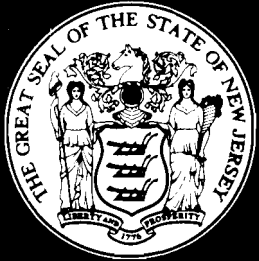


NEW JERSEY



REGISTER

*IN THIS ISSUE—
“INDEX OF PROPOSED RULES”*

VOLUME 14 NUMBER 24
December 20, 1982 Indexed 14 N.J.R. 1429-1476
(Includes rules filed through December 6, 1982)

The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 1406 of the December 6 issue for the Registers that should be retained as an update to the Administrative Code.

RECEIVED
DEPT. OF TREASURY
DEC 21 1982

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RULE PROPOSALS

EDUCATION

(a)

STATE BOARD OF EDUCATION

Special Education Programs for Preschool Handicapped Children

Proposed New Rules: N.J.A.C. 6:28-11

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

Authority: P.L. 1981 c.415 N.J.S.A. 18A:4-15, 18A:46-1,
18A:46-2, 18A:46-6, 18A:46-6.1, 18A:46-6.2, 18A:46-
8, 18A:7A-3 and 18A:7A-20.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. 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, NJ 08625

The State Board of 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. **These new rules would become operative on July 1, 1983.**

This proposal is known as PRN 1982-510.

The agency proposal follows:

Summary

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, proposes to establish new rules as N.J.A.C.

6:28-11.1 through 11.20 concerning special education programs for preschool handicapped children. The proposed new rules are designed to implement Chapter 415, P.L. 1981, embodied in N.J.S.A. 18A:46-1, -2, -6, -6.1, -6.2; 18A:7A-3, -20, which mandates that district boards of education provide programs and services for handicapped pupils between the ages of three to five years. Prior to the enactment of this law, it was not required that district boards of education provide programs and services for these children, although they were permitted to do so.

The proposal specifies the procedures for identification, screening, intervention and assessment. These procedures differ from the requirements for older handicapped children in that there is more flexibility in the use of child study team members and individual assessment planning will occur for each child in order to identify the most appropriate assessment strategy. Individual educational programs and services must also be developed for each child.

Criteria are established to define those children who will be eligible and ineligible for programs and services. It is proposed that these criteria be reexamined within two years of implementation.

The issue of teacher certification is also addressed and would require that all teachers of preschool handicapped classes must have a New Jersey Teacher of the Handicapped certificate and a Nursery School endorsement.

Social Impact

Based on 1980 census information, approximately 9,300 children or five percent of the population ages three to five are projected to require special education. Under permissive statutes, approximately 40 percent of that population was being served. With the implementation of c.415, P.L. 1981 and this proposal all eligible handicapped children will be able to receive the appropriate programs and services.

The intent of the legislation and proposal is to provide special education programs and services to that segment of the preschool handicapped population with the most obvious needs—the moderate to severely handicapped. These are children with an existing disability, frequently of a biological nature, often existing since birth. Other eligible children would be those whose developmental rate and pattern are measurably disrupted, resulting in serious delays that accumulate over time. Both factors cause significant deviation in learning from normal peers.

Currently, there are nearly 300 teachers of preschool handicapped children employed in public school districts. There is a potential need for another 650-700 teachers with the full implementation

NEW JERSEY REGISTER

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

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The New Jersey Register (USPS 442-950) is published the first and third Monday of each month by Administrative Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 292-6060. Subscriptions, payable in advance, are one year, \$40 (\$75 by First Class Mail); back issues when available, \$3.50 each. Make checks payable to Administrative Publications.

POSTMASTER: Send address changes to: New Jersey Register, CN 301, Trenton, New Jersey 08625. Second Class Postage paid at Trenton, New Jersey and additional mailing offices.

The NEW JERSEY ADMINISTRATIVE CODE is published on a continuing basis by Administrative Publications of the Office of Administrative Law. Subscription rates for this 31-volume, regularly updated set of all State administrative rules are available on request. The Code is sold either in the full set or in one to three volumes depending on the Department coverage desired.

of c.415, P.L.1981. The majority of teachers currently employed is certified as Teacher of the Handicapped but only 40 percent also hold the minimal six credit additional endorsement, specified in the code, in nursery education.

Economic Impact

There will be an immediate and long range economic impact of the proposal and the law it implements, c.415, P.L. 1981.

The preschool handicapped program will first impact on the State budget in fiscal year 1984. The Department estimates that special education aid and transportation State aid will increase by approximately \$11.8 million in the first year. This projection is based on approximately 9,300 being served. The local costs are estimated to be approximately \$3 million.

There are also long range economic benefits. Longitudinal data collected over a 20-year span show that early intervention (1) reduces later special education costs per pupil, (2) reduces the rate of high school dropouts and (3) reduces the incidence of delinquency. Thus, actual expenses can be reduced and human productivity increased.

Full text of the proposed new rule follows.

SUBCHAPTER 11. PROGRAMS FOR PRESCHOOL HANDICAPPED CHILDREN

6:28-11.1 General requirements

(a) These rules apply to all publically funded public or private agencies that provide educational services to handicapped pupils. Such agencies include, but are not limited to, all district boards of education, special services school districts, jointure commissions, educational services commissions and State operated schools.

(b) Each district board of education is required to identify and classify all handicapped pupils between the ages of three and five years and provide a free, appropriate and individualized educational program to each pupil identified and classified as preschool handicapped.

(c) Each district board of education shall have an educational plan describing the activities to be undertaken in the provision of programs and services. The plan shall be included in the district annual plan and shall include, but not be limited to, the following components:

1. Child identification through outreach and screening;
2. Assessment;
3. Related services;
4. Curriculum;
5. Family involvement;
6. Attendance;
7. Health requirements;
8. Transition from preschool handicapped programs.

(d) Each district board of education shall provide special education and related services directly, or purchase service from another district board of education, special services school district, education services commission, approved private school or other agency as appropriate.

6:28-11.2 Definitions

The following words and terms supplement those in N.J.A.C. 6:28-1.2 and when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

“Assessment” means specific, comprehensive evaluation of growth and development patterns and adaptive behavior.

“Case manager” means a designated member of the screening or assessment team who oversees the case from screening to completion of the individualized education program (IEP).

“Diagnostic placement” means temporary attendance in a preschool handicapped program for purposes of determining eligibility for program placement.

“Observational assessment” means a brief diagnostic procedure

conducted individually or by an interdisciplinary team in a natural environment for children for the purpose of obtaining information leading to program eligibility.

“Outreach” means a procedure to locate potentially handicapped children ages three through five residing within each local school district.

“Primary caregiver” means a person responsible for the care of a child and who has the authority to act on behalf of the child’s welfare.

“Related services” means such developmental, corrective, social and other supportive services that are required to assist a handicapped preschool child to benefit from an appropriate educational program. Related services include language and speech therapy; physical and/or occupational therapy; medical, auditory, visual or psychiatric evaluation; parent education or counseling within the context of the program. Related services do not include medical treatment, therapy, or the provision of prosthetic devices for personal use outside of the education program.

“Screening” means an activity which identifies those children for whom more specific diagnostic information is needed.

“Transition plan” means a procedure for determining placement of children leaving preschool handicapped programs.

6:28-11.3 Child identification

(a) Each district board of education shall adopt written procedures for locating those children within its jurisdiction who are eligible to be classified as preschool handicapped. This procedure shall employ a variety of outreach activities to disseminate information to parents, guardians and the community regarding services available for children three through five years.

(b) Each district board of education shall provide, upon request, information regarding services available through other State, county and local agencies to parents of handicapped children below the age of three.

6:28-11.4 Screening

(a) Each district board of education, upon written request of the parent, guardian or legally responsible agency, shall provide a screening procedure to identify resident children, ages three to five, who require and would benefit from special education services that might prevent their handicap from becoming more debilitating. Screening shall be conducted within 30 calendar days of the date of the request.

(b) Following written request for screening, the chief school administrator or designee shall appoint a member of the basic child study team to function as case manager.

(c) The screening shall include, but not be limited to, the following areas of development:

1. Motor;
2. Communication;
3. Cognitive;
4. Social-emotional;
5. Vision;
6. Hearing.

(d) Screening shall be conducted by at least two professionals, one of whom is a member of the basic child study team. The additional screener shall be one of the following: early childhood teacher of the handicapped, speech correctionist, physical therapist, occupational therapist, nurse, or other member of the child study team.

(e) Parents shall be encouraged to participate as facilitators of screening procedures and as providers of necessary information.

(f) Existing information (medical, social, psychological and/or developmental) shall be incorporated into the screening process.

(g) A written summary shall be developed from each of the areas screened that includes specific recommendations for follow-up.

(h) Staff shall meet with parents to discuss results following screening. This meeting shall be conducted in the dominant language of a family whose native language is other than English, or through provision of an interpreter for parents who are deaf.

6:28-11.5 Options following screening

(a) At the completion of screening, the following options shall be considered:

1. Placement into a special education program when the child meets eligibility criteria through evidence of a preexisting, identifiable handicapping condition. A comprehensive assessment and IEP shall be completed within 60 calendar days from the date of placement.

2. Administration of comprehensive assessment to determine eligibility. This shall be completed within 60 days.

3. Diagnostic placement in a preschool handicapped program with observational assessment. These evaluations shall be completed within 30 calendar days to determine eligibility.

(b) Previous comprehensive assessment that has been completed by an approved agency and conducted and dated within one calendar year of the referral for screening shall be reviewed by the assessment team and used in the determination of eligibility.

6:28-11.6 Assessment

(a) Based on the results of screening, the case manager shall designate the members of the assessment planning team.

(b) Assessment planning for individual children shall take place prior to the start of formal evaluation procedures.

(c) Assessment planning shall be conducted by an interdisciplinary team which shall be composed of at least two members, one of whom shall be a member of the basic child study team.

(d) Other assessment planning team members shall be any of the following:

1. Social worker;
2. Psychologist;
3. Learning disabilities teacher-consultant;
4. Speech correctionist;
5. Early childhood teacher of the handicapped;
6. Occupational therapist;
7. Physical therapist;

(e) It shall be the responsibility of the assessment planning team to:

1. Identify the type of information to be obtained through the evaluation procedures to determine eligibility and to plan the child's program.

2. Determine the activities necessary to obtain the required information.

3. Determine composition of the assessment team that shall be assigned to collect the required information.

(f) The assessment team shall consist of at least the two members of the assessment planning team and other professionals as indicated by screening results. Additional members of the assessment team may be any of the following:

1. Social worker;
2. Psychologist;
3. Learning disabilities teacher-consultant;
4. Speech correctionist;
5. Early childhood teacher of the handicapped;
6. Occupational therapist;
7. Physical therapist.

(g) Additional special evaluations shall be conducted when the referral, screening or assessment findings indicate they are needed. Such evaluations may include:

1. Neurological;
2. Ophthalmological;
3. Audiological;
4. Psychiatric;
5. Others as needed.

(h) A health assessment conducted by a physician shall be obtained for each child prior to evaluation.

(i) The assessment team shall evaluate the following areas as indicated through screening, referral, or prior information:

1. Gross motor;
2. Fine motor;

3. Sensory;
4. Communication;
5. Cognitive;
6. Social-emotional;
7. Family dynamics.

(j) Evaluation by each assessment team member shall consist of, but not be limited to, use of at least two of the following procedures:

1. Observational assessment;
2. Standardized testing;
3. Developmental scale;
4. Adaptive behavior measure;
5. Skill inventory.

(k) Evaluation procedures shall be non-discriminatory and appropriate to the developmental level of the child.

(l) Reporting by parent shall supplement all appraisals of the child. Parents shall be encouraged to participate in the evaluation procedures.

(m) The planning team shall use information previously gathered about the child that is available at the time of assessment.

(n) Upon completion of the required evaluations, the assessment team shall determine if the planning questions have been answered.

(o) A collaborative assessment summary based on individual assessment team member reports shall be written by the case manager describing the child's current developmental status and functional skill levels.

(p) The assessment summary shall include a statement of the area(s) of impairment, that is, physical, behavioral, intellectual, or communication, and the degree of impairment, that is, moderate, severe, profound and the recommended classification.

(q) The classification conference shall be conducted by the case manager with parents and appropriate professionals.

6:28-11.7 Eligibility

(a) Children shall be eligible for special education programs and related services when they are classified by the assessment team as preschool handicapped, pursuant to the following criteria:

1. The child has a condition that impairs or has a high predictability of impairing normal attainment of developmental milestones. Such conditions include, but are not limited to, hearing or vision impairments, autism, cerebral palsy, cleft palate, spina bifida, and Down's Syndrome.

2. The child has measurable developmental delay(s) or disordered behavior, verified by assessment pursuant to N.J.A.C. 6:28-11.6, showing the child to be functioning at least 25 percent below his or her chronological age in one or more of the following developmental areas:

- i. Motor;
- ii. Communication;
- iii. Cognition;
- iv. Social-emotional.

(b) Children will not be eligible for special education programs and related services when they have been determined to have:

1. Mild articulation problems;
2. Behavior problems, unaccompanied by a developmental delay.

6:28-11.8 Educational programs and services

Educational programs and services for preschool handicapped children shall be provided in the least restrictive environment that will ensure fulfillment of the requirements of the individual education program.

6:28-11.9 Individual education programs (IEP)

(a) Each child classified as preschool handicapped shall have an IEP which includes statements of the following:

1. Determination of eligibility;
2. Child's current developmental status by area, adaptive behavior, health status and self-help skills;
3. Annual goals and intermediate objectives;
4. Specific education program and related services along with the

projected dates for their initiation and duration. These shall be presented in the dominant language of the family;

5. Specific techniques and methods to be used in the child's special education program;

6. Appropriate objectives and evaluation procedures and schedules for determining, at least on a semi-annual basis, whether the instructional and related services' objectives are being achieved.

(b) The IEP shall be developed by the case manager, a member of the assessment team, teacher, parents and others as appropriate. The findings of other specialists shall be included in the development of the IEP. Review and revision shall take place by the case manager or team member at least twice a year or more frequently according to the extent of the handicapping condition.

6:28-11.10 Due process and pupil records

The provision of services for preschool handicapped children is subject to all due process procedures including confidentiality of records as established in N.J.A.C. 6:28-1.9 and 6:3-2.

6:28-11.11 Curriculum

(a) The curriculum shall provide for the physical, social, emotional, communicative and intellectual development of each child according to unique needs, strengths and weaknesses specified by the IEP.

(b) The education program shall provide opportunities for all of the following:

1. Active learning;
2. Sensorimotor and psychomotor experiences;
3. Language and other symbolic activities;
4. Play;
5. Aesthetic expression including music and art.

(c) Materials and equipment appropriate to the above learning activities and the developmental level of the child shall be provided.

6:28-11.12 Family involvement

(a) Each preschool handicapped program shall have a written description for family involvement which includes the following four components:

1. Parent participation;
2. Parent/child interaction;
3. Social and emotional support;
4. Exchange of information.

(b) The goal of family involvement shall be to establish regular and frequent communication between the home and the school and to offer parents varied opportunities to acquire skills, knowledge and techniques to better understand and cope with the needs of their handicapped child.

6:28-11.13 Attendance

(a) Preschool handicapped programs shall be in operation a minimum of 180 days per calendar year.

(b) Children shall be scheduled to attend the program for more than 10 hours per week within a four or five day period. Options that differ shall be made only by approval of the office of the county superintendent of schools.

(c) The program shall allot time for instructional staff to conduct parent involvement activities and educational planning within the school day or week. A program plan shall describe staff activities in detail and it shall be approved and included in the district annual plan.

6:28-11.14 Class size

(a) Classes established for preschool handicapped children shall contain eight children with one teacher and an aide. Classes larger than eight children shall have an additional aide. No classroom shall contain more than 10 children classified as preschool handicapped.

(b) Reduction in class size shall occur in accordance with assessment team recommendation in programs serving children with severe or profound handicapping conditions.

(c) Exceptions to the maximum class size of eight shall be made only with prior written approval of the office of the county superintendent of schools.

6:28-11.15 Health

(a) All children enrolled in preschool handicapped programs shall meet the requirements of the local school district regarding immunization.

(b) The school district shall maintain current medical records for each child, including the name and telephone number of the family's primary health care professional, the emergency numbers of the parents and of a neighbor and medication restrictions. The name and phone number of emergency medical personnel and ambulance transportation should be posted in conspicuous locations.

(c) Each classroom shall have, as needed, a diapering area and facilities for the sanitary disposal of soiled diapers.

(d) Each school district shall have a policy and procedure for dispensing medicines at school. The school nurse shall dispense prescribed medication unless a waiver is obtained from the office of the county superintendent of schools.

6:28-11.16 Facilities

The preschool handicapped program shall be offered in a facility with adequate space, equipment and physical plant provisions pursuant to N.J.S.A. 18A:46-13 and N.J.A.C. 6:28-3.1(c) and (d). The classroom shall be in close proximity to toilets and drinking water and have access to indoor and outdoor recreational space. The facility shall be accessible in accordance with Section 504 of P.L. 93-112. All facilities shall be approved by the office of the county superintendent of schools.

6:28-11.17 Certification

(a) All teachers of preschool handicapped classes shall hold a valid New Jersey Teacher of the Handicapped certificate pursuant to N.J.A.C. 6:11-8.4(c)4 and Nursery School endorsement pursuant to N.J.A.C. 6:11-8.4(b)13. This procedure shall remain in effect until a new certificate is promulgated.

(b) Emergency and provisional certificates may be issued in accordance with N.J.A.C. 6:11-4.4 to teachers employed in preschool programs who possess either Teacher of the Handicapped certificate or Nursery School endorsement during the period in which they acquire the needed certification.

(c) Children with severe auditory or visual impairments shall be taught by appropriately certified personnel as indicated in their individualized education programs.

(d) Screening or assessment team personnel shall be appropriately certified by the State Board of Examiners and/or licensed by the appropriate authority.

6:28-11.18 Inservice

School districts shall, in their annual plan, specify provisions to be made for continuing inservice education for their staff working with preschool handicapped children.

6:28-11.19 Transportation

Transportation for preschool handicapped children shall be regulated according to N.J.A.C. 6:28-3.4. Procedures for transportation shall be in accordance with local school district policy.

6:28-11.20 Transition plan

(a) Each preschool handicapped child, upon attainment of (district) kindergarten age, shall be evaluated by the district child study team in accordance with N.J.A.C. 6:28 to determine eligibility for special education programs and services.

(b) Parents shall be informed of the results and range of service options available and shall participate in the transition process.

(c) The transition procedure shall require articulation between the sending teacher and the receiving teacher.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations Delineated Floodways along Portions of the South Branch of Pennsauken Creek and the South and Southwest Branches of the Rancocas Creek and Various Tributaries

Proposed Amendment: N.J.A.C. 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.

A **public hearing** concerning this proposal will be held on
January 5, 1983 at 1:00 P.M. at:

Mount Holly Municipal Building
23 Washington Street
Mount Holly, NJ 08060

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before January 19, 1983.
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, 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 1982-516.

The agency proposal follows:

Summary

The proposed amendment provides for the application of rules
and regulations concerning the development and use of land in
designated floodways to portions of the South Branch of
Pennsauken Creek and the South and Southwest Branches of the
Rancocas Creek, including the following tributary streams: Masons
Creek, Bobbys Run, South Branch Tributary, Little Creek, Jade
Run, Beaver Dam Creek, Friendship Creek, Skeet Run, Sharps
Run, Haynes Creek, Ballinger Run and Tributary, Lake Miske-
Mokwa Run, Blue Lake Run, Taunton Lake Tributary, Mimosa
Lake Run, Barton Run and Tributaries, Black Run and Tributary,
Kettle Run, Cropwell Brook, Bisphams Mill Creek, Shinns Branch
and Burns Mill Brook. Regulations 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 to the
following areas of the Delaware River Basin: Township of Cherry
Hill, Camden County; and the Borough of Medford Lakes, the
Townships of Evesham, Hainesport, Lumberton, Medford, Mount
Laurel, Southampton and Woodland, all within the County of
Burlington.

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. 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).

7:13-1.11 Delineated floodways

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

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

**The floodway and flood hazard area of the South Branch of
Pennsauken Creek from the Evesham Township corporate
boundary to 1,500 feet upstream from the Marlton Pike; South
Branch Rancocas Creek from its mouth upstream to Bug Hill
Road, and Southwest Branch Rancocas Creek from its mouth
upstream to Bon Air Drive; and by adding to it the floodway
and flood hazard area of Masons Creek from its mouth
upstream to the Mount Laurel-Eayrestown Road; Bobbys Run
from its mouth upstream to the Mount Holly-Eayrestown
Road; South Branch Tributary from its mouth upstream to the
Mount Laurel-Eayrestown Road in Lumberton Township;
Little Creek from its mouth to 4,200 feet upstream from Route
No. 70; Jade Run from its mouth upstream to the Southampton-
Pemberton Township Boundary; Beaver Dam Creek from its
mouth upstream to Route No. 206; Friendship Creek from its
mouth upstream to Route No. 70; Skeet Run from its mouth
upstream to Hawkin Road; Sharps Run from its mouth
upstream to Hartford Road; Haynes Creek from its mouth
upstream to the Medford-Evesham Townships Boundary;
Ballinger Run from its mouth upstream to the head of Lake
Stockwell, Ballinger Run Tributary from its mouth upstream
to Birchwood Drive; Lake Mishe-Mokwa Run from its mouth
upstream to Hiawatha Trail; Blue Lake Run from its mouth
upstream to the Medford Township Boundary at the head of
Blue Lake; Taunton Lake Tributary from its mouth upstream
to Centennial Avenue; Mimosa Lake Run from its mouth
upstream to Scout Drive; Barton Run from its mouth upstream
to the Evesham Township Boundary at the head of Kenilworth
Lake; Barton Run Tributary No. 1 from its mouth upstream to
New Road; Barton Run Tributary No. 2 from its mouth
upstream to Taunton Lake Road; Black Run from its mouth
to a Private Drive 12,000 feet upstream, Black Run Tributary
from its mouth upstream to Braddock Mill Road; Kettle Run
from the Evesham Township corporate boundary upstream to
the head of Marlton Lake; Cropwell Brook from its mouth
upstream to North Cropwell Road, Bisphams Mill Creek from
Route No. 70 to Cooper Road; Shinns Branch from its mouth
to 2,900 feet upstream and Burr's Mill Brook from a new road
under construction to 7,800 feet upstream.**

(d)-(i) (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, NJ 08625; or

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

(a)

DIVISION OF WASTE MANAGEMENT

**Hazardous Waste
 Recycling**

**Proposed Amendments: N.J.A.C. 7:26-1.4,
 9.1 and 12.1**

Authorized By: Robert E. Hughey, Commissioner,
 Department of Environmental Protection.
 Authority: N.J.S.A. 13:1E-6a(2).
 DEP Docket No. 059-82-11.

A public hearing will be held on Wednesday, January 26, 1983 from 9:00 A.M. until the close of testimony, at:
 New Jersey State Library
 Archives Room
 185 West State Street
 Trenton, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 26, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:
 Edward J. Londres, Assistant Director
 Division of Waste Management
 32 East Hanover Street
 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 1982-517.

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 7:26-1.4 add a definition of "recycling" or "reclamation" and modify the definition of "recycling facility" to incorporate the definition of "recycling". These definitions do not include burning or incineration as a mode of recycling. The amendments are intended to define and clarify the terms "recycling" or "reclamation" and "recycling facility" as they appear in N.J.A.C. 7:26.

The proposed amendments to N.J.A.C. 7:26-9.1(c) and N.J.A.C. 7:26-12.1(b) add an exemption for on-site hazardous waste recycling facilities, thereby removing them from regulation pertaining to hazardous waste facilities pursuant to N.J.A.C. 7:26-9.1 et seq. and N.J.A.C. 7:26-12.1. Again, it should be made clear that the exemption herein applies only to non-incinerating units. Inasmuch as the proposed amendments only exempt on-site recycling or reclamation of hazardous waste from regulation, they

are more restrictive than the Federal rules promulgated by the United States Environmental Protection Agency which exempt from regulation all commercial and non-commercial recycling or reclamation of hazardous waste (see 40 CFR 261.6).

Social Impact

The proposed amendments will allow facilities that recycle hazardous waste generated on-site to do so without being subject to the Department's hazardous waste facility permitting and operating regulations. Such facilities will, however, still be subject to other regulations promulgated by the Department. It is anticipated that the proposed amendments should promote the recycling of hazardous wastes and thereby decrease the need for transporting these substances over public roads, and in many cases, through populated areas to treatment and/or disposal facilities.

Economic Impact

There will be no additional revenues or costs to the State as a result of this amendment. The facilities affected will be favorably impacted in that the costs associated with regulatory compliance, and the transportation, treatment, and disposal of the waste will be eliminated.

Environmental Impact

The proposed amendments will promote and encourage on-site noncommercial hazardous waste recycling, and thereby eliminate some of the problems associated with the transportation, treatment, and disposal of the same in the State along with their potential threat to the health and well-being of the residents of the State. The encouragement of on-site recycling of hazardous and nonhazardous waste is especially desirable in light of decreasing landfill capacities and those that are environmentally secure. It is also anticipated that the proposed amendment would provide an incentive for manufacturers to conserve and re-use valuable resources.

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

7:26-1.4 Definitions

...
 "Recycling" or "reclamation" means any lawful method, technique, or process used to collect, store to accumulate a treatable quantity but in no circumstances for more than 90 days, separate, process, modify, convert, treat, or otherwise prepare what would ordinarily become solid waste in a manner such that its component materials or substances may be beneficially used or re-used, but shall not include burning or incinerating nor shall it include any method, technique or process that allows for the release, discharge or escape of the substance being recycled, its by-products or end-products, into the ambient environment (for example the use of the recycling substance for road oiling).

"Recycling or reclamation facility" means any place, equipment or plant designed and/or operated for the purpose of recycling or reclamation, as defined above, to collect, store, process or to redistribute separated waste so as to return the material to market.
 ...

7:26-9.1 Scope of applicability

(a) The standards and requirements in this subchapter apply to all persons treating, storing or disposing of hazardous waste unless specifically provided otherwise in this subchapter, N.J.A.C. 7:26-8 or N.J.A.C. 7:14A-4.1.

(b) (No change.)
 (c) The standards and requirements of this subchapter do not apply to:
 1.-9. (No change.)

10. Persons who recycle or reclaim hazardous waste on the site where such wastes are generated (see definitions of "Recycling")

or "reclamation" and "On-site" at N.J.A.C. 7:26-1.4). This paragraph does not exempt the generator from annual reporting requirements of N.J.A.C. 7:26-7.4(g).

7:26-12.1 Scope and applicability

(a) (No change.)

(b) The following persons are not required to obtain a permit pursuant to this subchapter to conduct the following activities or construct or operate the following hazardous waste facilities:

1.-8. (No change.)

9. Persons who recycle or reclaim hazardous waste on the site where such waste are generated (see definitions of "Recycling" or "reclamation" and "On-site" at N.J.A.C. 7:26-1.4). This paragraph does not exempt the generator from annual reporting requirements of N.J.A.C. 7:26-7.4(g).

(a)

DIVISION OF GREEN ACRES

Green Acres Local Grant Program Eligible and Ineligible Acquisition Costs

Proposed Amendment: N.J.A.C. 7:36-5.2

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 13:8A-38 and 13:8A-41.
DEP Docket No. 057-82-11.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Donald J. Stout, Chief
Land Facilities and Management
1301 Parkside Avenue
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 1982-511.

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 7:36-5.2 will allow any municipality or county of the State of New Jersey or any agency thereof authorized to acquire, administer, protect, develop and maintain lands for recreation and conservation purposes to be eligible for additional funding when acquiring land under the Green Acres Local Grant Program. Significant costs commonly associated with land acquisition, which are not currently eligible for funding under the Program, would become eligible for funding by this proposal.

Social Impact

The proposed amendment will facilitate acquisition of land by local units for conservation and recreation purposes. It is expected that this will help local governments accommodate the needs of an expanding population in future years.

Economic Impact

The diminishing supply of land for public recreation and the conservation of natural resources increases the cost of public acquisition. This proposal will effectively reduce the costs of land acquisition by local units, which in some cases would be prohibitive

unless such costs are made eligible for funding under the Local Grant Program.

Environmental Impact

It is anticipated that the proposed amendment will encourage local units to acquire land for conservation and recreation purposes, thereby promoting the public health, prosperity, and general welfare of the people of this State.

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

7:36-5.2 Eligible and ineligible acquisition costs

[(a) Eligible costs are cash amounts expended to acquire title on a permanent interest in the land.]

(a) **The following costs are eligible:**

1. Cash amounts expended to acquire title or permanent interest in the land;

2. Relocation payments for persons, families or businesses displaced by the acquisition. Evidence of an approved W.R.A.P (Workable Relocation Assistance Plan) from the New Jersey Department of Community Affairs must be produced;

3. Appraisal costs, ordered under the direction of D.E.P. and D.O.T. for initial Fair Market Value Certifications (F.M.V.C.) on any approved updates;

4. Survey costs incurred during the actual field determination of acquired acreage.

(b) The following costs will not be eligible:

1.-4. (No change.)

[5. Relocation payments for persons, families or businesses displaced by the acquisition.]

(c) (No change.)

HEALTH

(b)

PUBLIC HEALTH COUNCIL

Sanitary Code: Chapter VI Boarding Homes for Children

Proposed Repeal: N.J.A.C. 8:18-1

Authorized By: Public Health Council, Evelyn Geddes,
Chairperson.

Authority: N.J.S.A. 26:1A-7.

A **public hearing** concerning this rule will be held on January 10, 1983 at 9:30 A.M. at:

Commissioner's Conference Room
8th Floor
Health and Agriculture Building
Trenton, NJ

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

PROPOSALS

HUMAN SERVICES

George J. Halpin, M.D., M.P.H.
Director-Parental and Child Health Services
Department of Health
CN 364
Trenton, NJ 08625
609-292-5656

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The Department of Health 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 Department of Human Services 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 1982-514.

This proposal is known as PRN 1982-523.

The agency proposal follows:

The agency proposal follows:

Summary

Since Chapter VI of the State Sanitary Code was last revised in 1969, Title 30 of N.J.S.A. was passed and signed into law giving the Department of Human Services regulatory authority over child care centers. The existing language of Chapter VI of the State Sanitary Code is not in accord with current licensing standards of the Department of Human Services. To eliminate this duplication of regulatory standards, the Department of Health proposes to repeal N.J.A.C. 8:18-1.1 through 1.34 which concerns boarding homes for children.

Social Impact

This proposal will have a beneficial social impact by clarifying which department of State government has regulatory authority over child care centers. This is particularly true since the older standards of Chapter VI of the Sanitary Code do not address many of the support services not covered in the standards of the Department of Human Services. The elimination of this licensing and inspection will present no risk to children served because there already exists licensing and inspection services under the Department of Human Services.

Economic Impact

The repeal of Chapter VI would decrease the amount of administrative work needed to start or maintain a child care center. It would also reduce the burdens placed on local boards of health in licensing such centers.

Delete in its entirety the current text found in the New Jersey Administrative Code at N.J.A.C. 8:18-1.

Summary

This proposed rule with concurrent proposal at N.J.A.C. 10:82-3.4 will eliminate discrepant policy regarding the penalty for failure to cooperate in the disposal of a potential resource in AFDC. The proposed rule would also coordinate the penalty of ineligibility as a result of disposal of resource prior to program application in order to qualify for assistance with the penalty for improper disposal of a potential resource subsequent to establishment of eligibility. In both circumstances, the value of the resource (or the uncompensated value of a potential resource) will be treated as lump sum income in accordance with N.J.A.C. 10:82-4.15 and a period of ineligibility will be imposed. The period of ineligibility will be determined as follows: the value of the resource will be divided by the need standard for the eligible unit and the result will be the number of months of program ineligibility.

Social Impact

Social impact of this proposed rule is anticipated to be minimal as failure to dispose of potential resources or disposal of resources to qualify for assistance are relatively uncommon.

Economic Impact

Economic impact of this proposed rule is expected to be minimal as occurrence of violations is relatively uncommon.

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

10:81-3.38 Liquidation of potential resources **and transfer of resources**

- (a) (No change.)
- (b) Penalties are as follows:
1.-2. (No change.)

3. When a resource, subject to liquidation, is disposed of at a price less than that authorized by N.J.A.C. 10:82-3.6 and 3.7, the difference between the amount received and the authorized price shall be treated as if it was lump sum income in accordance with N.J.A.C. 10:82-4.15. If the disposed resource was applicable to a child, only the child will be ineligible for the period appropriate for an eligible unit of one.

(c) **Assignment or transfer of property:** Applicants for AFDC must not have made a voluntary assignment or transfer of property within one year prior to the time of initial application for the purpose of qualifying for assistance.

- 1.-3. (No change.)

4. If it is determined that such transfer or assignment was made knowingly and willfully for the purpose of qualifying for assistance, [a penalty of ineligibility will apply to the AFDC parent(s) who made the transfer unless and until legal or other action is initiated to retrieve the property itself or its equivalent value. Eligibility of the children is not affected by such a transfer] **the value of such property in excess of allowable resource limits shall be treated as if it was lump sum income in accordance with N.J.A.C. 10:82-4.15.**

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

**Public Assistance Manual
Liquidation and Transfer of Resources**

Proposed Amendment: N.J.A.C. 10:81-3.38

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:7-6 and 44:10-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

(a)

DIVISION OF PUBLIC WELFARE**Assistance Standards Handbook
Resources****Proposed Amendments: N.J.A.C. 10:82-3.1,
3.2, and 3.4**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 44:7-6 and 44:10-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

The Department of Human Services 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 1982-524.

The agency proposal follows:

Summary

This proposed rule with concurrent proposal at N.J.A.C. 10:81-3.38 will eliminate discrepant policy regarding a penalty for failure to cooperate in the disposal of a potential resource in AFDC. The proposed rule would also coordinate the penalty of ineligibility as a result of resource disposal prior to application in order to qualify for assistance with the penalty for improper disposal of a potential resource subsequent to establishment of eligibility. In both circumstances, the value of the resource (or the uncompensated value of a potential resource) will be treated as lump sum income in accordance with N.J.A.C. 10:82-4.15 and a period of ineligibility will be imposed. The period of ineligibility will be determined as follows: the value of the resource will be divided by the need standard for the eligible unit and the result will be the number of months of program ineligibility. The proposed rule also will allow the exclusion from countable resources of a value consistent with the Federally prescribed maximum of \$1,500 and provides further clarification of existing regulations which require that savings may only be accumulated by families already in receipt of assistance and may not be held by program applicants.

Social Impact

The social impact of this proposed rule is anticipated to be minimal. Disposal of resources to qualify for assistance is relatively uncommon. Increase in allowable value of a car will insignificantly increase potential eligible population.

Economic Impact

Fiscal impact of this proposed rule will be minimal because it will have insignificant effect on caseload population.

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

10:82-3.1 General provisions

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

(e) **Savings** (see N.J.A.C. 10:82-3.2(b)(6vi) may be

accumulated only once the family is in fact receiving AFDC and may be accrued from the AFDC payment or other income.

10:82-3.2 Exempt resources

(a) (No change.)

(b) The exempt resources are as follows:

1.-2. (No change.)

3. One motor vehicle, the equity value of which does not exceed [\$1,200]**\$1,500. Any excess equity value of a motor vehicle and the full equity of any other motor vehicle is countable toward the \$1,000 resource limit.** If the vehicle is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The equity value of a vehicle shall be the average wholesale value as indicated in the most recent April or October edition of the Red Book; Official Used Car Valuations less encumbrances (**legal debts**).

4.-10. (No change.)

10:82-3.4 Principles affecting potential resources

(a) **When total countable equity value of all nonliquid resources exceeds \$1,000, eligibility for AFDC is contingent on the development and fulfillment of a plan of liquidation of potential resources.** Liquidation or conversion of potential resources shall be undertaken and completed as promptly as the nature of the resource and the circumstances permit. Such liquidation or conversion to an expendable form creates available income as defined in N.J.A.C. 10:82-4.1(a), and the agency shall take prompt and appropriate action to redetermine eligibility or adjust the payment as indicated.

(b) If a member of an eligible unit willfully fails or refuses within a period of 30 days after being requested in writing, to consent to or to take any action necessary in connection with a plan for liquidation, [such individual shall be ineligible for assistance] **ineligibility shall be determined in accordance with N.J.A.C. 10:81-3.38(b).**

LABOR

(b)

**DIVISION OF VOCATIONAL
REHABILITATION SERVICES****Legal Authority, Administration, Advisory
Councils, Services, Appeals****Proposed Amendments: N.J.A.C. 12:45
through 12:49****Proposed Repeal: N.J.A.C. 12:50**

Authorized By: Roger Bodman, Commissioner,
Department of Labor.
Authority: N.J.S.A. 34:16-27.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

George R. Chizmadia, Director
Division of Vocational Rehabilitation Services
New Jersey Department of Labor
CN 398
Trenton, NJ 08625

The Department of Labor 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 1982-515.

The agency proposal follows:

Summary

The Federal law governing vocational rehabilitation, the Rehabilitation Act of 1973, as amended, has been changed. As a result, changes are required in the operation of the vocational rehabilitation program. The present rule, adopted in 1969, predates the Rehabilitation Act of 1973 and must be updated to comply with the Federal law.

In 1972 under the Reorganization Plan of the New Jersey Department of Labor, the Rehabilitation Commission was abolished and the Division of Vocational Rehabilitation Services was created. A separate Division of Disability Determination was also created.

These proposed amendments to the Administrative Code eliminate the title "Rehabilitation Commission" and replace it with the title Division of Vocational Rehabilitation Services. The amendments also replace the definition of vocational rehabilitation services to comply with the Rehabilitation Act of 1973 as amended.

Provision for an Administrative Review and Fair Hearing is provided for in accordance with the Rehabilitation Act.

The portions covering disability determination are eliminated as these functions are no longer within the purview of the Division of Vocational Rehabilitation Services.

Social Impact

These rules will affect those disabled persons who qualify for vocational rehabilitation services. The eligibility criteria remain the same, but these persons now have recourse to an Administrative Review and a Fair Hearing to appeal the Division of Vocational Rehabilitation Services decisions.

Economic Impact

The Administrative Review and Fair Hearing will entail more paperwork and time on the part of managerial employees. However, it is anticipated that only a small portion of the clients will request an appeal.

All Division of Vocational Rehabilitation Services records are confidential and kept in files and the elimination of the requirement that they be stamped "Confidential" will result in a savings of clerical time and paperwork that will more than offset that of the appeal process.

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

CHAPTER 45
LEGAL AUTHORITY

SUBCHAPTER 1. GENERAL PROVISIONS

12:45-1.1 Federal

(a) The authority for providing vocational rehabilitation services to disabled individuals who are vocationally handicapped stems from the Vocational Rehabilitation Act of [1920] **1973**, as amended.

(b) (No change.)

[(c) In other State vocational rehabilitation programs, the Federal government's allotment is larger than its allotment for the State's basic program and in still other State vocational rehabilitation programs, the Federal government's allotment is 100 percent of the cost of such programs.]

[12:45-1.2 State

Chapter 64 Laws of 1955, (N.J.S.A. 34:16-21) as amended, establishes the Rehabilitation Commission and designates it as the sole State agency to administer and supervise vocational rehabilitation and independent living rehabilitation authorized under the law and places it in the Department of Labor and Industry.]

12:45-1.2 State

As authorized by N.J.S.A. 13:16 et seq. and the Reorganization Plan of the New Jersey Department of Labor 1972, pages 1039 et seq., the Division of Vocational Rehabilitation Services is created including and expanding upon all the duties, powers, responsibilities, personnel and appropriation of the New Jersey Rehabilitation Commission which is abolished. A Vocational Rehabilitation Advisory Council is established.

CHAPTER 46
ADMINISTRATION

SUBCHAPTER 1. [ORGANIZATION OF COMMISSION]
DIRECTOR OF DIVISION

[12:46-1.1 Policy making body; general powers

The Commission shall be the policy making body of the agency and shall have the power and authority to administer its affairs including the powers provided in any of the applicable laws and statutes.]

12:46-1.1 State plan construed

The "State Plan" is a formal, expository declaration prepared in compliance with the Federal Vocational Rehabilitation Act and in conformance with certain minimal specifications of the Act (so as to be eligible for Federal financial grants-in-aid) outlining, in broad terms, the operation of the State vocational rehabilitation program.

[12:46-1.2 Composition

By virtue of N.J.S.A. 34:16-21, the Commission consists of the Commissioner of Labor and Industry, the Commissioner of Education, the Commissioner of the Department of Institutions and Agencies, the Commissioner of Health, ex officio or such deputy as any of them respectfully delegate, and eight members appointed by the Governor.]

12:46-1.2 Effect of State Plan approval

When formally approved by the Federal Rehabilitation Services Administration, the "State Plan" and its amendments assume the effect of a State-Federal agreement of cooperation.

[12:46-1.3 Member representation

(a) Of the eight members appointed by the Governor, one and only one shall be a person who by reason of vocation, activities and affiliations can be considered as a representative of the employers of labor of the State.

(b) One member, and only one, shall be a person who by reason of vocation, activities and affiliations can be considered as a representative of organized labor of the State.

(c) Two members, one of whom shall be a woman, shall be chosen because of their special interest and knowledge of the field of social welfare.]

12:46-1.3 State Plan adoption authority

Authority for the adoption of the "State Plan" by the Division is granted in the enabling provision of N.J.S.A. 34:16-27 and N.J.S.A. 34:16-29 which specify those actions the Division may undertake.

SUBCHAPTER 2. [COMMISSION FUNCTIONS]
AUTHORITY

[12:46-2.1 Matters requiring Commission vote

(a) The will of the Commission shall be expressed by vote on the following matters:

1. Adoption, revision or amendment of the "State Plan for Administration of New Jersey Program of Vocational Rehabilitation".
2. Grants-in-aid to public or private nonprofit rehabilitation agencies eligible for such aid as prescribed in the State plan.
3. Adoption, revision or amendment of the Commission regulations.]

12:46-2.1 (Reserved)

[12:46-2.2 State Plan construed

The "State plan" is a formal, expository declaration prepared in compliance with the Federal Vocational Rehabilitation Act Amendments of 1965 (Public Law 89-333 and in conformance with certain minimal specifications of the Act (so as to be eligible for Federal financial grants-in-aid) outlining, in broad terms, the operation of the State vocational rehabilitation program.]

12:46-2.2 Executive Officer capacity

(a) **The Director of the Division shall serve also as its Executive Officer as provided by N.J.S.A. 34:16-28 which provides for the Director, employee and special assistants.**

[12:46-2.3 Effect of State plan approval

When formally approved by the Federal Rehabilitation Services Administration, the "State plan" and its amendments assume the effect of a State-Federal agreement of cooperation.]

12:46-2.3 Functions

(a) **In the capacity as executive officer of the Division, the Director shall:**

1. **Represent the Division in relation to the Federal Rehabilitation Services Administration;**
2. **Direct the operation, administration and functioning of the rehabilitation program, on a full-time basis, as provided in the statute;**
3. **Prepare plans for grants-in aid for departmental approval;**
4. **Act as approval officer for all grants.**

12:46-2.4 [State plan adoption authority] **(Reserved)**

[Authority for the adoption of the "State plan" by the Commission is granted in the enabling provision of N.J.S.A. 34:16-27 and N.J.S.A. 34:16-29.]

12:46-2.5 [Quorum; majority decisions] **(Reserved)**

[(a) The presence of a simple majority of the members of the Commission shall be required to constitute a quorum for voting or transacting other business of the Commission.

(b) A simple majority of members attending and voting, when a quorum is present, shall decide any question or resolution pertaining to such business of the Commission that may come before it.]

SUBCHAPTER 3. [DIRECTOR OF COMMISSION] **ORDER OF CLIENT SELECTION**

[12:46-3.1 Selection; removal

(a) The Chairman shall choose a committee of not more than three members of the Commission who shall screen, by acceptable methods, all candidates and report their recommendations to the Commission.

(b) Selection of the Director will be determined by a majority vote of members present and voting.

(c) Removal of the Director for misconduct or other good cause,

after hearing, may be affected by a majority vote of the Commission as a whole.]

12:46-3.1 Application filing basis

In the event a shortage of funds precludes the provision of services to all eligible clients, the Director shall invoke an order of selection for selecting individuals to receive services. Highest priority shall be given to clients determined eligible prior to notification of a shortage of funds and already in status 10 or above and clients determined to be severely disabled under current vocational rehabilitation regulations.

12:46-3.2 [Executive Officer capacity] **(Reserved)**

[The Director of the Commission shall serve also as its Executive Officer as provided by N.J.S.A. 34:16-28.]

12:46-3.3 [Functions] **(Reserved)**

[(a) In this capacity as executive officer of the Commission, the Director shall:

1. Prepare the annual report to the Governor as required by statute;
2. Prepare the agenda for Commission meetings;
3. Represent the Commission in relation to the Bureau of Old-Age and Survivors Insurance and shall have power to modify agreements with BOASI as may be necessary for disability determination purposes;
4. Represent the Commission in relation to the Federal Rehabilitation Services Administration;
5. Direct the operation, administration and functioning of the rehabilitation program, on a full-time basis, as provided in the statute;
6. Prepare plans for grants-in-aid for Commission approval;
7. Act as approval officer for all disbursements as provided in Commission resolution adopted in the Commission meeting on January 23, 1956;
8. Act as and have such authority as appointing authority to approve and employ such staff, personnel and special assistants as may be necessary, pursuant to N.J.S.A., Title 11, Civil Service, as provided in N.J.S.A. 34:16-28.]

SUBCHAPTER 4. [ORDER FOR CLIENT SELECTION]
(RESERVED)

[12:46-4.1 Application filing basis

Except during periods when appropriations are insufficient to provide services to all eligible handicapped, clients' needs will be met, insofar as possible, in the order to their application for service.]

[12:46-4.2 Discontinuance of client services

(a) The Director may discontinue authorizations for new purchased client services when the funds remaining equal the amount needed for normal diagnostic services during the remainder of the fiscal year plus an estimated two percent of the year's appropriation for client services.

(b) At this point, the remaining funds may be used for the purchase of diagnostic information necessary in determinations of eligibility and such funds as may remain may be devoted to the provision of purchased client services in instances of "personal hardship" as defined by the Director. (Amendment approved at April 29, 1959 meeting of the Commission.)]

SUBCHAPTER 5. [COMMISSION] **DIVISION RECORDS**

12:46-5.1 Statute adopted
(No change.)

12:46-5.2 Statutory intent
N.J.S.A. 34:16-33 provides:
All records relating to the receipt of or application for vocational

rehabilitation services shall be confidential and shall not be published or open to public inspection. No member, officer or employee of the [Commission] **Division** shall, except for purposes directly connected with the administration of the vocational rehabilitation program, and in accordance with regulations, solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning persons applying for or receiving vocational rehabilitation directly or indirectly derived from the records, papers, files, or communications of the State or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. Any such act on the part of a member, officer or employee of the [Commission] **Division** shall be grounds for dismissal by the Governor as to members and as to officers and employees, in accordance with the provisions of Title II, Civil Service, of the Revised Statutes and of rules and regulations issued pursuant thereto.

12:46-5.3 Scope of subchapter

This subchapter shall govern the confidentiality of rehabilitation records and the actions with regard thereto of the members of the [Commission] **Division**, the officers and employees of the [Commission] **Division**, other agencies of the State that have occasion to request records from the [Rehabilitation Commission] **Division** and clients of the [Rehabilitation Commission] **Division**.

12:46-5.4 Definitions

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

"Records" mean applications, reports, information, correspondence and all documents whatsoever, including copies of medical, psychological or similar personal reports, which are connected in any way with the file of an individual applying for or receiving services from the [Commission] **Division**. **These do not include review forms or other supervisory and managerial tables.**

"Client" means any person applying for or receiving services of the [Commission] **Division**.

["Commission" means the New Jersey Rehabilitation Commission.] **D.V.R.S. means the New Jersey Division of Vocational Rehabilitation Services.**

12:46-5.5 Available information privileged and confidential

(a) All information made available to [The Rehabilitation Commission] **D.V.R.S.** or its employees, or representatives, in the course of administration of the rehabilitation program concerning applicants for [Rehabilitation Commission] **D.V.R.S.** services or persons receiving [Rehabilitation Commission] **D.V.R.S.** services, shall be considered privileged and confidential.

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

12:46-5.6 Notification of confidentiality; marking

(a) All applicants for Rehabilitation [Commission] **Division** services shall be advised at the time of application of the confidential nature of case records, case histories and other related information obtained in the administration of such services.

[(b) All records clearly shall be marked "Confidential."]

(b) [(c)] All persons requesting information contained in Rehabilitation [Commission] **Division** records, where either the express or necessarily implied consent of the client has not been obtained, shall be advised of the confidential nature of such records and of the prohibition against the disclosure of such information other than as provided by this subchapter.

12:46-5.7 Records property of [Rehabilitation Commission] **D.V.R.S.**

All records pertaining to persons applying for or receiving

[Rehabilitation Commission] **D.V.R.S.** services, howsoever, secured by the [Commission] **Division** are the property of [Commission] **D.V.R.S.**

12:46-5.8 Release of confidential information

(a) No publicity release concerning or identification of a client of the [Commission] **Division** shall be made unless the prior express (written) consent of that person shall have been obtained.

(b) All records relating to the application for or the receipt of [Rehabilitation Commission] **D.V.R.S.** services are confidential and shall not be published or open to public inspection or in any way made available other than in the administration of [Commission] **D.V.R.S.** services, except as provided herein.

(c) Lists of names and addresses of clients secured from records of the [Rehabilitation Commission] **D.V.R.S.** shall not be divulged except in the course of the administration of the vocational rehabilitation program.

12:46-5.9 Express written consent; forms

In all instances other than those listed in [Section 5.10] **N.J.A.C. 12:46-4.10** (consent by "necessary implication") [of this chapter], where information concerning a client of the [Commission] **Division** is requested, such information shall not be released without the written consent of the client.

[(b) Such consent may be made upon Form SR-218, which authorizes release of information from the records of the Rehabilitation Commission.]

12:46-5.10 Consent by "necessary implication"

(a) Consent of the client to the release of pertinent confidential information can be assumed by "necessary implication" and express written consent shall not be required in the instances enumerated below. It should be ascertained prior to the release of information to the agencies and persons listed below that such agencies and persons have adopted regulations, or are of sufficient professional responsibility, to assure that information received will be held confidential and be used only for the purposes for which it was provided.

1.-3. (No change.)

[4. Military Service of the United States Government and Selective Service:]

[5.] 4. Doctors, hospitals, clinics and rehabilitation centers which are providing services to a client as authorized by the [Commission] **Division**;

[6.] 5. Schools or training centers when the [Commission] **Division** has authorized service or is considering authorization of service, and such information is required for success of the program, the safety of the client or is otherwise in the client's best interests.

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

12:46-5.11 Limitation on subpoena power

Pursuant to the confidentiality clause of the New Jersey Vocational Rehabilitation Act, N.J.S.A. 34:16-33, the subpoena power cannot be used to require the disclosure of information relating to a person's application for or receipt of [Commission] **D.V.R.S.** services.

12:46-5.12 Guidelines on subpoena service

(a) If a subpoena should be lawfully served on a counselor, supervisor, administrator, other employee or member of the [Commission] **Division**, or if a subpoena should be served on a physician, examiner or other representative providing service for the [Commission] **Division** to a client, directing that the person served appear to testify and disclose information concerning a client's application for or receipt of [Commission] **Division** services, then the party so served shall be guided as follows:

1. If the subpoena has been issued by the attorney for a client in the client's behalf, the person upon whom the subpoena is served

shall inform the attorney that the necessary and pertinent information will be supplied to him upon receipt by the [Commission] Division of the client's written consent [on Form SR-218]. If the client is not available to execute his/her written consent, the necessary and pertinent information may be divulged upon proper proof that the attorney is acting on behalf of the client and upon the express direction of the Director of [the Rehabilitation Commission] D.V.R.S. If the attorney for the client desires the person served to testify either in court or at an administrative hearing and if the consent of the client is obtained as provided in this subsection, the person served may appear in court or at such hearing for the purpose of testifying and shall bring the necessary records with him/her.

[2. If the subpoena is issued by a person other than the representative or attorney of a client, the person upon whom the subpoena is served shall phone or contact the person issuing the subpoena, explain the legally confidential nature of Commission records, state that he cannot disclose the information requested and request a release from the subpoena. If the release is refused, the person served shall appear as directed by the subpoena but shall state to the court or hearing officer that the requested records are confidential and that he cannot testify as to their nature.]

2. Should the subpoena be one obtained by a person other than a representative or attorney for the client, then the person under subpoena will phone or contact the subpoenaing attorney, explain the legally confidential nature of Division records, further explain his understanding as to his legal inability to disclose information, in answer to subpoena, concerning applicants for or recipients of Division services and request a release from the subpoena. Should such release be refused, then appearance will be made as directed by subpoena but the Division employee or representative will make the following statement to the Court:

"I am appearing as a representative of the New Jersey Division of Vocational Rehabilitation Services, Department of Labor in response to a subpoena to disclose information contained in the records of the Division of Vocational Rehabilitation Services.

The records sought are confidential under the Vocational Rehabilitation Act of 1978 and the confidential provision of New Jersey laws, 1961, Chapter 20, Section 14, and cannot be published or open to public inspection except to public officials in performance of public duties. This matter is a private controversy between individuals and the State is not a party to the proceedings.

I have the requested records in my possession but in view of the law, I respectfully request an instruction from the court to protect me from a charge that I revealed confidential information."

Normally that should end the employee's statement, but if the Judge directs that the information be revealed, the employee should politely request that the record of the proceeding including the Court's instruction to testify, and abide by it.

The decision ruling of the presiding court officer will be binding. Should the Judge direct that the information be revealed, the employee should politely request that the record of the proceeding include the Court's instruction to testify.

[3. In any instance, if the client is willing that his records be released or disclosure of information made, he shall so indicate by giving his written authorization (Amendment approved at June 17, 1959 meeting of the Commission).]

CHAPTER 47 ADVISORY COUNCILS

SUBCHAPTER 1. ESTABLISHMENT

- 12:47-1.1 Advisory councils established; purpose; members
 (a) The [Commission] Division shall establish such advisory councils or committees as it deems necessary to the efficient administration of the program of rehabilitation in the State.
 (b) Members of advisory councils shall serve without pay. [For three years and may be reappointed.]

CHAPTER 48 SERVICES

SUBCHAPTER 1. VOCATIONAL REHABILITATION

- 12:48-1.1 Establishment of rehabilitation potential defined
 (No change.)
- 12:48-1.2 Establishment of vocational objective defined
Vocational objective is the employment goal established for the individual client.
- 12:48-1.3 Services determining rehabilitation potential
 (a) Services (for the purpose of the determination of rehabilitation potential) include:
 1.-2. (No change.)
 3. Physical restoration [(without the need of a determination that the physical or mental condition is stable or slowly progressive)].
 4.-8. (No change.)
 9. Other goods and services. [Which may consist of attendant services, reader services for the blind (to those clients served under the cooperative agreement with the Commission for the Blind), or interpreter services for the deaf.]
 [(b) Such services, if necessary, may be provided during a period not in excess of 18 months in the case of an individual whose disability is:
 1. Mental retardation;
 2. Deafness;
 3. Blindness;
 4. Paraplegia, quadraplegia and other spinal cord injuries or diseases;
 5. Heart disease;
 6. Cancer;
 7. Stroke;
 8. Epilepsy;
 9. Mental illness;
 10. Cerebral palsy; or
 11. Brain damage; and not in excess of six months in the case of an individual with any other disability.]
(b) Such services, if necessary, may be provided during a period not in excess of 18 months to severely disabled clients to provide an extended evaluation in order to determine eligibility in terms of employment potential.
- 12:48-1.4 Vocational objective services
 (a) Vocational rehabilitation services, specific for the vocational objective, include:
 1. **Evaluation of rehabilitation potential including diagnostic and related services [(including transportation)].**
 2. **Counseling [and] guidance; referral and placement services including follow-up, follow-along and other post employment services.**
 3. **Physical and mental restoration.**
 [4. Training, personal adjustment, prevocational (tuition and fees), vocational (tuition and fees);]
 4. **Vocational and other services including training, personal**

prevocational and vocational adjustment, books and other training materials and services to families as are necessary for adjustment and rehabilitation of the individual.

- [5. Books and training materials (including tools);]
- [6.] 5. (No change in text.)
- [7.] 6. (No change in text.)
- [8.] 7. (No change in text.)
- [9.] 8. (No change in text.)
- [10.] 9. (No change in text.)
- [11.] 10. (No change in text.)
- [12. Other goods and services which may consist of attendant services, reader services for the blind (to those clients served under the cooperative agreement with the Commission for the Blind), or interpreter services for the deaf;]
- [13. Placement]
- 11. Other goods and services.**

12:48-1.5 Acceptance for vocational rehabilitation potential
 (a) Applicants will be accepted for an extended evaluation to determine the vocational rehabilitation potential only after:
 1.-2. (No change.)
 3. Inability to make a determination that, through the [provision of reahilitation services] **Division of Rehabilitation Services**, the individual will be able to enter gainful employment within a reasonable period of time, without an extended evaluation, including the provision of vocational rehabilitation services.

12:48-1.6 Eligibility for rehabilitation services
 (No change.)

12:48-1.7 Economic need
 (a) In accordance with provisions of Section 13.2 of the New Jersey State plan, certain vocational rehabilitation services are provided by the [Commission] **Division** only after establishment of the economic need of an individual for assistance in securing such services.

- (b) (No change.)
- [(c) Services conditioned upon economic need are:
- 1. Physical restoration services (with exception of such prosthetic devices as are essential to obtaining or retaining employment);
- 2. Maintenance;
- 3. Transportation, subsistence during travel, and attendant where such assistance is needed, except where such transportation is necessary in connection with the determining of eligibility or the nature or scope of the services;
- 4. Placement tools, equipment, initial stocks (including livestock), and supplies, equipment and initial stocks and supplies for vending stands (including necessary shelter for such stands), equipment and initial stocks and supplies for small business enterprises;
- 5. Other goods and services such as attendant services, reader services to the blind, interpreter services to the deaf which are necessary to render a handicapped individual fit to engage in a gainful occupation.]

(c) **The economic need of applicant for vocational rehabilitation services is considered for determining participation in the cost of all vocational rehabilitation services other than:**

- 1. Evaluation of Rehabilitation potential;**
- 2. Counseling, guidance, and referral services;**
- 3. Placement;**
- 4. On-the-job training.**

(d) Funds provided by the [Commission] **Division** to defray the cost of these services are used only when necessary to supplement the resources of the individual and cannot be used to relieve him/her of the financial responsibility for services he/she is able to provide from his/her own resources.

(e) Determination of the economic need of an individual for services conditioned on need will be established simultaneously

with or within a reasonable period prior to the provision of service based upon economic need and revised at least annually thereafter, if such service is renewed or continued.
 (f) (No change.)

12:48-1.8 Extended Employment Program (State-funded)
The Division shall plan, institute, support, and administer a program of Extended Employment. The Division shall contract with approved Sheltered Workshops for the furnishing of Extended Employment programs. Payment for each severely handicapped person shall not exceed in the amount appropriated for the purposes toward the cost of providing an Extended Employment Program.

CHAPTER 49
 APPEALS

SUBCHAPTER 1. ADMINISTRATIVE REVIEW

12:49-1.1 Appeal of vocational rehabilitation applicant or recipient

[The Commission may hear the appeal or designate representatives of the Commission to hear the appeal of any applicant for or recipient of vocational rehabilitation who may be aggrieved by any action or inaction of the Commission, its employees or representatives.]

(a) Administrative Review: Applicants/clients for vocational rehabilitation shall be advised of their right to an Administrative Review in the event that they are dissatisfied with any action with regard to the furnishing or denial of VR services.

- 1. An Administrative Review must be requested in writing by the applicant or client. This written request should be submitted to the Office Manager.**
- 2. The Administrative Review shall be held at a time and place convenient for the applicant or client.**
- 3. The applicant or client will be notified of the date, time, and place of the Review. The Notification will be sent in advance of the Review and provide enough time for the applicant or client to prepare for the Review.**
- 4. The applicant or client may be represented by counsel, friend, parent, guardian or self. If he chooses to represent himself he must be an adult, 18 years of age or older.**
- 5. The applicant or client and his representative, if he desires to have one, will be given an adequate opportunity to cross examination and to present evidence on his behalf during the Review.**
- 6. The Review shall be held before the District Supervisor or his designee. (Complaints should be resolved at the lowest possible level. However, the Review Officer must be a person who was not involved in the decision that is the basis for the complaint.)**
- 7. DVR 35 will be completed after the Review by the District Supervisor or his designee and, it will contain his decision in the matter.**
- 8. DVR 35 together with copies of papers and reports presented during the Review constitutes a record and one copy will be kept in the case record and one copy shall be given to the applicant or client.**

12:49-1.2 Appeal of aggrieved Commission employees

[(a) The Commission may, at its discretion, hear the appeal or designate representatives of the Commission to hear the appeal of any employee of the Commission who gives evidence of having just cause for grievance.

(b) Such hearing will be provided only when the employee continues to be aggrieved after exhausting all prior appeal remedies as provided in the Administrative directives of the Agency and of the State Department of Civil Service.]

12:49-1.2 Fair hearing

(a) A Fair Hearing follows an Administrative Review if the applicant or client is dissatisfied with the decision of the Review and requests a Fair Hearing in writing.

1. The request for a Fair Hearing must be submitted to the District Supervisor.

2. A Fair Hearing is held before the Division Director, or his designee and the Fair Hearing decision is final.

3. The Fair Hearing shall be held at a time and place convenient to the applicant or client.

4. The applicant or client will be notified of the date, time and place of the Hearing and provide enough time for the applicant or client to prepare for the Fair Hearing.

5. The applicant or client may be represented by counsel, friend, parent, guardian, or self at the Hearing. If he chooses to represent himself he must be an adult, 18 years or older.

6. The applicant or client and his representative, if he desires to have one, will be given an adequate opportunity for cross examination and to present evidence on his behalf during the Hearing.

7. DVR 35 will be completed after the Hearing Officer and it will contain the final decision in the matter.

8. DVR 35 together with copies of papers and reports presented during the Fair Hearing constitutes a record and one copy shall be kept in the case record and one copy will be given to the applicant or client.

12:49-1.3 (No change.)

[12:49-1.4 Hearing standards and procedures

(a) The following standards and procedures are adopted by the State Agency to insure a fair hearing:

1. Applicants for vocational rehabilitation shall be advised of their right to an opportunity for a fair hearing in the event the application is denied or is not acted upon with reasonable promptness.

2. The hearing shall be held for a time and place convenient to the individual requesting a fair hearing. Such individual will be notified in writing as to the time and place of such hearing within a reasonable time in advance of such hearing. Such individual will also be notified in writing of his right to be represented at the hearing by counsel or a friend, if he so desires, and he will be so notified in time to have an adequate opportunity to prepare his case.

3. At the hearing, the individual and his representative, if he desires to have one, will have an adequate opportunity for cross examination and to present evidence in his behalf.

4. The hearing shall be held before an official or officials of the State Agency who, insofar as possible, have not taken part in the action under consideration. Authority to make the final decision based upon the record shall be exercised by the State Director or his designee.

5. The verbatim transcript of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and reports filed in the proceedings, and the hearing officer's recommendation, shall constitute an exclusive record for decision and shall be available to the individual at any reasonable time.

6. The decision shall set forth the issue, principle and relevant facts brought out at the hearing, the pertinent provisions in law and in Agency policy, and the reasoning that led to the decision. The individual shall be forwarded a copy of the decision of shall be advised in writing of the content.]

CHAPTER 50
[DISABILITY DETERMINATIONS SERVICE]
(RESERVED)

[SUBCHAPTER 1. GENERAL PROVISIONS

12:50-1.1 Legal authority

(a) N.J.S.A. 34:16-29 authorizes the Commission, upon designation by the Governor, to perform other related functions and services for the Federal government including making determinations of disability under Title II of the Federal Social Security Act.

(b) By document, filed with the Secretary of State, August 8, 1955, the Governor, pursuant to Section 10(d) of the Vocational Rehabilitation Act of 1955, Laws of 1955, Chapter 64, designated the State Rehabilitation Commission to perform the function and service of making determinations of disability under Title II of the Federal Social Security Act.

12:50-1.2 Personnel

Cross Reference

See Sections 3.2 (Execution Officer capacity) and 3.3 (Functions) of Chapter 46 of this Title.

12:50-1.3 Services

(a) The Disability Determinations Service is charged with the responsibility of determining claims filed under the disability provision of the Federal Social Security Act and to assess the potential of such claimants for vocational rehabilitation services.

(b) When indicated, claimants for disability benefits are referred to the Commission for any services that may be needed to return them to gainful employment.]

LAW AND PUBLIC SAFETY

(a)

NEW JERSEY RACING COMMISSION**Thoroughbred Rules: Licensing****Proposed Amendment: N.J.A.C. 13:70-4.1**

Authorized By: New Jersey Racing Commission, John J. Reilly, Executive Director.

Authority: N.J.S.A. 5:5-22, 5:5-30 and 5:5-33.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John J. Reilly, Executive Director
New Jersey Racing Commission
404 Abbington Drive
East Windsor, NJ 08520

The New Jersey Racing Commission 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 1982-522.

The agency proposal follows:

Summary

The proposed amendment would increase the license fees

required of applicants in various categories of racetrack personnel. Said fees have remained constant for several years and are being increased to defray agency costs.

Social Impact

The increased fees may cause a marginal financial hardship on certain applicants; the requirement of an additional \$12.00 fee to cover the processing of Federal fingerprints should have a positive social impact by enhancing the integrity of racing as Federal criminal histories have been unavailable to the agency for some years.

Economic Impact

The proposed amendments will have a positive economic impact on State revenue by providing increased license fees to the Treasury to defray agency costs. The proposal will have a marginal negative economic impact on licensees through the increased fees.

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

13:70-4.1 Person required to have licenses

(a) The following persons shall be required to take out a license from the Racing Commission and the annual fee shall be as follows:

- 1. Assistant starter: \$5.00
- 2. Assistant trainer: [\$15.00] **\$25.00**
- 3. Authorized agent: [\$15.00] **\$25.00**
- 4. Clocker: \$5.00
- 5. Identification license: \$5.00
- 6. Jockey: [\$15.00] **\$25.00**
- 7. Jockey Agent: [\$15.00] **\$25.00**
- 8. Jockey Apprentice: [\$15.00] **\$25.00**
- 9. Owner: [\$25.00] **\$50.00**
- 10. Pari-Mutuel Employee: [\$5.00] **\$15.00**
- 11. Plater: [\$10.00] **\$15.00**
- 12. Stable Employee: \$5.00
- 13. Starter: \$5.00
- 14. Trainer: [\$15.00] **\$50.00**
- 15. Valet: [\$10.00] **\$15.00**
- 16. Vendor: [\$15.00] **\$25.00**

(b) All original applicants in any category shall be required to submit with their application, in addition to the prescribed fee, a money order or bank check in the amount of \$12.00 payable to the Federal Bureau of Investigation. Renewal applicants shall make a similar submission upon direction of the Commission.

(a)

NEW JERSEY RACING COMMISSION

Harness Rules; Licensing

Proposed Amendment: N.J.A.C. 13:71-7.1

Authorized By: New Jersey Racing Commission, John J. Reilly, Executive Director.

Authority: N.J.S.A. 5:5-22, 5:5-30 and 5:5-33.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

John J. Reilly, Executive Director
New Jersey Racing Commission
404 Abbington Drive
East Windsor, NJ 08520

The New Jersey Racing Commission 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 1982-521.

The agency proposal follows:

Summary

The proposed amendment would increase the license fees required of applicants in various categories of racetrack personnel. Said fees have remained constant for several years and are being increased to defray agency costs.

Social Impact

The increased fees may cause a marginal financial hardship on certain applicants; the requirement of an additional \$12.00 fee to cover the processing of Federal fingerprints should have a positive social impact by enhancing the integrity of racing as Federal criminal histories have been unavailable to the agency for some years.

Economic Impact

The proposed amendments will have a positive economic impact on State revenue by providing increased license fees to the Treasury to defray agency costs. The proposal will have a marginal negative economic impact on licensees through the increased fees.

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

13:71-7.1 Persons required to have licenses

(a) The following persons shall be required to take out a license from the New Jersey Racing Commission and the annual fee therefor shall be as follows:

- 1. Driver/Trainer: [\$10.00] **\$50.00**
- 2. Owner: [\$10.00] **\$50.00**
- 3. Pari-Mutuel Employee: [\$5.00] **\$15.00**
- 4. Stable Employee: \$5.00
- 5. Stable Name: [\$25.00] **\$50.00**
- 6. Starter: \$5.00
- 7. Plater: [\$10.00] **\$15.00**
- 8. Timer: \$5.00
- 9. Vendor: [\$15.00] **\$25.00**
- 10. Identification License: \$5.00
- 11. Authorized Agent: [\$10.00] **\$25.00**

(b) All original applicants in any category shall be required to submit with their license application, in addition to the prescribed fee, a money order or bank check in the amount of \$12.00 payable to the Federal Bureau of Investigation. Renewal applicants shall make a similar submission upon direction of the Commission.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Speed Limits for State Highways Route 18

Proposed Amendment: N.J.A.C. 16:28-1.23

Authorized By: John P. Sheridan, Jr., Commissioner,
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-98.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

The Department of Transportation 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 1982-518.

The agency proposal follows:

Summary

This proposal will enhance traffic safety and establish maximum speed limits for eastbound traffic between Hope Road and 550 feet east thereof, along Route 18 (Summer Hill Road and Route 18 Connection) in East Brunswick Township, Middlesex County.

Social Impact

This amendment will reduce speed limits along the designated route and area which will enhance the safety and well-being of the populace in general.

Economic Impact

The Department will incur direct and indirect costs for its workforce and the placement of signs. Costs are dependent upon mileage, personnel and equipment requirements.

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

16:28-1.23 Route 18

(a) The rate of speed designated for the certain part of State highway Route 18 described in (a) of this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

(b) The rate of speed designated for the certain part of State highway Route 18 described in (b) of this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

(c) The rate of speed designated for the certain part of State highway Route 18 described in (c) of this section shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. (No change.)

2. For eastbound traffic (Summer Hill Road and Route 18 Connection) in East Brunswick Township, Middlesex County:

i. Thirty miles per hour between Hope Road and 550 feet east thereof.

(b)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 41

Proposed Amendment: N.J.A.C. 16:28A-1.64

Authorized By: John P. Sheridan, Jr., Commissioner,
Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

The Department of Transportation 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 1982-519.

The agency proposal follows:

Summary.

This proposal will establish "no parking" zones at bus stops along Route 41 in Cherry Hill Township, Camden County for the enhancement of the safe on and off loading of passengers.

Social Impact

This amendment will restrict parking in the areas designated as bus stops where passengers embark and disembark from buses, thus providing for the safety and well-being of the populace in general.

Economic Impact

The Department will incur direct and indirect costs for its workforce and the placement of signs. Costs are dependent upon mileage, personnel and equipment requirements.

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

16:28A-1.64 Route 41

(a) (No change.)

(b) The certain parts of State highway Route 41 described in (b) of 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 hereby granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along the westerly (southbound) side thereof in Cherry Hill Township, Camden County:

i. Ryans Run - (mid-block):

(1) Beginning 120 feet south of the southerly curblin of Ryans Run and extending 100 feet southerly therefrom.

TREASURY-GENERAL

(a)

(b)

TRANSPORTATION OPERATIONS

DIVISION OF PENSIONS

**Turns
Route 28**

**Administrative Procedures
Bankruptcy and Subsequent Loans**

Proposed New Rules: N.J.A.C. 16:31-1.20

Proposed New Rule: N.J.A.C. 17:1-12.3

Authorized By: John P. Sheridan, Jr., Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-138.6.

Authorized By: William J. Joseph, Director, Division of
Pensions.

Authority: N.J.S.A. 52:18A-96.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, NJ 08625

William J. Joseph
Division of Pensions
20 West Front St.
CN 295
Trenton, NJ 08625

The Department of Transportation 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 Division of Pensions 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 1982-512.

This proposal is known as PRN 1982-520.

The agency proposal follows:

The agency proposal follows:

Summary

This proposal will enhance safety and establish "no left turn" westbound on Route 28 to southbound in Raritan Borough and Bridgewater Township, Somerset County for the safety and well-being of the motoring public.

Summary

The proposed new rule will restrict a member of a State-administered retirement system, who has payroll deductions concerning a previous loan in suspense as a result from filing for bankruptcy, from obtaining subsequent loans from the retirement system until he or she agrees to a revised loan repayment schedule that incorporates the previous outstanding balance as well as the new loan balance.

Social Impact

This amendment will provide for the efficient flow of traffic into and from the Ortho Pharmaceutical Company driveway, thus precluding traffic congestion along the route and area designated.

Social Impact

This proposal will affect current and future members of a State-administered retirement system who declare bankruptcy and have outstanding loan balances owing to such State-administered retirement system.

Economic Impact

The Department will incur direct and indirect costs for its workforce and the placement of signs. Costs are dependent upon mileage, personnel and equipment requirements.

Economic Impact

This proposal is an attempt to preserve the financial integrity of State-administered retirement systems that permit loans to its members. Only members who have filed for bankruptcy, had their payroll loan deduction for previous loans suspended and are seeking additional loans from the retirement system subsequent to their filing for bankruptcy may be adversely affected in an economic sense by this proposal.

Full text of the proposal follows.

Full text of the proposed new rule follows.

16:31-1.20 Route 28

(a) Turning movements of traffic on the certain parts of State highway Route 28 described below are regulated as follows:

1. No left turn westbound on Route 28 to southbound into the Ortho Pharmaceutical driveway in Raritan Borough and Bridgewater Township, Somerset County:

17:1-12.3 Bankruptcy; subsequent loans

Any member of a State-administered retirement system, which permits loans to its members, who has payroll deductions for an outstanding loan balance in suspense as a result of bankruptcy proceedings, will not be permitted to obtain another loan from that retirement system until such member agrees to an appropriate loan repayment schedule that includes the aggregate outstanding balance of the previous loan or loans.

(a)

to his demise provided satisfactory evidence concerning the filing delay has been presented to the Board of Trustees.]

DIVISION OF PENSIONS**State Police Retirement System
Insurance Liability; Unenrolled Members****Proposed Repeal: N.J.A.C. 17:5-2.4**

Authorized By: Board of Trustees, State Police Retirement System, Anthony Ferrazza, Secretary.
Authority: N.J.S.A. 53:5A-30h.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before January 19, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Anthony Ferrazza, Secretary
State Police Retirement System
Division of Pensions
20 West Front Street
CN 295
Trenton, NJ 08625

The Board of Trustees 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 1982-513.

The agency proposal follows:

Summary

This proposal repeals the current rule concerning the insurance liability for unenrolled-members who die while employed. Such repeal is being made upon advice from the Attorney General's office which has determined that the Pension System will be liable for a larger portion of the insurance benefit amount while the employer will have to contribute a lesser sum. Therefore, the amount a beneficiary receives will not change but the source from which they come will.

Social Impact

This proposal will affect current and future members of the retirement system and designated beneficiaries of the members. The proposal also affects the Pension System and the public who ultimately pay out insurance benefits to beneficiaries.

Economic Impact

The retirement system and public employers may experience economic effects as a result of this proposal. Both may be liable for a portion of certain death benefits payable to deceased employees who were not enrolled in the retirement system in a timely manner. The benefits payable to the deceased employee's beneficiaries are not affected by this proposal.

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

17:5-2.4 [Insurance liability for unenrolled members]
(Reserved)

[(a) In the event of the death of an individual prior to enrollment and on account of whom the Board of Trustees has determined that insurance benefits are payable:

1. The employer will be charged directly for the full amount of the insurance benefit when no application was completed by the employee and the employee was required to enroll.

2. The employer will not be charged directly if an application for enrollment was filed with the Retirement System prior to the employee's date of death.

3. The System may assume the liability when an application has been executed by the employee but not received by the System prior

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

Uniform Construction Code Administrative Hearings – Final Decision; Licensing

Adopted Amendments: N.J.A.C. 5:23-2.38, 4.15, 4.26, 5.2, 5.9 and 5.11

Proposed: July 19, 1982 at 14 N.J.R. 734(a).
Adopted: November 22, 1982 by John P. Renna,
Commissioner, Department of Community Affairs.
Filed: November 23, 1982 as R.1982 d.436, with
substantive changes not requiring additional public
notice and comment and with action on N.J.A.C.
5:23-5.11(d) still pending.

Authority: N.J.S.A. 52:27D-124.

Effective Date: December 20, 1982.

Summary of Public Comments and Agency Responses:
No public comments received.

Full text of the changes between proposal and adoption follows
(additions to proposal shown in boldface with asterisks ***thus***;
deletions from proposal shown in brackets with asterisks ***[thus]***).

5:23-2.38 Departmental appeal

(a) Whenever the department shall act as the enforcing agency under section 10 of the State Uniform Construction Code Act, [the commissioner shall appoint a hearing officer to provide] an appeal in lieu of the appeal to the county, municipal or joint construction board of appeals. **[.] may be made to the Division of Housing. The case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the *[Director of the Division of Housing]* *Commissioner.*** Such hearings shall be governed by the provisions of the [administrative procedure act] **Administrative Procedure Act (see N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. as implemented by N.J.A.C. 1:1),** and the time provisions applicable to county or municipal boards.

5:23-4.15 Suspension and revocation

(a)-(e) (No change from proposal.)
(f) The department shall provide any person aggrieved by any action of the department pursuant to this section with a hearing in accordance with the applicable provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. [15:15-10.1 et seq.] **1:1. The case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the *[Director of the Division of Housing]* *Commissioner*.**

5:23-4.26 Construction boards of appeal

(a) (No change from proposal.)
(b) Rules concerning organization are:
1.-5. (No change from proposal.)

6. Departmental appeal: Whenever the department shall act as the enforcing agency under section 10 of the State Uniform Construction Code Act, the commissioner shall [appoint a hearing officer to] provide an appeal in lieu of the appeal to the county, municipal or joint construction board of appeals. Such hearings shall be governed by the provisions of the Administrative Procedure Act, and the time provisions applicable to county or municipal boards. **Any such case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the *[Director of the Division of Housing]* *Commissioner*.**

(c)-(d) (No change from proposal.)

5:23-5.2 Office established; hearings

(a) (No change from proposal.)

(b) Rules concerning hearings are:

1. Any person aggrieved by any notice, actions, ruling or order of the commissioner, with respect to this subchapter, [has] **shall have** a right to a hearing before the [commissioner or his hearing officer] **Office of Administrative Law. The final decision in any such case shall be issued by the *[Director of the Division of Housing]* *Commissioner*.**

2. (No change from proposal.)

5:23-5.11 Revocation of licenses and alternative sanctions

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

(c) Conviction ***of a crime, or conviction of an offense*** in connection with the practice as a licensed code enforcement official or inspector, **shall constitute[s]** grounds for revocation or suspension of a license. ***[A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a [felony] crime is deemed to be a conviction within the meaning of this section. The department may order the license suspended or revoked or may decline to issue a license if the time for appeal has elapsed or if the judgment of conviction has been affirmed on appeal, or if an order granting probation is made suspending the imposition of the sentence irrespective of a subsequent order allowing a person to withdraw his plea of guilty, or dismissing the accusation, information or indictment.]***

(d) (Action still pending.)

ENVIRONMENTAL PROTECTION

(b)

NEW JERSEY WATER SUPPLY AUTHORITY

Water Facilities Operation General Rate Schedule for Delaware and Raritan Canal Water and the Spruce Run/ Round Valley Reservoir Complex

Adopted Amendments: N.J.A.C. 7:11-2 and 7:11-4

Proposed: July 6, 1982 at 14 N.J.R. 681(a).
Adopted: December 3, 1982 by Robert E. Hughey,
Chairman, New Jersey Water Supply Authority.

Filed: December 6, 1982 as R. 1982 d.455, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 58:1B-7.

Effective Date: December 20, 1982.

Operative Date: January 1, 1983.

Expiration Date pursuant to Executive Order No. 66(1978): December 31, 1983.

Summary of Public Comments and Agency Responses:

A number of issues were raised during the public hearing process and have been presented together with detailed Water Authority comment in the Hearing Officers' Report, which was approved and adopted at a Special Meeting of the New Jersey Water Supply Authority on November 15, 1982. The full text of the Hearing Officers' Report can be obtained from:

Rocco D. Ricci, Executive Director
New Jersey Water Supply Authority
P.O. Box 5196
Clinton, NJ 08809

The following is a summary of the major issues raised during the hearing process, together with brief Authority comment:

1. Regarding for the first time a single rate for the Operations and Maintenance Component to cover the cost of water from the Delaware and Raritan Canal and the Spruce Run/Round Valley systems, the Authority has determined that the integrated management of the two sources of water results in a more effective utilization of the water available for sale than that which results from independent operation.

2. Regarding the comment that any rate setting procedure should follow a more formalized format, the hearing process followed by the Authority for the rate proposal was consistent with the requirements of the Authority's enabling legislation and applicable administrative procedures.

3. Regarding why the Authority proceeded with a proposed rate for the Operations and Maintenance component without knowing what the additional rate will be to cover the debt component, the Authority's immediate need was to establish a self-supporting revenue base by January 1, 1983 for its efficient and effective operation. The debt component required a legal opinion and further negotiation with the Treasurer of the State of New Jersey, which would delay the needed revenue base for operation and maintenance.

4. Regarding how the costs for the development of future projects throughout the State, other than those related to the D & R Canal and Raritan Basin Systems, are to be accounted for and financed, the revenues generated by this proposal are to cover the costs of operating the D & R Canal and the Raritan Basin Systems. The New Jersey Water Supply Authority is responsible for developing and implementing other needed water supply projects throughout the State. The Authority cost accounting system will identify the costs associated with any project, including those costs associated with the D & R Canal and the Spruce Run/Round Valley Systems. Appropriate reimbursements will be obtained through funds which will be made available from appropriations from the 1981 Bond issue or earlier Bond issues, as well as from any future financing.

5. Regarding the basis for establishing the levels of pumping reserve as well as the pumping costs associated with operation of the 10 Mile Lock Pumping Station on the D & R Canal, the Authority's operating budget has been modified to provide an amount of money to operate the 10 Mile Lock Pumping Station to assure an adequate water supply to the customers of the D & R Canal during the period when canal flow is restricted due to sediment and weed growth, as well as the period during which flow is to be curtailed due to the construction of the Sediment Removal Project. The modification also identifies the importance of an annual start-up of each of the 10 large pumping units at the South Branch

Pumping Station at Hamden, at least once a year. This is a minimal requirement for a sound preventive maintenance program.

6. Regarding the lack of rationale relative to the establishment of the major rehabilitation reserve and the general reserve and the associated issue dealing with the effects of carryover funds from the period prior to July 1, 1982 on the reserve requirements, the Authority's modified annual budgetary contribution to the major rehabilitation reserve for FY 83 and FY 84 of \$200,000 per year is less than the \$350,000 contained in the original proposal. This \$200,000 per year contribution is considered to be a minimum level and reflects the Authority's current knowledge of carryover funds from previous years. The \$100,000 per year for the general reserve is considered to be a minimal amount to provide reasonable working cash reserves for the Authority's operation. An additional amount has been placed into this reserve from the carryover State Funds.

7. Regarding the fiscal management records in use by the Authority and the concern of the adequacy of records to support the proposal, the Water Supply Facilities Element, now the Authority, prior to July 1, 1982 operated under the accounting and fiscal control provisions of the State of New Jersey's budgetary program. The State's fiscal management system did not meet the needs of the Authority's utility-type operation. The Authority agrees that the fiscal management system must be consistent with accepted utility-type accounting and must provide complete information to support a rate proposal.

8. Regarding the viability of continuing the existing D & R Canal as a water supply and whether other alternatives for diversion of Delaware River water would be more cost effective, the Authority staff recently undertook a preliminary screening of alternative projects proposed for diversion of 100 mgd from the Delaware Basin into the Raritan Basin. None of the viable projects were found to be less expensive than the continued use of the D & R Canal; however any possible project would require a 7-10 year period before it could be placed into operation. It is difficult to speculate as to what might arise out of the public debate over New Jersey's Delaware River diversion right, relative to any proposal to change the method or location of diversion.

9. Regarding insufficient detail on how the total volume of 150.916 million gallons per day was established as the rate base, the above mentioned Hearing Officers' Report contains details as to how this rate base was established.

10. Regarding organizational and personnel requirements which should be more clearly defined to reflect the needs of the Authority, over the next several months the Authority will evaluate its organizational needs consistent with its independent utility-type operation. All areas of operation will also be evaluated over the next several months with the aim of managing them effectively at least cost consistent with the required programs of the Authority.

11. Regarding the use of water supply revenues for park maintenance as well as for purposes of historic restoration and flood control, revenues derived from the sale of water from the D & R Canal and the Spruce Run/Round Valley Reservoirs are to be used for the operations and maintenance of the Authority's water supply facilities.

12. Regarding the equity of Middlesex Water Company paying less than other D & R Canal customers under the terms of their present contract, the Authority is studying various options as to the most equitable method of implementing the rate proposal.

13. Regarding the receipt of revenues from American Cyanamid, which have not been discussed or included in the rate proposal, the New Jersey Department of Environmental Protection is currently considering an application by American Cyanamid for a diversion permit to take water from the Raritan River. The Authority will take all necessary steps to enter into an agreement with American Cyanamid for the use of Raritan Basin waters. When the agreement is signed and the payments are received by the Authority, they will be distributed amongst the four reserve accounts.

14. Regarding the four reserve accounts without any "cap" on the amounts to be accrued for each reserve, this question of a reserve

ADOPTIONS

account "cap" will be carefully considered when the Authority evaluates its future revenue needs for the period beyond January 1, 1984. The reserve account balances to be achieved by the proposed rate are considered to be the minimum acceptable for the Authority's operation.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

7:11-2.2 Rates and charges

(a) The charge per million gallons listed below is based on the estimated annual [cost of operations, maintenance, replacement and maintenance reserve, contingency reserve, and capital improvement.] **primary costs, renewal and replacement reserve, *[emergency]* pumping reserve, major rehabilitation reserve and general reserve.**

1. Operations and Maintenance Component:

Allocation	Charge/Million Gallons
Million gallons per day (Mgd.)	[\$75.00] *[96.56]* *\$81.80*

(b) (No change from proposal.)

[7:11-2.5] 7:11-2.6 Standby Charge

(a) A user classified under standby service, as provided in [section 4 of this subchapter] **N.J.A.C. 7:11-2.5**, shall pay the monthly minimum charge, based on the capacity of his withdrawal system, as specified below. [In addition he shall pay] **Said purchaser shall also pay** for all water withdrawal during the month, and charges as set forth in the General Rate Schedule which are in excess of such monthly Standby Charge.

Note: Mgd. = million gallons daily; Gpm. = gallons per minute.

Maximum withdrawal capacity	Charge
Each 1 Mgd. (700 Gpm.) or fraction thereof:	[\$75.00] *[96.56]* *\$81.80* per month

[7:11-4.8] 7:11-4.7 Rates and charges

(a) (No change from proposal.)
(b) [Until March 31 1979, the rates and charges in effect prior to the effective date of these regulations shall continue in force.] **The charge per million gallons listed below is based on the estimated annual primary costs, renewal and replacement reserve, *[emergency]* pumping reserve, major rehabilitation reserve and general reserve.**

Operations and Maintenance Component

Allocation	Charge/Million Gallons
Million gallons per day (Mgd.)	*[96.56]* *\$81.80*

1. (No change from proposal.)
(c)-(e) (No change from proposal.)

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations Delineated Floodways Along the Great Brook

Adopted Amendment: N.J.A.C. 7:13-1.11

Proposed: August 16, 1982 at 14 N.J.R. 870(b).
Adopted: November 23, 1982 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

ENVIRONMENTAL PROTECTION

Filed: December 6, 1982 as R.1982 d.453, **without change.**

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

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No 66(1978):
July 19, 1983.

Summary of Public Comments and Agency Responses:

The Department of Environmental Protection held a public hearing on September 1, 1982 in the Morristown Municipal Building. Only one person gave testimony at the hearing. The person spoke in favor of adoption of the amended delineation of Great Brook. No objections were presented.

No written comments were received in response to the Notice of Hearing dated August 16, 1982, which specified that comments would be received until September 15, 1982.

(b)

DIVISION OF FISH, GAME AND WILDLIFE

Defining Fish Lines Defining Lines, Upstream of Which a License is Required to Fish with Handlines, Rod and Line, or Long Bow-and-Arrow

Adopted Amendment: N.J.A.C. 7:25-16.1

Proposed: August 16, 1982 at 14 N.J.R. 882(a).
Adopted: December 1, 1982 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.
Filed: December 6, 1982 as R.1982 d.454, **without change.**

Authority: N.J.S.A. 23:1-2, 23:3-1 and 23:9-1.

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66 (1978):
August 18, 1983.

Summary of Public Comments and Agency Responses:

The proposed revision of the rule defining lines, upstream of which licenses are required to fish with handline, rod and line, or long bow-and-arrow was open to public comment at a public hearing held on September 14, 1982. There was no public comment on this proposal.

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Bureau of Air Pollution Control Sulfur in Fuels

Adopted Amendment: N.J.A.C. 7:27-9

Proposed: December 7, 1981 at 13 N.J.R. 870(a).
Adopted: December 6, 1982 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.

Filed: December 6, 1982 as R.1982 d.456, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1D-1 et seq., 26:2C-8.

Effective Date: December 6, 1982.

Operative Date: February 4, 1983.

Executive Order 66 No. (1978) Expiration Date: Exempt
under 42 USC 7401 et seq.

Summary of Public Comments and Agency Responses:

A. General Comments:

1. Comment: Neighboring states or other political divisions which seek to regulate air quality should be notified and consulted on each application.

Response: Interstate notification will be provided for bubbles which require modeling, and for all clean conversion incentives. Such applications will require a State Implementation Plan (SIP) revision. That process alone will ensure that citizens, local governments, and New Jersey's neighbors have an opportunity to comment. Sulfur dioxide (SO₂) bubbles which meet the conditions of N.J.A.C. 7:27-9.4 do not require a SIP revision. However, since compliance with the conditions of section 9.4 results in no significant increases in ground level air contamination, interstate notification is not necessary. Local notification and opportunity for comment is standard procedure for all bubble proposals.

2. Comment: Air quality is so poor that no relaxation should be permitted.

Response: The proposed revisions allow, at most, only a temporary relaxation of the sulfur-in-fuel standards. Each application will be screened against current sulfur dioxide levels, which presently meet all ambient air quality standards, in order to guarantee that those standards are not exceeded.

The long-term effect of the SO₂ bubble will be no change in air quality compared to the period before 1978 when less gas was burned. The long-term effect of the clean conversion incentive will be an improvement in air quality, since the final allowable SO₂ emission level is less than that allowed for burning residual oil.

3. Comment: One commentator questioned the ability of the Department to enforce both bubbles and incentive provisions and to verify modeling predictions.

Response: The modeling required is conservative and will overestimate ambient SO₂ concentrations. Thus, actual ambient concentrations should be lower than predicted. Also, data from the New Jersey air monitoring network will alert the Department to increases in ambient SO₂ concentrations. If such a rise occurs, further restrictions can be placed on the sulfur content of fuel oil burned under the incentive.

4. Comment: There should be a requirement for a standby supply

of low sulfur fuel in case there is a disruption of the gas supply or an exceedance of air quality standards.

Response: The SO₂ bubble must be balanced on a 24-hour basis, and conditions on the permit required by N.J.A.C. 7:27-9.2(d)6 will include provisions for standby low sulfur oil.

B. Comments on Specific Sections:

Two additional changes to the proposal made by the Department are as follows. In N.J.A.C. 7:27-9.2(e), the Department has decided not to change the adjustment from 12 percent carbon dioxide to seven percent oxygen. This change in the excess air correction would have permitted an increase in SO₂ emissions from certain existing sources which was not the Department's intent. In the same subsection, the wording has been clarified. Also, N.J.A.C. 7:27-9.2(g) has been deleted. This section was merely informative and applies generally to the chapter. The Department will periodically review clean air increment consumption and propose regulatory revisions to all relevant subchapters if necessary.

7:27-9.2 Sulfur content standards

1. Comment: Bubbles between separate facilities should be permitted.

Response: The adopted code permits such bubbles provided the sources are under the control of, or are operated by, one person. This restriction is required in order to make bubble conditions enforceable.

2. Comment: If units already burning natural gas were allowed to balance the lower SO₂ emissions against emissions from high-sulfur oil, there would be a net increase in sulfur emissions. The effects of this would be a degradation of air quality and prevention of other new sources from entering the area, since no further increase in sulfur dioxide emissions would be permitted under the Federal Clean Air Act's prevention of significant deterioration provisions.

Response: There is some merit to the argument that giving credit in a bubble for natural gas already being burned would lead to a localized deterioration of air quality. In response to this comment, N.J.A.C. 7:27-9.2(d)3 has been added to prohibit the inclusion of units which are permitted to burn gas only in a SO₂ bubble. Only gas use in units with both oil and gas firing capability, where 100 percent oil can be burned, will be eligible for credit in a bubble.

For bubbles where modeling is required, such modeling will be of current emissions and so will show the real effect of the bubble on air quality. Where the modeling waiver is used, increases will be less than the threshold values allowed in nonattainment areas, so no significant effect on air quality should occur. Finally, up to 1978, industrial and utility boilers burned very little natural gas, so SO₂ levels will not be increased appreciably from historical levels. Consequently, there should not be widespread consumption of the available clean air increment.

3. Comment: Does the proposed regulation restrict bubbles to oil only, excluding natural gas?

Response: A bubble is restricted to fuels as defined in N.J.A.C. 7:27-9.1. That definition specifically lists gaseous petroleum products as a fuel, and so a bubble may include natural gas.

4. Comment: Table 2 limits on SO₂ emissions should not apply to bubbles. That table limits emissions on a pound per BTU basis (mass per heat input). Total SO₂ emissions per 24 hours should be used instead to allow for unit load changes and outages. Total SO₂ emissions will be lower even if the low-sulfur source goes down, and the high-sulfur source continues.

Response: The Department foresees that using a total pounds of SO₂ per day basis may lead to the setting up of pseudo bubbles with dummy low-sulfur components. The net result could be an increase in SO₂ emission for the same energy output. Consequently, the Department is retaining the existing basis of pounds of SO₂ per actual BTU heat input for computing compliance.

5. Comment: The bubble will not work since it depends on self regulation.

Response: The Department can and does sample and analyze fuel to determine compliance with N.J.A.C. 7:27-9. Also, continuous in-stack monitoring of SO₂ emissions may be required if oil sampling is found to be insufficient. In addition, the air monitoring network operated by the Department would show any significant rise in SO₂ concentration levels. Finally, gas use by utilities and industry is easily checked. Fuel oil usage data will depend to some extent on the data supplied by the company in monthly reports which the Department will require as a condition of the bubble permit approval.

6. Comment: The rule should be changed to impose a maximum limit on stack separation, even if air quality modeling is done, in order to prohibit bubbles between two or more facilities.

Response: A maximum stack separation limit is not necessary. One condition of any SO₂ bubble is that there will be no significant degradation of air quality. Moreover, bubbles between facilities under the control of the same person are likely to be few in number and will have to be approved by the United States Environmental Protection Agency (EPA) as State Implementation Plan revisions and will require extensive modeling and a public comment period.

7:27-9.4 Waiver of air quality modeling

1. Comment: The 800 pound per hour limit for waiving modeling is too high.

Response: The 800 pound per hour limit on waivers (a maximum of 3,504 tons per year) was based on a conservative screening model. The figure 1 nomograph restricts stack separation and heights to values that result in lower ambient concentrations than threshold values of N.J.A.C. 7:27-18, the Department's Emission Offset Rule. These threshold values represent de minimus ambient air quality effects.

2. Comment: Doesn't the EPA limit bubbles in nonattainment regions to 100 tons per year?

Response: The EPA draft policy mentioned has not been adopted. More important, as the comment points out, the policy applies to nonattainment areas. Since all of New Jersey is an attainment area for SO₂, this comment does not apply to this subchapter.

3. Comment: The plume rise equation in N.J.A.C. 7:27-9.4(c)2. appears to give a lower value than standard plume rise formulas. The units should be reexamined.

Response: In the plume rise equation a factor of 2.9 has been changed to 9.5, thereby representing units of height in feet rather than in meters.

7:27-9.5 Incentive for conversion to coal or other solid fuel

1. Comment: The conversion incentive should be applicable to more than one plant, that is, while one facility burns the high-sulfur oil, another would convert to solid fuel.

Response: The incentive was intended to allow high-sulfur oil use at the facility being converted. The temporary high emissions of SO₂ would be balanced by long-term low emissions of SO₂ at the same facility. This condition has been clarified in N.J.A.C. 7:27-9.5(a).

2. Comment: The incentive should not be limited to a conversion to coal and municipal solid waste, but should include any combustible material, including industrially generated organics, cellulose, wood, plastic, and paper products.

Response: The Department agrees that specifying coal and municipal solid waste is too limiting. On the other hand, "any combustible material" is too broad. Accordingly, the Department will use the term "solid fuel", as defined in N.J.A.C. 7:27-10, in determining which conversions will be covered by the incentive. N.J.A.C. 7:27-9.5 is modified to include the burning of solid fuel, and a definition of solid fuel is added to N.J.A.C. 7:27-9.1. Since the primary intent of the incentive is to help finance scrubbers on coal and solid waste burning, the incentive has not been modified to include liquid wastes, many of which can be burned without scrubbers.

3. Comment: Conversions to which the incentive is applicable should include installation of new coal fired boilers, such as fluidized bed boilers.

Response: The Department agrees the incentive should be applicable to new boilers at a facility, and N.J.A.C. 7:27-9.5(a)1 and 2 have been revised to include new units. Fluidized bed technology effectively controls SO₂ emissions, but can not be applied to existing boilers. Also, fluidized bed boilers require a major capital investment, which the clean conversion incentive can help offset.

4. Comment: Increase the period of burning high sulfur oil from two to five years; conversions may take that long.

Response: The period is extended to up to three years for new unit conversions only. In order to avoid clean air increment consumption, as required under the Federal Clean Air Act Prevention of Significant Deterioration program, the incentive must have a relatively short duration. Also, the shorter the incentive period, the more plants that may take advantage of the incentive without raising SO₂ concentrations to unacceptable levels. On the other hand, installation of a new coal burning unit requires more time and capital than the conversion of an existing unit.

Considering the above, and in response to this comment, the Department has increased the time period for burning high-sulfur oil to a maximum of three years for a new unit conversion of a facility. Note that the completion of the conversion within the two or three year period in which high-sulfur oil may be used is not mandatory.

5. Comment: For anthracite and coke, increase the limit on SO₂ emissions from 0.3 lb/million BTU to 1.2 lb/million BTU for use of the incentive.

Response: The primary purpose of the incentive is to finance acid gas control so that long-term emissions will be less than emissions from burning low-sulfur residual oil. Setting the clean conversion incentive limits for anthracite and coke above the point where such control is required would negate the purpose of the incentive and increase SO₂ emissions by up to a factor of four.

6. Comment: Change the 0.3 lb SO₂/million BTU to 0.6 lb SO₂/million BTU for larger (greater than 250 million BTU/hr) boilers.

Response: This would increase emissions up to two times the emissions from the low-sulfur oil now burned by most industry in New Jersey.

7. Comment: 0.3 lb SO₂/million BTU is too restrictive. A sliding scale allowing higher emissions in the different zones should be used.

Response: Making the incentive conditional on a statewide limit of 0.3 lb SO₂ per million BTUs makes the cost of converting to coal equitable throughout the State. At the same time total SO₂ emissions will be reduced, which should reduce downwind acid deposition effects.

8. Comment: New Jersey should simply require 0.3 lb/million BTU. There would then be no need for the incentive.

Response: New Jersey does require 0.3 lb/million BTU for new industrial boilers of less than 250 million BTU per hour heat input capacity. The 0.3 lb SO₂/million BTU limit was set in 1968 as a technology forcing provision, but to date only a few companies have converted to coal. This is, in part, due to the stringent emission limitation. The incentive is needed to encourage conversion at this emission level by demonstrating to other companies that coal use can be environmentally as acceptable as low-sulfur oil use and economically preferable. In the case of some other solid fuels, such as municipal solid waste, use of the incentive would help finance industrial resource recovery facilities with scrubbers.

9. Comment: The conversion incentive will result in an increase in acid deposition downwind.

Response: The temporary rise in SO₂ emissions (which are precursors to acid deposition) resulting from the incentive will be controlled by the air quality analyses. Also, as the years pass, the SO₂ increase from incentive users will be nullified by the lower emissions of those already converted. In some zones of the State,

long-term SO₂ emissions will remain about the same since emissions of SO₂ are reduced only from 0.32 to 0.30 lb of SO₂ per million BTU. The largest reduction will be in those zones where emissions from oil burning may be as high as 2.1 lbs per million BTU before converting. Thus, use of the clean conversion incentive will result in long-term reduction in SO₂ emissions.

10. Comment: Conversion alone saves so much money that the costlier scrubber can be paid for out of savings. This makes the incentive unnecessary.

Response: Despite the long-term operational savings of coal burning, even with scrubbers, the capital cost of converting to coal with scrubbers or a new fluidized bed boiler continues to be a deterrent to conversion. The clean conversion incentive is expected to result in some conversions which might not otherwise occur.

11. Comment: The penalty for failing to convert should be more severe. Interest at the prevailing rate should be added to the amount required to be paid back plus a "degradation penalty" to pay for the two years of extra SO₂ emissions.

Response: The Department has clarified this provision to state that such payment shall be in addition to, and not in lieu of, any penalty which may be required pursuant to the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

7:27-9.1 Definitions

"Aerodynamic downwash" means the rapid descent of a plume to ground level with little dilution and dispersion [due to] as a result of alteration of background air flow characteristics caused by the presence of buildings or other obstacles in the vicinity of the emission point.

"Air quality simulation model" means a mathematical procedure for predicting the ambient air concentration of pollutants resulting from the dispersive properties of the atmosphere.

["Carbon dioxide (CO₂)" means a colorless, odorless gas at standard conditions, having a molecular composition of one carbon atom and two oxygen atoms.]

"Carbon dioxide (CO₂)" means a colorless, odorless gas at standard conditions, having a molecular composition of one carbon atom and two oxygen atoms.

*"Municipal solid waste (MSW)" means *[waste consisting of household waste from private residences; commercial waste which originates in wholesale, retail, or service establishments such as restaurants, stores, markets, theatres, hotels and warehouses; and institutional waste originating in schools, hospitals, research institutions and public buildings.]* * residential, commercial, and institutional non-hazardous solid waste.*

["Oxygen (O₂)" means a colorless, odorless gas at standard conditions, having a molecular composition of two oxygen atoms.]

"Solid fuel" means solid material or any substance derived from solid material used or to be used for the purpose of creating useful heat and includes, but is not limited to, coal, gasified coal, liquified coal, solid solvent-refined coal, municipal solid waste, refuse-derived fuel, and wood.

*7:27-9.2 Sulfur content standards

(a) No person shall store, offer for sale, sell, deliver or exchange in trade for use in New Jersey fuel which contains sulfur in excess of a percentage by weight set forth in Table 1[.] of this section,

except as provided in (c), (d) and (e) below*, and N.J.A.C. 7:27-9.5*.

(b) No person shall use fuel which contains sulfur in excess of a percentage by weight set forth in Table 1[.] of this section, except as provided in (c), (d), and (e) below*, and N.J.A.C. 7:27-9.5*.

TABLE 1 (No change from proposal.)

(c)The provisions of *[subsections] (a) and (b) [of this section] *above* shall not apply to fuels whose combustion causes sulfur dioxide emissions from any stack or chimney into the outdoor atmosphere which are demonstrated to the Department as not exceeding, at any time, those quantities of sulfur dioxide expressed in pounds per 1,000,000 British Thermal Units (BTU) gross heat input, set forth in Table 2 *of this section*.

TABLE 2 (No change from proposal.)

(d) The provisions of (a) and (b) above shall not apply to fuels included in an alternative emission control plan based on a mathematical combination approved by the Department. Application for such approval shall be made to the Department in writing and must include:

1.-2. (No change from proposal.)

*3. Certification that the total sulfur dioxide emissions from the mathematical combination during each 24-hour period will not exceed the maximum total weight of sulfur dioxide that all the sources in the mathematical combination were allowed to emit at the time of applying; and

*[3.] *4.* (No change in text from proposal.)

*[4.] *5.* (No change in text from proposal.)

*[5.] *6.* (No change in text from proposal.)

*[6.] *7.* A demonstration by air quality simulation modelling acceptable to the Department *,* including aerodynamic downwash modelling, unless waived in accordance with the provisions of N.J.A.C. 7:27-9.4, that *[the alternative emission control plan will not cause a violation of any ambient air quality standard for SO₂ or total suspended particulate matter, and that there will be no exceedance of threshold increases as set forth in N.J.A.C. 7:27-18]* * increases in air contaminants resulting from use of the alternative emission control plan will not cause any ambient air quality standard to be exceeded, or cause any allowable prevention of significant deterioration ambient air increment as established by the United States Environmental Protection Agency to be exceeded; and in areas where an ambient air quality standard is already exceeded, will not cause an increase in ambient air concentrations greater than the threshold increases set forth in Table 1 of N.J.A.C. 7:27-18.3*;

*[7.] *8.* Sufficient information to evaluate aerodynamic downwash effects including a site plan, heights of all structures within 1,000 feet *(305 meters)* of the stacks in the mathematical combination, and the topography of the area within 1,000 feet *(305 meters)* of the stacks in the mathematical combination; and

*[8.] *9.* (No change in text from proposal.)

[(d) (e)The provisions of [subsections] (a), (b), [and] (c) *,* and (d) above [of this section]* shall not apply whenever a person responsible for the *[discharge of]* sulfur dioxide *emissions* from a facility *into the outdoor air* *[caused by the combustion of a combination of fuels, conforming with the standards set forth in Tables 1 and 2]* [.] *[of this section, in combination with facility by-products or facility by-products alone]* *resulting from the combustion of facility by-products combined with fuels conforming with this section,* can demonstrate to the Department that [his] the facility's emissions are predictable and will in no case exceed 310 ppm by volume adjusted to [12] *[seven] *12* percent [carbon dioxide] *[oxygen] *carbon dioxide* by volume. In such cases, the Department may establish conditions as it deems

appropriate including, but not limited to, requiring sampling and analysis *,* of emissions of sulfur dioxide, periodic fuel analysis and the periodic submission of data.

[(e)] (f) (No change from proposal.)

[(f)] *(g) The Department will periodically review and revise these standards (after public hearing) when it is determined that Federal regulations concerning prevention of significant deterioration of air quality or ambient air quality standards so require.]*

7:27-9.4 Waiver of air quality modelling

(a) (No change from proposal.)

(b) Procedure for using Figure 1.

1. Determine the effective stack height*s* in accordance with the provisions of (c) below.

2.-4. (No change from proposal.)

(c) The effective stack height of a given stack for the purposes of this subchapter is the lesser of the following values:

1. 650 feet; or

2. The sum of the physical stack height and the plume rise.

Plume rise is calculated from the formula:

$$*h = \frac{2.9}{u} \left(\frac{Vd^2(T-68)}{T+460} \right)^{0.75}]*$$

$$*h = \frac{9.5}{u} \left(\frac{Vd^2(T-68)}{T+460} \right)^{0.75}$$

where:

h is the plume rise in feet;

u is 12 if the physical stack height is less than 65 feet; u is 5 for physical stack heights of 65 feet or greater;

v is the actual exit velocity of the stack gas in feet per second;

d is the inside diameter of the stack exit in feet; and

T is the temperature of the stack gas at the stack exit, in degrees Fahrenheit.

7:27-9.5 Incentive for conversion to coal or *[municipal solid waste]* *other solid fuel*

(a) The Department may authorize *[the use of]* *a person to store, offer for sale, sell, deliver, exchange in trade or use* fuel oils having a sulfur content in excess of the maximum allowable amounts set forth in Table 1 of N.J.A.C. 7:27-9.2 provided that:

1. The fuel burning unit in which the high-sulfur oil is used, or a unit of comparable capacity *at the same facility*, will *[be converted to]* burn coal or *[municipal solid waste (MSW)]* *other solid fuel* in accordance with a schedule approved by the Department; and

2. The high-sulfur oil will be burned for no longer than a period of two years *if an existing fuel burning unit is converted from burning oil or gas, or three years if the conversion is accomplished by the installation of a new fuel burning unit*; and

3. The applicant demonstrates by *[ambient]* air quality *simulation* modelling or other methods acceptable to the Department that increases in the emissions of *[sulfur dioxide and particulates]* *air contaminants* resulting from the use of the high-sulfur oil will not cause any *[relevant]* ambient air quality standard to be exceeded *[or]* *and* in areas where an ambient air quality standard is already exceeded, will not cause an increase in ambient air concentrations greater than the threshold increases set forth in Table 1 of N.J.A.C. 7:27-18.3; and

4. The sulfur dioxide emissions from the burning of coal or *[MSW]* *other solid fuel* will not exceed 0.3 pounds of sulfur dioxide per million BTU gross heat input; and

5. The applicant obtains an approved Permit to Construct and Certificate to Operate *,* in accordance with the provisions of N.J.A.C. 7:27-8 *,* for the conversion to coal or *[MSW]* *other solid fuel*; and

6. *[If]* *The applicant agrees that if* the conversion does not take place pursuant to (a)1 above, *[the applicant]* *he* will pay to the Department a sum of money *[equivalent to]* *no less than* the difference between the cost of the high-sulfur oil used pursuant to the provisions of this section and the cost of the same grade oil which would otherwise be required under the provisions of N.J.A.C. 7:27-9.2 *. Such payment shall be in addition to, and not in lieu of, any penalty which may be required pursuant to the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.*; and

7. (No change from proposal.)

8. The applicant attest*s* to his commitment to honor and comply with all of the provisions of this section and any other provisions the Department deems appropriate, by entering into a Consent Order, which shall so state, with the Department; and

9. Such Consent Order shall be subject to modification or revocation by the Department *[is]* *if* the Department determines that the emissions from the burning of high-sulfur oil contribute to a contravention of any applicable ambient air quality standard, or significantly degrade ambient air quality, or that the applicant has failed to honor or comply with its provisions in part or in whole.

(a)

COMMISSION ON RADIATION PROTECTION

Radiation Protection Nuclear Medicine Technology

Adopted Amendments: N.J.A.C. 7:28-24

Proposed: June 7, 1982 at 14 N.J.R. 507(a).

Adopted: September 30, 1982 by Max M. Weiss, Ph.D.,
Chairman, Commission on Radiation Protection.

Filed: December 6, 1982 as R.1982 d.457, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 26:2D-1 et seq.

Effective Date: December 20, 1982.

Operative Date: February 18, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978):
February 14, 1985.

DEP Docket No. 014-82-05.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

7:28-24.5 [Certification] Licensing requirements

(a) In order to become [certified] licensed, an applicant shall be

required to pass the [certification] **licensing** examination given pursuant to this subchapter, which may be written and, when deemed necessary by the department, may include proficiency testing. The department may waive the examination requirements for any applicant who has demonstrated competency by passing a national registry examination. **The department may accept in lieu of its own examination a certificate, registration, or license as a nuclear medicine technologist issued by another state; such acceptance will be based on standards in the other state being satisfactory to the department.** All *[certification]* ***licensing*** examinations must be approved by the commission.

HEALTH

(a)

CONSUMER HEALTH SERVICES

Food and Drug List of Ingredients for Human Self-Defense Sprays

Adopted New Rule: N.J.A.C. 8:21-3.24

Proposed: September 20, 1982 at 14 N.J.R. 1029(a).
Adopted: November 12, 1982 by Allen N. Koplin, M.D.,
M.P.H., Acting State Commissioner of Health.
Filed: December 6, 1982 as R.1982 d.451, **without
change.**

Authority: N.J.S.A. 24:2-1 and 2 C: 39-6(i).

Effective Date: December 20, 1982.
Expiration Date pursuant to Executive Order No. 66
(1978): March 30, 1986.

Summary of Public Comments and Agency Responses:
No comments received.

(b)

HEALTH ECONOMICS SERVICES

Standard Hospital Accounting and Rate Evaluation (SHARE) Rate Review Guidelines

Adopted Amendment: N.J.A.C. 8:31A-7

Proposed: August 16, 1982 at 14 N.J.R. 887(a).
Adopted: December 3, 1982 by Allen N. Koplin, M.D.,
M.P.H., Acting Commissioner, Department of Health
(with the approval of the Health Care Administration
Board).
Filed: December 6, 1982 as R. 1982 d.452, **with substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66(1978):
August 18, 1983.

Summary of Public Comments and Agency Responses:

1. Comment: Rehabilitation and specialty hospitals should be reimbursed under the Chapter 83 methodology. Although DRG reimbursement is not suited for rehabilitation or specialty hospitals, an alternate methodology could be developed.

Response: This comment does not pertain to the SHARE Guidelines as proposed. However, it should be noted that the current Medicare/Medicaid waiver does not permit reimbursement using a methodology other than payment by the case.

2. Comment: The entire minimum base period challenge should be eliminated.

Response: The minimum base period challenge is an integral aspect of the SHARE Methodology. The minimum base period challenge allows only for the hospital's approved costs adjusted for volume changes to be included in the hospital's rates. As such, the starting point for the rate year is the approved costs from the base year. To eliminate this step would seriously weaken the effectiveness of SHARE as a cost containment system.

3. Comment: The peer comparisons should be comprised of all New Jersey hospitals since only 19 hospitals will be statistically meaningful.

Response: The peer comparisons are considered meaningful since, for the most part, the hospitals have always been screened on a category basis (rehabilitation or specialized).

4. Comment: The peer comparisons for all ancillary services and subacute care should be based on only the eight Comprehensive Rehabilitation Hospitals.

Response: The Department does not see the need to re-define the rehabilitation category. All ancillary cost centers are already compared on a category basis. The daily costs in the subacute cost center should be comparable for both rehabilitation and specialty hospitals.

5. Comment: Admissions and patient days should not be used as a unit of service since they do not address the intensity of comprehensive rehabilitation hospitals. The use of procedures or relative value units (RVUs) would account for each hospital's intensity.

Response: The Department has utilized procedures and RVUs in the past. Those units of service have never produced accurate unit costs due to the hospitals varied interpretation as to how these units of service are calculated. The admission or patient day is normally reported in a consistent manner by all hospitals.

6. Comment: Since only specialized and rehabilitation hospitals will be reimbursed under the SHARE methodology, any references to the emergency room deficit, Rider J, or Radiology Fee-for-Service should be eliminated.

Response: Comment accepted, all references to the emergency room deficit, Rider J or Radiology Fee-for-Service will be eliminated.

Summary of changes between proposal and adoption follows:

Section 12 of the SHARE Manual, entitled "Reasonableness of Emergency Service Costs included in inpatient Rates", has been deleted. Therefore, Sections 13 through 18 are renumbered as 12 through 17. In the renumbered Section 15 entitled "Retroactive Adjustments" a reference to the above emergency costs is deleted. Any internal references to the renumbered sections have been changed to reflect these revisions.

Except where noted, all changes have been adopted as initially proposed.

OFFICE OF ADMINISTRATIVE LAW NOTE: The text of the SHARE regulations does not appear in the New Jersey Administrative Code and this amendment was not published full text in the New Jersey Register at 14 N.J.R. 887(a).

Full text of the proposal and changes between proposal and adoption may be inspected at:

Health Economics Services
New Jersey Department of Health
Room 600
Health-Agriculture Building
John Fitch Plaza
Trenton, NJ 08625

or

Office of Administrative Law
Administrative Filings
88 East State Street
Trenton, NJ 08625

(a)

HEALTH ECONOMICS SERVICES

Financial Elements and Reporting Regulation

Adopted Amendments: N.J.A.C. 8:31B-4.44 and 4.66

Proposed: September 7, 1982 at 14 N.J.R. 946(b).

Adopted: December 3, 1982 by Allen N. Koplin, M.D., M.P.H., Acting Commissioner, Department of Health (with the approval of the Health Care Administration Board).

Filed: December 6, 1982 as R.1982 d.449, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66(1978): October 17, 1984.

Summary of Public Comments and Department Responses:

1. Comment: Since the Health Care Administration Board, on October 8, 1982, voted to allow appeal of major moveable equipment interest and working capital interest regardless of which year the hospital entered Chapter 83, the Financial Elements should be changed to agree with the Procedural and Methodological Regulations. Hospitals successfully appealing such interest expense should have those amounts included as continuous adjustments.

Response: To be consistent with the Procedural and Methodological Regulations, the Financial Elements N.J.A.C. 8:31B-4.66(e) will be revised to allow appeals during any year under Chapter 83 for hospitals conditionally accepting or not accepting the Proposed Schedule of Rates. The determination of whether the adjustment, if any, is one time or continuous must be made during the appeals process since it is dependent upon the documentation provided.

2. Comment: The SHARE Regulations including the SHARE Actual forms should be incorporated into the Financial Elements and Reporting Regulations. This would allow one source document to be utilized in completing these forms. Further, there should be a detailed explanation of how each form should be completed, its purpose and how it will be utilized.

3. Comment: Eliminate all SHARE Actual submission forms for Chapter 83 hospitals.

4. Comment: The distinction between Case A, B, and C must be

clarified. Further elaboration on the matching of expense recovery with expense reported on SHARE Form C and C-5 should be provided with suggestions of methodologies to capture unsegregated expenses for such areas as transcription, copying, vending machines, and the like.

5. Comment: The document titled "Chapter 83, P.L. 1978, 1980 Final Reconciliation, A Case Study", should be incorporated in the Financial Elements and Reporting Regulations.

6. Comment: N.J.A.C. 8:31B-4.67(c) should include a clarification of the reporting criteria for Income and Investments of Board restricted funds.

7. Comment: The Financial Elements and Reporting Regulations should be alphabetized according to subject matter.

2.-7. Response: The initial proposal of the Financial Elements and Reporting Regulations solicited comments on N.J.A.C. 8:31B-4.44(b) and N.J.A.C. 8:31B-4.66(e). Comments 2-7 related to sections that were not initially proposed. In accordance with the Office of Administrative Law procedures, the Department cannot accept comments in areas that were not initially presented. Nevertheless, the Department believes that the industry has raised legitimate issues and will incorporate these ideas into the rate setting methodology. A complete review of the forms and reporting requirements is scheduled to begin in early 1983.

No adjustment at this time.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

8:31B-4.66 Administrative items

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

(e) Interest Expense for Major Moveable Equipment is excluded from Costs Related to Patient Care and treated as Case C. However, hospitals [receiving a PCB in 1980] *[during the first year under Chapter 83]* *under the "Conditional Accept" or "Not Accept" options (N.J.A.C. 8:31B-3.51(b)2., 3.)*, may appeal to the Commission, pursuant to 8:31B-3.63(c) to have this interest expense or the interest expense in (d) above included in their [1980] PCB.

A complete listing of all Public Comments and Agency Responses can be obtained from:

James R. Hub, Director
Health Economics Services
Department of Health
CN 360, Room 600
Trenton, NJ 08625

(b)

CONSUMER HEALTH SERVICES

Controlled Dangerous Substances Schedules Rescheduling of Methaqualone to Schedule I

Adopted Amendments: N.J.A.C. 8:65-10.1 and 10.2

Proposed: September 20, 1982 at 14 N.J.R. 1029(b).

Adopted: November 12, 1982 by Allen N. Koplin, M.D., M.P.H., Acting State Commissioner of Health.

Filed: December 6, 1982 as R.1982 d.450, without change.

Authority: N.J.S.A. 24:21-3.

Effective Date: December 20, 1982.

Operative Date: January 10, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): N.J.A.C. 8:65-10 is exempt from the Executive Order because N.J.S.A. 24:21-3d requires an annual update of schedules.

Summary of Public Comments and Agency Responses:

Comments: Three comments were received. One comment agreed with the proposal. Two comments were received from New Jersey based pharmaceutical wholesalers who agreed with the proposal but, because the companies did business with pharmacies in other states, claimed the proposal would hurt their ability to adequately provide full wholesale services to their out of state customers.

Response: The Department did not offer written responses. The comments by the wholesalers were considered insignificant to seriously affect sales to out of state accounts through the prohibition of one product. However, there is an overriding responsibility to protect the public from the abuse of Methaqualone.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Academic Personnel Policies Guide for New Jersey State Colleges

Adopted Amendment: N.J.A.C. 9:2-2.25

Proposed: September 7, 1982 at 14 N.J.R. 947(a).
Adopted: November 19, 1982 by New Jersey Board of Higher Education, T. Edward Hollander, Secretary and Chancellor.
Filed: December 2, 1982 as R. 1982 d. 444, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:3-14(h) and 18A:G6-172.

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66(1978): November 21, 1984.

Summary of Public Comments and Agency Responses:

The only comment received was from the Council of New Jersey State College Locals. The Council questioned how many waivers would be permitted to a faculty member under the rule. The Board responds that by its terms the rule limits waivers to one per individual. The Council questioned when a waiver would expire, at the end of the academic year or when the faculty member reached age 71. The Board responded by amending the rule to clarify that waivers are effective until the end of the academic year. The Council finally objected to an interpretation of the regulation which was not the subject of the amendment. The Agency did not therefore consider the comment.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks *thus*).

9:2-2.25 Retirement

(a) Faculty members **and administrators** shall be retired no later than June 30 of the college year during which they become 70 years

of age, or earlier at their opinion. **Upon the recommendation of the President of the college, the Board of Trustees may grant a one year waiver of the mandatory retirement until *June 30 of the year in which the individual reaches* age 71, when such waiver is deemed in the best interest of the college.**

(b) (No change.)

HUMAN SERVICES

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Services Manual List of Non-Legend Drugs, Hypodermic Syringes and/or Needles, and Legend Devices

Adopted Amendments: N.J.A.C. 10:51-1, Appendices B, C, and D

Proposed: October 18, 1982 at 14 N.J.R. 1142(a).
Adopted: December 2, 1982 by George J. Albanese, Commissioner, Department of Human Services.
Filed: December 6, 1982 as R. 1982 d. 458, **without change**.

Authority: N.J.S.A. 30:4D-6b, 7 and 7b and 4D-22.

Effective Date: December 20, 1982.

Operative Date: January 1, 1983.

Expiration Date pursuant to Executive Order No. 66 (1978): November 2, 1985.

Summary of Public Comments and Agency Responses:
No comments received.

(c)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hospital, Special Hospital, and Physicians' Manual Second Opinion for Certain Elective Surgical Procedures

Adopted Amendments: N.J.A.C. 10:52-1.3, 10:53-1.3, 10:54-1.2 and 10:54-3

Proposed: October 18, 1982 at 14 N.J.R. 1143(a).
Adopted: December 6, 1982 by George J. Albanese, Commissioner, Department of Human Services.
Filed: December 6, 1982 as R. 1982 d. 459, **without change**.

Authority: N.J.S.A. 30:4D-6a(1) and (5), and 30:4D-7 and 7b.

Effective Date: December 20, 1982.

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Operative Date: February 1, 1983.
Expiration Dates pursuant to Executive Order No. 66 (1978): N.J.A.C. 10:52-1, February 16, 1984; 10:53-1, June 16, 1984; 10:54-1, February 16, 1984; 10:54-3, June 5, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual Rounding; Absence Due to Uniformed Service

Readopted Amendments: N.J.A.C. 10:81-3.17 and 8.22

Proposed: October 18, 1982 at 14 N.J.R. 1168(a).
Adopted: December 1, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 1, 1982 as R.1982 d.441, **with a technical
change** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: December 1, 1982.
Expiration Date pursuant to Executive Order No. 66(1978):
N.J.A.C. 10:81-3.17, June 8, 1983; 10:81-3.22, June
14, 1984.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the change between proposal and adoption follows
(additions to proposal shown in boldface with asterisks ***thus***).

10:81-3.17 Continued absence of parent from the home
(a)-(b) (No change from proposal.)
(c) "Continued absence from the home" (see N.J.A.C. 10:81-
2.7(d)) may be for any reason. The following are some ***of the***
ways to establish absence:
1.-6. (No change from proposal.)
(d)-(g) (No change from proposal.)

(b)

DIVISION OF PUBLIC WELFARE

Assistance Standards Handbook Amendments Required by the Omnibus Budget Reconciliation Act of 1981

Adopted Amendments: N.J.A.C. 10:82-1.2, 1.4, 1.5, 1.7, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.8, 2.9, 2.10, 2.13, 2.19, 3.13, 4.1, 4.3, 4.4, 4.15 and 5.3

Proposed: September 7, 1982 at 14 N.J.R. 952(a).

HUMAN SERVICES

Adopted: December 1, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 1, 1982 as R.1982 d.443, **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. 44:7-6 and 44:10-3; P.L. 97-35 and
Chapter II of Title 45, Code of Federal Regulations
(FR Vol. 47, No. 25, 5648-5685).

Effective Date: December 20, 1982.
Expiration Date pursuant to Executive Order No. 66 (1978):
N.J.A.C. 10:82-1, 2, and 3, June 1, 1983; 10:82-4,
November 1, 1984; 10:82-5, December 6, 1983.

Summary of Public Comments and Agency Responses:
No comments received.

Summary of changes between proposal and adoption follows:

10:82-1.2(d)2: Cross-references have been added to clarify that
certain educational scholarships, grants, and loans and certain other
monies excluded by law are not considered in determining
maximum income eligibility.

10:82-1.7(b): A change has been made to reflect the fact that
funds formerly known as Basic Educational Opportunity Grants are
now known as Pell Grants and a minor language revision has been
made to make the policy more readily understood.

10:82-2.9(d): Language has been revised to provide that in cases
of self-employment of a stepparent, income disregards apply to the
net income from such activity.

10:82-2.19(a)3: Overpayment recovery method has been revised
to be a straight percentage of the AFDC allowance standard rather
than considering other income and liquid resources. This will not
affect the total amount recoverable but will, in certain instances,
reduce the monthly amount to be recovered.

10:82-2.19(a)4: The rule has been revised to provide that
recovery will be sought proportionately from both adults when one
or both are no longer in receipt of assistance.

10:82-3.13(b)1: Language has been revised to provide that in the
deeming of alien sponsor's income, disregards are applied to the net
earnings from self-employment rather than from gross earnings.

10:82-3.13(b)i: A correction has been made to provide an alien
sponsor an income deduction for persons residing in his or her
household who "could be" claimed by the sponsor as dependants
for Federal income tax purposes.

The remaining changes are purely technical in nature.

Full text of the changes between proposal and adoption follows
(additions to proposal shown in boldface with asterisks ***thus***;
deletions from proposal shown in brackets with asterisks ***[thus]***).

10:82-1.2 Schedules of allowances

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

(d) AFDC eligibility shall not exist **for any month** if the total
income of the eligible unit exceeds the amount indicated in
Schedule III for the appropriate eligible unit size and program
segment. For this purpose, total income shall include all income of
the eligible unit (without benefit of the disregards in N.J.A.C.
10:82-4.4 or 4.5) including the income of stepparents **and alien
sponsors** determined available to the eligible unit in N.J.A.C.
10:82-2.9 **and 3.13**. Total income includes the earned income of
the AFDC children. Child support payments, whether received
directly by the household or collected through the CSP process,
shall be counted in the determination of total income. [Total income
shall not include the AFDC payment.] (See N.J.A.C. 10:82-
2.13(f) for companion cases.)

1. (No change from proposal.)

2. **Funds exempted under N.J.A.C. 10:82-*1.7 and* 3.2(b)6**

***through 10* and monies disregarded under N.J.A.C. 10:82-4.6 shall not be considered income for this purpose.**

(No change on Schedule III – Maximum Income Levels.)

10:82-1.4 Eligible unit; AFDC-C and -F segments

(a)–(b) (No change from proposal.)

(c) A child [over 18 and under 21 who is not regularly attending school or formal vocational or technical training] **not meeting AFDC age requirements** is not eligible for AFDC-C or -F and shall not be included in the eligible unit. For determination of Medicaid eligibility for such children under ***the* age of 21**, see N.J.A.C. 10:82-2.10.

(d)–(e) (No change from proposal.)

10:82-1.7 Eligible AFDC child [over 18 and under 21] regularly attending school

(a) (No change from proposal.)

(b) Any [scholarship,] grant or student loan received by such child [, whether from Federal, State or other public or private source,] **in the form of a *[Basic Educational Opportunity Grant]* *Pell Grant*, Supplemental Educational Opportunity Grant, or National Direct Student Loan** shall be ***fully*** disregarded in computing the grant so long as the child continues to attend school as stated in [subsection] (a) **above** [of this section] and meets the conditions under which such moneys are granted. **Student loans from other sources are disregarded to the extent they meet the criteria of N.J.A.C. 10:82-3.2(b)8i(1). Other grants and scholarships shall be disregarded to the extent that the payment is used for expense directly related to education such as tuition, books, fees, equipment, transportation for school purposes, and child care services necessary for school attendance. Any *such* funds received which serve to duplicate the public assistance grant shall not be disregarded.**

1.–2. (No change from proposal.)

(c)–(d) (No change.)

10:82-2.9 Stepparents; AFDC-C and -F procedures

(a)–(c) (No change from proposal.)

(d) When a stepparent of eligible AFDC-C children lives in the same home as the children and is not included as a member of the eligible unit, his or her income shall be considered available to the eligible unit in accordance with the following procedures:

1. Reduce the stepparents' gross earned income ***(and net income from self-employment)*** by \$75.00 **(\$50.00 for part-time employment).**

2.–6. (No change from proposal.)

10:82-2.19 Overpayments and underpayments

(a) Upon discovery of an overpayment, the CWA shall take action as outlined in (a) of this section. The CWA shall seek recovery of all overpayments regardless of fault including overpayments caused by administrative action or inaction.

1.–2. (No change from proposal.)

3. In the circumstances of an overpayment to an eligible unit which is currently receiving assistance, the amount may be repaid by the eligible unit or the grant shall be reduced by an amount which is equal to 10 percent of the ***[total of the eligible unit's gross income, liquid resources, and the AFDC grant which would otherwise be payable]* *appropriate allowance standard for the family size***. The AFDC grant shall be reduced by this amount until such time as the full amount of the overpayment is recovered. If the grant is reduced to zero because of recovery, the eligible unit will continue to be considered in receipt of AFDC benefits. If the amount payable because of recovery is less than \$10.00, the AFDC check shall be issued in that lesser amount.

i. (No change from proposal.)

4. If an ***[individual]* *adult eligible unit member*** responsible

for an overpayment is no longer eligible or becomes a member of another assistance unit, recovery shall be sought from that individual. ***When two adults are responsible for an overpayment and one or both are no longer eligible, a proportionate share of the overpayment shall be assigned to each individual and recovery sought. In the event that a dependent child is responsible for the overpayment, recovery shall be sought from all members of the eligible unit.***

5–8. (No change from proposal.)

9. For overpayments ***[occurring]* *occurring* prior to October 1, 1981, the CWA shall recover only if the overpayment resulted from willful withholding of information by the recipient.**

(b)–(d) (No change from proposal.)

10:82-3.13 Deeming of sponsor's income and resources to a sponsored alien

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien [applicant] **applying for AFDC for the first time after September 30, 1981 for a period of three years following the alien's entry into the United States.** For purposes of this section, a sponsor is an individual (not an organization) who executed an affidavit of support or similar agreement on behalf of an alien (who is not the sponsor's **dependent child or spouse**) as a condition of the alien's entry into the United States. No income or resources shall be deemed from a sponsor who is **(or whose spouse is)** receiving AFDC or SSI.

1. These deeming provisions do not apply to any alien who is:

i. (No change from proposal.)

ii. **Admitted as a refugee to th*e* United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act;**

iii.–iv. (No change from proposal.)

(b) The amount of income of a sponsor which shall be deemed to be the unearned income of an alien shall be determined as follows:

1. The sponsor's **total** monthly ***[earned income]* *wages, salaries, and net earnings from self-employment* (and that of his*/[*] *or* her spouse if living with the sponsor) shall be reduced by 20 percent (not to exceed \$175.00) ***[plus the full amount of any costs incurred in producing income from self-employment]*.****

2. (No change from proposal.)

3. The amount determined in (b)2 above shall be reduced by the following:

i. The appropriate amount in Schedule I (N.J.A.C. 10:82-1.2) for the sponsor, spouse, and other persons residing in his*/[*] *or* her household who are ***or could be*** claimed by the sponsor as dependents for ***determination of*** Federal personal income tax liability and who are not recipients of AFDC ***[–C or –F]*;**

i.–iii. (No change from proposal.)

4. (No change from proposal.)

(c)–(g) (No change from proposal.)

10:82-4.1 General provisions

(a)–(b) (No change.)

(c) Earned income shall include the amount of Earned Income Credit advance payment which an individual receives or is entitled to receive.

1.–2. (No change from proposal.)

[2.]3. (No change in text from proposal.)

3. The CWA must reconcile at the end of the tax year any differences between the amount of EIC counted for AFDC purposes and the amount actually received by the recipients. Any underpayment or overpayment shall be treated in accordance with N.J.A.C. 10:82-2.19.*]

4.–5. (No change from proposal.)

10:82-4.15 Irregular or nonrecurring lump sum income

(a) When a recipient receives nonrecurring [payments] **income**

[that are not considered to be earned income] (e.g., retroactive RSDI payments, income tax refunds), [those payments] **that income** will be added together with all other [monthly] income received **that month** by the eligible unit after application of the disregards in N.J.A.C. 10:82-2.8 and 2.12 and the exemption of income in N.J.A.C. 10:82-4.7. When this total exceeds the AFDC allowance standards in Tables I or II as appropriate, the family will be ineligible for AFDC for the number of full months derived by dividing this total income by the allowance standard applicable to the eligible unit. Any remaining income **from this calculation** is treated as if it is **unearned** income received in the first month following the period of ineligibility and is considered available for use at that time.

1.-4. (No change from proposal.)

5. The period of ineligibility may be reduced only when it is found that a life-threatening circumstance exists. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record. The period of * [eneligibility]* *ineligibility* shall not be shortened unless the following criteria are met:

i. (No change from proposal.)

ii. The eligible unit must have no other income or resources sufficient to meet the life-threatening circumstance*[s]*.

(b) (No change from proposal.)

10:82-5.3 Child care

(a) (No change from proposal.)

(b) Child care may be provided when the county welfare agency determines that such care is essential because of any one or more of the following:

1. The parent or parent-person who normally cares for the child [is employed,] is in training *[the]* ***for*** employment or is in a program of vocational rehabilitation;

2. (No change from proposal.)

(c)-(h) (No change from proposal.)

(a)

DIVISION OF PUBLIC WELFARE

**Assistance Standards Handbook
Rounding; Prorating; and Absence Due to
Military Service**

**Readopted Amendments: N.J.A.C. 10:82-2.1,
2.2, 2.18, 2.20, 5.3, and 5.10**

Proposed: October 18, 1982 at 14 N.J.R. 1169(a).

Adopted: December 1, 1982 by George J. Albanese,
Commissioner, Department of Human Services.

Filed: December 1, 1982 as R.1982 d.440, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:7-6 and 44:10-3; Tax Equity and Fiscal Responsibility Act of 1982; 45CFR 233.20(a)(2)(iv), 233.20(a)(3)(viii), and 233.90(c)(1)(iii).

Effective Date: December 1, 1982.

Expiration Dates pursuant to Executive Order No. 66(1978): N.J.A.C. 10:82-2, June 1, 1983; 10:82-5, December 6, 1983.

Summary of Public Comments and Agency Responses:

A day care provider association commented that rounding AFDC day care payments down to the next lower whole dollar, as set forth at N.J.A.C. 10:82-5.3(c)6, would create a fiscal burden for day care providers by not adequately covering the cost of care. The Department consulted the Federal Department of Health and Human Services in this regard and it was agreed that AFDC payments for express obligations made in the form of a vendor payment are not subject to the new rounding rules and may be made for the full amount of obligation. A revision reflecting this policy change has been made.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

10:82-2.2 Initial grant

(a) When eligibility has been determined, the initial grant shall be computed as follows:

1. When the grant is effective on the first through the 10th day of the month, the full public assistance allowance shall be used in determining the amount of the initial grant, and all income available from the date of the grant until the end of the month shall be considered.

2. When the grant is effective on the 11th through the 20th day of the month, two thirds of the public assistance allowance shall be used in determining the amount of the initial grant, and all income available from the date of the grant until the end of the month shall be considered.

3. When the grant is effective after the 20th day of the month, 1/30th of the amount of the appropriate public assistance allowance multiplied by the number of days remaining in the month shall be used in determining the amount of the grant, and all income available from the date of the grant until the end of the month shall be considered.]

1. All income available from the date of application to the end of the month shall be considered*.*[and the amount otherwise payable]* *The countable income shall be subtracted from the appropriate monthly assistance standard and the result* shall be prorated by multiplying that amount by the factor appropriate for *the*** date of the application in the table below. If the result is not a whole dollar amount, the amount shall be rounded to the next lower whole dollar.**

Date of Application	Multiplication Factor	Date of Application	Multiplication Factor
1	1.000	16	.5000
2	.9666	17	.4666
3	.9333	18	.4333
4	.9000	19	.4000
5	.8666	20	.3666
6	.8333	21	.3333
7	.8000	22	.3000
8	.7666	23	.2666
9	.7333	24	.2333
10	.7000	25	.2000
11	.6666	26	.1666
12	.6333	27	.1333
13	.6000	28	.1000
14	.5666	29	.0666
15	.5333	30 and 31	.0333

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

10:82-5.3 Child care

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

(c) Further rules on child care expenses are:

1.-5. (No change from proposal.)

6. Any AFDC child care payments authorized under this section, if not a whole dollar amount, shall be rounded down to the next lower whole dollar *with the exception of vendor payments which shall be issued in the full amount authorized*.

(d)-(h) (No change from proposal.)

10:82-5.10 Emergency assistance

(a) (No change from proposal.)

(b) The following conditions must be observed with respect to all expenditures by the county welfare agency for which Federal and/or State matching is claimed under the classification of emergency assistance:

1.-2. (No change from proposal.)

3. Any emergency assistance authorized under this section, if not a whole dollar amount, shall be rounded down to the next lower whole dollar *with the exception of vendor payments which shall be issued in the full amount authorized*.

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

(a)

DIVISION OF PUBLIC WELFARE

Medical Assistance for the Aged

Adopted Repeal: N.J.A.C. 10:83

Proposed: October 4, 1982 at 14 N.J.R. 1081(a).
 Adopted: December 6, 1982 by George J. Albanese,
 Commissioner, Department of Human Services.
 Filed: December 7, 1982 as R.1982 d.460, **without change.**

Authority: N.J.S.A. 44:7-81 and 87.

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66 (1978):
 None.

Summary of Public Comments and Agency Responses:

Two comments were received. A letter from a county welfare agency acknowledging that in accordance with the Fiscal Year 1983 State Appropriations Act, the statutory basis for the proposal, extensive sections of the MAA manual are obsolete and should be repealed. The Department is in agreement with that observation.

A letter from a county legal services organization objected that operation of a program without regulations is impractical as well as illegal. It is the Department's position that since PRN-396 and PRN-397 are being concurrently processed, the program will at no time be without regulations.

(b)

DIVISION OF PUBLIC WELFARE

**Food Stamp Program
 Work Registration and Job Search**

**Adopted Amendments: N.J.A.C. 10:87-2.7,
 3.15 through 3.21**

Proposed: September 20, 1982 at 14 N.J.R. 1041(a).
 Adopted: November 23, 1982 by George J. Albanese,
 Commissioner, Department of Human Services.
 Filed: November 24, 1982 as R.1982 d.437, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4B-2.

Effective Date: December 20, 1982.

**Summary of Public Comments and Agency Responses:
 No comments received.**

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

10:87-3.18 Exemptions from the work registration requirement

(a) Exemptions to the work registration requirement shall be determined when the household applies or reapplies for benefits, when there is a change in the employment status of any member of the household, and/or when the six month registration period is initiated or renewed. The applicant shall cooperate fully with regard to the establishment of his or her exemption from the work registration requirement. If an applicant fails to cooperate in the determination of his or her exempt status, the county welfare agency shall require the applicant to ***[register on Form NJES-511B]* complete a work registration form.**

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

10:87-3.19 Additional registration requirements

(a) (No change from proposal.)

(b) (No change from proposal.)

1. (No change from proposal.)

i.-ii. (No change from proposal.)

iii. Category III - Exempt:

(1) The NJSES determination of exempt status shall be made at the time the work registration form is received from the CWA to preclude the need of such registrants to travel to the NJSES office for an interview, unless it is impossible for the NJSES office to determine exempt status from the information on the work registration form.

(2)-(3) (No change from proposal.)

2. Job search requirements: Persons classified as Category I - Job Ready or persons losing exempt status or reentering the Food Stamp Program after a period of absence shall be subject to and must comply with a job search for a period of eight weeks each 12 months. The NJSES office may require that the eight week period be one continuous period, or that *[if]**it*** be divided into two separate job search periods which total eight weeks.**

i.-ii. (No change from proposal.)

3. NJSES review of job contacts: NJSES shall determine if the work registrant has completed the assigned number of job contacts.

i.-iii. (No change from proposal.)

iv. If a registrant believes that a NJSES determination *is improper, review of the determination*** may be obtained from a designated NJSES official not involved in the original determination. For example, if the registrant believes he/she has been improperly assigned to a job search category or assigned an improper number of job search contacts, or that an action which should have been counted as a contact was not, a review may be obtained. This also applies to an NJSES determination that noncompliance was not for good cause.**

10:87-3.20 Failure to comply

(a) If the registrant fails to comply with any ***of the*** work registration or [work] job search requirement[s] provisions in this subchapter, **without good cause**, the appropriate NJSES office shall notify the county welfare agency[,] **within five working days of the date such information becomes known to the NJSES**, citing specific facts and circumstances, by means of [Form NJES-1] **an information report form. The NJSES office shall be**

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responsible for contacting the registrant if determine of good cause existed:

(b) (No change from proposal.)

(c) Good cause for non[-]compli*[c]*ance: The NJSES *office* shall be responsible for determining good cause in those instances where the work registrant fails to comply with the work registration and job search requirements of this subchapter. The CWA shall determine good cause in those cases where an applicant has voluntarily quit a job (see N.J.A.C. 10:87-3.19(a)3iii). [In the determination of good cause.] NJSES and the county welfare agency shall take into consideration all of the facts and circumstances which existed at the time of the registrant's alleged failure to comply including information submitted by [NJSES,] the employer and the household member involved. [Only those] Good cause shall include circumstances [which can be construed as being] beyond the control of the registrant [, shall be considered good cause for noncompliance].

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

(a)

DIVISION OF PUBLIC WELFARE

**Food Stamp Program
Standard Utility Allowance, Maximum
Coupon Allotment Table, and Monthly
Coupon Allotment Formula**

**Readopted Amendments: N.J.A.C. 10:87-12.1,
12.2, and 12.6**

Proposed: October 18, 1982 at 14 N.J.R. 1170(a).
Adopted: December 1, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 1, 1982 as R.1982 d.442, **with technical
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4B-2.

Effective Date: December 1, 1982.
Expiration Date pursuant to Executive Order No. 66 (1978):
March 1, 1984.

**Summary of Public Comments and Agency Responses:
No comments received.**

Full text of the changes between proposal and adoption follows
(additions to proposal shown in boldface with asterisks ***thus***).

10:87-12.1 Income deduction table

TABLE *I*
Income Deductions

Standard Deduction	\$ 85.00
Child Care/Shelter Deduction	\$ 115.00
Uniform Telephone Allowance	\$ 8.36
Standard Utility Allowance	\$[179.00] 286.00

10:87-12.2 Maximum coupon allotment table

TABLE II
Maximum Coupon Allotment (MCA)

Household Size	MCA
1	\$[70] 75
2	[128] 139
3	[183] 199
4	[233] 253
5	[277] 300
6	[332] 360
7	[367] 398
8	[419] 455
9	[472] 512
10	[525] 569
Each Addition Member	* + * [53] 57

10:87-12.6 Monthly coupon allotment
(a) The formula for determining the monthly coupon allotment follows:
1. Benefit determination without the tables: To det*e*rmine the benefit households shall receive:
i.-v. (No change from proposal.)

(b)

DIVISION OF PUBLIC WELFARE

**Medicaid Only Manual
Medical Assistance for the Aged
Continuation**

Adopted New Rule: N.J.A.C. 10:94-9

Proposed: October 4, 1982 at 14 N.J.R. 1084(a).
Adopted: December 6, 1982 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: December 7, 1982 as R.1982 d.461, **without
change.**

Authority: N.J.S.A. 44:7-81 and 87.

Effective Date: December 20, 1982.
Expiration Date pursuant to Executive Order No. 66 (1978):
December 20, 1987.

Summary of Public Comments and Agency Responses:

Two comments were received. A letter from a county welfare agency objected to the absence in the proposed new rule of income and resource eligibility standards. It is the Department's position that under the Fiscal Year 1983 Appropriations Act, the statutory basis for the rule, there is no support for the insertion of such standards since continued eligibility is based solely upon continued medical need and lack of eligibility for any other program through which the cost of medical care is provided.

A letter from a county legal services organization objected to the absence of instruction to the county welfare agencies to continue

in the processing of applications. We infer that the reference is to those applications which were pending at the close of business on June 30, 1982. These regulations do not provide any instructions one way or another with respect to those applications. Consequently the adoption of the regulation will not prejudice the rights of anyone. If indeed pending applications, upon further Departmental/judicial review of the matter, are to be considered, no change in the regulation will be needed; an interpretation of the words "...in certified status..." in subsection 9.2(a) will suffice.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

**Alternate Benefit Program
Salary Deductions and Salary Reduction
Agreements**

Adopted Amendment: N.J.A.C. 17:1-2.3

Proposed: October 18, 1982 at 14 N.J.R. 1149(a).
Adopted: November 24, 1982 by William J. Joseph,
Director, Division of Pensions.
Filed: November 30, 1982 as R.1982 d.438, **without
change.**

Authority: N.J.S.A. 18A:66-192.

Effective Date: December 20, 1982.

**Summary of Public Comments and Agency Responses:
No comments received.**

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

**Transfer Inheritance Tax
Pre-Audit Payment of Inheritance Tax**

Adopted Amendment: N.J.A.C. 18:26-8.7

Proposed: October 18, 1982 at 14 N.J.R. 1153(a).
Adopted: December 1, 1982 by Sidney Glaser, Director,
Division of Taxation.
Filed: December 3, 1982 as R.1982 d.445, **without
change.**

Authority: N.J.S.A. 54:50-1.

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66(1978):
August 15, 1983.

**Summary of Public Comments and Agency Responses:
No comments received.**

OTHER AGENCIES

(c)

NEW JERSEY TURNPIKE AUTHORITY

**Traffic Control
Limitation on Use of Turnpike**

Adopted Amendment: N.J.A.C. 19:9-1.9

Proposed: October 4, 1982 at 14 N.J.R. 1087(a).
Adopted: November 30, 1982 by William J. Flanagan,
Executive Director New Jersey Turnpike Authority.
Filed: December 6, 1982 as R.1982 d.448, **without
change.**

Authority: N.J.S.A. 27:23-29.

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66 (1978):
July 27, 1983.

**Summary of Public Comments and Agency Responses:
No comments received.**

(d)

NEW JERSEY TURNPIKE AUTHORITY

**Construction Contracts Executive Director as
Hearing Officer**

Adopted Amendment: N.J.A.C. 19:9-2.1

Proposed: September 7, 1982 at 14 N.J.R. 974(a).
Adopted: November 30, 1982 by William J. Flanagan,
Executive Director, New Jersey Turnpike Authority.
Filed: December 6, 1982 as R.1982 d.446, **without
change.**

Authority: N.J.S.A. 27:23-29.

Effective Date: December 20, 1982.

Expiration Date pursuant to Executive Order No. 66(1978):
July 27, 1983.

**Summary of Public Comments and Agency Responses:
No comments received.**

(e)

NEW JERSEY TURNPIKE AUTHORITY

Fees for Photographs and Slides

Adopted Amendment: N.J.A.C. 19:9-4.2

Proposed: September 7, 1982 at 14 N.J.R. 974(b).

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OTHER AGENCIES

Adopted: November 30, 1982 by William J. Flanagan,
Executive Director, New Jersey Turnpike Authority.
Filed: December 6, 1982 as R.1982 d.447, **without
change.**

Authority: N.J.S.A. 27:23-29.

Effective Date: December 20, 1982.
Expiration Date pursuant to Executive Order No. 66 (1978):
July 27, 1983.

Summary of Public Comments and Agency Responses:
No comments received.

EMERGENCY ADOPTIONS

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Homestead Rebate Act Extension of Time to File Homestead Rebate Claim

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 18:12-7.12

Emergency Amendment Adopted: November 30, 1982 by
Sidney Glaser, Director, Division of Taxation.
Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)):
November 30, 1982.
Emergency Amendment Filed: November 30, 1982 as
R.1982 d.439.

Authority: N.J.S.A. 54:4-3.80 and 54:50-1.

Emergency Amendment Effective Date: November 30,
1982.
Emergency Amendment Expiration Date: February 1,
1983.

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before January 19, 1983.
These submissions, and any inquiries about submissions and
responses, should be addressed to:

Sidney Glaser, Director
Division of Taxation
West State and Willow Streets
Trenton, NJ 08646

This amendment was adopted on an emergency basis and became
effective upon acceptance for filing by the Office of Administrative
Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-
4.4). Concurrently, the provisions of this emergency amendment
are being proposed for readoption in compliance with the normal
rulemaking requirements of the Administrative Procedure Act,
N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective
upon acceptance for filing by the Office of Administrative Law (see
N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1982-525.

The agency emergency adoption and concurrent proposal
follows:

Summary

On November 30, 1982, Sidney Glaser, Director of the Division
of Taxation in the Department of the Treasury, pursuant to the
authority of N.J.S.A. 54:4-3.80 and 54:50-1 and the applicable
provisions of the Administrative Procedure Act, and upon
certification by the Governor of the State of New Jersey that an
imminent peril exists (see N.J.S.A. 52:14B-41(c)), adopted an
emergency amendment to N.J.A.C. 18:12-7.12 concerning an
extension of time to file an Application for Homestead Rebate.

To respond to the imminent peril, a change in the rule is being
made to insure that approximately 200,000 persons be given
additional time to file an Application for Homestead Rebate.
Without this adoption, a large number of persons would forfeit their
right to an average of \$180.00 per Claim for Homestead Rebate.
This additional time is given to people who for some reason did not
file their application prior to December 1, 1982.

Social Impact

This Emergency Rule will only affect approximately 200,000
property owners who failed to file a timely Application for
Homestead Rebate.

Economic Impact

The economic impact upon the general treasury of the State of
New Jersey will approximate 200,000 applications at an average of
\$180.00 each.

Full text of the emergency adoption and concurrent proposal
follows (additions indicated in boldface **thus**).

18:12-7.12 Extension of filing date

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

**(f) The time for property owners to file their applications for
a Homestead Rebate payable in 1983 pursuant to P.L. 1976,
c.72, including applications by shareholders in cooperative
associations and those residing in properties of certain mutual
housing corporations, has been extended to January 15, 1983.**

MISCELLANEOUS NOTICES

CIVIL SERVICE

(a)

Petition for Rulemaking

Review of Provisional Terminations

Petitioner: Ms. Peggy Wilbur
 Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that Ms. Peggy Wilbur has filed a petition to amend N.J.A.C. 4:1-16.8(b). Petitioner requests that subsection (b) be deleted and replaced with a provision which entitles provisional employees who are terminated to be furnished with the reasons for termination, to have the Civil Service Commission review provisional terminations for cause, and to review the budgetary records of the appointing authority.

Department of Civil Service response: Court decisions have held that provisional employees such as Ms. Wilbur serve at the pleasure of their employers with no hearing right to the Civil Service Commission. See, e.g., *Williams v. Civil Service Commission*, 66 N.J. 152 (1974); *Grexa v. State*, 168 N.J. Super. 202 (App. Div. 1978). Further, while petitioner relied on N.J.S.A. 11:2A-1, the general appeals section, N.J.S.A. 11:15-1 *et seq.*, which deals specifically with State Service, has been viewed as concerning only permanent employees or those in their work test period. Therefore, the Department of Civil Service has not extended hearing rights to provisional employees as contemplated by the rule proposal. In addition, the petition for a review of agency budgets is not a general matter for regulation by the department.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF COASTAL RESOURCES

Coastal Management Program: Coastal Resource and Development Policies

Public Notice

The National Oceanic and Atmospheric Administration's Office of Coastal Zone Management (NOAA) has determined that the adoption by DEP of the following amendments to the Department of Environmental Protection's Rules on Coastal Resource and Development Policies (N.J.A.C. 7:7E) constitutes a "Routine Program Implementation" of New Jersey's Coastal Management Program. That term is defined at 15 CFR 923.84 as a program change which does not involve "substantial changes in . . . or to enforceable policies related to: (1) boundaries; (2) uses subject to the management program; (3) criteria or procedures for designating

or managing areas of particular concern or areas for preservation or restoration; and (4) consideration of the national interest involved in the planning for and in the siting of, facilities which are necessary to meet requirements which are other than local in nature."

The following changes to the Rules on Coastal Resource and Development Policies are affected by this finding. Each rule was formally proposed and adopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.* The effective date of each rule change is indicated in parentheses.

7:7E-3.21 to 3.24 Beach and Dune System (June 4, 1981).

7:7E-3.42 Special Urban Areas (June 4, 1981).

7:7E-7.2(h) High Rise Housing (June 4, 1981).

7:7E-8.15 Buffers and Compatibility of Uses (June 4, 1981).

7:7E-3.33 Steep Slopes (April 19, 1982).

7:7E-3.37 Endangered or Threatened Wildlife or Vegetation Species Habitat (April 19, 1982).

7:7E-4.10 Man-Modified Harbors (April 19, 1982).

7:7E-5.4 Environmental Sensitivity (April 19, 1982).

7:7E-5.5(b) Residential Development Potential (April 19, 1982).

7:7E-8.7 Runoff (April 19, 1982).

The Division of Coastal Resources informed interested members of the public that it considered these amendments to be Routine Program Implementation, by a notice dated March 24, 1982. The State of New Jersey received notification of NOAA's determination by letter dated September 3, 1982.

The Federal Consistency provisions of Section 307 of the Federal Coastal Zone Management Act apply to these rules, as amended, as of the date of this notice.

At the same time that NOAA determined that these amendments constitute Routine Program Implementation, it also determined that an amendment to the Wetlands Buffer policy, N.J.A.C. 7:7E-3.27 (adopted June 4, 1981), constitutes an "amendment" to New Jersey's Coastal Management Program. NOAA has, therefore, published a notice of this determination in the October 4, 1982 *Federal Register* (47 FR 43759).

HUMAN SERVICES

(a)

THE COMMISSIONER

Regulatory Review Comments Invited Regarding Department Regulations

Public Notice

Take notice that the Department of Human Services as part of its Regulatory Review hereby officially gives public notice that the Department invites public comment regarding all Department Rules and Regulations (Title 10 of the New Jersey Administrative Code). The Department's Regulatory Review is being conducted in conjunction with Rutgers University which has assigned professors on an as-needed basis for this project. The experience and expertise which the Rutgers professors bring to this Regulatory Review will be most beneficial.

Public comment is specifically sought regarding existing Department Rules and Regulations which may be perceived as being **not** necessary, adequate, reasonable, efficient, understandable or responsive to the purposes for which they were promulgated. As the expiration of certain rules approaches, these evaluations are sought pursuant to Executive Order No. 66.

With regard to all pre-proposals or proposed rules please note that Department practice provides for the public opportunity to be heard during an official 30 day comment period following publication of the notice in the New Jersey Register. This is in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30).

Interested persons may submit in writing, data, views or arguments relevant to this public notice on or before February 20, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Raymond Castro
Office of Intergovernmental Relations
Department of Human Services
222 South Warren Street
CN 700
Trenton, NJ 08625

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between December 7, 1981 and December 6, 1982, and which have not been adopted and filed by December 6, 1982. 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			
1:1-2.2	Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 486(a)
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
1:1-5.2, 5.3	Pre-hearing information	6-21-82	14 N.J.R. 607(a)
1:1-9.1, 9.2, 9.6 9.7, 13.2, 13.3, 14.5	Interlocutory review and emergency relief	11-1-82	14 N.J.R. 1182(a)
1:1-17.3	Return of cases	1-4-82	14 N.J.R. 4(b)
1:6A	Special Education Program hearing rules	9-7-82	14 N.J.R. 930(a)
1:20	Representation fee hearings before PERC Appeal Board	8-16-82	14 N.J.R. 862(a)
1:30	Agency rulemaking	8-2-82	14 N.J.R. 780(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
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3:6-9	Super NOW deposit accounts	8-2-82	14 N.J.R. 786(a)
3:6-13	Automated teller machines	11-15-82	14 N.J.R. 1246(a)
CIVIL SERVICE--TITLE 4			
4:1-7.11	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-10.1, 10.2, 10.3, 10.5	Noncompetitive and labor titles	11-1-82	14 N.J.R. 1186(a)
4:1-12.10	Notifying eligibles of certification	9-7-82	14 N.J.R. 940(a)
4:1-15.2	Lateral title change	9-7-82	14 N.J.R. 940(b)
4:1-16.1-16.5	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-16.1-16.5	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-18.2, 18.6-18.8	Hours of work and compensation	9-7-82	14 N.J.R. 938(a)
4:1-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:1-24.1, 24.3-24.12	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:1-24.1, 24.3-24.12	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:1-25.1	Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:2-6.8, 10.1, 10.2	Repeal: Noncompetitive and labor titles	11-1-82	14 N.J.R. 1186(a)
4:2-7.1	Compensation for NL4 designated titles	2-16-82	14 N.J.R. 184(a)
4:2-7.1	Repeal: Hours of work	9-7-82	14 N.J.R. 938(a)
4:2-15.2	Repeal: Lateral title change	9-7-82	14 N.J.R. 940(b)
4:2-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:2-18.4	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:2-20.12	Repeal: Public inspection of records	9-7-82	14 N.J.R. 942(a)
4:3-6.9	Repeal: Noncompetitive and labor titles	11-1-82	14 N.J.R. 1186(a)
4:3-16.1, 16.2	Layoffs and demotions	2-16-82	14 N.J.R. 184(a)
4:3-16.1, 16.2	Senate Concurrent Resolution: Layoffs and demotions	2-16-82	14 N.J.R. 298(a)
4:3-18.1	Repeal dual employment rules	9-7-82	14 N.J.R. 941(a)
4:6	Overtime Committee Rules	10-18-82	14 N.J.R. 1126(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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5:11-9.2	Parties to relocation assistance hearing	11-1-82	14 N.J.R. 1188(a)
5:23	Readopt Uniform Construction Code	11-15-82	14 N.J.R. 1247(a)
5:23-5.11(d)	Uniform Construction Code: Licensing	7-19-82	14 N.J.R. 734(a)
5:23-3.14, 3.15	Building and plumbing subcode supplements	12-6-82	14 N.J.R. 1326(a)
5:23-4.20	Uniform Construction Code: Periodic inspection fees	10-18-82	14 N.J.R. 1129(a)
5:27-5.1	Fire drills in rooming houses	11-15-82	14 N.J.R. 1248(a)
5:30-10.1, 10.2	Local Finance Board: Municipal port authorities	8-2-82	14 N.J.R. 786(b)
5:80-2	Housing Finance Agency project conversions	4-5-82	14 N.J.R. 301(b)
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6:11-3.3	Fees for certificates and transcript evaluation	11-1-82	14 N.J.R. 1188(b)
6:11-3.12, 4.7	County substitute certification: School nurse, athletic coach	9-20-82	14 N.J.R. 1010(a)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:11-8.1, 8.2, 8.4 8.8, 8.9-8.13	Minimum standards for teacher education	4-5-82	14 N.J.R. 305(a)
6:11-10.2, 10.4, 10.7-10.9	Administrative certification	6-21-82	14 N.J.R. 614(a)
6:29-6.3	County Substitute certification: Athletic coach	9-20-82	14 N.J.R. 1010(a)
6:79-1.9, 1.11	Child nutrition program changes	11-15-82	14 N.J.R. 1248(b)
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7:1A-3	Emergency interim repair of water systems	10-4-82	14 N.J.R. 1075(b)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:1H-3.4	County fees for solid waste enforcement activities	12-6-82	14 N.J.R. 1328(a)
7:7-2.2, 2.6-2.9, 2.11, 2.15	"Repair" of waterfront structures; removal of unauthorized fill; permit duration	7-6-82	14 N.J.R. 679(b)
7:7A-1.13	Wetlands maps in Cape May County	12-6-82	14 N.J.R. 1330(a)
7:7E-5.3, 5.6, 5.7	Coastal resource and development	10-18-82	14 N.J.R. 1129(b)
7:8	Storm water management	12-21-81	13 N.J.R. 916(a)
7:8	Storm water management	9-20-82	14 N.J.R. 1022(a)
7:13-1.11	Floodway delineations within Bass River Basin	7-6-82	14 N.J.R. 683(b)
7:13-1.11	Floodway delineations within Atlantic Basin	7-19-82	14 N.J.R. 736(a)
7:13-1.11	Floodway delineations in Essex County	9-20-82	14 N.J.R. 1027(a)
7:13-1.11	Floodway delineations in Somerset and Union counties	10-18-82	14 N.J.R. 1131(a)
7:13-1.11	Floodway delineations in Hunterdon County	10-18-82	14 N.J.R. 1131(b)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	10-18-82	14 N.J.R. 1134(a)
7:13-1.11	Floodway delineations in Ocean-Monmouth Counties	11-1-82	14 N.J.R. 1189(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14A-1.8, 1.9	Fee schedule for NJPDES permittees	7-6-82	14 N.J.R. 684(a)
7:14A-1.9, 5.11, 5.13, 5.15, 5.16	Water quality: Underground injection control	10-18-82	14 N.J.R. 1136(a)
7:14A-4.2, 4.3	Hazardous waste management	10-18-82	14 N.J.R. 1137(a)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:25-9.1	Taking of hard clams: Size tolerance control	7-6-82	14 N.J.R. 689(a)
7:25-15.1	Relay of hard clams (with Emergency Adoption)	9-20-82	14 N.J.R. 1055(a)
7:25-22.1	Marine finfish: Menhaden season	9-7-82	14 N.J.R. 945(a)
7:26-1.4, 2.9, 2.13	Sanitary landfill closure	8-16-82	14 N.J.R. 883(a)
7:26-4.10	County fees for solid waste enforcement activities	12-6-82	14 N.J.R. 1328(a)
7:26-7.4, 7.5, 8.15	Waste oil management as hazardous material	1-4-82	14 N.J.R. 20(a)
7:26-15	Correction: Grants and loans for solid waste recycling	12-21-81	13 N.J.R. 950(b)
7:26-15.8	Recycling grants and loans: Supplementary projects	12-6-82	14 N.J.R. 1346(a)
7:30	State Pesticide Control Code (see 14 N.J.R. 1385(a))	8-2-82	14 N.J.R. 787(a)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
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8:21-3.25	Sale and possession of nitrous oxide	11-1-82	14 N.J.R. 1190(a)
8:21-12	Nonalcoholic beverages and bottled water	11-15-82	14 N.J.R. 1265(a)
8:24	Retail food establishments; vending machines	6-7-82	14 N.J.R. 509(a)
8:25-6.12	Youth camp certification fees	11-1-82	14 N.J.R. 1191(a)
8:30-1.4	Health care facilities licensure fees	11-15-82	14 N.J.R. 1273(a)
8:31-25.1	Mobile intensive care paramedics: Approved drugs	12-6-82	14 N.J.R. 1331(a)
8:31-26.3	All health care facilities: Employee physicals	11-15-82	14 N.J.R. 1274(a)
8:31-26.5	Licensure fees	11-15-82	14 N.J.R. 1273(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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8:37-4.7	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:39-1.4	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:42-1.4, 2.4	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:42A-2.2	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43-1.4	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43A-1.5	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43B-1.8	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:43B-8.3, 8.6	Hospital facilities: Maternal and newborn services	11-15-82	14 N.J.R. 1276(a)
8:43F-2.3	Licensure fees	11-15-82	14 N.J.R. 1273(a)
8:57-1.1	Reportable diseases	11-15-82	14 N.J.R. 1277(a)
8:65-1.1	Controlled dangerous substances: Registration fees	11-1-82	14 N.J.R. 1191(b)
8:70-1.4	Resubmission of rejected generic drug products	9-20-82	14 N.J.R. 1030(a)
8:71	Additions to generic drug list (see 14 N.J.R. 389(c), 655(b), 1159(a))	1-4-82	14 N.J.R. 22(a)
8:71	Additions to generic drug list (see 14 N.J.R. 836(a), 1160(a))	4-19-82	14 N.J.R. 369(a)
8:71	Additions to generic drug list (see 14 N.J.R. 1160(b), 1392(a))	7-6-82	14 N.J.R. 690(a)
8:71	Steri-med 50mg hydrochlorothiazide tabs	8-16-82	14 N.J.R. 887(b)
8:71	Generic drug list additions	8-16-82	14 N.J.R. 888(a)
8:71	Generic drug list deletions	9-20-82	14 N.J.R. 1030(b)
8:71	Additions to generic drug list	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes	11-15-82	14 N.J.R. 1278(a)
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9:2-13.1-13.12	State college auxiliary organizations	10-18-82	14 N.J.R. 1141(a)
9:4-1.2, 2.14	Branch campuses and off-campus facilities	4-19-82	14 N.J.R. 370(a)
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10:44A	Group homes and supervised apartments for developmentally disabled	6-7-82	14 N.J.R. 531(a)
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10:49-1.24	Medical day care in hospital-affiliated facilities	12-6-82	14 N.J.R. 1332(a)
10:49-1.27	LTC: "Field audit" defined	9-20-82	14 N.J.R. 1031(a)
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10:51-1.14, 1.17	Pharmaceutical Services Manual: Fees and delivery	12-6-82	14 N.J.R. 1336(a)
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10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:63-1.16	Agency response to petition: Long-term care of psychiatric patients	4-5-82	14 N.J.R. 321(a)
10:63-1.22	LTC: "Field audit" defined	9-20-82	14 N.J.R. 1031(a)
10:63-3.2	LTC: Related-party lease costs	7-19-82	14 N.J.R. 742(a)
10:63-3.10	LTC: Capital Facilities Allowance rate	7-19-82	14 N.J.R. 743(a)
10:63-3.20	Long-term care facilities: Reimbursement appeals	3-15-82	14 N.J.R. 269(a)
10:65-1.2-1.8, 2.1, 2.4-2.7	Medical day care	12-6-82	14 N.J.R. 1332(a)
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10:66-1.6, 3.3	Personal care services	7-6-82	14 N.J.R. 695(a)
10:66-3.3	Independent Clinic Services: Procedure code revisions	12-6-82	14 N.J.R. 1339(a)
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10:81-5.2	PAM: Periodic redetermination	12-6-82	14 N.J.R. 1341(a)
10:85-2.2	Local assistance board appointments	10-18-82	14 N.J.R. 1144(a)
10:85-3.1, 3.3	GAM: AFDC ineligible	12-21-81	13 N.J.R. 926(a)
10:85-3.3	GAM: Residential health care rates	8-16-82	14 N.J.R. 894(a)
10:85-3.4	GAM: AFDC ineligible	12-21-81	13 N.J.R. 926(a)
10:85-4.6	GAM: Emergency house furnishings	12-6-82	14 N.J.R. 1342(a)
10:85-6.5	GAM: Reimbursement authorization and repayment agreement	12-6-82	14 N.J.R. 1342(b)
10:87-2.4, 2.7, 2.8,	Extension of food stamp eligibility	9-20-82	14 N.J.R. 1037(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
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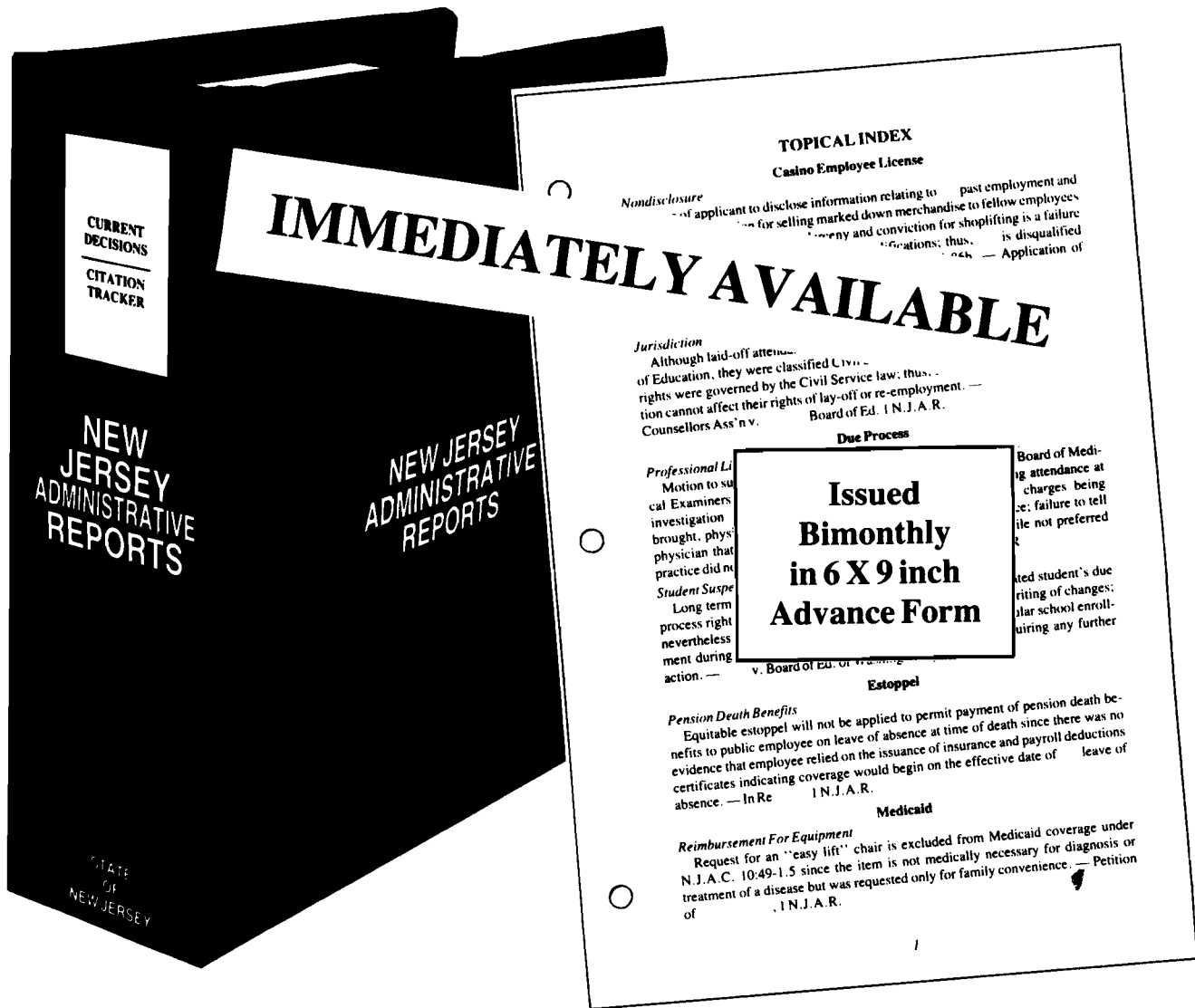
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19:17	Appeal Board on representation fees	8-16-82	14 N.J.R. 903(a)
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19:45-1.39	Resetting of progressive slot machines	9-20-82	14 N.J.R. 1053(a)

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19:46-1.16, 1.18	Use of cards and dice	8-2-82	14 N.J.R. 829(a)
19:46-1.17	Use of cards in baccarat	7-19-82	14 N.J.R. 754(a)
19:46-1.19	Blackjack equipment	6-7-82	14 N.J.R. 559(b)
19:47-2.1	Exclusion of card counting in blackjack	5-17-82	14 N.J.R. 467(a)
19:47-2.1-2.7	Blackjack play and wagering (see 14 N.J.R. 841(b), 991(a))	6-7-82	14 N.J.R. 559(b)
19:47-2.2	Correction: Double shoe in blackjack		14 N.J.R. 832(a)
19:47-2.5	"Shuffle-at-will" in blackjack	5-17-82	14 N.J.R. 469(a)
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19:47-2.16-2.19	Card counting exclusion	5-17-82	14 N.J.R. 467(a)
19:47-2.20-2.22, 5.7	Blackjack play and wagering (see 14 N.J.R. 841(b))	6-7-82	14 N.J.R. 559(b)

The following rules were proposed in the New Jersey Register, but have not been timely adopted and therefore have expired pursuant to N.J.A.C. 1:30-4.2(c).

3:1-2.20	Savings and loan branches	11-2-81	13 N.J.R. 714(a)
10:49-1.23	Documentation of services	11-2-81	13 N.J.R. 738(b)
10:56-1.14, 3.4	Diagnostic dental services	12-7-81	13 N.J.R. 875(a)
10:63-1.4	Long-term care services	11-2-81	13 N.J.R. 740(a)
10:63-1.16	Psychiatric patients	11-16-81	13 N.J.R. 813(a)
10:85-5.1	MWD and GA funds	11-16-81	13 N.J.R. 814(a)
13:30-6.9	Oral hygiene schools	12-7-81	13 N.J.R. 880(a)
13:35-12	Schedule II narcotics	11-16-81	13 N.J.R. 815(a)
13:44A-8	Uniform testing process	11-16-81	13 N.J.R. 816(a)
13:44A-9	Uniform complaint procedures	11-16-81	13 N.J.R. 817(a)
14:9-6	Water and sewer property	11-2-81	13 N.J.R. 744(a)

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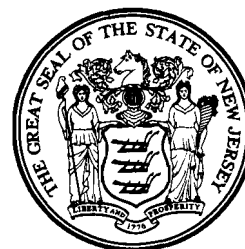
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