NEW JERSEY REGISTER

IN THIS ISSUE
"INDEX OF PROPOSED RULES"

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The New Jersey Register supplements the New Jersey Administrative Code. To complete your research of the latest State Agency rule changes, see the Rule Adoptions in This Issue, the Rule Adoptions in the July 2 issue, and the Index of Adopted Rules beginning on Page 1816 of that issue.

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice
Verbatim Record of Proceedings; Sound and Stenographic Recordings; Requesting Transcript; Cost

Proposed Amendment: N.J.A.C. 1:1-3.3

Authorized By: Ronald I. Parker, Acting Director, Office of Administrative Law.
Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Interested persons may submit, in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Steven L. Lefelt, Deputy Director
Office of Administrative Law
185 Washington Street
Newark, NJ 07102

At the close of the period for comments, the Office of Administrative Law thereafter may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption of these rules becomes effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-380.

The agency proposal follows:

Summary

The Office of Administrative Law occasionally receives requests to provide the transcript of an administrative hearing at public expense for use on appeal. However, the Office of Administrative Law does not have the authority to make any decision on such requests.

The procedure for applications for a transcript at public expense for use on appeal is set forth in the New Jersey Court Rules at R. 2:5-3(d). The proposed amendment simply informs the parties that the application should not be made to the OAL, but to the Appellate Court pursuant to the Court Rule. In Federal appeals, the applications must be made according to the Federal Court Rules.

Social Impact

It is anticipated that the proposed amendment will eliminate confusion as to the process to be used to apply for a transcript of an administrative hearing at public expense.

Economic Impact

Since the amendment makes it clear that applications for a transcript at public expense should not be made to the OAL, but rather to the Appellate Division or to the Federal courts, the proposed amendment should eliminate those applications which were incorrectly made to the OAL in the past.

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

SUBCHAPTER 3. CONDUCT OF CONTESTED CASES GENERALLY

1:1-3.3 Verbatim record of proceedings; sound and stenographic recordings; requesting transcript; cost

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

(e) Any party or person entitled by Federal statute or regulation to copy and inspect the verbatim transcript may arrange with the Clerk to review any transcript filed under (b) or (d)

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above and shall also be permitted to hear and receive a copy of any sound recorded proceeding pursuant to (c) above. **All applications to obtain a transcript of any proceeding at public expense for use on appeal shall be made to the Appellate Court pursuant to New Jersey Court Rule 2:5-3 or in case of Federal appeals pursuant to applicable Federal Court Rules.**

(f) (No change.)

COMMUNITY AFFAIRS

(a)

LOCAL FINANCE BOARD

Local Authorities

Proposed New Rules: N.J.A.C. 5:31

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

Authority: N.J.S.A. 40A:5A-1 et seq. (L.1983 c.313).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

The Local Finance Board thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-391.

The agency proposal follows:

Summary

The proposed new rules govern the review and approval of local authority budgets by the Director, Division of Local Government Services. The rules also regulate budget preparation, capital budget and capital programs, introduction, adoption, later approval and adoption and amendment by local authorities, as well as providing for a temporary budget. Additionally, the new rules encompass legal depositories, payments from authority moneys, required check signatures, surety bonds, accounting principles and policies, annual audit, audit by Director, audit standards, auditors confidential report, the audit report and the annual financial report.

N.J.S.A. 40A:5A-10 and 15 (L.1983, c.313) authorizes the adoption of these rules by the Local Finance Board.

Social Impact

The New Jersey system of regulating local budgets has proved to be a sound one which has benefitted the local governments and the public. The proposed rules will, pursuant to the provisions of L.1983, c.313, continue that effort by providing for oversight by the State over local authority budgets. The proposed budgetary controls will reinforce and protect the fiscal integrity of the local authorities and local units creating, joining or contracting with the authorities. Finally, the new rules will provide the budgetary controls to safeguard public funds.

Economic Impact

Compliance by local authorities may result in a slight increase in administrative costs since the proposed budget rules will require a new procedure of submitting introduced authority budgets, together with supporting information, to the Director of the Division of Local Government Services for his review and approval prior to adoption. This procedure has proved successful with municipal budgets. In addition to ensuring the financial integrity of authorities, compliance with these rules will provide a uniform budgetary system that should maintain the creditability of the investment community and enhance the investment ratings of the local authorities.

Full text of the proposed new rules follows.

CHAPTER 31
LOCAL AUTHORITIES

SUBCHAPTER 1. GENERAL PROVISIONS

5:31-1.1 Scope

This chapter shall constitute the rules governing the preparation, introduction, approval, adoption and execution after adoption of any budget by a local authority, the accounting principles and policies for such authorities, the administration of financial affairs of such authorities, the annual audit of the books, accounts and financial transactions of such authorities, and financial reporting practices of such authorities under the Local Authorities Fiscal Control Law, L.1983, c.313.

5:31-1.2 Definitions

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

"Act" means the Local Authorities Fiscal Control Law, L.1983, c.313 (N.J.S.A. 40A:5A-1 et seq.)

"Authority" means a body, public and corporate, created by one or more municipalities or counties pursuant to any law authorizing that creation, which law provides that the public body so created has at least the following powers:

1. To adopt and use a corporate seal;
2. To sue and be sued;
3. To acquire and hold real or personal property for its purposes; and
4. To provide for and secure the payment of its bonds or other obligations, or to provide for the assessment of a tax on real property within its district, or to impose charges for the use of its facilities, or any combination thereof; but shall not include any public body for which Federal or State fiscal controls differing from those imposed by the Act, have been explicitly established by law, but only to the extent of that difference.

"Annual financial report" means the annual report by an authority for a fiscal year including management's discussion of operations, other relevant information and the audit report for the corresponding fiscal year, as more specifically described in N.J.A.C. 5:31-7.3 and 7.4.

"Audit" means an examination of the books, accounts, transations, internal controls, financial administration procedures and financial statements of an authority by the independent auditor or by the Division of Local government Services engaged by the authority, in the manner more specifically described by these regulations.

"Audit report" means the report on the results and findings of the audit by the independent auditor or by the Division of Local Government Services engaged by the authority.

"Budget" means the budget of an authority.

"Capital budget" means the first year of a capital program.

"Capital program" means a projected, multi-year plan and schedule for capital projects, which shall set forth among other things all prospective financing sources including, but not limited to, proceeds of bond sales, grants and budget appropriations.

"Capital project" means any of the following activities or undertakings which an authority is empowered to bond for, with an estimated useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of $25,000 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of equipment, furnishings or other personal property;
3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures improvements or public works;
4. Any other matter for which an authority is empowered to issue bonds.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Division" means the Division of Local Government Services in the Department of Community Affairs.

"Full membership" means the number of members of the governing body when all seats are filled.

"Governing body" means the Board having control of the finances of an authority.

"Financing agreement" means an agreement of a local unit or units intended to provide security for an issue of obligations of an authority, including, but not limited to, a contract providing for payments by a local unit or units with respect to use, services or provision of a project, facility or public improvement of an authority or payments for debt service therefor.

"Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

"Local unit or units" means a county or municipality which created or joined in the creation of an authority, or which proposes to create or join in the creation thereof, or which has entered or proposes to enter into a financing agreement with an authority.

"Operations" means all activities of an authority conducted in accordance with N.J.S.A. 40A:5A-1 et seq. and any other legislation governing the affairs of the authority.

"Project financing" means the financing by an authority of a facility for the benefit of the inhabitants of a local unit or units and includes payment for the design and plan for the facility.

"Security agreement" means a bond resolution of an authority, or a trust indenture to be executed by an authority, or other similar proceeding or document.

SUBCHAPTER 2. BUDGETS

5:31-2.1 Annual budget preparation and content

(a) Every authority as herein defined shall prepare an annual budget for each fiscal year in which an expenditure of money is expected.

(b) The budget shall comply with the terms of any security agreement and be prepared in compliance with these regulations.

(c) The budget shall set forth all anticipated revenues of the authority, including the following, where applicable:

1. Retained earnings (fund balance);
2. Rents, fees and other charges which are reasonably expected to be realized from users of facilities and/or services provided by the authority;
3. Amounts expected to be received from local unit or units pursuant to financing agreements with respect to use, services, or provisions of a project, facility or public improvement of an authority or payments for debt service therefor;
4. Interest on investments and deposits (investments, certificates of deposit, savings accounts, etc.) held for operating purposes as opposed to other purposes;
5. Other income, consisting of amounts reasonably expected to be collected from regular and recurring sources;
6. Amounts reasonably expected to be collected from unrestricted grants which may be used to finance budget appropriations;
7. Total anticipated revenues.

(d) The budget shall set forth all of the appropriations of the authority including the following, where applicable:

1. Administrative and operating expenses including maintenance and repair of facilities and improvements;
2. Provision for bond principal maturing during the budget year;
3. Provision for note principal maturing during the budget year;
4. Provision for future plant reconstruction and replacement, consisting of amounts determined by management to provide a reserve fund for future plant reconstruction and replacement;
5. Contribution to the Public Employees' Retirement System;
6. Contribution to the Social Security System;
7. Contribution to the Unemployment Compensation Insurance fund;
8. Addition to the Renewal and Replacement Account;
9. Provision for interest accruing during the fiscal year on debt issued and outstanding;
10. Provision for deficit of the preceding fiscal year and anticipated deficit of the current fiscal year;
11. Total appropriations.

(e) The total budget appropriations shall not exceed total anticipated revenues reasonably expected to be realized.

5:31-2.2 Capital budget and capital program

(a) Every authority shall prepare and adopt a capital budget, in conjunction with its annual budget, for any year in which it proposes to undertake a capital project.

(b) No authority shall adopt a security agreement unless its provisions are in agreement with a previously adopted capital budget, temporary capital budget or amended capital budget.

(c) Every authority which adopts a capital budget shall also adopt a capital program or modify or add a year to an existing capital program, provided that no capital program shall be required if the authority has not expended more than $25,000 annually for capital projects for the immediate previous three years. The capital program shall be submitted to the Director with the capital budget.

(d) Any capital budget or capital program that is to be adopted shall:

1. Be prepared and assembled by the officer(s) responsible for preparing the annual budget;

2. Be adopted by the affirmative vote of a majority of the full membership of the governing body;

3. Be treated as part of the official annual budget;

4. The capital budget shall include by title all projects scheduled for startup in the current budget year, the amounts appropriated and the anticipated financing by source and amount. The capital program period shall include the budget year and five succeeding years;

5. The Director shall, as part of his review of each authority annual budget, determine whether a capital budget and program are required, and if so, whether it has been included in proper form. The review shall not extend to any determination as to the sufficiency or wisdom of its content. Failure to properly submit the capital budget and program may delay approval of the entire annual budget.

(e) No authority shall make appropriations or authorize expenditures or obligations for capital projects in the absence of an adopted capital budget except for the preliminary expenses of plans, specifications and estimates.

5:31-2.3 Budget introduction and adoption for other than special districts

(a) The governing body shall introduce and approve its annual budget by resolution, passed by not less than a majority of the full membership.

(b) The authority shall transmit three certified copies of the budget, to the Director at least 60 days prior to the end of the current fiscal year, together with all relevant information and documentation as prescribed in these regulations or as otherwise may be required by the Director.

(c) The following information and documentation shall accompany the budget:

1. A computation of retained earnings;

2. The schedule of rates, fees and charges in effect or proposed and computation of revenue reasonably expected to be realized;

3. Summary of applicable provisions of service agreements and computation of amount due from each local unit and total amount due under such provisions;

4. Computation or explanation of amounts expected to be realized from other sources accompanied by copies of grant agreements or other applicable agreements, if any;

5. Schedule of debt service (principal and interest) for the budget year and next succeeding four years;

6. Computation of an anticipated deficit or net income for the current year.

(d) The budget and all relevant information and documentation shall be reviewed by the Director and either approved or disapproved within 45 days of the Director's receipt thereof.

(e) No authority budget shall be finally adopted until the Director shall have approved the same. Final budget adoption shall be by resolution passed by a majority of the full membership of the authority governing body.

(f) The budget shall be adopted not later than the beginning of the authority's fiscal year, except that the governing body may adopt or amend the budget at any time after the Director shall have approved the same.

1. Two certified copies of the budget as adopted, shall be transmitted to the Director within three days after adoption.

2. One certified copy of the budget as adopted shall be transmitted to each local unit within three days after adoption.

(g) Upon adoption, the budget shall constitute an appropriation for the purposes stated therein for the purposes of the authority.

5:31-2.4 Budget introduction and adoption for fire and other special districts

(a) The Board of Commissioners shall introduce its annual budget by resolution, passed by not less than a majority of the full membership.

(b) The budget shall set forth all anticipated revenues of the district, including the following, where applicable:

1. Surplus which shall not exceed the amount of the actual or estimated fund balance held in cash or quick assets of the beginning of the budget year;

2. Miscellaneous revenues which shall be such amounts as may reasonably be expected to be realized in cash during the budget year from known and regular sources, or from sources reasonably capable of anticipating, including amounts expected to be received from municipalities appropriating money for district purposes, but not including revenues from taxes to be levied to support the district budget;

3. Amount to be raised by taxation to support the district budget which shall be the amount to be certified to the assessor of the municipality to be assessed against the taxable property in the district. Such amounts shall be equal to the amount of the total appropriations set forth in the budget minus the total amount of surplus (fund balance) and miscellaneous revenues set forth in the budget.

(c) The budget shall set forth all of the appropriations of the district, including the following where applicable:

1. For operating appropriations the following shall be included where applicable:

i. Administration;

ii. Operation and maintenance of each office or agency of the district;

iii. Reimbursement to employees of a fire district and any volunteer firemen having membership in a volunteer fire company within the fire district for expenses and losses actually incurred in the performance of their duties;

iv. Each paid position of a fire district, along with the compensation to be paid therefor;

v. Amounts necessary to fund any deficit, or anticipated deficit, from the preceding budget year.

2. Capital appropriations shall include the following:

i. Amounts necessary in the current budget year to fund or meet obligations incurred for capital purposes, including principal and interest on bonds, itemized according to purpose.

3. Total appropriations shall be the sum of items 1 and 2 above.

(d) The total budget appropriations shall not exceed total anticipated revenues reasonably expected to be realized.

(e) The district shall transmit three certified copies of its budget to the Director at least 60 days prior to the annual election, together with all relevant information as prescribed in these regulations or as otherwise required by the Director.

(f) The following information and documentation shall accompany the budget:

1. A computation of the actual or estimated fund balance or deficit from the preceding fiscal year;

2. Schedule of debt service (principal and interest) for the budget year and next succeeding four year;

3. Computations supporting budget appropriation or appropriations for services or supplies to be furnished under contractual agreements supported by a summary of the provisions and terms of such contractual agreements.

(g) The budget and all relevant information shall be reviewed by the Director and the budget shall either be approved or disapproved within 35 days of the Director's receipt thereof.

(h) No district budget shall be adopted by the Commissioners until the Director shall have approved same. Budget adoption shall be by resolution passed by a majority of the full membership of the commission.

1. Two certified copies of the budget as adopted shall be transmitted to the Director within three days after adoption.

2. One certified copy of the budget as adopted shall be transmitted to the local unit within three days after adoption.

(i) In the event that the adopted budget is rejected at the annual election of the district, the governing body of the local units shall, within seven days after the annual election prepare and introduce, by resolution adopted by a majority vote of the full membership of the governing body of the local unit, the budget for the fiscal year of the district.

(j) Within three days after its introduction the local unit shall transmit three certified copies of the budget, and introduced by the local unit, to the Director, together with a written explanation of the changes made by the local unit.

(k) The district budget introduced by the local unit shall be reviewed by the Director and either approved or disapproved within 15 days of the Director's receipt thereof.

(l) No district budget shall be finally adopted by the local unit until the Director shall have approved same. Final district budget adoption by the local unit shall be by resolution passed by a majority vote of the full membership of the governing body of the local unit. Two certified copies of the district budget as finally adopted shall be transmitted to the Director within three days after adoption.

5:31-2.5 Late approval of budget; Temporary appropriations

(a) The Director may approve any budget not filed with him within the time prescribed, provided a resolution of the authority setting forth the reasons for the delay, satisfactory to the Director, shall accompany the proposed budget.

(b) All actions taken by the Director and authority, with respect to approval by the Director and adoption by the authority, shall be taken forthwith and as if the filing by the authority had occurred on time.

(c) The governing body may and, if any contracts, commitments or payments are required to be made prior to the adoption of the budget, shall, by resolution adopted prior to the beginning of the fiscal year or within the first 30 days of the fiscal year make temporary appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget. The total appropriations made in accordance with the provision of this section shall not exceed the total of the appropriations made for all purposes in the budget for the preceding fiscal year.

(d) Nothing contained in these regulations shall prevent or relieve the governing body from making appropriations for all interest and debt redemption charges maturing subsequent to the end of a fiscal year and prior to the date of adoption of the budget.

5:31-2.6 Budget review by Director

(a) Upon receipt of an introduced budget, the Director shall review the budget to determine the following:

1. All estimates of revenue are reasonable, accurate and correctly stated;

2. Items of appropriation are properly set forth;

3. In itemization, form and content, the budget will permit the comptroller function within the authority;

4. The schedule of rates, fees and charges then in effect will produce sufficient revenues, together with all other anticipated revenues, to satisfy all obligations to the holders of bonds of the authority, to meet operating expenses, capital outlays, debt service requirements and to provide for such reserves, all as may be required by law, regulations or terms of contracts or agreements.

(b) The Director may require such documentation, records and other information, and undertake any audit or investigation, as he may deem necessary in connection with his review.

(c) If the Director finds that all requirements of law and the rules and regulations of the Local Finance Board have been met, he shall, within 45 days of his receipt of the budget, approve it; otherwise he shall within that time refuse to approve it.

(d) The Director in refusing to approve a budget:

1. Shall not substitute his discretion with respect to the amount of an appropriation when that amount is not made mandatory by law or regulation.

2. Shall transmit in writing his reasons for disapproval and the conditions upon which approval will be granted.

5:31-2.7 Appeals

(a) Any decision of the Director in the course of budget review, pursuant to these rules, may be appealed to the Local Finance Board in the manner generally provided by N.J.S.A. 52:27BB-15.

1. The appellant must file the appeal application with the Director within 10 days of the Director's decision.

2. The appellant must set forth in the application the reasons and basis for the appeal.

3. The appellant must submit all documentation required to substantiate the appeal.

5:31-2.8 Budget amendments

(a) Amendments to the budget and capital budget are permitted as follows:

1. Decrease in revenue with corresponding decrease in budgeted costs;

2. Reclassification of budgeted amounts among expense categories;

3. Increase in budgeted costs with corresponding increases in budgeted revenues;

4. Decrease in specific capital project costs or elimination of previously identified projects;

5. Deferral of capital projects funding to future years;

6. Increase in capital project costs or additional projects with identification and timing of anticipated funding sources.

(b) All amendments to the budget shall be approved and adopted by resolution of the authority, passed by not less than a majority of the full membership. The resolution shall set forth the reasons for the amendment.

(c) Two certified copies of the amendment and all relevant resolutions shall be transmitted to the Director within three days after adoption. One certified copy of the amendment shall be transmitted to each local unit within three days after adoption.

(d) No proposed budget or amendment thereto shall become effective prior to approval by the Director.

SUBCHAPTER 3. CASH MANAGEMENT

5:31-3.1 Cash management plan; Legal depositories for public moneys'; Receipt and deposit of funds

(a) The governing body shall, by resolution, passed by not less than a majority of the full membership, adopt a cash management plan which shall designate as a depository the State of New Jersey Cash Management Fund, or a bank or trust company having its place of business in New Jersey and organized under the laws of the State of New Jersey.

1. The cash management plan shall be designed to assure to the extent practicable the investment of authority funds in interest bearing accounts.

2. The cash management plan may be modified from time to time in order to reflect changes in Federal or State law or regulations.

(b) All moneys received by the authority from any source shall within 48 hours be deposited to the credit of the authority in its legal depository.

(c) No authority shall engage in the practice of cashing checks with public funds.

SUBCHAPTER 4. APPROVAL AND PAYMENT OF CLAIMS

5:31-4.1 Payment of authority moneys; Approval of claims

(a) All persons submitting a claim for payment from authority moneys shall present a detailed bill of items or demand, specifying how the bill or demand is made up, with the certification of the party claiming payment that it is correct.

(b) All claims shall carry a certification of an official or designated employee of the authority having knowledge of the facts that the goods have been received by, or the services rendered to the authority.

(c) The governing body shall approve or disapprove all claims in accordance with regulations adopted by the authority.

(d) All claims approved for payment by the governing body shall be recorded in the minutes of the authority meetings and shall, upon approval of the minutes, be open to the public.

(e) Payment of claims shall be by check drawn on the authority, signed by the governing body chairman or other chief executive officer and the secretary and countersigned by such other officer or officials as designated by resolution.

(f) The governing body shall by resolution, passed by not less than a a majority of the full membership, designate the manner in which and the time in which salaries, wages or other compensation for services shall be paid.

5:31-4.2 Signatures on checks drawn upon the treasury of the authority

(a) Every authority shall at each organizational meeting designate by resolution the individuals, in addition to the signature of the secretary, whose signatures shall appear on checks drawn upon the treasury of the authority.

SUBCHAPTER 5. DATA PROCESSING

5:31-5.1 Approval of electronic data processing systems or process center utilization

(a) An authority planning any electronic data processing installation or utilizing the services of an electronic data processing center for applications that are primarily financial in nature shall, before entering into any agreement or contract, submit to the Director a request for approval including a detailed description of the system, the type thereof, the results to be obtained, the personnel required, the estimated cost of operation and the benefits to be obtained. Material to be submitted with the request for approval shall include copies of the bid specifications, vendors bids and such other documents that will identify the computer applications proposed.

1. After satisfactory completion of a review of the proposed system the Division will express its approval in writing.

2. The Division will disapprove a proposed system if there are inadequate controls or any other undesirable features such as failure to document data processed or to provide an audit trail or visible records to facilitate audit thereof.

SUBCHAPTER 6. SURETY BONDING

5:31-6.1 Surety bond for authority employees and officials

The governing body of an authority shall by resolution designate authority employees and officials required to furnish surety bonds and determine minimum bonds for each such employee and official. The minimum requirement for the surety bond shall be determined with due regard for the duties and responsibilities of each such designated employee and official. Each person in the office handling funds shall be bonded in accordance with their responsibility.

SUBCHAPTER 7. ACCOUNTING AND AUDITING

5:31-7.1 Accounting principles and policies for other than special districts

(a) Accounting transactions and records shall be maintained on the accrual basis of accounting.

1. Revenues shall be recognized and recorded in the accounting period in which they are earned and become measurable.

i. Revenue from services rendered shall be recognized when services have been performed and are billable.

ii. Revenue from use of money or property such as interest or rent shall be recognized upon the passage of time as the resources are used.

2. Expenses shall be recognized and recorded in the period incurred, if measurable. Expenses resulting from the consumption of materials and supplies may be recognized and recorded as they are consumed or alternatively, may be recognized at date of purchase if the amount of expenses in a fiscal period would not be materially distorted as a result of such alternative treatment.

(b) Fixed assets of any authority shall be reflected in the accounts at cost, or if the cost is not practically determinable, at estimated cost. Donated fixed assets shall be recorded at their estimated fair value at the time received.

(c) Depreciation of fixed assets shall be recognized and recorded annually so that the asset cost will be spread over the estimated useful lives of the assets.

1. The straight line method shall be used in recording depreciation.

2. The estimated useful lives of the separate assets or classes of assets shall be determined by the management of each authority.

(d) Assets, cash and investments restricted for specific nonoperating purposes by security agreements, financing agreements and management policy shall be separately identified in the accounting records. Liabilities payable from such restricted assets shall also be separately identified in the accounting records.

(e) Accounts comprising the fund equity group of accounts shall be separately classified as contributed capital and retained earnings.

1. The contributed capital account group shall include accounts separately identified as to the source of the contribution (Federal government, State government, local government, developers, etc.)

2. The retained earnings account group shall include accounts separately identified as unreserved retained earnings and reservations of retained earnings comprising tentative plans by management for utilization in a future period.

(f) The management of an authority shall be responsible for instituting a plan providing for the following separations of accounting function, wherever practical, so as to provide a system of internal control over initiating and recording financial transactions with the objective of safeguarding assets and maintaining reliable financial records:

1. Separate the function of revenue billing from that of collecting and depositing receipts.

2. Separate the function of disbursing funds from that of purchasing and receiving materials and services.

3. Separate the function of reconciling balances on deposit with depositories with general ledger controls from those of receiving, depositing and disbursing cash.

4. Separate the function of payroll preparation from that of distributing payroll checks to employees.

5. Separate the function of hiring, promoting, establishing and adjusting compensation and terminating employees from the functions enumerated in item 4 above.

5:31-7.2 Accounting principles and policies for special districts

(a) Accounting transactions and records shall be maintained on the modified accrual basis of accounting for governmental fund types as described in the publication, Governmental Accounting, Auditing and Financial Reporting and subsequent statements published by the Municipal Finance Officers Association of the United States and Canada located at 180 North Michigan Avenue, Suite 800, Chicago, Illinois 60601.

1. Revenues shall be recognized and recorded in the accounting period in which they become measurable and available to finance expenditures of the current fiscal period.

2. Expenditures are recognized when the related liability is incurred. Exceptions to this general rule are:

i. Unmatured principal and interest on general obligation debt are recognized when payable;

ii. Inventories of material and supplies may be considered expenditures when purchased or when consumed, but under either method significant amounts of inventory should be reported on the balance sheet. When the purchase method is used, reported inventories are equally offset by a fund balance reserve account;

iii. Expenditures for insurance and similar services extending over more than one accounting period need not be allocated between or among accounting periods but may be accounted for as expenditures of the period of acquisition;

iv. Accumulated unpaid vacation, sick pay and other employee benefits need not be recorded in the current period but, if more than a normal year's accumulation exists, must be disclosed in the notes to the financial statements.

(b) The accounting system shall be organized and operated on a fund basis, each fund being defined as a fiscal and accounting entity with a self-balancing group of accounts recording cash and other financial resources, together with all related liabilities and residual entities or balances and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives.

1. The general fund is used to account for all financial resources, except those to be accounted for in another fund. Current operating expenditures, certain capital outlays and debt service expenditures are accounted for in the general fund. Their spending is controlled primarily through the annual operating budget.

i. Estimated general fund expenditures and the proposed revenues required to finance them are set forth in the annual operating budget which, when adopted, provides authorization for general fund spending.

ii. Budgetary accounts are formally integrated into the general fund ledger.

2. The capital fund is used to account for the purchase or construction of major capital facilities, or fixed assets. The activities are financed primarily through general obligation bond issues or intergovernmental funds. Capital fund spending is controlled primarily by bond indenture provisions or intergovernmental fund grant requirements.

3. Fixed assets of a district shall be reflected in the General Fixed Assets Account Group at cost, or if the historical cost is not practically determinable, at estimated cost. Donated fixed assets shall be recorded at their estimated fair value at the time received.

4. Depreciation of general fixed assets should not be recorded in the accounts of governmental funds. Depreciation of general fixed assets may be recorded in cost accounting systems or for cost finding analysis; and accumulated depreciation may be recorded in the General Fixed Assets Account Group.

5:31-7.3 Auditing procedures and scope

(a) The audit shall cover all the financial transactions of the authority for a complete fiscal year, and include a review of the records of all officials or employees who handle funds.

1. Cash on hand shall be counted at the date of starting the audit and all cash balances shall be reconciled with independent verifications obtained directly from the depositories.

2. The audit shall include a review of the authority's internal control and financial administrative procedures, compliance with the statutes and the Division rules and regulations, and compliance with the security and financing agreements.

3. Exceptions in compliance and weakness in internal control and financial administrative procedures observed during the audit shall be documented and shall be stated by specific comments and recommendations in a separate section of the audit report.

(b) The audit shall be conducted in accordance with generally accepted auditing standards and with the guidelines and procedures, rules and regulations as promulgated by the Local Finance Board and with such additional procedures as shall be required by any security and financing agreements.

(c) The audit shall embrace all the books, accounts and transactions of the authority in sufficient depth and scope to enable the auditor to express an opinion on the financial statements. The auditor shall comment on any non-compliance with law and regulations, security and financing agreements and weakness in internal control and financial administration procedures and include his recommendations thereon to the governing body.

(d) The audit report shall be signed by and conducted by or supervised by the registered municipal accountant or an employee of the Division of Local Government Services or the certified public accountant, who has been engaged by the authority to conduct the annual audit.

(e) The auditor must utilize an appropriate written audit program based on his analysis of the system of internal control and other pertinent factors.

(f) All audit workpapers shall indicate the name or initials of the person who performed the audit work. All workpapers shall be made available to the Director upon request. Workpapers shall be retained by the auditor for a minimum of seven years. The audit workpapers shall include the following:

1. Audit program utilized;
2. Internal control review documentation;
3. Extent and basis of statistical sampling utilized;
4. Workpapers evidencing audit work performed and auditor's statement of objectives and conclusions;
5. Abstracts of official minutes and resolutions.

(g) If the auditor's examination causes him to believe or suspect that irregularities or illegal acts have occurred, the Division shall be notified at once by means of the special confidential report. This rule is not directed merely toward conditions which might indicate a shortage in the accounts of any authority, but to unusual conditions or suspicious circumstances.

1. The governing body shall be advised to make immediate report to the surety bonding company upon presentation of the preliminary report of the auditor. It is the duty of the governing body to report every shortage or irregularity involving public moneys to the prosecutor.
2. At its confidential report inception a need not be submitted to the governing body at the time it is filed with the Division. However, should further investigation reveal any clear irregularity, such irregularity must be reported to the governing body immediately.

5:31-7.4 Audit reports and financial reporting practices

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

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

1, Comparative balance sheet;
2. Comparative statement of revenues, expenses and changes in retained earnings;
3. Comparative statement of changes in financial position;
4. Notes to the financial statements, required by generally accepted accounting principles;
5. Supplementary information comprising a statement of Federal grants, a statement of revenues, expenses and changes in retained earnings for each account group, a statement of cash receipts, cash disbursements and changes in cash and investments for each account group, a statement of revenues classified by source and expenses classified by object and comparison with the annual budget;
6. Such other supplementary schedules as deemed necessary or requested by the authority;
7. General comments and recommendations including the auditor's report on internal control.

(c) The auditor shall file a copy of the completed internal control questionnaire with the Bureau of Authority Regulation in the New Jersey Division of Local Government Services within 15 days of filing the audit report.

(d) Within five days after the original audit report is filed with the authority, the authority shall file the annual financial report with the Director of the Division of Local Government Services; the governing body of each local unit having created, or joined in the creation, of the authority; and, if required by a security agreement, the trustee and any bondholder requesting a copy.

(e) The annual financial report shall include the following:

1. Table of contents;
2. Management's discussion of operations;
3. Other relevant information, including a list of authority officials, surety bonds in force, a summary of customers or users by class and amounts billed for the year;
4. The audit report.

5:31-7.5 Audit of federal grants

When the auditor is engaged to conduct a financial and compliance audit of programs, activities and functions funded in whole or in part by Federal grants, the audit shall be conducted in accordance with the standards for financial and compliance audits contained in the United States General Accounting Office's, standards for Audit of Governmental Organizations, Programs, Activities and Functions, 1981 and subsequent revisions, and with due regard to the compliance requirements of Circular 102, Attachment P, promulgated by the Federal Office of Management and Budget.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Teacher Preparation and Certification New Jersey Educational Services Supplement to Standards for State Approval of Teacher Education

Proposed Readoption with Amendments: N.J.A.C. 6:11-12

Authorized By: New Jersey State Board of Education, Saul Cooperman, Secretary.
Authority: N.J.S.A. 18A:4-15 and 18A:6-38.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita, Executive Assistant
for Administrative Practice and Procedure
Department of Education
225 West State Street
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66 (1978), these rules would otherwise expire on September 1, 1984. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-375.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66, (1978), which provides for the expiration of amended or new rules within five years, N.J.A.C. 6:11-12, New Jersey Educational Supplement to Standards for State Approval of Teacher Education, will expire on September 1, 1984. The expiration date on Subchapter 12 was set in 1979 at the time of the amendment to N.J.A.C. 6:11-12.23, Policies governing issuance of certificates in educational media.

The rules of Subchapter 12 govern the endorsements that are issued by the State Board of Examiners in educational services areas. This subchapter governs certificates issued by the State Board of Examiners in educational services areas, including vocational job placement coordinators, therapists, and specialists in special education and media. Also included are rules for professional librarians who are employed in libraries supported by public funds serving communities of 10,000 population and above.

Amendments are contemplated for the speech correctionist and teacher-coordinator endorsements in vocational education. Until revisions are completed, readoption of Subchapter 12 is necessary so that appropriate certificates may be issued to legalize employment of professional librarians and of teaching staff members who are employed in support services areas in the schools. Deletions were made due to untimely statements in N.J.A.C. 6:11-12.7, 6:11-12.8, 6:11-12.10, 6:11-12.15 and 6:11-12.23. Technical changes have been made regarding deletion of the asterisk symbol (*) before study requirements in N.J.A.C. 6:11-12.8, 6:11-12.9, 6:11-12.11, 6:11-12.13 and 6:11-12.14.

Historically, the rules of N.J.A.C. 6:11-12 were adopted in March 1932, August 1936, and November 1939 for school nurses, school psychologists, school social workers (visiting teachers), and school librarians. With increased attention focused on pupil needs, rules for other support services endorsements were adopted in December 1948, February 1951, June 1956, January 1971, January 1973, and September 1976. Vocational endorsements were adopted March 1966 and September 1976. Rules for professional librarians were adopted December 1948.

Amendments were adopted as a result of developments in media technology, increased emphasis on diagnosis and remediation and attention to individual needs, the advent of vocational work-study programs in the schools, and strengthened degree and study requirements. Amendments were adopted in April 1941, February 1951, June 1956, June 1957, January 1959, December 1961, January 1966, September 1972, September 1973, May 1975 and 1979.

N.J.A.C. 6:11-12.1 includes the use of the supplement as a basis for approving and evaluating educational services programs in New Jersey colleges, and as a basis for determining eligibility of candidates with educational services certification and experience in other states. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.2 provides for recommendations of national academic and professional organizations. There is no change in text.

N.J.A.C. 6:11-12.3 cooperative industrial education, and N.J.A.C. 6:11-12.4, apprentice programs are educational services endorsements for vocational teacher coordinators. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.5 and 6:11-12.6 are reserved.

N.J.A.C. 6:11-12.7 governs the issuance of the professional librarian endorsement as a requirement for employment in libraries supported by public funds serving communities of 10,000 population and above. The note has been deleted because of its untimeliness. There is also a technical change.

N.J.A.C. 6:11-12.8 governs the issuance of the school nurse endorsement for application prior to July 1, 1975. This section has been deleted and is reserved.

N.J.A.C. 6:11-12.9 governs the issuance of the school nurse endorsement which authorizes service as school nurse and teaching areas related to health. The requirements are for applicants after July 1, 1975. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.10 defines requirements for school social workers. The reference to visiting teacher in the title and the reference to legislation in subparagraph vii. have been deleted because of their untimeliness. There are also technical changes.

N.J.A.C. 6:11-12.11 governs the issuance of the endorsement for speech correctionists. An external review team and an ad hoc committee of the State Board of Examiners are reviewing this endorsement to strengthen requirements which, under current rules, are weaker than those in other states. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.12 and 6:11-12.13 include requirements in the area of student personnel services. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.14 defines the requirements for school psychologists including the externship. there are no changes in text, except for technical changes.

N.J.A.C. 6:11-12.15 includes requirements for learning disabilities teacher-consultants. N.J.A.C. 6:11-12.15(b)5. iii. which deals with approvals has been deleted. There are also technical changes.

N.J.A.C. 6:11-12.16 includes requirements for school occupational therapists. There is no change in text, except for a technical change.

N.J.A.C. 6:11-12.17 includes requirements for school physical therapists. There is no change in text, except for a technical change.

N.J.A.C. 6:11-12.18 and 6:11-12.19 are reserved.

N.J.A.C. 6:11-12.20 governs the issuance of the endorsement for reading specialists. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.21 governs the issuance of endorsements for educational media specialists. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.22 governs the issuance of endorsements for associate educational media specialists. There is no change in text, except for technical changes.

N.J.A.C. 6:11-12.23 includes policies that govern issuance of endorsements in educational media. One paragraph has been eliminated because of untimeliness and other technical changes have been made.

N.J.A.C. 6:11-12.24 governs the issuance of endorsements for coordinators in vocational technical education and career exploration programs. There is no change in text, except for technical changes.

Social Impact

Readoption of N.J.A.C. 6:11-12 will have a positive social impact on school personnel. The subchapter regulates the types of endorsements issued to legalize employment to staff in the support services areas in the public schools including child study teams, student personnel services, media and vocational job placement coordinators. The subchapter impacts also on the employment of professional librarians in libraries serving communities of 10,000 population and above. Professional education associations are affected since the rule governs the licensing of their constituents. There is social impact on the public since this subchapter assures the issuance of appropriate certificates to educational services staff.

Economic Impact

There are no additional costs associated with the continued issuance of certificates in educational services. Fees for endorsements remain the same. Approximately 2,200 endorsements are issued yearly in support services areas for a total of $66,000. In addition, approximately 350 evaluations are completed annually for a total of $3,500. Total fees accrued are $61,500 per year.

All fees are collected by the Bureau of Teacher Preparation and Certification and submitted to the Department of the Treasury. From an economic standpoint, if Subchapter 12 is not readopted, fees would not accrue, since certificates would not be issued.

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

CHAPTER 11. TEACHER [EDUCATION] **PREPARATION** AND [ACADEMIC CREDENTIALS] **CERTIFICATION**

SUBCHAPTER 12. NEW JERSEY EDUCATIONAL SERVICES SUPPLEMENT TO STANDARDS FOR STATE APPROVAL OF TEACHER EDUCATION

6:11-12.1 [Use of supplement] **Scope**

(a) This [supplement will be] **subchapter is** used by the Bureau of Teacher [Education] **Preparation** and [Academic Credentials] **Certification** in the following ways:

1. In conjunction with the Standards for State Approval of Teacher Education, N.J.A.C. 6:11-7[.4], to evaluate and approve educational services programs in New Jersey colleges.

2. As the basis for evaluating the eligibility of candidates who have completed educational services programs in out-of-state colleges, or wish to qualify for New Jersey certification, based on the appropriate educational services certification and experience in another state.

3. As the basis for defining the nature and extent of studies that will constitute certificate programs designed by colleges for candidates who already possess the academic degree required for the certificate.

4. As the basis for defining the nature and extent of the experience background required for educational services certificates.

6:11-12.2 Recommendations of national academic and professional organizations

Recommendations and guidelines of the appropriate national academic and professional groups should be given due consideration in developing college programs.

6:11-12.3 Vocational-technical coordinator; cooperative industrial educational programs

(a) This [certificate] **endorsement** is required for the position of teacher and coordinator of part-time cooperative vocational education in skilled trade, industrial and/or service occupations. The [certificate] **endorsement** entitles the holder to teach related vocational subjects in such classes and to act as coordinator between school and industry.

(b) The requirements are as follows:

1. A standard teaching certificate in any field;

2. Successful completion of one of the following:

i. Three years of teaching under a**n** [certificate] **endorsement** in vocational education or industrial arts plus one year of approved occupational experience in gainful employment involving the use of hand and power tools and equipment in operations identified as hazardous in State and Federal child labor legislation. The experience must be approved by the Division of Vocational Education of the State Department of Education; or

ii. The combination of an approved bachelor's degree, two years of teaching experience and two years of approved occupational experience in gainful employment as indicated in i. above.

3. A program of college studies including one of the following:

i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or

ii. A program of college studies including at least one course in each of the following areas:

(1) Principles and philosophy of vocational-technical education;

(2) Problems in organizing and teaching cooperative education industrial education program;

(3) Curriculum construction in vocational-technical education;

(4) Vocational guidance.

6:11-12.4 Vocational-technical coordinator; apprentice programs

(a) This [certificate] **endorsement** is required for the position of apprentice coordinator in any school system conducting an apprenticeship program. The holder may also serve as a coordinator of part-time cooperative education programs.

(b) The requirements are as follows:

1. High school graduation or the equivalent;

2. Three years of successful teaching experience in skilled, technical, related subjects or industrial arts or three years of supervisory experience in trade and industrial education;

3. Successful completion of one of the following:
i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or
ii. A program of college studies including a minimum of 12 semester-hour credits in courses in the following areas:
(1) Administration and supervision of vocational-technical education;
(2) Curriculum construction in vocational-technical education;
(3) Industrial and labor relations;
(4) Problems in organizing and teaching part-time cooperative programs.

6:11-12.5 (Reserved)

6:11-12.6 (Reserved)

6:11-12.7 Professional librarian
(a) This [certificate] **endorsement** is required for employment as a professional librarian in libraries supported in whole or in part by public funds, serving communities of 10,000 population and above.
(b) The requirements include a master's degree in library or information science in an approved library program
[NOTE: Up to three years from the date of the adoption of this regulation by the State Board of Education, students currently enrolled by the State-approved graduate or undergraduate program in library or information science shall be issued a professional librarian's certificate upon successful completion of 30 semester-hour credits.]

6:11-12.8 [School nurse; elementary and secondary school, first aid, home nursing and health related areas] **(Reserved)**
[(a) This certificate authorizes service as a school nurse in elementary and secondary schools, and the teaching of first aid, home nursing and areas related to health.
(b) Effective for new applicants to July 1, 1975, the requirements are:
1. Current license as a registered professional nurse in New Jersey;
2. One year of experience as a registered nurse, or graduation from an accredited college;
3. Evidence of completion of one of the following:
i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this certificate; or
ii. A minimum of 30 semester-hour credits chosen from among the following areas including some study in each starred area and a total of at least 18 semester-hour credits in the starred areas:
(1) *School nursing including such areas as organization and administration of school nurse services and school health problems (minimum of four semester-hour credits);
(2) *Child and/or adolescent growth and development;
(3) *Mental health;
(4) *Foundations of education. This group includes such courses as history of education, principles of education, philosophy of education, comparative education and contemporary issues in education;
(5) *The public school program-curriculum, methods, practices;
(6) *Public health including such areas as public health nursing, community health problems and communicable disease control;
(7) Sociology including such areas as applied sociology, family case work, education for family living, delinquency;
(8) Guidance and counseling;
(9) Psychology of the exceptional child;
(10) Supervised field experience in school nursing.]

6:11-12.9 School nurse; elementary, secondary and vocational schools; teaching in areas related to health
(a) This [certificate] **endorsement** authorizes service as a school nurse in elementary, secondary and vocational schools, and teaching in areas related to health.
(b) [Effective for new applicants after July 1, 1975, t]**The** requirements are:
1. Current license as a registered professional nurse in New Jersey;
2. A bachelor's degree based upon a four-year curriculum in an accredited college;
3. Successful completion of one of the following:
i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or
ii. A program of college studies, including:
(1) A minimum of [forty-five] **45** semester-hour credits in general background courses including at least four of the following fields: English, social studies, science, fine arts, foreign language, mathematics, philosophy and psychology.
(2) A minimum of [thirty] **30** semester-hour credits chosen from the following areas, including [some study in each starred area and] a total of at least [twenty] **20** semester-hour credits in [the starred] areas **(A) through (G)**:
(A) [*]School [N]**n**ursing, including school health services and organization and administration of the school health program[.] ([M]**m**inimum of six semester-hour credits);
(B) [*]Child and/or adolescent growth and development;
(C) [*]Mental health;
(D) [*]Foundations of education. This group includes such areas as history of education, principles of education, philosophy of education, comparative education, and contemporary issues in education;
(E) [*]The public school program, including areas in curriculum, methods and practices;
(F) [*]Public health including such areas as public health nursing, community health problems and communicable disease control;
(G) [*]Human and [I]**i**ntercultural [R]**r**elations. Studies designed to develop understanding of social interaction and culture change, including courses such as the following: urban sociology, history of minority groups, intergroup relations, and suburban and inner-city problems;
(H) Guidance and counseling;
(I) Psychology of the exceptional child[.];
4. Student teaching;
5. Provisional [Certificate] **endorsement**: A provisional [certificate] **endorsement** to serve as a school nurse may be issued to an applicant who meets the [following] requirements[:] **in 1. and 2. above and who is within 12 semester hours of meeting requirements 3. and 4.**
[i. Meets requirement I;
ii. Meets requirement II;
iii. Is within twelve semester hours of meeting requirements III and IV.]

6:11-12.10 School social worker [(visiting teacher)]

(a) This [certificate] **endorsement** is required for service as a school social worker [(visiting teacher)] in any school district in the State.

(b) The requirements are:

1. A bachelor's degree based upon a four-year curriculum in an accredited college;

2. Three years of successful teaching experience or three years of approved social work experience or a combination of both, or a master's degree from an accredited school of social work;

3. Twenty-four semester-hour credits distributed within the following areas, including some study in each area:

i. Psychology, including educational psychology, general psychology, psychology of adolescence, child growth and development, and psychology of the atypical child;

ii. Education, including philosophy of education, history of education, principles and methods of teaching, and curriculum study;

iii. Sociology and social problems, including courses dealing with delinquency, poverty, interracial and intercultural problems.

iv. Social case work, introductory and advanced, including principles and practices in social case work, interviewing, and methods and skills in diagnosis;

v. Mental hygiene and social psychiatry, including dynamics of human behavior and psychopathology;

vi. Medical information, including the function of the social worker in health problems;

vii. Community organization and public welfare services, including [a study of the present legislation dealing with] the care and protection of dependent, neglected, handicapped, and delinquent children and adults.

4. A master's degree in social work from an accredited institution will be accepted as meeting the study requirements indicated **in 3.** above.

6:11-12.11 Speech correction

(a) This [certificate or] endorsement is required for service as a speech correctionist in elementary, secondary or vocational schools.

(b) Requirements for [an] **the** endorsement [on a standard teacher's certificate] are as follows:

1. A minimum of [eighteen] **18** semester-hour credits in the following areas or their equivalent, in separate or integrated courses. Work in [the starred areas] **i. through vii. below** is required.

i. [*]Education and/or psychology of the handicapped;

ii. [*]Speech correction;

iii. [*]Introduction to audiology;

iv. [*]Anatomy and physiology of the ear and speech mechanisms;

v. [*]Phonetics;

vi. [*]Speech pathology;

vii. [*]Supervised clinical practice in speech therapy;

viii. Voice, speech improvement;

ix. Orientation in psychological tests;

x. Reading disabilities;

xi. Electives in special education.

(c) Requirements for the [certificate] **endorsement** are as follows:

1. A bachelor's degree based upon a four-year curriculum in an accredited college;

2. Successful completion of one of the following:

i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or

ii. A program of college studies including:

(1) A minimum of 45 semester-hour credits in general background courses distributed in at least three of the following fields: English, social studies, science, fine arts, mathematics, foreign languages, philosophy and psychology.

(2) Thirty semester-hour credits in the field of professional education, including the [eighteen] **18** specified for the endorsement in (b)1. above, and, in addition, at least nine semester hours of credit in the following fields of study, including work in [each of the starred] areas **(A), (B) and (C) below.** These 30 credits do not include student teaching.

(A) [*]Principles and practices of education. This group includes such areas as introduction to education, social and philosophical foundations of education, methods of teaching, audio-visual aids and individualizing instruction.

(B) [*]Educational psychology. This group includes such areas as psychology of learning, child growth and development, adolescent psychology and mental hygiene.

(C) [*]Curriculum. This group includes such areas as principles of curriculum construction, the elementary or secondary school curriculum, a study of the curriculum in one specific field and extracurriculum activities.

(D) Electives in education, guidance or special education.

(3) Approved student teaching in therapy with children who have speech disorders.

6:11-12.12 Director of student personnel services

(a) This [certificate] **endorsement** is required for any person who is assigned as a director, administrator or supervisor of guidance and student personnel services of a school system, including the supervision of educational activities in areas related to and within the guidance program.

(b) The requirements are:

1. A bachelor's degree based upon a four-year curriculum in an accredited college;

2. A standard New Jersey student personnel services certificate or its equivalent, and three years of successful experience in school student personnel work;

3. Successful completion of one of the following:

i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or

ii. A program of college studies including 40 semester-hour credits, including a minimum of [eighteen] **18** semester-hour credits chosen from guidance, [ten] **10** chosen from psychology, and the remaining 12 chosen from the last three areas, with at least one course in each.

(1) Guidance: This group includes such courses as principles of guidance; counseling; individual analysis; group methods in guidance; organization and administration of guidance programs, student personnel work; occupational and educational information; job analysis; placement, vocational education; research; practicum; and seminar in guidance.

(2) Psychology: This group includes such courses as psychology of physical and mental growth, child and adolescent psychology, mental hygiene, tests and measurements, statistics, abnormal psychology, mental abnormalities and defects, psychology of parent and child relationships (exclusive of introductory courses in general and educational psychology).

(3) Sociology: This group includes such courses as social problems, race relations, the family, community and intergroup relations, the school and the community, community resources, labor problems, industrial relations.

(4) Administration and curriculum: This group includes such courses as principles of curriculum construction, the elementary and secondary curriculum, extracurricular activities, school law, organization and administration of elementary and secondary schools.

(5) Supervision of instruction: This group includes such courses as supervision of the homeroom program, supervision of instruction in occupational courses, supervision of instruction in orientation, supervision of student personnel work, supervision of group techniques.

6:11-12.13 Student personnel services [certificate]

(a) This [certificate] **endorsement** is required for any person assigned to perform student personnel services such as study and assessment of individual pupils with respect to their status, abilities, interest, and needs; counseling with teachers, students, and parents regarding personal, social, educational, and vocational plans and programs; and developing cooperative relationships with community agencies in assisting children and families.

(b) The requirements are:

1. A bachelor's or higher degree;

2. A standard New Jersey teacher's certificate, or college transcripts indicating completion of the professional coursework required for such a certificate;

3. One year of successful teaching experience;

4. In addition to the preparation required for [II] **2.** above, successful completion of one of the following:

i. A graduate curriculum approved by the New Jersey State Department of Education as a basis for issuing this [certificate] **endorsement**; or

ii. A program of college studies including 30 semester-hour credits of post-baccalaureate work in the five areas listed below[, including in each starred (*) field]. This work must be in addition to that required in [II] **2.** above, and may be in separate or integrated courses. Minimum quantitative requirements are indicated for each of the first four areas.

(1) Guidance and [C]**c**ounseling—minimum six semester hours. **Areas of study (A), (B) and (C) must be covered.**

(A) [*]Theory and procedures in individual and group guidance;

(B) [*]Counseling and interviewing techniques;

(C) [*]Vocational guidance, occupational and educational information, and placement.

(2) Testing and [E]**e**valuation—minimum three semester hours.

(3) Psychology—minimum six semester hours. Child and [A]**a**dolescent [D]**d**evelopment, [P]**p**sychology of [E]**e**xceptional [C]**c**hildren, [P]**p**sychology of [L]**l**earning, [C]**c**hild and [Y]**y**outh [S]**s**tudy.

(4) Sociological [F]**f**oundations—minimum six semester hours. **Area of study (A) below must be covered.**

(A) [*]Community agencies, organization and resources;

(B) Educational sociology;

(C) Social problems, juvenile delinquency, law, the family;

(D) Urban sociology.

(5) Electives in such areas as curriculum development, program planning, guidance, psychology, measurement, vocational education, learning disabilities, human relations, group process theory and procedures, labor and industrial relations, and research techniques and interpretation.

6:11-12.14 School psychologist

(a) This [certificate] **endorsement** is required for service as a psychologist in elementary or secondary schools.

(b) The requirements are:

1. A bachelor's degree from an accredited college with a minimum of [thirty] **30** semester-hour credits distributed in at least three of the following fields; English, social studies, science, fine arts, mathematics, and foreign languages;

2. An advanced program of at least 60 semester-hour credits in graduate courses in an accredited and approved college or university program or its equivalent as approved by the Secretary of the State Board of Examiners, with the following distributions[, (All starred courses or their equivalents shall be required.)]:

i. Educational foundations—12 semester-hour credits selected from the following courses or their equivalents:

(1) Modern school practices;

(2) Principles of curriculum construction;

(3) Philosophy of education;

(4) History of education;

(5) Educational sociology;

(6) School administration and/or supervision;

(7) School-community relationships;

(8) Principles of education: methods of teaching.

ii. Education of the handicapped—six semester-hour credits selected from the following courses or their equivalents:

(1) Introduction to education of the handicapped;

(2) Psychology of the handicapped;

(3) Methods and materials in teaching the mentally retarded.

iii. Testing and clinical techniques—18 semester-hour credits selected from the following courses or their equivalents[:]. **Areas of study (1), (2), (4), (5) and (6) must be covered.**

(1) [*]Statistics;

(2) [*]Tests and measurements;

(3) Aptitude testing;

(4) [*]Intelligence testing;

(5) [*]Projective techniques;

(6) [*]Interviewing and counseling;

(7) Diagnostic case studies.

iv. Personality and behavioral development—12 semester-hour credits selected from the following courses of their equivalents:

(1) Developmental psychology;

(2) Psychology of adolescence;

(3) Atypical development;

(4) Reactive disorders;

(5) Motivational basis for learning;

(6) The cultural anthropology of community differences;

(7) Physiological basis for learning.

v. Electives—12 semester-hour credits selected from courses closely related to the above groups of courses.

3. An externship of [four hundred and fifty] **450** clock hours. The externship should be in a school clinic, a child guidance clinic or other clinic approved by the Commissioner of Education and supervised by a qualified school psychologist or by personnel approved by the Commissioner of Education. This externship experience shall include at least 100 clock hours in testing mentally retarded children[. See "Rules and Regulations Governing the Externship for School Psychologist",] **(see N.J.A.C.** 6:11-12.14(d). [NOTE:—] Persons with experience endorsed by the Commissioner of Education

as equivalent to the above externship may be exempt from the externship.

(c) Employment of externs in school psychology are governed by the following rules:

1. The requirement for the school psychologist's [certificate] **endorsement** includes an externship [''[In a school clinic, a child guidance clinic or other clinic approved by the Commissioner of Education and supervised by a qualified school psychologist or by personnel approved by the Commissioner of Education.[''] Students engaged in this externship are not yet eligible for a school psychologist's certificate. Therefore, school districts wishing to provide paid externship programs under the supervision of their school psychologist must obtain authorization from the Commissioner of Education for employment of such externs.

2. Externs in school psychology fall into two groups;

i. Those who are performing the externship as part of their approved university program of preparation for school psychology. In such cases the externship is arranged by the university and supervised by them in conjunction with the local supervising school psychologist.

ii. Those who have already completed their university studies, and have fulfilled the course [work] requirements for the [certificate] **endorsement**, but whose university program did not contain supervised externship sufficient to meet [certification] requirements in amount and/or range of responsibilities.

iii. Since these students are no longer under the supervision of a university program, they frequently seek to arrange an externship in a local school system or in an institution or clinic and desire to have this externship approved by the State Department of Education for certification purposes.

3. School districts desiring authorization for the employment of an extern should submit a request to the [C]county [S]superintendent of [S]schools, containing the following information:

i. The university sponsoring the extern, if any, and the name of the university adviser in charge of the student's program.

ii. The name of the fully certified school psychologist in the school system under whose supervision the externship will be carried out. This person should hold a standard New Jersey school psychologist's certificate.

iii. The nature and extent of the training experiences that will be provided under supervision during the externship.

iv. The dates designating the period of the externship.

4. Requests for authorization approved by the [C]county [S]superintendent of [S]schools will be forwarded to the Bureau of Teacher [Education] **Preparation** and [Academic Credentials] **Certification**, State Department of Education.

(d) The rules governing the externship for school psychologists are:

1. The externship must be taken under the direction of an accredited university as part of a program for the training of school psychologists. In exceptional cases, an equivalent externship, not under the jurisdiction of such a program, may be approved by the [C]**c**ommissioner.

2. Externship should be arranged as a program of supervised experiences in addition to the laboratory work done as a regular part of course work. Credit will not be given for clinical work done as part of the requirements in such courses as ''[I]**i**ntelligence [T]**t**esting'' or ''[P]**p**rojective [T]**t**echniques.''

3. At least 50 percent of the externship must be in the psychological services division of a public school system, or in such a division of a college or university demonstration center, serving a cross section of school age children. Local supervision for this period of externship training shall be provided by a person holding a permanent New Jersey certificate as a school psychologist, or its equivalent.

i. The setting providing the externship shall be equipped with various group and individual achievement, personality, and intelligence tests, and shall have available to it an audiometer and a modern visual screening device.

ii. The extern shall be provided with adequate office space for conferences, counseling, and diagnostic studies.

iii. Comprehensive records shall be kept on pupil growth and development, and such records shall be available to the extern for study and guidance.

iv. The extern shall receive supervised experience in the following areas:

(1) In-service programs for faculty members;
(2) Conferences with special personnel;
(3) Utilization of available community resources;
(4) Conducting a diagnostic study;
(5) Report writing;
(6) Relationships with the community;
(7) Counseling pupils, parents, and faculty.

4. As much as 50 percent of the externship may be obtained in an approved hospital, institution, clinic, or agency established for the study and/or treatment of special problems of children and adults. This training experience shall be supervised by a qualified psychologist. The director of the institution or agency shall certify that this experience includes the following:

i. Conducting a diagnostic study;

ii. Reporting writing and communication of diagnostic findings;

iii. Participation in staff planning and evaluating conferences.

5. For the standard certificate the requirement is 450 clock hours of approved externship. For the provisional certificate the requirement is 350 clock hours.

6:11-12.15 Learning disabilities teacher-consultant

(a) This endorsement is required for service as a learning disabilities teacher-consultant in the elementary and secondary schools.

(b) The requirements are:

1. A standard New Jersey teacher's certificate;

2. Three years of successful teaching experience;

3. A master's degree from an accredited college;

4. Completion of a graduate [certificate] program for the preparation of learning disabilities teacher-consultants approved by the New Jersey State Department of Education as meeting the requirements for this [certificate] **endorsement**;

5. Bases for issuance are:

i. When candidates have completed their preparation for this endorsement in an out-of-State college or university, a master's degree in learning disabilities from a program accredited by the National Council for Accreditation of Teacher Education (N.C.A.T.E.) will be accepted as meeting the requirement.

ii. When candidates have developed a background of graduate study in psychology, education, and related areas that they consider to be equivalent to the completion of an approved graduate program in [L]**l**earning [D]**d**isabilities, they may submit their credentials for review. A [L]**l**earning [D]**d**isabilities [C]certification [R]**r**eview [C]**c**ommittee will recommended to the Secretary of the State Board of Examiners the additional study, if any, that the applicant should be requested to complete.

[iii. Persons who have been employed with full approvals of the State Department of Education as Learning Disabilities Teacher-Consultants in local school districts or in the State Department of Education under Section 8:28 of the Rules of the State Board of Education prior to January 6, 1971 will be eligible for a regular Learning-Disabilities certificate. Persons previously employed with interim approval may qualify for a regular certificate by fulfilling the requirements specified at the time the intern approval was granted.]

(c) The standards for the approval of graduate teacher education programs in learning disabilities are:

1. Candidates must have a master's degree including [twenty-four] **24** semester hours of credit outlined in [Section II] **2.** below.

2. The approved certificate program must include provision for the areas of study listed below. Qualified teachers who have already earned a master's degree, or completed graduate studies in education, reading, speech correction, psychology, education in specific areas of the handicapped, or similar fields, should be given credit by the college for as much of their completed programs as is appropriate.

i. Work in the following areas of study must be required as part of the program, not necessarily as separate courses: education of the handicapped; learning theory; physiological bases of learning; orientation in psychological testing; remediation of basic skills; diagnosis and correction of learning disabilities. Course descriptions should make it clear that the program for all students will include study in each of these areas.

ii. The program should also include opportunities to study, perhaps on an elective basis in areas closely related to learning disabilities, such as group dynamics; methods and materials for teaching the emotionally and socially maladjusted; curriculum development in the teaching of the handicapped; teaching of reading; interviewing and counseling; educational psychology; and community resources.

iii. The program must include a college supervised practicum in diagnosis and remediation of learning disabilities in school and clinical situations. The definition and nature of this practicum, and the courses in which it will be provided, should be clear in the program description. The practicum should provide for a minimum of [ninety] **90** clock hours of college supervised experience.

iv. Prior to completion of the certificate program, the student must hold a regular New Jersey teacher's certificate and submit evidence of three years of successful teaching experience.

6:11-12.16 School occupational therapist

(a) This [certificate] **endorsement** is required for service as an occupational therapist in elementary and secondary schools.

(b) The requirements are:

1. A bachelor's degree based upon a four-year curriculum in an accredited college;

2. Graduation from an approved school of occupational therapy.

6:11-12.17 School physical therapist

(a) This [certificate] **endorsement** is required for service as a physical therapist in elementary and secondary schools.

(b) The requirements are:

1. A bachelor's degree based upon a four-year curriculum in an accredited college;

2. Graduation from a curriculum in physical therapy in an approved school.

6:11-12.18 (Reserved)

6:11-12.19 (Reserved)

6:11-12.20 Reading specialist[; certification]

(a) This [certificate] **endorsement** is required for service as a reading specialist in public school district.

(b) A reading specialist is one who conducts in-service training of teachers and administrators, coordinates instruction for individuals or groups of pupils having difficulty learning to read, diagnoses the nature and cause of individual's difficulty in learning to read, plans developmental programs in reading for all pupils, recommends methods and material to be used in the district reading program, and contributes to the evaluation of the reading achievement of pupils.

(c) The requirements[, effective for new applicants after July 1, 1975,] are:

1. A standard New Jersey certificate in any instructional area;

2. Two years of successful teaching experience;

3. Successful completion of a graduate degree program in reading approved by the New Jersey State Department of Education; or

4. A program of graduate studies of 30 semester hours or equivalent consisting of the following:

i. Reading foundations;

ii. Diagnosis;

iii. Correction of reading problems;

iv. Supervised practicum in reading; plus

v. Study in at least three areas from the following:

(1) Children's or adolescent literature;

(2) Measurement;

(3) Organization of reading programs;

(4) Psychology;

(5) Supervision;

(6) Linguistics.

6:11-12.21 Educational media specialist

(a) This [certificate] **endorsement** is required for any person who is assigned to develop and coordinate educational media services in the public schools. Educational media are defined as all print and nonprint resources and the equipment needed for their use.

(b) The requirements are:

1. A master's degree from an accredited institution;

2. A standard New Jersey teacher's certificate or associate educational media specialist [certificate] **endorsement;**

3. One year of successful teaching or one year of experience as an associate educational media specialist;

4. Successful completion of one of the following:

i. A graduate curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or

ii. A minimum of 30 semester-hour credits of post-baccalaureate studies. Courses completed in the candidate's graduate degree program may be applied toward fulfilling these requirements. The following areas of study must be included in either separate or integrated courses:

(1) Organization and coordination of school media services and materials;

(2) Application of learning theory in reading, listening and viewing educational media materials;

(3) Design and development of educational media programs;

(4) Design and development of educational media materials;

(5) Integration of educational media through the school curriculum;

(6) Evaluation, selection and utilization of educational media;

(7) Development of individual and group processes in the media program;

(8) Field experience in a school media program.

(c) The following standards pertain to programs preparing persons to develop and coordinate educational media services in the public schools. These individuals are concerned with the improvement of the learning process and instruction through the evaluation, selection, organization, distribution, production, and utilization of appropriate print and nonprint resources and the equipment needed for their use. The educational media specialist provides direction to educational activities in areas related to and within the educational media services programs:

1. [Standard I:] The program shall provide growth opportunities to assure that candidates acquire a broad cultural and intellectual background.

2. [Standard II:] The program shall provide for learning experiences in:

i. Analysis of the nature and content of instructional materials;

ii. Methods of selecting and evaluating materials through the study of individual media as well as through cross media study by curriculum unit or grade level;

iii. Methods of utilization of materials to support curriculum and meet student needs;

iv. Methods of production of appropriate educational media including actual laboratory experience;

v. Processes for the organization and maintenance of materials and equipment;

vi. Identification of learning strategies of pupils;

vii. Evaluation of the learner's instructional media requirements;

viii. Design and development of educational media programs;

ix. Design and development of educational media resources;

x. Development of individual and group processes in the media program.

3. [Standard III:] The program shall assure increased comprehension of the principles of curriculum, and the application of instructional media techniques to the curriculum.

4. [Standard IV:] The program shall require field experiences in a school media center. Prior field experience in educational media may be accepted in lieu of this requirement.

5. [Standard V:] The program shall provide experiences and understanding of expanded services, such as extending the use of the media center, television, microforms, and other forms of technology as may become appropriate for school media use.

6:11-12.22 Associate educational media specialist

(a) This [certificate] **endorsement** is required for any person assigned to perform educational media services in the public schools under the supervision of a qualified supervisor. Educational media are defined as all print and nonprint resources and the equipment needed for their use.

(b) The requirements are:

1. A bachelor's degree from an accredited college;

2. A standard New Jersey teacher's certificate;

3. Successful completion of one of the following:

i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this [certificate] **endorsement**; or

ii. A minimum of 18 semester-hour credits of undergraduate or graduate study in educational media. Coursework completed in the candidate's undergraduate program may be applied toward fulfilling these requirements. The following areas of study must be included in either separate or integrated courses:

(1) Organization and retrieval of information and media resources;

(2) Production of educational media;

(3) Evaluation, selection, and utilization of educational media;

(4) Integration of educational media through the school curriculum;

(5) Field experience in a school media program.

(c) The following standards pertain to undergraduate programs preparing associate educational media specialists to serve in the public schools. The associate educational media specialist is concerned with the improvement of the learning process and instruction through the evaluation, selection, organization, distribution, production, and utilization of appropriate print and nonprint resources and the equipment needed for their use. The associate educational media specialist provides technical consultative services to teaching staff to assure more effective use of available resources:

1. [Standard I:] The undergraduate program must meet all the requirements for a standard New Jersey teacher's certificate [as specified in New Jersey regulations and standards for certification].

2. [Standard II:] The program shall provide for learning experiences in:

i. Analysis of the nature and content of instructional materials;

ii. Analysis of the nature and content of instructional materials;

ii. Methods of selecting and evaluating materials through study of individual media as well as through cross media study by curriculum unit or grade level;

iii. Methods of utilization of materials to support curriculum and meet student needs;

iv. Methods of production of appropriate educational media including actual laboratory experience;

v. Processes for the organization and maintenance of materials and equipment.

3. [Standard III:] The program shall require field experience in a school media center.

6:11-12.23 Policies governing issuance of [certificates] **endorsements** in educational media

(a) Educational media specialist policies are:

1. Persons holding a standard or permanent New Jersey school librarian [certificate] **endorsement** shall be deemed eli-

gible to receive the educational media specialist [certificate] **endorsement**.

2. Persons holding a standard New Jersey teaching certificate who have completed a graduate degree program in an accredited institution with specialization in library science, audio-visual, educational media, or equivalent media areas, shall, on application, receive the educational media specialist [certificate] **endorsement**.

3. Persons enrolled [as of September 30, 1975,] in accredited graduate teacher education programs with specialization in library science, audio-visual, educational media, or equivalent media areas, shall, upon completion of the program, be eligible for the educational media specialist [certificate] **endorsement**.

(b) Associate educational media specialist policy is:

1. Persons holding a standard or permanent New Jersey teacher-librarian [certificate] **endorsement** shall be deemed eligible to receive the associate media specialist [certificate] **endorsement**.

(c) Procedures for administering [paragraphs] (a)1. and (b)1. [of this section] **above** are:

1.[(a)1:] Use the procedure explained below except that for the educational media specialist [certificate] **endorsement**, the school librarian authorization will be extended to include the rights and privileges of an educational media specialist [certificate] **endorsement** (N.J.A.C. 6:11-12.21) [as adopted by the State Board of Education on May 7, 1975].

2.[(b)1:] The holder of a standard or permanent New Jersey teacher librarian [certificate] **endorsement** may receive an extension of the authorization of this certificate to include the functions of the associate educational media specialist [certificate] **endorsement**. This can be accomplished by the issuance of an extended authorization form to read as follows:

i. The authorization of the teacher librarian [certificate] **endorsement** of (name) is hereby extended to include all of the rights and privileges of the associate educational media specialist certificate (N.J.A.C. 6:11-12.22) [under the regulation adopted by the State Board of Education on May 7, 1975].

[3. The rationale for these procedures is:

i. The procedure for administration of paragraphs (a)1. and (b)1. would preclude a flood of applications;

ii. This would avoid setting a precedent for issuing a certificate for no fee.]

6:11-12.24 Teacher-coordinator of cooperative vocational-technical education program

(a) A**n** [certificate] **endorsement** shall be required for the position of teacher-coordinator of cooperative vocational-technical education in the occupational area(s) of agriculture education, distributive education, health occupations, home economics education, business education, and work experience career exploration program (W.E.C.E.P.). The specific area(s) in which the holder may serve as teacher-coordinator will be designated on the [certificate] **endorsement**. Such [certificate] **endorsement** shall also entitle the holder to teach related vocational-technical subjects in the appropriate [occupational] **occupational** area(s) designated on the [certificate] **endorsement**, and to act as liaison between the school and the co-operating employer's training station in the respective subject area(s).

(b) The prerequisites for a teacher coordinator's [certificate] **endorsement** are:

1. A regular instructional certificate in the appropriate occupational area to be coordinated. (The appropriate instructional certificate for W.E.C.E.P. may be any regular [certificate] **endorsement** in vocational education, industrial arts, or home economics.);

2. Successful completion of one of the following:

i. Two years of teaching in the occupational area to be coordinated, plus two years of approved occupational experience. (A W.E.C.E.P. teacher-coordinator will be required to document two years of teaching under a New Jersey instructional certificate, plus two years of approved occupational experience.); or

ii. A combination of:

(1) An approved bachelor's degree;

(2) A college curriculum that includes a practicum in the occupational area to be coordinated; and

(3) A program of directed occupational field experience offered as part of a college curriculum directly related to the area to be coordinated; and

3. A program of college studies including one of the following:

i. A college curriculum approved by the New Jersey State Department of Education as the basis for issuing this certificate; or

ii. A program of college studies including at least one course in each of the following areas:

(1) Principles and philosophy of vocational-technical education;

(2) Problems in organizing and teaching cooperative education programs;

(3) Curriculum construction in vocational-technical education;

(4) Vocational guidance.

[(c) All personnel employed as teacher coordinators as of September 30, 1976 must complete the requirements for a teacher-coordinator's certificate by June 30, 1980.]

(a)

STATE BOARD OF EDUCATION

School Facility Planning Services; Master Plans
School Districts; Long-Range Facilities Plans

Proposed Amendment: N.J.A.C. 6:22-1.8 (to be recodified as N.J.A.C. 6:3-1.23)

Authorized By: New Jersey State Board of Education, Saul Cooperman, Secretary.
Authority: N.J.S.A. 18A:4-15, 18A:4-35, 18A:18A-16 and 18A:20-36 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative Practice and Procedure
Department of Education
225 West State Street
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these amendments, a notice of the adoption shall be published in the Register. The adoption shall become effective upon publication of that notice in the Register.

This proposal is known as PRN 1984-373.

The agency proposal follows:

Summary

The current rule on master plans, N.J.A.C. 6:22-1.8 requires local school districts to submit a master plan to the Bureau of Facility Planning Services. This plan to address facility needs requires a 10-year projection and was submitted on or before July 1, 1979. An updated master plan is required whenever local districts submitted plans for review and every five years thereafter.

The proposed amendment to the rules on master plans changes the title from master plans to long-range facilities plans to delineate school facility needs from municipal land use master plans. The current rule on master plans N.J.A.C. 6:22-1.8 is recodified to N.J.A.C. 6:3-1.23. The proposed amendment also establishes a mechanism for updating long-range facilities plans and describes the minimum content requirements for such updated plans. The long-range facilities plans will project a five-year estimate of facilities needs, be maintained by the local districts and submitted to the county superintendent of schools. Long-range facility planning will assist local districts, identify future facility needs and schedule the necessary activities to ensure suitable facilities for all pupils.

Social Impact

The proposed amendments will impact district boards of education by changing the time period covered by the long-range facilities plans from 10 years to five years. This change will permit district boards of education to more readily identify facility needs. The proposed amendments also transfer the responsibility for the review of long-range facilities plans from the Bureau of Facility Planning Services to the county superintendents. This change will permit county personnel to identify problems during their monitoring activities and allow corrective action to be taken more expeditiously to ensure that all pupils are housed in facilities which meet State health, safety and educational standards.

Economic Impact

The proposed amendments to long-range facilities plans will have a positive fiscal impact on district boards of education. District boards of education will be better able to address their capital needs in a timely manner. Unnecessary expenditures associated with the development of plans for a 10-year period will be avoided. The minimum content requirements for updated long-range facilities plans are already defined to ensure that district boards of education can avoid unnecessary expenditures related to the development of the updated plans.

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

[6:22-1.8 Master plans] **6:3-1.23 Long-range facilities plans**

(a) [Master] **Long-range facilities** plans projecting a [10] **five**-year estimate of capital construction needs shall be [developed] **maintained** by each school district. **The purpose of the long-range facility plan is to provide the individual district with a tool to use on a regular basis. Updating is required every five years; however, it is strongly recommended that this be used as a planning tool on an annual basis.**

(b) [Such plans shall include] **The original master plan submitted by July 1, 1979 included** a thorough description and analysis of local and regional demographic factors which influence general population growth and public school enrollments[.] , [The Master Plan shall also include] a thorough description and analysis of local geographic features, socioeconomic characteristics of the populations, community aspirations and financial ability to support education, population mobility, transportation and traffic patterns and facilities, the educational program, administrative structure of the school system, condition and utility of existing educational and recreational facilities, zoning ordinances, land use, utilities available throughout the district and public cultural facilities.

[(b)] **(c)** [Initial copies of the master plan shall be submitted to the Bureau of Facility Planning Services for review and approval no later than July 1, 1979. Updated master plans shall be submitted every five years thereafter for Bureau approval. Initial and updated copies of the master plans shall be submitted first to county superintendents of schools and local and regional planning boards for their recommendations. After the initial master plan has been approved, should a school district propose any major capital construction program, the master plan shall be updated within six months of the date of construction plan submission. The district shall submit the master plan to the Bureau of Facility Planning together with the schematic plan submission.] **Updated long-range facilities plans shall be submitted to the appropriate county superintendent of schools before January 1, 1985, whenever construction plans are sent to the Bureau of Facility Planning Services, and every five years thereafter.**

(d) The updated long-range facilities plan shall include the following:

1. An updated enrollment projection which forecasts district enrollment by grade over the next five years, with an indication as to whether this projection was done by a cohort method or percent of population;

2. Anticipated facilities needs on a year-by-year basis.

(e) The following items need to be completed only if changes in these areas have occurred or are anticipated since the last submission of a master plan or long-range facilities plan:

1. Local and regional demographic factors including:

i. Anticipated residential, commercial and industrial development;

ii. Housing trends;

iii. Road development.

2. Changes in the educational program, grade organization, and/or facilities including but not limited to an addition to a school; a new school; a new administration building, bus garage, or similar facility; and the closing of a school;

3. Changes in joint school and/or community use of facilities.

[(c)] **(f)** The [design] **format** of the [master] **long-range facilities** plan shall be such that it can be updated annually for local use.

(g) All floor plans and functional capacities included in the long range facilities plan shall be shown in accordance with the most recent approval of the Department of Education. Temporary or emergency partitions shall not be shown as approved walls.

6:22-1.8 (Reserved)

(a)

STATE BOARD OF EDUCATION

Research, Planning and Evaluation Statewide Assessment

Proposed Readoption with Amendments: N.J.A.C. 6:39-1

Authorized By: New Jersey State Board of Education, Saul Cooperman, Secretary.
Authority: N.J.S.A. 18A:4-15, 18A:4-24, 18A:7A-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Lorraine L. Colavita
Executive Assistant for Administrative Practice and Procedure
Department of Education
225 West State Street
Trenton, New Jersey 08625

At the close of the period for comments, the State Board of Education may readopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on November 1, 1984. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption. The amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-374.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), which provides for the expiration of amended or new rules within five years of promulgation, the Department of Education proposes to readopt, with minor changes, N.J.A.C. 6:39-1.1 through 6:39-1.5, Statewise Assessment, which govern assessment of pupil proficiency in reading, writing and mathematics. The expiration date of the chapter is November 1, 1984.

The majority of the sections in this chapter were amended in September, 1983, to reflect the implementation of the new Statewide Testing System. The Statewide Testing System shifted the emphasis from the assessment of minimum skills to the assessment of higher level skills in reading, mathematics and writing. The changes being made at this time are the deletion of N.J.A.C. 6:39-1.5(b), which permitted exclusion of pupils of limited-English speaking ability from participating in the Statewide testing program and other technical corrections. The former change complies with a decision by the State Board of Education.

The original provisions of this chapter were adopted in March 1973, pursuant to statutory authority. The rules were amended further in November 1974, May 1975, February 1977, June 1977, May 1978, November 1979, August 1980 and September 1983.

Historically, this chapter has provided a mechanism for Statewise assessment of pupil proficiency in basic skills in the public schools of New Jersey, and the reporting of district level results to the State Board of Education. Additionally, this chapter complies with the State Board's authority to set uniform Statewide levels of pupil proficiency in reading, mathematics and writing and the methods of dissemination and interpretation of Statewide testing data.

This chapter has been reviewed twice by an external review committee and by an internal review committee.

N.J.A.C. 6:39-1.1 Authority of the Commissioner: The Commissioner has the authority to assess pupil achievement in the public school system by all such means deemed appropriate. Districts can be directed to conduct pupil assessment using instruments which meet State criteria. Districts must report results of pupil assessments to the Department of Education in the manner and at the times prescribed by the commissioner.

N.J.A.C. 6:39-1.2 Levels of pupil proficiency: The State Board of Education shall establish uniform Statewise levels of pupil proficiency in reading, mathematics and writing on the Statewide assessment instruments. Equivalent standards shall be established for those grades where the Statewide instrument is not administered. Pupils performing below the established levels of pupil proficiency shall be provided with the appropriate instructional services. The instructional services requirement may be waived if the comprehensive assessment demonstrates such enrollment is unnecessary or if enrollment of a pupil above the standards is necessary.

N.J.A.C. 6:39-1.3 Dissemination of information: Individual pupil data shall be released only to a pupil, his or her parent or legal guardian and appropriate school personnel. The Department of Education shall produce and distribute reports deemed appropriate by the commissioner, and provide an interpreted State report to the State Board and the commissioner. Summary reports shall be distributed to districts in such a manner to allow for a 45-day analysis and interpretation period, after which they must be approved and made public by the district board of education within 30 days. Individual pupil reports shall be distributed to local districts, one copy of which must be placed in the pupil's record file and one copy distributed to his or her parent or legal guardian. Rosters of pupil performance will be distributed to permit districts 30 days to analyze, interpret and make public the results. After 30 days, the commissioner will make public the results for each district.

N.J.A.C. 6:39-1.4 Interpretation of data: The Department of Education will provide technical assistance in the development of essential interpretive material by local districts and may provide interpretations for local, county and State use. All results made public must be accompanied by interpretive materials.

N.J.A.C. 6:39-1.5 Exclusion of pupils: Any pupil classified as handicapped shall participate in the testing program unless a specific exemption is provided in that pupil's Individualized Education Program. Pupils identified as limited English speaking are now required to participate in the testing program. The present exclusionary clause, N.J.A.C. 6:39-1.5(b), would be deleted by this proposal.

Social Impact

Readoption of this rule will permit the continued implementation of the new Statewide Testing System, including the more rigorous High School Proficiency Test which will serve as the graduation test beginning in 1985-86. Replacing the Minimum Basic Skills test with this more rigorous test will contribute to the better preparation of the State's pupils to be productive members of society. This rule regulates the Department's implementation of the Statewide Testing System, including the administration of the Minimum Basic Skills and High School Proficiency Tests, and the establishment of criteria for school districts' testing programs.

Economic Impact

The continued implementation of the new Statewide Testing System has resulted in the elimination of Statewide testing at grades three, six and eleven. This change has had an indirect economic impact on school districts through the elimination of duplicative testing and thus reduced the interpretive requirements which necessitated a commitment of staff time. However, the implementation of the High School Proficiency Test and the associated equivalent Statewise standards could result in increased cost for reading, mathematics and writing remedial programs due to the more rigorous nature of the text.

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

SUBTITLE G. RESEARCH, PLANNING AND EVALUATION

CHAPTER 39. EVALUATION

SUBCHAPTER 1. STATEWIDE ASSESSMENT

6:39-1.1 Authority of the commissioner

(a) The Commissioner of Education, with the approval of the State Board of Education, shall conduct an assessment of pupil achievement in the public school system of the State and of any grades therein by such means, tests and examinations [as to him/her seem proper, and he/she] **which he or she deems proper, and** shall report to the State Board the results of such inquiries and such other information with regard thereto as the State Board may require [or as he/she shall deem proper].

(b) All such means, tests, if determined to be appropriate by the commissioner, and examinations to be administered pursuant to this rule shall be conducted by and in all operating school districts in New Jersey and shall meet State criteria.

(c) School districts shall conduct such means, tests and examinations in the manner and at the times prescribed by the commissioner.

(d) School districts shall report to the Department of Education the results of such means, tests and examinations in the manner and at the times prescribed by the commissioner.

6:39-1.2 Levels of pupil proficiency

(a) The State Board of Education, after consultation with the commissioner shall establish uniform Statewide levels of pupil proficiency in reading, writing and mathematics skills on the Statewide assessment instruments pursuant to N.J.S.A. 18A:7A-6.

(b) In the event that certain grades are not administered the statewide assessment instruments, the Department of Education shall establish, for those grades, equivalent standards of pupil proficiency on tests which measure performance in reading, writing and mathematics skills and meet State criteria.

(c) All pupils performing below the established levels of pupil proficiency in reading, writing and mathematics skills, as determined under N.J.A.C. 6:39-1.2(a) and (b), shall be provided appropriate instructional services according to the district's basic skills improvement plan, pursuant to N.J.S.A. 18A:7A-6.

1. A waiver of this requirement may be granted if the program of needs assessment conducted pursuant to N.J.A.C. 6:8-3.4(a) clearly demonstrates such enrollment is unnecessary or enrollment of a pupil above the levels of pupil proficiency as established in (a) and (b) above is necessary.

6:39-1.3 Dissemination of information

(a) Notwithstanding **the provisions of** N.J.A.C. 6:3-[.1 et seq.], individual pupil data shall be released [to, and] only to [,] a pupil, his[/] **or** her parent or legal guardian, and school personnel and school officials deemed appropriate by the commissioner.

(b) The State Department of Education shall produce and distribute to chief school administrators as uninterpreted reports for tests developed by the Department: rosters of pupil performance and other reports as deemed appropriate by the commissioner.

(c) The State Department of Education shall provide an interpreted State report to the State Board and the Commissioner or Education.

(d) Summary reports for the class(es), school(s) and district shall be distributed to chief school administrators, as indicated in (b)[,] above, in such a manner as to provide a 45-day period from receipt of all reports for analysis of data. During this period such material shall not be available for public distribution.

(e) Upon completion of the analysis, as indicated in (d) above, but in no case later than the 45-day period established by the commissioner, and upon approval by the [local] **district** board of education, summary reports for class(es), school(s) and district shall be made available to the public.

(f) Individual pupil reports for tests developed by the Department shall be returned to districts in duplicate for all pupils tested. One copy of the report shall be maintained with the pupil's permanent records, and one copy shall be made available to the pupil, his or her parent or legal guardian in a timely fashion.

(g) Rosters of pupil performance for tests developed by the Department shall be distributed to chief school administrators as indicated in (b) above in such a manner as to provide a 30-day interpretation period prior to reporting to the district board of education and the public. Following this 30-day period, the commissioner shall make available to the public reports about each district which at a minimum shall list the number of pupils tested and percent of pupils at or above the established levels of pupil proficiency, by grade and by test for tests developed by the Department and for certain other grades as deemed appropriate by the commissioner on tests administered by each district.

(h) At the time the commissioner makes available to the public the information stated in (g) above, all districts shall make available to the public the number of pupils tested and the percent of pupils at or above the established levels of pupil proficiency for each school and the district, by grade and by test.

(i) The commissioner may make exceptions to the above [regulations] **rules**, such as those required by the provisions of the Public School Education Act of 1975 (N.J.S.A. 18A:7A-1 et seq.) as well as special reports requested by local school districts.

6:39-1.4 Interpretation of data

(a) The State Department of Education will provide technical assistance in the development of essential interpretative material by local districts.

(b) The State Department of Education may provide interpretations for local, county and State use.

(c) All results which are made available to the public must be accompanied by interpretative materials.

6:39-1.5 Exclusion of pupils

[(a)] Any pupil who has been classified as handicapped, pursuant to N.J.S.A. 18A:46-1 et seq., shall participate in the testing program unless specific exemption from participating in this program is provided within that pupil's Individualized Education Program (N.J.A.C. 6:28[-1.8 et seq.]).

[(b) Pupils who have been identified as limited English speaking ability, pursuant to N.J.A.C. 6:31-1.1 et seq., shall not be required, but may be permitted, to participate in the testing program. Such pupils shall be identified in accordance with N.J.A.C. 6:31-1.9. Upon the development of native language tests, such pupils shall be required to participate in the testing program.]

ENVIRONMENTAL PROTECTION

(a)

OFFICE OF SCIENCE AND RESEARCH

HEALTH
OCCUPATIONAL AND ENVIRONMENTAL HEALTH SERVICES

Worker and Community Right to Know Act Trade Secrets

Proposed Amendment: N.J.A.C. 7:1G-1.2
Jointly Proposed New Rule: N.J.A.C. 7:1G-6 (N.J.A.C. 8:59-3)

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

Authority: L. 1983, c. 315, N.J.S.A. 34:5A-1 et seq., specifically 34:5A-15, 34:5A-32, and N.J.S.A. 13:1D-9.

DEP Docket Number: 046-84-06.

A **public hearing** concerning this proposal and the companion proposal of the Department of Health, N.J.A.C. 8:59-3 (Trade Secrets), also appearing in this Register, will be held on August 9, 1984, from 1:00 P.M. to 5:00 P.M. and 6:30 P.M. to 9:00 P.M., or until all persons have been heard, at:

State Library — First Floor Conference Room
185 West State Street
Trenton, New Jersey 08625

Interested persons may submit in writing, data, views, or arguments relevant to the proposed new rule on or before August 15, 1984. These submissions and inquiries about submissions and responses should be addressed to:

Scott B. Dubin, Esq.
New Jersey Department of Environmental Protection
CN 402
Trenton, NJ 08625

The Department of Environmental Protection thereafter may jointly adopt this proposed new rule at the same time that the Department of Health adopts its proposed new rule, N.J.A.C. 8:59-3, without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-399.

The agency proposal follows:

Summary

Pursuant to the Worker and Community Right to Know Act (the act), N.J.S.A. 34:5A-1 et seq., the Department of Health and the Department of Environmental Protection are jointly proposing new rules governing the administration of trade secret claims. The Department of Health's proposed new rule, N.J.A.C. 8:59-3, also appears in this Register. The provisions of the rules are the same except where noted below and where they apply to specific agency responsibilities under the Act. A cross reference table appears at the end of this Summary.

An employer may claim the name of a substance or any formula, plan, pattern, process, production data, information, or compilation of information reported to the department pursuant to the Act, as a trade secret. The Department shall protect pending and approved claims from disclosure to the public. Trade secret claims may be filed to maintain the confidentiality of information requested on the workplace survey, environmental survey and emergency services information survey, and the names of hazardous substances on container labels. Claims on the environmental survey and the emergency services information survey shall be filed with the Department of Environmental Protection. Claims for the workplace survey and labeling shall be filed with the Department of Health.

What follows is a section by section summary of the proposed new rule to be codified as N.J.A.C. 7:1G-6.

N.J.A.C. 7:1G-6.1 sets forth the statutory authority pursuant to which this new rule is proposed.

N.J.A.C. 7:1G-6.2 states the purpose of the proposed new rule.

N.J.A.C. 7:1G-6.3 contains general provisions, including instructions on how to make trade secret claims. The Department will act on a trade secret claim when a request is made for the disclosure of trade secret information and at any other time it deems appropriate.

N.J.A.C. 7:1G-6.4 lists information which will not be protected as a trade secret. The Act does not protect from disclosure information concerning emissions, and any information required pursuant to any other act (See Section 15(h) of the Act). An employer is further prohibited from making a trade secret claim for special health hazard substances (See Section 3(t) of the Act). N.J.A.C. 7:1G-6.4 provides a description of information on Parts I and II of the environmental survey and the emergency services information survey which may not be claimed as a trade secret.

N.J.A.C. 7:1G-6.5 establishes the procedure for filing a trade secret claim. Employers filing a claim will be required to include the information specified in this section in support of the claim. Employers will not be required to submit supporting documentation for specified items on Part II of the environmental survey. Upon review of a claim, the Department may request that an employer submit additional information.

In accordance with N.J.A.C. 7:1G-6.6, all trade secret claims and information in support of the claim, pending or approved, shall be treated as confidential. Strict security measures are detailed in this section to insure that trade secret information is kept confidential.

N.J.A.C. 7:1G-6.7 specifies which department shall make decisions on trade secret claims.

N.J.A.C. 7:1G-6.8 lists the criteria to be used by the Department evaluating a trade secret claim. For a formula, plan, pattern, process, production data, information, or compilation of information, an employer must establish that it is not patented, is known only to the employer and certain other individuals, is used in the research and development or fabrication and production of an article of trade or service on a mixture, and provides the employer possessing it a competitive advantage over businesses who do not possess it. For a substance, an employer must establish that the substance is unknown to competitors or is included in a formula or process that meets the criteria for formulas and processes.

Any person may request the disclosure of trade secret information pursuant to N.J.A.C. 7:1G-6.9. Where a person requests information concerning an approved trade secret claim, such person shall submit new significant information not previously submitted concerning the invalidity of the claim.

N.J.A.C. 7:1G-6.10 (Reserved):

Appropriate procedures for a requestor to appeal department determinations concerning trade secret claims have not yet been established. Such procedures will be established in future rulemaking pursuant to the Administrative Procedure Act.

The department is consulting with the Office of Administrative Law to determine the appropriate mechanism for ensuring that any administrative hearings concerning trade secret claims protect such claims from unauthorized disclosure.

N.J.A.C. 7:1G-6.11 establishes notification procedures the department shall follow once a determination on the validity of a trade secret claim is made.

N.J.A.C. 7:1G-6.12 specifies the procedures an employer shall follow to appeal an adverse trade secret claim determination.

N.J.A.C. 7:1G-6.13 details the actions that shall be taken to modify the environmental survey and emergency services information survey once a final determination has been made that the information is public information.

Information that is treated as confidential, either because of a pending trade secret claim or because it has been approved as a trade secret, may be released to an officer or employee of the State, a contractor of the State, and a physician or osteopath, under certain carefully prescribed circumstances as set forth in N.J.A.C. 7:1G-6.14. Employers will be notified prior to disclosure of the information. Persons receiving the trade secret information shall be required to sign a confidentiality agreement prior to receipt of the information. In cases of public health or medical emergencies, however, persons receiving such information shall sign an agreement within 72 hours after receipt of the information.

The act establishes significant criminal penalties for the unauthorized disclosure of trade secret information. These penalties are reflected in N.J.A.C. 7:1G-6.15.

The cross reference table below shows the dual citations for the proposed new rules of the Department of Environmental Protection (DEP) and Department of Health (DOH).

Note the following differences:

CROSS REFERENCE TABLE
PROPOSED NEW TRADE SECRET REGULATIONS

Section Heading	DEP N.J.A.C. 7:1G-	DOH N.J.A.C. 8:59
Authority	6.1	3.1
Purpose	6.2	3.2
Definitions	1.2	3.3
General Provisions	6.3	3.4
Prohibited Claims	6.4	3.5
Procedure for Filing a Claim	6.5	3.6
Confidentiality and Security of Trade Secret Information	6.6	3.7
Decisionmaking Agency on Claims	6.7	3.8
Labeling	n/a	3.9
Criteria for Determination on Claims	6.8	3.10
Request for Trade Secret Information	6.9	3.11
(Reserved)	6.10	n/a
Notification of Determination of Claims	6.11	3.12
Appeal of Determination	6.12	3.13
Disclosure of Information determined not to be a Trade Secret	6.13	3.14
Restricted Access to Trade Secret Information	6.14	3.15
Penalties for Unauthorized Disclosure	6.15	3.16

Social Impact

The proposed new rule establishes procedures for filing claims to protect trade secret information. The procedures will ensure that the employer's pending claims and legitimate trade secrets are protected from unauthorized disclosure. Physicians and osteopaths will have access for medical diagnosis and treatment. State officials will have access to respond to public health emergencies.

Economic Impact

The disclosure of trade secret information to unauthorized persons might adversely effect an employer's competitive position. The proposed new rule establishes procedures to protect from disclosure legitimate trade secret information and supporting documentation submitted to the Department. The

Department will allow an employer to submit limited information as part of a trade secret claim, thereby reducing the cost of preparing and reviewing claims, while at the same time reducing the risk of unauthorized disclosure.

Environmental Impact

The Act provides that any information concerning emissions shall be available to the public. Employers will be required to provide the Department with all information completed, including throughput quantities and an inventory on Part II of the environmental survey, thereby enabling the Department to verify the stated emissions. Consequently, the proposal should have no effect on the environment.

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:1G-1.2 Definitions

. . .

"Department" means the New Jersey Department of Environmental Protection, **however, for the purpose of N.J.A.C. 7:1G-6, it shall mean either the New Jersey Department of Environmental Protection or the State Department of Health, as appropriate**.

. . .

"Person" includes an individual, corporation, company, partnership, firm, association, trust, estate, public or private institution, group, society, joint stock company, municipality, all political subdivisions of this State or any agency or instrumentality thereof, and any legal successor, representative agent or agency of the foregoing.

. . .

"Trade secret" means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to an employer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors.

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

"Trade secret docket number" means a code number temporarily or permanently assigned to the identity of information on the environmental survey by the Department of Environmental Protection.

"Workplace Hazardous Substance List" means the list of hazardous substances developed by the Department of Health pursuant to N.J.S.A. 35:5A-5.

"Workplace survey" means a written document, prepared by the Department of Health and completed by an employer pursuant to the Act, on which the employer shall report each hazardous substance present at his facility.

Full text of the proposed new rule follows.

SUBCHAPTER 6. TRADE SECRETS

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, and N.J.S.A. 13:1D-9.

(b) This subchapter is a jointly adopted rule of the Department of Environmental Protection and the Department of Health (see N.J.A.C. 8:59-3).

7:1G-6.2 Purpose

(a) Trade secret claims will be filed by employers who are subject to the Act to maintain the confidentiality of information requested on the workplace survey, environmental survey or emergency services information survey and the names of hazardous substances on container labels. It is the purpose of this subchapter to prescribe:

1. The procedures and guidelines for filing a trade secret claim;
2. The information required by the department for determination of a trade secret claim;
3. The methods for maintaining the confidentiality and security of trade secret information;
4. The criteria for determination of a trade secret claim;
5. The procedure for requesting trade secret information;
6. The procedures for appeal of a determination of a trade secret claim; and
7. The procedures and guidelines for the disclosure of trade secret information.

7:1G-6.3 General provisions

(a) Except as provided in N.J.A.C. 7:1G-6.14, the department shall not disclose any trade secret claim and supporting information, that is pending or has been approved.

(b) An employer shall report the information for which a trade secret claim is being made to the appropriate department in accordance with the provisions of N.J.A.C. 7:1G-6.5.

(c) On the workplace survey, environmental survey, and emergency services information survey which the employer is required to send to the county health department, county clerk, or designated county lead agency; local fire department; and local police department; and which it retains on file at the facility, for employee inspection, the employer shall note on the surveys where information has been claimed to be a trade secret.

(d) Any workplace survey, environmental survey, and emergency services information survey shall be made available to the public indicating pending or approved trade secret information.

(e) All documents containing the information claimed to be a trade secret and supporting information 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 shall be mailed or delivered to:

Director, Office of Science and Research
New Jersey Department of Environmental Protection
CN 405, Trenton, NJ 08625

(f) The top of each page of any document containing the information for which a trade secret claim is being made, 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, shall display the word "CONFIDENTIAL" in bold type on both sides. This envelope shall be enclosed in a plain envelope addressed for mailing.

(h) The department shall determine the validity of a trade secret claim when a request is made by any person for the disclosure of the information for which the trade secret claim was made and at any time that the department deems appropriate. The department shall make its determination on a trade secret claim in accordance with the criteria in N.J.A.C. 7:1G-6.8. The department may approve a trade secret claim based on information provided pursuant to N.J.A.C. 7:1G-6.5.

(i) The department may revoke an approved trade secret claim upon the receipt of new information from any person regarding the information previously submitted by an employer pursuant to N.J.A.C. 7:1G-6.5. In the event of such revocation, N.J.A.C. 7:1G-11 and 12 shall apply in the same manner as where the department rejects a trade secret claim.

(j) Nothing in these regulations shall be construed as prohibiting the incorporation of trade secret information into cumulations of data subject to disclosure as public records, provided that such disclosure is not in a form that would foreseeably allow persons outside the department, not otherwise having knowledge of such information, to deduce from it the trade secret information, or the identity of the employer who supplied it to the department.

(k) Any failure by an employer to submit additional information requested by the department or to allow inspection of its facility by the department for purposes of determining the validity of a trade secret claim shall constitute valid cause for denial of the trade secret claim.

7:1G-6.4 Prohibited claims

(a) The Department of Environmental Protection will not protect from disclosure information in (1) through (4) below:

1. Any information required to be disclosed pursuant to any other act;

2. The following information requested on Part I of the environmental survey:

i. Name of the employer;

ii. Location of the facility;

iii. Name and Chemical Abstracts Service number of an environmental hazardous substance where the employer is otherwise required to report emissions of such substance from its facility into the air or water or onto the land; and

iv. Any information concerning any environmental hazardous substance listed in N.J.A.C. 8:59-10 (Special Health Hazard Substance List).

3. The following information requested on Part II of the environmental survey:

i. Name of the employer;

ii. Location of the facility;

iii. Name and Chemical Abstract Service number of an environmental hazardous substance which is emitted from the employers facility into the air or water or onto land;

iv. The total stack or point-source emissions of the environmental hazardous substance;

v. The total estimated fugitive or non point-source emissions of any environmental hazardous substance;

vi. The total discharge of any environmental hazardous substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings;

vii. The total discharge of any environmental hazardous substance into publicly owned treatment works;

viii. The quantity, and methods of disposal, of any wastes containing any environmental hazardous substance, the method of on-site storage of these wastes, the location or locations of the final disposal site for these wastes, and the identity of the hauler of the wastes; and

ix. Any information concerning any environmental hazardous substance listed in N.J.A.C. 8:59-10 (Special Health Hazard Substance List).

4. 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 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 onto the land;

iv. The United States Department of Transportation designated Hazard Class of any hazardous material; and

v. Any information concerning any environmental hazardous substance listed in N.J.A.C. 8:59-10 (Special Health Hazard Substance List).

7:1G-6.5 Procedure for filing a claim

(a) An employer may file a trade secret claim with the department to protect information on an environmental survey or an emergency services information survey where disclosure would reveal a trade secret. Such claims shall be filed in accordance with (b) through (e) below.

(b) Any 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 where such omissions have been made.

(c) All trade secret claims shall be filed with the department within 90 days of the employer's receipt of the environmental survey.

(d) As part of its trade secret claim with the department to protect information on the emergency services information survey, or Part I or Part II of the environmental survey, an employer shall submit the following except as provided in (e) below:

1. Prior trade secret determinations concerning the trade secret claim by the department, other agency or court, and a copy of such determination or reference to it;

2. Whether or not the information is known outside the employer's business;

3. Whether the information is patented;

4. What if any would be the harmful effects of its disclosure;

5. The period of time for which a trade secret designation is requested, if appropriate; and

6. The ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

(e) Unless otherwise requested by the department, an employer is not required to submit supporting information with its trade secret claims on Part II of the environmental survey regarding the description of the use of the environmental hazardous substance on the site, the quantity produced on site, the quantity brought on site, the quantity consumed on site, and the quantity shipped off site either as a product or in the product.

(f) In addition to any information an employer submits pursuant to this section, an employer may submit any other information relevant to the trade secret claim including 1 through 6 below.

1. The extent to which the information for which the trade secret claim is made known outside the employer's business;

2. The extent to which the information is known by employees and others involved in the employer's business;

3. The extent of measures taken by the employer to guard the secrecy of the information;

4. The value of the information, to the employer or the employer's competitor;

5. The amount of effort or money expended by the employer in developing the information;

6. The ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

(g) The department may at any time subsequent to the filing of a trade secret claim request, in writing, the information listed in 1 through 4 below. Within 30 days of receipt of such a request, an employer shall answer the request in writing. The department may extend the period for submitting an answer for good cause shown.

1. Prior trade secret determinations by the department, other agency or court, concerning the nature of the information as a trade secret, and a copy of such determination or reference to it.

2. Whether disclosure of the information would be likely to result in harmful effects on the employer's competitive position, and, if so,

i. What those harmful effects would be;

ii. The competitive advantage the employer possesses over employers who do not possess it; and

iii. The value of the information to the employer or the employer's competitor.

3. When the trade secret claim concerns any formula, plan, pattern, process, production data, information, or compilation of information, an employer is required to submit the following information to the department concerning the trade secret claim:

i. Whether it is patented; and

ii. Whether it is used in the research and development or fabrication and production of an article of trade or service or a mixture.

4. Any other relevant information the department in determining the validity of a trade secret claim.

(h) An employer shall provide, as part of any trade secret claim or submission, the names of reference documents used as the basis for stated conclusions.

(i) An employer shall certify that its trade secret claim is true, accurate and complete.

(j) The department may limit the length of a claim or submissions and require that they be made on forms provided by the department.

(k) An employer shall update information affecting a pending or approved trade secret claim within 60 days of the employer's knowledge or receipt of new pertinent information.

(l) Within 15 days after filing a trade secret claim, an employer shall post on bulletin boards readily accessible to employees a notice of the filing. Every employer filing a claim shall send a copy of the notice to the clerk of the municipality in which the employer's facility is located. Every employer filing a claim who employs employees whose native language is Spanish shall also post the notice in Spanish. The notice shall state on which survey the claim was made and the date of the claim, and shall invite any person to submit comments on the claim to the department.

7:1G-6.6 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) Information regarding trade secret claims, pending or approved, shall only be communicated in person or in writing, among persons authorized pursuant to N.J.A.C. 7:1G-6.6 and 6.14, including, but not limited to, employees and officers of the State and its contractors, physicians and osteopaths, as well as between employers and such authorized persons. Said information shall not be communicated over telecommunications networks, including, but not limited to, telephones, computers connected by modems, or electronic mail systems. An exception may be made to this provision for emergencies pursuant to N.J.A.C. 7:1G-6.14(g).

(c) Any document transmitted by the department to the employer or any other authorized person, which contains information claimed to be a trade secret, shall be sent 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.

(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 shall be considered the designated representative if no other communication is received from the employer.

(e) Any document prepared by the department for the employer which contains information claimed to be a trade secret shall display the word "CONFIDENTIAL" in bold type or stamp on the top of each page. The envelope containing such document shall be addressed to the employer's chief executive officer or his designated representative and shall display the word "CONFIDENTIAL" in bold type on both sides. This envelope shall be enclosed in a plain envelope addressed for mailing.

(f) Except as provided in N.J.A.C. 7:1G-6.14, no person other than the Commissioner and his designated representatives including Administrative Law Judges conducting hearings on trade secret claims, shall have access to information regarding a trade secret claim. Said designated representatives shall be employees of the department. Designations shall be made in writing. Designated persons other than Administrative Law Judges shall sign an agreement developed by the department protecting 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 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 or the Department of Health.

(g) All documents containing information regarding a trade secret claim shall be stored in a locked file or safe in a locked office in the department. The file or safe and office containing such documents shall be locked when not being used by authorized persons.

(h) Persons authorized to use trade secret documents pursuant to (f) above shall do so in the office in which the trade secret documents are stored, unless authorized to remove the documents by the Commissioner or his designated representative. All trade secret documents which are removed shall be returned to the office in which the documents are stored each day by the end of the regular workday. The department shall maintain a log of persons who use documents containing trade secret information. The log shall include the person's name, title, the name of the document used, and the time of commencing and finishing use of the document. No trade secret document shall be delivered between offices by persons who are not authorized to handle said documents. Such documents shall not be duplicated unless necessary for purposes of N.J.A.C. 7:1G-6.14 or if the department determines that it is absolutely necessary to carry out its responsibilities under the Act. If so duplicated, the document shall be marked as a copy, but treated as if it was an original document. The copy shall be destroyed immediately after completion of the use for which it was intended.

7:16-6.7 Decision-making agency on a claim

(a) The Department of Health shall approve or deny a trade secret claim concerning:

1. The name and Chemical Abstracts Service number of any substance listed on the Workplace Hazardous Substance List unless (c) below applies.

2. Information, other than the name and Chemical Abstracts Service number of a substance, reported on the workplace survey.

3. Labeling a container with the chemical name and Chemical Abstracts Service number of the substance in the container.

(b) The Department of Environmental Protection is authorized to approve or deny a trade secret claim concerning:

1. Information, other than the name of a substance, reported on the Environmental Survey.

2. Information, other than the name of a substance, 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, and for which disclosure is not required by any other act, a decision to approve or deny the claim shall be made by a joint committee composed of the Commissioners of the Department of Health and the Department of Environmental Protection, or their designated representatives.

7:1G-6.8 Criteria for determination of 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 that:

1. It is not patented;

2. It is known only to the employer and certain other individuals;

3. It is used in the research and development or fabrication and production of an article of trade or service or a mixture; and

4. It provides the employer posssessing it a competitive advantage over businesses who do not possess it.

(b) The chemical name and Chemical Abstract Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors, or is included in a formula or process that meets the criteria of (a) above.

(c) In determining whether a trade secret claim is valid, the department shall consider information provided by the employer or any other person including the information in 1 through 6 below and any other information provided pursuant to N.J.A.C. 7:1G-6.5.

1. The extent to which the information for which the trade secret claim is made known outside the employer's business;

2. The extent to which the information is known by employees and others involved in the employer's business;

3. The extent of measures taken by the employer to guard the secrecy of the information;

4. The value of the information, to the employer or the employer's competitor;

5. The amount of effort or money expended by the employer in developing the information;

6. The ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

7:1G-6.9 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. 7:1G-6.3. The request shall state the requestor's name and address and may include information concerning the validity of a pending or approved trade secret claim.

(b) A request for disclosure of an approved trade secret may be submitted only if accompanied by new significant information not previously submitted concerning the invalidity of the trade secret claim.

7:1G-6.10 (Reserved)

7:1G-6.11 Notification of determination of claim

Upon making a determination on the validity of a trade secret claim, the department shall notify the employer of the determination by certified mail, return receipt requested. The notice shall state that the employer has 45 days from receipt of the department's determination to file a written request with the department for an administrative hearing on the determination.

7:1G-6.12 Appeal of determination

(a) If the department denies an employer's trade secret claim, the employer shall have 45 days from the receipt of the department's determination to file with the department a written request for an administrative hearing on the determination. Within 15 days after filing the request, an employer shall post on bulletin boards readily accessible to employees a notice of the filing. Every employer filing a request shall send a copy of the notice to the clerk of the municipality in which the employer's facility is located. Every employer filing a claim who employs employees 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 contact the department to act as a witness in the event that a hearing is conducted.

(b) If a request for an administrative hearing is made pursuant to (a) above, the department, or departments in the case of a decision pursuant to N.J.A.C. 7:1G-6.7(c), shall refer the matter to the Office of Administrative Law for a hearing thereon.

(c) Within 45 days of receipt of the administrative law judge's initial decision containing a recommendation on a matter referred to in (b) above, the department, or departments in the case of a referral pursuant to (b) above, 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 review as provided in the Rules of Court.

(d) In the event that the department determines, pursuant to (c) above, that the trade secret claim is not valid, the employer shall have 45 days from receipt of the department's determination to notify the department, in writing, that it has filed to appeal the department's decision in the courts. If the employer does not so notify the department, the department shall disclose the information for which the trade secret claim was made in the manner set forth in N.J.A.C. 7:1G-6.13(a).

7:1G-6.13 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 been exhausted, the department shall take the following action:

1. Modify the employer's workplace survey, 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;

2. Direct the employer to modify the workplace survey or environmental survey on file at its facility to substitute the omitted information for the trade secret docket or registry number and add the information wherever else appropriate; to send modified copies of its revised workplace and environmental survey to the county health department, county clerk, or designated county lead agency; local fire department; and local police department 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 local fire department and local police department.

7:1G-6.14 Restricted access to trade secret information

(a) Except as provided in (b) through (g) below and N.J.A.C. 7:1G-6.6 or when so ordered by a court, no person shall willingly and knowingly disclose and no person shall willingly and knowingly receive trade secret information protected by this subchapter without the employer's consent.

(b) An officer or employee of the State may be granted access to trade secret information protected by this subchapter, only in accordance with this section, upon a demonstration to the satisfaction of the department that such request is in connection with the official duties of the officer or employee under any law for the protection of public health.

1. An officer or employee of the State designated by the head of an agency may make a written request to the department for information on a pending or approved trade secret claim. Such request shall state:

i. Name, title, Program, Division and Department of officer or employee;

ii. The officer or employee's need for the information and its connection with official duties;

iii. The reason why the information cannot be obtained from other sources; and

iv. The public health law for which the information is needed.

2. If the department proposes to release trade secret information to an officer or employee of the State, the department shall notify, in writing and by certified mail, return receipt requested, the employer who submitted the trade secret claim of the intent to release such information.

(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 this Act, and that the requirements of 1 through 3 below have been satisfied. Such approval shall restrict access to the trade secret information to persons approved by the department. 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:

1. It 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 has provided written documentation demonstrating, to the satisfaction of the department, that it maintains Professional Liability Insurance and Comprehensive General Liability Insurance in amounts to be set by the department; and

3. In addition to the requirement of (e) below, it 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) The department shall provide any information for which a trade secret claim is pending or has been approved to a physician or osteopath when such information is needed for medical diagnosis or treatment. The physician or osteopath who will receive confidential information shall be required to sign an agreement developed by the department protecting the confidentiality of the information disclosed. This agreement shall include a provision prohibiting the physician or osteopath from revealing the trade secret information to any person. The employer shall be notified subsequent to disclosure of the information.

(e) Any person granted access to trade secret information pursuant to N.J.A.C. 7:1G-6.14 shall sign an agreement developed by the department protecting the confidentiality of the information prior to receipt of the information.

(f) Any person who receives trade secret information pursuant to this section shall take appropriate measures to protect the information from unauthorized disclosure which shall include, but not be limited to:

1. Keeping the information confidential from unauthorized persons;
2. Keeping any records containing trade secret information in a locked file cabinet or safe, when not in use;
3. Using the information only for the use approved by the department;
4. Not reproducing the trade secret information; and
5. Returning all material on which the trade secret information has been recorded to the department within 30 days or when finished using the information, whichever is sooner.

(g) For emergency public health or medical purposes, the department may waive the requirements of (b)1 (written request by State officer or employee), (b)2 (notice to employer prior to release of trade secret information), and (e) (signing confidentiality agreement prior to receipt of trade secret information) above, and shall follow the procedures set forth in 1 and 2 below, if the department determines that disclosure of trade secret information is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment or is necessary for an emergency medical diagnosis or treatment by a physician or osteopath.

1. If trade secret information is conveyed verbally, in person or by telephone, the contents of a confidentiality agreement developed pursuant to (e) above, shall be read to the persons receiving such information.
2. Any person receiving oral or written trade secret information pursuant to this subsection shall sign a confidentiality agreement developed pursuant to (e) above, within 72 hours of receipt of such information.

7:1G-6.15 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 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) Disclosure of trade secret information by any contractor or agent of the department or its employees in violation of the Act shall constitute grounds for debarment, suspension, and disqualification from contracting with the department.

(a)

OFFICE OF SCIENCE AND RESEARCH

Worker and Community Right to Know Act Environmental Hazardous Substance List

Proposed Amendment: N.J.A.C. 7:1G-2.1

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 34:5A-1 et seq. and N.J.S.A. 13:1D-9.
DEP Docket No. 041-84-06.

Interested persons may submit in writing, data, views or arguments relevant to the proposed amendment on or before August 15, 1984. These submissions and inquiries about submissions and responses, should be addressed to:

Dr. Judith Louis
New Jersey Department of
Environmental Protection
Office of Science and Research
CN 402
Trenton, New Jersey 08625

At the close of the period for comments, the Department of Environmental Protection may adopt this proposal, with any minor changes not in violation of the rulemaking procedures. (See N.J.A.C. 1:30-3.5). Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-390.

The agency proposal follows:

Summary

On April 2, 1984, the Department proposed a new rule, N.J.A.C. 7:1G, to implement the Worker and Community Right to Know Act, P.L. 1983 c.315, N.J.S.A. 34:5A-1 et seq. (the Act). N.J.A.C. 7:1G-2 designates substances as Environmental Hazardous Substances (EHS) pursuant to the Act. (See 16 N.J.R. 646.)

Public comments on the proposed EHS List raised questions about several of the chemicals that the Department had rejected for inclusion on the EHS List. The Department has since obtained evidence on several of these compounds. After reviewing this information, the Department proposes to include four additional chemicals on the Environmental Hazardous Substances List.

In the July 2, 1984 Register, the Department published notice of the adoption of the EHS list, proposed at 16 N.J.R. 646, with changes.

The Department established the following criteria to be used in developing the Environmental Hazardous Substance List and determined that it would include substances which met both criteria.

Criteria 1: Evidence of a significant rate of use, production, or importation in New Jersey or the United States. The De-

partment considered 10,000 pounds per year in the State or the country to be significant; and

Criteria 2: Evidence of at least one of the following health or environmental effects: carcinogenicity, teratogenicity, mutagenicity, other chronic toxic effects, acute toxicity, persistence, or ability to bioaccumulate. (See 16 N.J.R. 649 for an explanation of the criteria and the standards for use in determining whether a candidate substance meets the above criteria.)

At the time of the April 2, 1984 notice of proposed rulemaking, the Department had concluded that the following four substances had met Criteria 2 above, but were not used in significant amounts to meet Criteria 1 above: amitrol, 1,1-dimethyl hydrazine, hexachlorocyclopentadiene, and vinylidene chloride. (See 16 N.J.R. 646.) The Department continued its review of the production and use of these four substances and has recently found that the substances meet Criteria 1.

Summary of Findings for Candidate Substances

Below is a summary of the Department's findings for each of the candidate chemical substances considered for inclusion on the Environmental Hazardous Substance List. The chemicals reviewed were classified according to their chemical group. Chemicals within a group, therefore, have similar structures. These groups are arranged alphabetically, as are chemicals within each group. In addition, the Chemical Abstract Services (CAS) number is listed. The CAS number is a unique identifier for each chemical substance. For each candidate chemical substance, two of four proposed actions are listed. They are:

1. "Retain" which means a candidate is on the Selected Substances List, N.J.A.C. 7:1F, and is proposed as an Environmental Hazardous Substance.

2. "Include" which means a candidate is not on the Selected Substances List and is proposed as an Environmental Hazardous Substance.

Compounds originally on the Selected Substances List are denoted by an asterisk (*).

Chemical (Synonym) (CAS Number)	Basis for Proposal	Proposed Action
15. Halogenated Alkenes		
Hexachlorocyclopentadiene* (77-47-4)	Use in US-substantial Other chronic health effects Acute toxicity-Aquatic biota Bioaccumulation-known Regulated-Federal	Retain
Vinylidene chloride* (75-35-4)	Production in US-Moderate Carcinogenic evidence-animal suspect Mutagenic evidence-in vitro-microorganism Detected in environmental media-moderate to frequent	Retain
17. HYDRAZINES		
1,1-Dimethyl hydrazine* (57-14-7)	Production in US-Substantial Carcinogenic evidence-animal suspect Mutagenic evidence in-vitro-mammalian and microorganism Regulated-Federal	Retain
28. PESTICIDES		
1. Amitrol (61-82-5)	Use in US-Moderate Carcinogenic evidence-animal Regulated-Federal	Include

Social Impact

Adoption of the Environmental Hazardous Substances List will give New Jersey citizens access to information on the types and amounts of hazardous substances to which they are exposed in their communities. This information can be used by physicians to aid in medical diagnoses, when necessary. The data generated from the Environmental Survey can also be used by epidemiologists to analyze the effects of Environmental Hazardous Substances on public health.

Economic Impact

Those companies which must complete the survey forms will have additional time and personnel requirements. The extent of the cost of compliance will depend on the number of substances a company is reporting, since detailed information will be required on the amount of each substance produced, used, shipped out, disposed by, and emitted from the facility.

Environmental Impact

The Environmental Hazardous Substance List will aid the Department in formulating a database on the types and amounts of hazardous substances to which the public is exposed in the community. The information gathered will also aid the Department in selecting toxic substances to monitor in the environment and will provide information necessary for the development of regulations to control the emission of toxic substances. By requiring employers to identify hazardous substances in their waste streams, the Environmental Survey will encourage companies to use proper disposal methods.

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

CHAPTER 1G
WORKER AND COMMUNITY RIGHT TO KNOW REGULATIONS

SUBCHAPTER 2. ENVIRONMENTAL HAZARDOUS SUBSTANCE LIST

7:1G-2.1 Designation of Substances

The following substances and corresponding Chemical Abstract Services (C.A.S.) numbers are designated as Environmental Hazardous Substances pursuant to the Act. Each substance has further been identified according to the classification in N.J.A.C. 7:1G-2.2. Substances may have numbers synonyms which are not included herein.

Chemical	CAS Number	Group Number
. . .		
Amitrol	**61-82-5**	**28**
. . .		
1,1-Dimethyl hydrazine	**57-14-7**	**17**
. . .		
Hexachlorocyclopentadiene	**77-47-4**	**15**
. . .		
Vinylidene chloride	**75-35-4**	**15**

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations
Delineated Floodways for Various Tributaries and Streams Within Warren, Hunterdon, Sussex and Morris Counties (Project "MR")

Proposed Amendment: N.J.A.C. 7:13-7.1 (formerly 7:13-1.11)

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et seq.
DEP Docket No. 045-84-06

A public hearing concerning this proposal will be held on July 31 at 1 p.m. at
Municipal Building
Hackettstown
Warren County

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:
Clark Gilman
Bureau of Flood Plain Management
Division of Water Resources
CN 029
Trenton, New Jersey 08626

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.S.A. 1:30-3.5). The notice becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-401.

The agency proposal follows:

Summary

The proposed amendment provides for the application of rules concerning the development and use of lands in designated floodways to various tributaries and streams within Warren, Hunterdon, Sussex and Morris Counties. Rules of delineated flood hazard areas are designed to preserve flood carrying capacity and to minimize the threat to the public safety, health and general welfare.

Social Impact

The proposed delineation applies added flood protection from the Townships of Greenwich, Franklin, Washington, Mansfield and Allamuchy, the Borough of Washington, and the Town of Hackettstown in Warren County; and the Townships of Bethlehem and Lebanon, and the Borough of Califon, Hampton and Glen Gardner in Hunterdon County; and the Township of Byram and Borough of Stanhope in Sussex County; and the Townships of Washington, Roxbury, and Mount Olive and the Borough of Netcong in Morris County.

Economic Impact

The proposed amendment will have only a minor economic impact. The delineation would more clearly define the flood hazard area, thus resulting in less requirements for flood insurance, and minor reductions in property value could result by restricting future development in the floodway and requiring elevated construction designs in flood fringe areas. However, minor property value diminution would be offset by the savings to governmental bodies and private homeowners due to little or no future rehabilitation and rescue expenditures from flood damage in the delineated area.

Full text of the proposal follows (additions indicated in boldface **thus**). See the Index of Adopted Rules in the New Jersey Register for previous amendments to N.J.A.C. 7:13-1.11(c).

7:13-7.1 Delineated floodways

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

(c) A list of delineated streams in the Delaware Basin follows:

1.-29. (No change.)

30. (See proposal at 16 N.J.R. 1306(a).)

31. Pohatcong Creek from the Township of Pohatcong-Township of Greenwich corporate limit upstream to the Jane Chapel Road Bridge, Merrill Creek from the confluence with Pohatcong Creek upstream along both the left and right channels upstream to Township of Greenwich, Township of Lopatcong Municipal boundaries, Montana Brook from the junction with Pohatcong Creek upstream to 50 feet upstream of Rt. 57 Highway Bridge, Mill Brook from the confluence with Pohatcong Creek upstream approximately 3160 feet, Shabbecong Creek from the confluence with Pohatcong Creek upstream to 1050 feet upstream of Flower Avenue Bridge.

Spruce Run upstream from a location 1000 feet upstream from a private driveway bridge in Bethlehem Township upstream to the Borough of Glen Gardner, Township of Lebanon municipal boundary.

Rocky Run from confluence with Spruce Run upstream to 1250 feet upstream of County Road in Lebanon Township.

South Branch Raritan River from the Lebanon Township, High Bridge Borough corporate limit upstream to Budd Lake near the municipal building in Mount Olive Township, Electric Brook from the confluence with the South Branch Raritan River upstream to the spillway at Lake George Dam in Washington Township, Stony Brook from the confluence with the South Branch Raritan River upstream to Old Farmers Road in Washington Township, Drakes Brook and the Drakes Brook Diversion from the confluence with the South Branch Raritan River upstream to Mount Olive Township-Roxbury Township municipal boundary, Conlon Pond Brook from the confluence with Drakes Brook upstream to Mount Olive Township-Roxbury Township municipal boundary, Tributary to Budd Lake upstream to Route 46 Bridge in Mount Olive Township.

Musconetcong River from the Townships of Pohatcong-Greenwich municipal boundary to 2440 feet upstream of the Conrail bridge between the Townships of Roxbury and Byram, Tributary "A" from the confluence with the Musconetcong River to 50 feet upstream from culvert in the Township of Franklin, Sigler Brook from the confluence with Musconetcong River upstream to 50 feet upstream of Bloomsburg Road in Franklin Township, Stephensburg Brook from confluence with Musconetcong River upstream to 250 feet upstream of dam in Washington Township, Hances Brook

from the confluence with Musconetcong River upstream to Grant Avenue Highway Bridge, Tributary "B" from the confluence with Musconetcong River upstream to Route 24 Highway Bridge, Trout Brook from the confluence with the Mustonetcong River upstream to abandoned canal, Hackettstown Brook from the confluence with Musconetcong River upstream to private driveway, Lubbers Run from confluence with Musconetcong River upstream to 3950 feet upstream of Stanhope-Sparta access road, Wills Brook from the confluence with Musconetcong River upstream to 7000 feet upstream of Dirt road off railroad.

(d)-(g) (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice can be inspected at:

Division of Water Resources
CN 029
Trenton, New Jersey 08625

(a)

DIVISION OF WATER RESOURCES FLOOD HAZARD AREA DELINEATIONS

Delineated Floodways along a reach of Green Brook in Somerset and Union Counties

Proposed Amendment: N.J.A.C. 7:13-7.1 (formerly 7:13-1.11)

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 58:16A-50 et seq.
DEP Docket No. 036-84-06.

A **public hearing** concerning this proposal will be held on July 26, 1984, at 1:00 P.M. at:

Watchung Municipal Building
15 Mountain Boulevard
Watchung, NJ 07060

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiring about submissions and responses, should be addressed to:

John Scordato
Division of Water Resources
CN 029
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-389.

The agency proposal follows:

Summary

Regulations of delineated flood areas are designed to preserve the flood carrying capacity and to minimize the threat to public safety, health and general welfare. The proposed amendment diminishes in size the designated flood hazard areas and floodways along a specified reach of Green Brook, a delineated system, in Somerset and Union counties. These amendments reflect actual changes in water surface profiles resulting from the removal of downstream structures.

Social Impact

Because the areas of actual hazard have lessened, concomitant reductions of areas so designated will insignificantly threaten public safety, health and the general welfare. At the same time, the amendment will facilitate the erection of a private bridge permitting access to land adjacent to Green Brook near Valley Road.

Economic Impact

The proposed amendment would permit greater development in and of areas no longer designated as a flood hazard area and/or floodway.

Environmental Impact

No effect upon the flood-carrying capacity of the affected reach of Green Brook is anticipated from these amendments.

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

7:13-7.1 Delineated floodways

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

(d) A list of delineated streams in the Passaic-Hackensack Basin and a list of delineated stream in the Raritan Basin follow:

1.-41. (No change.)

42. . . . The floodway and flood hazard area of a reach of Green Brook bordering the Township of Berkeley Heights and the Borough of Watchung from 950 feet upstream of Oak Way extending 2135 feet upstream, approximately 750 feet downstream of Bonnie Burn Road.

43.-49. (No change.)

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

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice was submitted as part of the Department's notice of proposed rule. This map can be inspected at:

Bureau of Flood Plain Management
Division of Water Resources
1911 Princeton Avenue
CN 029
Trenton, New Jersey 0865; or

Office of Administrative Law
Administrative Filings
88 East State Street
CN 301
Trenton, New Jersey 08625

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations
Delineated Floodway along Bear Brook, Park Ridge Borough, Bergen County

Proposed Amendment: N.J.A.C. 7:13-7.1

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et seq.
DEP Docket No. 043-84-06.

A **public hearing** concerning this proposal will be held on Monday, July 30, 1984 at 1 P.M. at:

Municipal Building
Borough of Park Ridge
Bergen County, New Jersey

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clark Gilman
Bureau of Flood Plain Management
Division of Water Resources
CN 029
Trenton, New Jersey 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

The proposal is known as PRN 1984-402.

The agency proposal follows:

Summary

The proposed amendment provides for the revisions of rules and regulations concerning the development and use of land in designated floodways and flood hazard areas of Bear Brook, within Park Ridge Borough, Bergen County. Regulations of delineated flood hazard areas are designed to minimize the threat to the public safety, health and general welfare.

The proposed rule change allows for channel improvements, a man-made pond, and the construction of Marriott Hotel and parking facilities along Bear Brook. The proposed rule change redefines the floodway and flood hazard area from Brae Boulevard to Audobon Road along Bear Brook. The proposed rule change is a result of a stream encroachment application.

Social Impact

The amended delineation is a tool to development. The proposed development will meet a demand for temporary housing/luxury hotel rooms in Northeast Bergen County. There is no effect on residents upstream or downstream.

Economic Impact

The proposed amendment has no direct economic impact. The secondary impact is positive due to development of the site made possible by the reconfiguration of the flood channel.

Environmental Impact

The proposed project made possible by reconfiguration of the stream channel will have no adverse environmental impact. The N.J. Division of Fish, Game and Wildlife indicated no objections. The U.S. Army Corps of Engineers 404 Wetlands Permit was approved. The luxury hotel that will be integrated into its natural surroundings Bear Swamp will not be affected due to a 60" setback from the wetlands. Wetlands habitats along Bear Brook will be preserved. Additional vegetation will enhance wetland habitats. A sediment trap will be constructed. A pond will be constructed on the property and will be bordered with wetland, transitional wetlands and uplands species.

Full text of the proposal follows (additions indicated in boldface **thus**). N.J.A.C. 7:13-7.1 was formerly codified as N.J.A.C. 7:13-1.11. See the Index of Adopted Rules for previous amendments under that designation.

7:13-7.1 Delineated floodways

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

(d) A list of streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follows:

1.-46. (No change.)

47. . . . Amended for Bear Brook, from Brae Boulevard to Audobon Road within Park Ridge Borough.

48.-49. (No change.)

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

(b)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations
Delineated Floodways for Various Tributaries and Streams in the Passaic River Basin Within Morris, Essex, Passaic, Somerset, and Union Counties (Supplemental Project I)

Proposed Amendment: N.J.A.C. 7:13-7.1 (formerly 7:13-1.11)

Authorized By: Robert Hughey, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et seq.
DEP Docket No.: 044-84-06.

A **public hearing** concerning this proposal will be held on August 1, 1984 at 1:00 p.m. at:

Municipal Building
Livingston Township
Essex County, N.J.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clark Gilman
Bureau of Flood Plain Management
Division of Water Resources
CN 029
Trenton, New Jersey 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.S.P. 1:30-3.5). The notice becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-400.

The agency proposal follows:

Summary

The proposed delineations are based upon a study known as Supplemental Project I which was conducted by Harris-Toups Company under a contract from the New Jersey Department of Environmental Protection.

The major portion of the delineations being proposed have never previously been studied. The delineations supersede and amend portions of 7:13-1.11(d)48 for Roseland, Harding and Chatham Townships and 7:13-1.11(e)1 for West Caldwell Township.

Social Impact

The proposed delineation provides added flood protection within the municipalities of West Caldwell Township, East Hanover Township, Roseland Boro, Livingston Township, Florham Park Boro, Chatham Boro, Millburn Township, Chatham Township, Summit City, New Providence Boro, Berkeley Heights Township, Passaic Township, Warren Township, Bernards Township, Harding Township, Bernardsville Boro, and Mendham Township. This proposed delineation would more accurately define the flood hazard area. The public safety, health, and general welfare shall continue to be adequately protected if the amended flood delineation should be adopted by the Department.

Economic Impact

The proposed floodway delineation will have a relatively positive economic impact by allowing development in a previously designated floodway while still preserving the flood carrying capacity of portions of Passaic River, Spring Garden Brook, Blough Brook, Canoe Brook, Canoe Brook Down stream Tributary Number 2, Bear Brook, Salt Brook, West Branch Salt Brook, Cory's Brook, Indian Grave Brook, Tributary to Indian Grave Brook, Dead River, Harrison Brook, and Harrison Brook Branch 2.

Full text of the proposal follows (additions indicated in boldface **thus**). See the Index of Adopted Rules in the New Jersey Register for previous amendments to N.J.A.C. 7:13-1.11(d).

7.13-7.1 Delineated floodways

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

(d) A list of delineated streams in the Passaic-Hackensack Basin and a list of delineated streams in the Raritan Basin follow:

1.-49. (No change.)

50. (See proposal at 16 N.J.R. 1146(a).)

51. (See proposal at 16 N.J.R. 1307(a).)

52. Passaic River from the junction with the Whippany River upstream to the Somerset Morris County border, Spring Garden Brook from the confluence with the Passaic River upstream to 300 feet upstream of Cross Street Bridge, Canoe Brook from the confluence with the Passaic River upstream to a location 150 feet downstream of Rt. 280, Canoe Brook Downstream Tributary Number 1 from the confluence with Canoe Brook upstream to 1000 feet upstream of White Oak Ridge Road, Bear Brook from the confluence with Canoe Brook upstream to downstream of Bear Brook dam, Slough Brook from 100 feet downstream of Parsonage Hill Road upstream to 150 feet upstream of Irving Avenue, Salt Brook from the confluence with the Passaic River upstream to the Con-Rail Bridge, West Branch Salt Brook from the confluence with Salt Brook upstream to 300 feet upstream of Morris Avenue, Cory's Brook from the confluence with the Passaic River upstream to 100 feet upstream of Private Road Bridge, Dead River from the confluence with the Passaic River upstream of Annin Road, Harrison Brook from the confluence with Dear River upstream to 100 feet upstream of South Alward Avenue, Harrison Brook Branch 2 from the confluence with Harrison Brook upstream to 900 feet upstream of Private Road Dam, Indian Grave Brook from the confluence with the Passaic River upstream to 1700 feet upstream of Washington Corner Road and Tributary K from the confluence with Indian Grave Brook upstream to 50 feet upstream of Driveway Bridge. (Amends (d)48 for Roseland, Harding and Chatham townships, and (e)1 for West Caldwell Township.)

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

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice can be inspected at:

Division of Water Resources
1474 Prospect Street
CN 029
Trenton, New Jersey 08625

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries
Ocean and Bay Pound Nets

Proposed Amendment: N.J.A.C. 7:25-18.2

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

Authority: N.J.S.A. 23:2B-6.
DEP Docket No. 042-84-06.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Paul E. Hamer
Chief, Bureau of Marine Fisheries
Star Route
Absecon, New Jersey 08201

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-388.

The agency proposal follows:

Summary

With the enactment of the Marine Fisheries Management and Commercial Fisheries Act (N.J.S.A. 13:2B-1 et seq.), certain laws regarding the use of ocean and bay fish pound nets were repealed. In addition, Federal requirements for permitting of pound nets in Raritan and Sandy Hook Bays were recently repealed. These actions left the State without controls for existing pound net fisheries in Raritan and Sandy Hook Bays and without general rules governing the location and operation of poud nets. While there are no ocean pound nets currently in operation along the New Jersey coast, the rising cost of fuel and other operating expenses of offshore fishing vessels may spur increased interest in coastal pound nets in the future. The proposed amendments to N.J.A.C. 7:25-18.2 establish location and marking requirements and set net and mesh size limits for pound nets in New Jersey waters.

These amendments have been designed to give the State control over the number, placement and operation of pound nets to ensure, among other things, that pound net harvests are limited to species that have sufficient population to sustain such harvests. Pound nets have a less destructive effect on the aquatic life on the ocean and bay bottom communities than some other forms of commercial fishing gear. It is anticipated that the proposed pound net rules will minimize harm to the marine environment and to marine fish population living there.

Social Impact

Pound nets impact other forms of fishing and recreation in two ways. First, they physically occupy space, thus eliminating that space for other use. Second, they are designed and set to harvest fish that move around. Large, uncontrolled numbers of pound nets in Raritan and Sandy Hook Bays or the Atlantic Ocean could lead to conflicts with other uses of the water. Navigation could be restricted, possibly resulting in collisions between boats and pound nets or derelict poles. Fishing grounds available to other recreational and commercial fisheries could be reduced in size. Fish populations could be overfished, thus depriving other citizens of their fair share of the resource. The proposed amendments will control such problems by limiting the number of pound nets and by specifying their placement, marking requirements, design, and by providing for removal of poles when fishing activity terminates.

Pound nets are sometimes willfully damaged by other people who either cut the nets to remove fish or steal floats, lights, lines or other parts of the pound structure. The proposed amendments should help reduce vandalism and theft by permitting to imposition of fines on individuals found to have committed such acts. There will be no negative social impact for ocean pound net operations because no operations currently exist. The few fisheries now using pound nets within Raritan and Sandy Hook Bays have been contacted relative to this proposal and are both in compliance with and in agreement with the proposal.

Economic Impact

As fuel costs and operating expenses of large, offshore vessels increase, some fishers may turn to pound net fishing as a way to reduce such expenses. Although this change in fishing gear may not substantially alter the overall quantity of commercial landings, it may increase the individual fisher's profit margin.

The control over the operation of pound nets set forth in this proposal should reduce or eliminate potential conflicts with the recreational fishery. At the same time, it should allow a regulated growth of the pound net fishery.

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

7:25-18.2 [Fish p] **P**ound nets

(a) [No fishpound net shall have a mesh smaller than two inches and no such fishpound net shall be set, erected, operated or maintained 1½ miles of any other fishpound net in the Atlantic Ocean or within one thousand (1,000) feet of any other fishpound net in Raritan, Sandy Hook or Delaware Bay.]

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

"Department" means the New Jersey Department of Environmental Protection.

"Heart" means an upright fence of netting forming a heart-shaped (round or square) compartment located between the leader and the pocket. It is designed to cause fish to circle in front of and eventually enter the pocket of a pound net.

"Leader" means an upright fence of netting that acts as a barrier to fish and guides them toward a trap; the netting is made of heavy twine, not designed to catch fish by the gills.

"Navigable channel" means a channel marked with navigational markers including poles, piling or buoys, by the Coast Guard or the State.

"Pocket" means an upright fence of netting forming the final compartment of a pound net in which trapped fish accumulate.

"Pound net" means a large fish trap, consisting of a leader, pocket and one or more hearts, held in place with poles, the netting of which reaches from the bottom to above the surface of the water.

"Staked or anchored gill net" means an upright fence of monofilament or nylon netting, held in place at each end by stakes or anchors, that catches fish by snagging their gill covers as they try to pass through the mesh of the net.

"Submarine pound net" means a pound net that is totally submerged beneath the water and held in place by anchors.

(b) General requirements for all pound net users are as follows:

1. No person may install, operate or maintain a pound net in the marine waters of the State without having first obtained a license from the Department.

2. The Department may establish limits on the number of licenses to be issued for pound nets in Raritan Bay and Sandy Hook Bay and in the Atlantic Ocean within three nautical miles of the coastline.

3. Licenses must be renewed annually.

4. Holders of pound net licenses from the previous year shall have first priority in obtaining a new license, provided they apply before March 1 of the current year.

5. Any person operating any fish pound net in the marine waters of New Jersey, must, at the time of emptying the net, return to the waters wherein the net is located all striped bass, codfish less than ten inches in length, bluefish or weakfish less than nine inches in length, sea bass or kingfish less than eight inches in length, black fish, mackerel and porgy less than seven inches in length, winter flounder less than six inches in length and summer flounder less than 14 inches in length. This paragraph does not apply to less than five percent by weight of the total catch of each species.

6. No person may, by boat, anchor, dredge or otherwise, willfully and without reasonable cause, interfere with, break, damage or destroy any fish net or associated equipment being lawfully used by a license holder.

7. The Department may require any licensee to submit a money surety bond to insure removal of pound net poles and apparatus as required by these rules.

8. Violation of the rules in this section will subject the violator to money penalties, loss of license and/or injunctive relief under N.J.S.A. 23:2B-14.

(c) Specific requirements for pound net users in Raritan and Sandy Hook Bays are as follows:

1. Any person applying for a pound net license must indicate the specific proposed site for the net, as designated by a chart developed by the Department. Sites which have not previously been located on the approved chart must be approved by the Department prior to issuance of a license.

2. New pound net sites must be at least 3,000 feet from a previously located pound net site, when measured parallel to the shoreline, and must be at least 1,000 feet from any navigable channel.

3. Any pound net license holder has priority in retaining a pound net site previously licensed by him or her, provided that he or she has actively and lawfully fished that site during the previous year and has submitted a license application prior to March 1 of the current year. After March 1, any citizen may apply for any available site on a first-come basis.

4. No staked or anchored shad net may be placed within 3,000 feet of an operating pound net. However, shad nets may be set on licensed pound net sites by the license holder or on unoccupied, approved pound net sites, provided the shad nets are set end-to-end with and in line with any existing pound nets.

5. Pound nets must be placed end-to-end so as to form a straight line, perpendicular to the shoreline.

6. The maximum allowable length of a pound net, including leader and hearts, is 750 feet.

7. A minimum distance of 50 feet must be maintained between any two pound nets, shad nets or combination thereof, when measured perpendicular to the shoreline.

8. A pound net license holder must maintain a nameplate, on the offshore pole of the net not less than six inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

9. A flashing, amber light must be displayed between sunset and sunrise on the two end poles of a pound net or a continuous row of pound nets.

10. Within 30 days of the termination of fishing activities for that year, all poles and stakes must be removed by the pound net license holder.

11. The pound net license holder will be responsible for the cost of pole and/or stake removal where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 10 above.

(d) Specific requirements for pound net users in the Atlantic Ocean are as follows:

1. When submitting a request for an ocean or submarine pound net license, the applicant must specify the specific proposed site-location for placement of each net. Upon site approval, the Department may issue the license. (Note: Permission for location of ocean pound nets is also required from the United States Army Corps of Engineers.)

2. No portion of a pound net may be set within 1,500 feet or greater than 7,000 feet from the mean low water line on the ocean shoreline.

3. No row of pound nets may be erected or operated within one and one-half miles of any other row of pound nets, when measured parallel with the coastline.

4. No more than two pound nets may be joined together.

5. A minimum distance of 1,000 feet, when measured perpendicular to the coastline, must be maintained between pound nets set in a row.

6. A row of ocean or submarine pound nets must form a straight line with the nets placed end-to-end.

7. The maximum allowable length of an ocean or submarine pound net, including leader and pocket, is 1,100 feet.

8. The minimum mesh size for ocean or submarine pound nets is two inches, stretched.

9. Ocean pound nets shall be maintained in compliance with the following additional requirements:

i. White reflectors must be placed around the top of each pole so as to reflect in all directions;

ii. Flashing amber lights must be displayed on the inshore and offshore poles of nets or rows of nets, between sunrise and sunset; these lights must be placed at least 10 feet above the mean high water level and must be visible for at least three miles in all directions where clear visibility is possible.

10. Submarine pound nets shall be maintained in compliance with the following additional requirements:

i. At least eight, fluorescent orange floats, at least 12 inches in diameter, shall be maintained along the length of each net, including the inshore and offshore ends.

ii. The pound net license holder shall maintain a nameplate, not less than 12 inches square, on which shall be legibly marked the identification number of the pound, as assigned by the Department.

11. The license holder must completely remove all pound net poles and stakes, within ten months of the termination of fishing activities.

12. The pound net license holder will be responsible for the cost of pole and/or stake removal, where the Department accepts responsibility for such removal, due to the licensee's failure to comply with 11 above.

HEALTH

(a)

OCCUPATIONAL AND ENVIRONMENTAL HEALTH SERVICES

Worker and Community Right to Know Act

Proposed New Rule: N.J.A.C. 8:59
Proposed Amendment: N.J.A.C. 8:59-1 to be recodified as 8:59-9

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health.
Authority: L. 1983, c.315, N.J.S.A. 34:5-1 et seq.

Two public hearings concerning this proposal will be held from 1:00 P.M. to 5:00 P.M. and 6:30 P.M. to 9:00 P.M., or until all persons have been heard, at:

August 1, 1984
Cherry Hill Library
1100 Kings Highway (Route 41)
Cherry Hill, New Jersey 08034

August 2, 1984
Auditorium
St. Barnabas Medical Center
94 Old Short Hills Road
Livingston, New Jersey 07036

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before August 15, 1984. Submissions must be received by this date or they will not be considered. These submissions, and any inquiries about submission and responses, should be addressed to:

Richard Willinger, Esq.
Occupational Health Program
New Jersey Department of Health
CN 368
Trenton, New Jersey 08625

The Department of Health thereafter may adopt this proposal without further notice (N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-396.

The agency proposal follows:

Summary

The Worker and Community Right to Know Act, N.J.S.A. 34:5-1 et seq., becomes effective on August 29, 1984, and establishes a comprehensive system for the disclosure and dissemination of information about hazardous substances in the workplace and the environment to employees and the general public.

The Act requires certain employers to identify hazardous substances present at their business premises, maintain a file of safety and health information sheets about these substances, provide their employees with education and training about hazardous substances, and label containers with the identity of their contents. Employers are also required to disclose basic information concerning the storage, treatment and emission of certain hazardous substances into the environment.

All disclosed information on hazardous substances will be available to employees at the workplace and to members of the public at county health departments, county clerks, and designated county lead agencies, and from the State Department of Health and the State Department of Environmental Protection. Local fire and police departments will also receive this information to help them plan for emergencies involving hazardous substances.

The law is being jointly implemented by the Department of Health, Environmental Protection, and Labor, with the advice of a Right to Know Advisory Council consisting of citizen members representing business, labor, environmental, community, firefighter, and scientific interests. Implementation of the law is funded by a fee assessed against employers.

This proposal establishes the rules to implement the Worker and Community Right to Know Act. The proposed rule is divided into ten sections which are summarized below.

Subchapter 1—General information

Subchapter 1 contains the statutory authority for the rule, the purpose of the rule, definitions, and a severability clause. Many of the definitions are from the Act, while others were added by the department.

Subchapter 2—Workplace survey

Every employer covered by the Act is required to report each hazardous substance which is listed on the Workplace Hazardous Substance List and which is present at its facility on a workplace survey. The survey must be completed within 90 days of receipt of the form by the employer. Any employer who wishes to claim a trade secret shall note this on the workplace survey. An employer who does not know the components of a mixture shall make a good faith effort to find out this information and shall maintain written documentation to document this effort. Any county health department, county clerk, or designated county lead agency, local police department, or local fire department, may request from an employer further information concerning the survey. An employer will also be required to maintain records of the hazardous substance components of substances, mixtures or intermediates at its facility for inspection by the department for purposes of enforcement.

Subchapter 3—Trade secrets

See proposal at 16 N.J.R. 1924(a).

Subchapter 4—Hazardous substance fact sheet

Hazardous substance fact sheets will be developed by the department for the 2029 hazardous substances on the Workplace Hazardous Substance List, with one exception. In order to protect trade secrets, the department will allow employers to prepare hazardous substance fact sheets which follow the intent of and information contained in departmental fact sheets, for trade secret substances. The required contents of the fact sheets are identical to that found in the Right to Know law at N.J.S.A. 34:5A-3(n). The department realizes that the health and safety hazard of a pure substance may not accurately reflect the health and safety hazard of that substance when contained in a mixture. In order to most accurately reflect the health and safety hazards of substances in mixtures, employers will be required to maintain and make available to employees material safety data sheets that have been developed by the employer or other party, in the same manner as hazardous substance fact sheets. Employers are not required to prepare new material safety data sheets by this rule, but are only required to use those material safety data sheets which have already been prepared pursuant to another law or an employer's hazard communication program. The department will prepare Spanish translations of hazardous substance fact sheets except for employer prepared fact sheets for trade secret substances. Said employers must prepare their own Spanish translations. Hazardous substance fact sheets will be sent by the department to an employer upon receipt of a completed workplace survey. An employer may request the complete set of fact sheets.

Subchapter 5—Labeling containers

By March 1, 1985, every container at an employer's facility containing a hazardous substance shall be labeled with the name and Chemical Abstracts Service number of the hazardous substance or its trade secret registry number. Every container containing an unknown substance shall bear a label stating "Contents Unknown" or "Contents Partially Unknown", as appropriate. By August 29, 1986, in addition to the labeling of all hazardous substances in a container, all non-hazardous substances which are among the five most predominant substances in the container must be labeled with their name and Chemical Abstracts Service number or trade secret registry number. For hazardous substances, the common name specified on the Workplace Hazardous Substance List may be substituted for the chemical name, and for non-hazardous substances, any common name acceptable to Chemical Abstracts Service may be substituted for the chemical name.

Labels must be affixed to containers before employees open the container or within five working days of the container's arrival at the facility, whichever is sooner. For laboratories and other facilities which receive containers with unknown contents for analysis, labels must be affixed to the container as soon as the contents are identified. If an employer does not know the contents of a container and also does not know the name of the manufacturer (and thus cannot report the manufacturers name to the department to find out the contents of the container), the employer must analyze the contents of the container and attach appropriate labels. An employer is not precluded from including on a label an appropriate hazard warning and the name and address of the substance's manufacturer, importer, or other responsible party.

Pipeline valves which control the entrance of a hazardous substance to a facility's pipeline system and valves, outlets, vents, drains and sample connections which control the release of a hazardous substance from the pipeline must be labeled. Research and development laboratories are allowed to deviate from the general labeling requirements. They may use a code or number system for labels as long as the code or number system enables an employee to readily make a cross reference to a hazardous substance fact sheet or other material which will provide the employee with the name and Chemical Abstracts Service number of the substance contained in the container.

In labeling the hazardous substances in a mixture, if the hazardous substance is flammable, reactive/explosive, or corrosive and is not carcinogenic, mutagenic, teratogenic, or on the Special Health Hazard Substance List, labeling is required only if it is among the five most predominant substances contained in the mixture. Labels which are currently required to identify substances pursuant to the following Federal laws will be considered to meet the requirements of the Right to Know law under certain circumstances and do not need to be replaced: Federal Insecticide, Fungicide, and Rodenticide Act, United States Department of Transportation Hazardous Materials Tables Parts 172.101 and 172.102, Resource Concervation and Recovery Act, Food, Drug and Cosmetic Act, and the Toxic Substances Control Act. Containers which are too small to accommodate the name of the substance may be labeled by means of a code or number system.

A hazardous or other substance need not be labeled if it is contained in a solid article which is not used in a manner to change its physical form and does not pose any acute or chronic health hazard to an employee who is exposed to it; if it constitutes less than one percent of a mixture unless it is present in an aggregate amount of 500 pounds or more in a container at a facility; if it is a special health hazard substance constituting less than the threshold percentage established for that special health hazard substance when present in a mixture (see section 10 for threshold percentages); and if it is present in the same form and concentration as a product packaged for distribution and use by the general public unless an employer regularly and frequently uses the product or his or her exposure during handling is significantly greater than a consumer's exposure during the principal use of the substance.

Subchapter 6—Education and training program

All education and training programs must contain a general overview of occupational health, an explanation of the nature and potential health and safety risks of the hazardous substances to which the employees are exposed in the course of their employment, an explanation of the proper and safe procedures for handling the hazardous substances to which the employees are exposed in the course of their employment including "hands-on" training, and an explanation of the Worker and Community Right to Know Act. Employers must use qualified instructors to conduct the program, be able to evaluate the effectiveness of the program, maintain a written record of training given to employees, and certify that all employees have received the required education and training program. Existing programs may be certified by the department as complying with this subchapter. Current employees shall be provided with a complete education and training program by March 1, 1984; new employees shall be educated and trained within the first month of employment; and prospective employees shall be notified of the availability of workplace surveys, hazardous substance fact sheets, and material safety data sheets. An employer shall, upon request, provide employees whose native language is Spanish and who cannot read or speak English above a sixth grade level, with an education and training program in Spanish.

Subchapter 7—Public and employee access to information

The department will maintain a file of all completed workplace surveys and hazardous substance fact sheets and will provide a copy to any person who requests them. Requests by employees for material pertaining to the facility where he or she is employed shall be treated as confidential. Employers will also maintain a central file of their workplace survey and appropriate hazardous substance fact sheets and material safety data sheets, and are required to provide an employee with a copy within five days of the request. An employer must provide a Spanish translation of the workplace survey or hazardous substance fact sheet to an employee whose native language is Spanish who requests it. The department will prepare a poster notifying employees of the availability of these documents which must be posted by the employer on bulletin boards readily accessible to employees.

An employer is required to provide an employee with the chemical name of a hazardous substance in a container which is not labeled according to the law, or of a hazardous substance which is labeled with a common name, within five working days of the request. If a hazardous substance fact sheet cannot be supplied to an employee because the employer has not received it from the department or cannot inform the employee of the chemical name of a hazardous substance because it does not know the identity of the substance, the employer must supply the employee with a material safety data sheet for that product if available. Research and development laboratories must establish a communications program with the local fire department to assist the fire department in preparing to respond to emergencies at the research and development laboratory.

County health departments, county clerks in counties which do not have a county health department, and designated county lead agencies in counties where the county clerk has designated its responsibilities to a local or regional health agency, will also maintain files of workplace surveys, environmental surveys, and hazardous substance fact sheets for employers within their county. Any member of the public may request copies of these documents from the county agency. Any request by an employee for material pertaining to the facility where he or she is employed shall be treated by the county agency as confidential. Local police and fire departments receiving workplace and environmental surveys are prohibited from making their surveys available to the public.

An employee has the right to refuse to work with a hazardous substance if a request for a workplace survey, hazardous substance fact sheet, or chemical name of a substance in a container, is not honored within five working days of the request, without loss of pay or forfeit of any other privilege until the request is honored. However, an employee will not have the right to refuse to work with a hazardous substance if an employer cannot supply a hazardous substance fact sheet to an employee who requested it if the employer has requested the fact sheet from the department but has not yet received it. An employer may not discharge, cause to be discharged, or otherwise discipline, penalize, or discriminate against any employee because the employee or his or her employee representative has exercised any right established under the Worker and Community Right to Know Act.

Subchapter 8—Enforcement

The department will take one or more of the following enforcement actions against an employer who is in violation of the law: issue an administrative order, bring a civil action, levy a civil administrative penalty, or bring an action for a civil penalty. A civil administrative penalty is limited to a maximum of $2,500 for each violation and not more than $1,000 for each day during which a violation continues after receipt of an order to cease the violation. The department has the right to enter an employer's facility during the normal operating hours of the facility to determine the employer's compliance with the act. Certain local and county health agencies will be delegated the right to enter an emloyer's facility to determine compliance with the Act. Their inspection reports will be forwarded to the department for enforcement action. In addition, any person may bring a civil action against any employer for a violation of any provision of the Act or against the department for failure to enforce the provision of the Act.

Subchapter 9—Workplace Hazardous Substance List

The Workplace Hazardous Substance List, composed of 2029 hazardous substances, was promulgated by the department in the New Jersey Register on June 18, 1984 as N.J.A.C. 8:59-1. This subchapter is now being re-numbered and amended, N.J.A.C. 8:59-1.1, 1.2, 1.3 and 1.7 have been deleted because they have been incorporated into new Subchapter 1—General Information. N.J.A.C. 8:59-1.5 has been renumbered N.J.A.C. 8:59-9.1, and subsection (a) and the first line of subsection (b) have been eliminated. N.J.A.C. 8:59-1.4 has been re-numbered 9.2 and N.J.A.C. 8:59-1.5 has been renumbered 9.3. Two reference sources listed on the Workplace Hazardous Substance List, the New Jersey Department of Environmental Protection's "Prohibited and Restricted Use Pesticide List" and the United States Environmental Protection Agency's list of restricted use pesticides, are being added to N.J.A.C. 8:59-9.3.

Eight major lists of hazardous substances were used to select substances for inclusion on the Workplace Hazardous Substance List. Twenty substances which are contained in these source lists were inadvertantly omitted from the proposed List because of clerical errors. Two substances were deleted from the final List because Chemical Abstracts Service numbers were not readily obtainable. These twenty-two substances are now being proposed for addition to the Workplace Hazardous Substance List. In addition, ten pharmaceuticals from the class of benzodiazepine substances are being proposed for addition to be consistent with and clarify the inclusion of diazepam and chlordiazepoxide on the List.

Two substances are being deleted from the Workplace Hazardous Substance List to reflect the Department of Environmental Protection's deletion of substances from the proposed Environmental Hazardous Substance List (source #6). Three substances are being deleted from the List because the source (#13 (DD)) does not provide a reference to the substances. Source #3 is being added to nine substances currently listed on the List and source #13 (DD) has been replaced with source #13 (Y, FF) for one substance. Source #6 is being added to four substances and deleted from one substance on the Workplace Hazardous Substance List to reflect the DEP's addition and deletion of substances to the proposed Environmental Hazardous Substance List. Source #10 is being added to two substances.

Subchapter 10—Special Health Hazard Substance List

The Special Health Hazard Substance List consists of hazardous substances on the Workplace Hazardous Substance List which, because of their known carcinogenicity, mutagenicity or teratogenicity in humans, animals, or in vitro tests; or because of their flammability, reactivity/explosivity, or corrosivity, pose a special hazard to the health and safety of employees or the community. The proposed list consists of 839 substances. The significance of a substance being listed as a special health hazard substance is that an employer may not claim a trade secret for that substance and thus must report it on the workplace survey and label it with its chemical or common name. In addition, all carcinogens, mutagens, and teratogens must be reported on the workplace survey and labeled if present in a mixture in a concentration of one-tenth of one percent or greater.

Carcinogens which have met the criteria established by the International Agency for Research on Cancer, the National Toxicology Program, the Environmental Protection Agency's Carcinogen Assessment Group, and, for benzidine-based dyes, the criteria of the National Institute for Occupational Safety and Health, are included on the Special Health Hazard Substance List. Mutagens which have at least three positive results in at least two of three test systems measuring gene or chromosome mutation or changes in ploidy (number of chromosomes per cell) are included on the Special Health Hazard Substance List, along with teratogens for which there is sufficient evidence to suspect that it may be teratogenic in humans. Sufficient evidence of teratogenicity is epidemiological evidence of teratogenicity in humans or positive teratogenic evidence in at least two different animal species.

Pure substances which meet the United States Department of Transportation's (DOT) criteria for flammability set fourth in 49 CFR Part 173 or the National Fire Protection Association's (NFPA) criteria for flammability in the third and fourth degrees of hazard set forth in "Standard Systems for the Identification of the Fire Hazards of Materials," No. 704-1975, and those substances contained in mixtures which meet these criteria, are considered special health hazard substances. Pure substances which meet the NFPA criteria for reactivity/explosivity in the second, third, and fourth degrees of hazard in the above referenced publication, and those substances contained in mixtures which meet this criteria, are considered special health hazard substances. Pure substances which meet the DOT's criteria for corrosivity set forth in 49 CFR Part 173.240 and those substances contained in mixtures which meet this criteria, are also considered special health hazard substances.

Social Impact

The Social Impact of the law has been discussed extensively in the March 19, 1984 New Jersey Register as part of the proposed Workplace Hazardous Substance List and the department's response to comments received about the statement in the June 18, 1984 New Jersey Register. To summarize the social impact, the information provided to employees as a result of the workplace surveys, labeling of containers, hazardous substance fact sheets, and education and training programs, will provide them with information they can use to protect themselves from hazardous substances through proper handling, responding to emergency exposures, and determining whether their illnesses and injuries result from exposure to hazardous substances. Increased availability of hazard information on hazardous substance fact sheets will assist employers in devising appropriate protective measures for their employees. The law will serve to limit or reduce the number of occupational diseases and result in early treatment of chronic diseases. Physicians will be able to use the information generated from the law in medical diagnoses and treatment. Epidemiologists will be able to analyze the effects of hazardous substances on public health. Fire and police departments will use the information to properly respond to public health emergencies and better protect the public health and safety.

Economic Impact

The Economic Impact of the law has been discussed extensively in the March 19, 1984 New Jersey Register as part of the proposed Workplace Hazardous Substance List and the department's response to comments received about the statement in the June 18, 1984 New Jersey Register. To summarize the economic impact, employers will benefit from lower production costs as a result of increased productivity, reduced employee absenteeism and turnover, reduced health benefit costs, and lower workers compensation awards. Employees will significantly benefit by the lowering of future health care costs. Anticipated costs to employers to comply with the Act should be significantly reduced with the allowance of labels currently required by the U.S. Department of Transportation, Resource Conservation and Recovery Act, Food, Drug and Cosmetic Act, and Toxic Substance Control Act (in addition to the statutorily mandated Federal Insecticide, Fungicide, and Rodenticide Act) to be used in lieu of new labeling.

Full text of the proposal follows (for the amended subchapter, additions are indicated in boldface **thus**; deletions are shown in brackets [thus]).

CHAPTER 59
WORKER AND COMMUNITY RIGHT TO KNOW ACT

SUBCHAPTER 1. GENERAL INFORMATION

8:59-1.1 Authority

The regulations contained in this chapter are promulgated pursuant to the authority of the Worker and Community Right to Know Act, L.1983, c.315, N.J.S.A. 34:5A-1 et seq.

8:59-1.2 Purpose

(a) It is the purpose of these regulations to:

1. Provide a procedure and comprehensive program whereby residents of the State may gain access to information about hazardous substances in the workplace and the community;
2. Protect the public health, safety, and welfare;
3. Make it easier to monitor and detect any adverse health effects attributable to hazardous substances;
4. Enable individuals to detect and minimize effects of exposure to hazardous substances by making them aware of the identity of substances to which they are exposed and the early symptoms of unsafe exposure;
5. Provide individuals with the information to enable them to handle hazardous substances in a safe manner;
6. Provide individuals with information explaining the full range of the risks they face from exposure to hazardous substances so that they are in a position to make knowledgeable decisions;
7. Provide local health, fire, police, safety and other governmental officials with detailed information about the identity, characteristics, and quantities of hazardous substances used and stored in their communities in order to adequately plan for, and respond to, emergencies;
8. Implement the New Jersey Worker and Community Right to Know Act, L.1983, c.315, N.J.S.A. 34:5A-1 et seq.

8:59-1.3 Definitions

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

"Act" means the Worker and Community Right to Know Act, L.1983, Chapter 315, N.J.S.A. 34:5A-1 et seq.

"Article" means a manufactured item: (1) which is formed to a specific shape or design during manufacture; (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (3) which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

"Carcinogen" means a substance that can directly, or after transformation, act to initiate or promote the development of malignant neoplasia.

"Chemical Abstracts Service number" means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

"Chemical name" is the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

"Common name" means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

"Container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. "Container" shall not include process containers.

"Corrosive" means a substance, either liquid or solid, that can cause visible destruction or irreversible alterations in human skin at the site of contact.

"Council" means the Right To Know Advisory Council created pursuant to N.J.S.A. 34:5A-18.

"County health department" means a county health agency established pursuant to L.1975, c.329 (N.J.S.A. 26:3A2-1 et seq.), the office of a county clerk in a county which has not established a department, or a designated county lead agency.

"Department" and "Department of Health" means the New Jersey State Department of Health unless the context clearly indicates otherwise.

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

"Designated representative" means an employee of the department designated in writing by the Commissioner.

"Employee representative" means a certified collective bargaining agent or an attorney whom an employee authorizes to exercise his rights to request information pursuant to the provisions of the Act, or a parent or legal guardian of a minor employee.

"Employer" means any person or corporation in the State engaged in business operations having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the Federal Office of Management and Budget, within Major Group numbers 20 through 39 inclusive (manufacturing industries), numbers 46 through 49 inclusive (pipelines, transportation services, communications, and electric, gas, and sanitary services), number 51 (wholesale trade, nondurable goods), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), number 82 (educational services), and number 84 (museums, art galleries, botanical and zoological gardens). Except for the purposes of the Worker and Community Right to Know Fund, N.J.S.A. 34:5A-26, "employer" means the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof.

"Environmental hazardous substance" means any substance on the environmental hazardous substance list.

"Environmental hazardous substance list" means the list of environmental hazardous substances developed by the Department of Environmental Protection pursuant to N.J.S.A. 34:5A-4.

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

"Explosive" means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

"Exposed" means that an employee is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.), and includes potential (for example, accidental or possible) exposure.

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

"Flammable" means the susceptibility of materials to burn.

"Flashpoint" means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite.

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

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

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

(3) Any hazardous substance which is a special health hazard substance constituting less than the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture; or

(4) Any hazardous substance present in the same form and concentration as a product packaged for distribution and use by the general public unless an employee regularly and frequently uses the product or his or her exposure during handling is significantly greater than a consumer's exposure during the principal use of the hazardous substance.

"Hazardous substance fact sheet" means a written document prepared by the Department of Health for each hazardous substance and transmitted by the department to employers pursuant to the provisions of the Act.

"Label" means a sign, emblem, sticker, or marker affixed to or stenciled onto a container listing the information required pursuant to N.J.S.A. 34:5-14.

"Local fire department" means the fire department that has jurisdiction over the location of an employer's facility.

"Local police department" means the local police department or assigned State Police Troop that has jurisdiction over the location of an employer's facility.

"Mixture" means a combination of two or more substances not involving a chemical reaction.

"Mutagen" means an agent capable of disturbing the integrity of the hereditary mechanism of the cell or organism.

"Person" includes, but is not limited to, any corporation, association, partnership, individual, municipal health department, county health department, any political subdivision of the State, and any agency of the State or political subdivision of the State.

"Process container" means a container, excluding a pipeline, the content of which is changed frequently; or a container of 10 gallons or less in capacity, into which substances are transferred from labeled containers, and which is intended only for the immediate use of the employee who performs the transfer; or a container on which a label would be obscured by heat, spillage or other factors; or a test tube, beaker, vial, or other container which is routinely used and reused. "Changed frequently" shall mean a container, the contents of which is changed at least once per shift. "Routinely used and reused" shall not include the situation where the same substances are continually being added and removed from the process container as in a continuous flow process.

"Reactive" means a material which can enter into a chemical reaction with other stable or unstable materials.

"Requestor" means any person who makes a request for the disclosure of the information for which a trade secret claim has been made.

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

"Special health hazard substance" means any hazardous substance on the special health hazard substance list.

"Special health hazard substance list" means the list of special health hazard substance developed by the Department of Health pursuant to N.J.S.A. 34:5A-5 for which an employer may not make a trade secret claim.

"Technically qualified person" means a person who, because of education, training, or experience, understands the health risks associated with the toxic or hazardous substance or mixture, and is familiar with the protective procedures to be followed in the use or handling of such substances, and who causes the recognition of health and safety hazards and their prevention and response to be imparted to the employees who work in the work area.

"Teratogen" means a substance which acts during pregnancy to produce a physical or functional defect in the conceptus or offspring.

"Threat to the health or safety of an employee" includes, but is not limited to, a substance which is flammable, explosive, corrosive, reactive, or possesses other physical properties which pose a threat to the health or safety of an employee; a substance which is known to cause cancer, genetic mutations, malfunctions in reproduction, acute or chronic disease, or other physiological malfunctions, in humans or animals.

"Trade secret" means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to an employer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the Federal government as necessary for national defense purposes. The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors.

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

"Trade secret docket number" means a code number temporarily or permanently assigned to the identity of information on the environmental survey by the Department of Environmental Protection.

"Trade secret registry number" means a code number temporarily or permanently assigned to the identity of a substance in a container by the Department of Health pursuant to N.J.S.A. 34:5A-15 and N.J.A.C. 8:59-3.6(a).

"Workplace Hazardous Substance List" means the list of hazardous substances developed by the Department of Health pursuant to N.J.S.A. 35:5A-5.

"Workplace survey" means a written document, prepared by the Department of Health and completed by an employer pursuant to the Act, on which the employer shall report each hazardous substance present at his facility.

8:59-1.4 Severability

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of these rules and to this end, the provisions of these rules are declared to be severable.

SUBCHAPTER 2. WORKPLACE SURVEY

8:59-2.1 General provisions

(a) A workplace survey shall be prepared by the Department of Health and mailed by the Department of Labor to every employer covered under the New Jersey unemployment insurance law who is also covered by the Act. The Department of Labor will give public notice to employers who are not covered by unemployment insurance but are covered by the Act, to inform them of their responsibility to comply with the Act.

(b) Every employer shall report each hazardous substance listed on the Workplace Hazardous Substance List which is present at its facility.

(c) Every employer shall complete a workplace survey every year.

(d) Within 90 days of receipt of a workplace survey, an employer shall complete and transmit the survey to the Department of Health; the county health department, county clerk, or designated county lead agency, of the county in which the employer's facility is located; the local fire department; and the local police department.

(e) The department shall prepare and, upon request, make available to employers; to county health departments, county clerks, or designated county lead agencies; and to the public a Spanish translation of the workplace survey.

8:59-2.2 Completion of workplace survey

(a) An employer shall report on the workplace survey in alphabetical order the hazardous substances which are present at its facility. Hazardous substances shall be reported by the common name permitted by N.J.A.C. 8:59-5.6, and Chemical Abstracts Service number listed on the Workplace Hazardous Substance List.

(b) An employer shall maintain records of the hazardous substance components of substances, mixtures or intermediates which are present at its facility. By March 1, 1985, these records shall be completed and be available at each facility for inspection by the department.

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

(d) An employer shall report on the workplace survey any other information the department determines to be necessary in order to carry out its responsibilities under the Act.

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

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

(g) An employer shall certify on the workplace survey that the information contained therein is true, accurate and complete to the best of it's knowledge.

8:59-2.3 Additional information requested by local agencies

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

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

SUBCHAPTER 3. TRADE SECRETS

See proposal at 16 N.J.R. 1924(a).

SUBCHAPTER 4. HAZARDOUS SUBSTANCE FACT SHEET

8:59-4.1 General provisions

(a) A hazardous substance fact sheet shall be developed by the Department of Health for each hazardous substance on the Workplace Hazardous Substance List.

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

(c) The department shall retain each hazardous substance fact sheet prepared either by the department or an employer for 30 years.

(d) An employer shall maintain and make available to employees material safety data sheets that have been developed or acquired for a mixture in the same manner as hazardous substance fact sheets. The material safety data sheets shall be distributed in addition to hazardous substance fact sheets and not as a substitute. The material safety data sheets shall be made available to the department upon request.

(e) Except for fact sheets prepared by employers claiming a trade secret, the department shall prepare a Spanish translation of each hazardous substance fact sheet.

(f) The department shall, upon request, make available to employers, county health departments, and the public a Spanish translation of each hazardous substance fact sheet.

8:59-4.2 Contents of fact sheet

(a) A hazardous substance fact sheet shall be a written document which includes, but is not limited to, the following information:

1. The chemical name, the Chemical Abstracts Service number, the trade name, and common names of the hazardous substance;

2. A reference to all relevant information on the hazardous substance from the most recent edition of the National Institute for Occupational Safety and Health's Registry of Toxic Effects of Chemical Substances;

3. The hazardous substance's solubility in water, vapor pressure at standard conditions of temperature and pressure, and flash point;

4. The hazard posed by the hazardous substance, including its toxicity, carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity and reactivity, including specific information on its reactivity with water;

5. A description, in nontechnical language, of the acute and chronic health effects of exposure to the hazardous substance, including the medical conditions that might be aggravated by exposure, and any permissible exposure limits established by the federal Occupational Safety and Health Administration;

6. The potential routes and symptoms of exposure to the hazardous substance;

7. The proper precautions, practices, necessary personal protective equipment, recommended engineering controls, and any other necessary and appropriate measures for the safe handling of the hazardous substance, including specific information on how to extinguish or control a fire that involves the hazardous substance; and

8. The appropriate emergency and first aid procedures for spills, fires, potential explosions, and accidental or unplanned emissions involving the hazardous substance.

(b) A hazardous substance fact sheet shall be updated when, in the opinion of the department, significant new information becomes known.

8:59-4.3 Transmittal to employer

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

(b) The department shall transmit to an employer who was unable to list the hazardous substance components of a substance or mixture on the workplace survey, a hazardous substance fact sheet for each hazardous substance contained in the substance or mixture when the department obtains the names of the hazardous substances, and other pertinent information.

(c) Upon receipt of the annual workplace survey, the department shall supply the employer with any necessary additional hazardous substance fact sheets.

8:59-4.4 Trade secret claims

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

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

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

2. An employer shall attach a standardized explanatory sheet prepared by the department to every hazardous substance fact sheet prepared by the employer.

3. A hazardous substance fact sheet prepared by an employer shall be available for employee use in the same manner as a fact sheet prepared by the department, and a copy shall be submitted to the department within 30 days of receiving the department's hazardous substance fact sheet. In the case of trade secret claims made after return of the workplace survey, a copy of the hazardous substance fact sheet pertaining to the claim shall be submitted to the department within one month of submission of the trade secret claim.

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

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

(c) The department shall review hazardous substance fact sheets prepared by employers for compliance with N.J.A.C. 8:59-4.4(b). After review and discussion, the department shall require, if necessary, modifications to the fact sheets or substitution of the department's fact sheet for the fact sheet developed by the employer within 30 days of the department's review.

SUBCHAPTER 5. LABELING CONTAINERS

8:59-5.1 General provisions

(a) By March 1, 1985, every container at an employer's facility containing a hazardous substance shall bear a label indicating the chemical name and Chemical Abstracts Service number of the hazardous substance or the trade secret registry number assigned to the hazardous substance. Common names specified in N.J.A.C. 8:59-5.6 may be substituted for the chemical name of the substance.

(b) By March 1, 1985, every container at an employer's facility containing an unknown substance shall bear a label stating "Contents Unknown" or "Contents Partially Unknown", as appropriate.

(c) By August 29, 1986, every container at an employer's facility shall bear a label indicating the chemical name and Chemical Abstracts Service number of all hazardous substances in the container, and the non-hazardous substances among the five most predominant substances in the container, or the trade secret registry number assigned to the substance. Common names specified in N.J.A.C. 8:59-5.6 may be substituted for the chemical name of the substance.

(d) By August 29, 1986, an asterisk shall follow the Chemical Abstracts Service number or trade secret registry number on the label in order to notify employees of the availability of a hazardous substance fact sheet for the substance.

(e) Labels shall be affixed to containers before employees open the containers or within five working days of the container's arrival at the facility, whichever is sooner. In warehouses or transfer facilities where containers are not opened, labeling required by or consistent with United States Department of Transportation, 49 CFR Parts 172.101 and 172.102 requirements, may be used for up to 60 days.

(f) Laboratories or other facilities which receive containers with unknown materials or old pressurized gas cylinders with unknown contents for analysis of the contents shall label the containers as substances are identified.

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

(h) When an employer receives information that allows it to identify the chemical name and Chemical Abstracts Service number of the components of any product in its facility, it shall label the appropriate containers pursuant to (a), (c), (d), (e) and (f) above.

(i) Reaction vessels which do not meet the definition of process container shall contain labels which identify the substances which are added to the vessel and removed from the vessel. These labels may be placed on an adjoining wall or post in close proximity to the reaction vessel.

(j) Containers which are smaller than 56.7 grams (2 ounces) may be labeled by means of a code or number system if the code or number system will allow the employee free and ready access at all times to a fact sheet which will provide the employee with the chemical name or common name permitted by N.J.A.C. 8:59-5.6, and Chemical Abstracts Service number of the substance contained in the container, or the trade secret registry number assigned to the substance, allow the employee access to this information without the permission or assistance of management, and be available to the employee at close proximity to his specific job location or locations.

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

8:59-5.2 Pipelines

(a) Employers shall label pipelines only at the valve or valves located at the point at which a hazardous substance enters a facility's pipeline system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a hazardous substance from the pipeline. All other valves, outlets, vents, drains and sample connections designed to allow the release of a hazardous substance from the pipeline, shall be labeled at the time of operation, maintenance and repair of the valve, outlet, vent, drain and sample connection. Where a series of multiple valves are in close proximity on a single pipeline connected to a single process container, only one valve out of the series need be labeled.

(b) Valves, outlets, vents and drains which control the emission or discharge of any solid, liquid, semi-solid or contained gaseous waste material from a facility shall be labeled. The information required on a label pursuant to the Resource Conservation and Recovery Act (RCRA) may be substituted for the information required by N.J.A.C. 8:59-5.1, even though the employer is not regulated by RCRA.

8:59-5.3 Research and development laboratories

Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee 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 employee with the chemical name or common name permitted by N.J.A.C. 8:59-5.6, and Chemical Abstracts Service number of the substance contained in the container, or the trade secret registry number assigned to the substance. The code or number system shall be designed to allow the employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to his specific job location or locations.

8:59-5.4 Mixtures

(a) If a container contains a mixture, an employer shall, by March 1, 1985, insure that the label identify the chemical names or common names permitted by N.J.A.C. 8:59-5.6, and Chemical Abstracts Service numbers, or the trade secret registry numbers, of all hazardous substances contained in the mixture.

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

(c) By August 29, 1986, in additional to labeling all hazardous substances contained in a mixture, an employer shall label all other substances which are among the five most predominant substances contained in the mixture.

8:59-5.5 Exceptions to labeling requirements

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

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

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

(d) The information required on a label for a pharmaceutical, 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 only to containers which contain 1 kilogram (2.205 pounds) or less of a substance or mixture of substances. An employer shall make available to 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) Containers containing petroleum process streams shall be labeled. The information required for reporting purposes by the Federal Toxic Substances Control Act (TOSCA) on petroleum process streams may be substituted for the information required by N.J.A.C. 8:59-5.1. In addition, any substance in sources #1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, shall be indicated on the label. However, aliphatic hydrocarbons in sources #1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 other than n-hexane, need not be included on the label. An employer shall maintain and make readily accessible to employees a document that describes and identifies the contents of petroleum process streams. An employer shall make available to employees on request, all hazardous substance fact sheets prepared by the department relevant to a process stream.

8:59-5.6 Exclusions from the requirement to label

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

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

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

3. Any hazardous or other substance which is a special health hazard substance constituting less than the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture; or

4. Any hazardous or other substance present in the same form and concentration as a product packaged for distribution and use by the general public unless an employee regularly and frequently uses the product or his or her exposure during handling is significantly greater than a consumer's exposure during the principal use of the hazardous or other substance.

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

8:59-5.7 Common name

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

(b) For hazardous substances listed on the Workplace Hazardous Substance List, the first name shall be considered the common name for the hazardous substance for purposes of labeling containers. If there is only one name listed for a hazardous substance on the Workplace Hazardous Substance List, no other name may be used for purposes of labeling containers.

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

8:59-5.8 Labels

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

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

8:59-5.9 Trade secret registry number

(a) An employer who files a trade secret claim pursuant to N.J.A.C. 8:59-3 shall affix or stencil the trade secret registry number onto each container containing a substance for which the trade secret claim was made, in accordance with the deadlines set forth in N.J.A.C. 8:59-5.1.

(b) Upon notification by the department that a trade secret claim has been denied, and after all appeals have been exhausted, an employer shall replace the trade secret registry number on the container with the chemical name or common name permitted by N.J.A.C. 8:59-5.6, and Chemical Abstracts Service number, pursuant to N.J.A.C. 8:59-3.

SUBCHAPTER 6. EDUCATION AND TRAINING PROGRAM

8:59-6.1 General provisions

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

1. Inform employees in writing and orally of the potential health and safety risks of the hazardous substances listed on the Workplace Hazardous Substance List and of mixtures listed on material safety data sheets, to which they are exposed in the course of their employment; and

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

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

(c) An employer shall use a technically qualified person to conduct its education and training program.

(d) All employers shall submit, attached to their workplace survey, a certification that all employees have received an education and training program which meets the requirements of N.J.A.C. 8:59-6.3 within the deadlines set forth in N.J.A.C. 8:59-6.2. This certification is not required to be submitted with the workplace survey returned in the first year of the act.

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

8:59-6.2 Program for employees

(a) By March 1, 1985, an employer shall provide current employees with a complete education and training program, and annually thereafter.

(b) Beginning on March 1, 1985, an employer shall provide new employees with an education and training program within the first month of employment.

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

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

(e) Prior to entering an employment agreement with a prospective employee, an employer shall notify the prospective employee of the availability of workplace surveys and appropriate hazardous substances fact sheets and material safety data sheets at the Department of Health; county health department, county clerk, or designated county lead agency; and employer's facility for the facility at which the prospective employee will be employed.

8:59-6.3 Contents of program

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

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

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

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

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

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

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

3. An explanation of the proper and safe procedures for handling, under all circumstances, the hazardous substances to which the employees are exposed in the course of their employment, including the use and functioning of personal protective equipment, the policy and program for use of respirators, appropriate emergency treatment for exposure, proce-

dures for cleanup of leaks and spills, and any special use conditions. Appropriate employees shall be given "hands-on" training in the proper use and functioning of personal protective equipment and certain designated employees shall be given "hands-on" training in the use of cleanup and firefighting equipment;

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

i. A general explanation of the workplace survey and the substances listed on the employer's workplace survey, including distribution of a sample page of a survey;

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

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

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

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

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

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

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

(c) Every employer shall supply employees with any material designed and provided by the Department of Health, the Department of Environmental Protection, and the Department of Labor to inform employees of their rights under the Act.

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

(e) In order to comply with (b) above, research and development laboratories shall maintain and allow their employees access to appropriate hazardous substance fact sheets and available material safety data sheets.

8:59-6.4 Certification of existing program

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

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

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

3. A description of the method of instruction;

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

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

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

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

SUBCHAPTER 7. PUBLIC AND EMPLOYEE ACCESS TO INFORMATION

8:59-7.1 Department of Health obligations

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

(b) The department shall retain hazardous substance fact sheets prepared by the department and each workplace survey and hazardous substance fact sheet received from employers, for 30 years.

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

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

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

(f) Any person who requests the disclosure of information for which a trade secret claim has been made or approved, shall follow the procedures set forth in N.J.A.C. 8:59-3.11.

(g) The department shall have the right to charge for making and supplying copies of any documents requested by any persons in accordance with N.J.S.A. 47:1A-1 et seq.

8:59-7.2 Employer obligations

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

(b) Every employer shall post on bulletin boards readily accessible to employees a poster provided by the department. The poster shall include notice of the availability of workplace surveys, hazardous substance fact sheets, material safety data sheets, and environmental surveys, from the employer, from the Department of Health, from the Department of Environmental Protection, and from the county health department, county clerk, or designated county lead agency.

(c) An employer shall, upon request, provide an employee whose native language is Spanish or employee representative, with a Spanish translation of a workplace survey, hazardous substance fact sheet and, if applicable, an environmental survey. Every employer with employees whose native language is Spanish shall post the notice required in (b) above in Spanish.

(d) An employer shall provide an employee or employee representative with a copy of a workplace survey, appropriate hazardous substance fact sheets and, if applicable, material safety data sheets and an environmental survey, at no cost within five working days of the request.

(e) An employer shall provide an employee or employee representative with the chemical name of a substance in a container labeled with a common name within five working days of the request.

(f) An employer shall provide an employee or employee representative, upon written request, with the chemical name and Chemical Abstracts Service number or trade secret registry number of a hazardous substance or the five most predominant substances contained in any container which is not labeled pursuant to the Act.

(g) Every research and development laboratory shall establish a communications program with the local fire department, which shall be designed to assist the fire department in adequately preparing to respond to emergencies at the research and development laboratory.

(h) If an employer cannot supply a hazardous substance fact sheet or the chemical name and Chemical Abstracts Service number of a substance to an employee who requested it, because the employer has not received the hazardous substance fact sheet which the employer requested from the department, or does not know the name of the substance or substances constituting the components of the product and has reported this to the department, the employer shall:

1. Inform the employee in writing that it has requested and not received the hazardous substance fact sheet from the department, and provide the employee with the appropriate available material safety data sheet, or

2. Inform the employee in writing that it has reported to the department that it does not know the name of the substance or substances constituting the components of the product, and provide the employee with the appropriate available material safety data sheets.

(i) No employer shall discharge, cause to be discharged, or otherwise discipline, penalize, or discriminate against any employee because the employee or his or her employee representative has exercised any right established in the Act.

8:59-7.3 County health department, county clerk, or designated county lead agency obligations

(a) Each county health department, county clerk, or designated county lead agency shall maintain a file of workplace surveys, environmental surveys, and hazardous substance fact sheets transmitted to it pursuant to the provisions of this act.

(b) Workplace surveys, environmental surveys, and hazardous substance fact sheets shall be made available for inspection by the public at no cost and at reasonable hours. If a fee is charged for copies of these documents, the fee shall not exceed the cost of reproducing the document.

(c) A county health department, county clerk, or designated county lead agency shall, upon request, provide to any person copies of the workplace survey, environmental survey, and hazardous substance fact sheet in a Spanish translation provided by the Department of Health, Department of Environmental Protection, or an employer.

(d) Any request by an employee for material pertaining to the facility where he or she is employed made pursuant to (b) and (c) above shall be treated by the county health department, county clerk, or designated county lead agency as confidential.

8:59-7.4 Police and fire department obligations

No local police department or local fire department receiving workplace surveys or environmental surveys pursuant to the provisions of the Act shall make the surveys available to the public.

8:59-7.5 Employee rights

(a) Any employee or employee representative may request, in writing, from his or her employer, a copy of a workplace survey, hazardous substance fact sheet, or, where applicable, material safety data sheet or environmental survey, for the facility at which he or she is employed.

(b) An employee shall have the right to refuse to work with a hazardous substance for which a request was made for a workplace survey, appropriate hazardous substance fact sheet, environmental survey, the chemical name and Chemical Abstracts Service number of a substance in a container which is not labeled pursuant to N.J.A.C. 8:59-5, or the chemical name of a substance labeled with a common name, for the facility at which he or she is employed, and not honored within five working days of the request, without loss of pay or forfeit of any other privilege until the request is honored, except in the case of (c) below.

(c) An employee shall not have the right, pursuant to the act, to refuse to work with a hazardous substance if an employer cannot supply a hazardous substance fact sheet to an employee who requested it because the employer has not received from the department the hazardous substance fact sheet which the employer requested from the department.

SUBCHAPTER 8. ENFORCEMENT

8:59-8.1 Violations

Whenever, on the basis of information available to him, the Commissioner of the Department of Health finds that an employer is in violation of the Worker and Community Right-to-Know Act, N.J.S.A. 34:5A-1 et seq; or any rule and regulation adopted pursuant thereto, the Commissioner of the Department of Health shall issue an order requiring the employer to comply, shall bring a civil action, shall levy a civil administrative penalty, or shall bring an action for a civil penalty, in accordance with N.J.S.A. 34:5A-33.

8:59-8.2 Civil administrative penalty

(a) The Commissioner of the State Department of Health is authorized pursuant to N.J.S.A. 34:5A-33 to impose a civil administrative penalty of not more than $2,500 for each violation and additional penalties of not more than $1,000 for each day during which a violation continues after receipt of an order from the commissioner to cease the violation.

(b) A civil administrative penalty imposed pursuant to this subchapter, may be compromised by the Commissioner, in whole or in part, upon the posting by the employer of a performance bond in an amount and upon terms and conditions deemed satisfactory by the Commissioner.

8:59-8.3 Standing to sue

(a) Any person may bring a civil action in law or equity on his or her own behalf against any employer for a violation of any provision of the Act or any rule and regulation promulgated pursuant thereto, or against the Department of Health for failure to enforce the provisions of the Act or any rule or regulation promulgated pursuant thereto.

(b) The Superior Court shall have jurisdiction over the actions in (a) above. The court may award, whenever it deems appropriate, costs of litigation, including reasonable attorney and expert witness fees.

8:59-8.4 Right to enter employer's facility

(a) The Department of Health shall have the right to enter an employer's facility during the normal operating hours of the facility to determine the employer's compliance with the Act.

(b) Any local or county health department or regional health agency which has entered into an interagency agreement with the department, shall have the right to enter an employer's facility to determine the employer's compliance with the provisions of the Act and rules and regulations adopted pursuant thereto, within the territory under its jurisdiction. The local or county health department or regional health agency shall conduct this inspection during the normal operating hours of the facility and in accordance with guidelines established by the Department of Health for inspections of employer's facilities. Inspection reports and recommendations of the local health officials shall be transmitted to the Department of Health for possible enforcement action.

8:59-8.5 Employee health and exposure records

(a) Within 30 days of a request by the department, an employer shall provide the department with copies of employee health and exposure records, including those maintained for, and supplied to, the Federal government.

(b) When the department requests employee medical records that include the individuals' names, the employer shall, within 10 days, grant the department access to the employees, either in person or by supplying home addresses, in order to request permission to review their medical records.

[CHAPTER 59]
[WORKPLACE HAZARDOUS SUBSTANCES]

SUBCHAPTER [1.] **9.** WORKPLACE HAZARDOUS SUBSTANCE LIST

[8:59-1.1 Authority

N.J.A.C. 8:59-1 is promulgated pursuant to the authority of the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq.]

[8:59-1.2 Purpose

It is the purpose of N.J.A.C. 8:59-1 to establish a workplace hazardous substance list as required by Section 5 of the Act, N.J.S.A. 34:5A-5.]

[8:59-1.3 Definitions

(a) The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Act" means the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq.

"Chemical Abstracts Service number" means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

"Chemical name" is the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

"Common name" means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

"Department" means the New Jersey Department of Health unless the usage clearly indicates otherwise.

"Employer" means any person or corporation in the State engaged in business operations having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the Federal Office of Management and Budget, within Major Group numbers 20 through 39 inclusive (manufacturing industries), numbers 46 through 49 inclusive (pipelines, transportation services, communications, and electric, gas, and sanitary services), number 51 (wholesale trade, nondurable goods), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), number 82 (educational services), and number 84 (museums, art galeries, botanical and zoological gardens). Except for purposes of the Worker and Community Right to Know Fund (N.J.S.A. 34:5A-26), "employer" means the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof.

"Environmental hazardous substance" means any substance on the environmental hazardous substance list.

"Environmental hazardous substance list" means the list of environmental hazardous substances developed by the Department of Environmental Protection which includes, but is not limited to, substances used, manufactured, stored, packaged, repackaged, or disposed of or released into the environment of the State which, in the Department of Environmental Protection's determination, may be linked to the incidence of cancer; genetic mutations; physiological malfunctions, including malfunctions in reproduction; and other diseases; or which, by virtue of their physical properties, may pose a threat to the public health and safety. The environmental hazardous substance list is based on the list of substances developed and used by the department for the purposes of the Industrial Survey Project, established pursuant to N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 58:10A-1 et seq., and may include other substances which the Department of Environmental Protection, based on documented scientific evidence, determines pose a threat to the public health and safety.

"Hazardous substance" means any substance, or substance contained in a mixture, included on the workplace hazardous substance list developed by the Department of Health, introduced by an employer to be used, studied, produced, or otherwise handled at a facility. "Hazardous substance" shall not include:

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

2. Any hazardous substance constituting less than 1 percent of a mixture unless the hazardous substance is present in an aggregate amount of 500 pounds or more at a facility;

3. Any hazardous substance which is a special health hazard substance constituting less then the threshold percentage established by the Department of Health for that special health hazard substance when present in a mixture; or

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

"Hazardous substance fact sheet" means a written document prepared by the Department of Health for each hazardous substance and transmitted by the department to employers.

"Mixture" means a combination of two or more substances not involving a chemical reaction.

Substances which pose a "threat to the health or safety of an employee" include, but are not limited to, substances which are flammable, explosive, corrosive, reactive, or possess other physical properties which pose a threat to the health or safety of an employee; substances which are known to cause cancer, genetic mutations, malfunctions in reproduction, acute or chronic disease, or other physiological malfunctions, in humans or animals.

"Workplace survey" means a written document, prepared by the Department of Health and completed by an employer pursuant to the Act, on which the employer shall report each hazardous substance present at his facility.

(b) The definition of other terms contained in these rules shall be governed by the definitions contained in the Worker and Community Right to Know Act, N.J.S.A. 34:5A-3.]

[8:59-1.5 Application] **8:59-9.1 General Provisions**

[(a) Every employer shall:

1. Report to the department the hazardous substances listed in the Workplace Hazardous Substance List which are present at its facility on workplace survey forms. The workplace survey forms shall be updated annually by the employer.

2. Maintain at its facility hazardous substance fact sheets for each hazardous substance reported on the workplace survey form.

3. Establish an education and training program for its employees about the hazardous substances reported on the workplace survey form.

4. Label every container at its facility containing a hazardous substance reported on the workplace survey form with the chemical name and Chemical Abstracts Service number of the substance or the trade secret registry number assigned to the substance, by March 1, 1985.]

[(b) Substances not included on the Workplace Hazardous Substance List shall not be subject to the reporting provisions of the Act. However, the] **The** absence of any substance from the Workplace Hazardous Substance List or the provision of any information by an employer to an employee or any other person pursuant to the provisions of the Act, shall not in any way affect any other liability of an employer with regard to safeguarding the health and safety of an employee or any other person exposed to the substance, nor shall it affect any other duty or responsibility of an employer to warn ultimate users of a substance of any potential health hazards associated with the use of the substance pursuant to the provisions of any law or rule or regulation adopted pursuant thereto.

[8:59-1.4] **8:59-9.2** Contents of the workplace hazardous substance list

(a) The Workplace Hazardous Substance List consists of the hazardous substances listed in Appendix A, which includes:

1. Any substance or substance contained in a mixture regulated by the Occupational Safety and Health Administration, United States Department of Labor, under Title 29 Code of Federal Regulations (CFR) Part 1910 - Occupational Safety and Health Standards for General Industry, Subpart Z - Toxic and Hazardous Substances, July 1, 1983.

2. Environmental hazardous substances contained in the "Environmental Hazardous Substance List" adopted by the New Jersey Department of Environmental Protection pursuant to the Act and codified in the New Jersey Administrative Code as N.J.A.C. 7:1G.

3. Additional substances which the department has determined pose a threat to the health or safety of employees. The scientific evidence documenting the health or safety threat of the substances listed in Appendix A is contained in the referenced sources listed in Appendix A.

(b) The Workplace Hazardous Substance List identifies the Chemical Abstracts Service number, a common name, the chemical name, and the source or sources which provides scientific evidence supporting selection of the substance to the list, for each substance.

[8:59-1.6] **8:59-9.3** Modification of the list

(a) The department shall periodically review the Workplace Hazardous Substance List and shall make any necessary revisions in accordance with the procedures set forth in (b) through (f) below. The list shall be revised by the department, if necessary, once a year unless the department determines that special circumstances warrant an earlier revision.

(b) The Workplace Hazardous Substance List shall be reviewed to consider revisions to the following sources:

1. (Source #1) Occupational Safety and Health Administration, Title 29, CFR Part 1910, Subpart Z - Toxic and Hazardous Substances.

2. (Source #2) "Threshold Limit Values (TLVs) for Chemical Substances in the Work Environment Adopted by ACGIH for 1983-1984" (inclusive of intended changes for 1983-84), American Conference of Governmental Industrial Hygienists (ACGIH), 1983.

3. (Source #3) Materials Transportation Bureau, U.S. Department of Transportation, Title 49 CFR Part 172.101 - Hazardous Materials Table, October 1, 1982, and Part 172.102 - Optional Hazardous Materials Table, amended in Federal Register, Vol. 48, No. 211, October 31, 1983, p. 50234-50279.

4. (Source #4) "NIOSH Recommendations for Occupational Health Standards," National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, Morbidity and Mortality Weekly Report Supplement, Vol. 32, No. 1S, October 7, 1983.

5. (Source #5) "Third Annual Report on Carcinogens," National Toxicology Program, U.S. Department of Health and Human Services, December 1982.

6. (Source #6) "Environmental Hazardous Substance List", New Jersey Department of Environmental Protection, N.J.A.C. 7:1G.

7. (Source #7) "Chemicals, Industrial Processes and Industries Associated with Cancer in Humans," Supplement 4, Groups 1, 2A and 2B, International Agency for Research on Cancer (IARC), World Health Organization, 1982 (multivolume).

8. (Source #8) "Chemicals Having Substantial Evidence of Carcinogenicity," Carcinogens Assessment Group, Office of Health and Environmental Assessment, U.S. Environmental Protection Agency (EPA), Chemical Regulation Reporter, Bureau of National Affairs, August 15, 1980, pages 647-649.

9. (Source #14) "Prohibited and Restricted Use Pesticide List," New Jersey Department of Environmental Protection, N.J.A.C. 7:30-2.

i. List of restricted use pesticides. United States Environmental Protection Agency, Title 40 CFR Part 162.31, July 1, 1983.

(c) The department shall add to the workplace hazardous substance list any substance which it determines poses a threat to the health or safety of any employee and is based on documented scientific evidence.

(d) The Right to Know Advisory Council shall advise the department of its recommendations for proposed revisions to the Workplace Hazardous Substance List. Annual revisions to the Workplace 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.

(e) The department shall consider relevant scientific information in evaluating a revision to the Workplace Hazardous Substance List. For substances which cause health effects, this information may include, but is not limited to, short-term in vitro tests, animal toxicity tests, human epidemiological studies, clinical studies, and scientifically documented reports of symptoms or adverse health effects among employees. The department may investigate the situation surrounding any studies or reports in order to obtain additional information regarding a revision.

1. All evidence from scientific studies shall be based on properly designed studies for endpoints indicating health effects in humans, for example, carcinogenicity, mutagenicity, neurotoxicity, organ damage and/or effects, physiologic changes.

2. For purposes of this subchapter, animal data is admissible and generally indicative of potential effects in humans. The absence of a particular category of studies shall not be used to prove the absence of risk.

3. Negative results generally indicate the absence of statistically positive results in appropriate studies. As all tests for toxicological effects have inherent insensitivities, negative results must be reevaluated in light of the limits of sensitivity of each study, its test design, and the protocol followed.

4. In evaluating different results among proper tests, as a general rule, positive results shall be given more weight than negative results for purposes of including a substance on the list. In each case, the relative sensitivity of each test shall be a factor in resolving such conflicts.

(f) Notice of proposed revisions to the Workplace Hazardous Substance List shall be published once a year, or more frequently if warranted by special circumstances, in the New Jersey Register as a proposed amendment to these rules in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. At least 30 days shall be allowed for public comment. A public hearing shall be held, if, in the department's determination, there is significant public interest in the proposal.

(g) Employers will be notified of any revisions to the Workplace Hazardous Substance List through the annually updated workplace survey.

[8:59-1.7 Severability

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of these rules and to this end, the provisions of these rules are declared to be severable.]

APPENDIX A
WORKPLACE HAZARDOUS SUBSTANCE LIST

CAS #	Common Name Chemical Name	Source Number(s)
28981-97-7	**Alprazolam** **4H-S-Triazolo (4,3,-Alpha))1,4) Benzodiazepine, 8-Chloro-1-Methyl-6-Phenyl**	**13 (Y,EE,FF)**
61-82-5	Amitrol 1H-1,2,4-Triazol-3-Amine	2, 5, **6**, 7, 8
8052-42-4	**Asphalt (Petroleum derived)**	**2**
1304-56-9	**Beryllium Oxide**	**1, 5, 7, 8**
[85-68-7	Butyl Benzyl Phthalate 1,2-Benzenedicarboxylic Acid, Butyl Phenylmethyl Ester	6, 15]
133-90-4	Chloramben Benzoic Acid, 3-Amino-2,5-Dichloro-	1 [6]
438-42-5	**Chlordiazepoxide Hydrochloride** **3H-1,4-Benzediazepine-4-Oxide Hydrochloride, 7-Chloro-2-Methyl-Amino-5-Phenyl**	**13(EE,FF)**
494-03-1	**Chlornaphazine** **2-Napthylamine,N,N,Bis (2-Chloroethyl)**	**7**
[50-53-3	Chlorpromazine 10H-Phenothiazine-10-Propanamine, 2-Chloro-N, N-Dimethyl-	13(DD)]
[2650-18-2	C.I. Acid Blue 9 Benzenemethanaminium, N-Ethyl-N-4-4-Ethyl (3-Sulfophenyl) Methyl Amino Phenyl (2-Sulfophenyl) Methylene-2,5-Cyclohexadien-1-Ylidine-3-Sulfo-, Hydroxide, Inner Salt, Diammonium Salt	6]
57109-90-7	**Clorazepate Dipotassium** **1H-1,4-Benzodiazepine-3-Carboxylic Acid, 7-Chloro-2, 3-Hydro-2-oxo-5 Phenyl, Monopotassium Salt**	**13(Y,EE,FF)**
[82-02-6	Compazine OH-Phenothiazine, 2-Chloro-10-(3-(4-Methyl-1-Piperazinyl) Propyl)-, (Z)-2-Butenedioate	13(DD)]
No CAS #	**Cotton Fiber as Raw Cotton**	**1, 2**
95-80-7	2,4-Diaminotoluene 1,3-Benzenediamine, 4-Methyl-	3, 5, 6
1675-54-3	**Diglycidyl Ether of Bisphenol A** **Oxirane, 2,2' [(-Methylethylidene) bis (4, 1-phenyleneoxymethylene)] bis-**	**10**
57-14-7	1,1-Dimethylhydrazine Hydrazine, 1,1-Dimethyl-	1, 2, 3, 4, **6**, 8, 15
25550-58-7	**Dinitrophenol** **Phenol, Dinitro-**	**3**
17617-23-1	**Flurazepam** **2H-1, 4-Benzodiazepin-2-one, 1,3-Dihydro-7-Chloro-1-(2-(Diethylamino) Ethyl) -5- (o-Fluorophenyl)**	**13(EE,FF)**
8006-61-9	**Gasoline**	**2, 15**
70-25-7	Guanidine, 1-Methyl-3-Nitro-1-Nitroso- Guanidine, N-Methyl-N'-Nitro-N-Nitroso-	3, 8

7440-58-6	**Hafnium**	**1, 2**
23092-17-3	**Halazepam** **2H-1, 4-Benzodiazepin-2-One, 1,3-Dihydro-7-Chloro-5-Phenyl-1-(2,2,2-Trifluoro-ethyl)-**	**13(EE,FF)**
7440-59-7	**Helium**	**2**
87-68-3	**Hexachlorobutadiene** **1,3-Butadiene, Hexachlro-**	**2, 3, 7**
77-47-4	Hexachlorocyclopentadiene 1,3-Cyclopentadiene, 1,2,3,4,5,5-Hexachloro-	2, 3, 6
193-39-5	**Indeno (1,2,3-CD) Pyrene**	**5**
4016-14-2	Isopropyl Glycidyl Ether Oxirane, (1-Methylethoxy) Methyl-	1, 2, 4, **10**
59-01-8	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-	**13(Y,FF)** [13(DD)]
7446-27-7	**Lead Phosphate**	**1, 2, 4, 5, 7**
846-49-1	**Lorazapem** **2H-1, 4-Benzidiazepin-2-One, 7-Chloro-5 -(o-Chlorophenyl)-1,3-Dihydro**	**13(Y,EE,FF)**
7774-29-0	**Mercuric Iodide** **Mercury (I) Iodide**	**2, 3**
1312-03-4	**Mercuric Subsulfate** **Mercury Oxide Sulfate**	**2, 3**
109-86-4	2-Methoxyethanol Ethanol, 2-Methoxy-	1, 2, 3, 10, 15
1317-33-5	**Molybdenum (IV) Sulfide** **Molybdenum Disulfide**	**1, 2**
1116-54-7	**N-Nitrosodiethlanolamine** **Ethanol, 2,2'-nitrosiminodi-**	**8**
604-75-1	**Oxazepam** **2H-1,4-Benzodiazepin-2-One, 7-Chloro-1, 3-Dihydro-8-Hydroxy-5-Phenyl-**	**13(Y,EE,FF)**
122-60-1	Phenyl Glycidyl Ether Oxirane, (Phenoxymethyl)-	1, 2, 4, **10**
7786-34-7	Phosdrin 2-Butenoic Acid, 3- (Dimethoxyphosphinyl) oxy-, Methyl Ester	1, 2, 3, 14
100-00-5	P-Nitrochlorobenzene Benzene, 1-Chloro-4-Nitro-	1, 2, 3
2955-38-6	**Prazepam** **2H-1, 4-Benzodiazepin-2-One, 1,3-Dihydro-7-Chloro-1-(Cyclopropylmethyl)-5-Phenyl-**	**13(EE,FF)**
101-90-6	**Resorcinol Diglycidyl Ether** **Oxirane, 2,2' - [1,3-Phenylenebis (oxymethylene)] bis-**	**10**
7782-49-2	Selenium	1, 2, 3
7488-56-4	**Selenium Disulfide**	**1, 2, 3**
7791-23-3	**Selenium Oxychloride** **Seleninyl Chloride**	**1, 2, 3**
7631-90-5	Sodium Bisulfite Sulfurous Acid, Monosodium Salt	2, 3
7681-57-4	Sodium Metabisulfite Disulfurous Acid, Disodium Salt	2, 3
[440-17-5	Stelazine 10H-Phenothiazine, 10-(3-(4-Methyl-1-Piperazinyl) Propyl)-2-(Trifluoromethyl)-, Dihydrochloride	13(DD)]
846-50-4	**Temazepam** **2H-1,4-Benzodiazepin-2-One, 7-Chloro-1,3-Dihydro-3-Hydroxy-1-Methyl-5-Phenyl-**	**13(EE,FF)**
62-56-6	Thiourea	3, 5, 6, 8
28911-01-5	**Triazolam** **4H-s-Triazolo (4, 3-a) (1,4) Benzodiazepine, 8-Chloro-6-(o-Chlorophenyl)-1-Methyl-**	**13(EE,FF)**
25167-83-3	**Trichlorophenol** **Phenol, Pentachloro-**	**1, 2, 3**
75-35-4	Vinylidene Chloride Ethene, 1,1-Dichloro-	2, 3, 4, **6**, 8, 15
297-97-2	**Zinophos** **Phosphorothioic Acid, o,o-Diethyl, o-Pyrazinyl Ester**	**14**
10326-24-6	**Zinc Arsenite** **Arsenious Acid, Zinc Salt**	**1, 2, 3**

SUBCHAPTER 10. SPECIAL HEALTH HAZARD SUBSTANCE LIST

8:59-10.1 General provisions

(a) The Special Health Hazard Substance List consists of hazardous substances on the Workplace Hazardous Substance List which, because of their known carcinogenicity, mutagenicity or teratogenicity in humans, animals, or in vitro tests; or because of their flammability, reactivity/explosivity, or corrosivity, pose a special hazard to the health and safety of employees or the community.

(b) For purposes of reporting hazardous substances on the workplace survey form, the threshold percentage for special health hazard substances when present in a mixture shall be one-tenth of one percent for carcinogens, mutagens, and teratogens, and, for all other substances, one percent or if present in an aggregate amount of 500 pounds or more in a container at a facility.

(c) The absence of any substance from the Special Health Hazard Substance List shall not imply that a substance is not carcinogenic, mutagenic, teratogenic, flammable, reactive/explosive, or corrosive. Such absence, or the provision of any information by an employer to an employee or any other person pursuant to the provisions of the Act, shall not in any way affect any other liability of an employer with regard to safeguarding the health and safety of an employee or any other person exposed to the substance, nor shall it affect any other duty or responsibility of an employer to warn ultimate users of a substance of any potential special health hazards associated with the use of the substance pursuant to the provisions of any law or rule or regulation adopted pursuant thereto.

(d) An employer shall not make a trade secret claim on the workplace survey or for labeling containers for any carcinogenic, mutagenic or teratogenic substance which is listed on the Special Health Hazard Substance List and is present as a pure substance or in a mixture at a concentration of one-tenth of one percent or greater, or for any flammable, explosive, reactive, or corrosive substance which is listed on the Special Health Hazard Substance List and is present as a pure substance or in a mixture which meets the hazard criteria as defined in N.J.A.C. 8:59-10.2(a).

(e) All carcinogenic, mutagenic, and teratogenic substances listed on the Special Health Hazard Substance List shall be labeled with their chemical name or common name approved by the department, and their Chemical Abstracts Service number when present as a pure substance or in a mixture at a concentration of one-tenth of one percent or greater. Flammable, explosive, reactive, and corrosive substances which are listed on the Special Health Hazard Substance List shall be labeled in the same manner when present as a pure substance, in a mixture at a concentration of one percent or greater, or in a mixture that meets the hazard criteria as defined in N.J.A.C. 8:59-10.2(a).

8:59-10.2 Contents of the Special Health Hazard Substance List

(a) The Special Health Hazard Substance List consists of hazardous substances with the following properties:

1. Carcinogen—Carcinogens which have met the criteria established by the International Agency for Research on Cancer (IARC), the National Toxicology Program (NTP), the Environmental Protection Agency's Carcinogen Assessment Group (CAG), and, for benzidine based dyes, the criteria of the National Institute for Occupational Safety and Health (NIOSH), are included on the Special Health Hazard Substance List.

i. IARC categorizes its list of carcinogens into three groups:

Group 1—The chemical, group of chemicals or occupational exposure is carcinogenic to humans. This category was used only when there was sufficient evidence from epidemiological studies to support a causal association between the exposure and cancer.

Group 2—The chemical, group of chemicals or occupational exposure is probably carcinogenic to humans.

Compounds from Group 3 were not included on the Workplace or Special Health Hazard Substance Lists.

ii. NTP categorizes its list of carcinogens into two groups:

Group 1 includes substances or groups of substances that are known to be carcinogenic, which includes those substances for which the evidence from human studies indicates that there is a causal relationship between exposure to the substance and human cancer.

Group 2 includes substances or groups of substances that may reasonably be anticipated to be carcinogens, which includes those substances for which there is limited evidence of carcinogenicity in humans or sufficient evidence of carcinogenicity in experimental animals.

iii. CAG includes substances which demonstrate substantial or strong evidence of carcinogenicity in humans or animals, based upon positive human epidemiological studies, or a statistically significant increase in malignant tumors or an increase in benign tumors of a progressive nature in at least one animal species. Evidence of carcinogenicity in short-term bioassays was used only as supportive evidence.

iv. NIOSH considers benzidine-based dyes as potential human carcinogens based on the rapid induction of tumors in animals and the demonstration of bladder cancer in workers exposed to benzidine-based dyes. In addition, evidence exists to indicate that benzidine-based dyes are converted to the carcinogen benzidine in laboratory animals and in humans.

2. Mutagen—Those mutagens which have at least three positive results in at least two of three test systems measuring gene or chromosome mutation or changes in ploidy (number of chromosomes per cell) are included on the Special Health Hazard Substance List. When two of the positive results are for the same genetic effect, they have to be derived from systems of different biological complexity.

3. Teratogen—Those teratogens for which there is sufficient evidence to suspect that they may be teratogenic in humans are included on the Special Health Hazard Substance List. Sufficient evidence of teratogenicity is epidemiological evidence of teratogenicity in humans or positive teratogenic evidence in at least two different animal species.

4. Flammable—The flammability hazards of materials are classified according to their susceptibility to burning. Pure substances which meet the United States Department of Transportation's (DOT) criteria for flammability set forth in 49 CFR Part 173 or the National Fire Protection Association's (NFPA) criteria for flammability in the third and fourth degrees of hazard set forth in "Standard Systems for the Identification of the Fire Hazards of Materials," No. 704-1975, are included on the Special Health Hazard Substance List. Special health hazard substances contained in mixtures shall be considered to be special health hazard substances unless the flammability hazard of the mixture does not meet the criteria set forth below for flammability. This documentation shall be made available to the department upon request.

i. DOT criteria:

(1) Flammable liquid—A flammable liquid means any liquid having a flash point below 100 degrees Fahrenheit (37.8 degrees Centigrade), except for any mixture having one component or more with a flash point of 100 degrees Fahrenheit (37.8 degrees Centigrade) or higher, that makes up at least 99 percent of the total volume of the mixture. (49 CFR Part 173. 115).

(2) Flammable compressed gas—Any compressed gas shall be classd as "flammable gas" if any one of the following occurs:

(i) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure.

(ii) Using the Bureau of Explosives' Flame Projection Apparatus, the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening. (49 CFR Part 173.300)

(3) Flammable solid—A flammable solid is any solid material, other than one classed as an explosive, which is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. Included in this class are spontaneously combustible and water-reactive materials. (49 CFR Part 173.150).

ii. NFPA criteria:

(1) Flammability—Fourth degree—Materials which will rapidly or completely vaporize at atmospheric pressure and normal ambient temperature or which are readily dispersed in air, and which will burn readily. This degree should include:

Gases; Cryogenic materials;

Any liquid or gaseous material which is a liquid while under pressure and having a flash point below 73 degrees Fahrenheit (22.8 degrees Centigrade) and having a boiling point below 100 degrees Fahrenheit (37.8 degrees Centigrade). (Class IA flammable liquids.)

Materials which on account of their physical form or environmental conditions can form explosive mixtures with air and which are readily dispersed in air, such as dusts of combustible solids and mists of flammable or combustible liquid droplets.

(2) Flammability-Third degree—Liquids and solids that can be ignited under almost all ambient temperature conditions. Materials in this degree produce hazardous atmospheres with air under almost all ambient temperatures or, though unaffected by ambient temperatures, are readily ignited under almost all conditions. This degree should include:

Liquids having a flash point below 73 degrees Fahrenheit (22.8 degrees Centigrade) and having a boiling point at or above 100 degrees Fahrenheit (37.8 degrees Centigrade) and those liquids having a flash point at or above 73 degrees Fahrenheit (22.8 degrees Centigrade) and below 100 degrees Fahrenheit (37.8 degrees Centigrade). (Class 1B and Class 1C flammable liquids);

Solid materials in the form of coarse dusts which may burn rapidly but which generally do not form explosive atmospheres with air;

Solid materials in a fibrous or shredded form which may burn rapidly and create flash fire hazards;

Materials which burn with extreme rapidity, usually by reason of self-contained oxygen;

Materials which ignite spontaneously when exposed to air.

5. Reactive and/or explosive—The reactivity or explosivity of materials are ranked according to their susceptibility to release energy. Pure substances which meet the National Fire Protection Association's criteria for reactivity/explosivity in the second, third, and fourth degrees of hazard set forth in "Standard Systems for the Identification of the Fire Hazards of Materials", No. 704-1975, are included on the Special Health Hazard Substance List. Special health hazard substances contained in mixtures shall be considered to be special health hazard substances unless the reactive and/or explosive hazard of the mixture does not meet the criteria set forth below for reactivity/explosivity. This documenta tion shall be made available to the department upon request.

i. Reactivity-Fourth degree—Materials which in themselves are readily capable of detonation or of explosive decomposition or explosive reaction at normal temperatures and pressures. This degree should include materials which are sensitive to mechanical or localized thermal shock at normal temperatures and pressures.

ii. Reactivity-Third degree—Materials which in themselves are capable of detonation or of explosive decomposition or explosive reaction but which require a strong initiating source or which must be heated under confinement before initiation. This degree should include materials which are sensitive to thermal or mechanical shock at elevated temperatures and pressures or which react explosively with water without requiring heat or confinement.

iii. Reactivity-Second degree—Materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate. This degree should include materials which can undergo chemical change with rapid release of energy at normal temperatures and pressures or which can undergo violent chemical change at elevated temperatures and pressures. It should also include those materials which may react violently with water or which may form potentially explosive mixtures with water.

6. Corrosive—Pure substances which meet the United States Depart ment of Transportation's criteria for corrosivity set forth in 49 CFR Part 173.240 are included on the Special Health Hazard Substance List. Special health hazard substances contained in mixtures shall be considered to be special health hazard substances unless the corrosivity hazard of the mixture does not meet the criteria set forth below for corrosivity. This documentation shall be made available to the department upon request.

A corrosive material is a liquid or solid that causes visible destruction or irreversible alterations in human skin tissue at the site of contact. A material is considered to be destructive or to cause irreversible alteration in human skin tissue if when tested on the intact skin of the albino rabbit by the technique described in Appendix A to 49 CFR Part 173.240, the structure of the tissue at the site of contact is destroyed or changed irreversibly after an exposure period of 4 hours or less. (49 CFR Part 173.240) The term corrosive shall not refer to action on inanimate surfaces.

(b) The Special Health Hazard Substance List consists of the hazardous substances listed in Appendix B.

8:59-10.3 Modification of the list

The Special Health Hazard Substance List shall be modified in accordance with the procedures set forth in N.J.A.C. 8:59-9.3, and with the use of other reference sources deemed appropriate by the department.

APPENDIX B
SPECIAL HEALTH HAZARD SUBSTANCE LIST

Explanation of Column Headings

CAS # - Chemical Abstracts Service Number

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

Source Number(s) — The source numbers on the top line correspond to the reference sources listed below. In the formulation of the Workplace Hazardous Substance List the department has used lists of hazardous substances developed by other public agencies and private organizations.

The department has reviewed their contents and development criteria and has determined that certain substances on these lists pose a special hazard to employee health and safety.

The Special Health Hazard Codes on the bottom line refer to the hazardous categories of the substances:

CA-Carcinogen
MU-Mutagen
TE-Teratogen
F4-Flammability-Fourth Degree (National Fire Protection Association (NFPA))
F3-Flammability-Third Degree (NFPA)
R4-Reactivity-Fourth Degree (NFPA)
R3-Reactivity-Third Degree (NFPA)
R2-Reactivity-Second Degree (NFPA)
CO-Corrosive

Note: The Special Health Hazard Substance List is arranged alphabetically. Where a substance contains a prefix, for example, alpha, beta, tert, sec, bis, p-, o-, m-, the substance was alphabetized according to the first letter in the prefix.

REFERENCE SOURCES

Source No.

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2. "Threshold Limit Values (TLVs) for Chemical Substances in the Work Environment Adopted by ACGIH for 1983-

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14. *Pesticides*
"Prohibited and Restricted Use Pesticide List," NJDEP, Title 7 NJAC Chapter 30-2.
List of restricted use pesticides. U.S. EPA, Title 40 CFR Part 162.31, July 1, 1983.

The following source supports the Department of Health's determination that a substance is hazardous but was not used as the sole source for including any substance on the Workplace Hazardous Substance List.

15. National Fire Codes—A compilation of NFPA Codes, Standards, Recommended Practices, and Manuals, Volume 13, "Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids," (NFPA 325M-1977), National Fire Protection Association (NFPA), 1981.

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

THE FOLLOWING 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 OR GREATER

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
75-07-0	# ACETALDEHYDE	1 2 3 6 15 (F4,MU,R2)
53-96-3	# 2-ACETYLAMINOFLUORENE ACETAMIDE, N-9H-FLUOREN-2-YL-	1 5 8 (CA,MU)
107-02-8	# ACROLEIN 2-PROPENAL	1 2 6 14 15 (F3,MU,R2)
107-13-1	# ACRYLONITRILE 2-PROPENENITRILE	1 2 3 4 5 6 7 8 10 14 15 (CA,F3,MU,R2)
50-76-0	# ACTINOMYCIN D	1 7 13(H,G,X) (CA,MU)
23214-92-8	# 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)-	7 (CA,MU)
7220-81-7	# 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-	5 7 (CA,MU)
1165-39-5	# 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-	5 7 8 (CA,MU)
309-00-2	# 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.)-	1 2 3 4 6 8 14 (CA)
57-06-7	# ALLYL ISOTHIOCYANATE 1-PROPENE, 3-ISOTHIOCYANATO-	3 (MU)
28981-97-7	# ALPRAZOLAM 4H-S-TRIAZOLO(4,3,-ALPHA))1,4) BENZODIAZEPINE, 8-CHLORO-1- * METHYL-6-PHENYL	13(Y,EE,FF) (TE)
117-79-3	# 2-AMINOANTHRAQUINONE 9,10-ANTHRACENEDIONE, 2-AMINO-	5 6 (CA)
92-67-1	# 4-AMINODIPHENYL 1,1'-BIPHENYL -4-AMINE	1 2 5 7 8 (CA,MU)
82-28-0	# 1-AMINO-2-METHYLANTHRAQUINONE 9,10-ANTHRACENEDIONE, 1-AMINO-2-METHYL-	5 (CA)
61-82-5	# AMITROL 1H-1,2,4-TRIAZOL-3-AMINE	2 5 7 8 (CA,MU)
62-53-3	# ANILINE BENZENAMINE	1 2 3 6 15 (MU)
140-57-8	# ARAMITE SULFUROUS ACID, 2-CHLOROETHYL 2- 4-(1,1-DIMETHYLETHYL)PHENOXY - * 1-METHYLETHYL ESTER	5 8 (CA)
7440-38-2	# ARSENIC	1 2 3 4 5 6 7 8 10 (CA)
1303-28-2	# ARSENIC PENTOXIDE ARSENIC OXIDE (AS2O5)	1 2 3 5 8 (CA)
1327-53-3	# ARSENIC TRIOXIDE ARSENIC OXIDE (AS2O3)	1 2 3 5 7 8 14 (CA)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
1332-21-4	# ASBESTOS	1 2 4 5 6 7 8 10 (CA)
12172-73-5	# ASBESTOS, AMOSITE ASBESTOS, GRUNERITE	1 2 5 7 8 (CA,MU)
77536-67-5	# ASBESTOS, ANTHOPHYLLITE	1 2 5 7 8 (CA)
12001-29-5	# ASBESTOS, CHRYSOTILE	1 2 5 7 8 (CA)
12001-28-4	# ASBESTOS, CROCIDOLITE	1 2 5 7 8 (CA)
1912-24-9	# ATRAZINE 1,3,5-TRIAZINE-2,4-DIAMINE, 6-CHLORO-N-ETHYL-N'-(1-METHYLETHYL)-	2 (MU)
115-02-6	# AZASERINE L-SERINE, DIAZOACETATE (ESTER)	8 (CA)
446-86-6	# AZATHIOPRINE 1H-PURINE, 6- (1-METHYL-4-NITRO-1H-IMIDAZOL-5-YL)THIO -	7 (CA,MU)
56-55-3	# BENZ (A) ANTHRACENE	5 8 (CA,MU)
57-97-6	# BENZ (A) ANTHRACENE, 7,12-DIMETHYL-	8 (CA,MU,TE)
71-43-2	# BENZENE	1 2 3 4 5 6 7 8 15 (CA,F3,MU)
120-58-1	# BENZENE, 1,2-METHYLENEDIOXY-4-PROPENYL- 1,3-BENZODIOXOLE, 5-(1-PROPENYL)-	8 (CA)
94-58-6	# BENZENE, 1,2-METHYLENEDIOXY-4-PROPYL- 1,3-BENZODIOXOLE, 5-PROPYL-	8 (CA)
92-87-5	# BENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE	1 2 3 5 7 8 (CA,MU)
510-15-6	# BENZILIC ACID, 4,4'-DICHLORO-, ETHYL ESTER BENZENEACETIC ACID, 4-CHLORO-.ALPHA.-(4-CHLOROPHENYL)-.ALPHA.- * HYDROXY-, ETHYL ESTER	8 (CA)
50-32-8	# BENZO(A)PYRENE	2 5 7 8 (CA,MU)
205-99-2	# BENZO(B)FLUORANTHENE BENZ (E) ACETPHENANTHRYLENE	5 8 (CA)
205-82-3	# BENZO (J) FLUORANTHENE	8 (CA)
98-07-7	# BENZOTRICHLORIDE BENZENE, (TRICHLOROMETHYL)-	3 6 7 15 (CA,CO)
100-44-7	# BENZYL CHLORIDE BENZENE, (CHLOROMETHYL)-	1 2 3 4 6 15 (CO,MU)
7440-41-7	# BERYLLIUM	1 2 3 4 5 6 7 8 (CA)
7787-47-5	# BERYLLIUM CHLORIDE BERYLLIUM CHLORIDE (BECL2)	1 2 3 5 7 8 (CA)
7787-49-7	# BERYLLIUM FLUORIDE BERYLLIUM FLUORIDE (BEF2)	1 2 3 5 7 8 (CA)
1304-56-9	# BERYLLIUM OXIDE	1 5 7 8 (CA)
57-57-8	# .BETA.-PROPIOLACTONE 2-OXETANONE	1 2 5 8 (CA,MU)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
111-44-4	# BIS (2-CHLOROETHYL) ETHER ETHANE, 1,1'-OXYBIS 2-CHLORO-	1 2 3 8 15 (CA)
154-93-8	# BISCHLOROETHYL NITROSOUREA UREA, N,N'-BIS(2-CHLOROETHYL)-N-NITROSO	7 13(H,Q) (CA,MU)
542-88-1	# BIS (2-CHLOROMETHYL) ETHER METHANE, OXYBIS(CHLORO-)	1 2 3 5 7 8 (CA)
117-81-7	# BIS (2-ETHYLHEXYL) PHTHALATE 1,2-BENZENEDICARBOXYLIC ACID, BIS(2-ETHYLHEXYL) ESTER	1 2 5 6 (CA)
55-98-1	# BUSULFAN 1,4-BUTANEDIOL, DIMETHANESULFONATE	7 13(H,T,V,Y,EE,FF) (CA,MU,TE)
106-88-7	# 1,2-BUTYLENE OXIDE OXIRANE, ETHYL-	6 15 (F3,MU)
7440-43-9	# CADMIUM	1 2 4 5 6 7 8 (CA)
543-90-8	# CADMIUM ACETATE ACETIC ACID, CADMIUM SALT	1 2 3 5 7 8 (CA)
10108-64-2	# CADMIUM CHLORIDE CADMIUM CHLORIDE (CDCL2)	1 2 3 5 7 8 (CA,MU)
7778-44-1	# CALCIUM ARSENATE ARSENIC ACID (H3ASO4), CALCIUM SALT (2:3)	1 3 5 7 8 (CA)
52740-16-6	# CALCIUM ARSENITE ARSONIC ACID, CALCIUM SALT (1:1)	1 2 3 5 7 8 (CA)
13765-19-0	# CALCIUM CHROMATE CHROMIC ACID (H2CRO4), CALCIUM SALT (1:1)	1 2 3 5 7 8 (CA,MU)
133-06-2	# CAPTAN 1H-ISOINDOLE-1,3(2H)-DIONE, 3A,4,7,7A-TETRAHYDRO-2- * (TRICHLOROMETHYL)THIO -	2 3 6 (MU)
63-25-2	# CARBARYL 1-NAPHTHALENOL, METHYLCARBAMATE	1 2 3 4 6 (TE)
56-23-5	# CARBON TETRACHLORIDE METHANE, TETRACHLORO-	1 2 3 4 5 6 7 8 14 (CA,MU)
305-03-3	# CHLORAMBUCIL BENZENEBUTANOIC ACID, 4- BIS(2-CHLOROETHYL)AMINO -	5 7 13(E,F,H,R,Y,EE,FF) (CA,MU,TE)
56-75-7	# CHLORAMPHENICOL ACETAMIDE, 2,2-DICHLORO-N- 2-HYDROXY-1-(HYDROXYMETHYL)-2-(4- * NITROPHENYL)ETHYL -, R-(R*,R*) -	7 (CA,MU,TE)
57-74-9	# CHLORDANE	1 2 3 6 8 14 (CA)
58-25-3	# CHLORDIAZEPOXIDE 3H-1,4-BENZODIAZEPINE, 7-CHLORO-2-(METHYLAMINO)-5-PHENYL-,4- * OXIDE	13(EE,FF) (TE)
438-42-5	# CHLORDIAZEPOXIDE HYDROCHLORIDE 3H-1,4-BENZEDIAZEPINE-4-OXIDE HYDROCHLORIDE, 7-CHLORO-2-METHYL- * AMINO-5-PHENYL	13(EE,FF) (TE)
494-03-1	# CHLORNAPHAZINE	7 (CA)
13010-47-4	# 1-(2-CHLOROETHYL)-3-CYCLOHEXYL-1-NITROSOUREA UREA, 1-(2-CHLOROETHYL)-3-CYCLOHEXYL-1-NITROSO-	1 7 13(H,Q) (CA)
67-66-3	# CHLOROFORM METHANE, TRICHLORO-	1 2 3 4 5 6 7 8 10 (CA)
107-30-2	# CHLOROMETHYL METHYL ETHER METHANE, CHLOROMETHOXY-	1 2 3 8 (CA)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
95-57-8	# 2-CHLOROPHENOL PHENOL, 2-CHLORO-	3 7 (CA)
126-99-8	# CHLOROPRENE 1,3-BUTADIENE, 2-CHLORO-	1 2 3 4 6 10 15 (F3,MU)
54-05-7	# CHLOROQUINE 1,4-PENTANEDIAMINE, N,N,N,N-(7-CHLORO-4-QUINOLINYL)-N,N-DIETHYL-	13(Y,EE,FF) (TE)
56-49-5	# CHOLANTHRENE, 3-METHYL- BENZ (J) ACEANTHRYLENE, 1,2-DIHYDRO-3-METHYL-	8 (CA,MU)
7440-47-3	# CHROMIUM	1 2 5 6 7 8 (CA,MU)
1333-82-0	# CHROMIUM(VI) OXIDE(1:3)	1 2 3 5 7 8 (CA)
218-01-9	# CHRYSENE	2 4 8 (CA,MU)
2429-80-3	# 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	9 (CA)
3567-65-5	# 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	9 (CA)
2465-27-2	# C.I. BASIC YELLOW 2, MONOHYDROCHLORIDE BENZENAMINE, 4,4'-CARBONIMIDOYLBIS N,N-DIMETHYL-, * MONOHYDROCHLORIDE	7 8 (CA)
2429-83-6	# C.I. DIRECT BLACK 4 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-3- 4'- (2,4-DIAMINO-5- * METHYLPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -5-HYDROXY-6- * (PHENYLAZO)-, DISODIUM SALT	9 (CA)
25156-49-4	# 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)-	9 (CA)
1937-37-7	# 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	5 6 7 9 (CA)
25180-19-2	# 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-	9 (CA)
2429-73-4	# C.I. DIRECT BLUE 2 2,7-NAPHTHALENEDISULFONIC ACID, 5-AMINO-3- 4'- (7-AMINO-1- * HYDROXY-3-SULFO-2-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO - * 4-HYDROXY-, TRISODIUM SALT	9 (CA)
2602-46-2	# 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	5 6 7 9 10 11 (CA)
72-57-1	# 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	8 11 (CA)
6247-51-4	# 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 -	9 (CA)
2893-80-3	# C.I. DIRECT BROWN 6 BENZOIC ACID, 5- 4'- 2,4-DIHYDROXY-3- (4- * SULFOPHENYL)AZO PHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-, DISODIUM SALT	9 (CA)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
25180-39-6	# 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-	9 (CA)
8014-91-3	# 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	9 (CA)
12222-20-7	# C.I. DIRECT BROWN 111	9 (CA)
2429-82-5	# C.I. DIRECT BROWN 2 BENZOIC ACID, 5- 4'- (7-AMINO-1-HYDROXY-3-SULFO-2- * NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * DISODIUM SALT	9 11 (CA)
3476-90-2	# C.I. DIRECT BROWN 59 BENZOIC ACID, 2-HYDROXY-5- 4'- 1-HYDROXY-7-(PHENYLAMINO)-3- * SULFO-2-NAPHTHALENYL AZO 1,1'-BIPHENYL -4-YL AZO -, * DISODIUM SALT	9 (CA)
6360-54-9	# 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	9 (CA)
3811-71-0	# 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	9 (CA)
2429-81-4	# C.I. DIRECT BROWN 31 BENZOIC ACID, 5- 4'- 2,6-DIAMINO-3- 8-HYDROXY-3,6-DISULFO-7- * (4-SULFO-1-NAPHTHALENYL)AZO -2-NAPHTHALENYL AZO -5- * METHYLPHENYL AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * TETRASODIUM SALT	9 11 (CA)
25180-41-0	# 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-	9 (CA)
25255-06-5	# 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-	9 (CA)
16071-86-6	# 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	6 7 9 10 (CA)
3626-28-6	# C.I. DIRECT GREEN 1 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-3- 4'- (4- * HYDROXYPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -6-(PHENYLAZO)-, * DISODIUM SALT	9 (CA)
4335-09-5	# C.I. DIRECT GREEN 6 2,7-NAPHTHALENEDISULFONIC ACID, 4-AMINO-5-HYDROXY-6- 4'- (4- * HYDROXYPHENYL)AZO 1,1'-BIPHENYL -4-YL AZO -3- (4- * NITROPHENYL)AZO -, DISODIUM SALT	9 (CA)
5422-17-3	# C.I. DIRECT GREEN 8 BENZOIC ACID, 5- 4'- 8-AMINO-1-HYDROXY-7- (4-NITROPHENYL)AZO - * 3,6-DISULFO-2-NAPHTHALENYL AZO 1,1'-BIPHENYL -4-YL AZO -2- * HYDROXY-, TRISODIUM SALT	9 (CA)
25180-47-6	# 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-	9 (CA)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
25180-46-5	# 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 -	9 (CA)
54579-28-1	# C.I. DIRECT ORANGE 1	9 (CA)
64083-59-6	# C.I. DIRECT ORANGE 8	9 (CA)
573-58-0	# C.I. DIRECT RED 28 1-NAPHTHALENESULFONIC ACID, 3,3'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 4-AMINO-, DISODIUM SALT	9 (CA)
1937-35-5	# C.I. DIRECT RED 13 1-NAPHTHALENESULFONIC ACID, 4-AMINO-3- 4'- (2-AMINO-8-HYDROXY- * 6-SULFO-1-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -, * DISODIUM SALT	9 (CA)
3530-19-6	# C.I. DIRECT RED 37 1,3-NAPHTHALENEDISULFONIC ACID, 8- 4'- (4-ETHOXYPHENYL)AZO 1, * 1'-BIPHENYL -4-YL AZO -7-HYDROXY-, DISODIUM SALT	9 (CA)
25188-30-1	# 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 -	9 (CA)
2429-84-7	# C.I. DIRECT RED 1 BENZOIC ACID, 5- 4'- (2-AMINO-8-HYDROXY-6-SULFO-1- * NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -2-HYDROXY-, * DISODIUM SALT	9 (CA)
2429-70-1	# C.I. DIRECT RED 10 1-NAPHTHALENESULFONIC ACID, 4-AMINO-3- 4'- (1-HYDROXY-4-SULFO- * 2-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -, * DISODIUM SALT	9 (CA)
25188-29-8	# 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 -	9 (CA)
25188-24-3	# 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-	9 (CA)
2586-60-9	# C.I. DIRECT VIOLET 1 2-NAPHTHALENESULFONIC ACID, 5,5'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 6-AMINO-4-HYDROXY-, DISODIUM SALT	9 (CA)
25329-82-2	# 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 -	9 (CA)
6426-67-1	# C.I. DIRECT VIOLET 22 1,3,6-NAPHTHALENETRISULFONIC ACID, 8-HYDROXY-7- 4'- (2-HYDROXY- * 1-NAPHTHALENYL)AZO 1,1'-BIPHENYL -4-YL AZO -, * TRISODIUM SALT	9 (CA)
25188-44-7	# C.I. DIRECT VIOLET 1 2-NAPHTHALENESULFONIC ACID, 5,5'- 1,1'-BIPHENYL -4,4'- * DIYLBIS(AZO) BIS 6-AMINO-4-HYDROXY-	9 (CA)
6426-62-6	# C.I. DIRECT YELLOW 20	9 (CA)
15663-27-1	# CISPLATIN CIS-DIAMMINEDICHLOROPLATINUM(II)	7 (CA,MU)
6358-53-8	# CITRUS RED NO. 2 2-NAPHTHALENOL, 1- (2,5-DIMETHOXYPHENYL)AZO -	8 (CA)
57109-90-7	# CLORAZEPATE DIPOTASSIUM 1H-1,4-BENZODIAZEPINE-3-CARBOXYLIC ACID, 7-CHLORO-2, 3-HYDRO-2- * OXO-5 PHENYL,MONOPOTASSIUMN SALT	13(Y,EE,FF) (TE)

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8001-58-9	# COAL TAR CREOSOTE CREOSOTE	1 8 15 (CA)
123-73-9	# CROTONALDEHYDE 2-BUTENAL	1 2 3 15 (F3,MU,R2)
135-20-6	# CUPFERRON BENZENAMINE, N-HYDROXY-N-NITROSO-, AMMONIUM SALT	5 (CA)
14901-08-7	# CYCASIN BETA-D-GLUCOPYRANOSIDE, (METHYL-ONN-AZOXY)METHYL)-	5 8 (CA)
6108-11-8	# CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, ALPHA-ISOMER CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-ALPHA ISOMER	8 (CA)
319-85-7	# CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, BETA-ISOMER	8 (CA)
66-81-9	# CYCLOHEXIMIDE GLUTARIMIDE, 3-(2-(3,5-DIMETHYL-2-OXOCYCLOHEXYL)-2- * HYDROXYETHYL)-	14 (MU)
108-91-8	# CYCLOHEXYLAMINE CYCLOHEXANAMINE	2 3 15 (CO,F3,MU)
50-18-0	# CYCLOPHOSPHAMIDE 2H-1,3,2-OXAZAPHOSPHORIN-2-AMINE, N,N-BIS(2- * CHLOROETHYL)TETRAHYDRO-, 2-OXIDE	5 7 8 13(C,E,F,G,H,Y,EE,FF) (CA,MU,TE)
147-94-4	# CYSTOSINE ARABINOSIDE CYTOSINE, 1-BETA-D-ARABINO-FURANOSYL	13(H,S) (MU,TE)
94-75-7	# 2,4-D ACETIC ACID, (2,4-DICHLORO-PHENOXY)-	1 2 3 6 14 (MU)
20830-81-3	# 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)-	8 (CA,MU)
96-12-8	# DBCP PROPANE, 1,2-DIBROMO-3-CHLORO-	1 3 4 5 8 (CA,MU)
50-29-3	# DDT (DICHLORODIPHENYL-TRICHLOROETHANE)	1 2 3 4 7 8 (CA,MU)
2303-16-4	# DIALLATE CARBAMOTHIOIC ACID, BIS (1-METHYLETHYL)-S-(2,3-DICHLORO-2- * PROPENYL) ESTER	6 8 (CA,MU)
95-80-7	# 2,4-DIAMINOTOLUENE 1,3-BENZENEDIAMINE, 4-METHYL-	3 5 6 (CA)
439-14-5	# DIAZEPAM 2H-1, 4-BENZODIAZEPIN-2-ONE, 7-CHLORO-1,3-DIHYDRO-1-METHYL-5- * PHENYL-	13(Y,EE,FF) (TE)
226-36-8	# DIBENZ(A,H)ACRIDINE	5 (CA)
53-70-3	# DIBENZ(A,H)ANTHRACENE	5 8 (CA,MU)
224-42-0	# DIBENZ(A,J)ACRIDINE	5 8 (CA)
92-65-4	# DIBENZO(A,E)PYRENE	8 (CA,MU)
189-64-0	# DIBENZO(A,H)PYRENE DIBENZO (B,DEF) CHRYSENE	5 8 (CA)
189-55-9	# DIBENZO(A,I)PYRENE BENZO (RST) PENTAPHENE	5 8 (CA)
91-94-1	# 3,3'-DICHLOROBENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE, 3,3'-DICHLORO-	1 2 5 6 7 8 (CA,MU)

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107-06-2	# 1,2-DICHLOROETHANE ETHANE, 1,2-DICHLORO-	1 2 3 4 5 6 8 10 15 (CA,F3,MU)
62-73-7	# DICHLORVOS PHOSPHORIC ACID, 2,2-DICHLOROETHENYL DIMETHYL ESTER	1 2 3 6 14 (MU)
102-54-5	# DICYCLOPENTADIENYL IRON FERROCENE	2 (MU)
60-57-1	# DIELDRIN 2,7:3,6-DIMETHANONAPHTH 2,3-B OXIRENE, 3,4,5,6,9,9-HEXACHLORO- * 1A,2,2A,3,6,6A,7,7A-OCTAHYDRO-, (1A.ALPHA.,2.BETA.,2A.ALPHA., * 3.BETA.,6.BETA.,6A.ALPHA.,7.BETA.,7A.ALPHA.)-	1 2 3 8 14 (CA,MU)
84-17-3	# DIENOESTROL PHENOL, 4,4-(DIETHYLIDENE-ETHYLENE)DI-	7 (CA)
1464-53-5	# 1,2:3,4-DIEPOXYBUTANE 2,2'-BIOXIRANE	5 8 (CA)
56-53-1	# DIETHYLSTILBESTROL PHENOL, 4,4'-(1,2-DIETHYL-1,2-ETHENEDIYL)BIS-, (E)-	5 7 8 (CA,MU,TE)
64-67-5	# DIETHYL SULFATE SULFURIC ACID, DIETHYL ESTER	3 7 15 (CA,MU)
120-80-9	# 1,2-DIHYDROXYBENZENE 1,2-BENZENEDIOL	2 6 (MU)
60-51-5	# DIMETHOATE PHOSPHORODITHIOIC ACID, O,O-DIMETHY, S-(2-(METHYLAMINO)-2- * OXOETHYL) ESTER	14 (MU)
119-90-4	# 3,3'-DIMETHOXYBENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE, 3,3'-DIMETHOXY-	5 7 8 (CA)
60-11-7	# 4-DIMETHYLAMINOAZOBENZENE BENZENAMINE, N,N-DIMETHYL-4-(PHENYLAZO)-	1 5 8 (CA,MU)
119-93-7	# 3,3'-DIMETHYLBENZIDINE 1,1'-BIPHENYL -4,4'-DIAMINE, 3,3'-DIMETHYL-	2 4 5 6 8 (CA,MU)
79-44-7	# DIMETHYLCARBAMOYL CHLORIDE CARBAMIC CHLORIDE, DIMETHYL-	2 5 7 8 10 (CA,MU)
57-14-7	# 1,1-DIMETHYLHYDRAZINE HYDRAZINE, 1,1-DIMETHYL-	1 2 3 4 8 15 (CA,CO,F3,MU)
593-74-8	# DIMETHYL MERCURY MERCURY, DIMETHYL-	1 2 (TE)
77-78-1	# DIMETHYL SULFATE SULFURIC ACID, DIMETHYL ESTER	1 2 3 5 6 7 8 15 (CA,CO,MU)
121-14-2	# 2,4-DINITROTOLUENE BENZENE, 1-METHYL-2,4-DINITRO-	1 2 3 6 8 15 (CA,MU,R3)
123-91-1	# 1,4-DIOXANE	1 2 3 4 5 6 7 8 (CA)
122-66-7	# 1,2-DIPHENYLHYDRAZINE (HYDRAZOBENZENE) HYDRAZINE, 1,2-DIPHENYL-	5 6 8 (CA,MU)
106-89-8	# EPICHLOROHYDRIN OXIRANE, (CHLOROMETHYL)-	1 2 3 4 6 7 8 10 15 (CA,MU,R2)
556-52-5	# 2,3-EPOXY 1-PROPANOL (GLYCIDOL) OXIRANEMETHANOL	1 2 (MU)
50-28-2	# ESTRADIOL ESTRA-1,3,5(10)-TRIENE-3,17-DIOL (17.BETA.)-	7 (CA)
53-16-7	# ESTRONE ESTRA-1,3,5(10)-TRIEN-17-ONE, 3-HYDROXY-	7 (CA)
57-63-6	# ETHINYLOESTRADIOL 19-NORPREGNA-1,3,5(10)-TRIEN-20-YNE-3,17-DIOL, (17.ALPHA.)-	7 (CA,MU)

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536-33-4	# ETHIONAMIDE ISONICOTINAMIDE, 2-ETHYLTHIO-	13(Y,EE,FF) (TE)
107-07-3	# ETHYLENE CHLOROHYDRIN ETHANOL, 2-CHLORO-	1 2 3 15 (MU)
106-93-4	# ETHYLENE DIBROMIDE (1,2-DIBROMOETHANE) ETHANE, 1,2-DIBROMO-	1 2 3 4 5 6 7 8 10 (CA,MU)
151-56-4	# ETHYLENEIMINE AZIRIDINE	1 2 3 6 8 15 (CA,F3,MU,R3)
75-21-8	# ETHYLENE OXIDE OXIRANE	1 2 3 4 6 7 8 10 14 15 (CA,MU,R3)
96-45-7	# ETHYLENE THIOUREA 2-IMIDAZOLIDINETHIONE	4 5 6 7 8 10 (CA,TE)
107-27-7	# ETHYLMERCURIC CHLORIDE MERCURY, CHLOROETHYL-	1 2 (TE)
10102-49-5	# FERRIC ARSENATE ARSENIC ACID (H3ASO4), IRON(3+) SALT (1:1)	1 3 (MU)
17617-23-1	# FLURAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-1-(2- * (DIETHYLAMINO) ETHYL)-5-(O-FLUOROPHENYL)	13(EE,FF) (TE)
50-00-0	# FORMALDEHYDE	1 2 3 4 5 6 7 8 10 12(A,B) 15 (CA,MU)
765-34-4	# GLYCIDALDEHYDE OXIRANECARBOXALDEHYDE	3 8 (CA)
70-25-7	# GUANIDINE, 1-METHYL-3-NITRO-1-NITROSO- GUANIDINE, N-METHYL-N'-NITRO-N-NITROSO-	3 8 (CA,MU)
23092-17-3	# HALAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-5-PHENYL-1-(2, * 2-TRIFLUOROETHYL)-	13(EE,FF) (TE)
194-59-2	# 7H-DIBENZO(C,G)CARBAZOLE	5 8 (CA)
76-68-3	# HEAXCHLOROBUTADIENE 1,3-BUTADIENE, 1,1,2,3,4,4,-HEXACHLORO-	2 3 8 15 (CA)
76-44-8	# HEPTACHLOR 4,7-METHANO-1H-INDENE, 1,4,5,6,7,8,8-HEPTACHLORO-3A,4,7,7A- * TETRAHYDRO-	1 2 3 6 8 14 (CA)
118-74-1	# HEXACHLOROBENZENE BENZENE, HEXACHLORO-	3 5 6 8 (CA)
87-68-3	# HEXACHLOROBUTDIENE 1,3-BUTADIENE, HEXACHLORO-	2 3 7 (CA)
67-72-1	# HEXACHLOROETHANE ETHANE, HEXACHLORO-	1 2 3 6 8 (CA)
302-01-2	# HYDRAZINE	1 2 3 6 7 8 15 (CA,CO,F3,MU,R2)
1615-80-1	# HYDRAZINE, 1,2-DIETHYL-	8 (CA)
540-73-8	# HYDRAZINE, 1,2-DIMETHYL-	3 8 (CA,MU)
123-31-9	# HYDROQUINONE 1,4-BENZENEDIOL	1 2 3 4 6 15 (MU)
127-07-1	# HYDROXYUREA UREA, HYDROXY-	13(U,V,X) (MU,TE)
4342-03-4	# IMIDAZOLE-4-CARBOXAMIDE, 5-(3,3-DIMETHYL-1-TRIAZENO)- 1H-IMIDAZOLE-4-CARBOXAMIDE, 5-(3,3-DIMETHYL-1-TRIAZENYL)-	7 (CA)

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129-00-0	# INDENO (1,2,3-CD) PYRENE	5 (CA)
9004-66-4	# IRON-DEXTRAN COMPLEX IRON DEXTRAN	5 8 (CA)
143-50-0	# KEPONE 1,3,4-METHENO-2H-CYCLOBUTA CD PENTALEN-2-ONE, 1,1A,3,3A,4,5,5, * 5A,5B,6-DECACHLOROOCTAHYDRO-	3 4 5 8 (CA)
303-34-4	# 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- 1.ALPHA.(Z),7(2S*, * 3R*),7A.ALPHA. -	8 (CA,MU)
7439-92-1	# LEAD	1 2 4 6 (TE)
301-04-2	# LEAD ACETATE (2+) LEAD ACETATE	1 3 4 5 (CA,TE)
7645-25-2	# LEAD ARSENATE ARSENIC ACID (H3ASO4), LEAD SALT	1 2 3 4 5 7 8 (CA)
13424-46-9	# LEAD AZIDE LEAD AZIDE (PB(N3)2)	1 2 3 4 (TE)
12612-47-4	# LEAD CHLORIDE	1 2 3 4 (TE)
18454-12-1	# LEAD CHROMATE CHROMIUM LEAD OXIDE	1 2 4 5 7 8 (CA)
592-05-2	# LEAD CYANIDE LEAD CYANIDE PB(CN)2	1 2 3 4 (TE)
53096-04-1	# LEAD FLUORIDE	1 2 3 4 (TE)
12684-19-4	# LEAD IODIDE	1 2 3 4 (TE)
18256-98-9	# LEAD NITRATE NITRIC ACID, LEAD SALT	1 2 3 4 (TE)
13637-76-8	# LEAD PERCHLORATE PERCHLORIC ACID, LEAD(2+) SALT	1 2 3 4 (TE)
7446-27-7	# LEAD PHOSPHATE	1 2 4 5 7 (CA)

7446-14-2	# LEAD SULPHATE
	LEAD(II) SULFATE(1:1)
		1 2 3
		(CO,TE)

592-87-0	# LEAD THIOCYANATE THIOCYANIC ACID, LEAD(2+) SALT	1 2 3 4 (TE)
58-89-9	# LINDANE CYCLOHEXANE, 1,2,3,4,5,6-HEXACHLORO-, (1.ALPHA.,2.ALPHA., * 3.BETA.,4.ALPHA.,5.ALPHA.,6.BETA.)-	1 2 3 5 6 14 (CA)
554-13-2	# LITHIUM CARBONATE CARBONIC ACID, DILITHIUM SALT	13(Y,EE,FF) (TE)
846-49-1	# LORAZEPAM 2H-1, 4-BENZIDIAZEPIN-2-ONE, 7-CHLORO-5-(O-CHLOROPHENYL)-1,3- * DIHYDRO	13(Y,EE,FF) (TE)
121-75-5	# MALATHION BUTANEDIOIC ACID, (DIMETHOXYPHOSPHINOTHIOYL)THIO -, * DIETHYL ESTER	1 2 3 4 (MU)
12427-38-2	# MANEB MANGANESE, (ETHYLENEBIS(DITHIOCARBAMATO))-	1 2 3 6 8 (CA)

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148-82-3	# MELPHALAN L-PHENYLALANINE, 4- BIS(2-CHLOROETHYL)AMINO -	5 7 8 13(E,H) (CA,MU)
57-53-4	# MEPROBAMATE 1,3-PROPANEDIOL, 2-METHYL-2-PROPYL-, DICARBAMATE	13(Y,EE,FF) (TE)
72-33-3	# MESTRANOL 19-NORPREGNA-1,3,5(10)-TRIEN-20-YN-17-OL, 3-METHOXY-, * (17.ALPHA.)-	7 (CA.MU)
62-50-0	# METHANESULFONIC ACID, ETHYL ESTER	8 (CA,MU)
66-27-3	# METHANESULFONIC ACID, METHYL ESTER	8 (CA,MU)
91-80-5	# METHAPYRILENE 1,2-ETHANEDIAMINE, N,N-DIMETHYL-N'-2-PYRIDINYL-N'-(2- * THIENYLMETHYL)-	8 (CA)
59-05-2	# METHOTREXATE L-GLUTAMIC ACID, N- 4- (2,4-DIAMINO-6- * PTERIDINYL)METHYL METHYLAMINO BENZOYL -	13(C,G,O,Y,EE,FF) (MU,TE)
101-14-4	# 4,4'-METHYLENEBIS (2-CHLOROANILINE) BENZENAMINE, 4,4'-METHYLENEBIS 2-CHLORO-	1 2 4 5 6 8 (CA)
101-61-1	# 4,4'-METHYLENEBIS (N,N-DIMETHYL) BENZENAMINE ANILINE, 4,4'-METHYLENEBIS (N,N-DIMETHYL)-	5 6 (CA,MU)
60-34-4	# METHYL HYDRAZINE HYDRAZINE, METHYL-	1 2 3 4 6 15 (CO,F3,MU)
74-88-4	# METHYL IODIDE METHANE, IODO-	1 2 3 6 8 (CA)
502-39-6	# METHYL MERCURY DICYANDIAMIDE MERCURY, (3-CYANOGUANIDINO)-METHYL	1 2 (TE)
298-00-0	# METHYL PARATHION PHOSPHOROTHIOIC ACID, O,O-DIMETHYL O-(4-NITROPHENYL) ESTER	2 3 4 14 (MU)
615-53-2	# METHYL URETHANE CARBAMIC ACID, METHYL NITROSO-ETHYL ESTER	8 (CA,MU)
443-48-1	# METRONIDAZOLE 1H-IMIDAZOLE-1-ETHANOL, 2-METHYL-5-NITRO-	7 (CA,MU)
90-94-8	# MICHLERS KETONE METHANONE-BIS 4-(DIMETHYLAMINO) PHENYL -	5 (CA)
2385-85-5	# MIREX 1,3,4-METHENO-1H-CYCLOBUTA CD PENTALENE, 1,1A,2,2,3,3A,4,5,5,5A, * 5B,6-DODECACHLOROOCTAHYDRO-	5 (CA)
505-60-2	# MUSTARD GAS ETHANE, 1,1'-THIOBIS 2-CHLORO-	5 7 8 (CA,MU)
91-59-8	# 2-NAPHTHYLAMINE 2-NAPHTHALENAMINE	1 2 3 5 7 8 (CA,MU)
134-32-7	# 1-NAPHTHYLAMINE 1-NAPHTHALENAMINE	1 6 8 15 (CA,MU)
7440-02-0	# NICKEL	1 2 4 5 6 7 8 12(A,B,G,K) (CA)
139-13-9	# NITRILOTRIACETIC ACID GLYCINE, N,N-BIS(CARBOXYMETHYL)-	5 (CA)
1836-75-5	# NITROFEN BENZENAMINE, 4-ETHOXY-N- (5-NITRO-2-FURANYL)METHYLENE -	5 6 (CA)
55-86-7	# NITROGEN MUSTARD ETHANAMINE, 2-CHLORO-N-(2-CHLOROETHYL)-N-METHYL-, HYDROCHLORIDE	7 8 13(D,H,L,Q,Y,EE,FF) (CA,MU,TE)

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302-70-5	# NITROGEN MUSTARD N-OXIDE HYDROCHLORIDE DIETHYLAMINE,2,2'-DICHLORO-N-METHYL,N-OXIDE, HYDROCHLORIDE	8 (CA)
99-59-2	# 5-NITRO-O-ANISIDINE BENZENAMINE, 2-METHOXY-5-NITRO-	5 6 (CA)
1116-54-7	# N-NITROSODIETHANOLAMINE ETHANOL, 2,2'-(NITROSOIMINO)BIS-	5 8 (CA)
55-18-5	# N-NITROSODIETHYLAMINE ETHANAMINE, N-ETHYL-N-NITROSO-	5 8 (CA,MU)
62-75-9	# N-NITROSODIMETHYLAMINE METHANAMINE, N-METHYL-N-NITROSO-	1 2 5 8 (CA,MU)
924-16-3	# N-NITROSODI-N-BUTYLAMINE 1-BUTANAMINE, N-BUTYL-N-NITROSO-	5 8 (CA,MU)
621-64-7	# N-NITROSODI-N-PROPYLAMINE 1-PROPANEAMINE N-NITROSO, N-PROPYL-	5 8 (CA,MU)
59-89-2	# N-NITROSOMORPHOLINE MORPHOLINE, 4-NITROSO-	5 8 (CA,MU)
759-73-9	# N,NITROSO-N-ETHYLUREA UREA, N-ETHYL-N-NITROSO-	5 8 (CA,MU,TE)
684-93-5	# N-NITROSO-N-METHYLUREA UREA, N-METHYL-N-NITROSO-	5 8 (CA)
100-75-4	# N-NITROSOPIPERIDINE PIPERIDINE, 1-NITROSO-	5 8 (CA,MU)
13256-22-9	# N-NITROSOSARCOSINE GLYCINE, N-METHYL-N-NITROSO-	5 8 (CA)
68-22-4	# NORETHISTERONE 19-NORPREGN-4-EN-20-YN-3-ONE, 17-HYDROXY-, (17.ALPHA.)-	7 (CA,MU)
90-04-0	# O-ANISIDINE BENZENAMINE, 2-METHOXY-	1 2 3 5 6 15 (CA)
134-29-2	# O-ANISIDINE HYDROCHLORIDE BENZENAMINE, 2-METHOXY-, HYDROCHLORIDE	5 (CA)
95-53-4	# O-TOLUIDINE BENZENAMINE, 2-METHYL-	1 2 6 7 15 (CA,MU)
636-21-5	# O-TOLUIDINE HYDROCHLORIDE BENZENAMINE, 2-METHYL-, HYDROCHLORIDE	5 8 (CA)
99-55-8	# O-TOLUIDINE, 5-NITRO BENZENAMINE, 2-METHYL-5-NITRO-	3 8 (CA)
1120-71-4	# 1,2-OXATHIOLANE 2,2-DIOXIDE 1,2-OXATHIOLANE, 2,2-DIOXIDE	2 8 (CA,MU)
604-75-1	# OXAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 7-CHLORO-1,3-DIHYDRO-3-HYDROXY-5- * PHENYL-	13(Y,EE,FF) (TE)
434-07-1	# OXYMETHOLONE ANDROSTAN-3-ONE, 17-HYDROXY-2-(HYDROXYMETHYLENE)-17-METHYL-, * (5.ALPHA.,17.BETA.)-	5 7 (CA)
68-76-8	# P-BENZOQUINONE, 2,3,5-TRIS(1-AZIRIDINYL)- 2,5-CYCLOHEXADIENE-1,4-DIONE, 2,3,5-TRIS(1-AZIRIDINYL)-	7 (CA,MU)
120-71-8	# P-CRESIDINE BENZENAMINE, 2-METHOXY-5-METHYL-	5 6 (CA)
62-44-2	# PHENACETIN ACETAMIDE, N-(4-ETHOXYPHENYL)-	5 7 8 (CA)
136-40-3	# PHENAZOPYRIDINE HYDROCHLORIDE 2,6-PYRIDINEDIAMINE, 3-(PHENYLAZO)-, MONOHYDROCHLORIDE	5 (CA)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
108-95-2	# PHENOL	1 2 3 4 6 12(B) 15 (MU)
100-57-2	# PHENYLMERCURIC HYDROXIDE MERCURY, HYDROXYPHENYL-	1 2 3 (TE)
55-68-5	# PHENYLMERCURIC NITRATE MERCURY, (NITRATO-O)PHENYL-	1 2 3 (TE)
57-41-0	# PHENYTOIN 2,4-IMIDAZOLIDINEDIONE, 5,5-DIPHENYL-	5 7 (CA,TE)
52-24-4	# PHOSPHINE SULFIDE, TRIS(1-AZIRIDINYL)- AZIRIDINE, 1,1',1''-PHOSPHINOTHIOYLIDYNETRIS-	5 7 8 (CA,MU)
100-01-6	# P-NITROANILINE BENZENAMINE, 4-NITRO-	1 2 (MU)
100-00-5	# P-NITROCHLOROBENZENE BENZENE, 1-CHLORO-4-NITRO-	1 2 3 15 (CO,MU)
156-10-5	# P-NITROSODIPHENYLAMINE BENZENAMINE, 4-NITROSO-N-PHENYL-	5 (CA)
59536-65-1	# POLYBROMINATED BIPHENYLS FIREMASTER BP-6	5 (CA)
67774-32-7	# POLYBROMINATED BIPHENYLS FIREMASTER FF1	5 (CA)
1336-36-3	# POLYCHLORINATED BIPHENYLS	3 4 5 6 7 8 (CA,TE)
7784-41-0	# POTASSIUM ARSENATE ARSENIC ACID (H3ASO4), MONOPOTASSIUM SALT	1 2 3 5 7 8 (CA)
10124-50-2	# POTASSIUM ARSENITE ARSONIC ACID, POTASSIUM SALT	1 2 3 5 7 8 (CA)
7789-00-6	# POTASSIUM CHROMATE CHROMIC ACID (H2CRO4), DIPOTASSIUM SALT	1 2 3 7 (CA)
7778-50-9	# POTASSIUM DICHROMATE CHROMIC ACID (H2CR2O7), DIPOTASSIUM SALT	1 2 3 5 7 8 (CA)
2955-38-6	# PRAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 1,3-DIHYDRO-7-CHLORO-1- * (CYCLOPROPYLMETHYL)- PHENYL-	13(EE,FF) (TE)
366-70-1	# PROCARBAZINE HYDROCHLORIDE BENZAMIDE, N-(1-METHYLETHYL)-4- (2-METHYLHYDRAZINO)METHYL -, * MONOHYDROCHLORIDE	5 7 13(D,H,L,Q) (CA,MU,TE)
57-83-0	# PROGESTERONE PREGN-4-ENE-3,20-DIONE	7 (CA,MU)
23950-58-5	# PRONAMIDE BENZAMIDE, 3,5-DICHLORO-N-(1,1-DIMETHYL-2-PROPYNYL)-	8 (CA)
75-56-9	# PROPYLENE OXIDE OXIRANE, METHYL-	1 2 3 6 15 (F4,MU,R2)
671-16-9	# P-TOLUAMIDE, N-ISOPROPYL-ALPHA-(2-METHYLHYDRAZINO)-	5 7 (CA,MU)
91-22-5	# QUINOLINE	3 6 15 (MU)
56-57-5	# QUINOLINE, 4-NITRO-, 1-OXIDE	8 (CA,MU)
82-68-8	# QUINTOZENE BENZENE, PENTACHLORONITRO-	6 8 (CA)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
50-55-5	# RESERPINE YOHIMBAN-16-CARBOXYLIC ACID, 11,17-DIMETHOXY-18- (3,4,5- * TRIMETHOXYBENZOYL)OXY -, METHYL ESTER, (3.BETA.,16.BETA., * 17.ALPHA.,18.BETA.,20.ALPHA.)-	5 8 (CA,MU)
N-ON-E	# RESIN FAST BLACK NP	9 (CA)
81-07-2	# SACCHARIN 1,2-BENZISOTHIAZOL-3(2H)-ONE, 1,1-DIOXIDE	5 8 (CA)
94-59-7	# SAFROLE 1,3-BENZODIOXOLE, 5-(2-PROPENYL)-	5 6 8 (CA,MU)
56093-45-9	# SELENIUM SULFIDE	1 2 5 8 (CA)
7631-89-2	# SODIUM ARSENATE ARSENIC ACID (H3ASO4), SODIUM SALT	1 2 3 5 7 8 (CA,TE)
7784-46-5	# SODIUM ARSENITE ARSENENOUS ACID, SODIUM SALT	1 2 3 5 7 8 (CA,MU)
26628-22-8	# SODIUM AZIDE SODIUM AZIDE (NA(N3))	2 3 14 (MU)
7775-11-3	# SODIUM CHROMATE CHROMIUM SODIUM OXIDE	1 2 3 5 7 8 (CA)
10588-01-9	# SODIUM DICHROMATE CHROMIC ACID, DISODIUM SALT	1 2 3 5 7 8 (CA)
18883-66-4	# STREPTOZOCIN D-GLUCOSE, 2-DEOXY-2- (METHYLNITROSOAMINO)CARBONYL AMINO -	5 8 (CA,MU)
7789-06-2	# STRONTIUM CHROMATE CHROMIC ACID (H2CRO4), STRONTIUM SALT (1:1)	3 5 7 8 (CA)
100-42-5	# STYRENE MONOMER	1 2 3 6 15 (F3,MU,R2)
96-09-3	# STYRENE OXIDE OXIRANE, PHENYL-	6 15 (MU)
95-06-7	# SULFALLATE CARBAMODITHIOIC ACID, DIETHYL-, 2-CHLORO-2-PROPENYL ESTER	5 (CA)
846-50-4	# TEMAZEPAM 2H-1,4-BENZODIAZEPIN-2-ONE, 7-CHLORO-1,3-DIHYDRO-3-HYDROXY-1- * METHYL-5-PHENYL-	13(EE,FF) (TE)
75-91-2	# TERT-BUTYL HYDROPEROXIDE HYDROPEROXIDE, 1,1-DIMETHYLETHYL	3 (MU)
58-22-0	# TESTOSTERONE ANDROST-4-EN-5-ONE, 17-HYDROXY-	13(BB,Y,FF) (TE)
1746-01-6	# 2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN DIBENZO B,E 1,4 DIOXIN, 2,3,7,8-TETRACHLORO-	5 7 8 (CA,TE)
79-34-5	# 1,1,2,2-TETRACHLOROETHANE ETHANE, 1,1,2,2-TETRACHLORO-	1 2 3 4 6 8 (CA)
127-18-4	# TETRACHLOROETHYLENE ETHENE, TETRACHLORO-	1 2 3 4 6 8 10 (CA)
60-54-8	# 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- * , 4S-(4.ALPHA.,4A.ALPHA.,5A.ALPHA.,6.BETA.,12A.ALPHA.) -	12(A,G) (TE)
62-55-5	# THIOACETAMIDE ETHANETHIOAMIDE	5 8 (CA)
62-56-6	# THIOUREA	3 5 6 8 (CA,MU)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART I

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
1314-20-1	# THORIUM DIOXIDE THORIUM OXIDE (THO2)	5 (CA)
8001-35-2	# TOXAPHENE	1 2 3 5 6 8 (CA)
299-75-2	# TREOSULFAN 1,2,3,4-BUTANETETROL, 1,4-DIMETHANESULFONATE, S-(R*,R*) -	7 (CA)
28911-01-5	# TRIAZOLAM 4H-S-TRIAZOLO (4,3-A) (1,4) BENZODIAZEPINE, 8-CHLORO-6-(O- * CHLOROPHENYL)-1-METHYL-	13(EE,FF) (TE)
79-00-5	# 1,1,2-TRICHLOROETHANE ETHANE, 1,1,2-TRICHLORO-	1 2 6 8 (CA)
79-01-6	# TRICHLOROETHYLENE ETHENE, TRICHLORO-	1 2 3 4 6 8 10 15 (CA,MU)
88-06-2	# 2,4,6-TRICHLOROPHENOL PHENOL, 2,4,6-TRICHLORO-	5 7 8 (CA)
93-76-5	# 2,4,5-(TRICHLOROPHENOXY) ACETIC ACID ACETIC ACID, (2,4,5-TRICHLOROPHENOXY)-	1 2 3 14 (MU)
96-18-4	# 1,2,3-TRICHLOROPROPANE PROPANE, 1,2,3-TRICHLORO-	1 2 15 (MU)
126-72-7	# TRIS(2,3-DIBROMOPROPYL)PHOSPHATE 1-PROPANOL, 2,3-DIBROMO-, PHOSPHATE (3:1)	5 8 (CA)
66-75-1	# URACIL, 5-(BIS(2-CHLOROETHYL)AMINO)- 2,4(1H,3H)-PYRIMIDINEDIONE, 5- BIS(2-CHLOROETHYL)AMINO -	8 (CA,MU)
51-21-8	# URACIL, 5-FLUORO- 2,4(1H,3H)-PYRIMIDINEDIONE, 5-FLUORO-	13(C,G,R) (MU,TE)
56-04-2	# URACIL, 6-METHYL-2-THIO- 4(1H)-PYRIMIDINONE, 2,3-DIHYDRO-6-METHYL-2-THIOXO-	8 (CA)
51-52-5	# URACIL, 6-PROPYL-2-THIO- 4(1H)-PYRIMIDINONE, 2,3-DIHYDRO-6-PROPYL-2-THIOXO-	7 8 (CA,MU)
51-79-6	# URETHANE CARBAMIC ACID, ETHYL ESTER	5 6 8 (CA,MU,TE)
75-01-4	# VINYL CHLORIDE ETHENE, CHLORO-	1 2 3 4 5 6 7 8 15 (CA,F4,MU)
106-87-6	# VINYL CYCLOHEXENE DIOXIDE 7-OXABICYCLO 4.1.0 HEPTANE, 3-OXIRANYL-	2 (MU)
75-35-4	# VINYLIDENE CHLORIDE ETHENE, 1,1-DICHLORO-	2 3 4 8 15 (CA,F4,MU,R2)
81-81-2	# WARFARIN 2H-1-BENZOPYRAN-2-ONE, 4-HYDROXY-3-(3-OXO-1-PHENYLBUTYL)-	1 2 14 (TE)
13530-65-9	# ZINC CHROMATE CHROMIC ACID (H2CRO4), ZINC SALT (1:1)	1 2 5 7 8 (CA)
12122-67-7	# ZINEB ZINC, (ETHYLENE BIS(DITHIOCARBAMATE))	6 8 (CA,MU)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

THE FOLLOWING FLAMMABLE, REACTIVE/EXPLOSIVE, AND CORROSIVE SUBSTANCES ARE SPECIAL HEALTH HAZARD SUBSTANCES WHEN PRESENT AS PURE SUBSTANCES OR PRESENT IN A MIXTURE WHICH MEETS THE HAZARD CRITERIA AS DEFINED IN N.J.A.C. 8:59 - 10.2(A)

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
64-19-7	# ACETIC ACID	1 2 3 15 (CO)
108-24-7	# ACETIC ANHYDRIDE ACETIC ACID, ANHYDRIDE	1 2 3 15 (CO)
67-64-1	# ACETONE 2-PROPANONE	1 2 3 4 15 (F3)
75-86-5	# ACETONE CYANOHYDRIN PROPANENITRILE, 2-HYDROXY-2-METHYL-	3 4 15 (R2)
75-05-8	# ACETONITRILE	1 2 3 4 15 (F3)
506-96-7	# ACETYL BROMIDE	3 (CO)
75-36-5	# ACETYL CHLORIDE	3 15 (CO,F3,R2)
74-86-2	# ACETYLENE ETHYNE	2 3 4 15 (F4,R3)
507-02-8	# ACETYL IODIDE	3 (CO)
110-22-5	# ACETYL PEROXIDE PEROXIDE, DIACETYL	3 15 (R4)
79-10-7	# ACRYLIC ACID 2-PROPENOIC ACID	2 3 6 15 (CO,R2)
75-75-2	# ALKANE SULFONIC ACID METHANESULFONIC ACID	3 (CO)
591-87-7	# ALLYL ACETATE ACETIC ACID, 2-PROPENYL ESTER	3 15 (F3)
107-18-6	# ALLYL ALCOHOL 2-PROPEN-1-OL	1 2 3 14 15 (F3)
107-11-9	# ALLYL AMINE 2-PROPEN-1-AMINE	3 15 (F3)
106-95-6	# ALLYL BROMIDE 1-PROPENE, 3-BROMO-	3 15 (F3)
107-05-1	# ALLYL CHLORIDE 1-PROPENE, 3-CHLORO-	1 2 3 4 6 15 (F3)
2937-50-0	# ALLYL CHLOROCARBONATE CARBONOCHLORIDIC ACID, 2-PROPENYL ESTER	3 15 (CO,F3)
557-31-3	# ALLYL ETHYL ETHER 1-PROPENE, 3-ETHOXY-	3 (F3,R2)
556-56-9	# ALLYL IODIDE 1-PROPENE, 3-IODO-	3 (CO)
107-37-9	# ALLYL TRICHLOROSILANE SILANE, TRICHLORO-2-PROPENYL-	3 15 (CO,F3,R2)
7727-15-3	# ALUMINUM BROMIDE ALUMINUM BROMIDE (ALBR3)	3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
7446-70-0	# ALUMINUM CHLORIDE ALUMINUM CHLORIDE (ALCL3)	1 2 3 (CO)
7784-30-7	# ALUMINUM PHOSPHATE PHOSPHORIC ACID, ALUMINUM SALT (1:1)	2 3 (CO)
110-76-9	# AMINOETHOXYETHANOL ETHANEAMINE, 2-ETHOXY-	3 (CO)
28631-79-0	# AMINOETHYLPIPERAZINE PIPERAZINEETHANAMINE	3 15 (CO)
123-00-2	# AMINOPROPYLMORPHOLINE 4-MORPHOLINEPROPANAMINE	3 15 (CO)
7664-41-7	# AMMONIA	1 2 3 4 15 (CO)
10192-30-0	# AMMONIUM BISULFITE SULFUROUS ACID, MONOAMMONIUM SALT	3 (CO)
7803-63-6	# AMMONIUM HYDROGEN SULFATE SULFURIC ACID, MONOAMMONIUM SALT	3 (CO)
6484-52-2	# AMMONIUM NITRATE NITRIC ACID AMMONIUM SALT	3 (R3)
7790-98-9	# AMMONIUM PERCHLORATE PERCHLORIC ACID, AMMONIUM SALT	3 (R4)
13446-10-1	# AMMONIUM PERMANGANATE PERMANGANIC ACID (HMNO4), AMMONIUM SALT	3 (R3)
9080-17-5	# AMMONIUM POLYSULFIDE AMMONIUM SULFIDE ((NH4)2(SX))	3 (CO)
12135-76-1	# AMMONIUM SULFIDE AMMONIUM SULFIDE ((NH4)2S)	3 (CO)
12789-46-7	# AMYL ACID PHOSPHATE PHOSPHORIC ACID, PENTYL ESTER	3 (CO)
71-41-0	# AMYL ALCOHOL 1-PENTANOL	3 15 (F3)
110-58-7	# AMYL AMINE 1-PENTANAMINE	3 15 (F3)
543-59-9	# AMYL CHLORIDE PENTANE, 1-CHLORO-	3 15 (F3)
25377-72-4	# AMYLENE, NORMAL PENTENE	3 15 (F4)
638-49-3	# AMYL FORMATE FORMIC ACID, PENTYL ESTER	3 15 (F3)
110-66-7	# AMYL MERCAPTAN 1-PENTANETHIOL	3 4 15 (F3)
1002-16-0	# AMYL NITRATE NITRIC ACID, PENTYL ESTER	3 15 (R2)
110-46-3	# AMYL NITRITE NITROUS ACID, 3-METHYLBUTYL ESTER	3 15 (R2)
463-04-7	# AMYL NITRITE NITROUS ACID, PENTYL ESTER	3 15 (R2)
107-72-2	# AMYLTRICHLOROSILANE SILANE, TRICHLOROPENTYL-	3 15 (CO,R2)
1300-64-7	# ANISOYL CHLORIDE BENZOYL CHLORIDE, METHOXY-	3 (CO)
7647-18-9	# ANTIMONY PENTACHLORIDE ANTIMONY CHLORIDE (SBCL5)	1 2 3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
7783-70-2	# ANTIMONY PENTAFLUORIDE ANTIMONY FLUORIDE (SBF5)	1 2 3 (CO)
7789-61-9	# ANTIMONY TRIBROMIDE STIBINE, TRIBROMO-	1 2 3 (CO)
10025-91-9	# ANTIMONY TRICHLORIDE STIBINE, TRICHLORO-	1 2 3 (CO)
7783-56-4	# ANTIMONY TRIFLUORIDE STIBINE, TRIFLUORO-	1 2 3 (CO)
13477-00-4	# BARIUM CHLORATE CHLORIC ACID, BARIUM SALT	1 2 3 (R2)
644-97-3	# BENZENE PHOSPHOROUS DICHLORIDE PHOSPHORUS DICHLORIDE, PHENYL-	3 (CO)
3497-00-5	# BENZENE PHOSPHOROUS THIODICHLORIDE PHOSPHONOTHIOIC DICHLORIDE, PHENYL-	3 (CO)
98-09-9	# BENZENE SULFONYL CHLORIDE	3 (CO)
98-08-8	# BENZOTRIFLUORIDE BENZENE, (TRIFLUOROMETHYL)-	3 15 (F3)
98-88-4	# BENZOYL CHLORIDE	3 6 15 (CO)
94-36-0	# BENZOYL PEROXIDE PEROXIDE, DIBENZOYL	1 2 3 4 6 (F4,R4)
100-39-0	# BENZYL BROMIDE BENZENE, (BROMOMETHYL)-	3 (CO)
501-53-1	# BENZYL CHLOROFORMATE CARBONOCHLORIDIC ACID, PHENYLMETHYL ESTER	3 (CO)
103-83-3	# BENZYL DIMETHYLAMINE BENZENEMETHANAMINE, N,N-DIMETHYL-	3 (CO)
56-18-8	# BIS(AMINOPROPYL)AMINE 1,3-PROPANEDIAMINE, N-(3-AMINOPROPYL)-	3 (CO)
7209-38-3	# BIS(AMINOPROPYL)PIPERAZINE PIPERAZINE,1,4-BIS(3-AMINOPROPYL)-	3 (CO)
10294-33-4	# BORON TRIBROMIDE BORANE, TRIBROMO-	2 3 (CO)
10294-34-5	# BORON TRICHLORIDE BORANE, TRICHLORO-	3 (CO)
109-63-7	# BORON TRIFLUORIDE DIETHYL ETHERATE BORON, TRIFLUORO 1,1'-OXYBIS ETHANE -, (T-4)-	1 2 3 15 (CO)
13319-75-0	# BORON TRIFLUORIDE DIHYDRATE BORANE, TRIFLUORO-, DIHYDRATE	1 2 3 (CO)
7726-95-6	# BROMINE	1 2 3 (CO)
13863-41-7	# BROMINE CHLORIDE	3 (CO)
7789-30-2	# BROMINE PENTAFLUORIDE BROMINE FLUORIDE (BRF5)	2 3 (CO,R3)
7787-71-5	# BROMINE TRIFLUORIDE BROMINE FLUORIDE (BRF3)	3 (CO,R3)
598-21-0	# BROMOACETYL BROMIDE ACETYL BROMIDE, BROMO-	3 (CO)
106-96-7	# 3-BROMOPROPYNE PROPYNE, 3-BROMO-	3 (F3,R4)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
106-99-0	# 1,3-BUTADIENE	1 2 3 6 15 (F4,R2)
106-97-8	# BUTANE	2 3 15 (F4)
52933-01-4	# BUTYL ACID PHOSPHATE PHOSPHORIC ACID, DIBUTYL ESTER, * MIXT. WITH BUTYL DIHYDROGEN PHOSPHATE	3 (CO)
141-32-2	# BUTYL ACRYLATE 2-PROPENOIC ACID, BUTYL ESTER	2 3 15 (R2)
109-73-9	# BUTYLAMINE 1-BUTANAMINE	1 2 3 15 (F3)
109-65-9	# BUTYL BROMIDE BUTANE, 1-BROMO-	3 15 (F3)
109-69-3	# BUTYL CHLORIDE BUTANE, 1-CHLORO-	3 15 (F3)
592-34-7	# BUTYLCHLOROFORMATE CARBONOCHLORIDIC ACID, BUTYL ESTER	3 (CO)
25167-67-3	# BUTYLENE BUTENE	3 15 (F3,R2)
142-96-1	# BUTYL ETHER BUTANE, 1,1'-OXYBIS-	3 15 (F3)
109-79-5	# BUTYL MERCAPTAN 1-BUTANETHIOL	1 2 3 4 15 (F3)
590-01-2	# BUTYL PROPIONATE PROPANOIC ACID, BUTYL ESTER	3 15 (F3)
7521-80-4	# BUTYL TRICHLOROSILANE SILANE, BUTYLTRICHLORO-	3 15 (CO)
111-34-2	# BUTYL VINYL ETHER BUTANE, 1-(ETHENYLOXY)-	3 15 (F3,R2)
123-72-8	# BUTYRALDEHYDE BUTANAL	3 15 (F3)
107-92-6	# BUTYRIC ACID BUTANOIC ACID	3 15 (CO)
106-31-0	# BUTYRIC ANHYDRIDE BUTANOIC ACID, ANHYDRIDE	3 15 (CO)
109-74-0	# BUTYRONITRILE BUTANENITRILE	3 4 15 (F3)
141-75-3	# BUTYRYL CHLORIDE BUTANOYL CHLORIDE	3 (CO)
7440-70-2	# CALCIUM	3 (R2)
75-20-7	# CALCIUM CARBIDE CALCIUM CARBIDE (CAC2)	3 (F4,R2)
13780-03-5	# CALCIUM HYDROGEN SULFITE SULFUROUS ACID, CALCIUM SALT (2:1)	3 (CO)
7778-54-3	# CALCIUM HYPOCHLORITE HYPOCHLOROUS ACID, CALCIUM SALT	3 (R2)
142-62-1	# CAPROIC ACID HEXANOIC ACID	3 15 (CO)
75-15-0	# CARBON DISULFIDE	1 2 3 4 14 15 (F3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
630-08-0	# CARBON MONOXIDE	1 2 3 4 15 (F4)
21351-79-1	# CESIUM HYDROXIDE CESIUM HYDROXIDE (CS(OH))	2 3 (CO)
13637-63-3	# CHLORINE PENTAFLUORIDE CHLORINE FLUORIDE (CLF5)	1 2 3 (CO)
79-11-8	# CHLOROACETIC ACID ACETIC ACID, CHLORO-	3 15 (CO)
79-04-9	# CHLOROACETYL CHLORIDE ACETYL CHLORIDE, CHLORO-	2 3 (CO)
108-90-7	# CHLOROBENZENE BENZENE, CHLORO-	1 2 3 6 15 (F3)
22128-62-7	# CHLOROMETHYLCHLORO-FORMATE CARBONOCHLORIDIC ACID, CHLOROMETHYL ESTER	3 (CO)
600-25-9	# 1-CHLORO-1-NITROPROPANE PROPANE, 1-CHLORO-1-NITRO-	1 2 15 (R3)
106-48-9	# CHLOROPHENATE PHENOL, P-CHLORO	3 (CO)
108-43-0	# CHLOROPHENATE PHENOL, M-CHLORO	3 (CO)
16941-12-1	# CHLOROPLATINIC ACID PLATINATE(2-), HEXACHLORO-, DIHYDROGEN, (OC-6-11)-	1 2 3 (CO)
28554-00-9	# CHLOROPROPIONIC ACID PROPANOIC ACID, CHLORO-	3 15 (CO)
7790-94-5	# CHLOROSULPHONIC ACID CHLOROSULFURIC ACID	3 (CO)
25168-05-2	# CHLOROTOLUENE BENZENE, CHLOROMETHYL-	3 15 (CO)
13530-68-2	# CHROMIC ACID CHROMIC ACID (H2CR207)	1 3 4 (CO)
7788-97-8	# CHROMIC FLUORIDE CHROMIUM FLUORIDE (CRF3)	1 2 3 (CO)
14977-61-8	# CHROMIUM OXYCHLORIDE CHROMIUM, DICHLORODIOXO-	1 2 3 (CO)
64093-79-4	# CHROMOSULFURIC ACID NEOCHROMIUM	1 2 3 (CO)
3724-65-0	# CROTONIC ACID 2-BUTENOIC ACID	3 15 (CO)
80-15-9	# CUMENE HYDROPEROXIDE HYDROPEROXIDE, 1-METHYL-1-PHENYLETHYL	3 6 15 (R4)
13426-91-0	# CUPRIETHYLENEDIAMINE COPPER(2+), BIS(1,2-ETHANEDIAMINE-N,N')-	1 2 3 (CO)
420-04-2	# CYANAMIDE	2 15 (R3)
2074-87-5	# CYANOGEN	2 3 15 (F4,R3)
460-19-5	# CYANOGEN ETHANEDINITRILE	2 3 15 (F4,R3)
108-77-0	# CYANURIC CHLORIDE 1,3,5-TRIAZINE, 2,4,6-TRICHLORO-	3 (CO)
287-23-0	# CYCLOBUTANE	3 15 (F4)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
81228-87-7	# CYCLOBUTYLCHLORO-FORMATE CARBONOCHLORIDIC ACID, CYCLOBUTYL ESTER	3 (CO)
291-64-5	# CYCLOHEPTANE	3 15 (F3)
110-82-7	# CYCLOHEXANE	1 2 3 15 (F3)
10137-69-6	# CYCLOHEXENYL TRI-CHLOROSILANE SILANE, (3-CYCLOHEXENYL)TRICHLORO-	3 (CO)
98-12-4	# CYCLOHEXYL TRICHLORO-SILANE SILANE, TRICHLOROCYCLOHEXYL-	3 15 (CO)
29965-97-7	# CYCLOOCTADIENE	3 15 (F3)
287-92-3	# CYCLOPENTANE	2 3 15 (F3)
120-92-3	# CYCLOPENTANONE	3 15 (F3)
142-29-0	# CYCLOPENTENE	3 15 (F3)
75-19-4	# CYCLOPROPANE	3 15 (F4)
2691-41-0	# CYCLOTETRAMETHYLENETETRANITRAMINE 1,3,5,7-TETRAZOCINE, OCTAHYDRO-1,3,5,7-TETRANITRO-	3 (CO)
7782-39-0	# DEUTERIUM	3 15 (F4)
557-40-4	# DIALLYLETHER 1-PROPENE, 3,3'-OXYBIS-	3 15 (F3,R2)
18414-36-3	# DIBENZYLDICHLOROSILANE SILANE, DICHLOROBIS(PHENYLMETHYL)-	3 (CO)

19287-45-7	# DIBORANE
	DIBORANE(6)
		1 2 3 15
		(F4,R3)

111-92-2	# DIBUTYLAMINE 1-BUTANAMINE, N-BUTYL-	3 15 (CO)
79-43-6	# DICHLOROACETIC ACID ACETIC ACID, DICHLORO-	3 (CO)
79-36-7	# DICHLOROACETYL CHLORIDE ACETYL CHLORIDE, DICHLORO-	3 15 (CO)
11069-19-5	# DICHLOROBUTENE BUTENE, DICHLORO-	3 15 (CO)
540-59-0	# 1,2-DICHLOROETHYLENE ETHENE, 1,2-DICHLORO-	1 2 3 14 15 (F3,R2)
594-72-9	# 1,1-DICHLORO-1-NITROETHANE ETHANE, 1,1-DICHLORO-1-NITRO-	1 2 3 15 (R3)
27137-85-5	# DICHLOROPHENYL TRI-CHLOROSILANE SILANE, TRICHLORO(DICHLOROPHENYL)-	3 (CO)
78-87-5	# 1,2-DICHLOROPROPANE PROPANE, 1,2-DICHLORO-	1 2 3 6 15 (F3)
75-99-0	# 2,2-DICHLOROPROPIONIC ACID PROPANOIC ACID, 2,2-DICHLORO-	2 3 (CO)
542-75-6	# 1,3-DICHLOROPROPYLENE 1-PROPENE, 1,3-DICHLORO-	2 3 6 15 (F3)
101-83-7	# DICYCLOHEXYLAMINE CYCLOHEXANAMINE, N-CYCLOHEXYL-	3 15 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
77-73-6	# DICYCLOPENTADIENE 4,7-METHANO-1H-INDENE, 3A,4,7,7A-TETRAHYDRO-	2 3 15 (F3)
96-10-6	# DIETHYLALUMINUM CHLORIDE ALUMINUM, CHLORODIETHYL-	2 3 15 (F3,R3)
109-89-7	# DIETHYLAMINE ETHANAMINE, N-ETHYL-	1 2 3 15 (F3)
104-78-9	# 3-(DIETHYLAMINO) PROPYLAMINE 1,3-PROPANEDIAMINE, N,N-DIETHYL-	3 (CO)
584-02-1	# DIETHYLCARBINOL 3-PENTANOL	3 15 (F3)
105-58-8	# DIETHYL CARBONATE CARBONIC ACID, DIETHYL ESTER	3 15 (F3)
1719-53-5	# DIETHYL DICHLOROSILANE SILANE, DICHLORODIETHYL-	3 (CO)
111-40-0	# DIETHYLENE TRIAMINE 1,2-ETHANEDIAMINE, N-(2-AMINOETHYL)-	2 15 (CO)
60-29-7	# DIETHYL ETHER ETHANE, 1,1'-OXYBIS-	1 2 3 4 15 (F4)
96-22-0	# DIETHYL KETONE 3-PENTANONE	2 3 15 (F3)
557-20-0	# DIETHYLZINC ZINC, DIETHYL-	3 15 (F3,R3)
13779-41-4	# DIFLUOROPHOSPHORIC ACID PHOSPHORODIFLUORIDIC ACID	1 2 3 (R2)
25512-65-6	# DIHYDROPYRAN 2H-PYRAN, DIHYDRO-	3 15 (F3)
110-96-3	# DI-ISOBUTYLAMINE 1-PROPANAMINE, 2-METHYL-N-(2-METHYLPROPYL)-	3 15 (F3)
25167-70-8	# DI-ISOBUTYLENE PENTENE, 2,4,4-TRIMETHYL-	3 15 (F3)
27215-10-7	# DIISOOCTYL ACID PHOSPHATE ISOOCTANOL HYDROGEN PHOSPHATE	3 (CO)
108-18-9	# DI-ISOPROPYLAMINE 2-PROPANAMINE, N-(1-METHYLETHYL)-	1 2 3 (F3)
96-80-0	# DI-ISOPROPYLETHANOLAMINE ETHANOL, 2- BIS(1-METHYLETHYL)AMINO -	3 (CO)
108-20-3	# DI-ISOPROPYL ETHER PROPANE, 2,2'-OXYBIS-	1 2 3 (F3)
105-64-6	# DI-ISOPROPYL PEROXY-DICARBONATE PEROXYDICARBONIC ACID, BIS(1-METHYLETHYL) ESTER	3 (F4,R4)
674-82-8	# DIKETENE 2-OXETANONE, 4-METHYLENE-	3 15 (R2)
124-40-3	# DIMETHYLAMINE METHANAMINE, N-METHYL-	1 2 3 15 (F4)
927-62-8	# DIMETHYLBUTYLAMINE N,N-DIMETHYL-1-BUTANAMINE	3 15 (F3)
616-38-6	# DIMETHYL CARBONATE CARBONIC ACID, DIMETHYL ESTER	3 15 (F3)
589-90-2	# 1,4-DIMETHYLCYCLOHEXANE CYCLOHEXANE, 1,4-DIMETHYL-	3 15 (F3)
98-94-2	# DIMETHYLCYCLOHEXYL AMINE CYCLOHEXANAMINE, N,N-DIMETHYL	3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
75-78-5	# DIMETHYLDICHLOROSILANE SILANE, DICHLORODIMETHYL-	3 15 (CO,F3)
25136-55-4	# DIMETHYLDIOXANE 1,4-DIOXANE, DIMETHYL-	3 15 (F3)
624-92-0	# DIMETHYLDISULFIDE DISULFIDE, DIMETHYL	3 (F4)
115-10-6	# DIMETHYL ETHER METHANE, OXYBIS-	3 15 (F4)
463-82-1	# DIMETHYLPROPANE PROPANE, 2,2-DIMETHYL	3 15 (F4)
926-63-6	# DIMETHYLPROPYLAMINE 1-PROPANAMINE, N,N-DIMETHYL-	3 (CO)
75-18-3	# DIMETHYL SULFIDE METHANE, THIOBIS-	3 (R4)
2524-03-0	# DIMETHYL THIOPHOSPHORYL CHLORIDE PHOSPHOROCHLORIDOTHIOIC ACID, O,O-DIMETHYL ESTER	3 (CO)
26471-56-7	# DINITROANILINE BENZENAMINE, AR,AR-DINITRO-	3 15 (R3)
25154-54-5	# DINITROBENZENE BENZENE, DINITRO	1 2 3 15 (R4)
25567-67-3	# DINITROCHLOROBENZENE BENZENE, CHLORODINITRO-	3 15 (R4)
646-06-0	# DIOXOLANE 1,3-DIOXOLANE	3 15 (F3,R2)
80-10-4	# DIPHENYL DICHLOROSILANE SILANE, DICHLORODIPHENYL-	3 15 (CO)
776-74-9	# DIPHENYLMETHYL BROMIDE BENZENE, 1,1'-(BROMOMETHYLENE)BIS-	3 (CO)
142-84-7	# DIPROPYLAMINE 1-PROPANAMINE, N-PROPYL-	3 15 (F3)
111-43-3	# DIPROPYL ETHER PROPANE, 1,1'-OXYBIS-	3 15 (F3)
1321-74-0	# DIVINYL BENZENE BENZENE, DIETHENYL-	2 15 (R2)
109-93-3	# DIVINYL ETHER ETHENE, 1,1'-OXYBIS-	3 15 (F3,R2)
27176-87-0	# DODECYLBENZENE-SULFONIC ACID BENZENESULFONIC ACID, DODECYL-	3 (CO)
4484-72-4	# DODECYL TRICHLOROSILANE SILANE, TRICHLORODODECYL-	3 (CO)
74-84-0	# ETHANE	2 3 15 (F4)
141-43-5	# ETHANOLAMINE ETHANOL, 2-AMINO-	1 2 3 15 (CO)
141-78-6	# ETHYL ACETATE ACETIC ACID ETHYL ESTER	1 2 3 15 (F3)
140-88-5	# ETHYL ACRYLATE 2-PROPENOIC ACID, ETHYL ESTER	1 2 3 15 (F3,R2)
64-17-5	# ETHYL ALCOHOL ETHANOL	1 2 3 15 (F3)
563-43-9	# ETHYL ALUMINUM DI-CHLORIDE ALUMINUM, DICHLOROETHYL-	2 3 15 (F3,R3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
12075-68-2	# ETHYL ALUMINUM SESQUI-CHLORIDE ALUMINUM, TRICHLOROTRIETHYLDI-	2 3 15 (F3,R3)
75-04-7	# ETHYLAMINE ETHANAMINE	1 2 3 15 (F4)
100-41-4	# ETHYL BENZENE BENZENE, ETHYL-	1 2 3 6 15 (F3)
51845-86-4	# ETHYL BORATE BORIC ACID, ETHYL ESTER	3 15 (F3)
97-95-0	# ETHYLBUTANOL 1-BUTANOL, 2-ETHYL	3 15 (F3)
628-81-9	# ETHYLBUTYL ETHER BUTANE, 1-ETHOXY-	3 15 (F3)
97-96-1	# ETHYLBUTYRALDEHYDE BUTANAL, 2-ETHYL	3 15 (F3)
105-54-4	# ETHYL BUTYRATE BUTANOIC ACID, ETHYL ESTER	3 15 (F3)
75-00-3	# ETHYL CHLORIDE ETHANE, CHLORO-	1 2 3 15 (F4)
105-39-5	# ETHYL CHLOROACETATE ACETIC ACID, CHLORO-, ETHYL ESTER	3 15 (F3)
541-41-3	# ETHYL CHLOROFORMATE CARBONOCHLORIDIC ACID, ETHYL ESTER	3 15 (CO,F3)
2941-64-2	# ETHYL CHLOROTHIOFORMATE CARBONOCHLORIDOTHIOIC ACID, S-ETHYL ESTER	3 (CO)
10544-63-5	# ETHYL CROTONATE 2-BUTENOIC ACID, ETHYL ESTER	3 15 (F3)
1789-58-8	# ETHYL DICHLOROSILANE SILANE, DICHLOROETHYL-	3 15 (CO,F3)
74-85-1	# ETHYLENE ETHENE	2 3 15 (F4,R2)
107-15-3	# ETHYLENEDIAMINE 1,2-ETHANEDIAMINE	1 2 3 15 (CO)
629-14-1	# ETHYLENE GLYCOL DIETHYL ETHER ETHANE, 1,2-DIETHOXY-	3 15 (F3)
353-36-6	# ETHYL FLUORIDE ETHANE, FLUORO-	1 2 3 15 (F4)
109-94-4	# ETHYL FORMATE FORMIC ACID, ETHYL ESTER	1 2 3 15 (F3)
24468-13-1	# ETHYL HEXYLCHLORO-FORMATE CARBONOCHLORIDIC ACID, 2-ETHYLHEXYL ESTER	3 (CO)
97-62-1	# ETHYL ISOBUTYRATE PROPANOIC ACID, 2-METHYL-, ETHYL ESTER	3 15 (F3)
75-08-1	# ETHYL MERCAPTAN ETHANETHIOL	1 2 3 4 15 (F4)
97-63-2	# ETHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, ETHYL ESTER	3 15 (F3)
625-58-1	# ETHYL NITRATE NITRIC ACID, ETHYL ESTER	3 15 (F3,R4)
109-95-5	# ETHYL NITRITE NITROUS ACID, ETHYL ESTER	3 15 (F4,R4)
1125-27-5	# ETHYL PHENYL DICHLORO-SILANE SILANE, DICHLOROETHYLPHENYL	3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
1498-40-4	# ETHYL PHOSPHONOUS DICHLORIDE PHOSPHONOUS DICHLORIDE, ETHYL-	3 (CO)
1498-51-7	# ETHYL PHOSPHORODICHLORIDATE PHOSPHORODICHLORIDIC ACID, ETHYL ESTER	3 (CO)
105-37-3	# ETHYL PROPIONATE PROPANOIC ACID, ETHYL ESTER	3 15 (F3)
628-32-0	# ETHYL PROPYL ETHER PROPANE, 1-ETHOXY-	3 15 (F3)
540-82-9	# ETHYL SULFURIC ACID SULFURIC ACID, MONOETHYL ESTER	3 (CO)
115-21-9	# ETHYLTRICHLOROSILANE SILANE, TRICHLOROETHYL-	3 15 (CO,F3)
7705-08-0	# FERRIC CHLORIDE IRON CHLORIDE (FECL3)	2 3 (CO)
7758-94-3	# FERROUS CHLORIDE IRON CHLORIDE (FECL2)	2 3 (CO)
16872-11-0	# FLUOBORIC ACID BORATE(1-), TETRAFLUORO-, HYDROGEN	1 2 3 (CO)
7782-41-4	# FLUORINE	1 2 3 (R3)
462-06-6	# FLUOROBENZENE BENZENE, FLUORO-	3 15 (F3)
13478-20-1	# FLUOROPHOSPHORIC ACID PHOSPHORYL FLUORIDE	1 2 3 (CO)
7789-21-1	# FLUOROSULPHONIC ACID FLUOROSULFURIC ACID	3 (CO)
16961-83-4	# FLUOSILICIC ACID SILICATE(2-), HEXAFLUORO-, DIHYDROGEN	1 2 3 (CO)
64-18-6	# FORMIC ACID	1 2 3 15 (CO)
627-63-4	# FUMARYL CHLORIDE 2-BUTENEDIOYL DICHLORIDE, (E)-	3 (CO)
110-00-9	# FURAN	3 15 (F4)
617-89-0	# FURFURYLAMINE 2-FURANMETHANAMINE	3 15 (F3)
7440-55-3	# GALLIUM	3 (CO)
8006-61-9	# GASOLINE	2 3 15 (F3)
81624-04-6	# HEPTENE	3 15 (F3)
77-47-4	# HEXACHLOROCYCLOPENTADIENE 1,3-CYCLOPENTADIENE, 1,2,3,4,5,5-HEXACHLORO-	2 3 (CO)
42296-74-2	# HEXADIENE	3 15 (F3)
16940-81-1	# HEXAFLUOROPHOSPHORIC ACID PHOSPHATE(1-), HEXAFLUORO-, HYDROGEN	1 2 3 (CO)
66-25-1	# HEXALDEHYDE HEXANAL	3 15 (F3)
124-09-4	# HEXAMETHYLENE DIAMINE 1,6-HEXANEDIAMINE	3 15 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
81624-06-8	# HEXENE	3 15 (F3)
928-65-4	# HEXYL TRICHLOROSILANE SILANE, TRICHLOROHEXYL-	3 (CO)
10034-85-2	# HYDRIODIC ACID	3 (CO)
1333-74-0	# HYDROGEN	2 3 15 (F4)
10035-10-6	# HYDROGEN BROMIDE HYDROBROMIC ACID	1 2 3 (CO)
7647-01-0	# HYDROGEN CHLORIDE HYDROCHLORIC ACID	1 2 3 (CO)
74-90-8	# HYDROGEN CYANIDE HYDROCYANIC ACID	1 2 3 4 14 15 (F4,R2)
7664-39-3	# HYDROGEN FLUORIDE HYDROFLUORIC ACID	1 2 3 4 (CO)
7722-84-1	# HYDROGEN PEROXIDE HYDROGEN PEROXIDE (H2O2)	1 2 3 (CO,R3)
7783-06-4	# HYDROGEN SULFIDE HYDROGEN SULFIDE (H2S)	1 2 3 4 15 (F4)
10039-54-0	# HYDROXYLAMINE SULFATE HYDROXYLAMINE, SULFATE (2:1) (SALT)	3 (CO)
7790-99-0	# IODINE MONOCHLORIDE IODINE CHLORIDE (ICL)	3 (CO)
12040-57-2	# IRON CHLORIDE	2 3 15 (CO)
13463-40-6	# IRON PENTACARBONYL IRON CARBONYL (FE(CO)5), (TB-5-11)-	2 3 15 (F3)
123-92-2	# ISOAMYL ACETATE 1-BUTANOL, 3-METHYL-, ACETATE	1 2 15 (F3)
75-28-5	# ISOBUTANE PROPANE, 2-METHYL-	3 15 (F4)
110-19-0	# ISOBUTYL ACETATE ACETIC ACID, 2-METHYLPROPYL ESTER	1 2 3 15 (F3)
106-63-8	# ISOBUTYL ACRYLATE 2-PROPENOIC ACID, 2-METHYLPROPYL ESTER	3 15 (F3)
78-83-1	# ISOBUTYL ALCOHOL 1-PROPANOL, 2-METHYL-	1 2 3 15 (F3)
78-81-9	# ISOBUTYLAMINE 1-PROPANAMINE, 2-METHYL-	3 15 (F3)
115-11-7	# ISOBUTYLENE 1-PROPENE, 2-METHYL-	3 15 (F4)
542-55-2	# ISOBUTYL FORMATE FORMIC ACID, 2-METHYLPROPYL ESTER	3 15 (F3)
79-31-2	# ISOBUTYRIC ACID PROPANOIC ACID, 2-METHYL-	3 15 (CO)
97-72-3	# ISOBUTYRIC ANHYDRIDE PROPANOIC ACID, 2-METHYL-, ANHYDRIDE	3 15 (CO)
78-82-0	# ISOBUTYRONITRILE PROPANENITRILE, 2-METHYL-	3 4 15 (F3)
26635-64-3	# ISOOCTANE	3 15 (F3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
11071-47-9	# ISOOCTENE	3 15 (F3)
78-78-4	# ISOPENTANE BUTANE, 2-METHYL-	3 15 (F4)
503-74-2	# ISOPENTANOIC ACID BUTANOIC ACID, 3-METHYL-	3 15 (CO)
2855-13-2	# ISOPHORONEDIAMINE CYCLOHEXANEMETHANAMINE, 5-AMINO-1,3,3-TRIMETHYL-	3 (CO)
78-79-5	# ISOPRENE 1,3-BUTADIENE, 2-METHYL-	3 15 (F4,R2)
108-22-5	# ISOPROPENYL ACETATE 1-PROPEN-2-OL, ACETATE	3 15 (F3)
108-21-4	# ISOPROPYL ACETATE ACETIC ACID, 1-METHYLETHYL ESTER	1 2 3 15 (CO,F3)
1623-24-1	# ISOPROPYL ACID PHOSPHATE PHOSPHORIC ACID, MONO(1-METHYLETHYL) ESTER	3 (CO)
67-63-0	# ISOPROPYL ALCOHOL 2-PROPANOL	1 2 3 15 (F3)
75-31-0	# ISOPROPYLAMINE 2-PROPANAMINE	1 2 3 15 (F4)
108-23-6	# ISOPROPYL CHLOROFORMATE CARBONOCHLORIDIC ACID, 1-METHYLETHYL ESTER	3 (CO)
7580-67-8	# LITHIUM HYDRIDE LITHIUM HYDRIDE (LIH)	1 2 3 (F4,R2)
1310-66-3	# LITHIUM HYDROXIDE MONOHYDRATE LITHIUM HYDROXIDE (LI(OH)), MONOHYDRATE	3 (CO)
7439-95-4	# MAGNESIUM	3 (R2)
108-39-4	# M-CRESOL PHENOL, 3-METHYL-	1 2 3 4 15 (CO)
7439-97-6	# MERCURY	1 2 3 4 6 (CO)
37273-91-9	# METALDEHYDE	3 15 (F3)
79-41-4	# METHACRYLIC ACID 2-PROPENOIC ACID, 2-METHYL-	2 3 15 (CO,R2)
513-42-8	# METHALLYL ALCOHOL 2-PROPEN-1-OL, 2-METHYL-	3 15 (F3)
74-82-8	# METHANE	2 3 15 (F4)
79-20-9	# METHYL ACETATE ACETIC ACID, METHYL ESTER	1 2 3 15 (F3)
74-99-7	# METHYL ACETYLENE 1-PROPYNE	1 2 15 (F4,R2)
96-33-3	# METHYL ACRYLATE 2-PROPENOIC ACID, METHYL ESTER	1 2 3 15 (F3,R2)
109-87-5	# METHYLAL METHANE, DIMETHOXY-	1 2 3 15 (F3,R2)
67-56-1	# METHYL ALCOHOL METHANOL	1 2 3 4 15 (F3)
12542-85-7	# METHYL ALUMINUM SESQUICHLORIDE ALUMINUM, TRICHLOROTRIMETHYLDI-	2 3 15 (F3,R3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
74-89-5	# METHYLAMINE METHANAMINE	1 2 3 15 (F4)
26760-64-5	# METHYLBUTENE BUTENE, 2-METHYL-	3 15 (F3,R2)
623-42-7	# METHYL BUTYRATE BUTANOIC ACID, METHYL ESTER	3 15 (F3)
74-87-3	# METHYL CHLORIDE METHANE, CHLORO-	1 2 3 15 (F4)
108-87-2	# METHYLCYCLOHEXANE CYCLOHEXANE, METHYL-	1 2 3 15 (F3)
96-37-7	# METHYL CYCLOPENTANE CYCLOPENTANE, METHYL-	3 15 (F3)
116-54-1	# METHYL DICHLOROACETATE ACETIC ACID, DICHLORO-, METHYL ESTER	3 (CO)
75-54-7	# METHYL DICHLOROSILANE SILANE, DICHLOROMETHYL-	3 15 (CO,F3,R2)
540-67-0	# METHYL ETHYL ETHER ETHANE, METHOXY-	3 15 (F4)
104-90-5	# 2-METHYL-5-ETHYLPYRIDINE 2-PICOLINE, 5-ETHYL-	3 (CO,F3)
107-31-3	# METHYL FORMATE FORMIC ACID, METHYL ESTER	1 2 3 15 (F4)
108-10-1	# METHYL ISOBUTYL KETONE 2-PENTANONE, 4-METHYL-	1 2 3 4 15 (F3)
624-83-9	# METHYL ISOCYANATE METHANE, ISOCYANATO-	2 3 12(B) 15 (F3,R3)
74-93-1	# METHYL MERCAPTAN METHANETHIOL	1 2 3 4 15 (F4)
80-62-6	# METHYL METHACRYLATE 2-PROPENOIC ACID, 2-METHYL-, METHYL ESTER	1 2 3 6 15 (F3,R2)
109-02-4	# METHYLMORPHOLINE 4-METHYLMORPHOLINE	3 15 (CO,F3)
149-74-6	# METHYLPHENYLDICHLOROSILANE SILANE, DICHLOROMETHYLPHENYL-	3 (CO)
676-83-5	# METHYL PHOSPHONOUS DICHLORIDE PHOSPHONOUS DICHLORIDE, METHYL-	3 (CO)
554-12-1	# METHYL PROPIONATE PROPANOIC ACID, METHYL ESTER	3 15 (F3)
557-17-5	# METHYL PROPYL ETHER PROPANE, 1-METHOXY-	3 15 (F3)
107-87-9	# METHYL PROPYL KETONE 2-PENTANONE	1 2 3 4 15 (F3)
25265-68-3	# METHYL TETRAHYDROFURAN FURAN, TETRAHYDROMETHYL-	3 15 (F3)
75-79-6	# METHYL TRICHLOROSILANE SILANE, TRICHLOROMETHYL-	3 15 (CO,F3,R2)
15877-57-3	# METHYL VALERALDEHYDE PENTANAL, 3-METHYL	3 15 (F3)
123-15-9	# METHYL VALERALDEHYDE PENTANAL, 2-METHYL	3 15 (F3)
1119-16-0	# METHYL VALERALDEHYDE PENTANAL, 4-METHYL	3 15 (F3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
78-94-4	# METHYL VINYL KETONE 3-BUTEN-2-ONE	3 15 (F3,R2)
10241-05-1	# MOLYBDENUM PENTACHLORIDE MOLYBDENUM CHLORIDE (MOCL5)	1 2 3 (CO)
13537-32-1	# MONOFLUOROPHOSPHORIC ACID PHOSPHOROFLUORIDIC ACID	1 2 3 (CO)
110-91-8	# MORPHOLINE	1 2 3 15 (CO,F3)
628-63-7	# N-AMYL ACETATE ACETIC ACID, PENTYL ESTER	1 2 3 15 (F3)
123-86-4	# N-BUTYL ACETATE ACETIC ACID, BUTYL ESTER	1 2 3 15 (F3)
71-36-3	# N-BUTYL ALCOHOL 1-BUTANOL	1 2 3 15 (F3)
75-83-2	# NEOHEXANE BUTANE, 2,2-DIMETHYL-	3 15 (F3)
142-82-5	# N-HEPTANE HEPTANE	1 2 3 4 15 (F3)
110-54-3	# N-HEXANE HEXANE	1 2 3 4 15 (F3)
12612-55-4	# NICKEL CARBONYL	1 2 3 4 15 (F3,R3)
7697-37-2	# NITRIC ACID	1 2 3 4 (CO)
29757-24-2	# NITROANILINE BENZENAMINE, AR-NITRO-	3 15 (R3)
31212-28-9	# NITROBENZENESULFONIC ACID BENZENESULFONIC ACID, NITRO-	3 (CO)
9004-70-0	# NITROCELLULOSE CELLULOSE, NITRATE	3 15 (F3,R3)
79-24-3	# NITROETHANE ETHANE, NITRO-	1 2 3 15 (F3,R3)
55-63-0	# NITROGLYCERIN 1,2,3-PROPANETRIOL, TRINITRATE	1 2 3 4 15 (R4)
8007-56-5	# NITROHYDROCHLORIC ACID AQUA REGIA	3 (CO)
75-52-5	# NITROMETHANE METHANE, NITRO-	1 2 3 15 (F3,R4)
79-46-9	# 2-NITROPROPANE PROPANE, 2-NITRO-	1 2 3 6 10 15 (R2)
108-03-2	# 1-NITROPROPANE PROPANE, 1-NITRO-	1 2 3 15 (R2)
7782-78-7	# NITROSYLSULFURIC ACID SULFURIC ACID, MONOANHYDRIDE WITH NITROUS ACID	3 (CO)
1321-12-6	# NITROTOLUENE BENZENE, METHYLNITRO-	1 2 3 15 (R4)
111-84-2	# NONANE	2 3 15 (F3)
5283-67-0	# NONYL TRICHLOROSILANE SILANE, TRICHLORONONYL-	3 (CO)
109-60-4	# N-PROPYL ACETATE ACETIC ACID, PROPYL ESTER	1 2 3 15 (F3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME / CHEMICAL NAME	SOURCE NUMBER(S) / SPECIAL HEALTH HAZARD CODE(S)
627-13-4	# N-PROPYL NITRATE NITRIC ACID, PROPYL ESTER	1 2 3 15 (F3,R3)
95-48-7	# O-CRESOL PHENOL, 2-METHYL-	1 2 3 4 15 (CO,R2)
112-04-9	# OCTADECYL TRICHLORO-SILANE SILANE, TRICHLOROOCTADECYL-	3 15 (CO)
63597-41-1	# OCTADIENE	3 (CO)
111-65-9	# OCTANE	1 2 3 4 15 (F3)
5283-66-9	# OCTYL TRICHLOROSILANE SILANE, TRICHLOROOCTYL-	3 (CO,R2)
144-62-7	# OXALIC ACID ETHANEDIOIC ACID	1 2 3 (CO)
123-63-7	# PARALDEHYDE 1,3,5-TRIOXANE, 2,4,6-TRIMETHYL-	3 15 (F3)
106-44-5	# P-CRESOL PHENOL, 4-METHYL-	1 2 3 4 15 (CO)

19624-22-7	# PENTABORANE
	PENTABORANE(9)
		1 2 3 15
		(F3,R2)

109-›6-0	# PENTANE	1 2 3 4 15 (F4)
79-21-0	# PEROXYACETIC ACID ETHANEPEROXOIC ACID	3 6 (CO,R4)
98-11-3	# PHENOLSULPHONIC ACID BENZENESULFONIC ACID	3 (CO)
103-80-0	# PHENYLACETYL CHLORIDE BENZENEACETYL CHLORIDE	3 (CO)
1885-14-9	# PHENYLCHLOROFORMATE CARBONOCHLORIDIC ACID, PHENYL ESTER	3 (CO)
98-13-5	# PHENYL TRICHLOROSILANE SILANE, TRICHLOROPHENYL-	3 15 (CO)
13396-80-0	# 9-PHOSPHABICYCLONONANE 9-PHOSPHABICYCLO 4.2.1 NONANE	3 (CO)
7803-51-2	# PHOSPHINE	1 2 3 15 (F4)
7664-38-2	# PHOSPHORIC ACID	1 2 3 (CO)
1314-56-3	# PHOSPHORIC ANHYDRIDE PHOSPHORUS OXIDE (P2O5)	3 (CO)
7789-59-5	# PHOSPHORUS OXYBROMIDE PHOSPHORYL BROMIDE	3 (CO)
7789-69-7	# PHOSPHORUS PENTABROMIDE PHOSPHORANE, PENTABROMO-	3 (CO)
10026-13-8	# PHOSPHORUS PENTACHLORIDE PHOSPHORANE, PENTACHLORO-	1 2 3 (CO)
7789-60-8	# PHOSPHORUS TRIBROMIDE PHOSPHOROUS TRIBROMIDE	3 (CO)
7719-12-2	# PHOSPHORUS TRICHLORIDE PHOSPHOROUS TRICHLORIDE	1 2 3 (CO,R2)
1314-24-5	# PHOSPHORUS TRIOXIDE PHOSPHORUS OXIDE (P2O3)	3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
7723-14-0	# PHOSPHORUS (YELLOW) PHOSPHORUS (WHITE)	1 2 3 14 (F3)
1330-16-1	# PINENE BICYCLO 3.1.1 HEPTANE, 2,6,6-TRIMETHYL-, DIDEHYDRO DERIV.	3 15 (F3)
110-85-0	# PIPERAZINE	3 15 (CO)
110-89-4	# PIPERIDINE	3 15 (F3,R3)
7440-09-7	# POTASSIUM	3 (R2)
7789-23-3	# POTASSIUM FLUORIDE POTASSIUM FLUORIDE (KF)	1 2 3 (CO)
7789-29-9	# POTASSIUM HYDROGEN FLUORIDE POTASSIUM FLUORIDE	1 2 3 (CO)
7646-93-7	# POTASSIUM HYDROGEN SULFATE SULFURIC ACID, MONOPOTASSIUM SALT	3 (CO)
1310-58-3	# POTASSIUM HYDROXIDE POTASSIUM HYDROXIDE (K(OH))	2 3 (CO)
12136-45-7	# POTASSIUM OXIDE POTASSIUM OXIDE (K2O)	3 (CO)
7778-74-7	# POTASSIUM PERCHLORATE PERCHLORIC ACID, POTASSIUM SALT	3 (R2)
17014-71-0	# POTASSIUM PEROXIDE POTASSIUM PEROXIDE (K2(O2))	3 (R2)
37248-34-3	# POTASSIUM SULFIDE	3 (CO)
74-98-6	# PROPANE	1 2 15 (F4)
107-19-7	# PROPARGYL ALCOHOL 2-PROPYN-1-OL	2 3 15 (F3,R3)
123-38-6	# PROPIONALDEHYDE PROPANAL	3 15 (F3)
79-09-4	# PROPIONIC ACID PROPANOIC ACID	2 3 15 (CO)
123-62-6	# PROPIONIC ANHYDRIDE PROPANOIC ACID, ANHYDRIDE	3 15 (CO)
107-12-0	# PROPIONITRILE PROPANENITRILE	3 4 15 (F3)
79-03-8	# PROPIONYL CHLORIDE PROPANOYL CHLORIDE	3 15 (CO,F3)
71-23-8	# PROPYL ALCOHOL 1-PROPANOL	1 2 3 15 (F3)
107-10-8	# PROPYLAMINE 1-PROPANAMINE	3 15 (F3)
103-65-1	# PROPYL BENZENE BENZENE, PROPYL-	3 15 (F3)
109-61-5	# PROPYLCHLOROFORMATE CARBONOCHLORIDIC ACID, PROPYL ESTER	3 (CO)
115-07-1	# PROPYLENE 1-PROPENE	2 3 15 (F4)
78-90-0	# PROPYLENEDIAMINE 1,2-PROPANEDIAMINE	3 15 (CO,F3)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
110-74-7	# PROPYL FORMATE FORMIC ACID, PROPYL ESTER	3 15 (F3)
141-57-1	# PROPYL TRICHLOROSILANE SILANE, TRICHLOROPROPYL-	3 15 (CO,F3,R2)
110-86-1	# PYRIDINE	1 2 3 15 (F3)
7791-27-7	# PYROSULPHURYL CHLORIDE PYROSULFURYL CHLORIDE	3 (CO)
123-75-1	# PYRROLIDINE	3 15 (F3)
83-79-4	# 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.) -	1 2 (CO)
1310-82-3	# RUBIDIUM HYDROXIDE RUBIDIUM HYDROXIDE (RB(OH))	3 15 (CO)
7783-08-6	# SELENIC ACID	1 2 3 (CO)
7791-23-3	# SELENIUM OXYCHLORIDE SELENINYL CHLORIDE	1 2 3 15 (CO)
7440-23-5	# SODIUM	3 (R2)
1302-42-7	# SODIUM ALUMINATE ALUMINATE (ALO21-), SODIUM	3 (CO)
7631-90-5	# SODIUM BISULFITE SULFUROUS ACID, MONOSODIUM SALT	2 3 15 (CO)
7775-09-9	# SODIUM CHLORATE CHLORIC ACID, SODIUM SALT	1 3 14 (R2)
7758-19-2	# SODIUM CHLORITE CHLOROUS ACID, SODIUM SALT	3 (CO,R2)
7646-69-7	# SODIUM HYDRIDE SODIUM HYDRIDE (NAH)	3 (F3,R2)
1333-83-1	# SODIUM HYDROGEN FLUORIDE SODIUM FLUORIDE (NA(HF2))	1 2 3 (CO)
7681-38-1	# SODIUM HYDROGEN SULFATE SULFURIC ACID, MONOSODIUM SALT	3 (CO)
16721-80-5	# SODIUM HYDROSULFIDE SODIUM SULFIDE (NA(SH))	3 (CO)
1310-73-2	# SODIUM HYDROXIDE SODIUM HYDROXIDE (NA(OH))	1 2 3 4 (CO)
12401-86-4	# SODIUM MONOXIDE SODIUM OXIDE (NAO)	3 (CO)
7601-89-0	# SODIUM PERCHLORATE PERCHLORIC ACID, SODIUM SALT	3 (R2)
1313-60-6	# SODIUM PEROXIDE SODIUM PEROXIDE (NA2(O2))	3 (R2)
139-02-6	# SODIUM PHENOLATE PHENOL, SODIUM SALT	3 (CO)
1313-82-2	# SODIUM SULFIDE SODIUM SULFIDE (NA2S)	3 (CO)

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

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
12771-08-3	# SULFUR CHLORIDE	3 15 (CO,R2)
7664-93-9	# SULFURIC ACID	1 2 3 4 (CO,R2)
7782-99-2	# SULFUROUS ACID SOLUTION SULFUROUS ACID (H2SO3)	3 (CO)
7446-11-9	# SULFUR TRIOXIDE	3 (CO)
7791-25-5	# SULFURYL CHLORIDE	3 (CO,R2)
107-71-1	# TERT-BUTYL PEROXYACETATE ETHANEPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	3 (F3,R4)
614-45-9	# TERT-BUTYL PEROXYBENZOATE BENZENECARBOPEROXOIC ACID, 1,1-DIMETHYLETHYL ESTER	3 (F3,R4)
927-07-1	# TERT-BUTYL PEROXYPIVALATE PROPANEPEROXOIC ACID, 2,2-DIMETHYL-, 1,1-DIMETHYLETHYL ESTER	3 (F3,R4)
112-57-2	# TETRAETHYLENEPENTAMINE 1,2-ETHANEDIAMINE, N-(2-AMINOETHYL)-N'- 2- (2- * AMINOETHYL)AMINO ETHYL -	3 15 (CO)
78-00-2	# TETRAETHYL LEAD PLUMBANE, TETRAETHYL-	1 2 3 15 (R3)
116-14-3	# TETRAFLUOROETHYLENE ETHENE, TETRAFLUORO-	3 15 (F4,R3)
109-99-9	# TETRAHYDROFURAN FURAN, TETRAHYDRO-	1 2 3 15 (F3)
75-59-2	# TETRAMETHYL AMMONIUM HYDROXIDE METHANAMINIUM, N,N,N-TRIMETHYL-, HYDROXIDE	3 (CO)
75-74-1	# TETRAMETHYL LEAD PLUMBANE, TETRAMETHYL-	1 2 15 (F3,R3)
68-11-1	# THIOGLYCOLIC ACID ACETIC ACID, MERCAPTO-	2 3 (CO)
7719-09-7	# THIONYL CHLORIDE	3 (CO,R2)
110-02-1	# THIOPHENE	3 15 (F3)
7646-78-8	# TIN TETRACHLORIDE STANNANE, TETRACHLORO-	1 2 3 (CO)
13693-11-3	# TITANIUM SULFATE SULFURIC ACID, TITANIUM(4+) SALT (2:1)	3 (CO)
7550-45-0	# TITANIUM TETRACHLORIDE TITANIUM CHLORIDE (TICL4), (T-4)-	3 (CO)
7705-07-9	# TITANIUM TRICHLORIDE TITANIUM CHLORIDE (TICL3)	3 (CO)
108-88-3	# TOLUENE BENZENE, METHYL-	1 2 3 4 6 15 (F3)
25231-46-3	# TOLUENE SULFONIC ACID BENZENESULFONIC ACID, METHYL-	3 15 (CO)
102-82-9	# TRIBUTYLAMINE 1-BUTANAMINE, N,N-DIBUTYL-	3 15 (CO)
76-03-9	# TRICHLOROACETIC ACID ACETIC ACID, TRICHLORO-	2 3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
10025-78-2	# TRICHLOROSILANE SILANE, TRICHLORO-	3 15 (CO,F4,R2)
97-93-8	# TRIETHYLALUMINIUM ALUMINUM, TRIETHYL-	2 3 15 (F3,R3)
121-44-8	# TRIETHYLAMINE ETHANAMINE, N,N-DIETHYL-	1 2 3 15 (F3)
112-24-3	# TRIETHYLENE TETRAMINE 1,2-ETHANEDIAMINE, N,N'-BIS(2-AMINOETHYL)-	3 15 (CO)
76-05-1	# TRIFLUOROACETIC ACID ACETIC ACID, TRIFLUORO-	3 (CO)
79-38-9	# TRIFLUOROCHLOROETHYLENE ETHENE, CHLOROTRIFLUORO-	3 15 (F4)
100-99-2	# TRIISOBUTYL ALUMINIUM ALUMINUM, TRIS(2-METHYLPROPYL)-	2 3 15 (F3,R3)
3282-30-2	# TRIMETHYLACETYL CHLORIDE PROPANOYL CHLORIDE, 2,2-DIMETHYL-	3 (CO)
75-24-1	# TRIMETHYLALUMINUM ALUMINUM, TRIMETHYL-	2 3 (F3,R3)
75-50-3	# TRIMETHYLAMINE METHANAMINE, N,N-DIMETHYL-	2 3 15 (F4)
121-43-7	# TRIMETHYLBORATE BORIC ACID (H3BO3), TRIMETHYL ESTER	3 15 (F3)
75-77-4	# TRIMETHYLCHLOROSILANE SILANE, CHLOROTRIMETHYL-	3 15 (CO,F3,R2)
34216-34-7	# TRIMETHYLCYCLOHEXYLAMINE CYCLOHEXYLAMINE, TRIMETHYL-	3 (CO)
25620-58-0	# TRIMETHYLHEXAMETHYLENEDIAMINE 1,6-HEXANEDIAMINE, TRIMETHYL-	3 (CO)
99-35-4	# TRINITROBENZENE BENZENE, 1,3,5-TRINITRO-	3 (F4,R4)
118-96-7	# 2, 4, 6-TRINITROTOLUENE BENZENE, 2-METHYL-1,3,5-TRINITRO-	1 2 3 (F4,R4)
102-67-0	# TRIPROPYLALUMINUM ALUMINUM, TRIPROPYL-	2 3 15 (F3,R3)
102-69-2	# TRIPROPYLAMINE 1-PROPANAMINE, N,N-DIPROPYL-	3 15 (CO)
13987-01-4	# TRIPROPYLENE 1-PROPENE, TRIMER	3 15 (F3)
7783-82-6	# TUNGSTEN HEXAFLUORIDE TUNGSTEN FLUORIDE (WF6), (OC-6-11)-	2 3 (CO)
9005-90-7	# TURPENTINE	1 2 3 15 (F3)
110-62-3	# VALERALDEHYDE PENTANAL	2 3 15 (F3)
109-52-4	# VALERIC ACID PENTANOIC ACID	3 15 (CO)
638-29-9	# VALERYL CHLORIDE PENTANOYL CHLORIDE	3 (CO)
7727-18-6	# VANADIUM OXYTRICHLORIDE VANADIUM, TRICHLOROOXO-	3 (CO)
7632-51-1	# VANADIUM TETRACHLORIDE VANADIUM CHLORIDE (VCL4), (T-4)-	3 (CO)

PROPOSED SPECIAL HEALTH HAZARD SUBSTANCE LIST - PART II

CAS #	COMMON NAME CHEMICAL NAME	SOURCE NUMBER(S) SPECIAL HEALTH HAZARD CODE(S)
7718-98-1	# VANADIUM TRICHLORIDE VANADIUM CHLORIDE (VCL3)	3 (CO)
108-05-4	# VINYL ACETATE ACETIC ACID ETHENYL ESTER	2 3 4 15 (F3,R2)
123-20-6	# VINYL BUTYRATE BUTANOIC ACID, ETHENYL ESTER	3 15 (F3,R2)
109-92-2	# VINYL ETHYL ETHER ETHENE, ETHOXY-	3 15 (F4,R2)
75-02-5	# VINYL FLUORIDE ETHENE, FLUORO-	3 4 10 15 (F4,R2)
75-38-7	# VINYLIDENE FLUORIDE ETHENE, 1,1-DIFLUORO-	3 4 15 (F4,R2)
109-53-5	# VINYL ISOBUTYL ETHER PROPANE, 1-(ETHENYLOXY)-2-METHYL-	3 15 (F3,R2)
107-25-5	# VINYL METHYL ETHER ETHENE, METHOXY-	3 15 (F4,R2)
75-94-5	# VINYL TRICHLOROSILANE SILANE, TRICHLOROETHENYL-	3 15 (CO,F3,R2)
1330-20-7	# XYLENES	1 2 3 4 6 15 (F3)
7646-85-7	# ZINC CHLORIDE ZINC CHLORIDE (ZNCL2)	1 2 3 (CO)
7440-67-7	# ZIRCONIUM	1 2 3 (F4)
10026-11-6	# ZIRCONIUM TETRACHLORIDE ZIRCONIUM CHLORIDE (ZRCL4)	1 2 3 (CO)

(a)

OCCUPATIONAL AND ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
OFFICE OF SCIENCE AND RESEARCH

Worker and Community Right to Know Act Trade Secrets

Jointly Proposed New Rule: N.J.A.C. 8:59-3 (N.J.A.C. 7:1G-6)

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health.
Authority: L. 1983, c. 315, N.J.S.A. 34:5A-1 et seq., specifically 34:5A-32.

A **public hearing** concerning this proposal will be held on August 9, 1984, from 1:00 P.M. to 5:00 P.M. and 6:30 P.M. to 9:00 P.M., or until all persons have been heard, at:

State Library - First Floor Conference Room
185 West State Street
Trenton, New Jersey 08625

Interested persons may submit in writing, data, views, or arguments relevant to the proposed new rule on or before August 15, 1984. Submissions must be received by this date or they will not be considered. These submissions, and any inquiries about submission and responses, should be addressed to:

Richard Willinger, Esq.
Occupational Health Program
New Jersey Department of Health
CN 360
Trenton, NJ 08625

The Department of Health and Department of Environmental Protection thereafter may jointly adopt this proposed new rule without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-395.

The agency proposal follows:

Summary

Pursuant to the Worker and Community Right to Know Act, N.J.S.A. 34:5A-15, the Departments of Health and Environmental Protection must promulgate joint rules governing the administration of trade secret claims. This proposal and the Department of Environmental Protection's proposal, also in this Register, constitute the jointly proposed rules governing trade secrets. The provisions of the rules are identical except for sections 3.5, 3.6(a) to (d), 3.9 and 3.11(c) where it was necessary to develop rules applicable to the particular requirements of each department.

An employer may claim the name of a substance or any formula, plan, pattern, process, production data, information, or compilation of information, as a trade secret, which shall protect the information from disclosure to the public. Trade secret claims may be filed to maintain the confidentiality of information requested on the workplace survey, environmental survey and emergency services information survey, and the names of substances on container labels.

Section 3.1 sets forth the statutory authority pursuant to which this rule is promulgated. Section 3.2 states the purpose of the rule. Section 3.3 contains definitions which differ from those contained in the definitions section of the complete rules (subchapter 1.3). Section 3.4 contains general provisions, including instructions on how to mark trade secret claims on survey forms, the address to which trade secret claims should be mailed, and how to prepare trade secret documents. The department will act on a trade secret claim when a request is made for the disclosure of trade secret information and at any other time that the department deems appropriate.

A trade secret may not be claimed for certain information requested on the workplace survey, any substance listed on the Special Health Hazard Substance List, and any information required to be disclosed pursuant to any other act, as set forth in section 3.5. Section 3.6 contains the procedure for asserting a trade secret claim. Normally, trade secret claims will be listed on the annual workplace survey. Claims made after a workplace survey has been filed shall be filed before employees open or use the container containing the trade secret substance or within five working days, whichever is sooner, of the container's arrival at the employer's facility.

An employer will derive its own trade secret registry numbers according to the method set forth in section 3.6. A trade secret claim shall include a summary of the information listed in section (e). Additional information concerning these items may be requested by the department. An employer has the obligation to update information affecting a pending or approved trade secret claim within 60 days of the employer's knowledge or receipt of new pertinent information concerning the claim.

All trade secret claims and information in support of the claim, pending or approved, shall be treated as confidential in accordance with section 3.7. Strict security measures are detailed in this section to insure that trade secret information is kept confidential. Section 3.8 specifies which department renders the decision on a trade secret claim under different sets of circumstances. An employer who wishes to make a trade secret claim for labeling a container must follow the requirements in section 3.9.

Section 3.10 lists the criteria that must be met in order to be considered a trade secret. For a formula, plan, pattern, process, production data, information, or compilation of information, an employer must establish that it is not patented, is known only to the employer and certain other individuals, is used in the research and development or fabrication and production of an article of trade or service or a mixture, and provides the employer possessing it a competitive advantage over businesses who do not possess it. For a substance, an employer must establish that the substance is unknown to competitors or is included in a formula or process that meets the criteria for formulas and processes.

Any person may request the disclosure of trade secret information pursuant to section 3.11. If the person requests information that is an approved trade secret, the requestor must submit new significant information not previously submitted concerning the invalidity of the claim. The department will render a decision on a request within 120 days with the opportunity to extend this deadline for another 120 days. Once a determination on the validity of a trade secret claim is made, the department will notify the employer as detailed in section 3.12.

Section 3.13 specifies the procedures and time limits for an employers appeal of an adverse trade secret claim determination. Once a trade secret claim has been denied and all appeals and the right to bring an appeal has been exhausted, section 3.14 details the actions that must be taken to modify the workplace and other surveys, hazardous substance fact sheets, and container labels.

Information that is treated as confidential either because of a pending trade secret claim or because it has been approved as a trade secret, may be released to an officer or employee of the State, a contractor of the State, and a physician or osteopath, under certain carefully prescribed circumstances set forth in section 3.15. Employers will be notified prior to disclosure of the information in most cases and the persons receiving the trade secret information will be required to sign a confidentiality agreement, except in the case of a public health or medical emergency. The law sets forth significant criminal penalties for the unauthorized disclosure of trade secret information, as specified in section 3.16.

Social Impact

See the discussion of Social Impact in the proposed Worker and Community Right to Know Act regulations (N.J.A.C. 8:59-1) in this Register. Trade secret claims and approved trade secrets will shield the name of hazardous substances from employees and prevent them from independently investigating the health and safety hazards of that substance. However, they will receive hazardous substance fact sheets which contain the same information about safety, handling, etc., as substances which have been identified by their employers.

Economic Impact

See the discussion of Economic Impact in the proposed Worker and Community Right to Know Act regulations (N.J.A.C. 8:59-1) in this Register. The release of a trade secret could have a significant adverse economic impact on an employer, therefore the department has developed a comprehensive system to protect the trade secret information entrusted to it as part of a claim. By allowing a summary of information to be submitted by an employer in support of its trade secret claim, the expense for an employer to make a claim should be minimized.

Full text of the proposed new rule follows.

SUBCHAPTER 3. TRADE SECRETS

8:59-3.1 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, and N.J.S.A. 13:1D-9.

(b) This subchapter is a jointly adopted rule of the Department of Health and the Department of Environmental Protection (see N.J.A.C. 7:1G-6).

8:59-3.2 Purpose

(a) Trade secret claims will be filed by employers who are subject to the Act to maintain the confidentiality of information requested on the workplace survey, environmental survey or emergency services information survey and the names of hazardous substances on container labels. It is the purpose of this subchapter to prescribe:

1. The procedures and guidelines for filing a trade secret claim;
2. The information required by the department for determination of a trade secret claim;
3. The methods for maintaining the confidentiality and security of trade secret information;
4. The criteria for determination of a trade secret claim;
5. The procedure for requesting trade secret information;
6. The procedures for appeal of a determination of a trade secret claim;
7. The procedures and guidelines for the disclosure of trade secret information.

8:59-3.3 Definitions

For purposes of this subchapter, "department" means both the State Department of Health and the Department of Environmental Protection, unless otherwise indicated.

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

8:59-3.4 General provisions

(a) Except as provided in N.J.A.C. 8:59-3.15, the department shall not disclose any trade secret claim and supporting information that is pending or has been approved.

(b) An employer shall report the information for which a trade secret claim is being made to the appropriate department in accordance with the provisions of N.J.A.C. 8:59-3.6.

(c) On the workplace survey, environmental survey, and emergency services information survey which the employer is required to send to the county health department, county clerk, or designated county lead agency; local fire department; and local police department; and which it retains on file at the facility for employee inspection, the employer shall note on the surveys where information has been claimed to be a trade secret.

(d) Any workplace survey, environmental survey, and emergency services information survey shall be made available to the public indicating pending or approved trade secret information.

(e) All documents containing the information claimed to be a trade secret and supporting information 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 shall be mailed or delivered to:

Chief, Occupational Health Program
New Jersey Department of Health
CN 368, Trenton, NJ 08625; or

Director, Office of Science and Research
New Jersey Department of Environmental Protection
CN 405, Trenton, NJ 08625

(f) The top of each page of any document containing the information for which a trade secret claim is being made 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, shall display the word "CONFIDENTIAL" in bold type on both sides. This envelope shall be enclosed in a plain envelope addressed for mailing.

(h) The department shall determine the validity of a trade secret claim when a request is made by any person for the disclosure of the information for which the trade secret claim was made and at any time that the department deems appropriate. The department shall make its determination on a trade secret claim in accordance with the criteria in N.J.A.C. 8:59-3.10. The department may approve a trade secret claim based on information provided pursuant to N.J.A.C. 8:59-3.6(e).

(i) The department may revoke an approved trade secret claim upon the receipt of new information from any person regarding the information previously submitted by an employer pursuant to N.J.A.C. 8:59-3.6. In the event of such revocation, N.J.A.C. 8:59-3.12 and 3.13 shall apply in the same manner as where the department rejects a trade secret claim.

(j) Nothing in these regulations shall be construed as prohibiting the incorporation of trade secret information into cumulations of data subject to disclosure as public records, provided that such disclosure is not in a form that would foreseeably allow persons outside the department, not otherwise having knowledge of such information, to deduce from it the trade secret information, or the identity of the employer who supplied it to the department.

(k) Any failure by an employer to submit additional information requested by the department or to allow inspection of its facility by the department for purposes of determining the validity of a trade secret claim shall constitute valid cause for denial of the trade secret claim.

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. Any substance listed on the Special Health Hazard Substance List;

2. Any information required to be disclosed pursuant to any other act;

3. The following information requested on the workplace survey:

i. Name of the employer;

ii. Location of the facility;

iii. Total number of employees at the facility;

iv. Number of production and maintenance employees by sex.

8:59-3.6 Procedure for filing a claim

(a) An employer who claims that disclosing information on a workplace survey would reveal a trade secret shall file a trade secret claim annually with the Department of Health by completing the trade secret section of the workplace survey and submitting a summary of the information required in (e) below.

(b) 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 annually with the Department of Health by completing the trade secret section of the workplace survey and submitting the information required in (e) below.

(c) An employer making 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 trade secret claim is being made in the section of the survey to be distributed to the fire, police, and county health department, county clerk, or designated county lead agency. The employer shall derive the registry number by adding a numeral beginning with "5000" at the end of its 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." Each new trade secret claim shall be numbered consecutively. A "P" shall be placed after the registry number for pending trade secret claims.

(d) 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. Submissions for trade secret claims for labeling of these substances shall be filed with the Department of Health before employees open or use the container containing the substance or within five working days, whichever is sooner, of the container's arrival at the employer's facility. The summary information required in (e) below shall be submitted within 15 days of submission of the trade secret claim.

(e) An employer shall submit a summary of the following information at the time of submittal of the trade secret claim:

1. Prior trade secret determinations concerning the trade secret claim by the department, other agency or court, and a copy of such determination or reference to it;

2. Whether or not the information is known outside the employer's business;

3. Whether the information is patented;

4. What if any would be the harmful effects of its disclosure;

5. The period of time for which a trade secret designation is requested, if appropriate; and

6. The ease or difficulty with which the information could be disclosed by analytical techniques, laboratory procedures, or other means.

(f) The department may at any time subsequent to the filing of a trade secret claim request, in writing, the information listed in 1 through 4 below. Within 30 days of receipt of such a request, an employer shall answer the request in writing. The department may extend the period for submitting an answer for good cause shown.

1. Prior trade secret determinations by the department, other agency or court, concerning the nature of the information as a trade secret, and a copy of such determination or reference to it.

2. Whether disclosure of the information would be likely to result in harmful effects on the employer's competitive position, and, if so,

i. What those harmful effects would be;

ii. The competitive advantage the employer possesses over employers who do not possess it; and

iii. The value of the information to the employer or the employer's competitor.

3. When the trade secret claim concerns any formula, plan, pattern, process, production data, information, or compilation of information, an employer is required to submit the following information to the department concerning the trade secret claim:

i. Whether it is patented; and

ii. Whether it is used in the research and development or fabrication and production of an article of trade or service or a mixture.

4. Any other relevant information to assist the department in determining the validity of a trade secret claim.

(g) In addition to any information an employer submits pursuant to (e) and (f) above, an employer may submit, and the department shall consider, the following information relevant to the trade secret claim:

1. The extent to which the trade secret is known by employees and others involved in the employer's business;

2. The extent of measures taken by the employer to guard the secrecy of the trade secret;

3. The value of the trade secret, to the employer or the employer's competitor;

4. The amount of effort or money expended by the employer in developing the trade secret.

(h) An employer shall provide, as part of any trade secret claim or submission, the names of reference documents used as the basis for stated conclusions.

(i) An employer shall certify that its trade secret claim is true, accurate and complete.

(j) The department may limit the length of a claim or submissions and require that they be made on forms provided by the department.

(k) An employer shall update information affecting a pending or approved trade secret claim within 60 days of the employer's knowledge or receipt of new pertinent information.

(l) Within 15 days after filing a trade secret claim, an employer shall post on bulletin boards readily accessible to employees a notice of the filing. Every employer filing a claim shall send a copy of the notice to the clerk of the municipality in which the employer's facility is located. Every employer filing a claim who employs employees whose native language is Spanish shall also post the notice in Spanish. The notice shall state the date of the claim and shall invite any person to submit comments on the claim to the department.

8:59-3.7 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) Information regarding trade secret claims, pending or approved, shall only be communicated in person or in writing, among persons authorized pursuant to N.J.A.C. 8:59-3.7 and 3.15, including, but not limited to, employees and officers of the State and its contractors, physicians and osteopaths, as well as between employers and such authorized persons. Said information shall not be communicated over telecommunications networks, including, but not limited to, telephones, computers connected by modems, or electronic mail systems. An exception may be made to this provision for emergencies pursuant to N.J.A.C. 8:59-3.15(g).

(c) Any document transmitted by the department to the employer or any other authorized person, which contains information claimed to be a trade secret, shall be sent 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.

(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 shall be considered the designated representative if no other communication is received from the employer.

(e) Any document prepared by the department for the employer which contains information claimed to be a trade secret shall display the word "CONFIDENTIAL" in bold type or stamp on the top of each page. The envelope containing such document shall be addressed to the employer's chief executive officer or his designated representative and shall display the word "CONFIDENTIAL" in bold type on both sides. This envelope shall be enclosed in a plain envelope addressed for mailing.

(f) Except as provided in N.J.A.C. 8:59-3.15, no person other than the Commissioner and his designated representatives, including administrative law judges conducting hearings on trade secret claims, shall have access to information regarding a trade secret claim. Said designated representatives shall be employees of the department. Designations shall be made in writing. Designated persons other than administrative law judges shall sign an agreement developed by the department protecting 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 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 or the Department of Health.

(g) All documents containing information regarding a trade secret claim shall be stored in a locked file or safe in a locked office in the department. The file or safe and office containing such documents shall be locked when not being used by authorized persons.

(h) Persons authorized to use trade secret documents pursuant to (f) above shall do so in the office in which the trade secret documents are stored, unless authorized to remove the documents by the Commissioner or his designated representative. All trade secret documents which are removed shall be returned to the office in which the documents are stored each day by the end of the regular workday. The department shall maintain a log of persons who use documents containing trade secret information. The log shall include the person's name, title, the name of the document used, and the time of commencing and finishing use of the document. No trade secret document shall be delivered between offices by persons who are not authorized to handle said documents. Such documents shall not be duplicated unless necessary for purposes of N.J.A.C. 8:59-3.15 or if the department determines that it is absolutely necessary to carry out its responsibilities under the Act. If so duplicated, the document shall be marked as a copy, but treated as if it was an original document. The copy shall be destroyed immediately after completion of the use for which it was intended.

8:59-3.8 Decision-making agency on trade secret claim

(a) The Department of Health shall approve or deny a trade secret claim concerning:

1. The name and Chemical Abstracts Service number of any substance listed on the Workplace Hazardous Substance List unless (c) below applies.

2. Information, other than the name and Chemical Abstracts Service number of a substance, reported on the workplace survey.

3. Labeling a container with the chemical name and Chemical Abstracts Service number of the substance in the container.

(b) The Department of Environmental Protection is authorized to approve or deny a trade secret claim concerning:

1. Information, other than the name of a substance, reported on the Environmental Survey.

2. Information, other than the name of a substance, 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 or discharged from a facility into the air or water or onto the land, which is not a special health hazard substance, and for which disclosure is not required by any other act, a decision to approve or deny the claim shall be made by a joint committee composed of the Commissioners of the Department of Health and the Department of Environmental Protection, or their designated representatives.

8:59-3.9 Labeling

(a) An employer shall affix a label with the trade secret registry number to the container in which a hazardous 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.

(b) An employer shall affix a label with the trade secret registry number to the container in which a substance claimed as a trade secret is held before employees open or use the containers 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 for the substance in accordance with N.J.A.C. 8:59-3.6.

8:59-3.10 Criteria for determination of 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 that:

1. It is not patented;

2. It is known only to the employer and certain other individuals;

3. It is used in the research and development or fabrication and production of an article of trade or service or a mixture; and

4. It gives the employer possessing it a competitive advantage over businesses who do not possess it.

(b) The chemical name and Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors, or is included in a formula or process that meets the criteria of (a) above.

(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 pursuant to N.J.S.A. 8:59-3.6(e), (f) and (g).

8:59-3.11 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. The request shall state the requestor's name and address and may include information concerning the validity of a pending or approved trade secret claim.

(b) A request for disclosure of an approved trade secret may be submitted only if accompanied by new significant information not previously submitted concerning the invalidity of the trade secret claim.

(c) The Department of Health shall render a decision on a request for the disclosure of trade secret information from a single employer within 120 days of receipt of the request and shall notify the requestor of its determination. The department may extend this deadline for an additional 120 days if the request involves a large number of substances.

8:59-3.12 Notification of determination of claim

Upon making a determination on the validity of a trade secret claim, the department shall notify the employer of the determination by certified mail, return receipt requested. The notice shall state that the employer has 45 days from receipt of the department's determination to file a written request with the department for an administrative hearing on the determination.

8:59-3.13 Appeal of determination

(a) If the department denies an employer's trade secret claim, the employer shall have 45 days from the receipt of the department's determination to file with the department a written request for an administrative hearing on the determination.

(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 clerk of the municipality in which the employer's facility is located. Every employer filing a claim who employs employees whose native language is Spanish shall also post a notice in Spanish. The notice shall state 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) If a request for an administrative hearing is made pursuant to (a) above, the department, or departments in the case of a decision pursuant to N.J.A.C. 8:59-3.8(c), shall refer the matter to the Office of Administrative Law for a hearing thereon.

(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, or departments in the case of a referral pursuant to (c) above, 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 review as provided in the Rules of Court.

(e) In the event that the department determines, pursuant to (d) above, that the trade secret claim is not valid, the employer shall have 45 days from receipt of the department's determination to notify the department, in writing, that it has filed to appeal the department's decision in the courts. If the employer does not so notify the department, the department shall disclose the information for which the trade secret claim was made in the manner set forth in N.J.A.C. 8:59-3.14.

8:59-3.14 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 been exhausted, the department shall take the following action:

1. Modify the employer's workplace survey, 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;

2. Direct the employer to modify the workplace survey or environmental survey on file at its facility to substitute the omitted information for the trade secret docket or registry number and add the information wherever else appropriate; to send modified copies of its revised workplace and environmental survey to the county health department, county clerk, or designated county lead agency, to the local fire department, and to the local police department 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.

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 local fire department and local police department.

8:59-3.15 Restricted access to trade secret information

(a) Except as provided in (b) through (g) below and N.J.A.C. 8:59-3.7 or when so ordered by a court, no person shall willingly and knowingly disclose, and no person shall willingly and knowingly receive, trade secret information protected by this subchapter without the employer's consent.

(b) An officer or employee of the State may be granted access to trade secret information protected by this subchapter, only in accordance with this section, upon a demonstration to the satisfaction of the department that such request is in connection with the official duties of the officer or employee under any law for the protection of public health.

1. An officer or employee of the State designated by the head of an agency may make a written request to the department for information on a pending or approved trade secret claim. Such request shall state:

i. Name, title, Program, Division, and Department of officer or employee;

ii. The officer or employee's need for the information and its connection with official duties;

iii. The reason why the information cannot be obtained from other sources; and

iv. The public health law for which the information is needed.

2. If the department proposes to release trade secret information to an officer or employee of the State, the department shall notify, in writing and by certified mail, return receipt requested, the employer who submitted the trade secret claim of the intent to release such information.

(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 1 through 3 below have been satisfied. Such approval shall restrict access to the trade secret information to persons approved by the department. 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:

1. It 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 has provided written documentation demonstrating, to the satisfaction of the department, that it maintains Professional Liability Insurance and Comprehensive General Liability Insurance in amounts to be set by the department; and

3. In addition to the requirement of (e) below, it 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) The department shall provide any information for which a trade secret claim is pending or has been approved to a physician or osteopath when such information is needed for medical diagnosis or treatment. The physician or osteopath who will receive confidential information shall be required to sign an agreement developed by the department protecting the confidentiality of the information disclosed. This agreement shall include a provision prohibiting the physician or osteopath from revealing the trade secret information to any person. The employer shall be notified subsequent to disclosure of the information.

(e) Any person granted access to trade secret information pursuant to N.J.A.C. 8:59-3.15 shall sign an agreement developed by the department protecting the confidentiality of the information prior to receipt of the information.

(f) Any person who receives trade secret information pursuant to this section shall take appropriate measures to protect the information from unauthorized disclosure which shall include, but not be limited to:

1. Keeping the information confidential from unauthorized persons;

2. Keeping any records containing trade secret information in a locked file cabinet or safe, when not in use;

3. Using the information only for the use approved by the department;

4. Not reproducing the trade secret information; and

5. Returning all material on which the trade secret information has been recorded to the department within 30 days or when finished using the information, whichever is sooner.

(g) For emergency public health or medical purposes, the department may waive the requirements of (b)1 (written request by State officer or employee), (b)2 (notice to employer prior to release of trade secret information), and (e) (signing confidentiality agreement prior to receipt of trade secret information) above, and shall follow the procedures set forth in 1 and 2 below, if the department determines that disclosure of trade secret information is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment or is necessary for an emergency medical diagnosis or treatment by a physician or osteopath.

1. If trade secret information is conveyed verbally, in person or by telephone, the contents of a confidentiality agreement developed pursuant to (e) above, shall be read to the persons receiving such information.

2. Any person receiving oral or written trade secret information pursuant to this subsection shall sign a confidentiality agreement developed pursuant to (e) above, within 72 hours of receipt of such information.

8:59-3.16 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 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) Disclosure of trade secret information by any contractor or agent of the department or its employees in violation of the Act shall constitute grounds for debarment, suspension, and disqualification from contracting with the department.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Monitoring of Violence and Hazing on Campus

Proposed New Rule: N.J.A.C. 9:2-14

Authorized By: New Jersey Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.
Authority: N.J.S.A. 18:62-5.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses should be addressed to:

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

The Board of Higher Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption;

This proposal is known as PRN 1984-394.

The agency proposal follows:

Summary

The Board of Higher Education is required by statute, N.J.S.A. 18A:62-5, to monitor and report on incidents of violence and hazing on the campuses of institutions of higher education in New Jersey. The statute requires that the Board establish a uniform record-keeping system for the purpose of gathering information pertaining to such offenses. The regulations set forth those acts of violence which must be reported and procedures for reporting acts of violence and hazing after each occurrence on an annual basis.

Social Impact

The proposed rule will have no direct impact upon students of higher education. The institutions of higher education will be affected by the rule because they will have to report incidents of violence and hazing. The Board of Higher Education will monitor and keep records of incidents.,

Economic Impact

The proposed rule will have no direct impact upon students or institutions of higher education, but will impose minimal administrative record keeping costs for the institutions and the Board.

Full text of the proposed new rule follows.

SUBCHAPTER 14. MONITORING OF VIOLENCE AND HAZING ON CAMPUS

9:2-14.1 Definitions

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

"Arson" means the crime committed when a person starts a fire or causes an explosion, whether on his own property or another's thereby purposely, knowingly or recklessly placing another person in danger of death or bodily injury.

"Assault" means the crime committed when a person:

1. Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another, with or without a deadly weapon; or

2. Negligently causes bodily injury to another with a deadly weapon; or

3. Attempts by physical menace to put another in fear of imminent serious bodily injury; or

4. Purposely or knowingly offers, gives or entices any person to take or accept any treat, candy, gift or food which is poisonous, deleterious or harmful to the health or welfare of such person; or

5. Purposely or recklessly tampers with tangible property or another so as to endanger another person.

"Bodily injury" means physical pain, illness or any impairment of physical conditions.

"Deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable or producing death or serious bodily injury or which in the manner it is fashioned would lead the victim reasonably to believe it to be capable of producing death or serious bodily injury.

"Hazing" means the crime committed when a person, in connection with the initiation of applicants to or members of a student or fraternal organization, knowingly or recklessly organizes, promotes, facilitates or engages in any conduct, other than competitive athletic events, which places or may place another person in danger of bodily injury or serious bodily injury.

"Murder" means the crime committed when a person:

1. Purposely or knowingly causes death or serious bodily injury resulting in death; or

2. Acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping or criminal escape, and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants.

"Robbery" means the crime committed when a person in the course of committing a theft:

1. Inflicts bodily injury or uses force upon another; or

2. Threatens another with or purposely puts him in fear of immediate bodily injury.

"Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Sexual assault" means the crime committed when an actor commits an act of sexual penetration with another person if:

1. The actor uses physical force or coercion; or

2. The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object; or

3. The victim is one whom the actor knows or should have known was physically helpless, mentally defective or mentally incapacitated.

9:2-14.2 Incident reporting

(a) Any employee of an institution of higher education observing or having direct knowledge from a participant or victim of an act of violence or hazing, as defined in N.J.A.C. 9:2-14.1, shall file an incident report describing the incident through the campus police or security department. At those institutions with no formal campus police or security department, the employee shall report the incident directly to the chief executive officer of the institution.

(b) Reporting of incidents of violence or hazing on campus shall be by form provided by the institution's campus police or security or where no such form is available, by the Department of Higher Education form entitled "Violent Incident Report".

(c) A copy of all incident reports of violence or hazing on campus which are filed with an institution's campus police or security department shall be forwarded to the chief executive officer of the institution.

(d) A copy of all incident reports of violence or hazing on campus received by an institution's chief executive officer and a report on the action taken regarding the incident shall be forwarded to the Department of Higher Education.

(e) All of the forms of identification, that is, names and social security numbers of the victim and the accused, shall be deleted from the incident reports submitted to the Department of Higher Education.

9:2-14.3 Annual reporting

No later than January 31st of each year, each institution of higher education in New Jersey shall submit to the Department of Higher Education an annual report for the time period covering the previous calendar year setting forth the number of incidences of violence and hazing, as defined in N.J.A.C. 9:2-14.1, which took place on its campus. The New Jersey Department of Higher Education survey form entitled "Survey of Violence on Campus" shall be used for the purpose of reporting the annual data.

9:2-14.4 Advisory committee

An advisory committee shall be appointed by the Chancellor to meet periodically with Department staff in order to review violent crime statistics and develop recommendations to alleviate the problems of violent crime and hazing.

Editors Note: Samples of the Violent Incident Report and Survey of Violence on Campus were submitted as part of this proposal. These forms may be inspected at the Office of Administrative Law, 88 East State Street, Trenton.

(a)

BOARD OF HIGHER EDUCATION

Tuition Policies for Unemployed Persons: Job Training Program

Proposed New Rule: N.J.A.C. 9:5-2

Authorized By: New Jersey Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Authority: N.J.S.A. 18A:64-13.4 and 18A:64A-23.4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses should be addressed to:

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

The Board of Higher Education thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption:

This proposal is known as PRN 1984-393.

The agency proposal follows:

Summary

The proposed new rules specify the circumstances under which unemployed persons may attend a State college, county college or NJIT on a tuition-free basis.

Eligible unemployed persons may enroll in job training courses at the above institutions provided that available classroom space permits and that tuition paying students constitute the minimum number required for the course.

Social Impact

The proposed new rules allow certain unemployed persons who might otherwise be financially unable to attend an institution of higher education to attend a college or university for the purpose of enrolling in job training courses, thereby improving their employment potential.

Economic Impact

The proposed new rules will have slight economic impact upon the institutions of higher education as eligibility is limited to a space available basis in those classes in which tuition paying students constitute a minimum number required for the course, thus minimizing the economic impact upon the institutions.

Full text of the proposed new rule follows.

SUBCHAPTER 2. TUITION POLICIES FOR UNEMPLOYED PERSONS: JOB TRAINING PROGRAM

9:5-2.1 Proof of eligibility

(a) Eligible individuals seeking to enroll under the job training program shall sign a statement, as prepared by the institution, verifying their past presence in the labor market for at least two years, their unemployed status or receipt of a lay off notice as proof of eligibility to participate in the program.

(b) For the purpose of determining eligibility, presence in the labor market for at least two years shall be defined as either full-time employment or the active pursuit of full-time employment or a combination thereof extending over at least a two-year period.

(c) Any institution may require further proof of eligibility if it is deemed necessary.

9:5-2.2 Eligibility for financial aid

(a) Eligible individuals seeking to enroll under this program must complete a New Jersey Financial Aid Form to determine possible eligibility for financial aid.

(b) Each individual is responsible for completing the form and providing the institution with all information necessary to determine possible financial aid eligibility.

(c) Financial aid shall include both State and Federal sources of aid including grants, scholarships and any other sources of financial aid available to the institution's general student population but shall not include loans.

(d) Each institution shall apply consistent standards for all students, including participants in this program, in determining eligibility for financial aid.

(e) Any eligible individual receiving financial aid which is not sufficient to entirely pay the full amount of tuition at the institution shall be entitled to have the remaining amount of tuition not covered by financial aid waived by the institution.

9:5-2.3 Eligible coursework

(a) Each institution shall provide a list of courses which shall be designated as job training courses for eligibility under this program.

(b) Only those courses in which classroom space is available and tuition paying students constitute the minimum number required for the course shall be open to eligible individuals under this program.

9:5-2.4 Employment during semester

Any individual participating in the program who obtains employment subsequent to the commencement of the semester shall be permitted to complete the semester in progress as a participant in the program.

9:5-2.5 Application for general institutional rules

When not inconsistent with applicable statutes or these regulations, students participating under this program shall be governed by those procedures and rules applicable to each institution's regularly enrolled student population.

9:5-2.6 County colleges' chargebacks

The provisions of N.J.S.A. 18A:64A-23 and the regulations governing chargebacks at the county colleges, N.J.A.C. 9:4-1.5, shall apply to all students attending any county college pursuant to this program.

(a)

EDUCATIONAL OPPORTUNITY FUND BOARD

Financial Aid Guidelines
Undergraduate Grants; Grant Amount

Proposed Amendment: N.J.A.C. 9:11-1.7

Authorized By: Educational Opportunity Fund Board, T. Edward Hollander, Chairman.
Authority: N.J.S.A. 18A:71-33 through 18A:71-36.

Interested Persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses should be addressed to:

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

The Educational Opportunity Fund Board thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption:

This proposal is known as PRN 1984-392.

The agency proposal follows:

Summary

The proposed amendment increases the maximum award amounts for undergraduate students in the EOF program. The proposal also eliminates particular categories of awards which are no longer necessary.

Social Impact

The EOF program provides financial assistance and support services to undergraduate and graduate students who come from backgrounds of historical poverty and educational deprivation.

Economic Impact

The proposal will increase award amounts to undergraduate students to reduce the unmet financial needs of these students.

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

9:11-1.7 Grant amount

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

(c) The EOF Board of Directors shall annually review the state grant amounts of EOF students and make adjustments if necessary. The minimum [standard] **and maximum** awards [, and Hold Harmless maximum range for adjustments to] for Graduate and Undergraduate EOF grants for each type of institution follows:

Undergraduate	MINIMUM	[STANDARD]	**MAXIMUM**	[HOLD HARMLESS MAXIMUMS FOR GRANDFATHERING]
2-year Public Colleges	$200	[$ 350]	**$ 450**	[$ 750]
4-Year Public Colleges				
Commuter	200	[350]	**450**	[950]
Residential	200	[600]	**700**	[950]
Rutgers, NJIT				
Commuter	200	[350]	**450**	[950]
Residential	200	[600]	**700**	[1,200]
Independent Colleges	200	[1,200]	**1,400**	[2,000]

Graduate	MINIMUM	[STANDARD]	**MAXIMUM**
4-Year Public Colleges	$200	[$1,500]	**$1,500**
4-Year Independent Colleges	200	[2,500]	**2,500**
Rutgers, NJIT	200	[2,500]	**2,500**
CMDNJ/FDU Dental School	200	[4,000]	**4,000**

(d)-(f) (No change.)

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual Utilization of Insurance Benefits

Proposed Amendments: N.J.A.C. 10:49-1.7 and 10:56-1.11

Authorized By: George J. Albanese, Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4D-7.1c and 42 CFR 433.146.

Interested persons may submit in writing, data, views or arguments relevant to the proposed rule on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rule-making procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-386.

The agency proposal follows:

Summary

The New Jersey Medical Assistance and Health Services Act (N.J.S.A. 30:4D-7.1c) states that "every recipient, as a condition of eligibility for medical assistance under this act, is hereby deemed to have assigned to the Commissioner any rights to support for the purpose of medical care as determined by a court or administrative order and any rights to payment for medical care from any third party."

Federal regulations (42 CFR 433.146) also specify that states require individuals to assign any rights to medical care support available under an order of a court or administrative agency. In those states like New Jersey, where the assignment of rights to benefits is automatic because of state law, an individually executed assignment is not necessary so long as there is notice of the terms and consequences of the state law (42 CFR 433.146(c)).

As indicated in the text of N.J.A.C. 10:49-1.7(a)3i below, this proposal will enable a "provider," i.e., a person or business who provides medical care, services, goods and supplies to Medicaid patients, to act on behalf of the Commissioner, Department of Human Services by using the appropriate language indicated in the text of the proposal. The provider will then submit the claim form directly to the third party payor, who will reimburse the provider. A third party payor includes, but is not limited to, Medicare, Worker's Compensation, and other health insurance.

The type of situation being addressed frequently involves absent parents who hold a health insurance policy but are not available to sign the insurance claim form. In some cases the insurance company denies payment because the claim is not signed by the policy holder. In other situations the insurance company reimburses the patient and providers sometimes have difficulty collecting their payment.

As indicated in the text of N.J.A.C. 10:49-1.7(a)3ii below, the proposal also authorizes the Director or his designee(s) to sign a demand for recovery. This situation occurs when a provider has already been reimbursed by the Medicaid program, and other health insurance is available to reimburse Medicaid.

Paragraph 4 was amended to include a reference to the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984 (P.L. 1984, c.362). This reference is being updated to acknowledge the new automobile insurance law.

Regardless of whether the new law or the old law is being applied, the Division's basic policy of not paying for medical services covered by another insurance, including the Unsatisfied Claim and Judgment Fund, remains in effect. This policy is in conformity with federal regulations (42 CFR 433.135-140).

The Manual for Dental Services was amended to provide the specific reference to Utilization of Insurance Benefits.

Social Impact

The proposal's main impact is economic, rather than social. However, the proposal is designed to simplify billing procedures and increases the probability that the provider will receive prompt reimbursement from the third party insurer. Medicaid patients should be encouraged to use their own health insurance when it is available to them.

Economic Impact

It is a basic policy of the Medicaid program that all health and accident insurance benefits be used first and to the fullest extent in meeting the medical needs of a Medicaid patient (see N.J.A.C. 10:49-1.7(a) below). This proposal is designed to further enable any providers to be reimbursed directly from third party health insurers. Any claim that is paid by another insurer will result in a cost savings to the Medicaid program.

If the payment by the third party insurer equals or exceeds Medicaid's payment for the service(s) or item(s) furnished to the recipient, then the Medicaid program will have no liability. If the third party payment is less than Medicaid's payment, then the Division may be obligated to pay the amount remaining under the Medicaid program's payment schedule.

There is no cost to the Medicaid patient.

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

10:49-1.7 Utilization of Insurance Benefits

(a) Medicaid benefits are last-payment benefits. All health and accident insurance benefits, including Medicare, workers' compensation and no-fault auto insurance shall be used first and to the fullest extent in meeting the medical needs of the covered person. Since Medicare covers aged and certain disabled persons, providers should inquire about Medicare eligibility when rendering Medicare covered services to a person with program code 10, 20, or 50. Supplementation of available benefits shall be as follows:

1. Title XVIII (Medicare): For those individuals who are covered under Medicare, responsibility for payment by the New Jersey Medicaid Program will be limited to the unsatisfied deductible to the extent that the payments do not exceed the maximum allowable under the program in the absence of other coverage. (Exception: Co-insurance is reimbursable for hospital billings, long term care facility billings, durable medical equipment and supplies, and prosthetic and orthotic devices to the extent that the payments do not exceed the maximum allowable under the program in the absence of other coverage.)

2. Workers compensation: No program payments shall be made for a patient covered by workers compensation.

3. Other health insurance: When a covered person has other health insurance, the program requires that such benefits be used first and to the fullest extent. Supplementation may be made by the program, but the combined total paid shall not exceed the amount payable under the program in the absence of other coverage. The program will not supplement covered services rendered by a participating or contracting practitioner with any private health coverage program where the private plan calls for the practitioner to accept said plan's payment as payment in full. When other health insurance is involved, supplementation claims shall not be filed with the program unless accompanied by a statement of payment or denial from the other carrier. Attachment of such information will expedite Medicaid claim processing. For exceptions, see paragraph 1 of this subsection.

4. Claims collectible under New Jersey no-fault law: No program payments will be made for services that are payable under the New Jersey Automobile Reparation Reform Act., P.L. 1972, c.70 **or the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984, P.L. 1983 c.362.** This includes claims payable under the Unsatisfied Claim and Judgment Fund where no private automobile insurance policy exists.

5. When a covered person has benefits available to him/her, such as those described in paragraph 1. through 3., or from any other liable third party, an approved Medicaid provider is authorized to sign an insurance claim form for the Commissioner, based on the third party assignment of rights, in order to receive direct payment from the insurer. This is done pursuant to N.J.S.A. 30:4D-7.1(c). The following language is to be used by the provider when completing insurance claim forms: "(signature of authorized provider), Assignee for the Commissioner, New Jersey Department of Human Services".

6. When recovery of benefits is sought by the New Jersey Medicaid program from a liable third party, the Commissioner authorizes the Director or his designee(s) to sign the recovery demand.

10:56-1.11 Basis of Payment

(a)-(f) (No change.)

(g) When other health or liability insurance is available, the Medicaid program requires that such benefits be utilized first **and to the fullest extent. See New Jersey Administrative Code 10:49-1.7 Utilization of Insurance Benefits for further information.** Supplementation may be made by the Medicaid program up to the provider's customary and usual fee, but the combined total shall not exceed the amount payable under the Medicaid program.

1.-3. (No change.)

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program Resource Eligibility

Proposed Amendment: N.J.A.C. 10:87-4.1

Authorized By: George J. Albanese, Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:4B-2 and 7 CFR 273.8(a).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

At the close of the period for comments, the Department of Human Services may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-381.

The agency proposal follows:

Summary

Under existing regulations households in which all members are applying for both the Aid to Families with Dependent Children (AFDC) program and the Food Stamp Program must have their available resources assessed separately in accordance with both AFDC resource criteria and Food Stamp Program resource criteria. This regulation is also applicable at time of recertification for participation in the Food Stamp Program.

Since households applying for or receiving AFDC must meet the AFDC resource eligibility criteria which places a $1,000 limit on resources, in contrast to a $1,500 resource limit for the Food Stamp Program, resource eligibility for food stamps would automatically follow a determination of resource eligibility for AFDC. Current regulations require a separate resource evaluation for each of these programs.

Federal regulations at 7 CFR 273.8(a) provide that the State may consider households in which all members receive AFDC benefits and whose income does not exceed the applicable income eligibility standard to have satisfied the resource eligibility standard for Food Stamp purposes. The Department has elected to implement this option in order to minimize errors and facilitate administration of the program.

The proposed amendment to N.J.A.C. 10:87-4.1 reflects this Federal option. The amended rule provides that a separate resource evaluation will not be required for households in which all members applying for food stamps are also applying for or receiving AFDC benefits. If such a public assistance/food stamp (PA/FS) household is resource eligible for AFDC, it shall also be considered resource eligible for food stamps.

Social Impact

This change may be considered to have some positive social impact on clients as such PA/FS households will only need to have resource eligibility established once for AFDC and Food Stamp Program resource eligibility will automatically follow.

This amended rule eliminates subjecting clients to a second resource evaluation and related resource verification requirements. This process will simplify and accelerate the public assistance/food stamp resource evaluation and should be beneficial to county welfare agency staff as well as clients.

Economic Impact

This proposal will have no economic impact on clients as this amended rule has no effect on the amount of benefits to which the household is entitled. A minimal positive economic impact may be realized due to slight administrative savings resulting from the elimination of the requirement for two resource determinations.

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

10:87-4.1 Applicability

(a) The resource criteria and eligibility standards of this section apply to all applicant households, [including] **except** those in which **all** members are also **applicants for or** recipients of [public assistance] **AFDC and AFDC resource eligibility is established.**

1. For public assistance/food stamp (PA/FS) households in which all members of the food stamp household are also applying for or receiving AFDC, and resource eligibility is or has been established for AFDC, such household is resource eligible for food stamps notwithstanding other provisions of this subchapter.

(a)

DIVISION OF PUBLIC WELFARE

Food Stamp Program
Revised Maximum Income Eligibility Limits

Proposed Amendment: N.J.A.C. 10:87-12.3, 12.4 and 12.7

Authorized By: George J. Albanese, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4B-2, the Food Stamp Act of 1977, as amended (7 USC 2014), 7 CFR 273.9(a), and 49 FR 21388.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

At the close of the period for comments, the Deparment of Human Services may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules shall become effective upon publication of that notice of adoptionin the Register.

This proposal is known as PRN 1984-382.

The agency proposal follows:

Summary

The Department of Human Services is mandated by the Food Stamp Act of 1977, as amended (7 USC 2014) and by Federal regulations at 7 CFR 273.9(a) and 49 FR 21388 to revise the maximum allowable net and gross income eligibility standards to reflect the annual Federal adjustment of income eligibility limits which take into account changes in the cost of living and the annual adjustment of the poverty guidelines issued by the U.S. Department of Health and Human Services. The "165 percent of poverty level" used when determining separate household status for elderly and disabled individuals is also revised. Since all three standards are based on the poverty guidelines, they are being adjusted simultaneously.

Social Impact

The increase in the income eligibility standards will increase the number of households eligible to participate in the program and receive food stamp benefits. The changes to the eligibility standards will not increase food stamp benefit levels to any currently eligible household.

Economic Impact

The revised, increased income eligibility limits will expand the number of households eligible to receive food stamp benefits. These changes will bring additional Federal funds into the State for those households previously not eligible to participate in this federally funded program. This change will not impact significantly on administrative functions of the Department or the county welfare agencies administering the program.

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

10:87-12.3 Maximum allowable net income standards

TABLE III
Maximum Allowable Net Income

Household Size	Maximum Allowable Income	
1	$ [405]	**415**
2	[545]	**560**
3	[685]	**705**
4	[825]	**850**
5	[965]	**995**
6	[1105]	**1140**
7	[1245]	**1285**
8	[1385]	**1430**
9	[1525]	**1575**
10	[1665]	**1720**
Each Additional Member	[+140]	**+145**

10:87-12.4 Maximum allowable gross income standards

TABLE IV
Maximum Allowable Gross Income

Household Size	Maximum Allowable Income	
1	$ [527]	**540**
2	[709]	**728**
3	[891]	**917**
4	[1073]	**1105**
5	[1255]	**1294**
6	[1437]	**1482**
7	[1619]	**1671**
8	[1801]	**1859**
9	[1983]	**2048**
10	[2165]	**2237**
Each [a]**A**dditional [m]**M**ember	[+182]	**+189**

10.87-12.7 165 percent of poverty level

(a) The following table is to be used when determining separate household status for elderly and disabled individuals in accordance with N.J.A.C. 10:87-2.2(a)4.

TABLE VII
165% of Poverty Level

Household Size	Maximum Allowable Income	
1	$ [669]	**685**
2	[900]	**924**
3	[1131]	**1164**
4	[1362]	**1403**
5	[1593]	**1642**
6	[1824]	**1881**
7	[2055]	**2121**
8	[2286]	**2360**
9	[2517]	**2600**
10	[2748]	**2840**
Each [a]**A**dditional [m]**M**ember	[+231]	**+240**

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Family Day Care Standards

Proposed Readoption with Amendments: N.J.A.C. 10:122B

Authorized By: George J. Albanese, Commissioner, Department of Human Services.
Authority: N.J.S.A. 30:1-1 et seq., 30:4C- et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Theresa Castro
Office of Policy and Planning
Division of Youth and Family Services
CN 717
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66 (1978), this rule would otherwise expire on September 11, 1984. The readoption of this rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of its adoption. The amendments to the readoption become effective upon publication of the notice of their adoption in the Register.

This proposal is known as PRN 1984-387.

The agency proposal follows:

Summary

Executive Order No. 66 of 1978 provides that any agency rule adopted after May 15, 1978 shall expire no later than five years after its effective date. The purpose of the "sunset" provision is to ensure that the State's administrative agencies periodically review their rules in order to update archaic rules and repeal unnecessary rules. In accordance with Executive Order No. 66(1978), the Department of Human Services proposes to readopt N.J.A.C. 10:122B. The Division has noticed that N.J.S.A. 18A:70-1 et seq. is not the appropriate authority because that statute does not cover family day care but only child care centers. As such, the Division has eliminated that statute as an authority by which these regulations are being promulgated.

Section 422 (b) of the Social Security Act requires that states have day care standards whenever public funds are used for either partial or full payment. In New Jersey the Department of Human Services is responsible for establishing child care rules. The following revisions are being proposed to improve both the quality and quantity of covered providers. The purpose is to establish criteria for review of a potential provider by a sponsoring agency.

An ad hoc committee, including various Department/Division staff and community members, met to review the current standards. There was general agreement that most of the regulations should remain intact, however, there were areas to be clarified and some change in emphasis was indicated.

It was agreed that the use of the word "Agency" was confusing since it referred both to the Division and sponsoring agencies. The distinction has been clarified and the respective responsibilities defined.

The committee decided that greater emphasis should be placed upon the developmental aspects of family day care. Therefore, developmental program rules now precede the other programs and more examples of suggested activities are included. The committee was sensitive to the need for this service and also the vast range of possible providers. The goal of the review was directed toward assuring safety but not creating standards that would exclude many qualified providers.

Finally, these revisions bring family day care regulations into conformity with the Uniform Construction Code (N.J.S.A. 52:27D-119 et seq.) which has been interpreted to equate family day care homes with buildings arranged for one and two-family dwelling units, including not more than five (5) lodgers or boarders per family.

Social Impact

Child care is needed by parents who work outside the home. These needs are largely unmet. The New Jersey Department of Labor reports that nearly 500,000 pre-school or school age children have mothers working out of home, yet organized center-based child-care services are available for only 14 percent of these children. Any expansion of the supply of covered family day care providers will address this need. Further, the establishment of these standards affects those providers who are not covered, by setting models that consumers may use.

Family day care may also be utilized to combat and prevent abuse and neglect. Children may be placed with a family day care provider for a portion of the day to provide the supervision or relief needed by the family.

Economic Impact

It is estimated that one in every five or six unemployed women is at home specifically because she cannot make suitable child care arrangements. Therefore, attempts to increase self-sufficiency of poor families must be related to availability of child care. Family day care currently is less expensive and easier to expand than center-based care. Therefore, any increase in quantity and quality may contribute to increased employment and less dependence on welfare.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:122B.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:122-1.1 Definitions

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

["Agency" means the responsible administrative organization that provides monitoring, consultation and supervision to family day care homes, maintains records of activities and has the resources to provide or arrange for supportive services to family day care consumers.]

"Division" means the Division of Youth and Family Services, New Jersey Department of Human Services.

"Family day care" means the care of a child in the home of another family for part of a 24-hour period, provided on a regular basis.

"Parent" means a parent, guardian, or any other person having responsibility for, or custody of, a child.

"Provider" means an individual who offers family day care in his **or** her home.

"Shall" [signifies] **means** a requirement **in this chapter.**

"Should" [signifies] **means** a recommendation.

"Sponsor" means the responsible administrative organization or agency that provides training, monitoring, consultation and supervision to family day care homes, maintains records of activities and has the resources to provide or arrange for supportive services to family day care consumers. The Division may be a sponsor.

10:122B-1.2 [Agency] **Sponsor** requirements

(a) Providers and parents of children in family day care shall be represented on [an] **a** [agency] **sponsor's** day care advisory committee. **Opportunities should be provided for them to participate in policy development for this service.**

(b) In accordance with Title IV of the Civil Rights Act of 1964 as amended in 1972 and Title 45, CFR, Part 84, family day care services shall be used and available without discrimination on the basis of race, color, national origin, **sex** or handicap when those services are provided by family day care programs or providers receiving Federal funds.

10:122B-1.3 [Agency] **Sponsor** responsibilities

(a) **Rules for** evaluation and supervision of family day care home setting [rules] are as follows:

1. Initial evaluation: The [Agency] **sponsor** is responsible for the evaluation and approval of family day care homes according to the standards described in N.J.A.C. 10:122B-1.4. Through interviews, references and home visits, the in-

formation needed for such an evaluation shall be obtained and made a part of the [agency's] **sponsor's** record. A completed evaluation and approval is necessary prior to the placement of any child in the family day care home. Information obtained during the evaluation shall be kept confidential and shall be released only when written permission is granted by the provider.

2. Reevaluation: Approved homes continuously in use shall be reevaluated at least once every 12 months to determine continued compliance with standards described in N.J.A.C. 10:122B-1.4. Approved homes not in use for six or more consecutive months shall be reevaluated by the [Agency] **sponsor** prior to placement of children. A written summary of the family day care home's current situation, including a brief assessment of demonstrated child care ability and continued compliance with standards, shall be placed by the [Agency] **sponsor** in the provider's record as evidence of a completed reevaluation. **The Division may develop an assessment form to be used in addition to/or instead of the Summary.** Information obtained during the reevaluation shall be kept confidential and shall be released only when written permission is granted by the provider.

3. Supervision: The [Agency] **sponsor** has the responsibility for providing ongoing supervision of the [child within the] family day care home. [through periodic visits to the family day care home, observation of the children in this setting and discussion with the provider.] **Children shall be observed in the family day care home at least three times a year. These observations should be discussed with the provider.**

4. Number of children in the home: The [supervising agency] **sponsor** shall determine the maximum number of children for which each home is approved. This maximum shall not exceed the following limits:

i. A day care home shall **provide** care for no more than five children **at a time,** regardless of age.

ii.[iii.] [These] **This** total[s] shall include the provider's foster children and own children **only if they are** age five and younger.

[ii.]**iii.** No more than two [of these] children shall be age 23 months or younger.

[iv. A sixth child may be permitted in a home when the child's circumstances make the home the most appropriate placement provided that:

(1) The youngest child in the family day care home is at least three years of age; and

(2) At least one of the six children in the family day care home is age six or older; and

(3) The care of the five children in the family day care home will not suffer with the placement of the sixth child; and

(4) There is no conflict with existing child care center licensing laws.

v. Reasons for approving the placement of the sixth child in the family day care home shall be documented by the agency in the provider's record.]

5. Agreement: The [Agency] **sponsor** shall [draw-up with the provider] **sign** a written agreement **with the provider** specifying the responsibilities of each in providing a family day care program. **The Division shall provide the model for this agreement.**

(b) Support functions rules are as follows:

1. [Social work services:] **Division:** The [Supervising agency] **Division in conjunction with the sponsor** shall maintain a program which offers the following:

i. Assessment of the social services needs of the family using day care [and advocacy on their behalf];

ii.-iii. (No change.)

iv. **Continuous supervision and** [A]**a**ssessment of the child's adjustment in the family day care home;

v. (No change.)

vi. Advocacy on behalf of family if necessary.

vii. When the Division is the sponsor the responsibility for training in nutrition and developmental activities shall reside with Central Office staff. The Division may issue models for required records.

2. Sponsor: Sponsors shall maintain a program which offers the following:

[2.] **i.** Developmental activities: The [Agency] **sponsor** shall provide consultation, technical assistance, and supervision of the activities within the family day care home through [an agency] **a sponsor** staff member knowledgeable in this area.

[3.] **ii.** Nutrition: Consultation for staff and providers should be available from a qualified nutritionist or food service specialist. This may be obtained through the Child Care Food Program, Extension Services or other community organizations.

[4.] **iii.** Training: The [supervising agency] **sponsor** shall provide or arrange for training opportunities for providers. Training may be offered as part of [the] a one to one supervision process, through group sessions, or through printed materials.

(c) Records [rules are as follows.] **shall be maintained in the following manner.**

1. Provider records: The [Agency] **sponsor** shall maintain records for the family day care provider including the following:

i. Evaluation and reevaluation of the family day care home and provider, including health statements for all family members who have regular contact with the child;

ii. Agreement between [Agency] **sponsor** and provider specifying responsibilities of each party;

iii. (No change.)

iv. Records of all training completed.

2. Child records: The [Agency] **sponsor** shall maintain records for each child placed in family day care which must include:

i.-iv. (No change.)

10:122B-1.4 Provider requirements

(a) The [Agency] **sponsor** shall approve as providers only those persons who[,] **are at least 18 years old and who** in the [agency's] **sponsor's**, judgment, are mature, of good character, and have sufficient intelligence, stability, energy and flexibility to care for the children. In addition the following requirements apply:

1. Good character: Members of the household coming into contact with the children shall be of good character. [It is recommended that a] **A** home will not be approved where the provider or any household member:

i. Has been convicted of, admitted to or shown substantial evidence of child abuse **and/or** neglect, [either physical, emotional or sexual;] **or other violent crimes.**

ii. Uses alcohol or drugs such that the effects are apparent during the hours that children are in care.

2. Physician's statement: Prior to the placement of children, the provider shall present a physician's statement verifying that the provider is in good health, free from chronic and recurrent infectious diseases and physically, emotionally and mentally capable of caring for children. Other members of the household coming into regular contact with the children shall

also present a statement that the are free from chronic and recurrent infectious diseases. These statements shall be updated every [three] **two** years. The [agency] **sponsor** may request a subsequent physician's statement on the provider if it has reason to suspect that there has been a significant change in the physical or mental ability of the provider to care for children.

3. (No change.)

(b) Rules concerning physical structure of the home are as follows.

1. **Inside** facilities: Each home shall provide a safe environment for a variety of activities and shall meet the following conditions:

i. (No change.)

ii. Walls, floors, woodwork, railings, and furnishings shall be reasonably clean, non-hazardous to children's health and clothing, and free from lead paint. Chipping, flaking, or peeling paint shall be tested to determine lead content and meet prevailing state standards. **The home shall be free of loose boards, projecting nails, and sharp corners. The walls and floors of rooms used by the children shall be covered with easily cleaned materials.**

iii. (No change.)

iv. Each room used by the children shall have adequate light and ventilation. **A flashlight should be available for emergency lighting.**

v. (No change.)

vi. The temperature of rooms shall be maintained as close to 65-70 degrees as possible during the winter. Any heating device shall be adequately vented, protected by guards and clear of combustible materials. **Use of kerosene heaters is prohibited.**

vii. Both warm and cold running water [should] **shall** be available. Sturdy steps or stools should be provided to allow small children to reach to basin safely. Each child [should] **shall** have his/her own towel and washcloth, kept in a sanitary condition, or be provided with disposable towels and washcloths.

viii.-x. (No change.)

2. Building standards[:] **and outdoor facilities** [The building shall be sound in structure, safe for children and fire resistant and meet the following standards]:

i. The building shall comply with local residential building, fire and sanitation laws. **At least one smoke detector shall be installed on each floor of the family day care home.**

ii. (No change.)

iii. The building should appear sound in structure and safe for children, for example:

(1) The exterior should be free of broken, cracked or loose boards which might cause harm.

(2) Barriers shall exist to prevent falls if the home has elevated walkways, porches, ramps or play areas.

iv. The outdoor play area shall be safe, for example:

(1) The yard shall be free of rubbish, deep holes, broken glass and pools of water, old refrigerators and any other attractive nuisances.

(2) Sharp tools, fertilizers, fuel oil, kerosene etc. shall be inaccessible to children.

10:122B-1.5 Provider responsibilities

(a) (No change.)

(b) An approved family daycare provider shall:

1. (No change.)

2. Provide appropriate and consistent discipline. [Physical punishment is prohibited.] Examples of **appropriate discipline are setting limits related to child's development, explaining house rules and praising desired behavior.** [The use of] Abusive language, humiliating or frightening treatment or punishment [associated with rest, toilet, training or food] is not considered appropriate[;] **under any circumstances**. Physical punishment is prohibited.

3. Provide each child with individual attention for some period of time each day. **Positive physical reinforcement is encouraged.**

4.-6. (No change.)

7. Participate in training [if] **when** adequate transportation and child care arrangements can be made;

8.-9. (No change.)

10. Use an infant car seat, as required by N.J.S.A. 39:3-76.2(a) to 2(b), for a child under the age of 18 months. A child over 18 months or those weighing more than 40 pounds shall be restrained with a child passenger restraint system or a seat belt.

11. Ensure that pets are disease free, have proof of immunization and that they pose no threat to children.

(c) Program rules are as follows:

1. Developmental growth: The family day care provider shall have the ability to deal effectively with children and should provide the following:

i. Planned daily activities appropriate for the age of each child and designed to support growth in emotional, physical and intellectual areas.

ii. Equipment: Play equipment and materials should be provided that are appropriate to the developmental needs, individual interests, and ages of the children. There should be a sufficient amount of play equipment and materials so that there is not excessive competition and long waits.

iii. Play equipment and materials should include items from each of the following 6 categories:

(1) Materials for dramatic role-playing (for example, dress-up clothes, costumes, puppets, housekeeping equipment);

(2) Toys and materials for cognitive development (for example, games, books, puzzles, flash cards);

(3) Toys and materials for visual development (for example, mobiles, film viewers, non-breakable mirrors);

(4) Toys and materials for auditory development (for example, records, record player, musical instruments);

(5) Toys to handle and manipulate and art materials for tactile development (for example, clay, paint, scissors, blocks, sand, water, squeeze toys, stuffed animals, beads, rattles);

(6) Toys and equipment for large muscle development (for example, swings, balls, sports equipment, climbing apparatus, bicycles, tumbling mats, large cardboard boxes, jump ropes).

iv. Toys, play equipment, and any other equipment used by the children shall be of substantial construction and free from rough edges, sharp corners, pinch and crush points, splinters, exposed bolts, and unguarded ladders on slides.

v. Toys and objects with a diameter of less than 2 inches (5 centimeters), objects with removable parts that have a diameter of less than 2 inches (5 centimeters), plastic bags, and styrofoam objects shall not be accessible to children who are still placing objects in their mouths.

[1.] **2.** Health: The health care of the child remains the responsibility of his/her parents unless this responsibility has been legally assumed by other persons or agencies. During the time the child is in the day care home, however, the day care provider is responsible for obtaining emergency treatment and providing routine care. The following requirements apply.

i. Routine observation of the child shall be done by the day care providers, and evidence of illness shall be called to the attention of the parents.

ii. (No change.)
iii. The home shall be equipped with the first aid supplies necessary to treat simple medical emergencies. **These should include scissors, gauze, bandaids, adhesive tape, anti-septic and a thermometer.**
iv. Provider shall obtain emergency medical care for a family day care child without delay and in a manner consistent with the parents' wishes. Provider shall notify the parents or [agency] **sponsor**promptly when emergency medical care is needed.
v.-vi. (No change.)
vii. Space shall be available for isolation of the child who becomes ill, to provide him/her with quiet and rest and reduce the risk of contagion to others. **Provider shall notify all parents when communicable disease has been introduced into the home.**
viii. (No change.)
ix. Provider shall wash after each diaper change and diapers shall be disposed of in a closed container.
[2.] **3.** Nutrition: The family day care home shall provide adequate and nutritious meals and snacks prepared in a safe and sanitary manner as follows:
i. The kitchen shall be **reasonably** [well-lighted] clean and [orderly] **well-lighted**. Adequate provision [should] **shall** be made for storage and refrigeration of food, for thorough cleaning of dishes, utensils and silverware, and for sanitary disposal of garbage.
ii. When children are in day care for more than 4 hours, the provider shall serve them food which will provide at least one-third to one-half of the Recommended Daily dietary Allowance in one meal and two snacks. Specifics on the Recommended Daily Dietary Allowance are available from [DYFS] **the Division**. When children are in family day care longer than ten hours, at least two-thirds of the Recommended Daily Dietary Allowance shall be provided by serving two meals and two snacks. Timing of meals served in the family day care home should be coordinated with meals served by the child's parents.
[3. Developmental growth: The family day care provider shall have the ability to deal effectively with children and shall provide the following:
i. Daily activities appropriate for the age of each child and designed to support growth in emotional, physical and intellectual areas.
ii. Equipment (i.e., games, toys, books, etc.) appropriate for these activities.]
4. Records: The provider shall maintain the following records for each child in care:
i.-iii. (No change.)
iv. Medical release form signed by parents.

INSURANCE

(a)

DIVISION OF LICENSING

Educational Requirements for License Examinations in Property and Casualty Insurance

Proposed Amendment: N.J.A.C. 11:2-1.1

Authorized By: Kenneth D. Merin, Acting Commissioner, Department of Insurance.
Authority: N.J.S.A. 17:1-8.1; 17:1C-6(e); 17:22-6.6; 17:46C-13.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Margaret Harrison
Executive Assistant
Department of Insurance
201 East State Street
CN 325
Trenton, New Jersey 08625

The Department of Insurance thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.
This proposal is known as PRN 1984-403.

The agency proposal follows:

Summary
The proposed amendment will revise the present list of required subject areas of insurance education programs for licensees in the property and casualty field. The Commissioner of Insurance entered into a contract in 1982 with an independent testing service to develop and administer the State insurance examination, pursuant to N.J.A.C. 11:2-1.6 (Authorization and use of independent testing service). The independent testing service standardized the State insurance examination for new licensees. The changes reflect greater specificity in the covered areas and also reflect recent changes in the law, such as N.J.S.A. 17:46C-1 et seq., the New Jersey Legal Services Insurance Act. In addition, six hours of classroom instruction on automobile liability insurance was added to assure that licensees who sell automobile physical damage insurance have an adequate background in liability insurance.

N.J.A.C. 11:2-1.1(d) through (g) allows qualified applicants to waive the course requirements detailed above. The rule is being amended to specify application procedures and conditions under which a waiver will be granted.

N.J.A.C. 11:2-1.1(a)(1) itemizes subject areas within two broad categories, general material and New Jersey law.

The existing N.J.A.C. 11:2-1.1(b) requires that a school or program submit its curriculum to the Commissioner for review and approval. In lieu of the individual curriculum approval procedure, the proposed amendment to N.J.A.C. 11:2-1.1(a) requires all insurance education programs to follow mandatory course outlines. The proposed amendment to N.J.A.C. 11:2-1.1(b) specifies the availability of an expanded curriculum based upon the mandatory outlines.

N.J.A.C. 11:2-1.1(c) permits some modification to the prescribed course outlines. Any permitted modification, however, must retain the New Jersey law portion specified in 11:2-1.1(a).

The proposed amendment to N.J.A.C 11:2-1.1(d) deletes an education waiver for designated chartered property and casualty underwriters in order to conform with N.J.S.A. 17:22-6.9, as amended in 1970, which exempts them from the examination requirement.

The proposed amendment to N.J.A.C. 11:2-1.1(e) standardizes the conditions under which a waiver of the education requirement for the licensing examination will be granted. The kinds of experience for which a waiver is granted are specified and other bases for a waiver are added.

N.J.A.C. 11:2-1.1(f) is deleted. The partial waiver was eliminated when the test was standardized. It is replaced by new subsection (f) which explains examination procedure when a waiver is granted and gives the address where a waiver application may be obtained.

N.J.A.C. 11:2-1.1(g) is deleted as no longer applicable. It specifies the effective date of a prior adoption.

Social Impact

The proposed amendments ensure that prospective licensees possess current and comprehensive insurance information. The proposed amendments list all insurance topics contained in the examination. Both insurance education programs and students are thus apprised of the scope of State testing.

Applicants for a license with insurance experience will benefit by allowing them to use their knowledge to meet the basic education requirement for license. The public benefits by an assurance that all applicants for a license have met the basic educational requirement either by taking courses or by appropriate experience.

Economic Impact

The Department of Insurance will not incur any additional administrative expenses in connection with these proposed amendments.

Insurance education programs will incur some costs in revising and reprinting lecture materials to conform with the proposed amendments, but the costs will not be substantial. There are no costs to the applicant for a waiver application.

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

11:2-1.1 Educational prerequisites for **license** examinations [for licenses in the] **in** property and casualty insurance [field]

[(a) Pursuant to the provisions of N.J.S.A. 17:22-6.1 et seq., as amended, empowering the Commissioner of Insurance by regulation to establish a program of studies which must be successfully completed as a prerequisite to admission to the qualifying examination for an agent's, broker's or solicitor's license ion the property and casualty insurance field, the following courses of study are established:]

[PROPERTY AND CASUALTY INSURANCE

PART		HOURS OF CLASSROOM INSTRUCTION
I	Introduction, Duties of Licensee and Insurance Laws	12
II	Property Insurance	20
III	Crime Protection	6
IV	Fidelity and Surety	6
V	Marine Insurance	10
VI	Public Liability and Laws of Negligence	12
VII	Automobile Insurance	17
VIII	Workmen's Compensation and Employer's Liability	4
IX	Miscellaneous Coverages	10
X	Multiple Peril Policies	10
XI	Health Insurance	12
XII	Review and Examination	6
	TOTAL HOURS	121]

[BAIL BONDS

PART		HOURS OF CLASSROOM INSTRUCTION
I	Introduction and Responsibilities of Agents	5
II	Laws Pertaining to the Licensing of Agents, Brokers and Solicitors	3
III	Surety Bonds—General Principles	5
IV	Review and Examination	3
TOTAL HOURS		16]

[AUTOMOBILE PHYSICAL DAMAGE INSURANCE

PART		HOURS OF CLASSROOM INSTRUCTION
I	General Information	7
II	Automobile Physical Damage Insurance	15
III	Review and Examination	2
	TOTAL HOURS	24]

[CREDIT INSURANCE

PART		HOURS OF CLASSROOM INSTRUCTION
I	Introduction and Responsibilities of Agents	5
II	Laws Pertaining to the Licensing of Agents, Brokers and Solicitors	6
III	Principles of Credit Insurance	10
IV	Review and Examination	3
	TOTAL HOURS	24]

[MORTGAGE GUARANTY INSURANCE

PART		HOURS OF CLASSROOM INSTRUCTION
I	Introduction and Responsibilities of Agents	5
II	Laws Pertaining to the Licensing of Agents, Brokers and Solicitors	6
III	Principles of Mortgage Guaranty Insurance	10
IV	Review and Examination	3
	TOTAL HOURS	24]

(a) The following program of studies must be successfully completed as a prerequisite to admission to the State examination for an agent's, broker's, or solicitor's license in the property and casualty insurance field.

1. Property and casualty insurance course outline

General property insurance concepts		Hours of Classroom Instruction
I.	Insurance/Insurance related topics	10 hours
II.	Policy provisions	8 hours
III.	Types of policies	11 hours
IV.	Perils, exclusions, deductibles and liability	8 hours
V.	Prospecting and evaluating needs	1 hour
VI.	Servicing clients	1 hour
VII.	Presentation and acceptance	1 hour
General casualty insurance concepts		
I.	Insurance/Insurance related topics	10 hours
II.	Policy provisions	8 hours
III.	Types of policies	11 hours
IV.	Perils, exclusions, deductibles and liability	8 hours
V.	Prospecting and evaluating needs	1 hour
VI.	Servicing clients	1 hour
VII.	Presentation and acceptance	1 hour
New Jersey laws regarding property and casualty insurance		
I.	Commissioner	2 hours
II.	Definitions	2 hours
III.	Licensing	3 hours
IV.	Business practices	6 hours
V.	Homeowner '76	2 hours
VI.	Fair plan	1 hour
VII.	No fault automobile	8 hours
VIII.	Workmens' compensation	4 hours
IX.	Boiler and machinery	1 hour
X.	Inservant workers' compensation	1 hour
XI.	Individual health	4 hours
XII.	Group health	3 hours
XIII.	Legal services insurance	1 hour
	Review and examination	3 hours
Total hours of study		121 hours

2. Bail bonds course outline

		Hours of Classroom Instruction
I.	Introduction and responsibilities of agents	5 hours
II.	Laws pertaining to the licensing of agents, brokers and solicitors	3 hours
III.	Surety bonds-general principles	5 hours
IV.	Legal services insurance	1/2 hour
V.	Review and examination	2 1/2hours
	Total hours	16 hours

3. Automobile physical damage and liability insurance course outline

		Hours of classroom instruction
I.	General information	7 hours
II.	Automobile physical damage insurance	15 hours
III.	Legal services insurance	1/2 hour
IV.	Liability	6 hours
V.	Review and examination	1 1/2 hours
	Total hours	30 hours

4. Credit insurance course outline

		Hours of classroom instruction
I.	Introduction and responsibilities of agents	5 hours
II.	Laws pertaining to the licensing of agents, brokers and solicitors	6 hours
III.	Principles of credit insurance	10 hours
IV.	Legal services insurance	1/2 hour
V.	Review and examination	2 1/2 hours
	Total hours	24 hours

5. Mortgage guaranty insurance course outline

		Hours of classroom instruction
I.	Introduction and responsibilities of agents	5 hours
II.	Laws pertaining to the licensing of agents, brokers and solicitors	6 hours
III.	Principles of mortgage guaranty insurance	10 hours
IV.	Legal services insurance	1/2 hour
V.	Review and examination	2 1/2 hours
	Total hours	24 hours

[(b) Details of curricula, including hours of study, textbooks, and training materials, shall be submitted to the Commissioner or his duly authorized representative for approval, modification or rejection.]

(b) Curricula developed by insurance education programs must follow the prescribed course outline set forth in (a) above. A detailed curriculum, "Property and Casualty Course Outline," may be obtained from:
Insurance Education Specialist
Division of Licensing
New Jersey Department of Insurance
201 East State Street
CN 325
Trenton, NJ 08625

(c) Modifications to the prescribed course outlines will be permitted only upon good cause shown and at the discretion of the Commissioner. **Any permitted modification, however, must retain the New Jersey law portion specified in (a) above.**

(d) Courses completed in a duly recognized college or university which are equivalent to the program of studies established by the Commissioner may be considered in lieu of prescribed courses given in schools approved by the Department. If the evaluation of such a course as described by the college or university discloses that it substantially conforms to the established minimum course outline, [or if the applicant furnishes evidence of having obtained a designation as a chartered property and casualty underwriter, or if, subject to the approval of the Commissioner, the applicant has during the ten years immediately preceding the date of application, attained a minimum of five years of broad and responsible experience in the field of insurance applied for] it will constitute compliance with the educational requirement under N.J.S.A. 17:22-6.1 et seq.

(e) [An applicant granted a waiver of the educational requirement on the basis of experience or by reason of having previously held a salaried company employee license issued pursuant to N.J.S.A. 17:22-6.10 will be permitted to take the examination twice, after which, if unsuccessful, such applicant will be required to satisfactorily complete a course of instruction approved by the Department.]

A waiver of the education requirement for the licensing examination will be granted on the following bases:

1. A minimum of five years broad and responsible experience in the applicable field of insurance.

2. A previously held salaried company employee license issued pursuant to N.J.S.A. 17:22-6.10.

3. Previously licensed in New Jersey or another state in the applicable field of insurance.

4. Successfully passing five or more parts of the chartered property and casualty underwriter program.

(f) [A partial waiver of the educational requirement pertaining to health insurance will be granted an applicant for a full property and casualty insurance license who presently is entitled to hold a license with health insurance authority.]

Applicants are responsible for test preparation if a waiver is granted. An applicant granted a waiver will be permitted to take the examination twice. If unsuccessful after two attempts, the applicant will be required to satisfactorily complete a course of instruction approved by the Department. An application for waiver may be obtained from: The New Jersey Department of Insurance, Insurance Education Specialist, License Division, CN 325, 201 East State Street, Trenton, NJ 08625.

[(g) This regulation will become effective June 1, 1973 and will supersede R.1972 d.73.]

(a)

DIVISION OF LICENSING

Educational Requirements for Licensing Educational Prerequisites for Examinations for Licenses in the Life and Health Insurance Field

Proposed Amendment: N.J.A.C. 11:2-1.3

Authorized By: Kenneth D. Merin, Acting Commissioner, Department of Insurance.
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:46C-13, 17B:22-9(d) as amended by P.L. 1983, c.533, 17B:22-10(d), 17B:22-17(c), 17B:22-21(c).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Margaret Harrison
Executive Assistant
Department of Insurance
CN 325
Trenton, NJ 08625

The Department of Insurance thereafter may adopt this proposal without further notice (See: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-405.

The agency proposal follows:

Summary

The proposed amendments will revise the present list of the required subject areas of insurance education programs for licensees in the life and health insurance field.

The proposed amendments reflect revisions made in the State examination. The Commissioner of Insurance entered into a contract in 1982 with an independent testing service to develop and administer the State insurance examination, pursuant to N.J.A.C. 11:2-1.6 (Authorization and use of independent testing service). The independent testing service standardized the State insurance examination for new licensees. The changes reflect greater specificity in the covered areas and also reflect recent changes in the law, such as N.J.S.A. 17:46C-1 et seq., the New Jersey Legal Services Insurance Act. The proposed amendments do not affect the total number of required classroom hours.

The proposed amendment to N.J.A.C. 11:2-1.3(a) itemizes subject areas within two broad categories: general material and New Jersey law.

The existing N.J.A.C. 11:2-1.3(b) requires that a school or program submit its curriculum to the Commissioner for review and approval. In lieu of the individual curriculum approval procedure, the proposed amendment to N.J.A.C. 11:2-1.3(a) requires all insurance education programs to follow mandatory course outlines. The proposed amendment to N.J.A.C. 11:2-1.3(b) specifies the availability of an expanded curriculum based upon the mandatory outlines.

The proposed amendment to N.J.A.C. 11:2-1.3(c) permits some modification to the course outlines, at the discretion of the Commissioner. Any permitted modification, however, must retain the New Jersey law portion specified in N.J.A.C. 11:2-1.3(a).

There is no proposed change to N.J.A.C. 11:2-1.3(d).

The proposed amendment to N.J.A.C. 11:2-1.3(e) makes no substantive or procedural change, but establishes more specific authority for the educational requirement than does the existing 11:2-1.3(e).

The proposed amendment creates a new N.J.A.C. 11:2-1.3(f) which permits a waiver of the educational requirement if the applicant previously held a license in New Jersey or in another state in the applicable field of insurance. An applicant's waiver will be valid for the first two examinations taken by the applicant.

The proposed amendment to N.J.A.C. 11:2-1.3(f) changes the subsection to N.J.A.C.11:2-1.3(g). The changes are grammatical only.

Social Impact

The proposed amendments establish specific "threshold" subjects of minimum mastery for examinees in accordance with N.J.A.C. 11:2-1.6(a)12. The proposed amendment ensures that prospective licensees possess current and comprehensive insurance information to the benefit of the insurance-consuming public.

The proposed amendments list all insurance topics contained in the examination. Both insurance education programs and students are thus apprised of the scope of State testing.

The proposed amendments allow applicants previously licensed by New Jersey or by another state to waive educational requirements.

Economic Impact

The Department of Insurance will not incur any additional administrative expenses in connection with these proposed amendments.

Insurance education programs will incur some costs in revising and reprinting lecture materials to conform with the proposed amendments, but the costs will not be substantial.

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

11:2-1.3 [Minimum course outlines for life and health insurance] **Educational prerequisites for license examinations in life and health insurance**

[(a) The minimum course outlines for life and health insurance shall be as follows:

Part	Course description	Hours of formally supervised instruction: Life	Health	Combined
I	General elements of insurance	6	6	8
II	Fundamental elements of underwriting	5	5	8
III	Policy provisions and requirements	6	6	12
IV	Agents' duties and responsibilities	4	4	4
V	Course review and examination	3	3	4
	Total hours	24	24	36]

(a) The following program of studies must be successfully completed as a prerequisite to admission to the State examination for an agent's, broker's or solicitor's license in the life and health insurance field:

1. Life insurance course outline

	General life insurance concepts	**Hours of classroom instruction**
I.	**Types of policy and coverage**	**4 hours**
II.	**Policy provisions, options and benefits**	**5 hours**
III.	**Completing the application and delivering the policy**	**3 hours**
IV.	**Taxes, retirement and other insurance concepts**	**2 hours**
	New Jersey laws regarding life insurance	
I.	**Laws, rules and regulations pertinent to life, accident and health insurance**	**4 hours**
II.	**Business practices**	**2 hours**
III.	**Protection of beneficiaries from creditors**	**1 hour**
IV.	**Fraternal benefit societies**	**1 hour**
V.	**Life insurance solicitation**	**1 hour**
VI.	**Minors**	**½ hour**
VII.	**Legal services insurance**	**½ hour**
		24 hours

2. Health insurance course outline

	General health insurance concepts	**Hours of classroom instruction**
I.	**Types of policies and coverage**	**4 hours**
II.	**Policy provisions, options and benefits**	**5 hours**
III.	**Completing the application and delivering the policy**	**3 hours**
IV.	**Group insurance, taxation and other insurance concepts**	**3 hours**
V.	**Other provisions affecting insurance benefits**	**2 hours**
	New Jersey laws regarding health insurance	
I.	**Laws, rules and regulations pertinent to life, accident and health insurance**	**4 hours**
II.	**Policy clauses and provisions**	**2½ hours**
III.	**Legal services insurance**	**½ hour**
		24 hours

3. Life and health insurance course outline

	General life/health insurance concepts	**Hours of classroom instruction**
I.	**Types of policies and coverage**	**6 hours**
II.	**Policy provisions, options and benefits**	**5 hours**
III.	**Completing the application/delivering the policy**	**3 hours**
IV.	**Taxes, retirement, group insurance and other insurance concepts**	**5 hours**
V.	**Other provisions affecting the insurance benefits**	**2 hours**
	New Jersey laws regarding life and health insurance	
I.	**Laws, rules and regulations pertinent to life, accident and health insurance**	**6 hours**
II.	**Business practices**	**2 hours**
III.	**Policy clauses and provisions**	**3 hours**
IV.	**Fraternal benefit societies**	**1 hour**
V.	**Life insurance solicitation**	**1 hour**
VI.	**Minors**	**1 hour**
VII.	**Legal services insurance**	**1 hour**
		36 hours

[(b) Details of curricula, including hours of study, textbooks and training materials, shall be submitted to the commissioner or his duly authorized representative for approval, modification or rejection.]

(b) Curricula developed by insurance education programs must follow the prescribed course outlines set forth in (a) above. A detailed curriculum, "Life & Health Course Outline," may be obtained from:

Insurance Education Specialist
Division of Licensing
New Jersey Department of Insurance
CN 325
201 E. State Street
Trenton, NJ 08625

(c) Modification to the prescribed course outlines will be permitted only upon good cause shown and at the discretion of the Commissioner. **Any permitted modification, however, must retain the New Jersey law portion specified in (a) above.**

(d) Courses completed in a duly recognized college or university, which are equivalent to the program of studies established by the Commissioner, may be considered in lieu of the prescribed courses given in schools approved by the Department.

(e) If the evaluation of such a course as described by the college or university discloses that it substantially conforms to the established minimum course outline, it will constitute compliance with the educational requirement under N.J.S.A. 17B:17-1(c), **and 17B:22-1** et seq.

(f) The Commissioner may grant a waiver of the educational requirement if the applicant was previously licensed in New Jersey or in another state in the applicable field of insurance. Applicants are responsible for test preparation if the commissioner grants a waiver. An applicant granted a waiver will be permitted to take the examination twice. If unsuccessful after two attempts, such applicant will be required to complete satisfactorily a course of instruction approved by the Department. An application for waiver of educational requirement may be obtained from:

The New Jersey Department of Insurance
Insurance Education Specialist
License Division
CN 325
201 East State Street
Trenton, New Jersey 08625

[(f)] **(g)** Ticket-selling agents under the present statute (N.J.S.A. 17B:22-12) are required to become licensed, but do not have to qualify by examination. [However,] N.J.S.A. 17B:22-10, **however**, [does] makes it necessary for the applicant seeking any form of life and health agent's license to [successfully] complete **successfully** a program of studies established by regulation. The present regulation [, R.1971 d.238,] requires any applicant for an agent's license with health authority to [satisfactorily] complete **satisfactorily** a 24-hour course in health insurance. [It is proposed that] In lieu of meeting the [current] 24-hour requirement, applicants for a ticket-selling agent's license, limited to the sale of accident insurance ticket policies covering the risks of travel, [be] **are** required to have a 10-hour course of instruction [containing] **with** the following content:

1. General elements of insurance, 2 **hours**;
2. Fundamental elements of underwriting, 1 **hour**;
3. Policy provisions and requirements, 4 **hours**;
4. Agents' duties and responsibilities, 2 **hours**;
5. Course review and examination, 1 **hour**.

(a)

DIVISION OF ADMINISTRATION

Insurance Group Readable Policies

Proposed Amendment: N.J.A.C. 11:2-18, Exhibit B

Authorized By: Kenneth D. Merin, Acting Commissioner, Department of Insurance.
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 56:12-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Margaret Harrison
Executive Assistant
Department of Insurance
CN 325
Trenton, New Jersey 08625

The Department of Insurance thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-404.

The agency proposal follows:

Summary

The proposed amendment adds a paragraph to the certification (Exhibit B, Affidavit of Compliance) which an insurance company officer must sign verifying compliance with N.J.S.A. 56:12-1 et seq., the "Truth-in-Consumer Contract, Warranty and Notice Act." The added paragraph specifies type size and leading to be used in contracts and applications pursuant to N.J.A.C. 11:2-18.4(c) and (d).

Social Impact

Addition of the type size and leading specifications to the required certification will streamline the Department's review of filings submitted by an insurer for readability certification in compliance with the "Truth-in-Consumer Contract, Warranty and Notice Act."

Economic Impact

There will be no economic impact on the Department as a result of this proposed amendment. There will be some cost to insurance companies, which must reprint the one-page certification form to reflect the paragraph added by this amendment.

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

EXHIBIT B

AFFIDAVIT OF COMPLIANCE

NAME OF INSURER: ______ FORM NO.: ______

I certify that this contract and related writings comply with the Plain Language Law (N.J.S.A. 56:12-1 et seq.) and with N.J.A.C. 11:2-18.

I [also] certify that the score of the text of the form on the Flesch reading ease test is ________ and that the test score has been accurately calculated as required by N.J.A.C. 11:2-18.

I also certify that the form(s) is printed in not less than 10 point type, one point leading and/or the application in not less than 8 point type, one point leading as required by N.J.A.C. 11:2-18.4.

DATE: ________ ______________________________
NAME AND TITLE OF INSURER'S OFFICER

____
SIGNATURE

(a)

DIVISION OF ACTUARIAL SERVICES

Individual Life Insurance Gender Blended Mortality Tables

Proposed New Rule: N.J.A.C. 11:4-22

Notice of Correction

The notice of the proposed new rule concerning individual life insurance and the use of gender neutral mortality tables, published in the June 18, 1984 Register at 16 N.J.R. 1452(a), failed to include several tables submitted as part of the Appendix to the proposal. The proposed new rule is now republished in its entirety, including the omitted Tables 3, 4, 5, 6, and 7.

Full text of the proposed new rule follows.

CHAPTER 4
ACTUARIAL SERVICES

SUBCHAPTER 22. INDIVIDUAL LIFE INSURANCE: USE OF GENDER BLENDED MORTALITY TABLES

11:4-22.1 Purpose

The purpose of this subchapter is to permit individual life insurance policies to provide the same cash surrender values and paid-up nonforfeiture benefits to both men and women. No change in minimum valuation standards is intended by these rules.

11:4-22.2 Definitions

The following words and terms when used in this subchapter shall have the following meanings:

"1980 CSO Table, with or without Ten Year Select Mortality Factors" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 National Association of Insurance Commissioners (NAIC) Amendments to the Model Standard Valuation Law and Model Standard Non-forfeiture Law for Life Insurance, and referred to in those models as the Commissioner's 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors.

"1980 CSO Table (M), with or without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for male lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

"1980 CSO Table (F), with or without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for female lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

"1980 CET Table" means that morality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Model Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioner's 1980 Extended Term Insurance Table.

"1980 CET Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 1980 CET Table.

"1980 CET Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 11:4-22.3 Construction of gender blended tables for use in the determination of minimum nonforfeiture benefits and minimum reserves.

11:4-22.3 Construction of tender blended for use in the determination of minimum nonforfeiture benefits and minimum reserves

(a) For any policy of insurance on the life of either a male or female insured delivered or issued for delivery in this State after September 11, 1981, a life insurer which has elected or which elects an operative date under N.J.S.A. 17B:25-19h(xi) may file with the Department of Insurance for use as part of the policy form, the approved gender blended mortality tables as described in (b) below and attached as the Appendix to this subchapter, or a description thereof, to determine minimum cash surrender values and minimum amounts and minimum periods of paid-up nonforfeiture benefits.

1. An approved mortality table which is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F) with or without Ten-Year Select Mortality Factors may at the option of the company be substituted for the 1980 CSO Table, with or without our Ten-Year Select Mortality Factors; and

2. A mortality table which is of the same blend as used in 1. above but applied to form a blend of the 1980 CET Table (M) and the 1980 CET Table (F) may at the option of the company be substituted for the 1980 CET Table.

(b) The following describes the gender blended tables approved for use pursuant to N.J.S.A. 17B:25-19h(viii) which may be found in the Appendix to this subchapter:

1. 100 percent Male 0 percent Female for tables to be designated as the "1980 CSO-A" and "1980 CET-A" tables;

2. 80 percent Male 20 percent Female for tables to be designated as the "1980 CSO-B" and "1980 CET-B" tables;

3. 60 percent Male 40 percent Female for tables to be designated as the "1980 CSO-C" and "1980 CET-C" tables;

4. 50 percent Male 50 percent Female for tables to be designated as the "1980 CSO-D" and "1980 CET-D" tables;

5. 40 percent Male 60 percent Female for tables to be designated as the "1980 CSO-E" and "1980 CET-E" tables.

6. 20 percent Male 80 percent Female for tables to be designated as the "1980 CSO-F" and "1980 CET-F" tables;

7. 0 percent Male 100 percent Female for tables to be designated as the "1980 CSO-G" and "1980 CET-G" tables.

(c) The tables described in (b) 1 and 7 above are not to be used with respect to policies issued on or after January 1, 1985, except where the proportion of persons insured is anticipated to be 90 percent or more of one sex or the other.

(d) Gender blended tables with Ten-Year Select Mortality Factors may be derived by applying select factors to gender blended tables without select factors where the select factors are derived by using the following formula:

$$^{Z}F_t^T = \frac{(Z)F_t^M + .6(1-Z)\,F_t^F}{Z + .6(1-Z)}$$

where

$^{Z}F_t^T$ is the gender blended select factor for year t

F_t^M is the male select factor for year t

F_t^F is the female select factor for year t

Z is the ratio of male lives to the total lives at the pivotal age

11:4-22.4 Unfair discrimination

It shall not be a violation of N.J.S.A. 17B:30-12 c. for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

11:4-22.5 Separability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

APPENDIX
TABLE 1
1980 CSO-A AND 1980 CET-A MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 100 PERCENT MALE-0
PERCENT FEMALE

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-A	1980 CET-A
0	4.18	5.43
1	1.07	1.82
2	0.99	1.74
3	0.98	1.73
4	0.95	1.70
5	0.90	1.65
6	0.86	1.61
7	0.80	1.55
8	0.76	1.51
9	0.74	1.49
10	0.73	1.48
11	0.77	1.52
12	0.85	1.60
13	0.99	1.74
14	1.15	1.90
15	1.33	2.08
16	1.51	2.26
17	1.67	2.42
18	1.78	2.53
19	1.86	2.61
20	1.90	2.65
21	1.91	2.66
22	1.89	2.64
23	1.86	2.61
24	1.82	2.57
25	1.77	2.52
26	1.73	2.48
27	1.71	2.46
28	1.70	2.45
29	1.71	2.46
30	1.73	2.48
31	1.78	2.53
32	1.83	2.58
33	1.91	2.66
34	2.00	2.75
35	2.11	2.86
36	2.24	2.99
37	2.40	3.15
38	2.58	3.35
39	2.79	3.63
40	3.02	3.93
41	3.29	4.28
42	3.56	4.63
43	3.87	5.03
44	4.19	5.45
45	4.55	5.92
46	4.92	6.40
47	5.32	6.92
48	5.74	7.46
49	6.21	8.07
50	6.71	8.72
51	7.30	9.49
52	7.96	10.35
53	8.71	11.32
54	9.56	12.43
55	10.47	13.61
56	11.46	14.90
57	12.49	16.24
58	13.59	17.67
59	14.77	19.20
60	16.08	20.90
61	17.54	22.80
62	19.19	24.95
63	21.06	27.38
64	23.14	30.08
65	25.42	33.05
66	27.85	36.21
67	30.44	39.57
68	33.19	43.15
69	36.17	47.02
70	39.51	51.36
71	43.30	56.29
72	47.65	61.95
73	52.64	68.43
74	58.19	75.65
75	64.19	83.45
76	70.53	91.69
77	77.12	100.26
78	83.90	109.07
79	91.05	118.37
80	98.84	128.49
81	107.48	139.72
82	117.25	152.43
83	128.26	166.74
84	140.25	182.33
85	152.95	198.84
86	166.09	215.92
87	179.55	233.42
88	193.27	251.25
89	207.29	269.48
90	221.77	288.30
91	236.98	308.07
92	253.45	329.49
93	272.11	353.74
94	295.90	384.67
95	329.96	428.95
96	384.55	499.92
97	480.20	624.26
98	657.98	855.37
99	1000.00	1000.00

APPENDIX
TABLE 2
1980 CSO-B AND 1980 CET-B MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 80 PERCENT MALE—
20 PERCENT FEMALE
(PIVOTAL AGE 45)

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-B	1980 CET-B
0	3.92	5.10
1	1.04	1.79
2	.95	1.70
3	.94	1.69
4	.91	1.66
5	.87	1.62
6	.83	1.58
7	.79	1.54
8	.75	1.50
9	.73	1.48
10	.72	1.47
11	.75	1.50
12	.83	1.58
13	.94	1.69
14	1.08	1.83
15	1.24	1.99
16	1.39	2.14
17	1.53	2.28
18	1.62	2.37
19	1.69	2.44
20	1.74	2.49
21	1.75	2.50
22	1.73	2.48
23	1.71	2.46
24	1.69	2.44
25	1.65	2.40
26	1.63	2.38
27	1.61	2.36
28	1.61	2.36
29	1.63	2.38
30	1.65	2.40
31	1.70	2.45
32	1.75	2.50
33	1.83	2.58

Age (x)	1980 CSO-B	1980 CET-B
34	1.91	2.66
35	2.02	2.77
36	2.14	2.89
37	2.30	3.05
38	2.47	3.22
39	2.68	3.48
40	2.90	3.77
41	3.16	4.11
42	3.42	4.45
43	3.72	4.84
44	4.01	5.21
45	4.35	5.66
46	4.70	6.11
47	5.07	6.59
48	5.45	7.09
49	5.89	7.66
50	6.36	8.27
51	6.90	8.97
52	7.50	9.75
53	8.19	10.65
54	8.96	11.65
55	9.78	12.71
56	10.67	13.87
57	11.58	15.05
58	12.54	16.30
59	13.57	17.64
60	14.72	19.14
61	16.00	20.80
62	17.47	22.71
63	19.16	24.91
64	21.05	27.37
65	23.11	30.04
66	25.29	32.88

Age (x)	1980 CSO-B	1980 CET-B
67	27.61	35.89
68	30.03	39.04
69	32.66	42.46
70	35.59	46.27
71	38.95	50.64
72	42.84	55.69
73	47.33	61.53
74	52.37	68.08
75	57.84	75.19
76	63.65	82.75
77	69.70	90.61
78	75.95	98.74
79	82.57	107.34
80	89.83	116.78
81	97.94	127.32
82	107.18	139.33
83	117.65	152.95
84	129.10	167.83
85	141.38	183.79
86	154.17	200.42
87	167.49	217.74
88	181.24	235.61
89	195.54	254.20
90	210.53	273.69
91	226.51	294.46
92	244.13	317.37
93	264.04	343.25
94	289.36	376.17
95	324.89	422.36
96	380.97	495.26
97	477.69	621.00
98	657.38	854.59
99	1000.00	1000.00

APPENDIX
TABLE 3
1980 CSO-C AND 1980 CET-C MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 60 PERCENT MALE—
40 PERCENT FEMALE
(PIVOTAL AGE 45)

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-C	1980 CET-C
0	3.67	4.77
1	.99	1.74
2	.93	1.68
3	.90	1.65
4	.88	1.63
5	.84	1.59
6	.81	1.56
7	.77	1.52
8	.73	1.48
9	.73	1.48
10	.71	1.46
11	.74	1.49
12	.80	1.55
13	.89	1.64
14	1.01	1.76
15	1.14	1.89
16	1.27	2.02
17	1.38	2.13
18	1.47	2.22
19	1.52	2.27
20	1.56	2.31
21	1.58	2.33
22	1.58	2.33
23	1.56	2.31
24	1.55	2.30
25	1.53	2.28
26	1.52	2.27
27	1.51	2.26
28	1.53	2.28
29	1.54	2.29
30	1.58	2.33
31	1.63	2.38
32	1.67	2.42
33	1.75	2.50
34	1.83	2.58
35	1.93	2.68
36	2.04	2.79
37	2.20	2.95
38	2.36	3.11
39	2.56	3.33
40	2.78	3.61
41	3.03	3.94
42	3.29	4.28
43	3.56	4.63
44	3.84	4.99
45	4.15	5.40
46	4.47	5.81
47	4.81	6.25
48	5.17	6.72
49	5.58	7.25
50	6.01	7.81
51	6.50	8.45
52	7.05	9.17
53	7.68	9.98
54	8.37	10.88
55	9.11	11.84
56	9.88	12.84
57	10.68	13.88
58	11.50	14.95
59	12.39	16.11
60	13.37	17.38
61	14.48	18.82
62	15.79	20.53
63	17.30	22.49
64	19.01	24.71
65	20.88	27.14
66	22.84	29.69
67	24.90	32.37
68	27.04	35.15
69	29.32	38.12
70	31.92	41.50
71	34.90	45.37
72	38.38	49.89
73	42.48	55.22
74	47.11	61.24
75	52.16	67.81
76	57.58	74.85
77	63.24	82.21
78	69.13	89.87
79	75.41	98.03
80	82.34	107.04
81	90.17	117.22
82	99.12	128.86
83	109.33	142.13
84	120.58	156.75
85	132.68	172.48
86	145.47	189.11
87	158.84	206.49
88	172.87	224.73
89	187.54	243.80
90	203.08	264.00
91	219.76	285.69
92	238.20	309.66
93	259.26	337.04
94	285.17	370.72
95	322.03	418.64
96	378.56	492.13
97	476.70	619.71
98	657.10	854.23
99	1000.00	1000.00

APPENDIX
TABLE 4
1980 CSO-D AND 1980 CET-D MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 50 PERCENT MALE—
50 PERCENT FEMALE
(PIVOTAL AGE 45)

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-D	1980 CET-D
0	3.54	4.60
1	.97	1.72
2	.91	1.66
3	.89	1.64
4	.85	1.60
5	.83	1.58
6	.79	1.54
7	.77	1.52
8	.73	1.48
9	.72	1.47
10	.71	1.46
11	.72	1.47
12	.78	1.53
13	.87	1.62
14	.97	1.72
15	1.10	1.85
16	1.21	1.96
17	1.31	2.06
18	1.39	2.14
19	1.44	2.19
20	1.48	2.23
21	1.49	2.24
22	1.50	2.25
23	1.49	2.24
24	1.49	2.24
25	1.47	2.22
26	1.47	2.22
27	1.46	2.21
28	1.48	2.23
29	1.51	2.26
30	1.54	2.29
31	1.58	2.33
32	1.64	2.39
33	1.70	2.45
34	1.79	2.54
35	1.88	2.63
36	2.00	2.75
37	2.14	2.89
38	2.31	3.06
39	2.51	3.26
40	2.72	3.54
41	2.97	3.86
42	3.22	4.19
43	3.49	4.54
44	3.75	4.88
45	4.06	5.28
46	4.36	5.67
47	4.68	6.08
48	5.03	6.54
49	5.41	7.03
50	5.83	7.58
51	6.30	8.19
52	6.82	8.87
53	7.42	9.65
54	8.07	10.49
55	8.77	11.40
56	9.50	12.35
57	10.23	13.30
58	10.99	14.29
59	11.81	15.35
60	12.71	16.52
61	13.75	17.88
62	14.96	19.45
63	16.39	21.31
64	18.02	23.43
65	19.78	25.71
66	21.64	28.13
67	23.59	30.67
68	25.58	33.25
69	27.73	36.05
70	30.16	39.21
71	32.96	42.85
72	36.29	47.18
73	40.20	52.26
74	44.66	58.06
75	49.55	64.42
76	54.80	71.24
77	60.31	78.40
78	66.06	85.88
79	72.23	93.90
80	79.07	102.79
81	86.80	112.84
82	95.68	124.38
83	105.81	137.55
84	117.02	152.13
85	129.11	167.84
86	141.91	184.48
87	155.41	202.03
88	169.55	220.42
89	184.45	239.79
90	200.23	260.30
91	217.23	282.40
92	235.91	306.68
93	257.43	334.66
94	283.81	368.95
95	320.74	416.96
96	377.93	491.31
97	476.61	619.59
98	656.44	853.37
99	1000.00	1000.00

APPENDIX
TABLE 5
1980 CSO-E AND 1980 CET-E MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 40 PERCENT MALE—
60 PERCENT FEMALE
(PIVOTAL AGE 45)

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-E	1980 CET-E
0	3.41	4.43
1	.95	1.70
2	.89	1.64
3	.86	1.61
4	.84	1.59
5	.81	1.56
6	.78	1.53
7	.76	1.51
8	.72	1.47
9	.71	1.46
10	.70	1.45
11	.71	1.46
12	.77	1.52
13	.84	1.59
14	.94	1.69
15	1.05	1.80
16	1.15	1.90
17	1.24	1.99
18	1.31	2.06
19	1.36	2.11
20	1.39	2.14
21	1.41	2.16
22	1.42	2.17
23	1.42	2.17
24	1.42	2.17
25	1.40	2.15
26	1.41	2.16
27	1.42	2.17
28	1.44	2.19
29	1.46	2.21
30	1.50	2.25
31	1.55	2.30
32	1.60	2.35
33	1.66	2.41
34	1.75	2.50
35	1.83	2.58
36	1.95	2.70
37	2.09	2.84
38	2.25	3.00
39	2.45	3.20
40	2.66	3.46
41	2.90	3.77
42	3.15	4.10
43	3.41	4.43
44	3.66	4.76
45	3.96	5.15
46	4.24	5.51
47	4.55	5.92
48	4.89	6.36
49	5.26	6.84
50	5.66	7.36
51	6.10	7.93
52	6.60	8.58
53	7.16	9.31
54	7.77	10.10
55	8.43	10.96
56	9.11	11.84
57	9.79	12.73
58	10.48	13.62
59	11.23	14.60
60	12.05	15.67
61	13.01	16.91
62	14.14	18.38
63	15.50	20.15
64	17.03	22.14
65	18.71	24.32
66	20.46	26.60
67	22.31	29.00
68	24.17	31.42
69	26.18	34.03
70	28.45	36.99
71	31.10	40.43
72	34.27	44.55
73	38.02	49.43
74	42.32	55.02
75	47.05	61.17
76	52.18	67.83
77	57.57	74.84
78	63.21	82.17
79	69.29	90.08
80	76.04	98.85
81	83.72	108.84
82	92.52	120.28
83	102.65	133.45
84	113.82	147.97
85	125.93	163.71
86	138.78	180.41
87	152.39	198.11
88	166.68	216.68
89	181.76	236.29
90	197.78	257.11
91	215.12	279.66
92	234.03	304.24
93	255.85	332.61
94	282.58	367.35
95	319.76	415.69
96	377.41	490.63
97	476.21	619.07
98	656.10	852.93
99	1000.00	1000.00

APPENDIX
TABLE 6
1980 CSO-F AND 1980 CET-F MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 20 PERCENT MALE—
80 PERCENT FEMALE
(PIVOTAL AGE 45)

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-F	1980 CET-F
0	3.15	4.10
1	.92	1.67
2	.85	1.60
3	.82	1.57
4	.81	1.56
5	.79	1.54
6	.76	1.51
7	.74	1.49
8	.71	1.46
9	.70	1.45
10	.70	1.45
11	.70	1.45
12	.74	1.49
13	.80	1.55
14	.86	1.61
15	.95	1.70
16	1.03	1.78
17	1.09	1.84
18	1.15	1.90
19	1.19	1.94
20	1.22	1.97
21	1.24	1.99
22	1.25	2.00
23	1.27	2.02
24	1.28	2.03
25	1.29	2.04
26	1.30	2.05
27	1.31	2.06
28	1.35	2.10
29	1.38	2.13
30	1.42	2.17
31	1.47	2.22
32	1.52	2.27
33	1.58	2.33
34	1.66	2.41
35	1.74	2.49
36	1.85	2.60
37	1.99	2.74
38	2.15	2.90
39	2.32	3.07
40	2.54	3.30
41	2.77	3.60
42	3.02	3.93
43	3.25	4.23
44	3.49	4.54
45	3.75	4.88
46	4.02	5.23
47	4.30	5.59
48	4.61	5.99
49	4.94	6.42
50	5.31	6.90
51	5.70	7.41
52	6.15	8.00
53	6.65	8.65
54	7.19	9.35
55	7.76	10.09
56	8.34	10.84
57	8.91	11.58
58	9.47	12.31
59	10.08	13.10
60	10.75	13.98
61	11.55	15.02
62	12.54	16.30
63	13.74	17.86
64	15.10	19.63
65	16.62	21.61
66	18.19	23.65
67	19.81	25.75
68	21.45	27.89
69	23.19	30.15
70	25.19	32.75
71	27.57	35.84
72	30.43	39.56
73	33.92	44.10
74	37.94	49.32
75	42.43	55.16
76	47.33	61.53
77	52.53	68.29
78	58.03	75.44
79	63.98	83.17
80	70.65	91.85
81	78.26	101.74
82	87.04	113.15
83	97.15	126.30
84	108.33	140.83
85	120.52	156.68
86	133.53	173.59
87	147.37	191.58
88	161.93	210.51
89	177.40	230.62
90	193.80	251.94
91	211.61	275.09
92	231.05	300.37
93	253.44	329.47
94	280.66	364.86
95	318.37	413.88
96	376.21	489.07
97	475.72	618.44
98	656.09	852.92
99	1000.00	1000.00

APPENDIX
TABLE 7
1980 CSO-G AND 1980 CET-G MORTALITY TABLES
BASED ON BLENDING 1980 CSO AND 1980 CET
MORTALITY TABLES 0 PERCENT MALE—
100 PERCENT FEMALE

RATES OF MORTALITY
1,000 q_x AGE NEAREST BIRTHDAY

Age (x)	1980 CSO-G	1980 CET-G	Age (x)	1980 CSO-G	1980 CET-G	Age (x)	1980 CSO-G	1980 CET-G
0	2.89	3.76	34	1.58	2.33	67	17.43	22.66
1	.87	1.62				68	18.84	24.49
2	.81	1.56	35	1.65	2.40	69	20.36	26.47
3	.79	1.54	36	1.76	2.51			
4	.77	1.52	37	1.89	2.64	70	22.11	28.74
			38	2.04	2.79	71	24.23	31.50
5	.76	1.51	39	2.22	2.97	72	26.87	34.93
6	.73	1.48				73	30.11	39.14
7	.72	1.47	40	2.42	3.17	74	33.93	44.11
8	.70	1.45	41	2.64	3.43			
9	.69	1.44	42	2.87	3.73	75	38.24	49.71
			43	3.09	4.02	76	42.97	55.86
10	.68	1.43	44	3.32	4.32	77	48.04	62.45
11	.69	1.44				78	53.45	69.49
12	.72	1.47	45	3.56	4.63	79	59.35	77.16
13	.75	1.50	46	3.80	4.94			
14	.80	1.55	47	4.05	5.27	80	65.99	85.79
			48	4.33	5.63	81	73.60	95.68
15	.85	1.60	49	4.63	6.02	82	82.40	107.12
16	.90	1.65				83	92.53	120.29
17	.95	1.70	50	4.96	6.45	84	103.81	134.95
18	.98	1.73	51	5.31	6.90			
19	1.02	1.77	52	5.70	7.41	85	116.10	150.93
			53	6.15	8.00	86	129.29	168.08
20	1.05	1.80	54	6.61	8.59	87	143.32	186.32
21	1.07	1.82				88	158.18	205.63
22	1.09	1.84	55	7.09	9.22	89	173.94	226.12
23	1.11	1.86	56	7.57	9.84			
24	1.14	1.89	57	8.03	10.44	90	190.75	247.98
			58	8.47	11.01	91	208.87	271.53
25	1.16	1.91	59	8.94	11.62	92	228.81	297.45
26	1.19	1.94				93	251.51	326.96
27	1.22	1.97	60	9.47	12.31	94	279.31	363.10
28	1.26	2.01	61	10.13	13.17			
29	1.30	2.05	62	10.96	14.25	95	317.32	412.52
			63	12.02	15.63	96	375.74	488.46
30	1.35	2.10	64	13.25	17.23	97	474.97	617.46
31	1.40	2.15				98	655.85	852.61
32	1.45	2.20	65	14.59	18.97	99	1000.00	1000.00
33	1.50	2.25	66	16.00	20.80			

COMMERCE AND ECONOMIC DEVELOPMENT

(a)

DEPARTMENT RULES: N.J.A.C. 12A

Small Business Set-Aside Contracts

Public Notice

Take notice that any rules promulgated by the newly created Department of Commerce and Economic Development will be codified in Title 12A of the New Jersey Administrative Code (N.J.A.C. 12A). Departmental rules will be codified into N.J.A.C. 12A once the organizational structure of the agency's rules is determined.

Take further notice that in this issue of the Register at 16 N.J.R. 1958(a), the Department of the Treasury and the Department of Commerce and Economic Development are proposing joint new rules concerning Small Business Set-Aside Contracts. The Department of Treasury rules are proposed and codified at N.J.A.C. 17:12-6. Since the organizational structure of the Department of Commerce and Economic Development's rules has not yet been determined, the Small Business Set-Aside Contract rules have not been proposed or codified in N.J.A.C. 12A. Once the organizational structure is completed the set-aside rules will be codified into Title 12A.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

Licensing Service
Driver License

Proposed Readoption with Amendments: N.J.A.C. 13:21-8.1 through 8.24

Authorized By: Clifford W. Snedeker, Director, Division of Motor Vehicles.
Authority: N.J.S.A. 39:3-10, 39:3-11.1, 39:3-13, 39:3-13a and 39:3-13.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66 (1978), these rules would otherwise expire on September 25, 1984. The adoption becomes effective upon acceptance for filing of the notice of adoption by the Office of Administrative Law.

This proposal is known as PRN 1984-398.

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:21-8.1 through 8.23 concerning driver licenses. These rules were initially filed and became effective prior to September 1, 1969. These rules were subsequently amended on January 9, 1970, September 26, 1979, November 6, 1980, February 26, 1981, April 15, 1982, and January 3, 1984. The rules are now to be readopted in accordance with Executive Order 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-10, 39:3-11.1, 39:3-13, 39:3-13a and 39:3-13.1) pertaining to driver licensing.

N.J.A.C. 13:21-8.1 sets forth definitions of terms used in the subchapter. N.J.A.C. 13:21-8.2 specifies those documents which an applicant for driver's license may produce in order to establish identity and date of birth. N.J.A.C. 13:21-8.3 provides that applicants for initial driver license, applicants being retested, and applicants holding an out-of-State driver license must produce a valid permit when appearing for the driver examination. N.J.A.C. 13:21-8.4 provides that a person may be prohibited from licensure if a physical or mental disability renders him incapable of operating a motor vehicle in a safe manner. N.J.A.C. 13:21-8.5 provides that a person who has had his driving privileges revoked may be required to present evidence of restoration prior to licensure. N.J.A.C. 13:21-8.6 provides for written tests in English and foreign languages determined by the Director. Applicants who fail the written test may not be retested for at least one week from the date of failure. N.J.A.C. 13:21-8.7 provides for oral tests for persons who cannot read. Oral tests may be given in English or foreign languages determined by the Director. Applicants who fail the oral test may not be retested for at least two weeks from the date of failure. N.J.A.C. 13:21-8.8 provides for special examinations for the hearing-impaired who cannot complete the written test. An interpreter approved by the New Jersey Division of the Deaf may accompany the hearing-impaired applicant at the special examination. The Division of Motor Vehicles pays the interpreter fees for hearing-impaired applicants. Applicants who fail the special examination may not be retested for at least two weeks from the date of the failure. N.J.A.C. 13:21-8.9 provides that applicants will be required to meet the minimum vision standards established by the Division. N.J.A.C. 13:21-8.10 establishes the minimum vision standards for driver license applicants. The general standard is 20/50 in each eye as measured of the Snellen Chart. N.J.A.C. 13:21-8.11 provides that the color perception check will measure applicants' ability to distinguish red, amber and green on official traffic control devices. Applicants may not be denied licensure solely on the basis of color perception deficiency. N.J.A.C. 13:21-8.12 provides that every applicant for a driver's license must satisfactorily complete a practical demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle. N.J.A.C. 13:21-8.13 specifies the driving maneuvers that an applicant must satisfactorily perform. N.J.A.C. 13:21-8.14 provides standards for the motor vehicle used in the driving demonstration. N.J.A.C. 13:21-8.15 provides that the applicant must be accompanied to the test site by a licensed driver. The licensed driver is not permitted in the motor vehicle during the drivers test. N.J.A.C. 13:21-8.16 provides that an applicant who fails the driving test may not be retested for at least two weeks from the date of failure. An applicant who fails the driving test after several attempts and demonstrates no material improvement in his performance may be prohibited from submitting to the driving test for a period of six months. The applicant may retain the examination permit during the six month prohibition for practice driving. N.J.A.C. 13:21-8.17 specifies those circumstances in which a driving test may be waived. N.J.A.C. 13:21-8.21 specifies the numerical codes for eye color and weight for driver licenses. N.J.A.C. 13:21-8.22 specifies the numerical codes for vehicle class and restrictions relating to corrective glasses, prosthetic devices etc. which appear on the driver license document. N.J.A.C. 13:21-8.23 provides that an applicant whose address is in New Jersey and is licensed in a foreign state may be required to surrender the license issued by the foreign state as a prerequisite to completion of the driver license examination. Finally, N.J.A.C. 13:21-8.24 provides for the administrative suspension of the driver's license of any driver who fails to notify the Division of Motor Vehicles of a change of address as required in N.J.S.A. 39:3-36.

The Division has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated." The rules provide an efficient procedure for the administration of the driver licensing laws and protect the public in areas relating to highway safety by restricting licensure to those who can demonstrate their knowledge of the rules of the road and their ability to safely operate motor vehicles.

Social Impact

The rules proposed for readoption promote the public interest in matters relating to highway safety by providing objective standards for driver testing. The rules assure that all licensed drivers in New Jersey have met certain minimal standards before they take to the roads. The rules proposed for readoption will continue to promote this important public interest by maintaining safeguards in the licensing of drivers in the State. The rules are necessary and an integral part of the Division of Motor Vehicles' responsibility in preserving public safety.

Economic Impact

There is an economic impact on the Division of Motor Vehicles in administering the driver licensing laws, however, the exact economic cost is not readily quantifiable. There is a beneficial economic impact on the public to the extent that these rules promote highway safety by setting forth objective standards for driver qualification which prevent unqualified drivers from driving on New Jersey roads and thus lessens the risk of accidents and the resulting economic consequences of medical expenses and property damage.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:21-8, as amended in the New Jersey Register.

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

SUBCHAPTER 8. DRIVER LICENSE

13:21-8.1 Definitions

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

"Applicant" means every person who has made application for a license as provided in N.J.S.A. 39:3-10 or who has complied with the provisions of N.J.S.A. 39:3-11.1 or N.J.S.A. 39:3-13.1 et seq.

"Driving test" means that portion of the Driver License Examination wherein the applicant for a New Jersey automobile or motorcycle license demonstrates his ability to exercise safe and reasonable control in the operation of a motor vehicle of the type or general class of vehicles for which the license he has applied for would be valid.

"Examinations" means a test or series of tests designed to check the applicant's visual acuity, color perception, knowledge of laws and safe operation of motor vehicles and administered by [the Driver Testing Bureau of the Division of Motor Vehicles] **the Bureau of Driver Testing**.

"Permit" means learner's permit, driver examination permit or any written instrument issued under the provisions of N.J.S.A. 39:3-13 or 39:3-13.1 et seq.

"Requirements" means prerequisites applicants must meet before examinations will be administered, or applications will be approved.

(a)

OFFICE OF THE STATE ATHLETIC COMMISSION

Scoring of Boxing Contests; Announcements

Proposed Amendments: N.J.A.C. 13:46-8.19 and 10.7

Authorized By: Robert Lee, Acting State Athletic Commissioner.
Authority: N.J.S.A. 5:2-5.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert Lee
Acting State Athletic Commissioner
Richard J. Hughes Justice Complex
CN 151
Trenton, New Jersey 08625

At the close of the period for comments, the Office of the State Athletic Commission thereafter may adopt this proposal, with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption of these rules becomes effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1984-397.

The agency proposal follows:

Summary

N.J.A.C. 13:46-8.19 which establishes the system of scoring for boxing contests is proposed for amendment in two ways. Scoring will be the responsibility of three judges and not the referee. Secondly, the scorecards used by the judges are to be submitted to the Commissioner at the end of each round. Presently the scorecards are not submitted to the Commissioner or his representative until the conclusion of the bout.

N.J.A.C. 13:46-10.7 is being amended to reflect that at the conclusion of the boxing contest the announcer shall announce the decision from the ring.

Social Impact

By removing the referee from the scoring of a bout, the referee will be better able to perform his other responsibilities including protecting the safety and well-being of the contestants. The submission of the scorecards at the conclusion of each round will preserve the integrity of the scoring of boxing contests.

Economic Impact

No discernible significant economic impact will result from the adoption of the proposed amendments since they simply reflect a slight change in procedure during boxing matches.

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

13:46-8.19 Round system scoring; supplemental point system

(a) The round system of scoring shall govern the decision **and be rendered by three judges.**

(b) The [referee] **judges** must mark [his] **their** scorecards in ink or indelible pencil at the end of each round, with the symbols of W or L or E; a capital W in a boxer's column indicates the win of that round, a capital L, the loss of that round, and a capital E that the round was even.

(c) At the conclusion of the bout, [the referee must tally up the rounds, and] the boxer who has won the most number of rounds on the scorecards is the winner.

(d) At the end of each round, the [referee] **judges** will use ten points to supplement [his] **their** scorecard.

1.-4. (No change.)

(e) If a referee penalizes a boxer a round for a foul:

1. (No change.)

2. The offender loses the round, with a score of four points **or less.**

3. The referee shall notify **the judges and** the announcer of the same, and the announcer shall declare it to the public at the end of that round.

(f) (No change.)

(g) [The referee shall first submit the scorecard to the Commissioner or his representative which shall be checked, and then given to the announcer who shall announce the decision of the referee from the ring].

At the conclusion of each round, the judges shall submit their scorecards including the point supplementation, to the Commissioner or his representative. At the conclusion of the bout, the rounds shall be tallied by the Commissioner or his representative and given to the announcer who shall announce the decision from the ring.

(h) In all boxing contests, the announcer shall call out the rounds credited to a boxer by the [referee] **judges**, and when it becomes necessary, rounds and points credited to a boxer.

(i) (No change.)

13:46-10.7 [Collection and submission of scorecard] **Announcement of the decision**

[(a) The announcer at the conclusion of each boxing bout shall collect the scorecard for the referee and submit it to the Commissioner or his representative in attendance for inspection, before making any announcement of the decision.]

[(b) The manner of the announcement shall be directed by the Commissioner or his representative.]

At the conclusion of a boxing bout, the announcer shall obtain the decision from the Commissioner or his representative and shall announce the decision from the ring. The manner of the announcement shall be directed by the Commissioner.

TRANSPORTATION

(a)

THE COMMISSIONER

Notice of Public Hearing on Proposed New Rule, N.J.A.C. 16:41B, concerning News Dispensers on State Highway Right-of-Way

Take notice that a public hearing will be held on July 25, 1984, at 10:00 A.M. in Room #140 (Hearing Room) at the Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey, concerning Proposed Rule N.J.A.C. 16:41B "News Dispensers On State Highway Right-of-Way" as proposed in the New Jersey Register on Monday, February 6, 1984 at 16 N.J.R. 225(a).

The public hearing will be conducted in a quasi-legislative rather than quasi-judicial manner and is open to interested individuals, representatives of governmental bodies and companies and associations.

Interested persons are invited to participate through written comments or oral presentations. Comments will be restricted to the rules as proposed. Persons wishing to make oral presentation or submit written comments are requested to do so on or before July 20, 1984, by notifying:

Charles L. Meyers
Administrative Practice Officer
New Jersey Department of Transportation
CN 600
Trenton, New Jersey 08625
Telephone: (609) 292-0053

TREASURY-GENERAL

(a)

COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF PURCHASE AND PROPERTY

Small Business Set-Aside Contracts

Jointly Proposed New Rules: N.J.A.C. 17:12-6

Authorized By: Michael M. Horn, State Treasurer and Borden R. Putnam, Commissioner, Department of Commerce and Economic Development.
Authority: N.J.S.A. 52:32-17 (L.1983, c.482).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Burton Weltman, Esq.
Division of Purchase and Property
Department of the Treasury
135 West Hanover Street
Trenton, New Jersey 08625; or

Elizabeth Lyons, Chief
Office of Small Business Assistance
Department of Commerce and Economic Development
1 West State Street
Trenton, New Jersey 08625

The Department of the Treasury and the Department of Commerce and Economic Development thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-406.

The agency proposal follows:

Summary

New rules are being proposed in implementation of the Small Business Set Aside Act, L.1983, c.482 (N.J.S.A. 52:32-17). The rules are being jointly proposed by the Department of Treasury and the Department of Commerce and Economic Development, which are given the responsibility of implementing the Act.

The purpose of the Act and of these rules is to increase the percentage of State contracts which are awarded to small businesses. Pursuant to the Act, State agencies must set-aside at least 15 percent of their purchase contracts for small businesses, and the bidding on contracts set-aside for small businesses must be limited to vendors who meet three statutory criteria:

1. Vendors must be New Jersey businesses;
2. Vendors must be independently owned and operated; and,
3. Vendors must be small businesses.

Under the Act, the responsibility for defining and for certifying eligible small businesses lies with the Department of Commerce and Economic Development. The responsibility for defining those contracts which should be set-aside and for developing the set-aside procedures lies with the Department of Treasury. These rules jointly implement those responsibilities.

Some key provisions of these rules include:

1. A definition of small business as one with no more than 100 full-time employees (see N.J.A.C. 17:12-6.3);
2. A procedure whereby vendors may apply to the Office of Small Business Assistance (OSBA) for eligibility as small business set-aside bidders, (see N.J.A.C. 17:12-6.4). In order for a vendor to be eligible for consideration as a bidder on a set-aside contract, the bidder must apply to OSBA no later than the bid opening date for the contract and must be certified by OSBA no later than seven days following the bid opening date;
3. A procedure for challenging the eligibility of a vendor to be a small business bidder (see N.J.A.C. 17:12-6.5), and for penalizing vendors who falsely claim eligibility as small business bidders (see N.J.A.C. 17:12-6.10);
4. A set of standards for determining set-aside goals and contracts to be set-aside (see N.J.A.C. 17:12-6.6 and 6.8);
5. A procedure for establishing set-aside plans (see N.J.A.C. 17:12-6.7) and for reporting on implementation of the plans (see N.J.A.C. 17:12-6.11); and,
6. A set of procedures for resolving disputes which might arise under these rules (see N.J.A.C. 17:12-6.7(d)2., (e)2., N.J.A.C. 17:12-6.9(c), and N.J.A.C. 17:12-6.10(d)).

Social Impact

According to information from the New Jersey Department of Labor, of those businesses covered under the Unemployment Compensation Law, some 144,222 businesses, or 97.4 percent of the total of businesses, have 100 or less employees. These same businesses employ some 51.5 percent of New Jersey's workers covered by the Unemployment Compensation Law. See "New Jersey Private Sector Employment by Employment Size Groups," March, 1983 report from the Division of Planning and Research. At the same time, according to information from the Governor's Inter-Agency Procurement Committee, there are State agencies that do not even make 15 percent of their purchases from small businesses. See "Department Purchases of Goods and Services from Very Small Approved Vendors—FY 83," April 27, 1984 memo to the Committee.

Section 2 of the Set-Aside Act claims that the well-being of New Jersey's economy and society depend on the existence of small businesses and, towards that end, declares that "the State must ensure that a fair proportion of the State's total purchases and contracts for construction, property and services is placed with small business concerns." The Act then requires State agencies to make a "good faith effort" to set-aside at least 15 percent of their contracts for small businesses.

These rules attempt to fulfill the goals of the Act, by setting up standards and procedures for State agencies, and also by reaching out to small businesses for participation in the set-aside process. Specifically, these rules require State contracting agencies to develop and maintain small business bidders' lists, to publicly advertise for small businesses who might apply to be on small business bidders' lists, and to assist vendors who want to apply for certification as eligible small business bidders. The rules also require OSBA periodically to meet with small business people and their representatives, to ascertain how the State might better do business with them.

Economic Impact

The Set-Aside Act and these rules are expected generally to impact on the New Jersey economy by assisting small businesses. The actual economic impact will be ascertained through reports and surveys, required under the Act and these rules.

The Act and these rules should also have some fiscal impact on the State, in two respects. First, the Act and these rules will entail some administrative costs on the part of OSBA and the various contracting agencies. Set-aside contracts will require some special procedures and extra paperwork. Second, the Act may result in some higher prices for purchases made under set-aside contracts. Although these rules provide a mechanism for rescinding the designation of a set-aside contract when all the small business bids are unreasonably high (see N.J.A.C. 17:12-6.9), it is nonetheless expected that many of the set-aside contracts will entail some higher prices than otherwise. The actual fiscal impact will be ascertained as these rules are implemented.

Full text of the new rules follows.

SUBCHAPTER 6. SMALL BUSINESS SET-ASIDE

17:12-6.1 Applicability

(a) The rules in this subchapter are jointly promulgated by the Departments of Treasury and Commerce to implement the Small Business Set-aside Act, L.1983, c.482 (N.J.S.A. 52:32-17). The Act establishes a goal of setting-aside the award of no less than 15 percent of State agency contracts for small businesses. The Act requires the Department of Treasury to delineate those contracts which shall be set-aside for small business awards and shall be counted toward the set-aside goals, and to promulgate set-aside procedures for those contracts. The Act requires the Department of Commerce to define the size standards for small businesses eligible for set-aside contracts, to certify the eligibility of small businesses, and to promulgate other procedures for developing and monitoring small business contracts under the Act.

(b) The rules in this subchapter shall apply to contracts or a portion thereof for the purchase of goods and services which are awarded by the various State contracting agencies pursuant to the jurisdiction defined in the agencies' various authorizing statutes. Each State agency which possesses the authority to award and make its own purchasing contracts is governed by the Set-aside Act, and must comply with these rules. The State contracting agencies covered by these rules include:

1. The General Services Administration of the Department of the Treasury, encompassing the Divisions of Purchase and Property, of Building and Construction, and of Data Processing and Telecommunications;
2. The Department of Environmental Protection;
3. The Department of Transportation;
4. Rutgers University;
5. The University of Medicine and Dentistry;
6. The New Jersey Turnpike Authority;
7. The New Jersey Expressway Authority;
8. The New Jersey Broadcasting Authority;
9. The Sports and Exposition Authority; and,
10. The other independent State authorities and agencies not listed above.

(c) Questions concerning the eligibility of small businesses under the Small Business Set-aside Act should be directed to:

Office of Small Business Assistance
Department of Commerce
1 West State Street
CN 823
Trenton, NJ 08625

(d) Questions concerning the award of set-aside contracts should be directed to:

General Services Administration
Department of the Treasury
135 W. Hanover St.
Trenton, NJ 08625

17:12-6.2 Definitions

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

"Commerce" or "DCED" means the Department of Commerce and Economic Development.

"Contracting agency" means any board, commission, committee, authority or agency of the State which possesses the legal authority to award and make contracts.

"Cooperative purchasing" means an award made by the Division of Purchase and Property for the use of either local governing authorities, pursuant to N.J.S.A. 52:25-16.1 et seq., or quasi-State agencies, pursuant to N.J.S.A. 52:27B-56.1. Such an award is made as an adjunct to an award of a contract for State agency purchases.

"Delegated purchasing" means the award of a contract by a State agency pursuant to authority delegated by the Division of Purchase and Property. Under certain circumstances, the Division of Purchase and Property may delegate its authority to award contracts, pursuant to N.J.S.A. 52:25-23 (purchases up to $2,500) and N.J.S.A. 52:34-8 (waiver of ordinary procedures). In other contracts under the authority of the Division of Purchase and Property, an award is made by the Division of Purchase and Property.

"Direct purchasing" means the issuance of a purchase order by a State agency for a specific item of goods or service, for which a contract either has already been awarded or is simultaneously being awarded. In general, a State agency may issue a purchase order for goods or services contained either in a contract awarded by the State agency pursuant to its own statutory contracting authority, or in a term contract awarded by the Division of Purchase and Property, or in a contract awarded by the State agency pursuant to purchasing authority delegated from the Division of Purchase and Property. In line-item contracts awarded by the Division of Purchase and Property, a purchase order is issued by the Division of Purchase and Property.

"Division of Purchase and Property" is the State agency which provides a centralized purchasing service for other State agencies, pursuant to N.J.S.A. 52:27B-56.

"General Services Administration" or "GSA" is that body within the Department of Treasury which encompasses and coordinates the Divisions of Purchase and Property, of Building and Construction and of Data Processing and Telecommunications.

"Line-item contract" means an award in which a specific one-time purchase of a good or service is established. In line-item contracts awarded by the Division of Purchase and Property or other contracting agency, a purchase order is also issued by the Division of Purchase and Property or other contracting agency. In line-item contracts issued by State agencies pursuant to delegated purchasing authority, a purchase order is directly issued by the using agency.

"Multiple award" means a term contract awarded by the Division of Purchase and Property or other contracting agency wherein more than one vendor is awarded a contract. In general, multiple awards are made in two situations:

1. Where the volume of business is so large or the geographical distances are so great that more than one vendor is necessary to serve the State's needs; or,

2. Where the differences between various vendors' versions of a product are so significant that it is useful to have a contract with a vendor of each product.

"Office" or "OSBA" is the Office of Small Business Assistance in the Department of Commerce, which administers the eligibility provisions of these rules.

"Purchase order" means the document which implements the purchase of a specific item authorized by a line-item or term contract award. Depending on the contract, purchase orders may be issued either by using agencies or by the Division of Purchase and Property.

"Request for proposals" or "RFP" means the document issued by the Purchase Bureau of the Division of Purchase and Property or any other contracting agency which forms the basis of any advertised bidding and award process conducted by the contracting agency. The RFP defines the basic terms and conditions, the specifications, and other requirements of the proposed contract for which vendors are invited to bid. RFP's are usually of two types, for term contracts and for line-item contracts.

"Term contract" means an award made by a contracting agency in which a source of supply for a product is established for a specific period of time. The contract generally establishes a fixed, unit price or discount for items to be purchased thereunder. A term contract also usually contains a provision for some estimated dollar volume or minimum quantities to be purchased, and may contain a provision for the rebidding of any single purchase which exceeds a specified maximum amount.

"Treasurer" means the head of the Department of Treasury.

"Treasury" means the Department of Treasury.

"Using agency" means the State agency for which a purchase of goods or services is being made. Purchases for using agencies either are made for the agency by the Division of Purchase or Property or other contracting agency or are made by the using agency pursuant to delegated purchasing authority.

"Waiver" means an award process, authorized by N.J.S.A. 52:34-8, which does not conform to the usual advertised bidding and award process, required by N.J.S.A. 52:34-6 et seq. For contracts awarded under a waiver, the award process generally consists either of negotiations with a limited number of vendors or of bids solicited from a limited number of vendors. A waiver may also delegate purchasing authority to a using agency.

17:12-6.3 Standards of set-aside eligibility for small businesses

(a) In order to be eligible as a small business bidder on a set-aside contract, a business shall:

1. Have its principal place of business in New Jersey;

2. Be independently owned and operated; and

3. Be a sole proprietorship, partnership or corporation with 100 or fewer employees in full-time positions.

(b) In order to be certified to bid on small business set-aside contracts, a business shall establish its eligibility as a small business with the Office of Small Business Assistance (OSBA). Any application for certification as a small business under these rules shall include reasonable documentation of the firm's principal place of business, independent status and number of employees. Where available, this documentation should include appropriate forms or reports submitted to State or Federal agencies, such as data certified and filed with the New Jersey Department of Labor.

1. A business which is unwilling or unable to document its status or number of employees shall not be certified as eligible to bid on set-aside contracts.

2. A business which knowingly supplies incomplete or inaccurate information shall be ineligible to bid on set-aside contracts and may be subject to disqualifications from doing other business with the State, pursuant to N.J.A.C. 17:12-6.5 and N.J.A.C. 17:12-6.10.

(c) In determining whether a business has 100 or fewer employees, the tally of employees shall not include:

1. Seasonal and part-time employees employed for less than 90 days, if seasonal and casual part-time employment are common to that industry; and,

2. Consultants employed under specific contracts not related to the goods or services which are the subject of the set-aside contract.

17:12-6.4 Application and certification of eligible small businesses

(a) In order to be accepted as a bidder on a set-aside contract, a business must be certified as eligible by the Office of Small Business Assistance (OSBA). A business may be certified as an eligible small business either by:

1. Applying to OSBA and thereby being accepted onto a small business bidders' list compiled by a contracting agency, or compiled by a using agency for use in awards made pursuant to the using agency's delegated purchasing authority. RFP's and/or bid solicitations for set-aside contracts shall be addressed to businesses on appropriate small business bidder's lists; or,

2. Applying to OSBA and being accepted as an eligible bidder in response to an advertised RFP issued by a contracting agency or in response to a solicitation of bids by a using agency with delegated purchasing authority. The applicant shall apply no later than the bid opening date for the award and shall include the bid opening date for the award with the application.

(b) Vendors may apply at any time to be on an appropriate small business bidders' list. Small business bidders' lists shall be developed by contracting agencies, and may be developed by using agencies, in coordination with OSBA.

1. No business shall be accepted onto a small business bidders' list without the prior approval of OSBA.

2. On or about March 1 of each year, each contracting agency, and any using agency maintaining a small business bidders' list, shall advertise in appropriate newspapers for vendors who might desire to be included on a small business bidders' list.

3. A business which wants to be accepted onto a small business bidders' list shall apply directly to OSBA for approval as a small business.

4. Upon approval, OSBA shall notify each appropriate State agency as to the vendor's qualification as a small business.

5. State agencies so notified shall thereafter include the vendor on any appropriate small business bidders' lists. There shall be no limit to the number of eligible shall include every certified small business on the appropriate bidders' lists.

i. For the convenience of using agencies making purchases pursuant to delegated purchasing authority, the Purchase Bureau of the Division of Purchase and Property shall distribute its small business bidders' lists to using agencies. The Purchase Bureau's lists shall be used by those agencies in addition to any lists developed by the using agencies.

6. On or about October 1 of each year, each contracting agency, and using agency maintaining a small business bidders' list shall submit each small business bidders' list for review and reapproval to the Office of Small Business Assistance. OSBA shall respond by December 1.

7. Unless and until disapproved by the Office of Small Business Assistance, State agencies may continue to use any existing small business bidders' lists.

8. Unless and until disapproved by the Office of Small Business Assistance, State agencies may continue to award set-aside contracts to any business previously approved for inclusion on a small business bidders' list.

9. However, if no adequate or appropriate small business bidder's list is available, RFP's or bid solicitations may be sent to vendors on other bidders' lists, as long as these vendors are informed that only certified small businesses may receive an award, and that vendors may qualify as small businesses pursuant to (c) below.

(c) No later than the bid opening date, a vendor may apply to be an eligible small business bidder in response to an RFP for a set-aside contract. The RFP or solicitation of bids for a small business set-aside contract shall clearly and conspicuously state that the award may go only to a qualified small business which is either listed on a small business bidders' list or is approved as follows:

1. The RFP for a set-aside contract shall state that a bidder either must already be on an appropriate small business bidders' list or must be certified by the Office of Small Business Assistance as an eligible small business no later than seven working days following the bid opening date.

2. A vendor who is not on a small business bidders' list may request an RFP and submit a bid, but must duly apply to be an eligible small business bidder no later than the bid opening date.

3. Any bidder who is not on an appropriate bidders' list shall apply directly to the Office of Small Assistance for approval as a small business.

4. If the contracting agency does not receive from OSBA approval of the vendor as an eligible small business no later than seven working days from the bid opening date, the vendor's bid shall be automatically rejected.

(d) In order to apply and to be an eligible bidder for small business set-aside contracts, a vendor shall:

1. Complete and submit to OSBA a State of New Jersey Vendor Data Questionnaire. This questionnaire is developed and distributed by OSBA.

2. Submit to OSBA reasonable documentation of the vendor's principal place of business, status as an independent business, and number of employees.

i. Where available, this documentation shall include appropriate forms or reports submitted to State or Federal agencies, such as data certified and filed with the Division of Unemployment Compensation in the New Jersey Department of Labor.

3. Submit to OSBA any additional information requested in order reasonably to determine a vendor's status.

4. Comply with any prequalification or other eligibility requirements legitimately established by contracting agencies to determine the qualifications of bidders and the ability of vendors to perform the agency's contracts. A vendor's certification by OSBA as a small business shall not be deemed to override or undermine any requirements, standards or procedures otherwise legitimately established by contracting agencies.

(e) OSBA shall prepare and distribute New Jersey Vendor Data Questionnaires and instructions on applying for small business eligibility. OSBA shall also periodically consult with representatives of government and business on how better to develop the set-aside procedures. At the same time:

1. Contracting agencies shall provide New Jersey Vendor Data Questionnaire to vendors upon request. OSBA shall supply these questionnaires to contracting agencies.

2. Where a contracting agency determines that a contract should be set-aside, and that agency does not have a small business bidders' list appropriate for that contract, the agency may send RFP's to vendors on an ordinary bidders' list, but the agency must include with the RFP a New Jersey Vendor Data Questionnaire and appropriate instructions on the need and the procedures for applying to be an eligible small business bidder. Vendors shall be warned that failure to be timely certified as an eligible small business shall result in the automatic rejection of their bids.

3. Contracting agencies shall refer applicants for small business eligibility and applicants' questions to OSBA.

17:12-6.5 Disqualification of vendors as bidders on small business set-aside contracts

(a) Each vendor certified as an eligible small business bidder shall immediately apprise the Office of Small Business Assistance of any circumstances which might disqualify that vendor as a small business bidder.

1. The failure of a vendor to report any such changed circumstances, or the intentional reporting by a vendor of false information about its small business status, may subject the vendor to action by the contracting agency. In the case of the Division of Purchase and Property, this action may include the rejection of a bid, the cancellation of State contracts (see N.J.A.C. 17:12-2.7(e)1.), and the debarment from State contracts (see N.J.A.C. 17:12-7.2). The failure to report or the falsification of information may also subject a vendor to action by the Department of Commerce, under section 14 of the Act (N.J.S.A. 52:32-17) and N.J.A.C. 17:12-6.10 below.

(b) No later than 10 days after the issuance of any intent to award or any proposed award of a set-aside contract, any bidder on that contract, certified as a small business, may challenge the set-aside eligibility of any other bidder certified as a small business, as follows:

1. Such challenge shall be made in writing to the Office of Small Business Assistance, with copies to the contracting agency and the challenged bidder.

2. The challenge may concern only the questions of whether the bidder has its principal place of business in New Jersey, is independently owned and operated, or has 100 or fewer employees. Any questions as to a bidder's qualifications to perform the contract shall be referred to the contracting agency pursuant to that agency's procedures.

3. The written challenge shall be accompanied and supported by documentation in support of the charges.

4. Except where emergent circumstances, disclosed to the Office of Small Business Assistance and the bidders, require the immediate implementation of an award, the State agency making the award shall withhold the final award of a small business set-aside contract for 10 working days from the date of the issuance of any intent to award or proposed award, in order to accommodate any hearing by the Office of Small Business Assistance of a challenge to a bidder's small business status. Unless the vendor whose qualifications are being challenged is disapproved by the Office within the 10 working day period, the contracting agency may accept the vendor as qualified for purposes of the pending award.

5. The contracting agency shall furnish the names, addresses and telephone numbers, and the title of the solicitation or RFP to the OSBA within seven working days of the date the agency has been notified of a challenge.

6. OSBA will resolve the challenge as follows:

i. OSBA will notify the bidder challenged, and any other bidders on that contract, of the challenge and of the procedures which will be followed, of the time and place of the hearing and of the right to attend and be represented at the hearing.

ii. The burden of proof is on the challenger. However, OSBA may use the resources of the State to verify the status or size of the bidder challenged. These resources might include data reported to the New Jersey Department of Labor or the Treasury. Contracting agencies with whom the challenged vendor has held contracts and private sector references will be contacted if appropriate.

iii. The hearing shall be conducted by the Chief of OSBA, who will issue a written report and recommendation to the Commissioner of Commerce no later than four working days after the close of the hearing.

iv. Bidders may file exceptions with the Commissioner to the chief's report no later than two working days from the issuance of the report.

v. Thereafter, the Commissioner, or his or her designee, shall issue a final decision on the challenge.

7. The right to challenge a vendor's qualification as a small business is in addition to any other protest hearing rights afforded by a contracting agency, such as those provided by the Division of Purchase and Property in N.J.A.C. 17:12-3.

8. In the event the proposed awardee of a set-aside contract is disqualified as an eligible small business by the Office of Small Business Assistance following a challenge, the award shall go to the certified eligible small business bidder whose bid was evaluated as second best by the contracting agency, subject to any rejection of the contract as a set-aside pursuant to N.J.A.C. 17:12-6.9.

17:12-6.6 Standards for determining the set-aside goals and the satisfaction of those goals

(a) Each contracting agency shall make a good faith effort to ensure that no less than 15 percent of the State contracts under its jurisdiction are specifically set-aside for small businesses. See Sections 3 and 7 of the Act, L.1983, c.482 (N.J.S.A. 52:32-17). Pursuant to the Act:

1. 15 percent of all State purchase contracts shall be set-aside for bidding only by small businesses certified as eligible by the Office of Small Business Assistance;

2. In set-aside contracts, bids shall be solicited and accepted only from eligible small businesses;

3. This 15 percent small business set-aside goals is in addition to any contracts awarded to small businesses as a result of the ordinary contract award processes, authorized by N.J.S.A. 52:34-6 et seq. or other purchasing statute, wherein both large and small businesses may compete together for contracts.

(b) Each contracting agency shall initially calculate the total number of contracts (the 100 percent) which it awards, and from which at least 15 percent must be set-aside. For purposes of calculating this pool from which the set-aside contracts shall be drawn, the contracting agency shall count all contracts awarded under its jurisdiction and authority, irrespective of whether:

1. The dollar amounts of the contracts vary;

2. The contracts were awarded by another State agency through purchasing authority delegated from the contracting agency or were awarded by the contracting agency itself;

3. The contracts were awarded as a result of advertised bidding, negotiations, extensions of existing contracts or waivers; or,

4. The contracts were implemented through purchase orders issued by the contracting agency, or by a using agency.

(c) The pool of contracts (the 100 percent), from which a contracting agency must set-aside 15 percent for small businesses, shall not include any contract for which the application of the small business preference, in-state preferences or other goals and procedures established under the Set-aside Act would jeopardize the State's participation in a program from which the State receives Federal funds or other benefits.

(d) For purposes of calculating the total number of State contracts (the 100 percent) under the contracting agency's jurisdiction, and of determining compliance with the set-aside goal (at least 15 percent), contract awards shall be counted and used as the basic unit. Each contract awarded to a vendor by the contracting agency shall count for one contract. Therefore:

1. Where a single request for bids (RFP) results in the multiple award of more than one contract, each award counts as a separate contract;

2. Where a term contract is awarded to a vendor, the award to that vendor counts as one contract, irrespective of how many purchases are made under the term contract and irrespective of whether the purchase orders are issued by the contracting agency or by a separate using agency. Term contracts awarded by the Purchase Bureau of the Division of Purchase and Property shall count toward the set-aside goals specifically set for the Purchase Bureau;

3. Where a line-item contract is awarded, either by a using agency under delegated purchasing authority or by the Division of Purchase and Property or other contracting agency, the award shall count for one contract.

(e) For purposes of achieving the set-aside goal, set-aside contracts must satisfy certain procedural requirements.

1. In order to count an award toward the set-aside goal, the contract shall be:

i. Specifically designated in the request for bids (RFP) as a small business set-aside;

ii. Subject to advertised bidding or the solicitation of sealed bids; and,

iii. Awarded only after the receipt of at least three qualified bids.

2. Any contracts awarded by a using agency or by the Division of Purchase and Property or other contracting agency through negotiations or otherwise shall be counted

toward the total number of contracts under that agency's jurisdiction (the 100 percent) but shall not be counted toward the number of contracts needed for compliance with the goals (at least 15 percent) of the Set-aside Act.

17:12-6.7 Set-aside plans

(a) On or before June 1 of each year, each contracting agency shall prepare and submit to the Office of Small Business Assistance in the Department of Commerce a plan for meeting its set-aside goals for the next fiscal year.

(b) The plan shall include:

1. A general list and explanation of the goods and services and/or types of goods and services which are deemed appropriate and inappropriate for small business set asides;

2. A consideration of the estimated dollar amounts and purchase orders expected for various contracts and types of contracts;

3. A list of specific goods and services and/or types of goods and services which are targeted for increased small business set-aside contracts, taking into consideration dollar amounts and anticipated purchase orders;

4. A list of specific set-aside goals, designating specific categories of contracts, portions of categories, individual contracts, and or all of the above, or any other method for determining which contracts shall be set-aside for small business; and,

5. A set-aside goal of no less than 15 percent for contract awards made by the contracting agency.

(c) The Purchase Bureau of the Division of Purchase and Property shall attach to its set-aside plan a set of set-aside guidelines for contract awards made by using agencies under delegated purchasing authority. These guidelines shall contain a separate 15 percent set-aside goal for delegated purchasing contracts, and suggested categories of contracts which may be appropriate for set-aside awards.

(d) After consultation with OSBA, the contracting agency shall begin implementing the next year's set-aside plan no later than July 1. However:

1. The contracting agency shall periodically review the plan's implementation, and shall consult with OSBA as to any revisions which may be necessary to achieve the set-aside goals; and,

2. Where the contracting agency and OSBA disagree about the agency's set-aside plan, the matter shall be submitted immediately to the Administrator of the General Services Administration for prompt resolution by the Administrator or his or her designee.

(e) Upon final determination of its annual plan, delegated purchasing guidelines, and any periodic revisions, the Purchase Bureau of the Division of Purchase and Property shall distribute the delegated purchasing guidelines to those State agencies which receive delegated purchasing authority form the Division.

1. These State agencies shall make a good faith effort to conform their delegated purchasing to the set-aside goals of no less than 15 percent;

2. Where a State agency disagrees with the guidelines for the agency's small business set-aside contracts, the matter shall be submitted to the Administrator of the General Services Administration for prompt resolution by the Administrator or his or her designee.

(e) Upon final determination of its annual plan, delegated purchasing guidelines, and any periodic revisions, the Purchase Bureau of the Division of Purchase and Property shall distribute the delegate purchasing guidelines to those State agencies which receive delegated purchasing authority from the Division.

1. These State agencies shall make a good faith effort to conform their delegated purchasing to the set-aside goals of no less than 15 percent;

2. Where a State agency disagrees with the guidelines for the agency's small business set-aside contracts, the matter shall be submitted to the Administrator of the General Services Administration for prompt resolution by the Administrator or his or her designee.

17:12-6.8 Factors in establishing set-aside plans

(a) The following factors are to be considered by the contracting agencies in determining whether a contract or category of contracts is appropriate for the set-aside program:

1. Whether the contract is in an area wherein small businesses do not currently obtain a significant percentage of State contracts, but wherein the price, quality of product and responsibility of small businesses are competitive with bigger businesses;

2. Whether the contract is in an area wherein the normal bidding process creates unnecessary obstacles against small businesses, irrespective of any actual ability of small businesses to perform the contract or fulfill the State's needs;

3. Whether the contract is in an area wherein small businesses are not currently competitive with bigger businesses, but wherein small businesses could become competitive if given some initial opportunity;

4. Whether the contract is in an area wherein small businesses are not competitive with big businesses, but wherein the State would not suffer any serious disadvantage if some percentage of the contracts were set-aside for small businesses;

5. Whether the contract is in an area wherein the State's long term best interests in purchasing lie in developing small business competition in areas where currently only big businesses operate;

6. Whether the contract is in an area wherein the State's long term best interests economically and socially lie in developing small businesses;

7. Whether the contract is in an area wherein the practices of the using agency create unnecessary obstacles to the award of contracts to small businesses; and,

8. Whether the contract is in an area wherein potential emergency conditions, public health and safety considerations, or the continued operation of vital State services, preclude setting the contract aside for bidding exclusively from small businesses.

17:12-6.9 Rejection of all small business bids and of the set-aside designation

(a) The determination that a contract will be set-aside for small business bidding shall be made prior to the issuance of the RFP, and the RFP shall clearly and conspicuously limit bidding to eligible small businesses, duly certified by OSBA.

(b) However, a State agency awarding a contract pursuant to delegated purchasing authority or a contracting agency may determine to reject all the small business bids and the designation of the contract as a set-aside where:

1. In evaluating the small business bids, the agency determines that acceptance of any of the bids would subject the State to an unreasonable expense, or to a contract otherwise unacceptable pursuant to that agency's purchasing laws; or,

2. The agency does not receive at least three bids from vendors certified as small businesses, pursuant either to N.J.A.C. 17:12-6.4 above; and,

3. The agency notifies the bidders and the Office of Small Business Assistance the reasons for its action, and the agency maintains its records of the bidding process for at least one year from the bid opening date.

(c) Immediately, without any delay, the agency may rebid the contract as an ordinary award. The small business bidders may participate in this rebidding process.

(d) Following the proposed award resulting from the rebidding process, any of the bidders in either the set-aside bidding or the rebidding process and/or the Office of Small Business Assistant may protest the set-aside bidding and award process, the rejection of the designation of the contract as a set-aside, and the proposed award resulting from the rebidding process.

1. The protest shall be heard pursuant to the rules and procedures of the contracting agency. For the Division of Purchase and Property, these rules are found at N.J.A.C. 17:12-3.

17:12-6.10 Penalties for false information

(a) Vendors shall accurately and honestly supply all information required by OSBA to determine whether the vendors are eligible for small business set-aside contracts.

(b) Vendors shall forthwith report to OSBA any changed circumstances which might disqualify that vendor as an eligible small business.

(c) The failure of a vendor to report any such changed circumstances, or the intentional reporting of false information, may subject the vendor to adverse action by the contracting agency, pursuant to that agency's rules and procedures. For the Division of Purchase and Property, see N.J.A.C. 17:2-2.7 and 7.2.

(d) Where a vendor has been certified as an eligible small business on the basis of false information knowingly supplied by the vendor, and the vendor has been awarded a small business set-aside contract, the Commissioner of Commerce, after notice and opportunity for a contested case hearing pursuant to N.J.S.A. 52:14B-10, and N.J.A.C. 1:1-1.1 et seq, may:

1. Require the vendor to pay to the State any difference between the contract amount and what the State's cost would have been if the contract had not been awarded as a small business set-aside contract; and,

2. Assess the vendor a penalty in an amount of not more than 10 percent of the amount of the contract involved; and,

3. Order the vendor ineligible to transact any business with the State for a period of not less than three months and not more than 24 months.

17:12-6.11 Set-aside reports

(a) On or before October 1 of each year, each contracting agency shall report to the Office of Small Business Assistance on the results of its set-aside plan for the previous fiscal year, as required by section 11 of the Small Business Set-aside Act (N.J.S.A. 52:32-17 et seq).

(b) The report shall include, where feasible:

1. The total numbers of contracts awarded the contracting agency, and by any using agencies with delegated purchasing authority;

2. The estimated total dollar amounts of contracts awarded by the contracting agency and by any of its using agencies;

3. The number of set-aside contracts awarded by the contracting agency and by its using agencies;

4. The estimated dollar amounts of set-aside contracts awarded by the contracting agency and its using agencies;

5. A breakdown of the types of contract awarded generally and awarded as set-asides by the using agencies and by the contracting agency; and,

6. An analysis of whether and how the previous year's set-aside goals were achieved by the using agencies and by the contracting agency.

(c) Each year, each State agency which has made awards pursuant to purchasing authority delegated from the Division of Purchase and Property shall submit to the Purchase Bureau of the Division of Purchase and Property a report, as required by section 11 of the Small Business Set-aside Act (N.J.S.A. 52:32-17 et seq) and including where feasible:

1. The total numbers and dollars amounts of all contracts awarded and purchase orders issued;

2. The total numbers and dollar amounts of small business set-aside contracts awarded; and,

3. A breakdown of the types of contracts awarded generally and awarded as small business set-aside.

17:12-6.12 Consultation with industry

(a) OSBA shall conduct no less than two consultation sessions each year with bidders, vendors and industry representatives, for the purpose of soliciting information and suggestions on implementing the small business set-aside goals.

(b) The consultation session dates and times will be incorporated into a set-aside plan developed by OSBA for each fiscal year.

(c) Bidders, vendors and industry representatives may call the Office of Small Business Assistance for the exact time, date and location of the meetings.

(d) Sessions shall be open to the public and any interested parties.

(e) Industry representatives shall ask for time on the agenda if they wish to present comments.

(f) Challenges to individual bid awards will not be heard at these sessions.

(g) The Chief of OSBA shall prepare a report of the results of the sessions, the attendees and their affiliations, and any action items which require the attention of the department or contracting agencies.

(h) Notice that the sessions have been held will be included in OSBA's annual report on the implementation of the Small Business Set-aside Act.

17:12-6.13 Delegation of Treasurer's authority

(a) For purposes of implementing the Small Business Set-aside Act, the authority of the Treasurer under that Act is hereby delegated to the Administrator of the General Services Administration.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Sales and Use Tax
Taxation of Rented or Leased Manufactured and Mobile Homes

Proposed Amendment: N.J.A.C. 18:24-7.19

Authorized By: John R. Baldwin, Director, Division of Taxation.
Authority: N.J.S.A. 54:32B-24 and P.L. 1983, c.400.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
50 Barrack Street, CN 269
Trenton, NJ 08646

The Division of Taxation thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1984-385.

The agency proposal follows:

Summary

At 16 N.J.R. 359(a) a proposed new rule was published relating to the taxation of manufactured and mobile homes. The proposed rule, with some changes, was adopted in the New Jersey Register published Monday, May 7, 1984 and cited as 16 N.J.R. 1098(a). A subsection of the new rule, N.J.A.C. 18:24-7.19(h), can be read to require the imposition of sales tax on the rental or lease of a manufactured or mobile home permanently installed in a mobile home park. This proposed amendment clearly provides that the rental or lease of a manufactured or mobile home permanently installed in a mobile home park is not subject to sales tax.

Social Impact

The proposed amendment is the latest attempt to clear up confusion regarding sales taxation of manufactured and mobile homes, particularly those leased or rented manufactured and mobile homes permanently installed in a mobile home park. The public will benefit from this clarification of N.J.A.C. 18:24-7.19(h) which states that leased or rented manufactured and mobile homes permanently installed in a mobile park are not subject to sales tax.

Economic Impact

There will be a small loss of revenue relating to the rental or lease of a manufactured or mobile home permanently installed in a mobile home park. However, this exemption was originally intended and the word "not" was inadvertently left out of the adopted rule which is being amended by this proposal.

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

18:24-7.19 Taxation of **rented or leased** manufactured and mobile homes

(a)-(g) (No change.)

(h) The rental or lease of a manufactured or mobile home permanently installed in a mobile home park is **not** subject to sales tax [as provided in N.J.A.C. 18:24-3].

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Grades and Standards
Fruit and Vegetable Fees and Charges

Adopted Amendments: N.J.A.C. 2:71-2.28, 2.29, 2.30 and 2.31

Proposed: May 7, 1984 at 16 N.J.R. 946(a).
Adopted: June 28, 1984 by Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Filed: June 29, 1984 as R.1984 d.301, **without change.**

Authority: N.J.S.A. 4:10-6 and 10-13.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): September 1, 1988.

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

Full text of the adoption follows.

2:71-2.28 Charges for inspection or grading and certification services; written agreements

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to a written agreement between the New Jersey Department of Agriculture and the requestor of the services, shall be made according to the following schedule:

1. Basic schedule for all products:

i. A charge of $320.00 per five day week (Monday through Friday) of 40 hours or less for each inspector;

ii. A charge of $12.00 per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;

iii. An additional charge of $12.00 per hour, or portion thereof, for the actual hours worked by each inspector on legal State holidays occurring Monday through Friday;

iv. A charge of $12.00 per hour, or portion thereof, for each inspector working on Saturday and/or Sunday. There will be a four hour minimum charge for each inspector working on Saturday and/or Sunday;

v. Official mileage will be charged at the prevailing State rate per mile starting and ending where the inspector officially reports for duty.

2. Charges for inspection or grading and certification of fruit and vegetables other than potatoes for fresh market:

i. A charge of $0.02 will be made for all packages inspected or graded and certified in excess of 4,570 packages during the seven day week (Saturday through Friday).

3. Charges for inspection or grading and certification of potatoes for the fresh market:

i. A charge of $0.03 per hundredweight for all hundredweights inspected or graded and certified in excess of 3,200 hundredweights during the seven day week (Saturday through Friday).

2:71-2.29 Charges; oral agreements; trailer, car, warehouse and storage lots

(a) Charges for inspection or grading and certification services performed pursuant to an oral agreement between the New Jersey Department of Agriculture and the requestor, for all trailer, car, warehouse and storage lots, shall be made according to the schedule detailed below. A minimum of $13.00 for inspection or grading and certification services shall be charged. However, if the conditions listed in N.J.A.C. 2:71-2.30 are met, the charges shall be calculated according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31.

1. Basic charge schedule for products other than potatoes:

i. A charge of $0.07 per container for all containers;

2. Basic charge schedule for potatoes:

i. A charge of $0.10 per hundredweight;

ii. All other size containers and bulk loads shall be converted to hundredweight equivalents. Charges for these equivalents shall be at the rate of $0.10 per hundredweight.

3. Phytosanitary certificates:

i. No charge will be made for such certificates;

ii. The Chief, Bureau of Commodity Inspection and Grading, Division of Regulatory Services, may be contacted for information on countries requiring additional declaration statements.

4. Delayed inspections: Delayed inspections are those inspections requiring more than two hours to complete (exclusive of travel time) due to delays of any kind not attributable to the inspector. Additional charges for delayed inspections shall be assessed according to the following schedule:

i. $8.00 per hour, in half hour increments.

2:71-2.30 Charges; oral agreements between Department of Agriculture and requestor

(a) Charges for inspection or grading and certification services performed pursuant to an oral agreement between the New Jersey Department of Agriculture and the requestor shall be made according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31 when:

1. A restricted inspection of large lots is to be made and the requestor asks that the certificate show the total count or volume of the lot;

2. A requested inspection is not completed for any reason whatsoever not attributable to the inspector or when an inspection is complete and no official certification is issued;

3. A requested inspection involves bulk or bin lots of products, except potatoes.

2:71-2.31 Hourly rate charges

(a) The hourly rate charges shall be made according to the following schedule:

1. A charge of $13.00 per hour, or portion thereof, for regular work hours, 8:00 A.M. to 5.00 P.M. on regular workdays, Monday through Friday;

2. A charge of $19.50 per hour, or portion thereof, for work started or completed between 6:00 P.M. and 7:00 A.M. on regular workdays, Monday through Friday;

3. A charge of $19.50 per hour, or portion thereof, for work performed on Saturdays, Sundays, or legal State holidays at the request of the requestor.

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Procedural Rules

Objections, Requests for Oral Presentations, Filing

Adopted Amendments: N.J.A.C. 3:1-2.3, 2.4, 2.5 and 2.14

Adopted Repeal: N.J.A.C. 3:1-2.20

Proposed: May 7, 1984 at 16 N.J.R. 949(a).

Adopted: June 27, 1984 by Dominick A. Mazzagetti, Acting Commissioner of Banking.

Filed: June 29, 1984 as R.1984 d.302, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Expiration Date pursuant to Executive Order No. 66(1978): June 18, 1986.

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

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

3:1-2.3 Objection and request for oral presentation; time for filing; content

(a) An objection to a new charter, a full branch, or relocation application by a bank, savings bank or savings and loan association must be filed in the Department of Banking within 14 calendar days of publication in the respective bank's, savings bank's or savings and loan association's trade association bulletin, as required by N.J.A.C. 3:1-2.2. If an objector desires oral presentation on a full branch application, or a relocation application, or desires to make an appearance at a charter hearing, the objection shall also contain a specific request therefore or, in the case of charter applications, a request for permission to appear at the formal hearing.

(b) Every objection to a new charter, full branch, *[Section 25]* or relocation application shall:

1. Be in writing;
2. Disclose the grounds therefor;
3. Disclose whether the objector intends to file a more comprehensive detailing of the factual and legal bases of objection (hereinafter referred to as comprehensive objection) within 35 calendar days of the date of publication in the applications' bulletin; and
4. Be forwarded to the applicant as well as the Department within the time set forth in N.J.A.C. 3:1-2.3(a) and proof of service upon the applicant must accompany the objection.

(c)-(h) (No change.)

3:1-2.4 Objections to Minibranch applications

(a) An objection to a minibranch application must be filed in the Department of Banking within 20 calendar days of publication in the respective bank's, savings bank's or savings and loan association's trade association bulletin.

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

(d) In order to perfect an objection to a minibranch application, the objector must file 25 calendar days after receipt of copies of the application form and supportive data filed by the applicant a current comprehensive objector's form. This comprehensive objector's form must also be forwarded to the applicant as well as the Department within the 25 calendar days set forth above.

(e)-(f) (No change.)

(g) There shall be no oral presentations on minibranch, communication terminal branch, or auxiliary offices.

3:1-2.5 Oral presentation granted or denied

(a) The Department may grant a request for oral presentation on applications for a full branch, or relocation only if:

1. The objector requesting the oral presentation has filed and perfected an objection, comprehensive objection and oral presentation request; and
2. The objector requesting the oral presentation has presented reasons which indicate that it is necessary and warranted and reasons why the matter cannot be resolved on the papers.

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

3:1-2.14 Priority

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

(c) "Applications" shall mean and include all charter, branch minibranch, branch relocation and interchange applications by banks, savings banks and state associations which are filed and complete.

(d)-(f) (No change.)

3:1-2.20 Reserved

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Retirement Community Full Disclosure Requirements

Readoption: N.J.A.C. 5:17
Adopted Amendments: N.J.A.C. 5:17-1.9, 3.10, 6.3 and 6.4
Adopted Repeal: N.J.A.C. 5:17-1.1 through 1.7, 2.1 through 2.13, 2.15, 2.17 through 2.21, 3.1 through 3.5, 4.8 through 4.16, 6.5 through 6.10 and Appendix

Proposed: May 21, 1984 at 16 N.J.R. 1137(b).
Adopted: June 27, 1984 by William M. Connolly, Director, Division of Housing and Development, Department of Community Affairs.
Filed: June 27, 1984 as R.1984 d.300, **without change**.

Authority: N.J.S.A. 45:22A-11.

Effective Date of Readoption: June 27, 1984.
Effective Date of Amendments and Repealed Sections: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): June 1, 1989.

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

Full text of the readoption and sections to be repealed appear in the New Jersey Administrative Code at N.J.A.C. 5:17.

Full text of the adopted amendments to the readoption follows.

5:17-1.9 Administration
The Act shall be administered by the Division of Housing and Development through the Bureau of Construction Code Enforcement. All correspondence and inquiries may be addressed to the Bureau of Construction Code Enforcement, Department of Community Affairs, CN 805, Trenton, New Jersey 08625.

5:17-3.10 Public inspection of Statement of Record
(a) (No change.)
(b) Every such Statement of Record shall be available for inspection by any person during ordinary business hours at the offices of the Bureau of Construction Code Enforcement, 3131 Princeton Pike, Lawrenceville, New Jersey.
(c) (No change.)

5:17-6.3 Rights to hearing
Any person aggrieved by such order as may be issued under N.J.A.C. 5:17-6.2 shall be entitled to a hearing before the Office of Administrative Law.

5:17-6.4 Request for a hearing
An application for a hearing must be filed with the Director within 15 business days of the receipt by the applicant of the notice or order complained of.
(b)-(c) (Delete.)

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Fire Protection Subcode Officials

Adopted Amendment: N.J.A.C. 5:23-4.5

Proposed: May 7, 1984 at 16 N.J.R. 950(a).
Adopted: June 27, 1984 by John P. Renna, Commissioner, Department of Community Affairs.
Filed: June 29, 1984 as R.1984, d.303, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1988.

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

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

5:23-4.5 Municipal enforcing agencies—administration and enforcement
(a)-(d) (No change.)
(e) Duties of subcode officials:
1. (No change.)
2. In the course of enforcing the regulations, the fire protection subcode official shall cooperate, to the greatest extent possible, with the local fire service ***, which is the local fire department or district having jurisdiction***.
i. The fire protection subcode official shall, upon request of the local fire service, allow a designated representative of the local fire service reasonable access to, and opportunity to review, plans submitted to the fire protection subcode official for his approval.
ii. The fire protection subcode official shall consult with the local fire service prior to granting any variations from the requirements of the fire protection subcode. If the fire protection subcode official is not himself a member of the local fire service, he shall, upon receipt of an application for a variation, forward a copy thereof to the local fire service and shall

not grant a variation until he has received the comments of the local fire service or *[the 20 business day period allowed for review of the variation application, pursuant to N.J.A.C. 5:23-2.11, is about to expire]* ***until 10 business days have passed*** , whichever comes first.

iii. The participation of the local fire service in the code enforcement process shall in no way be construed as reducing the responsibility of the fire protection subcode official for the proper enforcement of the fire protection subcode. Advice rendered by the local fire service shall in no way be binding upon the subcode official.

(f) (No change.)

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Municipal and County Deferred Compensation Programs Requirement for Annual Program Audit

Adopted Amendment: N.J.S.A. 5:37-11.6

Proposed: April 16, 1984 at 16 N.J.R. 784(a).
Adopted: June 22, 1984, by Barry Skokowski, Director, Division of Local Government Services.
Files: June 25, 1984 as R.1984 d.297, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 43:15B-3.

Effective Date: July 16, 1984.
Operative Date: January 1, 1985.
Expiration Date pursuant to Executive Order No. 66(1978): October 16, 1985.

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

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

5:37-11.6 Audit or review

(a) If the program is self-administered and all records are held by the employer, the employer shall cause an audit of all program funds within five months after the close of its fiscal year, per N.J.S.A. 40A:5-3, by an outside, independent registered municipal accountant, A copy of each audit report shall be transmitted to the Director within five days *[thereafter]* ***after completion***, per N.J.S.A. 40A:5-6.

(b) If a private contractor is retained to administer all or part of the program and/or is retained to invest program funds, the employer shall cause a review of all program funds within five months after the close of the employer's fiscal year by the outside, independent registered municipal accountant pursuant to 4. below. A copy of each review shall be transmitted to the governing body and to the Director within five days *[thereafter]* ***after completion***.

1. The private contractor must transmit to the employer a compilation of financial data in statement form giving a full accounting of all program transactions occurring during the employer's fiscal year, including beginning transactions occurring during the employer's fiscal year, including beginning and ending fund balance. The accounting for the transactions must reflect each participant's amount and date of each contribution received, the beginning fund balance by investment option, earnings and/or losses incurred, administrative charges and fees assessed, any transfers made among funds, all deposits and withdrawals, and the ending fund balance, including any and all adjustments made to such program funds. The private contractor must also submit to the employer applicable program statements together with the opinion from their latest firm audit report prepared by their Independent Public Accountant.

2. The outside independent auditor of the employer shall then evaluate the employer payroll records and joinder agreements against the information transmitted by the private contractor.

3. The outside independent auditor shall make an appropriate statement and express limited assurances thereon. These assertions may be made part of the employer's annual audit, per N.J.S.A. 40A:5-4, in addition to being transmitted *[upon]* ***under*** separate cover to the Director pursuant to (b) above.

4. The review, as set forth in 1. above, shall be made in accordance with the AICPA's Statement on Standards for Accounting, the Review Services No. 1, as defined in "Review of Financial Statement," subject to such qualitative inquiry and analytical procedures selected and performed, causing attention to questionable items, procedures and/or practices of a material nature, perhaps constituting a need for balances to be adjusted or creating a need for further auditing.

5. The expense of the review shall be incurred by the party(ies) agreed upon at the time the contract is drawn.

6. The private contractor must also furnish a letter of internal accounting control to the Director, prepared by its independent accountant attesting to the private contractor's internal controls.

7. The private contractor must further certify to the Director that the annual accounting data supplied to the employer is accurate and complete.

EDUCATION

(b)

STATE BOARD OF EDUCATION

Business Services; Tuition Public Schools, Method of Determining Tuition Rates

Notice of Correction: N.J.A.C. 6:20-3.1

Errors appear in the June 4, 1984 issue of the New Jersey Register at 16 N.J.R. 1346 concerning business services; tuition public schools, method of determining tuition rates. In several places in the text of N.J.A.C. 6:20-3.1 the word "ensuing" was printed as "ensuring". N.J.A.C. 6:20-3.1 should have appeared as follows:

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

6:20-3.1 Method of determining tuition rates

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

(d) A tentative tuition charge shall be established for budgetary purposes by written contractual agreement between the receiving district board of education and the sending district board of education, and such tentative charge shall equal ***an amount not in excess of*** the receiving district's estimated cost per pupil for the ensuing school year for the purpose or purposes for which tuition is being charged, multiplied by the estimated average daily enrollment of pupils expected to be received during the ensuing school year. Such written contract shall be on a form prepared by the commissioner.

1. The sending district board of education and the receiving district board of education shall enter into a written contractual agreement for tuition for the ensuing school year no later than *[December 15 preceding the beginning of]* ***seven days prior to the date on which the proposed budget for*** the ensuing school year ***is required to be submitted to the county superintendent***. Such contractual agreement shall require the sending district board of education to pay 10 percent of the tentative tuition charge no later than an agreed upon date each month from September through June of the contract year. The contractual agreement shall require that all adjustments which shall be made because of a difference in cost or in the number of pupils sent shall only be made during the third school year following the contract year. ***The contractual agreement shall contain a payment schedule for all adjustments which may be necessary***.

2. The sending district board of education shall notify in writing the receiving district board of education of the estimated average daily enrollment of pupils in each tuition category expected to be sent during the ensuing school year no later than *[November 1]* ***December 15*** preceding the beginning of the ensuing school year. The receiving district board of education shall notify in writing the sending district board of education of the estimated cost per pupil in each tuition category for the ensuing school year and the tentative tuition charge no later than *[November 15]* ***January 1*** preceding the beginning of the ensuing school year. The receiving district board of education shall submit to the sending district board of education a copy of its calculations to determine the estimated cost per pupil in each tuition category for the ensuing school year no later than *[November 15]* ***January 1*** preceding the beginning of the ensuing school year. Such calculations shall be on a form prepared by the commissioner.

3. If the commissioner later determines that the tentative tuition charge was greater than the actual cost per pupil during the school year multiplied by the actual average daily enrollment received, the receiving district board of education shall return to the sending district board of education in the third school year, following the contract year the amount by which the tentative charge exceeded the actual charge as determined above, or, at the option of the receiving district *[, the]* board of education shall credit the sending district *[the]* board of education with the excess amount.

4. If the *[[C]commissioner]* ***commissioner* later determines that the tentative charge was less than the actual cost per pupil during the school year multiplied by the actual average daily enrollment received, the receiving district board of education *[shall]* *may*** charge the sending district board of education ***all or part of*** the amount owed by the sending district board of education, to be paid during the third school year following the school year for which the tentative charge was paid. The county superintendent of schools of the county in which the sending district board of education is located may approve the payment of the additional charge over another period, if the sending district board of education can demonstrate that payment during the third school year following the school year for which the tentative charge was paid would cause a hardship.

(e) The commissioner shall prepare the necessary forms to certify the "actual cost per pupil" for each tuition category according to these rules. The commissioner shall also prepare the contract forms and the forms to be used by the receiving district board of education to establish the estimated cost per pupil for each tuition category for the ensuing school year.

(f) (No change.)

(a)

STATE BOARD OF EDUCATION

Special Education

Adopted Repeal: N.J.A.C. 6:28
Adopted New Rule: N.J.A.C. 6:28

Proposed: December 5, 1983, at 15 N.J.R. 1981(a).
Reproposed: April 2, 1984, 16 N.J.R. 611(a).
Adopted: June 29, 1984, by State Board of Education, Saul Cooperman, Secretary.
Filed: June 29, 1984, as R.1984, d.306, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15, 18A:7A-1 et seq., 18A:7B-1 et seq., 18A:7C-1 et seq., 18A:40-4, 18A:46-1 et seq., 18A:46A-1 et seq., 18A:48-8, 39:1-1, U.S.P.L. 93-112, Sec. 504 and 94-142.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66 (1978): June 1, 1989.

Summary of Public Comments and Agency Responses and Reasons for Making Changes:

The Department received large numbers of written comments on its revision of the rules for special education. Approximately two hundred-fifty letters were submitted and one hundred people testified at the six public hearings held on the proposal published in the December 5, 1983 New Jersey Register. On the subsequent, April 2, 1984, published proposal about fifty-five letters were received and seventeen people testified at the public hearing.

Within the volume of comment were arguments for and against every timeline established and activity required of local districts. There were also many and often idiosyncratic preferences expressed on individual items throughout the rules. The following summary covers the comments for which there were multiple comments.

Many parents and advocacy groups asked that parents be included explicitly in the list of those participating in the local special education plan; this has been done. Another area for many comments was the request for more and more elaborate definitions. Some changes were made but it was felt that the simplified writing style used in this revision obviated the need for extensive definitions. The reasons given by the commenting public (for example past practice) were not deemed sufficient to require additional definitions. N.J.A.C. 6:28-1.2(b); N.J.A.C. 6:28-1.3

The inclusion of a section on surrogate parents elicited many and conflicting opinions from the public. Federal requirements for this provision prevented the deletion or serious changes suggested. Likewise there were many public comments received on the inclusion of rules dealing with disciplinary action. As a response, parts of this section were reorganized and clarifying language added. N.J.A.C. 6:28-1.3, N.J.A.C. 6:28-2.2, 6:28-2.8

The tone of most of the large numbers of comments received on the conflict resolution and due process hearing section was quite positive. Changes in language and cross-references to N.J.A.C. 1:6A constituted most of the modifications made. N.J.A.C. 6:28-2.6, N.J.A.C. 6:28-2.7

Parents and advocacy groups felt strongly that the restriction of the need for parental consent to preplacement evaluation and initial placement was a limitation of their rights and regressive of previously more extensive consent-giving involvement. The Department staff agree that consent is limited to the two points above but requirements for parental participation and notice have been extended and the current rules comply precisely with the mandates of P.L. 94-142. It should be noted that a United States Department of Education monitoring of New Jersey's special education system had resulted in an expression of concern that complicated consent requirements were intruding on children's rights to efficient provision of services and recommendations were made to adjust the system to meet P.L. 94-142 standards. N.J.A.C. 6:28-2.3

While many and varied comments were received regarding child study team services to pupils, the areas of greatest concern were the composition of the evaluation team, the case manager and eligibility requirements for the varying categories of handicaps. Addition of the requirements for consultation with physicians regarding medical evaluation, adaptive social functioning assessment by social workers, and psychiatric evaluation for the determination of emotional disturbance were all in response to the public comment. There were also clarifications of the definitions of emotionally disturbed and auditorily handicapped. While support was expressed for the designation of case managers and evaluation plans there was concern about the paperwork this will entail. The requirement for documentation was retained as a necessary part of the accountability system. N.J.A.C. 6:28-3.1; N.J.A.C. 6:28-3.4, N.J.A.C. 6:28-3.5(e)

Another area of high volume response was the issue of the reevaluation components. It is professionally recognized that planful selection of areas for reevaluation eliminates overtesting of children and increases the usefulness of the reevaluation. Parents expressed concern that administrative expediency or fiscal constraints might force inappropriate plans. The Department decided that planful decisions must be made and if parental disagreement arose the dispute resolution options could be involved. Parents also felt that testing to determine special education termination was preferable to the requirement for review of the pupil's educational status and needs as written. N.J.A.C. 6:28-3.4

Minimal changes were necessary to the section on individualized education programs. The review for preschoolers was adjusted to a yearly basis and an item was added to require the development of nonbinding recommendations for pupils 21 years old and in their last year of education, as a result of public comment. N.J.A.C. 6:28-3.6; N.J.A.C. 6:28-3.6(m)

Much concern was expressed, particularly by educators regarding the class size and pupil grouping requirements for secondary and vocational programs. Adjustments were consequently made to the rules to allow greater flexibility for pupil grouping. A 60-day limit has also been placed on the length of physician-ordered home instruction to assure child study team involvement when appropriate. N.J.A.C. 6:28-4.2(b); N.J.A.C. 6:28-4.2(b)(5)

Changes to the rules for approved clinics and agencies, services for nonpublic pupils and programs provided by contractors on a tuition basis and by departments of State government were made mainly for clarity and as a result of review by staff of the Attorney General's office. N.J.A.C. 6:28-5; N.J.A.C. 6:28-6; N.J.A.C. 6:28-7; N.J.A.C. 6:28-8

Some comments also were received asking that the sanctions to be levied against noncompliant school districts be specifically listed. Another area of requested inclusion was for more specific regulation of early intervention program grants. The Department has determined that neither of these are appropriately managed through rules and intends to use existing administrative procedures to levy sanctions and regulate grants.

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

SUBCHAPTER 1. GENERAL PROVISIONS

6:28-1.1 General requirements

(a) The rules in this chapter, adopted by the State Board of Education, supersede all existing rules pertaining to educationally handicapped pupils.

(b) The purpose of these rules is to:

1. Ensure that all educationally handicapped pupils have available to them a free, appropriate public education which includes special education and/or related services;

2. Ensure that the rights of educationally handicapped pupils and their parents are protected;

3. Assist public and private agencies providing educational services to educationally handicapped pupils; and

4. Ensure the evaluation of the effectiveness of the education for these pupils.

(c) The rules in this chapter shall apply to all public and private agencies providing publicly funded educational programs and services to educationally handicapped pupils.

1. Programs and services shall be provided to pupils between ages three and 21.

2. Programs and services may be provided to pupils below the age of three and above the age of 21.

3. Each district board of education also shall provide information regarding services available through other State, county and local agencies to parents of handicapped children below the age of three.

(d) Each district board of education is responsible for providing a system of free, appropriate special education and/or related services which shall:

1. Be provided at public expense, under public supervision, and with no charge to the parent(s);

2. Include preschool, elementary school and/or secondary school programs;

3. Be administered, supervised and provided by appropriately certified professional staff members;

4. Be located in State approved facilities that are accessible to the handicapped; and

5. Meet all requirements of this chapter.

(e) Each district board of education, independently or through joint agreements, shall employ child study teams, speech correctionists and other school personnel in numbers sufficient to ensure provision of required programs and services pursuant to this chapter.

(f) When a district board of education provides its educational programs through another New Jersey public school district, responsibility for the requirements of this chapter shall be according to the following:

1. In a formal sending-receiving relationship, when all the pupils of a district board of education attend schools operated by another district board of education, the receiving school shall be responsible for determining the pupil's eligibility and the individualized education program.

2. In *[other than formal]* sending-receiving relationships, ***when less than all the pupils of a district board of education attend schools operated by another district board of education,*** a contractual agreement shall be made between district boards of education which specifies responsibility for providing instruction, related services and child study team services to educationally handicapped pupils.

(g) Each district board of education shall ensure that special classes, separate schooling or other removal or handicapped pupils from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(h) *[(g)]* All public and private agencies which provide educational programs and services to handicapped pupils shall establish written policies regarding the compilation, maintenance, access to and confidentiality of pupil records according to N.J.A.C. 6:3-2.

(i) *[(h)]* All special education programs and related services provided under this chapter shall be subject to review and approval by the Department of Education.

(j) *[(i)]* All public and private agencies which provide educational programs and services to handicapped pupils shall maintain documentation of compliance with this chapter.

6:28-1.2 Plans for special education

(a) Each district board of education, jointure commission, county special services school district, educational services commission, approved private school and State-operated program for the educationally handicapped shall develop a written plan for special education. The plan shall be in conformance with the State plan for the educationally handicapped. Plans for special education shall be submitted for approval to the Department of Education through its county office for a period not to exceed three years.

(b) The development of the plan for special education shall include the participation of professional staff serving the district, parents, community members, and handicapped individuals and groups representing the handicapped population. The plan shall be presented at a public meeting prior to approval by the district board of education.

(c) The plan shall include:

1. The special education needs, goals, objectives and plan of action of the district;

2. A tabulation of the numbers of educationally handicapped pupils according to their classifications and types of programs served in public school programs, in State facilities and through programs and services for nonpublic school pupils;

3. A tabulation of the professional staff employed to identify, evaluate, determine eligibility, develop individualized education programs, provide related services and instruct educationally handicapped pupils and the full-time equivalence of their assignments;

4. A description of the procedure used to identify, screen and refer potentially handicapped pupils (see N.J.A.C. 6:28-3.2, 3.3);

5. A description of the process by which the district provides the full range of special education programs and services (see N.J.A.C. 6:28-3.1 through 4.4);

6. An assurance that an appropriate individualized education program is being implemented for each educationally handicapped pupil (see N.J.A.C. 6:28-4.1);

7. The criteria and process used to evaluate the district special education programs and services (see N.J.A.C. 6:28-4.1);

8. The administrative review process used by the district to settle parental disputes (see N.J.A.C. 6:28-2.6);

9. A district-wide comprehensive system of personnel development which includes;

i. A needs assessment procedure;

ii. The annually established plans to meet these needs;

iii. The personnel development completed during the past year; and

iv. The description of the procedures used to evaluate training.

10. An assurance that pupil records are maintained according to N.J.A.C. 6:3-2.

11. An assurance that the plan has been prepared according to the paragraphs above.

(d) Annually the district board of education shall submit assurances that paragraphs 1, 4, 5, 6, 7, 8, 9, 10 and 11 of (c) above continue to be applicable. If modifications have been made to any of those paragraphs, the district shall submit the new material and the annual assurance for these changes to the Department of Education through its county office.

(e) Annually the district board of education shall update and submit (c)2, (c)3, and (c)9 ii., iii. above to the Department of Education through its county office.

(f) Upon request, additional reports shall be made available to the Department of Education.

6:28-1.3 Definitions

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

"Adaptive behavior" means the ability to demonstrate personal independence and social responsibility according to age and sociocultural group expectations.

"Department of Education" means ***the State Board of Education,*** the Commissioner of Education or designee.

"Educationally handicapped pupil" means a pupil who has been determined to be eligible for special education and/or related services according to N.J.A.C. 6:28-3.5.

"Individualized education program" means a plan written jointly by the school personnel and parent(s). This plan sets forth goals and measurable objectives and describes an integrated, sequential program of individually designed educational activities and/or related services necessary to achieve the stated goals and objectives. This plan establishes the rationale for the pupil's educational placement, serves as the basis for program implementation and shall comply with the mandates set forth in this chapter.

"Least restrictive environment" means a setting which is as similar as possible to the regular setting in which the pupil would be educated if not considered handicapped. Such a setting is selected in light of a pupil's special education needs.

"Native language" means the language or mode of communication normally used by a person with a limited ability to speak or understand the English language.

"Parent(s)" means the natural parent(s); or the legal guardian(s), foster parent(s), surrogate parent(s) or person acting in the place of a parent with whom the pupil legally resides. Where parents are separated or divorced, parent means the person(s) who has legal custody of the pupil.

"Parental consent" means a written agreement of a parent(s) to a specific action regarding the provision of special education and/or related services.

"Preschool" means between the ages of three and five.

"Pupil" means a person who is or was enrolled in a public school.

"Pupil age" means the school age of a pupil as defined by the following:

1. "Age three" means the attainment of age three by the month and day established as the kindergarten entrance cut off date by the district board of education. Children enrolled in early intervention programs according to N.J.A.C. 6:28-10 attaining the age of three during the school year shall be provided required services for the balance of that school year by those programs.

2. "Age five" means the attainment of age five by the month and day established as the kindergarten entrance cut off date by the district board of education. Educationally handicapped pupils attaining age five during the school year shall be provided required preschool services for the balance of that school year.

3. "Age 21" means the attainment of the twenty-first birthday before July 1. Educationally handicapped pupils attaining age 21 during the school year shall be provided required services for the balance of that school year.

"Recreation" for educationally handicapped pupils means instruction to enable the pupil to participate in appropriate leisure time activities, including involvement in recreation programs offered by the district board of education and the facilitation of a pupil's involvement in appropriate community recreation programs.

"Referral" means the making of a written request that a child study team conduct an evaluation. Referral does not include informal reviews or consultations by child study team members or assessments by teachers.

"Related services" for educationally handicapped pupils means counseling for pupils, counseling and/or training for parents relative to the education of a pupil, speech correction, recreation, occupational therapy, physical therapy, transportation, as well as any other appropriate *[educational]* ***developmental, corrective and supportive*** services required for a pupil to benefit from education and as indicated in the pupil's individualized education program.

"Special education" means specially designed instruction to meet the educational needs of handicapped pupils including, but not limited to, subject matter instruction, physical education and vocational training.

SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

6:28-2.1 General requirements

(a) Each district board of education shall provide a free, appropriate public education program and related services for handicapped pupils in the least restrictive environments.

(b) When an educationally handicapped pupil between the ages of 16 and 21 voluntarily, and before receiving a high school diploma, leaves a public school program, he or she may reenroll at any time up to and including the school year of the pupil's twenty-first birthday.

(c) After a pupil has been identified as potentially handicapped and parental consent for initial evaluation has been received, the district board of education shall within 90 calendar days evaluate, determine eligibility, and develop and implement the basic plan section of the individualized education program for the pupil. Within the 90 calendar days no more than 30 calendar days shall elapse between the development and implementation of the basic plan section of the individualized education program.

(d) When a district board of education requests parental consent for initial evaluation or sends a notice to reevaluate, parents shall receive a copy of their procedural safeguard rights under this subchapter and N.J.A.C. 1:6A.

(e) Upon determination of a pupil's eligibility for special education and/or related services, parents shall receive a copy of this chapter.

(f) Upon receipt of parental requests, each district board of education shall provide copies of special education law (N.J.S.A. 18A:46-1 et seq.), special education rules (N.J.A.C. 6:28), pupil records rules (N.J.A.C. 6:3-2) and due process rules (N.J.A.C. 1:6A).

(g) Each district board of education shall develop a written policy to prevent the needless public labeling of educationally handicapped pupils.

(h) Pending the outcome of a conflict resolution effort or due process hearing according to this subchapter, no change shall be made to a pupil's classification, program or placement unless emergency relief is granted by the Office of Administrative Law according to N.J.A.C. 6:28-2.7.

6:28-2.2 Surrogate parents

(a) Each district board of education shall ensure that the rights of a pupil are protected through the provision of a surrogate parent who shall assume all parental rights under this chapter, when either:

1. The parent(s) cannot be located after reasonable efforts; or

2. The pupil is a ward of the State of New Jersey.

(b) Each district board of education shall establish a method for selecting and training surrogate parents.

(c) The person serving as a surrogate parent shall have:

1. No interest that conflicts with those of the pupil he or she represents;

2. Knowledge and skills that ensure adequate representation of the pupil.

(d) The person(s) serving as a surrogate parent may not otherwise be an employee of the local school district. A surrogate parent may be paid solely to act in that capacity.

6:28-2.3 Parental notice, consent and participation

(a) Written notice which meets the requirements of this section shall be provided to a parent(s) when a district board of education:

1. Requests parental consent to refer a pupil to the child study team or for initial implementation of a special education program and/or related services;

2. Schedules a conference to determine a pupil's eligibility for special education and/or related services or schedules a conference to develop an individualized education program. Such notice shall be provided at least 15 calendar days prior to the proposed conference unless the parent(s) consents to a shorter time period.

i. Notice regarding an eligibility or individualized education program conference(s) shall indicate the purpose, time, location and participants.

ii. Such conference(s) shall be scheduled at a time and location mutually agreed upon by the parent(s) and district representative.

3. Plans to conduct a reevaluation. Such notice shall be provided at least 15 calendar days prior to the proposed reevaluation.

4. Denies the written request of a parent to initiate or change a special education program or service pursuant to this chapter. Such notice shall be provided within 30 calendar days of receipt of the parental request.

(b) Each notice shall be clearly written and shall include:

1. A description of the action proposed or denied by the district board of education including:

i. An explanation of why it is taking such action;

ii. A description of any options the district board of education considered and the reasons why those options were rejected;

2. A description of the procedures and factors used by the district board of education in determining whether to propose or deny an action;

3. A full explanation of the parental rights to appeal and the process for appealing a district board of education's proposal or denial of an action according to N.J.A.C. 6:28-2.7 and N.J.A.C. 1:6A.

(c) A district board of education shall take steps to ensure that the parent(s) participate in:

1. The evaluation of the pupil;

2. The decision to determine the pupil's eligibility for special education and/or related services;

3. The development of an individualized education program according to N.J.A.C. 6:28-3.6.

6:28-2.4 Native language

(a) Written notice to the parent(s), evaluation of a pupil and parent conferences required by this chapter shall be conducted in the language used for communication by the parent and pupil unless it is not feasible to do so.

1. Foreign language interpreters or translators and sign language interpreters for the deaf shall be provided, when necessary, by the district board of education at no cost to the parent(s).

2. The determination of the language or mode of communication and written justification for its choice shall be documented in the pupil record.

3. If it is not feasible to translate the individualized education program or eligibility reports into another language, the professional(s) making this decision shall ensure and document that the parent(s) is given an English language copy of the report(s) and appropriate explanation of its contents in the language of the parent.

6:28-2.5 Protection in evaluation procedures

(a) Each district board of education shall ensure that evaluation procedures used to determine eligibility and placement of handicapped pupils are selected and administered according to the following criteria:

1. A multidisciplinary team of professionals, each employing several appropriate evaluation procedures, shall conduct each initial evaluation and reevaluation.

2. Evaluation procedures shall be used by personnel certified and trained in the administration and interpretation of such procedures.

3. Evaluation procedures selected shall have been validated for the purpose(s) for which they are administered.

4. Evaluation procedures shall be selected and administered so that the pupil's cultural background and language abilities are taken into consideration.

5. Evaluation procedures are selected, administered and interpreted so that when a pupil has sensory, manual or communication impairments the results accurately reflect the ability which that procedure purports to measure, rather than the impairment.

(b) A parent may request an independent child study team evaluation if there is disagreement with the evaluation provided by a district board of education.

1. Such independent child study team evaluation(s) shall be provided at no cost to the parent(s) unless the district board of education initiates a due process hearing to show that its evaluation is appropriate and a final determination to that effect is made following the hearing.

2. Any independent child study team evaluation purchased at public expense shall meet the following criteria:

i. Be conducted according to N.J.A.C. 6:28-3.4; and

ii. Be obtained from another public school district or a clinic or agency approved under N.J.A.C. 6:28-5.

3. Any independent evaluation submitted to the district child study team shall be considered in making decisions regarding special education and/or related services.

6:28-2.6 Conflict resolution efforts

(a) Conflict resolution efforts shall include local district administrative review and Department of Education mediation and shall be provided in accordance with the following:

1. Attempts to resolve conflicts between a parent(s) and a school district prior to a request for a due process hearing are encouraged; however, a request for a conflict resolution effort is not a prerequisite to a hearing.

2. If either party is unwilling to participate in a conflict resolution effort, a request for a due process hearing under N.J.A.C. 6:28-2.7 may be made directly to the Department of Education.

3. Parents or the district board of education may request an administrative review or a mediation conference any time prior to a request for a hearing.

4. Either party may be accompanied and advised at an administrative review and/or mediation conference by legal counsel or other person with special knowledge or training with respect to educationally handicapped pupil needs.

5. If the conflict resolution effort is successful, the conclusions shall be incorporated into a written agreement, signed by each party.

(b) Attempts to resolve conflicts through an administrative review by the local district shall be provided as follows:

1. Each district board of education shall establish an administrative review procedure consistent with the following.

2. Within 20 calendar days after a written request for an administrative review is received, the responsible agent of the district shall conduct an administrative review which shall be:

i. Informal;

ii. Held at a time and place convenient to the parties in the dispute.

(c) Attempts to resolve conflicts through mediation by the Department of Education shall be provided as follows:

1. A request for mediation shall be made in writing to the Department of Education with a copy to the other party.

2. The Department of Education ***through its county office*** shall provide a mediation conference within 20 calendar days after receipt of a written request at which time:

i. Issues shall be determined;

ii. Options explored;

iii. Conflict resolution attempts made within the confines of New Jersey law and code.

3. The role of the Department of Education in mediation is not judgmental.

6:28-2.7 Due process hearings

(a) The parent(s) may request a hearing after receiving a written notice of proposed or denied action or after 30 calendar days have elapsed from the date of the parent's written request for an action under this chapter. The district board of education, through its chief school administrator, may request a hearing when it is unable to obtain required parental consent to a proposed action.

1. A request for a due process hearing shall be made in writing to the Department of Education with a copy to the other party.

2. The Department of Education shall acknowledge receipt of the request and provide information regarding free and low cost legal services to both parties.

3. Immediately upon receiving the Department of Education's acknowledgment, the parties shall exchange relevant records and information according to the time limits in N.J.A.C. 1:6A-3.3.

4. Within seven calendar days of receipt of the written request, the Department of Education shall conduct a settlement conference as part of the due process hearing.

5. When a hearing has been requested by the district board of education, the parent may request and shall receive a postponement of the settlement conference for up to 15 calendar days.

6. If agreement between the parties is not reached at the settlement conference, the matter is transmitted to the Office of Administrative Law for a hearing according to N.J.A.C. 1:6A.

7. The decision of the administrative law judge is final, binding on both parties and to be implemented without undue delay.

(b) The district board of education, through its chief school administrator, or the parent(s) may apply in writing for emergency relief as part of a request for a hearing, or at any time after such request. The applicant shall provide copies of the request to the other party.

1. Prior to transmittal of the hearing request to the Office of Administrative Law, application for emergency relief shall be made to the Department of Education ***for immediate transmittal to the Office of Administrative Law***. After ***the initial*** transmittal, ***any*** application for emergency relief shall be made ***directly*** to the Office of Administrative Law.

2. The Office of Administrative Law shall process and consider the application for emergency relief after all parties have had an opportunity to be heard. *[If it is determined that irreparable harm might otherwise result,]* ***For substantiated reasons*** emergency relief may be granted pending the full hearing decision * **(N.J.A.C. 1:6A-3.1(e)1.-3.)***.

(c) The parent(s) may file a written complaint with the Department of Education according to N.J.A.C. 6:28-9.2 if the district board of education fails to implement a hearing decision of the Office of Administrative Law.

6:28-2.8 Disciplinary action

(a) Educationally handicapped pupils are subject to the same disciplinary procedures as nonhandicapped pupils; however:

1. No educationally handicapped pupil may be disciplined if the pupil's behavior is primarily caused by his or her educational handicap; or

2. No educationally handicapped pupil may be disciplined if the program that is being provided does not meet the pupil's educational needs.

(b) Before a school staff member can discipline an educationally handicapped pupil, consideration shall be given to the nature of the offending behavior in light of the pupil's handicapping condition and educational needs, except as follows:

1. On a temporary basis, if there is ongoing peril of physical harm to self or others or of substantial disruption of the educational process; or

2. If there is a component of disciplinary action set forth in the pupil's individualized education program.

(c) When an educationally handicapped pupil is suspended, the principal shall forward, at the time of suspension, written notification and description of the reason(s) for such action to the parent(s) with a copy to the child study team.

(d) When the suspension of an educationally handicapped pupil exceeds a total of 10 school days accumulated in a school year, the child study team shall review the status of that pupil in order to:

1. Determine if the behavior which resulted in the suspension was primarily caused by the pupil's handicapping condition;

2. Determine if the pupil's individualized education program is appropriate; and

3. Prepare and forward to the principal and parent(s) a written report with recommendations.

(e) Before an educationally handicapped pupil can be considered for expulsion ***by a district board of education***, the pupil shall be reevaluated by the child study team according to N.J.A.C. 6:28-3.4.

(g) The child study team shall submit a written report to ***the district board of education,*** the chief school administrator and the pupil's parent(s) stating the results of the reevaluation or comprehensive evaluation required by N.J.A.C. 6:28-2.8(e) or (f).

1. This report shall indicate whether the pupil's behavior is primarily caused by a handicapping condition and if the pupil's education program needs modification.

2. All decisions resulting from this report are subject to due process procedures according to this subchapter and N.J.A.C. 1:6A.

6:28-2.9 Pupil records

(a) All pupil records shall be maintained according to N.J.A.C. 6:3-2.

(b) The parent(s) or adult pupil shall be permitted to review and appeal the contents of the pupil's education records maintained by the district board of education under this chapter.

1. A parent(s) or adult pupil appealing the contents of education records shall notify the chief school administrator in writing of the specific challenge.

2. Within 30 calendar days of receipt of the written request, the chief school administrator shall ensure that a meet-

ing with the parent(s) or adult pupil has been held, a decision has been reached and copies of the decision have been given to each party.

3. If the matter is not resolved satisfactorily, the chief school administrator shall inform the parent(s) or adult pupil that he or she may appeal according to N.J.A.C. 6:28-2.7.

SUBCHAPTER 3. SERVICES

6:28-3.1 Child study teams

(a) A child study team is an interdisciplinary group of appropriately certified persons who shall:

1. Evaluate and determine eligibility of pupils for special education and/or related services;

2. Coordinate the development, monitor and evaluate the effectiveness of the individualized education programs;

3. Deliver appropriate related services to educationally handicapped pupils;

4. Provide preventive and support services to nonhandicapped pupils;

5. Provide services to the general education staff regarding techniques, materials and programs for pupils experiencing difficulties in learning. Services include, but are not limited to, the following:

i. Consultation with school staff and parents;

ii. The design, implementation and evaluation of techniques to prevent and/or remediate educational difficulties.

(b) A child study team shall consist of a school psychologist, a learning disabilities teacher-consultant and a school social worker. For pupils ages three to five, the child study team shall include a speech correctionist. All members of the child study team shall be employees of a district board of education, have an identifiable, apportioned time commitment to the local school district and shall be available during the hours pupils are in attendance.

(c) The child study team shall act in consultation with a school physician when considering medical diagnostic services and with any other professional staff member(s) or consultant(s) deemed appropriate by the child study team, the parent(s) or the chief school administrator.

6:28-3.2 Identification

(a) Each district board of education shall adopt written procedures for screening and identifying those pupils between the ages of three and 21 who reside within the local school district who may be educationally handicapped and who are not receiving special education and/or related services as required by this chapter.

(b) These procedures shall include criteria to identify pupils who may be experiencing physical, emotional, communication, cognitive or social difficulties.

(c) The identification procedures shall provide for participation of instructional, administrative and other professional staff of the local school district, parents and agencies concerned with the welfare of pupils.

(d) A pupil new to the local school district and identified, but not classified as educationally handicapped, by the school district from which the pupil came shall be placed in a regular public school program. If the chief school administrator, after consultation with the child study team, determines that such placement of the pupil may do serious harm to the pupil or to others, the pupil may be placed on home instruction for a period not to exceed 30 calendar days pending evaluation and determination of special education eligibility.

6:28-3.3 Referral

(a) Prior to any decision regarding referral of a pupil to a child study team for determination of eligibility for special education programs or services, interventions in the regular public school program to alleviate educational problems shall be provided to the pupil and written documentation by the staff of the regular program shall be made of their effect.

1. Parents shall be informed of the interventions attempted and receive a copy of the written documentation.

2. Prereferral intervention is not required for a pupil whose educational problem(s) is such that direct referral to the child study team can be supported.

(b) Pupils identified as being potentially educationally handicapped and considered to require services beyond those available within the regular public school program shall be referred to the child study team in conformance with written procedures adopted by the district board of education. Referral to the child study team shall take place after written parental consent has been received.

(c) The parent(s) of a pupil being considered for referral to a child study team shall receive written notification according to the procedural safeguards described in N.J.A.C. 6:28-2.3.

(d) When parental consent for a pupil's referral to the child study team is withheld, a district board of education may request a due process hearing according to N.J.A.C. 6:28-2.7.

(e) Audiometric screening shall be conducted for every pupil referred to the child study team according to N.J.A.C. 6:29-8.

(f) When a parent identifies a child age three to five as potentially preschool handicapped, the district board of education shall use a screening procedure to determine if the child should be referred to the child study team for comprehensive evaluation.

(g) When a child who has been enrolled in an early intervention program becomes age three, as defined in N.J.A.C. 6:28-1.3, the district board of education shall accept the child as identified and proceed with referral.

(h) When the Division of Youth and Family Services, Department of Human Services, identifies a potentially educationally handicapped pupil for whom a local school district is responsible, that district shall accept the pupil's identification by the Division of Youth and Family Services and shall request parental consent to refer the pupil to its child study team according to this subchapter.

6:28-3.4 Comprehensive evaluation

(a) Following receipt of parental consent for referral of a pupil, the child study team shall meet and determine the need for a comprehensive evaluation and design an evaluation plan. Prior to the development of the evaluation plan, a determination of the pupil's communication skills and dominance in English and the native language shall be completed. The evaluation plan shall include:

1. The specific information to be obtained;

2. The evaluation procedures necessary to obtain this information;

3. The language(s) or method of communication to be used in the evaluation process;

4. The designation of a child study team member as case manager.

(b) All evaluations leading to a determination of a pupil's eligibility for special education and/or related services shall be completed without undue delay consistent with the timelines established in N.J.A.C. 6:28-2.1.

(c) All evaluations specified in this chapter shall:
1. Be conducted on an individual basis;
2. Use information from group tests only to supplement individual evaluations;
3. Be conducted in the language(s) or method of communication determined in the evaluation plan;
4. Consider the pupil's sociocultural background and adaptive behavior in home, school and community.

(d) The chief school administrator or designee shall request that the parent(s) provide information to the child study team to be considered as part of the evaluation data.

(e) A comprehensive evaluation shall consist of the following:

1. A comprehensive health appraisal for pupils ages three to 21 shall be performed by a physician employed by the district board of education.

i. The comprehensive health appraisal shall include, but not be limited to, an assessment of prenatal, perinatal, postnatal factors, developmental and early childhood illnesses and injuries and a review of health screenings.

ii. The school physician shall examine the pupil, including all body systems, and write a summary indicating the effect of any current health problem or medical treatment on the pupil's learning.

iii. If the parent(s) of the pupil chooses to employ a private physician, a report of this comprehensive health appraisal shall be completed on a form developed by the school physician.

iv. The school nurse shall review and summarize all other available health information regarding the pupil and transmit it to the child study team.

2. A psychological assessment shall be the responsibility of a school psychologist employed by the district board of education. The psychological assessment shall include teacher conferences and observation of the pupil on other than a testing session. The assessment also shall include an appraisal of the current cognitive, social, adaptive and emotional status of the pupil.

3. An educational assessment shall be the responsibility of a learning disabilities teacher-consultant employed by the district board of education. It shall include observation of the pupil in other than a testing session, review of the pupil's educational history, conferences with the pupil's teacher(s), and an evaluation and analysis of the pupil's academic performance and learning characteristics.

4. A social assessment shall be the responsibility of a school social worker employed by the district board of education. The social assessment shall include observation of the pupil and communication with the pupil and parent(s). It shall also include an evaluation of the pupil's adaptive social functioning and emotional development and of the family, social and cultural factors which influence the pupil's learning and behavior in the educational setting.

5. The child study team shall include pertinent information from the parent(s) and certified school personnel when rendering evaluation and eligibility decisions.

(f) In addition to evaluations conducted by the school physician and the child study team, a determination of certain handicapping conditions requires the evaluation by specialists as listed in N.J.A.C. 6:28-3.5.

(g) Examination results and findings of other specialists shall be included in the comprehensive evaluation where appropriate.

(h) The requirements for evaluation by the child study team do not apply to a pupil confined at home or to a hospital by a physician or to a pupil with a speech or language problem when the nature of that problem does not warrant a comprehensive evaluation by a child study team.

(i) If the reports and evaluations of other New Jersey public school district child study team members, a Department of Education approved clinic or agency, or a professional in private practice are accepted by members of the child study team, such acceptance shall be noted in writing and shall become part of the report(s) of the child study team member(s). If a report or evaluation is rejected, a written rationale shall be provided.

(j) A reevaluation to determine the status of each educationally handicapped pupil shall be conducted at least every three years. Reevaluation shall be conducted sooner if conditions warrant.

1. The child study team shall determine which evaluations are needed based upon demonstrated pupil progress in meeting the goals and objectives of the individualized education program.

2. The child study team shall design an evaluation plan as described in N.J.A.C. 6:28-3.4. The parent(s) shall be notified in writing of the evaluation plan.

3. When a change in classification is being considered, written documentation supporting this decision shall be developed by the child study team.

(k) By June 30 of a pupil's last year in a program for the preschool handicapped, the child study team shall review available assessment information and obtain the additional evaluations necessary to determine eligibility and, if appropriate, classification according to N.J.A.C. 6:28-3.5.

6:28-3.5 Determination of eligibility

(a) When an evaluation is completed, the child study team and parent(s) shall meet with the school principal and referring staff member(s), if they choose to participate, in order to:

1. Develop a collaborative evaluation summary;

2. Determine whether the pupil is eligible for special education and/or related services;

i. If a pupil is determined to be eligible for special education and/or related services, the collaborative evaluation summary shall become the basis for the current educational status statement of the individualized education program.

3. Determine a classification category as defined in *[(d)]* *(e)* below;

(b) Whether or not a pupil is determined eligible for special education and/or related services, the parent(s) and the referring staff member shall be given a written summary, signed by the child study team, of all decisions and any recommended course(s) of action.

(c) When an educationally handicapped pupil transfers into a local school district, review of the appropriateness of the classification and individualized education program shall be conducted within 30 calendar days.

(d) The child study team, after parental notification, shall terminate a pupil's eligibility when sufficient written documentation is presented to indicate that the pupil no longer requires special education and/or related services.

(e) Classification of pupils determined to be eligible for special education and/or related services shall be based on the evaluations of the child study team, the school physician and such other specialists as noted and shall be according to the following definitions:

1. "Auditorally handicapped" means an inability to hear within normal limits due to physical impairment or dysfunc-

tion of auditory mechanisms characterized by i. and ii. below. Evaluations by a specialist qualified in the field of audiology and a speech and language evaluation by a certified speech correctionist are required.

i. The pupil is impaired in processing linguistic information through hearing, with or without amplification; and

ii. The loss of hearing may be permanent or fluctuating and adversely affects the pupil's education.

2. "Chronically ill" means a health condition which makes it impractical to receive adequate instruction through a regular school program and characterized by i. or ii. below. Evaluation by the school physician or his or her review and written acceptance of the medical report of another physician is required. The school nurse shall assist in the accumulation of the data necessary to determine eligibility.

i. "Chronic illness" means a condition such as tuberculosis, cardiac condition, leukemia, asthma, seizure disorders or other medical disability.

ii. "Eligible for home instruction" means a temporary health condition which requires individual instruction be provided to a pupil confined to home or hospital for at least a two week period of time as determined by the school physician.

3. "Communication handicapped" means impaired native speech or language which is outside the range of acceptable variation, adversely affects a pupil's educational performance and is not due primarily to hearing impairment as defined under "auditorily handicapped." It is characterized by i. or ii. below. An evaluation by a certified speech correctionist is required.

i. "Communication handicapped" means a severe speech or language disorder which interferes with the ability to use oral language or communicate;

ii. "Eligible for speech correction" means a mild to moderate disorder in language, articulation, voice or fluency which requires instruction by a speech correctionist.

4. "Emotionally disturbed" means the exhibiting of seriously disordered behavior over an extended period of time which adversely affects educational performance and may be characterized by i. or ii. below. An evaluation by a psychiatrist experienced in working with children is required.

i. An inability to build or maintain satisfactory interpersonal relationships;

ii. Behaviors inappropriate to the circumstances, such as, a general or pervasive mood of depression or the development of physical symptoms or irrational fears.

5. "Mentally retarded" means cognitive, social and academic functioning which is seriously below age expectations. Such functioning is comprehensive in nature being demonstrated in home, school and community settings, and characterized by one of the following:

i. "Educable" means a level of cognitive development and adaptive behavior in home, school and community settings that are moderately below age expectations with respect to all of the following:

(1) The quality and rate of learning;

(2) The use of symbols for the interpretation of information and the solution of problems;

(3) Performance on an individually administered test of intelligence that falls within a range of two to three standard deviations below the mean.

ii. "Trainable" means a level of cognitive development and adaptive behavior that is severely below age expectations with respect to all of the following:

(1) The ability to use symbols in the solution of problems of low complexity;

(2) The ability to function socially without direct and close supervision in home, school and community settings;

(3) Performance on an individually administered test of intelligence that falls three standard deviations or more below the mean.

iii. "Eligible for day training" means a level of functioning profoundly below age expectations whereby on a consistent basis the pupil demonstrates an inability to understand and respond to simple verbal or nonverbal communication, demonstrates an inability to make known basic wants or needs, and requires total personal care and supervision.

6. "Multiply handicapped" means the presence of two or more educationally handicapping conditions which interact in such a manner that programs designed for the separate handicapping conditions will not meet the pupil's educational needs. All evident educational handicaps shall be documented. Eligibility for speech correction as defined in this section shall not be one of the handicapping conditions which forms the basis for the classification of a pupil as "multiply handicapped." Evaluations by all specialists required in this subsection for the separate handicapping conditions being considered for the determination of "multiply handicapped" are required.

7. "Neurologically or perceptually impaired" means impairment in the ability to process information due to physiological, organizational or integrational dysfunction which is not the result of any other educationally handicapping condition or environmental, cultural or economic disadvantage and is characterized by i. or ii. below.

i. "Neurologically impaired" means a specific impairment or dysfunction of the nervous system which adversely affects the education of a pupil. An evaluation by a physician trained in neurodevelopmental assessment is required.

ii. "Perceptually impaired" means a specific learning disability manifested in a disorder in understanding and learning, which affects the ability to listen, think, speak, read, write, spell and/or compute to the extent that special education is necessary for achievement in an educational program.

8. "Preschool handicapped" means a condition which seriously impairs a child's functioning and which has a high predictability of seriously impairing normal educational development.

9. "Orthopedically handicapped" means a condition which, because of malformation, malfunction or loss of bones, muscle or body tissue, necessitates special education and/or related services. An evaluation by a physician qualified to conduct an orthopedic evaluation is required.

10. "Socially maladjusted" means a consistent inability to conform to the standards for behavior established by the school. Such behavior is seriously disruptive to the education of the pupil or other pupils and is not due to emotional disturbance as defined in 4. above. An evaluation by a psychiatrist experienced in working with children is to be obtained if determined necessary by the child study team.

11. Visually handicapped" means an inability to see within normal limits as characterized by i. or ii. below. An evaluation by a specialist qualified to determine visual disability is required. Visually handicapped pupils eligible for special education and/or related services shall be reported to the Commission for the Blind and Visually Impaired.

i. "Blind" means a loss of acuity or field restriction so great that a pupil cannot rely on sight to learn.

ii. "Partially sighted" means a field restriction or loss of visual acuity which adversely affects a pupil's education, but which does not warrant classification of a pupil as "blind." A partially sighted pupil is able to use sight to learn.

6:28-3.6 Individualized education program

(a) The individualized education program for each educationally handicapped pupil shall consist of a basic plan and an instructional guide.

(b) The basic plan of the individualized education program shall be written upon completion of the child study team's evaluation and within 30 calendar days of the determination that the pupil is eligible for special education and/or related services and according to the timelines in N.J.A.C. 6:28-2.1.

(c) The basic plan of the individualized education program shall be developed at a meeting attended by the child study team, the parent(s), teacher(s) having knowledge of the pupil's educational performance and the pupil, when appropriate. The referring certified school personnel, the school principal or designee and other appropriate individuals may participate in the meeting. A curriculum consultant from the Division of Mental Retardation, Department of Human Services, shall be included for those pupils classified as "eligible for day training."

1. Prior to the meeting to develop the basic plan, the chief school administrator or designee shall provide written notification to the parent(s) according to N.J.A.C. 6:28-2.3.

2. The meeting shall be scheduled at a mutually agreed upon time and place. If the parent(s) cannot attend the meeting(s), the chief school administrator or designee shall ensure parental participation, including the use of individual or conference telephone calls. Records shall be maintained of all attempts to secure parental participation.

3. Arrangements shall be made for a qualified interpreter to assist parents who are deaf or whose native language is other than English.

4. School personnel and parent(s) of an educationally handicapped pupil shall be allowed to use an audio-tape recorder during the individualized education program meetings.

(d) When a pupil has been classified as eligible for speech correction or eligible for speech correction or eligible for home instruction, the individualized education program meeting shall be as follows:

1. The meeting shall be attended by parent(s) and, when appropriate, the pupil and/or member(s) of the child study team and, depending on the classification, either the school physician or speech correctionist.

2. A school nurse shall attend the meeting for a pupil eligible for home instruction on behalf of the school physician if so designated by the school physician.

3. For a pupil eligible for home instruction the teacher(s) having knowledge of the pupil's educational performance shall participate in the meeting.

4. Other certified school personnel and the principal or designee may participate in the meeting.

(e) The basic plan of the individualized education program shall include, but not be limited to:

1. A statement of the pupil's eligibility for special education and/or related services;

2. A statement of current educational status, drawn from the collaborative evaluation summary, which describes the pupil's present levels of educational performance and adaptive behavior, including academic achievement, cognitive functioning, personal and social development, physical and health status, and where appropriate, language proficiency, communication style, physical education and recreation needs, prevocational, vocational and self-help skills;

3. A statement of annual goals which describes the educational performance expected to be achieved under the pupil's individualized education program. Annual goals shall be related to the special education and/or regular education curriculum;

4. A statement of objectives, which describes specific measurable steps between the current educational status and annual goals;

5. A description of the pupil's educational program which includes:

i. A rationale for the type of educational program and placement selected;

ii. An explanation of why the type of program and placement is the least restrictive environment appropriate in light of the pupil's needs. Determination of a pupil's least restrictive environment shall also include the following:

(1) When an appropriate program is not available in the school which the pupil would attend if not handicapped, the placement shall be in an appropriate educational setting as close to his or her home as possible.

(2) In selecting the least restrictive environment, consideration shall be given to any potentially harmful effect on the pupil.

iii. A description of the extent to which the pupil will participate in regular educational programs. The participation of an educationally handicapped pupil in regular school programs or activities shall be based on the nature and extent of the pupil's educational needs. Appropriate curricular or instructional modifications shall be stipulated. Precautionary arrangements shall be made to protect the safety and well-being of the pupil.

iv. A description of exemptions from regular education program options and/or graduation requirements;

v. A statement and rationale for the length of time the pupil is expected to be in a special education program including the length of the school day and an extended academic year, when appropriate;

vi. A statement specifying the language to be used for instruction, if other than English;

vii. A statement which describes the specific related services, including the date when they will begin and the length of time they will be provided;

viii. A statement describing the roles of specific school personnel and their responsibilities for implementing the various aspects of the individualized education program;

ix. The procedure and schedule to determine if the pupil's goals and objectives are being met.

(f) Following the development of the basic plan, the case manager shall coordinate the development of the instructional guide.

(g) The instructional guide shall be developed jointly by the teacher(s) responsible for implementing the pupil's instructional program and the case manager. The parent(s) of the educationally handicapped pupil may participate in the development of the instructional guide, along with other appropriate certified school staff members.

(h) The instructional guide shall be completed within 20 calendar days after the program has been implemented.

(i) The instructional guide shall include, but not be limited to, the following:

1. A planned schedule of time the pupil will be served by specialists, special education teachers, bilingual or English as a second language teachers and regular education teachers;

2. Instructional strategies fitted to the pupil's learning style;

3. Techniques and activities designed to support the personal and social development of the pupil;

4. Any special equipment and instructional media and materials needed for learning.

(j) Annually, or more often if necessary, the case manager, parent(s), teacher(s), and the pupil, if appropriate, shall meet to review and revise the instructional guide and the basic plan of the individualized education program as specified in this subchapter.

1. This meeting shall occur by June 30 of a handicapped pupil's last year in a preschool program.

2. This meeting shall occur by June 30 of a handicapped pupil's last year in an elementary school program and shall include input from the staff of the secondary school.

(k) A copy of the individualized education program shall be signed by members of the child study team and provided to the parent(s) in their native language according to N.J.A.C. 6:28-2.4.

(l) The basic plan of the individualized education program shall be implemented within 90 calendar days after receipt of parental consent to refer the pupil to the child study team. If parental consent for the initial placement is withheld, the district board of education may appeal the parental refusal in accordance with the procedures for a due process hearing according to N.J.A.C. 6:28-2.7.

(m) During a 21 year old handicapped pupil's last year in an educational program, a meeting shall be held including the parent(s), the case manager and other individuals as appropriate to develop nonbinding written recommendations concerning services and resources available after the responsibility of the district board of education has ended.

6:28-3.7 Related services

(a) Related services shall be provided to an educationally handicapped pupil according to his or her individualized education program and may include the following:

1. Counseling services shall be provided in the following manner:

i. Counseling services for an educationally handicapped pupil shall be provided within the public schools during the school day by certified school psychologists, social workers and guidance counselors.

ii. Counseling and/or training services for parents shall be provided to assist them in understanding the special educational needs of their child.

2. Occupational and physical therapy shall be provided in the following manner:

i. Occupational and/or physical therapy shall be provided by educationally certified or licensed therapists.

ii. A district board of education may contract with approved clinics and agencies for the provision of occupational and/or physical therapy.

3. Recreation shall be provided by certified school personnel.

4. Speech correction for a pupil classified other than "eligible for speech correction," may be provided as a related service. Additional classification as "eligible for speech correction" is not required.

5. Transportation shall be provided in the following manner:

i. The district board of education shall provide transportation as required in the individualized education program or as prescribed by the school physician. Such services shall include special transportation equipment, transportation aides and special arrangements for other assistance to and from and in and around the school.

ii. When out-of-district placement for educational reasons is made by a district board of education, transportation shall be provided consistent with the school calendar of the receiving school.

iii. When necessary, the case manager shall provide the transportation coordinator and the bus driver with specific information including safety concerns, mode of communication, health and behavioral characteristics of a pupil assigned.

iv. When transportation is provided for handicapped pupils below the age of five, safety belts or restraint systems are required.

6. Other related services, as necessary, shall be specified in the pupil's individualized education program.

(b) Consistent with professional practice, school personnel may give advice regarding additional services which are not required by this chapter. Such advice places no obligation on the district board of education to provide or fund such services.

6:28-3.8 Services to pupils in programs operated by the State of New Jersey

(a) For a pupil classified as eligible for day training attending an approved day program, the district board of education shall provide the services described in N.J.A.C. 6:28-3.2 through 3.6.

(b) For a pupil in residence in a State facility, the responsible district board of education shall:

1. Maintain the educational records sent by the State facility according to N.J.A.C. 6:3-2;

2. Facilitate the entry of the pupil into the local district program, as appropriate.

(c) For a pupil in a program operated by or under contract with the Department of Education, the district board of education retains responsibility for programs and services under this chapter.

SUBCHAPTER 4. PROGRAMS

6:28-4.1 General requirements

(a) Each district board of education shall provide educational programs and related services for handicapped pupils in accordance with their individualized education programs.

(b) Special education programs shall be consistent with the special education plan submitted by the district board of education and approved by the Department of Education.

(c) A district board of education proposal to establish, change or eliminate special education programs or services shall be approved by the Department of Education through its county office.

(d) Appropriate facilities shall be provided for educationally handicapped pupils according to N.J.A.C. 6:22-1.

(e) Appropriate written curricula shall be developed and appropriate materials shall be provided for educationally handicapped pupils.

(f) The length of the school day and the academic year for programs for educationally handicapped pupils shall be at least as long as that established for all pupils.

1. Programs for the preschool handicapped shall be in operation five days per week, one day of which may be used for parent training and at least four days of which shall provide a minimum total of 10 hours of pupil instruction.

2. An extended academic year program shall be comparable to the special education program offered during the regular academic year.

(g) All professional personnel serving educationally handicapped pupils shall hold the appropriate New Jersey certification or license commensurate with their assignments.

(h) A classroom aide, under the direction of a principal, special education teacher, general education teacher or other appropriately certified personnel, may assist in a special education program. The job description of a classroom aide shall be approved by the Department of Education through its county office.

(i) The district board of education through its chief school administrator or designee shall be responsible for the placement of an educationally handicapped pupil in conformance with the pupil's individualized education program.

1. When an educationally handicapped pupil transfers from one New Jersey school district to another, and immediate review of the individualized education program cannot be conducted, the pupil shall be placed in a program consistent with the current individualized education program for a period not to exceed 30 calendar days.

2. When appropriate, an educationally handicapped pupil shall be grouped with or participate with noneducationally handicapped pupils or less severely handicapped pupils in activities that are part of the educational program.

3. When the individualized education program of a handicapped pupil does not describe any restrictions, the pupil shall be included in the regular school program provided by the district board of education.

i. This includes participation in health and physical education, industrial arts, fine arts, music, home economics, vocational and other regular education programs, intramural and interscholastic sports, extracurricular and cocurricular activities.

ii. When instruction in these areas is provided to groups consisting solely of educationally handicapped pupils, the size of the groups and the age range shall conform with the requirements for special class programs described in this subchapter.

(j) Each district board of education, through appropriate personnel, shall establish and implement a plan to evaluate special education programs and services according to N.J.S.A. 18A:7A-4 through 16 and this chapter.

6:28-4.2 Program implementation

(a) Educational program options shall include the following:

1. Instruction in school which complements regular or special class programs through the following means:

i. Modification of a regular program, including, but not limited to, academic instruction, vocational, home economics, art, music, physical education and health education programs;

ii. Supplementary instruction;

iii. Speech correction;

iv. Resource room;

2. A special class program in the pupil's local school district;

3. A special education program in the following settings:

i. Another local school district;

ii. A vocational and technical school;

iii. A county special services school district;

iv. An educational services commission;

v. A jointure commission;

4. Programs in hospitals, convalescent centers or other medical institutions;

5. A program operated by a department of New Jersey State government;

6. Vocational rehabilitation facilities;

7. An approved privately operated special class in the continental United States, when it is not appropriate to provide services according to paragraph 1 through 6 above. Placement in a privately operated special class shall only be made with the prior written approval of the Department of Education through its county office.

8. Individual instruction at home or in school, excluding home instruction for medical reasons, with the prior written approval of the Department of Education through its county office, when it is not appropriate to provide a special education program for an educationally handicapped pupil according to paragraphs 1 through 7 above.

(b) The following program criteria shall be met:

1. Supplementary instruction and speech correction provided to educationally handicapped pupils shall be in addition to the regular instructional program and shall meet the following criteria:

i. Speech correction may be given individually or in groups not to exceed three pupils.

ii. Supplementary instruction may be given individually or in groups not to exceed five pupils.

iii. A teacher providing supplementary instruction shall be appropriately certified for the subject or level in which instruction is given.

iv. Speech correction shall be provided by a certified speech correctionist.

2. Resource room programs shall be instructional centers offering individual and small group instruction in place of regular classroom instruction and shall meet the following criteria:

i. An educationally handicapped pupil in a resource room shall be enrolled on a regular public school class register with his or her chronological peers. Instructional responsibility for such a pupil shall be shared between the resource room teacher and the regular class teacher(s).

ii. Depending on the type of resource room program, the resource room teacher shall hold certification as teacher of the handicapped, or teacher of blind or partially sighted, or teacher of deaf or hard of hearing.

iii. A resource room teacher shall be provided one hour per day or, in the secondary or departmentalized program one instructional period per day, for consultation with the regular teaching staff.

iv. Types of resource room programs shall be designated as follows:

(1) Single handicap program for pupils with the same classification;

(2) Mixed handicap program for pupils with different classifications;

(3) Open program for nonhandicapped and handicapped pupils.

v. The number of pupils in a resource room at any given time shall not exceed five. The total number of pupils assigned to a resource room teacher shall be no more than 20.

vi. The maximum amount of time per day a pupil shall participate in a resource room program at the elementary level is two hours; at the secondary level, two instructional periods.

3. Special class programs shall meet the following criteria:

i. An educationally handicapped pupil in a special class program shall be enrolled on a special class register.

ii. Pupils shall be the primary instructional responsibility of the special education teacher. Such teachers shall work cooperatively with other teachers to whom the educationally handicapped pupil may be assigned for portions of his or her educational program.

iii. Depending on the educational handicaps of the pupils assigned to the special class program, the special class teacher shall hold certification as teacher of the handicapped, or teacher of blind or partially sighted, or teacher of deaf or hard of hearing. Teachers of the preschool handicapped shall additionally hold nursery school endorsement.

iv. The age span in special class programs shall not exceed four years.

v. A special class program shall serve pupils who have the same classification. Class sizes shall not exceed the following:

(1) Auditorily handicapped-8 pupils;

(2) Chronically ill-15 pupils;

(3) Communication handicapped-8 pupils;

(4) Emotionally disturbed-8 pupils;

(5) Mentally retarded, educable-15 pupils;

(6) Mentally retarded, trainable-10 pupils;

(7) Mentally retarded, eligible for day training-9 pupils (pupil to staff ratio of three to one);

(8) Multiply handicapped-8 pupils;

(9) Neurologically impaired-8 pupils;

(10) Orthopedically handicapped-10 pupils;

(11) Perceptually impaired-12 pupils;

(12) Preschool handicapped-8 pupils (classroom aide required);

(13) Socially maladjusted-12 pupils;

(14) Visually handicapped-8 pupils.

vi. The above maximum class sizes may be increased no more than one-third with the addition of a classroom aide by obtaining prior written approval from the Department of Education through its county office.

4. Enrollment in secondary special class programs may be increased by one-half the maximum class size for pupils with the same classification as noted in 3.v. above. For instructional purposes, no group shall contain more than the maximum number of educationally handicapped pupils with the same classification as noted in 3.v. and vi. above.

i. An educationally handicapped pupil enrolled on the register of a secondary special class program shall receive a minimum of three instructional periods with the certified teacher(s) of the handicapped who maintains primary instructional responsibility for the pupil. The remainder of the pupil's instruction may be provided in the following settings, as appropriate.

(1) A class period(s) consisting solely of educationally handicapped pupils instructed by a regular education teacher where an adapted general education curriculum is used. In such classes enrollment for each period shall be as follows:

(A) In class groups comprised of pupils with a single classification, class sizes shall be according to 3.v. above.

(B) In class groups comprised of pupils with mixed handicaps, the group shall be limited to eight educationally handicapped pupils.

(2) A regular education class instructed by an appropriately certified subject area teacher. The number of educationally handicapped pupils who are enrolled on a special class register who can attend any given instructional period in such classes shall be limited to four ***if program modification is required***.

ii. Vocational education programs shall be made available to an educationally handicapped pupil at the secondary level consistent with his or her individualized education program.

(1) For the pupil placed in a vocational program outside of the local district, responsibility shall be as follows:

(A) In a full-time county vocational school, all responsibility for programs and services rests with the receiving district board of education.

(B) In a shared-time county vocational school and in an area vocational technical school, primary responsibility rests with the sending district board of education. Vocational personnel shall participate in the individualized education program decisions.

(2) In vocational programs class sizes shall be as follows:

(A) For a class consisting solely of educationally handicapped pupils, the limit shall be 10;

(B) For participation in a regular class, the number of educationally handicapped pupils shall be limited to four if program modification is required.

5. Instruction provided in lieu of classroom instruction for pupils classified by the school physician as eligible for home instruction shall meet the following criteria:

i. Instruction shall be provided at the pupil's place of confinement.

ii. The pupil shall be carried on an individual instruction register.

iii. Instructional services shall begin within seven calendar days after eligibility has been established.

iv. The teacher providing instruction shall be appropriately certified for the subject or level in which the instruction is given.

v. The pupil shall receive a program that meets the requirements of the district board of education for promotion and graduation.

vi. Instruction shall be provided for no fewer than five hours per week. The five hours of instruction per week shall be accomplished in no fewer than three visits by a teacher on three separate days. When instruction is provided by direct communication to a classroom program by telephone or television, this instruction shall be in addition to the basic five hours of instruction by a teacher.

vii. Instruction may be provided for up to 60 calendar days in a school year. If the school physician believes that instruction for a longer period of time is indicated, referral shall be made according to N.J.A.C. 6:28-3.3 for determination by the child study team of eligibility for special education and/or related services.

6. A pupil classified as educationally handicapped by a child study team may have the individualized education program implemented through instruction at home when it can be demonstrated that no other program option is appropriate at that time.

i. Prior written approval to provide home instruction shall be obtained from the Department of Education through its county office.

ii. Approval shall be obtained for a maximum of 60 calendar days.

iii. Subparagraphs ii., iv., v. and vi. of paragraph 5 above shall apply to the home instruction program of pupils classified by the child study team.

(c) Any exceptions regarding the requirements of this subchapter shall be made only with prior written approval of the Department of Education through its county office.

6:28-4.3 Transition of an educationally handicapped pupil from an elementary to a secondary school

Transition from elementary school to the secondary school shall be based on the recommendation of the child study team and shall be consistent with the pupil's individualized education program. Transition shall be determined by factors including number of years in school; social, academic and vocational development; chronological age; and need for the opportunities of the secondary school.

6:28-4.4 Diplomas and graduation

(a) A handicapped pupil who entered a high school program prior to September 1981 and who successfully completes his or her individualized education program shall receive the secondary diploma of the school district responsible for his or her education.

(b) An educationally handicapped pupil who entered a high school program in September 1981 or thereafter shall meet the high school graduation requirements according to N.J.A.C. 6:8-4.2, unless exempted in his or her individualized education program. The individualized education program must specifically address these graduation requirements. Fulfillment of the individualized education program requirements would qualify the educationally handicapped pupil for a State endorsed diploma issued by the school district responsible for his or her education.

(c) If a pupil attends a school other than that of the school district of residence which is empowered to grant a diploma, the pupil shall have the choice of receiving the diploma of the school attended or the diploma of the school district of residence.

(d) If a district board of education grants an elementary school diploma, an educationally handicapped pupil who fulfills the requirements of his or her individualized education program shall qualify for a diploma.

(e) Educationally handicapped pupils shall have the opportunity to participate in graduation exercises and related activities on a nondiscriminatory basis.

SUBCHAPTER 5. APPROVED CLINICS AND AGENCIES

6:28-5.1 General requirements

(a) Clinics and agencies approved by the Department of Education are organizations which provide contracted services to district boards of education as delineated in this subchapter.

(b) In order to provide services to a district board of education according to these rules, clinics and agencies shall be approved annually by the Department of Education.

(c) Services provided shall be restricted to the following:

1. For public school pupils, clinics and agencies may provide:

i. Child study team diagnostic services to supplement existing local district services; and

ii. The related services of occupational therapy and physical therapy.

2. For nonpublic school pupils, clinics and agencies may provide:

i. Evaluation, determination of eligibility for special education and/or related services, classification and the development of an individualized education program;

ii. Supplementary instruction, speech correction and home instruction for pupils determined eligible for such services; and

iii. English as a second language according to N.J.A.C. 6:31-1.4 and compensatory education according to N.J.A.C. 6:8-1 for pupils eligible for such services.

3. Medical clinics and agencies approved by the New Jersey Department of Health or appropriate State agency outside of New Jersey may conduct diagnostic medical services. These agencies do not have to obtain Department of Education approval nor do district boards of education have to receive prior approval of the Department of Education to purchase the diagnostic medical services.

(d) District boards of education may purchase services listed under (c)1. and 2. above from approved clinics and agencies with the prior written approval of the Department of Education through its county office according to the following:

1. A request for approval to purchase services shall include the proposed terms of the contract.

2. The district board of education shall be notified of approval or disapproval within 30 calendar days of the request.

3. The approval shall be for one year.

6:28-5.2 Approval procedures

(a) Approval of clinics and agencies shall include, but not be limited to, submission of the following criteria:

1. A valid certificate of incorporation or certificate of formation, certificate of trade, or business name, any licenses or permits required by laws, regulations, ordinances in effect within the state, county or municipality where the clinic or agency provides its services;

2. A description of the scope and nature of services to be offered;

3. A list of professional staff who will provide services which indicates each individual's certification or license and the function he or she will fulfill;

i. All staff shall be appropriately certified or licensed.

ii. All educational certificates shall be recorded with the Department of Education through the county office in which the clinic or agency is located.

iii. Professional staff employed by a clinic or agency who work full time for a district board of education shall not provide service for the clinic or agency during the hours of that individual's public school employment.

iv. An employee of a district board of education shall not provide service to a pupil who is the responsibility of his or her employing district board of education.

4. A description of the facility or facilities in which services shall be provided;

5. Fiscal information concerning the cost and method of payment for services;

6. Assurance of an adequate accounting system according to generally accepted accounting principles;

7. Assurance of a system for the collection, maintenance, confidentiality and access of pupil records which is according to N.J.A.C. 6:3-2.

(b) Any clinic or agency may appeal the approval decision to the Commissioner of Education for a hearing according to N.J.A.C. 6:24. Such hearing shall be governed by the provisions of the Administrative Procedure Act (see N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as supplemented by N.J.A.C. 1:1).

SUBCHAPTER 6. SERVICES FOR NONPUBLIC SCHOOL PUPILS

6:28-6.1 General requirements

(a) Each district board of education shall provide pupil evaluation to determine eligibility for special education and/or related services, compensatory education, supplementary instruction, home instruction and instruction in English as a second language for pupils enrolled in nonpublic schools.

(b) Each district board of education shall provide the programs and services required by this subchapter by itself, or through joint agreements with other district boards of education or through contracts with educational services commissions or with clinics and agencies approved under N.J.A.C. 6:28-5.

(c) Specifications of contracts to provide programs and services covered by this subchapter shall *[prior to bidding]* be approved by the county superintendent of schools.

6:28-6.2 Definitions

"Nonpublic school" means an elementary or secondary school, other than a public school, within the State, providing education in grades kindergarten through 12, or any combination of them, in which a pupil age five through 20 may fulfill compulsory school attendance and which complies with Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

"Nonpublic school pupil" means any pupil who is enrolled full time in a nonpublic school. A pupil who boards at a nonpublic school shall be considered a resident of the New Jersey district in which the parent(s) resides.

6:28-6.3 Provision of programs and services

(a) Identification, referral, evaluation, determination of eligibility, development of individualized education programs and provision of speech correction for articulation disorders, home instruction and supplementary instruction shall be provided according to this chapter.

(b) English as a second language shall be provided according to N.J.A.C. 6:31-1.4.

(c) Compensatory education shall be provided according to N.J.A.C. 6:8-1.

(d) All programs and services required by this subchapter shall be provided only with parental consent.

(e) All procedural safeguards specified in N.J.A.C. 6:28-2 apply to nonpublic school pupils eligible for the services listed in (a) above.

(f) Personnel providing a program or service under this subchapter shall meet appropriate certification requirements and shall not be employed by the nonpublic school in which the pupil is enrolled.

(g) Programs and services for nonpublic school pupils shall be provided in facilities approved by the Department of Education through its county superintendent of schools ***according to N.J.S.A. 18A:46-5 and 18A:46-19.5***.

(h) Public and nonpublic school pupils may be grouped for speech correction and the other instructional programs provided under this subchapter, when appropriate.

(i) When the provision of programs and/or services under this subchapter requires transportation, the district board of education shall provide the transportation and the cost shall be paid from State aid received under this subchapter by the district board of education.

(j) The district board of education shall maintain all records of nonpublic school pupils receiving programs and/or services under this subchapter according to N.J.A.C. 6:3-2.

6:28-6.4 Fiscal management

(a) Each district board of education shall provide programs and services under this subchapter up to the amount of State aid received for that year according to N.J.S.A. 18A:46A-1 et seq.

(b) Each district board of education shall maintain an accounting system for nonpublic programs and services according to procedures established by the Department of Education ***(N.J.S.A. 18A:46-8)***.

(c) At the close of each school year, the district board of education shall report to the Department of Education the total district cost for programs and services provided under this subchapter.

(d) Each district board of education shall receive State aid for programs and services required by this subchapter for the succeeding school year, as determined by the Department of Education and as available from appropriated funds for nonpublic school programs and services.

6:28-6.5 End of the year report

(a) Annually, the district board of education shall submit to the Department of Education a report describing the programs and services provided under this subchapter.

(b) The end of the year report shall include the numbers of pupils provided each program or service and other information as required by the Department of Education.

SUBCHAPTER 7. PROGRAMS BY EDUCATIONAL SERVICES COMMISSIONS, JOINTURE COMMISSIONS, REGIONAL DAY SCHOOLS, COUNTY SPECIAL SERVICES SCHOOL DISTRICTS, THE MARIE H. KATZENBACH SCHOOL FOR THE DEAF AND PRIVATE SCHOOLS

6:28-7.1 General requirements

(a) Educational services commissions, jointure commissions, regional day schools, county special services school districts, the Marie H. Katzenbach School for the Deaf and private schools shall obtain prior written approval from the Department of Education to provide programs for educationally handicapped pupils through contracts with district boards of education.

1. Approval shall be based upon the criteria established by the Department of Education.

2. Monitoring and approval shall be conducted on an ongoing basis by the Department of Education.

3. Approval for private schools shall be obtained annually and shall include, but not be limited to, the provisions of N.J.A.C. 6:28-7.2(e)4, 5 and 6.

(b) "District board of education" as used in this subchapter means the local district legally responsible for the pupil's education.

(c) Programs for educationally handicapped pupils provided under this subchapter shall be operated according to this chapter.

1. Exceptions regarding pupil placement shall be made with the prior written approval of the Department of Education through its county office in the county in which the responsible district board of education is located.

2. Exceptions from all other requirements in this subchapter shall be made only with prior written approval from the Department of Education.

(d) *[All special education]* ***Providers of*** programs *[in]* ***under*** this subchapter shall prepare and submit a special education plan according to N.J.A.C. 6:28-1.2.

(e)* Private schools wishing to provide services according to N.J.A.C. 6:28-5.1(c) shall comply with N.J.A.C. 6:28-5.

6:28-7.2 Approval procedures

(a) At least six months prior to the initiation of a program for educationally handicapped pupils, an application shall be submitted to the Department of Education.

(b) The Department of Education shall determine if the program is needed or in conflict with an existing or planned program.

(c) The Department of Education shall notify the applicant of its approval decision no later than three months after receipt of the application.

(d) An appeal of the decision by staff of the Department of Education shall be made to the Commissioner of Education according to N.J.A.C. 6:24.

(e) The application for approval to establish a program for educationally handicapped pupils shall include, but not be limited to:

1. A statement of need indicating the number and age of educationally handicapped pupils to be served by category of handicap, and the existing programs and services available to these pupils ***within the geographic area to be served***;

2. A rationale for each new program;

3. The projected program for each group of educationally handicapped pupils with the same handicapping condition including:

i. The objectives of the program;

ii. The organizational structure, including projected number of personnel by title and certification;

iii. The administrative policies and procedures;

iv. The nature and scope of the program and services to be offered and the number and type of educationally handicapped pupils to be served;

v. A description of the proposed curriculum;

4. A copy of the approval of the facility by the Department of Education through its county office;

5. An assurance that health, safety and necessary emergency procedures will be followed; and

6. Additionally each private school shall submit:

i. An affidavit that its programs and services for the educationally handicapped are nonsectarian;

ii. A copy of the certificate of incorporation;

iii. The names of the members of the board of directors which:

(1) Shall be comprised of at least six members, 50 percent of whom shall be disinterested parties and not related to employees of the private school;

(2) May include the director of the private school in a monitoring capacity, but no other employee or officer of the school; and

iv. All materials shall be submitted by January 1, 1985, and annually thereafter.

6:28-7.3 Responsibilities of district boards of education

(a) The educational program of a handicapped pupil provided through contractual agreements as described in N.J.A.C. 6:28-7.1(a) shall be considered the educational program of the district board of education. The district board of education shall be responsible for the services required in N.J.A.C. 6:28-3.

1. *[Contracts may be made between]* *[d]* ***D***istrict boards of education *[and]* ***may contract with*** program providers for the services required in N.J.A.C. 6:28-3.

i. A district board of education representative(s) shall participate in any decision-making meeting(s) unless this is documented not to be feasible.

ii. The district board of education's child study team shall review any child study team reports developed under the contract according to N.J.A.C. 6:28-3.4(i).

(b) The placement of an educationally handicapped pupil in a program as described in N.J.A.C. 6:28-7.1(a) shall be made only with the prior written approval of the Department of Education through its county office.

1. A district board of education shall seek approval to place an educationally handicapped pupil in such a program only when it can assure that the individualized education program can be implemented in that setting.

2. Prior to placement in a program in New Jersey, a representative of the district board of education and, if possible, the parent(s) shall visit the school.

3. If an educationally handicapped pupil has available a free, appropriate education offered by a district board of education and the parent(s) chooses to place the pupil in a private school, neither the State nor the district board of education shall be responsible for the cost of the private school placement.

4. When a district board of education is able to demonstrate to the Department of Education through its county office that the individualized education program of an educationally handicapped pupil cannot be provided by a public program or private day school program, the pupil *[shall]* ***may*** be placed in a residential private school ***which shall be*** at no cost to the parent(s). The district board of education shall be responsible for special education costs, room and board.

5. Placement of an educationally handicapped pupil in a residential private school by a public agency, other than the district board of education, shall be subject to rules governing such agencies and to this chapter. The district board of education shall pay the day special education costs.

i. When the pupil has been placed by a public agency empowered to make such placement, the placement shall meet the individualized education program requirements of the pupil.

ii. The chief school administrator or designee shall participate with the public agency in the placement decision when a district board of education is expected to be responsible for the special education costs.

6:28-7.4 Provision of programs

(a) An educational program provided under this subchapter shall conform to the requirements of N.J.A.C. 6:28-4 and to the pupil's individualized education program. Physical education, industrial arts, fine arts, home economics, health services and other educational services shall be provided on a basis comparable to that provided in the pupil's local school district.

(b) Educational programs shall be open to observation at any time to the representatives of the sending district board of education and of the Department of Education.

(c) With prior written approval of the Department of Education, a school described in N.J.A.C. 6:28-7.1(a) may operate an extended academic year program.

6:28-7.5 Termination or withdrawal from an educational program

(a) Prior to the termination or withdrawal of any educationally handicapped pupil from an approved program described in N.J.A.C 6:28-7.1(a), there shall be an individualized education program review conference which shall include participation of appropriate personnel from the receiving school and the pupil's parent(s). Fifteen calendar days prior written notice of termination or withdrawal shall be made by the parent(s), the district board of education or the school providing the program to the other parties.

(b) When an educationally handicapped pupil completes his or her individualized education program, the pupil shall receive a diploma *[according to]* ***if the requirements of*** N.J.A.C. 6:28-4.4 ***are met***.

6:28-7.6 Fiscal management

(a) A district board of education shall pay tuition for all special education programs and required services provided only after receiving individual pupil placement approval.

(b) The district board of education shall establish a written contract for each handicapped pupil it places in a program approved under this subchapter. The contract shall include written agreement concerning tuition charges, costs, terms, conditions, services and programs to be provided for the educationally handicapped pupil.

(c) Daily transportation costs shall be paid by the district board of education.

(d) Transportation for pupils in residence at the Marie H. Katzenbach School for the Deaf shall be the responsibility of the Katzenbach School.

(e) Annual program budgets shall be submitted for approval to the Department of Education by each provider on forms distributed by the department.

(f) All providers under this subchapter shall submit a certified audit to the Department of Education at the end of each school year.

6:28-7.7 Records

(a) All providers under this subchapter shall conform to the requirements of N.J.A.C. 6:3-2 pertaining to pupil records. In addition:

1. All pupil records maintained by a provider under this subchapter shall be returned to the responsible district board of education when a pupil's program is terminated.

2. Requests for access to pupil records by authorized organizations, agencies or persons as stated in N.J.A.C. 6:3-2 shall be directed to the chief school administrator or designee of the local school district having responsibility for the handicapped pupil

3. The daily attendance record of all pupils in approved programs under this subchapter shall be maintained in registers provided by the Department of Education and made available to the district board of education upon request. Habitual tardiness or prolonged absences shall be reported to the chief school administrator of the local school district.

(b) Pupil progress reports shall be submitted at least three times a year or as stipulated in the contract.

SUBCHAPTER 8. PROGRAMS OPERATED BY OTHER DEPARTMENTS OF NEW JERSEY STATE GOVERNMENT

6:28-8.1 General requirements

(a) The requirements of this chapter shall apply to all educational programs provided for handicapped pupils by department of New Jersey State government, except as otherwise provided in this subchapter.

1. This shall include but not be limited to the Department of Corrections, the Department of Higher Education and the Department of Human Services.

2. This shall not include the Department of Education.

(b) All educationally handicapped pupils shall receive an educational program based on an individualized education program. A pupil who has an individualized habilitation plan or an individual treatment plan, as defined by the Department of Human Services, shall have the individualized education program incorporated into the plan.

(c) Once a pupil has been placed in a State-operated or contracted residential facility, the placing State agency is responsible for the identification, evaluation, determination of eligibility, development and implementation of the individualized education program.

(d) All educationally nonhandicapped pupils in State facilities shall receive an educational program according to N.J.A.C. 6:8 (Thorough and Efficient System of Free Public Schools).

(e) All other general education rules apply to educational programs in which a department of New Jersey State government serves pupils.

(f) Educational programs and services shall be provided *[and attendance is compulsory]* for each pupil between the ages of three and 21 who does not hold a high school diploma.

(g) ***Attendance is compulsory for all pupils except for a pupil age 16 or above who waives this right. A waiver may be revoked at any time by the pupil. For a pupil below the age of 18, a waiver is not effective unless accompanied by parental consent.***

(h) *[(g)]* An education program shall be scheduled for at least four hours per day and no fewer than 180 days each year.

(i) *[(h)]* Activities shall not be scheduled that conflict with educational programs. Pupils shall not be excused from attending educational programs except for reasons of illness, religious observance, court appearance or other compelling personal circumstances.

(j) *[(i)]* Each State facility shall develop a special education plan according to N.J.A.C. 6:28-1.2 which additionally shall include:

1. A list of all State and Federal funding sources;

2. A separate educational budget statement for each State facility.

6:28-8.2 Pupil records

(a) In addition to the records provisions of N.J.A.C. 6:3-2, all educational records shall be maintained in files separate from juvenile justice and other institutional records required to be safeguarded from public inspection by N.J.S.A. 2A:4-65.

(b) All educational records must be transmitted to the responsible district board of education, as indicated in N.J.S.A. 18A:7B-12, in order to assure credit for work completed by the pupil. District boards of education shall grant appropriate credit and diplomas for educational work completed by pupils enrolled in State facilities.

6:28-8.3 Procedural safeguards

(a) A due process hearing request may be made to the Department of Education for a pupil confined in a residential facility operated by or under contract to a department of State government on issues of classification or the components of an education program but not placement.

(b) A request for an administrative review shall be made directly to the appropriate department of State government.

1. The Department of Corrections and the Department of Human Services shall develop written administrative review procedures which shall be approved by the Department of Education.

(c) Mediation efforts by the Department of Education as described in N.J.A.C. 6:28-2 may be requested for handicapped pupils.

(d) The educational rights of nonhandicapped pupils to procedural safeguards are the same as nonhandicapped pupils in local district schools in New Jersey.

(e) A handicapped pupil shall not be suspended or expelled from an educational program for manifestations or consequences of the pupil's handicap, except on an emergency basis to prevent imminent danger of injury to the pupil or others.

(f) Surrogate parents shall be appointed according to N.J.A.C. 6:28-2.

6:28-8.4 Provision of programs

(a) Educational programs shall be provided in physical locations separate from sleeping areas, except where appropriate for instructional medical reasons. School facilities shall comply with the provisions of N.J.A.C. 6:8-4.8(b).

(b) A State residential facility may recommend placement of a pupil in a local school district if the pupil is capable of participating in an educational program offered by a district board of education. The district board of education may accept or reject the pupil. If accepted, tuition shall be paid by the State facility to the district board of education.

(c) Educational certificates for professional staff shall be on file in the respective department's education office or in the appropriate county office of the Department of Education.

1. Classroom teachers of the handicapped shall hold certificates as teacher of the handicapped.

2. All other educational staff shall hold the certification determined appropriate by the directors of the offices of education in the departments operating educational programs or by the appropriate county office of the Department of Education.

3. The appropriateness of certification will be reviewed annually by the Department of Education.

(d) Class size for all pupils enrolled in State-operated programs shall not exceed the following:

1. Residential youth center—10 pupils;

2. Child treatment center or psychiatric hospital—8 pupils;

3. Training school or correctional facility—10 pupils;

4. Day training center—9 pupils per classroom with a pupil to staff ratio of three to one;

5. Residential facilities for the retarded—according to N.J.A.C. 6:28-4.2.

6. Programs operated by the Department of Higher Education—according to N.J.A.C. 6:28-4.2.

(e) Day training programs shall be provided in the following manner:

1. The Department of Human Services shall provide educational programs and related services for pupils classified as eligible for day training in State-operated or contracted facilities.

2. A day training program is responsible for carrying out the individualized education program.

3. In classes for pupils classified as eligible for day training, the age range may exceed four years. If a pupil is placed in a class in which he or she is not within the four-year age range of the other pupils, the rationale for placement shall be noted in the individualized education program.

4. An educational program for pupils classified as eligible for day training in a State residential facility shall be commensurate with those in a day training center.

5. No exception shall be granted regarding class size in classes for pupils classified as eligible for day training.

(f) An educational plan shall be developed by the approved facility for each school age pupil leaving a Department of Corrections or Department of Human Services education program which shall include:

1. The current individualized education program or a description of the general education program.

2. Any other educational information necessary to formulate an appropriate educational program when the pupil returns to a local district.

6:28-8.5 Eligibility to receive State funds

(a) The Departments of Corrections and Human Services shall submit annually to the Department of Education the resident enrollment of pupils in State education programs on the last school day of September.

(b) The Commissioner of Education shall notify the Commissioners of the Departments of Corrections and Human Services of the entitlement for the following fiscal year under the State Facilities Education Act, N.J.S.A. 18A-7B-1 et seq.

(c) The Department of Education shall forward first-quarter State Facilities Education Act funds to the Department of Corrections and the Department of Human Services by July 1. All subsequent funding for the fiscal year shall be contingent upon acceptance of the special education plan or annual update by the Department of Education.

(d) The determination of the district of residence for funding purposes for pupils in programs operated by the Department of Corrections or the Department of Human Services shall be according to N.J.S.A. 18A:7B-12.

(e) Annually the Department of Corrections and the Department of Human Services shall submit a composite education program budget for all programs and services under its jurisdiction.

6:28-8.6 Program review and approval

(a) Annually the Department of Education shall review all educational programs provided for handicapped pupils by a department of State government for compliance with New Jersey Statutes Annotated, New Jersey Administrative Code, and adherence to their approved special education plan and budget.

(b) All educational programs and fiscal information shall be available for audit by the Department of Education.

SUBCHAPTER 9. MONITORING, CORRECTIVE ACTION AND COMPLAINT INVESTIGATION

6:28-9.1 Monitoring and corrective action

(a) The Department of Education shall monitor all programs and services required by this chapter for compliance with New Jersey Statutes Annotated, New Jersey Administrative Code and the approved special education plan.

(b) The monitoring process shall include, as necessary:

1. Review of data and reports;

2. Conducting on-site visits;

3. Comparison of a sample of individualized education programs with the programs and services offered;

4. Audit of Federal and State funds.

(c) After the monitoring process is completed, a report shall be written and sent to the public or private agency.

(d) If the public or private agency receives a review report that indicates noncompliance, an improvement plan shall be developed by the agency and submitted to the Department of Education for approval.

(e) The improvement plan shall be submitted according to a format provided by the Department of Education and shall include, but not be limited to, the following:

1. Objectives and strategies for correcting each noncompliance item cited, including resources needed;

2. Target dates for correction of noncompliance.

(f) The Department of Education shall review the improvement plan and notify the agency if it is acceptable.

(g) When an improvement plan is not submitted or found unacceptable or not implemented, the Department of Education shall notify the agency of the sanctions that it intends to apply.

(h) An appeal of the decision by staff of the Department of Education shall be made to the Commissioner of Education according to N.J.A.C. 6:24.

6:28-9.2 Complaint procedures

(a) The Director of the Division of Special Education shall be responsible for implementing the procedures to review, investigate and take action on any written complaint of substance regarding the provision of special education or related services covered under this chapter. The procedures may include:

1. Referral by the director to the county office of the Department of Education for fact finding, and if possible, a negotiated settlement;

2. Monitoring by the Division of Special Education according to N.J.A.C. 6:28-9.1.

(b) A written report of the actions taken by the Division of Special Education and the results of these actions shall be completed within 60 calendar days of the receipt of the written complaint. The report shall be sent to all parties involved.

SUBCHAPTER 10. EARLY INTERVENTION PROGRAMS

6:28-10.1 General requirements

(a) This subchapter applies to all agencies that receive public funds ***through contracts*** from the Department of Education for the provision of early intervention programs to handicapped children between birth and age three. Early intervention programs shall be comprehensive, interdisciplinary programs that address a child's education, health and human service needs.

(b) Early intervention programs shall be approved annually by the Department of Education.

(c) Approved early intervention programs shall be funded to the extent provided by appropriations to the Department of Education for these purposes and shall *[be based on guidelines]* ***conform to contract requirements*** established by the Department of Education in consultation with the Departments of Health and Human Services.

(d) The Department of Education, in consultation with the Departments of Health and Human Services, shall monitor and review annually the programs and services of each approved early intervention program according to N.J.A.C. 6:28-9.

6:28-10.2 District board of education responsibilities

(a) Each district board of education shall have a procedure to ensure that parents of all potentially eligible children within its jurisdiction are provided information regarding early intervention programs. This procedure shall include, but not be limited to, a variety of activities to disseminate information to the community.

(b) When a child who has been enrolled in an early intervention program becomes age three as defined in N.J.A.C. 6:28-1.3, the district board of education shall consider the child as identified according to N.J.A.C. 6:28-3.2 and shall initiate referral procedures.

6:28-10.3 Approval process

(a) At least six months prior to the initiation of an early intervention program, an application shall be submitted to the Department of Education.

(b) An application for funding of an early intervention program shall include:

1. A program plan which incorporates the following:

i. A statement of need indicating the number of children to be served and the existing programs and services available to them;

ii. The screening procedures;

iii. The assessment procedures;

iv. The intervention plan;

v. A family involvement plan;

vi. The personnel development policies;

vii. A procedure for interagency coordination;

viii. The program evaluation process.

2. Projected number of personnel by title and certification;

3. The administrative policies and procedures;

4. A copy of the approval of the facility by the Department of Education through its county office;

5. A copy of procedures for health, safety and necessary emergency procedures;

6. An assurance that the fiscal management system includes:

i. An annual written budget; and

ii. An annual audit performed by a certified public accountant;

7. A copy of the written policy describing compliance with all pupil record requirements according to N.J.A.C. 6:3-2;

8. A copy of the procedure used to notify appropriate district boards of education of the need for services for a child age three;

9. For each private agency, an affidavit that the early intervention program is nonsectarian; and

10. All other information required for approval.

(c) The Department of Education, in consultation with the Departments of Health and Human Services, shall review and determine eligibility for funding of an early intervention program.

(d) The Department of Education shall notify the early intervention program of the approval decision no later than three months after receipt of the application.

(e) An appeal of the decision by staff of the Department of Education shall be made to the Commissioner of Education according to N.J.A.C. 6:24.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Water Quality Management Planning and Implementation Process

Notice of Correction: N.J.A.C. 7:15

Errors appear in the April 2, 1984 issue of the New Jersey Register at 16 N.J.R. 714, 16 N.J.R. 715 and 16 N.J.R. 716 concerning water quality management planning and implementation process. N.J.A.C. 7:15-1.5, 7:15-2.1, 7:15-2.4 and 7:15-3.1 should have appeared as follows:

7:15-1.5 Definitions

. . .

"Designated planning agency" means an agency designated by the Governor to conduct **areawide** water quality management planning pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

. . .

7:15-2.1 The Continuing Planning Process (CPP)

. . .

(b) The policies, goals, and objectives of the CPP which have Statewide or multi-county significance will be contained in the Statewide Water Quality Management Program Plan. In addition, elements of the adopted areawide plans having Statewide or **multi-county** significance may also be contained in the Statewide Plan. The remaining data and recommendations of the areawide and county plans will be incorporated by reference.

. . .

7:15-2.4 Role of designated water quality management planning agencies

. . .

(b) Each planning agency shall coordinate **its** work with every other planning agency with which it shares a river basin or sub-basin and shall refer any conflicts between itself and any such planning agency to the Commissioner for his mediation.

. . .

7:15-3.1 Water Quality Management Plan(s) consistency determinations

. . .

(a) 3.i.(2) New **ground water** discharges (regulated by N.J.S.A. 58:10A-1 et seq.).

. . .

(a)

HAZARDOUS WASTE FACILITIES SITING COMMISSION

Policies and Procedures

Adopted New Rule: N.J.A.C. 7:26-13A

Proposed: March 5, 1984 at 16 N.J.R. 408(b).
Adopted: June 28, 1984 by Frank Dodd, Chairman, Hazardous Waste Facilities Siting Commission.
Filed: June 29, 1984 as R.1984 d.304, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1E-49 et seq., specifically 13:1E-85.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No.66 (1978): July 16, 1989.

HWFSC Docket No. 001-84-01.

Summary of Public Comments and Agency Responses:

The Hazardous Waste Facilities Siting Commission (hereinafter the Commission) has carefully reviewed the comments submitted during the public comment period which closed on April 5, 1984 concerning the new rule governing policies and procedures, N.J.A.C. 7:26-13A.

On March 5, 1984 the Hazardous Waste Facilities Siting Commission proposed a new rule, N.J.A.C. 7:26-13A, to govern the procedures to be followed by the Commission and applicants and petitioners to the Commission in the siting of major hazardous waste facilities and other business which may come before the Commission pursuant to the Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq. (the Act). The new rules concern the procedure for adopting alternate and additional site designations and for resolving disputes regarding payment of the gross receipts tax.

Sixteen comments concerning the procedure for adopting alternate and additional site designations. No comments were received on the procedure for resolving disputes regarding payment of the gross receipts tax.

1. Comment: The commenter suggested that, given the high cost of developing an EHIS, it is unreasonable to require, if that is the intent, the EHIS before site designation.

Response: The intent of the rule, at 6(c) is to provide a requester for site designation the opportunity to have the EHIS prepared during the same time that the site suitability study is being conducted by the affected municipality. While this procedure would expedite the siting and permitting process, it is not mandatory. (See, (c)1. of proposal). As noted by the commenter, a requester who opts to have the EHIS prepared early in the procedure will bear the risk of expending moneys for that purpose without assurance that its site will be designated. (See, 6(f) of proposal)

2. Comment: There is no sanction for a community which does not complete its site suitability study within six months. The suggestion is made that if the review is not completed within that time, the lack of a conclusion should be considered automatic approval.

Response: The Act is silent on this issue, other than to state that the study shall be completed in six months. The Commission agrees with the commenter who pointed out that a requester should not be penalized by a municipality's unreasonable delay. There is no approval/disapproval process for the site suitability studies. It will be incumbent upon the municipality, if it wishes to present convincing evidence, to complete its studies to support its case in the hearing before the Office of Administrative Law which will be scheduled by the Commission pursuant to the Act.

3. Comment: The municipality is afforded the opportunity to cross examine witnesses and present testimony in the adjudicatory hearing. Fairness demands that the applicant be offered the same access and rights.

Response: The Commission agrees with this comment. The Commission interprets the Act to imply that a requester for site designation would be a party of interest to the adjudicatory hearing process and would be entitled to present testimony and cross-examine witnesses in the same manner as a municipality. The rule has been amended to make this explicit.

4. Comment: N.J.A.C. 7:26-13A.6(d) mandates that the requester provide the funds for the affected municipality or municipalities to conduct the site suitability studies. N.J.S.A. 13:1E-59, however, states that the Commission shall . . . provide the governing body with a grant . . . to conduct a site suitability study.

Response: The Commission agrees that the Act implies that, in all cases, the affected municipality will receive a grant from the Commission. The rule has been changed to reflect this interpretation.

5. Comment: The Commission notes that with the approval of A-901 (L.1983, c.392) which amended the Act, the timing of submittal of a letter of intent and disclosure statement has been changed. There is no longer any need to delay submission of the letter of intent.

Response: The Commission has provided that the requester submit the letter of intent at the same time as the request for site designation and disclosure statement. DEP reserves the right to decide when to begin its review as provided for in the applicable hazardous waste rules, N.J.A.C. 7:26-16.

6. Comment: It is not clear what the Commission considers to be the difference between a "suitability study" which is not defined, and an environmental and health impact statement, which is defined in N.J.A.C. 7:26-13A.5.

Response: The site suitability studies are required by the Act, as is the timing of their preparation, before siting by the Commission. It is therefore clear that the studies are intended to consider whether the site is suitable from a land use and population protection aspect. The siting criteria are therefore applicable at this stage of the process. A definition of "Site suitability study" has been added to the rule to make this clear. The EHIS is not required by the Act for siting; however, it is required for permitting by the department. Those siting criteria which are more site specific and which require more intensive investigation of a proposed site must be addressed in the EHIS. The EHIS will be prepared by the Commission rather than an interested party and will be reviewed by the Department pursuant to N.J.A.C. 7:26-12.2.

7. Comment: N.J.A.C. 7:26-13A.6 should be expanded to provide for intervention in the adjudicatory hearing process by any person who demonstrates that his or her participation would further the public interest by assisting in an informed consideration of the proposed site.

Response: The Commission believes that the legislative intent of N.J.S.A. 13:1E-59 was to provide for a contested case hearing as governed by the existing administrative hearing rules. N.J.A.C. 1:1-12 governs the procedure for parties to intervene.

8. Comment: In order to ensure that the public has adequate notification of the pendency of an application or of an adjudicatory proceeding, there should be provision for publication in newspapers in the affected municipality or municipalities.

Response: The Commission agrees that such notification will not be unduly burdensome and will serve to inform the public. The rule has been amended to provide the requested notice.

9. Comment: The regulation should be amended to incorporate language relating to the standard (of proof) at the adjudicatory hearing.

Response: The requested language appears in the Act and since it does not relate to the Commission's procedures, it need not be repeated in the rule.

10. Comment: The Environmental and Health Impact Statement should include a risk assessment.

Response: The EHIS requirements are more fully set forth in the DEP's hazardous waste rules, N.J.A.C. 7:26-12.2. Those rules, which will be used for the EHIS review, require a risk assessment. Reference to those rules has been added to N.J.A.C. 7:26-13A.6(e) to clarify the relationship to the DEP's rules.

11. Comment: The implication appears to be that a site identified in the adopted Hazardous Waste Facilities Plan (the Plan) will not be subject to the same vigorous municipal level review and local involvement on a site specific basis.

Response: No specific sites will be designated in the Plan. Any proposed site, whether initially proposed by the Commission or by an industry will undergo the same municipal level review required by the Act for sites initiated by the Commission. This rule applies only to the procedure the Commission will follow when a site is requested to be designated by an industry. The Commission sees no reason to differentiate in the review procedure between Commission proposed sites and industry proposed sites. N.J.S.A. 13:1E-59b is interpreted to require the same review procedures for either case.

12. Comment: Funding should be provided by the Commission to counties and municipalities to review the Commission's Major Hazardous Waste Facilities Plan.

Response: Such review is an ordinary function of government. The Act provides no funding to the Commission for this purpose. The Plan will be made available to all county planning boards and will also be available to the public at State depository libraries.

13. Comment: The regulations should permit the county to share in any grant to the local level when the county's assistance is sought by the affected municipality.

Response: The Act explicitly authorizes funding to municipalities and no other governmental unit. The Commission is provided $100,000 for all site suitability study grants. It will be a matter for negotiation between a county and an affected municipality as to sharing of the grant money if a county's assistance is requested.

14. Comment: It was recommended that the affected county be allowed to be a party of interest to the adjudicatory hearing.

Response: If the county wishes to participate in the adjudicatory hearing, it may petition to intervene under the rules of the Office of Administrative Law (See, 7. above). If the county is able to show that it is directly affected by the outcome, pursuant to the OAL rules, it could be permitted to intervene.

15. Comment: It is requested that the governing body of the affected county be included to receive the submission for site designation.

Response: The Commission agrees that submission of a copy of the application for site designation should be forwarded to the county at the earliest stage of the process. The county has been added to N.J.A.C. 7:26-13A.6(b)1. for this purpose.

16. Comment: The Act provides for "alternate or additional" site designations at the request of any hazardous waste industry. From this, the commenter believes that it is clear that the legislature intended that the number of facilities could be greater than that identified (as a minimum) in the Waste Management Plan. Therefore, N.J.A.C. 7:26-13A.6(c)1. which would allow the Commission the ability to deny an application if the proposed facility is not of the number and type determined to be necessary in the plan is not understood by the commenter.

Response: The Commission interprets the Act to require it to propose and adopt site designations for the number and type of new major hazardous waste facilities determined to be necessary in the Plan. (N.J.S.A. 13:1E-59a.) The Plan, as outlined in 13:1E-58, is considered to be comprehensive in nature with regard to the number and type of new major hazardous waste facilities needed to treat, store or dispose of hazardous waste in this State. (13:1E-58b.(4)) The provision in 13:1E-59b. is therefore interpreted as allowing the Commission to designate sites which may be alternate or additional to the sites designated by the Commission on its own initiative, but which are of the number and type which the Plan finds necessary to serve the needs of the State. In the opinion of the Commission, the major purpose of the Plan is to match the type and number of treatment, storage and disposal facilities to the needs of the hazardous waste generators in the State and not simply to set a minimum number as the commenter suggests.

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

7:26-13A.1 Scope and Authority

Unless otherwise provided by statute, Subchapter 13A of this Chapter (N.J.A.C. 7:26-13A) adopted pursuant to the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., establishes the Hazardous Waste Facilities Siting Commission's policies and procedures applicable to the siting of new major commercial hazardous waste facilities and to the conduct of other business which comes before the Commission.

7:26-13A.2 Construction

(a) N.J.A.C. 7:26-13A shall be liberally construed to permit the Hazardous Waste Facilities Siting Commission to discharge its statutory functions pursuant to N.J.S.A. 13:1E-49 et seq.

(b) The Hazardous Waste Facilities Siting Commission may amend, repeal or rescind this subchapter from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

7:26-13A.3 Purpose

The purpose of N.J.A.C. 7:26-13A is to provide the public with information as to the policies and procedures adopted by the Hazardous Waste Facilities Siting Commission in regard to the siting of new major commercial hazardous waste facilities and in regard to the discharge of other duties of the Commission.

7:26-13A.4 Severability

If any section, subsection, provision, clause, or portion of N.J.A.C. 7:26-13A is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the subchapter shall not be affected thereby.

7:26-13A.5 Definitions

The following words and terms, when used in N.J.A.C. 7:26-13A shall have the following meanings, unless the context clearly indicates otherwise. 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 in the Department of Environmental Protection rules, N.J.A.C. 7:26-13.

"Alternate or additional site" means a site for a facility which is proposed and adopted by the commission at the request of a hazardous waste industry, pursuant to N.J.S.A. 13:1E-59b.

"Applicant" means the applicant for a registration statement and engineering design for a major hazardous waste facility.

"Application" means the application for a registration statement and engineering design for a major hazardous waste facility.

"Disclosure statement" means a statement submitted to the department by an applicant, which statement shall include:

1. The full name, business address and social security number of the applicant, or, if the applicant is a business concern, of any officers, directors, partners, or key employees thereof and all persons or business concerns holding any equity in or debt liability of that business concern, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than five percent of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

2. The full name, business address and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than five percent of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

3. The full name and business address of any company which collects, transports, treats, stores or disposes of solid waste or hazardous waste in which the applicant holds an equity interest;

4. A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste possessed by the applicant, or, if the applicant is a business concern, by the key employees, officers, directors, or partners thereof;

5. A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by any State or Federal authority, in the 10 years immediately preceding the filing of the application, which are pending or have resulted in a finding or a settlement of a violation of any law or rule and regulation relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by the applicant, or if the applicant is a business concern, by any key employee, officer, director, or partner thereof;

6. A listing and explanation of any judgment of liability or conviction which was rendered, pursuant to any State or federal statute or local ordinance, against the applicant, or, if the applicant is a business concern, against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes;

7. A listing of all labor unions and trade and business associations in which the applicant was a member or with which the applicant had a collective bargaining agreement during the 10 years preceding the date of the filing of the application;

8. A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant in connection with his collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;

9. Any other information the Attorney General or the department may require that relates to the competency, reliability or good character of the applicant.

"Engineering design" means the specifications and parameters approved by the department for the construction and operation of a major hazardous waste facility.

"Environmental and health impact statement" means a statement of likely environmental and public health impacts resulting from the construction and operation of a major hazardous waste facility, and includes an inventory of existing environmental conditions at the site, a project description, an assessment of the impact of the project on the environment and on public health, a listing of unavoidable environmental and public health impacts, and steps to be taken to minimize environmental and public health impacts during construction and operation.

"Key employee" means any person employed by the applicant or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the business concern but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage or disposal of solid or hazardous waste.

"Plan" means the Major Hazardous Waste Facilities Plan adopted by the commission pursuant to N.J.S.A. 13:1E-58.

"Registration statement" or "registration" means the operating license approved by the department, for a major hazardous waste facility; "registrant" means the person to whom such approval was granted.

"Respondent" means, for the purposes of this subchapter, the party, or parties, to a dispute regarding payment of the gross receipts tax which is not the petitioning party.

"Site suitability study" means a study conducted to determine whether a proposed site is suitable for a particular type and size major hazardous waste facility when the siting criteria, N.J.A.C. 7:26-13, are applied to that site.

7:26-13A.6 Procedure for designating a facility site at the request of any hazardous waste industry pursuant to N.J.S.A. 13:1E-59

(a) The commission may, after adoption of the Siting Criteria for New Major Commercial Hazardous Waste Facilities, N.J.A.C. 7:26-13, by the department, and the adoption of a Major Hazardous Waste Facilities Plan by the commission, accept for consideration proposals for alternate or additional site designations at the request of any hazardous waste industry.

1. The requester shall have the burden of proof concerning suitability of the site in the proceedings provided for in this section.

(b) The requester shall submit a written request for the site designation ***, a letter of intent to apply for registration and engineering design approval and description of the nature of the proposed facility,*** and a disclosure statement on a form to be supplied by the commission.

1. The form may be obtained from and shall be mailed, by certified mail, to the commission at CN 406, Trenton, New Jersey 08625 and to the governing body of the affected municipality or municipalities ***and county***.

2. The commission shall acknowledge receipt of the request and disclosure statement and, at its discretion, require the requester to supplement the form with additional information which the commission reasonably deems necessary.

(c) Within 90 days of the receipt of a completed request for site desingation ***, letter of intent*** and disclosure statement, the commission shall either:

1. Deny the request in writing, without prejudice, upon a determination by the commission that the proposed site does not comply with the siting criteria and/or the proposed facility is not of the number and type determined to be necessary in the plan; or

2. Transmit notice of the accepted request, by certified mail, to the requester, the governing body, board of health, planning board and environmental commission of the affected municipality or municipalities and to the governing body and any county health department of the affected county; *[and]*

***3. Forward the letter of intent to the department;**

4. ***[3.]* Forward the disclosure statement to the Office of the Attorney General *[.]* ***; and**

5. Publish, in a newspaper of general circulation in the affected jurisdiction, notice of the accepted request.*

(d) As soon as is practicable, but no later than 45 days after providing notice as required in (c)2. above, the governing body of the affected municipality or municipalities shall be *[provided with]* ***offered*** a grant for conducting suitability studies for the proposed facility site from the *[requester]* ***commission***, in an amount to be determined by the commission.

(e) Upon receiving notice of transmittal of the request as required in (c)2. above, the requester may, at its discretion, authorize the commission to prepare at the requester's expense, an environmental and health impact statement ***, which meets the requirements of N.J.A.C. 7:26-12.2,*** concerning the proposed site. Should the commission *[delegate]* ***arrange for*** preparation of the environmental and health impact statement *[to an independent engineering firm]* ***by contract with a consultant***, the requester shall be afforded the opportunity to:

1. Consult with the commission and the department in the preparation of a request for proposals; and

2. Recommend *[independent engineering firms]* ***consultants*** to be provided with a request for proposals.

(f) In no way shall the commission's preparation of an environmental and health impact statement be construed as an endorsement of the proposed site and/or facility by the commission or the department.

(g) Within six months of the receipt of a grant, as provided for in (d) above, the governing body of the affected municipality or municipalities shall complete and transmit to the commission the site suitability studies on the proposed site.

***1. Upon receipt of the site suitability studies, or upon the completion of the time period for such studies, whichever is sooner, the commission shall publish, in a newspaper of general circulation in the affected jurisdiction, a notice of the**

scheduling of an adjudicatory hearing to consider the proposed site.*

[(h) After receipt of the site suitability studies by the commission, but not less than 90 days prior to filing an application for registration and engineering design approval, the requester may, at its discretion, submit to the department and the governing body of the affected municipality or municipalities a letter of intent to apply for registration and engineering design approval and a brief description of the nature of the proposed facility.]

*(h)**[(i)]* Within 45 days of the receipt by the commission of the site suitability studies, *or upon completion of the time period for such studies, whichever is sooner,* an adjudicatory hearing concerning the proposed site shall be conducted by an administrative law judge.

1. The affected municipality or municipalities *and the requester* shall be *[a party]* *parties* of interest to the adjudicatory hearing, and shall have the right to present testimony and cross-examine witnesses.

2. Intervention in the adjudicatory hearing by any other person shall be as provided in N.J.A.C. 1:1-12.

3. Within 30 days of the close of the adjudicatory hearing, the administrative law judge shall transmit his initial decision including recommendations for action on the proposed site to the commission.

*(i)**[j]* Within 30 days of the receipt of the administrative law judge's recommendations, the commission, whose membership shall be expanded for this purpose as provided for in N.J.S.A. 13:1E-52c., shall affirm, conditionally affirm or reject the recommendations. Such action by the commission shall:

1. Be based upon the potential for significant impairment of the environment or the public health; and

2. Be considered to be final agency action thereon for the purposes of the Administrative Procedure Act and shall be subject only to judicial review in the Appellate Division of the Superior Court pursuant to R.2-1.

3. If the commission fails to act upon the recommendations of the administrative law judge within 30 days, as required in this subsection, the failure shall constitute commission affirmance of those recommendations in accordance with the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1-1.

*(j)**[(k)]* If the requester's proposed site is adopted by the commission, the requester, if it has not previously exercised its discretion to do so, shall:

1. Authorize the commission to prepare an environmental and health impact statement as provided for in (e) above; *and*

[2. Submit to the department and the governing body of the affected municipality or municipalities a letter of int[illegible] and a description of the proposed facility as set forth in [illegible] above; and]

*2.**[3.]* Thereafter be considered an applicant [illegible] bound by the procedures for the review of all applicati[illegible] for registration and engineering design approval for ne[illegible]ajor hazardous waste facilities as set forth in N.J.S.A. [illegible]E-60 and the applicable rules of the department.

*(k)**[(l)]* The commission may, upon its own motion or at the request of the governing body of any affected municipality, repeal or withdraw any adopted site [illegible]r a facility if, in the discretion of the commission, such [illegible]n is consistent with the purposes and provisions of the [illegible].

7:26-13A.7 (Reserved)

7:26-13A.8 Procedure for resolving disputes regarding payment of the gross receipts tax

(a) To resolve a controversy or dispute regarding the payment of the five percent gross receipts tax pursuant to N.J.S.A. 13:1E-80, an interested person shall initiate a proceeding before the commission by:

1. Obtaining a form petition at the address given in (a)3. below from the commission.

2. Completing the petition, including a sworn statement as to its truth;

3. Filing the original petition with the commission in person at 28 West State Street, Room 614, Trenton, New Jersey 08625, or by mail to CN-406, Trenton, New Jersey 08625; and

4. At the time of filing, providing to the commission proof of service of a copy of the petition on the respondent or respondents.

(b) Within 30 days after service of the petition upon them, the respondent or respondents shall file an answer with the commission together with proof of service of a copy thereof upon the petitioner.

1. The answer shall state in short and plain terms the respondent's defenses to each claim asserted and shall admit or deny the allegation of the petition.

2. A respondent may not generally deny all the allegations, but shall make denials as specific denials which meet the substance of designated allegations or paragraphs of the petition.

3. Allegations in any answer setting forth an affirmative defense shall be taken as denied.

4. The time for filing an answer with the commission may be extended beyond 30 days upon written request to the commission.

(c) After an answer has been filed or the time for doing so has expired, the commission may summon counsel for the parties to appear at a conference for the following purposes:

1. Eliminate or simplify issues;

2. Obtain admissions of fact or of documents that will avoid unnecessary proof;

3. Arrive at an agreement of facts; and

4. Come to an amicable resolution of the controversy without requiring a hearing.

(d) In order to resolve the controversy at a settlement conference, the commission may require the parties to:

1. Submit written statements, verified by oath, as to the facts involved in the controversy; and

2. Submit certified copies of all documents necessary to a full understanding of the issues.

(e) For failure to appear at a settlement conference or to participate therein or to take action required by the commission, the commission in its discretion may make such order with respect to the continued prosecution of the matter or an objection thereto, as it deems just and proper.

(f) In the event that the parties and the commission are unable to resolve the controversy at a settlement conference, as referred to in (c) above, the commission shall refer the matter to the Office of Administrative Law as a contested case for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., N.J.S.A. 52:14F-1 et seq., and N.J.A.C. 1:1-1.

1. Upon receipt of the initial decision from the Office of Administrative Law, the commission shall affirm, reject or modify the decision within 45 days.

2. The commission's decision shall be considered to be the final agency action from which any party may take an appeal to the Appellate Division of the Superior Court *[pursuant to R.2-1]*.

HEALTH

(a)

DRUG UTILIZATION REVIEW COUNCIL

Interchangeable Drug Products

Adopted Amendments: N.J.A.C. 8:71

Proposed: February 6, 1984 at 16 N.J.R. 202(a).
Adopted: June 12, 1984 by the Drug Utilization Review Council, Robert Kowalski, Acting Chairman.
Filed: June 21, 1984 as R.1984 d.286, with portions of the proposal **not adopted** but **still pending.**

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

Regarding Indomethacin:

Regarding Indomethacin:

No comments were received within the comment period, but Merck, Sharp and Dohme commented at a later point that the proposed Indomethacins had not yet been approved by the U.S. Food and Drug Administration (FDA). The Drug Utilization Review Council took this point into account and approved the Zenith Indomethacin after receiving written confirmation from the FDA that this product had been approved.

The following products and their respective manufacturers were **adopted**:

Imipramine HCL tabs 10, 25, 50 mg	**Par**
Indomethacin caps 25, 50 mg	**Zenith**

The following products and their respective manufacturers remain **pending:**

Brompheniramine/Phenylephrine/Phenylpropanolamine E.R. tabs	Pioneer
Butalbital/Aspirin/Caffeine caps, tabs	Cord
Chlordiazepoxide/Clidinium Br. Caps	Par
Chlorpheniramine/Phenyltoloxamine/Phenylpropanolamine/Phenylephrine E.R. tabs	Par, Pioneer, Chelsea
Chlorzoxazone 250/Acetaminophen 300 tabs	Par, Pioneer, Duramed
Dexamethasone tabs 6 mg	Par
Dexchlorpheniramine Maleate E.R. tabs 4, 6 mg	Par
Dipyridamole tabs 25, 50, and 75 mg	Cord
Furosemide tabs 20, 40 mg	Roxane
Indomethacin caps 25, 50 mg	Par
Nicotinyl alcohol tartrate tabs 150 mg	Par
Papaverine HCL 150 mg E.R. cap	Pioneer, Duramed
Prednisone tabs 5, 10, 20 mg	Duramed
Prenatal vitamins (Materna 1.60 Formula)	Amide
Spironolactone 25/Hydrochlorothiazide 25 tabs	Zenith
Spironolactone tabs 25 mg	Zenith
Theophylline (Anhydrous) 200 mg E.R. tabs	Cord
Theophylline/Ephedrine/Hydroxyzine tabs	Par
Thioridazine HCL tabs 10, 15, 25, 50 mg	Cord, Bolar, Danbury
Thioridazine HCL tabs 100 mg	Bolar, Mylan
Trichlormethiazide tabs 2, 4 mg	Par
Vitamin B complex/Folic Acid (Iberet Folic 500 Formula)	Par

OFFICE OF ADMINISTRATIVE LAW NOTE: See a related Notice of Adoption at 16 N.J.R. 1092(a).

HUMAN SERVICES

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Capital Funding Program for Community Based Substitute Care, General Social Service and Partial Care Facilities

Adopted New Rule: N.J.A.C. 10:125

Proposed: April 16, 1984 at 16 N.J.R. 835(a).
Adopted: June 29, 1984 by George J. Albanese, Commissioner, Department of Human Services.
Filed: June 29, 1984 as R.1984 d.305, **without change.**

Authority: N.J.S.A. 30:1-12, P.L. 1980, c.119.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): July 16, 1989.

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

Full text of the adopted new rule follows.

CHAPTER 125
CAPITAL FUNDING PROGRAM FOR COMMUNITY BASED SUBSTITUTE CARE, GENERAL SOCIAL SERVICE AND PARTIAL CARE FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

10:125-1.1 Legal authority, applicability, scope, purpose

(a) This chapter applies to State contracts for the renovation and construction of community based facilities. This chapter implements one portion of the New Jersey Public Purpose Buildings Construction Bond Act of 1980 and complements N.J.A.C. 10:3-2. The purpose of the program is to utilize funds from the New Jersey Public Purpose Buildings Construction Bond Act of 1980 to assist in the renovation, purchase and construction of Community based substitute care, general social service and partial care facilities which provide services to families and children under the auspices of the Division of Youth and Family Services. The scope of this program is limited to the purposes mentioned above for those who are either parties to or candidates for a service contract with the Division.

(b) In order to achieve the purposes of this chapter, the Department hereby delegates the responsibility for providing services and to regulate the provision of service to the Division.

10:125-1.2 Definitions

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

"Agency" means a New Jersey public or non-profit private organization (as defined by New Jersey statute) applying for funding under this program.

"Capital Funding Agreement" means the agreement in the form of a written contract between the Department of Human Services or its duly authorized agent and the agency, which sets forth the terms and conditions applicable to awarding the funds.

"Department" means the New Jersey Department of Human Services.

"Division" means the Division of Youth and Family Services, New Jersey Department of Human Services.

"Facility" means the building(s) which may be constructed, purchased, renovated, remodeled, extended, and/or otherwise improved through this program. This also includes the land on which the building(s) is (are) situated.

"General social services" means the provision of services less than three hours per session outside clients' home which are intended to prevent or reduce abuse, neglect, exploitation, or the need for substitute care but with the aim for clients to become self-sufficient and/or to achieve or maintain a permanent tranquil home.

"Partial care" means the provision of services three or more hours per session outside clients' home which are intended to prevent or reduce abuse, neglect, exploitation, or the need for substitute care but with the aim for clients to become self-sufficient in a permanent tranquil home.

"Shall" means a mandatory requirement.

"Substitute care" means the provision of temporary or permanent care to clients whose needs prevent them from remaining in their own home.

10:125-1.3 Program priorities

(a) Priority shall be given to facilities which provide the following services:

1. Programs serving victims of abuse and/or neglect;
2. Programs intended to preserve families in crisis;
3. Community based programs which will serve either clients in institutions or clients at risk of institutionalization; and
4. Programs intended to preserve and strengthen families.

10:125-1.4 Capital funding priorities

(a) Capital funding priorities of facilities shall be considered when:

1. Life safety violations exist and where the safety of the service population is in question or jeopardy;
2. Assistance is required to maintain appropriate standards of licensing and/or certification;
3. A significant improvement in programming will be realized and is needed to protect the investment of the State and/or the agency which shall provide the continuation of services;
4. Assistance is required in the purchase or construction of a facility which shall meet an identified service need.

SUBCHAPTER 2. ELIGIBLE AGENCIES

10:125-2.1 Funding stipulations

(a) Any public or non-profit private agency incorporated in the State of New Jersey may apply for a contract under these regulations but shall adhere to the following conditions:

1. The agency comply with the State Uniform Construction Code N.J.A.C. 5:23, as well as the appropriate Manual of Standards established for the type of program it operates. Copies of the Division's standards, where applicable, are available upon request.
2. The agency shall sign a Capital Funding Agreement in which it agrees to abide by all existing Department guidelines and regulations for the use of capital funds and to use the funds exclusively for the renovation, purchase or construction of a Division-approved facility.
3. All Capital Funding Agreements under this chapter shall conform to the Department of Human Services standard agreement language pursuant to N.J.A.C. 10:3-2.
4. If an agency receives funds for planning and design services, it shall execute an agreement which conforms to the Department of Human Services standard form language for such services.
5. The agency shall agree to provide services for a specified time period and shall agree to reserve appropriate service units for Division referrals, as specified in the Capital Funding Agreement.
6. All Capital Funding Agreements and parties thereto shall comply with Departmental Administrative Orders.
7. As prescribed by the Department, facilities applying for a Capital Funding Agreement under this program shall submit to inspection by the Director, Office of Facilities and Maintenance and/or other regulatory offices of the State.
8. The Department or the Division may require that the agency provide or obtain matching funds for the project. This match shall be provided in accordance with Department and Division specifications. The agency portion of the total project costs may come from one or both of the following sources:
   i. Actual cash under control of the agency; and
   ii. A mortgage secured on the subject property.

SUBCHAPTER 3. ADMINISTRATION OF THE CAPITAL FUNDING PROGRAM

10:125-3.1 Procedure requirements

(a) All Capital Funding Agreements shall comply with the following procedures prior to final approval:

1. The agency shall submit, on a form supplied by the Division, a proposal to renovate, purchase or construct buildings for the purposes of providing services to clients under the auspices of the Division.
2. The proposal shall be reviewed by a committee composed of representatives of planning, operational and accountability units of the Division. After review, the proposal shall be submitted to the Director of the Division for review and approval and/or disapproval. If approval is secured, the proposal shall be submitted to the capital facilities approval unit of the Department for review and approval and/or disapproval.
3. After review by the Division and the Departmental capital facilities planning staff, the Commissioner may approve State financial participation in the development of those capi-

tal funding proposals which comply with the regulations of the Department.

4. The Commissioner shall grant final approval of all capital improvement program contracts executed with agency sponsors.

10:125-3.2 Payment schedules

The Division and the agency shall negotiate a reasonable payment schedule. Such payment schedule shall be specified in the Capital Funding Agreement.

10:125-3.3 Records and reports

Each agency shall establish and maintain appropriate methods for conducting fiscal affairs. Adequate records shall be accessible, and reports shall be submitted to the Division as requested.

10:125-3.4 Interim inspections

The Department and the Division shall have the right to conduct inspections at various stages of construction for the purposes of reviewing construction progress, work quality and project expenditures.

10:125-3.5 Assurances of non-discrimination

The Division shall obtain assurance from each applicant that all portions and services of the entire facility for the construction of which or in connection with which aid under the New Jersey Public Purpose Buildings Construction Act of 1980 is sought shall be made available without discrimination on account of race, creed, color or national origin; and that no professionally qualified person shall be discriminated against on account of race, creed, color or national origin with respect to the privilege or professional practice in the facility.

(a)

DEVELOPMENTAL DISABILITIES COUNCIL

1984-1986 State Plan for Services to Persons with Developmental Disabilities

Adopted Amendment: N.J.A.C. 10:140

Proposed: April 16, 1984 at 16 N.J.R. 837(a).
Adopted: May 22, 1984 by New Jersey Developmental Disabilities Council, Catherine Rowan, Executive Director.
Filed: June 21, 1984 as R.1984 d.287, **without change**.

Authority: N.J.S.A. 30:1AA-7.

Effective Date: July 16, 1984.

Summary of Public Comments and Agency Responses:

In addition to publication in the New Jersey Register, comments on the Council's four priority service areas were solicited at our Annual Disability Aware Fair, held at Woodbridge Center, Woodbridge, N.J. Twenty-seven people offered comments. Persons were asked to choose two of the following four priority service areas to be funded by the Developmental Disabilities Council:

1. Case Management Services
2. Child Development Services
3. Community Living Services
4. Social Developmental Services

Social Development Services, Community Living Services, and Child Development Services each received 13 votes. Case Management received 9 votes.

In addition, public comment was solicited via the Council's bi-monthly publication, *Interface*. A total of 44 responses were received. Through this medium, Community Living received 30 votes, Case Management, 23, Social Development, 20 and Child Development, 16.

In this survey, the public was also asked to indicate the two most important long range goals out of eleven goals.

The maintenance and expansion of community living arrangements was chosen as a top priority most often. The provision of extensive case management services was chosen most often as second priority.

Full text of the adopted complete 1984-1986 State Plan can be obtained from:

Developmental Disabilities Council
108-110 North Broad Street
CN 700
Trenton, New Jersey 08625

CORRECTIONS

(b)

CORRECTIONS

Manual of Standards for Juvenile Detention Commitment Programs

Adopted New Rule: N.J.A.C. 10A:33

Proposed: May 21, 1984 at 16 N.J.R. 1160(a).
Adopted: June 22, 1984 by William H. Fauver, Commissioner, Department of Corrections.
Filed: June 26, 1984 as R.1984 d.299, **without change**.

Authority: N.J.S.A. 2A:4A-1 et. seq., specifically 2A:4A-43c(1) and (2).

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): July 16, 1989.

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

Full text of adoption follows.

CHAPTER 33
MANUAL OF STANDARDS FOR JUVENILE DETENTION COMMITMENT PROGRAMS

SUBCHAPTER 1. INTRODUCTION

10A:33-1.1 Purpose

In accordance with the revised New Jersey juvenile code, (N.J.S.A. 2A:4A-20, et. seq.) juveniles adjudicated delinquent may now be sentenced to a term of incarceration of up to 60 consecutive days in county-operated juvenile detention facilities. Since the juvenile code specifically requires that the Department of Corrections certify all juvenile detention facilities which may be utilized for this new dispositional alternative, the Department has promulgated the minimum standards contained in this chapter which must be met by those facilities receiving adjudicated delinquents under the Act. The standards in this chapter are in addition to the existing Manual of Standards For Juvenile Detention Facilities located at N.J.A.C. 10A:32.

10A:33-1.2 Definitions

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

"Juvenile" means an individual who is under the age of 18 years (N.J.S.A. 2A:4A-22a).

"Delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

1. A crime;

2. A disorderly persons offense or petty disorderly persons offense; or

3. A violation of any other penal statute, ordinance or regulation (N.J.S.A. 2A:4A-23).

"Detention" means the temporary care of juveniles in physically restricting facilities pending court disposition (N.J.S.A. 2A:4A-22c).

"Department" means the New Jersey Department of Corrections.

"Juvenile Detention Commitment Program" means a short-term rehabilitation program operated within an approved juvenile detention facility for adjudicated juveniles committed by the court for a maximum of 60 consecutive days pursuant to N.J.S.A. 2A:4-43c(1).

SUBCHAPTER 2. LEGAL PROVISIONS

10A:33-2.1 Legal authority for juvenile detention commitment

Pursuant to N.J.S.A. 2A:4A-43c(1), effective January 1, 1984, the court may, in addition to any other disposition enumerated in N.J.S.A. 2A:4A-43, incarcerate an adjudicated delinquent in a juvenile detention facility for a term not to exceed 60 consecutive days.

10A:33-2.2 Legal authority of department

(a) N.J.S.A. 2A:4A-43c(1) provides that "if the juvenile detention facility in the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Department of Corrections, the court may, in addition to any of the dispositions enumerated in this subsection, incarcerate the juvenile in a youth detention facility for a term not to exceed 60 consecutive days. The Department of Corrections shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection."

(b) N.J.S.A. 2A:4A-43c(2) provides that "no juvenile may be incarcerated in any county detention facility unless the county has entered into an agreement with the Department of Corrections concerning the use of the facility for sentenced juveniles. Upon agreement with the county, the Department of Corrections shall certify detention facilities which may receive juveniles sentenced pursuant to this subsection and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to this subsection exceed 50 of the maximum capacity of the facility."

SUBCHAPTER 3. ELIGIBILITY REQUIREMENTS

10A:33-3.1 Statutory eligibility

Pursuant to N.J.S.A. 2A:4A-43c(1) only those counties in which an approved juvenile detention facility is located are eligible to participate in the juvenile detention commitment program.

10A:33-3.2 Departmental Eligibility

(a) Only those counties in which the population of the approved juvenile detention facility has consistently been less than the maximum population capacity established by the Department of Corrections are eligible to participate in the juvenile detention commitment program.

1. Counties deemed ineligible because of overpopulation may re-apply to the Department every 90 days after receipt of the notice of ineligibility.

(b) Only those counties which have been consistently in substantial compliance with the Manual of Standards For Juvenile Detention Facilities, (N.J.A.C. 10A:32), as determined by the Department of Corrections, are eligible to participate in the juvenile detention commitment program.

SUBCHAPTER 4. MANUAL OF STANDARDS FOR JUVENILE DETENTION FACILITIES

10A:33-4.1 Adoption of standards

(a) All provisions of the Manual of Standards For Juvenile Detention Facilities, (N.J.A.C. 10A:32), except provisions specifically exempted in this chapter, or provisions in contradiction to the standards and regulations of the Manual of Standards For Juvenile Detention Commitment Programs, (N.J.A.C. 10A:33) are hereby adopted by reference.

(b) All juvenile detention facilities must be in compliance with both the Manual of Standards For Juvenile Detention Facilities (N.J.A.C. 10A:32) and the Manual of Standards For Juvenile Detention Commitment Programs (N.J.A.C. 10A:33) in order to be certified by the Department of Corrections to receive juvenile commitments.

SUBCHAPTER 5. POPULATION CAPACITY

10A:33-5.1 Juvenile detention Commitment Program

(a) Pursuant to N.J.S.A. 2A:4A-43c(2), the Department of Corrections shall specify the capacity of the juvenile detention facility that may be made available to receive sentenced juveniles.

1. Based upon the county's past and present juvenile detention needs, as determined by such factors as the number of admissions, length of stay, daily population count, peak population figures, etc., the Department of Corrections, in collaboration with the county, shall specify the maximum number of juvenile commitments which may be housed in the facility.

2. Pursuant to N.J.S.A. 2A:4A-43c(2), the number of incarcerated juveniles shall not exceed 50 percent of the maximum population capacity of the facility.

10A:33-5.2 Population statistics

Reports regarding population statistics, in such form and such frequency as shall be required by the Department of Corrections, shall be submitted to the Department of Corrections.

SUBCHAPTER 6. MONITORING, INSPECTION, AND EVALUATION

10A:33-6.1 Population and capacity monitoring

Based upon juvenile detention needs, as determined by population statistics reports and periodic, on-site population monitoring visits, the Department of Corrections, in collaboration with the county, may reduce or increase the number of spaces for juvenile commitments certified to be housed at the facility.

10A:33-6.2 Program inspection

(a) Based upon periodic inspection of the facility's physical plant and evaluation of the programmatic components, the Department of Corrections may modify or withdraw its certification of the facility for juvenile commitments.

(b) At all times representatives from the Department shall be permitted to observe and interview juveniles and staff of the facility concerning any matter pertaining to the health, safety, treatment, training, and general well-being of the juveniles or the operation of the juvenile detention commitment program.

(c) All books, records, accounts, and reports, past and present, regarding the operation of the juvenile detention commitment program, residents, and personnel shall be made available to the Department for review.

SUBCHAPTER 7. PROGRAM PROPOSAL

10A:33-7.1 Program proposal submission

(a) Prior to certification of a facility to receive juvenile commitments, a program proposal shall be submitted to the Department of Corrections which shall include, but not necessarily be limited to, the following information:

1. Requested capacity of the juvenile detention commitment program;
2. Specific sleeping room accommodations and other planned physical plant features;
3. Specific program activities and services which are planned and how they will be provided;
4. Additional staffing required, if necessary;
5. Additional budget requirements, if necessary;
6. Impact on the pre-dispositional juvenile detention program and services; and
7. Additional problems contemplated and how they will be resolved.

SUBCHAPTER 8. ADMISSIONS

10A:33-8.1 Eligibility for admission

Pursuant to N.J.S.A. 2A:4A-43c(3)(a), only juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute a crime or repetitive disorderly persons offense are eligible for the juvenile detention commitment program. Thus, petty disorderly persons offenders and first time disorderly persons offenders are statutorily excluded from eligibility for the juvenile detention commitment program.

10A:33-8.2 Maximum juvenile detention facility population capacity

No juvenile, on either a pre-dispositional or juvenile detention commitment status, shall be admitted to a detention facility which has reached its maximum approved capacity for the entire facility, as designated by the Department of Corrections.

10A:33-8.3 Maximum Juvenile Detention Commitment Program population capacity

No adjudicated juvenile sentenced to a juvenile detention facility shall be admitted once the facility has reached its maximum approved capacity for the juvenile detention commitment program, as designated by the Department of Corrections, in collaboration with the county.

SUBCHAPTER 9. CLASSIFICATION

10A:33-9.1 Evaluation

Upon admission, each juvenile shall be evaluated and classified in regard to his or her sex, age, present offense, previous offenses, physical size, general personality characteristics and any other factors which could have an impact on the juvenile's adjustment to the facility and interaction with other residents.

10A:33-9.2 Housing and group assignments

To the extent that the physical plant permits, juveniles shall be assigned to sleeping accommodations and program groups based upon the classification evaluation.

SUBCHAPTER 10. PROGRAM DESCRIPTION

10A:33-10.1 Program plan and goals

Each facility receiving juvenile commitments shall maintain a written program plan which describes the overall goals and philosophy of the program. This plan shall also specify the objectives, and shall delineate the programs, activities, policies, and methods to achieve the stated goals and objectives. In some cases, facilities may wish to make arrangements with various provider agencies in the community to provide for specific social, educational, therapeutic, or recreational services. In such situations, the facility shall maintain a copy of the agreement describing the specific services to be provided by the provider agencies and the frequency with which the services will be delivered.

SUBCHAPTER 11. PROGRAM REQUIREMENTS

10A:33-11.1 Treatment plan

(a) An initial written treatment plan, based on a thorough assessment of the juvenile's problems and needs, shall be developed by the facility's social worker, in conjunction with other appropriate detention center staff, within one week of commitment. The assessment shall utilize the information included in the pre-dispositional investigation report which is made available by the Family Court pursuant to the Rules of Court.

(b) The initial assessment shall include, when available, the following information:

1. The juvenile's past record of offenses and dispositions;
2. School attendance and special problems, if any;

3. Family history and problems;
4. Psychological profile;
5. Medical history and current health problems;
6. Vocational goals (when age appropriate) and;
7. Post-release plans and goals.

(c) Within two weeks of the initial written treatment plan, a revised treatment plan which shall include all the requirements of (b) above shall be completed.

(d) All professional and line staff having regular contact with the committed juvenile shall be advised of the provisions of the initial and revised treatment plans.

(e) Each juvenile's progress and the effectiveness of his or her treatment plan shall be reviewed at least once every two weeks and, when indicated, modifications shall be made in the treatment plan.

(f) The treatment plan shall specify how, when, and where each element of treatment will be provided to the juvenile.

(g) When appropriate, community resources shall be utilized in the development and implementation of the treatment plan.

(h) Participation of the resident and his or her parents should be encouraged whenever practical.

(i) The treatment plan shall be signed by both the resident and a staff representative.

10A:33-11.2 Social services

(a) Juvenile detention facilities participating in the juvenile detention commitment program shall provide at least one full-time social worker or professional equivalent.

(b) In accordance with the maximum population capacity, as designated by the Department of Corrections, for both predispositional juvenile detention and the juvenile detention commitment program, there shall be at least one full-time social worker employed for every 20 juveniles of the approved population capacity.

1. Part-time social workers may be employed when the maximum population capacity is greater than 20 and is not an even multiple of 20. For example, a facility approved for 30 juveniles would require at least one full-time and one part-time social worker.

(c) Aside from Civil Service qualifications for the title of Social Worker, the following qualifications are recommended:

1. A master's degree in social work, psychology, or counseling; and
2. At least one year of full-time professional experience in a residential facility serving troubled youth.

(d) Social services shall be provided to all juveniles in the juvenile detention commitment program. Services may be rendered on a direct or referral basis and shall include services such as casework and group work, as well as individual therapy provided in a clinical setting as required by each juvenile's treatment plan.

(e) Social services shall be structured to assist juveniles and their parents, to provide the individualized assistance needed for successful rehabilitation, and to prepare the juvenile for return to the community. Social worker duties shall include:

1. Participating in the evaluation and classification decision for each new admission to the facility as required by N.J.A.C. 10A:33-9;
2. Developing and implementing each juvenile's initial and follow-up treatment plan as required by N.J.A.C. 10A:33-11;
3. Selecting and coordinating appropriate community resources;
4. Initiating and maintaining ongoing liaison with other agencies providing services to juveniles and their parents;
5. Conducting admissions interviews as soon after admission as is practical and maintaining regular, ongoing contact with each juvenile in the juvenile detention commitment program;
6. Assisting juveniles and their families in identifying and dealing with the problems which resulted in their commitment;
7. Maintaining regular and frequent contacts with juveniles and their parents to assist in maintaining family relations and planning for their future care;
8. Planning for each juvenile's discharge.

(f) Clinical therapy shall be available to juveniles requiring this type of treatment. The therapy may be provided by professional staff or consultants, or through arrangement with an appropriate resource such as a Community Mental Health Agency. Therapy should assist the juvenile in understanding his or her behavior and feelings, and should strengthen the juvenile's ability to function as a productive, self-reliant juvenile.

1. The need for clinical therapy shall be determined during the treatment planning and specified in the treatment plan. The specification shall include a detailed description of the types of methods and objectives of the therapy, and the frequency of its scheduling.

10A:33-11.3 Medical services

(a) The facility shall provide a program of medical care for all juveniles in residence. The facility shall provide for medical emergencies on a 24-hours, seven day a week basis.

(b) Each juvenile committed to the juvenile detention commitment program shall receive a medical examination within 24 hours following admission. All medical examinations must be conducted by either a physician licensed to practice medicine in the State of New Jersey, or a registered nurse. When the initial examination is conducted by a registered nurse, the juvenile must receive a medical examination by a physician within 72 hours following admission.

(c) Psychiatric and psychological services shall be provided as required by individual treatment plans.

10A:33-11.4 Education

(a) The facility shall provide an education program which provides for the cognitive and affective development needs of each juvenile and which is in compliance with all applicable rules, regulations and provisions of the New Jersey Public School Education Act of 1975 (N.J.S.A. 18A:1 et seq.), and all other appropriate New Jersey statutes, rules, and regulations.

(b) A concerted effort shall be made to initiate and maintain contact with local schools to minimize the disruption of each juvenile's public or private school program of education.

(c) A concerted effort shall be made to transfer academic credits earned in detention to the juveniles' public or private school.

(d) The education program shall be operated on a twelve-month basis. A modified educational program may be conducted during periods when public schools are not in session.

(e) Class population shall not exceed 15 students.

(f) Appropriate educational equipment and supplies necessary to carry out the education program shall be provided.

(g) Appropriate records on each juvenile's work and progress shall be maintained in an orderly manner.

10A:33-11.5 Recreation

(a) The facility shall provide an appropriate range of indoor and outdoor recreational activities which are structured to meet the needs of juveniles of varying ages, interests, and abilities. Recreational activities should provide a balance of group play, competitive games, and quiet individual activity. Participation should be encouraged on the basis of individual treatment planning and interests. Recreational activities shall be scheduled throughout the week to provide a balance leisure time program.

(b) Recreational activities shall be scheduled a minimum of three hours each day, at least one hour of which provides the opportunity for active outdoor play throughout the year when the weather permits.

10A:33-11.6 Discipline

(a) Each facility shall maintain a written behavior management program which is designed to foster a positive, non-punitive environment. The written program shall include behavioral-rules and disciplinary regulations and sanctions to be employed. Reasonable limits for behavior necessary to maintain order should be governed by a system of rules and regulations that is consistent and easily understood.

(b) Discipline shall be determined by staff and never delegated to juveniles.

(c) Corporal punishment and cruel, degrading punishment, either physical or psychological, shall not be permitted.

(d) Under no circumstances shall a juvenile be deprived of his or her basic rights as a means of a discipline. Basic rights for each juvenile include:

1. A place to sleep (for example, a bed, a pillow, blankets and sheets);
2. Full meals;
3. A full complement of clean clothes;
4. Parental and attorney visits;
5. Items necessary for personal hygiene (for example, toothpaste, toothbrush, soap, comb, etc.);
6. Minimum exercise;
7. Right to receive and send mail;
8. The opportunity for a daily shower and access to toilet and water fountain;
9. Clean and sanitary living conditions;
10. Medical care;
11. The opportunity to attend religious services and/or religious counseling of his or her choice.

10A:33-11.7 Grievance procedure

(a) Each juvenile shall be assured access to a written grievance procedure that provides an opportunity for a fair hearing and resolution of complaints pertaining to his or her care in the facility. The written grievance procedure shall include:

1. The steps that must be taken to use the grievance procedure;
2. An opportunity for hearing any grievance within a reasonable time;
3. Provisions for the juvenile to be present and to explain his version of the grievance;
4. Provisions for assistance to the juvenile from a staff representative or volunteer approved by the superintendent;
5. No reprisal for utilizing the grievance procedure;
6. A written decision on all grievances which shall include a statement regarding the evidence upon which the decision was based; and,
7. A mechanism for appealing an adverse decision.

INSURANCE

(a)

THE COMMISSIONER

List of Unauthorized Insurers Which Qualify as Eligible Surplus Lines Insurers

Public Notice

On May 30, 1984, Kenneth D. Merin, Acting Commissioner of Insurance, pursuant to authority N.J.S.A. 17:1-8.1, 17:1C-6(e), and 17:22-6.45, filed a list of unauthorized insurers which qualify as eligible surplus lines insurers in New Jersey.

Full text of the list follows:

Companies of Other States

Agricultural Excess and Surplus Insurance Company	Wilmington, Delaware
Allianz Underwriters, Inc.	Los Angeles, California
Appalachian Insurance Company	Johnston, Rhode Island
California Union Insurance Company	Los Angeles, California
Canadian Universal Insurance Company	Providence, Rhode Island
Columbia Casualty Insurance Company	Chicago, Illinois
Equity General Insurance Company	Chicago, Illinois
Evanston Insurance Company	Evanston, Illinois
Falcon Insurance Company	Wilmington, Delaware
(Formerly Commercial Union Surplus Lines Insurance Company)	
First State Insurance Company	Wilmington, Delaware
Gibraltar Casualty Company	Dover, Delaware
Great American Surplus Lines Insurance Company	Cincinnati, Ohio
Great Atlantic Insurance Company	Wilmington, Delaware
Great Southwest Fire Insurance Company	Scottsdale, Arizona
Guaranty National Insurance Company	Denver, Colorado
Holland-America Insurance Company	Kansas City, Missouri
Hudson Insurance Company	New York, New York
Illinois Employers Insurance Company of Wausau	River Forest, Illinois
International Surplus Lines Insurance Company	Chicago, Illinois
Interstate Fire and Casualty Company	Chicago, Illinois
Lexington Insurance Company	Wilmington, Delaware
Lincoln Insurance Company	Dover, Delaware
Midland Property & Casualty Insurance Company	New York, New York
Mt. Hawley Insurance Company	Peoria, Illinois
Mt. Vernon Fire Insurance Co.	King of Prussia, Pennsylvania
Mutual Fire, Marine and Inland Insurance Company	Philadelphia, Pennsylvania
National Indemnity Company	Omaha, Nebraska
Northbrook Excess and Surplus Insurance Company	Northbrook, Illinois
Northland Insurance Company	St. Paul, Minnesota
North Star Excess Insurance Company	Greenwich, Connecticut
Nutmeg Insurance Company	Hartford, Connecticut
Pacific Insurance Company	Los Angeles, California
Penn-American Insurance Company	Hatboro, Pennsylvania
Reliance Insurance Company of Illinois	Rolling Meadows, Illinois
Scottsdale Insurance Company	Scottsdale, Arizona
Southern American Insurance Company	Memphis, Tennessee
Tudor Insurance Company	Keene, New Hampshire
United National Insurance Company	Philadelphia, Pennsylvania
Western World Insurance Company	Keene, New Hampshire

Companies of Other Countries

Andrew Weir Insurance Company, Ltd.	London, England
Associated Electric and Gas Services, Lt	Hamilton, Bermuda
Aviation and General Insurance Company, Ltd.	London, England
British Aviation Insurance Company, Ltd.	London, England

Canadian Universal Insurance Company, Ltd.	St. Johns, Newfoundland
Dominion Insurance Company, Ltd.	Edinburgh, Scotland
English and American Company, Ltd.	London, England
Excess Insurance Company, Ltd.	London, England
Guildhall Insurance Company, Ltd.	London, England
Lloyds Underwriters, Member of	London, England
Minster Insurance Company, Ltd.	London, England
Orion Insurance Company, Ltd.	London, England
Riunione-Adriatica Di Sicurta	Trieste, Italy
Scottish Lion Insurance Company, Ltd.	London, England
Sphere Insurance Company, Ltd.	London, England
Terra Nova Insurance Company, Ltd.	London, England

This list was filed as R.1984 d.296 and is not subject to codification, but will appear in Title 11 for informational purposes.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Driver Control Service
Convulsive Seizures

Readoption with Amendment: N.J.A.C. 13:19-5

Proposed: May 21, 1984 at 16 N.J.R. 1187 (a).
Adopted: June 26, 1984 by Clifford W. Snedeker, Director, Division of Motor Vehicles.
Filed: June 29, 1984 as R.1984 d.310, **without change**.

Authority: N.J.S.A. 39:3-10, 39:3-10.4 et seq. and 39:5-30.

Expiration Date pursuant to Executive Order No. 66(1978): June 29, 1989.

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. 13:19-5.

Full text of the adopted amendment follows.

13:19-5.7 Committee recommendations

Notwithstanding the provisions of N.J.A.C. 13:19-5.1 (Satisfaction of physical qualifications), if the members of the Committee so recommend, the Director may grant a learner's permit or initial driver's license or permit a motorist to retain his driver's license although such person may have suffered from a seizure, period of impaired consciousness, or from impairment or loss of motor coordination within a one year period from the date of the Director's determination.

(b)

BOARD OF ACCOUNTANCY
DIVISION OF CONSUMER AFFAIRS

Applications for Reexamination

Readoption: N.J.A.C. 13:29-1.7

Proposed: May 7, 1984 at 16 N.J.R. 1025(a).
Adopted: June 14, 1984 by Joseph Sorelle, President, State Board of Accountancy.
Filed: June 29, 1984 as R.1984 d.311, **without change**.

Authority: N.J.S.A. 45:2B-10.

Expiration Date pursuant to Executive Order 66(1978): June 29, 1989.

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

Full text of the readoption follows:

13:29-1.7 Applications for reexamination

(a) Applications for reexamination shall be allowed as follows in (b) below, and all fees must be paid by certified check or money order.

(b) Rules on conditional credit are:

1. A candidate will be required to attain a grade of not less than 75 percent in each subject before he will be declared to have passed the examination.
2. A candidate who fails to receive conditional credit in any examination shall have the right to reexamination in the subjects failed.
3. A candidate who fails to pass all subjects, but who receives a passing grade in two or more subjects, or accounting practice alone, shall receive conditional credit for such subjects provided such candidate attains an average grade of 50 percent on the subjects failed. This minimum grade requirement shall be waived if three subjects are passed at a single sitting.
4. To add to conditional status, a candidate must attain a grade of 75 percent or more in the subjects passed and an average grade of 50 percent in all subjects failed. An average grade of less than 50% will prevent a candidate from adding to conditional status, provided, however, such an average grade alone will not remove or cancel conditional status previously attained.
5. In the event that a candidate fails to receive passing grades in all examined subjects at any of the six examinations immediately following the first examination at which conditional credit was earned, the candidate shall forefeit the conditional credit and shall revert to the status of a new applicant.
6. The Board may, in the exercise of its discretion and for good cause shown, extend the period within which conditional credits shall continue to be valid.
7. At any examination sitting, a candidate shall sit for all subjects for which he has not yet received a passing grade. The failure of a candidate to submit a paper in regard to any part of an examination not already passed will disqualify all papers submitted by that candidate at that examination unless the Board, in its discretion, finds good cause not to disqualify the papers submitted.
8. The conditional credit provided for herein shall commence with the examination to be administered in November 1983.
9. Conditional credits granted by other jurisdictions may be recognized upon proper application for recognition of such credits. The right to have such credits recognized may be determined under the laws and regulations of the jurisdiction which granted the original credits provided such requirements are substantially equivalent to the requirements set forth herein except that the period for which such conditional credits shall be continued shall be determined under this rule.

(a)

BOARD OF ACCOUNTANCY DIVISION OF CONSUMER AFFAIRS

Fees

Readoption: N.J.A.C. 13:29-1.13

Proposed: May 7, 1984 at 16 N.J.R. 1026(a).
Adopted: June 14, 1984 by Joseph Sorelle, President, State Board of Accountancy.
Filed: June 29, 1984 as R.1984 d.312, **without change**.

Authority: N.J.S.A. 45:1-3.2.

Expiration Date pursuant to Executive Order 66(1978): June 29, 1989.

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

Full text of the readoption follows.

13:29-1.13 Fees

(a) Fees for original applications, examinations, reexaminations and renewals, for certified public accountants, public accountants, corporations, partnerships, professional corporations, and for certified public accountants' license by endorsement are as follows:

1. Original application, examination fee, certified public accountant: $100.00;
2. Reexamination fee, all subjects repeated, certified public accountant: $75.00;
3. Reexamination fee for any one, two or three subjects, certified public accountant: $60.00;
4. Original application, examination fee, registered municipal accountant: $100.00;
5. Reexamination fee, registered municipal accountant: $60.00;
6. Original application, public accountant: $60.00;
7. Original application, endorsement as certified public accountant: $100.00;
8. Biennial registration or any portion thereof for certified public accountant, public accountant municipal accountant, corporations, partnerships, professional corporations: $40.00.

(b)

BOARD OF VETERINARY MEDICAL EXAMINERS

Licensure by Examination

Readoption with Amendments: N.J.A.C. 13:44-1.1 and 1.2
Adopted Repeal: N.J.A.C. 13:44-1.3

Proposed: May 7, 1984, 16 N.J.R. 1028(a).
Adopted: June 20, 1984 by David Eisenberg, D.V.M., President.
Filed: June 29, 1984 as R.1984 d.309, **without change**.

Authority: N.J.S.A. 45:16-9.9.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): July 16, 1989.

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

Full text of the adoption follows.

13:44-1.1 Approved colleges

A veterinary college or university approved by the board is a veterinary college or university accredited by the American Veterinary Medical Association (A.V.M.A.).

13:44-1.2 Examinations

(a) The licensure examination shall consist of at least two parts:

1. The National Board Examination; and
2. The New Jersey practical examination.

(b) To be eligible for the National Board Examination, an applicant must be eligible for examination by the Board and must submit to the Board at least two months prior to the examination a certified copy of his or her transcript including a verified English translation if the transcript is in a language other than English, an application, such other credentials as the Board may require and the requisite fee. An applicant who will graduate from an approved school during the month that the National Board Examination will be given may sit for that examination upon submission of the aforesaid items and a letter of the dean of the school indicating that the applicant is a student in good standing and will graduate during that month.

(c) As a prerequisite to taking the New Jersey practical examination, an applicant shall have attained a grade of 70 on the National Board Examination, calculated according to New Jersey criteria, within three years preceding application for the New Jersey practical examination.

(d) Applications for the New Jersey practical examination, accompanied by the required fees and credentials, shall be filed with the Board's executive secretary at least two months prior to the examination.

(e) Applicants shall be required to attain a grade of 70 on the New Jersey practical examination as a prerequisite to licensure.

(f) An unsuccessful candidate may apply to the Board for a review of his or her practical examination papers. Such application must be submitted to the Board secretary in writing within 14 days following notification of examination results, and the secretary shall subsequently arrange a date for the candidate to review his or her examination papers and grades in the Board office.

(g) An unsuccessful candidate may file in writing with the Board's executive secretary an appeal of his or her practical examination grade within 14 days following the review of his or her examination papers. Such notice of appeal must include any documentation, including references, which the candidate claims supports his or her appeal. The Board shall consider such appeal within 30 days of filing and may invite the candidate to appear for a hearing on the appeal.

13:44-1.3 (Reserved)

(a)

NEW JERSEY RACING COMMISSION

Thoroughbred Rule: Administering Medication

Adopted Amendment: N.J.A.C. 13:70-14A.2

Proposed: April 16, 1984 at 16 N.J.R. 845(a).
Adopted: June 14, 1984 by Harold G. Handel, Executive Director, New Jersey Racing Commission.
Filed: June 29, 1984 as R.1984 d.308, **without change**.

Authority: N.J.S.A. 5:5-30.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): December 19, 1984.

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

Full text of the adoption follows.

13:70-14A.2 Administering medication
(a)-(b) (No change.)
(c) All horses that are placed on the new bleeders list established pursuant to and after January 1, 1978, shall be required to be brought to the detention barn no later than five hours prior to race time and shall remain in said detention barn until race time. During the said five-hour period the horse shall be under the care and custody of a groom or caretaker appointed by the trainer. Any diuretic medication that is intended to control respiratory bleeding shall be administered by a licensed practicing veterinarian in said detention barn under the direct supervision of the State Veterinarian or an Associate State Veterinarian five hours prior to race time. Pursuant to rule 19:41, said practicing veterinarian shall make daily reports of all such treatments.
(d) (No change.)

TRANSPORTATION

(b)

LOCAL AID

Rural Secondary

Adopted Amendment: N.J.A.C. 16:13

Proposed: May 7, 1984 at 16 N.J.R. 1033(a).
Adopted: June 14, 1984 by Jack Freidenrich, Assistant Commissioner for Engineering and Operations.
Filed: June 26, 1984 as R.1984 d.298, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:8-1 to 27:8-9.

Effective Date: July 16, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): May 7, 1989.

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

Full text of the adoption follows.

CHAPTER 13
RURAL SECONDARY

SUBCHAPTER 1. GENERAL PROVISIONS

16:13-1.1 Appropriations and allocations of funds
Rural Secondary funds are apportioned by the Federal Government and allocated annually to the State for right-of-way, preliminary engineering, construction and reconstruction of municipal, county and State highways on the Federal Aid Rural Secondary Road System. These funds are committed by the N.J. Department of Transportation and matched by funds provided by the State, county or municipality sponsoring the project.

16:13-1.2 Compliance
All Rural Secondary projects shall comply with Federal Aid Highway Acts, regulations, policies and procedures under the Secondary Road Plan.

16:13-1.3 Applications
The counties or municipalities shall submit an application to the Bureau of Local Aid. The Chief, Bureau of Local Aid shall ascertain if funds are available and obtain necessary Departmental approvals to include the project in a program.

16:13-1.4 Program and Authorization
The Bureau of Local Aid shall initiate a program and subsequent authorization requests consisting of descriptions, justifications and maps for submission to the Federal Highway Administration for approval. On approval by the Federal Highway Administration, the Bureau of Local Aid shall notify the county or municipality to proceed with the completion of the plans and specifications.

16:13-1.5 State-county agreements
(No change.)

16:13-1.6 Plans and specifications
(No change.)

16:13-1.7 Public hearings
Public hearings will be held, or the opportunity for such hearings, to afford the public the opportunity for effective public participation in the consideration of highway location and design and to enable them to present their views on the social, economic and environmental effects of their views on the social, economic and environmental effects of the improvement and to resolve any controversial issues that may arise.

16:13-1.8 Bids and contracts
Receipt of bids and award of contract shall be made by the State. After receipt of bids, the county or municipality shall recommend to the Commissioner of Transportation that he award the contract to the lowest responsible bidder and also

shall deliver a check in the amount requested (by invoice) to cover its share of the project costs.

16:13-1.9 Surveillance
(No change.)

16:13-1.10 Change in contract
(No change.)

16:13-1.11 Payment
(No change.)

16:13-1.12 Inspection and acceptance
Upon completion of the project, the Department shall make a detailed inspection. The Chief, Bureau of Local Aid shall then notify the Federal Highway Administration so that a final inspection shall be made. The county or municipality shall, by resolution, recommend acceptance of the project.

16:13-1.13 Final payment
After completion of the project the State, shall review quantities with the contractor and, if all parties agree, the State shall prepare a final estimate and invoice for final payment to the contractor.

(a)

TRANSPORTATION OPERATIONS

Speed Limits for State Highways Routes 109 and 12

Adopted Amendments: N.J.A.C. 16:28-1.22 and 1.129

Proposed: May 7, 1984 at 16 N.J.R. 1035(a).
Adopted: June 14, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Aid Design.
Filed: June 21, 1984 as R.1984 d.289, **without change**.

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

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28-1.22 Route 109
(a) The rate of speed designated for State highway Route 109 described in this section shall be established and adopted as the maximum rate of speed thereat:
1. For both directions of traffic in Lower Township, Cape May County:
i. Zone 1: Thirty-five miles per hour between the Cape Island Creek Bridge and Third Avenue.
ii. Zone 2: Forty-five miles per hour between Third Avenue and the intersection of Route U.S. 9 and Route 109.

16:28-1.129 Route 12
(a) The rate of speed designated for State highway Route 12 described in this section shall be established and adopted as the maximum legal rate of speed thereat:
1. For both directions of traffic in Hunterdon County:
i. Frenchtown Borough:
(1) Zone 1: Fifty miles per hour between the start of New Jersey Department of Transportation jurisdiction (in the vicinity of Horsehoe Bend Road) and the easterly Frenchtown Borough-westerly Kingwood Township Line. (milepost .95-1.0)
ii. Kingwood Township:
(1) Fifty miles per hour within corporate limits. (milepost 1.0-6.15)
iii. Franklin Township:
(1) Fifty miles per hour within corporate limits. (milepost 6.15-6.55)
iv. Delaware Township:
(1) Fifty miles per hour within corporate limits. (milepost 6.55-7.5)
v. Raritan Township:
(1) Fifty miles per hour between the easterly Delaware Township-westerly Raritan Township line and 100 feet west of Old Croton Road. (milepost 7.5-10.55)
(2) Zone 2: Forty-five miles per hour between 100 feet west of Old Croton Road and the easterly Raritan Township-westerly Flemington Borough line. (milepost 10.55-11.0)
vi. Flemington Borough:
(1) Forty-five miles per hour between the easterly Raritan Township-westerly Flemington Borough line and 1050 feet west of Brown Street. (milepost 11.0-11.2)
(2) Zone 3: Forty miles per hour between 1050 feet west of Brown Street and the Routes 12, 31, and U.S. 202 Traffic Circle. (milepost 11.2-11.7)

(b)

TRANSPORTATION OPERATIONS

Speed Limits for State Highways Route 41

Adopted Amendment: N.J.A.C. 16:28-1.33

Proposed: May 7, 1984 at 16 N.J.R. 1036(a).
Adopted: June 14, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: June 21, 1984 as R.1984 d.290, **without change**.

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

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28-1.33 Route 41

(a) The rate of speed designated for State highway Route 41 described in this section shall be established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:

i.-iv. (No change.)

v. Zone 5: 45 miles per hour between Routes 41 and 70 Traffic Circle (milepost 10.6) and Knollwood Drive, (milepost 11.95), Cherry Hill Township, Camden County; thence

vi. (No change.)

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes 34 and U.S. 322

Adopted Amendments: N.J.A.C. 16:28A-1.24 and 1.93

Proposed: May 7, 1984 at 16 N.J.R. 1036(b).
Adopted: June 12, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: June 21, 1984 as R.1984 d.291, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-139 and 39:4-199.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.24 Route 34

(a) (No change.)

1.-6. (No change.)

(b) The certain parts of State highway Route 34 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1. Along the easterly (northbound) side in Old Bridge Township, Middlesex County:

i. Near side bus stop.

(1) Canyon Woods Entrance Drive-Beginning at the southerly curb line of the entrance to Canyon Woods Entrance Drive and extending 105 feet southerly therefrom.

16:28A-1.93 Route U.S. 322

(a) The certain parts of State highway Route U.S. 322 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No Stopping or standing in Folsom Borough, Atlantic County.

i. Along the south side:

(1) From the easterly curb line of 8th Street, east to the westerly curb line of Lake Drive.

(2) Beginning at the easterly curb line of Cains Mill Road and extending 1000 feet easterly therefrom.

ii. Along the north side:

(1) Beginning at the easterly curb line of Cains Mill Road and extending 1000 feet easterly therefrom.

(b)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 79

Adopted Amendment: N.J.A.C. 16:28A-1.42

Proposed: May 7, 1984 at 16 N.J.R. 1037(a).
Adopted: June 14, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: June 21, 1984 as R.1984 d.292, **without change**.

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

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.42 Route 79

(a) The certain parts of State highway Route 79 described in this section are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-4. (No change.)

(b) The certain parts of State highway Route 79 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stop:

1. Along the easterly (northbound) side in Marlboro Township, Monmouth County.

i. Near side bus stop:

(1) Beginning at the prolongation of the southerly curb line of Girard Street (northerly intersection) and extending 105 feet southerly therefrom.

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping
Route 56

Adopted Amendment: N.J.A.C. 16:28A-1.98

Proposed: April 16, 1984 at 16 N.J.R. 858(b).
Adopted: June 13, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: June 21, 1984 as R.1984 d.288, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-139.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:28A-1.98 Route 56
(a) The certain parts of State highway Route 56 described in this section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
1. (No change.)
2. No stopping or standing in Upper Deerfield Township, Cumberland County:
i. Along the west side (Landis Avenue):
(1) Between County Road 611 (Centerton Road) to State highway Route 77.

(b)

TRANSPORTATION OPERATIONS

No Passing Zones
Route 49

Adopted Amendment: N.J.A.C. 16:29-1.10

Proposed: May 7, 1984 at 16 N.J.R. 1038(a).
Adopted: June 12, 1984, by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: June 21, 1984 as R.1984 d.293, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-44, 39:4-6 and 39:4-201.1.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:29-1.10 Route 49
(a) The certain parts of State highway Route 49 shall be designated and established as "No Passing" zones:
1.-3. (No change.)
4. Within Pennsville and Quinton Townships, and the City of Salem, Salem County and described in drawing number HNPZ-041 dated March 21, 1983.

(c)

TRANSPORTATION OPERATIONS

No Passing Zones
Routes 87, 147, 152, 157 and 284

Adopted Amendment: N.J.A.C. 16:29-1.17
Adopted New Rules: N.J.A.C. 16:29-1.35, 1.36, 1.37 and 1.38

Proposed: May 7, 1984 at 16 N.J.R. 1038(b).
Adopted: June 14, 1984 by Jarrett R. Hunt, Assistant Chief Engineer, Traffic and Local Road Design.
Filed: June 21, 1984 as R.1984 d.294, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-44, 39:4-6 and 39:4-201.1.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): November 7, 1988.

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

Full text of the adoption follows.

16:29-1.17 Route 152
(a) The following certain parts of State highway Route 152 shall be designated and established as "No Passing" zones:
1. That part within the City of Somers Point and Egg Harbor Township in Atlantic County and described in drawing number HNPZ-069 dated March 30, 1983.

16:29-1.35 Route 87
(a) The following certain parts of State highway Route 87 shall be designated and established as "No Passing" zones:
1. That part within Atlantic City, Atlantic County and described in drawing number HNPZ-066 dated March 30, 1983.

16:29-1.36 Route 147
(a) The following certain parts of State highway Route 147 shall be designated and established as "No Passing" zones:

1. That part within the City of North Wildwood and Middle Township, Cape May County and described in drawing number HNPZ-068 dated April 6, 1983.

16:29-1.37 Route 157
(a) The following certain parts of State highway Route 157 shall be designated and established as "No Passing" zones.
(1) That part within the City of Absecon, Atlantic County and described in drawing number HNPZ-070 dated March 30, 1983.

16:29-1.38 Route 284
(a) The following certain parts of State highway Route 284 shall be designated and established as "No Passing" zones.
(1) That part within Sussex Borough and Wantage Township, Sussex County and described in drawing number HNPZ-071 dated April 5, 1983.

(a)

DIVISION OF PUBLIC TRANSPORTATION

Zone of Rate Freedom

Adopted New Rule: 16:53D

Proposed: May 7, 1984 at 16 N.J.R. 1039(a).
Adopted: June 18, 1984 by James A. Crawford, Assistant Commissioner for Transportation Services and Planning.
Filed: June 21, 1984 as R.1984 d.295, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 48:2-21.

Effective Date: July 16, 1984.
Expiration Date pursuant to Executive Order No. 66(1978): May 7, 1989.

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

Full text of the adoption follows.

CHAPTER 53D

ZONE OF RATE FREEDOM

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

16:53D-1.1 General provisions
(a) Any regular route bus carrier operating within the State which seek to revise its rates, fares or charges in effect as of the time of promulgation of this regulation shall not be required to conform with N.J.A.C 14:1-6.15 (Tariff filings which do not propose increases in charges to consumers) or N.J.A.C. 14:1-6.16 (Tariff filings or petitions which propose increases in charges to customers) provided the increase or decrease in the rate, fare or charge, or the aggregate of increases and decreases in any single rate, fare or charge is not more than the maximum percentage increase or decrease as promulgated below upgraded to the nearest $.05.
(1) The following charts sets forth the percentage maximum for increases to particular rates, fares or charges and the resultant amount as upgraded to the nearest $.05.

PRESENT FARE	% OF INCREASE	INCREASE UPGRADED TO NEAREST $.05
$.30	50%	$.15
$.40	25%	$.10
$.45-.55	15%	$.10
$.60-.70	9%	$.10
$.75-upward	7%	$.10+

(2) The following chart sets forth the percentage maximum for decrease to particular rates, fares or charges and the resultant amount as upgraded to the nearest $.05:

PRESENT FARE	% OF DECREASE	INCREASE UPGRADED TO NEAREST $.05
$.30	20%	$.10
$.55-.75	20%	$.15
$.80-upward	20%	$.20+

16:53D-1.2 Requirements
(a) A regular route carrier seeking a fare adjustment which falls within this regulation shall be required to:
1. Notify the Department by filing a complete schedule of all fares to be adjusted at least 30 days prior to the effective date of the revision.
2. Post public notice in all autobuses providing service on the routes affected by the adjusted fares and in all bus terminals served by those autobuses on the routes at least 10 days prior to effective date of the revision. The carrier must verify to the Department through an affidavit that it has posted such public notice prior to the institution of the new fares.

16:53D-1.3 Exemptions
The Commissioner hereby exempts charter and special bus operations from the rate regulation set forth in the aforementioned section and in any other section of Title 48. Notwithstanding the exemption, charter and special bus operations shall continue to file with the Department current schedules of their rates, fares or charges.

EMERGENCY ADOPTION

LAW AND PUBLIC SAFETY

(a)

DIVISION OF STATE POLICE

Plan of Operations for Federal Surplus Property

Adopted Emergency New Rules and Concurrent Proposal: N.J.A.C. 13:58

Authorized By: Irwin I. Kimmelman, Attorney General, Department of Law and Public Safety, and Colonel Clinton L. Pagano, Superintendent, Division of State Police.
Authority: N.J.S.A. 52:17B-4.d.

Emergency New Rules Adopted: June 28, 1984 by Irwin I. Kimmelman, Attorney General.
Gubernatorial Approval (N.J.S.A. 52:14B-4(c)): June 28, 1984.
Emergency New Rule Filed: June 29, 1984 as R.1984 d.307.

Emergency New Rules Effective Date: June 29, 1984.
Emergency New Rules Expiration Date: August 28, 1984.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 15, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Patrick C. Sharpe, Chief
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(Civil Defense)
Division of State Police
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The new rules were adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Currently, the provisions of this emergency adoption are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The Division of State Police, Department of Law and Public Safety may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The concurrent proposed adoption becomes effective upon publication in the Register of a notice of adoption.

The concurrent proposal is known as PRN 1984-414.

The agency emergency adoption and concurrent proposal follows:

Summary

The proposed new rules provide for the adoption of a permanent Plan of Operations for Donations of Federal Surplus Property. The adoption of a permanent plan by the State by June 30, 1984 is a prerequisite to the State's continued participation in the Federal Government's program, pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. §484, permitting the distribution of surplus Federal personal property to State agencies, local governments and eligible non-profit organizations. In addition, the regulations designate the Emergency Management Section of the Division of State Police of the Department of Law and Public Safety as the State agency to receive, manage, and distribute such surplus property.

Social Impact

The proposed new rules will make the State's temporary Plan of Operations for Donations of Federal Surplus Property permanent, and allow for the State's continued participation in the Federal Surplus Personal Property Donations Program.

Economic Impact

The proposed new rule will result in an economic benefit to participating agencies and local governments by making them eligible to receive valuable surplus Federal personal property without charge.

Full text of the adopted emergency new rules and concurrent proposal follows.

CHAPTER 58
PLAN OF OPERATIONS FOR
DONATIONS OF FEDERAL SURPLUS PROPERTY

SUBCHAPTER 1. LEGAL AUTHORITY, HISTORY AND PURPOSE OF STATE PLAN OF OPERATION FOR DONATIONS OF FEDERAL SURPLUS PROPERTY

13:58-1.1 Purpose

(a) This plan of operation sets forth the operating procedures and practices to be observed by the New Jersey State agency for Surplus Property in effecting fair and equitable distribution of Federal surplus personal property to public agencies of State and local governments and to certain non-profit, tax-exempt health and educational activities as are eligible to receive donations of surplus personal property under the provisions of Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), as amended by Public Law 94-519, October 17, 1976 (90 Stat. 2451), effective October 17, 1977. Law 94-519, October 17, 1976 (90 Stat. 2451), effective October 17, 1977.

(b) Operating procedures and practices described in this chapter are in accordance with Federal Property Management Regulations (FPMR) 101-44 (541 CFR 101-44) as revised and promulgated by the General Services Administration (GSA) in conformance with Public Law 94-519. In the event of a conflict with the regulations in this chapter, the Federal standards shall be controlling.

13:58-1.2 History

(a) The Federal Property and Administrative Services Act of 1949, 40 U.S.C. §484, permits the distribution of surplus Federal personal property. That Act was amended by P.L. 94-519, effective October 17, 1977, to require that each state that chooses to participate in the donations program develop a permanent plan of operation for the distribution of surplus property. That amendment specified that state plans be developed in accordance with applicable state law, be certified to by the Governor, and submitted to the General Services Administration (hereinafter "GSA") by July 14, 1977. In the event that states were unable to develop, obtain approval for and submit permanent plans to the GSA by that date, the Act permitted those agencies designated as the State Agencies for Surplus Property (SASP) to operate and to receive Federal surplus property under temporary plans of operation approved and submitted by the Governor. No final deadline was provided for the submission of permanent plans, and no penalty was established for any failure to submit a permanent plan. By letter dated January 27, 1978, then Governor Brendan T. Byrne submitted a temporary plan for New Jersey for participation in the Federal surplus personal property donations program. That plan was accepted by the GSA.

(b) On January 5, 1982, GSA issued a memorandum—FPRS Donation Program Memorandum No. DPD 4-82—to all SASP's advising them that permanent state plans must be submitted for review and acceptance no later than June 30, 1984 as a condition of continued participation in the program. The purpose of these regulations is to convert and thus permanently adopt that State's temporary plan of operations into a permanent plan.

13:58-1.3 Legal authority

(a) The Emergency Management Section of the Division of State Police has been designated as the SASP for New Jersey. This is the result of several transfers of authority within the State administrative structure. The New Jersey SASP was first established as the Bureau of Surplus Property in the Department of Education pursuant to the provisions of N.J.S.A. 18:3-3. The authority of that agency to act as the State's recipient agency for surplus Federal property was reaffirmed by an Executive Order issued by Governor Robert B. Meyner on August 2, 1956, and in an opinion letter of Attorney General Grover C. Richman, Jr. dated November 30, 1956. Thereafter, pursuant to the provisions of L.1972 c.98, the Bureau of Surplus Property in the Division of Field Services of the Department of Education was transferred to the Division of Purchase and Property in the Department of Treasury. The Bureau was thereafter transferred to the Division of Civil Defense—Disaster Control in the Department of Defense on November 30, 1973, pursuant to the provisions of L.1973 c.284. As part of that transfer, the functions, powers and duties of the Bureau of Surplus Property were consolidated with other Federal aid programs administered by the Division of Civil Defense—Disaster Control. Thereafter, pursuant to the provisions of the State's "Executive Reorganization Act," Governor Byrne transferred the Division of Civil Defense—Disaster Control from the Department of Defense to the Department of Law and Public Safety, effective September 25, 1976. On January 12, 1978, Attorney General William Hyland, the head of the Department of Law and Public Safety, issued a directive assigning the functions, powers, duties and responsibilities of the former Division of Civilian Defense—Disaster Control, which included the duties and functions of the Bureau of Surplus Property, to the State Police. The Division of State Police is an agency of the Department of Law and Public Safety. N.J.S.A. 52:17B-3.

(b) The Emergency Management Section of the Division of State Police, as the designated State agency for Surplus Property, is vested with full authority to:

1. Acquire, warehouse and distribute Federal surplus personal property for general public tax-supported purposes; for nonprofit, tax-exempt health and educational activities; and for all other purposes authorized by the Federal Property and Administrative Services Act of 1949, as the same has been or may be amended or supplemented from time-to-time; and to

2. Fix and assess handling charges as may be reasonable and necessary to defray costs incurred by the State in the administration of this program; and to

3. Executive certifications and enter into cooperative agreements required by said Act, and/or FPMR 101-44-206; and to

4. Take all other actions as may be appropriate or necessary to cooperate with the Federal Government in carrying out the purpose of said Act, as amended or supplemented.

SUBCHAPTER 2. DESIGNATION OF THE STATE AGENCY FOR SURPLUS PROPERTY

13:58-2.1 Designation of State SASP

(a) The Emergency Management Section, Division of State Police, Department of Law and Public Safety is designated as the official State Agency for Surplus Property (hereinafter "SASP" or "EMS").

(b) The Chief, Bureau of Federal Aid Programs is directly responsible for the administration and execution of this plan and is vested with full authority to perform the duties incumbent upon him as Chief of the State Agency for Surplus Property.

(c) The supervisor of Emergency Management has general supervision over the Chief, Bureau of Federal Aid Programs.

(d) The State distribution center for Federal surplus personal property is presently located in building number 82 Executive Avenue, Heller Industrial Park in Edison, New Jersey; this facility consists of 30,000 square feet of space and includes an outside storage area of approximately 5,000 square feet immediately adjacent to the building. The EMS has authority to obtain other suitable sites as necessary for the efficient operation of the Federal property donation program.

SUBCHAPTER 3. INVENTORY CONTROL AND ACCOUNTING SYSTEMS

13:58-3.1 Scope of accountability system

The State agency shall maintain inventory control and accountability for all Federal property received, warehoused and distributed on a line-item basis. Property shall be valued at original government acquisition cost when new, as shown on Forms SF 123, or such other suitable forms as may be designated, which transfer property to the State agency. Accountability records for all passenger motor vehicles and single items having an original acquisition cost of $3,000 or more, and other items as may be subject to special restrictions shall be kept separately from other property records for ease of identification, survey and control during the period of such restrictions.

13:58-3.2 Inventory controls

(a) Inventory control of property shall be as follows:

1. Immediately upon receipt, property is moved into the receiving area where it can be checked in. If personnel are not

immediately available, the property will be secured in a hold area until the check in process can be accomplished.

2. Shipping documents and the applicable Form SF 123, or other designated suitable forms, are used to check and identify property. Upon verification of the description, condition and quantity, warehouse stock tags will be prepared and attached to identify individual items as follows:

i. Allocation transfer (Form SD 123) number;

ii. Line item number;

iii. Unit acquisition cost;

iv. Description; including serial number if applicable;

v. Unit of issue or measurement; and

vi. Unit handling charge.

3. Certain items such as nuts, bolts, screws, washers, paints, office expendables, clothing, etc., which lend themselves to more efficient handling and accountability as lots, pounds, bales or other units of measurement, may be consolidated into such units of measurement during check in processing.

4. Stock record inventory control cards are prepared for each line item appearing on a Form SF 123 upon verification of receiving such property. All actions including receipt and subsequent issues, inventories and balance on hand will be posted as these actions occur. These stock record inventory control cards will be retained for not less than three years after a zero balance is recorded.

5. Overages and shortages discovered during the check-in will be reported to GSA in accordance with FPMR 101-44.115 on an Overage/Shortage Report Form. Additionally, when the estimated fair value or acquisition cost of an overage item is more than $500.00 it will be listed on a supplemental SF 123 to be mailed to the GSA Regional Office for the region from which the property was received.

6. The total value of all items received will be posted to the monthly report of incoming shipments which is maintained for compilation of reports to GSA at close of each month's operation.

(b) Issuance of property shall be as follows:

1. Property will be issued only to individuals duly appointed by the executive head of donee organizations which are determined eligible by the Chief of the State agency in accordance with this plan. The New Jersey State Driver's License number and facsimile signature will be maintained on file at the Distribution Center for identification of authorized donee representatives.

2. Donees visiting the Distribution Center will screen and select property for which they have a recognizable need. As they make their selections they will record the items and other pertinent information on a property listing form. The property listing form will be authenticated by Distribution Center personnel as property selected is loaded on the donee's vehicle. The donee's representative will sign receipt for the property and record his New Jersey Driver's License number on the property listing form; this form will be countersigned by the Distribution Center Manager evidencing issuance of the property. One copy of this form will be given the donee's representative before departing the Distribution Center. The second copy of the form will be used for preparation of a typewritten Warehouse Issue Sheet which will be forwarded by mail to the donee organization with invoice for payment of handling charges. Both the property listing form and the warehouse issue form will have a certificate of acceptance printed on the reverse thereof which shall record the applicable terms, conditions and restrictions under which the donee accepts property listed on the face of the designated form. Copies of the Warehouse Issue Sheet are filed in the donee's file, the Master file of Warehouse Issue Sheets, and with the State agency's office in Trenton.

3. As property is issued, stock record inventory control cards will be posted to reflect the Warehouse Issue Number, date, quantity issued, and balance.

4. As an exception to the above, arrangements may be made whereby a donee may receive property as a direct pickup at the Federal installation holding the property, or property may be shipped to the donee direct from the holding agency. In either event, follow up is made to obtain a copy of the receipt executed between the donee and the Federal issuing agency after which stock record inventory control cards, and Warehouse Issue Sheets are processed to document this transfer of property.

(c) The Form SF 123 establishes the means by which the audit trail can be traced from the Federal property disposal activity, through the State agency to the donee. The State agency transfer number assigned to the SF 123 makes this trace possible, that is, an approved copy of the SF 123 is transmitted by GSA to the Federal property disposal activity holding the property; the disposal activity records the State agency's transfer number on its issue/receipt document when the property leaves Federal custody; the State agency prepares a stock tag, and a stock record inventory control card upon receipt of the property at the Distribution Center, each of which records the State agency transfer number as shown on the Form SF 123; the Warehouse Issue Sheet records the SF 123 number when the item is issued to the donee; and the stock record inventory control card reflects the Warehouse Issue Sheet number on which the item was issued to the donee.

(d) Verification of inventory balances shall be as follows:

1. A random sampling inventory of property on hand may be conducted periodically to verify accuracy of balances reflected on stock record inventory control cards. Additionally, stock record inventory cards showing a zero balance may be verified by random selection and comparison with Warehouse Issue Sheets upon which the cards reflect an issue of property.

2. A complete physical inventory will normally be taken annually of all material in possession of the State agency. This physical inventory will be accomplished by preparing 3x5 cards for each item. These items are then physically counted and the physical count verified with the balance shown on stock record inventory control cards. Stock cards will be posted to reflect date of inventory and quantity on hand. Shortages and overages are recorded on an inventory adjustment report which must be approved by the Chief of the State agency before the adjustments can be posted to the stock record inventory control card. Adjustments will be authorized only after all reasonable efforts have been made to determine the reason for the variance. When authorized adjustments have been made to the stock record inventory control card, a copy of the inventory adjustment report will be filed with the SF 123 file pertaining to that property.

3. The State agency shall conduct at least one complete physical inventory or two random sampling inventories each fiscal year.

4. Listings will be prepared during periodic inventories to reflect property which has been on hand in the Distribution Center nine months or longer and for which there is obviously no possible requirement for such property within the State in the foreseeable future. This list will be circularized to other State agencies to determine desireability, if any, for transfer of this property to another state. Such lists will be referred to

GSA with request for disposition instructions after it has been determined no other State agency desires transfer of this property.

13:58-3.3 Fiscal accounting system

Fiscal accounting for the State agency is performed by the Bureau of Budgets and Accounts in the Division of Civil Defense. The "Appropriation/Revenue Accounting System Procedures Manual", or its successor, as promulgated by the Division of Budget and Accounting in the New Jersey Department of the Treasury establishes procedures. The Statewide Appropriation/Revenue Accounting System is a fully automated financial information system. Weekly and monthly "Appropriation Transaction Reports" serve as journals and ledgers showing all transactions and a beginning/ending balance for the reporting period. Accounts are established in accordance with the Division of Budget and Accounting in Circular Letter 77-16, March 1, 1977 as the same may be further amended or superseded from time-to-time.

SUBCHAPTER 4. RETURN OF DONATED PROPERTY

13:58-4.1 Return of donated property

(a) When it is determined that a donee has useable property in its possession which it has not placed in use for the purpose for which received within one year of the date it was issued, or the donee has not continued the property in use for one year thereafter as required by the terms and conditions of agreement under which the property was issued, the State agency shall cause the donee to take such of the following actions as it may direct:

1. Transfer the property to another eligible donee having a need for it, or to a Federal Agency as may be required by GSA.

2. Return the property at donee's expense to the State agency's distribution center where it can be made available to other donees in the State or to the authorized agency of another State having a need for the property.

3. Other action as may be authorized or required by GSA.

(b) The State agency will periodically emphasize this requirement when corresponding and meeting with donees and when surveying the utilization of donated property at donee facilities.

SUBCHAPTER 5. FINANCING AND SERVICE CHARGES

13:58-5.1 Financing

(a) The State agency Chief participates with the Bureau of Budget and Accounting, Division of State Police in developing a budget for operation of the agency during the State fiscal year which is July through June.

(b) Funds to support the agency's budget are transferred from the Resolving Fund Revenue Account to the Operational Account at beginning of the new fiscal year.

(c) All program expenses of the agency are disbursed by the Division of Budget and Accounting in the State Department of the Treasury per procedures established in the Appropriations/Revenue Accounting System Procedures Manual.

(d) All revenue generated by the State agency through the assessment and collection of service charges is deposited to the Revolving Fund Revenue Account where it is accumulated during the current fiscal year for transfer to the Operating Account in the following fiscal year. Appropriated funds may be requested from the State Legislature if Revolving Fund Account revenue is insufficient to support the annual budget approved for operation of the State agency.

13:58-5.2 Service charges

(a) Operations of the State agency will be financed with funds obtained from the assessment of service charges on property it distributes to participating agencies. Operational costs will include employee wages and fringe benefits, lease of warehouse and distribution center facilities; utilities; telephone charges; office supplies and equipment; printing;' postage; insurance; services; vehicle office supplies and equipment; printing; postage; insurance; services; vehicle operation and maintenance; travel and per diem expenses; and such other costs as may be incurred in the process of making property available for distribution to participants.

(b) Service charges will be assessed in a fair and impartial manner. Emphasis will be given to keeping the service charge at a minimum consistent with the need to generate sufficient funds with which to operate the program for public benefit in a financially sound and efficient manner.

(c) Service charge funds will be used only for the purpose of the Surplus Federal Property Program, to cover the direct and indirect costs of the State agency operations, to acquire or improve office and warehousing/distribution center facilities, and to purchase, repair and/or replace necessary equipment. When the working capital reserve exceeds program requirements, the service charge shall be adjusted downward until an even balance of fund requirements has been achieved. In event the program should be terminated, assets of the program shall be converted to cash, and after all outstanding obligations have been satisfied, the balance of funds shall be transferred to another program from which the best interests of the public may benefit.

(d) Factors to be considered in determining the amount of service charge to be assessed on a piece of property are: the original acquisition cost of the item when it was purchased new by the Federal Government; current market value in its present condition; estimate of cost to repair or rehabilitate the property; utility value remaining after repair; any extraordinary expense the State may have incurred for inspection, packing, crating, repair, transportation or other costs in making this property available for distribution; desireability among program participants for a particular type of property, and its frequency of availability. These are all judgmental factors which must be weighed on the basis of experience, and the best interest of the general public.

(e) As a general guide, the State agency will assess a handling charge of 25 percent of the original acquisition value of the property. This amount may be adjusted downward as may be warranted by condition of the property and other considerations, or, it may be adjusted upward if the actual market value of the property is considerably higher than the reported acquisition value because of inflation or other causes. For inventory control purposes, property will always be distributed at "acquisition" value; comment will be made on distribution documents when the service charge is based upon "market" value.

SUBCHAPTER 6. TERM AND CONDITIONS ON DONABLE PROPERTY

13:58-6.1 Certifications, agreements and restrictions

(a) The State agency will require each eligible donee, as a condition of eligibility, to file with the agency an Application and a Certification and Agreement form assuring compliance with the certifications, agreements, terms, conditions, reservations, and restrictions under which all Federal surplus personal property will be donated. Each form must be signed by the Chief Executive or Administrative Officer of the donee activity, agreeing to these requirements prior to the donation of any surplus property. The certifications and agreements, and the terms, conditions, reservations and restrictions will be printed on the reverse side of each State agency warehouse issue document.

(b) The following periods of restriction are established by the State agency on all items of property with a unit acquisition cost of $3,000 or more, and on all passenger motor vehicles, except for such items of major equipment, listed on a warehouse issue document, on which the State agency has designated a further period of restriction:

1. All passenger motor vehicles—18 months from the date the property is placed in use.

2. Items with a unit acquisition cost of $3,000 or more, except Aircraft and Vessels (50 feet or more in length)—18 months from the date the property is placed in use.

3. Aircraft (except combat type) and Vessels (50 feet or more in length) with a unit acquisition cost of $3,000 or more—60 months from the date the property is placed in use. This property is also subject to the provisions of a Conditional Transfer Document suitable to GSA.

4. Aircraft (combat type)—restricted in perpetuity. Donation of combat Aircraft shall be subject to the requirements of a Conditional Transfer Document suitable to GSA.

(c) The State agency may reduce the period of restriction on items of property falling within the provisions of (b), 1, 2, and 3 above at the time of donation for good and sufficient reasons, such as the condition of the property, or the proposed use (secondary, cannibalization, etc.).

(d) The State agency, at its discretion, and when considered appropriate may impose such terms, conditions, reservations and restrictions, as it deems reasonable, on the use of donable property other than items with a unit acquisition cost of $3,000 or more, and passenger motor vehicles.

13:58-6.2 Amendment of terms and conditions

The State agency may amend, modify, or grant releases of any term, condition, reservation, or restriction, it has imposed on donated items of personal property in accordance with the Standards prescribed by GSA provided that the conditions pertinent to each situation have been affirmatively demonstrated to the prior satisfaction of the State agency and made a matter of public record.

13:58-6.3 Special handling conditions

(a) The State agency will impose on the donation of any item of surplus Federal property, regardless of its unit acquisition cost, such conditions involving special handling or use limitations as the General Services Administration may determine necessary because of the characteristics of the property.

(b) GSA will use special processing codes in offering property to the State agency which requires special handling. These codes, their meaning, and the State agency's certification to GSA for their use, are shown in Attachment 6 to this Plan. The State agency will use these codes in lieu of full statement of their meaning in making requests to GSA on Standard Forms 123 for transfer of this property to the State agency.

(c) The full meaning of special processing codes will be entered on the State agency's Warehouse Issue Documents when transferring this property from the State agency to an eligible donee.

(d) The State agency for Surplus Property will use the Special Processing Codes and formats on forms suitable to GSA in accordance with instructions contained in GSA/FPRS Donations Program Memorandum No. DPD-9-82, and/or as codified in the GSA/FPRS Donations Handbook, PRM P 4025.1 and that such use shall be made with the intent that the processing requirements represented by the Code will be adhered to as if written in full.

13:58-6.4 Statutory requirement

The State agency will impose on all donees the statutory requirement that all items donated must be placed into use within one year of donation and be used for one year after being placed in use or, if the property ceases to be used for a full year and the property is still useable, the property must be returned to the State agency or otherwise transferred as the State agency shall direct in accordance with Subchapter 4 of this Plan.

SUBCHAPTER 7. NON-UTILIZED DONABLE PROPERTY

13:58-7.1 Transfer of non-utilized surplus property

(a) All property in the possession of the SASP for 18 months, which cannot be utilized by eligible donees shall be reported to the General Services Administration for disposal authorization in accordance with FPMR 101-44.205. In accordance with this regulation the SASP shall:

1. Transfer the property to another SASP, Federal Agency, or as otherwise directed by GSA;

2. Sell the property by public sale;

3. Abandon or destroy the property.

(b) In the event of disposal by transfer to another SASP or by public sale the SASP may seek such reimbursement as is authorized in accordance with FPMR 101-44.205.

SUBCHAPTER 8. FAIR AND EQUITABLE DISTRIBUTION

13:58-8.1 Distribution of property

(a) The State agency will make property available to eligible donees on a fair and equitable basis. When several donees have interest in the same property, it will be distributed fairly and equitably based upon their relative needs, available resources, and ability to utilize the property. Factors considered are:

1. Relative needs:

i. Population served;

ii. Size and type of program conducted;

iii. Purpose and frequency of intended use;

iv. Economic condition of the donee activity;

v. Urgency of need;

vi. Geographical location (urban, suburban or rural).

2. Available resources:

i. Availability and source of funding;

ii. Quantity of like items owned by donee;'

iii. How long have they been waiting on the "Want List" for this item.

3. Ability to utilize:

i. Earliest date item will be needed;

ii. Period of time for which required;

iii. Availability of funds to repair or maintain property;

iv. Ability of the donee to remove property from the distribution center or Federal activity on a timely basis.

(b) The State agency operates a distribution center to serve the needs of eligible donees. To insure that eligible donees located great distances from the distribution center receive equity in the distribution of desirable property, they are encouraged to submit listings of major items needed, such as vehicles, construction equipment, machine tools, generators, air compressors, business machines, boats, aircraft, electronic and scientific type equipment, etc. Agency screeners will be guided by these requests in their search and selection of property. Major items of equipment will be distributed on the basis of need, available resources, and donees ability to utilize the property as outlined above.

1. Miscellaneous items will be available at the distribution center for donee selection as in a super market. Quantities may be limited so as to make items available to a greater number of donees.

2. Catalogs and bulletins will be made available periodically to assist donees in locating desirable property.

3. The SASP will recommend to General Services Administration the certification of donee screeners, as are qualified and needed in accordance with FPMR 101-44-116. The State agency will, insofar as practical, economical, and considering equitable distribution among its donees, select property located by donees, and will arrange for direct pickup or shipment of property to the donee if requested.

4. Donees which experience a local disaster and/or loss of equipment due to fire, flood, tornado, etc., will be given a temporary priority for requested items of property. Special efforts will be made to locate and distribute property according to their needs.

SUBCHAPTER 9. ELIGIBILITY

13:58-9.1 State agency responsibility

The State agency will determine the eligibility of public agencies and nonprofit health and educational institutions and organizations in accordance with the Federal Property and Administrative Services Act of 1949 as amended, and implementing Federal regulations FPMR 101-44-207.

13:58-9.2 Procedure for determining eligibility

(a) Each applicant requesting a determination of eligibility to participate in the Federal surplus personal property donations program will be required to execute the following documents which shall be furnished the applicant by the State agency:

1. Application form: This form shall require the applicant to furnish the following information:

i. Legal name and address of the applicant;

ii. Status of the applicant as a public agency or a nonprofit educational or public health activity. Nonprofit agencies must furnish evidence that they are tax-exempt under the provisions of section 501 of the Internal Revenue Code of 1954;

iii. Sources of revenue and other financial data.

2. Public agencies must furnish details concerning the various programs for which it will utilize Federal surplus property, and provide evidence that the applicant is approved, accredited, or licensed when this is a requirement of one or more of its programs, ie., hospital, school, etc.

3. Nonprofit agencies shall provide assurance that they are approved, accredited, or licensed by the regulating agency of government or other controlling agency if applicable to their program(s). Bylaws, organizational charters, brochures, and other information pertinent to an understanding of the agency and its program(s) must accompany the application when it is submitted to the State agency for review.

4. Assurance of compliance with GSA Regulations under Title VI of the Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

5. Statement of certifications and agreements: This Statement sets forth the certifications and agreements, including terms, conditions, reservations and any other restrictions that are applicable to donations of all items of Federal surplus personal property. These same certifications and agreements are listed on the reverse side of every warehouse issue document which donee representatives sign as agent for the donee, upon receipt of surplus property.

6. Authorization document: This is a written authorization by which the donee designates the individual(s) who will represent the donee as its agent(s) for the purpose of acquiring surplus property for which payment of service charges will normally be required, and who will sign warehouse issue sheets certifying and agreeing to the acceptance of terms, conditions, restrictions, and any other special handling conditions or limitations which may be applicable to the donee's acceptance of the property.

(b) The above-mentioned application forms must be signed by the Chief Administrative Officer or the Executive Head of the donee activity or executed by a resolution of the governing board or body of the donee activity, which ever would be legally applicable to the donee activity.

(c) The applicant will be advised in writing of the determination made of its eligibility status. Surplus property shall not be issued to an applicant until after its application has been approved by the State agency.

13:58-9.3 Needs and resources

Applicants for eligibility will be encouraged to submit with their applications a listing of the various kinds of property they can utilize in their programs in order to assist the State agency in giving fair and equitable consideration to the relative needs of all eligible donees in making distributions of property.

13:58-9.4 Maintaining eligibility

(a) The State agency shall update a donee's eligibility record on a periodic basis but not less than once every three years, to ensure continuing eligibility.

(b) The State agency shall terminate its distribution to an activity when it ceases to operate or when it loses its license, accreditation, program approval, or otherwise fails to maintain its eligibility status.

(c) Donee files may be removed from the current active files and be placed in the suspense file when a periodic review indicates the donee has not participated in the surplus property program from a period of two years. During the ensuing twelve months every reasonable effort will be made to reestablish contact with the donee and to encourage participation in the program.

(d) Donee eligibility will automatically lapse when the activity has failed to renew its eligibility within three years of the last date it renewed or established its eligibility.

13:58-9.5 Public relations

(a) The State agency will attempt to contact and instruct all known potential donees in the State on the procedures to follow to establish their eligibility to participate in the surplus program.

(b) In establishing a list of potential donees the State agency will use standards and guidance set forth in FPMR 101-44.207, and such listings and other sources of information as includes but is not limited to the following:

1. Public agencies:

i. Listings of municipalities and counties;

ii. Listings of State departments, institutions and agencies;

iii. Listings of quasi official governmental agencies, authorities, commissions, committees, etc., that is, municipal utility authorities, mosquito control commissions, sewerage authorities, conservation and environmental commissions, etc.

2. Nonprofit, tax-exempt activities:

i. State departments and others for listings of activities licensed, approved and/or accredited by them;

ii. Publications received from Parochial School systems listing schools, colleges, seminaries and other eligible program activities;

iii. Inquiries, letters, telephone calls, etc., received from these activities relative to eligibility.

(c) Contacts with potential donees will be made by letter, telephone, and attendance at general meetings and conferences with groups, supplemented when necessary by news releases, and informational bulletins.

SUBCHAPTER 10. COMPLIANCE AND UTILIZATION SURVEYS

13:58-10.1 Program monitoring

(a) The SASP shall conduct a planned program of regular utilization surveys to ensure donated property is used in compliance with statutory requirements. Representatives of the SASP will survey a minimum of 10 percent of active donees each fiscal year as determined from a review of Warehouse Issue Sheets. Included in this number will be donees receiving passenger motor vehicles, property with a unit acquisition cost of over $3,000, and property with special handling or use limitations issued during the preceeding year. A report shall be prepared indicating that the donee was visited, the property was inspected, and any corrective actions were taken. These reports shall be available for inspection by authorized representatives of the Administrator of GSA.

(b) In cases where fraud or misuse of donated property is indicated, the SASP shall initiate an investigation to determine if further legal action is required. Where fraud is indicated, the SASP shall notify the Federal Bureau of Investigation and the appropriate regional office of GSA. Further, the SASP will assist GSA or other responsible agencies in any investigation of the alleged fraud or misuse.

SUBCHAPTER 11. CONSULTATION WITH ADVISORY GROUPS-PUBLIC AND PRIVATE GROUPS

13:58-11.1 Special meetings

The State agency will arrange for and participate in local, regional and Statewide meetings of such public and private organizations and associations representing public agencies, education, public health and civil defense to present information on the program, discuss procedures and problems and to obtain recommendations as to donee needs, resources and special requirements, the utilization of donable property by donees, and the distribution of property to fill existing needs.

13:58-11.2 News media

The State agency will regularly provide and disseminate information on the donation program in the form of bulletins, announcements, procedural circulars, property listings and other informational media including surveys of specific needs, to State and local officials and to heads of nonprofit institutions and organizations.

13:58-11.3 Mail

The State agency by mail surveys and in consultation with advisory bodies and public and private groups, will request eligible donees to provide expressions of need for specific items so that the State agency may advise the General Services Administration of requirements for property to meet specific and unusual needs.

13:58-11.4 Special Advisory Boards

The State agency may establish an Advisory Board, for the purpose of meeting periodically, reporting on the donation program and to obtain expressions of need and interest from eligible donees so that GSA may be advised of such requirements for specific items of property. The membership of such board would be composed of representatives of both public and private donee agencies, institutions, and organizations and would include but not be limited to, representatives of the following: the State Departments of Education, Law and Public Safety, Health; the New Jersey League of Municipalities; and representatives from the fields of education and public health.

SUBCHAPTER 12. AUDITS

13:58-12.1 State audits

(a) Commencing 18 months after acceptance of this plan and every two years thereafter, the State agency will be audited as follows:

1. An internal audit will be conducted by such person or agency as the Director for the Division of Civil Defense may direct, at least once every two years.

2. An external audit will be conducted by the State Auditor or by a certified or licensed public accounting firm as the Attorney General, may direct, every two years.

13:58-12.2 Scope of audit

The audits referred to in N.J.A.C. 13:58-12.1 will include a review of the State agency's conformance with the provisions of this plan and the requirements of the Federal Property and Management Regulations (FPMR) 101-44 (41 CFR 101-44).

13:58-12.3 Distribution of audit reports

A copy of all audits will be sent to the Regional Director of the General Services Administration with an endorsement from the Chief of the State agency in response to any irregularities or deficiencies noted in the Audit Report.

13:58-12.4 Audits by Federal agencies

The General Services Administration and other agencies of the Federal Government may conduct such audits of the State agency as they may desire from time-to-time after notifying the Governor of the reasons for such audit. All records of the State agency will be made available for inspection of GSA, GAO and other Federal agencies.

13:58-12.5 Informal surveys for compliance

The General Services Administration may review State agency operations periodically by coordination with the Chief of the State agency in order to ascertain that the agency is functioning in accordance with acceptable standards of operation and in accordance with the provisions of applicable laws and regulations of the Federal Government.

SUBCHAPTER 13. COOPERATIVE AGREEMENTS

13:58-13.1 Cooperative agreements

The State agency is authorized to enter into cooperative agreements. It is the desire of the State agency to continue, and/or renew those agreements which existed prior to October 17, 1977 and to enter into such other agreements as are authorized under Section 203(n) of the Federal Property and Administrative Services Act of 1949, as amended.

SUBCHAPTER 14. LIQUIDATION

13:58-14.1 Withdrawal from program

If and when a determination is made to liquidate the State agency, advance notice will be given to GSA, in accordance with the specific requirements of FPMR 101-44.202(c)(14), with the reason for liquidation; schedule of time to effect the closure; and report to GSA of the property on hand for retransfer, destruction, or sale. Physical assets will be converted to cash, and all cash assets will be returned to the participating donees. Records and accounting information will be retained for two years after closure.

SUBCHAPTER 15. FORMS

13:58-15.1 Proper recording

The recording of transactions of property under this program between the Federal Government and the State agency and between the State agency and donees shall be recorded on forms designated by the GSA or in such other manner suitable to the GSA.

SUBCHAPTER 16. RECORDS

13:58-16.1 Retention schedule

(a) Copies of Surplus Personal Property Transfer Orders (Standard Form 123) Warehouse Issue Sheets, Invoice Documents, Log Books, and all other official records of the State agency will be retained for no less than three years, except that:

1. Records involving property subject to restrictions for more than two years will be kept for one year beyond the specific period of restriction.

2. Records involving property in compliance status at the end of the period of restriction will be kept for at least one year after the case is closed.

MISCELLANEOUS NOTICES

INSURANCE

(a)

THE COMMISSIONER

Notice of Recertification to the Legislature: N.J.A.C. 11:1-5.5

Notice Requirement for Cancellation and Nonrenewal of Fire and Casualty Coverage

Take notice that Kenneth D. Merin, Acting Commissioner of Insurance, pursuant to the provisions of N.J.S.A. 17:29C-3, has recertified to the Legislature the need for the continuation of the notice of cancellation and nonrenewal requirement applicable to fire and casualty insurance policies for the fiscal year commencing July 1, 1984. The notice of cancellation and nonrenewal requirement is set forth in N.J.A.C. 11:1-5.5, which rule continues in full force and effect.

This notice is published as a matter of public information.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application

Public Notice

Take notice that Clifford W. Snedeker, Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the name and address of the applicant who has filed an application for a common carrier's Certificate of Public Convenience and Necessity.

COMMON CARRIER
(NON-GRANDFATHER)
South Jersey Bulk Handling Corp.
Beckett Street TErminal
Camden, New Jersey 08104

CONTRACT CARRIER
(NON-GRANDFATHER)
B. F. Leonardi Inc.
Box 35
Stone Meeting House Road
Swedesboro, New Jersey 08085

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

TREASURY-TAXATION

(c)

DIVISION OF TAXATION

Average Wholesale Price of Cigarettes Cigarette Surtax Rate

Public Notice

For the purpose of complying with the requirements of Chapter 40, L. 1982, Sec. 4 (N.J.S.A. 54:40A-8.2), John R. Baldwin, Director of the Division of Taxation, hereby gives notice that, based upon the best available current data, the average wholesale price of cigarettes in this State during the succeeding six months commencing July 1, 1984 is $0.4325 for each 10 cigarettes or fraction thereof.

Therefore, the cigarette surtax due for such six months, pursuant to Sec. 301 of P.L. 1948, c.65 (C.54:40A-8), as amended, shall remain at $0.03 for each 10 cigarettes or fraction thereof.

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between July 5, 1983 and July 2, 1984, and which have not been adopted and filed by June 29, 1984. **The index does not contain rules proposed in this Register and listed in the Table of Rules in This Issue. These proposals will appear in the next Index of Proposed Rules.**

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit 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 of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:1-1.3	Reaching the merits	9-6-83	15 N.J.R. 1398(a)
1:1-2.2	Jurisdiction of OAL	7-2-84	16 N.J.R. 1636(a)
1:1-3.7, 3.12, 3.13	Lay representation in contested cases	6-18-84	16 N.J.R. 1408(a)
1:1-5.2	Notification of second jurisdictional claims	6-18-84	16 N.J.R. 1412(a)
1:1-14	Consolidation and predominant interest motions: timing of decision	6-18-84	16 N.J.R. 1413(a)
1:1-17.1	Approving the settlement	9-6-83	15 N.J.R. 1401(a)
1:2-2.10	Lay representation in contested cases	6-18-84	16 N.J.R. 1408(a)
1:6A-3.1	Special education hearings: emergency relief applications	4-16-84	16 N.J.R. 780(a)
1:6A-4.2	Lay representation in contested cases	6-18-84	16 N.J.R. 1408(a)
1:6A-5.3	Special education hearings: transfer of record	3-5-84	16 N.J.R. 408(a)
1:10-17.1	Division of Public Welfare cases	5-7-84	16 N.J.R. 945(a)
AGRICULTURE—TITLE 2			
2:5-4	Area quarantine for avian influenza (with Emergency Adoption)	12-19-83	15 N.J.R. 2176(a)
2:76-5	Cost-sharing for soil and water conservation projects	7-2-84	16 N.J.R. 1637(a)
2:76-6	Acquisition of development easements	7-2-84	16 N.J.R. 1639(a)
2:90-2	Eligible projects for soil and water conservation cost sharing	6-18-84	16 N.J.R. 1416(a)
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3:1-1.2	Readopt rules concerning Interest on Other Loans	7-2-84	16 N.J.R. 1642(a)
3:19-2.1	Repeal maximum interest rate on home repair contracts	11-7-83	15 N.J.R. 1788(a)
3:22-1	Repeal maximum finance rate on insurance premiums	10-17-83	15 N.J.R. 1707(a)
3:24	Licensing of check cashing businesses	4-2-84	16 N.J.R. 586(b)
CIVIL SERVICE—TITLE 4			
4:1-1.1-1.10	Purpose and application of rules	5-21-84	16 N.J.R. 1132(a)
4:1-5.5	Awarding back pay	1-17-84	16 N.J.R. 97(a)
4:1-10.2, 13.9, 13.10	Working test period; seniority and promotions	6-4-84	16 N.J.R. 1296(a)
4:1-14.6	Interim appointments and return to permanent titles	5-21-84	16 N.J.R. 1134(a)
4:1-18.3	Compensation for holidays	6-18-84	16 N.J.R. 1421(a)
4:2-8.1	Seniority and promotions	6-4-84	16 N.J.R. 1296(a)
4:2-14.1	Interim appointments and return to permanent titles	5-21-84	16 N.J.R. 1134(a)
4:2-18.1, 18.2, 18.3	Compensation for holidays	6-18-84	16 N.J.R. 1421(a)
4:3-6.5	Repeal: Special police officer to police officer	5-21-84	16 N.J.R. 1136(a)
4:3-6.8	Repeal: Unclassified appointments by assignment judges	5-21-84	16 N.J.R. 1137(a)
4:3-8.3	Seniority and promotions	6-4-84	16 N.J.R. 1296(a)
4:3-14.2	Interim appointments and return to permanent titles	5-21-84	16 N.J.R. 1134(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
COMMUNITY AFFAIRS–TITLE 5			
5:23-1.6	UCC: inspection of public school facilities (with Emergency Adoption)	7-2-84	16 N.J.R. 1812(a)
5:23-3.14–3.17, 3.20	Uniform Construction Code: subcodes	5-21-84	16 N.J.R. 1139(a)
5:23-5.4	Uniform Contruction Code: inspector trainees	7-2-84	16 N.J.R. 1643(a)
5:23-5.5	Uniform Construction Code: engineer and architect licensure; fire service experience	7-2-84	16 N.J.R. 1644(a)
5:27-5.3	Fire safety in rooming and boarding houses	2-21-84	16 N.J.R. 299(a)
5:30-10.1, 10.2	Local finance: municipal port authorities	8-15-83	15 N.J.R. 1304(a)
5:80-5	Multi-family projects: transfer of ownership interests	5-7-84	16 N.J.R. 951(a)
5:80-6	Housing and Mortgage Finance Agency projects: Tenant Selection Standards	5-7-84	16 N.J.R. 954(a)
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6:11-1-8	Teacher Preparation and Certification	7-2-84	16 N.J.R. 1646(a)
6:20-4.1–4.6	Tuition for private schools for handicapped	6-4-84	16 N.J.R. 1298(a)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:1I-2.2, 3.4, 3.5	Sanitary Landfill Contingency Fund	5-7-84	16 N.J.R. 958(a)
7:9-13	Readopt Sewer Extension Ban rules	4-2-84	16 N.J.R. 660(a)
7:10-4	Community drinking-water systems: interim testing schedule for hazardous contaminants	6-4-84	16 N.J.R. 1301(a)
7:10-13.15	Water and wastewater systems: licensing of operators	6-18-84	16 N.J.R. 1423(a)
7:13-1.11(d)	Floodway delineation in Roseland, Essex County	8-15-83	15 N.J.R. 1313(a)
7:13-1.11(d)42	Delineated floodways for Green Brook and Bound Brook	9-19-83	15 N.J.R. 1540(a)
7:13-1.11(c)27	Floodways along Pequest River in Sussex and Warren counties	6-4-84	16 N.J.R. 1306(a)
7:13-1.11(d)49	Floodway delineations in Union County	5-21-84	16 N.J.R. 1146(a)
7:13-1.11(d)51	Floodways along North Branch Raritan (Project U)	6-4-84	16 N.J.R. 1307(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	5-21-84	16 N.J.R. 1147(a)
7:14-4.4	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:19-4.3, 4.7, 4.9	Water supply allocation: payments for diversion	4-2-84	16 N.J.R. 664(a)
7:19-5	Small water company takeover	3-19-84	16 N.J.R. 563(a)
7:19A	Emergency Water Supply Allocation Plan rules	2-21-84	16 N.J.R. 308(a)
7:19B	Emergency Water Surcharge Schedule	2-21-84	16 N.J.R. 314(a)
7:20	Dam Safety Standards	4-16-84	16 N.J.R. 790(a)
7:25-2	Readopt rules on Use of Land and Water Areas under DEP control	6-4-84	16 N.J.R. 1309(a)
7:25-5	1984-85 Game Code	5-7-84	16 N.J.R. 972(a)
7:25-17.1–17.4	Disposal and possession of dead deer	5-21-84	16 N.J.R. 1148(a)
7:25-22.2	Purse seine fishing of menhaden	7-2-84	16 N.J.R. 1668(a)
7:26	Solid and hazardous waste collector-haulers: Disclosure Statement Forms	6-18-84	16 N.J.R. 1425(a)
7:26-1.4, 2.6, 2.10, 2.13, 3.5	Disposal of asbestos waste	3-5-84	16 N.J.R. 440(a)
7:26-1.7	Solid waste disposal: exemption from registration (with Emergency Adoption)	5-7-84	16 N.J.R. 1100(a)
7:26-1.7	Extension of comment period: Solid waste disposal-exemption from registration	5-7-84	16 N.J.R. 1627(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	5-7-84	16 N.J.R. 1000(a)
7:26-6.5	Interdistrict and intradistrict solid waste flow	5-21-84	16 N.J.R. 1149(a)
7:27	Air quality standards: State Implementation Plan for lead	7-2-84	16 N.J.R. 1669(a)
7:27-8	Air pollution control: permits and Certificates	7-2-84	16 N.J.R. 1671(a)
7:27-13.1, 13.2, 13.5–13.8	Ambient air quality standards	7-2-84	16 N.J.R. 1676(a)
7:27-18.1, 18.2, 18.3, 18.4, 18.7	Air pollution control: emission offset rules	7-2-84	16 N.J.R. 1679(a)
7:28-19	Licensing of medical radiologic technologists	4-16-84	16 N.J.R. 797(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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7:28-42	Radio frequency radiation	1-3-84	16 N.J.R. 7(a)
7:29-1.1-1.5	Noise control	7-2-84	16 N.J.R. 1682(a)
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8:21A-2.55	Drug manufacturing: medical gas lot or control numbers	7-2-84	16 N.J.R. 1685(a)
8:31-26.1	Health Care Facilities: readopt Ownership by Convicted Persons rule	6-18-84	16 N.J.R. 1425(b)
8:31-26.3	Health Care Facilities: readopt Employee Physicals	6-18-84	16 N.J.R. 1426(a)
8:31-26.4	Health Care Facilities: readopt Child Abuse and Neglect rule	6-18-84	16 N.J.R. 1428(a)
8:31-26.5	Licensure fees for hospital facilities	4-16-84	16 N.J.R. 802(a)
8:31-26.5	Health Care Facilities: readopt Licensure Fees	6-18-84	16 N.J.R. 1430(a)
8:31-26.6	Health care facilities: reporting information to Medical Examiners Board	4-16-84	16 N.J.R. 804(a)
8:31A-7	SHARE: Rate Review Guidelines	5-7-84	16 N.J.R. 1002(a)
8:31B-3.23, 3.24, 3.43, 3.75	Hospital rate setting; outpatient dialysis reimbursement hospital-based physician costs	4-2-84	16 N.J.R. 669(a)
8:33C-1	Perinatal Services: readopt Certificate of Need rules	6-18-84	16 N.J.R. 1431(a)
8:33E-1	Cardiac Diagnostic Facilities: readopt Certificate of Need rules	5-21-84	16 N.J.R. 1154(a)
8:33G-1	Computerized Tomography Services: readopt Certificte of Need rules	5-21-84	16 N.J.R. 1157(a)
8:35	Repeal (see 8:43B-8)	2-6-84	16 N.J.R. 188(a)
8:43-2	Sheltered care homes: readopt Building Requirements rules	2-21-84	16 N.J.R. 325(a)
8:43-4.13	Residential care facilities: personal needs allowance	4-16-84	16 N.J.R. 808(a)
8:43B-1.7, 1.8	Licensure fees for hospital facilities	4-16-84	16 N.J.R. 802(a)
8:43B-3	Hospital facilities: readopt Physical Plant rules	2-21-84	16 N.J.R. 327(a)
8:43B-7	Hospital Facilities: readopt Medical Records	6-18-84	16 N.J.R. 1433(a)
8:43B-8	Hospital licensure: obstetric and newborn services	2-6-84	16 N.J.R. 188(a)
8:48	Public Health Priority Funding: readopt Administrative Policies	6-18-84	16 N.J.R. 1435(a)
8:65-2	Readopt Security Requirements over Controlled Dangerous Substances	6-4-84	16 N.J.R. 1311(a)
8:71	Generic drug list additions (see 16 N.J.R. 142(b), 1093(a))	11-7-83	15 N.J.R. 1819(a)
8:71	Additions to generic drug list (see 16 N.J.R. 1092(a), 16 N.J.R. 1595(a))	2-6-84	16 N.J.R. 202(a)
8:71	Generic drug list additions	6-18-84	16 N.J.R. 1436(a)
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9:9-9.2	PLUS Program: direct loan prerequisites	5-7-84	16 N.J.R. 1012(b)
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10:51-1.17, 3.15	Pharmaceutical Manual: dispensing fee and capitation rates	6-4-84	16 N.J.R. 1313(a)
10:52-1.2, 1.3	Covered and non-covered inpatient hospital services	3-19-84	16 N.J.R. 483(a)
10:53-1.2, 1.3	Covered and non-covered inpatient hospital services	3-19-84	16 N.J.R. 483(a)
10:54-3	Preproposal: radioimmunoassay laboratory fees	4-2-84	16 N.J.R. 677(a)
10:54-3	Procedure Code Manual revisions	7-2-84	16 N.J.R. 1685(b)
10:57-1	Podiatry Services Manual: readopt General Provisions	6-18-84	16 N.J.R. 1441(a)
10:59-1	Medical Supplier Manual: readopt Medical Supplies and Equipment	6-18-84	16 N.J.R. 1442(a)
10:63-1.4	Long Term Care: services requiring consultations or referrals	9-19-83	16 N.J.R. 1543(a)
10:65-1, 2	Medical Day Care Manual: readopt General Provisions; amend Interim Billing Procedures	6-18-84	16 N.J.R. 1443(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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10:81-2.7, 3.17	PAM: Continued absence of parent	4-16-84	16 N.J.R. 825(a)
10:81-3.34	PAM: Temporary absence of children from home	12-19-83	15 N.J.R. 2134(a)
10:81-4.23	PAM: basis for recovery of overpayments	6-4-84	16 N.J.R. 1314(a)
10:82-3.1–3.7	ASH: resource eligibility in AFDC	3-19-84	16 N.J.R. 486(a)
10:85-3.3	GAM: maternity home care	4-2-84	16 N.J.R. 683(a)
10:90-4.2	Monthly Reporting Policy Handbook: AFDC benefit computation	5-21-84	16 N.J.R. 1159(a)
10:90-4.8	AFDC: Recovery of overpayments and correction of underpayments	7-18-83	15 N.J.R. 1162(a)
10:100-1.23	SSI payment levels recodified as 10:100-App. A (with Emergency Adoption)	7-18-83	15 N.J.R. 1188(a)
10:100-3.8	Special Payments Handbook: CWA notice of no financial interest in certain funds	5-7-84	16 N.J.R. 1013(a)
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10:123-2	Youth and Family Services: readopt Boarding Homes rules	6-18-84	16 N.J.R. 1450(a)
10:128	Residential Child Care rules	1-3-84	16 N.J.R. 10(b)
10:133	Aversive conditioning of autistic patients	9-6-83	15 N.J.R. 1432(a)
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11:1–5	90-day waiver of expiration of N.J.A.C. 11:1-5—FAIR Plan, fire and casualty policy cancellation, other declarations	6-18-84	16 N.J.R. 1451(a)
11:1–5	Readopt Administrative Orders and Declarations (FAIR Plan, cancellation of fire-casualty coverage, fire insurance premium tax)	7-2-84	16 N.J.R. 1689(a)
11:3-7.8, 7.9	PIP premium on additional automobiles	3-19-84	16 N.J.R. 488(a)
11:3-8	Nonrenewal of auto insurance policies	1-17-84	16 N.J.R. 120(a)
11:3-14.3, 14.4, 14.5	Auto insurance: Personal Injury Protection (PIP) options	7-2-84	16 N.J.R. 1692(a)
11:3-15.6	Auto insurance: Buyer's Guide and Written Notice requirements for PIP deductibles	7-2-84	16 N.J.R. 1693(a)
11:4-22	Individual life insurance: Use of Gender Blended Mortality Tables	6-18-84	16 N.J.R. 1452(a)
11:15-2	Joint insurance funds for local government units	5-21-84	16 N.J.R. 1164(a)
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