevention planning thresholds for hazardous substances of less than 10,000 pounds (proposed N.J.A.C. 7:1K-3.4(b)1). The commenter's underlying concern was that the Department, at its whim, might regulate facilities outside of the intended scope of the Act.

RESPONSE: The Department agrees that proposed N.J.A.C. 7:1K-3.2(b)1 and 3.4(b)1 are potentially contradictory. Therefore, the Department has clarified proposed N.J.A.C. 7:1K-3.2(b)1 to state that the Department will only designate an industrial facility as a priority industrial facility on the basis of the "less than 10,000 pounds" criterion if the Department has already established a threshold less than 10,000 pounds for the substance in question through the rulemaking procedure at proposed N.J.A.C. 7:1K-3.4(b)1. This criterion will now read as follows:

> The industrial facility uses or manufactures a hazardous substance in a quantity greater than the threshold established for the hazardous substance pursuant to N.J.A.C. 7:1K-3.4(a) or (b).

2. Comment on definition of "significant risk"

COMMENT: One commenter (20) requested that the Department define "significant risk" as that term is used in proposed N.J.A.C. 7:1K-3.2(b)1.

RESPONSE: As discussed in the above response, the Department has deleted the phrase "significant risk" from proposed N.J.A.C. 7:1K-3.2(b)1. Under the clarified criterion, the Department will establish thresholds of less than 10,000 pounds through rulemaking, and will demonstrate through the issuance of a basis and background document that the use or manufacture of a particular hazardous substance in quantities less than 10,000 pounds poses a significant risk to human health, including risks to occupational and consumer health, or the environment.

3. Comment on criteria for establishing pollution prevention planning thresholds of less than 10,000 pounds

COMMENT: One commenter (17) requested that the Department promulgate clear scientific criteria for the establishment of pollution prevention planning thresholds of less than 10,000 pounds. The commenter suggested that the scientific basis for proposing thresholds of less than 10,000 pounds should only include studies which have undergone peer reviews. The commenter also felt that the Department should allow an industrial facility which uses or manufactures a substance for which the threshold is lowered a minimum of 18 months to prepare a Pollution Prevention Plan and Plan Summary containing information on the substance at the new threshold.

RESPONSE: Pursuant to N.J.A.C. 7:1K-3.4(b), the Department has established a procedure for modifying threshold quantities for pollution prevention planning. As part of that formal rulemaking procedure, the Department must develop a basis and background document justifying its determination that the use or manufacture of a particular hazardous substance in quantities less than 10,000 pounds poses a significant risk to human health, including risks to occupational and consumer health, or the environment. The basis and background document will be available for public review during the comment period on the proposed threshold.

The Department agrees with the commenter that pollution prevention planning and modification of pollution prevention plans can be time consuming. On adoption, the Department has clarified that N.J.A.C. 7:1K-3.4(c) allows the owner or operator of a priority industrial facility that uses or manufactures a hazardous substance for which the threshold has been lowered up to 12 months to modify the facility's Pollution Prevention Plan to reflect the lower threshold. The Department believes that one year is sufficient time for facilities to make the necessary modifications to their Pollution Prevention Plans.

V. Designation of Additional Chemicals

a. Summary of Issue

The definition of "hazardous substance" at N.J.S.A. 13:1D-37 defines the universe of hazardous substances regulated by the Act and the pollution prevention planning program as (1) those substances regulated under Section 313 of the Federal Emergency Planning and Community Right to Know Act (SARA Section 313), and (2) any other substance which the Department defines as a hazardous substance for pollution prevention planning purposes pursuant to N.J.S.A. 13:1D-42(i). In accordance with N.J.S.A. 13:1D-42(i), the Department may designate additional hazardous substances for which pollution prevention is required by establishing designation criteria through rulemaking.

During the pre-proposal process, the Department suggested both developing designation criteria and using these criteria in order to add to the list of hazardous substances covered by the Act four substances which are currently regulated under the New Jersey Worker and Community Right-to-Know Act, N.J.S.A. 34:5A-1 et seq., but not regulated under the SARA Section 313 list. The Department made this suggestion because it believed that the discrepancy between the pollution prevention planning list and the State Right-to-Know list was an oversight. Several commenters strongly objected to this suggestion, stating that they believed the Legislature intended the Department to begin the pollution prevention planning program with a relatively small list of regulated substances.

Accordingly, the Department decided not to propose addition of the four substances in question, and focused instead on establishing criteria for future additions of hazardous substances to the list of substances regulated under the Act. The three criteria proposed at N.J.A.C. 7:1K-3.5(a), which are derived from the criteria at N.J.S.A. 13:1D-42(i), are:

(1) Prior regulation as a hazardous substance pursuant to 42 U.S.C. §11023; the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.; Section 4 of the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-9 et seq.; or the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601;

2. Consideration of the hazardous substance's risk to human health or the environment; and

(3) Evidence of the production of the substance in commercial quantities that are used as a commodity in the trade in the channels of commerce by the general public.

b. Comments and Responses

1. Comments on addition of four Right-to-Know chemicals

COMMENTS: Several commenters (11,23) objected to the Department's decision to not propose addition of the four chemicals on the State Right-to-Know list which are not on the SARA Section 313 list to the list of hazardous substances regulated under the Act.

RESPONSE: While the Department continues to believe that the discrepancy between the State Right-to-Know list and the list of substances regulated under the Act was an oversight, it has elected not to make any additions to the pollution prevention planning list at this time. As discussed during the pre-proposal process, a number of industry commenters strongly objected to expansion of the Act's list at the outset of the pollution prevention planning program. In response to these concerns, and as an incentive for better pollution prevention planning, the Department decided to implement the pollution prevention planning program using the list of hazardous substances regulated under SARA Section 313. However, in the future the Department will consider adding the four chemicals which are listed on the State Right-to-Know list but not on the SARA 313 list in order to achieve greater consistency between the programs.

2. Comments on listing hazardous substances regulated under other statutes

COMMENTS: Several commenters (11, 23) believed that any hazardous substances regulated under the other statutes listed in proposed N.J.A.C. 7:1K-3.5(a)1 should be regulated under the Act to avoid shifting production from listed toxic substances to ulisted ones. These commenters also asserted that the second proposed criterion for designation of additional hazardous substances, N.J.A.C. 7:1K-3.5(a)2, was duplicative. Finally, the commenters stated that the third proposed criterion N.J.A.C. 7:1K-3.5(a)3, is both unnecessary (because reporting is based on threshold amounts) and faulty (in that it may not account for cases of incidental and infrequent use which also merit application of pollution prevention techniques.)

RESPONSE: The criteria at proposed N.J.A.C. 7:1K-3.5(a) are based directly on N.J.S.A. 13:1D-42(i), which instructs the Department to

establish criteria for the expansion of the covered hazardous substance list that "**shall include** a consideration of the toxicity of a substance, evidence of the production of the substance in commercial quantities, and prior regulation as a hazardous substance pursuant to P.L. 1976, c.141 [N.J.S.A.] 58:10-23.11 et seq., section 4 of P.L. 1985, c.403 [N.J.S.A.] 13:1K-22, or 42 U.S.C. §9601." (emphasis added) Thus, although this section authorizes the Department to promulgate additional criteria for designating substances to the list of substances regulated under the Act, the three criteria in question are the minimum criteria which must be considered under the Act. In the proposed rules, the Department did not develop additional designation criteria, but merely clarified these three criteria based on input from commenters during the pre-proposal process.

3. Comment on limiting regulated substances to SARA Section 313 list

COMMENT: One commenter (17) felt that the list of hazardous substances regulated under the Act should be restricted in perpetuity to the same substances covered under SARA section 313 (42 U.S.C. §11023).

RESPONSE: As discussed above, the Department has elected to limit the list of hazardous substances regulated under the Act to the same list of hazardous substances regulated under SARA 313, at least at the outset of the pollution prevention planning program. However, the Act clearly authorizes the Department to designate substances other than SARA 313 substances for pollution planning purposes, N.J.S.A. 13:1D-42(i), and the Department intends to designate additional substances in the future as appropriate. At a minimum, the Department would like to achieve consistency in reporting among the pollution prevention planning program, the State Right-to-Know program, and the SARA 313 program at some point in the future.

5. Comment on scientific criteria for designation

COMMENT: One commenter (17) suggested that the Department should only adopt new hazardous substances to the Act's list based on scientific criteria.

RESPONSE: Under N.J.A.C. 7:1K-3.5(a), the Department has established a procedure for designating additional substances for pollution prevention planning purposes. Under this procedure, the Department must consider three criteria for the addition of new hazardous substances to the Act's list, one of which includes an evaluation of risk (N.J.A.C. 7:1K-3.5(a)2), and must propose the designation of the additional substance through rulemaking. As part of the formal rulemaking procedure, the Department will develop a basis and background document justifying its proposed designation of the substance for regulation under the Act. In the event that the Department proposes to establish a threshold of less than 10,000 pounds for the designated substance, the basis and background document will also outline the risk assessment methodology used to determine "significant risk" as required by N.J.A.C. 7:1K-3.4. The basis and background document will be available for public review during the public period on the proposed designation.

VI. Pollution Prevention Planning Document Updates

A. New Processes

a. Summary of Issue

The Act exempts an owner or operator of an industrial facility from including in a Pollution Prevention Plan, Pollution Prevention Plan Summary or Pollution Prevention Plan Progress Report "information pertaining to **improvements in pollution prevention** (emphasis added) for a production process established after January 1, 1992 until the first five-year revision of the pollution prevention plan and pollution prevention plan summary prepared for the industrial facility at which the production process is carried out after the establishment of the production process, or until five years after the establishment of the production process, whichever occurs later." N.J.S.A. 13:1D-40(f). As discussed at length during the pre-proposal process, the Department interprets the subject of this exemption, "improvements in pollution prevention," to mean the identification of pollution prevention improvements and methods required by the Act as part of Part II of a Pollution Prevention Plan. Therefore, the Department has not interpreted N.J.S.A. 13:1D-40(f) to exempt new processes from the requirements of Part I of a Pollution Prevention Plan.

During the pre-proposal process, the Department solicited input on criteria to distinguish a "new" process from a "modified" process for the purpose of implementing this exemption. These criteria were proposed at N.J.A.C. 7:1K-3.8(c)1. As defined by these criteria, new processes would receive a five-year exemption from Part II planning; modified processes would not receive this exemption and facilities would be required to revise their Pollution Prevention Plans, Plan Summaries, and Progress Reports to reflect the modified process.

Comments on the Plan modification procedure, proposed N.J.A.C. 7:1K-3.8, are addressed in Section VI B, below.

b. Comments and Responses

1. Comments on Part I planning for new processes

COMMENTS: Several commenters (17, 21) asserted that the Act precludes the Department from requiring facilities to conduct Part I pollution prevention planning for new processes established after January 1, 1992 prior to the next five-year revision of the Pollution Prevention Plan or five years after the new process is installed, whichever is later.

RESPONSE: As noted in the summary of issue above, the N.J.S.A. 13:1D-40(f) reporting exemption applies to information on **improvements** in pollution prevention for new production processes. The Department interprets this to mean that it cannot require facilities to compile Part II information about specific pollution prevention methods before the first five-year plan revision or five years after the new process is installed, whichever comes later. However, the Department does not think that this language was intended to exempt facilities from preparing the basic Part I process information for a new process, since this information should be readily available for a newly designed process.

However, in response to the comments received on this issue, the Department plans to propose an amendment to N.J.A.C. 7:1K-3.8(c) to further limit the information required to be collected for new processes. The Department will propose to exempt facilities from preparing part IB **and** Part II of a Plan for new processes, and will not require completion of Part IA until the first five-year revision of the Plan and Plan Summary or five years after the new process is established, whichever is later. As discussed above, Part IA of a Pollution Prevention Plan will normally remain on site at the facility and will not be disclosed to the public. This part of the Plan contains certifications and estimates of inventory and throughput data, generation of non-product output data and cost data, none of which concern pollution prevention improvements.

2. Comments on criteria for new production processes

COMMENTS: One commenter (11) supported the rationale for exempting new, "state-of-the-art" processes from the requirement of modifying a Plan within 90 days. However, the commenter expressed concern that the criteria for defining new processes, proposed N.J.A.C. 7:1K-3.8(c)1ii and iii, are too broad, and suggested that the Department delete them.

Another commenter (23) also stated that proposed N.J.A.C. 7:1K-3.8(c)1ii and iii are too broad. The commenter argued that it would be inappropriate to allow the types of process modifications listed in these criteria to qualify as new processes, thereby preventing the public from having information about new processes until, at the earliest, when a five-year plan revision is completed. In particular, the commenter felt that application of proposed N.J.A.C. 7:1K-3.8(c)1ii and iii would exempt any product reformulation or process modification from reporting for a minimum of five years.

Another commenter (17) stated that the proposed N.J.A.C. 7:1K-3.8(c)1 criteria were too narrow and suggested a variety of examples of what should constitute a new process.

RESPONSE: The Department believes that the Legislature intended for facilities to define their own processes for pollution prevention planning purposes under the Act. The Department has tried to incorporate flexibility into this chapter in order to assist facilities in optimizing their pollution prevention opportunities. The three criteria at proposed N.J.A.C. 7:1K-3.8(c)1 were developed to be consistent with this approach.

The purpose of requiring facilities to complete Part IA of a Plan for new processes is to provide baseline efficiency data by which the Department can measure future improvements in pollution prevention and perform the trends analysis required by N.J.S.A. 13:1D-45. The public will not have access to this information because Part IA of a Plan will normally be kept on site at the facility. However, the public will still have access to facility-level release information reported in future Pollution Plan Progress Reports.

The Department believes that in most instances, the examples cited by the commenter (17) would qualify as new processes under these criteria, and, therefore, disagrees that the criteria are too narrow.

3. Comment on new TRI chemicals as new processes

COMMENT: One commenter (17) stated that the Department should classify the addition of new chemicals to the Toxic Reduction Inventory (TRI) list by the U.S. Environmental Protection Agency (EPA) as a "new

process," and that new TRI chemicals should be exempt from reporting for five years.

RESPONSE: The Department believes that it would be inconsistent with the N.J.S.A. 13:1D-40(f) exemption to classify the addition of chemicals to the TRI list as a "new process" since the listing procedure does not constitute a "production process" as defined by the Act. N.J.S.A. 13:1D-37. That is, if a production process using a non-TRI chemical exists before January 1, 1992, the U.S. EPA's action does not "establish" the process, but rather, brings it under the purview of the Act. Thus, the exemption would only apply if the establishment of the process and the TRI listing both occur after January 1, 1992.

On adoption, the Department has substituted the phrase "calendar year" for the word "date" in proposed N.J.A.C. 7:1K-3.8(d), to clarify that if the U.S. Environmental Protection Agency adds substances to the TRI list, facilities have a minimum of 12 months in which to modify their Pollution Prevention Plans and Plan Summaries to include information about newly listed substances.

c. Conclusion

The legislative intent of N.J.S.A. 13:1D-40(f) appears to be to exempt industrial facilities from the pollution prevention planning requirements for "information pertaining to improvements in pollution prevention" for new production processes because a new production process will already be subject to "state-of-the-art" reviews by the facility and various regulatory programs prior to its implementation. Therefore, there is an expectation that pollution prevention methods will already be incorporated into a new production process. Regardless of whether this expectation proves to be true, the logical application of the assumption is to exempt industrial facilities from the Part II planning requirements, in which the new production process would be subject to a feasibility analysis of pollution prevention options, but not from Part I planning requirements, which only describe and inventory new processes. In addition, as has been discussed throughout the rulemaking process, Part I inventory information on new processes will be necessary for future analysis of reporting data. This data may assist the Department in performing the trend analysis required by N.J.S.A. 13:1D-45.

The Department has adopted proposed N.J.A.C. 7:1K-3.8(c) without change. However, in response to comments on this issue, the Department plans to propose an amendment to this subsection to require the preparation of only Part IA (and not Part IB) of a Plan for a new process for the first five years after it is established.

B. Modifications of Plans, Plan Summaries, and Plan Progress Reports

a. Summary of Issue

When a priority industrial facility undertakes a significant change in its operations, N.J.S.A. 13:1D-42(d) requires the facility to update Part IA of its Plan and to update the information required to be reported in its Plan Summary. The information that must be updated in Part IA of the Plan includes the facility-level and process level inventory data which is used to identify potential pollution prevention opportunities.

In addition, N.J.S.A. 13:1D-42(d) requires a facility to update Part IB of its Plan annually, whether or not it has made any significant changes in its operations. The information that must be updated in Part IB of a Plan includes the information needed to prepare the facility's annual Plan Progress Report data and a reassessment of the facility's goals.

During the pre-proposal process, the Department attempted to use criteria for a "modified process" to help define "new processes" which would receive an exemption for reporting improvements in pollution prevention progress under N.J.S.A. 13:1D-40(f). See discussion in Section VI Aa, above. This created considerable confusion about what would trigger a Plan modification/update. As a result, the Department decided not to propose separate "modified process" criteria and chose to rely instead on a single set of plan modification criteria.

In proposed N.J.A.C. 7:1K-3.8(a), the Department restated its statutory authority to require plan updates for "significant changes" and gave examples of types of "significant changes" that would require the Part IA and Plan Summary update. These updates were termed "modifications" to distinguish them from the annual Part IB updates required by N.J.S.A. 13:1D-42(d). In addition, in proposed N.J.A.C. 7:1K-3.8(b), the Department identified situations where a facility must modify its Plan Progress Report in addition to its Plan and Plan Summary. The proposed rules also included criteria for identifying new production processes for the purposes of the N.J.S.A. 13:1D-40(f) exemption. See proposed N.J.A.C. 7:1K-3.8(c).

It was evident from the comments received on the proposal that there is continued confusion about what constitutes a new process and what is only a modified process, and on how this distinction affects the facility's obligation to update or modify its Plan.

b. Comments and Responses

1. Comment on overlap of new process and modified process criteria

COMMENT: One commenter (17) stated that the proposed criteria for modified processes, N.J.A.C. 7:1K-3.8(a) and (b), overlap the "new processes" criteria proposed at N.J.A.C. 7:1K-3.8(c) and should therefore not be adopted.

RESPONSE: The Department recognizes that the differences in the criteria in proposed N.J.A.C. 7:1K-3.8(a), (b), and (c) may not be readily apparent, but believes that there are important distinctions between the three subsections. The modification criteria, N.J.A.C. 7:1K-3.8(a) and (b), describe changes to operations, which do not establish new products and which do not qualify for the new process exemption. These criteria encompass reclassification of materials that are already produced by the facility, or using, generating as nonproduct output or releasing a new hazardous substance (without the production of a new product). If these criteria apply, a facility is required to update its Plan and Plan Summary in order to keep those documents current. By contrast, the new processes criteria, N.J.A.C. 7:1K-3.8(c) describe situations involving the production of new products.

A few examples may help highlight these distinctions. One potential conflict or area of confusion is when a facility reclassifies an existing nonproduct output as a product, intermediate product, or co-product. Under N.J.A.C. 7:1K-3.8(c)2, this change would not qualify as a new process since it only involves renaming an existing material.

As another example, a facility may make a new product using new hazardous substances and generating new nonproduct output. This would qualify as a modified process under N.J.A.C. 7:1K-3.8(a)2, but also as a new process under N.J.A.C. 7:1K-3.2(c)1. In this situation, the new process exemption would supersede the plan modification criteria and no plan modification would be necessary.

The Department believes that some of the confusion on this issue can be resolved by consolidating and streamlining N.J.A.C. 7:1K-3.8(a) and (b), and plans to propose clarifying amendments to these sections. See next response.

2. Comments on time frame for plan modification

COMMENTS: Three industry commenters (4, 17, 21) requested that the Department not require facilities to modify Plans and Plan Summaries within 90 days of triggering the modification criteria, as proposed in N.J.A.C. 7:1K-3.8(a) and (b). The commenters were concerned that the Act does not mandate the 90-day time frame and asserted that the proposed modification requirements were inflexible nad burdensome, particularly for businesses that manufacture a large number of products with frequent production changes. One commenter (21) recommended that the Department drop proposed N.J.A.C. 7:1K-3.2(a) and (b). The other commenters suggested that the Department increase the proposed 90-day time frame to one year, to allow facilities to update their Plans annually at the same time they prepare their Plan Progress Reports.

RESPONSE: The Department recognizes the need for a simple and direct way for priority industrial facilities to keep their Plans, Plan Summaries and Plan Progress Reports up to date in the five years between Plan revisions. However, facilities will undoubtedly experience unforeseen events during the five-year planning period that will require information to be updated to meet the new conditions and ensure the accuracy of the data.

The Department believes that the criteria in N.J.A.C. 7:1K-3.8(a) and (b) describe the range of situations where information should be updated. However, after reevaluating the criteria, the Department believes that having two separate sections tied to the three different reports (that is, N.J.A.C. 7:1K-3.8(a) for Part IA of a Plan and 3.8(b) for Plans, Plan Summaries and Plan Progress Reports) creates unnecessary confusion. Therefore, the Department will propose an amendment to combine and clarify these subsections. Under the consolidated subsection, the criteria for modifying a Plan, Plan Summary or Plan Progress Report will be:

i. Ceasing operation of a targeted production process or significantly expanding the operation of a targeted production process;

ii. Installing a new and different primary component in a targeted production process or removing a primary component from a targeted production process;

iii. Using, releasing, or generating as nonproduct output a hazardous substance at a targeted production process which was not used, released or generated when the current Pollution Prevention Plan was completed;

iv. Reclassifying an existing nonproduct output as a product, intermediate product, or co-product;

v. Modifying a grouping decision that affects a targeted process;
vi. Modifying a targeting decision; or
vii. Whenever the facility wishes to update its Plan, Plan Summary or Plan Progress Report.

The first three criteria on the consolidated list will apply when a facility changes a targeted process in a way that calls into question the data originally collected for that process in Part IA of the Plan. The fourth through sixth criteria will apply if the facility makes administrative changes to the Plan which could affect future reporting. In addition, a facility may voluntarily update its Plan whenever it wants to.

Besides consolidating these criteria, the Department believes that other changes can be made to improve the efficiency of the updating process. First, the Department agrees that there is no need to require a 90-day time frame for Plan modification, and will propose to allow facilities to update their Plans by July 1 of each year to coincide with the submission of the Plan Progress Report.

Second, the Department will propose changes to the format of the Plan Progress Report to allow the facility to identify the appropriate criteria that triggered a Plan modification during the year by simply checking off a yes or no box beside each criterion. If a "yes" box is checked, a facility will need to update the **Process-level Information** and the **Process-level Inventory Data** in Part IA of its plan (see N.J.A.C. 7:1K-4.3(b)3 and 4) for **targeted processes** that are affected by any of these changes. A facility will also be required to update the description of the targeted process that appears in Part II of its Plan if any of the changes have affected that description.

These update requirements will only apply directly to the Plan. However, if the update makes the Plan inconsistent with the Plan Summary, then the facility will be required to submit changes to the Plan Summary to be consistent with the updated Plan. The Department will propose to require facilities to resubmit only the appropriate page of the Plan Summary that is inconsistent with a previous page filed with the Department. If the old page contains confidential information, it will be returned to the facility.

The fundamental purpose of these amendments will be to stress that Plan information must be updated annually for changes related to targeted processes to ensure accuracy of the process-level data originally collected about that process, or a change in the administration of the Plan that would alter the grouping, targeting, or "output" classification surrounding a targeted production process. Under the new procedure, information concerning non-targeted processes will not need to be updated until the five-year revision of the entire Plan.

The final aspect of Plan modification concerns the pollution prevention options the facility has chosen, the implementation schedule for starting and completing those options and the use and nonproduct output reduction goals which the facility is attempting to achieve. In Part IB of the Plan, the part of the Plan that mirrors the Progress Report and that must be annually updated, facilities are asked to reassess their pollution prevention goals. This reassessment will presumably involve determining if the goals are pessimistic, optimistic, or realistic. Depending on the result of this reassessment, the facility may wish to update its techniques, its implementation schedule, and/or its goals in the Plan. If the facility decides to do this, it must update the Plan Summary when the next Progress Report is due. This will maintain consistency between the Plan and Plan Summary. In this situation, the Department will propose to allow facilities to send in new substitute pages to update the Plan Summary in lieu of submitting a new Plan Summary.

3. Comment on authority for requiring Plan or Plan Summary modification

COMMENT: One commenter (17) claimed that the Department did not have the statutory authority to require facilities to modify their Plans and Plan Summaries under the criteria at proposed N.J.A.C. 7:1K-3.8(a)1 and 2.

RESPONSE: Proposed N.J.A.C. 7:1K-3.8(a)1 and 2 are derived directly from N.J.S.A. 13:1D-42(d), which requires owners or operators of industrial facilities to update the information in a Plan or Plan Summary "if a significant change in the operation of the priority industrial facility occurs, including the cessation or major expansion of a production process, the installation or removal of primary components of a production process, or the use or release of a hazardous substance, or the generation of a hazardous waste, which was not used, released, or generated when the initial pollution prevention plan was completed." The Department used the language in the Act to define what changes would trigger a modification of Part IA of a Plan. The only difference between N.J.S.A. 13:1D-42(d) and proposed N.J.A.C. 7:1K-3.8(a)1 and 2 is that the Department added "nonproduct output" to the second criterion to make it consistent with the rest of N.J.A.C. 7:1K.

VII. Submission and Review of Pollution Prevention Plans

A. Plan Submittal Criteria

a. Summary of Issue

N.J.S.A. 13:1B-43(a) clearly provides the Department with the authority to require a facility to submit its Pollution Prevention Plan for review. The Department restated this provision in proposed N.J.A.C. 7:1K-3.9(b). However, in the proposal, the Department stated that as a policy matter it would routinely allow facilities to keep their Plans on site, rather than requiring Plans to be submitted.

The Plan submittal issue was not identified by industry as an area of concern until late in the pre-proposal process, when the Confidentiality Task Force began looking at procedures to ensure that confidential information in submitted Plans would be adequately protected. During the pre-proposal process, a few commenters asked that the Department establish criteria for Plan submittal and review. These commenters felt that Plan submittal and plan approval criteria are interwoven since any review of Plans that did not take place on-site would require submission to the Department. In response to these comments, the Department proposed review criteria in N.J.A.C. 7:1K-3.9(d).

The Department's proposal to codify N.J.S.A. 13:1D-43(a) at N.J.A.C. 7:1K-3.9(b) sparked a strong reaction and a significant amount of comment from the industrial community.

b. Comments and Responses

1. Comments opposing Plan submittal authority

COMMENTS: Numerous commenters (4, 5, 17, 19, 20, 21, 26) recommended that the Department not exercise its authority to require Plan submittal. These commenters were opposed to requiring Plan submittal under any circumstances for the following reasons:

- Plan submittal would cause facilities to lose direct control over business information which is gathered together in one place only because it is required for completion of a Plan.
- Plan submittal creates the potential for unfair competition from other businesses that might gain information through wrongful access to Department records or through access to former Department employees.
- Plan submittal is perceived as a type of micromanagement by the Department.
- Maintaining the Plan only at the facility is perceived as consistent with the philosophy of giving individual facilities control of their Plans; Plan submittal is perceived as contrary to this philosophy.
- Plans are the property of the facility, not the Department or the public.

RESPONSE: While the statutory authority for Plan submittal is clear, N.J.S.A. 13:1B-43(a), the Department is also sympathetic to industry's concern that Plan submittal presents a potentially significant disincentive to the development of comprehensive Pollution Prevention Plans. The Department has tried to develop the pollution prevention planning program in a way that promotes Plan development and implementation as an integral component of corporate decision-making. In addition, the Department has tried to base the pollution prevention regulations on a "good actor" philosophy (that is, on the assumption that industry will want to comply with the Act), in part because pollution prevention has been documented to be cost-effective to industry. Therefore, one of the Department's objectives is to encourage facilities to perceive their Plans as internal planning tools instead of a document prepared for compliance purposes.

After reconsidering this issue, the Department has decided, with two exceptions, to propose that it will not use the Plan submittal authority at N.J.S.A. 13:1B-43(a) until at least 1996. The two circumstances under which Plan submittal will be required are: (1) if a facility applies for a facility-wide permit pursuant to N.J.A.C. 7:1K-7.1 and (2) if a facility requests an out-of-process recycling authorization under N.J.A.C. 7:1K-4.7. In 1996, the Department will make recommendations regarding plan submittal as part of the report to the Legislature required by N.J.S.A. 13:1D-45.

Except as discussed above, the Department will propose to review Pollution Prevention Plans on site at priority industrial facilities under the Plan Review Criteria at proposed N.J.A.C. 7:1K-3.9(d).

2. Comment on developing Plan submission criteria

COMMENT: Several commenters (14, 15, 23) recommended that the Department develop criteria for when it would require Plan submission under proposed N.J.A.C. 7:1K-3.9(b). These commenters felt that Plan

submission criteria were necessary in order to prevent arbitrary requests from the Department for Plan submission, and to clarify the Department's policy of not routinely requiring Plan submission.

RESPONSE: As discussed above, the Department plans to propose to limit Plan submission to situations where a facility files a facility-wide permit application under N.J.A.C. 7:1K-7.1 or requests an out-of-process recycling authorization under N.J.A.C. 7:1K-4.7.

3. Comment on advance notice of Plan submittal

COMMENT: Two commenters (9, 15) stated that the Department should give facilities more than 30 days advance notice before requiring Plan submittal. The commenters felt that 30 days was not an adequate period of time for a facility to prepare and file a confidentiality claim under N.J.A.C. 7:1K-9.4(a).

RESPONSE: The Department agrees with the comment and has modified this time period to 45 days on adoption of proposed N.J.A.C. 7:1K-3.9(c).

4. Comment on submittal authority under the Act

COMMENT: One commenter (21) characterized N.J.S.A. 13:1D-43(a), which gives the Department Plan submittal authority, as a "well acknowledged error." This commenter believed that the Legislature did not ever intend to require Plans to be submitted to the Department.

RESPONSE: The Department disagrees with the commenters' statement that the Legislature erroneously included Plan submittal authority in N.J.S.A. 13:1D-43(a). Based on its involvement with the deliberations leading up to the passage of the Act, the Department believes that the legislative intent was to not **routinely** require plan submittal, but to provide the Department with the authority to require Plan submittal on a non-routine basis. It is particularly noteworthy that earlier drafts of the Act, such as the Senate Committee Substitute for S-2220, dated May 17, 1990, did **not** include Plan submittal authority but the subsequent and final drafts of the Act did.

Regardless of the Department's or any member of the public's recollection of the Legislature's deliberations, the Plan submittal authority in the Act is clear. However, for the reasons discussed in the response to Comment 1, above, the Department plans to propose to limit its implementation of the Plan submittal authority. The Department will be taking this action in an effort to promote the development of comprehensive and aggressive Plans by priority industrial facilities. During the initial years of the pollution prevention planning program, the Department will evaluate whether limiting its Plan submittal authority has acted as an incentive to effective pollution prevention planning.

B. Plan Review Criteria

A. Summary of Issue

The Act authorizes (but does not require) the Department to review and approve Pollution Prevention Plans. N.J.S.A. 13:1D-43(a) and (b). The Act also authorizes the Department to require the owner or operator of a priority industrial facility to make any modifications to the facility's Pollution Prevention Plan necessary for compliance with the Act. N.J.S.A. 13:1D-43(b). During the pre-proposal process, there was considerable discussion about the importance of Plan review and approval criteria to successful implementation of the Act, since such criteria would assist facilities in preparing their Plans and would form the basis for the Department's program analysis.

Accordingly, the Department included several Plan review criteria at proposed N.J.A.C. 7:1K-3.9(b), and proposed a procedure for requiring facilities to correct Plan deficiencies at N.J.A.C. 7:1K-3.9(f).

b. Comments and Responses

1. Comment on subjectivity of Plan review criteria

COMMENT: One commenter (17) stated that the Pollution Prevention Plan review criteria proposed at N.J.A.C. 7:1K-3.9 were too broad and discretionary. The commenter felt that these criteria would allow the individual performing the review too much leeway for subjective considerations, and preferred a set of traditional command and control criteria, such as:

- Is a Pollution Prevention Plan considering 5 different processes adequate (or 10, or 20)?
- Are pilot plant studies necessary?
- Is new technology required?
- Is a complete review of the literature adequate?
- If the costs "seem reasonable" to the Department, will it force a continued expansion of the Plan?
- If there are limited resources, must a company expand in order to develop a Plan?

RESPONSE: As discussed above, neither the Department nor industry is in a position to judge at this time what specific steps or items will produce a "good" Pollution Prevention Plan. Therefore, the pollution prevention program rules provide industrial facilities with the maximum degree of pollution prevention planning flexibility available under the Act. In particular, the Department has decided to limit its enforcement of the Plan review criteria to three areas: failure to prepare a Pollution Prevention Plan; administrative completeness; and untimely submission of Plan Summaries and Plan Progress Reports. Beyond these criteria, the facility-specific nature of pollution prevention planning and the newness of the program currently prevents the Department from clearly defining the work a facility must perform to meet the goals of the Act.

At this time, the Department has adopted the Plan Review criteria, N.J.A.C. 7:1K-3.9(d), as proposed in order to have a general framework for the Plan review process in place. However, the Department will propose to amend this subsection so that only N.J.A.C. 7:1K-3.9(d)1 (administrative completeness) is an enforceable Plan review criteria. The other two criteria, N.J.A.C. 7:1K-3.9(d)2 and 3, will then become "review-only" criteria and will not be enforceable. The Department also plans to propose several new non-enforceable Plan review criteria as part of the future proposal.

With or without these changes, when the Department reviews plans, it will make informal, non-enforceable written recommendations to a facility about any part of the Plan it thinks could be improved. The Department would like to encourage facilities to prepare Plans in a manner that will make them useful to the facility in its strategic planning efforts.

2. Comment on Advisory Board review of Plans

COMMENT: The same commenter (17) suggested that the Pollution Prevention Advisory Board might be an appropriate forum for determining what belongs in a Pollution Prevention Plan and establishing Plan review criteria.

RESPONSE: Although the Act allows the Advisory Board to advise the Office of Pollution Prevention on, among other things, the interpretation of the content of Pollution Prevention Plans (see N.J.S.A. 13:1D-39(d)4), as a practical matter it is not clear to the Department whether the Advisory Board should play a role in the review of an individual facility's plans. Given industry's extreme concerns regarding confidentiality of plans, the Department would expect that most industry representatives oppose any proposal to have a public body, such as the Advisory Board, routinely review Pollution Prevention Plans.

However, once the Advisory Board is convened, the Department will raise this as an agenda issue and will solicit additional public comment on the commenter's suggestion.

3. Comment on TAP review of Plans

COMMENT: One commenter (28) suggested that the Technical Assistance Program (TAP) at the New Jersey Institute of Technology might be an appropriate forum to resolve disputes regarding the enforceable Plan review criteria.

RESPONSE: As discussed in the Department's recommendation in Section VIICb1, above, the Department plans to propose to limit the enforceable Plan review criteria to three areas: failure to prepare a Pollution Prevention Plan; administrative completeness; and timely submission of Plan Summaries and Plan Progress Reports. The Department is and always has been committed to having a strong technical assistance adjunct to the State's pollution prevention planning program but established the TAP at an academic institution and not within a regulatory agency in order to afford the program greater independence from regulatory decision-making and to encourage industry confidence in TAP activities. If the TAP were to get involved in resolving enforcement disputes, this would compromise its independence. Therefore, the Department does not intend to implement the commenter's suggestion.

SUBCHAPTER 4. POLLUTION PREVENTION PLANS

VIII. Pollution Prevention Plans

A. Sequence of Pollution Prevention Planning

a. Summary of Issue

In proposed N.J.A.C. 7:1K-4.1(a), the Department provided a recommended sequence of pollution prevention planning steps to be followed by the owner or operator of a priority industrial facility in preparing a Pollution Prevention Plan. This sequence was not intended to be mandatory, and was patterned after the general outline of N.J.A.C. 7:1K and the draft Pollution Prevention Plan Guidance Document.

b. Comments

COMMENTS: One commenter (21) neither supported nor objected to proposed N.J.A.C. 7:1K-4.4, but stated the belief that facilities would develop Pollution Prevention Plans in a manner consistent with abilities and resource limitations.

Another commenter (25) stated that N.J.A.C. 7:1K should provide the basic framework of a pollution prevention planning "process" but that specific details and reporting requirements should be included in the Pollution Prevention Plan Guidance Document.

RESPONSE: Proposed N.J.A.C. 7:1K-4.1(a) was intended to be a recommended and not a mandatory sequence of pollution prevention planning steps. The owner and operator of an industrial facility may follow this sequence of steps or may take another approach in preparing a Pollution Prevention Plan for the facility.

The Department believes that it would not be feasible to adopt the second commenter's suggestion to establish a planning framework in the rules while providing detailed guidance on pollution prevention planning in the Guidance Document. The Act contains many specific provisions directing the Department to adopt regulatory criteria as elements of the pollution prevention planning process. In addition, the Act contains very specific requirements for information to be included in Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports. Against this backdrop, the Department has tried to establish only the outer bounds of a general framework for pollution prevention planning in the rules, and plans to supplement the rules with guidance as appropriate in the Guidance Document. This is evident, for example, in the proposed rules on grouping, Part II targeting, limited enforcement, and use of estimates in Part I of a Plan.

B. Comprehensive Financial Analysis

a. Summary of Issue

The Act requires industrial facilities to perform financial analysis at two steps in the pollution prevention planning process. First, a comprehensive financial analysis of the costs of using, generating (as non-product output), and releasing hazardous substances is required as part of Part IA of a Pollution Prevention Plan. See N.J.S.A. 13:1D-41(b)12 and proposed N.J.A.C. 7:1K-4.3(b)6. Second, for targeted production processes, a full cost accounting of pollution prevention options being considered by the facility is required as part of Part II of a Pollution Prevention Plan. See N.J.S.A. 13:1D-41(c)5 and proposed N.J.A.C. 7:1K-4.5(a)4ii. This second analysis is a comparative analysis intended to show how possible pollution prevention options compare with the existing use, generation, and release costs documented by the facility in Part IA of its Pollution Prevention Plan.

b. Comments and Reponses

1. Comments on inclusiveness of proposed N.J.A.C. 7:1K-4.3(b)6 and 4.5(a)4ii

COMMENTS: Several commenters (11, 23) felt that the lists of cost items in proposed N.J.A.C. 7:1K-4.3(b)6 (Part IA) and 7:1K-4.5(a)4ii (Part II) were not inclusive enough. These commenters recommended that the items composed in these sections as optional reporting items should be made mandatory reporting items. They also suggested additional cost reporting items, such as raw material costs, all fees and taxes, costs for safety and health, financial losses due to accidents, and costs of hazardous site cleanups.

Another commenter (26) who believed that the lists of cost items in these sections were under-inclusive suggested that the Department allow facilities to include in their comprehensive financial analyses a number of costs currently considered by industrial facilities, such as the cost of purchasing equipment, installation of equipment, maintenance, training and personnel, regulatory approval, and lost sales revenues due to diminished product performance.

RESPONSE: The lists of cost items proposed at N.J.A.C. 7:1K-4.3(b)6 and 7:1K-4.5(a)4ii were not intended to be all-inclusive of the costs that industrial facilities should consider when making any capital budgeting decisions. Rather, the Department's goal is for facilities to **add** the items described in this rule to whatever method of capital budgeting is currently used by the facility or for facilities to adopt a Total Cost Assessment method of capital budgeting. To this end, the items listed in these sections were intended to be broad categories of costs that would provide the maximum degree of flexibility and be simple to use. All of the costs suggested by the commenters can be included in a comprehensive financial analysis consistent with proposed N.J.A.C. 7:1K-4.3(b)6 and 4.5(a)4ii.

The Department intends to provide additional detailed Total Cost Assessment methodologies in its Pollution Prevention Planning Guidance Document. This information should help facilities to assess the "real" costs and savings of pollution prevention. For example, items such as hazardous site cleanups to remediate practices that occurred years ago are difficult to quantify and cannot logically be applied to current operating processes. Similarly, safety and health concerns could be considered in one of the proposed categories such as "storage and handling costs," and costs resulting from accidents could be classified as "transportation and disposal" or "storage and handling."

2. Comment on assigning costs at a process level

COMMENT: One commenter (22) stated that many of the cost items required by proposed N.J.A.C. 7:1K-4.3(b)6 and 4.5(a)4ii may be difficult or impossible to evaluate on a process or source level, and cited the example of the costs of a wastewater treatment (neutralization) system.

RESPONSE: There is a growing public recognition of the need to assign to products in the marketplace prices that reflect the "real" costs of production. This can be done in several ways: by industry, by "green taxes" or surcharges (for example, bottle deposits), or by government through regulation or other means. The Department believes, as do many major corporations, that the best way to develop "real" costs is by accounting for the costs of production at the source where pollution is generated. (See INFORM's *Environmental Dividends: Cutting More Chemical Wastes* (1992) and Popoff, F. "Full-Cost Accounting," Chemical and Engineering News, January 11, 1993.)

In the example cited by the commenter, while it may be difficult to allocate treatment costs among various process waste streams, these costs are expensive and quite "real" to the facility installing and operating the treatment system and therefore must be estimated. Under this scenario, if there is co-neutralization that occurs in a treatment plant and the process that discharges a waste stream providing the neutralization is discontinued because it is no longer profitable to produce that particular product, the cost required to neutralize that waste stream becomes a cost that must be paid by the facility. One option would then be to assign that cost to the process producing it for the purposes of financial analysis. This will become particularly relevant for a facility considering a pollution prevention alternative which may not appear economically viable at first glance. Once costs of treatment, recordkeeping, training, etc. are considered, facilities will be in a better position to fully evaluate their pollution prevention and pollution control options.

3. Comment on comparative analysis

COMMENT: One commenter (26) claimed that proposed N.J.A.C. 7:1K-4.5(a)4ii is over-inclusive in that it would require comparison of certain costs even though this comparison is not mandated by the Act. This commenter also suggested that the Department should require the Part IA financial analysis to be more detailed than the Part II financial analysis.

RESPONSE: While the commenter is correct in stating that N.J.S.A. 13:1D-41(c)5 does not mandate comparison of costs as part of the required financial analysis, the Department believes that requiring such comparison is logical and fully consistent with the Act. The preparation of Part II of a Pollution Prevention Plan is intended to be a process whereby an industrial facility identifies and explores pollution prevention options for targeted processes. Since exploring pollution prevention options necessarily involves comparing process modifications with existing production processes, Part II pollution prevention planning is logically a comparative process. If a facility were to develop cost analyses for pollution prevention options in Part II of its Pollution Prevention Plan without comparing these analyses to the existing cost information for the process documented in Part IA of its Plan, the Part II financial analysis would not serve any useful function. Therefore, the Department believes it is reasonable and consistent with the Act to require such comparison through adoption of N.J.A.C. 7:1K-4.5(a)4ii as proposed.

Regarding the commenter's second concern, the Department believes that the Part II financial analysis should be more detailed than the Part IA financial analysis because the Part II financial analysis applies only to targeted production processes. Since the Part IA financial analysis will assign costs at a source or process level, it is by nature an estimate. To require a more detailed Part IA financial analysis would most likely be burdensome to industry without a corresponding improvement in pollution prevention.

4. Comment on selecting economically feasible pollution prevention options

COMMENT: One commenter (26) was concerned that the Department might second guess or dictate which pollution prevention options a facility can afford to implement.

RESPONSE: Proposed N.J.A.C. 7:1K-4.5(a)14 requires facilities to describe in Part II of a Pollution Prevention Plan the valuation methods

used by the owner or operator to determine not to install or utilize each pollution prevention option that would have resulted in a greater percentage reduction in the use of hazardous substances per unit of product or the generation of nonproduct output per unit of product that the options the facility plans to implement. The proposed rules do not contain criteria for Department review of a facility's choice of pollution prevention options, and the Department does not intend to dictate facilities' choices of pollution prevention options.

c. Conclusion

On adoption, the Department has added the phrase "at a minimum" to proposed N.J.A.C. 7:1K-4.3(b)6 and 4.5(a)4ii. This is intended to clarify that the lists of financial analysis cost items contained in these sections are the minimum list of items the Department considers necessary for an acceptable "comprehensive financial analysis." Likewise, to illustrate the types of cost items that may be included under the category of "storage and handling costs" in a comprehensive financial analysis, the Department has inserted the phrase "health and safety compliance costs" on adoption of N.J.A.C. 7:1K-4.3(b)6i(1) and 4.5(a)4ii(1). In the near future, the Department plans to propose to change "permit fees" to "fees" as used in N.J.A.C. 7:1K-4.3(b)6i(6) and 4.5(a)4ii(6) to encourage facilities to broadly construe this cost category to include any fee-related charges.

Once these changes have been complete, the Department believes that the lists of financial analysis cost items in the pollution prevention program rules will be extensive enough to allow facilities to identify major costs associated with the use and release of hazardous substances and broad enough to encourage facilities to include any relevant information in a process-level financial analysis.

C. Grouping Sources and Production Processes

a. Summary of Issue

N.J.S.A. 13:1D-41(k) requires the Department to develop criteria to be used by owners and operators of priority industrial facilities in identifying sources or production process that use similar ingredients to produce one or more similar products. The Act then allows facilities to group these sources or processes together and to consider them as a single source or process for the purposes of developing information in a Pollution Prevention Plan Summary or Plan Progress Report. The Department expects that under appropriate circumstances, grouping will reduce the time and resources spent on materials tracking without reducing the effectiveness of the Pollution Prevention Plan. As required by N.J.S.A 13:1D-41(k), the Department proposed a grouping procedure and group criteria at proposed N.J.A.C. 7:1K-4.2(b).

During the pre-proposal process, all interested parties agreed that significant flexibility is needed to allow facilities to group their sources and processes. The Department proposed five flexible grouping criteria at N.J.A.C. 7:1K-4.2(b), including N.J.A.C. 7:1K-4.2(b)3 ("similar ingredients"), 7:1K-4.2(b)4 ("similar products") and 7:1K-4.2(b)5 ("any other characteristics that are similar.") These optional criteria were intended to allow owners or operators to define the terms "similar ingredients" and "similar products" as appropriate for each facility. In addition, the criterion of "any other characteristics that are similar" was intended to allow owners or operators to develop their own grouping criteria as appropriate.

During the pre-proposal process, a number of commenters recommended that the Department not allow facilities to group pollution treatment or control systems within a manufacturing operation, since this would obscure use and nonproduct output data reported for the manufacturing operation. The Department proposed to incorporate this one grouping restriction at N.J.A.C. 7:1K-4.2(d).

b. Comments and Responses

1. Comments on mandatory grouping criteria

COMMENTS: Two commenters (11, 23) recommended that the proposed criteria for grouping at N.J.A.C. 7:1K-4.2(b) should be mandatory rather than optional. These commenters were concerned that inappropriate grouping by facilities could impact the entire planning and reporting process. Examples provided by the commenters of areas that could be impacted included: ensuring a focus on process-specific methods, focusing on product reformulations and alternatives, allowing comparisons of similar processes and products within or among companies; and evaluating targeting choices.

RESPONSE: The Department shares the concerns raised by the commenters. Inappropriate grouping could result in confusing Part I inventory data and could potentially have a large negative impact on the success of the remaining planning process. However, grouping is necessary to provide flexibility to owners or operators of industrial facilities in defining their sources and processes, which can drastically reduce the time and resources needed for planning and reporting **without** reducing the effectiveness of the pollution prevention planning process. Therefore, the concerns raised by the commenters must be weighed against the valid policy reasons for providing significant flexibility in grouping decisions.

It is difficult (if not impossible) to develop one set of grouping criteria for the universe of diverse production processes used at the more than 800 facilities covered under the Act. Therefore, the Department believes it is appropriate to maintain grouping flexibility and for the N.J.A.C. 7:1K-4.2(b) grouping criteria to remain optional. Consequently, the Department has not adopted the mandatory language proposed by the commenter.

In order to evaluate this policy decision, the Department will monitor the impact of grouping on the pollution prevention planning process. Grouping decisions made by owners or operators of facilities will be reviewed to determine if there is any correlation between inappropriate grouping and other aspects of a Pollution Prevention Plan. If the Department finds such a correlation, it will consider proposing mandatory grouping criteria, and will increase its outreach efforts and modify its guidance document to address any problems caused by inappropriate grouping.

2. Comment on measuring "similar products" with a common unit of product

COMMENT: One commenter (23) was concerned that the Department's "similar products" grouping criterion, proposed N.J.A.C. 7:1K-4.2(b)4, was too vague. As an example, the commenter stated that facilities could inappropriately group product by four-digit SIC codes under this criterion. To more specifically define "similar products," the commenter suggested that the Department should only allow grouping of "similar products" if production can be measured with a physical (as opposed to monetary) unit of product.

RESPONSE: The Department agrees that a physical measurement, not currency, should be used to quantify and group production processes. The Department also agrees that grouped processes should share a common unit of measuring production. Therefore, the Department has clarified its Part I reporting requirements, N.J.A.C. 7:1K-4.3(b)3iii, to require a description of the owner or operator's grouping decision, if any, **including a description of the unit for measuring production.**

This issue is discussed further in the response to Comment 1 in Section XIF, below.

3. Comment on guidance on inappropriate grouping

COMMENT: One commenter (23) requested that better descriptions of inappropriate grouping be provided in proposed N.J.A.C. 7:1K-4.2(b). The commenter suggested adding a sixth criteria to this section, as follows:

> Separate (e.g., parallel) configuration of equipment shall not be grouped if the use or nonproduct output of hazardous substances among the configurations is dissimilar because of differences in equipment age, efficiency, or other factors.

RESPONSE: The Department is aware that the proposal did not contain guidance on appropriate grouping and agrees that more detail on grouping should be provided to owners and operators of priority industrial facilities. However, since grouping is an optional process, the Department believes that it is more appropriate to provide this detailed information in the Pollution Prevention Plan Guidance Document and not these rules. The Department plans to include examples of grouping, both appropriate and inappropriate, in the Pollution Prevention Plan Guidance Document.

As discussed above, it is necessary at this stage in the pollution prevention planning program to afford facilities the maximum possible grouping flexibility. Therefore, the Department has not incorporated the more restrictive language proposed by the commenter into the grouping procedure at this time, and has adopted N.J.A.C. 7:1K-4.2 as proposed.

4. Comment on grouping pollution treatment processes as sources

COMMENT: One commenter (23) recommended that pollution treatment and control systems be classified as "sources" instead of "production processes" for grouping purposes, but agreed that pollution treatment and control systems should be grouped separately from production processes. The commenter recommended that the Department replace the second sentence of proposed N.J.A.C. 7:1K-4.2(d) with the following:

> Pollution treatment or control systems must be considered as separate sources, and out-of-process recycling systems must be considered as separate sources or production processes, for pollution prevention planning purposes.

RESPONSE: Although pollution treatment, control, and out-of-process recycling systems must be grouped separately from production processes that manufacture products, the Department believes that facilities should have the flexibility to consider them as sources, groups of sources or production processes. In this case, grouping several sequential stages of a pollution treatment system (such as separation, flocculation, and chemical fixation) could be classified as a "production process" made up of several sources that generate nonproduct output or releases.

"Pollution treatment or control systems" can include anything from a small carbon column dedicated to a single reactor to a large, multi-step biological treatment system for treating industrial wastewater. It would be inappropriate to consider all these significantly different systems as "sources." Therefore, facilities will need the flexibility to define these systems according to their specific functions at the facility. For this reason, the Department has not adopted the language proposed by the commenter and has adopted N.J.A.C. 7:1K-4.2(d) as proposed.

5. Comment on allowing grouping of certain treatment systems within a production process

COMMENT: One commenter (4) contended that it was unnecessary to separate treatment and control systems from production processes for grouping purposes as proposed in N.J.A.C. 7:1K-4.2(d). The commenter claimed that this significant restriction on a facility's grouping flexibility would create a significant reporting burden by creating hundreds of additional processes. The commenter emphasized that since nonproduct output is measured prior to treatment or control, including certain treatment devices within a process would not impact the determination of nonproduct output for the process.

RESPONSE: The commenter is correct in stating that nonproduct output is to be measured prior to treatment. However, the Department disagrees that including treatment systems within the boundary of a production process will not affect the determination of nonproduct output. In fact, it is for just this reason the Department required this separation in the proposed rule.

The Department believes that restricting facilities from grouping pollution treatment and control systems with production processes is necessary in order to focus pollution prevention efforts on the sources of nonproduct output. For permit compliance and Right-to-Know reporting purposes, facilities usually collect data on their operation **after** treatment. As a result, the quantity of hazardous substances generated from a process is often underestimated or masked entirely by the removal occurring within treatment systems. The Department believes that special attention to this issue will be required in order to get facilities to focus on changes at the point of generation (that is, **prior** to treatment.)

Much of the discussion of the planning process concerned the inputs and outputs from the "black box" of a production process. The Department agrees that, for ease of data tracking, it is appropriate for facilities to create a "black box" process that includes several pieces of production equipment without identifying the individual pieces of equipment. However, if a treatment is included as part of the "black box", purposefully or not, outputs from the process represented by the box will not accurately represent nonproduct output.

The Department does not want to amend the proposed rules in a manner that will encourage facilities to underreport the quantities of nonproduct output generated by their processes, and so will not allow the grouping of pollution treatment and control systems with production processes. However, the Department intends to allow a facility to rely on existing process flow diagrams or piping and implementation flow diagrams in making its grouping decisions. That is, if the existing diagrams identify individual pieces of equipment instead of using a "black box" approach, it will not be necessary for the facility to create new diagrams. In these instances, the owner or operator can use the traditional diagrams as long as the point of generation is clearly identified **prior** to treatment and the quantity of nonproduct output is quantified for the appropriate process boundary. Also, any process-level information on releases after treatment may be part of the data tracking and inventory system for the process. This should alleviate the need for facilities to "create" several different processes for grouping purposes as contended by the commenter.

D. Targeting Sources and Production Processes

a. Summary of Issue

N.J.S.A. 13:1D-41(d) requires the Department to develop criteria to be used by owners and operators of priority industrial facilities in identifying targeted sources and targeted production processes. Targeted sources or processes would then be the focus of detailed analysis of potential pollution prevention opportunities in Part II of a Pollution Prevention Plan. This step in the pollution prevention planning process allows owners or operators the opportunity to allocate their time and resources to those sources and processes with the best potential for pollution prevention progress. To implement this concept, the Department proposed a targeting procedure, N.J.A.C. 7:1K-4.4, and three targeting criteria, N.J.A.C. 7:1K-4.4(b).

Based on extensive discussion of this subject during the preproposal process, the Department attempted to provide flexibility for targeting by focusing on the three criteria of significant contribution to use, nonproduct output and releases listed at N.J.S.A. 13:1D-41(d). Instead of requiring that each criterion be considered separately in the targeting decision, the Department proposed to allow owners or operators to select one criterion or a combination of the three criteria to target their sources and processes. However, the Department specified that the facility's targeting decision should focus on the total hazardous substances at the facility rather than individual substances. Proposed N.J.A.C. 7:1K-4.4(b). To address the concept of "significant contribution," as used in N.J.S.A. 13:1D-41(d), the Department proposed a 90 percent level or "backstop" to allow facilities to target a sufficient number of sources or processes which contribute to 90 percent or more of the use, generation as nonproduct output or release of total hazardous substances at the facility.

The timing of the targeting step was also discussed at length during the pre-proposal process. One commenter, in particular, lobbied for the opportunity to target prior to compiling Part I inventory data for all sources and processes at the facility as required by N.J.S.A. 13:1D-41. In the second pre-proposal issued in June 1992, the Department suggested a procedure that would have allowed Part I targeting. However, after further consideration of the issue, the Department proposed a modified targeting procedure instead. Under the modified targeting procedure, the Part I analysis is to be conducted for all sources and processes using estimates from best engineering judgment on the basis of a materials accounting approach. Proposed N.J.A.C. 7:1K-4.3(b). The estimated information will then be used by the facility to identify targeted processes and sources as required by proposed N.J.A.C. 7:1K-4.4(b).

b. Comments and Responses

1. Comment on extent of Part IA inventory requirements

COMMENT: A number of commenters (3, 4, 5, 17, 21) objected to proposed N.J.A.C. 7:1K-4.3(b) on the basis that an inventory of all sources and processes in Part IA of a Pollution Prevention Plan is too extensive and is not needed to identify pollution prevention opportunities. These commenters suggested that the time and resources required for the Part IA inventory would be better spent on implementing pollution prevention rather than generating data.

One of these commenters (4) requested that the Department reconsider allowing facilities to evaluate each process for targeting purposes on the basis of facility-level data and requiring the comprehensive analysis only on targeted processes, as discussed during the pre-proposal process. Alternatively, the commenter asked the Department to consider eliminating some of the proposed Part IA data requirements. In support of these recommendations, the commenter stated that a cursory initial evaluation of every process would yield the same results and selection of targeted processes for planning purposes, at a much lesser cost.

Another commenter (5) suggested that the Department develop a targeting prioritization methodology in order to allow facilities to identify targeted production processes before compiling any Part I information.

RESPONSE: The Department is sensitive to the concerns raised by the commenters and has no intention of requiring owners or operators of industrial facilities to expend inordinate time and resources on unproductive data-gathering exercises. However, recent research, such as INFORM'S "Cutting Chemical Waste" (1986) and "Cutting More Chemical Waste" (1992), indicates that conducting a comprehensive anlaysis of processes and allocating costs back to those processes helps facilities to identify pollution prevention opportunities. In fact, the planning requirements of the Act are based on this general premise.

During the pre-proposal and rulemaking process, the Department solicited input from facilities on the subject of how best to balance these competing concerns, and asked for assistance in developing a workable procedure for Part I targeting. However, the Department did not receive many substantive suggestions on this issue. Therefore, based on its interpretation of the legislative language and intent, and based on the research by INFORM, the Department decided against proposing a procedure to allow Part I targeting.

Subsequent to the issuance of the proposal, the Department looked at the targeting issue in the context of its volunteer pre-pilot facility-wide permitting program. In that program, the Department focused on the three different "levels" of information needed in Part I of a Pollution Prevention Plan: facility-level, process-level and source-level and evaluated different approaches that could be used to obtain the information. Two general approaches investigated by the Department and the pre-pilot facilities were whether the Part I inventory approach should (1) begin at the source-level and move up to the process-level or (2) start at the facility-level and move down to the process level. The Department has concluded that the latter approach, starting at the facility-level and estimating process-level data, requires significantly less time and fewer resources than the former approach. This conclusion is based on the fact that compiling the detailed source-level data is often the most time-consuming step in the Part I inventory.

Based on this practical evaluation of the proposed Part I data requirements, the Department has transferred the requirement for quantifying source-level nonproduct output, N.J.A.C. 7:1K-4.3(b)4i(5), from Part IA to Part II of a Pollution Prevention Plan, N.J.A.C. 7:1K-4.5(a)2, on adoption of these rules. The Department expects this change to clarify that:

(1) The Part I inventory process should start at a facility level and move down to the process level, using estimates, rather than starting at the source level to quantify process-level data;

(2) Source-level data is to be developed for targeted processes only; and

(3) Part I of a Pollution Prevention Plan should focus on obtaining information needed to make targeting decisions rather than on obtaining all data that might be needed to identify pollution prevention options for each process at the facility.

The Department feels that this change will shift a significant portion of the current Part I inventory work to Part II of a Pollution Prevention Plan. Since Part II a Pollution Prevention Plan is to be completed only for targeted sources and processes, this should reduce the cost and resources needed for completion of the Plan.

2. Comment on requiring a complete Part I inventory for all processes.

COMMENT: Several commenters (10, 11, 13, 23) expressed strong support for the Department's decision to require facilities to compile Part I inventory information for all production processes. These commenters felt that obtaining this information for each production process at the facility is one of the most crucial requirements of the Act. The commenters also stated that this information would provide extremely useful baseline data for the pollution prevention planning program and create a strong incentive for pollution prevention efforts.

RESPONSE: The Department agrees that a complete Part I inventory is one of the most important aspects of the pollution prevention planning process. However, after a detailed review of all the comments on this issue and an evaluation of the pre-pilot facility-wide permitting program, the Department has concluded that moving source-level inventory requirements from Part I to Part II of a Pollution Prevention Plan will ease the data-gathering burden on facilities without diminishing the effectiveness of the pollution prevention planning process. However, facilities will still be required to identify all production processes at the facility and to estimate process-level data for each process.

Under this slightly modified procedure, the estimated process-level information compiled by the facility in Part I will be used to identify targeted production processes, and facilities will base their targeting decisions on estimated facility-wide use, nonproduct output generation and release data for all processes. Based on its experience in the pre-pilot facility-wide permitting program, the Department has determined that requiring facilities to compile source-level nonproduct output data prior to targeting is not likely to change the outcome or effectiveness of the targeting decision. However, this source-level data is still needed to identify potential pollution prevention options for targeted processes in Part II of a Pollution Prevention Plan.

3. Comment on Part I data-gathering requirements

COMMENT: Two commenters (3, 5) expressed concern that the specific information requirements of the Part I inventory are driven by public interest groups and are more a "right-to-know-more" measure than a pollution prevention measure.

RESPONSE: Proposed N.J.A.C. 7:1K-4.3, which described the contents of Part I of a Pollution Prevention Plan, is derived directly from the Act, N.J.S.A. 13:1D-41(b). As detailed in the proposed rules, these inventory requirements form the basis for the development of a comprehensive process-level inventory of hazardous chemical use and generation. The premise of pollution prevention planning is that a comprehensive process-level inventory is critical to sound pollution prevention planning, and the Legislature clearly contemplate that facilities would be required to complete the inventory as part of a Plan.

Since Part I of a Pollution Prevention Plan is not public information, this requirement is clearly not a "right to know more" measure. The Department believes that the commenters' concern that the Part I requirements are driven by public interest groups is addressed to some extent by the decision to repropose the Plan submittal criteria to limit Plan submittal to facilities participating in the facility-wide permit program and facilities that request an out-of-process recycling authorization. See Section VII A above.

4. Comments on restrictive Part II targeting criteria

COMMENTS: A few commenters (4, 17, 21) contended that targeting criteria in proposed N.J.A.C. 7:1K-4.4(b) were too restrictive and did not provide sufficient flexibility for facilities to focus their resources on obvious pollution prevention priorities. These commenters felt that 90 percent backstop criterion too narrowly defines "significant contribution" as used in N.J.S.A. 13:1D-41(d). One commenter (4) indicated that the 90 percent criterion for use, nonproduct output generation **and** release was biased against manufacturers making small volumes of different products. Two commenters (17, 21) recommended that the 90 percent backstop be reduced to 70 percent for use, nonproduct output generation **or** release.

RESPONSE: The Department agrees that the targeting criteria must provide flexibility for owners and operators of industrial facilities to focus their pollution prevention resources on known priorities. The Department believes it has provided this flexibility through the targeting procedure proposed at N.J.A.C. 7:1K-4.4, which requires a facility to focus on total hazardous substances, not individual chemicals, but allows the facility to select either use, nonproduct output generation **or** use as its targeting cirterion. Moreover, as discussed above, the Department has refined this procedure to require facilities to obtain source-level data only for targeted processes.

The Department disagrees that the 90 percent backstop criterion should be reduced to 70 percent as recommended by the commenters. While the 90 percent backstop requirement may offer the least flexibility to a facility that manufacturers similar quantities of a few products (for example, 10 products each contributng 10 percent of use), this is not a scenario where the need for flexibility is pressing. Rather, flexibility is more important for facilities that have a mixture of manufacturing operations (for example, 90 percent of use is covered by 10 processes and the remaining 10 percent is made up of 100 smaller processes.) Therefore, the Department has not adopted the changes recommended by the commenters.

5. Comments on chemical-specific targeting criteria

COMMENTS: Two commenters (10, 23) were concerned that the proposed targeting criteria, N.J.A.C. 7:1K-4.4(b), were too broad and opened up serious problem loopholes. The commenters' primary concern was that these criteria would allow facilities to overlook pollution prevention opportunities for (1) certain very toxic substances used in relatively small quantities or (2) certain chemicals (such as acrylonitrile) which can be used in large quantities with relatively small releases. To address these concerns, the commenters recommended that the targeting criteria be applied to each individual hazardous substance rather than the total quantity of hazardous substances. Alternatively, one commenter (23) recommended that the criteria apply to chemical categories such as acids, metals, or Extraordinarily Hazardous Substances.

RESPONSE: In developing the proposed targeting criteria, the Department debated the same issues and had the same concerns as the commenters. It is true that targeting based on total chemicals, rather than individual chemicals, may potentially overlook small quantities of toxic substances in order to focus on larger quantities of potential reductions for other substances. However, the Department felt that this potential problem was outweighed by the need to provide as much targeting flexibility as possible to facilities in the early stages of implementing the pollution prevention planning program.

As with the grouping procedure, the Department will be reviewing facilities' targeting decisions to determine whether they are applying the targeting criteria in an appropriate manner. The Department has specifically reserved its authority to require chemical-specific targeting and targeting based on toxicity of specific chemicals, N.J.A.C. 7:1K-4.4(b)4, and will propose changes to the targeting procedure if necessary.

6. Comment on chemical-specific targeting under the Toxic Catastrophe Prevention Act (TCPA)

COMMENT: One commenter (17) expressed concern about the Department's "reserved authority" for developing chemical-specific targeting criteria. See proposed N.J.A.C. 7:1K-4.4(b)4 and 24 N.J.R. 3612. The commenter contended that the Department's Toxic Catastrophe Prevention program already covers chemical-specific targeting and that the pollution prevention planning program should rely on this program rather than duplicate this work.

RESPONSE: If the Pollution Prevention program pursues chemical-specific targeting in the future, it will coordinate this effort with the TCPA program as well as other programs in the Department.

7. Comment on exempting commercial waste recycling from definition of "targeted process"

COMMENT: One commenter (20) suggested that chemical waste recycling at commercial facilities should be exempt from the definition of "targeted production process," proposed N.J.A.C. 7:1K-1.5. The commenter felt that this was appropriate since (1) the product of the chemical waste recycling process is the result of treating chemical waste which could otherwise be disposed of without beneficial use and (2) reducing the product of recycling through pollution prevention measures would lead to less recycling and more disposal, contrary to the intent of the Act. The commenter recommended that the Department allow chemical waste recycling processes to be targeted based only on a release criterion and not on the basis of use or nonproduct output generation.

RESPONSE: Commercial hazardous waste and chemical recycling operations are generally classified under SIC Code 49. This SIC Code is not currently covered as a priority industrial facility under the Act. See N.J.S.A. 13:1D-37. Therefore, the pollution prevention planning and targeting provisions of the Act do not currently apply to these operations.

As discussed above, the Act authorizes the Department to designate additional facilities as priority industrial facilities, through addition of an entire SIC Code, after January 1, 1995. N.J.S.A. 13:1D-42(h). If the Department decides to add this SIC Code to the list of priority industrial facilities covered by the Act, this will require rulemaking, including public notice and comment.

At this time, the Department does not believe it would be appropriate to exempt chemical waste recycling operations from the targeting criteria if they are designated as priority industrial facilities under the Act. These operations are similar to other processes (for example, packaging, formulating and purification) for which the raw material is the product. In these operations, the goal is to make the most product for each pound of raw material. The pollution prevention planning process is intended to increase this efficiency.

Nothing in the Act or the N.J.A.C. 7:1K requires a facility to reduce the amount of product produced at the facility. Therefore, contrary to the commenter's suggestion, if the targeting criteria did apply to chemical waste recycling operations, these facilities would not be required to reduce their production. Rather, each facility could target those processes that contribute 90 percent or more of hazardous substances released from the facility.

E. Mixtures containing hazardous substances and non-hazardous substances

a. Summary of Issue

N.J.S.A. 13:1D-41(l) exempts facilities from providing "... information concerning non-hazardous substances or product formulas for mixtures that include non-hazardous substances ..." in a Pollution Prevention Plan, Plan Summary, or Plan Progress Report. This exemption is intended to be used to help protect confidential information about the makeup and production of specific products. This provision was included in the proposed rules at proposed N.J.A.C. 7:1K-3.3(b)3.

b. Comment and Response:

COMMENT: One commenter (9) requested clarification of the language in proposed N.J.A.C. 7:1K-3.3(b)3 regarding the exemption for mixtures containing non-hazardous substances. The commenter was concerned that the proposed wording implied that a facility is exempt from performing pollution prevention planning on mixtures containing non-hazardous substances.

RESPONSE: Neither N.J.S.A. 13:1D-41(l) nor N.J.A.C. 7:1K-3.3(b)3 exempts the hazardous substance portion of a mixture containing hazardous substances and non-hazardous substances from pollution prevention planning or reporting. Rather, the exemption covers only the non-hazardous portion of the mixture. Therefore, information on all hazardous substances in hazardous/non-hazardous mixtures must be included a Pollution Prevention Plan, Plan Summary and Plan Progress Report, but facilities are not required to report the quantity or of the non-hazardous substance or the percentage of non-hazardous substance within the mixture. See N.J.A.C. 7:1K-4.3(b)2ii, iii, and 4i (Part I of a plan) and N.J.A.C. 7:1K-6.1(c)3ii and iii (Plan Progress Report).

For example, if in 1993 a facility manufactures 60,000 pounds of a mixture containing 25,000 pounds of a hazardous substance and 35,000 pounds of a non-hazardous substance, only the 25,000 pounds of the hazardous substance need be included in its Pollution Prevention Plan. Information on the 35,000 pounds of the non-hazardous substance and the relative percentage of the non-hazardous substance to the hazardous substance is exempt from planning and reporting.

F. Non-Hazardous Substances

a. Summary of Issue

The primary goal of the Act is to reduce the use of hazardous substances and the generation of hazardous substances as nonproduct output at industrial facilities. Consistent with this focus on hazardous substances, the Act specifically prohibits the Department from collecting information on non-hazardous substances or product formulas for mixtures that include non-hazardous substances through Pollution Prevention Plans, Plan Summaries, or Plan Progress Reports. N.J.S.A. 13:1D-41(l). This exclusion was incorporated into the proposed rules at N.J.A.C. 7:1K-3.3(b)3.

b. Comment and Response

COMMENT: One commenter (21) stated that the term "hazardous substances" appears to have been omitted throughout the proposed rules, thereby implying that facilities will be required to report information on all processes and sources in their Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports.

RESPONSE: While the Department disagrees with the commenter's assertion that the term "hazardous substances" has been omitted from the proposed rules, the commenter's second concern is fully addressed by proposed N.J.A.C. 7:1K-3.3(a) and (b). These two sections of the proposed rules clearly define the scope of pollution prevention planning documents to include information on covered hazardous substances (proposed N.J.A.C. 7:1K-3.3(a)) and to exclude information on non-hazardous substances or product formulas that include non-hazardous substances (proposed N.J.A.C. 7:1K-3.3(b)3). It follows, therefore, that the reporting items required throughout the rest of the proposed rules are not required for non-hazardous substances or product formulas that include non-hazardous substances.

Although N.J.S.A. 13:1D-41(l) and proposed N.J.A.C. 7:1K-3.3(b)3 preclude the Department from requiring pollution prevention planning information on non-hazardous substances or product formulas that include non-hazardous substances, the Department strongly recommends that facilities explore pollution prevention opportunities for these production processes and sources whenever possible. In this manner, facilities may reap the benefits of pollution prevention planning for both hazardous and non-hazardous processes and sources.

G. Pollution Prevention Planning for Treatment System

a. Summary of Issue

In proposed N.J.A.C. 7:1K-4.2(d), the Department included a restriction on grouping pollution treatment or control systems or out-of-process recycling systems with production processes for pollution prevention planning purposes. The Department stated that "[p]ollution treatment and control systems or out-of-process recycling systems must be considered as separate sources or processes for pollution prevention planning purposes.

b. Comment and Response

COMMENT: One commenter (4) questioned the requirement in N.J.A.C. 7:1K-4.2(d) for including treatment systems in the pollution prevention plan. The commenter contended that the Act only requires pollution prevention planning for "production processes," and not treatment systems.

RESPONSE: The Department agrees that the Act does not require a facility to consider its pollution prevention options for pollution treatment or control systems. However, the Department included the provision in N.J.A.C. 7:1K-4.2(d) in order to allow owners or operators of industrial facilities to take credit for pollution prevention achievements in pollution treatment or control systems. To clarify any misunderstanding that may exist on this issue, the Department has changed "must be considered" to "may be considered" on adoption of N.J.A.C. 7:1K-4.2(d).

IX. RAW MATERIAL SUBSTITUTION CERTIFICATION

a. Summary of Issue

The Act does not specifically require a facility to reduce the amount of hazardous substances used. Nor is it the intent of the Act to direct a facility to use an alternative raw material, particularly if it is an ingredient that is essential to a production process. The Act does, however, require a facility to consider and identify any combination of five categories of pollution prevention techniques with a targeted production process, as follows: improved housekeeping, in-process recycling, equipment modification, product reformulation, and raw material substitution. To emphasize that raw material substitution is not required, the Act authorizes the Department to allow an owner or operator to list in its Pollution Prevention Plan the hazardous substances in specific production processes, the use of which the company has determined, through pollution prevention planning, cannot be reduced.

After considerable discussion on this issue during the preproposal process, the Department proposed a procedure for filing a Raw Material Substitution Certification, N.J.A.C. 7:1K-4.6. The Department proposed to require a facility to complete Part I through to Part II's feasibility analysis section of a Pollution Prevention Plan for those targeted production processes for which it is filing the Raw Material Substitution Certification. After completing those steps, a facility would be in a position to determine that a Raw Material Substitution Certification is necessary because it has found **through pollution prevention planning** that it is neither technologically nor economically feasible, in a specific process, to substitute a raw material with another alternative substance. However, the facility would still be required to complete all other sections of Part II of its Pollution Prevention Plan for all other pollution prevention options for that process.

Under the proposed procedure, a facility would not be required to submit information to the Department for approval, but the facility's plant manager or owner/operator would be required to certify in the facility's Pollution Prevention Plan Summary that the facility has:

(1) Completed Part I through to the feasibility analysis step of Part II of its Pollution Prevention Plan fort the hazardous substance for which a raw material substitution certification has been filed;

(2) Determined that there are no reasonably available and economically viable alternatives to the use of the hazardous substance; and

(3) Conducted complete Pollution Prevention Planning for the hazardous substance for which a Raw Material Substitution Certification has been filed, including examining all pollution prevention techniques within all targeted processes.

Thus, the Department expects the Raw Material Substitution Certification to include a brief description of a facility's findings that it is not technologically or economically feasible to substitute alternative materials for the hazardous substances in question.

b. Comments and Responses

1. Comment on criteria for filing Raw Material Substitution Certification

COMMENT: One commenter (18) suggested that the Department should permit a facility to file a Raw Material Substitution Certification whenever it can demonstrate that no alternative exists. As an example, the company cited government restrictives on process changes, such as the Federal Food and Drug Administration's (FDA's) prohibition of a pharmaceutical process change from that described in the facility's original New Drug Application.

RESPONSE: As discussed above, a facility may file a Raw Material Substitution Certification whenever it determines through pollution prevention planning that it is economically and technologically infeasible to use another raw material. Government restrictions on production processes, unless based on economic or technological findings, would not automatically provide a basis for a Raw Material Substitution Certification.

In the example cited by the commenter, a facility would not be precluded from applying for product modifications from the FDA if a viable and less hazardous pollution prevention substitution were available. A case in point would be the substitution of methylene chloride used in tablet coatings with a water based material. The FDA approvals may be necessary, but the company may find it both economically and technologically feasible to perform the product substitution and as such, a Raw Material Substitution Certification would not be appropriate.

Even if a facility has filed a Raw Material Substitution Certification for a specific hazardous substance, it must still explore the other four categories of pollution prevention options for that targeted process.

2. Comment on partial Raw Material Substitution Certification

COMMENT: One commenter (23) asked the Department to clarify whether a facility could file a partial Raw Material Substitution Certification under the procedure at proposed N.J.A.C. 7:1K-4.6.

RESPONSE: A facility can claim a raw material substitution exemption for any amount of a specific hazardous substance within a specific production process provided that it has determined through pollution prevention planning that use of an alternative substance is economically and technologically infeasible.

X. OUT-OF-PROCESS RECYCLING AUTHORIZATION

A. Summary of Issue

The definition of "pollution prevention" at N.J.S.A. 13:1D-37 specifically excludes out-of-process recycling. The definition states, in part: "Pollution prevention ... shall not include pollution treatment systems, increased pollution control, **out-of-process recycling** (emphasis added) or incineration, except as otherwise provided in Section 7f of this Act [N.J.S.A. 13:1D-41(f)]." N.J.S.A. 13:1D-41(f) authorizes the Department to allow an industrial facility to include out-of-process recycling in the facility's Pollution Prevention Plan and Plan Summary if the Department determines that pollution prevention strategies are not reasonably available to that facility.

To implement the out-of-process recycling authorization, the Department proposed to require facilities requesting the authorization to submit their Pollution Prevention Plans, an identification of the hazardous substance and production process for which the authorization is being requested, and a brief analysis of why pollution prevention methods are not available to the facility for these substances and processes. See proposed N.J.A.C. 7:1K-4.7. Under the proposed procedure, if the Department determines through review of the facility's Pollution Prevention Plan and accompanying documentation that pollution prevention strategies are not reasonably available for specific hazardous substances in specific production processes, the facility may include an assessment and schedule for implementing on-site, out-of-process recycling activities its Pollution Prevention Plan and Plan Summary. However, proposed N.J.A.C. 7:1K-4.7(d) stipulates that out-of-process recycling activities, including those reported as a result of this authorization, may not be counted in the facility's use reduction or non-production output reduction goals.

B. Comments and Responses

1. Comments on counting authorized out-of-process recycling in goals

COMMENTS: Several industry commenters (3, 4, 5, 17, 18, 21) recommended that out-of-process recycling activities authorized by the Department pursuant to N.J.S.A. 13:1D-41(f) and proposed N.J.A.C. 7:1K-4.7 should count as part of the facility's use and nonproduct output reduction goals. These commenters believed that unless such activities could be counted as part of a facility's pollution prevention goals, there would be no incentive for a facility to apply for the out-of-process recycling authorization. In addition, they asserted that authorized out-of-process recycling should qualify as pollution prevention because it reduces the use and purchase of raw materials. They also claimed that the Department's interpretation of the N.J.S.A. 13:1D-41(f) out-of-process recycling authorization was inaccurate and contrary to statutory intent.

RESPONSE: N.J.S.A. 13:1K-41(f) states that out-of-process recycling activities authorized by the Department may be included in a Pollution Prevention Plan or Plan Summary, but does not refer to including out-of-process recycling activities in a facility's pollution prevention goals. While it is true that recycling can lead to a reduction in the purchase of raw materials, recycled materials only replace the purchase of new raw materials instead of increasing process efficiency to result in a reduced **demand** per unit of product for hazardous substances. Recycling, therefore, is distinguished from pollution prevention in the Act's environmental management hierarchy. Out-of-process recycling techniques, like sound treatment and disposal, certainly contribute to protecting worker health and the environment. However, the Act directs the Department to emphasize and promote pollution prevention instead of out-of-process recycling, treatment and disposal. Therefore, reductions achieved through out-of-process recycling will not count towards a facility's use or nonproduct output reduction goals.

2. Comment on Department approval of out-of-process recycling authorization requests

COMMENT: The same industry commenters recommended that since a facility will best be able to determine whether pollution prevention techniques are reasonably available, the Department should allow

facilities to self-certify that pollution prevention techniques are not reasonably available. Under this scenario, facilities would file notice that they have used the out-of-process recycling authorization instead of seek Departmental approval.

RESPONSE: The out-of-process recycling authorization at N.J.S.A. 13:1D-41(f) allows an industrial facility to include out-of-process recycling activities in a Pollution Prevention Plan and Plan Summary **only if the Department determines that pollution prevention strategies are not reasonably available to the facility.** The statutory language is quite clear in specifying that the Department must make the determination of whether pollution prevention measures are reasonably available. Therefore, it is necessary for the Department to review and approve requests for the out-of-process recycling authorization.

3. Comment on developing criteria for authorization

COMMENT: One commenter (17) stated that the Department should develop criteria for what types of justifications will be approved in granting the out-of-process recycling authorization. This commenter felt that specific criteria were needed in order to provide consistency in decision-making and a clear understanding in the industrial community of what types of activities qualify for this authorization.

RESPONSE: Consistent with the Act's philosophy that each facility should review its opportunities for pollution prevention and implement those that are economically and technically feasible, the Department has avoided developing specific criteria for the out-of-process recycling authorization. In addition, at this time it would be impractical and perhaps impossible to develop standard criteria that could be used to determine whether each unique facility has exhausted reasonably available pollution prevention opportunities.

C. Conclusion

The Department believes that the out-of-process recycling authorization procedure proposed at N.J.A.C. 7:1K-4.7 is fully consistent with the language, purpose and intent of N.J.S.A. 13:1D-41(f). Therefore, N.J.A.C. 7:1K-4.7 has been adopted without change. This procedure will provide authorized facilities with the opportunity to describe certain out-of-process recycling activities in their Pollution Prevention Plans when the Department has determined that pollution prevention strategies are not reasonably available to the facility. Facilities seeking this authorization will be required to submit their Pollution Prevention Plan to the Department for review and for determination.

SUBCHAPTER 5. POLLUTION PREVENTION PLAN SUMMARIES

SUBCHAPTER 6. POLLUTION PREVENTION PLAN PROGRESS REPORTS

XI. REPORTING ISSUES

A. Base Year

a. Summary of Issue

As part of proposed N.J.A.C. 7:1K-1.5, Definitions, the Department stated its intention to define an industrial facility's "base year" for pollution prevention reporting purposes as the calendar year prior to the year of the submittal of the facility's Pollution Prevention Plan Summary to the Department.

b. Comments and Responses

1. Comments on 1993 base year vs. 1987 base year

COMMENT: Several commenters (4, 7, 19, 21, 22) asserted that the base year used to gauge a facility's pollution prevention progress should be 1987, and not 1993 (the calendar year prior to the year most priority industrial facilities will be submitting a Pollution Prevention Plan Summary to the Department pursuant to N.J.S.A. 13:1D-42(a)). One commenter (15) suggested that the Department add a reference to base year to proposed N.J.A.C. 7:1K-3.1, which outlines the requirements for preparation and submission of pollution prevention planning documents by priority industrial facilities.

RESPONSE: Among the Statewide public policy goals of the Act are a "significant reduction over five years after the preparation of the pollution prevention plans required by this act, calculated on the basis of 1987 amounts, in the use of hazardous substances at industrial facilities, and a 50% reduction over five years after the preparation of the pollution prevention plans required by the act, calculated on the basis of 1987 amounts, in the generation of hazardous substances as nonproduct output . . . ." N.J.S.A. 13:1D-36. This is the only section of the Act that refers to 1987 as a possible base year for pollution prevention planning purposes.

Despite this reference, the Department considers it highly unlikely that the Legislature intended for 1987 data to serve as the baseline for calculating individual facilities' pollution prevention progress relative to their goals, since this would be inconsistent with other requirements of the Act. Rather, it appears that the Legislature referenced 1987 in the Act's findings merely as a way of qualifying the Act's Statewide goals of "50% reduction" and "significant use reduction." Obviously, a 50 percent reduction, and a "significant reduction" must be a reduction from some identifiable reference point. In this context 1987, the first year that toxics release information was collected pursuant to 42 U.S.C. §11023, would have been a logical choice.

Nonetheless, other provisions of the Act make it clear that 1987 would be an unsuitable base year from which to measure the pollution prevention progress of individual facilities. For example, N.J.S.A. 13:1D-41(a) specifically states that the information required by the Department in a Pollution Prevention Plan is to cover the previous calendar year. Since N.J.S.A. 13:1D-42(a) requires the first group of Pollution Prevention Plans (for industrial facilities in SIC Codes 26, 28, 30, 33 and 34) to be completed by July 1, 1994, it follows that these Plans should contain information on calendar year 1993. Similar data requirements are found in the Pollution Prevention Plan Progress Report pursuant to N.J.S.A 13:1D-41(g)1. The Act also emphasizes that Pollution Prevention Plans are to contain five-year reduction goals based on options that are determined to be feasible through the pollution prevention planning process. N.J.S.A. 13:1D-41.

Some companies have suggested that data reported on the U.S. Enviromental Protection Agency's Form R on treatment techniques and efficiencies could be used to back-estimate quantities of waste generated before treatment and control from 1987 to the present. While back-estimation may produce valuable information on past practices, it is likely that much of the necesary information is not contained on past Form R reports. This is because from 1987 through 1990 the U.S. Environmental Protection Agency did not require facilities to report on Form R quantities of chemicals sent off-site for purposes of recycling or reuse.

The Department also believes that using 1993 as the base year will put all facilities on even footing in collecting and utilizing relevant pollution prevention planning data. The data collected by the U.S. Environmental Protection Agency on Form R pursuant to 42 U.S.C. §11023 will necessarily be incomplete because of the program's exemption for quantities shipped off-site for recycling or reuse. These data will also be inconsistent with data collected under the Act because the threshold quantity for Form R reporting purposes has changed several times since 1987. In 1987, the reporting threshold for quantities of regulated substances manufactured, imported or processed was 75,000 pounds. In 1988, the threshold was 50,000 pounds, and in 1989 and subsequent years, it was 25,000 pounds. Finally, as discussed above, data relevant to at least one critical parameter, nonproduct output, was not consistently collected by most facilities prior to the passage of the Act.

It is also vital that the Department have relatively consistent data on which to base the pollution prevention trends analysis required by N.J.S.A. 13:1D-45. If facilities calculate progress toward their pollution prevention goals on the basis of pre-1993 data, which for the reasons discussed above is not complete from facility to facility, it will be virtually impossible for the Department to gain a clear picture of the pollution prevention profile for each of the Standard Industrial Classification industry groups. Thus, in order to comply with N.J.S.A. 13:1D-45, the Department must establish a base year for which sound, consistent data is available for all priority industrial facilities. Once again, 1993 is the earliest year which will serve this purpose.

The Department understands that facilities achieving significant progress in pollution prevention prior to the passage of the Act would like to have these achievements documented in the form of progress towards the goals contained in their Pollution Prevention Plans. However, while the Department would like to recognize these pre-Act achievements, it believes that this recognition can be afforded to facilities through mechanisms that are less problematic than establishing a pre-1993 base year. For example, the Department has proposed to allow facilities to include a description of these achievements in their Pollution Prevention Plan Progress Reports, and to allow facilities to document specific degrees of progress for specific processes. See Comment Ca in this section for further discussion of this issue.

Thus, since pollution prevention goals are to be based on Pollution Prevention Plans, which are to encompass a range of information not necessarily available before the passage of the Act, and which are to be submitted by most priority industrial facilities by July 1, 1994, the

Department believes that it is appropriate to establish 1993 as the base year for the facilities in this group, and 1995 for the remaining priority industrial facilities. Therefore, the Department has adopted the definition of "base year" as proposed.

In addition, to clarify any misunderstanding that may exist about the scope of information to be reported in Pollution Prevention Plan Summaries and Plan Progress Reports, the Department has added a reference to the base year to N.J.A.C. 7:1K-3.1(a).

2. Comment on amending base year for pre-pilot facilities

COMMENT: One commenter (2) suggested that the Department establish a different base year for pollution prevention planning purposes for the three industrial facilities currently participating in the pre-pilot facility-wide permitting program.

RESPONSE: In 1991, three facilities volunteered to take part in a pre-pilot facility-wide permitting program organized by the Department as a test run for the pilot facility-wide permitting program required by N.J.S.A. 13:1D-48. Since these facilities volunteered for the pre-pilot program, they entered into the pollution prevention planning and facility-wide permitting process far sooner than any of the other facilities regulated by the Act. Out of necessity, and based on its availability, these facilities have begun to conduct pollution prevention planning on the basis of data from several previous years. Given the voluntary nature of the program, the Department considers it appropriate that the facilities chose their own base years.

It is true that the selection of base years other than 1993 will limit direct comparison of these facilities' pollution prevention progress with facilities using 1993 as a base year. However, the use of **any** base year other than 1993 would have prevented such comparison. Clearly, it was impossible for the three volunteer facilities to use 1993 as a base year since the pre-pilot project began in 1991.

Accordingly, the Department intends to allow the three pre-pilot facilities to establish a base year of 1987 or later for their Plans. The Department will address this issue with the three facilities as a separate administrative matter.

B. Reporting pre-1987 pollution prevention progress

a. Summary of the Issue

The Act allows a facility to include in its Pollution Prevention Plan and Plan Summary "a description of any pollution prevention strategies implemented at the industrial facility prior to 1987." N.J.S.A. 13:1D-41(e). The Department proposed to codify this authority at N.J.A.C. 7:1K-4.8, and proposed a specific optional item at N.J.A.C. 7:1K-4.3(b)2v to address inclusion of this information in Plans. The Department did not propose any specific reporting items for including this information in a Plan Summary.

b. Comment and Response

COMMENTS: Several commenters (12, 17) requested that the Department allow facilities to report on pre-1987 pollution prevention activities and progress through Pollution Prevention Plan Summaries and Plan Progress Reports.

RESPONSE: As part of the proposed rules, the Department proposed both a general authorization for facilities to include in a Pollution Prevention Plan and Plan Summary a description of pollution prevention strategies implemented at the facility prior to 1987, N.J.A.C. 7:1K-4.8, and a specific authorization for including pre-1987 pollution prevention strategies in a Plan at the facility's option, N.J.A.C. 7:1K-4.3(b)2vii. Instead of adopting the general reference to pre-1987 pollution prevention strategies as originally proposed at N.J.A.C. 7:1K-4.8, the Department has adopted the specific Plan element at N.J.A.C. 7:1K-4.3(b)2vii and has added an optional reporting item at N.J.A.C. 7:1K-5.1(b)3v to specifically address the inclusion of this information in a Plan Summary. As long as such strategies are consistent with the definition of "pollution prevention," N.J.A.C. 7:1K-1.5, a facility may include a description of pre-1987 pollution prevention strategies in its Plan or Plan Summary in any manner it deems appropriate.

The Department believes that including this information in Plan Progress Reports, as suggested by the commenter, would be duplicative since information on pre-1987 pollution prevention strategies is historic information that need only be reported once, not every year.

C. Reporting Between 1987 and the Base Year

a. Summary of Issue

Through N.J.A.C. 7:1K-5.1(b)3vi, the Department proposed to afford a facility the option of reporting on pollution prevention progress between 1987 and the base year as long as the facility reported information on the substance under 42 U.S.C. §11023 (Form R) and N.J.S.A. 34:5A-1 et seq. (Forms DEQ-100 and DEQ-114) during the year for which progress is reported. The Department's intent in proposing these criteria was to insure that documentation would be available to confirm reported progress.

b. Comment and Response

COMMENT: Several commenters (4, 17) took issue with proposed N.J.A.C. 7:1K-5.1(b)3vi(1) through (5) and stated that the proposed conditions on reporting progress between 1987 and the base year were contradictory and overburdensome.

RESPONSE: Since the Department proposed this is an optional reporting section, it has decided not to adopt the reporting criteria, N.J.A.C. 7:1K-5.1(b)3vi(1) through (5) in order to address the commenters' concerns. Therefore, under N.J.A.C. 7:1K-5.1(b)3vi, a facility may report in its Pollution Prevention Plan Summary on pollution prevention progress between 1987 and the base year for any covered substances in any manner deemed appropriate by the facility. On adoption, the Department has also added an optional reporting item at N.J.A.C. 7:1K-4.3(b)2viii to allow facilities to include this information in Part I of a Pollution Prevention Plan.

D. Use Calculation

a. Summary of Issue

In the proposal, the Department outlined the calculation method to be used in the Pollution Prevention Plan and Plan Progress Report for quantifying the amount of hazardous substances used at a facility level. See N.J.A.C. 7:1K-4.3(b)2vi and 6.1(c)3vi. As part of this method, the Department proposed to require facilities to include the quantity of hazardous substances recycled on site and out-of-process in calculating the total use value. Several comments were raised in response to this strict methodology.

b. Comments and Responses

COMMENTS: One commenter (23) was concerned that the formula for calculating hazardous substance use under proposed N.J.A.C. 7:1K-4.3(b)2vi and 6.1(c)3vi is potentially faulty. The commenter noted that since this calculation method is based on several other reporting elements, inventory losses, fire and evaporation might increase hazardous substance use figures inappropriately. To resolve this problem, the commenter suggested that hazardous substance use be determined by the same rules guiding other data, that is, that the Department give facilities the flexibility to either use the proposed calculation method or to make appropriate adjustments to allow use to be independently derived.

A few industry representatives (4, 21, 22) expressed concern over the method for calculating quantities hazardous substances use specified in proposed N.J.A.C. 7:1K-4.3(b)2vi and 6.1(c)3vi. The commenters were concerned that quantities of recycled material counted towards quantities used. They contended that the use calculation is inconsistent with the Form R and Form DEQ-114.

One commenter (21) recommended that the statutory definition of use be changed to "the input of virgin, or non-recycled hazardous substances into the process."

One commenter (4) presented an extreme example of motor oil used in a car engine. In the example, the commenter compared one gallon of oil added to an engine four times a year to 76,000 gallons of oil that would circulate through the engine during the year. The commenter contended the proposed use calculation method would require a facility to report that 76,000 gallons of oil were used.

Another commenter (22) provided an illustration of how different use definitions can provide very different values. The commenter stated that if use of a certain process is supposed to indicate the process input of virgin raw materials, then the process used 6,518 kilograms (Kg). If use is calculated by including in-process recycled materials, then use would equal 2,633,000 Kg.

RESPONSE: Regardless of the ultimate fate of hazardous substances at an industrial facility, all hazardous substances brought, manufactured or recycled on site that are then consumed, shipped, or lost as releases (point source or fugitive, such as evaporation), and are not stored, are considered to have been used at the site under the definition of "use" at N.J.S.A. 13:1D-37 and proposed N.J.A.C. 7:1K-1.5. Use figures must necessarily account for hazardous substances that are released into the environment, via any means, in order to achieve accurate reporting and to discourage losses due to such avoidable vents such as fire, inventory loss and evaporation. The Department has adopted the strict calculation method for hazardous use as proposed at N.J.A.C. 7:1K-4.3(b)2vi and 6.1(c)3vi to ensure that recycled and lost materials are appropriately factored into total use of a hazardous substance at a facility.

The main reason for including a use calculation in the proposed rules was to show how out-of-process recycling impacts the quantities of hazardous substances used at an industrial facility. While out-of-process recycling may reduce the purchase of raw materials, it does not reduce use; it contributes to use in the same manner as materials brought on-site. Therefore the definition of use recommended by the commenter (21) is inappropriate.

No method of calculating use has been included in previous versions of the Department's Form DEQ-100 or DEQ-114. Therefore, the proposed use calculation method is not inconsistent with these forms. Likewise, the U.S. Environmental Protection Agency's new Form R (1991) did not include a use data element or method for calculating use.

The examples given by the two commenters (4, 22) highlight problems with interpreting the definition of in-process recycling, rather than any flaws in the proposed use calculation formula. In the first example, the commenter (4) based the use calculation on the assumption that oil constantly circulating in the car engine is out-of-process recycling. This is actually in-process recycling under the definition at N.J.A.C. 7:1K-1.5. Therefore, based on the example presented, only four gallons of oil would be "used," not 76,000 gallons as stated by the commenter. In the second example, the commenter (22) has not provided enough information to determine whether the material from one batch to another is in-process recycled or out-of-process recycled. If the recycling occurs in-process, then use would approximately equal process inputs. Out-of-process recycled material would reflect significantly higher levels of use.

E. Facility-Wide Unit of Product

a. Summary of Issue

Under the Act's Pollution Prevention Progress Report requirements, N.J.S.A. 13:1D-41(g)1, industrial facilities must report on the facility-wide and process-level reduction or increase in the use and generation of nonproduct output **per unit of production**. Likewise, the Act requires all process-level reporting in the Pollution Prevention Plan Summary to be on a per unit of product or production basis. See N.J.S.A. 13:1D-(h)2. However, the Act does not require facilities to report their facility-wide five year goals for use and nonproduct reduction on a per unit basis in the Pollution Prevention Plan Summary, N.J.S.A. 13:1D-41(h)1.

In order to provide guidance on the concept of a unit of production as used in the Act, the Department proposed to require all facilities to report on the basis of a "facility-wide unit of product" determined under the definition at proposed N.J.A.C. 7:1K-1.5. Each facility would then calculate use and nonproduct output reduction goals and its subsequent progress toward those goals in two formats: (1) aggregate information; and (2) facility-wide efficiency based on a facility wide unit of product.

b. Comments and Responses

1. Comment on "facility-wide unit of product"

COMMENT: Several commenters (2, 4, 12, 19, 21, 22, 23) felt that the concept of a "facility-wide unit of product" has little relevance in measuring pollution prevention progress since it is practically impossible to develop a meaningful measure of production at a facility manufacturing multiple products. These commenters recommended that the Department not require facilities to develop a facility-wide unit of product.

RESPONSE: The Department agrees that a facility-wide unit of product may be difficult to calculate and potentially unusable for effective pollution prevention measurements for certain facilities. After further consideration, the Department has decided not to require facility-wide information to be reported on a per-unit basis in Pollution Prevention Plan Summaries or Progress Reports. Accordingly, the Department has not adopted the definition of facility-wide unit of product at proposed N.J.A.C. 7:1K-1.5, and has not adopted proposed N.J.A.C. 7:1K-4.5(a)6, 4.5(a)8, 5.1(b)3i, 5.1(b)3iii, 6.1(c)4i or 6.1(c)4iii, which would have required facilities to compile or report information on a "facility-wide unit of product" basis.

As a result, facilities compiling a Pollution Prevention Plan Summary or Plan Progress Report should base all pollution prevention reporting on facility-level activities on the aggregate amount of hazardous substances used or generated as nonproduct output at the facility. Under the adopted rules, a facility-wide unit of product will not have to be separately calculated or reported by the facility.

2. Comment on measuring reductions per unit of production

COMMENT: One commenter (18) supported the Department's proposal to require facilities to measure all reductions on a per unit of production basis.

RESPONSE: As discussed above, the Department agrees with other commenters that it is not practical to require facilities to report facility-wide use and nonproduct output reductions on a per unit of production basis. Therefore, facilities will only be required to collect facility-wide data on an aggregate basis. However, facilities will still be required to report all process-level information on a per unit of production basis in Pollution Prevention Plan Summaries and Progress Reports, and the Department appreciates the commenter's support of this approach.

F. Nomenclature and Product Descriptions

a. Summary of Issue

The Act requires a facility preparing a Plan Summary and Plan Progress Report to identify each production process and targeted production process, to describe targeted processes and targeted sources, to indicate the methods used to achieve reported reductions, and to describe the techniques the facility intends to undertake during the next five years to achieve its goals. N.J.S.A. 13:1D-41(g) and (h). Because the information contained in the Plan Summary and Plan Progress Report will provide the foundation for the trends analysis and report to the Legislature required by N.J.S.A. 13:1D-45, it is essential that the Department receive this information in a consistent and manageable fashion.

In the second pre-proposal, the Department solicited comment on whether it should develop standardized categories for processes and methods in order to facilitate the uniformity and comparability of information reported by different facilities. The Department stated its concern that without standardized reporting, the identifications and descriptions in one facility's Plan Summary or Plan Progress Report might not be directly comparable to those in another facility's reports. The Department also stated it envisioned developing some type of catalog of categories of processes, sources, methods and the like to be used by facilities in developing their reports. The Department asked for input on what types of categories should be developed and on how a catalog of categories should be organized to facilitate reporting and data access.

In the second pre-proposal, the Department also responded to comments on nomenclature and standardized reporting made in response to the first pre-proposal. Several commenters stressed that the Department should avoid requiring simplistic or overly restrictive choices of nomenclature which would, in effect, "pigeon hole" reporting into inappropriate categories. Several commenters were also concerned that attempts to direct reporting though prescribed nomenclature could lead to unwarranted and misleading comparisons between processes, products or facilities. Other commenters asserted that a nomenclature system would have to be huge to be comprehensive, but would nonetheless be of limited value for analysis purposes because of the unique nature of some New Jersey facilities. At least two other facilities encouraged the Department to develop a catalogue of reporting categories in order to facilitate pollution prevention reporting.

Appendix C of the proposed rules contained proposed nomenclature lists to be used in identifying and describing processes and pollution prevention methods. These lists each contain an "other" category to provide flexibility to facilities if the listed nomenclature does not permit an adequate description or identification. The Department also included references to the nomenclature lists in proposed N.J.A.C. 7:1K-5.1(b)4ii.

b. Comments and Responses

1. Comments on product descriptions

COMMENTS: One commenter (11) stated that process descriptions should include the product or product classification. Another commenter (23) stated that the proposed use of four-digit SIC codes and nomenclature for process descriptions was too broad and vague. However, a third commenter (4) contended that the specific identifying nomenclature to be used in process descriptions is too detailed and will serve as a disincentive to reporting. Finally, a commenter (3) asked whether the products of grouped processes could be grouped under a group code name.

RESPONSE: N.J.S.A. 13:1D-41(g) and 13:1D-41(h) describe the contents of the Pollution Prevention Plan Summary and Plan Progress Report, and require facilities to identify each production process and targeted production process and describe each targeted process and targeted source. It is the information contained in these reports which the Department will use to complete the trends analysis and report to the Legislature required by N.J.S.A. 13:1D-45. Thus, it is essential that the information received by the Department be consistent and manageable. After considerable discussion and consultation, the Department proposed the list of process descriptors presented in Appendix C

which are to be used in conjunction with the Pollution Prevention Plan Summary Report form and the Pollution Prevention Plan Progress Report form.

The proposed nomenclature list is a compromise between a detailed and specific reporting approach and a broader, less specific approach (such as requiring a narrative description.) The Department has attempted to streamline the list enough to not be unduly burdensome to facilities while maintaining enough specificity and consistency for the data submitted to be manageable and useful. If the data are too general or ambiguous, as would be the case if no standard reporting format or if too broad a reporting format is used, it may be impossible to draw any conclusions from the data at all. Should this be the case, little would be gained from the time and effort spent in submission of the data by the facilities and little would be gained from the time and effort spent by the Department in entering and analyzing the data submitted.

The Department believes that the proposed nomenclature lists are detailed enough to provide effective identifications and descriptions for the purposes of the Act. Use of these nomenclature lists will avoid pigeon-holing processes, because the facility may use of the "other" category if no process descriptor fits. Moreover, the confidentiality provisions of the Act will permit facilities to exclude confidential information from disclosure.

The Department concurs that some description of the product is a necessary part of a process description. In the Pollution Prevention Plan Summary Report form, the Department will provide a space for reporting the four-digit SIC code describing the product of the process. The list of four-digit codes applicable to industrial product descriptions will be approximately 10 pages long and will be provided in the Pollution Prevention Plan Guidance Document. The Department considers this level of detail sufficient, and is concerned that, if more detail is requested, reporting will become unnecessarily burdensome. Even expanding the SIC list to the five-digit level would lengthen the list of applicable codes to approximately 50 pages.

If processes are grouped into one process for pollution prevention planning purposes, then the aggregated production of this grouped process can be described with a group description. However, the Department believes that four-digit SIC codes will in most cases be broad enough to adequately describe even the aggregated production of a grouped process. If no four-digit code is sufficiently broad, then the facility should describe the product of the grouped process with the appropriate three-digit code, or even with a two-digit code if the three-digit code is still too broad. For example, if the facility produces leather and leather products, it will fall under SIC code 31. If it groups processes which produce "men's footwear, except athletic" (SIC code 3143) and "women's footwear, except athletic" (SIC code 3144) into a single process, it could describe the production as "footwear, except athletic" (SIC code 314).

Use of the nomenclature list may eventually demonstrate that most facilities and processes in New Jersey are too heterogeneous to permit comparisons. If this is the case, the Department will propose changes to these rules and discuss its findings in the report to the Legislature required by N.J.S.A. 13:1D-45.

2. Comment on unit operations nomenclature

COMMENT: One commenter (25) suggested adding the classification of "solidification/stabilization/fixation" to the nomenclature in the UO—Unit Operations list in Appendix C.

RESPONSE: The Department appreciates the suggestion and has added this classification to Appendix C on adoption of these rules.

G. Implementation Schedules

a. Summary of Issue

The Act requires a facility to provide in Part II of its Pollution Prevention Plan "[a] description, for each targeted production process, of options the owner or operator of the industrial facility intends to undertake during the next five years to achieve its reduction goals **and a schedule for the implementation of the options**." N.J.S.A. 13:1D-41(c)6 (emphasis added).

In proposed N.J.A.C. 7:1K-4.5(a)12, the Department outlined the information to be included in an implementation schedule as follows:

12. A schedule for implementing the pollution prevention options identified in (a)5 above, including at a minimum:

i. Start date for construction or other activities which may require pre-approval from the Department through the issuance of permits or other approvals, if applicable; and

ii. Completion date for implementing the pollution prevention options identified under (a)5 above[.]

b. Comments and Response

COMMENTS: Several commenters (9, 21, 22) asserted that the requirement for an implementation schedule in Part II of a pollution prevention plan was beyond the scope of N.J.S.A. 13:1D-41(c)6 and was too detailed and time-consuming. In addition, one of the commenters was concerned that the Department might require compliance with these implementation schedules in the future. One commenter (22) recommended alternative language for N.J.A.C. 7:1K-4.5(a)12, as follows: "A schedule for implementing the pollution prevention options identified in (a)5 above, indicating the industrial facility's best estimate of the completion date for the implementation."

RESPONSE: The Department believes it is reasonable and not burdensome to specify that the implementation schedule required by N.J.S.A. 13:1D-41(c)6 should include a starting and ending date. Like most aspects of Part II of a Pollution Prevention Plan, these schedules will not be subject to Department review and approval and will not be enforced against facilities. The Department also included this requirement as an element of the Pollution Prevention Plan Summary (see N.J.A.C. 7:1K-5.1(b)5v) as a means of prioritizing permit review to potentially fast-track pollution prevention-related permits.

H. General Reporting Issues

a. Summary of Issue

The Act requires priority facilities to submit a Pollution Prevention Plan Summary to the Department every five years, N.J.S.A. 13:1D-42(a) and (f), and to submit an annual Pollution Prevention Plan Progress Report to the Department which is also publicly available, N.J.S.A. 13:1D-42(g). During the rulemaking process, a number of questions arose concerning the substance and structure of the reporting forms for the Pollution Prevention Plan Summary and Plan Progress Report. The Department did not propose to include these forms as part of proposed N.J.A.C. 7:1K; however, copies of the Department's draft forms have been made available and continue to be available on an informal basis for public review and comment on format. Substantive issues on pollution prevention plan reporting pursuant to N.J.A.C. 7:1K-5.1 and 6.1 are addressed below.

b. Comments and Responses

1. Comment on redundant reporting of pollution prevention techniques

COMMENT: One commenter (21) stated that proposed N.J.A.C. 7:1K-6.1(c)4ix and 6.1(c)5ii(7) are redundant. These sections require facilities to identify pollution prevention techniques used during the year at both the process and facility level in a Pollution Prevention Plan Progress Report.

RESPONSE: The Department has decided not to adopt the requirement for reporting facility-level information on pollution prevention techniques, proposed N.J.A.C. 7:1K-6.1(c)4ix. Instead, the Department's database for tracking Pollution Prevention Plan Progress Report information is being designed to summarize this information for the facility level using the process-level data submitted pursuant to N.J.A.C. 7:1K-6.1(c)5ii(7).

2. Comment on repetition of Part IA requirements in Plan Progress Report

COMMENT: Two commenters (5, 21) were concerned that the Department proposed to require facilities to include data items from Part IA of a Pollution Prevention Plan (proposed N.J.A.C. 7:1K-4.3(b)) in the Pollution Prevention Progress Report (proposed N.J.A.C. 7:1K-6.1(c).) The commenters did not give specific citations to the proposal, but were concerned that requiring facilities to include the same information in a Pollution Prevention Plan and Plan Progress Report would necessitate annual materials accounting by the facility. The commenters felt that this would be beyond the authority of the Act, and that the Plan Progress Report should only contain information on targeted processes.

RESPONSE: The Department intentionally overlapped the reporting requirements for the Pollution Prevention Plan and Plan Progress Report in order to show the relationship between the Plan, Form DEQ-114, and the Plan Progress Report. Since the facility-level materials accounting requirements in the rules are the same for the Plan (N.J.A.C. 7:1K-4.3(b)2) and the Plan Progress Report (N.J.A.C. 7:1K-6.1(c)3), a facility-level materials accounting must be completed annually. This is consistent with the Worker and Community Right-to-Know Act, specifically N.J.S.A. 34:5A-3, and the Department does not expect this requirement to be burdensome.

The Act does not limit the entire scope of the Plan Progress Report to targeted processes, as contended by the commenters. See N.J.S.A.

13:1D-41(g). At a minimum, the Act requires facilities to identify **all** production processes. N.J.S.A. 13:1D-41(g)1. In addition, the Act clearly authorizes the Department to expand these minimum reporting elements through rulemaking. N.J.S.A. 13:1D-41(g) and (g)1.

Below is a complete cross reference for sections that are intentionally repeated:

CROSS REFERENCE FOR SECTIONS
WHICH ARE INTENTIONALLY REPEATED

i. Identification of production processes and sources

The processes identified in a Plan Summary should be the same as those identified in Part I of the Plan.

Part I	Plan Summary
4.3(b)3i	5.1(b)4i

ii. Facility-level inventory and release data

The facility-level inventory and release data submitted in a Plan Progress Report should be the same as that developed in Part I of the Plan. This data will replace Right-to-Know data formerly submitted on Form DEQ-114.

Part I	Progress Report
4.3(b)2	6.1(c)3

iii. Use and Nonproduct Output Reduction Goals

The goals reported to the Department in a Plan Summary should be the same goals developed in Part II of a Plan.

Part II	Plan Summary
(Facility-level)	
4.5(a)6 through 9	5.1(b)3i through iv
(Process-level)	
4.5(a)10 and 11	5.1(b)5ii and iii

iv. Information on Progress towards achieving goals

Information on pollution prevention reductions from year to year and on progress in achieving five year goals reported to the Department in a Plan Progress Report should be the same information developed in Part IB of the Plan.

Part 1B	Progress Report
(Facility-level)	
4.3(c)1i through ix	6.1(c)4i through ix
(Process-level)	
4.3(c)2ii(1) through (7)	6.1(c)5ii(1) through (7)

3. Comment on consolidating reporting with Right-to-Know reporting

COMMENT: One commenter (17) asserted that the Act requires a single reporting strategy for the State Right-to-Know and pollution prevention planning programs to avoid duplication of efforts. The commenter requested that the mechanism for this combined reporting be defined under N.J.A.C. 7:1K-1.4.

RESPONSE: The Act directs the Department, to the maximum extent feasible, to base its pollution prevention planning and reporting requirements on information developed by industrial facilities for compliance with the Worker and Community Right-to-Know Act, N.J.S.A. 34:5A-1 et seq., but does not specifically require combined reporting. See N.J.S.A. 13:1D-40(b). The Department fully intends to consolidate pollution prevention and State Right-to-Know reporting wherever possible to avoid duplicative reporting. However, the details and format of this combined reporting are still being worked out between the two programs and it is not yet clear whether combined reporting is feasible. Therefore, the purpose of proposed N.J.A.C. 7:1K-1.4 was to allow, but not require, combined reporting. Information on combined reporting is being circulated to affected industrial facilities prior to the first combined reporting deadline, and all interested parties are welcome to review and informally comment on preliminary drafts of the combined reporting forms upon request.

4. Comment on reporting format

COMMENT: One commenter (25) recommended that the Department arrange the reporting format for the Pollution Prevention Plan Progress Report to allow direct comparison of the facility's annual and five-year progress towards its goals. This commenter felt that simple reduction comparisons to the "previous year" (as required by N.J.S.A. 13:1D-41(g)) are inconsistent with the five year outlook of the facility's overall Pollution Prevention Plan, and the Department should be comparing progress to the five-year goals in the facility's Plan.

RESPONSE: The Department agrees with the commenter's suggestion. The present drafts of the Pollution Prevention Progress Reports forms include sections for comparisons to the facility's five-year goals.

5. Comment on detailed and quantitative reporting

COMMENT: Several commenters (4, 5, 6, 21) were concerned that the Pollution Prevention Plan Summary and Pollution Prevention Plan Progress Report requirements at proposed N.J.A.C. 7:1K-5.1 and 6.1 are excessively detailed and go beyond the scope of the Act. In general, the commenters felt that the reports should not be process-level in nature, and were concerned about the economic burden of such "excessive" reporting.

RESPONSE: One of the goals of the Act is to replace the traditional system of command and control environmental regulation with a comprehensive public reporting system. This is consistent with the national Chemical Manufacturers Association's Responsible Care Program whose motto is "Don't Trust Us, Track Us."

In developing the pollution prevention planning program, the Department has gone to great lengths to streamline its reporting requirements in order to ensure that only information deemed critical for pollution prevention planning is reported. In most cases, the Department proposed merely to codify the minimum reporting elements contained in the Act. For example, the Act requires several specific process-level data elements to be submitted by priority industrial facilities as part of a Pollution Prevention Plan Summary and Plan Progress Report (such as N.J.S.A. 13:1D-41(g)1 and (h)2), and these data elements have been codified in N.J.A.C. 7:1K-5.1 and 6.1. The proposed reporting format also includes several optional sections on pre-baseline pollution prevention activities and recycling; reporting on these topics is expected to be to the facility's benefit.

In addition, the Department intends to actively provide assistance to smaller businesses in completing and filing pollution prevention reporting forms.

6. Comment on reporting total use

COMMENT: One commenter (4) objected to proposed N.J.A.C. 7:1K-5.1 and 6.1 on the basis that the reporting of baseline year ratios or total use on a process basis is not authorized by the Act, and cuts directly to the heart of reporting proprietary information. However, the commenter acknowledged that the Act authorizes reporting of process-level use ranges.

RESPONSE: Consistent with N.J.S.A. 13:1D-41(h)5, the Department intends to require facilities to report process-level use of hazardous substances only by using the ranges in the Act. There is an error in proposed N.J.A.C. 7:1K-6.1(c)4v and 6.1(c)5ii(3), which indicate that a facility must report the actual amount of each hazardous substance used per unit of product that is attributable to the sale of co-products. The Department has corrected the error on adoption of these provisions.

7. Comment on reporting process ranges for evaluating targeting

COMMENT: One commenter (23) recommended that the Department require facilities to include a full set of ranges for quantities of use, nonproduct output generation, and release for each production process in the Pollution Prevention Progress Report as a means to evaluate the quality of targeting decisions.

RESPONSE: N.J.S.A. 13:1D-41(h)5 requires facilities to report in a Pollution Prevention Plan Summary their use of each hazardous substance in each targeted production process expressed as a range of quantities. The reporting ranges in the Act are: (1) 0 to 5,000 pounds, (2) 5,000 to 10,000 pounds and (3) greater than 10,000 pounds. These ranges were incorporated into the Pollution Prevention Plan Summary requirements at proposed N.J.A.C. 7:1K-5.1(b)5vi.

On the basis of the commenter's suggestion, the Department plans to propose to split the third range, "greater than 10,000 pounds," into two smaller ranges: (1) 10,000 to 50,000 pounds, and (2) greater than 50,000 pounds. This information should assist the Department in evaluating facilities targeting decisions.

The Act does not specifically require facilities to report process-level ranges for non-targeted production processes or to report quantities of nonproduct output or releases for any production processes, and the Department does not see a need for this information at this time.

8. Comment on reporting on non-targeted processes

COMMENT: A number of commenters (3, 4, 5, 17, 21) asserted that the Act does not require descriptions for all processes at a facility, but only for targeted processes. These commenters stated that proposed N.J.A.C. 7:1K-5.1(b)4ii, which would require a description of all processes (targeted and non-targeted) to be reported in a Pollution Prevention Plan Summary, is beyond the authority of the Act.

RESPONSE: The Act specifically requires all processes at a priority facility to be identified. See N.J.S.A. 13:1D-41(g)1. As part of its task of translating the Act's requirements into a workable regulatory program, the Department has determined that an identification of a process needs to provide a minimal description of the process. Without such descriptions, the Department and the facility may not gain an overall perspective on the facility due to the broad flexibility given to the facility to target processes for pollution prevention planning purposes. In addition, process-level data can be misleading and hard for the Department and the public to interpret without some understanding of total facility operations.

For example, a facility may report significant pollution prevention progress within its targeted production processes without reporting any changes in its facility-wide aggregate data. To interpret this apparent discrepancy, it is necessary to have a complete facility perspective on all production operations involving the covered hazardous substance. Therefore, the Department does not believe it will be burdensome to require the facility to describe its existing processes every five years in its Pollution Prevention Plan Summary. Then, the facility need only report on achievements in targeted production processes in its annual Pollution Prevention Plan Progress Reports.

Pursuant to N.J.S.A. 13:1D-41(h), the Department is authorized to require this additional information to be reported in a Pollution Prevention Plan Summary "as otherwise provided by the department in rules and regulations adopted" under N.J.S.A. 13:1D-40(a), the Act's general rulemaking authority.

9. Comment on reporting for evaluation of targeting decisions

COMMENT: One commenter (23) suggested that, at a minimum, pollution prevention reporting should describe non-targeted processes in order to inform the public about chemical use in the State. The commenter also recommended that the Department collect additional information in order to distinguish targeted and non-targeted processes and to evaluate the quality and results of targeting decisions and the quality of grouping decisions. The commenter proposed the following language for addition to N.J.A.C. 7:1K-5.1(b)3vii: "the percent for targeted processes in the aggregate, for each hazardous substance, to the total hazardous substance use, nonproduct output, and multimedia environmental releases at the industrial facility."

RESPONSE: As discussed above, the adopted rules require an industrial facility to identify all processes, targeted and non-targeted, in its Pollution Prevention Plan Summary. Because of confidentiality concerns, the Department does not believe that collecting additional process-level information at the level of detail suggested by the commenter would be appropriate. Rather, the Department anticipates that pollution prevention reporting under the ranges contained in the Act, N.J.S.A. 13:1D-41(h)5, will provide sufficient information for "right-to-know" purposes.

On the issue of evaluating targeting decisions, the Department is considering including a multiple choice question on the Pollution Prevention Plan Summary form for the facility to report whether total use, nonproduct output, or releases were used as the basis for the facility's targeting decision. Since the format of the reporting forms is not yet final, the Department welcomes additional input and suggestions on this issue.

10. Comments on nonproduct output reporting

COMMENT: A few commenters (5, 21) felt that the proposed Pollution Prevention Plan Summary and Plan Progress Report elements, N.J.A.C. 7:1K-5.1 and 6.1, exceed the current requirements for reporting nonproduct output information under the State Right-to-Know program and 42 U.S.C. §11023.

RESPONSE: The Act explicitly defines nonproduct output as a parameter of concern, and specifically requires a priority industrial facility to report on nonproduct output reductions and goals in Pollution Prevention Plan Summaries and Plan Progress Reports. See N.J.S.A. 13:1D-36, 13:1D-41(g) and 13:1D-41(h). These requirements are separate and distinct from the reporting requirements of the Worker and Community Right-to-Know Act, N.J.S.A. 34:5A-1 et seq., and 42 U.S.C. §11023, thus, the consistency issue raised by the commenter is irrelevant from a legal perspective.

From a policy perspective, the commenter is incorrect in asserting that the requirements of proposed N.J.A.C. 7:1K-5.1 and 6.1 are more extensive than the reporting requirements of the Worker and Community Right-to-Know Act and 42 U.S.C. §11023. In 1991, the Worker and Community Right-to-Know Act was amended by the Pollution Prevention Act to require the reporting of information on nonproduct output and to define these terms as defined in the Pollution Prevention Act. In addition, the Federal Pollution Prevention Act, 42 U.S.C. §6602 et seq., requires the U.S. Environmental Protection Agency to collect data on the amount of multimedia waste generated at a facility prior to recycling, treatment and control through Form R reporting pursuant to 42 U.S.C. §11023. This concept of nonproduct output is synonymous with the definition of nonproduct output under the Act.

11. Comment on reporting reduction methods

COMMENT: One commenter (21) requested that the Department add a subsection to proposed N.J.A.C. 7:1K-4.3 to correspond to N.J.S.A. 13:1D-41(g)2.

RESPONSE: N.J.S.A. 13:1D-41(g)2 requires facilities to indicate the method used to achieve each use or nonproduct output reduction listed in its Pollution Prevention Progress Report. The Department included this provision in the proposed rules at N.J.A.C. 7:1K-4.3(c)2ii(7).

12. Comment on exempting "de minimus" facilities from reporting

COMMENT: One commenter (12) recommended that the Department exempt facilities from reporting altogether if they use hazardous substances in "de minimus" quantities.

RESPONSE: The Department has already tried to accommodate "de minimis" use of hazardous substances into these rules by proposing the 10,000 pound threshold for reporting use or manufacture of hazardous substances, N.J.A.C. 7:1K-3.4(a). Under the Act, a facility must complete a Pollution Prevention Plan if it is subject to reporting under 42 U.S.C. §11023 (Form R). Once a facility has submitted one Form R, it must conduct pollution prevention planning for any hazardous substance which is used or manufactured in annual amounts greater than 10,000 pounds, unless the Department has lowered the threshold for this substance under the procedure at N.J.A.C. 7:1K-3.4(b). Thus, unless the Department has determined that a substance poses a "significant risk" in quantities less than 10,000 pounds, facilities are exempt from reporting de minimus use and manufacture in quantities less than 10,000 pounds.

13. Comment on check-off exemption for reporting zero goals

COMMENT: One commenter (12) suggested that the Department provide "a check-off mechanism for companies that project zero goals." The commenter envisioned that this exemption would be applied to allow facilities to certify that they have already incorporated pollution prevention techniques into their daily operations to the maximum extent practicable in order to be "in compliance" and viable.

RESPONSE: Adopting the commenter's suggestion would in effect endorse certain regulated facilities' minimal participation in the pollution prevention program. One of the basic tenets of the Act is that each facility should evaluate its operations for potential pollution prevention opportunities. This represents a paradigm shift in both the process design and environmental protection areas. This widely acknowledged and favorably endorsed concept is meant to aid companies in optimizing their processes, thus increasing their competitiveness, while improving environmental quality by complementing tradition command and control methods. However, as with every paradigm, there is an unavoidable set of barriers to overcome. Thus, another major purpose of the Act is to speed up the process of understanding and accepting pollution prevention.

Allowing facilities to circumvent the planning process through the implementation of a zero check-off box would undoubtedly be misinterpreted and sometimes abused. This could thwart many opportunities for facilities to become acquainted with an implement pollution prevention, would greatly weaken the effectiveness of the Act, and would retard the acceptance of a much needed change. It is undeniable that certain facilities and industry groups can benefit more than others from the pollution prevention planning process required by the Act. Yet, it is often the case that facilities opposed to preparing a Pollution Prevention Plan are not well informed about pollution prevention concepts.

The Department feels that much of the process of learning about and understanding the benefits and soundness of pollution prevention will not become evident until the pollution prevention planning process set forth in the Act is undertaken by a facility. Therefore, it does not intend to adopt the commenter's suggestion.

I. Certifications

a. Summary of Issue

Under the proposed rules, certain officials of an industrial facility would be required to personally certify certain aspects of the facility's Pollution Prevention Plan, Plan Summary and Plan Progress Report. See proposed N.J.A.C. 7:1K-4.3(b)1i and ii; 5.1(b)2; and 6.1(c)2. These certifications are intended to ensure (1) that the high ranking officials

of the facility (usually the plant manager and company president) have read or are familiar with the Plan, Plan Summary or Plan Progress Report; (2) that it is company policy to implement the facility's Pollution Prevention Plan; and (3) that the Plan, Plan Summary or Plan Progress Report is accurate and complete.

The language proposed for these certifications was derived partly from the Act (see N.J.S.A. 13:1D-41(b)1 and 13:1D-41(h)6) and partly from the State Code of Criminal Justice, N.J.S.A. Title 2C, specifically N.J.S.A. 2C:28-3 (Unsworn falsification to authorities). Among other provisions, the latter authority makes it a disorderly persons offense for a person to make any written false statement which he or she does not believe to be true with purpose to mislead a public servant in performing his or her function. N.J.S.A. 2C:28-3(b)1.

b. Comments and Responses

1. Comment on voluntary goals not being enforceable

COMMENT: Several commenters (15, 17, 25) objected to the proposed certifications on the basis that Pollution Prevention Plan goals are voluntary and therefore should not subject a facility to penalties of any kind.

RESPONSE: The Act requires facilities to establish pollution prevention goals (see N.J.S.A. 13:1D-41(c)), but the implementation and achievement of these goals is voluntary. Thus, the proposed certifications may subject facilities to penalties for making misstatements about whether they have set goals, but will not lead to enforcement action for failure to meet those goals. To clear up any misunderstanding on this issue, the Department intends to propose an amendment to N.J.A.C. 7:1K-12.5 specifying that a facility's goals are not enforceable.

2. Comment on certification language

COMMENT: Several commenters (12, 19), were opposed to the proposed certification language on the philosophical basis that it does not assume voluntary compliance by facilities, and on the legal basis that it is beyond the authority of the Act.

RESPONSE: The Department has decided not to adopt specific references to civil and criminal penalties for false certification of a Pollution Prevention Plan (proposed N.J.A.C. 7:1K-4.3(b)1i and ii), Plan Summary (proposed N.J.A.C. 7:1K-5.1(b)2i) or Plan Progress Report (N.J.A.C. 7:1K-6.1(c)2i). These references were intended to put certifiers on notice of civil penalties for false certification that might attach under the Act (N.J.S.A. 13:1D-49) or criminal penalties for enforcement that might attach under the State Code of Criminal Justice, specifically N.J.S.A. 2C:28-3 (Unsworn falsification to authorities). While these penalties remain available, in response to comments received objecting to the proposed certification language the Department has chosen not to adopt a specific reference to penalties in the certifications. The remaining language found in these certifications is derived from N.J.S.A. 13:1D-41(b)1 and N.J.S.A. 13:1D-41(h)6.

J. Non-Management Employee Representatives

a. Summary of Issue

N.J.S.A. 13:1D-41(a)2 requires industrial facilities to document in Part I of a Pollution Prevention Plan the "name and business telephone number of a non-management employee representative at the industrial facilities." The Department restated this requirement in proposed N.J.A.C. 7:1K-4.3(b)1iv.

b. Comments and Responses

1. Comment on "technical contacts"

COMMENT: The Department received one comment (9) recommending that the relevant language in proposed N.J.A.C. 7:1K-4.3(b)1iv be changed to require the documentation of a "technical contact at the industrial facility" instead of a "non-management employee representative."

RESPONSE: The proposed language is taken directly from the Act. See N.J.S.A. 13:1D-41(b)2. The Department believes that this requirement is intended to document the name of a person that acts in the capacity of employee representative, such as a collective bargaining agent. Therefore, the Department has adopted this provision as proposed and will provide guidance on this issue through the Pollution Prevention Planning Guidance Document.

2. Comment on reporting non-management representative in Plan Summary

COMMENT: One commenter (1) requested that the Department require facilities to report the name and telephone number of a non-management employee representative contact in a Plan Summary instead of a Plan as proposed by N.J.A.C. 7:1K-4.3(b)1iv. The commenter felt that this is needed in order to facilitate worker involvement in pollution prevention.

RESPONSE: Pursuant to N.J.S.A. 13:1D-41(b)2, information on employee representatives is only required to be provided in the Pollution Prevention Plan which will generally remain on-site at a facility. The Department concurs with the commenter that it would be useful to have this information publicly reported through the Plan Summary. As part of the upcoming amendment package, the Department will propose to require each facility to report in its Plan Summary the name of the non-management employee representative, their business telephone number, and indication of union affiliation, if appropriate.

SUBCHAPTER 7. FACILITY-WIDE PERMITS

XI. FACILITY-WIDE PERMITTING

A. Facility-wide Permits

a. Summary of Issue

Under N.J.S.A. 13:1D-48, the Department is required to establish a pilot program for facility-wide permitting. Within 18 months of the adoption of N.J.A.C. 7:1K, the Department is required to select between 10 and 15 priority industrial facilities to participate in the pilot program. Then, the Department has 30 months to issue facility-wide permits to these priority industrial facilities. Upon completion of the pilot program, the Department is required to report to the Governor and the Legislature on the successes and shortcomings of the program and recommend if the program should be expanded.

The primary objective of the facility-wide permit program is to develop a multi-media permit process that combines the facility's air pollution control, water pollution control and hazardous waste management permits and provides incentives for implementing pollution prevention. This will be accomplished by incorporating the facility's Pollution Prevention Plan into the permit application and issuance process. The Act defines a "facility-wide permit" to include "... the appropriate provisions of the pollution prevention plan prepared by the owner or operator of the priority industrial facility ...." N.J.S.A. 13:1D-37.

As preparation for the pilot program required by the Act, the Department initiated a "pre-pilot" facility-wide permitting program in March of 1991, using three volunteer facilities. The objective of the pre-pilot program was to gain practical experience to be used in implementing the pilot program required by the Act. The pre-pilot program was also designed to educate the Department about the pollution prevention planning process during the rule development process.

One critical issue discussed during the pre-proposal process concerned the Department's authority to include pollution prevention strategies in permits and "ratchet down" on permit limits based on pollution prevention strategies contained in a facility's Pollution Prevention Plan. Although this authority is clearly stated at N.J.S.A. 13:1D-43(c) and (d), several commenters identified this as a major disincentive for developing aggressive goals in a Pollution Prevention Plan. These commenters contended that if they were going to be held to their pollution prevention goals through a permit with the potential for enforcement, there would be no incentive for them to set aggressive goals.

In response to these concerns, the Department chose not to include in the proposal any specific provisions implementing its authority to include pollution prevention strategies in single-media permits or other approvals issued to industrial facilities. Likewise, the Department did not propose a procedure for revoking, issuing, reissuing or modifying permits or other approvals issued to industrial facilities for the purpose of requiring more stringent emission or effluent levels derived from the facility's pollution prevention planning, as authorized by N.J.S.A. 13:1D-43(d).

Instead, the Department proposed a procedure for facility-wide permitting that would focus on combining the procedural and substantive aspects of the facility's air pollution control, water pollution control and hazardous waste management permits under the Department's existing rules and regulations. However, proposed N.J.A.C. 7:1K-7.1(e) would allow a priority industrial facility participating in the pilot program to voluntarily work with the Department to develop permit conditions more stringent than those required by applicable regulatory programs.

Although the commenters' concerns about N.J.S.A. 13:1D-43(c) and (d) involve both single media and facility-wide permits, these comments are discussed together in this section.

b. Comments and Responses

1. Comments on "ratcheting down" on permit limits

COMMENTS: A few industry representatives (4, 20, 21) expressed concern over linking Pollution Prevention Plans to facility-wide or single-media permit limits. One commenter (4) discussed the potential disincen-

tive this creates for aggressive goal-setting. These commenters suggested that even though the Department has announced that it does not plan to use this authority until July, 1996 at the earliest, the disincentive still exists.

RESPONSE: The Department is sensitive to the concerns raised by the commenters, which is why it has announced that it will not implement N.J.S.A. 13:1D-43(c) and (d) until July, 1996 at the earliest, after it reports to the Legislature on the facility-wide permitting pilot program. Delaying the implementation of N.J.S.A. 13:1D-43(c) and (d) until 1996 was a major policy decision which was made only after much public comment and debate within the Department. However, the commenters have now stated that this is not sufficient, and that they want the Department to write these sections completely out of the Act. The Department cannot do this, but will reevaluate this authority as part of the report it is required to submit to the Legislature in 1996.

The Department recognizes that the authority to "ratchet down" on permit limits must be used carefully, but does not agree that further affirmative restrictions on this authority are necessary to address the commenters' concerns. As proposed, the facility-wide permitting procedure at N.J.A.C. 7:1K-7.1 specifies that the Department will base facility-wide permitting procedure and substance entirely on its existing regulatory programs. Therefore, the Department has clearly expressed its intention to use the pilot program as a means to consolidate permitting and to incorporate Pollution Prevention Plans only to the extent that they are not more stringent than these existing programs. Under this procedure, the Department will only explore more stringent permit requirements as a joint undertaking with the facility at the request of the facility. N.J.A.C. 7:1K-7.1(e). Thus, the owner or operator of a facility will have complete control over the development of any permit limits that are more stringent than applicable requirements. In addition, the pilot program will be limited to a maximum of 15 individual facilities. N.J.S.A. 13:1D-48(c).

As discussed above, the Department does not intend to "ratchet down" on either facility-wide or single-media permits until 1996 at the earliest. At that time, any changes to the existing facility-wide permitting procedure will be made through rulemaking, which will include public notice and the opportunity for public comment. Before proposing any changes, the Department plans to conduct a detailed investigation of how N.J.S.A. 13:1D-43(c) and (d) act as an incentive or a disincentive to aggressive pollution prevention planning.

2. Comment on postponing adoption of facility-wide permitting procedure

COMMENT: One commenter (21) felt that the Department should learn more about the pollution prevention planning process and the technical details of implementing prevention techniques before using pollution prevention as the basis for permit limits. This commenter stated that at this early stage in the pollution prevention planning program, industrial facilities have more experience with the technical aspects of pollution prevention than the Department. The commenter also stated that the problems inherent in such a major shift (from single-media to multi-media permits) should be discussed in an open forum as provided by the Administrative Procedure Act. Based on these concerns, and based on the commenter's belief that only one facility participating in the pre-pilot facility-wide permitting program had submitted any documentation in support of a facility-wide permit, the commenter recommended that the facility-wide subchapter be "reserved" and the Department not adopt proposed N.J.A.C. 7:1K-7.

RESPONSE: The Act contains specific milestone dates that must be met in implementing the pilot program. In particular, the Department must designate the facilities participating in the pilot program within 18 months of adopting the pollution prevention program rules, N.J.A.C. 7:1K. N.J.S.A. 13:1D-48(a). Since the Department decided to let facilities volunteer for the pilot program rather than designating facilities, it felt it was only fair for the facilities to have some guidance on the facility-wide permitting pilot program while they were preparing their Pollution Prevention Plans. Otherwise, uncertainty about the pilot program requirements might have acted as an additional disincentive to aggressive pollution prevention planning. As a result, the Department proposed what it believed to be the minimum procedural requirements for facility-wide permitting to enable it to get the pilot program underway. See proposed N.J.A.C. 7:1K-7.

The commenter is incorrect in stating that only one of the three volunteer companies has submitted any documentation in support of a facility-wide permit application. The pre-pilot program involves the submission of interim deliverables, rather than requiring one submittal at the end of the program. Each company has made significant progress and has submitted several interim reports to the Department for review. One company has submitted a complete Pollution Prevention Plan and facility-wide permit application. Another facility has completed and submitted Part I and Part II of the plan including goals and an implementation schedule. The third company has also completed and submitted drafts of Part I and Part II of its Pollution Prevention Plan. The Department has held several detailed technical meetings and conference calls with the first company to discuss its Plan, and has initiated discussions with the other two companies to facilitate the completion of their Plans and permit applications.

As it learns from the pre-pilot and pilot programs, the Department will make any changes to the facility-wide permitting procedure through rulemaking as necessary. Therefore, the Department believes that the "open forum" to which the commenter refers will be an integral aspect of the pilot program. In addition, any expansion of the facility-wide permit program, if it is recommended at the completion of the program, must be approved by the legislature. N.J.S.A. 13:1D-48(c).

3. Comment on irrevocable commitment to pilot program

COMMENT: A few commenters (4, 9, 21) expressed concern over proposed N.J.A.C. 7:1K-7.2(b), which would require an owner's or operator's commitment to volunteer for the pilot facility-wide permitting program to be irrevocable. These commenters contended that this requirement would act as a disincentive for participating in the pilot program. The commenters recommended that the Department either eliminate this phrase or provide a 30-day grace period during which the owner or operator could rescind its commitment.

RESPONSE: The Department is aware that requiring an irrevocable commitment will discourage facilities from volunteering for the pilot program. However, when it proposed the facility-wide permitting procedure, N.J.A.C. 7:1K-7, this requirement seemed necessary to enable the Department to meet the statutory deadline for designating 15 facilities, N.J.S.A. 13:1D-48(a). The Department anticipated that if it did not require an irrevocable commitment from the volunteer facilities, it would not know how many additional facilities to designate under N.J.A.C. 7:1K-7.2(d) in order to have 15 facilities in the program by the deadline.

After further consideration of this issue, the Department has decided to revise N.J.A.C. 7:1K-7.2(b) upon adoption to eliminate the requirement of an irrevocable commitment. In the near future, the Department will propose to allow volunteer facilities to withdraw from the pilot program during the 30-day period after the issuance of a draft facility-wide permit is issued. The Department believes that providing volunteer facilities a 30-day grace period before acceptance of a final permit will be an incentive for participation in the program while at the same time guaranteeing the Department the participation of 15 facilities as required by N.J.S.A. 13:1D-48(a).

4. Comment on limiting pilot program to 15 facilities

COMMENT: One commenter (17) interpreted proposed N.J.A.C. 7:1K-7.4(b) to authorize the Department to designate more than 15 facilities for participation in the pilot facility-wide permit program. The commenter stated that the Act authorizes the Department to designate no greater than 15 individual priority industrial facilities to receive a facility-wide permit.

RESPONSE: The Department does not believe the language in N.J.A.C. 7:1K-7.4(b) suggests that more than 15 facilities will be designated to participate in the facility-wide permitting program. Furthermore, N.J.A.C. 7:1K-7.2(a) specifically limits the number of facilities designated to not more than 15 individual priority industrial facilities. In accordance with N.J.S.A. 13:1D-48(b), the Department will not designate more than 15 facilities to participate in the program.

5. Comment on criteria for designating facilities

COMMENT: Two commenters (3, 21) requested clarification on proposed N.J.A.C. 7:1K-7.2(c)2 and (c)3 and 7.2(d)2 and (d)3, which contain criteria for evaluating volunteer facilities and designating additional facilities, if needed. The commenter contended that as a practical matter, the Department would not be able to apply these criteria to the designation process, since facilities must be designated by August, 1994, only one month after the completion of the first Pollution Prevention Plans. See N.J.S.A. 13:1D-42(a) and 13:1D-48(a).

RESPONSE: Proposed N.J.A.C. 7:1K-7.2(c)2 and 3 and 7.2(d)2 and 3 are derived directly from N.J.S.A. 13:1D-48(a)2 and (a)3. While the commenter is correct in noting the timing problems created by these criteria, the Act requires them to be considered. The Department also included other criteria in N.J.A.C. 7:1K-7.2(c) and (d) to be considered

in designating facilities for participation in the pilot program. Because of the timing problems noted by the commenters, these other criteria are likely to have more weight in the Department's designation decisions than proposed N.J.A.C. 7:1K-7.2(c)2 and (c)3 and 7.2(d)2 and (d)3.

6. Comment on confidentiality in pilot program

COMMENT: One commenter (21) questioned how the Department would protect confidential information during the facility-wide permitting process, particularly because the Department's existing regulatory programs require extensive public participation. For example, incorporating parts of a facility's Pollution Prevention Plan into a facility-wide permit would expose the Plan to public comment during the permitting process; normally, the Plan would not be available for public inspection or comment.

RESPONSE: The confidentiality procedures described in N.J.A.C . 7:1K-8 through 11 contain detailed and clear limits on the use of confidential information. Under N.J.A.C. 7:1K-11.2, confidential information is to be kept in a locked file and Department employees may review it only as part of their official duties such as permit review. No copies can be made and the information can not be released, as part of **any** public hearing, to persons not authorized to receive it. This restriction would apply to any public hearings required for permit issuance to a priority industrial facility and to public review of the administrative record on the permit.

SUBCHAPTERS 8 THROUGH 11. CONFIDENTIALITY

XII. CONFIDENTIALITY

A. Confidentiality

a. Summary of Issue

N.J.S.A. 13:1D-47 contains the procedures to be followed by both facilities and the Department in handling confidential business information. Confidentiality is a critical issue in implementing the Act since Pollution Prevention Plans will contain detailed technical information on the manufacturing processes of facilities. There is no dispute that the type of information to be included in Pollution Prevention Plans is essential to business' competitiveness. It is also undisputed that the Act requires facilities to develop this information and put it in their Pollution Prevention Plans.

Although the Act contemplates that Pollution Prevention Plans will usually be kept on-site, N.J.S.A. 13:1D-43(a) authorizes the Department to require the submittal of Plans. Thus, questions have arisen over how to treat confidential information if a Plan is submitted and the facility no longer has control of this information. Questions have also arisen about maintaining the confidentiality of information required to be submitted on a routine basis in Pollution Prevention Plan Summaries and Plan Progress Reports.

In developing the data requirements for Pollution Prevention Plans, Plan Summaries and Plan Progress Reports, the Department tried to balance its obligations under the Act with facilities' concerns about confidentiality. During the pre-proposal process, the Department convened a confidentiality Task Force to obtain assistance in developing confidentiality procedures. As a result of this process, the Department proposed four subchapters on confidentiality—N.J.A.C. 7:1K-8, Confidentiality Claims; 7:1K-9, Confidentiality Determinations; 7:1K-10, Disclosure and Use of Confidential Information or Assertedly Confidential Information; and 7:1K-11, Treatment of Confidential Information. These subchapters proposed detailed procedures for filing confidentiality claims and protecting confidential information as required by N.J.S.A. 13:1D-47.

On the issue of confidentiality of Pollution Prevention Plans, the Department proposed to treat Plans remaining on-site at a facility as confidential information, but also proposed a procedure for requiring Plan submittal and review under certain circumstances. See proposed N.J.A.C. 7:1K-3.9 and 8.1. The Department received many comments from industry on the proposed rules on the issue of Plan submittal and its relationship to confidentiality. The Department also received suggestions on procedures for protecting confidentiality when Plans are submitted, the provision of "blanket" confidentiality determinations for certain classes of information, and procedures for making confidentiality determinations.

b. Comments and Responses

1. Comment on "assertedly confidential information"

COMMENT: Two commenters (17, 21) stated that all information in Plans, Plan Summaries and Plan Progress Reports should be treated as confidential unless Department determines otherwise. The commenters felt that the use of the term "assertedly confidential information" in the rules might cause a Department employee to doubt that the information is really confidential and might lead to accidental disclosure.

RESPONSE: Under N.J.A.C. 7:1K-1.5, "assertedly confidential information" is defined as information for which a claimant has filed a confidentiality claim in accordance with the procedures in N.J.A.C. 7:1K-8.2, but for which the Department has not yet made a final confidentiality determination under N.J.A.C. 7:1K-9.5. This term is used to differentiate between information for which the Department has completed its determination on confidentiality (which then becomes either "confidential" or "not confidential") and information for which the Department has not yet completed its review. The term does not in any way imply that some information may not be confidential and the Department does not believe use of the term will cause any confusion regarding handling of confidential information. Under N.J.A.C. 7:1K-9.6, the Department, including its employees, is required to treat assertedly confidential information as confidential information pending a final determination. As a practical matter, this would mean that assertedly confidential information can only be accessed in locked cabinets and secure rooms under the procedure at N.J.A.C. 7:1K-11.2, Safeguarding of confidential information. It is highly unlikely that an employee who is required to access information through these restrictive procedures will be misled by the use of the term "assertedly confidential information" in the rules.

2. Comment on penalties for failure to maintain confidentiality

COMMENT: One commenter (17) recommended that the Department expand N.J.A.C. 7:1K-11.4 to apply the N.J.S.A. 13:1D-47(g) penalties for wrongful disclosure of confidential information to Department Directors.

RESPONSES: Under N.J.S.A. 13:1D-47(g) and N.J.A.C. 7:1K-11.4, a Department employee, representative, or contractor who wrongfully discloses confidential information to a person not authorized to receive it may be subject to civil penalties, criminal penalties, and/or dismissal or suspension from employment or other adverse personnel action. The term "employee" encompasses all Department employees, including Directors and other managers.

3. Comment on time frame for requesting an administrative hearing

COMMENT: Two commenters (4, 21) requested that the Department allow confidentiality claimants 45 days to request an administrative hearing following receipt from the Department of a confidentiality determination, instead of the 14 days allowed by proposed N.J.A.C. 7:1K-12.3(c).

RESPONSE: Due to an oversight, the Department mistakenly proposed a 14-day time frame for requesting an administrative hearing instead of the 45 days required by N.J.S.A. 13:1D-47(d). The Department has rectified this error upon adoption of N.J.A.C. 7:1K-12.3(c).

4. Comment on confidentiality determinations by the Department

COMMENT: One commenter (4) stated that since the Department is not part of the business community, it should not be expected to make definitive determinations on the confidentiality of information for private enterprise.

RESPONSE: The Act specifically requires the Department to make confidentiality determinations. See N.J.S.A. 13:1D-47(d). However, the Act also allows facilities to appeal the Department's confidentiality determinations to the Office of Administrative Law, and then to obtain judicial review as appropriate. This process has been used in New Jersey for many years in many programs with success and should adequately address the commenter's concerns.

5. Comment on implementing N.J.S.A. 13:1D-47

COMMENT: One commenter (17) objected to proposed N.J.A.C. 7:1K-8 through 11 and the proposed definitions of "confidential information," "assertedly confidential information," "confidentiality claim," "confidential copy," "confidentiality determination," and "class confidentiality determination," N.J.A..C 7:1K-1.5. The commenter felt that N.J.S.A. 13:1D-47 provides enough specificity on confidentiality, rendering these definitions and subchapters unnecessary.

RESPONSE: The Department disagrees. During the pre-proposal process, the majority of commenters asked the Department to provide more detail on confidentiality than provided in the Act. In fact, some commenters have suggested that the Department's proposed confidentiality procedures are not detailed enough to adequately safeguard confidential information.

6. Comment on notifying claimant of disclosure of confidential information

COMMENT: Several commenters (15, 21) requested that the Department amend proposed N.J.A.C. 7:1K-10.1, 10.2(a), 10.3 and 10.4 to require notice to the claimant prior to disclosure of confidential informa-

tion. The commenters stated that this notice was necessary to enable them to present information showing that disclosure would be likely to cause substantial damage to their competitive position or to national security.

RESPONSE: N.J.A.C. 7:1K-10.2(b), 10.3(b) and 10.4(b) already require the Department to provide notice to the claimant prior to disclosing confidential information or assertedly confidential information to contractors, physicians, osteopaths, or public health officials. As written, N.J.A.C. 10.3(b) and 10.4(b) would not preclude a facility from presenting information on national security or competitive position during the 14 day waiting period. However, in instances where the Department wants to disclose confidential information to a physician, osteopath or public health officials, these concerns would not weigh as heavily against disclosure as with disclosure to contractors. Therefore, only the subsection on disclosure to contractors, N.J.A.C. 7:1K-10.2(b), specifically mentions these defenses to disclosure.

Similarly, disclosure to other agencies will only occur under N.J.A.C. 7:1K-10.1 when the outside agency has furnished a legal opinion stating that the agency has the authority to compel disclosure of the information (that is, when the requesting agency essentially forces disclosure). N.J.A.C. 7:1K-10.1(a)3. Therefore, the Department did not propose to include notice to the claimant in this procedure. However, based on the comments received, the Department will review this issue with the Confidentiality Task Force.

7. Comment on proposed N.J.A.C. 7:1K-9.1(b)

COMMENT: One commenter (21) asked why proposed N.J.A.C. 7:1K-9.1(b), which states that the Department may make a confidentiality determination at any time, is necessary.

RESPONSE: Under N.J.A.C. 7:1K-9.1(a), the Department's general practice will be to make a confidentiality determination only upon receipt of a request to inspect records containing assertedly confidential information. Otherwise, the Department and facilities would be required to spend a significant amount of time and resources making and appealing confidentiality determinations for information that no one has asked to see. However, there may be other circumstances under which the Deprtment will want to make a confidentiality determination on its own initiative. For example, the Department may choose to make a determination for a confidentiality claim that appears to be false or frivolous, which is a violation of the Act pursuant to N.J.S.A. 13:1D-47(b). N.J.A.C. 7:1K-9.1(b) specifically reserves this discretion, and is consistent with N.J.S.A. 13:1D-47(d), which authorizes the Department to make a confidentiality determination at any time it deems appropriate.

8. Comment on class confidentiality determinations

COMMENT: One commenter (21) recommended that the Department establish two classes of confidential information, process-specific information and financial analysis information, pursuant to the procedure at proposed N.J.A.C. 7:1K-9.9.

RESPONSE: Since the Department has decided not to require Plans to be submitted except in very limited circumstances, and since financial analysis information is not a required element of either a Plan Summary or a Plan Progress Report, facilities' financial analysis information will not routinely be submitted to the Department or publicly available through this program. Therefore, the Department does not believe that a class confidentiality determination is necessary for this class of information.

Likewise, the need to preserve the confidentiality of process-specific information will only arise on a regular basis with regard to the Plan Summary and Plan Progress Report. The Department believes that the Legislature contemplated that **some** of the information submitted in Plan Summaries or Plan Progress Reports would be kept confidential, provided that the information meets the criteria for confidentiality. See N.J.S.A. 13:1D-47(c) and (f) and proposed N.J.A.C. 7:1K-9.3(a). However, the broad class of "process-specific information" is the key to measuring pollution prevention progress and is therefore the cornerstone of reporting under the Act. It would defeat the purpose of the Act to grant class confidentiality to all process-specific information and thereby restrict public access and Department use of this information. Therefore, the procedures for making individual confidentiality claims, N.J.A.C. 7:1K-8 through 11, will apply to these claims.

9. Comment on adopting "legal" definition of confidential

COMMENT: One commenter (21) recommended that the Department use the Black's Law Dictionary definition of "confidential" in these rules instead of the definition at proposed N.J.A.C. 7:1K-1.5.

RESPONSE: The Act establishes specific criteria for determining what is confidential information, and the Department incorporated these criteria into the proposed definition of "confidential." See N.J.S.A. 13:1D-47(c) and proposed N.J.A.C. 7:1K-1.5. The Black's Law Dictionary definition is far less specific than the proposed definition and is not applicable under the Act.

10. Comment on "sunset" provisions for confidentiality

COMMENT: One commenter (21) recommended that the Department delete the "sunset" provisions of proposed N.J.A.C. 7:1K-9 through 11, which would allow confidentiality determinations to expire.

RESPONSE: There are no "sunset" provisions in N.J.A.C. 7:1K-9, 10, or 11. Therefore, confidentiality determinations made by the Department under these subchapters will not expire.

11. Comment on notification of requests for confidential information

COMMENT: One commenter (21) requested that the Department provide facilities with the name of the entities seeking confidential information as part of its procedure for making a confidentiality determination, proposed N.J.A.C. 7:1K-9.

RESPONSE: Requests for information received by the Department are considered public information and are available at any time upon the facilities's request. If the Department determines that the requested information is not confidential, N.J.A.C. 7:1K-10.5 requires the Department to provide the facility with the name of the entity to which it was disclosed, the date on which disclosure was made, and a description of the information disclosed. However, if the Department determines that the information is confidential, disclosure will not occur at all. Therefore, the Department does not believe that it is necessary to follow the commenter's suggestion. However, after discussing this issue with the Confidentiality Task Force, the Department will consider adding this requirement to the confidentiality procedure under these rules.

12. Comment on notice of appeal and confidentiality pending appeal

COMMENT: A commenter (21) requested that the Department revise N.J.A.C. 7:1K-9.5 to require specific notice to a claimant of its right to appeal the Department's initial confidentiality determination. The commenter also stated that the Department should not release this information during the pendency of the appeal.

RESPONSE: Although the right to appeal a confidentiality determination is clearly stated in N.J.A.C. 7:1K-12.3, the Department fully intends to inform claimants of their appeal rights as part of its initial confidentiality determination. At the time it proposes the other changes discussed in this notice, the Department will consider adding a cross-reference to appeal rights in N.J.A.C. 7:1K-9.5.

Under N.J.A.C. 7:1K-9.6, the Department is required to treat assertedly confidential information as confidential information pending a final determination. However, on adoption, the Department has clarified that the prohibition on disclosing confidential information, N.J.A.C. 7:1K-11.1, also applies to assertedly confidential information. Since information for which the Department has only made an initial determination is still "assertedly confidential information" until the final determination is made, this would preclude the Department from disclosing this information until the conclusion of the appeal.

13. Comment on confidentiality of Plans, Plan Summaries and Plan Progress Reports

COMMENT: One commenter (21) commented that the confidentiality protection afforded to Pollution Prevention Plans by proposed N.J.A.C. 7:1K-9 through 11 will not be useful even if Plans remain on site, since the Act requires the submission of Plan Summaries and Plan Progress Reports containing some of the same information.

RESPONSE: The information required by the Act to be submitted in Plan Summaries and Plan Progress Reports is much less specific and therefore much less confidential by nature than the information required to be compiled in a Plan. In addition, N.J.A.C. 7:1K-8.2 allows a facility to make a confidentiality claim for a Plan Summary or Plan Progress Report.

14. Comment on disclosure to physicians and osteopaths

COMMENT: One commenter (21) suggested that proposed N.J.A.C. 7:1K-10.3(a) be revised to preclude confidential information provided by the Department to physicians or osteopaths from being used in any lawsuit concerning injuries arising from chemicals or events described in the confidential information.

RESPONSE: The Act authorizes the Department to disclose confidential information to physicians and osteopaths only for the purposes of medical diagnosis and treatment. N.J.S.A. 13:1D-47(e). Under N.J.A.C. 7:1K-10.3(a)2, the physician or osteopath receiving the information will be required to sign a nondisclosure agreement and will be required to

return the information to the Department once the medical diagnosis or treatment is concluded. Any physician or osteopath "who has access to any confidential information, and who willingly and knowingly discloses the confidential information to any person not authorized to receive it" is subject to criminal penalties. N.J.S.A. 13:1D-47(g). Therefore, the Department believes that the specific restriction suggested by the commenter is not necessary.

15. Comment on including confidential information in cumulations of data

COMMENT: One commenter (21) objected to proposed N.J.A.C. 7:1K-10.7, which would allow the Department to use confidential information in cumulations of data. The commenter stated that this type of use of confidential information would jeopardize facilities' competitive advantage.

RESPONSE: The Act specifically gives the Department this authority (see N.J.S.A. 13:1D-47(j)), which is a necessary tool for completing the trends analysis required by N.J.S.A. 13:1D-45.

c. Conclusion

The Department believes that confidential information can be adequately safeguarded by a combination of adherence to strict procedures for the storage and use of confidential information and strict penalties for misuse of information by Department employees. However, the Department recognizes that because of concerns about confidentiality, even the distant possibility that a facility will be required to submit its Plan for review may act as a serious disincentive to aggressive and comprehensive pollution prevention planning. As such, the Department plans to propose an amendment N.J.A.C. 7:1K-3.9 to limit the circumstances under which Plans must be submitted to (1) requests for out-of-process recycling authorizations and (2) applications for a facility-wide permit. See Section VII A, above. The Department believes that this amendment will address most of the commenters' concerns about the confidentiality of Plans.

Therefore, the Department has adopted N.J.A.C. 7:1K-8 through 11 as proposed, but has added several references to "assertedly confidential information" to N.J.A.C. 7:1K-11 in order to clear up any misunderstanding about the treatment of information for which the Department has not yet made a confidentiality determination. On adoption, the Department has also changed the N.J.A.C. 7:1K-12.3(c) time frame for a claimant to request an administrative hearing following a confidentiality determination from 14 days to 45 days as required by N.J.S.A. 13:1D-47(d). The Department believes that its decision to repropose N.J.A.C. 7:1K-3.9 in order to limit Plan submittal to facility-wide permit facilities and facilities requesting an out-of-process recycling authorization will address a number of the commenters' confidentiality concerns.

SUBCHAPTER 12. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

XIV. ENFORCEMENT AND PENALTIES

A. Enforcement and Penalties

a. Summary of Issue

The Act confers upon the Department a number of enforcement mechanisms for redressing violations of the Act, including the authority to bring an action for civil penalties and to levy civil administrative penalties. N.J.S.A. 13:1D-49. Under proposed N.J.A.C. 7:1K-4, 5 and 6, priority industrial facilities are subject to a number of mandatory pollution prevention planning requirements, some of which may expose them to civil administrative penalties or other enforcement action under proposed N.J.A.C. 7:1K-12. A number of commenters were concerned about the proposed enforcement provisions, and questioned which parts of the Pollution Prevention Plan, Plan Summary, and Plan Progress Report might be enforced against, how that enforcement would take place, and the extent of the penalties for noncompliance.

In addition, N.J.S.A. 13:1D-43(d) authorizes the Department to revoke or alter existing permits to incorporate pollution prevention planning strategies. Because the Department announced during the pre-proposal process that it did not intend to "ratchet down" on permit limits at the outset of the pollution prevention planning program, this issue was not specifically addressed in the proposed rule. However, several commenters were still extremely concerned about this issue and wanted the statutory language clarified and/or limited.

b. Comments and Responses

1. Comment on administrative completeness

COMMENT: One commenter (9) recommended that the Department prepare and distribute an administrative completeness checklist to all priority industrial facilities to provide clear and readily available guidance for enforcement purposes, since under the proposed rules facilities could be subject to civil administrative penalties for administrative incompleteness of their Pollution Prevention Plans, Plan Summaries or Plan Progress Reports.

RESPONSE: As stated in proposed N.J.A.C. 7:1K-3.9(d)1, 5.2(b)1 and 6.2(b)1, the Department plans to review administrative completeness by comparing a Facility Plan, Plan Summary or Plan Progress Report to the section of these rules listing the elements required to be reported in each respective document. At this time, the Department does not have any additional guidance and this subject that could be provided through a checklist, and advises facilities to use the appropriate sections of these rules as a checklist.

2. Comment on penalties

COMMENT: One commenter (6), who characterized the Act as "experimental," claimed that the penalties for noncompliance at proposed N.J.A.C. 7:1K-12 were too severe. The commenter urged the Department to refrain from enforcement for a period of three years in order to encourage innovative thinking and to determine if the Act can be effectively implemented without enforcement action.

RESPONSE: Despite the concerns expressed by the commenters, the Department believes that the enforcement strategy in the proposed rules will foster cooperation between industry and the Department as intended by the Act. Out of respect for the experimental nature of the pollution prevention planning program authorized by the Act, the Department has not incorporated its authority to "ratchet down" on permit limits into the pollution prevention planning program rules at this time, and has developed a very limited set of enforceable criteria for reviewing Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports.

Thus, the N.J.A.C. 7:1K-12 penalties will affect only those facilities who blatantly disregard planning requirements by: failing to prepare a Pollution Prevention Plan; omitting portions of a Pollution Prevention Plan, Plan Summary or Plan Progress Report (administrative completeness); or submitting a Plan Summary or Plan Progress Report in an untimely manner. The Department believes it is essential to the integrity of the pollution prevention planning process and in the best interests of all facilities to take some enforcement action against these types of blatant non-compliance.

3. Comment on informal mechanisms to achieve compliance

COMMENT: Several commenters (6, 17, 20, 21) noted that Department planned to issue administrative orders to point out deficiencies in Pollution Prevention Plans, Plan Summaries, and Plan Progresss Reports (proposed N.J.A.C. 7:1K-3.9, 5.2 and 6.2), and recommended that the Department pursue an informal remedy (such as a letter of deficiency) prior to issuing an enforceable administrative order.

RESPONSE: The Department fully intends to pursue informal remedies for correcting deficiencies prior to issuing enforceable administrative orders, and the adopted rules will not preclude these informal mechanisms. However, to make this procedure more explicit, the Department plans to propose amendments to N.J.A.C. 7:1K-3.9, 5.2 and 6.2 to insert this informal step into the review process for Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports.

4. Comment on enforcement boundaries

COMMENT: One commenter (17) requested that the Department clearly define "enforcement boundaries," that is, the minimum work a facility must perform to be in compliance with the Act. However, the commenter also felt that it would be impossible for the Department to define "compliance with the Act," because it will take several years for the Department and industry to learn what constitutes a "good" Pollution Prevention Plan.

RESPONSE: As the commenter correctly states, neither the Department nor industry is in a position to judge at this time what specific steps or items will produce a "good" Pollution Prevention Plan. This is precisely why the pollution prevention program rules provide industrial facilities with the maximum degree of pollution prevention planning flexibility available under the Act.

Because of the difficulty pointed out by the commenter, the Department will soon propose revision to N.J.A.C. 7:1K-3.9(d)2 and 3, which currently make a facility's grouping decisions and determination of what constitutes "pollution prevention" enforceable. As a result of these changes, the only enforceable review criteria for Pollution Prevention Plans, Plan Summaries and Plan Progress Reports will be: (1) administrative completeness, (2) whether a Pollution Prevention Plan is prepared

at all, and (3) whether there is timely submission of Plan Summaries and Plan Progress Reports. Beyond these criteria, the facility-specific nature of pollution prevention planning and the newness of the program currently prevents the Department from clearly defining the work a facility must perform to be in compliance with the Act.

5. Comment on proposed N.J.A.C. 7:1K-12.1

COMMENT: One commenter (15) requested that the Department add a provision to N.J.A.C. 7:1K-12.1 stating that failure to achieve the goals of a Pollution Prevention Plan, Summary, or Progress Report does not constitute a violation and will not subject a facility to civil and criminal penalties.

RESPONSE: Throughout the pre-proposal process and rulemaking process, the Department has made an effort to emphasize that pollution prevention goals are not enforceable. As proposed, the only bases for enforcement action under N.J.A.C. 7:1K-12 are: submitting inaccurate or false information (N.J.A.C. 7:1K-12.5); failure to allow unlawful entry and inspection (N.J.A.C. 7:1K-12.6); failure to comply with a final administrative order requiring modification of a Plan, Plan Summary or Plan Progress Report (N.J.A.C. 7:1K-12.7); or untimely submission of a Plan, Plan Summary or Plan Progress Report (N.J.A.C. 7:1K-12.8.) Since there is no provision for enforcing goals, the Department believes that it is already clear that they are unenforceable. However, to clear up any misunderstanding that may exist, the Department will propose to add to either N.J.A.C. 7:1K-12 or the definition of "violation" at N.J.A.C. 7:1K-1.5 a statement that failure to achieve the goals of a Pollution Prevention Plan, Plan Summary or Progress Report does not constitute a violation and will not subject a facility to civil or criminal penalties.

XV. OTHER ISSUES

A. Use of Inventory Data by Commercial Recyclers

a. Summary of Issue

b. Comment and Response

COMMENT: One commenter (20) questioned the usefulness to a commercial recycler of inventory data required to be compiled in Part I of a pollution prevention plan pursuant to proposed N.J.A.C. 7:1K-4.3(b)2ii.

RESPONSE: Presently, commercial recycling facilities outside of SIC codes 20-39 are not covered by the Act but non-manufacturing facilities may voluntarily choose to implement pollution prevention plans as a means of identifying cost-saving opportunities.

The requirements for pollution prevention planning established by the Act are designed primarily for manufacturing operations but can be easily adapted by other types of industrial facilities. While a recycling operation would not be in a position to substitute its raw materials, other pollution prevention techniques can still apply to this type of operation. If this is done, inventory data of the recycling process operation will be critical to identifying specific opportunities to increase recycling efficiency and reduce the unnecessary generation of nonproduct output.

B. Classifying the Entire Environmental Management Hierarchy as Pollution Prevention

a. Summary of Issue

The Act's definition of "pollution prevention" specifically excludes "any action or change entailing a substitution of one hazardous substance, product or nonproduct output for another that results in the creation of substantial new risk," and does not include treatment, increased pollution control, out-of-process recycling, or incineration. See N.J.S.A. 13:1D-37. According to this definition, pollution prevention is the first and preferred step in an environmental management hierarchy which consists of (1) pollution prevention, (2) recycling, (3) treatment, and (4) disposal. Therefore, the statutory definition of "pollution prevention" focuses the Department's pollution prevention planning program on the top of the environmental management hierarchy. In doing so, the Act does not negate other environmental management practices in the hierarchy, but establishes pollution prevention as the preferred practice.

In the Act's findings, the Legislature provided several justifications for focusing on pollution prevention rather than other techniques in the environmental management hierarchy. First, the Legislature noted that while the traditional system of medium-specific pollution control has led to palpable improvements in environmental quality, it has also resulted in "a fragmented approach to environmental protection and potentially allows pollution to be shifted from one environmental medium to another." N.J.S.A. 13:1D-36. Second, the Legislature observed that the traditional system of pollution control "does not adequately address the impact of the use of hazardous substances upon occupational health in pollution-generating industrial processes." Therefore, the Legislature concluded that "the inherent limitations of the traditional system of pollution control should be addressed by a new emphasis on pollution prevention."

b. Comments and Response

COMMENTS: Many industry commenters (2, 4, 5, 7, 8, 19, 21, 22) argued that the statutory and regulatory definition of "pollution prevention" should include other practices in the environmental management hierarchy. Some of these commenters argued that the term "pollution prevention" should at least include out-of-process recycling because recycling leads to a reduction in the use of raw materials. Others argued that out-of-process recycling and treatment should both be included in the definition of "pollution prevention" because they lead to improvements in environmental quality. These commenters felt since that current occupational safety and health regulations are stringent and protective of worker health, it is unnecessary to establish another environmental program that takes worker health and safety into consideration.

RESPONSE: The Act clearly distinguishes pollution prevention from other environmental management techniques as the preferred course of environmental protection. As such, the Department is obligated to incorporate this focus into the pollution prevention program rules. The Department also notes that the Act's definition of "pollution prevention" is consistent with the federal definition of the term. See the National Pollution Prevention Act, specifically 42 U.S.C. §6602(b).

One of the major premises of the Act is that implementing pollution prevention measures will increase industrial efficiency by reducing the demand for hazardous substances per unit of product and reducing the generation of nonproduct output. It is axiomatic that businesses requiring fewer raw materials and generating the least possible amount of nonproduct output will avoid costs associated with hazardous substance use and generation including raw material costs, environmental and occupational regulatory compliance costs, disposal and treatment costs, and liability costs. Thus, efficient businesses will be more competitive.

Efficient businesses also tend to be more protective of the environment, workers, and consumers because their operations are designed to minimize chemical exposure. Traditional pollution control techniques generally evaluate the environment impact of products and processes long after their design phase, while pollution prevention builds environmental considerations into the design of products of processes. In doing so, pollution prevention leads to increased efficiency and improved environmental protection. For example, many businesses have initiated Total Quality Management (TQM) programs that are designed to promote continual improvements in operations with the goal of striving towards optimal efficiency. The concept of pollution prevention builds environmental considerations into TQM approaches and provides great promise for establishing an innovative and holistic approach to environmental protection.

The Department recognizes the importance of other practices in the environmental management hierarchy but believes that adopting the definition of pollution prevention proposed in N.J.A.C. 7:1K-1.5 meets the Legislative intent and will lead to innovation in environmental protection.

C. Cost of Pollution Prevention Planning

a. Summary of Issue

As required by the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., specifically N.J.S.A. 52:14B-4, the Department's proposal included an Economic Impact statement assessing, in part, the anticipating economic effect of proposed N.J.A.C. 7:1K on regulated industrial facilities. See 24 N.J.R. 3633. In this statement, the Department stated that it expected the proposed rules to increase the costs of doing business for priority industrial facilities in the short term (during the next two years), but to decrease the cost of doing business for these same facilities in the long term (over the next five years and longer). The Department stated that the increased costs to industrial facilities would include the cost of preparing a Pollution Prevention Plan and Pollution Prevention Plan Summary and reporting annually on pollution prevention planning program progress to the Department in a Pollution Prevention Plan Progress Report. However, the Department also stated that these facilities would accrue direct savings from implementing pollution prevention measures, and that it expected facilities to benefit from the decrease costs to employees and society in general from reduced use of and exposure to hazardous substances.

In the Economic Impact statement accompanying the proposal, the Department estimated that the preparation of Pollution Prevention Plans

would cost industrial facilities anywhere from several hundred dollars for a small facility to several thousand dollars for the largest industrial manufacturing facilities. The Department also noted that it did not expect facilities to require the assistance of paid consultants or contractors to comply with the proposed rules, provided that they have access to sufficient guidance documents or advice from other sources.

b. Comments and Response

COMMENTS: Several commenters (3, 4, 19) stated that the preparation of a Pollution Prevention Plan represents a huge resource burden that offers minimal, if any, reduction opportunities. One of these commenters (4) suggested that reduction opportunities will be scarce because facilities generally already run their chemical processes at optimal efficiency. Two of the commenters (3, 4) suggested that the cost associated with the implementation of the Pollution Prevention Act has the potential to accelerate the loss of manufacturing jobs Statewide.

In addition, many of the companies commenting on the proposal (4, 5, 7, 9, 17, 19, 21, 26) stated that the Department severely underestimated the cost for the preparation of Pollution Prevention Plans. These companies estimated that compliance costs would range from $20,000 for a small facility (around 60 employees) (9) to $500,000 for both a medium-sized facility (around 260 employees) (5) and a large facility (around 4500 employees) (4).

RESPONSE: To begin with, the Department emphasizes that definitive numbers are not available for estimating the costs of pollution prevention planning. In developing the economic analysis in the proposal and in this response, the Department studied cost estimates from several different sources. However, the Department stresses that all available figures are gross estimates and that at this point in the implementation of the pollution prevention program, no greater level of cost detail is possible.

After further review, the Department has concluded that its initial cost estimate of several hundred to several thousand dollars for completion of a typical plan was too low. In order to develop more accurate estimates, the Department has been trying to develop estimates that are realistic and based on the real-life experiences of facilities rather than relying on some of the "worst-case scenarios" that have been described in written and oral testimony on the proposal. The Department sought pollution prevention planning cost data from other state programs and from New Jersey facilities who have attempted to estimate their costs of compliance (some of whom have reviewed the Department's draft Pollution Prevention Plan Guidance document as well as the proposal). Unfortunately, because most facilities, including those in other states, have not yet begun preparing their Pollution Prevention Plans, the Department has been unable to obtain any actual cost information and must rely on estimates.

The most credible estimates were obtained from Waste Advantage, Inc., a consultant specializing in industrial waste prevention. Assuming a labor cost of $50.00 per hour, this firm estimates the cost of preparing a Pollution Prevention Plan as follows:

- $13,000-$27,000 for small facilities
- $22,000-$45,000 for medium-sized facilities
- $31,000-$63,000 for large facilities

These figures are gross estimates and may vary based on a variety of factors, particularly the amount of production efficiency data that is already available for the facility. In addition, Waste Advantage, Inc., which has considerable experience in pollution prevention planning, has developed a software system that can reduce the time necessary for Plan preparation. However, this would increase the above-cited costs if a facility chose to purchase it.

The Department has also received estimates of one-time Pollution Prevention Plan preparation costs from a number of regulated facilities, ranging from approximately $1,400 to $20,000 for small facilities, and from $100,000 to $500,000 for the largest manufacturing facilities in the State. These estimates are ballpark figures, do not include information on the number of processes or hazardous substances at the facility, and especially do not reflect whether the facility already has process efficiency data available. The Department's analysis of the one detailed cost estimate that was submitted in response to this proposal (5) shows how important process efficiency information, especially amounts of chemicals recycled, can be in a cost analysis.

For several medium to large facilities, the one-time costs of compliance will range from $10.00 to $330.00/employee and <0.0007 percent to 0.03 percent of 1992 sales. The 1992 sales figures are from the Star-Ledger (September 20, 1992) and the American Business Directories.

Even though these revised estimates are higher than the Department's original estimates, the Department still believes that requiring facilities to incur these short-term costs will lead to long-term net savings. Examples of long-term savings from pollution prevention are found throughout the literature and form the basis for the popularity of pollution prevention among Fortune 500 industries in the United States and around the world. In particular, a recent study by the environmental research group INFORM concluded that the subject companies "paid off" their pollution prevention investment (investment costs included capital and operating costs of pollution prevention methods) in an average of 18 months. While these firms did not calculate their Pollution Prevention Plan preparation costs (that is, the costs of identifying and quantifying their nonproduct output) many of them indicated that the pollution prevention methods implemented resulted in such savings that even if they factored the costs of identifying nonproduct output into their profitability analysis, the exercise in data gathering was well worth the investment.

In order to accurately evaluate the costs of Plan preparation, the Department recommends that facilities correlate Plan preparation costs with long term benefits of pollution prevention such as improvements in health and safety, reduced environmental compliance costs, reduced environmental safety and insurance costs, and improved public image. Many domestic industries are beginning to view pollution prevention as one aspect of a total quality management program (like those sponsored by the Chemical Manufacturing Association and the International Organization for Standardization or ISO 9000).

Facilities should bear in mind that much of the facility-level information that will form the basis of a Pollution Prevention Plan is already required to be submitted to the Department and the U.S. Environmental Protection Agency on Form DEQ-114 and Form R, respectively. Thus, preparing these portions of a Plan should not impose any additional cost on facilities. In addition, once the facility's initial Pollution Prevention Plan has been completed, the yearly updates that follow will not be nearly as resource- or cost-intensive.

There are two reasons why the Department recommends that facilities conduct all or as much pollution prevention planning as possible without assistance from outside consultants. First, the pollution prevention planning process is one that is intended to influence corporate decision-making and, as such, may be most effective if seen as an internal exercise rather than a compliance-based exercise done by an outside contractor. Second, the pollution prevention planning process is one that is best done by a team of people at the facility who understand the detailed operations of the facility. If facilities feel compelled to use an outside contractor as part of the pollution prevention planning process, the Department recommends that they contract for discrete tasks within the planning procedure rather than for the preparation of the complete Pollution Prevention Plan. In particular, the Department encourages small firms to rely on the Pollution Prevention Plan Guidance Document and forms rather than on outside consultants.

The Department has reviewed the one detailed cost estimate submitted by a commenter (5) in response to the proposal, and has concluded that the subject facility overestimated certain parameters used in its analysis, thereby inflating the cost of preparing Part I of a Pollution Prevention Plan. The commenter estimated that it would cost $500,000 to analyze 220 processes, based on six to 17 person-days per process and a multiplier of $50.00 per hour, at a medium sized chemical manufacturing facility.

The commenter's most obvious overestimation concerns the calculation of the number of processes at the facility, which counted each combination of TRI chemical and product as a separate process. Thus, when five TRI chemicals were used to make a single product, the commenter counted this as five different processes, each using a single hazardous substance. The Department feels that under the definition of "process" at N.J.S.A. 13:1D-37 and N.J.A.C. 7:1K-1.5, the appropriate number of processes at this facility is considerably less than 220.

Furthermore, the commenter's estimate does not account for grouping processes before targeting. By employing grouping, facilities will be able to treat several functionally similar processes as a single process for pollution prevention planning purposes. See discussion of grouping, Section VII C above. The commenter's failure to group its processes prior to targeting is surprising considering that this facility did utilize grouping methods after targeting when it prepared a Pollution Prevention Plan as part of its participation in the Department's pre-pilot facility-wide permitting program. For the purposes of the pre-pilot program, the commenter first targeted 53 out of the 220 chemical/product combinations, then grouped these chemical/product combinations to product 10 grouped processes which were the focus of the facility's Part I inventory.

Based on information from consultants and its best professional judgment, the Department also believes that it will take less than six to 17 person-days per process to complete a Pollution Prevention Plan. However, a multiplier of $50.00 per hour (which is a burdened rate for a mid-level chemical engineer) appears to be reasonable.

Thus, overall, the Department believes that the commenter's cost figure of $500,000 for Plan preparation was significantly overestimated. This view is further buttressed by the fact that another commenter (4) budgeted the same amount of resources for preparation of a Pollution Prevention Plan at a much larger facility.

Despite this difference of opinion on Plan preparation cost, the Department has transferred the requirement for quantifying source-level nonproduct output, N.J.A.C. 7:1K-4.3(b)4i(5), from Part IA to Part II of a Pollution Prevention Plan. The Department expects this change to significantly reduce the costs of Plan preparation.

D. Incorporating Pollution Prevention Planning Into Other Department Programs

a. Summary of issue

Proposed N.J.A.C. 7:1K-1.3(b) states: "The pollution prevention concepts and requirements contained in this chapter shall be incorporated, to the extent statutorily permissible, in the Department's policies, procedures and permits." This statement was intended to focus industry and Department resources and efforts on reducing the use and release of hazardous substances, as contemplated by the Act. There are two ways to achieve this goal: one is through pollution prevention planning, the other is to refocus existing single media programs toward pollution prevention.

b. Comment on proposed N.J.A.C. 7:1K-3.1(b)

COMMENT: One commenter (17) felt that proposed N.J.A.C. 7:1K-1.3(b) would act as a disincentive to developing a comprehensive pollution prevention planning program, since it would create uncertainty about when the Department could incorporate Pollution Prevention Plan requirements as binding conditions on facility operations.

RESPONSE: The purpose of the broad language of proposed N.J.A.C. 7:1K-1.3(b) is simply to provide notice that it is the Department's general policy to incorporate pollution prevention principles into all its actions of the Department wherever permissible under the enabling authority of the program. The Department does not plan to use this section to randomly impose specific Pollution Prevention Plan goals and requirements upon facilities.

As a specific incentive for good pollution prevention planning, the Department did not propose to codify N.J.S.A. 13:1D-43(d), which authorizes the Department to revoke, issue, reissue or modify any permit, certificate, registration, or any other relevant approval for the purpose of requiring more stringent emission or effluent levels based on pollution prevention strategies in a Pollution Prevention Plan. Thus, if the Department decides to incorporate specific pollution prevention-related requirements as an integral part of any of its regulatory programs, it will propose to codify this policy through rulemaking as appropriate.

The Department recognizes that a re-focus of existing permitting, enforcement, and planning programs will not occur overnight, but this is nonetheless a desirable objective. The best methods to achieve this objective are not yet known, but will be developed over the next several months and years as a collaborative effort among all concerned parties. As discussed in the proposal, within one year of this adoption the Department plans to publish a White Paper on State Government Incentives for Achieving Industrial Pollution Prevention, and will further consider the issue raised by the commenter while developing this report.

E. TRI Reporting Status v. Reporting Status under the Act

a. Summary of Issue

Pursuant to N.J.S.A. 13:1D-37, a priority industrial facility is defined as any industrial facility required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023, or any other facility designated a priority facility pursuant to N.J.S.A. 13:1D-42(h). The Department proposed to codify this definition at N.J.A.C. 7:1K-1.5, Definitions, and N.J.A.C. 7:1K-3.2, Designation of industrial facilities not subject to 42 U.S.C. §11023 as priority industrial facilities.

b. Comment and Response

COMMENT: One commenter (9) noted that the proposed rules do not address the pollution prevention planning status of facilities with fluctuating TRI reporting status under 42 U.S.C. §11023. The commenter identified several scenarios that need to be addressed in the rules as follows:

(1) Is a facility which is no longer covered under 42 U.S.C. §11023 still a priority industrial facility under the Act?

(2) If a facility prepares a Pollution Prevention Plan for the appropriate base year but is subsequently no longer covered under 42 U.S.C. §11023 yet uses or manufactures a hazardous substance on the Act's list above the pollution prevention planning threshold, would the facility be:

(a) exempt from filing a Pollution Prevention Plan Progress Report?

(b) required to notify the Department that it is no longer regulated under 42 U.S.C. §11023?; and/or

(c) must the facility meet its five year goals and implement its Pollution Prevention Plan?

RESPONSE: The Department agrees that the pollution prevention program rules should address a facility's pollution prevention planning and reporting requirements if its status changes under 42 U.S.C. §11023. Since the Act is designed to encourage the reduction of the use of hazardous substances and the generation on nonproduct output, there should be incentives if facilities no longer use hazardous substances. Therefore, the Department will not require unnecessary reporting when a facility reduces its use and/or production of a hazardous substance below threshold levels.

To address the issues raised by the commenter, the Department will propose to include the following provisions in N.J.A.C. 7:1K:

1. A facility will not be required to submit a Pollution Prevention Plan Progress Report if, after developing a Pollution Prevention Plan as required under N.J.A.C. 7:1K-3.1, the facility:

(a) Is no longer required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023; and

(b) No longer uses, manufactures or produces a covered hazardous substance **below** the pollution prevention planning threshold level (N.J.A.C. 7:1K-3.4(a) or Appendix B).

2. A facility that is no longer regulated under 42 U.S.C. §11023 after preparing a Pollution Prevention Plan will be required to submit to the Department a negative declaration that it is not submitting State Right-to-Know or Pollution Prevention Plan Progress Reports because it is below the State threshold.

3. A facility will still be required to submit a Pollution Prevention Plan Progress Report if, after developing a Pollution Prevention Plan as required under N.J.A.C. 7:1K-3.1, the facility:

(a) Is no longer required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023; and

(b) Uses, manufactures or produces a covered hazardous substance **above** the NJ pollution prevention act threshold levels.

4. The Department will clarify that under N.J.A.C. 7:1K-3.1(a) and (b), a facility is considered to be a priority industrial facility if it is required to report under 42 U.S.C. §11023 during its base year.

5. The Department will outline in the rules the pollution prevention planning requirements for an industrial facility that becomes subject to reporting under 42 U.S.C. §11023 after 1993 or 1995 (depending on the facility's SIC Code).

On the issue meeting five-year goals once the facility is no longer subject to 42 U.S.C. §11023, the Department reaffirms that these goals are neither mandatory nor enforceable. Regardless of the facility's status under 42 U.S.C. §11023 or the Act, its pollution prevention planning goals are intended to be ambitious targets, and are not requirements.

F. Pollution Prevention in Existing Permits

a. Summary of Issue and Comment

COMMENT: One commenter (15) contended that since its existing air pollution control permits require its facility to develop and implement a pollution prevention plan, the Department should add a section to these rules exempting facilities from the pollution prevention planning requirements of N.J.A.C. 7:1K if they are subject to existing permit requirements for pollution prevention planning. In the alternative, the commenter suggested that a provision be added that the Department specify in these rules that pollution prevention conditions in existing permits will be superseded by the Pollution Prevention Plan requirements upon submission of a facility's initial Pollution Prevention Plan Summary to the Department.

RESPONSE: The commenter has raised an interesting issue concerning what the Department terms "regulatory integration," that is, incorporating pollution prevention into the different regulatory programs operated by the Department. The Department's goal is to increase regulatory integration which will hopefully lead to increased implementa-

tion of pollution prevention. However, in the process, the Department intends to avoid the "double jeopardy" of overlapping or duplicative regulatory requirements.

The commenter did not identify specific air pollution control permits or permit conditions which may overlap or duplicate the requirements of N.J.A.C. 7:1K. However, as far as the Department is aware, none of its existing air pollution control permits contain conditions which would require completion of a Plan of the type and complexity required by N.J.A.C. 7:1K. Therefore, it would be inappropriate to provide a blanket exemption as requested by the commenter.

However, as per the commenter's alternative suggestion, it may be appropriate to substitute certain conditions in existing permits for some of the process-level requirements applicable to targeted processes in a Plan Summary and Plan Progress Report. The Department believes that these decisions will best be made on a case-by-case basis rather than through a general policy, but will consider whether it is feasible to amend N.J.A.C. 7:1K to include a procedure for making these case-by-case determinations.

Summary of Agency-Initiated and Other Changes:

1. In response to comments asserting that it would be infeasible to require facilities to report information on the basis of a facility-wide unit of product, the Department has not adopted the definition of "facility-wide unit of product" proposed at N.J.A.C. 7:1K-1.5. As a result, the Department has also not adopted proposed N.J.A.C. 7:1K-4.5(a)6, 4.5(a)8, 5.1(b)3i, 5.1(b)3iii, 5.1(b)3vi(3), 5.1(b)3vi(4), 6.1(c)4i and 6.1(c)4iii, which would have required facilities to compile or report information on a "facility-wide unit of product" basis. The adopted portions of N.J.A.C. 7:1K-4.5(a), 5.1(b)3, and 6.1(c)4 have been recodifed to accommodate these changes.

2. The Department has adopted a definition of "Form DEQ-114" at N.J.A.C. 7:1K-1.5 to explain the use of this reference throughout this chapter.

3. In response to comments received on the proposed definition of "in-process recycling," N.J.A.C. 7:1K-1.5, the Department has substituted the word "reduces" for "prevents" on adoption of this definition. This clarification is necessary to make the proposed definition consistent with the Act's definition of "pollution preventon," N.J.S.A. 13:1D-37.

4. To clarify that the Department interprets the statutory definition of "product," N.J.S.A. 13:1D-37, to allow production of more than one product per process, the Department has added the phrase "one or more" to the definitions of "co-product," "product," and "intermediate product" at N.J.A.C. 7:1K-1.5.

5. To correct an oversight in the proposal, the Department has added the word "pollution" to modify "treatment" in the definition of "intermediate product" at N.J.A.C. 7:1K-1.5. The Department used the term "pollution treatment" in its discussion of the definition of "intermediate product" in the proposal (see 24 N.J.R. 3622) but omitted this term in the proposed definition.

6. On adoption of the definition of "intermediate product" at N.J.A.C. 7:1K-1.5, the Department has substituted the term "production process" for the phrase "process step" as used in the proposed definition. The Department agrees with a commenter on this definition that "production process" more accurately describes the subsequent "processing step" to which the definition refers.

7. The Department has adopted a definition of "TRI list" at N.J.A.C. 7:1K-1.5 to explain the use of this acronym throughout the rules.

8. To clarify that a facility is considered a priority industrial facility under these rules if it is required to submit a toxic chemical release form in the year before the Act requires facilities in that SIC Code to complete a Pollution Prevention Plan, the Department has added references to "calendar year 1993" and "calendar year 1995" to N.J.A.C. 7:1K-3.1(a) and (b), respectively.

9. To distinguish instances when the Department is designating an individual facility as a priority industrial facility from instances when the Department is designating an entire SIC code as priority industrial facilities, the Department has inserted the word "individual" to modify the term "industrial facility" as appropriate throughout N.J.A.C. 7:1K-3.2. The proposed procedure was only intended to apply to designation of individual priority industrial facilities since N.J.S.A. 13:1D-42(h) prohibits designation by SIC Code before January 1, 1995.

10. Because of a perceived contradiction between proposed N.J.A.C. 7:1K-3.2(b)1 and 3.4(b)1, the Department has clarified proposed N.J.A.C. 7:1K-3.2(b)1 to state that it intends to designate an industrial facility as a priority industrial facility on the basis of the proposed "less than 10,000 pounds" criterion only if the Department has already established a threshold less than 10,000 pounds for the substance in question through the rulemaking procedure at proposed N.J.A.C. 7:1K-3.4(b)1.

11. In response to comments received on proposed N.J.A.C. 7:1K-3.2(b)4, which asserted that this subsection could be used to designate any facility in the State as a priority industrial facility, the Department has revised this subsection to make it more specific. The Department's original intent in proposing this subsection was to allow the use of pollution prevention planning as a tool in addressing emergency environmental situations such as inadequate landfill capacity or lack of available sludge managment options.

12. On adoption, the Department has reserved a section at N.J.A.C. 7:1K-3.3 for future proposal of a procedure and the criteria for designation of priority industrial facilities by SIC Code. See N.J.S.A. 13:1D-42(h). The remaining sections of N.J.A.C. 7:1K-3 have been recodified to accommodate the reserved section.

13. On adoption of proposed N.J.A.C. 7:1K-3.4(c) and 3.5(c), the Department has clarified that facilities have up to 12 months to revise their Pollution Prevention Plans and to submit revised Pollution Prevention Plan Summaries to reflect the adoption of a threshold of less than 10,000 pounds for a hazardous substance (Appendix B) or the designation of an additional hazardous substance for which pollution prevention planning is required (Appendix A). On adoption of proposed N.J.A.C. 7:1K-3.8(d) the Department has clarified that facilities have from 12 to 18 months from the date of expansion of the TRI List by the U.S. Environmental Protection Agency to revise their Pollution Prevention Plan and submit revised Pollution Prevention Plan Summaries to the Department.

14. To correct an omission in the proposal, the phrase "or designated" has been added to adopted N.J.A.C. 7:1K-3.9(c)2. By definition, intermediate products are not necessarily "sold" as implied in the proposed subsection.

15. In adopted N.J.A.C. 7:1K-3.9(d), the Department has substituted the term "TRI list" for the phrase "Toxic Release Inventory (TRI) list established by the United States Environmental Protection Agency for reporting of hazardous substances pursuant to 42 U.S.C. §11023." As discussed above, this term is now defined at N.J.A.C. 7:1K-1.5.

16. The Department has revised proposed N.J.A.C. 7:1K-4.1(a)1 to clarify that facilities are required to identify all production processes but sources only as applicable.

17. To maintain consistency with the Act, the word "must" has been changed to "may" on adoption of N.J.A.C. 7:1K-4.2(d). Since the Act does not require facilities to conduct pollution prevention planning for pollution treatment and control systems, the intent of this subsection was to permit, but not to require, pollution prevention planning for such systems.

18. To clarify the relationship between the information in a facility's Pollution Prevention Plan and the facility's base year, the Department has added a reference to the base year at N.J.A.C. 7:1K-4.3(b). This is consistent with N.J.S.A. 13:1D-41(a), which requires the Plan to "cover the previous calendar year."

19. The Department has not adopted the proposed references to civil and criminal penalties for false certification of a Pollution Prevention Plan (proposed N.J.A.C. 7:1K-4.3(b)1i and ii), Plan Summary (proposed N.J.A.C. 7:1K-5.1(b)2i) or Plan Progress Report (N.J.A.C. 7:1K-6.1(c)2i). These references were intended to put certifiers on notice of civil penalties for false certification that might attach under the Act (N.J.S.A. 13:1D-49) or criminal penalties for enforcement that might attach under the State Code of Criminal Justice, specifically N.J.S.A. 2C:28-3 (Unsworn falsification to authorities). While these penalties remain available, in response to comments received objecting to the proposed certification language the Department has chosen not to adopt a specific reference to penalties in the certifications.

20. To clarify that some of the reporting elements of these rules are identical to the reporting elements under the State Right-to-Know program (Form DEQ-114), the Department has added cross-reference notations at N.J.A.C. 7:1K-4.3(b)2 and 6.1(c)3.

21. To clarify that facilities may use estimated information in Part I of a Pollution Prevention Plan and in a Pollution Prevention Progress Report, the Department has added references to "direct measurement or estimates using best engineering judgment" to N.J.A.C. 7:1K-4.3(b)2iv and v, 4.3(b)5ii, and 6.1(c)3iv. In the proposal, the Department included references to estimated information throughout the rest of N.J.A.C. 7:1K-4.3(b) and 6.1(c), but inadvertently omitted this language from these three subparagraphs.

22. On adoption, the Department has added optional reporting items at N.J.A.C. 7:1K-4.3(b)2viii to allow facilities to include information on pollution prevention progress between 1987 and the base year as part of Part I of a Pollution Prevention Plan.

23. As discussed in the summary of comments above, the Department intentionally proposed several overlapping data elements for the Pollution Prevention Plan, Plan Summary and Plan Progress Report. On adoption, the Department has added notations specifically referencing the overlapping items to N.J.A.C. 7:1K-4.3(b)3, 4.3(c)1, 4.3(c)2ii, 4.5(a)7, 4.5(a)9 and 5.1(b)4.

24. On adoption, the Department has added the word "all" to proposed N.J.A.C. 7:1K-4.3(b)3i. Although this may not have been clear from the proposed language, a facility is required to identify **each** production process using or producing hazardous substances at the facility pursuant to N.J.S.A. 13:1D-41(b)3.

25. On adoption, the Department has added the phrase "including a description of the unit for measuring production" to proposed N.J.A.C. 7:1K-4.3(b)3iii, which requires facilities to include a description of their grouping decision(s) in Part IA of a Pollution Prevention Plan. The addition of this phrase is expected to clarify that the Department intended facilities to use physical measurements, and not a measure of currency, to quantify and group production processes.

26. On adoption, the Department has transferred proposed N.J.A.C. 7:1K-4.3(b)4i(5), which requires facilities to estimate source-level nonproduct output data, to N.J.A.C. 7:1K-4.5(a)2. As a result of this transfer, facilities will be required to estimate source-level nonproduct output data only for targeted sources in Part II of a Pollution Prevention Plan. This transfer is expected to save facilities money with minimal effect on the pollution prevention planning process. To accommodate this transfer, N.J.A.C. 7:1K-4.3(b)4i(6) and (7) and N.J.A.C. 7:1K-4.5(a)3 through 15 have been recodified accordingly.

27. To clarify that a facility may, in its discretion, conduct a more detailed comprehensive financial analysis than required by proposed N.J.A.C. 7:1K-4.3(b)6i and 4.5(a)4ii, the Department has added the phrase "at a minimum" on adoption of these paragraphs.

28. To illustrate the types of cost items that may be included under the category of "storage and handling costs" in a comprehensive financial analysis, the Department has inserted the phrase "including safety and health compliance costs" on adoption of N.J.A.C. 7:1K-4.3(b)6i(1) and 4.5(a)4ii(1).

29. As part of the proposal, the Department proposed both a general authorization for facilities to include in a Pollution Prevention Plan and Plan Summary a description of pollution prevention strategies implemented at the facility prior to 1987, N.J.A.C. 7:1K-4.8, and a specific authorization for including pre-1987 pollution prevention strategies in a Plan at the facility's option, N.J.A.C. 7:1K-4.3(b)2vii. Instead of adopting the general reference to pre-1987 pollution prevention strategies as originally proposed at N.J.A.C. 7:1K-4.8, the Department has adopted the specific Plan element at N.J.A.C. 7:1K-4.3(b)2vii and has added an optional reporting item at N.J.A.C. 7:1K-5.1(b)3iv to specifically address the inclusion of this information in a Plan Summary.

30. The Department has not adopted proposed N.J.A.C. 7:1K-5.1(b)3vi(1) through (5), which set forth criteria to be met in reporting information on pollution prevention progress between 1987 and the base year. As a result, a facility, at its option, may report pollution prevention progress for this time period in its Plan Summary in any manner it deems appropriate.

31. The Department has not adopted the enforceable Plan Summary and Plan Progress Report review criteria proposed at N.J.A.C. 7:1K-5.2(b)2 and 6.2(b)2. As a result, administrative completeness will be the only enforceable review criteria for Plan Summaries (pursuant to N.J.A.C. 7:1K-5.2(b)1) and Plan Progress Reports (pursuant to N.J.A.C. 7:1K-6.2(b)1). However, the Department has reserved N.J.A.C. 7:1K-5.2(b)2 and 6.2(b)2 for the future development of additional enforceable review criteria. In addition, the Department still intends to enforce against facilities for failure to prepare a Plan or untimely submission of a Plan Summary or Plan Progress Report under the penalty authority at N.J.A.C. 7:1K-12.8.

32. To correct an inconsistency between proposed N.J.A.C. 7:1K-6.1(c)4v and the Act, the Department has not adopted the requirement for reporting use "per unit of product" as proposed in this subsection. In addition, to correct an inconsistency between proposed N.J.A.C. 7:1K-6.1(c)5ii(3) and the Act, the Department has not adopted the reference to quantifying "use of each hazardous substance" as proposed in this paragraph. Under the Act, a facility is required to include in its Plan Progress Report an accounting of the facility's use expressed as a range, not as actual use per unit of product. See N.J.S.A. 13:1D-41(h)5.

33. The Department has not adopted proposed N.J.A.C. 7:1K-6.1(c)4ix, which would have required facilities to report facility-level information on pollution prevention techniques. Instead, the Department's database for tracking Pollution Prevention Plan Progress Report information is being designed to summarize this information for the facility level using the process-level data submitted by facilities pursuant to N.J.A.C. 7:1K-6.1(c)5ii(7).

34. In response to comments received on proposed N.J.A.C. 7:1K-7.2(b), the Department has not adopted the requirement of an "irrevocable" commitment to the facility-wide permit program as originally proposed in this subsection. Therefore, as adopted, this subsection does not address whether facilities may drop out of the facility-wide permitting program. However, the Department intends to address this issue as part of the forthcoming amendments to these rules. See Summary of Future Amendments, below.

35. On adoption, the Department has added a new paragraph, N.J.A.C. 7:1K-9.3(a)5, in order to require a facility to submit as part of its substantiation of a confidentiality claim a demonstration that the assertedly confidential information is not readily discoverable through reverse engineering or other analytical techniques. This information is required by N.J.S.A. 13:1D-47(c) but was inadvertently omitted from the proposal. To accommodate this change, the subsequent paragraphs in this subsection have been recodified accordingly.

36. On adoption, the Department has changed the time period for substantiation of a confidentiality claim, N.J.A.C. 7:1K-9.4(a), from 30 to 45 days.

37. The Department has not adopted proposed N.J.A.C. 7:1K-9.10(a)1, which was derived from list of non-confidential information used by another of the Department's programs, and which has since been determined to be irrelevant for the purposes of the pollution prevention planning program. To accommodate this change, N.J.A.C. 7:1K-9.10(a)2 through 6 have been recodified accordingly.

38. To maintain consistency with N.J.S.A. 13:1D-47(d), which requires the Department to give the claimant facility 45 days to request an administrative hearing on a confidentiality determination, the Department has amended N.J.A.C. 7:1K-9.5(a)1, 9.5(a)2, 10.2(b), and 10.3(b) on adoption to provide 45 days, not 14 days, notice to the facility of the Department's intended disclosure of information determined to be non-confidential.

39. On adoption, the Department has added references to "assertedly confidential information" throughout N.J.A.C. 7:1K-11 to eliminate confusion on how assertedly confidential information will be treated and handled pending a confidentiality determination. Although N.J.A.C. 7:1K-9.6 expressly requires the Department to treat assertedly confidential information as confidential information pending a final confidentiality determination, this was not clear to a number of commenters.

40. To maintain consistency with N.J.S.A. 13:1D-47(d), which requires the Department to give the claimant facility 45 days to request an administrative hearing on a confidentiality determination, the Department has changed the time period in N.J.A.C. 7:1K-12.3(c) from 14 days to 45 days on adoption of this subsection.

41. Because the Department did not adopt the substantive Plan Summary or Plan Progress Report review criteria at N.J.A.C. 7:1K-5.2(b)2 or 6.2(b)2, the Department has not adopted N.J.A.C. 7:1K-12.7(b)2, which set forth the civil administrative penalties for violation of these criteria.

42. On adoption, the Department has added the subcategory of "Solidification/Stabilization/Fixation" to the Unit Operations category of Descriptor Modifiers in Appendix C, Nomenclature.

Summary of Future Amendments:

In a number of sections throughout the responses to comments, the Department has indicated that it intends to propose amendments to the adopted rules. In the April 19, 1993 issue of the New Jersey Register, the Department intends to publish a proposal addressing the following issues:

1. The Department plans to propose to amend N.J.A.C. 7:1K-3.1 to include reporting guidelines for facilities with fluctuating reporting obligations under 42 U.S.C. §11023. This amendment will address whether a facility is required to conduct pollution prevention planning in the following instances: when the facility is not currently covered by the Act but becomes covered because its use, manufacture or production of a covered hazardous substance exceeds the 42 U.S.C. §11023 threshold; when the facility is no longer covered by either 42 U.S.C. §11023 or

the Act; and when the facility is no longer covered by 42 U.S.C. §11023, but is covered under the Act.

2. The Department plans to propose to amend N.J.A.C. 7:1K to exempt new processes from Part IB pollution prevention planning requirements in addition to the current exemption for Part II pollution prevention planning.

3. The Department plans to propose to consolidate and simplify N.J.A.C. 7:1K-3.9(a) and (b), which govern when a facility is required to modify its Plan and/or Plan Summary. As revised, this procedure will allow facilities to notify the Department of significant changes at the facility by checking a box on the Plan Progress Report form and then updating the facility's Plan by July 1 of the following year. Under the new procedure, a facility will only be required to update its Plan Summary if it is inconsistent with the updated Plan.

4. The Department plans to propose to amend N.J.A.C. 7:1K-3.10 to add several non-enforceable Plan review criteria and to limit its enforceable review of Plans to a determination of whether a Plan is administratively complete.

5. The Department is considering whether to require facilities to identify and describe their products in a manner that will enable the public to better understand the throughput information contained in Plan Summaries and Plan Progress Reports.

6. The Department plans to propose to add a reporting item to N.J.A.C. 7:1K-5.1(b) to require a facility to indicate in a Plan Summary requiring whether its targeting decision was based on total nonproduct output, use or release of hazardous substances at their facility.

7. The Department plans to propose to amend N.J.A.C. 7:1K-5.1(b)5vi to add additional use reporting ranges as follows: 10,000 to 25,000 pounds; 25,000 to 50,000 pounds; and greater than 50,000 pounds.

8. The Department plans to revise its procedures for reviewing Plans, Plan Summaries, and Plan Progress Reports, N.J.A.C. 7:1K-3.9, 5.2 and 6.2, to require informal notice of and an opportunity to correct deficiencies prior to issuance of a draft directive (that is, prior to initiating formal enforcement action).

9. The Department plans to propose a new subsection at N.J.A.C. 7:1K-7.2(c) to address the issue of withdrawal of volunteer facilities from the pilot facility-wide permit program. This new subsection will give facility-wide permit volunteers a period of 30 days following issuance of the draft facility-wide permit to withdraw from the pilot program.

10. The Department plans to propose a new section in N.J.A.C. 7:1K-10 to require notice to a claimant facility if the Department receives a request from a member of the public for disclosure of assertedly confidential information.

11. The Department plans to codify its policy of allowing Pollution Prevention Plans to remain on site except for facilities applying for facility-wide permits or requesting an out-of-process recycling authorization. Refer to the Response to Comments for a discussion of this issue.

12. Since Pollution Prevention Plans will now be routinely kept on-site at each facility, the Department plans to add a new section to N.J.A.C. 7:1K-12 to outline penalties for failure to prepare a Plan. Under the current procedure, the Department is required to have to issue a directive to each facility prior to taking enforcement action for failure to prepare a Plan.

13. In accordance with N.J.S.A. 13:1D-47, the Department plans to add a new section to N.J.A.C. 7:1K-12 outlining penalties for false or frivolous confidentiality claims.

14. The Department plans to add a new section to N.J.A.C. 7:1K-12.5 specifically excluding from enforcement action a facility's failure to achieve its pollution prevention goals.

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 1K
POLLUTION PREVENTION PROGRAM RULES

SUBCHAPTER 1. GENERAL PROVISIONS

7:1K-1.1 Scope

This chapter constitutes the rules of the Department for the administration and implementation of the Pollution Prevention Program established by the Pollution Prevention Act, P.L. 1991, c. 235, codified at N.J.S.A. 13:1D-35 et seq. and 34:5A-1 et seq. This chapter applies to the use and release of hazardous substances and the generation of hazardous substances as nonproduct output by industrial facilities and sets forth guidelines and procedures to be followed by priority industrial facilities in the development of Pollution Prevention Plans, Pollution Prevention Plan Summaries and Pollution Prevention Plan Progress Reports as required by the Act. This chapter also provides for the issuance of facility-wide permits to certain priority industrial facilities under the pilot program established by N.J.S.A. 13:1D-48.

7:1K-1.2 Purpose

(a) It is the purpose of this chapter to promote pollution prevention by:

1. Encouraging the reduction of:

i. The use of hazardous substances in industrial and manufacturing processes;

ii. The generation of hazardous substances as nonproduct output; and

iii. The multimedia environmental releases of hazardous substances; and

2. Developing a facility-level and process-level accounting system for identifying the use, generation, and release of hazardous substances so that industrial facilities can identify pollution prevention opportunities and implement pollution prevention techniques.

7:1K-1.3 Jurisdiction

(a) This chapter shall apply, to the extent statutorily permissible, to the following Department management actions affecting industrial facilities:

1. Permits, certificates, registrations, or any other relevant Departmental approvals issued to the owner or operator of the industrial facility pursuant to N.J.S.A. 13:1E-1 et seq., 58:10A-1 et seq., or 26:2C-1 et seq.

(b) The pollution prevention concepts and requirements contained in this chapter shall be incorporated, to the extent statutorily permissible, in the Department's policies, procedures and permits.

7:1K-1.4 Relationship of Community Right-to-Know Reporting to Pollution Prevention Reporting

The Department may combine the reporting elements of this chapter with those required for Community Right-to-Know reporting pursuant to N.J.S.A. 34:5A-1 et seq. in order to allow a priority industrial facility to submit a combined reporting form to satisfy the requirements of N.J.A.C. 7:1G and 7:1K.

7:1K-1.5 Definitions

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

"Act" means the Pollution Prevention Act, N.J.S.A. 13:1D-35 et seq.

"Assertedly confidential information" means information for which a claimant has filed a confidentiality claim in accordance with N.J.A.C. 7:1K-8.2, but for which the Department has not made a final confidentiality determination pursuant to N.J.A.C. 7:1K-9.5.

"Assistant Commissioner" means the Assistant Commissioner for Environmental Regulation or his or her designated representative.

"Base year" means the calendar year prior to the year of the submittal of an industrial facility's Pollution Prevention Plan Summary to the Department.

"Board" means the Pollution Prevention Advisory Board established by N.J.S.A. 13:1D-39.

"Claimant" means any person who submits a confidentiality claim under this chapter.

"Class confidentiality determination" means a confidentiality determination made by the Department under N.J.A.C. 7:1K-9.9, for a class of information.

"Commissioner" means the Commissioner of the Department of Environmental Protection and Energy or his or her designated representative.

"Confidential copy" means a record (or copy thereof) submitted to or obtained by the Department, containing information which the claimant asserts is confidential information.

"Confidential information" means information, including trade secret information, which the Department determines to have satisfied all of the following substantive criteria:

1. The claimant has asserted a confidentiality claim with respect to the information, in compliance with the procedures required by N.J.A.C. 7:1K-8.2, and such confidentiality claim has not expired by its terms, been waived or withdrawn;

2. The claimant has shown that disclosure of the information would be likely to cause substantial damage either to the claimant's competitive position or to national security;

3. The claimant has taken reasonable measures to protect the confidentiality of the information, and intends to continue to take such measures;

4. The information is not, and has not been, available or otherwise disclosed to other persons either by the claimant (except in a manner which protects the confidentiality of the information) or without the consent of the claimant (other than by subpoena or by discovery based on a showing of special need in a judicial proceeding, arbitration, or other proceeding in which the claimant was required to disclose the information to other persons, as long as the information has not been available to persons not involved in the proceeding);

5. The information is not contained in materials which are routinely available to the general public, including without limitation initial and final orders in contested case adjudications, press releases, copies of speeches, pamphlets and educational materials;

6. The claimant has not waived the confidentiality claim for the information; and

7. No law, regulation, administrative rule (including, without limitation, N.J.A.C. 7:1K-10 or any other administrative rule of the Department), or order by a court or other tribunal of competent jurisdiction specifically requires disclosure of the information or provides that the information is not confidential information.

"Confidentiality claim" or "claim" means, with respect to information that a person is required either to submit to the Department, or allow the Department to obtain, a written request by such person that the Department treat such information as confidential information.

"Confidentiality determination" means a determination by the Department that assertedly confidential information is or is not confidential information.

"Contract" means an agreement between the Department and a contractor, for which the Department has determined that it is necessary for the contractor to have access to confidential information to enable the contractor to perform the duties required by such agreement.

"Contractor" means a person, other than an employee of the Department, who has entered into an agreement with the Department to perform services or to provide goods for the Department.

"Co-product" means *[an]* ***one or more*** incidental result*(s)* of a production process that is not a primary product of the production process and that is sold in trade in the channels of commerce to the general public in the same form as it is produced, for any purpose except the purpose of energy recovery. A co-product is not considered nonproduct output. Increases in quantities of co-products do not count towards use reduction or nonproduct output reduction goals.

"Consume" means to change or alter the molecular structure of a hazardous substance within a production process.

"Department" means the Department of Environmental Protection and Energy, its successors and assigns.

"Facility" means all buildings, equipment, structures, and other property that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person.

"Facility-wide permit" means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42.

["Facility-wide unit of product" means a unit, or aggregated unit, capable of measuring the total quantity of product(s) co-product(s) and/or intermediate product(s) produced at an industrial facility, which is used in calculating the Production Ratio or Activity Index reported to the U.S. Environmental Protection Agency by a priority industrial facility on Form R for compliance with 42 U.S.C. §11023, and which is not changed by the industrial facility from year to year.]

"Form DEQ-114" means the reporting form issued by the Department which is used to fulfill the Environmental Release and Pollution Prevention reporting requirements of the environmental survey, Part II, pursuant to N.J.S.A. 34:5A-1 et seq.

"Hazardous substance" means any substance on the list established by the United States Environmental Protection Agency for reporting pursuant to 42 U.S.C. §11023, and any other substance which the Department defines as a hazardous substance for the purposes of the Act pursuant to N.J.A.C. 7:1K-3.5.

"Hazardous waste" means any solid waste defined as hazardous waste by the Department pursuant to N.J.S.A. 13:1E-1 et seq.

"Industrial facility" means any facility having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the Federal Office of Management and Budget, within the Major Group Numbers, Group Numbers, or Industry Numbers listed in N.J.S.A. 34:5A-3 and which is subject to the regulatory requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., or the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.

"In-process recycling" means returning a hazardous substance to a production process using dedicated equipment that is directly connected to and physically integrated with a production process or production processes and is operated in a manner that *[prevents]* ***reduces*** the generation of nonproduct output or the multi-media release of hazardous substances.

"Intermediate product" means *[a]* ***one or more*** desired result *(s)* of a production process that is made into a product in a subsequent *[processing step]* ***production process*** at the same industrial facility, without the need for ***pollution*** treatment prior to its being made into a product. An intermediate product is not considered nonproduct output. Increases in quantities of intermediate products do not count towards use reduction or nonproduct output reduction goals.

"Manufacture" means to produce, prepare, import, or compound a hazardous substance.

"Multimedia release" means the release of a hazardous substance to any environmental medium, or any combination of media, including the air, water or land, and includes any release into workplaces.

"Nonproduct output" or "NPO" means all hazardous substances or hazardous wastes that are generated prior to storage, out-of-process recycling, treatment, control or disposal, and that are not intended for use as a product. Nonproduct output includes fugitive releases.

"Offense" means each individual violation of the Act or of any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant thereto. Subsequent offenses are not conditioned upon a prior conviction, final order, or entry of judgment. In addition, a single administrative order and notice of civil administrative penalty assessment may relate to more than one offense.

"Office" means the Office of Pollution Prevention established in the Department pursuant to N.J.S.A. 13:1D-38.

"Operator" means any person in control of, or exercising responsibility for, the daily operation of an industrial facility or a priority industrial facility.

"Owner" means any person who owns an industrial facility or a priority industrial facility.

"Person" means any individual, partnership, company, corporation, society, firm, consortium, joint venture, or any commercial or other legal entity.

"Pilot facility" means a facility or designated area of a facility used for pilot-scale development of products or processes not primarily involved in the production of goods for commercial sale.

"Pollution prevention" means: changes in production technologies, raw materials or products, that result in the reduction of the demand for hazardous substances per unit of product manufactured and the creation of hazardous products or nonproduct outputs; or changes in the use of raw materials, products, or production technologies that result in the reduction of the input use of hazardous substances and the creation of hazardous by-products or destructive results; or on-site facility changes in production processes, products, or the use of substitute raw materials that result in the reduction of the amount of hazardous waste generated and disposed of on the land of hazardous substances discharged into the air or water per unit of product manufactured prior to treatment and that reduce or eliminate, without shifting, the risks that the use of hazardous substances at an industrial facility pose to employees, consumers, and the environment and human health. "Pollution prevention" includes, but is not limited to, raw material substitution, product reformulation, production process redesign or modification, in-process recycling, and improved operation and maintenance of production process equipment. "Pollution prevention" does not include any action or change entailing a substitution of one hazardous substance, product or nonproduct output for another that results in the creation of substantial new risk, and does not include treatment, increased pollution control, out-of-process recycling, or incineration.

"Pollution Prevention Assessment" means an assessment of potential pollution prevention opportunities for the use, generation and release of non-hazardous substances, prepared by an owner or operator of a priority industrial facility that is covered by an effective facility-wide permit issued by the Department, containing the same elements as those required for hazardous substances by N.J.A.C. 7:1K-4.3 and 4.5.

"Pollution Prevention Planning Guidance Document" means a document prepared by the Department pursuant to N.J.S.A. 13:1D-40(b), setting forth the administrative and regulatory requirements for preparing Pollution Prevention Plans, Pollution Prevention Plan Summaries, and Pollution Prevention Plan Progress Reports, and providing additional information which may be used by industrial facilities for pollution prevention planning.

"Pollution Prevention Plan" means a plan required to be prepared by an industrial facility pursuant to N.J.S.A. 13:1D-41 and 42 and N.J.A.C. 7:1K-3 and 4.

"Pollution prevention planning" means the preparation by a priority industrial facility of a Pollution Prevention Plan, Plan Summary, and Plan Progress Report pursuant to this chapter, and includes any reporting of information to the Department required by this chapter as part of the preparation or submittal of pollution prevention planning documents.

"Pollution Prevention Plan Progress Report" or "Plan Progress Report" means a report required to be submitted annually to the Department by the owner or operator of an industrial facility pursuant to N.J.S.A. 13:1D-41 and 42 and N.J.A.C. 7:1K-3 and 6.

"Pollution Prevention Plan Summary" or "Plan Summary" means a summary of a Pollution Prevention Plan required to be prepared by an industrial facility and submitted to the Department pursuant to N.J.S.A. 13:1D-41 and 42 and N.J.A.C. 7:1K-3 and 5.

"Preliminary public copy" means a copy of a record held by the Department, identical to the confidential copy except that any assertedly confidential information has been blacked out; provided, however, that if the record is not in a form in which confidential information can be concealed by blacking out, the "preliminary public copy" shall be a copy of such record from which such confidential information has been deleted, containing notations stating where deletions have been made.

"Priority industrial facility" means:

1. Any industrial facility required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023; or

2. Any other industrial facility designated by the Department as a priority industrial facility pursuant to the criteria and procedure at N.J.A.C. 7:1K-3.2.

"Product" means *[a]* ***one or more*** desired result***(s)*** of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced. Products include intermediate products transferred to a separate industrial facility owned or operated by the same owner or operator.

"Production process" means a process, line, method, activity or technique, or a series or combination of processes, lines, methods or techniques used to produce a product or reach a planned result.

"Raw Material Substitution Certification" means a list of individual hazardous substances used in specific targeted production processes at a priority industrial facility, for which the owner or operator of the industrial facility has determined through preparation and completion of a Pollution Prevention Plan and has certified to the Department that it is not technically or economically feasible to reduce the input-use of the hazardous substance below current levels by replacing the hazardous substance with a different raw material in the specific production process.

"Record" means any document, writing, photograph, sound or magnetic recording, drawing, or other similar thing by which information has been preserved and from which information can be retrieved and copied.

"Requester" means a person who has made a request to the Department to inspect or copy records which the Department possesses or controls.

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

"Source" means a point or location in a production process at which a nonproduct output is generated or released, provided, however, that similar, related or identical kinds of sources may be considered a single source for the purposes of the Act pursuant to the criteria at N.J.A.C. 7:1K-4.2.

"Substantiation" means information which a claimant submits to the Department in support of a confidentiality claim pursuant to N.J.A.C. 7:1K-9.3.

"Targeted production process" means any production process which significantly contributes to the use or release of hazardous substances or the generation of nonproduct output, as determined by the owner or operator of a priority industrial facility pursuant to criteria established by the Department at N.J.A.C. 7:1K-4.4.

"Targeted source" means any source which significantly contributes to the generation of nonproduct output, as determined by the owner or operator of a priority industrial facility pursuant to criteria established by the Department at N.J.A.C. 7:1K-4.4.

"TRI list" means the Toxic Release Inventory (TRI) list established by the United States Environmental Protection Agency for reporting pursuant to 42 U.S.C. §11023.

"Unit of product" means a unit used to measure the total quantity of product(s), co-product(s) and/or intermediate product(s) produced by a production process, and which is not changed by an industrial facility from year to year.

"Violation" means a violation of any provision of the Act, or any rule or regulation, administrative order, or facility-wide permit adopted or issued pursuant to the Act.

7:1K-1.6 Construction

These rules shall be liberally construed to permit the Department to discharge its statutory functions under the Act.

7:1K-1.7 Severability

If any subchapter, section, subsection, paragraph, subparagraph, provision, clause or portion of this chapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.

7:1K-1.8 Access to public information

Interested persons may obtain information on the pollution prevention program, copies of pollution prevention reporting forms, and copies of the Pollution Prevention Planning Guidance Document by contacting:

Office of Pollution Prevention
Department of Environmental Protection and Energy
CN 423
Trenton, New Jersey 08625-0423
(609) 777-0518

SUBCHAPTER 2. POLLUTION PREVENTION ADVISORY BOARD

7:1K-2.1 Pollution Prevention Advisory Board

(a) The Pollution Prevention Advisory Board shall advise the Department in matters related to the administration of the Act and shall monitor the expenditure of money in the Pollution Prevention Fund established by N.J.S.A. 13:1D-50.

(b) The appointment and membership of the Board shall be as provided at N.J.S.A. 13:1D-39. A majority of the membership of the Board shall constitute a quorum for the transaction of board business. Action may be taken and motions adopted by the Board at any meeting thereof by the affirmative vote of a majority of the members of the Board present and voting. Members of the Board shall serve without compensation but the Board may, within the limits of funds appropriated or otherwise made available to it for such purposes, reimburse its members for reasonable and necessary expenses incurred in the discharge of their official duties.

(c) The Board may:

1. Review any matters submitted to it by the Department concerning any aspect of the provisions or implementation of the Act and report its recommendations to the Department;

2. Conduct an ongoing review of the implementation of the Act and submit any recommendations for administrative or legislative changes it deems necessary to the Department;

3. Investigate techniques to develop standardized classifications of production processes employed by industrial facilities, and investigate the feasibility of utilizing such techniques in the development and implementation of Pollution Prevention Plans;

4. Advise the Department on the interpretation of information submitted in Pollution Prevention Plan Summaries and Pollution Prevention Plan Progress Reports and on the content of Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports;

5. Review the scientific literature concerning the occupational, public health, and environmental risks presented by exposures to specific hazardous substances, evaluate scientific interpretations of these risks, and assess the risks of the discharge of these hazardous substances into different environmental media;

6. Review and evaluate the impact of reductions in the use or discharge of specific hazardous substances on employment levels;

7. Conduct periodic reviews of the criteria adopted by the Department for the preparation of Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports and, if deemed necessary, make recommendations to the Department for administrative changes;

8. Study and evaluate the practicability and feasibility of achieving hazardous substance pollution prevention without reductions in employment levels through the use of substitute substances, alternative procedures or processes, or other means;

9. Conduct research, or hold public hearings concerning the continued use, production, manufacture, discharge, or disposal of any hazardous substance in the State and the threat that this use, production, manufacture, discharge, or disposal poses to human health or the environment, and, if warranted, make a written recommendation to the Governor and the Legislature concerning the prohibition of, or restrictions on, the continued use, production, manufacture, discharge, or disposal of the hazardous substance in the State, except that the Board shall not conduct research or hold public hearings concerning the siting of hazardous waste facilities; and

10. Review the expenditure by the Department of monies deposited in the Pollution Prevention Fund established pursuant to N.J.S.A. 13:1D-50.

SUBCHAPTER 3. POLLUTION PREVENTION PLANNING REQUIREMENTS

7:1K-3.1 Preparation and submission of pollution prevention planning documents by priority industrial facilities

(a) The owner or operator of a priority industrial facility required to prepare and submit a toxic chemical release form ***for calendar year 1993*** pursuant to 42 U.S.C. §11023 and having a Standard Industrial Classification, as designated by the Federal Office of Management and Budget, within Major Group Numbers 26, 28, 30, 33 and 34, shall:

1. Prepare Parts IA and II of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(b) and 4.5 and submit a Pollution Prevention Plan Summary to the Department in accordance with N.J.A.C. 7:1K-5.1 on or before July 1, 1994;

2. Prepare Part IB of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(c) and submit a Pollution Prevention Plan Progress Report to the Department in accordance with N.J.A.C. 7:1K-6.1 by July 1, 1995;

3. Update Part IB of the Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-3.7 and submit a Pollution Prevention Plan Progress Report to the Department in accordance with N.J.A.C. 7:1K-6.1 by each July 1 thereafter; and

4. Revise or modify the industrial facility's Pollution Prevention Plan or Plan Summary as required by N.J.A.C. 7:1K-3.6 and 3.8.

(b) The owner or operator of a priority industrial facility required to prepare and submit a toxic chemical release form ***for calendar year 1995*** pursuant to 42 U.S.C. §11023 and having a Standard Industrial Classification other than those enumerated in (a) above shall:

1. Prepare Parts IA and II of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(b) and 4.5 and submit a Pollution Prevention Plan Summary to the Department in accordance with N.J.A.C. 7:1K-5.1 on or before July 1, 1996;

2. Prepare Part IB of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(c) and submit a Pollution Prevention Plan Progress Report to the Department in accordance with N.J.A.C. 7:1K-6.1 by July 1, 1997;

3. Update Part IB of the Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-3.7 and submit a Pollution Prevention Plan Progress Report to the Department in accordance with N.J.A.C. 7:1K-6.1 by each July 1 thereafter; and

4. Revise or modify the industrial facility's Pollution Prevention Plan or Plan Summary as required by N.J.A.C. 7:1K-3.6 and 3.8.

(c) The owner or operator of an industrial facility that is not required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023, but which is designated as a priority industrial facility for pollution prevention planning purposes pursuant to N.J.A.C. 7:1K-3.2, shall:

1. Prepare Parts IA and II of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(b) and 4.5 and submit a Pollution Prevention Plan Summary to the Department in accordance with N.J.A.C. 7:1K-5.1 within 18 months of receipt of the Department's final directive designating the industrial facility as a priority industrial facility;

2. Prepare Part IB of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(c) and submit a Pollution Prevention Plan Progress Report to the Department in accordance with N.J.A.C. 7:1K-6.1 by July 1 of the year following the submittal of the industrial facility's first Pollution Prevention Plan Summary to the Department;

3. Update Part IB of the Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-3.7 and submit a Pollution Prevention Plan Progress Report to the Department in accordance with N.J.A.C. 7:1K-6.1 by each July 1 thereafter; and

4. Revise or modify the industrial facility's Pollution Prevention Plan or Plan Summary as required by N.J.A.C. 7:1K-3.6 and 3.8.

7:1K-3.2 Designation of ***individual*** industrial facilities not subject to 42 U.S.C. §11023 as priority industrial facilities

(a) The Department may issue a directive to an owner or operator of an ***individual*** industrial facility which is not required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023 designating the industrial facility as a priority industrial

facility for pollution prevention planning purposes in accordance with the criteria and procedures in this section.

(b) The Department may issue a directive designating an ***individual*** industrial facility which is not required to prepare and submit a toxic chemical release form pursuant to 42 U.S.C. §11023 as a priority industrial facility for pollution prevention planning purposes if it determines that the industrial facility meets one or more of the following criteria:

1. The industrial facility uses or manufactures a hazardous substance *[determined by the Department to pose a significant risk to human health or the environment in quantities less than 10,000 pounds per year]* ***in a quantity greater than the threshold established for the hazardous substance pursuant to N.J.A.C. 7:1K-3.4(a) or (b)***;

2. The volume of hazardous substances or hazardous wastes used, generated or released at the industrial facility contributes more than 10 percent to the total amount of hazardous substances used, generated or released in the State or region of the State;

3. The industrial facility has a history of unpermitted releases or non-compliance with the terms of any permit, certificate, registration, or any other relevant Department approval issued to the owner or operator of the industrial facility pursuant to N.J.S.A. 13:1D-1 et seq., 13:1E-1 et seq., 58:10A-1 et seq., or 26:2C-1; or

4. The industrial facility is the subject of emergency *[or non-emergency]* management actions taken by the Department under the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.*[; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; or the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.;]***,*** including, but not limited to, actions pertaining to landfill capacity*[, improvement of sludge quality or attainment of ambient environmental standards]* ***or sludge management***.

(c) The procedure for issuing a draft directive designating an ***individual*** industrial facility as a priority industrial facility for pollution prevention planning purposes is as follows:

1. The Department shall prepare a draft directive containing a written finding that, based on one or more of the criteria at (b) above, requiring the industrial facility to conduct pollution prevention planning is likely to result in a reduction in the use or release of hazardous substances or the generation of hazardous waste or nonproduct output at the industrial facility and a reduction in the threat posed to the environment or public health by the use or release of hazardous substances or the generation of hazardous waste or nonproduct output at the industrial facility;

2. The draft directive shall be signed by the Director of the Office of Pollution Prevention or his or her designee;

3. The draft directive shall be mailed by the Department to the industrial facility by certified mail; and

4. The Department shall notify the public of the issuance of the draft directive by commonly available public notice mechanisms.

(d) The procedure for the issuance of a final directive designating an ***individual*** industrial facility as a priority industrial facility for pollution prevention planning purposes is as follows:

1. If the owner or operator of an industrial facility designated as a priority industrial facility for pollution prevention planning purposes believes that the written findings contained in the draft directive are incomplete or inaccurate, or otherwise disagrees with the Department's written findings, he or she may appeal the draft directive in writing to the Assistant Commissioner within 30 calendar days following his or her receipt of the draft directive. Such appeal shall identify the specific written finding(s) the owner or operator believes to be incomplete or inaccurate or with which the owner or operator disagrees and shall include any documentation necessary to support the owner or operator's claims;

2. The Assistant Commissioner shall review all appeals of draft directives under (d)1 above, and shall issue a final determination or final directive within 30 calendar days following receipt of the owner or operator's appeal. This shall constitute the final agency action of the Department on the directive; and

3. If the owner or operator of an industrial facility designated as a priority industrial facility for pollution prevention planning purposes does not appeal the issuance of the draft directive pursuant to (d)1 above, the draft directive becomes a final directive on the 30th day following receipt of the draft directive by the owner or operator.

(e) The owner or operator of an ***individual*** industrial facility designated as a priority industrial facility for pollution prevention planning purposes shall prepare a Pollution Prevention Plan and submit to the Department a Pollution Prevention Plan Summary within 18 months of receipt of the Department's final directive, and shall submit to the Department a Pollution Prevention Plan Progress Report each July 1 thereafter.

7:1K-3.3 Designation of SIC Code(s) as priority industrial facilities (Reserved)

7:1K-*[3.3]***3.4* Scope of pollution prevention planning documents

(a) The owner or operator of a priority industrial facility is required to include in the industrial facility's Pollution Prevention Plans, Pollution Prevention Plan Summaries, and Pollution Prevention Plan Progress Reports information on any hazardous substance which is used or manufactured at the industrial facility in quantities above 10,000 pounds per year, or in quantities exceeding a lower threshold for the hazardous substance set by the Department in accordance with N.J.A.C. 7:1K-*[3.4(b)]***3.5(b)***, measured on a facility-wide basis, and which is listed on either:

1. The Toxic Release Inventory (TRI) list established by the United States Environmental Protection Agency for reporting of hazardous substances pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §11023; or

2. The list of additional hazardous substances designated by the Department for pollution prevention planning purposes pursuant to N.J.A.C. 7:1K-3.5 and appearing at Appendix A.

(b) The owner or operator of a priority industrial facility is not required to include in a Pollution Prevention Plan, Plan Summary or Plan Progress Report the following:

1. Information concerning a research and development laboratory, as defined at N.J.A.C. 7:1K-1.5, located at the industrial facility;

2. Information concerning a pilot facility, as defined at N.J.A.C. 7:1K-1.5; or

3. Information concerning non-hazardous substances or product formulas for mixtures that include non-hazardous substances.

(c) The owner or operator of a priority industrial facility is not required to include in Part II of a Pollution Prevention Plan or in a Pollution Prevention Progress Report information pertaining to improvements in pollution prevention for production processes established after January 1, 1992, until the first five-year revision of the Pollution Prevention Plan and Pollution Prevention Plan Summary is prepared for the industrial facility at which the production process is carried out after the establishment of the production process, or until five years after the establishment of the production process, whichever is later. See N.J.A.C. 7:1K-*[3.8(c)]***3.9(c)***.

7:1K-*[3.4]***3.5* Threshold quantities for pollution prevention planning

(a) Except as otherwise provided by (b) below, the owner or operator of a priority industrial facility is required to include in a Pollution Prevention Plan, Pollution Prevention Plan Summary, and Pollution Prevention Plan Progress Report information on any hazardous substance which is used or manufactured by the industrial facility in quantities above 10,000 pounds per year, measured on a facility-wide basis.

(b) If the Department determines that the use or manufacture of a particular hazardous substance in quantities less than 10,000 pounds poses a significant risk to human health, including risks to occupational and consumer health, or the environment, it may require the owners or operators of priority industrial facilities to incorporate pollution prevention planning for the substance in quantities less than 10,000 pounds into their Pollution Prevention Plans, Plan Summaries, and Plan Progress Reports, as follows:

1. The Department may lower the pollution prevention planning threshold for a hazardous substance by adding the hazardous

substance to Appendix B, Pollution Prevention Planning Thresholds Less Than 10,000 Pounds, incorporated herein by reference through rulemaking in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. A proposal to lower the pollution prevention planning threshold for a hazardous substance shall specifically include, in addition to the requirements of N.J.A.C. 1:30:

i. The chemical identity and Chemical Abstract Service (CAS) number of the hazardous substance;

ii. A brief basis and background for the Department's determination that the use or manufacture of a particular hazardous substance in quantities less than 10,000 pounds poses a significant risk to human health, including risks to occupational and consumer health, or the environment; and

iii. The new threshold planning quantity for the hazardous substance, in pounds.

(c) The owner or operator of a priority industrial facility which uses or manufactures a substance for which the Department has lowered the pollution prevention planning threshold shall revise the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary to incorporate information consistent with the new threshold for that substance. The revised Pollution Prevention Plan Summary shall be submitted to the Department *[no later than July 1 of the calendar year following]* ***within 12 months of*** the adoption of a lower pollution prevention planning threshold for the hazardous substance, and Pollution Prevention Progress Reports reflecting reporting for the revised threshold shall be submitted to the Department each July 1 thereafter.

7:1K-*[3.5]***3.6*** Additional hazardous substances for which pollution prevention planning is required

(a) The Department may designate a hazardous substance not on the TRI list to Appendix A, Additional Hazardous Substances For Pollution Prevention Planning, through rulemaking in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., upon consideration of all of the following criteria:

1. Prior regulation as a hazardous substance pursuant to 42 U.S.C. §11023; the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.; Section 4 of the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-9 et seq.; or the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601;

2. The risk to human health or the environment due to the toxicity of the hazardous substance; and

3. Evidence of the production of the hazardous substance in commercial quantities that are used as a commodity in trade in the channels of commerce by the general public.

(b) A rule proposal to designate a hazardous substance not on the TRI list to Appendix A, Additional Hazardous Substances For Pollution Prevention Planning, incorporated herein by reference, shall specifically include, in addition to the requirements of N.J.A.C. 1:30:

1. The chemical identity and Chemical Abstract Service (CAS) number of the hazardous substance;

2. A brief basis and background for the Department's determination that, considering the criteria in (a) above, the toxicity of the hazardous substance justifies its designation to Appendix A, Additional Substances For Pollution Prevention Planning; and

3. The proposed threshold planning quantity for the hazardous substance, in pounds. If the proposed threshold planning quantity is less than 10,000 pounds, the proposal shall also contain the information required by N.J.A.C. 7:1K-3.4(b).

(c) The owner or operator of a priority industrial facility that uses or manufactures a substance designated by the Department to Appendix A as an additional hazardous substance for which pollution prevention planning is required shall revise the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary to include reporting on the newly added substance. The revised Pollution Prevention Plan Summary shall be submitted to the Department *[no later than July 1 of the calendar year following]* ***within 12 months of*** the adoption of this listing, and Pollution Prevention Progress Reports reflecting reporting for the newly added substance shall be submitted to the Department each July 1 thereafter.

7:1K-*[3.6]***3.7*** Five-year revision of Pollution Prevention Plans and Pollution Prevention Plan Summaries

The owner or operator of a priority industrial facility is required to prepare a complete revision of the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary by July 1 of the fifth year after the year of the initial completion of Part IA of the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary, and by July 1 of each fifth year thereafter.

7:1K-*[3.7]***3.8*** Annual Pollution Prevention Plan updates

The owner or operator of a priority industrial facility is required to annually update the information required to be recorded in Part IB of a Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-3.1 and 4.3(c).

7:1K-*[3.8]***3.9*** Pollution Prevention Plan and Pollution Prevention Plan Summary modifications

(a) The owner or operator of a priority industrial facility is required to modify the information required to be recorded in Part IA of a Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.3(b) within 90 days of:

1. A significant modification in the operation of the industrial facility, including the cessation or major expansion of a production process or the installation or removal of primary components of a production process; or

2. Using a hazardous substance, or generating or releasing a nonproduct output or hazardous waste which was not used, released, or generated when the industrial facility's current Pollution Prevention Plan was completed.

(b) The owner or operator of a priority industrial facility shall modify the information required to be recorded or reported in a Pollution Prevention Plan or Pollution Prevention Plan Summary within 90 days, and shall submit Pollution Prevention Plan Progress Reports reflecting the modified Pollution Prevention Plan and Plan Summary on July 1 annually thereafter, if the owner or operator:

1. Reclassifies an existing nonproduct output to a product, co-product or intermediate product;

2. Modifies the industrial facility's groupings of sources or production processes pursuant to N.J.A.C. 7:1K-4.2;

3. Receives a final Department directive to modify the industrial facility's Pollution Prevention Plan, Pollution Prevention Plan Summary, or Pollution Prevention Plan Progress Report pursuant to N.J.A.C. 7:1K-3.9(g), 5.2(e), or 6.2(e); or

4. Changes the industrial facility's targeting decision pursuant to N.J.A.C. 7:1K-4.4.

(c) The owner or operator of a priority industrial facility is not required to include in Part II of a Pollution Prevention Plan or a Pollution Prevention Plan Progress Report information pertaining to improvements in pollution prevention for a production process established after January 1, 1992 until the first five-year revision of the Pollution Prevention Plan and Plan Summary is prepared for the industrial facility at which the production process is carried out after the establishment of the production process, or until five years after the establishment of the production process, whichever is later, subject to the following:

1. For the purposes of this subsection, a production process shall be considered to be established after January 1, 1992, if it meets any one of the following criteria:

i. The production process results in production of a new product, new co-product, or new intermediate product after January 1, 1992 which was not identified in the industrial facility's most recent Pollution Prevention Plan;

ii. The production process results in production after January 1, 1992 of a product whose new active ingredient is chemically different from other products made at the industrial facility; or

iii. The production process results in production after January 1, 1992 of a product which is made by a different chemical route from other products made at the industrial facility, except for an improvement in the established chemistry such as a more efficient catalyst.

2. If an existing production process generates nonproduct output which is subsequently sold ***or designated*** as a product, co-product, or intermediate product, it shall not be considered a production process established after January 1, 1992.

3. For production processes established after January 1, 1992, the owner or operator of a priority industrial facility is required to complete all pollution prevention planning requirements for Part I of a Pollution Prevention Plan, N.J.A.C. 7:1K-4.3, not less than one year but no more than two years after establishing the new production process. This requirement shall be included as part of an annual update or five-year revision of the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-3.6 or 3.7.

(d) In the event that one or more hazardous substances are added to the *[Toxic Release Inventory (TRI) list established by the United States Environmental Protection Agency for reporting of hazardous substances pursuant to 42 U.S.C. §11023]* ***TRI list***, the owner or operator of a priority industrial facility shall modify the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary to include information on the newly listed substances. The modified Pollution Prevention Plan Summary shall be submitted to the Department no later than July 1 of the calendar year following the *[date]* ***calendar year*** that the new substances are required to be included in the priority industrial facility's annual TRI reporting, and Pollution Prevention Progess Reports reflecting reporting for the newly listed substance shall be submitted on July 1 annually thereafter.

7:1K-*[3.9]***3.10*** Department review of Pollution Prevention Plans

(a) The owner or operator of a priority industrial facility shall maintain a copy of the Pollution Prevention Plan for the industrial facility at the industrial facility, where it shall be available for inspection by the Department.

(b) The Department may require the owner or operator of a priority industrial facility to submit a copy of the industrial facility's Pollution Prevention Plan to the Department for review.

(c) The Department shall provide the owner or operator of a priority industrial facility with at least *[30]* ***45*** days advance notice by certified mail before requiring submission of its Pollution Prevention Plan for review, in order to enable the industrial facility to assert a confidentiality claim pursuant to N.J.A.C. 7:1K-8.2, if applicable.

(d) The Department shall use the following review criteria for determining the compliance of Pollution Prevention Plans with the provisions of this chapter:

1. A determination of whether the Pollution Prevention Plan is administratively complete. Administrative completeness review shall consist of a review by the Department to determine whether the items identified in N.J.A.C. 7:1K-4.3 and 4.5 have been included in the Pollution Prevention Plan;

2. A determination as to whether an industrial facility's grouping decision includes a pollution treatment or control system or out-of-process recycling system as prohibited by N.J.A.C. 7:1K-4.2(d); and

3. A determination of whether the pollution prevention methods contained in the Pollution Prevention Plan are consistent with the definition of pollution prevention found at N.J.A.C. 7:1K-1.5. Pollution prevention methods include, but are not limited to:

i. Pollution prevention methods considered by the industrial facility for targeted sources or production processes pursuant to N.J.A.C. 7:1K-4.5(a)3;

ii. Pollution prevention methods proposed by the industrial facility to achieve its use reduction and nonproduct output reduction goals pursuant to N.J.A.C. 7:1K-4.5(a)5; and

iii. Pollution prevention activities that occurred prior to 1987 and which are recorded in a Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.3(b)2v.

(e) The Department may require the owner or operator of a priority industrial facility to make any revisions or modifications to a Pollution Prevention Plan necessary for compliance with the provisions of the Act or this chapter.

(f) If the Department determines that a Pollution Prevention Plan submitted by a priority industrial facility is deficient under criterion (d)1, 2 or 3, above, it shall issue a draft administrative order directing the owner or operator to modify the industrial facility's Pollution Prevention Plan, as follows:

1. The Department shall prepare a draft administrative order containing a written finding that, based on one or more of the criteria at (d) above, the industrial facility's Pollution Prevention Plan does not comply with the provisions of the Act or this chapter. The draft administrative order shall:

i. Identify the section(s) of the Act or this chapter under which the industrial facility's Pollution Prevention Plan is deficient;

ii. Concisely describe the deficiencies identified by the Department through its review of the industrial facility's Pollution Prevention Plan and the measures that must be taken to correct such deficiencies;

iii. Set forth a timetable for the industrial facility's modification of its Pollution Prevention Plan;

iv. Advise the industrial facility of its right to seek informal review of the findings in the draft administrative order or the financial impact of the administrative order pursuant to (g)1 below;

2. The draft administrative order shall be signed by the Director of the office of pollution prevention or his or her designee; and

3. The draft administrative order shall be mailed by the Department to the industrial facility by certified mail.

(g) The procedure for the issuance of a final administrative order directing the owner or operator of a priority industrial facility to modify the industrial facility's Pollution Prevention Plan is as follows:

1. If the owner or operator of an industrial facility directed to modify its Pollution Prevention Plan believes that the written findings contained in the draft administrative order are incomplete or inaccurate, otherwise disagrees with the Department's written findings, or believes that the ordered modfications will have an adverse financial impact on the industrial facility, he or she may informally appeal the draft directive in writing to the Assistant Commissioner within 30 calendar days following his or her receipt of the draft administrative order. Such appeal shall identify the specific written finding(s) the owner or operator believes to be incomplete or inaccurate or with which the owner or operator disagrees, and shall include any documentation necessary to support the owner's or operator's claims. If the owner or operator is seeking informal review of the financial impact of the draft administrative order, he or she shall include all financial information necessary for the Department to evaluate the impact of the ordered modifications;

2. The Assistant Commissioner shall review all appeals of draft administrative orders under (g)1 above, and shall either withdraw the draft administrative order, modify and reissue the draft administrative order, or issue a final administrative order within 30 calendar days following receipt of the owner's or operator's appeal; and

3. If the owner or operator of an industrial facility does not appeal the issuance of a draft administrative order directing the industrial facility to modify its Pollution Prevention Plan, the draft administrative order becomes a final administrative order on the 30th day following receipt of the draft administrative order by the owner or operator.

(h) All appeals of final administrative orders issued under this section shall be taken in accordance with the procedures at N.J.A.C. 7:1K-12.3. An industrial facility's failure to comply with a final administrative order issued under this section requiring modification of its Pollution Prevention Plan is grounds for assessment of civil administrative penalties pursuant to N.J.A.C. 7:1K-12.2 and 12.7.

SUBCHAPTER 4. POLLUTION PREVENTION PLANS

7:1K-4.1 Sequence of pollution prevention planning

(a) The Department recommends that industrial facilities conduct pollution prevention planning steps in the following order:

1. Identify all *[sources and]* production processes***, and sources as applicable,*** in accordance with N.J.A.C. 7:1K-4.3(b)3;

2. Group sources or production processes in accordance with N.J.A.C. 7:1K-4.2;

3. Complete Part IA of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(b) except for the identification of production processes in accordance with N.J.A.C. 7:1K-4.3(b)3;

4. Target sources or production processes in accordance with N.J.A.C. 7:1K-4.4;

5. Complete Part II of a Pollution Prevention Plan, including setting use reduction and NPO reduction goals, in accordance with N.J.A.C. 7:1K-4.5;

6. Develop a Raw Material Substitution Certification, if applicable, in accordance with N.J.A.C. 7:1K-4.6;

7. Complete and submit a Pollution Prevention Plan Summary in accordance with N.J.A.C. 7:1K-5;

8. Request an out-of-process recycling authorization, if applicable, in accordance with N.J.A.C. 7:1K-4.7; and

9. Complete Part IB of a Pollution Prevention Plan in accordance with N.J.A.C. 7:1K-4.3(c) and submit a Pollution Prevention Plan Progress Report in accordance with N.J.A.C. 7:1K-6.

7:1K-4.2 Grouping of production processes or sources for pollution prevention planning purposes

(a) An owner or operator of a priority industrial facility may choose to group sources or production processes that use similar ingredients to produce one or more similar products so that the grouped sources or production processes are considered a single source or production process for pollution prevention planning purposes.

(b) An owner or operator of a priority industrial facility who chooses to group may consider any of the following criteria to determine whether sources or production processes that use similar ingredients to produce one or more similar products should be considered a single source or production process for pollution prevention planning purposes:

1. The function of the hazardous substance in the development of a product, that is, how is the hazardous substance used in the production process? This criterion is intended to aid industrial facilities in distinguishing between basic types or classes of products manufactured, for example, chemicals or articles;

2. The function of the equipment. This criterion is intended to aid industrial facilities in distinguishing between different modes of operation for production processes, for example, batch operations or continuous operations;

3. Whether the sources or processes use similar ingredients;

4. Whether the sources or processes produce similar products; and

5. Whether the sources or processes have any other characteristics that are similar.

(c) An owner or operator of a priority industrial facility who chooses to group shall describe grouped sources and production processes in Part I of the industrial facility's Pollution Prevention Plan and shall identify grouped sources and production processes in the industrial facility's Pollution Prevention Plan Summary and Pollution Prevention Plan Progress Report. The grouping of sources and production processes selected by the industrial facility shall not change throughout the pollution prevention planning process, including the preparation of Part II of a Pollution Prevention Plan, a Pollution Prevention Plan Summary or a Pollution Prevention Plan Progress Report, unless the industrial facility's pollution prevention planning documents are modified to reflect the new grouping as required by N.J.A.C. 7:1K-3.8(c).

(d) If hazardous substances are used, generated, treated or released in a pollution treatment or control system or out-of-process recycling system, those systems shall not be grouped with production processes for the purposes of including information in a Pollution Prevention Plan, Plan Summary, or Plan Progress Report. Pollution treatment or control systems or out-of-process recycling systems *[must]* ***may*** be considered as separate sources or production processes for pollution prevention planning purposes.

(e) If the owner or operator of a priority industrial facility decides to modify the industrial facility's groupings of sources or production processes following the completion of the industrial facility's Pollution Prevention Plan and Plan Summary, the owner or operator shall modify the industrial facility's Pollution Prevention Plan and Plan Summary to reflect the new groupings, and shall submit the modified Pollution Prevention Plan Summary to the Department within 90 days of making such modifications, as required by N.J.A.C. 7:1K-3.8.

7:1K-4.3 Contents of Part I of a Pollution Prevention Plan

(a) Part I of a Pollution Prevention Plan shall consist of the following two components:

1. Part IA of the Pollution Prevention Plan, containing administrative information about the facility; process-level and facility-level data about the use, generation and release of hazardous substances at the facility; information on the total costs of using and generating hazardous substances; and certifications by officials of the industrial facility; as required by N.J.S.A. 13:1D-41(b)1 through 12; and

2. Part IB of the Pollution Prevention Plan, containing information on the reduction in use of hazardous substances and the generation of hazardous substances as nonproduct output at the industrial facility, as required by N.J.S.A. 13:1D-41(b)13 through 17.

(b) Part IA of a Pollution Prevention Plan shall ***be based on information covering the base year as defined in N.J.A.C. 7:1K-1.5 and shall*** contain, at a minimum, the following:

1. Personnel Information and Certifications:

i. A written certification, signed by the highest ranking corporate official with direct operating responsibility at the industrial facility, that reads as follows:

"I certify under penalty of law that I have read the Pollution Prevention Plan and that the Pollution Prevention Plan is true, accurate and complete to the best of my knowledge. *[I am aware that there are significant civil and criminal penalties, including fines and/or imprisonment, for including false, inaccurate, or incomplete information in a Pollution Prevention Plan.]*";

ii. A written certification, signed by the highest ranking corporate official at the industrial facility, that reads as follows:

"I certify under penalty of law that I am familiar with the Pollution Prevention Plan and that it is the corporate policy of this industrial facility to achieve the goals of the Pollution Prevention Plan. *[I am aware that I am liable for significant civil or criminal penalties for false certification.*]";

iii. The name and business telephone number of the owner or operator of the industrial facility, and of the highest ranking corporate official at the industrial facility; and

iv. The name and business telephone number of a non-management employee representative at the industrial facility;

2. Facility-level information ***(Note: This is the same information to be reported in the Plan Progress Report pursuant to N.J.A.C. 7:1K-6.1(c)3. This information is the same as information previously submitted on Form DEQ-114.)****:

i. The chemical identity and Chemical Abstract Service (CAS) number of each hazardous substance manufactured, stored or used at the industrial facility;

ii. Inventory data, in pounds, for the annual inputs, either in pure form or contained in a mixture, determined by direct measurement or by calculations and estimates using best engineering judgment, of each hazardous substance:

(1) Stored at the industrial facility on the first day of the reporting year;

(2) Brought into the industrial facility as a non-recycled material during the reporting year;

(3) Manufactured as a product, co-product or intermediate product at the facility; and

(4) Recycled outside of a production process on-site or off-site and used as an input at the industrial facility;

iii. Inventory data, in pounds, for the annual output, either in pure form or contained in a mixture, determined by direct measurement or by calculations and estimates using best engineering judgment, of each hazardous substance:

(1) Stored at the industrial facility on the last day of the reporting year;

(2) Consumed at the industrial facility;

(3) Shipped off-site as a product or co-product; and

(4) Generated as nonproduct output;

iv. Recycling data, in pounds, for the quantities, measured as nonproduct output, of each hazardous substance ***determined by direct measurement or estimates using best engineering judgment****:

(1) Recycled outside of a production process on-site; and

(2) Recycled outside of a production process off-site;

v. Release data, in pounds, for the quantities of each hazardous substance ***determined by direct measurement or estimates using best engineering judgment****:

(1) Released to air through stack emissions;
(2) Released to air through fugitive emissions;
(3) Discharged to the waters of the State; and
(4) Generated as other waste streams;

vi. Quantities of each hazardous substance used at the industrial facility, in pounds, determined by subtracting ending inventory (quantity reported under (b)2iii(1) above) from total inputs (total of quantities reported under (b)2ii(1) through (4) above) for the facility; and

vii. Optional: The owner or operator of a priority industrial facility may include a description of pollution prevention strategies implemented at the priority industrial facility prior to 1987**, provided that such strategies are consistent with the definition of pollution prevention at N.J.A.C. 7:1K-1.5***; ***and**

viii. Optional: The owner or operator of a priority industrial facility may include information on pollution prevention progress that occurred at the facility between 1987 and the base year for any hazardous substance;*

3. Process-level information ***(Note: This is the same information to be reported in the Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)4i.)***:

i. An identification of ***all*** production processes, using a unique identification number assigned by the industrial facility, and indicating whether each process is a grouped process as authorized by N.J.A.C. 7:1K-4.2. The unique identification number assigned to a process cannot be assigned to any other production process;

ii. For each production process, an identification of the product(s), co-product(s) and/or intermediate product(s) produced, the unit used by the industrial facility for measuring production, and the total units of production produced during the year; ***and***

iii. A description of the owner or operator's grouping decision, if any**, including a description of the unit for measuring production***;

4. Process-level inventory data:

i. Inventory data, in pounds, for the annual quantities, either in pure form or contained in a mixture, determined by direct measurement or calculations and estimates using best engineering judgment, of each hazardous substance:

(1) Contained in the products, co-products or intermediate products produced in each production process;
(2) Consumed within each production process;
(3) Used in each production process;
(4) Generated as nonproduct output at each production process;
[(5) Generated as nonproduct at each source within each production process;]
*[(6)]***(5)*** Released from each production process; and
*[(7)]***(6)*** Recycled outside of each production process;

5. Information and data on hazardous waste generation, treatment, storage and disposal activities:

i. Facility-level data for each hazardous waste generated, including, but not limited to:

(1) Amount generated at the industrial facility;
(2) Amount treated outside of a production process;
(3) Amount stored outside of a production process;
(4) Amount disposed outside of a production process;
(5) Address of off-site treatment, storage or disposal facilities (TSD's); and
(6) Description of type of treatment at each treatment, storage or disposal facility (TSD);

ii. Facility-level recycling data for each hazardous waste, including ***by direct measurement or estimates using best engineering judgment***:

(1) Amount recycled on site; and
(2) Amount recycled off site; and

iii. The amounts of each hazardous waste generated at each production process at the industrial facility; and

6. Cost data:

i. A comprehensive financial analysis for each source or production process, of the costs of using hazardous substances, generating hazardous substances as nonproduct output, and releasing hazardous substances, including***, at a minimum***:

(1) Storage and handling costs***, including safety and health compliance costs***;
(2) Monitoring, tracking and reporting costs;
(3) Treatment costs;
(4) Transportation and disposal ***costs***;
(5) Manifesting and labeling costs;
(6) Permit fees;
(7) Liability insurance costs, if the industrial facility is covered by liability insurance; and
(8) Optional: Additional costs which may be considered are found in the Pollution Prevention Planning Guidance Document published by the Department. The Pollution Prevention Planning Guidance Document describes the total cost assessment method of capital budgeting for industrial facilities who choose to apply total cost assessment to their sources and production processes.

(c) Part IB of a Pollution Prevention Plan shall contain information on the reduction in use of hazardous substances and the generation of hazardous substances as nonproduct output, including, but not limited to, the following:

1. Facility-level information on pollution prevention reductions ***(Note: This is the same information to be reported in the Plan Progress Report pursuant to N.J.A.C. 7:1K-6.1(c)4i through vii.)***:

i. Calculations of the reduction or increase in use of each hazardous substance per facility-wide unit of product as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;

ii. Calculations of the reduction or increase in use of each hazardous substance in comparison to the previous year;

iii. Calculations of the reduction or increase in the generation of each hazardous substance as nonproduct output per facility-wide unit of product, as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;

iv. Calculations of the reduction or increase in the generation of each hazardous substance as nonproduct output, in comparison to the previous year;

v. Calculations of the reduction or increase in use and use per unit of product, as defined in N.J.A.C. 7:1K-1.5, attributed to the sale of co-products or production of intermediate products which are not the result of pollution prevention techniques, in comparison to the previous year;

vi. Calculation of the reduction or increase in generation of nonproduct output and nonproduct output per unit of product, as defined in N.J.A.C. 7:1K-1.5, attributed to the sale of co-products or production of intermediate products which are not the result of pollution prevention techniques, in comparison to the previous year;

vii. Calculations of the reduction or increase in multimedia releases, by medium, after recycling and treatment, in comparison to the previous year;

viii. A numerical statement demonstrating the industrial facility's progress, if any, towards achieving each of the facility-level five-year goals reported in the industrial facility's Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)3. Quantities of co-products sold or intermediate products produced by the industrial facility which are not the result of pollution prevention techniques do not count as progress towards achieving pollution prevention goals; and

ix. An identification of the pollution prevention techniques used to achieve each reduction reported under (c)1i through iv above.

2. Information on Targeted Production Processes:

i. An identification of targeted production processes, using a unique identification number assigned by the industrial facility, and indicating whether each process is a grouped process as authorized by N.J.A.C. 7:1K-4.2. The unique identification number assigned to a targeted process cannot be assigned to any other process; and

ii. Process-level information on pollution prevention reductions for each hazardous substance within each targeted production process, including, but not limited to ***(Note: This is the same information to be reported in the Plan Progress Report pursuant to N.J.A.C. 7:1K-6.1(c)5ii(1) through (7).)***:

(1) Calculations of the reduction or increase in use of each hazardous substance within each targeted production process per

unit of product, as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;

(2) Calculations of the reduction or increase in the generation of nonproduct output for each targeted production process per unit of product, as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;

(3) Calculations of the reduction or increase in use of each hazardous substance and use of each hazardous substance per unit of product, as defined by N.J.A.C. 7:1K-1.5, attributed to the sale of co-products or production of intermediate products from each targeted production process, which are not the result of pollution prevention techniques, in comparison to the previous year;

(4) Calculations of the reduction or increase in nonproduct output generation per unit of product, as defined by N.J.A.C. 7:1K-1.5, attributed to the sale of co-products or the production of intermediate products from each targeted production process, which are not the result of pollution prevention techniques, in comparison to the previous year;

(5) Calculations of the reduction or increase in multimedia releases from each targeted production process, by medium, after recycling and treatment, in comparison the previous year;

(6) A numerical statement demonstrating the industrial facility's progress, if any, towards achieving each of the process-level five-year goals for each targeted production process reported in the industrial facility's Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)5. Quantities of co-products sold or intermediate products produced by the industrial facility which are not the result of pollution prevention techniques do not count as progress towards achieving use reduction of nonproduct output reduction goals; and

(7) An identification of the pollution prevention techniques used to achieve each reduction reported under (c)2ii(1) through (5) above; and

3. A reassessment of the industrial facility's five-year goals for reductions reported in the facility's Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)3 and 5, if applicable.

7:1K-4.4 Targeting of sources or production processes

(a) The owner or operator of a priority industrial facility may choose to focus the industrial facility's pollution prevention planning resources and reduce the number of sources or production processes that must be examined in Part II of a Pollution Prevention Plan by targeting for Part II pollution prevention planning those sources or production processes where significant progress can be made in the reduction of hazardous substances used, generated as nonproduct output, or released at the industrial facility.

(b) After preparing Part I of a Pollution Prevention Plan but prior to preparing Part II of a Pollution Prevention Plan, the owner or operator of a priority industrial facility may identify, for targeting purposes, sources or production processes which contribute:

1. Ninety percent or more of the total use of all hazardous substances at the industrial facility; or

2. Ninety percent or more of the total nonproduct output generated at the industrial facility; or

3. Ninety percent or more of the total multi-media environmental releases at the industrial facility; or

4. (Reserved)

(b) Once an industrial facility has identified the sources or production processes that meet the targeting criteria in (a) above, the industrial facility shall complete Part II of a Pollution Prevention Plan for each hazardous substance used, generated as nonproduct output, or released at the targeted source or production process.

(c) If an industrial facility does not identify targeted production processes using the criteria above, the industrial facility must complete the requirements for Part II of a Pollution Prevention Plan for all sources and production processes at the industrial facility.

(d) If the owner or operator of a priority industrial facility decide to modify the industrial facility's targeting decision following the completion of the industrial facility's Pollution Prevention Plan and Plan Summary, the owner or operator shall modify the industrial facility's Pollution Prevention Plan and Plan Summary to reflect the new targeted sources and processes and shall submit the modified Pollution Prevention Plan Summary to the Department within 90 days of making such modifications, as required by N.J.A.C. 7:1K-3.8(b).

7:1K-4.5 Part II of a Pollution Prevention Plan

(a) Part II of a Pollution Prevention Plan shall contain, at a minimum, the following information:

1. A narrative description of each targeted production process, and of each targeted source that is not grouped within a targeted production process, including a description of the process, lines, methods, activities or techniques used in the process or source;

2. Inventory data, in pounds, for the annual quantities, either in pure form or contained in a mixture, determined by direct measurement or calculations and estimates using best engineering judgment, of each hazardous substance generated as nonproduct output at each source within each production process;

*[2.]***3.*** If determined to be necessary by the industrial facility, detailed process-level inventory data for each targeted production process or specific targeted production processes;

*[3.]***4.*** An identification, for each targeted production process and targeted source, of available pollution prevention options, including procedures, technologies and equipment, that may substantially reduce the use and generation of hazardous substances;

*[4.]***5.*** A feasibility analysis of pollution prevention options identified under *[(a)3]* ***(a)4*** above, including:

i. A technical analysis of specific pollution prevention options identified under *[(a)3]* ***(a)4*** above; and

ii. A comprehensive financial analysis of the costs or savings realized by investments in pollution prevention options compared to the costs of using hazardous substances, generating hazardous substances as nonproduct output, and releasing hazardous substances as determined in N.J.A.C. 7:1K-4.3(b)6, including***, at a minimum***:

(1) Storage and handling costs***, including safety and health compliance costs***;

(2) Monitoring, tracking and reporting costs;

(3) Treatment costs;

(4) Transportation and disposal ***costs***;

(5) Manifesting and labeling costs;

(6) Permit fees;

(7) Liability insurance costs, if the industrial facility is covered by liability insurance;

(8) Cost savings due to more efficient use of raw materials; and

(9) Optional: Additional costs which may be considered are found in the Pollution Prevention Planning Guidance Document published by the Department. The Pollution Prevention Planning Guidance Document describes the total cost assessment method of capital budgeting for industrial facilities who choose to apply total cost assessment to their sources and production processes;

*[5.]***6.*** For each targeted production process, a description of pollution prevention options the owner or operator of the industrial facility intends to implement during the next five years;

[6. For the industrial facility, the five-year numeric goal for reducing the use of each hazardous substance per facility-wide unit of product, as defined in N.J.A.C. 7:1K-1.5;]

7. For the industrial facility, the five-year numeric goal for reducing the use of each hazardous substance ***(Note: The facility-level goals to be reported in (a)6 and 7 are the same as those reported in the Plan Summary pursuant to 7:1K-5.1(b)3i and ii.)***;

[8. For the industrial facility, the five-year numeric goal for reducing the generation of each hazardous substance as nonproduct output per facility-wide unit of product, as defined in N.J.A.C. 7:1K-1.5;]

*[9.]***8.*** For the industrial facility, the five-year numeric goal for reducing the generation of each hazardous substance as nonproduct output;

*[10.]***9.*** For each targeted production process, the five-year numeric goal for reducing the use of each hazardous substance per unit of product, as defined in N.J.A.C. 7:1K-1.5 ***(Note: The process-level goals to be reported in (a)8 and 9 are the same goals reported in the Plan Summary pursuant to 7:1K-5.1(b)5ii and iii.)***;

*[11.]***10.*** For each targeted production process, the five-year numeric goal for reducing the generation of each hazardous

substance as nonproduct output per unit of product, as defined in N.J.A.C. 7:1K-1.5;

*[12.]**11.* A schedule for implementing the pollution prevention options identified in (a)5 above, including at a minimum:

i. Start date for construction or other activities which may require pre-approval from the Department through the issuance of permits or other approvals, if applicable; and

ii. Completion date for implementing the pollution prevention options identified under (a)5 above;

*[13.]**12.* A quantitative description of the impact that the industrial facility's implementation of individual pollution prevention techniques is expected to have on post-treatment multimedia releases of hazardous substances by the industrial facility, reported by medium;

*[14.]**13.* A description of the valuation methods used by the owner or operator of the industrial facility to determine not to install or utilize each option, identified under (a)3 above, that would have resulted in a greater percentage reduction in the use of hazardous substances per unit of product or the generation of nonproduct output per unit of product than the options identified a (1)5 above; and

*[15.]**14.* For industrial facilities that have obtained prior written authorization from the Department to include out-of-process recycling in a Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.7, an assessment and schedule for implementing on-site out-of-process recycling.

(b) An industrial facility is not required to include information on the product, co-product or intermediate product of a production process in developing the industrial facility's use reduction and NPO reduction goals pursuant to (a) above.

(c) An industrial facility filing a Raw Material Substitution Certification with the Department as part of the industrial facility's Pollution Prevention Plan Summary is not required to include information on hazardous substances listed on the Raw Material Substitution Certification in developing the industrial facility's use reduction goals pursuant to (a) above. See N.J.A.C. 7:1K-4.6.

7:1K-4.6 Procedure for development of a Raw Material Substitution Certification

(a) Following completion of a Parts I and II of a Pollution Prevention Plan, an owner or operator of a priority industrial facility may choose to file with the Department a Raw Material Substitution Certification listing the individual hazardous substances used in specific targeted production processes at the facility for which the owner or operator of the industrial facility has determined through preparation and completion of a Pollution Prevention Plan that it is not technically or economically feasible to reduce the input use of the hazardous substance below current levels by replacing the substance with a different raw material in the specific production process.

(b) The procedure for developing and filing a Raw Material Substitution Certification is as follows:

1. A Raw Material Substitution Certification shall consist of:

i. A list of the individual hazardous substances used in specific targeted production processes at the facility for which the owner or operator of the priority industrial facility has determined through preparation and completion of a Pollution Prevention Plan that it is not technically or economically feasible to reduce the input use of the hazardous substance below current levels by replacing the substance with a different raw material in the specific production process;

ii. A certification by the highest ranking corporate official with direct operating responsibility at the industrial facility that reads as follows:

> "I certify that Parts I and II of the Pollution Prevention Plan have been completed for the specific combination of hazardous substances and production processes for which this Raw Material Substitution Certification is being claimed and that through completion of the Pollution Prevention Plan this industrial facility has determined that it is not technically or economically feasible to reduce the input use of the hazardous substance below current levels by replacing the substance with a different raw material in the specific production process.";

iii. A description of whether pollution prevention methods other than raw material substitution, have been considered for that specific combination of hazardous substances and production processes listed under to (b)1i above. Examples of other pollution prevention methods include: product reformulation, production process redesign or modification, in-process recycling, and improved operation and maintenance; and

iv. A brief narrative summary of the technical and economic analysis conducted by the industrial facility in Part II of the Pollution Prevention Plan showing that the hazardous substances listed under (b)1i above cannot be substituted within the targeted production processes listed under (b)1i above; and

2. The owner or operator of the industrial facility shall file a Raw Material Substitution Certification with the Department as part of the industrial facility's Pollution Prevention Plan Summary.

(c) An industrial facility filing a Raw Material Substitution Certification with the Department as part of the industrial facility's Pollution Prevention Plan Summary is not required to include information on hazardous substances listed on the Raw Material Substitution Certification in developing the industrial facility's use reduction goals pursuant to N.J.A.C. 7:1K-4.5(a)6, 7 and 10.

7:1K-4.7 Out-of-process recycling authorization

(a) The Department may authorize the owner or operator of a priority industrial facility to include a description of on-site, out-of-process recycling activities in the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary if the Department determines that pollution prevention strategies are not reasonably available to the industrial facility for specific hazardous substance(s) in specific production process(es).

(b) The owner or operator of a priority industrial facility seeking an out-of-process recycling authorization pursuant to this section shall submit the following information to the Department for review:

1. The industrial facility's most recent Pollution Prevention Plan;

2. An identification of the specific hazardous substance(s) in specific production process(es) for which the industrial facility is seeking an out-of-process recycling authorization; and

3. A brief technical and economic analysis of whether pollution prevention strategies are reasonably available to the industrial facility for the specific hazardous substance(s) in specific production processes identified under (b)2 above.

(c) The Department shall review a facility's request for an out-of-process recycling authorization by reviewing the information submitted under (b) above and any other relevant materials available, and shall make a determination of whether or not pollution prevention strategies are reasonably available to the owner or operator for the specific hazardous substance(s) in specific production process(es) for which the facility is seeking an out-of-process recycling authorization. Within 120 days of receiving a complete request for an out-of-process recycling authorization pursuant to (b) above, the Department shall notify the requesting facility by certified letter of its determination to grant or deny the industrial facility's out-of-process recycling authorization request.

(d) If the Department grants the industrial facility's request for an out-of-process recycling authorization, the owner or operator of the industrial facility may include in the industrial facility's Pollution Prevention Plan and Pollution Prevention Plan Summary an assessment and schedule for implementing on-site, out-of-process recycling activities for the specific hazardous substances in specific production process(es) covered by the out-of-process recycling authorization. However, any out-of-process recycling activities reported by the industrial facility in its Pollution Prevention Plan or Pollution Prevention Plan Summary pursuant to this section shall not be included in the industrial facility's use reduction or nonproduct output reduction goals.

*[7:1K-4.8 Description of pollution prevention activities prior to 1987

The owner or operator of a priority industrial facility may include in a Pollution Prevention Plan and Pollution Prevention Plan Sum-

mary a description of any pollution prevention strategies implemented at the industrial facility prior to 1987, provided that such strategies are consistent with the definition of pollution prevention at N.J.A.C. 7:1K-1.5.]*

7:1K-*[4.9]**4.8* Departmental access to Pollution Prevention Plans

The owner or operator of a priority industrial facility shall maintain a copy of the Pollution Prevention Plan for the industrial facility at the industrial facility, where it shall be available for inspection by the Department.

SUBCHAPTER 5. POLLUTION PREVENTION PLAN SUMMARY

7:1K-5.1 Pollution Prevention Plan Summary reporting requirements

(a) The owner or operator of a priority industrial facility is required to prepare and submit to the Department, on forms provided by the Department, by the deadline at N.J.A.C. 7:1K-3.1, a Pollution Prevention Plan Summary summarizing the facility's Pollution Prevention Plan, and must revise or modify the facility's Pollution Prevention Plan Summary thereafter in accordance with N.J.A.C. 7:1K-3.6 and 3.8.

(b) A Pollution Prevention Plan Summary shall consist, at a minimum, of the following:

1. Administrative information:

i. The name of the industrial facility;

ii. The address of the industrial facility;

iii. The location of the industrial facility, using the industrial facility's centroid coordinate in New Jersey State Plane Feet; and

iv. Relevant facility identification numbers assigned to the industrial facility by any State or Federal agency;

2. Certification:

i. A written certification, signed by the owner or operator of the industrial facility that reads as follows:

"I certify under penalty of law that a Pollution Prevention Plan has been prepared for this industrial facility and that the Plan is available at the facility for inspection by the Department. I further certify that the information submitted in this Pollution Prevention Plan Summary is true, accurate and complete to the best of my knowledge. *[I am aware that there are significant civil and criminal penalties, including fines and/or imprisonment, for including or submitting false, inaccurate, or incomplete information in a Pollution Prevention Plan or Plan Summary.]*";

3. Facility-level information:

[i. Five-year numeric goals for reducing the use of each hazardous substance per facility-wide unit of product, as defined by N.J.A.C. 7:1K-1.5;]

*[ii.]**i.* Five-year numeric goals for reducing the use of each hazardous substance;

[iii. Five-year numeric goals for reducing the generation of each hazardous substance as nonproduct output per facility-wide unit of product, as defined by N.J.A.C. 7:1K-1.5;]

*[iv.]**ii.* Five-year numeric goals for reducing the generation of each hazardous substance as nonproduct output ***(Note: The facility-level goals to be reported in (b)3i and ii are the same as those to be included in the Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.5(a)6 through 9.)***;

*[v.]**iii.* A list of permits issued by the Department to the industrial facility for the use or multimedia release of hazardous substances, the discharge of pollutants, and the emission of pollutants or air contaminants including, but not limited to, permits issued pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Environmental Cleanup and Responsibility Act, N.J.S.A. 13:1K-6 et seq.; the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 et seq.; the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; or the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.; *[and]*

iv. Optional: A priority industrial facility may include information on pollution prevention strategies implemented at the facility prior to 1987, provided that such strategies are consistent with the definition of pollution prevention at N.J.A.C. 7:1K-1.5; and

*[vi.]**v.* Optional: A priority industrial facility may include information on pollution prevention progress that occurred at the facility between 1987 and the base year for any hazardous substance *[by listing the following for each hazardous substance:

(1) The data and information reported on the hazardous substance by the industrial facility to the U.S. Environmental Protection Agency on federal Form R pursuant to 42 U.S.C. §11023 for each year during the period in which pollution prevention progress is being reported;

(2) The data and information reported on the hazardous substance by the industrial facility to the Department on Form DEQ-100 or Form DEQ-114 pursuant to N.J.S.A. 34:5A-1 et seq. for each year during the period in which pollution prevention progress is being reported;

(3) Quantity of use reduced for each hazardous substance per facility-wide unit of product;

(4) Quantity of nonproduct output generation reduced per facility-wide unit of product for each hazardous substance; and

(5) Identification of pollution prevention techniques used to achieve the reductions listed pursuant to (b)3vi(3) and (4) above]*;

4. Process-level information ***(Note: This is the same information contained in Part IA of the Pollution Prevention Plan pursuant to 7:1K-4.3(b)3i.)***:

i. An identification of each production process, using a unique identification number assigned by the facility, and indicating whether each process is a grouped process as authorized by N.J.A.C. 7:1K-4.2. The unique identification number assigned to a process cannot be assigned to any other production process;

ii. A description of each production process using the nomenclature provided by the Department in Appendix C, incorporated herein by reference; and

iii. (Reserved); and

5. Information on targeted production processes:

i. An identification of each targeted production process, using a unique identification number assigned by the facility, and indicating whether each process is a grouped process as authorized by N.J.A.C. 7:1K-4.2. The unique identification number assigned to a targeted process cannot be assigned to any other process;

ii. Five-year numeric goals for reducing the use of each hazardous substance per unit of product, as defined by N.J.A.C. 7:1K-1.5, for each targeted production process;

iii. Five-year numeric goals for reducing the generation of nonproduct output per unit of product, as defined by N.J.A.C. 7:1K-1.5, for each hazardous substance in each targeted production process ***(Note: The process-level goals to be reported in ii. and iii. are the same goals to be included in the Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.5(a)10 and 11.)***;

iv. A description of the pollution prevention techniques the owner or operator of the industrial facility intends to implement during the five-year planning period to achieve the five-year reduction goals listed under (c)5ii and iii above; and

v. A schedule for implementing the pollution prevention techniques identified in (c)5iv above, including:

(1) Start date for construction or other activities which may require pre-approval from the Department through the issuance of permits or other approvals, if applicable; and

(2) Completion date for implementing the pollution prevention techniques identified in (c)5v above;

vi. An indication, for each hazardous substance used in a targeted production process, of whether the hazardous substance is used by the facility on an annual basis in a quantity of zero to 5,000 pounds, 5,000 to 10,000 pounds, or greater than 10,000 pounds; and

vii. If applicable: A Raw Material Substitution Certification for individual hazardous substances used in specific targeted production processes at the facility, completed in accordance with N.J.A.C. 7:1K-4.6.

7:1K-5.2 Department review of Pollution Prevention Plan Summaries

(a) The owner or operator of a priority industrial facility shall submit a copy of the industrial facility's Pollution Prevention Plan Summary to the Department as required by N.J.A.C. 7:1K-3.1, 3.6 or 3.8, and shall maintain a copy of the current Pollution Prevention Plan Summary for the industrial facility at the industrial facility, where it shall be available for inspection by the Department.

(b) The Department shall use the following review criteria for determining the compliance of Pollution Prevention Plan Summaries with the provisions of this chapter:

1. A determination of whether the Pollution Prevention Plan Summary is administratively complete. Administrative completeness review shall consist of a review by the Department to determine whether the items identified in N.J.A.C. 7:1K-5.1 have been included in the Pollution Prevention Plan Summary; and

2. *[A determination of whether the pollution prevention methods contained in the Pollution Prevention Plan Summary are consistent with the definition of pollution prevention found at N.J.A.C. 7:1K-1.5. Pollution prevention methods include, but are not limited to:

i. Pollution prevention methods proposed by the industrial facility to achieve its use reduction and nonproduct output reduction goals pursuant to N.J.A.C. 7:1K-5.1(b)5iv; and

ii. Pollution prevention activities that occurred prior to the industrial facility's base year for reporting and which are reported in a Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)3vi(5).]* ***(Reserved)***

(c) The Department may require the owner or operator of a priority industrial facility to make any revisions or modifications to a Pollution Prevention Plan Summary necessary for compliance with the provisions of the Act or this chapter.

(d) If the Department determines that a Pollution Prevention Plan Summary submitted by a priority industrial facility is deficient under criterion (b)1 *[or 2]* above, it shall issue a draft administrative order directing the owner or operator to modify the industrial facility's Pollution Prevention Plan Summary, as follows:

1. The Department shall prepare a draft administrative order containing a written finding that, based on one or more of the criteria at (b) above, the industrial facility's Pollution Prevention Plan Summary does not comply with the provisions of the Act or this chapter. The draft administrative order shall:

i. Identify the section(s) of the Act or this chapter under which the industrial facility's Pollution Prevention Plan Summary is deficient;

ii. Concisely describe the deficiencies identified by the Department through its review of the industrial facility's Pollution Prevention Plan Summary and the measures that must be taken to correct such deficiencies;

iii. Set forth a timetable for the industrial facility's modification of its Pollution Prevention Plan Summary; and

iv. Advise the industrial facility of its right to seek informal review of the findings in the draft administrative order or the financial impact of the administrative order pursuant to N.J.A.C. 7:1K-5.2(e)1;

2. The draft administrative order shall be signed by the Director of the Office of Pollution Prevention or his or her designee; and

3. The draft administrative order shall be mailed by the Department to the industrial facility by certified mail.

(e) The procedure for the issuance of a final administrative order directing the owner or operator of a priority industrial facility to modify the industrial facility's Pollution Prevention Plan Summary is as follows:

1. If the owner or operator of an industrial facility directed to modify its Pollution Prevention Plan Summary believes that the written findings contained in the draft administrative order are incomplete or inaccurate, otherwise disagrees with the Department's written findings, or believes that the ordered modifications will have an adverse financial impact on the industrial facility, he or she may informally appeal the draft directive in writing to the Assistant Commissioner within 30 calendar days following his or her receipt of the draft administrative order. Such appeal shall identify the specific written finding(s) the owner or operator believes to be incomplete or inaccurate or with which the owner or operator disagrees, and shall include any documentation necessary to support the owner's or operator's claim that the Department's findings are incomplete or inaccurate. If the owner or operator is seeking informal review of the financial impact of the draft administrative order, he or she shall include all financial information necessary for the Department to evaluate the impact of the ordered modifications;

2. The Assistant Commissioner shall review all appeals of draft administrative orders under (e)1 above, and shall either withdraw the draft administrative order, modify and reissue the draft administrative order, or issue a final administrative order within 30 calendar days following receipt of the owner's or operator's appeal; and

3. If the owner or operator of an industrial facility does not appeal the issuance of a draft administrative order directing the industrial facility to modify its Pollution Prevention Plan Summary, the draft administrative order becomes a final administrative order on the 30th day following receipt of the draft administrative order by the owner or operator.

(f) All appeals of final administrative orders issued under this section shall be taken in accordance with the procedures at N.J.A.C. 7:1K-12.3. An industrial facility's failure to comply with a final administrative order issued under this section requiring modification of its Pollution Prevention Plan Summary is grounds for assessment of civil administrative penalties pursuant to N.J.A.C. 7:1K-12.2 and 12.7.

SUBCHAPTER 6. POLLUTION PREVENTION PLAN PROGRESS REPORT

7:1K-6.1 Pollution Prevention Plan progress reporting requirements

(a) The owner or operator of a priority industrial facility is required to prepare and submit to the Department, on forms provided by the Department, by July 1 of each year after the completion of the facility's initial Pollution Prevention Plan, a Pollution Prevention Plan Progress Report that indicates the progress made in the previous year in achieving the use reduction and NPO reduction goals set forth in the facility's current Pollution Prevention Plan.

(b) The Department may combine the reporting elements of this section with those required for Community Right-to-Know Reporting pursuant to N.J.S.A. 34:5A-1 et seq. in order to allow a priority industrial facility to submit a combined reporting form to satisfy the requirements of N.J.A.C. 7:1G and N.J.A.C. 7:1K.

(c) A Pollution Prevention Plan Progress Report shall consist, at a minimum, of the following:

1. Administrative information:

i. The name of the industrial facility;

ii. The address of the industrial facility;

iii. The Location of the industrial facility, using the industrial facility's centroid coordinate in New Jersey State Plane Feet; and

iv. Relevant facility identification numbers assigned to the industrial facility by any State or Federal agency;

2. Certification:

i. A written certification, signed by the owner or operator of the industrial facility, that reads as follows:

"I certify under penalty of law that the information submitted in this Pollution Prevention Plan Progress Report is true, accurate and complete to the best of my knowledge. *[I am aware that there are significant civil and criminal penalties, including fines and/or imprisonment, for submitting false, inaccurate, or incomplete information in a Pollution Prevention Plan Progress Report.]*";

3. Facility-level inventory and release data ***(Note: This information replaces information that was previously submitted on Form DEQ-114 and is the same information to be included in the Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.3(b)2.)***:

i. The chemical identity and Chemical Abstract Service (CAS) number of each hazardous substance manufactured, stored or used at the industrial facility;

ii. Inventory data, in pounds, for the annual inputs, either in pure form or contained in a mixture, determined by direct measurement

or by calculations and estimates using best engineering judgment, of each hazardous substance:

(1) Stored at the industrial facility on the first day of the reporting year;

(2) Brought into the industrial facility as a non-recycled material during the reporting year;

(3) Manufactured as a product, co-product or intermediate product at the industrial facility; and

(4) Recycled outside of a production process on-site or off-site and used as an input at the industrial facility;

iii. Inventory data, in pounds, for the annual output, either in pure form or contained in a mixture, determined by direct measurement or calculations, using best engineering judgment, of each hazardous substance:

(1) Stored at the industrial facility on the last day of the reporting year;

(2) Consumed at the industrial facility;

(3) Shipped off-site as a product or co-product; and

(4) Generated as nonproduct output;

iv. Recycling data, in pounds, for the quantities, *[measured as nonproduct output]* ***determined by direct measurement or estimates using best engineering judgment***, of each hazardous substance:

(1) Recycled outside of a production process on-site; and

(2) Recycled outside of a production process off-site;

v. Release data, in pounds, for the quantities of each hazardous substance:

(1) Released to air through stack emissions;

(2) Released to air through fugitive emissions;

(3) Discharged to the waters of the State; and

(4) Generated as other waste streams; and

vi. Quantities of each hazardous substance used at the industrial facility, in pounds, determined by subtracting ending inventory (quantity reported under (c)3iii(1) above) from total inputs (total of quantities reported under (c)3ii(1) through (4) above) for the facility;

4. Facility-level information on pollution prevention reductions:

[i. Calculations of the reduction or increase in use of each hazardous substance per facility-wide unit of product as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;]

*[ii. Calculations of the reduction or increase in use of each hazardous substance in comparison to the previous year;

iii. Calculations of the reduction or increase in the generation of each hazardous substance as nonproduct output per facility-wide unit of product, as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;]*

*[iv.]***ii.*** Calculations of the reduction or increase in the generation of each hazardous substance as nonproduct output, in comparison to the previous year;

*[v.]***iii.*** Calculations of the reduction or increase in use *[and use per unit of product, as defined in N.J.A.C. 7:1K-1.5,]* attributed to the sale of co-products or production of intermediate products which are not the result of pollution prevention techniques, in comparison to the previous year;

*[vi.]***iv.*** Calculations of the reduction or increase in generation of nonproduct output and nonproduct output per unit of product attributed to the sale of co-products or production of intermediate products which are not the result of pollution prevention techniques, in comparison to the previous year;

*[vii.]***v.*** Calculations of the reduction or increase in multimedia releases, by medium, after recycling and treatment, in comparison to the previous year; ***and***

*[viii.]***vi.*** A numerical statement demonstrating the industrial facility's progress, if any, towards achieving each of the facility-level five-year goals reported in the industrial facility's Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)3. Quantities of co-products sold or intermediate products produced by the industrial facility which are not the result of pollution prevention techniques do not count as progress towards achieving pollution prevention goals*[; and]***.* ***(Note: The information to be reported in (c)4i through vi is the same information to be included in a Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.3(c)1i through vi.)***

[ix. An identification of the pollution prevention techniques used to achieve each reduction reported under (c)4i through iv above;]

5. Information on targeted production processes:

i. An identification of targeted production processes, using a unique identification number assigned by the industrial facility, and indicating whether each process is a grouped process as authorized by N.J.A.C. 7:1K-4.2. The unique identification number assigned to a targeted process cannot be assigned to any other process;

ii. Process-level information on pollution prevention reductions for each hazardous substance within each targeted production process, including, but not limited to:

(1) Calculations of the reduction or increase in use of each hazardous substance within each targeted production process per unit of product, as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;

(2) Calculations of the reduction or increase in the generation of nonproduct output for each targeted production process per unit of product, as defined by N.J.A.C. 7:1K-1.5, in comparison to the previous year;

(3) Calculations of the reduction or increase in use of each hazardous substance *[and use of each hazardous substance]* per unit of product, as defined by N.J.A.C. 7:1K-1.5, attributed to the sale of co-products or production of intermediate products from each targeted production process, which are not the result of pollution prevention techniques, in comparison to the previous year;

(4) Calculations of the reduction or increase in nonproduct output generation per unit of product, as defined by N.J.A.C. 7:1K-1.5, attributed to the sale of co-products or production of intermediate products from each targeted production process, which are not the result of pollution prevention techniques, in comparison to the previous year;

(5) Calculations of the reduction or increase in multimedia releases from each targeted production process, by medium, after recycling and treatment, in comparison the previous year;

(6) A numerical statement demonstrating the industrial facility's progress, if any, towards achieving each of the process-level five-year goals for each targeted production process reported in the industrial facility's Pollution Prevention Plan Summary pursuant to N.J.A.C. 7:1K-5.1(b)5. Quantities of co-products sold or intermediate products produced by the industrial facility which are not the result of pollution prevention techniques do not count as progress towards achieving use reduction or nonproduct output reduction goals;

(7) An identification of the pollution prevention techniques used to achieve each reduction reported under (c)5ii(1) through (5) above ***(Note: The information to be reported in (c)5ii(1) through (7) is the same information to be included in a Pollution Prevention Plan pursuant to N.J.A.C. 7:1K-4.3(c)ii(1) through (7).)***;

(8) An indication of whether a Raw Material Substitution Certification was filed as part of the industrial facility's current Pollution Prevention Plan Summary; and

(9) A description of the pollution prevention techniques the owner or operator of the industrial facility intends to implement for each targeted production process during the forthcoming year in order to achieve the use reduction and nonproduct output reduction goals and implementation schedule reported in the facility's current Pollution Prevention Plan Summary;

6. Information on progress which is less than anticipated:

i. If applicable, an explanation of why the facility's annual progress was less than that anticipated in the use reduction and nonproduct output reduction goals and implementation schedule reported in the facility's current Pollution Prevention Plan Summary; and

7. Community Right-to-Know Reporting elements:

i. All information required by N.J.A.C. 7:1G to be reported to the Department on Form DEQ-114 that is not otherwise specifically listed at (c)1 through 6 above.

7:1K-6.2 Department review of Pollution Prevention Plan Progress Reports

(a) The owner or operator of a priority industrial facility shall submit a copy of the industrial facility's Pollution Prevention Plan Progress Report to the Department as required by N.J.A.C. 7:1K-3.1, and shall maintain a copy of the current Pollution Prevention Plan

Progress Report for the industrial facility at the industrial facility, where it shall be available for inspection by the Department.

(b) The Department shall use the following review criteria for determining the compliance of Pollution Prevention Plan Progress Report*s* with the provisions of this chapter:

1. A determination of whether the Pollution Prevention Plan Progress Report is administratively complete. Administrative completeness review shall consist of a review by the Department to determine whether the items identified in N.J.A.C. 7:1K-6.1 have been included in the Pollution Prevention Plan Progress Report; and

2. *[A determination of whether the pollution prevention methods contained in the Pollution Prevention Plan Progress Report pursuant to N.J.A.C. 7:1K-6.1(a)4ix and 6.1(a)5ii(7) and (9) are consistent with the definition of pollution prevention found at N.J.A.C. 7:1K-1.5.]* ***(Reserved)***

(c) The Department may require the owner or operator of a priority industrial facility to make any revisions or modifications to a Pollution Prevention Plan Progress Report necessary for compliance with the provisions of the Act or this chapter.

(d) If the Department determines that a Pollution Prevention Plan Progress Report submitted by a priority industrial facility is deficient under criterion (b)1 *[or 2]* above, it shall issue a draft administrative order directing the owner or operator to modify the industrial facility's Pollution Prevention Plan Progress Report, as follows:

1. The Department shall prepare a draft administrative order containing a written finding that, based on one or more of the criteria at (b) above, the industrial facility's Pollution Prevention Plan Progress Report does not comply with the provisions of the Act or this chapter. The draft administrative order shall:

i. Identify the section(s) of the Act or this chapter under which the industrial facility's Pollution Prevention Plan Progress Report is deficient;

ii. Concisely describe the deficiencies identified by the Department through its review of the industrial facility's Pollution Prevention Plan Progress Report;

iii. Set forth a timetable for the industrial facility's modification of its Pollution Prevention Plan Progress Report; and

iv. Advise the industrial facility of its right to seek informal review of the findings in the draft administrative order or the financial impact of the draft administrative order pursuant to N.J.A.C. 7:1K-5.2(e)1;

2. The draft administrative order shall be signed by the Director of the Office of Pollution Prevention or his or her designee; and

3. The draft administrative order shall be mailed by the Department to the industrial facility by certified mail.

(e) The procedure for the issuance of a final administrative order directing the owner or operator of a priority industrial facility to modify the industrial facility's Pollution Prevention Plan Progress Report is as follows:

1. If the owner or operator of an industrial facility directed to modify its Pollution Prevention Plan Progress Report believes that the written findings contained in the draft administrative order are incomplete or inaccurate, otherwise disagrees with the Department's written findings, or believes that the ordered modifications will have an adverse financial impact on the industrial facility, he or she may informally appeal the draft directive in writing to the Assistant Commissioner within 30 calendar days following his or her receipt of the draft administrative order. Such appeal shall identify the specific written finding(s) the owner or operator believes to be incomplete or inaccurate or with which the owner or operator disagrees, and shall include any documentation necessary to support the owner's or operator's claims. If the owner or operator is seeking informal review of the financial impact of the draft administrative order, he or she shall include all financial information necessary for the Department to evaluate the impact of the ordered modifications;

2. The Assistant Commissioner shall review all appeals of draft administrative orders under (e)1 above, and shall either withdraw the draft administrative order, modify and reissue the draft administrative order, or issue a final administrative order within 30 calendar days following receipt of the owner's or operator's appeal; and

3. If the owner or operator of an industrial facility does not appeal the issuance of a draft administrative order directing the industrial facility to modify its Pollution Prevention Plan Progress Report, the draft administrative order becomes a final administrative order on the 30th day following receipt of the draft administrative order by the owner or operator.

(f) All appeals of final administrative orders issued under this section shall be taken in accordance with the procedures at N.J.A.C. 7:1K-12.3. An industrial facility's failure to comply with a final administrative order issued under this section requiring modification of its Pollution Prevention Plan Progress Report is grounds for assessment of civil administrative penalties pursuant to N.J.A.C. 7:1K-12.2 and 12.7.

SUBCHAPTER 7. FACILITY-WIDE PERMITS

7:1K-7.1 Scope and authority

(a) This subchapter constitutes the Department's requirements and procedures for implementing a pilot program for issuing facility-wide permits, as required by N.J.S.A. 13:1D-48.

(b) This subchapter shall apply, to the extent statutorily permissible, to:

1. Incorporating pollution prevention planning by industrial facilities as an element of the Department's permit programs;

2. Establishing permitted release limits using pollution prevention techniques;

3. Consolidating the Department's administrative and procedural requirements for issuing single-media permits;

4. Consolidating the administrative and technical information required by the Department in permit applications; and

5. Developing an integrated data system for tracking use, non-product output and releases from industrial facilities and documenting compliance or non-compliance with the terms and conditions of permits.

(c) The Department may revoke, issue, reissue or modify any permit, certificate, registration, or any other relevant approval issued to the owner or operator of a priority industrial facility by the Department pursuant to N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; or the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. for the purpose of issuing a facility-wide permit.

(d) Any action taken by the Department pursuant to this subchapter to revoke, issue, reissue or modify any permit, certificate, registration or other Departmental approval may be appealed pursuant to the provisions of N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; or the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. as appropriate.

(e) The Department shall use applicable regulatory requirements in developing facility-wide permit conditions. Upon the priority industrial facility's request, the Department may undertake a voluntary, joint effort with the priority industrial facility to develop facility-wide permit conditions that are more stringent than applicable regulatory requirements.

7:1K-7.2 Designation of priority industrial facilities for participation in facility-wide permit program

(a) *[Within 18 months of the effective date of this subchapter]* ***By September 1, 1994***, the Department shall designate no fewer than 10 but not more than 15 individual priority industrial facilities to participate in the facility-wide permit program and to receive a facility-wide permit. Preference for participation in the facility-wide permit program shall be given to facilities that voluntarily participate in the program.

(b) The owner or operator of a priority industrial facility volunteering to participate in the pilot program for facility-wide permitting shall notify the Commissioner of the facility's commitment to volunteer *[within six months of the effective date of this subchapter]* ***by September 1, 1994***. The facility's commitment to volunteer *[shall be irrevocable,]* shall be submitted to the Commissioner in writing, and shall be signed by the highest corporate officer with direct operating responsibility for the facility.

(c) Upon receiving a priority industrial facility's commitment to volunteer to participate in the facility-wide permit program, the Department shall evaluate the facility's suitability for receiving a facility-wide permit and shall accept or reject the facility's volunteer commitment. *[Within one year of the effective date of this subchapter]* ***By March 1, 1994***, the Department shall notify the facility of its decision to either designate the facility for participation in the facility-wide permit program or reject the facility's volunteer commitment. This notice shall be in writing by certified mail. The Department's evaluation of a facility's commitment to volunteer in the facility-wide permit program shall be based, at a minimum, on the following considerations:

1. The potential for the priority industrial facility to serve as a Statewide model for multi-media pollution prevention programs;
2. The potential for a priority industrial facility that does not meet industry-wide pollution prevention goals to meet those goals through a facility-wide permit;
3. The potential for a priority industrial facility that has not met the use reduction and NPO reduction goals set forth in its Pollution Prevention Plan to meet those goals through a facility-wide permit;
4. The priority industrial facility's history of compliance or non-compliance with the terms of any permit, certificate, registration or any other relevant Department approval issued to the priority industrial facility;
5. The number and type of permits, certificates, registrations or any other relevant approvals issued by the Department and currently held by the priority industrial facility;
6. The effective date and expiration date of permits currently held by the priority industrial facility;
7. The number and quantity of hazardous substances used, generated or released by the priority industrial facility;
8. Whether anticipated changes in production activities at the priority industrial facility may best be addressed through a facility-wide permit; and
9. The nature of current and future State or Federal statutory and regulatory requirements affecting the priority industrial facility.

(d) If *[within one year of the effective date of this subchapter]* ***by March 1, 1994***, the Department designates fewer than 15 facilities to participate in the facility-wide permit program from those facilities volunteering under (b) above, the Department may designate additional priority industrial facilities to participate in the facility-wide permit program and to receive a facility-wide permit. The Department's designation of additional facilities shall be based on the following considerations:

1. The potential for the priority industrial facility to serve as a State-wide model for multi-media pollution prevention programs;
2. The potential for a priority industrial facility that does not meet industry-wide pollution prevention goals to meet those goals through a facility-wide permit;
3. The potential for a priority industrial facility that has not met the use reduction and NPO reduction goals set forth in its Pollution Prevention Plan to meet those goals through a facility-wide permit;
4. The priority industrial facility's history of compliance or non-compliance with the terms of any permit, certificate, registration or any other relevant Department approval issued to the priority industrial facility;
5. The number and type of permits, certificates, registrations or any other relevant approvals issued by the Department and currently held by the priority industrial facility;
6. The effective date and expiration date of permits currently held by the priority industrial facility;
7. The number and quantity of hazardous substances used, generated or released by the priority industrial facility;
8. Whether anticipated changes in production activities at the priority industrial facility may best be addressed through a facility-wide permit; and
9. The nature of current and future State or Federal statutory and regulatory requirements affecting the priority industrial facility.

(e) *[Within 18 months of the effective date of this subchapter]* ***By September 1, 1994***, the Department shall notify each priority industrial facility which has not volunteered to participate in the facility-wide program pursuant to (b) and (c) above, but which has been designated to receive a facility-wide permit pursuant to (d) above. This notice shall be in writing, by certified mail.

(f) After each priority industrial facility participating in the facility-wide permit program has received notification of its designation to the program, the Department shall prepare and submit to the Legislature a report summarizing the designation process and the progress made to date in establishing a facility-wide permitting program.

7:1K-7.3 Procedures for issuing facility-wide permits

(a) The owner or operator of a priority industrial facility designated to participate in the facility-wide permit program pursuant to N.J.A.C. 7:1K-7.2 shall submit the following to the Department:

1. A complete copy of the most recent Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility, subject to the confidentiality provisions of N.J.A.C. 7:1K-8 through 11; and
2. A facility-wide permit application consisting of information and data, on forms provided by or approved by the Department, for all emissions and discharges from the facility and the management of solid and hazardous wastes, including all information needed to prepare and issue permits, certificates and approvals issued by the Department pursuant to the provisions of N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., as applicable.

(b) The Department shall review the facility's Pollution Prevention Plan and facility-wide permit application to ensure compliance with all applicable requirements of N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., as applicable.

(c) After the Department determines that the facility's Pollution Prevention Plan and facility-wide permit application are administratively complete, the Department will conduct a technical review and, if necessary, provide comments to the owner or operator of the priority industrial facility within approximately 60 calendar days.

(d) The owner or operator of the priority industrial facility will have approximately 60 calendar days to submit a revised Pollution Prevention Plan and facility-wide permit application addressing the Department's technical comments.

(e) Within approximately 90 calendar days of receiving the revised Pollution Prevention Plan and facility-wide permit application from a facility under (d) above, the Department shall conduct a final administrative review of the facility-wide permit application and shall either:

1. Issue a draft facility-wide permit and a combined public notice in accordance with N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; and the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., as applicable; or
2. Notify the industrial facility that its facility-wide permit application has been denied.

(f) The Department shall provide a minimum 45 day public comment period to receive comments from interested parties on the terms and conditions of the draft facility-wide permit.

(g) The Department may conduct a public hearing on the draft facility-wide permit if it determines that a hearing is required pursuant to N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; or the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., as applicable, or if significant public comments are received requesting that a public hearing be held.

(h) The Department will respond to all significant public comments on the draft facility-wide permit and shall issue a final facility-wide permit, if warranted, within approximately 90 calendar days after the close of the public comment period, and no later than 30 months after the effective date of this subchapter.

(i) The owner or operator of the priority industrial facility may appeal the issuance of the final facility-wide permit pursuant to the provisions of N.J.S.A. 13:1D-1 et seq.; the Solid Waste Management

Act, N.J.S.A. 13:1E-1 et seq.; the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; or the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., as applicable.

(j) If, for any reason, the Department does not issue a draft or final facility-wide permit to the owner or operator of the priority industrial facility, the existing permits issued to the owner or operator of the priority industrial facility shall remain in full force and effect pursuant to applicable law.

7:1K-7.4 Reporting findings of the pilot program; potential for expanding the program

(a) *[Within 36 months of the effective date of this subchapter]* ***By March 1, 1996***, the Department shall prepare and submit to the Governor and the Legislature a report analyzing the facility-wide permit program, evaluating the ability of the Department to conduct and expand the facility-wide permit program, and proposing, if warranted, a schedule to expand the applicability of the facility-wide permit program.

(b) The Department shall not issue more than 15 facility-wide permits without specific authorization by law.

SUBCHAPTER 8. CONFIDENTIALITY CLAIMS

7:1K-8.1 Confidentiality of Pollution Prevention Plans

(a) The owner or operator of a priority industrial facility required to prepare a Pollution Prevention Plan under this chapter shall maintain a confidential copy of the industrial facility's Pollution Prevention Plan at the industrial facility for inspection by the Department. Employees of the Department are required to handle confidential information, including the confidential copy of an industrial facility's Pollution Prevention Plan, in accordance with N.J.A.C. 7:1K-11.

(b) If the Department requires a Pollution Prevention Plan to be submitted for review pursuant to N.J.A.C. 7:1K-3.9, the owner or operator of the industrial facility may assert a confidentiality claim for information which he or she believes in good faith to be confidential information by filing a confidentiality claim in accordance with the procedure at N.J.A.C. 7:1K-8.2.

7:1K-8.2 Procedure for making a claim for information contained in Pollution Prevention Plans, Pollution Prevention Plan Summaries, and Pollution Prevention Plan Progress Reports

(a) Any person required to submit information to the Department under this chapter, or to allow the Department to obtain such information, which such person believes in good faith to constitute confidential information, may assert a confidentiality claim by following the procedures set forth in this subchapter.

(b) A claimant shall submit to the Department, at the address provided in N.J.A.C. 7:1K-8.4(b), a confidential copy and, upon the Department's request, a preliminary public copy of a Pollution Prevention Plan, Pollution Prevention Plan Summary, or Pollution Prevention Plan Progress Report containing assertedly confidential information. The preliminary public copy shall carry a notation stating that confidential information has been deleted. The Department may disclose the preliminary public copy to any person, without restriction or limitation.

(c) The claimant shall label the first page of the confidential copy "CONFIDENTIAL COPY." At the top of each page of the confidential copy, which page contains information that the claimant asserts is confidential information, the claimant shall place a boldface heading reading "CONFIDENTIAL". The claimant shall clearly underscore or highlight all information in the confidential copy which the claimant asserts to be confidential, in a manner which shall be clearly visible on photocopies of the confidential copy.

(d) The claimant shall seal the confidential copy in an envelope displaying the word "CONFIDENTIAL" in bold type or stamp on both sides. This envelope shall be enclosed in another envelope for transmittal to the Department. The outer envelope shall bear no markings indicating the confidential nature of the contents.

(e) The claimant shall send the package containing the confidential copy to the Department by certified mail, return receipt requested, or by other means providing a receipt for delivery.

(f) The claimant shall include in the package a written designation of a person to receive notices pursuant to N.J.A.C. 7:1K-8.3.

7:1K-8.3 Designation by claimant of an addressee for notices and inquiries

A claimant shall designate a person as the proper addressee of communications from the Department under N.J.A.C. 7:1K-8 through 11. To designate such a person, the claimant shall submit the following information to the Department in writing: the name and address of the claimant; the name, address, and telephone number of the designated person; and a request that all Department inquiries and communications (oral and written), including without limitation the inquiries and notices listed in N.J.A.C. 7:1K-8.4(a), be directed to the designee.

7:1K-8.4 Correspondence, inquiries and notices

(a) The Department shall direct all correspondence, inquiries and notices relating to confidentiality claims under N.J.A.C. 7:1K-8 through 11 to the person designated by the claimant pursuant to N.J.A.C. 7:1K-8.3, including without limitation the following:

1. Notices requesting substantiation of claims, under N.J.A.C. 7:1K-9.2(a)1ii;

2. Notices of denial of confidentiality claims and proposed disclosure of information, under N.J.A.C. 7:1K-9.5(a);

3. Notices of disclosure under N.J.A.C. 7:1K-10.3; and

4. Notices of proposed use of confidential information in administrative proceedings, under N.J.A.C. 7:1K-10.6.

(b) A claimant shall direct all correspondence, inquiries, notices and submissions concerning confidentiality claims under this chapter to the Department at the following address:

Office of Pollution Prevention
New Jersey Department of Environmental Protection and Energy
CN 423
Trenton, New Jersey 08625-0423

SUBCHAPTER 9. CONFIDENTIALITY DETERMINATIONS

7:1K-9.1 Time for making confidentiality determinations

(a) The Department shall make a confidentiality determination:

1. If the Department receives a request, by a person to whom the Department is restricted from disclosing confidential information pursuant to N.J.A.C. 7:1K-11, to inspect or copy records containing assertedly confidential information which is the subject of a confidentiality claim; or

2. Before taking any action which is inconsistent with the requirements for treatment of confidential information set forth in N.J.A.C. 7:1K-11.

(b) The Department may, in its discretion, make a confidentiality determination at any time.

7:1K-9.2 Notice of initial confidentiality determination, and of requirement to submit substantiation of claim

(a) If the Department initially determines that any of the assertedly confidential information may be confidential information, the Department shall:

1. Notify each claimant who is known to have asserted a claim applicable to such information, and who has not previously been furnished with notice with regard to the information in question, of the following:

i. That the Department is in the process of making a confidentiality determination with respect to the claimant's claim;

ii. That the claimant is required to substantiate the claim in accordance with N.J.A.C. 7:1K-9.3;

iii. The address of the office to which the claimant's substantiation must be addressed;

iv. The time allowed for submission of substantiation, pursuant to N.J.A.C. 7:1K-9.4(a);

v. The method for requesting a time extension under N.J.A.C. 7:1K-9.4(b); and

vi. That a claimant's failure to furnish substantiation within the time allocated in N.J.A.C. 7:1K-9.4 shall operate as a waiver of the claimant's claim.

2. Furnish, to any requester whose request for inspection or copying of the information is pending, notice that:

i. The information which is the subject of the request may be confidential information;

ii. The Department must undertake further inquiry before granting or denying the requester's request; and

iii. After the Department has made a confidentiality determination concerning the information which is the subject of the request, the Department will grant or deny the request.

(b) The Department shall send the notice required by (a)1 and 2 above by certified mail, return receipt requested, or by other means providing a receipt for delivery.

(c) If the Department is able to determine whether all of the assertedly confidential information is or is not confidential information, without the need for submission of substantiation under N.J.A.C. 7:1K-9.3, such determination shall have the effect of a final confidentiality determination pursuant to N.J.A.C. 7:1K-9.5. The Department shall provide such notices of the determination as are required by N.J.A.C. 7:1K-9.5.

7:1K-9.3 Substantiation of confidentiality claims

(a) If the Department has determined that any assertedly confidential information may be confidential information, and notified the claimant pursuant to N.J.A.C. 7:1K-9.2(a) and (b), the claimant shall substantiate the confidentiality claim by submitting information to the Department in the following areas within the time allotted N.J.A.C. 7:1K-9.4:

1. Measures taken by the claimant to prevent disclosure of the information to others;

2. The extent to which the information has been disclosed to others, and the precautions taken to prevent further disclosure;

3. If the Department, the United States Environmental Protection Agency, or any other State or Federal agency has previously made a confidentiality determination relevant to the pending confidentiality claim, copies of all such confidentiality determinations;

4. A description of any substantial harmful effects which disclosure would have upon the claimant's competitive position, an explanation of why such harmful effects are substantial, and an explanation of the causal relationship between disclosure and such harmful effects;

5. A demonstration that the information is not readily discoverable through reverse engineering or other analytical techniques;

*[5.]***6.*** The period of time for which the claimant desires that the Department treat the assertedly confidential information as confidential information; and

*[6.]***7.*** Any other substantiation which is relevant in establishing that the assertedly confidential information is confidential information.

(b) The claimant may assert a confidentiality claim for any information submitted to the Department by the claimant as part of his or her substantiation pursuant to this subsection. If the claimant fails to assert a confidentiality claim for such information at the time of submission, the claimant shall be deemed to have waived all such claims with respect to the information.

7:1K-9.4 Time for submission of substantiation

(a) The claimant shall submit substantiation within *[30]* ***45*** days after the date of the claimant's receipt of the written notice provided under N.J.A.C. 7:1K-9.2(a)1.

(b) The Department may, in its discretion, extend the time allotted for submission of substantiation pursuant to (a) above if, before the expiration of the allotted time, the claimant submits a written request for the extension of such allotted time, provided, however, that except in extraordinary circumstances, the Department shall not approve such an extension of time in connection with a request to inspect or copy assertedly confidential information pursuant to N.J.S.A. 47:1A-1 et seq. without the consent of any person whose request to inspect or copy the allegedly confidential information under N.J.S.A. 47:1A-1 et seq. is pending.

(c) If a claimant fails to submit substantiation within the time allotted pursuant to this section, the claimant shall be deemed to have waived all confidentiality claims with respect to the information for which the substantiation was required.

7:1K-9.5 Final confidentiality determination

(a) If, after review of all the information submitted pursuant to N.J.A.C. 7:1K-9.3, the Department determines that the assertedly confidential information is not confidential information, the Department shall take the following actions:

1. The Department shall so notify the claimant by certified mail, return receipt requested. The notice shall state the basis for the determination, that it constitutes final agency action concerning the confidentiality claim, and that the Department shall make the information available to the public on the *[14th]* ***46th*** day following receipt by the claimant of the written notice. The notice shall include a copy of the final public copy to be made available to the public.

2. On or after the *[14th]* ***46th*** day following receipt by the claimant of the written notice required by (a)1 above, the Department shall send written notice of the determination to any requester with a pending request to inspect or copy the information which was the subject of the confidentiality claim. The Department shall send the notice by certified mail, return receipt requested.

(b) If, after review of the substantiation submitted pursuant to N.J.A.C. 7:1K-9.3, the Department determines that the assertedly confidential information is confidential information, the Department shall treat such information as confidential information in accordance with N.J.A.C. 7:1K-11. The Department shall send written notice of the determination to the claimant and to any requester with a pending request to inspect or copy the information which was the subject of the confidentiality claim. The notice shall state the basis for the determination and that it constitutes final agency action. The Department shall send the notice by certified mail, return receipt requested.

7:1K-9.6 Treatment of information pending confidentiality determination

The Department shall treat assertedly confidential information as confidential information, until the Department has made a final determination that the assertedly confidential information is not confidential information.

7:1K-9.7 Availability of information to the public after determination that information is not confidential

If the Department determines that assertedly confidential information is not confidential information pursuant to N.J.A.C. 7:1K-9.5(a), the Department may disclose such information to any person on the date which is 14 days after the claimant's receipt of the written notice of the confidentiality determination.

7:1K-9.8 Preparation of final public copy

After the Department makes a final confidentiality determination that a record contains confidential information, the Department shall prepare a final public copy of the record based upon the final confidentiality determination. The Department may disclose the final public copy to any person, without restriction or limitation.

7:1K-9.9 Class confidentiality determinations

(a) The Department may make a class confidentiality determination if the Department finds that the items of information within the class share one or more characteristics, which characteristics would cause the Department to determine consistently that such information is or is not confidential information.

(b) A class confidentiality determination shall clearly identify the class of information to which it applies. Such identification shall include a list of the common characteristics shared by all information within the class.

(c) A class confidentiality determination shall state that all of the information in the class is or is not confidential information.

7:1K-9.10 Classes of information which are not confidential information

(a) Without limiting the ability of the Department to determine that information not listed in this section is not confidential information, the following types of information are not confidential information:

[1. The name, address and business telephone number of the owner or operator of a transmission pipeline, or of the registered agent of such owner or operator;]

*[2.]***1.*** The name, address and business telephone number of a facility and of its owner or operator and the registered agent of such owner or operator;

*[3.]***2.*** The types and quantities of hazardous substances present at a facility;

*[4.]***3.*** Information contained in an administrative order or notice of civil administrative penalty assessment issued under N.J.A.C. 7:1K-*[3.9]***3.10*** or 7:1K-12;

*[5.]***4.*** Any other information required to be publicly disclosed pursuant to any other act, administrative rule, or regulation; and

*[6.]***5.*** Any information for which a trade secret claim is prohibited by N.J.A.C. 7:1G-6.5.

SUBCHAPTER 10. DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION OR ASSERTEDLY CONFIDENTIAL INFORMATION

7:1K-10.1 Disclosure of confidential information or assertedly confidential information to other public agencies

(a) The Department may disclose confidential information or assertedly confidential information to any other State agency or to a Federal agency if:

1. The Department receives a written request for disclosure of the information from a duly authorized officer or employee of the requesting agency;

2. The Department notifies the other agency of any pending confidentiality claim concerning the requested information, or of any confidentiality determination regarding the requested information;

3. The other agency has furnished to the Department a written opinion from the agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the person who submitted the information to the Department (or allowed the Department to obtain such information) to disclose such information to the requesting agency;

4. The other agency has adopted regulations or operates under statutory authority that will allow it to preserve confidential information or assertedly confidential information from unauthorized disclosure, and agrees in writing to refrain from disclosure and to safeguard the information in accordance with the requirements of N.J.A.C. 7:1K-11.1 and 11.2, unless:

i. The requesting agency has statutory authority both to compel production of the information and to disclose it; or

ii. The claimant has consented to disclosure of the information by the requesting agency; and

5. The requesting agency agrees not to disclose the information further unless:

i. The requesting agency has statutory authority both to compel production of the information and to make the proposed disclosure; or

ii. The claimant has consented to disclosure of the information by the requesting agency.

7:1K-10.2 Disclosure of confidential information or assertedly confidential information to contractors

(a) The Department may disclose confidential information or assertedly confidential information to a contractor, if it complies with the procedure established under (b) below, and if:

1. The Department determines that such disclosure is necessary in order for the contractor to perform the work required by the contract;

2. The contract provides that the contractor and the contractor's employees shall use the information only for the purpose of performing the duties required by the contract, shall refrain from disclosing the information to anyone other than the Department, shall store all records containing the confidential information in locked cabinets in secure rooms, shall not duplicate the information, and shall return to the Department all originals and all copies of the information (and any abstracts or extracts therefrom, or any records containing any of the information) when the confidential information is no longer necessary to enable the contractor to perform obligations under the contract, or at any time upon the request of the Department; and

3. If the claimant so requests, the contractor contracts with the claimant to refrain from further disclosure of the information.

(b) Before disclosing confidential information or assertedly confidential information to a contractor under (a) above, the Department shall notify the claimant of the proposed disclosure in writing, delivered by certified mail, return receipt requested, at least *[14]* ***45*** days before making the disclosure. The notice shall state the information to be provided, the identity of the contractor, and the scheduled date of disclosure. If, at least three working days before the scheduled date of disclosure, the claimant delivers to the Department information sufficient to establish that the proposed disclosure would be likely to cause substantial damage either to the claimant's competitive position or to national security, the Department shall refrain from making the disclosure.

7:1K-10.3 Disclosure of confidential information or assertedly confidential information to physicians or osteopaths

(a) The Department may disclose confidential information or assertedly confidential information to a physician or osteopath when such information is needed for medical diagnosis or treatment if:

1. The physician or osteopath seeking disclosure of confidential information or assertedly confidential information for the purposes of medical diagnosis or treatment makes a written request for disclosure of the information. The written request shall concisely describe the need for the information and shall certify that the information is not available from other sources;

2. The physician or osteopath signs a written agreement with the Department providing that the physician or osteopath and his or her employees shall use the information only for the purpose of medical diagnosis or treatment, shall refrain from disclosing the information to anyone other than the Department, shall store all records containing the confidential information in locked cabinets in secure rooms, shall not duplicate the information, and shall return to the Department all originals and all copies of the information (and any abstracts or extracts therefrom, or any records containing any of the information) when the confidential information is no longer necessary for medical diagnosis or treatment; and

3. If the claimant so requests, the physician or osteopath signs a written agreement with the claimant to refrain from further disclosure of the information.

(b) Before disclosing confidential information or assertedly confidential information to a physician or osteopath under (a) above, the Department shall notify the claimant of the proposed disclosure in writing, delivered by certified mail, return receipt requested, at least *[14]* ***45*** days before making the disclosure. The notice shall state the information to be provided, the identity of the physician or osteopath, and the scheduled date of disclosure.

7:1K-10.4 Disclosure of confidential information or assertedly confidential information for the protection of public health

(a) Notwithstanding any other provision of this chapter, the Department may disclose confidential information or assertedly confidential information to an officer or employee of the State in connection with the official duties of the officer or employee under any law for the protection of public health.

(b) The following procedure shall apply to the disclosure of information by the Department to officers or employees of the State under any law for the protection of public health:

1. The Department shall inform the claimant that the Department is considering using the information in connection with the law for the protection of public health and shall afford the claimant a reasonable time for comment;

2. The claimant shall submit comments concerning the proposed use of the information to the Department within the time alloted pursuant to (b)1 above, including comments which may support a determination that the information is not relevant to the proceeding, or that the disclosure of the information in the proceeding is not necessary to protect the public health;

3. The Department may disclose the confidential information in connection with any law for the protection of public health if, upon consideration of the comments submitted pursuant to (b)1 above, the Department determines that the information is relevant to the subject of the proceeding, that the use of the information in the proceeding will protect the public health, and that it materially impairs the protection of the public health to limit the use of the information to a manner which preserves its confidentiality.

7:1K-10.5 Notice to claimants of disclosure of confidential information or assertedly confidential information

(a) Promptly after the Department discloses confidential information or assertedly confidential information pursuant to N.J.A.C. 7:1K-10.1 through 10.4, the Department shall notify any claimant from whom the Department has obtained the information of the disclosure. Such notice shall be in writing, and shall contain the following information:

1. The date on which disclosure was made;

2. The name of the agency or other person to which the Department disclosed the information; and

3. A description of the information disclosed.

7:1K-10.6 Disclosure by consent

(a) The Department may disclose confidential information or assertedly confidential information in accordance with the written consent of the claimant.

(b) A claimant's consent to a particular disclosure shall not operate as a waiver of a confidentiality claim with regard to further disclosures, unless the authorized disclosure is of such nature that the disclosed information is no longer confidential information.

7:1K-10.7 Incorporation of confidential information or assertedly confidential information into cumulations of data

Nothing in this chapter shall be construed as prohibiting the incorporation of confidential information or assertedly confidential information into general compilations of information based on industry groups or classifications of hazardous substances which may be subject to disclosure as public records, or for conducting research and preparing reports pursuant to N.J.S.A. 13:1D-45, provided that after consultation with the claimant, the Department has determined that such disclosure is not in a form that would foreseeably allow persons, not otherwise having knowledge of such confidential information, to deduce from it confidential information or the identity of the person who supplied it to the Department.

7:1K-10.8 Hearing before disclosure of information for which a confidentiality claim has been made

(a) A claimant may request an adjudicatory hearing to contest disclosure of any information for which a confidentiality claim has been made, at any time before disclosure. The request shall be in accordance with the requirements of N.J.A.C. 7:1K-12.3.

(b) The Department may deny a request for an adjudicatory hearing under (a) above if:

1. The claimant fails to provide all information required under N.J.A.C. 7:1K-12.3(b);

2. The Department receives the request after disclosure of the assertedly confidential information occurs; or

3. The Department has been ordered to disclose the information by a court of competent jurisdiction, or by any other person or entity with the power and authority to compel disclosure.

(c) All adjudicatory hearings shall be conducted in accordance with 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.

(d) At the adjudicatory hearing, the respondent shall have the burden of showing that the proposed disclosure is not in accordance with this N.J.A.C. 7:1K.

(e) Pending the completion of the adjudicatory hearing, the Department will refrain from disclosing the assertedly confidential information, unless the Department has been ordered to disclose the information by a court of competent jurisdiction, or by any other person or entity with the power and authority to compel disclosure.

SUBCHAPTER 11. TREATMENT OF CONFIDENTIAL *AND ASSERTEDLY CONFIDENTIAL* INFORMATION

7:1K-11.1 Nondisclosure of confidential ***or assertedly confidential*** information

Unless specifically required by any Federal or State law, statute, administrative rule, regulation, order, court order, or applicable court rule, the Department shall not disclose confidential ***or assertedly confidential*** information to any person other than as provided in N.J.A.C. 7:1K-10.

7:1K-11.2 Safeguarding of confidential ***or assertedly confidential*** information

(a) Submissions to the Department required under this chapter will be opened only by persons authorized by the Department to be engaged in administering this chapter.

(b) Only those Department employees whose activities necessitate access to information for which a confidentiality claim has been made may open any envelope which is marked "CONFIDENTIAL."

(c) The Department shall store any records containing confidential ***or assertedly confidential*** information only in locked cabinets in secure rooms; provided, however, that if such records are in a form which is not amenable to such storage, the Department shall store such records in a manner which similarly restricts access by persons to whom disclosure of the confidential information in question is restricted.

(d) The Department shall maintain a record of all persons obtaining access to confidential ***or assertedly confidential*** information, including the date and time of, and the reasons for, the access.

(e) Any records made, possessed, or controlled by the Department or its contractors, and containing confidential ***or assertedly confidential*** information, shall contain indicators identifying the confidential ***or assertedly confidential*** information.

(f) Every Department employee, representative, and contractor who has custody or possession of confidential ***or assertedly confidential*** information shall take appropriate measures to safeguard such information and to protect against its improper disclosure.

(g) Department employees, representatives and contractors are prohibited from duplicating confidential ***or assertedly confidential*** information.

7:1K-11.3 Confidentiality agreements

The provisions of this chapter shall supersede the provisions of any agreement imposing any duties of confidentiality or nondisclosure upon the Department or any employee, contractor or agent thereof. Such provisions imposing confidentiality or nondisclosure duties upon the Department or any employee, contractor or agent thereof shall be of no force or effect.

7:1K-11.4 Wrongful access or disclosure; penalties

(a) No person shall disclose, obtain or have possession of any confidential ***or assertedly confidential*** information, except as authorized by this chapter.

(b) Except in accordance with this chapter, no Department employee, representative, or contractor shall disclose any confidential ***or assertedly confidential*** information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment or contractual relationship with the Department. No such person shall use any such information for his or her private gain or advantage, except as permitted by a contract between such person and the Department. If a contractor discloses confidential ***or assertedly confidential*** information in violation of this chapter or of contractual provisions restricting disclosure, such disclosure shall constitute grounds for debarment or suspension as provided in N.J.A.C. 7:1-5, Debarment, Suspension and Disqualification from Department Contracting.

(c) If the Department finds that any person has violated the provisions of this subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and/or

2. Pursue any other remedy available at law or equity.

(d) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a Department employee shall constitute grounds for dismissal, suspension, fine or other adverse personnel action.

(e) In addition to any other penalty that may be sought by the Department, any officer or employee of the State or contractor of the State who has access to any confidential ***or assertedly confidential*** information, and who willingly and knowingly discloses the confidential ***or assertedly confidential*** information to any person not authorized to receive it, is guilty of a crime of the third degree.

(f) Use of any of the remedies specified under this section shall not preclude the use of any other remedy.

SUBCHAPTER 12. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:1K-12.1 Authority, scope and purpose

(a) This subchapter governs the Department's issuance of administrative orders and the assessment and settlement of civil administrative penalties for violations of the Act. In particular, this subchapter establishes ranges of civil administrative penalties for violations of similar type, seriousness, and duration, as required by N.J.S.A. 13:1D-49(d). This subchapter also sets forth the procedures for persons requesting an adjudicatory hearing on an administrative order, notice of civil administrative penalty assessment or confidentiality determination issued under the Act or this chapter.

(b) The Department may assess a civil administrative penalty of not more than $15,000 for each violation of the Act.

(c) Each day during which a violation of the Act continues constitutes an additional, separate, and distinct offense.

(d) Neither the issuance of an administrative order, the assessment of a civil administrative penalty, nor the payment of any civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by the Act, or any other statute or administrative regulation, in connection with the violation of the Act for which the order is issued or the assessment is levied.

7:1K-12.2 Procedures for assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty for a violation of the Act, the Department shall, by means of an administrative order and notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one offense in a single administrative order and notice of civil administrative penalty assessment or in multiple administrative orders and notices of civil administrative penalty assessment. The administrative order and notice of civil administrative penalty assessment shall:

1. Identify the section of the Act, rule, administrative order, or permit violated;

2. Concisely state the facts that constitute the violation of the Act;

3. Specify the amount of the civil administrative penalty assessed; and

4. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:1K-12.3.

(b) A notice of assessment of a civil administrative penalty may be issued separately or as part of an administrative order issued pursuant to N.J.S.A. 13:1D-49(b) requiring the alleged violator to take affirmative action to comply with the Pollution Prevention Act or a rule or regulation issued pursuant to the Act.

(c) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's Final Order in a contested case, or when a notice of civil administrative penalty assessment bcomes a Final Order, as follows:

1. If an adjudicatory hearing is not requested pursuant to the procedures in N.J.A.C. 7:1K-12.3, a Notice of Civil Administrative Penalty Assessment becomes a Final Order on the 21st day following receipt of the Notice of Civil Administrative Penalty Assessment by the violator;

2. If an adjudicatory hearing is requested pursuant to the procedures in N.J.A.C. 7:1K-12.3 but the Department denies the hearing request, a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of notice of such denial; or

3. If an adjudicatory hearing is requested pursuant to the procedures in N.J.A.C. 7:1K-12.3 and the Department grants the hearing request, a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of a Final Order in a contested case.

7:1K-12.3 Procedures for requesting and conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an administrative order, notice of civil administrative penalty assessment or confidentiality determination issued pursuant to the Act or this chapter, the violator or claimant shall submit the information required by (b) below to the following address:

Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
Pollution Prevention Program
Department of Environmental Protection
and Energy
CN 402
Trenton, New Jersey 08625

(b) To request an adjudicatory hearing to contest an administrative order, notice of civil administrative penalty assessment, or confidentiality determination, the violator or claimant shall submit the following information to the Department:

1. The name, address, and telephone number of the violator or claimant and its authorized representative;

2. If an administrative order or notice of civil penalty assessment is being appealed:

i. The violator's defenses to each of the Department's findings of fact in the administrative order or notice of civil administrative penalty assessment stated in short and plain terms; and

ii. An admission or denial of each of the Department's findings of fact in the administrative order or notice of civil administrative penalty assessment. If the alleged violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the alleged violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the alleged violator intends in good faith to deny only a part or a qualification of a finding, the alleged violator shall specify so much of it as is true and material and deny only the remainder. The alleged violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding the alleged violator denies, the alleged violator shall allege the fact or facts as the alleged violator believes it or them to be;

3. If a confidentiality determination is being appealed:

i. A concise statement of each factual or legal question alleged to be at issue and its relevance to the Department's confidentiality determination; and

ii. A concise statement of the claimant's or applicant's position on each factual or legal question alleged to be at issue;

4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(c) If the Department does not receive the hearing request within 20 days after receipt by the violator of an administrative order or notice of civil administrative penalty assessment being challenged, or within *[14]* ***45*** days after receipt by the claimant of a confidentiality determination, the Department shall deny the hearing request.

(d) If the violator or claimant fails to include all the information required by (d) above, the Department may deny the hearing request. The Department may grant the violator or claimant an ad-

ditional 10 days to correct deficiencies in an incomplete adjudicatory hearing request.

(e) All adjudicatory hearings granted under the Act shall be conducted in accordance with 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.

7:1K-12.4 Civil administrative penalty determination—general

(a) The Department may assess a civil administrative penalty of not more than $5,000 for the first offense, not more than $10,000 for the second offense and not more than $15,000 for the third and each subsequent offense against each violator for each violation of the Act.

(b) Each violation of the Act constitutes a distinct and separate offense.

(c) Each day during which a violation continues constitutes an additional, separate, and distinct offense.

(d) The Department may, in its discretion, assess a civil administrative penalty on the basis of one or more of the following factors:

1. The compliance history of the violator;
2. The number, frequency and severity of the offense(s);
3. The measures taken by the violator to mitigate or remediate the effects of the current offense or to prevent future offenses;
4. The deterrent effect of the penalty; or
5. Other specific mitigating or extenuating circumstances of the violator or offense.

(e) Notwithstanding the provisions of N.J.A.C. 7:1K-12.5 through 12.7, the Department may compromise the amount of a civil administrative penalty assessed under this subchapter on the basis of one or more of the following factors:

1. The compliance history of the violator;
2. The number, frequency and severity of the offense(s);
3. The measures taken by the violator to mitigate or remediate the effects of the current offense and to prevent future offenses; or
4. Other mitigating or extenuating circumstances of the violator or the offense, documented in a manner acceptable to the Department;
5. Any other terms or conditions acceptable to the Commissioner.

(f) The Department may, in its discretion, treat an offense as a first offense solely for civil administrative penalty determination purposes, if the violator has not committed the same offense in the five years immediately preceding the date of the pending offense.

7:1K-12.5 Civil administrative penalties for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty against each violator who submits inaccurate information or who makes a false statement, representation, or certification in any application, registration, record or other document submitted or maintained under the Act or any rule, administrative order, or permit issued pursuant to the Act.

(b) The Department shall determine the amount of the civil administrative penalty for offenses described in this section based on the conduct of the violator as follows:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty, per act or omission, shall be in an amount of $5,000 for the first offense, $10,000 for the second offense, and $15,000 for the third and each subsequent offense; and
2. For all other conduct, the civil administrative penalty, per act or omission, shall be in the amount of $1,000 for the first offense, $2,500 for the second offense, and $5,000 for the third and each subsequent offense.

(c) Penalties for false certification or false reporting may include the criminal penalties set forth at N.J.S.A. 2C:28-3.

7:1K-12.6 Civil administrative penalties for failure to allow lawful entry and inspection

(a) The Department may assess a civil administrative penalty against each violator who refuses, inhibits or prohibits immediate lawful entry and inspection of any industrial facility by any authorized Department representative.

(b) The amount of the civil administrative penalty for offenses described in this section shall be $5,000 for the first offense, $10,000 for the second offense, and $15,000 for the third and each subsequent offense.

7:1K-12.7 Civil administrative penalties for failure to comply with final administrative order requiring modification of Pollution Prevention Plan, Plan Summary, or Plan Progress Report

(a) The Department may assess a civil administrative penalty for failure to comply with a final administrative order, issued pursuant to N.J.A.C. 7:1K-3.9, 5.2 or 6.2, requiring modification of a Pollution Prevention Plan, Pollution Prevention Plan Summary or Pollution Prevention Plan Progress Report.

(b) The Department shall determine the amount of the civil administrative penalty for offenses described in this section as follows:

1. For failure to comply with a final administrative order requiring an industrial facility to modify its Pollution Prevention Plan, Plan Summary or Plan Progress Report for the purpose of correcting administrative deficiencies, the range of civil administrative penalties shall be $500.00 to $5,000 for the first offense, $1,000 to $10,000 for the second offense, and $5,000 to $15,000 for the third and each subsequent offense, depending on the extent and seriousness of the violation*[;]**.*

[2. For failure to comply with a final administrative order requiring an industrial facility modify its Pollution Prevention Plan, Plan Summary or Plan Progress Report to correct its grouping decisions or alter its definition of pollution prevention methods, the civil administrative penalty shall be $100.00 for the first offense, $500.00 for the second offense, and $1,000 for the third and each subsequent offense.]

7:1K-12.8 Civil administrative penalties for failure to submit Pollution Prevention Plan for review or untimely submission of Pollution Prevention Plan Summary or Pollution Prevention Plan Progress Report

(a) The Department may assess a civil administrative penalty for the following:

i. Failure to comply with the Department's notice under N.J.A.C. 7:1K-3.9 requiring submittal of a Pollution Prevention Plan for review; and

ii. Failure to meet the deadline at N.J.A.C. 7:1K-3.1, as applicable, for submitting a Pollution Prevention Plan Summary or Pollution Prevention Plan Progress Reports to the Department.

(b) The amount of the civil administrative penalty offenses described in this section shall be $500.00 for the first offense, $2,500 for the second offense, and $5,000 for the third and each subsequent offense.

7:1K-12.9 Records of assessments

(a) In order to promote consistency in the application of this subchapter, the Department shall collect and maintain a record of each assessment made pursuant to this subchapter. Such record shall be a public record and shall be kept available for public inspection pursuant to N.J.S.A. 47:1A-1 et seq.

(b) The record shall, at a minimum, include a copy of each notice and all final orders issued pursuant to N.J.A.C. 7:1K-12.2, and the terms of any compromise agreed to pursuant to N.J.A.C. 7:1K-12.4.

7:1K-12.10 Pollution Prevention Fund

The Department shall deposit all penalties collected pursuant to this subchapter into the Pollution Prevention Fund established by N.J.S.A. 13:1D-50.

APPENDIX A

ADDITIONAL HAZARDOUS SUBSTANCES FOR WHICH POLLUTION PREVENTION PLANNING IS REQUIRED

(Reserved)

APPENDIX B

THRESHOLDS FOR POLLUTION PREVENTION PLANNING

(Reserved)

APPENDIX C

NOMENCLATURE

PROCESS DESCRIPTORS

AM-ARTICLE MANUFACTURING PROCESS

Bleaching
Cleaning—of metal
Cleaning—paint stripping
Cleaning—of equipment
Cleaning—other
Coating—adhesive application
Coating—paint application
Coating—other
Degreasing
Dyeing
Electroless plating
Electroplating
Etching
Metal casting
Metal machining
Metal treatment (other than plating)
Painting
Paper manufacturing
Paper treatment
Photographic film
manufacturing & processing
Plastics molding/casting/extrusion
Printing
Soldering
Stripping
Tanning
Welding
Wood pulping
Wood treatment
Similar to
Other (list)

CP-CHEMICAL PROCESS

Purification
Separation
Formulation/blending
Chemical synthesis
Chemical breakdown
Chemical conversion
Similar
Other

SH-STORAGE AND HANDLING

Above ground tank
Below ground tank (steel)
Below ground tank (fiberglass)
Tank inside building
Steel drum
Plastic drum
Fiber drum
Can
Carboy
Silo
Bag
Box
Cylinder
Bottles or jugs (glass)
Bottles or jugs (plastic)
Tote bin
Tank wagon
Rail car
Other (list)

DESCRIPTOR MODIFIERS

RT-REACTION TYPE

No reaction
Acylation
Alkylation
Amination
Ammonolysis
Aromatization
Calcination
Carboxylation
Causticization
Combustion
Condensation
Dehydration
Dehydrogenation
Desulfurization
Diazotination and Coupling
Double decomposition
Electrolysis
Esterification
Fermentation
Friedel-Crafts
Halogenation
Hydroformylation
Hydrogenation
Hydrolysis
Ion exchange
Isomerization
Neutralization
Nitration
Oxidation
Polymerization
Pyrolysis/cracking
Reduction
Silicate formation
Sulfonation
Other (list)

UO-UNIT OPERATIONS

Absorption/adsorption
Centrifugation
Classification
Cleaning/degreasing
Condensation
Crystalization
Desalting
Disintegration
Distillation
Drying
Dust Collection
Evaporation
Fermentation
Filtration
Grinding/Milling
Heat Exchange
Humidification
Ion Exchange
Melting
Mixing
Packaging
Pressurizing
Reaction
Screening
Scrubbing
Sedimentation
Separation
Settling
Soaking/Wetting
***Solidification/Stabilization**
Fixation*

Solvent Extraction
Spraying/Coating
Stripping
Similar to
Other (List)

EQ-EQUIPMENT
Adsorption Column
Aerator Blower
Boiler
Centrifuge
Compressor
Condenser
Cooler
Crystalizer
Digester
Distillation Column
Dryer
Evaporator
Extraction Tower
Extruder
Filter
Flash Drum
Fractionating Tower
Furnace
Heat Exchanger
Holding Tank
Mill/Grinder
Mixer
Reactor Vessel
Refrigeration Unit
Rinse Tank
Scrubber
Separator
Settling Tank
Stripper
Other (List)

PF-PHASE/FORM
Gas
Liquid (Coherent)
Solid
Aqueous Solution
Organic Solution
Slurry
Sludge
Emulsion
Powder Fines
Aqueous Acid
Aqueous Base
Metal Product
Polymer Mixer
Crude Petroleum
Refined Fuel/Mixed Hydrocarbon
Unrefined Ore/Minerals
Clay/Cement
Animal Byproducts
Vegetable Byproducts
Wood Chips/Pulp/Byproducts
Similar to
Other (List)

(a)

OFFICE OF REGULATORY POLICY

Storm Water Management

Readoption: N.J.A.C. 7:8

Proposed: December 21, 1992 at 24 N.J.R. 4469(a).
Adopted: February 4, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: February 4, 1993 as R.1993 d.113, **without change.**

Authority: N.J.S.A. 40:55D-1 et seq. and 58:10A-1 et seq.

DEPE Docket Number: 54-92-11.
Effective Date: February 4, 1993.
Expiration Date: February 5, 1998.

Summary of Public Comment and Agency Response:

Pursuant to Executive Order No. 66(1978), the Stormwater Management Rules, N.J.A.C. 7:8, were set to expire on February 5, 1993. The New Jersey Department of Environmental Protection and Energy (Department) is readoptiong N.J.A.C. 7:8 without changes. The Department has reviewed these rules and has determined them to be necessary, reasonable and proper for the purposes of which they were originally promulgated. The Department held a 30-day public comment period on this proposal and **did not receive any public comment** on readopting the Stormwater Management Rules without changes.

It should be noted that the Department is in the process of developing a comprehensive Statewide strategy for stormwater management and nonpoint source pollution control. The current Stormwater Management Rules will be updated and expanded to reflect this strategy. The Department recognizes the importance of public input into this process, and, therefore, the Statewide strategy and the proposed revisions to the Stormwater Management Rules are proceeding through an interested party review process to receive this public input. The interested party review was published in the December 21, 1992 New Jersey Register with the proposed readoption of the existing Stormwater Management Rules (see 24 N.J.R. 4470(a)).

A public meeting was held concerning the interested party review on January 13, 1993. Many of the commenters at the public meeting responded favorably to the Department's Statewide stormwater management strategy. In addition, commenters expressed a desire to continue to be involved in the development of the strategy and the revisions to the Stormwater Management Rules. Subsequent public meetings will be held throughout the year to continue to discuss these issues. As a result of the time necessary to include the public in the development of a Statewide stormwater management strategy and future revisions to the current Stormwater Management Rules, the existing Stormwater Management Rules are being readopted without change so that this chapter does not expire.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:8.

(b)

DIVISION OF SOLID WASTE MANAGEMENT

Compliance Monitoring Fees for Thermal Destruction Facilities

Adopted Amendment: N.J.A.C. 7:26-4.3

Proposed: June 1, 1992 at 24 N.J.R. 1999(a) (see also 24 N.J.R. 2687(a)).
Adopted: January 26, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.
Filed: January 29, 1993 as R.1993 d.98, **without change.**

Authority: N.J.S.A. 13:1E-18.
DEPE Docket Number: 016-92-04.

Effective Date: March 1, 1993.
Expiration Date: October 25, 1995.

Summary of Public Comments and Agency Responses:

New Jersey Department of Environmental Protection and Energy is adopting an amendment concerning compliance monitoring fees for

thermal destruction facilities. N.J.A.C. 7:26-4.3 currently provides for an annual compliance monitoring fee of $390,874 for a thermal destruction facility operating at 9.6 tons per day or more, and $26,058 for a thermal destruction facility operating at less than 9.6 tons per day. The adopted amendment reduces the annual compliance fees to $26,058 for facilities operating at 100 tons per day (tpd) or more (a reduction of $364,816 from the fee provided in the 1991 fee rule); to $13,029 for facilities operating at 9.6 tpd or more, but less than 100 tpd (a reduction of $377,845); and to $6,013 for facilities operating at no more than 9.6 tpd (a reduction of $20,045). No substantive comments were received; however, the Department received one comment in support of the proposal.

COMMENT: Wheelabrator Gloucester Company, L.P. expressed support for proposed amendment to N.J.A.C. 7:26-4.3(b) concerning annual fee for compliance monitoring services for thermal destruction facilities. Wheelabrator believes that the proposed amendment fairly reflects the level of service provided by the DEPE to the facility as well as the cost of such service.

RESPONSE: The Department appreciates the commenter's support for the proposed amendment and agrees with the modifications proposed for N.J.A.C. 7:26-4.3.

Full text of the adoption follows.

7:26-4.3 Fee schedule for solid waste facilities

(a) (No change.)

(b) The permittee of a solid waste facility shall pay the annual fees listed in the following table for compliance monitoring services. The fees are payable in equal quarterly installments, due on January 1, April 1, July 1 and October 1 of each year.

Type of Facility	Compliance Monitoring Fee
...	
Thermal Destruction Facilities—operating at 100 tons per day or more	$26,058
Thermal Destruction Facilities—operating at 9.6 tons per day or more, but less than 100 tons per day	$13,029
Thermal Destruction Facilities—operating at less than 9.6 tons per day	$ 6,013

(c)-(h) (No change.)

(a)

DIVISION OF SOLID WASTE MANAGEMENT

Interdistrict and Intradistrict Solid Waste Flow for Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, HMDC, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union, and Warren Districts

Adopted Amendment: N.J.A.C. 7:26-6.5

Proposed: September 21, 1992 at 24 N.J.R. 3291(a).

Adopted: February 1, 1993 by Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Filed: February 4, 1993 as R.1993 d.109, **with substantive changes** not requiring additional public notice and comment **and with the proposed repeal and new rule at N.J.A.C. 7:26-6.6 not adopted at this time.**

Authority: N.J.S.A. 13:1E-6 and 48:13A-1 et seq.

DEPE Docket Number: 38-92-08.

Effective Date: March 1, 1993.

Expiration Date: October 25, 1995.

Summary of Public Comment and Agency Response:

On September 21, 1992, the Department of Environmental Protection and Energy (DEPE or Department) proposed an amendment to the waste flow rules at N.J.A.C. 7:26-6.5 to update the waste flows to facilities that have been receiving solid waste pursuant to emergency redirection orders (ERO) or to simplify the existing waste flow rules by deleting references to landfills that have ceased operations. The amendment also repealed and proposed a new rule at N.J.A.C. 7:26-6.6 to amend the procedure by which waste flow modifications are made.

Notice of the proposed rule amendment was published on September 21, 1992 in the New Jersey Register at 24 N.J.R. 3291(a). That notice advised that a public hearing had been scheduled for Tuesday, October 13, 1992 at 1:00 P.M. at the DEPE Public Hearing Room, 401 East State Street, Trenton, Mercer County, New Jersey to afford the public an opportunity to be heard on this rule change. In addition, a Notice of Public Hearing was published on September 21, 1992 in the following newspapers: the Star Ledger for Essex, Hudson, Hunterdon, Morris, Somerset, Union, and Warren Counties; The Press for Atlantic, Cape May, and Cumberland Counties; the Asbury Park Press for Monmouth and Ocean Counties; the Home News for Middlesex County; the Trenton Times for Mercer County; Today's Sunbeam for Salem County; the Courier Post for Burlington and Camden Counties; and the Record for Bergen and Passaic Counties. Finally, the Department also transmitted copies of the proposal to all 22 solid waste coordinators within the State. A public hearing was held at the Department's public hearing room on October 13, 1992. The notices invited written comments to be submitted on or before October 21, 1992. In response to the proposal, the Department received oral or written comments from the following persons:

Michael Caro, Esquire, Passaic County Utilities Authority and Hudson County Improvement Authority
Richard Dovey, President, Atlantic County Utilities Authority
Frank Giordano, Director, Pollution Control Financing Authority of Camden County
Diane Leonik, Cape May County Municipal Utilities Authority
John Livelli, Esquire, Robinson, St. John and Wayne
Larry McClure, Director, Bergen County Utilities Authority
Marla Moss, Esquire, Riccardelli and Rosa
Michael Rodburg, Esquire, New Jersey Auto and Metal Recyclers Association and Prolerized Schiabo New Company
Gary Rosensweig, Esquire, Waste Disposal, Inc.
James Rutala, Vice President, Atlantic County Utilities Authority
Theodore Schwartz, Esquire, Waste Disposal, Inc.
Damon Sedita, Esquire, Waste Management, Inc.
Scott Sproviero, Bergen County Utilities Authority

The Department has reviewed the audio tape and transcript of the public hearing held on October 13, 1992 and the written comments submitted during the comment period which closed on October 21, 1992. All comments raised which were relevant to the proposal and the agency's responses are addressed within the following comment/response summary.

COMMENT: Richard Dovey, President, Atlantic County Utilities Authority indicated the rule proposal failed to direct a waste flow to the Atlantic County Landfill. This facility is under construction and is anticipated to commence operation in the near future. If this was an oversight, it must be corrected in the rule adoption.

RESPONSE: Due to an oversight, the rule proposal failed to direct a waste flow to the Atlantic County Landfill. This facility commenced operations on November 2, 1992. To correct this omission, the DEPE has amended N.J.A.C. 7:26-6.5(a) to direct waste types 13 and 27 generated from within Atlantic County to the Atlantic County Landfill. To provide for this waste flow change, Atlantic County had adopted an amendment to their County Solid Waste Management Plan (County Plan) on July 9, 1991 which, among other things, directed that waste types 13 and 27 generated from within Atlantic County shall be disposed of at the Atlantic County Landfill. This County Plan amendment was the subject of a public hearing which was held by the Atlantic County Board of Chosen Freeholders on July 9, 1991. The Commissioner of the DEPE certified approval of the July 9, 1991 County Plan amendment on December 17, 1991. Although the public did not have the opportunity to comment, due to an omission, within the rule proposal on the waste flow to the Atlantic County Landfill, the public was properly notified of such a proposed waste flow change when the Atlantic County Board of Chosen Freeholders held their July 9, 1991 public hearing in conformance with the requirements of the Solid Waste Management Act (N.J.S.A. 13:1E-23d). Finally, it must be noted that all solid waste

generated from within Atlantic County is directed to solid waste facilities located within the Atlantic County Environmental Park, located in Egg Harbor Township. This complex is the site for both the Atlantic County Landfill and the Atlantic County Transfer Station. Therefore, with the commencement of operations of the Atlantic County Landfill on November 2, 1992, waste types 13 and 27 which were previously directed to the Atlantic County Transfer Station are now directed to the Atlantic County Landfill thereby resulting in a minimal impact to the waste flows within the County.

COMMENT: Michael Caro, Esquire, representing the Passaic County Utilities Authority, indicated that for each county, with the exception of Passaic County, that has been receiving waste pursuant to an ERO, the effective date of the ERO was included within the rule proposal. If this is an oversight, it must be corrected in the rule adoption.

RESPONSE: Due to an oversight, the January 23, 1989 effective date of the ERO by which the transfer stations within Passaic County receive waste was omitted. Therefore, the rule adoption has been modified within N.J.A.C. 7:26-6.5(q)1 to correct this omission.

COMMENT: Theodore Schwartz, Esquire, representing Waste Disposal, Inc., indicated that the rule proposal eliminated waste flow to the WDI Landfill in Howell Township, Monmouth County. The Department is presently reviewing the landfill's application to receive a permit for reopening the facility and a Monmouth County plan amendment to delete the landfill from that county plan. The deletion of a waste flow to the WDI Landfill must in no way indicate the DEPE's position relative to either issue now being considered. Upon reopening, the WDI Landfill is entitled to receive waste flows from 10 and one-half Monmouth County municipalities and the rule adoption must be revised to include this waste flow.

RESPONSE: The WDI Landfill ceased operations in November, 1983. The August 21, 1989 order awarding a franchise to Monmouth County (Docket Number SE870142) specified that should the DEPE authorize the reopening of the WDI Landfill, waste from 10 and one-half Monmouth County municipalities would be redirected back to that landfill only until the start-up of the Monmouth County resource recovery facility. Although the Department is presently reviewing the engineering application for a landfill reopening permit, the County adopted on October 8, 1992 an amendment to the Monmouth County District Solid Waste Management Plan (County Plan) which proposed the deletion of the WDI Landfill from the County Plan. The Department is presently reviewing this plan amendment. WDI's right to a waste flow contained within the franchise order is contingent upon the DEPE's action relative to the pending plan amendment and the permit renewal application. However, the deletion of a waste flow to the WDI Landfill as contained within the rule proposal was not intended in any way to be an indication of the Department's position on the reopening of the landfill or certification of the plan amendment.

COMMENT: Numerous comments were received regarding the proposed repeal and new rule at N.J.A.C. 7:26-6.6, which involves the amended procedure by which waste flow modifications are made. Specifically, several commenters stated that the DEPE was unilaterally modifying existing waste flow rules without any consultation with the affected county(s). The ability of a county to control the flow of waste in and out of that county is essential to solid waste management. This is particularly significant to counties which hold franchises granted by the Department. Therefore, the rule proposal should be amended to require Departmental consent of all affected counties prior to initiating any waste flow modifications.

RESPONSE: The Department is authorized to promulgate rules and regulations regarding the interdistrict, intradistrict and interstate flow of waste pursuant to N.J.S.A. 48:13A-4. In accordance with the dictates of N.J.S.A. 13:1E-21, county solid waste planning districts are, of course, still the primary planning entity for each district, and as such, will be the entity most likely to prepare, submit and operate under district planning amendments. N.J.S.A. 48:13A-4 merely codifies the Department's authority, recognized by the New Jersey Supreme Court in *A.A. Mastrangelo v. Environmental Protection Dept.*, 90 *N.J.* 666 (1982), to regulate the flow of waste within and between districts. The current proposed amendment to the procedures was necessitated by the Appellate Division decision in *In re Certain Amendments to Hudson County Solid Waste Management Plan*, 258 *N.J. Super.* 290 (App. Div. 1992), *certif granted* _____ *N.J.* _____, which raised legal concerns regarding the validity of emergency redirection orders issued by the Department affecting Hudson County. Because the case is currently before the New Jersey Supreme Court on certification, the Department will defer adoption of the proposed repeal and new rule pending a decision by the Court.

COMMENT: Numerous comments were received regarding the Department's intent in the rule proposal to promulgate retroactively waste flows to facilities effective concurrent with the respective dates each such ERO originally was to have taken effect. By taking this action, the Department is attempting to improperly escape the attendant legal consequences of the Appellate Division's decision, *In the Matter of Certain Amendments to the Adopted and Approved Solid Waste Management Plan of Hudson County,* Dkt. Nos. A-3268-90T3 and A-3269-90T3 (July 6, 1992) and the Department's own failure to comply with the statutory requirements of the Administrative Procedures Act. Such retroactivity is both illegal and unconstitutional.

RESPONSE: The Department believes that retroactive application of these regulations is necessary to prevent disruption of a vital and essential industry, and to avoid any reward to those who would undermine that industry. For the reasons discussed below, the Department has concluded that its retroactive application of these regulations is consistent with constitutional requirements.

Statutes which are retrospective in nature are constitutional if they meet certain criteria. *Kruvant v. Mayor & Council, Tp. of Cedar Grove,* 82 *N.J.* 435, 440 (1980). Regulations are subject to the same rules of statutory construction as statutes, *Matter of N.J.A.C. 14A:20-1.1,* 246 *N.J. Super.* 297, 306 (App. Div. 1987); therefore, retroactive application of regulations is constitutional if they meet those same criteria.

Retroactive application of statutes is encouraged only when the Legislature clearly manifests its intention that the statute be applied retroactively. *Fasching v. Kallinger,* 227 *N.J. Super.* 270, 273 (App. Div. 1988). *Fasching* delineates a three-prong test for determining whether such an intention has been manifested: (1) where there is express or implied legislative intent; (2) if the new statute is curative; or (3) where expectation of parties warrant retroactive application. 227 *N.J. Super.* at 274.

These regulations satisfy those criteria. In the proposal, the Department expressly stated that it would apply the regulations retroactively. Moreover, the regulated community in general has based its behavior for several years upon the belief that the emergency redirection orders ("ERO's") were valid. The challenge to the ERO's was not based on a premise that solid waste should have been directed to other facilities, rather it was procedural in nature. *Matter of Certain Amendments,* 258 *N.J. Super.* 290, 294 (1992). To *not* give retroactive application to the regulations codifying the ERO's would create chaos among the regulated community and disrupt important financial agreements which public entities such as many of the disposal facilities are dependent upon.

Retroactive application of a statute or regulation raises due process concerns. The Department believes that these regulations address those concerns. Due process concerns prohibit restrospective legislation when its consequences are particularly "harsh and oppressive." *United States Trust Co. v. New Jersey,* 431 *U.S.* 1, 17, 97, *S. Ct.* 1505, 1515, 52 *L.Ed. 2d.* 92 (1977). The justification for the retrospective law must be weighed against the possibility that a person who could have anticipated a potential liability would have avoided it by altering his course of conduct. *In re Kaplan,* 178 *N.J. Super.* 487, 495 (App. Div. 1981). Retroactive application of the ERO codification would not create a liability which the violators of the waste flow orders would have otherwise avoided; violators of the waste flow rules were not interested in taking waste where they *thought* it should go, nor did they violate the waste flow rules because they thought them improperly adopted. In general, those collectors who violated waste flow rules were attempting to avoid the costs of utilizing the disposal facilities they were directed to in order to lower their disposal costs and gain an unfair advantage over their competitors who complied with the waste flow rules and orders. In essence, to not give retroactive application to the rules would benefit the very people who had acted outside the intent and spirit of the Solid Waste Management Act and the Solid Waste Utilities Control Act. For these reasons, retroactive application of the rules would not have "harsh or oppressive" consequences.

Once due process concerns are met, New Jersey courts require an additional inquiry to insure procedural fairness in the administrative process. *In re Kaplan* at 496, citing *Avant v. Clifford,* 67 *N.J.* 496, 520 (1975). The retroactive application of these rules in place of the EROs used under the former rules do not impair procedural fairness. One of the essential points in the *Matter of Certain Amendments* opinion was that the Department had acted outside the emergency rulemaking procedures of the APA. 258 *N.J. Super.* 298 (App. Div. 1992). However,

in terms of public notice and opportunity to cement, there is no substantive difference between an emergency redirection order and an emergency rulemaking by the Governor. Any opportunity for public notice or comment would come after the emergency rulemaking or waste flow order. Even after the Appellate Division's ruling and the instant rule proposal, not a single comment has been received which questions the substance of the waste flow orders in terms of facilities which are currently open. For these reasons, the Department believes that the adoption of these rules is consistent with procedural fairness.

If it becomes necessary for the Department to fashion a new method by which waste flows are directed after the Supreme Court has ruled in this matter, the Department stands ready to do so.

COMMENT: Michael Rodburg, Esquire, representing the New Jersey Auto and Metal Recyclers Association and Prolerized Schiabo New Company, indicated that the Department is in the process of adopting a rule proposal, PRN 1992-232, which, among other things, conditionally exempts the residue from the operations of scrap metal shredding facilities from the waste flow rules. The commenter urged that PRN 1992-232 be adopted prior to the adoption of this multicounty waste flow rule proposal, PRN 1992-424.

RESPONSE: The Department has adopted PRN 1992-232. Specifically, the adoption was published at 25 N.J.R. 92(a) in the New Jersey Register of January 4, 1993.

COMMENT: Scott Sproviero and Larry McClure, representing the Bergen County Utilities Authority, indicated that the summary of the rule proposal as it relates to Bergen County (cite 24 N.J.R. 3291) incorrectly identifies, as ERO's, two documents issued by the Department on May 18, 1992 and July 31, 1992. Also, N.J.A.C. 7:26-6.5(b)2, which directs additional Bergen County solid waste to the Essex County Resource Recovery Facility, should be modified to specify that the delivery of such additional waste be subject to the satisfaction of all conditions set forth in the interdistrict agreement between Bergen and Essex Counties. Further, the rule should indicate that out-of-State disposal shall be by the BCUA or its contract vendor. Finally, the rule proposal appears to preclude the addition of other privately operated transfer stations from entering the Bergen County transfer station system.

RESPONSE: The rule proposal correctly identifies the May 18, 1992 document as an ERO and the July 31, 1992 document as a letter. However, some ambiguity may exist in the last statement of the Bergen County summary which inadvertently infers that both documents were issued as ERO's. The statement should have read, "The [ERO was] **waste flows were** necessary to insure sufficient waste flow to the Essex County Resource Recovery Facility." Also, regarding proposed N.J.A.C. 7:26-6.5(b)2, which directs additional Bergen County waste to the Essex County Resource Recovery Facility, although the rule adoption does not specifically indicate, it is accurate to say that the delivery of additional Bergen County solid waste to the Essex County Resource Recovery Facility is contingent upon the satisfaction of all conditions set forth in the interdistrict agreement between the two counties. Further, the rule proposal did not indicate that out-of-State disposal shall be by the BCUA or its contract vendor since the rule indicated that such disposal shall be consistent with the Bergen County plan. Finally, it is not the intent of this proposed rule to preclude the addition of privately owned transfer stations from entering the Bergen County transfer station system.

COMMENT: Michael Caro, Esquire, representing the Hudson County Improvement Authority, indicated that N.J.A.C. 7:26-6.5(j) appears to preclude Hudson County from exercising, at its discretion, disposal options other than those presently available at the Hackensack Meadowlands Development Commission (HMDC).

RESPONSE: The rule proposal was in no way intended to preclude Hudson County from exercising, at its discretion and pursuant to the Hudson County/HMDC interdistrict agreement, the pursuit of other disposal options for the residents of the county. However, in the absence of the identification of other such specific options, modifications to the rule proposal are not possible. Also, the addition of a blanket statement to the rule indicating that Hudson County may utilize other disposal options in the future would be ambiguous and inconsistent with the specific nature, as well as the specific scope, of the waste flow rules where future contingencies for disposal are not reflected unless formally included by facility name and location in an approved county plan.

COMMENT: Frank Giordiano, Director, Pollution Control Financing Authority of Camden County, indicated that the Department failed to provide within the rule proposal for the closure of the Winslow Township Transfer Station in Camden County and the subsequent redirection for disposal of solid waste away from that facility.

RESPONSE: At the time PRN 1992-424 was proposed, the closure of the Winslow Township Transer Station had not occurred. The facility did cease operations on November 9, 1992. The Department issued an ERO on November 9, 1992 providing for the disposal of solid waste formerly processed at the Winslow Township Transfer Station at either the South Camden Resource Recovery Facility or out-of-state facilities. The ERO directs Camden County to amend their county plan to include the change in waste flow. Upon receipt and subsequent certification of such an amendment, the Department will initiate a waste flow rule change pursuant to N.J.A.C. 7:26-6.6.

Summary of Hearing Officer's Recommendations and Agency Response:

Steve Gabel, Director of the Department's Division of Solid Waste Management, served as hearing officer at the public hearing held on October 13, 1992 at the Department's public hearing room. After reviewing the testimony presented at the public hearing, Mr. Gabel recommended that the Department adopt the proposed amendment with three changes.

A copy of the record of the public hearing is available upon payment of the Department's normal charges for copying. Anyone requesting copies should contact:

Mr. Richard J. McManus, Director
Department of Environmental Protection and Energy
Office of Legal Affairs
401 East State Street
CN 402
Trenton, NJ 08625

The Department accepts the recommendations of the hearing officer. Based upon written comments which the Department received and its internal review of the rule, the Department has made the following changes from the proposal. The changes are explained in the Summary of Public Comments and Agency Responses.

1. In response to a written comment at N.J.A.C. 7:26-6.5(a), a waste flow has been assigned to the Atlantic County Landfill. Specifically, all solid waste types 13 and 27 generated within Atlantic County are directed to the Atlantic County Landfill. This was an omission in the proposal by the Department.

2. In response to a verbal comment at N.J.A.C. 7:26-6.5(q), the effective date of the emergency redirection order affecting Passaic County has been included. Specifically, the date of January 23, 1989 has been added at N.J.A.C. 7:26-6.5(q)1. This was an omission in the proposal by the Department.

3. In response to numerous oral and written comments at N.J.A.C. 7:26-6.6, the procedure for modification of waste flows, the Department has deferred adoption of this portion of PRN 1992-424 pending a decision by the Supreme Court in a case regarding this issue.

4. In addition, the Department has corrected the reference to the location of the Cape May County regional landfill at N.J.A.C. 7:26-6.5(e)1 from "Borough of Woodbine, Cape May County" to "Borough of Woodbine and Township of Upper, Cape May County, New Jersey."

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

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

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

1. All solid waste types 10, *[13,]* 23, ***and*** 25*[, and 27]* generated from within all Atlantic County municipalities shall be directed to the Atlantic County Transfer Station, facility number 0108M, located in Egg Harbor Township, Atlantic County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective August 8, 1990).

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

2. All solid waste types 13 and 27 generated from within all Atlantic County municipalities shall be directed to the Atlantic County Landfill, facility number 0108N, located in Egg Harbor Township, Atlantic County, New Jersey.

(b) Waste flows within, into and out of the Bergen County District:

1. Two hundred and fifty thousand (250,000) tons per year of processible solid waste types 10 and 23 generated from within Bergen county and processed at the Sal-Car Transfer Station, facility number 02267b, located in Hillsdale Boro, Bergen County, the DiBella Transfer Station, facility number 0247B, located in Park Ridge Boro, Bergen County, the National Transfer Station, facility number 0231A, located in Lodi Boro, Bergen County, the Garofalo Transfer Station, facility number 0221A, located in Garfield City, Bergen County, and the United Carting Transfer Station, facility number 0218A, located in Fairview Boro, Bergen County, shall be transported directly to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, Essex County, New Jersey. (Effective May 1, 1991).

i. All residual ash generated from the operation of the Essex County RRF shall be disposed of by the Bergen County Utilities Authority (BCUA) consistent with the agreement between the BCUA and Essex County and in compliance with the Essex County RRF facility permit at permitted and approved out-of-State landfill facilities. (Effective May 1, 1991).

ii. Bypass waste and nonprocessible waste generated from the operation of the Essex County RRF shall be disposed of consistent with the agreement between the BCUA and Essex County and in accordance with the provisions of the approved Essex County District Solid Waste Management Plan. (Effective May 1, 1991).

2. At the request of Essex County, processible solid waste types 10 and 23 generated within Bergen County in an amount not to exceed 1,600 tons per week in 1992, 2,000 tons per week from January 4, 1993 through February 28, 1993, and 1,700 tons per week from March 1, 1993 through July 31, 1993 shall be transported to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, New Jersey, on an as needed basis from one of the transfer stations set forth in (b)1 above or (b)4 below.

3. Except as may be required by the terms of (b)2 above, to the extent that the five private transfer stations set forth in (b)1 above process tonnages in excess of the 250,000 tons noted above, all excess processible solid waste types 10, 13, 23, 25 and 27 shall be directed from each individual transfer station to an approved out-of-State disposal facility as provided in the Bergen County Plan. (Effective May 19, 1992).

4. All remaining solid waste types 10, 13, 23, 25 and 27 generated within Bergen County and not processed by the five transfer stations identified in (b)1 above shall continue to be directed to the Bergen County Utilities Authority Transfer Station, facility number 0232C, located in North Arlington, Bergen County, prior to transportation to an approved out-of-State disposal facility as provided in the Bergen County Plan. (Effective May 1, 1991).

5. All solid waste type 10 generated from within North Arlington shall be disposed of at the HMDC 1-E landfill, facility number 0239D, located in North Arlington, Bergen County. Upon closure of the HMDC 1-E Landfill, all solid waste type 10 generated from within North Arlington shall be redirected to the Bergen County Utilities Authority Transfer Station, facility number 0232C, located in North Arlington, Bergen County, prior to transportation to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

(c) Waste flows within, into and out of the Burlington County District:

1. All solid waste types 10, 13, 23, 25 and 27 generated from within all Burlington County municipalities, with the exception of (c)1i noted below, shall be disposed of at the Burlington County Landfill, facility number 0318A, located in Florence and Mansfield Townships, Burlington County, New Jersey.

i. All waste types 10, 23, and 27 generated at the Fort Dix Army Base and the McGuire Air Force Base, located within New Hanover and North Hanover Townships, shall be disposed of at the Fort Dix Heat Recovery Incinerator, facility number 0325A, located in New Hanover Township, Burlington County. All non-processible and non-hazardous residual waste shall be disposed of at the Burlington County Landfill.

(d) Waste flows within, into and out of the Camden County District:

1. All residential waste types 10, 13, 23, 25 and 27 generated in Chesilhurst Borough, Waterford Township and Winslow Township shall be directed to the Winslow Township Transfer Station, facility number 0436I, located in Winslow Township, Camden County, New Jersey. Once transferred, the waste from the Winslow Township Transfer Station shall be disposed of at the South Camden Resource Recovery Facility, Facility Number 0408C, except for waste type 25 which shall continue to be directed from the transfer station to out-of-State disposal in accordance with the laws and regulations of the receiving state.

i. All commercial waste types 10, 13, 23, and industrial waste type 27 generated in Chesilhurst Borough, Waterford Township and Winslow Township shall be disposed of directly at the South Camden Resource Recovery Facility, Facility Number 0408C, except that waste type 25 shall continue to be disposed of directly out-of-State in accordance with the laws and regulations of the receiving state.

2. All waste types 23 and 27 and nonprocessible 13 generated from within the Camden County municipalities of Audubon Borough, Cherry Hill Township, Haddonfield Borough, Haddon Township, Lindenwold Borough, Merchantville Borough, Pennsauken Township, Tavistock Borough, and Voorhees Township shall be disposed of at the Pennsauken Township Sanitary Landfill, facility numbers 0427D1SE01, 0427D1SE03, and 0427A-E1, located in Pennsauken Township, Camden County, New Jersey.

i. All waste type 25 generated from within the Camden County municipalities of Audubon, Cherry Hill, Haddonfield, Haddon Township, Lindenwold, Merchantville, Pennsauken, Tavistock and Voorhees shall be disposed of out-of-state in an approved facility in accordance with the laws and regulations of the receiving state.

ii. All waste types 10 and processible 13 generated from within the Camden County municipalities of Audubon, Cherry Hill, Haddonfield, Haddon Township, Lindenwold, Merchantville, Pennsauken, Tavistock, and Voorhees shall be disposed of at the South Camden Resource Recovery Facility, facility number 0408C, located in Camden City, Camden County. (Effective January 13, 1992).

3. All solid waste types 10, 13, 23, and 27 generated within the Camden County municipalities of Audubon Park, Barrington, Bellmawr, Berlin Borough, Berlin Township, Brooklawn, Camden City, Chesilhurst, Clementon, Collingswood, Gibbsboro, Gloucester City, Gloucester Township, Haddon Heights, Hi-Nella, Laurel Springs, Lawnside, Magnolia, Mt. Ephraim, Oaklyn, Pine Hill, Pine Valley, Runnemede, Somerdale, Stratford, Waterford, Winslow and Woodlynne shall be directed to the South Camden Resource Recovery Facility, facility number 0408C, located in Camden City, Camden County, New Jersey.

i. All waste type 25 from the municipalities listed in (d)3 above, and ash from the operation of the South Camden Resource Recovery Facility shall be disposed of at approved out-of-State facilities in accordance with the laws and regulations of the receiving state.

ii. All of the bypass and nonprocessible waste from the operation of the South Camden Resource Recovery Facility shall be disposed of at the Pennsauken Township Sanitary Landfill, facility numbers 0427D1SE01, 0427D1SE03, and 0427A-E1, located in Pennsauken Township, Camden County, New Jersey. Also, in the event that nonhazardous ash from the operation of the resource recovery facility cannot be disposed of at an out-of-State facility, such ash shall be disposed of at the Pennsauken Township Sanitary Landfill. (Effective January 13, 1992).

iii. In the event a unified rate system is established for all solid waste facilities within Camden County, all solid waste types 10, 13, 23, 25 and 27 generated from within Berlin Borough and Berlin Township shall be directed to the Winslow Township Transfer Station, facility number 0436I, located in Winslow Township, Camden County, New Jersey. Once transferred, the waste from the Winslow Township Transfer Station shall be disposed of at the South Camden Resource Recovery Facility, facility number 0408C, located in Camden City, Camden County, New Jersey, except that waste type 25 shall be directed from the transfer station to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

(e) Waste flows within, into and out of the Cape May County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within the Cape May County municipalities of Avalon, Cape May City, Cape May Point Boro, Dennis, Lower, Middle, North Wildwood, Ocean City, Sea Isle City, Stone Harbor, Upper, West Cape May, West Wildwood, Wildwood, Wildwood Crest, and Woodbine shall be disposed of at the Cape May County regional landfill, facility number 0511C, located in Borough of Woodbine ***and Township of Upper***, Cape May County***, New Jersey***.

(f) Waste flows within, into and out of the Cumberland County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within the Cumberland County municipalities of Bridgeton, Commercial, Deerfield, Downe, Fairfield, Greenwich, Hopewell, Lawrence, Maurice River, Millville, Stow Creek, Shiloh, Upper Deerfield, and Vineland shall be disposed of at the Cumberland County regional landfill, facility number 0603B, located in Deerfield Township, Cumberland County, New Jersey.

(g) Waste flows within, into and out of the Essex County District:

1.-5. (No change.)

6. All solid waste types 10, 23, and 27 generated within the municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Irvington, Livingston, Maplewood, Millburn, Montclair, Newark, North Caldwell, Nutley, Orange, Roseland, South Orange, Verona, West Caldwell, and West Orange is directed to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, Essex County, New Jersey.

i. All waste types 13, 25 and nonprocessible type 27 from the municipalities listed in (g)6 above, shall be disposed of at approved out-of-state facilities in accordance with the laws and regulations of the receiving state. Out-of-State disposal shall be via the Solid Waste Transfer and Recycling, Inc., Transfer Station, facility number 0714R, located in Newark, Essex County, New Jersey.

7. Two hundred and fifty thousand (250,000) tons per year of processible solid waste types 10 and 23 generated from within Bergen County and processed at the transfer stations listed in (b)1 above shall be directed to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, Essex County, New Jersey. (Effective May 1, 1991). In addition, at the request of Essex County, processible solid waste types 10 and 23 generated within Bergen County in an amount not to exceed 1,600 tons per week in 1992, 2,000 tons per week from January 4, 1993 through February 28, 1993, and 1,700 tons per week from March 1, 1993 through July 31, 1993 shall be transported to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, New Jersey, on an as needed basis from one of the transfer stations set forth in (b)1 and 4 above.

i. All residual ash generated from the operation of the Essex County RRF shall be disposed of by the BCUA consistent with the agreement between the BCUA and Essex County and in compliance with the Essex County RRF facility permit at permitted and approved out-of-State landfill facilities. (Effective May 1, 1991).

ii. Bypass waste and nonprocessible waste generated from the operation of the Essex County RRF shall be disposed of consistent with the agreement between the BCUA and Essex County and in accordance with the provisions of the approved Essex County District Solid Waste Management Plan. (Effective May 1, 1991).

(h) (No change.)

(i) Waste flows within, into and out of the Hackensack Meadowlands District:

1. The Hackensack Meadowlands Development Commission shall accept certain waste flows from Bergen and Hudson Counties as described in (b) above and (j) below.

(j) Waste flows within, into and out of the Hudson County District:

1. All waste types 13, 23, 25, and 27 generated from within the Hudson County municipalities of Bayonne City, East Newark Boro, Guttenberg Town, Harrison Town, Hoboken City, Jersey City, Kearny Town, North Bergen Township, Secaucus Town, Union City, Weehawken Township and West New York town shall be directed to the Hackensack Meadowlands Development Commission Baler facility, facility number 0239C, located in North Arlington, Bergen County, New Jersey for handling prior to transportation to out-of-State permitted disposal facilities in accordance with the laws and regulations of the receiving state. (Effective February 4, 1991).

2. All waste type 10 generated from within the Hudson County municipalities of Bayonne City, East Newark Boro, Guttenberg Town, Harrison Town, Hoboken City, Jersey City, Kearny Town, North Bergen Township, Secaucus Town, Union City, Weehawken Township and West New York Town shall be directed to the Hackensack Meadowlands Development Commission Baler facility, facility number 0239C, located in North Arlington, Bergen County, New Jersey, for baling prior to disposal at the Hackensack Meadowlands Development Commission 1-E landfill, facility number 0907W, located in North Arlington, Bergen County, New Jersey. (Effective February 4, 1991).

3. Upon closure of the HMDC 1-E landfill, all waste type 10 generated from within the Hudson County municipalities of Bayonne City, East Newark Boro, Guttenberg Town, Harrison Town, Hoboken City, Jersey City, Kearny Town, North Bergen Township, Secaucus Town, Union City, Weehawken Township and West New York Town shall be directed to the Hackensack Meadowlands Development Commission Baler facility, facility number 0239C, located in North Arlington, Bergen County, New Jersey for handling prior to transportation to out-of-State permitted disposal facilities in accordance with the laws and regulations of the receiving state. (Effective February 4, 1991).

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

1.-2. (No change.)

3. Up to 100 tons per day of processible solid waste generated within Hunterdon County shall be transported from the Hunterdon County Transfer Station, facility number 1006B, located in Clinton Township, Hunterdon County, New Jersey, to the Warren County Resource Recovery Facility, facility number 2117A, located in Oxford Township, Warren County, New Jersey, through the year 2001. (Effective June 1, 1988).

(l) Waste flows within, into and out of the Mercer County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all Mercer County municipalities shall be directed to the Mercer County Transfer Station, facility number 1102D, located in Ewing Township, Mercer County, New Jersey, for processing prior to disposal at the G.R.O.W.S. landfill in Bucks County, Pennsylvania, in accordance with the laws and regulations of the receiving state. (Effective November 1, 1988).

(m) Waste flows within, into and out of the Middlesex County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all municipalities in Middlesex County shall be disposed of at the Middlesex County Utilities Authority Landfill (Edgeboro), facility number 1204A, located in East Brunswick, Middlesex County, New Jersey. (Effective July 19, 1990).

(n) Waste flows within, into and out of the Monmouth County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all Monmouth County municipalities shall be disposed of at the Monmouth County Reclamation Center Landfill and Shredder Facility, facility numbers 1336F and 1336D, located in Tinton Falls Borough, Monmouth County, New Jersey.

(o) Waste flows within, into and out of the Morris County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipalities of Chester Borough, Chester Township, Dover, Jefferson, Mendham Borough, Mendham Township, Mine Hill, Mount Arlington, Mount Olive, Netcong, Randolph, Rockaway Borough, Rockaway Township, Roxbury, Victory Gardens, Washington, and Wharton shall be directed to the Morris County Transfer Station, facility number 1427F, located in Mount Olive Township, Morris County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

2. All solid waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipalities of Boonton Borough, Boonton Township, Butler, Chatham Borough, Chatham Township, Denville, East Hanover, Florham Park, Hanover, Harding, Kinnelon, Lincoln Park, Madison, Montville, Morris Plains, Morris Township, Morristown, Mountain Lakes, Parsippany-Troy Hills, Passaic, Pequannock, and Riverdale shall be directed to the Morris County Transfer Station, facility number 1429J, located in Parsippany-Troy Hills Township, Morris County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

(p) Waste flows within, into and out of the Ocean County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all Ocean County municipalities shall be disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.

(q) Waste flows within, into and out of the Passaic County District:

1. All solid waste types 10 (except medical wastes), 13 (except large bulky wastes including such items as cable larger than six feet, foam insulation, tires, etc.), 23 (except leaves), 25, and 27 (except dry industrial waste such as plastics, rags, bulk powders, and containers with tar and paint residues, etc.) generated from within the Passaic County municipalities of Haledon, Hawthorne, North Haledon, Passaic City, Prospect Park, and Paterson shall be directed to the Pen Pac, Inc., Fulton Street Transfer Station, facility number 1608H, located in the City of Paterson, Passaic County, New Jersey. Waste received at this facility will be transported to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state. ***(Effective January 23, 1989)***.

2. Upon issuance of all required departmental permits, all solid waste types 10 (except medical wastes), 13 (except large bulky wastes including such items as cable larger than six feet, foam insulation, tires, etc.), 23 (except leaves), 25, and 27 (except dry industrial waste such as plastics, rags, bulk powders, and containers with tar and paint residues, etc.) generated from within the Passaic County municipalities of Bloomingdale, Clifton, Little Falls, Pompton Lakes, Ringwood, Totowa, Wanaque, Wayne, West Milford, and West Paterson shall be directed to the Pen Pac, Inc., Totowa Transfer Station, facility number 1612B, located in Totowa Borough, Passaic County, New Jersey. Waste received at this facility will be transported to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

3. Only solid waste types 10, 13, and 27, which are prohibited from the Fulton Street and Totowa Transfer Stations as indicated in (q)1 and 2 above, generated from all Passaic County municipalities shall be directed to Pen Pac, Inc., Iowa Avenue Transfer Station, facility number 1608A, located in the City of Paterson, Passaic County, New Jersey. Waste received at this facility will be transported to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

(r) Waste flows within, into and out of the Salem County District:

1. All waste types 10, 13, 23, 25 and 27 generated from within the Salem County municipalities of Alloway, Carney's Point, Elmer, Elsinboro, Lower Alloways Creek, Mannington, Oldmans, Pennsville, Penns Grove, Pilesgrove, Pittsgrove, Quinton, Salem City, Upper Pittsgrove and Woodstown, shall be disposed of at the Salem County regional landfill, facility number 1701B, located in Alloway Township, Salem County, New Jersey.

(s) Waste flows from within, into and out of the Somerset County District:

1. All nonputrescible, recyclable (commercial and institutional) waste type 10 and all waste type 27 generated from within the Somerset County municipalities of Bound Brook, Franklin, Manville, Millstone, Montgomery, Raritan, Rocky Hill, Somerville, and South Bound Brook, shall be directed to the Somerset Intermediate Recycling Center Transfer Station, facility number 1808K, located in Franklin Township, Somerset County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

2. All solid waste types 10, 13, 23, 25, and 27 generated from within the Somerset County municipalities of Bedminster, Bernards, Bernardsville, Branchburg, Bridgewater, Far Hills, Green Brook, Hillsborough, North Plainfield, Peapack-Gladstone, Warren, and Watchung, and all solid waste types 10, 13, 23, and 25 generated from within the Somerset County municipalities of Bound Brook, Franklin, Manville, Millstone, Montgomery, Raritan, Rocky Hill, Somerville, and South Bound Brook not directed to the Somerset Intermediate Recycling Center Transfer Station, shall be directed to the Bridgewater Resources, Inc. Transfer Station, facility number 1806A, located in Bridgewater Township, Somerset County, New Jersey, prior to disposal at permitted out-of-state facilities in accordance with the laws and regulations of the receiving state or pursuant to (s)3 below. (Effective January 2, 1988).

3. Up to 1,400 tons per week of processible solid waste generated within Somerset County shall be transported from the Bridgewater Resources, Inc. Transfer Station to the Warren County Resource Recovery Facility, facility number 2117A, located in Oxford Township, Warren County, New Jersey, through the year 2001. (Effective June 30, 1989). From January 1, 2002 through November 30, 2008, Somerset County shall increase the processible waste it directs to the Warren County Resource Recovery Facility to 1,977 tons per week.

(t) (No change.)

(u) Waste flows within, into and out of the Union County District:

1. All solid waste type 10 collected by municipal vehicles and generated from within the Union County municipalities of Summit and New Providence shall be directed to the Summit Transfer Station, facility number 2018A, located in Summit, Union County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

2. All solid waste types 10, 13, and 23 generated from within the Union County municipality of Linden and collected by municipal vehicles shall be disposed of at the Linden Landfill, facility number 2009A, located in Linden, Union County, New Jersey. (Effective January 2, 1988).

3. All solid waste types 10, 13, and 23 formerly delivered by private citizens to the Elizabeth Public Works Convenience Center and all solid waste types 10, 13, and 23 generated from within the Union County municipalities of Elizabeth, Hillside, Roselle, Roselle Park, and Union Township and collected by municipal vehicles or White Brothers Trucking, and all solid waste types 10 and 13 generated by hospitals from within these same Union County municipalities shall be directed to the Ellesor Transfer Station, facility number 2004D, located in Elizabeth, Union County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

4. All solid waste types 10, 13, 23, 25, and 27 generated from within the Union County municipalities of Berkeley Heights, Clark, Cranford, Fanwood, Garwood, Kenilworth, Mountainside, Plainfield, Rahway, Scotch Plains, Springfield, Westfield, and Winfield; all solid waste type 10 generated within the Union County municipalities of New Providence and Summit not directed to the Summit Transfer Station pursuant to (u)1. above; all solid waste type 13, 23, 25, and 27 generated from within the Union County municipalities of New Providence and Summit; all solid waste types 10, 13, and 23 generated from within the Union County municipalities of Elizabeth, Hillside, Roselle, Roselle Park, and Union Township not directed to the Ellesor Transfer Station pursuant to (u)3 above; all solid waste types 25 and 27 generated from within the Union County municipalities of Elizabeth, Hillside, Roselle, Roselle Park, Union

Township and Linden; and all solid waste types 10, 13 and 23 generated within the Union County municipality of Linden not directed to the Linden Landfill pursuant to (u)2 above, shall be directed to the Automated Modular Systems Transfer Station, facility number 2009I, located in Linden, Union County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

5. For the purposes of this rule for Union County, municipal vehicles shall constitute collection vehicles owned or operated by a municipality, or collection vehicles owned or operated by a private entity which operates pursuant to a municipal contract.

*[5.]***6.*** When the Union County resource recovery facility, facility number 2013C, located in Rahway City, Union County, becomes operational, processable non-recyclable solid wastes generated from all Union County municipalities shall be redirected to the energy recovery facility. Ash from the resource recovery facility and all bypass and nonprocessible waste shall be disposed of at the Empire Landfill located in Lackawanna County, Pennsylvania, in accordance with the laws and regulations of the receiving state.

(v) Waste flows within, into and out of the Warren County District:

1. All processible portions of solid waste types 10, 23, and 27 generated from within all Warren County municipalities shall be disposed of at the Warren County Resource Recovery Facility, facility number 2117A, located in Oxford Township, Warren County, New Jersey. (Effective June 1, 1988).

2. All nonprocessible, nonrecyclable portions of solid waste types 10, 23, and 27, all solid waste types 13 and 25 generated from within all Warren County municipalities, and all ash, bypass and nonprocessible waste from the Warren County Resource Recovery Facility shall be disposed of at the Warren County Landfill, facility 2123D, located in White Township, Warren County, New Jersey. (Effective June 1, 1988).

3. Up to 100 tons per day of processible solid waste generated from within Hunterdon County shall be transported from the Hunterdon County Transfer Station, facility number 1006B, located in Clinton Township, Hunterdon County, New Jersey, to the Warren County Resource Recovery Facility through the year 2001. (Effective June 1, 1988).

4. Up to 1,400 tons per week of processible solid waste generated from within Somerset County shall be transported from the Bridgewater Resources Transfer Station, facility number 1806A, located in Bridgewater Township, Somerset County, New Jersey, to the Warren County Resource Recovery Facility through the year 2001. (Effective June 30, 1989). From January 1, 2002 through November 30, 2008, Somerset County shall increase the processible waste it directs to the Warren County Resource Recovery Facility to 1,977 tons per week.

(w) The dates set forth in parentheses in the preceeding subsections indicate when the emergency redirection orders originally implementing the subsections provisions became effective.

(x) If any section, subsection, provision, clause, or portion of this subchapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

HUMAN SERVICES

(a)

DIVISION OF FAMILY DEVELOPMENT

Home Energy Assistance Handbook Eligibility Requirements; Income Eligibility Guidelines

Adopted Concurrent Amendments: N.J.A.C. 10:89-2.3, 3.1, 3.4 and 4.1

Adopted Concurrent Repeal and New Rule: N.J.A.C. 10:89-3.6

Proposed: December 21, 1992 at 24 N.J.R. 4593(a).
Adopted: January 26, 1993 by William Waldman, Acting Commissioner, Department of Human Services.
Filed: January 28, 1993 as R.1993 d.97, **without change.**

Authority: N.J.S.A. 30:4B-2.

Effective Date: January 28, 1993.
Expiration Date: May 24, 1995.

Summary of Public Comments and Agency Responses:

Comments were received from Richard M. Stokes from the Atlantic Electric Company.

COMMENT: The proposed amendment to N.J.A.C. 10:89-3.1(a)2, concerning the two-party check, could increase the possibility of abuses.

RESPONSE: The purpose of the proposed amendment is to try and lessen the abuses of the single party check. This Fiscal Year 1993 initiative was prompted by comments received at the Joint Budget Appropriations Committee hearing, which serves as the public hearing for the Home Energy Program. Several legislators, county welfare agencies and various other groups requested that we adopt the two party generic check system into various phases of the Low Income Home Energy Assistance Program. Inasmuch as the commenter did not specify how the two-party check system would create additional abuses, the Department is unable to specifically respond to his concern.

COMMENT: At N.J.A.C. 10:89-3.4(a)8, the second sentence should be modified to read: "Electric and gas utility emergencies will be available until April 30."

RESPONSE: Inasmuch as the word "utility" is used throughout N.J.A.C. 10:89 and has not created any problems, the Department is retaining the language as proposed.

Full text of the adoption follows.

10:89-2.3 Income eligibility

(a)-(f) (No change.)

(g) Gross Income Eligibility Limits for Home Energy Assistance:

Household Size	Monthly Allowable Gross Income Limit
1	$ 851
2	1149
3	1447
4	1745
5	2043
6	2341
7	2639
8	2937
9	3235
10	3533
Each Additional Member	+298

10:89-3.1 Automatic payments to certain households

(a) Recipient households:

1. (No change.)

2. Eligible households which heat by electricity or natural gas will receive the automatic payment(s) in the form of a two-party check, payable to the head of household and the generic copayee "your heating utility." Households which heat by oil will receive the automatic payment(s) in the form of a two-party check payable to the

head of household and the generic copayee "Your Heating Supplier."

3. (No change.)

10:89-3.4 Emergency energy assistance

(a) Emergency energy assistance is available to HEA eligible households and is subject to the following conditions:

1.-7. (No change.)

8. Emergency assistance will be authorized only during the months of December, January, February, March and April. Emergency assistance will be available for all fuel sources except electric and gas until March 15. Utility and gas emergencies will be available until April 30.

(b)-(g) (No change.)

10:89-3.6 Payment schedule

(a) Schedule A: Electricity, Natural Gas:

Household Size	1 or 2		3 to 5		6 or more	
Region Designation	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
$0-$667.00	376	326	502	436	602	524
$668.00-$1084.00	314	274	418	364	502	436
$1085.00-$1501.00	252	216	334	290	402	350
$1502.00-$1918.00			250	216	302	260
$1919.00-$2335.00			166	144	200	174
Over $2335.00					100	86

"Blue" means Sussex and Warren counties.
"Red" means all other counties.

(b) Schedule B: Fuel Oil, Kerosene:

Household Size	1 or 2		3 to 5		6 or more	
Region Designation	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
$0-$667.00	354	308	474	412	568	494
$668.00-$1084.00	294	256	394	344	474	412
$1085.00-$1501.00	236	206	314	276	380	330
$1502.00-$1918.00			236	206	284	246
$1919.00-$2335.00			158	136	189	164
Over $2335.00					94	80

"Blue" means Sussex and Warren counties.
"Red" means all other counties.

(c) Schedule C: All other fuel and renters:

Household Size	1 or 2		3 to 5		6 or more	
Region Designation	Blue	Red	Blue	Red	Blue	Red
Monthly Income						
$0-$667.00	232	202	310	268	372	324
$668.00-$1084.00	192	168	256	224	310	268
$1085.00-$1501.00	156	136	206	178	246	214
$1502.00-$1918.00			154	134	186	160
$1919.00-$2335.00			102	90	124	108
Over $2335.00					60	52

"Blue" means Sussex and Warren counties.
"Red" means all other counties.

10:89-4.1 Opportunity and decision to apply

(a) Any individual(s) who believes he or she or his or her household is eligible for HEA must be given the opportunity to apply without delay. Heating and cooling assistance applications shall be accepted from November 1 through the end of February of each year. Applicants will be informed about eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined. Upon completion of the application process, the application shall be transmitted to DFD in accordance with (e) below.

1. (No change.)

(b)-(j) (No change.)

LAW AND PUBLIC SAFETY

(a)

MOTOR VEHICLE FRANCHISE COMMITTEE

Procedural Rules
Hearing Costs; Deposit; Sanctions
Adopted New Rule: N.J.A.C. 13:21-19.9

Proposed: September 8, 1992 at 24 N.J.R. 3015(c).
Adopted: January 25, 1993 by the Motor Vehicle Franchise Committee, Stratton C. Lee, Jr., Chairman.
Filed: February 2, 1993 as R.1993 d.103, **without change**.

Authority: N.J.S.A. 56:10-25.

Effective Date: March 1, 1993.
Expiration Date: December 13, 1995.

Summary of Public Comments and Agency Responses:

Opportunity to be heard with regard to the proposal was invited via notice published in the previously cited edition of the *New Jersey Register*. A media advisory was also prepared by the Motor Vehicle Franchise Committee. **No comments were received.** The record of the proceeding is located at the Office of the Chairman, Motor Vehicle Franchise Committee, 225 E. State Street, Trenton, New Jersey 08666, and may be inspected by making an appointment with the Secretary to the Chairman.

Full text of the adoption follows.

13:21-19.9 Hearing costs; deposit; sanctions

(a) Administrative hearing costs shall be equally apportioned among all parties to the hearing, including intervenors. Each party shall deposit with the Committee $1,500 to cover the costs of the hearing. The party making the deposit shall give notice thereof to all other parties. The deposit shall be paid to the Chairman at the time of the filing with the Committee of a protest letter or a responsive pleading or, in the case of an intervenor, with the filing of a motion for leave to intervene pursuant to N.J.A.C. 1:1-16. The deposit shall be made by certified check or money order payable to the Motor Vehicle Franchise Committee.

(b) That portion of the money on deposit that exceeds the total hearing costs as determined by the Office of Administrative Law pursuant to N.J.S.A. 56:10-24 shall be returned to the parties. The parties shall pay to the Committee their portion of the balance of the total hearing costs as determined by the Office of Administrative Law pursuant to N.J.S.A. 56:10-24 when said hearing costs exceed the amount on deposit with the Chairman. If the Office of Administrative Law determines during the course of the hearing that the costs of the hearing will exceed the amount on deposit with the Committee, the parties shall be required, on notice, to deposit with the Committee additional monies to cover the costs of completing the hearing.

(c) If a party fails to deposit monies as required in (a) or (b) above, the Committee may decline to transmit the case and make such orders in regards to the failure as are just, including the following:

1. An order dismissing the party's protest; or

2. An order striking the party's responsive pleading and affirming the adverse party's protest.

PUBLIC UTILITIES

(a)

BOARD OF REGULATORY COMMISSIONERS

Administrative Orders

Adopted New Rules: N.J.A.C. 14:11-1 through 6 and 7.1 through 7.5

Proposed: May 4, 1992 at 24 N.J.R. 1684(b).
Adopted: January 21, 1993 by the Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman, and Jeremiah F. O'Connor and Carmen J. Armenti, Commissioners.
Filed: January 25, 1993 as R.1993 d.95, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) **and with proposed N.J.A.C. 14:11-8 not adopted.**
Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-14, 48:3-9, 48:10-2 et seq. and 48:17-14.1.
BRC Docket Number: AX92020133.
Effective Date: March 1, 1993.
Expiration Date: March 1, 1998.

Summary of Public Comments and Agency Responses:

Pursuant to Executive Order No. 66(1978), the provisions of N.J.A.C. 14:11, Administrative Orders, expired on January 27, 1992. In the May 4, 1992 Register, the Board proposed rules that were identical to the expired rules contained in N.J.A.C. 14:11 except for those changes which were specifically identified.

Comments were received from Richard Fryling, Jr., Esq., General Solicitor, Public Service Electric and Gas Company (PSE&G), George Finkelstein, Esq., General Attorney, AT&T and Charles F. Morgan, Manager of Rates, Atlantic Electric.

Subsequent to the publication for comment of the proposed rules in the May 4, 1992 Register, the Board's Staff recommended certain modifications to subchapter 8 which deals with natural gas. The Board is of the opinion that several of these changes differ sufficiently from the original proposal to require additional notice and comment. Accordingly, it is the Board's intention to repropose subchapter 8 as new rules (see the reproposal published elsewhere in this issue of the New Jersey Register).

COMMENT: AT&T has recommended revisions to two rules to reflect recent statutory changes concerning the regulation of interexchange telecommunications carriers in New Jersey. First, AT&T recommends that N.J.A.C. 14:11-1.12(a), pertaining to changes in depreciation, be amended by adding language to the effect that interexchange telecommunications carriers, as described in the Telecommunications Act of 1992, P.L. 1991, c.428 (Act), are exempted from the provisions of the rule. Second, AT&T argues that since the Act allows that the Board "may require interexchange telecommunications carriers to file and maintain tariffs for competitive telecommunications services," it would be more appropriate to state in N.J.A.C. 14:11-7.2(b) that "tariffs **properly** filed with the Board and now in effect shall continue in force until legally changed," rather than the current "tariffs **legally** filed," because such tariffs do not need to be approved by the Board.

RESPONSE: First, the Board notes that the Act provides, in part, that the Board shall not regulate, fix or prescribe rates of competitive services. Therefore, it is the opinion of the Board that it is competitive services that are exempted from regulation and not the interexchange telecommunications carriers as it is conceivable, as permitted by the Act, that an interexchange carrier service can be deemed to be non-competitive. Accordingly, N.J.A.C. 14:11-1.12(a) will be amended to reflect that competitive services as described in the Act will be exempt from the rule.

Second, with regard to N.J.A.C. 14:11-7.2(b), the Board further notes that the amendment proposed by AT&T would affect all utilities. Tariffs required by the Board to be filed by electric, gas, water, sewer and local telephone companies will continue to need Board approval. In addition, the Interim Order for competitive services, issued by the Board on February 27, 1992, in Docket No. TX92020201, and proposed new rules for competitive telecommunications services (see 24 N.J.R. 1868(a)) require interexchange telecommunications carriers to file tariffs. Since tariffs are currently required and would be continued to be required under the proposed rules, such tariffs must be considered legally filed because they fulfill a condition of offering initiated by the Board.

COMMENT: Among the criteria defining what constitutes a "reportable accident" that must be submitted to the Board is N.J.A.C. 14:11-5.4(b)4 which is "[D]amage to the property of others amounting to more than $1,000." Both PSE&G and Atlantic Electric recommend that this amount be substantially increased. PSE&G suggests that the amount be raised to $50,000 to be consistent with the Code of Federal Regulations, Title 49, Part 191.3(1)(ii). Atlantic Electric states its belief that the existing criteria is unrealistic in terms of the current economic environment and suggests that the amount be revised to reporting any damage to property of others only in cases where such damage is in excess of insured amounts.

RESPONSE: As this rule applies to all utilities and not merely to electric and gas utilities, the Board is of the opinion that an increase in the amount necessary to require the filing of an accident report will not allow it to properly monitor public utilities in order to ensure the provision of safe, adequate and proper service.

Full text of the expired rules adopted as new rules, can be found in the New Jersey Administrative Code at N.J.A.C. 14:11-1 through 6 and 7.1 through 7.5.

Full text of the adopted amendments follows (additions to the proposal indicated in boldface with asterisks ***thus***):

14:11-1.5 Grants of franchise and privileges to public utilities

(a) Under the terms of N.J.S.A. 48:2-14, a privilege or franchise granted by a municipality is not effective until approved by the Board.

(b) Because such approval is required, the Board indicates in advance its opinion that, in general, grants which are limited to a term of years should contain provisions:

1.-3. (No change.)

14:11-1.6 Proposed security issues

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

(c) Various cases involving the approval of proposed security issues have been acted upon by the Board under the law. An analysis of many of these cases discloses certain general principles upon which these applications should be determined. These general principles will control unless and until good reason can be shown for departing therefrom. For the information of public utilities petitioning or intending to petition for the approval of security issues, certain of these general principles are set forth as follows:

1.-7. (No change.)

8. The declaration of dividends in the form of stock by public utilities is permissible only in such cases as this Board with or without hearing may authorize. To declare such a stock dividend without first obtaining the approval of the Board is a misdemeanor, and all such securities issued without the Board's approval are illegal. In general, the Board will approve the issue of stock dividends by public utilities only after hearing or investigation, and after being satisfied that as the outcome of such issues the property and other net assets of the company over and above other liabilities resting thereon shall be equal to the par or stated value of the total stock outstanding after such stock dividends have been made. Adequate depreciation reserves and surplus must also be provided by a public utility petitioning to issue a stock dividend, and a careful inquiry will be made by the Board into the methods by which were accumulated assets or property against which the additional stock dividend is to be justified. In addition, the petition must contain a reasonably detailed inventory of its property used or useful, or held for future use and priced at original cost, estimated if not known.

9. For the information of all public utilities intending to petition this Board for the approval of proposed security issues, reference should be made to the Board's rules. The requirements of this Order and the rules as to the form and content of petitions should be carefully observed. Petitions should be filed sufficiently in advance of the time at which approval of securities is desired to insure the Board reasonable time to make the relevant inquiries. The larger the proposed issue, and the more complex the conditions surrounding it, the earlier should the petition be filed with the Board. The

petitions will be acted upon hereafter in the order of their filing as indicated by the dating stamp of the Secretary's office. Petitions essentially defective in form or content will not be listed for consideration until properly amended. Where such petitions involve the necessity of inventorying property or checking accounts, the public utility applying for such authorization is requested to give such assistance as is within its power by putting its engineers, managers, and accountants in touch with the Board's engineers or other Board authorized representatives. Where the annual reports required of public utilities have not been promptly filed as by the rules of this Board, or where such accounts, when filed, disclose failure upon the part of the public utility to comply with the requirements of law or with the terms upon which previous security issues of said utilities have been approved by this Board, any subsequent petition for the approval of securities by a public utility shown to be in default may be postponed until the requisite and legal compliance with the law and the lawful rules of this Board has been made by said public utility.

14:11-1.12 Changes in rates of depreciation

(a) No public utility shall make any changes or variations in the rates of depreciation until such action is approved by the Board. ***Competitive services, as described in the Telecommunications Act of 1992, P.L. 1991, c.428, are exempt from this provision.***

(b) (No change.)

14:11-1.14 Telegraph company registration

(a) Every telegraph company operating within New Jersey shall register with the Board the names and addresses of all lessees and users of tickers, teleprinters and other terminal equipment located within the State of New Jersey and used in connection with the following classes of telegraph service:

1.-4. (No change.)

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

14:11-5.1 Scope

Unless otherwise ordered or permitted by the Board, the instructions contained in this subchapter shall apply to the reporting of accidents.

14:11-5.7 Accident reports use

Accident reports may be used by the Board in determining what safety practices should be recommended. In a proceeding before the Board, accident reports shall be evidential only at the discretion of the Board.

14:11-7.2 General

(a) (No change.)

(b) All tariffs legally filed with the Board and now in effect shall continue in force until legally changed. All tariffs and amendments thereto, hereafter filed, shall conform to this subchapter. The Board may direct the reissue or modification, as to form, of any tariff or any part thereof at any time.

(c) All new tariffs submitted to the Board shall be filed to conform with the format and language as outlined in N.J.A.C. 14:11-7.3 and 7.4.

14:11-7.3 Arrangement and form of filed schedules

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

(c) Each tariff shall consist of:

1.-4. (No change.)

5. The set of rate schedules.

i. All rates which a given kind of service, such as electric, gas, and so forth, is available throughout the service area of a utility shall be included in a single tariff. General exchange, local exchange and toll service, and so forth, may be regarded as a separate kind of utility service for the purposes of this provision. The rates for each separate and distinct class of service rendered by a utility shall be filed as a separate schedule and shall whenever feasible and practical begin on a separate sheet.

(d) (No change.)

(e) Each sheet of every tariff shall bear a sheet number, or section and sheet number, which shall be placed in the upper right-hand corner of the sheet in a position opposite the name of the company, except that, where separate sheets are filed for each of a given number of specified areas, designation by area may be used in lieu of a sheet number. Upon the first filing of the sheet it shall be designated as Original Sheet No. _____ , or Original Sheet where no number is required. This same sheet number, or section and sheet number, shall appear on all subsequent issues of the sheet, and the revisions of the sheet shall be numbered, as follows:

1.-6. (No change.)

7. When tariffs are to be revised in conformity with an order or authorization of the Board, the changes made pursuant thereto shall be established by supplements to or reissues of the tariff or tariff sheets affected, filed and posted as provided in this subchapter. Each page containing rates or provisions established pursuant to such order or authorization shall bear the following notation:

"Filed pursuant to (here insert nature of authorization including docket number if any) of the Board of Regulatory Commissioners, State of New Jersey, dated _____ ."

(f) (No change.)

(g) The table of contents of each tariff, except tariffs using the section or area designation method, shall contain a complete and accurate list of contents by schedule number, description of class of service, and sheet numbers. Whenever a new schedule of rates or new sheet not already listed in the table of contents is added, the table of contents shall be revised to show the title of the new sheet, the schedule number and sheet number.

(h)-(j) (No change.)

SUBCHAPTER 8. *[NATURAL GAS]* ***(RESERVED)***

(a)

BOARD OF REGULATORY COMMISSIONS

Demand Side Management Resource Plan

Adopted Amendments: N.J.A.C. 14:12-1.2, 3.6, 4.1 and 4.3

Adopted Recodifications: N.J.A.C. 14:12-4.2 to 4.6 and 4.3 to 4.2

Adopted New Rule: N.J.A.C. 14:12-4.3

Adopted Repeal and New Rule: N.J.A.C. 14:12-5.3

Proposed: August 17, 1992 at 24 N.J.R. 2804(a).

Adopted: January 21, 1993 by the Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman, and Jeremiah F. O'Connor and Carmen J. Armenti, Commissioners.

Filed: January 25, 1993 as R.1993 d.96, **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. 48:2-13, 52:27F-11(g) and (q) and 52:27F-18.

BRC Docket Number: AX92020133.

Effective Date: March 1, 1993.

Expiration Date: November 4, 1996.

Summary of Public Comments and Agency Responses:

In response to this proposal, comments were received from:

James J. Lees, Vice President
Marketing and Rates
Altantic Electric

Diana Johnston, Acting Director
Department of the Public Advocate
Division of Rate Counsel

Eugene J. McCarthy, Vice President
Customer Service & Marketing
Jersey Central Power & Light Company

S. Lynn Sutcliff
Board Member
NAESCO

Shawn P. Leyden, Associate General Solicitor
Public Service Electric & Gas Company

David A. Kindlick, Vice President
Revenue Requirements
South Jersey Gas Company

COMMENT 1: Elimination of excessive utility earnings is an inappropriate goal given the overall objective of the rule and should be removed from the proposal. If found to be appropriate, the proposal should at least include language that also helps to eliminate insufficient utility earnings. The Standard Offer approach, coupled with the Board's economic regulation of the balance of a utility's activity, makes the recovery of lost revenues a transaction which needs no further complication in the form of a linkage to earnings. An earnings cap on recovery of lost revenues should be rejected. There will be an overall positive impact on ratepayers, which will result from an aggressive DSM program fully supported by the utilities.

RESPONSE 1: The Board concurs in part and wishes to clarify. The goal of the proposal is not to eliminate excessive earnings, but, rather, to allow a utility to retain earnings from DSM investments and to prevent exacerbation of overall overearnings by virtue of recovery of lost DSM revenues under such circumstances.

COMMENT 2: The proposed incentive rules, in attempting to reconcile the financial interests of utility shareholders with New Jersey's energy policies, are clearly in the long-term best interests of the State. They produce an overall package of regulatory reforms that provide an appropriate and necessary framework for achieving that consistency and establish leadership in fostering cost effective DSM.

RESPONSE 2: The Board concurs. The proposed rules are intended to balance the Board's desire to provide utilities with incentives to invest in DSM with its desire to keep rates as low as reasonable.

COMMENT 3: The rules proposed should be adopted.

RESPONSE 3: The Board concurs with modifications as discussed herein. As stated above, the proposed rules are intended to balance the Board's desire to provide utilities with incentives to invest in DSM with its desire to keep rates as low as reasonable.

COMMENT 4: The proposal must be given an opportunity to operate. Some would send signals to the utility through information requests and other actions that the incentives will constantly be under attack. The Board should resist any request for such actions which could have such a chilling effect, particularly regarding earnings with respect to the Public Service Conservation Resource Corporation (PSCRC), which has opted to support the DSM industry rather than compete directly with it. Any support by the Board of actions by others to gain information relating to losses or gains for the purpose of limiting gains could cause PSCRC to be less enthusiastic about supporting the DSM industry in the State.

RESPONSE 4: Access to the books and records of PSCRC is not addressed either in the rules or in the proposed modifications to the rules. This issue was discussed as part of the Board's review of Public Service Electric & Gas Company's (PSE&G) DSM Plan and will be addressed in the Board's order adopting the Stipulation of Settlement in Docket No. EE92020105. Gathering information for the purpose of limiting gains is inconsistent with the proposal as presently constituted, since they provide for no cap on incentives earned from DSM at this time.

COMMENT 5: The BRC's incentive regulations are on the cutting edge of DSM development and are sufficiently flexible to accommodate changes should they be necessary in the future.

RESPONSE 5: The Board concurs. It is important to note that the Board considers these programs to be experimental and therefore will be carefully tracking their results.

COMMENT 6: The proposed rules should include an explicit statement that makes filing for fixed cost revenue recovery an option.

RESPONSE 6: The proposed rules state that utilities may propose a mechanism for recovering lost revenues. They do not require it.

COMMENT 7: Allowing recovery of lost revenues is crucial to removing existing disincentives to aggressive DSM efforts.

RESPONSE 7: The Board concurs that lost revenues can be a disincentive for utilities to pursue DSM as is evidenced by the adoption of the proposed rules and amendments.

COMMENT 8: The definition of fixed cost revenue erosion does not capture the actual revenues associated with a particular DSM program. Extending this definition to the calculation of the payment by ratepayers to the utility of revenues allegedly lost due to DSM is too imprecise for this use. Under the modifications as proposed, lost revenues would be imputed which were not actually lost. If the actual kwh avoided is less than the aggregate fixed cost revenue erosion per kwh, then ratepayers are paying too much for lost revenues.

RESPONSE 8: The Board concurs that the definition of fixed cost revenue erosion does not capture the actual lost revenues associated with a particular DSM program but instead represents an average number which could be either higher or lower than actual lost revenues in any individual application. The Board believes a more precise method of tracking is appropriate for the incurrence and the recovery of lost revenues provided metering technology can record DSM demand and energy savings during different time periods at a reasonable cost.

This issue was raised in the review of proposed utility DSM plans. The Board believes continued investigation of this issue and possible future refinements may be required, particularly with regard to the calculation of lost demand revenues.

The Board believes that, at this time, this issue should be addressed as part of the review of individual utility DSM plans and that no further modifications to the proposed rules are required. However, the Board believes that the utilities should continue to explore more precise methods for calculating actual lost energy and demand revenues on a tariff specific basis.

COMMENT 9: The risk of retrospective return on equity (ROE) analysis will detract from a utility's willingness to pursue aggressive DSM programs that if successful will result in lost base revenues and their contribution to the utility's fixed costs. Contriving a link between return on equity and recovery of lost revenues is unnecessary.

RESPONSE 9: The proposed rules properly balance the Board's desire to provide incentives for utilities to invest in DSM with the Board's desire to keep rates as low as reasonable. It is also important to emphasize that the analysis and true-up of lost revenues is performed retrospectively, and the review of overall utility performance during this same period is entirely appropriate.

COMMENT 10: If the exclusion of fixed cost revenue erosion means that an accounting adjustment will be made that will artificially adjust net income upward in the ROE calculation, the utility's actual ROE will be overstated and the real financial need for fixed cost revenue erosion recovery will be understated. The actual ROE without DSM incentive earnings should be used for considering whether there is a need for revenue recovery.

RESPONSE 10: The exclusion of fixed cost revenue erosion neither intends or implies that an accounting adjustment will be made to adjust net income upward. The intent of the proposed rule is to specifically exclude fixed cost revenue erosion and the incentives (N.J.A.C. 14:12-4.2(b)1i and ii) collected by the utility from its calculation of ROE. Essentially, actually achieved ROE, netting out DSM incentives and recovery of the prior period's lost revenues, will be the yardstick.

COMMENT 11: The proposal in N.J.A.C. 14:12-4.2(b)1iii allows a utility to propose other adjustments to the ROE. Recognition of the appropriateness of adjustments in order to prevent financial harm to shareholders by the Board is essential to move forward with implementation of its DSM Resource Plan.

RESPONSE 11: The Board concurs as is reflected in N.J.A.C. 14:12-4.2(b)1iii.

COMMENT 12: If the Board determines that there should be some degree of overall ROE surveillance co-mingled with the lost revenue recovery under DSM Incentive Programs, then the following issues ought to be addressed: (i) any ROE analysis must recognize the full life cycle of a base rate increase; (ii) revenues and earnings experienced in any given year must be adjusted for abnormal weather conditions, economic activity, and any accounting or other non-recurring adjustments to the utility's revenues, earnings or book equity during that year, which may distort the ROE analysis; (iii) the proposed rule violates the legal prohibition of retroactive ratemaking; (iv) any single year ROE test is unfair and inappropriate to eliminate all future recovery of the full amount of lost revenue that a utility has in fact experienced in that year as a result of successful DSM programs; (v) lost revenue recovery should be carried over or deferred by the utility to subsequent DSM years during the same rate cycle. This would allow the utility to be made whole over time for the revenue actually lost, and would thereby potentially delay the need for the utility to file for a new base rate increase prematurely.

RESPONSE 12: (i) The Board believes that the ROE analysis should be for the same time period for which a utility is requesting recovery of lost revenues.

(ii) With regard to the explicit adjustments to ROE mentioned, the proposed rule provides that a utility may propose other adjustments for consideration by the Board on a case by case basis.

(iii) The proposed rule does not constitute retroactive ratemaking. Lost revenues are recoverable for any time period a utility is not

overearning pursuant to the definitions in the proposed rule. The proposed rule is intended to function in a manner similar to the Levelized Energy Adjustment Clause (LEAC) and the Board's Nuclear Performance Standards, N.J.A.C. 14:5A. That is, for a given cycle, a utility will forecast ROE and resultant lost revenues which it believes it will be entitled to recover much like it now forecasts fuel costs, nuclear capacity factors and either penalties or rewards to be included in rates. Then, after the fact, it will calculate actual ROE and actual lost revenues which it is entitled to and true-up with what was included in rates on a forecasted basis.

(iv) The proposed rule does not eliminate all future recovery of lost revenue due to DSM programs implemented in that year. The rule is intended to apply only to lost revenues for any given cycle. It is not intended to apply to future recovery of programs implemented during a cycle. For example, if in year one a utility implemented DSM programs which resulted in lost revenues, and the utility earned in excess of 100 basis points of its allowed ROE, it would not recover lost revenues for that year. However, if in year two a utility earned below 50 basis points above its allowed ROE, it would be allowed recovery of lost revenues in year two from the DSM programs implemented during that year and the previous year, to the extent such revenue losses continue to not be reflected in the most recent base rate case test year.

It is anticipated that utilities will request recovery of lost revenues concurrent with LEAC/Levelized Gas Adjustment Clause (LGAC) filings. Therefore, a cycle would be equal to the LEAC/LGAC cycle.

(v) The Board does not believe it is appropriate to defer the recovery of lost revenues to subsequent DSM years. The intent is to allow the recovery of lost revenues during a particular period only when a utility is earning less than 100 basis points above its allowed ROE during that same period, and deferring recovery would run counter to this objective.

COMMENT 13: The explicit assurance provided in the proposed rules that earnings from DSM will not be included in determining a utility's revenue requirements is necessary for a utility to be willing to subject shareholder funds to the risks inherent in investing in DSM opportunities. An unregulated opportunity to earn a fair profit based strictly on performance is the best incentive for an efficient organization.

RESPONSE 13: The Board has provided this assurance in N.J.A.C. 14:12-4.3(a).

COMMENT 14: The bandwidth provided in the proposed rules is essential to support of this provision of the proposed rules. Without a bandwidth, the utility could be financially penalized as a result of successful DSM. A bandwidth also recognizes that the rate setting process is an exact science. The selection of an established return on equity is generally a selection between several point values sponsored by several witnesses in a rate proceeding. The entire process recognizes that the value being set is a point within a range. The reasonable range is being selected, not the point value. Therefore, measurement of achieved returns must look to the range, not to the point value. In addition, the use of a bandwidth is a simple, straightforward approach which gives an incentive for a utility to continue to seek efficiency gains in its business.

RESPONSE 14: The Board believes that the proposed bandwidth properly balances the previously stated goals of the Board.

COMMENT 15: Using a 13 month average balance rather than an end of year balance for the calculation of ROE biases the ROE upward and makes the earnings test for lost revenue recovery unduly difficult for the utility to pass. The end of year common equity balance should be used in the calculation rather than a 13 month average since rates are set using an end of test year capital structure. Further inconsistency is produced by using a 13 month average balance rather than a period end balance.

RESPONSE 15: The use of a 13 month average balance rather than a period end balance more accurately reflects the utility's actual earnings during the time period for which it is requesting lost revenues. A period end balance is merely a snapshot at a particular moment in time, whereas the 13 month average balance looks at the average for the 12 month period consistent with the period over which utility income is measured.

COMMENT 16: N.J.A.C. 14:12-4.2(b)1 should be clarified to indicate that it is the utility's net income after preferred dividends which is divided by the equity balances to calculate the returns.

RESPONSE 16: The term net income, as used by the Board, has been generally understood to mean income after preferred dividends have been distributed. Therefore, the Board concurs with the comment and will so modify the term used in N.J.A.C. 14:12-4.2(b)1.

COMMENT 17: There is agreement with the Board that no retrospective earnings cap is required at this time for DSM incentives. The impact on overall earnings will likely be minor and the Board has sufficient control over the level of incentives.

RESPONSE 17: The Board, by virtue of its prior approval of DSM plans, including the establishment of standard offer prices and shared savings percentages, believes it already has sufficient regulatory oversight to protect against overearnings, which arise from DSM incentives.

COMMENT 18: There is no reason to permit unlimited profits from DSM any more than there is a reason to permit unlimited profits from other utility activities. A limit on excessive utility earnings from DSM programs would protect ratepayers but not hurt utilities or the implementation of DSM. The Board has failed to address the issue of an appropriate level of DSM rate of return in the proposed rules. Allowing utilities to earn unlimited profits is inconsistent with the Board's mandate to protect the public. The earnings from DSM should not be permitted to exceed the Board determined allowed rate of return for each utility. Adequate controls do not already exist. Under standard offer plans, a utility is not required to submit information on company spending levels or information on expected incentives and none has been provided. It is not true that the board will set the level of incentives based on estimates of costs and benefits for a standard offer.

RESPONSE 18: For shared savings programs, the Board reviews programs, program costs, budgets, anticipated savings and sets the percentage of savings a utility is allowed to retain as an incentive. For standard offer programs, the Board sets the standard offer price, contract terms and conditions and block size. On that basis, the Board predetermines both the price to be paid for delivered savings and the block or size of the market.

The Board believes this represents an adequate level of review to protect against unreasonable profits. Further, the standard offer approach represents a novel, market based approach to delivering DSM which the Board has repeatedly stated is experimental. The Board will carefully monitor the standard offer approach and compare its results to others to determine if it is an appropriate delivery mechanism for DSM. Finally, an absolute cap on DSM earnings at the overall allowed utility rate of return is not consistent with the risk profile of the incentive structure.

COMMENT 19: There is no support for the statement that the impact of the DSM incentives on overall earnings will be minor.

RESPONSE 19: Proposed DSM budgets filed in February 1992, continue to represent a small portion (less than two percent) of utility revenues. As such, the present scope and potential earnings are minor compared to overall earnings. This relationship should continue to be carefully monitored.

COMMENT 20: It makes no sense to cap incentives which, by reason of the way the programs have been designed to assure cost-effectiveness and measurement and verification over time, are producing net benefits to ratepayers.

RESPONSE 20: The Board concurs that it has sufficient oversight to not warrant a cap on earnings at this time.

COMMENT 21: The ratepayers should not be asked to pay any lost revenues to a utility to the extent that such payment would permit the utility to earn in excess of its allowed rate of return on equity. The purpose of the lost revenues erosion provision in the proposed rules should only be to ensure that a utility is not made worse off as a result of successful DSM, and not to make it better off. The proposed changes to the revenue adjustment mechanism will result in ratepayers significantly overcompensating utilities under certain circumstances.

RESPONSE 21: The proposed rules including the bandwidth around ROE properly balances the Board's desire to provide incentives for utilities to invest in DSM with the Board's desire to keep rates as low as reasonable. The fairly narrow band width is intended to avoid exacerbating overearnings.

COMMENT 22: The cap being proposed should be tested and the Board should monitor the effect of the cap to insure it does not create any disincentive to rapid and extensive DSM efforts.

RESPONSE 22: The Board views the rules as experimental in nature and will be closely monitoring all effects.

COMMENT 23: Evidentiary hearings are not required as a matter of law in all instances and can be burdensome and result in delays which could hinder the development of cost effective DSM programs. PSE&G does not read the proposed regulations to require an evidentiary hearing as a matter of right, but rather that consistent with well established law, the Board will make a determination based on the nature of the issue in dispute.

RESPONSE 23: The Board concurs that the need for hearings should be assessed on a case by case basis. However, the need for evidentiary hearings to resolve disputes cannot be ruled out. The Board will make the determination of whether a matter is contested consistent with the Administrative Procedure Act. N.J.S.A. 52:14B-1.

COMMENT 24: Rate Counsel supports the public notice and hearing procedures in the proposed rule.

RESPONSE 24: The Board believes that the public notice and hearing provisions at N.J.A.C. 14:12-5.3 clarify the roles of interested parties and enhance the DSM plan review process.

COMMENT 25: It is inappropriate to exclude programs implemented by third parties from the oversight of the Board's verification contractor. The Board should verify installation of measures from all DSM measures implemented pursuant to the DSM rules regardless of who implements them.

RESPONSE 25: Utilities have historically been responsible for verifying delivery from third party supply side projects and savings from both utility and third party DSM programs. The Board typically, in a fuel adjustment or base rate case, reviews the savings from both utility and third party DSM projects. The proposed rules now provide utilities with an incentive to invest in DSM and the incentive is based on delivered savings. On that basis, the Board believes it is now appropriate to require an independent party to review the savings on which a utility is earning an incentive. However, the utility should continue to verify savings from third parties where no utility incentive is involved subject to continued review and oversight by the Board and other interested parties in whichever proceeding the utility is requesting recovery of DSM costs.

Summary of Agency-Initiated Changes:

For purposes of clarification of the original intent of the rule, a minor recodification and organization is being carried out upon adoption at N.J.A.C. 14:12-4.1(b). The intention is that reconciliation take place of the difference between (1) the actual program costs plus incentives or disincentives or standard offer payments plus fixed cost revenue erosion and (2) the level of expenditures recovered in rates for the most recent annual period.

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

14:12-1.2 Definitions

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

...

"Fixed cost revenue erosion" means the reduction in contribution towards a utility's fixed costs resulting from a reduction in energy usage or billing demand which results from a DSM Program. This figure is determined on a per unit basis by dividing total test year retail revenues minus the sum of test year:

1.-3. (No change.)

...

14:12-3.6 Measurement plan

(a)-(f) (No change.)

(g) Each utility shall fund the procurement of a contractor to verify installation of measures and delivery of savings from DSM Programs implemented by the utility. Said contractor shall be selected by and report directly to the Board.

14:12-4.1 Cost Recovery Mechanism

(a) A Demand Side Management Cost Recovery Mechanism proposal shall be filed, as part of the DSM plan, by each electric and gas utility to permit the timely recovery of:

1. Actual program costs plus incentives or disincentives or standard offer payments; and

2. Fixed cost revenue erosion.

(b) The DSM Cost Recovery Mechanism shall be a deferred accounting mechanism which shall be adjusted on an annual basis or some other period concurrent with implementation of each utility's fuel adjustment clause to reconcile the difference between:

1. Actual program costs plus incentives or disincentives or standard offer payments*[;]* plus *[2. Fixed]* ***fixed*** cost revenue erosion***;*** and *[the]*

2. The level of expenditures recovered in rates for the most recent annual period.

(c) The Cost Recovery Mechanism shall be limited to:

1. Actual program costs plus incentives or disincentives or standard offer payments; and

2. Fixed cost revenue erosion incurred in the implementation of DSM Programs which have been previously approved by the Board pursuant to these rules.

(d) (No change.)

14:12-4.2 Recovery of fixed cost revenue erosion

(a) Along with the filing of its DSM Plan, each utility may propose for consideration by the Board a mechanism for the recovery of fixed cost revenue erosion which addresses the impact of DSM initiatives on the overall level of revenues collected by the utility. Such proposals shall address:

1. (No change.)

2. The recovery between base rate changes of fixed cost revenue erosion.

(b) The full recovery of fixed cost revenue erosion occurring over a particular period will be allowed provided that a utility's overall return on equity (ROE) during that period does not exceed 50 basis points above its allowed return on equity. No recovery of fixed cost revenue erosion occurring over a particular period will be allowed if a utility's overall return on equity during that period exceeds its allowed return on equity by 100 basis points or more. If a utility's overall return on equity is between 50 and 100 basis points above its allowed return on equity, the percentage of fixed cost revenue erosion it may recover will vary linearly from 100 percent at 50 basis points above its allowed return on equity to zero percent at 100 basis points above its allowed return on equity. The time period over which fixed cost revenue erosion and ROE calculations are made shall be annual, unless it is specifically determined by the Board that a longer period is appropriate.

1. The return on equity for an annual period shall be calculated by dividing the utility's net income ***after preferred dividends*** over the period by the utility's average 13 month common equity balance for such annual period as reflected in the utility's monthly reports to the Board. The utility's annual period shall consist of the 12 months for which the utility is requesting the recovery of fixed cost revenue erosion. The average 13 month common equity balance shall be the common equity balance at the beginning of the annual period and the month ending balances for each of the *[twelve]* ***12*** months in the annual periods divided by 13.

i. Fixed cost revenue erosion recovered pursuant to this subchapter shall be excluded from this calculation of a utility's ROE.

ii. DSM incentives/disincentives and income/losses from standard offer programs shall be excluded from the calculation of a utility's ROE.

iii. A utility may propose other adjustments to the calculation of ROE subject to Board approval.

(c) A utility may collect fixed cost revenue erosion for a forecasted year subject to true-up with interest.

14:12-4.3 Earnings

(a) Lost revenues plus incentives/disincentives from shared savings programs and income/losses from standard offer programs shall be excluded from the determination of a utility's base rate revenue requirement.

(b) For the shared savings option, the Board shall set the split of the savings based on a targeted rate of return for the plan based on forecasts of costs and savings and the level of risks associated with the plan.

(c) The Board retains the ability to re-evaluate the treatment of incentives/disincentives and/or income/losses and the recovery of fixed cost revenue erosion from DSM programs. However, any changes will apply prospectively only and any DSM measures implemented in accordance with a particular set of rules shall be exempt from future changes for the life of the measure.

14:12-4.6 Program Transition Strategy

As part of the initial DSM Plan filed pursuant to this chapter, each utility shall file a DSM Program Transition Strategy which

describes the utility's proposed plan to merge its existing DSM efforts into the DSM Plan. Such strategy shall address the proposed future status of each of the utility's existing programs, that is, whether an existing program is proposed to be rolled into the Performance-Based Programs or the Core Program established in N.J.A.C. 14:12-2, or whether it is proposed to be eliminated based upon a finding of non cost-effectiveness and insufficient public benefits. A supporting rationale shall be included which underlies the proposed status of each program. Further, the DSM Program Transition Strategy must address the impact, if any, of utility programs implemented as a result of these regulations, on existing DSM contracts that resulted from previous competitive bid solicitations.

14:12-5.3 Public notice and hearing

(a) Concurrent with the filing of its DSM plan, each utility shall contact Board staff to arrange for a public hearing on the DSM Plan.

(b) Subsequent to its filing, each utility shall provide public notice of its filing by publication in newspapers published and circulated in the utility's service area. The public notice shall be subject to review by Board staff prior to its release. The public notice shall include the date, time and location of the public hearing, and a contact for obtaining a copy of the Executive Summary prepared pursuant to N.J.A.C. 14:12-2.2(a)6 or the complete DSM Plan.

(c) Concurrent with the filing of its DSM Plan with the Board, each utility shall provide the Department of the Public Advocate, Division of Rate Counsel with a copy of the Plan and notice of the public hearing.

(d) Written comments on the Plan may be submitted to the Board within 60 days of the public notice announcing the filing, or as otherwise extended by the Board.

(e) The Public Advocate, Division of Rate Counsel, shall be a statutory intervenor pursuant to N.J.S.A. 52:27E-18.

(f) Persons, other than the Public Advocate, Division of Rate Counsel, interested in intervening in the DSM Plan review process must notify the Board within 30 days of public notice of the DSM Plan filing of their intent to intervene.

(g) The Board shall establish a schedule under which each utility and any other party shall be required to respond to information requests including all relevant dates and provide notification of same to the parties, which schedule shall terminate no sooner than 45 days from the date of the filing.

(h) Utilities shall use their best efforts to respond to all discovery requests within 15 days of the date of the request.

(i) Approximately 60 days after the filing date, Board staff will convene a settlement conference of the parties in each case. Additional conferences may be convened. In the event the parties determine that settlement is unlikely, the Board will determine whether it will retain the matter and establish an evidentiary hearing schedule for resolving all contested issues, or whether it will transmit the matter to the Office of Administrative Law for hearing.

TRANSPORTATION

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Route U.S. 206 including U.S. 206 and U.S. 130 in Mercer County

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

Proposed: December 21, 1992 at 24 N.J.R. 4499(a).
Adopted: January 21, 1993 by Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.
Filed: February 1, 1993 as R.1993 d.100, **without change.**

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

Effective Date: March 1, 1993.
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) (No change.)

(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. For both directions of traffic:

i. In Mercer County:

(1) City of Trenton and Lawrence Township:

(A)-(B) (No change.)

(C) Zone 3: 40 miles per hour between Princeton Pike and Titus Avenue, except for 30 miles per hour when passing through the Notre Dame High School zone and for 25 miles per hour when passing through the Eldridge Park School zone and Saint Ann's Catholic School zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 45:36 to 48:71); thence

(D)-(F) (No change.)

(2)-(4) (No change.)

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

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Restricted Parking and Stopping

Routes N.J. 28 in Union County; N.J. 94 in Sussex County; and U.S. 206 in Mercer County

Adopted Amendments: N.J.A.C. 16:28A-1.19, 1.45 and 1.57

Proposed: December 21, 1992 at 24 N.J.R. 4499(b).
Adopted: January 21, 1993 by Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.
Filed: February 1, 1993 as R.1993 d.99, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, and 39:4-198 and 39:4-199.

Effective Date: March 1, 1993.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:28A-1.19 Route 28

(a) The certain parts of State highway Route 28 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139. In accordance with the provisions of N.J.S.A. 39:4-198, proper signs shall be erected.

1. (No change.)

2. No stopping or standing in the Borough of Roselle Park, Union County:

i.-iii. (No change.)

iv. Along the north side:

(1) From 9:00 A.M. to 11:00 A.M., Wednesdays within the entire corporate limits.

(2) Westfield Avenue—Beginning from the prolongation of the westerly sideline of Bender Avenue to a point 400 feet westerly therefrom.

(3) Westfield Avenue—Beginning from the prolongation of the easterly side line of Bender Avenue to a point 300 feet easterly therefrom.

v. Along the south side:

(1) From 9:00 A.M. to 11:00 A.M., Tuesdays within the corporate limits.

(2) Westfield Avenue—Beginning from the prolongation of the center line of Galloping Hill Road to a point 425 feet westerly therefrom.

vi.-viii. (No change.)

3.-13. (No change.)

(b) The certain parts of State highway Route 28 described in this subsection shall be designated and established as "no parking bus stop" 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.-16. (No change.)

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

16:28A-1.45 Route 94

(a) The certain parts of State highway Route 94 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139. In accordance with N.J.S.A. 39:4-198, proper signs shall be erected.

1. (No change.)

2. No stopping or standing in the Townships of Hardyston, Sussex County:

i. Along both sides:

(1) For the entire length within the corporate limits, including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation; except in areas covered by parking restrictions adopted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

3.-6. (No change.)

(b) (No change.)

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

(a) (No change.)

(b) The certain parts of State highway Route U.S. 206 described in this subsection shall be designated and established as "no parking bus stop" 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 Lawrence Township, Mercer County:

i. Far side bus stops:

(1) (No change.)

(2) Fairfield Avenue—Beginning at a point 35 feet north of the northerly curb line of Fairfield Avenue and extending 75 feet northerly therefrom.

(3)-(9) (No change.)

Recodify existing (11)-(14) as (10)-(13). (No change in text.)

ii. (No change.)

iii. Near side bus stops:

(1)-(4) (No change.)

(5) Skillman Avenue—Beginning at a point 35 feet south of the prolongation of the southerly curb line of Skillman Avenue and extending 75 feet southerly therefrom.

2.-12. (No change.)

(c) (No change.)

(a)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS
No Passing Zones
Route N.J. 41 in Camden County
Adopted Amendment: N.J.A.C. 16:29-1.71

Proposed: January 4, 1993 at 25 N.J.R. 60(b).
Adopted: February 4, 1993 by Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.
Filed: February 1, 1993 as R.1993 d.101, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-201.1.

Effective Date: March 1, 1993.
Expiration Date: June 1, 1993.

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

Full text of the adoption follows.

16:29-1.71 Route 41

(a) The following certain parts of State highway Route N.J. 41 shall be designated and established as "No Passing" zones:

1. (No change.)

2. That part within the Township of Gloucester and the Borough of Runnemede, Camden County, as described in drawing #HNPZ-117, dated May 9, 1991.

(b)

DESIGN AND RIGHT-OF-WAY
BUREAU OF MAJOR ACCESS PERMITS
Notice of Administrative Change
State Highway Access Management Code
N.J.A.C. 16:47-1.1, 3.16, 4.3, 4.4, 4.6, 4.11, 4.13, 4.15, 4.18, 4.20, 4.30, 4.32, 4.40, 5.2, 5.3, 5.4 and 6.5

Take notice that the Department of Transportation is reassigning responsibility for the handling of access permit applications under N.J.A.C. 16:47. The Department expects to provide better service to applicants and improve its efficiency, consistency, and timeliness under the new arrangement. Effective March 1, 1993, the following types of applications shall be submitted to the Bureau of Major Access Permits:

1. Government Driveway (Major and Major with Planning Review);
2. Major;
3. Major with Planning Review;
4. Concept Reviews;
5. Street Intersection; and
6. Lot Subdivision or Consolidation

All other applications shall continue to be submitted to the appropriate Regional Maintenance Office.

The Bureau of Major Access Permits will issue permits for the above applications and be responsible for developer agreements.

Application transmittals are to be addressed as follows:
Department of Transportation
Bureau of Major Access Permits
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625
For additional information, please call (609) 530-2875.

Take further notice that, in accordance with N.J.A.C. 1:30-2.7(c), the Department is administratively changing N.J.A.C. 16:47-1.1, 3.16, 4.3, 4.4, 4.6, 4.11, 4.13, 4.15, 4.18, 4.20, 4.30, 4.32, 4.40, 5.2, 5.3, 5.4 and 6.5 where appropriate to reflect this reassigned responsibility.

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

16:47-1.1 Definitions

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

...

"Planning review" means the review of the more complex major access, government driveway, or concept review applications performed by the Bureau of [Access and Development Impact Analysis] **Major Access Permits** at the Department.

...

16:47-3.16 Municipal and county actions

(a)-(g) (No change.)

(h) Municipalities and counties may submit comments on major access applications to the [Department's Major Permits Unit in the Regional Design Office] **Bureau of Major Access Permits** within 30 days of receipt of a duplicate copy of the application from the applicant as required in N.J.A.C. 16:47-4.3(o).

16:47-4.3 Permit process

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

(d) An applicant shall complete the proper application form and submit it to the appropriate Regional Maintenance Office **or the Bureau of Major Access Permits**. The Regional Maintenance Office **or the Bureau of Major Access Permits** will determine if permits are necessary, confirm that the applicant has applied for the proper type of permit, coordinate the review with other Department offices, and issue letters confirming that permits are not needed, when appropriate.

(e)-(f) (No change.)

(g) Applications shall reflect conditions that exist at the time the application is submitted to the [Regional Maintenance Office] **Department** and include all State, county, municipal or private projects that have been advertised for construction or awarded, as appropriate.

(h) (No change.)

(i) Street intersection applications must be submitted **to the Bureau of Major Access Permits** for all lane additions to existing streets and new streets. Street improvement applications must be submitted for all other proposed changes to existing streets. Applications for new streets and lane additions to existing streets can be signed by an adjacent lot owner or the county or municipal engineer. Applications for other changes to existing streets can only be signed by the county or municipal engineer.

(j)-(n) (No change.)

(o) At the time of submission of any major access application, the applicant shall submit duplicate copies of the application to the municipal clerk of the municipality in which the lot is located and county planning board and advise that the municipality and county have 30 days to submit any comments to the [Major Permits Unit] **Bureau of Major Access Permits**.

(p)-(r) (No change.)

16:47-4.4 Type of permit and review determination

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

(c) The chart in Appendix E and Appendix E1 should be used only to estimate trip generation and assist in determining the type of application. Applicants should contact the Regional Maintenance Office **or the Bureau of Major Access Permits** for assistance on the the use of the table. The type of application, any required traffic analysis for potential traffic signals, or traffic impact study shall use the trip generation process derived from the Institute of Transportation Engineers publication entitled "5th Edition Trip Generation Report", or superseding edition including the use of superseded trip generation rates adopted by the Department.

(d)-(f) (No change.)

16:47-4.6 Permits and permit fees

(a)-(k) (No change.)

(l) If, after issuance of a permit by the Department, a permittee is barred or prevented, directly or indirectly, from proceeding with the development by a legal action instituted by any State agency, political subdivision, or any other individual or party or by a directive or order issued by any State agency, political subdivision, or court of competent jurisdiction, the period of time prescribed by this Code for construction of an access point intersecting a State highway shall be tolled during the pendency of said legal action, directive, or order. The remaining access construction time shall again begin to run from the date on which the legal directive or order is removed. The permittee shall notify the Regional Maintenance Office **or the Bureau of Major Access Permits, whichever issued the permit,** in writing within 30 days of the date of such resolution or removal.

(m)-(n) (No change.)

16:47-4.11 Major access permits process

(a) The [Regional Maintenance Office] **Bureau of Major Access Permits** will determine whether an application meets the criteria for the type of application applied for and whether the application is acceptable for review and send a written notice of these determinations to the applicant within 10 days of receipt. [The Regional Maintenance Office will forward those applications it deems acceptable to the Major Permits Unit and, if the applications involve traffic signals, to the Bureau of Traffic Engineering and Safety Programs and the Bureau of Electrical Engineering.] The [Major Permits Unit] **Bureau of Major Access Permits** will send notice of acceptability of the application to the applicant within 30 days of receipt by the Department.

(b) (No change.)

(c) The [Regional Maintenance Office] **Bureau of Major Access Permits** will advise the applicant of the results of the Department's review. If the application is approved, the [Regional Maintenance Office] **Bureau of Major Access Permits** will request from the applicant submission of the permit documents and the permit fee.

(d) The applicant shall submit the completed and signed permit documents and permit fee to the [Regional Maintenance Office] **Bureau of Major Access Permits** within 180 calendar days of the [Regional Maintenance Office] **Bureau of Major Access Permits** notice of approval. Applicants failing to respond on time will have their applications rejected.

(e)-(f) (No change.)

(g) If the [Regional Maintenance Office or Major Permits Unit] **Bureau of Major Access Permits** finds either the same form deficiency or the same technical content deficiency three times in an applicant's submission, then the application will be rejected and the applicant must reapply and submit a new application and fee.

(h) (No change.)

16:47-4.13 Major access permits with planning review process

(a) Potential applicants shall schedule a pre-application conference with the [Major Permits Unit] **Bureau of Major Access Permits** for major applications that will be reviewed by the Bureau of Access and Development Impact Analysis.

(b) Potential applicants considering submission of major applications requiring a planning review shall send the [Major Permits Unit] **Bureau of Major Access permits** a letter including the following information for the proposed development:

1.-8. (No change.)

(c) The [Major Permits Unit] **Bureau of Major Access Permits** will schedule the pre-application conference. The Department recommends the applicant be accompanied by a traffic engineer at the pre-application conference.

(d) The potential applicant shall discuss the locations to be studied and the contents of the traffic impact study with a representative of the Bureau of [Access and Development Impact Analysis] **Major Access Permits** at the pre-application conference.

(e) The [Regional Maintenance Office] **Bureau of Major Access Permits** will notify the applicant in writing of acceptance or rejection of the application and verify the type of permit within ten days of receipt. [The Regional Maintenance Office will forward those applications it deems acceptable for review to the Major Permits Unit, the Bureau of Traffic Engineering and Safety Programs, the Bureau of Electrical Engineering, and the Bureau of Access and Development Impact Analysis.] The [Major Permits Unit] **Bureau of Major Access Permits** will send a written notice of acceptability of the application for review to the applicant within 30 days of receipt by the Department.

(f)-(g) (No change.)

(h) If the [Regional Maintenance Office, Major Permits Unit, or Bureau of Access and Development Impact Analysis] **Bureau of Major Access Permits** finds either the same form deficiency or the same technical content deficiency three times in an applicant's submissions, then the application will be rejected and the applicant must reapply and submit a new application and fee.

(i) (No change.)

(j) The [Regional Maintenance Office] **Bureau of Major Access Permits** will advise the applicant of the results of the Department's review. If the application is approved, the [Regional Maintenance Office] **Bureau of Major Access Permits** will request from the applicant submission of the permit documents and fee.

(k) The applicant shall submit the completed and signed permit documents and permit fee to the [Regional Maintenance Office] **Bureau of Major Access Permits** within 180 days of the [Regional Maintenance Office] **Bureau of Major Access Permits** notice of approval. Applicants failing to respond on time will have their applications rejected.

(l) (No change.)

(m) A Certificate of Acceptance will be issued **by the Bureau of Major Access Permits** to the permittee and a copy sent to the municipal building inspector within 10 calendar days of the Regional Maintenance Office's finding that the access conforms to the conditions of the permit. The Certificate of Acceptance may be issued after substantial completion of the construction within State right-of-way and prior to the completion of all work if the applicant provides a performance bond or other guarantee acceptable to the Department to ensure the work will be completed.

(n)-(o) (No change.)

16:47-4.15 Concept review process

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

(c) A concept review application will be processed using the same procedure and time frames applicable to the appropriate major access permit application. At the conclusion of the concept review, the [Regional Maintenance Office] **Bureau of Major Access Permits** will issue a letter providing conceptual approval or rejection of the applicant's concept. If the concept is rejected, the [Regional Maintenance Office] **Bureau of Major Access Permits** will recommend actions necessary to achieve concept approval. If the concept is approved, the applicant must submit a permit application within two years of the date of conceptual approval. Failure to submit a permit application within two years shall result in the automatic expiration of the concept approval.

16:47-4.18 Developer agreements

(a) (No change.)

(b) At its sole discretion, the Department may require a developer agreement as a condition of an access permit whenever any of the following conditions exist. The [Major Permits Unit] **Bureau of Major Access Permits** shall notify the applicant of such a determination after the completion of the planning review.

1.-3. (No change.)

(c) The processing of developer agreements will require 85 days of Department time in addition to the application review time. When the [Regional Maintenance Office] **Bureau of Major Access Permits** issues the permit, execution of the developer agreement shall be one of the conditions. No construction shall be performed within Department right-of-way prior to the execution of the developer agreement.

(d)-(f) (No change.)

(g) The applicant shall obtain and provide the [Major Permits Unit] **Bureau of Major Access Permits** with copies of any other agency approvals required for work within ultimate, proposed Department right-of-way.

16:47-4.20 Right-of-way dedication

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

(c) The applicant shall submit the proposed deed and the report of title to the [Major Permits Unit] **Bureau of Major Access Permits** for review and approval by the Title Bureau. The applicant shall be responsible for clearing all exceptions shown on the report of title.

16:47-4.30 Traffic impact studies for major access and concept review applications

(a) A traffic impact study is required for concept review applications reviewed by the Bureau of [Access and Development Impact Analysis] **Major Access Permits** and major access applications with a planning review. The pages of the traffic impact study shall be numbered and the topics shall be addressed in the same sequence as they appear in this subsection. The study shall be completed and sealed by a New Jersey licensed professional engineer.

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

(g) The traffic impact study shall include a capacity analysis.

1. The "1985 Highway Capacity Manual" (HCM), Special Report 209, or superseding issue is the standard for capacity analysis. The use of other procedures must be justified and documented. Capacity work sheets must be provided as an appendix to the traffic impact study. The Department will accept calculations performed using computer software based on the HCM. The Department preference is for McTrans software. The Bureau of [Access and Development Impact Analysis] **Major Access Permits** shall approve the use of other software. Any deviation from the HCM accepted values shall be fully documented. Default values shall not be used when actual values are reasonably available or obtainable.

2.-7. (No change.)

16:47-4.32 Appeal process

(a) (No change.)

(b) The appeal process for all major permits, concept reviews, and developer agreements shall be as follows:

1. The applicant shall submit a written request for reconsideration to the [Major Permits Unit] **Bureau of Major Access Permits** within 30 days of a notice of rejection or unacceptable permit conditions. The request shall include reasons for the appeal. [Within seven days of receipt, the Major Permits Unit shall forward the request to the Regional Design Engineer, with pertinent documents, and advise the applicant of this action.]

2. Within 10 days of receipt of the reconsideration request, the [Regional Design Engineer] **Manager of the Bureau of Major Access Permits** will determine whether to grant the reconsideration request. If the request is granted, the [Regional Design Engineer] **Manager of the Bureau of Major Access Permits** will schedule a meeting within 30 days with the applicant and provide the applicant with an opportunity to present additional information in support of the application.

3. The [Regional Design Engineer] **Manager of the Bureau of Major Access Permits** shall render a decision in writing within 15 days of the meeting and so notify the applicant. If the [Regional Design Engineer] **Manager of the Bureau of Major Access Permits** denies the applicant's request for reconsideration or if the applicant does not agree with the decision of the [Regional Design Engineer] **Manager of the Bureau of Major Access Permits,** the applicant may submit an appeal to the Assistant Commissioner, Design and Right-of-Way, within 15 days.

4.-5. (No change.)

16:47-4.40 Lot consolidation or subdivision permits process

(a) The [Regional Maintenance Office] **Bureau of Major Access Permits** will determine whether an application meets the criteria for the type of application applied for and the application is acceptable for review. The [Regional Maintenance Office] **Bureau of Major Access Permits** will then send a written notice of these determinations to the applicant within 10 days of receipt [and forward those applications it deems acceptable to the Major Permits Unit. The Major Permits Unit will send notice of acceptability of the application to the applicant within 30 days of receipt by the Department].

(b) (No change.)

(c) The [Regional Maintenance Office] **Bureau of Major Access Permits** will advise the applicant of the results of the Department's review. If the application is approved, the [Regional Maintenance Office] **Bureau of Major Access Permits** will request from the applicant submission of the permit documents and the permit fee.

(d) The applicant shall submit the completed and signed permit documents and permit fee to the [Regional Maintenance Office] **Bureau of Major Access Permits** within 180 calendar days of the [Regional Maintenance Office] **Bureau of Major Access Permits** notice of approval. Applicants failing to respond on time will have their applications rejected.

(e) (No change.)

(f) If the [Regional Maintenance Office or Major Permits Unit] **Bureau of Major Access Permits** finds either the same form deficiency or the same technical content deficiency three times in an applicant's submissions, then the application will be rejected and the applicant must reapply and submit a new application and fee.

(g)-(h) (No change.)

16:47-5.2 Application requirements for change in classification

(a) Each request for a change in access classification shall be made on an application form prescribed by the Commissioner and shall be submitted to:

Commissioner
Attention: Bureau of [Access and
Development Impact Analysis] **Statewide Planning**
N.J. Department of Transportation
CN 609
1035 Parkway Avenue
Trenton, NJ 08625

(b) (No change.)

16:47-5.3 Review of application

The Bureau of [Access and Development Impact Analysis] **Statewide Planning** shall notify the applicant within 20 days of receipt thereof as to whether or not the application is complete. If the application is incomplete, the notice shall list those items needed to complete the application. The applicant may submit within 60 days of the date of a notice that the application is incomplete such additional information as is necessary to complete the application. The Bureau of [Access and Development Impact Analysis] **Statewide Planning** shall notify the applicant within 20 days of receipt of additional information as to whether or not the application is complete. The application shall be rejected if the Commissioner determines that a complete application has not been submitted within the specified period of time.

16:47-5.4 Notice to counties, municipalities, and metropolitan planning organizations

The Manager, Bureau of [Access and Development Impact Analysis] **Statewide Planning,** shall forward a copy of the completed application, within 10 days of the date of the notice of a complete application, to all county and municipal clerks and the metropolitan planning organization within which the segment is located.

16:47-6.5 Process

(a) (No change.)

(b) Any municipality may notify the Department by letter addressed to the Commissioner, Attention, Bureau of [Access and Development Impact Analysis] **Authority Coordination and Local Transportation Planning,** New Jersey Department of Transportation, CN 609, 1035 Parkway Avenue, Trenton, New Jersey 08625, of a proposal to develop an access management plan for lots fronting on a subject highway segment, provided that the municipality is one within which such segment is located or is one within which improvements proposed to be made as part of the plan or are located or within which a municipal road which would provide access to the lots fronting on the segment is located. At the same time, the municipality shall notify those persons identified in (a) above. Any county interested in initiating an access management plan for a State highway shall ask the affected municipalities to proceed as required in this subsection.

(c) (No change.)

(d) The Commissioner shall arrange for a preliminary meeting or meetings as soon as practical between representatives of the Bureau of [Access and Development Impact Analysis] **Authority Coordination and Local Transportation Planning** and the public agencies which received notice pursuant to (a) above. In the case of a municipally-initiated proposal, however, the first meeting shall take place not later than 60 days after receipt by the Commissioner of the notice from the municipality. At the meeting or meetings, the public agency initiating the proposal shall present such proposal in such detail as it deems appropriate.

(e)-(k) (No change.)

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Litter Control Tax

Readoption: N.J.A.C. 18:38

Proposed: December 21, 1992 at 24 N.J.R. 4502(a).
Adopted: February 1, 1993 by Leslie A. Thompson, Director, Division of Taxation.
Filed: February 1, 1993 as R.1993 d.102, **without change.**

Authority: N.J.S.A. 13:1E-99.1.

Effective Date: February 1, 1993.
Expiration Date: February 1, 1998.

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

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:38.

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

Internal Controls

Retention, Storage and Destruction of Books, Records and Documents

Adopted Amendments: N.J.A.C. 19:45-1.8

Proposed: October 19, 1992 at 24 N.J.R. 3694(b).
Adopted: February 3, 1993 by the Casino Control Commission, Steven P. Perskie, Chairman.
Filed: February 3, 1993 as R.1993 d.110, **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. 5:12-63c, 69a, 96e.

Effective Date: March 1, 1993.
Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:
Comments were received from the Division of Gaming Enforcement ("the Division") and Caesar's Atlantic City ("Caesar's").

COMMENT: The Division objected to the proposed change to N.J.A.C. 19:45-1.8(c)5i which would reduce the retention period for coupons from six months to 30 days following completion of the casino licensee's reconciliation and recordation procedures. The Division maintains that to adequately satisfy the Division's investigatory need, from both a criminal and regulatory perspective, coupons should be maintained for a minimum of six months. The Division represented that it conducts a significant number of criminal investigations of coupon-related crime. According to the Division, when the "coupon scam" involves counterfeiting of coupons, it is essential that the coupons themselves be available. The Division also stated that its quarterly audits of coupon reconciliation and recordation procedures at all twelve casinos "disclosed that inadequate procedures allowed a significant number of coupon scams to be perpetrated without detection." It argued that a 30-day retention period would hinder its ability to conduct its quarterly audits of coupon accounting procedures.

RESPONSE: In view of the significant investigatory concerns raised by the Division's comments, the Commission has not adopted that portion of the proposal which would have reduced the retention period for coupons from six months to 30 days following completion of the casino licensee's reconciliation and recordation procedures. While the Commission recognizes that casino licensees may generate a considerable volume of coupons, the relatively short six month retention period is not unduly burdensome. This is particularly true in that the recently amended rules no longer differentiate between on-site and off-site storage. The six month schedule is also consistent with Commission decisions prior to codification of the new records retention schedules in N.J.A.C. 19:45-1.8.

COMMENT: Caesar's stated its support for the proposed amendments, in particular, a reduction in the retention period for coupons from the current six months to 30 days. Caesar's commented that 30 days was sufficient time for a casino to audit its bus coupons and "correct any problems which may be discovered."

RESPONSE: For reasons stated above, the Commission has determined not to adopt the proposed amendment to N.J.A.C. 19:45-1.8(c)5i.

COMMENT: The Division objects to the proposed amendment to N.J.A.C. 19:45-1.8(c)3viii to reduce the retention period for card and dice transaction inventory reports from three years to one year. It maintains that recent investigations by the Division have disclosed significant discrepancies in the card and dice transaction and inventory reports at several casinos. The Division commented that it reviews these reports for compliance over the course of the casino licensee's two year license period.

RESPONSE: The adoption herein includes the reduction of the retention period for card and dice transaction and inventory reports to one year. As was generally intended in codifying the retention schedules, this one-year period reflects the time frame approved through the petition process previously required for records destruction. Moreover, where records may otherwise be destroyed after one year, but are still required for purposes of the Division's audit, the Division may prevent destruction by so notifying the casino licensee within 15 days of the receipt of notice of destruction. N.J.A.C. 19:45-1.8(g).

COMMENT: The Division objects to the proposed amendment to N.J.A.C. 19:45-1.8(c)3i to reduce the retention period for telephone call records and charges from three years to six months. It argued that such records are used by the Division in both criminal and regulatory contexts which extend beyond a six-month time frame, and that the proposed reduction would hamper its investigatory process.

RESPONSE: In response to the Division's comments, the Commission has determined not to adopt the proposed amendments to N.J.A.C. 19:45-1.8(c)3i which would have permitted telephone call records and charges to be destroyed after six months. While the Commission has simplified and expedited its procedures for records retention and destruction, the rules must also ensure that all records are maintained for a period of time adequate to meet any investigatory and regulatory concerns.

Summary of Agency-Initiated Changes:

Technical modifications to the proposed text of N.J.A.C. 19:45-1.8 are made herein in order to incorporate recently adopted amendments related to the implementation of casino simulcast wagering. See 25 N.J.R. 348(b). The text of proposed subparagraph (c)5i is likewise modified to incorporate recent statutory and regulatory amendments allowing promotional coupons to be redeemed at gaming tables for gaming chips. See 24 N.J.R. 4243(a). Also, language is added to subparagraph (c)5ii to clarify that the records listed therein are hotel income audit documents, as had been specified in subparagraph (c)3i.

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

19:45-1.8 Retention, storage and destruction of books, records and documents

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

(c) All original books, records and documents shall be retained by a casino licensee in accordance with the following schedules. For purposes of this subsection, "original books, records or documents" shall not include copies of originals, except for copies which contain original comments or notations or parts of multi-part forms.

1.-2. (No change.)

3. The following original books, records and documents shall be retained by a casino licensee for a minimum of three years:

i. Hotel income audit documents, including, without limitation, ***telephone call records and charges***, register tapes, room service checks and laundry charges;

ii.-vi. (No change.)

Recodify xi.-xiv. as vii.-x. (No change in text.)

4. The following original books, records and documents shall be retained by a casino licensee for a minimum of one year:

i. Surveillance department visitor logs;

ii. Complimentary settled guest checks;

iii. Card and dice transaction and inventory reports; and

iv. Returned check aging reports, except for year-end reports.

5. With the exception of cashed pari-mutuel tickets and credit vouchers, the original books, records and documents related to the revenues and expenses of casino simulcasting, including, but not limited to, all reports generated by the totalisator and all records maintained in accordance with N.J.A.C. 19:45-1.2(c)10, shall be retained by a casino licensee or a hub facility for a minimum of one year.

*[5.]***6.*** The following original books, records and documents shall be retained by a casino licensee for a minimum of six months:

i. ***Coupons entitling patrons to cash, slot tokens, gaming chips or plaques or simulcasting wagers, including unused, voided and redeemed coupons;***

ii. The following hotel income audit documents: Cashier reports, room tally reports, *[telephone call records and charges,]* over/short reports, rate variations and missing check reports;

Recodify ii.-xi. as ***iii.-xii.***

[6. Coupons entitling patrons to cash or slot tokens, including unused, voided and redeemed coupons, shall be retained by a casino licensee for a minimum of 30 days following completion of the casino licensee's reconciliation and recordation procedures as set forth in the casino licensee's internal control submission.]

7. Cashed pari-mutuel tickets and credit vouchers shall be retained by a casino licensee for a minimum of 30 days from the date on which they are cashed, cancelled or refunded in the casino licensee's casino simulcasting facility.

*[7.]***8.*** The following original books, records and documents do not have to be retained by a casino licensee for any minimum period of time, and may be destroyed without notice otherwise required by (f) below:

i.-xiii. (No change.)

xiv. Communication department records;

xv. Unsolicited resumes or letters requesting employment; and

xvi. Register tapes, provided that the information contained thereon is duplicative or less than that recorded on another document retained in accordance with (c)3 above.

(d)-(i) (No change.)

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

OFFICE OF LAND AND WATER PLANNING

Notice of Routine Program Implementation

Take notice that the Department of Environmental Protection and Energy ("Department"), pursuant to Federal regulation, 15 C.F.R. Sections 923.80-923.84, has taken rulemaking actions that the Department considers to constitute "Routine Program Implementation" of the New Jersey Coastal Management Program. Under 15 C.F.R. Section 923.84(a), rulemaking constitutes Routine Program Implementation when it does not result in the kind of amendments of the State's Coastal Management Program that can be described as "substantial changes in, or substantial changes to enforceable policies or authorities related to: (1) boundaries; (2) uses subject to the management program; (3) criteria or procedures for designating or managing areas of particular concern or areas for preservation or restoration; and (4) consideration of the national interest involved in the planning for and in the siting of, facilities which are necessary to meet requirements which are other than local in nature." 15 C.F.R. Section 923.80(c).

The following rulemaking actions were taken by the Department and the Hackensack Meadowlands Development Commission between July 1988 and June 1992.

(A) Adopted regulatory changes to the Rules on Coastal Zone Management (N.J.A.C. 7:7E)

(1) Rules on Coastal Resources and Development
N.J.A.C. 7:7E-3.48 (recodified from N.J.A.C. 7:7E-3.46)
New Special Area, Hudson River Waterfront Area
Adopted August 15, 1988

(2) Rules on Coastal Resources and Development
N.J.A.C. 7:7E-3.48 (recodified from N.J.A.C. 7:7E-3.46)
Hudson River Waterfront Area
Amendment adopted May 15, 1989

(3) Rules on Coastal Zone Management
N.J.A.C. 7:7E-1.1 et seq.
Readopted July 24, 1990
Revisions adopted August 20, 1990

(4) Rules on Coastal Zone Management
N.J.A.C. 7:7E-8.13
Administrative correction published May 20, 1991

(B) Adopted regulatory changes to the Coastal Permit Program Rules (N.J.A.C. 7:7)

(1) Coastal Permit Program Rules
N.J.A.C. 7:7
Readopted May 12, 1989

(2) Coastal Permit Program Rules
N.J.A.C. 7:7-2.3
Emergency Amendments to Upland Waterfront Development Rules

- Emergency amendment adopted October 4, 1988
- Concurrent amendment adopted December 2, 1988
- Amendment adopted May 1, 1989
- Emergency amendment adopted July 17, 1990
- Concurrent amendment adopted September 14, 1990
- Notice of administrative correction published January 7, 1991

(3) Coastal Permit Program Rules
Notice of Administrative Change
N.J.A.C. 7:7-4.11
December 1, 1991

(C) Adopted regulatory changes to the Hackensack Meadowlands Development District (N.J.A.C. 19:4)

(1) District Zoning Regulations: Planned Development Center
N.J.A.C. 19:4-5.3A and 19:4-6.28
January 3, 1989

(2) District Zoning Regulations: Fees; Penalties; Entry and Inspections
N.J.A.C. 19:3-1.1, 1.2, 1.4 and 1.6; N.J.A.C. 19:4-6.24 and 6.25; N.J.A.C. 19:3-1.3
February 5, 1990

(3) Official Zoning Map: Heavy Industrial Zone
N.J.A.C. 19:4-6.28
March 5, 1990

(4) District Zoning Regulations: Definitions; Floor Area Ratio; Restoration and Environmental Management of Wetlands; Finished Floor Evaluations; Screening; Satellite Antenna and Fill Standards
N.J.A.C. 19:4
April 2, 1990

(5) District Zoning Regulations: Administrative Corrections
N.J.A.C. 19:4
July 16, 1990

(6) Official Zoning Map: Heavy Industrial Zone
N.J.A.C. 19:4-6.28
November 5, 1990

(7) District Building Codes
N.J.A.C. 19:6-1 and 6-3
May 6, 1991

(8) District Zoning Regulations: Amendments and Petitions for Rulemaking; Amendments and Petitions for Rezoning
N.J.A.C. 19:4-6.27; N.J.A.C. 19:3A-1.3; N.J.A.C. 19:4-6.29 and 6:30
November 4, 1991

The Federal regulations mandate that the State provide public notice of its Routine Program Implementation of the State's Coastal Management Program to the general public, affected parties, local governments, State agencies and regulatory offices, and relevant Federal agencies.

The Department has requested the concurrence of the Office of Ocean and Coastal Resource Management in the National Oceanic and Atmospheric Administration (NOAA) in the determination that these rulemaking actions constitute Routine Program Implementation. Comments on whether or not these actions should be considered Routine Program Implementation should be sent to the address below by March 22, 1993:

Laurie McGilvrey
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration
N/ORM4-Room 724
1825 Connecticut Avenue, N.W.
Washington, DC 20235

For the full text of or further information about the above-described rulemaking actions, write or call:

Steven C. Whitney, Assistant Administrator
New Jersey Department of Environmental Protection and Energy
Office of Land and Water Planning
CN 423
Trenton, NJ 08625-0423
(609) 292-2113

(a)

WASTEWATER FACILITIES REGULATION PROGRAM SITE REMEDIATION PROGRAM

Notice of Public Hearing New Jersey Pollutant Discharge Elimination System 1992-93 Annual Fee Report and Fee Schedule

Take notice that the Department of Environmental Protection and Energy (Department) will hold a **public hearing** to present the 1992-93 Annual Fee Report and Proposed Fee Schedule for the New Jersey Pollutant Discharge Elimination System (NJPDES) Permit Program. The public hearing will be held on Monday, April 5, 1993 beginning at 10:00 A.M., at:

New Jersey Department of Environmental Protection and Energy
Public Hearing Room
401 East State Street
Trenton, New Jersey

The **public comment period** on the 1992-93 Annual Fee Report and Fee Schedule will remain open until April 9, 1993. Please submit written comments to:

Dennis Hart, Administrator
Wastewater Facilities Regulation Program
Department of Environmental Protection and Energy
CN029
Trenton, New Jersey 08625

The Department will mail copies of the Annual Fee Report and Fee Schedule to all NJPDES permittees on or before March 5, 1993. Copies may be requested by contacting the Bureau of Permit Management at (609) 984-4428.

(b)

OFFICE OF ENERGY

Notice of Availability of the Implementation Section of the 1991 New Jersey Energy Master Plan

Take notice that the New Jersey Energy Master Plan Committee, created pursuant to P.L. 1987, c.365, announces the availability of the Implementation Section of the 1991 New Jersey Energy Master Plan. The Implementation Section is a companion document to the 1991 New Jersey Energy Master Plan. The Energy Master Plan defines the overall energy goals and policies for the State, and the Implementation Section identifies responsibilities for each department within State government and sets forth the specific actions to be taken to achieve these energy goals. The Implementation Section was developed during four public working group meetings held from May 7 through June 30, 1992. The draft document was the subject of public hearings on September 8 and 14, 1992. The Implementation Section was adopted by the New Jersey Energy Master Plan Committee in public hearing on October 27, 1992.

Any persons who wish to receive a copy of the Implementation Section of the New Jersey Energy Master Plan may request it from:

Attn: Implementation Section Request
New Jersey Department of Environmental Protection and Energy
Office of Energy
CN 418
Trenton, New Jersey 08625-0418
Fax number: 609-292-0988

CORRECTIONS

(c)

THE COMMISSIONER

Notice of Action on Petition for Rulemaking On-The-Spot Correction N.J.A.C. 10A:4-7

Petitioner: Kenneth Roberts, Southern State Correctional Facility.

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 10A:1-1.2.

Take notice that on January 6, 1993, the New Jersey Department of Corrections received a petition for rulemaking from Kenneth Roberts, an inmate at Southern State Prison. The petition seeks an amendment to N.J.A.C. 10A:4-7 which would allow appeal to the correctional facility Superintendent for any On-The-Spot Correction sanction imposed. The petitioner claims that the use of On-The-Spot Correction has been a form of harassment and that when an inmate requests a conference with the correctional facility shift supervisor, the original sanction imposed is increased as a method of discouraging any review. The petitioner further claims that whenever an inmate attempts to bring this abuse to the attention of the Superintendent, the inmate is informed that On-The-Spot Correction sanctions cannot be appealed. Notice of receipt of the petition was published in the February 16, 1993 New Jersey Register.

On-The-Spot Correction is defined as the immediate imposition of a sanction on an inmate for violation of a minor disciplinary infraction. The inmate charged with the violation of a minor disciplinary infraction is afforded the right to appear at a conference with the shift supervisor to review and discuss the violation. The inmate may argue that he or she should not be disciplined or challenge the proposed sanction. Pursuant to N.J.A.C. 10A:4-7.4, all On-The-Spot Correction sanctions must be imposed within 24 hours of review by, or conference with, the shift supervisor. The following are authorized sanctions for an On-The-Spot Correction:

1. Verbal reprimand;
2. Loss of recreation privileges for a period of no more than five days;
3. Up to four hours of extra work duty;
4. Up to four hours confinement to room or housing area;
5. Loss of radio or television privileges for a period of no more than five days; and/or
6. Confiscation.

The sanctions, while not in themselves harsh, are intended to have a maximum deterrent effect by virtue of swift imposition. An appeal process to include the Superintendent for a minor disciplinary infraction would greatly extend the period of time from infraction to imposition of the sanction thus defeating the intent of the sanction. The existing appeal process to the shift supervisor for a sanction imposed as a result of an On-The-Spot Correction is considered by the Department of Corrections to be sufficient and appropriate for a minor infraction.

Although On-The-Spot Correction sanctions cannot be appealed directly to the Superintendent, the Department of Corrections recognizes that there must be a means of communication between the correctional facility administration and the inmate population if evidence of abuse exists. The Department, along with each correctional facility, has developed procedures to provide the opportunity to address these complaints, such as:

1. Submitting a Remedy or Grievance Form;
2. Submitting a request for an interview with the Superintendent;
3. Contacting the Prisoner's Representative Committee (P.R.C.) or comparable organization; and/or
4. Contacting the Ombudsman Office, Department of Corrections.

The Department of Corrections finds it inappropriate to develop a rule which would allow appeal to the correctional facility Superintendent for On-The-Spot Correction sanctions. The petition for formal rulemaking is accordingly being denied.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Notice of Hourly Fee Rates

Take notice that, in accordance with N.J.A.C. 19:41-9.4(e), the Casino Control Commission has determined that an hourly fee rate of $68.00 per hour shall apply effective March 1, 1993, for the efforts of the Commission and the Division of Gaming Enforcement on matters directly related to applications for the issuance of a casino key employee license (N.J.A.C. 19:41-9.11(b)); issuance or renewal of a junket representative license (N.J.A.C. 19:41-9.11A(b)); issuance or renewal of a gaming school resident director license (N.J.A.C. 19:41-9.12(b)); and the testing and licensure of a prototype slot machine (N.J.A.C. 19:41-9.6(b)).

Take further notice that, in accordance with N.J.A.C. 19:41-9.4(e), the Commission has determined that the following hourly fee rates shall apply for the efforts of the Commission and Division on matters directly related to the issuance or renewal of a casino hotel alcoholic beverage license (N.J.A.C. 19:41-9.7(b)): $68.00 per hour for professional staff members of the Commission; $37.00 per hour for inspection staff members of the Commission; and $72.00 per hour for professional staff members of the Division.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to Executive Order No. 66(1978), an administrative rule is assigned an expiration date not to exceed five years from the date of promulgation by a State agency, unless the rule is exempt from the provisions of the order. In the Administrative Code, a single expiration date is affixed at the chapter level and applies to the entire chapter. See N.J.A.C. 1:30-4.4 for an explanation of expiration date assignment.

The following table is a complete listing of established New Jersey Administrative Code expiration dates and exemptions, by Title and Chapter. Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code as a part of the Title Table of Contents for each executive department or agency, on the Subtitle Page for each group of chapters in a Title, and at the beginning of each Chapter.

This listing is published quarterly, in March, June, September and December, in the first issue of the month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	4/21/97
1:5	9/13/96
1:6	4/21/97
1:6A	3/19/95
1:7	4/21/97
1:10	4/21/97
1:10B	9/13/96
1:11	4/21/97
1:13	4/21/97
1:13A	4/3/94
1:14	7/15/96
1:20	4/21/97
1:21	4/21/97
1:30	1/25/96
1:31	4/21/97

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	11/19/95
2:2	1/17/94
2:3	8/21/94
2:5	8/21/94
2:6	EXPIRED RULES
2:9	8/19/96
2:16	1/22/96
2:17	5/31/96
2:18	8/5/96
2:19	10/1/95
2:20	10/1/95
2:21	8/5/96
2:22	6/26/97
2:23	7/18/93
2:24	4/2/95
2:32	5/13/97
2:33	3/6/94
2:34	1/2/95
2:48	10/25/95
2:50	5/1/97
2:52	5/1/95
2:53	1/10/96
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	11/7/93
2:69	11/7/93
2:70	8/20/95
2:71	7/8/93
2:72	7/8/93
2:74	7/8/93
2:76	7/31/94
2:90	6/22/95

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/4/96
3:2	4/12/95
3:3	1/11/95
3:4	8/17/97
3:6	3/1/96
3:7	9/12/95
3:11	5/1/94
3:12	6/15/97
3:13	1/21/97
3:16	6/18/95
3:17	6/13/96
3:18	12/24/97
3:19	3/15/96
3:21	1/24/97
3:22	5/12/94
3:23	7/6/97
3:24	8/18/94
3:25	7/23/97
3:26	12/31/95
3:27	9/12/95
3:28	12/12/94
3:29	8/5/96
3:32	10/3/93
3:33	9/18/94
3:38	9/11/97
3:41	10/11/95
3:42	4/4/93

PERSONNEL—TITLE 4A

N.J.A.C.	Expiration Date
4A:1	9/22/97
4A:2	9/22/97
4A:3	9/6/93
4A:4	6/6/93
4A:5	9/22/97
4A:6	12/22/97
4A:7	9/22/97
4A:8	1/16/95
4A:9	9/22/97
4A:10	9/22/97

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:1	2/5/95
5:2	4/10/94
5:3	9/1/93
5:4	9/1/97
5:10	11/17/93
5:11	3/10/94
5:12	12/27/94
5:13	6/22/97
5:14	11/9/95
5:15	5/1/94
5:18	1/4/95
5:18A	1/4/95
5:18B	1/4/95
5:18C	2/5/95
5:19	1/15/98
5:20	9/3/96
5:22	2/5/95
5:23	3/3/98
5:24	7/10/95
5:25	2/19/96
5:25A	4/20/97
5:26	2/7/96
5:27	5/2/95
5:28	12/13/95
5:29	2/19/96

N.J.A.C.	Expiration Date
5:30	6/29/93
5:31	12/1/94
5:33	8/6/95
5:34	12/3/95
5:37	1/7/96
5:50	10/27/93
5:51	9/1/93
5:52	1/2/95
5:70	4/22/97
5:71	6/4/95
5:80	4/20/95
5:91	12/7/97
5:92	2/7/96
5:100	6/18/95

DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS—TITLE 5A

N.J.A.C.	Expiration Date
5A:1	3/12/95
5A:2	5/17/95
5A:3	2/3/97
5A:4	2/3/97
5A:5	9/21/97

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:1	1/11/96
6:2	2/6/94
6:3	7/8/93
6:5	10/22/95
6:7	1/2/95
6:8	12/11/96
6:11	9/21/95
6:12	3/8/96
6:20	7/16/95
6:21	11/22/94
6:22	7/16/95
6:22A	12/19/93
6:24	1/11/96
6:26	8/3/97
6:28	4/10/94
6:29	2/8/95
6:30	7/5/93
6:31	11/16/94
6:39	8/14/94
6:43	8/10/95
6:46	4/10/94
6:51	8/5/96
6:53	4/10/97
6:64	9/14/97
6:68	2/26/95
6:70	10/17/94
6:78	11/7/93

ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7

N.J.A.C.	Expiration Date
7:1	8/15/95
7:1A	5/22/97
7:1C	6/15/95
7:1D	11/28/93
7:1E	9/3/96
7:1F	4/16/97
7:1G	9/29/94
7:1H	7/13/95
7:1I	7/18/93
7:1J	1/4/98
7:1K	3/1/98
7:2	10/7/96
7:3	3/21/93
7:4	8/17/97
7:4A	9/18/94
7:5	11/19/95
7:5A	6/24/93
7:5B	6/24/93
7:5C	1/16/95
7:6	6/9/94
7:7	5/12/94
7:7A	3/16/97
7:7E	7/24/95
7:7F	1/19/93
7:8	2/5/98
7:9	1/18/96
7:9A	8/21/94
7:10	9/1/94
7:11	5/13/93
7:12	11/24/97
7:13	7/14/94
7:14	4/27/94
7:14A	6/2/94
7:14B	11/18/97
7:15	10/2/94
7:18	7/3/96
7:19	2/26/95
7:19A	3/19/95
7:19B	3/19/95
7:20	5/2/95
7:20A	12/16/93
7:22	12/27/96
7:22A	2/5/95
7:23	6/9/94
7:24	4/22/96
7:25	2/15/96
7:25A	4/23/95
7:26	10/25/95
7:26A	11/18/96
7:26B	11/18/97
7:27	Exempt
7:27A	12/4/94
7:27B	Exempt
7:28	7/30/95
7:29	5/21/95
7:29B	2/1/93
7:30	11/24/97
7:31	6/20/93
7:36	11/21/93
7:38	9/18/95
7:45	2/6/94
7:50	Exempt
7:60	3/2/97

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/14/95
8:8	4/12/94
8:9	2/14/96
8:13	9/8/97
8:18	11/6/94
8:19	5/11/95
8:20	3/2/95
8:21	10/23/95
8:21A	8/3/97
8:22	7/11/96
8:23	12/13/94
8:24	5/2/93
8:25	5/19/93
8:26	4/12/96
8:31	1/16/95
8:31A	2/20/95
8:31B	8/17/95
8:31C	4/20/97
8:33	7/27/95
8:33A	11/25/97
8:33B	7/27/95
8:33C	9/8/97
8:33E	EXPIRED RULES
8:33F	11/16/94

N.J.A.C.	Expiration Date
8:33H	9/8/97
8:33I	2/16/95
8:33J	4/24/94
8:33K	3/27/94
8:33L	11/16/92
8:33M	7/17/94
8:33N	5/15/94
8:33P	3/19/95
8:33Q	11/19/95
8:33R	12/11/94
8:34	11/15/93
8:35A	9/8/97
8:38	4/3/94
8:39	6/20/93
8:40	12/6/96
8:41	2/13/93
8:41A	2/18/97
8:42	8/17/97
8:42A	6/19/94
8:42B	7/18/93
8:43	11/19/94
8:43A	7/27/95
8:43F	2/20/95
8:43G	2/5/95
8:43H	8/21/94
8:44	11/2/93
8:45	2/7/95
8:51	9/17/95
8:52	12/11/96
8:57	4/20/95
8:57A	4/20/95
8:59	9/29/94
8:60	5/3/95
8:61	10/4/96
8:65	6/17/96
8:66	3/5/95
8:66A	3/5/95
8:70	8/19/93
8:71	2/17/94
8:80	4/6/97
8:100	7/20/97

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	2/21/94
9:2	5/4/95
9:3	9/27/93
9:4	9/26/96
9:5	4/1/96
9:6	4/30/95
9:6A	1/4/93
9:7	11/6/97
9:8	10/15/95
9:9	10/3/93
9:11	4/17/94
9:12	4/17/94
9:14	4/11/95
9:15	8/21/94
9:16	1/19/98

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	11/7/93
10:2	12/11/96
10:3	11/21/93
10:6	1/7/96
10:7	1/21/97
10:11	1/16/95
10:12	12/23/96
10:13	7/18/93
10:14	5/16/93
10:15	1/1/95
10:15A	1/1/95
10:15B	1/1/95
10:15C	1/1/95
10:16	12/21/97
10:31	6/5/94
10:35	9/21/97
10:36	12/29/97
10:37	11/2/95
10:38	4/29/96
10:39	5/7/95
10:40	5/11/94
10:41	3/20/94
10:42	8/19/96
10:43	8/21/94
10:44A	11/21/93
10:44B	7/16/95
10:45	2/20/95
10:46	9/17/95
10:47	11/2/95
10:48	12/19/95
10:49	8/17/97
10:50	2/27/96
10:51	10/9/95
10:52	2/8/95
10:53	4/27/95
10:53A	11/2/97
10:54	2/15/96
10:55	3/8/95
10:56	8/21/96
10:57	2/13/96
10:58	2/22/96
10:59	2/15/96
10:60	2/19/96
10:61	2/15/96
10:62	12/19/93
10:63	11/28/94
10:64	2/22/96
10:65	2/19/96
10:66	12/15/93
10:67	2/19/96
10:68	6/28/96
10:69	6/6/93
10:69A	4/20/93
10:69B	11/21/93
10:70	6/7/96
10:71	12/24/95
10:72	8/24/97
10:73	7/15/96
10:80	5/19/94
10:81	8/24/94
10:82	8/24/94
10:83	11/2/97
10:85	12/20/94
10:86	9/21/97
10:87	1/27/94
10:89	5/24/95
10:90	10/14/92
10:91	9/4/95
10:95	Exempt
10:97	5/15/94
10:99	6/4/95
10:109	2/4/96
10:120	7/9/96
10:121	7/16/95
10:121A	11/25/97
10:122	5/15/94
10:122A	Exempt
10:122B	1/4/98
10:122C	1/4/98
10:122D	1/4/98
10:122E	1/4/98
10:123	7/13/95
10:123A	8/17/97
10:124	11/4/97
10:125	6/4/95
10:126	11/7/93
10:126A	5/7/95
10:127	8/26/93
10:128	2/19/96

N.J.A.C.	Expiration Date
10:129	7/13/95
10:130	7/2/95
10:131	10/7/97
10:132	10/25/96
10:133	1/4/98
10:133A	1/4/98
10:133B	1/4/98
10:133C	1/4/98
10:141	2/7/94
10:150	10/22/97

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	6/1/97
10A:2	2/5/95
10A:3	9/16/96
10A:4	5/7/96
10A:5	6/17/96
10A:6	10/27/97
10A:8	8/19/97
10A:9	2/18/97
10A:10	7/9/97
10A:16	7/6/97
10A:17	2/3/97
10A:18	5/27/97
10A:19	8/21/94
10A:20	2/18/97
10A:21	2/4/96
10A:22	7/5/93
10A:23	7/6/97
10A:31	3/5/95
10A:32	4/16/95
10A:33	5/2/94
10A:34	4/6/97
10A:35	4/15/96
10A:70	Exempt
10A:71	2/5/95

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	1/31/96
11:2	11/30/95
11:3	1/4/96
11:4	11/30/95
11:5	10/28/93
11:7	9/25/97
11:10	7/12/95
11:12	9/27/96
11:13	11/10/97
11:15	10/26/94
11:16	1/31/96
11:17	4/18/93
11:17A	1/2/95
11:17B	1/2/95
11:17C	1/2/95
11:17D	1/2/95
11:18	12/18/94
11:19	2/1/98

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:3	12/19/93
12:5	9/19/93
12:6	10/17/93
12:15	7/30/95
12:16	3/23/95
12:17	1/4/96
12:18	3/7/93
12:19	7/2/95
12:20	8/14/94
12:35	7/16/95
12:40	2/5/95
12:41	1/17/94
12:45	5/2/93
12:51	11/22/96
12:55	12/16/96
12:56	9/26/95
12:57	9/26/95
12:58	9/26/95
12:60	3/21/93
12:61	12/16/96
12:90	12/15/94
12:100	9/22/94
12:102	5/21/95
12:105	1/11/96
12:110	1/8/98
12:112	9/6/93
12:120	5/3/95
12:175	11/28/93
12:190	2/1/98
12:195	6/24/93
12:196	8/6/95
12:200	8/3/95
12:210	12/16/96
12:235	5/3/96

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	10/13/94
12A:11	4/30/93
12A:12	9/21/92
12A:31	7/16/95
12A:50	8/15/93
12A:54	8/15/93
12A:60	11/21/93
12A:80	7/2/95
12A:100	7/17/96
12A:120	9/6/93
12A:121	12/5/93

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/5/93
13:2	7/24/95
13:3	4/25/93
13:4	1/17/96
13:10	3/27/94
13:13	7/16/95
13:14	9/16/96
13:18	3/30/95
13:19	8/18/94
13:20	12/13/95
13:21	12/13/95
13:23	5/26/94
13:24	9/27/94
13:25	3/16/95
13:26	9/26/93
13:27	2/20/95
13:28	5/16/93
13:29	5/23/95
13:30	3/12/95
13:31	11/20/96
13:32	10/21/97
13:33	3/12/95
13:34	10/26/93
13:35	9/21/94
13:36	9/27/94
13:37	1/23/95
13:38	8/27/95
13:39	6/19/94
13:39A	6/21/96
13:40	8/3/95

N.J.A.C.	Expiration Date
13:40A	12/16/96
13:41	7/17/95
13:42	10/31/93
13:43	9/1/93
13:44	8/7/94
13:44B	11/2/97
13:44C	7/18/93
13:44D	8/7/94
13:44E	7/1/96
13:44F	6/15/97
13:44G	1/4/98
13:45A	11/9/95
13:45B	9/21/97
13:46	9/4/95
13:47	1/27/97
13:47A	10/2/97
13:47B	2/21/94
13:47C	6/9/94
13:47K	9/17/95
13:48	1/17/96
13:49	12/16/93
13:51	9/16/96
13:54	11/18/96
13:59	7/30/95
13:60	1/16/97
13:61	3/5/95
13:62	3/19/95
13:63	8/19/96
13:70	1/25/95
13:71	1/25/95
13:72	1/19/98
13:75	6/5/94
13:76	6/27/93
13:77	1/22/98
13:78	3/20/94
13:80	9/17/95
13:81	8/6/95

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	6/1/97
14:3	5/6/96
14:5	12/2/96
14:5A	1/4/98
14:6	9/3/96
14:9	4/1/96
14:10	9/6/96
14:11	3/1/98
14:12	11/4/96
14:17	4/24/94
14:18	7/26/95
14:25	3/5/95
14:29	3/4/96
14:30	2/19/96
14:32	1/22/96
14:38	4/1/96

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:6	1/16/95
14A:8	1/16/95
14A:11	1/16/95
14A:13	EXPIRED RULES
14A:14	1/30/94

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	8/19/96
15:5	7/6/97
15:10	4/15/96

PUBLIC ADVOCATE—TITLE 15A

N.J.A.C.	Expiration Date
15A:2	12/27/94

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	10/1/95
16:1A	6/16/94
16:4	9/16/96
16:5	11/20/94
16:6	8/7/94
16:7	3/6/94
16:13	9/4/95
16:20A	2/20/95
16:20B	2/20/95
16:21	8/6/95
16:21A	11/20/94
16:21B	12/3/95
16:22	12/18/95
16:24	2/5/95
16:25	8/15/93
16:25A	7/18/93
16:26	9/5/94
16:27	4/8/96
16:28	6/1/93
16:28A	6/1/93
16:29	6/1/93
16:30	6/1/93
16:31	6/1/93
16:31A	6/1/93
16:32	2/8/95
16:38	10/15/95
16:41	9/8/97
16:41B	7/2/95
16:41C	5/4/97
16:43	5/10/95
16:44	5/25/93
16:45	9/18/94
16:46	11/6/94
16:47	4/20/97
16:49	2/8/95
16:51	2/14/97
16:53	7/17/94
16:53B	7/3/94
16:53C	6/16/93
16:53D	5/3/94
16:54	3/28/96
16:55	6/14/93
16:56	8/7/94
16:60	6/14/93
16:61	6/14/93
16:62	2/26/95
16:72	3/20/96
16:73	5/18/97
16:74	12/16/96
16:75	5/13/93
16:76	2/6/94
16:77	3/5/95
16:78	12/17/95
16:79	9/12/96
16:80	11/7/93
16:81	11/7/93
16:82	9/5/94
16:83	1/19/98

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	5/6/93
17:2	11/8/94
17:3	8/15/93
17:4	6/8/95
17:5	11/30/95
17:6	11/22/93
17:7	12/19/93

N.J.A.C.	Expiration Date
17:8	10/15/95
17:9	10/3/93
17:10	5/6/93
17:12	10/13/94
17:13	10/13/94
17:14	10/13/94
17:16	5/2/96
17:19	3/8/95
17:20	9/26/93
17:25	5/26/94
17:27	10/7/93
17:28	8/17/95
17:29	9/26/95
17:30	3/11/97
17:32	3/21/93
17:33	4/17/94
17:40	11/19/95
17:41	4/1/96
17:42	9/8/97

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:1	7/21/94
18:2	9/6/93
18:3	3/14/94
18:5	3/14/94
18:6	3/14/94
18:7	3/14/94
18:8	2/24/94
18:9	6/7/93
18:12	7/29/93
18:12A	7/29/93
18:14	7/29/93
18:15	7/29/93
18:16	7/29/93
18:17	7/29/93
18:18	3/14/94
18:18A	2/3/97
18:19	3/14/94
18:21	2/19/96
18:22	2/24/94
18:23	2/24/94
18:23A	9/4/95
18:24	6/7/93
18:25	2/19/96
18:26	6/7/93
18:35	6/7/93
18:36	3/19/95
18:37	7/23/95
18:38	2/1/98
18:39	9/8/92

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	5/26/93
19:3A	11/4/96
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	5/26/93
19:4A	6/20/93
19:6	5/6/96
19:8	7/5/93
19:9	10/17/93
19:10	9/5/94
19:11	8/20/95
19:12	7/17/96
19:14	8/20/95
19:16	7/17/96
19:17	6/8/93
19:18	5/21/95
19:20	2/5/95
19:25	10/1/95
19:30	7/23/95
19:31	8/20/95
19:40	8/24/94
19:41	5/12/93
19:42	5/12/93
19:43	12/21/97
19:44	9/29/93
19:45	3/24/93
19:46	4/28/93
19:47	4/28/93
19:48	10/13/93
19:49	9/18/97
19:50	5/12/93
19:51	4/27/94
19:53	4/28/93
19:54	3/24/93
19:55	1/19/98
19:61	3/2/97
19:65	10/5/97
19:75	1/13/94

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 January 4, 1993 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 promulgation of the rule and its chronological ranking in the Registry. As an example, R.1993 d.1 means the first rule filed for 1993.

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 DECEMBER 21, 1992

NEXT UPDATE: SUPPLEMENT JANUARY 19, 1993

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
24 N.J.R. 509 and 672	February 18, 1992	24 N.J.R. 3203 and 3454	September 21, 1992
24 N.J.R. 673 and 888	March 2, 1992	24 N.J.R. 3455 and 3578	October 5, 1992
24 N.J.R. 889 and 1138	March 16, 1992	24 N.J.R. 3579 and 3784	October 19, 1992
24 N.J.R. 1139 and 1416	April 6, 1992	24 N.J.R. 3785 and 4144	November 2, 1992
24 N.J.R. 1417 and 1658	April 20, 1992	24 N.J.R. 4145 and 4306	November 16, 1992
24 N.J.R. 1659 and 1840	May 4, 1992	24 N.J.R. 4307 and 4454	December 7, 1992
24 N.J.R. 1841 and 1932	May 18, 1992	24 N.J.R. 4455 and 4606	December 21, 1992
24 N.J.R. 1933 and 2102	June 1, 1992	25 N.J.R. 1 and 218	January 4, 1993
24 N.J.R. 2103 and 2314	June 15, 1992	25 N.J.R. 219 and 388	January 19, 1993
24 N.J.R. 2315 and 2486	July 6, 1992	25 N.J.R. 389 and 616	February 1, 1993
24 N.J.R. 2487 and 2650	July 20, 1992	25 N.J.R. 619 and 736	February 16, 1993
24 N.J.R. 2651 and 2752	August 3, 1992	25 N.J.R. 737 and 1030	March 1, 1993
24 N.J.R. 2753 and 2970	August 17, 1992		
24 N.J.R. 2971 and 3202	September 8, 1992		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1				
1:13A-1.2, 18.1, 18.2	Lemon Law hearings: exceptions to initial decision	24 N.J.R. 1843(a)		
	Most recent update to Title 1: TRANSMITTAL 1992-5 (supplement November 16, 1992)			
AGRICULTURE—TITLE 2				
2:6	Animal health: biological products for diagnostic or therapeutic purposes	24 N.J.R. 2974(a)		
2:6	Animal health: extension of comment period regarding biological products for diagnostic or therapeutic purposes	24 N.J.R. 3981(a)		
2:32-2.4	Sire Stakes Program: stallion standing full season	24 N.J.R. 3981(b)	R.1993 d.70	25 N.J.R. 463(a)
2:76-2.1, 2.2, 2.3, 2.4	Recommendation of agricultural management practices	25 N.J.R. 622(a)		
2:76-3.12, 4.11	Farmland preservation programs: deed restrictions on enrolled lands	25 N.J.R. 222(a)		
2:76-6.15	Agriculture Retention and Development Program: lands permanently deed restricted	25 N.J.R. 223(a)		
2:90-1.4, 1.5	Certification of soil erosion and sediment control plans	24 N.J.R. 3587(a)	R.1993 d.13	25 N.J.R. 65(a)
	Most recent update to Title 2: TRANSMITTAL 1992-5 (supplement October 19, 1992)			
BANKING—TITLE 3				
3:18	Secondary Mortgage Loan Act rules	24 N.J.R. 3982(a)	R.1993 d.55	25 N.J.R. 463(b)
3:18-1, 2.1, 3, 4.1, 4.2, 5.1, 5.2, 5.3, 7.4, 7.5, 8.1, 8.2, 9, 10.5, 10.7, 10.8, 11	Secondary Mortgage Loan Act rules	24 N.J.R. 2760(a)	R.1993 d.50	25 N.J.R. 285(a)
3:41-2.1, 11	Cemetery Board: location of interment spaces and path access	25 N.J.R. 623(a)		
3:42	Pinelands Development Credit Bank	25 N.J.R. 223(b)		
	Most recent update to Title 3: TRANSMITTAL 1992-9 (supplement December 21, 1992)			
CIVIL SERVICE—TITLE 4				
	Most recent update to Title 4: TRANSMITTAL 1992-1 (supplement September 21, 1992)			
PERSONNEL—TITLE 4A				
4A:2-4.1	Notice of termination at end of working test period: administrative correction	———	———	25 N.J.R. 686(a)
4A:3-5.3, 5.6, 5.9	Comparable time off restrictions	24 N.J.R. 3588(a)	R.1993 d.44	25 N.J.R. 290(a)
4A:4-2.6, 2.15	Promotional examinations	24 N.J.R. 3589(a)	R.1993 d.45	25 N.J.R. 291(a)
4A:4-6.4, 6.6	Selection and placement appeals	24 N.J.R. 4467(a)		
4A:4-6.5	Medical and psychological examinations as condition of employment	24 N.J.R. 3596(a)	R.1993 d.46	25 N.J.R. 292(a)
4A:6	Leaves, hours of work, employee development, and awards program	24 N.J.R. 3590(a)	R.1993 d.47	25 N.J.R. 293(a)
	Most recent update to Title 4A: TRANSMITTAL 1992-3 (supplement October 19, 1992)			

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
COMMUNITY AFFAIRS—TITLE 5				
5:10-25.2	Indirect apportionment of heating costs in multiple dwellings	24 N.J.R. 3597(a)	R.1993 d.39	25 N.J.R. 299(a)
5:14-1.6, 2.2, 3.1, 4.1, 4.5, 4.6, 4.7	Neighborhood Preservation Balanced Housing Program: per unit developer fees and costs; other revisions	24 N.J.R. 1144(a)		
5:18-1.5, 2.4, 2.5, 2.7, 3.1–3.5, 3.7, 3.13, 3.17, 3.20, 3.30, App. 3A, 4.7, 4.9, 4.11, 4.12, 4.19	Uniform Fire Code	25 N.J.R. 393(a)		
5:18-2.9, 2.12, 2.14, 2.16, 2.17	Uniform Fire Code: enforcement and penalties for violations	25 N.J.R. 397(a)		
5:18A-4.6	Fire Code enforcement: review of proposed action against certified fire official	25 N.J.R. 399(a)		
5:19	Continuing care retirement communities	24 N.J.R. 1146(a)	R.1993 d.79	25 N.J.R. 686(b)
5:23	Uniform Construction Code	24 N.J.R. 1420(b)	R.1993 d.106	25 N.J.R. 920(a)
5:23-2.5	UCC: increase in building size	24 N.J.R. 1421(a)	R.1993 d.61	25 N.J.R. 463(c)
5:23-2.17, 8	Asbestos Hazard Abatement Subcode	24 N.J.R. 1422(a)		
5:23-3.4, 4.4, 4.18, 4.20, 5.3, 5.5, 5.19A, 5.21, 5.22, 5.23, 5.25	Uniform Construction Code: mechanical inspector license and mechanical inspections	25 N.J.R. 624(a)		
5:23-5.4, 5.5	Uniform Construction Code: licensure of elevator subcode officials and inspectors	24 N.J.R. 4309(a)	R.1993 d.105	25 N.J.R. 920(b)
5:23-9.7	Uniform Construction Code: manufacturing, production and process equipment exemption	24 N.J.R. 3458(a)		
5:27-3.5	Rooming and boarding houses: conformity with Fair Housing Act amendments	24 N.J.R. 4310(a)	R.1993 d.104	25 N.J.R. 920(c)
5:80-32	Housing and Mortgage Finance Agency: project cost certification	24 N.J.R. 2208(a)		
	Most recent update to Title 5: TRANSMITTAL 1992-12 (supplement December 21, 1992)			
MILITARY AND VETERANS' AFFAIRS—TITLE 5A				
	Most recent update to Title 5A: TRANSMITTAL 1992-2 (supplement September 21, 1992)			
EDUCATION—TITLE 6				
6:5-2.3, 2.4, App.	Organization of Department	Exempt	R.1993 d.107	25 N.J.R. 921(a)
6:8-5.4	Corrective action by Commissioner: administrative correction	———	———	25 N.J.R. 299(b)
6:8-6	Programs and services for pupils at risk	24 N.J.R. 3494(a)	R.1993 d.40	25 N.J.R. 299(c)
6:8-9.4, 9.8	Educational improvement plans in special needs districts: fiscal, strategy and program requirements	24 N.J.R. 4467(b)	R.1993 d.112	25 N.J.R. 922(a)
6:9	Educational programs for pupils in State facilities	25 N.J.R. 400(a)		
6:28-8.1, 8.3, 8.4	Educational programs for pupils in State facilities	25 N.J.R. 400(a)		
6:29-3.4	Medical examination requirement for interscholastic athletic participation	24 N.J.R. 4150(a)	R.1993 d.80	25 N.J.R. 686(c)
6:29-8	Nonpublic school nursing services	24 N.J.R. 3495(a)	R.1993 d.41	25 N.J.R. 300(a)
6:31-1.1–1.7, 1.9–1.16	Multiple indicators for exit from bilingual programs	24 N.J.R. 3497(a)	R.1993 d.14	25 N.J.R. 66(a)
	Most recent update to Title 6: TRANSMITTAL 1992-7 (supplement December 21, 1992)			
ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7				
7:0	Well construction and sealing: request for public comment regarding comprehensive rules	24 N.J.R. 3286(a)		
7:1C-1.5, 1.6, 1.7	Ninety-day construction permit fees	24 N.J.R. 2768(a)	R.1993 d.111	25 N.J.R. 924(a)
7:1J	Spill Compensation and Control Act: processing of damage claims (repeal 17:26)	24 N.J.R. 1255(a)	R.1993 d.2	25 N.J.R. 68(a)
7:1K	Pollution Prevention Program	24 N.J.R. 3609(a)	R.1993 d.108	25 N.J.R. 930(a)
7:6-1.45	Seven Presidents Park, Long Branch: boating restrictions within jetty areas	25 N.J.R. 57(a)		
7:7-1.7	Coastal Permit Program fees	24 N.J.R. 2768(a)	R.1993 d.111	25 N.J.R. 924(a)
7:7A-1.4, 2.7, 8.10	Freshwater wetlands protection: project permit exemptions; hearings on contested letters of interpretation	24 N.J.R. 912(b)		
7:7A-16.1	Freshwater wetlands permit fees	24 N.J.R. 2768(a)	R.1993 d.111	25 N.J.R. 924(a)
7:7E-7.4	Coastal zone management: Outer Continental Shelf oil and gas exploration and development	25 N.J.R. 5(a)		
7:7E-7.5	Alternative traffic reduction programs in Atlantic City	24 N.J.R. 1986(a)		
7:8	Stormwater management	24 N.J.R. 4469(a)	R.1993 d.113	25 N.J.R. 990(a)
7:8	Stormwater runoff and nonpoint source pollution control: public meeting and request for comment	24 N.J.R. 4470(a)		
7:9-4	Surface water quality standards: request for public comment on draft Practical Quantitation Levels	24 N.J.R. 4008(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:9-4 (7:9B)	Surface water quality standards; draft Practical Quantitation Levels; total phosphorus limitations and criteria: extension of comment periods and notice of roundtable discussion	25 N.J.R. 404(a)		
7:9-4 (7:9B-1), 6.3	Surface water quality standards	24 N.J.R. 3983(a)		
7:9-4.5, 4.14, 4.15	Surface water quality standards	25 N.J.R. 405(a)		
7:9-4.14 (7:9B-1.14)	NJPDES program and surface water quality standards: request for public comment regarding total phosphorous limitations and criteria	24 N.J.R. 4008(b)		
7:9-4.14, 4.15 (7:9B-1.14, 1.15)	Surface water quality standards: administrative corrections to proposal	24 N.J.R. 4471(a)		
7:9-6	Ground water quality standards	24 N.J.R. 181(a)	R.1993 d.73	25 N.J.R. 464(a)
7:9A-1.1, 1.2, 1.6, 1.7, 2.1, 3.3, 3.4, 3.5, 3.7, 3.9, 3.10, 3.12, 3.14, 3.15, 5.8, 6.1, 8.2, 9.2, 9.3, 9.5, 9.6, 9.7, 10.2, 12.2–12.6, App. A, B	Individual subsurface sewage disposal systems	24 N.J.R. 1987(a)		
7:11-2.2, 2.3, 2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: rates for sale of water	24 N.J.R. 4472(a)		
7:11-4.3, 4.4, 4.9	Manasquan Reservoir Water Supply System: rates for sale of water	24 N.J.R. 4474(a)		
7:13-7.1	Flood plain redelineation of Green Brook in Scotch Plains and Watchung	24 N.J.R. 4475(a)		
7:14A	NJPDES Program: opportunity for interested party review of permitting system	25 N.J.R. 411(a)		
7:14A-1, 2, 3, 5–14, App. F	NJPDES program and Clean Water Enforcement Act requirements	24 N.J.R. 344(b)	R.1993 d.59	25 N.J.R. 547(a)
7:14A-1.9, 2.4, 3.9, 3.13, App. A, B; 13.5, App. H	Statewide Stormwater Permitting Program: administrative corrections	———	———	25 N.J.R. 687(a)
7:14A-1.9, 3.14	Surface water quality standards	24 N.J.R. 3983(a)		
7:15-1.5, 3.4, 3.6, 4.1, 5.22	Statewide water quality management planning	24 N.J.R. 344(b)	R.1993 d.59	25 N.J.R. 547(a)
7:22-3.4, 3.7, 3.8, 3.9, 3.11, 3.17, 3.20, 3.26, 3.27, 3.32, 3.34, 3.37, 4.4, 4.7, 4.8, 4.9, 4.11, 4.13, 4.17, 4.20, 4.26, 4.29, 4.32, 4.34, 4.37, 4.46, 5.4, 5.11, 5.12, 6.17, 6.27, 10.2, 10.3, 10.8, 10.9, 10.11, 10.12	Financial assistance programs for wastewater treatment facilities	24 N.J.R. 4310(b)		
7:25-6.13	1993-94 Fish Code: harvest of largemouth and smallmouth bass	25 N.J.R. 224(a)		
7:25-11	Introduction of imported or non-native shellfish or finfish into State's marine waters	24 N.J.R. 3660(a)		
7:25-16.1	Freshwater fishing line for Rahway River in Union County	24 N.J.R. 2977(a)		
7:25-18.1, 18.5	Atlantic sturgeon management	24 N.J.R. 205(a)	R.1993 d.77	25 N.J.R. 689(a)
7:25-18.1, 18.12, 18.14	Summer flounder management; otter and beam trawls	24 N.J.R. 4249(a)	R.1993 d.56	25 N.J.R. 303(a)
7:25-18.16	Taking of horseshoe crabs	24 N.J.R. 2978(a)		
7:26-1.4, 2.13, 6.3, 6.8	Solid waste management: scrap metal shredding residue, animal manure, interdistrict and intradistrict flow	24 N.J.R. 1995(a)	R.1993 d.27	25 N.J.R. 92(a)
7:26-2.11, 2.13, 2B.9, 2B.10, 6.2, 6.8	Solid waste flow through transfer stations and materials recovery facilities	24 N.J.R. 3286(c)		
7:26-4.3	Thermal destruction facilities: compliance monitoring fees and postponed operative date	24 N.J.R. 1999(a)	R.1993 d.98	25 N.J.R. 990(b)
7:26-4.3	Thermal destruction facilities: extension of comment period regarding compliance monitoring fees	24 N.J.R. 2687(a)		
7:26-4A.6	Hazardous waste program fees: annual adjustment	24 N.J.R. 2001(a)		
7:26-5.4, 7.4, 7.6, 9.4, 12.4	Hazardous waste manifest discrepancies	23 N.J.R. 3607(a)	R.1993 d.5	25 N.J.R. 98(a)
7:26-6.5, 6.6	Interdistrict and intradistrict solid waste flow	24 N.J.R. 3291(a)	R.1993 d.109	25 N.J.R. 991(a)
7:26-8.20	Used motor oil recycling	24 N.J.R. 2383(a)		
7:26-12.3	Hazardous waste management: interim status facilities	24 N.J.R. 4253(a)		
7:26A-6	Used motor oil recycling	24 N.J.R. 2383(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
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7:26B-1.3, 1.10, 1.13, 5.4, 13.1, App. A	Environmental Cleanup Responsibility Act rules	24 N.J.R. 720(a)	R.1993 d.3	25 N.J.R. 100(a)
7:26B-1.3, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 5.4, 13.1, App. 1	ECRA rules: extension of comment period	24 N.J.R. 1281(a)		
7:26B-7, 9.3	Remediation of contaminated sites: Department oversight	24 N.J.R. 1281(b)		
7:26C	Remediation of contaminated sites: Department oversight	24 N.J.R. 1281(b)		
7:26D	Cleanup standards for contaminated sites	24 N.J.R. 373(a)	Expired	
7:26D	Cleanup standards for contaminated sites: additional public hearing and extension of comment period	24 N.J.R. 1458(b)		
7:26D	Cleanup standards for contaminated sites: additional public hearing and extension of comment period	24 N.J.R. 2003(b)		
7:26E	Technical requirements for contaminated site remediation	24 N.J.R. 1695(a)		
7:27-1.4, 1.6–1.30, 8.4, 8.14–8.24, 16.9, 21	Air contaminant emission statements from stationary sources	24 N.J.R. 2979(a)		
7:27-1.4, 1.36, 1.37, 1.38, 8.1, 8.3, 8.4, 8.24, 18	Control and prohibition of air pollution from new or altered sources: emission offsets	24 N.J.R. 3459(a)		
7:27-8.1, 8.3, 8.27	Air pollution control: requirements and exemptions under facility-wide permits	24 N.J.R. 4323(a)		
7:27-19	Control and prohibition of air pollution from oxides of nitrogen	25 N.J.R. 631(a)		
7:27-25.7, 27.9, 27.10	Control and prohibition of air pollution by vehicular fuels: administrative corrections	_____	_____	25 N.J.R. 309(a)
7:27-26	Low Emissions Vehicle Program	24 N.J.R. 1315(a)		
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7:27A-3.5, 3.10	Control and prohibition of air pollution from oxides of nitrogen: civil administrative penalties	25 N.J.R. 631(a)		
7:27A-3.10	Civil administrative penalties for violations of emission statement requirements	24 N.J.R. 2979(a)		
7:28-15, 16.2, 16.8	Medical diagnostic x-ray installations; dental radiographic installations	25 N.J.R. 7(a)		
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7:50-4.1, 4.70	Pinelands Comprehensive Management Plan: expiration of development approvals and waivers	25 N.J.R. 225(a)		
7:61	Commissioners of Pilotage: licensure of Sandy Hook pilots	24 N.J.R. 3477(a)		
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8:21-3A	Registration of manufacturers and wholesale distributors of non-prescription drugs, and manufacturers and wholesale distributors of devices	24 N.J.R. 3100(a)		
8:24	Packing of refrigerated foods in reduced oxygen packages by retail establishments: preproposal	25 N.J.R. 660(b)		
8:24	Retail food establishments and food and beverage vending machines	25 N.J.R. 662(a)		
8:31B-4.40	Uncompensated care collection procedures	24 N.J.R. 1124(c)		
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8:33A-1.2, 1.16	Hospital Policy Manual: applicant preference; equity requirement	24 N.J.R. 4476(a)		
8:33C-10.1	Regionalized perinatal services: administrative correction to adoption notice	_____	_____	25 N.J.R. 580(a)
8:33G	Computerized tomography services: certification of need	24 N.J.R. 4221(a)	R.1993 d.87	25 N.J.R. 700(a)
8:33I-1	Megavoltage radiation oncology services: certification of need	24 N.J.R. 4222(a)	R.1993 d.88	25 N.J.R. 701(a)
8:33M-1.6	Bed need methodology for adult comprehensive rehabilitation services	24 N.J.R. 4225(a)	R.1993 d.89	25 N.J.R. 703(a)
8:33R	Psychiatric health care facilities and services: policy manual for planning and certificate of need reviews	24 N.J.R. 3598(a)	R.1993 d.29	25 N.J.R. 111(a)

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8:41	Mobile intensive care programs	24 N.J.R. 3255(b)		
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8:43E	Recodification (see 8:33R)	24 N.J.R. 3598(a)	R.1993 d.29	25 N.J.R. 111(a)
8:44-2.2, 3	Limited purpose laboratories	25 N.J.R. 668(a)		
8:71	Interchangeable drug products (see 24 N.J.R. 1896(a), 2560(b), 3174(a))	24 N.J.R. 735(a)		
8:71	Interchangeable drug products (24 N.J.R. 2559(a))	24 N.J.R. 1673(a)		
8:71	Interchangeable drug products (see 24 N.J.R. 2557(b), 3173(a), 4260(b))	24 N.J.R. 1674(a)	R.1993 d.65	25 N.J.R. 582(a)
8:71	Interchangeable drug products (see 24 N.J.R. 3174(c), 3728(a), 4262(a))	24 N.J.R. 2414(b)	R.1993 d.67	25 N.J.R. 583(a)
8:71	Interchangeable drug products (24 N.J.R. 4261(a))	24 N.J.R. 2997(a)	R.1993 d.66	25 N.J.R. 582(b)
8:71	Interchangeable drug products	24 N.J.R. 4009(a)	R.1993 d.64	25 N.J.R. 580(b)
8:71	Interchangeable drug products	25 N.J.R. 55(a)		
8:100	State Health Planning Board: public hearings on draft chapters of State Health Plan	24 N.J.R. 3788(a)		
8:100	State Health Plan: draft chapters	24 N.J.R. 3789(a)		
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9:4-3.12	Noncredit courses at county colleges	25 N.J.R. 227(a)		
9:6A	State college personnel system	24 N.J.R. 3052(a)		
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10:36	Patient supervision at State psychiatric hospitals	24 N.J.R. 4232(a)	R.1993 d.58	25 N.J.R. 583(b)
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10:38A	Pre-Placement Program for patients at State psychiatric facilities	24 N.J.R. 4326(a)		
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10:51	Pharmaceutical Services Manual	24 N.J.R. 3053(a)		
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10:69	Hearing Aid Assistance to the Aged and Disabled Eligibility Manual	25 N.J.R. 228(a)		
10:69-5.8; 69A-5.4, 5.6, 6.12, 7.2; 69B-4.13	HAAAD, PAAD, and Lifeline programs: fair hearing requests, prescription reimbursement, benefits recovery	24 N.J.R. 4329(a)		
10:69A	Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual	24 N.J.R. 4479(a)		
10:69A-2.1, 4.1–4.4, 5.3, 5.5	PAAD prescription copayment	24 N.J.R. 4328(a)		
10:72-1.1	New Jersey Care—Special Medicaid Program scope: administrative correction	_____	_____	25 N.J.R. 704(a)
10:81-11.4, 11.9	Public Assistance Manual: provision of information regarding services to AFDC clients; legal representation in child support matters	24 N.J.R. 2327(a)	R.1993 d.1	25 N.J.R. 115(a)
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10:122C	DYFS: approval of foster homes	23 N.J.R. 3696(a)	R.1993 d.16	25 N.J.R. 117(a)
10:122D	DYFS: foster care services	23 N.J.R. 3703(a)	R.1993 d.17	25 N.J.R. 124(a)
10:122E	DYFS: removal of foster children and closure of foster homes	23 N.J.R. 3708(a)	R.1993 d.18	25 N.J.R. 127(a)
10:123-3.4	Personal needs allowance for eligible residents of residential health care facilities and boarding houses	24 N.J.R. 3088(a)		
10:123-3.4	Personal needs allowance for eligible residents of residential health care facilities and boarding houses: annual adjustment	25 N.J.R. 229(a)		
10:124-5.1	Children's shelter facilities and homes: local government physical facility requirements	24 N.J.R. 4482(a)		
10:133	DYFS: initial response and service delivery	23 N.J.R. 3714(a)	R.1993 d.19	25 N.J.R. 132(a)
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10:133B	DYFS: information and referral	23 N.J.R. 3720(a)	R.1993 d.21	25 N.J.R. 136(a)
10:133C-3	DYFS: assessment of family service needs	24 N.J.R. 217(a)	R.1993 d.22	25 N.J.R. 136(b)
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11:1-32.4	Workers' compensation self-insurance: extension of comment period	24 N.J.R. 2708(b)		
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11:2-33	Workers' compensation self-insurance	24 N.J.R. 1944(a)		
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11:2-35.1–35.6	Insurer relief from FAIR Act obligations	24 N.J.R. 3212(a)	R.1993 d.24	25 N.J.R. 138(a)
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11:3-16.12	Automobile insurance: filings reflecting paid, apportioned MTF expenses and losses	24 N.J.R. 4486(a)		
11:3-16.12	Automobile insurance: public hearing and extension of comment period regarding filings reflecting paid, apportioned MTF expenses and losses	25 N.J.R. 56(a)		
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11:3-28.8	Reimbursement of excess medical expense benefits paid by insurers	24 N.J.R. 3215(a)		
11:3-29.1, 29.2, 29.4	Motor bus medical expense benefits coverage	24 N.J.R. 3605(a)	R.1993 d.25	25 N.J.R. 140(a)
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11:3-33.2	Appeals from denial of automobile insurance: failure to act timely on written application for coverage	24 N.J.R. 2128(b)		
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11:5-1.9	Real Estate Commission: transmittal of funds to lenders	24 N.J.R. 4268(a)		
11:5-1.15	Real Estate Commission: advertising by brokers and licensees	24 N.J.R. 3484(a)	R.1993 d.9	25 N.J.R. 178(b)
11:5-1.16	Real Estate Commission: documentation of offers and counter-offers	24 N.J.R. 3485(a)	R.1993 d.10	25 N.J.R. 179(a)
11:5-1.23	Real Estate Commission: transmittal by licensees of written offers on property	24 N.J.R. 3486(a)		
11:5-1.28	Real Estate Commission: surety bond posting by prelicensure schools	24 N.J.R. 3488(a)	R.1993 d.11	25 N.J.R. 180(a)
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11:5-1.38	Real Estate Commission: pre-proposal regarding buyer-brokers	24 N.J.R. 3488(b)		
11:15-3	Joint insurance funds for local government units providing group health and term life benefits	25 N.J.R. 436(a)		
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12:110	Public employee occupational safety and health: procedural standards	24 N.J.R. 4234(a)	R.1993 d.71	25 N.J.R. 595(a)
12:190	Regulation of explosives	24 N.J.R. 4235(a)	R.1993 d.72	25 N.J.R. 595(b)
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13:30-8.5	Board of Dentistry: complaint review procedures	24 N.J.R. 2800(a)		
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13:31-1.11, 1.17	Electrical contractor's business permit: telecommunications wiring exemption	24 N.J.R. 339(a)	R.1993 d.93	25 N.J.R. 705(a)
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13:70-12.4	Thoroughbred racing: claimed horse	24 N.J.R. 4022(a)		
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13:72	Casino simulcasting of horse races	24 N.J.R. 3666(b)	R.1993 d.53	25 N.J.R. 315(a)
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