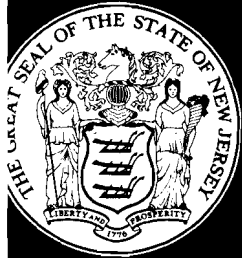


NEW JERSEY



REGISTER

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The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 111 for the Registers that should be retained as an update to the Administrative Code.

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Grades and Standards Charges

Proposed Amendments: N.J.A.C. 2:71-2.28, 2.29 and 2.31

Authorized By: Philip Alampi, Secretary, Department of Agriculture.
 Authority: N.J.S.A. 4:10-6 and 4:10-13.

Interested persons may present in writing, or orally in person or by telephone, data, views or arguments relevant to the proposal on or before February 17, 1982. These presentations and any inquiries about submissions and responses, should be addressed to:

Mr. Robert C. Fringer
 Division of Regulatory Services
 New Jersey Department of Agriculture
 CN 330
 Trenton, New Jersey 08625
 (Telephone: 609-292-5575)

The Department of Agriculture 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 1982-26.

The agency proposal follows:

Summary

The proposed amendments update the fees charged for the inspection and grading of farm products in accordance with standards established and promulgated by the Department. Inspection and grading services are provided to applicants pursuant to their request. Recipients of the services voluntarily agree to pay the fees for such charges prior to requesting the Department's inspection and classification.

Social Impact

This amendment has no social impact since there is no change in the scope of services.

Economic Impact

The economic impact on the users of these services will be minimal. The Department must maintain the program on a "break-even

NEW JERSEY REGISTER

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Brendan T. Byrne, Governor

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basis" if it is to continue to offer these services to the users. The fees, having remained constant for the past two years, will be increased approximately four percent.

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

2:71-2.28 Charges for inspection or grading and certification services; written agreements

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to a written agreement between the New Jersey Department of Agriculture and the requestor of the services, shall be made according to the following schedule:

1. Basic schedule for all products:
 - i. A charge of [\$290.00] **\$300.00** per five day week (Monday through Friday) of 40 hours or less for each inspector;
 - ii. A charge of [\$10.88] **\$11.25** per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;
 - iii. There will be at least a four hour minimum charge or [\$43.52] **\$45.00** assessed for each inspector assigned work on Saturday and/or Sunday;
 - iv. A charge of [\$12.25] **\$13.50** per hour, or portion thereof for the actual hours worked by each inspector on legal State holidays occurring Monday through Friday;
 - v. (No change.)
2. Charges for inspection or grading and certification of fruit and vegetables other than potatoes for the fresh market;
 - i. A charge of \$0.02 will be made for all packages inspected or graded and certified in excess of [4,140] **4,285** packages during the seven day week (Saturday through Friday).
3. Charges for inspection or grading and certification of potatoes for the fresh market:
 - i. A charge of \$0.03 per hundredweight for all hundredweights inspected or graded and certified in excess of [3,625] **3,750** hundredweights during the seven day week (Saturday through Friday).

2:71-2.29 Charges; oral agreements; trailer, car, warehouse and storage lots

(a) Charges for inspection or grading and certification services performed pursuant to an oral agreement between the New Jersey Department of Agriculture and the requestor, for all trailer, car, warehouse and storage lots, shall be made according to the schedule detailed below. A minimum of [\$11.00] **\$12.00** for inspection or grading and certification services shall be charged. However, if the conditions listed in N.J.A.C. 2:71-2.30 are met, the charges shall be calculated according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31.

- 1.-4. (No change.)
5. Delayed inspections: Delayed inspections are those inspections requiring more than two hours to complete (exclusive of travel time) due to delays of any kind not attributable to the inspector. Additional charges for delayed inspections shall be assessed according to the following schedule:
 - i. [\$6.00] **\$7.00** per hour, in half hour increments.

2:71-2.31 Hourly rate charges

(a) The hourly rate charges shall be made according to the following schedule:

1. A charge of [\$11.00] **\$12.00** per hour, or portion thereof, for regular work hours, 8:00 [a.m.] **A.M.** to 5:00 [p.m.] **P.M.** on regular workdays, Monday through Friday;
2. A charge of [\$16.50] **\$18.00** per hour, or portion thereof, for work started or completed between 6:00 [p.m.] **P.M.** and 7:00 [a.m.] **A.M.** on regular workdays, Monday through Friday;
3. A charge of [\$16.50] **\$18.00** per hour, or portion thereof, for work performed on Saturdays, Sundays, or legal State holidays at the request of the requestor.

CIVIL SERVICE

(a)

CIVIL SERVICE COMMISSION

Compensation Compensation for NL4 Designated Titles

Proposed Amendment: N.J.A.C. 4:2-7.1

Authorized By: Peter J. Calderone, Director of Administrative Practices and Labor Relations.
Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:6-2d, and 11:8-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone
Director, Division of Administrative Practices and Labor Relations
CN 312
Trenton, New Jersey 08625

The Civil Service 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 1982-27.

The agency proposal follows:

Summary

For the sake of clarifying substantive language changes and additions, the current rule, N.J.A.C. 4:2-7.1, is being deleted and will be replaced by the proposed new text. The purpose of the amendment is twofold:

1. To compensate an employee who must work 40 hours per week in order to supervise 40 hour work week employees by increasing the supervisor's salary one range and designating the supervisory title as NL4.
2. To relieve salary compression by maintaining a two range differential between NL4 titles that supervise other NL4 titles.

Social Impact

Those employees who fall within the designated NL4 categories will be entitled to higher salary ranges.

Economic Impact

If an employee falls within the designated NL4 categories, the employer will be required to compensate the employee by promoting him/her to a higher range.

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

4:2-7.1 [Titles designated as NL4] Compensation for NL4 designated titles

[(a) This section provides information concerning the provisions approved by the Civil Service Commission for individuals in NL (hours not limited) titles who supervise 40 hours per week employees.

(b) The Civil Service Commission approved the following changes in the compensation plan, effective June 22, 1974 (Salary Administration Memorandum No. 3-75):

"Effective June 22, 1974, salary ranges assigned to titles whose duties include supervision of employees in titles assigned a 40 hour work week will be allocated to ranges that are one range higher in the Pay Schedule than that range to which the job evaluation points convert, the same as if they were 40 hour work titles....Such titles will be designated in the Compensation Plan as NL4."

(c) In accordance with the above policy, there is one condition to be met for a title to be designated as NL4. That condition is that the duties of the title require the incumbent(s) to work regularly at least a 40 hour week in order to directly supervise employees on a regular basis and continuous basis in titles assigned to a 40 hour work week.

(d) An appointing Authority may request that a NL class title be designated NL4 by submitting a written request to the Director, Division of Classification and Compensation. Upon receipt of the request, a review of the specific reasons for such designation shall be made and an investigation may be made, if necessary. If the request is not supported by the facts the appointing authority shall be promptly notified. If the request is justified the Director of Classification and Compensation shall forward a recommendation to the Chief Examiner and Secretary who may submit it to the Civil Service Commission for consideration.]

(a) If the duties of a title require an employee to work a 40 hour work week in order to supervise employees in titles assigned to a 40 hour work week, the salary range of the supervisor will be one range higher than the range to which the job evaluation points convert, the same as if the supervisor's title was a 40 hour work week title. Such titles will be designated in the compensation plan as NL4.

(b) Titles above the first level of supervision may be designated NL4 if the second level supervisor is also required to work a 40 hour week and such designation is necessary, due to salary compression, in order to maintain at least a two range difference between the first and second level of supervision.

(c) A title may not be designated NL4 if the resultant range is more than four ranges higher than the closest 40 hour per week subordinate title.

(d) An appointing authority shall submit a written request to the Director, Division of Classification and Compensation, that a NL class title be designated as NL4. The Director shall review the specific reasons for the requested designation and shall conduct an investigation, if necessary. The appointing authority shall be notified if the requested designation is not supported by the facts. If the Director finds the request is justified, the Director shall recommend to the Chief Examiner and Secretary submission of the requested designation to the Civil Service Commission for approval. The Civil Service Commission will make the final administrative determination.

(a)

CIVIL SERVICE COMMISSION

Compensation Plan Anniversary Dates

**Proposed New Rules: N.J.A.C. 4:2-7.1A
Proposed Amendments: N.J.A.C. 4:2-7.2,
7.3, 7.4, 7.5, 7.6, 7.7 and 7.9**

Authorized By: Civil Service Commission, Peter J.
Calderone, Director of Administrative Practices and
Labor Relations.
Authority: N.J.S.A. 11:8-1 et seq. and 11:5-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone, Director
Division of Administrative Practices
and Labor Relations
Department of Civil Service
CN 312
Trenton, New Jersey 08625

The Civil Service 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 1982-35.

The agency proposal follows:

Summary

4:2-7.1A, Compensation plan, is an informational rule clarifying that the compensation subchapters refer to State employees. Local jurisdictions have the prerogative to create and administer their own compensation plans within the limits of the approved minimum and maximum rates.

N.J.A.C. 4:2-7.2 is a proposed new rule rather than an amendment to current N.J.A.C. 4:2-7.2. As a result of updating the rule to read "bi-weekly" instead of "quarterly", the required bracketing and underlining made the amended rule extremely difficult to understand; consequently, the current rule is being repealed and a new rule replaces it. The following changes have been made from the current rule to the proposed new rule:

1. The proposed new rule revises the establishment of new anniversary dates from "either the calendar quarterly date or the quarterly action date, whichever is later" to establishing the anniversary date as either the first full pay-period after the personnel action or the actual personnel action date, if it coincides with the first day of a pay period. (emphasis in original).

2. N.J.A.C. 4:2-7.2(d)2 and 3 in the current rule are deleted as being technical actions that are inappropriate in the new, more explicit rule. In lieu of (d)2 and 3, a directive concerning implementation of the rule will be distributed to all personnel officers by means of a salary adjustment memo (SAM).

3. N.J.A.C. 4:2-7.2(a)2 in the proposed new rule establishes the procedures changing pay-period 27 anniversary dates to pay-period 1, in years that contain 27 pay-periods.

4. The new rule states that new anniversary dates are to be indicated in the proper space on the CS-21.

N.J.A.C. 4:1-7.5 is amended to broaden the term "on leave without pay" to the more accurate and inclusive "in non-pay status" recognizing that employees may be in non-pay status for reasons other than leaves of absence. This rule states the procedure for determining anniversary dates for non-pay status employees by providing that an anniversary date be advanced one full pay-period for every 10 working days (one pay-period) in non-pay status whether the absence is continuous or intermittent. Additionally, the rule provides for excluding the two non-working months for 10-month employees from anniversary date calculations.

N.J.A.C. 4:2-7.9(b)4ii and iii are being deleted since they repeat the procedures described in sections of the New Jersey Administrative Code pertaining to demotions, promotions and lateral transfers.

N.J.A.C. 4:2-7.3, 4:2-7.4, 4:2-7.6 and 4:2-7.7 amend the rules to read "bi-weekly" instead of "quarterly" and change related text to conform to this new practice.

The change from "quarterly" to "bi-weekly" is in accordance with the new union contracts.

Social Impact

An anniversary date determines when an employee is to receive his or her annual merit increment. Since according to the current

system, anniversary dates are calculated on a quarterly basis, a personnel action moving the employee's anniversary date might result in the employee waiting 14 months or longer to receive his or her increment. Under the new system, anniversary dates will be calculated and advanced on a bi-weekly basis; the anniversary date will correspond to the beginning of the first full pay-period. This revision will implement contract provisions agreed upon by the State and the Communication Workers of America. As a result of this agreement, employees will receive performance evaluations and merit increments on as close to an annual basis as possible rather than having to wait for the delay created by the quarterly system.

Economic Impact

During negotiations, the economic impact was deemed to be relatively insignificant in light of the other wage and fringe benefit settlements and was therefore not calculated. The impact of reducing the waiting period between receipt of merit increases for some employees will be negated by revisions which call for advancing anniversary dates when employees are in non-pay status for 10 working days as opposed to the prior practice of waiting at least 30 calendar days in non-pay status before advancing an anniversary date.

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

4:2-7.1A Compensation plan

(a) In State service, a compensation plan regulating salary ranges and rates and procedures for the administration of such a plan shall be established and approved by the Civil Service Commission.

(b) In local service, a compensation plan and its administration shall be the prerogative of the local jurisdiction except that the Department of Civil Service shall ensure that no employee is paid below the minimum or above the maximum of a duly adopted compensation plan.

4:2-7.2 [Determination of a]Anniversary dates

(a) This section deals with the determination of quarterly anniversary dates for new employees, promoted employees, or employees who receive pay adjustments in State service.

(b) In determining quarterly anniversary dates for employees who are newly hired, promoted or who receive pay adjustments or other actions that establish new anniversary dates, the final cut-off date for assigning the correct anniversary date shall be either the calendar quarterly date or the quarterly action date, whichever is later. In the event that the cut-off date, determined as above, falls on a non-working day the cut-off date shall become the first working date thereafter. Newly assigned anniversary dates should always be indicated on the form CS-21 in the space provided at Item 46.

(c) Examples:

Calendar Quarterly Date	Quarterly Action Date	Cut-Off Date	Anniversary Date Assigned
10-1-73	9-29-73	10-1-73	AD10/74
1-1-74	1-5-74	1-7-74	AD1/75
4-1-74	3-30-74	4-1-74	AD4/75
7-1-74	6-22-74	7-1-74	AD7/75

(d) Exceptions:

1. Anniversary dates for annual increments of academic employees who are employed by the Department of Education, Department of Higher Education and the Department of Institutions and Agencies on a 10 month working year basis are to be determined as follows:

- i. Employees hired on any date up to and including the closing day of the bi-weekly pay period in which the first day of the five month semester falls, shall be given the anniversary date of the month during which the semester begins, i.e., February-AD2, September-AD9.
- ii. Such employees shall become eligible for an annual increment if merited, on the first day of the bi-weekly pay period 12 months

later in which the corresponding semester begins. In the case of September anniversary dates, (AD9) the increment shall be applied on September 1.

iii. Those employees hired after the bi-weekly period get the anniversary date of the next following semester.

2. An employee, who has been promoted and whose effective date is the first day of the beginning of a pay period following the anniversary date cut-off, shall not have his or her anniversary date advanced to the next quarter.

3. An employee at the maximum of the range, for whom a CS-21 must be submitted, shall carry the anniversary date assigned during the year that the employee attained the maximum.]

(a) Anniversary dates for employees who are newly hired, promoted, or have received pay adjustments shall correspond to bi-weekly pay periods.

1. The first full pay-period following the date an employee is hired, promoted or has his/her pay adjusted shall be the employee's anniversary date. If the date of the personnel action coincides with the first day of a pay period, that pay period shall serve as the employee's anniversary date.

2. Years which contain 27 pay periods shall require that the anniversary date of pay-period 27 be advanced to pay-period 1.

(b) Newly assigned anniversary dates shall be indicated on the CS-21 form in the space provided.

(c) An employee at the maximum of a salary range at the time a CS-21 form is submitted shall carry the anniversary date assigned during the year that the employee attained the maximum. This date shall be converted to a bi-weekly anniversary date.

(d) Examples of how to use this section are as follows:

Pay Period	Begins On	Personnel Action Date	Anniversary Date (Pay Period)
16	7-10-82	7-19-82	17/83
20	9-4-82	9-4-82	20/83
27	12-11-82	12-11-82	1/84

4:2-7.3 Pay adjustments for employees who are appointed to titles with higher salary range evaluations

(a) This section deals with the salary increases given to employees who are appointed to titles with higher salary range evaluations[,] when such actions are not promotions covered under N.J.A.C. 4:2-7.4 [effective June 23, 1973].

(b) Application:

1.-2. (No change.)

3. This procedure shall not apply when the employee goes from a no range or single rate position to one having a salary range and vice versa.

i. (No change.)

ii. An employee who has been at the maximum for less than one year before the advancement shall retain the anniversary date (retain [month] pay period, advance year) and receive, if otherwise eligible, a normal increment at the next anniversary date, provided that he or she is not already at the maximum of the new range.

iii. (No change.)

4. Any appointment to a higher title to which (b) above does not apply shall receive equalization only. (Employee shall receive at least equalization from the salary paid before application of any workweek adjustment.) If equalization results in a salary increase equal to or greater than one increment in the old range, (after workweek adjustment), the anniversary date shall be advanced one year. When an employee [at the maximum of the range] has been at the maximum for at least one year he or she shall receive, in addition to equalization, one increment in the new range. (This provision shall not apply if the total adjustment, after workweek adjustment, is greater than three increments of the range from which the employee is advanced. The employee's anniversary date will be advanced based on the effective date of the action.)

5. (No change.)

6. When the total amount of pay increase (after workweek adjustment) is equal to or greater than two increments of the range from which an employee is advanced, the employee shall be assigned a new anniversary date on the basis of the effective date of the salary increase. [Such anniversary date shall be determined per N.J.A.C. 4:2-7.2.]

4:2-7.4 Pay adjustments and changes in anniversary dates as a result of an advancement due to a promotion subject to or following promotional examination procedures

(a) (No change.)

(b) Application:

1. (No change.)

2. When an employee at the range maximum has been at the maximum for at least one year the employee shall receive, if otherwise eligible, an increment, in the new range, in addition to the adjustment due by reason of the promotion, providing the promotional increment does not take the employee to the new range maximum. The anniversary date shall be determined by the effective date of the promotion. (This provision shall not apply if the total adjustment, after workweek adjustment, is greater than three increments of the range from which the employee is advanced. The employee's anniversary date will be advanced based on the effective date of the action.)

i. An employee who has been at the maximum for less than one year before the promotion, shall retain the anniversary date (retain [month] pay period, advance year) and receive, if otherwise eligible, a normal increment on his or her next anniversary date, provided the employee is not already at the maximum of the new range.
ii. (No change.)

4:2-7.5 Credit toward increments of employees who are [on leave without pay] **in non-pay status**

[(a) This section will govern credit for salary increments during leave without pay.]

[(b)](a) Time spent by employees [on leave of absence without pay] **in non-pay status** will not be included in total time of employment when calculating eligibility for annual salary increments. Eligibility for payment of the earned increment [after such leave] will be the first [quarterly action date] **pay period** immediately following the completion of [12 months] **one year** of earned time since last increment or date of hiring.

1. An employee's anniversary date shall be advanced by one full pay period for each full pay period in non-pay status.

2. If an employee is in non-pay status on an intermittent basis during the course of a calendar year, his or her anniversary date shall be advanced by one pay period for each 10 working days in non-pay status.

3. Whenever a change in the anniversary date of a 10 month employee is required, the two-month period in which the employee is not scheduled to work shall be excluded from the calculation of the new anniversary date.

[(c)] (b) The following exceptions [will] apply to [the] (a) above [rule]:

[1. The first 30 days of total leave without pay in an increment year;]

[2.] **1.** Military leave without pay;

[3.] **2.** Educational leave without pay;

[4.] **3.** Sick leave injury extended to leave without pay;

[5.] **4.** Leave without pay while receiving workmen's compensation benefits as a result of a service connected accident;

[6.] **5.** Leave of absence for military service in accordance with the Reserve Forces Act 1955.

[(d)] (c) Procedures:

1. A leave of absence without pay must be requested on a personnel action form (CS-21) whenever the duration of the leave [exceeds a] **is one full payroll period or more.**

2. [An employee whose total leave of absence without pay exceeds 30 calendar days within the 12 months immediately prior to his/her increment due date will have his/her anniversary date (AD) changed

on the CS-21 requesting the return from the leave which causes the employees leave time to exceed 30 days within that 12 month period.] **When an employee returns from one full pay period or more in non-pay status, the anniversary date on the CS-21 recording his or her return must be updated to reflect the change.** [The change, due to the duration of the leave, may cause the AD to move one, two three or four quarters.]

3. The advancement of an anniversary date resulting from the accumulation of 10 working days in non-pay status on an intermittent basis shall be reported to the Department of Civil Service on a CS-21 form. The affected employee and his or her supervisor shall be informed of this action, in writing upon receipt of the agency copy of the approved CS-21 form.

[3. For example, whenever leave time without pay:

i. Exceeds 30 days but is less than or equal to 120 days move AD one quarter;

ii. Exceeds 120 days but is less than or equal to 210 days move AD two quarters;

iii. Exceeds 210 days but is less than or equal to 300 days move AD three quarters;

iv. Exceeds 300 days but is less than or equal to 390 days move AD four quarters.

4. However, if more than 11 months of active service separate the date of appointment or the date of the employee's last increment from the employee's increment due date (anniversary date), no change in the anniversary date shall be made.

5. Ten month employees who are on leave without pay in excess of 60 days shall have their anniversary dates moved to the next semi-annual date.]

Renumber (e) as (d).

4:2-7.6 Policy for determining salary and anniversary date of an employee who has been demoted or reappointed to a title with a lower evaluation

(a) (No change.)

(b) The salary adjustment of an employee will be based upon the procedure applicable to the category of demotion or reduction involved.

1. (No change.)

2. If it is a [no fault] demotion [, through no fault of the employee resulting from some action by the appointing authority, the Civil Service Commission or other agency having jurisdiction over an employee's status for reasons of economy, reduction in force, seniority layoff, in lieu of layoff etc.] **for reasons other than those noted in (b)1 above**, the salary of the employee shall be reduced by one increment and adjusted to the same or next higher rate of the range to which the employee is reappointed. No change shall be made in the employee's anniversary date. Voluntary demotions so acknowledged in writing by the employee on the CS-21, shall be processed under this procedure.

Renumber (c) as (b)3.

[(d)] **4. The rule in [(c)](b)3 above**, shall apply only in cases where the employee is being returned to the same level from which he/she was promoted or advanced [from]. In cases where the employee is being demoted to a different level than that previously held, reconstruction shall be used. Reconstruction shall be treated as if the employee were promoted to the intermediate title at the time of original promotion.

[Example:

	Range	Salary	AD
Senior Clerk Stenographer	A09	\$8079.12	10/78
7/1/78 promoted to Principal Clerk Steno	A13	9350.30	7/79
Demoted 7/1/79 to Principal clerk			

Reconstruction would be:

PROPOSALS

CIVIL SERVICE

Senior Clerk Stenographer A09 \$8079.12 10/78
 7/1/78 promoted to Principal Clerk A11 8482.64 10/78
 10/78 Increment 8906.00 10/79]

Example:
Senior Clerk Stenographer Promoted to Principal Clerk Stenographer 6/27/81 (pay period 15) Range **A09** Salary **\$9985.25** AD **20/81**
Demoted to Principal Clerk 6/26/82 R13 11556.35 15/82

Reconstruction would be:
Senior Clerk Stenographer Promoted to Principal Clerk 6/27/81 A09 \$9985.25 20/81
Increment 20/81 R11 10483.98 20/81
 11007.22 20/82

[(c)](c) Limitations:

- 1. This method shall be used only when:
 - i.-ii. (No change.)
 - iv. The service in the higher title would be considered to have provided the employee with meaningful and significant experience and training for satisfactory service in the lower title, and this is explained and certified to by the appointing authority on the [C.S. 21] **CS-21**.

- 2. (No change.)
- 3. [In n] No [case shall an] employee who takes a voluntary demotion shall receive an increase in salary rate.
- 4. [In n] No [case shall an] employee shall receive a lesser salary than he/she would have received had he/she not been promoted.

[(f)](d) In all other situations of demotion or appointment to a title with a lower evaluation [not falling within the above conditions], the employee's salary in [their] **his/her** lower title shall be arrived at by reconstructing the employee's salary based on service he/she would have had had he/she been appointed to or stayed in the lower title or [in fact] had been serving in the lower title on the date he/she was appointed to the higher title.

Renumber (g) as (e).

4:2-7.7 Policy for determining salary and anniversary date of an employee affected by reassignment of an individual title to a new salary range as a result of reevaluation

- (a) (No change.)
- (b) For upward range revisions:
 - 1. When a title is reassigned to a higher salary range, the employee shall receive a salary adjustment that provides a[n increase in] pay **increase** of at least one increment of the present range plus the amount (if necessary) to adjust his salary to the next higher step of the new range (equalization). Example: An employee in step 4 of Range A09 (\$[5830-\$7874] **9509.70-12,838.55**) receives an upward range reassignment to Range A12 (\$[6749-\$9108] **11,007.22-14,851.13**).

Step 4 Range A09 = \$[6706] **10,936.35**
Add Increment of Range A09 = \$[6998] 11,411.90
Equalization Range A12 = Step 2 \$[7086] 11,556.34
Anniversary date remains the same

- i.-ii. (No change.)
- 2. When an employee at the maximum has been at the maximum for at least one year he shall receive, if otherwise eligible, a performance increment in addition to the increment due him by reason of range revision, providing he is not already at the maximum of the new range. The anniversary date shall be determined by the effective date of the salary adjustment. Example [(c)]: An employee at the maximum of Range A09 (\$[5830-\$7874] **9509.70-12,838.55**) for two years receives an upward range reassignment to Range A12 (\$[6749-\$9108] **11,007.22-14,851.13**).

Maximum Range A09 = \$[7874] **12,838.55**
 Add Increment of Range A09 = \$[8166] **13,314.10**
 Equalization into Range A12 = Step 6 \$[8434] **13,752.87**
 Performance Increment = Step 7 \$[8771] **14,307.**
 New Anniversary Date based on effective date of Salary Adjustment

- 3. (No change.)
- (c) For downward range revisions:
 - 1.-2. (No change.)
 - 3. When a title is reassigned to a lower salary range the employee{(s)} shall remain at his current salary rate, without change in anniversary date, until future within grade adjustments, upward range revisions, or other adjustments arising out of salary programs, will entitle him to a rate of pay that is equivalent to his current rate of pay, or the next higher rate of pay within the lower salary range.
 - 4. Th[at]e part of his retained current salary that is above the nearest lower step in the lower range will be carried as extra salary until slotting into range at a step is possible. [Those r] **Retained** rates that are above the maximum of the lower salary range will be considered as "Red Circled Rates." Example: An employee is step 4 of Range A12 (\$[6749-\$9108] **11,007.22-14,851.13**) AD [4/78] **8/82** receives a downward range revision to Range A11 (\$[6428-\$8675] **10,483.98-14,146.66**) effective February [3] **6, 19[78]82**.

Step 4 Range A12 = \$[7660] **12,654.61**
 February [3] **6, 19[78]82**, salary remains at \$[7660] **12,654.61** between steps 5 and 6 of Range A11
 March [31] **20, 19[78]82 (the beginning of pay-period 8/82)** adjusts to sixth step \$[8033] **13,100.18**
 AD [7/74] **8/83**

- (d) (No change.)
- 4:2-7.9 Determination of salary and anniversary dates of employees moving from 10 month to 12 month positions and from 12 month to 10 month positions

- (a) (No change.)
- (b) Application:
 - 1.-3. (No change.)
 - 4. Anniversary dates (AD):
 - i. Changes in anniversary dates for movement from 10 to 12 month positions or vice versa to adjust for work year shall be:
 - [(1) From 10 to 12 month positions:
 - (A) AD2 changes to AD4;
 - (B) AD9 changes to AD10.
 - (2) From 12 to 10 month positions:
 - (A) AD1 changes to AD2;
 - (B) AD4 changes to AD9;
 - (C) AD7 changes to AD9;
 - (D) AD10 changes to AD2.]

(1) From 10 to 12 month positions: No change;
(2) From 12 to 10 month positions: The anniversary date shall not be changed unless that date falls within the two month period when the employee is not scheduled to work. In that case, the anniversary date shall be advanced to the pay period in which the employee resumes work. Example: A 12 month employee has an anniversary date of pay period 17 which begins on July 24, 1982. The position is converted to a 10 month position effective July 1, 1982. The employee resumes work on September 1, which falls in pay period 19. The new anniversary date is pay period 19.

[ii. If the employee receives an increase of more than two increments after adjustment for change in work year, the employee's AD shall be advanced one full year based on the effective date of the action. Example: In December of 1976 an AD2/77 employee after adjustment for change in work year due to the move to a 12 month

position, receives more than two increments of the range to which he is thus adjusted, his AD is changed to AD 4/77 to adjust for the change of work year and advanced to AD 4/78 due to the pay increase of more than two increments.

iii. If the employee receives a demotion due to the adjustment for change in work year, the employee's anniversary date shall be adjusted for change of work year as in above and further adjusted as stipulated in N.J.A.C. 4:2-7.6.]

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

Relocation Assistance Elimination of Double Subsidies

Proposed Amendments: N.J.A.C. 5:11-3.2

Authorized By: Joseph A. LeFante, Commissioner,
Department of Community Affairs.
Authority: N.J.S.A. 52:31B-10 and 20:4-10.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing
CN 804
Trenton, New Jersey 08625

The Department of Community Affairs 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 1982-29.

The agency proposal follows:

Summary

Persons moving into subsidized housing will not receive relocation rental assistance that duplicates the public subsidy they are already receiving.

Social Impact

Elimination of duplicate payment will assure that relocation assistance is given where equivalent assistance is not available and the relocation assistance is therefore most needed.

Economic Impact

By not duplicating subsidies already provided, the State and localities will avoid unnecessary expenditures.

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

5:11-3.2 Rental assistance payments

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

(f) **A tenant who relocates into a dwelling unit which is subsidized by any governmental program shall not receive any rental assistance payment in any year except to the extent that the rental assistance payable pursuant to this section exceeds the amount of the governmental subsidy to the dwelling unit.**

(b)

DIVISION OF HOUSING

DIVISION OF TAXATION

Tax Exemptions for Multiple Dwelling Improvements and Conversions Supplemental Procedural Rules for Assessors

Proposed New Rule: N.J.A.C. 5:22-2.6 (Division of Housing, Department of Community Affairs)

Proposed New Rule: N.J.A.C. 18:12-6A.8 (Division of Taxation, Department of the Treasury)

Authorized By: Joseph A. LeFante, Commissioner,
Department of Community Affairs.

Authorized By: Sidney Glaser, Director, Division of
Taxation, Department of the Treasury.

Authority: N.J.S.A. 54:4-3.123 and 54:50-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing
CN 804
Trenton, New Jersey 08625

J. Henry Ditmars
Superintendent
Local Property Tax and
Public Utility Tax Branch
Division of Taxation
West State and Willow Streets
Trenton, New Jersey 08646

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

This proposal is known as PRN 1982-45.

The agencies' proposal follows:

Summary

These rules, which are proposed for promulgation jointly by the Department of Community Affairs, Division of Housing, and the Department of the Treasury, Division of Taxation, specify the manner in which exemptions and abatements for improvements made to existing multiple dwellings and to buildings converted into multiple dwellings are to be designated in the tax list by the assessor and make it clear that the laws providing for added and omitted assessments do not apply to properties which qualify for such exemptions. Reference is also made to the manner in which claimants are to be notified of any disallowance of a claim.

Social Impact

Clarification on the issue of liability for added and omitted assessments may encourage rehabilitation of buildings, with the consequent social benefit of increasing the supply of sound housing units.

Economic Impact

Assured exemption from added and omitted assessments will enhance the economic feasibility of some rehabilitation projects.

Full text of the proposed new rules follows.

5:22-2.6 (18:12-6A.8) Supplemental procedural rules for assessors

(a) The assessor shall designate any exemption and/or abatement allowed pursuant to the Act by the symbol "M" under "Limited exemptions" on the real property tax list and reflect it in column 7 on the said list.

(b) The provisions of N.J.S.A. 54:4-63.1 to 63.11, the Added and Omitted Assessment Laws, shall not apply to the allowable increase in the amount of assessed valuation in the year in which the improvements qualify for the exemption.

(c) When application for exemption and/or abatement is made with respect to an improvement or improvements which do not qualify, the assessor shall notify the claimant of the disallowance in writing upon form MD-EA-3 within 45 days after disallowance and properly note thereon the specific reasons for the disallowance.

EDUCATION

(a)

STATE BOARD OF EDUCATION

**Teacher Education and Academic Credentials
Revocation of Certificate**

Proposed Amendments: N.J.A.C. 6:11-3.7

Authorized By: State Board of Education, Fred G. Burke, Secretary.

Authority: N.J.S.A. 18A:4-15 and 18A:6-38.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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.

This proposal is known as PRN 1982-33.

The agency proposal follows:

Summary

The proposed amendments formalize procedures to be used in revocation cases. At present, the procedures are not codified. Under conditions set forth in N.J.S.A. 18A:6-38 and N.J.A.C. 6:11-3.7(a), the State Board of Examiners has the authority to revoke any teaching certificate it has issued on the grounds of "inefficiency, incapacity, conduct unbecoming a teacher, or other just cause."

Social Impact

The major benefit will be that local districts, board attorneys, and school personnel who might become involved in revocation cases

will be able to follow a clearly defined set of procedures. In all instances, due process is clearly established.

Economic Impact

No operational or organizational changes are anticipated, nor will there be any implementation costs at the State or local level.

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

6:11-3.7 Revocation of certificate

(a) Any certificate that has been issued, or that may hereafter be issued under the regulations of the State Board of Education, may be revoked by the State Board of Examiners for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, provided that no certificate shall be revoked unless the holder thereof shall have been given opportunity to be heard.

(b) Certification revocation procedures are as follows:

1. The State Board of Examiners is empowered by N.J.S.A. 18A:6-38 to revoke any certificate issued by that board. Cases which merit revocation consideration may be brought before the State Board of Examiners for review from any of the following sources:

i. Upon the decision of the Commissioner of Education, cases contested before the commissioner, involving loss of tenure or dismissal of a teacher or teaching staff member for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, will be forwarded to the State Board of Examiners for determination of possible revocation. The State Board of Examiners, after review of all basic facts, shall determine by public vote whether or not the facts, if true, are sufficient to warrant revocation consideration, or dismissal of the case. In such cases where the decision of the State Board of Examiners is to move for revocation of certification, the Secretary of the State Board of Examiners will issue an order to show cause and will notify the certificate holder that an answer must be filed with the State Board of Examiners within 20 days from the receipt of the petition. After an answer has been filed on behalf of the certificate holder, the board will refer the case to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

ii. Upon court action under N.J.S.A. 2C:51-2.a which provides: "A person holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, who is convicted of an offense shall forfeit such office or position if: (1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime; (2) He is convicted of an offense involving or touching such office, position or employment; or (3) The Constitution or a statute other than the code so provides." Upon knowledge of such a criminal conviction, the county superintendent of schools or the chief school administrator will notify the Commissioner of Education directly of such a criminal conviction involving a certificate holder. The Secretary of the State Board of Examiners, upon being notified in writing by the Commissioner of Education of such a criminal conviction or guilty plea involving a certificate holder, whether such knowledge comes as a result of a notification by the county superintendent of schools or chief school administrator or otherwise, will communicate with the court to obtain the judgment of conviction, copy of testimony and other evidence for presentation of the case before the State Board of Examiners. The Secretary of the State Board of Examiners will issue an order to show cause and

will notify the certificate holder that an answer must be filed with the State Board of Examiners within 20 days from the receipt of the petition. After an answer has been filed on behalf of the certificate holder, the board will refer the case to the Office of Administrative Law for a hearing, in accordance with the Administrative Procedure Law for a hearing, in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

iii. Upon the filing of a petition for revocation of a certificate with the State Board of Examiners against a certificate holder pursuant to (a) above.

(1) A petitioner must furnish to the Secretary of the State Board of examiners evidence of proof of service of petition to the other party or parties involved.

(2) The Secretary of the State Board of Examiners will notify the certificate holder that an answer must be filed with the State Board of Examiners within 20 days from the receipt of the petition. After an answer has been filed on behalf of the certificate holder, in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), the board will determine that a contested matter exists and refer the case to the Office of Administrative Law for a hearing.

2. After the State Board of Examiners has acted upon the initial decision of the administrative law judge in accordance with N.J.S.A. 18A:6-38 where the decision of the board has resulted in revocation of a certificate, the Secretary of the State Board of Examiners will notify the following:

- i. The 50 states and other such agencies which are part of the Interstate Certification Project;
- ii. All New Jersey county offices of education;
- iii. Appropriate governmental pension and annuity funds, or retirement services.

3. Decisions pertaining to revocation made by the State Board of Examiners shall be appealable to the State Board of Education, in accordance with the provisions of N.J.S.A. 18A:6-28.

(a)

STATE BOARD OF EDUCATION

**School Facility Planning Services
Final Plans Submission; Inspection Fees**

**Proposed Amendments: N.J.A.C. 6:22-1.14
and 6:22-1.19**

Authorized By: New Jersey State Board of Education,
Fred G. Burke, Secretary.
Authority: N.J.S.A. 18A:4-15 and 18A:18A-16.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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.

This proposal is known as PRN 1982-32.

The agency proposal follows:

Summary

These amendments would increase the inspection fee charged to district boards of education for preliminary and final facility inspections, since the revenue generated via the present fee structure has not kept pace with the increased costs in providing this service. Each inspection involves, on the average, two visits.

Boards of education are currently charged a minimum of \$25.00 and a maximum of \$100.00 for the inspection of school facilities by representatives of the Bureau of Facility Planning Services. These revisions would establish a new minimum inspection fee of \$50.00 and a new maximum of \$3,000. With the increased fee, an estimated \$70-80,000 in revenue will be generated in the first 12 months. The revised fees, which are lower than fees in other state agencies, will partially offset the cost of all plan review and inspection, since the original intent of the fee legislation was to cover all such costs (estimated at \$140,000 for fiscal year 1982).

Social Impact

District boards of education would have to expend a higher amount for inspection fees for school facilities.

Economic Impact

The economic impact of these proposed amendments will vary from district to district depending upon the overall estimated cost of each school project. The maximum impact to any school district for a given project will be \$2,900.

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

6:22-1.14 Final plans submission

(a) Final plans and specifications submitted for review and approval by the Department of Education shall meet the following requirements and shall conform with the best professional practices. They shall show clearly, accurately and completely, information on all phases of the work to be undertaken:

1. Plans and specifications shall be submitted in duplicate, together with a **check for the inspection fee (see N.J.A.C. 6:22-1.19)** and two copies of the official application for approval properly filled out and signed as required.

2.-4. (No change.)

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

6:22-1.19 Inspection fees

[(a) Initial and additional inspection requests by architects on behalf of the board of education, for preliminary and final inspections shall be accompanied by a check (payable by the board of education to the Treasurer of the State of New Jersey in accordance with the following table:

1. \$25.00 for each inspection of a project which does not exceed in the aggregate sum \$1,000,000.

2. \$50.00 for each inspection of a project which is over \$1,000,000 but not exceeding \$3,000,000 in the aggregate sum.

3. \$100.00 for each inspection of a project which is over \$3,000,000 in the aggregate sum.]

(a) When final plans and specifications are submitted for approval, an inspection fee shall be paid by the district board of education in the amount of .001 times the overall estimated cost of the project.

(b) Under no circumstances shall this fee be less than \$50.00 nor more than \$3,000.

(c) Payment shall be by a check payable to the Treasurer, State of New Jersey.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Water Pollution Control Construction of Wastewater Treatment Facilities

Proposed New Rules: N.J.A.C. 7:14-2

Authorized By: Jerry Fitzgerald English, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 58:10A-4, 58:10A-5(d) and 58:25-8.
DEP Docket No.: 056-81-10.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Anthony Ricigliano, P.E., Assistant Director
Construction Grants Administration
Division of Water Resources
New Jersey Department of Environmental
Protection
CN 029
Trenton, New Jersey 08625
609-292-0950

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 1982-34.

The agency proposal follows:

Summary

The Division of Water Resources has prepared this proposed rule with the advice and cooperation of local governments and professional and trade associations. These rules standardize certain procedures in the wastewater treatment facilities construction process.

Social Impact

This rule will affect local governments, sewerage and utilities authorities, engineering consultants, and construction contractors. These interests will have uniform procedures to follow to comply with regulatory or grant requirements.

Economic Impact

In general, this rule may decrease cost to governmental agencies, grantees, consultants, and contractors due to standardization of procedures. Unnecessary and redundant work will in many cases be eliminated. No other economic impact is anticipated.

Full text of the proposed new rule follows.

CHAPTER 14 WATER POLLUTION CONTROL ACT

SUBCHAPTER 2. CONSTRUCTION OF WASTEWATER TREATMENT FACILITIES

7:14-2.1 Construction procedures

(a) The Division shall require and adhere to the procedures iden-

tified in this section. Actions or procedures by grantees, permittees, consultants, contractors, or other persons affected by N.J.A.C. 7:14-2.26 and 2.26A through M which are not in accordance with this subchapter shall not be acceptable to the Division. Where applicable, the Department may grant a waiver from the requirement of this subchapter upon presentation of written justification by the grantee, consultant, or contractor.

(b) The following construction procedures are hereby established:

1. Bypassing;
2. Transfer of new publicly owned treatment works from the Construction Grants Administration (CGA) to Enforcement and Regulatory Services (ERS);
3. Record drawings: Collector sewers, interceptor sewers, and force mains;
4. Parties responsible for obtaining permits;
5. Easements/rights-of-way;
6. Field layout (baseline and monuments);
7. Engineer design activities: Plan scale and plan updating;
8. Construction, overhead, and profit factors for extra work compensation;
9. Payments to contractors;
10. Mobilization: Sewerage construction;
11. Minimum breakdown of bid items for sewer pipe installation;
12. Reasonable minimum unit prices;
13. Eligible payment widths: Trench backfill and roadway paving.

7:14-2.2 Bypassing

(a) This section specifies the responsibilities of the Construction Grants Administration (CGA) and Enforcement and Regulatory Services (ERS) concerning bypassing of sewage at Publicly Owned Treatment Works (POTW).

(b) The purpose of this section is to establish clear lines of responsibility when bypassing occurs or is anticipated. No formal procedure existed that specifically outlined CGA's and ERS's responsibilities in cases of emergency bypasses or anticipated bypasses. At times this led to confusion and a lack of communication between elements.

(c) Enforcement and Regulatory Services (ERS) shall be the responsible agency for response to unanticipated emergency bypasses from fully permitted, approved and operating municipal treatment works which have been transferred to ERS. ERS' responsibility for these unanticipated emergency discharges (i.e. sewer line breaks, pump station failures, flooding, etc.) will be to monitor their effects, require corrective procedures that will minimize adverse impact and assure that corrective actions are taken as soon as possible. If the cause of the emergency bypass is determined to be due to inadequate construction, ERS will follow up until the bypassing is corrected and will refer the case to the Construction Grants Administration (CGA) as a case where upgrading or improved construction is needed. An example would be if a pump station failure causes an emergency bypass but the ultimate cause is an inadequately sized pump that can not handle peak flows. In this case, ERS would follow up until the bypass is corrected but would refer the case to CGA as a construction problem needing resolution. CGA reviews and approves new treatment works in accordance with N.J.A.C. 7:9-1.45, which states that bypassing of sewage shall not occur during the construction of a POTW. However, there are occasions where CGA has approved municipal treatment works construction where no bypasses are anticipated but the contractor performing the construction determines that substantial economic or construction benefits can be gained if a bypass of short duration could be allowed. In these cases the owner of the municipal treatment works may request an exemption from the no bypassing provision from the Department.

(d) CGA shall be responsible for receiving, reviewing, and insuring an approval/denial and monitoring the bypass exemption request after consultation with ERS. In these cases the permittee or contractor of the treatment works shall submit a letter to CGA requesting special approval to bypass sewage during construction. This request shall:

1. State the reason for bypassing;
2. Discuss alternatives to bypassing during construction with justification why bypassing is the best alternative;
3. State that they have notified appropriate officials in EPA;
4. Discuss methods to minimize adverse impact (i.e. chlorination, temporary settling, 24 hour shifts, work at low flow periods, etc.);
5. Outline everything the contractor will do in a step by step time frequency during the bypass;

6. Be submitted at least two weeks (preferably 30 days) prior to bypassing.

(e) Upon receipt of the request to bypass, the CGA basin shall:

1. Review the submission;
2. Notify the Construction Control Unit;
3. Notify the appropriate ERS Region;
4. Issue an approval/denial for the bypass based on the concurrence of CGA Basin, ERA Region and the Construction Control Unit;

(f) No approval/denial shall be issued until ERS Region, Construction Control Unit, and CGA Basin (and other units if need be have reached concurrence on an acceptable plan of action).

7:14-2.3 Transfer of new Publicly Owned Treatment Works from the Construction Grants Administration (CGA) to Enforcement and Regulatory Services (ERS)

(a) This section outlines procedures for transferring newly constructed POTWs from CGA to ERS.

(b) The purpose of this rule is to establish a formal method to transfer newly constructed POTW's from CGA to ERS to ensure that the Division maintains continuous control over POTWs. It has been unclear at what time ERS should assume responsibility for a newly operating POTW, particularly when Federal funding and construction related problems were unresolved. Without clear direction, each element followed informal and sometimes different procedures.

(c) CGA will be responsible for all aspects of a POTW prior to operation and discharge.

(d) Once a POTW is constructed and ready for operation, CGA shall notify the appropriate ERS region of the first day of discharge and shall arrange a joint inspection within the first month of operation. A copy of the O and M Manual, reviewed and approved by CGA, shall be transferred to the appropriate ERS region along with the request for a joint inspection.

(e) ERS shall be represented by appropriate technicians and/or engineers at the joint inspection. CGA shall be represented by the appropriate construction control and engineering staff. CGA may arrange this inspection to coincide with the inspection by EPA personnel.

(f) The following may be eventualities from the joint inspection and transfer:

1. If there are no construction related problems with the new facility and all control and treatment units are in operation then responsibility for the operation of the facility may be transferred to ERS. CGA shall remain responsible for all Federal funding concerns. After consultation and agreement with the ERS region chief, the transfer shall be made by memorandum from the CGA basin manager to the ERS region chief with copies to the assistant directors.

2. If construction related problems are discovered during the joint inspection then the transfer shall be worked out in accordance with an agreement reached between the appropriate basin managers in CGA and ERS. ERS shall not assume responsibility for construction related problems. CGA shall fully resolve construction related problems before transferring that aspect of the facility to ERS.

3. ERS regions shall consider the time period required for stabilizing the facility after start-up when monitoring for permit compliance. If appropriate, that time period may be stated in the transfer memorandum.

4. If construction related problems are discovered after transfer to ERS, those construction problems will be referred back to CGA for resolution.

(g) Transfer after the joint inspection shall be effective when the following criteria are met:

1. All construction is complete, built to specifications, and the POTW is discharging;

2. CGA has issued a final Stage III Treatment Works Approval;

3. The O and M Manual reviewed and approved by CGA has been transferred to ERS;

4. A memo is written by the appropriate basin managers of CGA transferring the POTW and ERS agrees to accept the POTW;

5. CGA has retained all responsibility for Federal funding problems and construction related problems after transfer;

6. All sludge disposal locations and plans have been resolved by CGA prior to transfer to ERS.

7:14-2.4 Record drawings: Collector sewers, interceptor sewers and force mains

(a) This section specifies the responsibility for the preparation of record drawings for collector sewers, interceptor sewers and force mains.

(b) The purpose of this section is to establish clear director to the grantee/contractor as to the preparation of record drawings. Some engineers have required contractors to prepare record drawings. The contractors do not have the engineering capability, and to perform this function is more costly for the contractor to provide record drawings. The contractor's drawings are reviewed by the owner's engineer who in turn must duplicate some of the work which further adds to the cost of this activity.

(c) The owner shall be responsible for the preparation of all record drawings required for sewer lines. This responsibility may be delegated to the owner's representative with adequate compensation for this service.

(d) This responsibility shall not be delegated or transferred to the contractor.

7:14-2.5 Permits

(a) This section defines the responsible party for obtaining necessary permits required by sewerage construction activity.

(b) The purpose of this section is to establish responsibility for the acquisition of permits required in conjunction with construction projects. The contractor and grantee have had problems identifying the responsible party to obtain permits for various phases of construction. The delay in obtaining permits has resulted in cost increases as well as litigation.

(c) All Federal, State, county and municipal permits required as a result of the construction activity within the delineated site shall be obtained by the owner and all associated fees shall be paid by the owner.

(d) Exceptions to this section shall be a permit to use explosives for rock excavation and such other permits as specified in the special conditions of the contract documents.

(e) In addition, all permits required for construction activities on railroad properties shall be obtained by the owner.

(f) The owner shall make every responsible effort to identify all municipal permits required as a result of the construction activity in effect 60 days prior to the receipt of construction bids. This responsibility may be delegated to the owner's engineer with adequate compensation for this service. The engineer shall be held harmless from any penalty or action resulting from the failure to obtain a permit where every reasonable effort has been made by the engineer to obtain such permits. All conditions made a part of any permit shall be imposed upon the contractor as described in the contract or bid documents. All additional costs associated with a permit resulting from the construction activity which is beyond that stipulated in the contract shall be the responsibility of the contractor.

(g) Whenever necessary or appropriate the contractor shall assist the owner in the acquisition of permits.

(h) The Department of Environmental Protection shall reserve the right to intercede and assist in the resolution of any problems resulting from the acquisition of any permits.

PROPOSALS

7:14-2.6 Easements/right-of-way

(a) This section defines the basis for responsibility when a project is interrupted or delayed due to the inability to obtain the necessary easement/right-of-way for sewerage construction projects.

(b) The purpose of this section is to establish directions to the owner/grantee and the contractor when there is an interruption or an extension of time on a given construction project due to the owner's inability to obtain the necessary easement right-of-way. Numerous problems have developed on construction projects where easements/right-of-ways were not obtained. The primary issues related to easements/rights-of-way were construction delays, increase in cost, eligibility of the cost increase for grant funds, and contractor claims for damages due to an interruption of construction and counter claims by the grantee/owner.

(c) An interruption of construction or an extension of contract time may be a basis for a claim by a contractor for additional cost when such interruption or extension is caused by the grantee/owner's inability to obtain an easement/right-of-way. Claims shall include any reasonable cost incurred by the contractor and shall be reviewed and approved by the grantee/owner prior to submission of the Department of Environmental Protection. The Department may approve all, any portion, or deny the cost for eligibility under the Grant Program.

7:14-2.7 Field layout (baseline and monuments)

(a) This section defines who has the responsibility for establishing line and grade controls (baselines and monuments) for sewer pipe construction.

(b) The purpose of this section is to give clear directions to the grantee/owner regarding the responsibility for establishing line and grade controls for sewer pipe construction. There has been confusion as to the party responsible to establish line and grade controls (baseline and monuments) for sewer pipe construction. The contractor has performed this duty in some cases, and in others, the grantee.

(c) The owner shall be responsible to establish field controls prior to start of construction. The contractor shall not be liable to check the accuracy of its field controls (baseline and monuments) for sewer pipe installation. Whenever the contractor detects an error in the field controls during the pipe installation, the contractor shall immediately notify the owner and the owner's engineer of such error with sufficient documentation. The contractor shall be held responsible for all corrective measures and associated costs for failure to notify the owner of such error.

7:14-2.8 Engineer design activities: Plan scale and plan updating

(a) This section specifies the responsible party for updating construction plans for sewerage facilities and providing proper scale on the plans.

(b) The purpose of this section is to give clear direction to the grantee as to updating sewerage plans and providing proper scales on the design plans. There is no uniformity as to the scale used on construction plans for sewerage facilities. Due to this, certain plans are designed with scales that are difficult for contractors to utilize on construction.

(c) On occasion, projects do not go to construction within a reasonable time after the bid advertisement. During this period, utilities may be relocated or installed, as well as other changes which can take place that are unknown to the contractor. Because of this, problems can take place during construction and result in numerous change orders and increases in the cost of the project.

(d) The horizontal scale for construction plans for sewerage facilities shall not be less than one inch equals 100 feet. A larger horizontal scale shall be used where appropriate to show sufficient detail to construct the project. The vertical scale for construction plans for sewerage facilities shall be not less than one inch equals 10 feet. Based upon the best information available, the location of underground utilities and support structures for overhead utilities shall be shown on the plans.

ENVIRONMENTAL PROTECTION

(e) Construction plans for sewerage facilities shall be updated whenever the bid advertisement date exceeds one year after approval by the responsible State or Federal regulatory agency. The engineer shall receive adequate compensation for updating plans and specifications, and such additional cost shall be grant eligible to the extent permitted under the U.S. Environmental Protection Agency (USEPA) Regulations and Program Guidance. All such revisions shall be noted and dated on the plans prior to bid.

7:14-2.9 Construction, overhead, and profit factors for Extra Work compensation

(a) This section provides information to assist in the negotiation of compensation of contractors for Extra Work causing an increase or decrease in contractors' cost of performance of sewerage construction projects.

(b) The purpose of this section is to provide guidance for the reaching of agreement on equitable contract price adjustments for Extra Work performed by the contractor. Due to misunderstanding as to the allowance of costs included in contractor's claims for equitable upward or downward adjustments of contract prices on account of changed work, disputes and consequent litigation have resulted.

(c) The contractor is entitled to all identifiable direct job costs associated with Extra Work excluding subcontractor's costs. For Extra Work not in excess of \$10,000 the contractors may add up to 10 percent overhead factor to their identifiable direct job costs, but excluding the cost of any subcontracting plus up to a 10 percent profit factor to their identifiable direct costs plus overhead amount.

(d) As general policy, these overhead and profit factors may be accepted by grantees as reasonable in lieu of requiring the submission of additional supporting data. However, the grantee must reserve its right to review any cost or profit element on a case-by-case basis, where the submission for overhead and profit is excess of the 10 percent overhead and 10 percent profit indicated above.

(e) Cost increase in subcontracted work may be similarly handled and a prime contractor may add up to 10 percent to the total cost (including overhead and profit factors) incurred by the subcontractor. In such case, the same reservations for rights shall apply.

(f) For Extra Work in the amount of \$10,000 to \$100,000, the above factors may be included initially for equitable adjustments but will be subject to the negotiation, cost and pricing data, and grantee review requirements of 40 CFR 35.938-5 (including all subsequent amendments and supplements), which rule is hereby incorporated and adopted as part of this section.

7:14-2.10 Payments to contractors

(a) This section outlines a program for the timely release of partial payments for sewerage construction projects.

(b) The purpose of this section is to establish a program for timely partial payments to contractors by the grantee based on substantial completion of sewerage projects and retainage is necessary. A number of contracts within sewerage projects are complete, but payment is withheld because the total project is not complete. Such a policy has, in effect, held up timely payments to contractors for extended periods of time.

(c) At least 20 days before each monthly progress payment falls due for approval (but not more often than once per month), the contractor will submit to the engineer's a partial payment estimate filled out and signed by the contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the engineer may reasonably require. Where any specific item(s) in the partial payment estimate is in dispute, the engineer may delete those costs from the estimate and approve the acceptable portion of the payment request. Payment requested for stored materials and/or equipment shall be subject to the following conditions being met or satisfied:

1. The materials and/or equipment shall be received in a condition satisfactory for incorporation in the work.

2. The materials and/or equipment shall be stored in such manner that they will not be damaged due to whether, construction operations or any other cause.

3. An invoice from the supplier shall be furnished for each item on which payment is requested.

4. The contractor shall furnish written proof from the supplier of 90 percent payment for the materials and/or equipment no later than 30 days after receipt of payment for same from the owner. The owner shall have the right to deduct from the next payment estimate an amount equal to the payment for said material and/or equipment if reasonable and adequate proof is not submitted.

(d) The contractor warrants and guarantees that title to all work, materials, and equipment covered by an Application for Payment whether incorporated in the project or not, will pass to the owner upon the receipt of such payment by the contractor free and clear of all lien, claims, security interests or encumbrances (except 10 percent) retention which may be withheld from suppliers and sub-contractors to guarantee completion and performance). The engineer will after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the owner, or return the partial payment estimate to the contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the contractor may make the necessary corrections and resubmit the partial payment estimate. After review and approval of the partial payment estimate by the owner, at the next regularly scheduled meeting the progress payment shall be made available to the contractor within five days. The owner shall retain not more than two percent of the amount of each payment claimed.

(e) When the work is substantially complete (Operational or beneficial Occupancy), the withheld amount shall be further reduced below two percent but not less than twice the current market value of the work yet to be completed. On completion and acceptance of a part of the work on which the price is stated separately in the Contract Documents, payment shall be made in full including retained percentages, less authorized deductions. The contractor or owner may appeal to the New Jersey Department of Environmental Protection for assistance and guidance on disputes regarding retainage.

(f) Substantial completion as used in context of this policy shall mean satisfactory completion of major portions of the contract work, including inspection and testing, so that the facility may be turned over to the owner for its intended use/or occupancy. The engineer shall certify the date of substantial completion and that date shall establish the beginning date of the warranty/guarantee period unless a prior date has been established.

7:14-2.11 Mobilization: Sewerage construction

(a) This section defines how costs for mobilization will be charged.

(b) The purpose of this section is to provide a pay guideline for recipients of sewerage construction grants that establishes mobilization as part of the startup costs for sewerage construction. There is a need to identify initial costs incurred by the contractor for mobilization on sewerage projects.

(c) The provisions for payment for the item mobilization supersede any provisions elsewhere in the specifications for including the costs of these initial services and facilities in the prices bid for the various items scheduled in the proposal. The lump sum price bid for mobilization shall be payable to the contractor whenever he shall have completed 10 percent of the work of the contract. For the purpose of this item, 10 percent of the work shall be considered completed when the total of payments earned, exclusive of the amount bid for the various items scheduled in the proposal. The lump sum price bid for mobilization shall be payable to the contractor whenever he shall have completed 10 percent of the work of the contract. For the purposes of this item, 10 percent of the work shall be considered completed when the total of payments earned, exclusive of the amount bid for this item, shown on the monthly certificates of the approximate quantities of work done, shall exceed 10 percent of the total price bid for the contract.

(d) The lump sum price bid for mobilization is limited to the following maximum amounts:

Original Contract Amount

(including Mobilization)

From More Than \$	To and Including \$	Maximum Amount for Item of Mobilization
0	100,000	\$ 3,000
100,000	500,000	15,000
500,000	1,000,000	30,000
1,000,000	2,000,000	60,000
2,000,000	3,000,000	90,000
3,000,000	4,000,000	120,000
4,000,000	5,000,000	125,000
5,000,000	6,000,000	150,000
6,000,000	7,000,000	175,000
8,000,000	10,000,000	200,000
10,000,000	—	250,000

7:14-2.12 Minimum breakdown of bid items for sewer pipe installation

(a) This section establishes the minimum breakdown of bid items for sewer pipe installation.

(b) The purpose of this section is to list on the bid documents the minimum breakdown of items required for the installation of sewer pipe. Throughout the years of the construction grant program, items associated with the installation of sewer pipe were totally included in the bid for the pipe. Unbalancing of bids has occurred and in order to eliminate such practices, minimum breakdown of bid items for sewer pipe installation has been established mutually by representatives of the Department of Environmental Protection, Consulting Engineers Council of New Jersey, Utility Contractors Association and Authorities Association of New Jersey (DEP/CEC/UCA/AANJ).

(c) Pipe items may include excavation, pipe and backfill.

(d) Items listed below are the minimum breakdown of bid items for sewer pipe installation.

Description	Unit of Measure
1. Test Pits	Cubic Yard
2. Stone Foundation (bedding)	Cubic Yard
3. Select Material (below and above pipe grade)	Cubic Yard
4. Rock Excavation (including removal and disposal of boulders)	Cubic Yard
5. Wood Sheeting (install and remove where shown on plans)	Square Feet or 1000 Broad Feet
6. Wood Sheeting (left in place where shown on plans)	Square Feet or 100 Broad Feet
7. Steel Sheeting	Square Feet or Tons
8. Steel Sheeting (left in place where shown on plans)	Square Feet or Tons
9. Permanent Pavement Gravel	Square Yard
10. Pavement	
i. Municipal:	
(1) Temporary which shall be removed (where applicable)	Square Yard
(2) Base	Square Yard
(3) Top	Square Yard
ii. County:	
(1) Temporary which shall be removed (where applicable)	Square Yard
(2) Base	Square Yard
(3) Top	Square Yard
iii. State:	
(1) Temporary which shall be removed (where applicable)	Square Yard
(2) Base	Square Yard
(3) Top	Square Yard
11. Testing	Linear Feet
12. Concrete Cradle or Encasement (to be identified where applicable)	Cubic Yard

7:14-2.13 Reasonable minimum unit prices

(a) This section establishes reasonable minimum unit prices for indeterminate items in this policy for sewer pipe installation. Indeterminate items are those items which may be anticipated and for which quantities cannot be determined.

(b) The purpose of this section is to list, on the bid documents, the reasonable minimum unit prices required for the installation of sewer pipe. Since the initiation of the construction grant program, items associated with the installation of sewer pipe were all inclusive in the bid documents. Unbalancing of bids has occurred and in order to eliminate such practices, reasonable minimum unit prices have been established for sewer pipe installation. The isolation of the various units will assist owner and the State in identifying and approving appropriate Change Orders.

(c) A committee composed of representatives from the Department of Environmental Protection, Consulting Engineers Council of New Jersey, Utility Contractors Association and Authorities Association of New Jersey (DEP/CEC/UCA/AANJ) will review and prepare a tabulation of the reasonable minimum unit prices on a semi-annual basis. The methodology and current prices will be on file in the office of the Division of Water Resources. Owners, prior to preparing their bid documents, should contact the division for a copy of the current minimum unit prices for identifiable items associated with pipe installation.

(d) The prices established are reasonable minimum unit prices for the following bid items:

1. Stone Foundation;
2. Select Material;
3. Concrete Cradle or Equipment-nonreinforced;
4. Concrete Cradle or Encasement-reinforced;
5. Test Pits;
6. Rock Excavation;
7. Sheeting, Wood in Place (1,000 bf);
8. Sheeting, Wood in & out (1,000 bf);
9. Sheeting, Steel in Place (tons);
10. Sheeting, Steel in & out (tons).

7:14-2.14 Eligible payment widths, trench backfill and roadway paving

(a) This section establishes the grant eligible payment widths for select fill used for trench backfill, and roadway paving.

(b) The purpose of this section is to establish a standard for all projects which are built with Federal and State construction grant funds. Since the inception of the construction grant program, the policy covering eligible payment widths for trench backfill and roadway paving has been unclear. Parameters have been variable with no clear and consistent policy for all funded projects. The roadway paving was not only unclear concerning eligible widths, but also unclear with regard to overall thickness of the paving.

(c) Select trench backfill pavement width:

1. Select trench backfill will be eligible for grant funding when the excavated material is totally or partially unacceptable for reuse as trench backfill. When the unacceptable material must be replaced with approved select backfill in a trench with a depth of 10 feet or less from the top of the pipe, the eligible payment width shall be Bd as shown below. For trenches of a greater depth the maximum eligible payment width shall be Bd plus H/2 for the depth of unsuitable material as measured at the time of excavation.

2. When trench width is less than Bd plus H/2, the actual width shall control the payment.

3. Bd equals Maximum trench width (measured at the top of the pipe) allowed by the engineer for the type and strength class of pipe being installed.

4. The owner/engineer must make every effort to minimize the use of select fill. Marginal backfill material (material which is not acceptable for use in the pipe envelope or as a subbase for roadways) will be limited to the midzone of the trench. The midzone is defined as that portion of the trench beginning two feet above the top of the pipe, after compaction of the pipe envelope, to a point two feet

below the final road or easement elevation. The owner/engineer must make all final decisions concerning the above.

(d) Paving:

1. Maximum eligible payment width shall be the disturbed width plus two feet. In no case shall the maximum eligible payment width be greater than Bd plus H;

2. Maximum Eligible Pay Width equals Bd plus H;

3. Special considerations:

i. Pavement replacement shall, in all instances, be "like kind" replacement except where the replacement of the original thickness of roadway material will not yield a structurally stable surface over the disturbed trench area, or where the requirements of the responsible governmental jurisdiction specify roadway materials other than the original disturbed pavement. In these instances, the engineer should specify the minimum thickness necessary to obtain a structurally sound surface or to comply with established local, county or State road opening permit requirements. Such requirements shall be contained in the contract documents.

ii. Roadways where the original total pavement thickness is less than two inches and the pavement cannot be boxed and maintained during construction, will be eligible for "like kind" replacement outside of the eligible trench pavement width.

iii. Any deviation from the above should be submitted during the design phase (Step II) for approval if possible. In all instances, approvals must be obtained prior to soliciting bids.

iv. Reducing the pavement thickness specified by the engineer and spreading it across a wider area of the street will not be approved unless extenuating circumstances justify the need to pave a wider area. These situations will be considered on a case by case basis and must be submitted as a Change Order and receive approval prior to implementing such a change.

(e) Application of this policy will be mandatory for all Step 2 Federal Grants awarded, pursuant to the provisions of the Federal Clean Water Act as amended, after the date of adoption.

(f) This section will also apply on a voluntary basis to all Step 2 projects and Step 3 projects prior to advertisement for construction bids.

HEALTH

(a)

CONSUMER HEALTH SERVICES

List of Animal Repellants
Animal Repellants Which Cause Temporary
Immobilization and Physical Discomfort

Proposed New Rule: N.J.A.C. 8:21-3.23

Authorized By: Joanne E. Finley, M.D., M.P.H.,
Commissioner, Department of Health.
Authority: N.J.S.A. 24:2-1 and N.J.S.A. 2C:39-6(h).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mr. Lucius Bowser
Chief, Drug Control Program
Community Health Services
CN 364
Trenton, New Jersey 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.

This proposal is known as PRN 1982-42.

The agency proposal follows:

Summary

The amendments to Title 2C, Criminal Justice Code, allow certain individuals in the course of their jobs to carry animal repellants which have been specified by the Commissioner of Health as being non-injurious to canines or other animals.

Social Impact

This regulation if adopted would protect Federal Postal Service and public utilities employees from prosecution for carrying gas weapons covered by the Law. It would also reduce or eliminate law suits from unnecessary animal bites to those persons.

Economic Impact

This regulation if adopted would not create any financial burden for the user or for the community.

Full text of the proposed new rule follows.

8:21-3.23 Animal repellants

(a) The list of animal repellants which are non-injurious to canines or other animals and which immobilize only temporarily and produce only temporary physical discomfort covered by the exemptions pursuant to the provisions of N.J.S.A. 2C:39-6(h) shall include, but not be limited to, the following trade products:

1. Dog Chaser;
2. Guardian;
3. Halt;
4. Sentinel;
5. Stinger;
6. Stop Dog.

(b) The following list of active and inactive ingredients can be used in animal repellants that are non-injurious to canines or other animals and immobilize only temporarily and produce only temporary physical discomfort covered by the exemptions pursuant to the provisions of N.J.S.A. 2C:39-6(h).

1. Active ingredient:
 - i. Oleoresin Capsicum.
2. Inactive ingredient:
 - i. Mineral Oil;
 - ii. Nitrogen Propellant.

(c) The Department shall add to or delete from the above list those active and inactive ingredients and products to be consistent with the provisions of the Act.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual; PAA Program Recovery of Payments Correctly Made

Proposed Amendments: N.J.A.C. 10:49-6.5 and 10:69A-7.1

Authorized By: Timothy Carden, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-7j, k, and N.J.S.A. 30:4D-20 and 24.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, New Jersey 08625

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

This proposal is known as PRN 1982-28.

The agency proposal follows:

Summary

This proposal will implement recently enacted legislation concerning recovery of payments correctly made and will apply to both Medicaid and PAA programs administered by the Division of Medical Assistance and Health Services (P.L. 1981, c.217).

According to the new legislation, recovery will not be made on benefits correctly paid "if the amount sought to be recovered is less than \$500.00 or the estate is less than \$3,000 or there is a surviving spouse or child" (P.L. 1981 c.217).

A child is defined in the regulation as being under age 21, or an adult child who is blind or permanently and totally disabled.

The limitations on the surviving spouse and children conform to Federal regulations (42 CFR 433.36). The same limitation is being applied to PAA.

Social Impact

If there is any social impact it should be positive, since families of PAA beneficiaries and Medicaid recipients will not have to make reimbursement (to the Division) when there is only a small estate.

Economic Impact

This proposal should have an insignificant economic impact on the Division. Some small amounts occasionally recovered will not be collected; however, the Division will be able to concentrate its efforts on cases where the amount to be recovered is large, or where the estate has sufficient funds available to make reimbursement. There will be no additional administrative costs associated with this proposal, as the Division already has a third party liability unit as required by Federal regulation.

There might be a positive economic impact on survivors of individuals with small estates.

There is no economic impact on providers. This proposal only pertains to the Division's right to recovery against Medicaid recipients and/or PAA beneficiaries.

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

10:49-6.5 Recovery of payments correctly made
 [No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the program (except pursuant to the judgement of a court on account of benefits incorrectly paid on behalf of such individual) and there shall be no adjustment or recovery of any medical assistance correctly paid on behalf of such individual under the plan except in case of an individual who was 65 years of age or older when he received such assistance, from his estate, and then only after the death of this surviving spouse, if any, and only at a time when he has no surviving child who is under 21 or is blind or permanently and totally disabled.]

(a) Correctly paid benefits are only recoverable from the estate of an individual who was 65 years of age or older when he/she received medical assistance if:

1. The individual leaves no surviving spouse; and
2. The individual leaves no surviving child; and
3. The amount to be recovered is in excess of \$500.00; and
4. The gross estate is in excess of \$3,000.

(b) For purposes of (a)2 above, and section 1 of P.L. 1981, c.217, "child" shall be defined to mean any child under age 21 or who is blind or permanently and totally disabled.

(c) Rules contained in (a)3 and (a)4 above shall apply to recoveries from the estates of individuals who died on or after July 20, 1981, the effective date of P.L. 1981, c.217.

10:69A-7.1 Recoveries for benefits correctly made
 [(a) No encumbrance of any kind shall be imposed against any property of a beneficiary prior to his death because of assistance paid, or to be paid, on his/her behalf through the Program of Pharmaceutical Assistance to the Aged, except on account of assistance incorrectly paid.]

[(b)] (a) Payments correctly made on behalf of a PAA beneficiary are recoverable from the estate of a deceased beneficiary provided the beneficiary leaves if:

1. No surviving spouse;
2. No surviving child who is under age 21 or who is blind or permanently and totally disabled.]
1. The beneficiary leaves no surviving spouse; and
2. The beneficiary leaves no surviving child; and
3. The amount to be recovered is in excess of \$500.00; and
4. The gross estate is in excess of \$3,000.

(b) For purposes of (a)2 above, and section 1 of P.L. 1981, c.217, "child" shall be defined to mean child under age 21 or who is blind or permanently and totally disabled.

(c) Rules contained in (a)3 and (a)4 above shall apply to recoveries from the estates of PAA beneficiaries who died on or after July 20, 1981, the effective date of P.L. 1981, c.217.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Long Term Care Services Manual
 Inspection of Care in Long Term Care Facilities**

Proposed Amendment: N.J.A.C. 10:63-1

Authorized By: Timothy Carden, Commissioner,
 Department of Human Services.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
 Division of Medical Assistance
 and Health Services
 CN 712
 Trenton, New Jersey 08625

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

The proposal is known as PRN 1982-36.

The agency proposal follows:

Summary

The proposal pertains to Medicaid patients in long term care facilities. The Division will conduct inspections of (patient) care once every 12 months as required by federal regulation (42 CFR 456.606 and 608).

The inspections are conducted by the Division's Medical Evaluation Teams, who evaluate recipients' medical needs, services provided by the long term care facility, and where applicable, the recipients' potential for rehabilitative services and/or alternate placement.

Social Impact

This proposal should have minimal social impact on both recipients and long term care facilities. Medical Evaluation Teams have been evaluating both the type of care provided by the facility, and the recipient's need for such care, since the inception of the Medicaid program.

Economic Impact

There is no economic impact on Medicaid recipients. Those who require nursing level care will receive it.

There is no economic impact on long term care facilities, since this proposal does not impose any additional requirements on them.

There will be no administrative cost to the Division, because the existing inspection teams will be performing additional duties, such as hospital assessments for administrative days, home health quality reviews, etc.

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

10:63-1.5 Utilization control

(a)-(f) (No change.)

(g) Periodic medical review rules are:

1. Procedure:
 - i. (No change.)

(1) The MET evaluates the quality of care which the individual patient has been receiving [, according to the criteria for the level at which the patient has been maintained during the previous authorization period. (Exhibits No. 19, No. 20, and No. 21)] **between an initial assessment and reassessment; i.e., only one inspection of care evaluation will be done on a patient during a 12-month period.**

- ii.-v. (No change.)
- (h) (No change.)

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

**Child Care
Manual of Standards for Child Care Centers**

Proposed Amendments: N.J.A.C. 10:122-4.2, 5.1-5.4 and 7.1 and 7.2

Proposed New Rules: N.J.A.C. 10:122-7.3 through 7.7

Authorized By: Timothy Carden, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 18A:70-1 to 9.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Richard Crane, Chief
Bureau of Licensing
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625

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

This proposal is known as PRN 1982-30.

The agency proposal follows:

Summary

The proposed amendments would modify certain provisions of the State's child care licensing regulation as summarized below.

1. **Health Requirements for Staff:** Under the current regulations, all staff at child care centers are required every three years to take a tuberculin tine or Mantoux test to ensure that they do not present a tuberculin danger to the children and other staff at the center. The proposed amendment would require the use of the Mantoux tuberculin skin test exclusively for this purpose, since the tine test does not provide a sufficiently reliable indicator of the presence of tuberculosis, according to recommendations made to this Department by the State Department of Health, Office of Tuberculosis Services. However, under the proposed amendment, staff members would only be required to take the tuberculin test initially upon employment at the center and not every three years, as currently required.

2. **Physical Facility Requirements:** The subchapter on physical facility requirements in the child care licensing regulations is being amended in order to bring the physical facility regulations into conformity with recent changes made in the State Uniform Construction Code (UCC). New Jersey recently adopted the 1981 edition of

the Building Officials and Code Administrators (BOCA) building code as the building subcode of the UCC. The latest edition of the building code contains some significant changes from the previous UCC requirements for certain types of facilities, including child care centers. For the most part, the changes instituted in the UCC are less stringent than previous requirements and would reduce the potential costs incurred by child care center operators in meeting the provisions of the UCC and the State's child care licensing regulations. Among the more significant changes:

a. Doors used for exits would be required to swing outward in centers with an occupant load of more than 50 or when the room area exceeds 2,000 square feet. (Under the existing requirements, all exit doors are required to swing outward, regardless of occupancy or square footage.)

b. Any door used to accommodate more than 100 occupants would be required to be equipped with panic hardware (Presently, panic hardware is required in centers serving 50 or more occupants.)

c. A manual fire alarm system must be installed and maintained in full operating condition when buildings are three or more stories in height or the total occupancy of the building is 50 or greater. (Currently, a manual fire alarm system is required in all child care centers that began operating after January 1, 1977, the effective date of the UCC, regardless of height or occupancy.)

Other changes in this section consist essentially of wording or language changes designed to streamline or clarify the existing requirements, but not change them substantially.

3. **Transportation Requirements:** The transportation requirements are being amended in order to: (a) specify that the maximum capacity of a vehicle transporting children to and from child care centers may not exceed the number of seat belts equipped by the manufacturer in those vehicles required by law to have seat belts. The rule is intended to ensure the safety and protection of children being transported and that such vehicles are not overcrowded, as well as to clarify the maximum capacity of a vehicle for the purposes of motor vehicle inspections; and (b) distinguish requirements for Type II school bus vehicles with a capacity of fewer than 10 persons from Type II vehicles with a capacity of 10 or more persons. Type II vehicles with a capacity of 10 or more persons are already subject to Federal vehicle specification requirements, obviating the need to subject them to overlapping or duplicative State child care licensing vehicle specification requirements, as well.

Social Impact

The proposed amendments will affect some 1500 child care centers subject to State licensure in accordance with N.J.S.A. 18A:70-1 to 9. Specifically:

1. The proposed amendments to the health requirements for staff will ensure greater protections for children in centers against tuberculosis infection. At the same time, it will reduce the administrative burden on child care center operators and staff by requiring only an initial tuberculin test for each staff member rather than one every three years, except in those cases where the initial testing reveals the presence of tuberculin infection.

2. The proposed revised amendments to the physical facility requirements are generally less stringent than the existing requirements, in keeping with recent changes made in the UCC. The changes will not negatively affect the safety or physical well-being in any way of the children served in these facilities; and

3. The proposed changes in the transportation requirements would enhance the safety and protection of children being transported to and from child care settings. They also relieve center operators utilizing Type II school bus vehicles with a capacity of 10 or more persons from having to meet overlapping or duplicative Federal and State requirements.

Economic Impact

The Division expects that the proposed amendments will reduce and minimize costs to child care centers of complying with the regu-

lations by: (1) requiring less frequent tuberculin testing for staff members; (2) instituting less stringent requirements in certain areas of the physical facility regulations; and (3) eliminating the need for centers using larger Type II school bus vehicles from complying with two distinct sets (State and Federal) of vehicle specification requirements, since those vehicles would be expected only to meet the Federal requirements.

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

10:122-4.2 Health requirements for staff

(a) [Prior to employment, each staff member of a center who comes in contact with the children for at least one full day a week shall take a tuberculin tine or Mantoux test or chest X-ray and submit to the center written proof of having received satisfactory results from such a test. Such tests shall be taken by staff members at least once every three years. Any person who fails to receive satisfactory results from or to submit to such a test shall be prohibited from having contact with or preparing food for the children at the center.]

Tuberculin testing requirements:

1. **Prior to or upon employment, each staff member of a center who comes in contact with the children for at least one full day a week shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin and submit to the center written proof of the results of the test.**

2. **If the Mantoux tuberculin test result is insignificant (0 to 9 mm of induration), no further testing shall be required. The Bureau or center shall have the authority at any time in the future to require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis.**

3. **If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall take a chest x-ray. If the chest x-ray shows significant results, the staff member may not come in contact with the children unless s/he submits to the center a written statement from a physician certifying that s/he poses no threat of tuberculosis contagion.**

4. **Any person who fails to submit to or to receive satisfactory results from the tuberculin testing requirements, as described in (a)1 through 3 above, shall be prohibited from having contact with the children at the center.**

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

(d) Any staff member who objects to a physical examination or tuberculin test on grounds that it conflicts with the tenets and practices of a recognized church or religion of which s/he is an adherent or member shall be exempt from complying with such requirements. In such case, the director shall submit to the Bureau a written statement to that effect certified by the staff member.]

10:122-5.1 Local government [C]code enforcement approval

(a) **Child care centers in existence and operation as such before or on January 1, 1977:**

[(a)] 1. Any child care center in existence and operation as such before or on January 1, 1977 [(the date the State Uniform Construction Code, hereinafter referred to as the UCC, went into effect)] shall submit to the Bureau, upon the first application for renewal of its license after January 1, 1977, a copy of the building's certificate of continued occupancy issued by the municipality in which it is located, stating the center is approved to operate as a child care center, in accordance with local government code requirements in effect prior to implementation of the **States Uniform Construction Code, UCC on January 1, 1977.**

2. **In addition to (a)1 above, the center shall also submit a copy of the municipal health inspection approval for the building, based on an inspection conducted within the preceding 12 months. The local health official shall certify that the center meets all local health codes and [the] Chapter 12 of the State Sanitary Code (N.J.A.C. 8:24), and poses no health hazard to the children served.**

3. **In lieu of the certificate of continued occupancy, the center shall submit to the Bureau a copy of the municipal fire and building inspection approvals, [(based upon inspections conducted within the preceding 12 months)] shall be submitted to the Bureau.**

4. **[Upon] Prior to every subsequent application for renewal of licensure, any center that had previously submitted the building's certificate of continued occupancy to the Bureau shall be required to submit only a copy of the current local health inspection approval as specified [above] in (a)2 above.**

5. **[However, i]f the municipality in which the center is located has enacted an ordinance governing the maintenance of buildings, including child care centers, the center shall also submit to the Bureau a statement from the municipal enforcing agency certifying that the center is in compliance with such ordinance.**

(b) Child care centers beginning operation as such after January 1, 1977:

[(b)]1. Any child care center that seeks to begin operation as such after January 1, 1977 shall submit to the Bureau, upon application for its license, a copy of the building's certificate of occupancy issued by the municipality in which it is located, stating that the center is approved to operate as a child care center, in accordance with provisions of the UCC.

2. **In addition to (b)1 above, the [such] center shall also submit to the Bureau a copy of the municipal health inspection approval for the building as specified in [subsection (a) of this section] (a)2 above.**

3. **[Upon application for renewal and for] Prior to every subsequent application for renewal of licensure, the center shall be required to submit to the Bureau only a copy of the current local health inspection approval, as specified in [subsection (a) of this section] (a)2 above.**

4. **[However, i]f the municipality in which the center is located has enacted an ordinance governing the maintenance of buildings, including child care centers, the center shall also submit to the Bureau a statement from the municipal enforcing agency certifying that the center is in compliance with such ordinance.**

(c) However, [T]he child care center shall submit to the Bureau, upon completion of the actions noted below, a copy of a new certificate of occupancy issued by the municipality in which it is located, reflecting the center's conformity with the provisions of the UCC, when any child care center either:

1. **Seeks to change its use group to one other than that prescribed on its original certificate of occupancy; or**

2. **Seeks to make a major alteration or renovation, as defined by the UCC, of the building or premises in which the center is located; or**

3. **Seeks to increase its floor area or the number of stories to the building or premises in which the center is located.**

10:122-5.2 General requirements

(a) **Exiting requirements:**

1. **Exits:**

i. **Exits shall be maintained in proper operating condition and the center shall insure that:**

[i.] (1) [t]There are two independent unobstructed exits from every floor of a building which allows exiting from the building or room in two separate directions;

[ii.] (2) [t]The maximum travel distance to an outside exit door or exit stairway does not exceed [100] 150 feet. (Buildings equipped with a[n automatic sprinkler] fire suppression system may have a maximum travel distance of [150] 200 feet); and

[iii.] (3) An [E]exit[ing] access shall not pass [be permitted] through a boiler, furnace, bathroom or storage [areas]room.

[2.] ii. **Exits above or below the first floor:**

[i.] (1) [In buildings of noncombustible construction,e]Exiting from a room(s) used by the children through a corridor shall be acceptable if the corridor leads to at least two stairways located in opposite directions from the room(s). The interior stairways shall be enclosed [with a two hour fire rated material and equipped with B-

label (1 1/2 hour) doors which lead to an approved exit way or directly to the outside] **in fire separation assemblies of the fire resistance rating of the building's construction type.**

[ii. In buildings of combustible construction, each room used by the children shall have at least two exits. One exit shall open directly to the outside, to an outside fire escape, to an exterior stairway or lead to a room providing one of the previously mentioned exits. A corridor that leads to a stairway which is completely enclosed with a one hour fire rated material with a C-label (3/4 hour) door shall be acceptable as a second exit.]

[3.] **2. Doors:**

i. The exit access travel distance in a room shall not be greater than 50 feet. (Buildings equipped with a fire suppression system may have an exit access travel distance of 100 feet.)

ii. Every room with an occupant load of more than 50 or which exceeds 2,000 square feet in area shall have at least two egress doorways leading from the room to an exit or corridor.

[i.] **iii. Doors used for exits shall:**

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

(3) Swing outward when **servicing an occupant load of more than 50** [leading directly to the outside].

[ii.] **iv. (No change in text.)**

[4.] **3. Stairways:**

i. (No change.)

ii. Interior stairways:

(1) The maximum height of risers shall be [eight] **seven** inches and the minimum width of tread shall be nine inches [plus one inch nosing].

(2) Winding staircases shall not be counted for purposes of meeting the exit requirements of this [Manual of Standards] **chapter.**

(3) (No change.)

iii. Exterior stairways:

(1) Exterior stairways conforming to the interior stairway requirements, as noted in (a) **3ii** above, shall be acceptable as required exits in child care centers not exceeding three stories in height.

(2) (No change.)

iv. Handrails and guardrails:

(1)-(3) (No change.)

(4) Guardrails shall not be less than 42 inches in height measured vertically above the nosing of treads.

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

[5.] **4. Special requirements for centers serving nonambulatory children:**

i. (No change.)

(1)-(3) (No change.)

(b) Fire protection:

1. (No change.)

2. There shall be at least one 10[-rated ABC or 10-rated] **BC rated** fire extinguisher [located in] **provided for** the kitchen area and one [10-rated ABC or 10-rated BC fire extinguisher] located directly outside or near the boiler or furnace room.

3. [Every] **All** floors [of the center] shall be [equipped] **provided**-with at least one 2 1/2 gallon water pressurized fire extinguisher for [every] **each** 3,000 square feet of [the] floor area.

4. [Fire] **All** extinguishers shall be serviced at least once a year and recharged, if necessary.

Renumber 3.-5. as 5.-7.

(c) (No change.)

(d) Maintenance and sanitation:

1. (No change.)

2. Indoor [M]aintenance and [S]anitation [R]requirements:

i.-iii. (No change.)

iv. Carpeting shall be secured to the floor to avoid tripping.

[iv] **v. Garbage** shall be removed from the interior of the building daily. Receptacles for food waste disposal shall be noncorrosive, impervious, [sufficient in size and number,] leak proof, and provided with tight-fitting covers. Food waste receptacles shall be lined.

[v.] **vi. The center shall arrange for [qualified persons] an exter-**

minator to take necessary action to protect the facility from rodent, insect and related infestations. Such treatment shall be provided not less than once a year, and more frequently when there is evidence of infestation.

[vi.] **vii. (No change in text.)**

[vii.] **viii. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can and any other toxic [(poisonous)] substance, shall be stored in a locked cabinet or in an enclosure located in an area not accessible to the children.**

3. Outdoor [M]aintenance and [S]anitation [R]requirements:

i.-iv. (No change.)

v. The center shall have [a sufficient number of] garbage receptacles to accommodate its waste disposal needs. The receptacles [shall be sufficient in size and number,] shall be made of non-corrosive materials and [shall] be maintained in sanitary condition.

vi. The area in which the garbage receptacle(s) are located shall be maintained in a sanitary manner.

(e) (No change.)

(f) Lighting:

1. (No change.)

2. Night care programs:

i. (No change.)

ii. An emergency lighting system for exit signs, stairways and corridors shall be provided. This emergency lighting system shall be provided by [emergency] battery packs or an auxiliary generator and shall be kept in good working condition.

(g) Heating:

1. A minimum temperature of 68 degrees F shall be maintained in all rooms used by the children.

2. [(child care centers that install new heating units)] **In the event that an existing heating unit needs replacement, the center shall install a new heating unit and** shall insure that the heating capacity is calculated in accordance with the current edition of the [American Society of Heating, Refrigeration and Air Conditioning Engineers] ASHARE[)] guide and data book [)] (**American Society of Heating, Refrigeration and Air Conditioning Engineers**).

[2.] **3. (No change in text.)**

(h) Ventilation:

1. Natural or mechanical ventilation shall be provided in all rooms used by children.

i. (No change.)

ii. Rooms not having windows with an ope[r]nable area of at least [five] **four** percent of the floor space shall be equipped with a ventilating or air conditioning system with a capacity equal to that required for natural ventilation.

iii.-vii. (No change.)

(i) Bathroom facilities:

1. General requirements:

i. (No change.)

ii. Urinals may be counted in determining the center's toilets and wash basins per children ratio, provided that **(the Bureau shall determine on a center by center basis whether and to what extent urinals may be counted in meeting the requirements, based upon a number of factors, including but not limited to the number and sex of the children enrolled at the center, availability of separate bathroom facilities for boys and girls, and the number and availability to toilets):**

(1)-(3) (No change.)

iii.-iv. (No change.)

v. [Also, m]Mirrors, dispensers, and other equipment shall be fastened securely.

[v.] **vi. (No change in text.)**

2. Location of bathroom facilities: Bathroom facilities shall be easily accessible to the children[.]:

i. Pre-school, drop-in and night care programs:

(1) There shall be a minimum of one toilet and one wash basin located on the same floor as the playroom(s).

(2) Any [additional] bathroom facilities **in addition to those**

stated in (i)2i(1) above shall be located on the same floor as the playroom(s) or within one floor above or below the floor level used by the children.

ii. Special needs programs:

(1) [For a] Ambulatory children [,]; [t]There shall be a majority of the bathroom facilities located on the same floor as the playroom(s). Any additional bathroom facilities shall be located on the same floor as the playroom(s) or within one floor above or below the floor level used by the children.

(2) [For n]Non-ambulatory children[,]; [a]All of the bathroom facilities shall be located on the same floor as the playroom(s).

3. (No change.)

(j) Kitchen facilities:

1. Centers required to have kitchen and food preparation areas, as specified in N.J.A.C. 10:122-6.3, shall meet the following requirements:

i. [Food shall be prepared in a kitchen with proper equipment and clean-up facilities.] **The cooking and kitchen facilities and equipment shall be kept clean and sanitary and be in compliance with the provisions of Chapter 12 of the State Sanitary Code (N.J.A.C. 8:24).**

ii. (No change.)

iii. Storage space shall be clean and well ventilated, and containers of food shall be covered and stored above the floor on shelves or other clean surfaces.

iv. Food requiring refrigeration shall be stored in a refrigerator at not more than 45 degrees F.

v. When single service utensils are used, they shall be stored and handled in a sanitary manner and shall be discarded after a single use.

vi. The cooking and kitchen facilities and equipment shall be kept clean and sanitary and be in compliance with provisions of the New Jersey State Department of Health, State Sanitary Code, Chapter 12, Construction, Operation and Maintenance of Retail Food Establishments.]

(k) Lead paint:

1. Lead paint shall not be on and shall be removed by the sponsor from any interior or exterior surfaces of a building used as a center, or on any furniture, toys, or other equipment used therein, in accordance with the **provisions of Chapter 13 of the State Sanitary Code (N.J.A.C. 8:51-7.1 through 7.5)**. [State Lead Paint Law (N.J.S.A. 24:14A-1 et seq.) and with the New Jersey State Sanitary Code, Chapter 13, Lead Poisoning, promulgated thereunder.]

2. When lead paint is found in areas of a center not specified under **N.J.A.C. 8:51-7.1 through 7.5** [the State Lead Paint Law and Sanitary Code (as noted in paragraph 1 of this subsection)], the Bureau shall determine whether the lead paint is hazardous to the health, safety and well-being of the children served and, if considered to be hazardous, the sponsor shall remove the lead paint hazard.

(l) Asbestos:

1. Coatings containing asbestos shall not be sprayed-on any interior or exterior surfaces of a building used as a center, or on any equipment used therein, in accordance with regulations of the [New Jersey] State Department of Environmental Protection [(DEP)], **as specified in [(N.J.A.C. 7:27-17.2], entitled "Control and Prohibition of Air Pollution by Toxic Substances")]**.

2. If sprayed-on asbestos-containing materials appear to be present in a center, [the Bureau shall require] the sponsor **shall [to] have the material tested, [(through laboratory analysis)] to determine the contents of the material. When test results reveal the presence of sprayed-on asbestos-containing materials [are found at the center], the sponsor shall insure that it is removed from the building structures [or] and premises, in a manner consistent with all Federal, State and local regulations and guidelines concerning asbestos removal.**

(m) Swimming pools:

1. **Any swimming pool used by the children shall comply with the requirements pertaining to swimming pools, as specified in**

the New Jersey Youth Camp Safety Act Standards (N.J.A.C. 8:25-5.1 through 5.4 and N.J.A.C. 8:25-6.9).

[(m)] (n) Supplemental requirement:

1. In addition to all of the above requirements, the Bureau shall also require the center to take whatever steps are necessary to correct any conditions in the facility that may endanger in any way the health, safety and well-being of children served.

10:122-5.3 Additional life/safety requirements for centers in existence before January 1, 1977

(a) Centers, as defined in N.J.A.C. 10:122-5.1(a), in existence and operation before or on January 1, 1977 shall be inspected by the Bureau prior to renewal of its license to insure that the center has been maintained in accordance with (a)1 through 4 below. [the following standards:]

1. (No change.)

2. (No change.)

3. Electricity:

i. The electrical wiring and equipment shall comply with local or municipal requirements in effect at the time the structure first became a child care center and shall be maintained in good operating condition.

ii. Any new equipment and wiring installed in the center shall be in compliance with the Electrical Subcode of the UCC.

4. Plumbing:

i. All plumbing shall comply with local or municipal requirements in effect at the time the structure first became a child care center and shall be maintained in good operating condition.

ii. Any new plumbing installed in the center shall be in compliance with the Plumbing Subcode of the UCC.

[ii.] iii. (No change in text.)

10:122-5.4 Additional life/safety requirements for centers beginning operation after January 1, 1977

(a) Any center, as defined in N.J.A.C. 10:122-5.1(b), beginning operation after January 1, 1977 and approved to operate as a center, in accordance with provisions of the UCC, shall be inspected by the Bureau prior to beginning its operation or renewal of its license to insure that the center is being maintained in accordance with the UCC[,] and [that it meets the following requirements] **with (a)1 through 4 below.**

1. Exit requirements: Doors, stairways and/or passageways leading through kitchens, boiler, furnace or storage areas shall not be permitted as an approved means of egress. Doors and stairways used for exits must be unobstructed and maintained as follows:

i. Any door exiting directly to the outside which is used to accommodate more than [49] **100** occupants shall be required to be equipped with panic hardware.

ii.-iv. (No change.)

2. Fire protection:

i. General requirements:

(1)-(3) (No change.)

ii. Pre-school and drop-in programs: [i]In addition, these programs shall meet the following requirements:

(1) A manual fire alarm system shall be installed and maintained in full operating condition **when buildings are three or more stories in height or the total occupant load of the building is 50 or greater.**

(2) (No change.)

iii. (No change.)

3.-4. (No change.)

10:122-7.1 General

(a) Any child care center providing or arranging for the provision of transportation for children to or from their homes and a center and/or in connection with an activity conducted by or through the auspices of a center shall meet the transportation requirements of this subchapter, as listed below.

(b) In cases where the center arranges for the provision of trans-

portation through a person or agency other than the sponsor, the center sponsor shall provide to the Bureau of Licensing the name(s) and address(es) of the transportation providers.

(c) Any person or agency other than the child care center providing transportation for compensation for children to or from their homes and a center and/or in connection with any activity conducted by or through the auspices of a center shall also meet the transportation requirements of this subchapter.

[1.] **10:122-7.2** Driver requirements[:]

[i.] (a) The driver of a vehicle used for the purpose noted above shall comply with the school bus driver's license requirements of the State motor vehicle law(s) and/or regulations.

[ii.] (b) The driver shall not transport more persons, including children and adults, than the capacity of the vehicle.

[2.] **10:122-7.3** Safety practices [:]

[i.] (a) Children shall never be left unattended in a vehicle.

[ii.] (b) Children shall be loaded and unloaded from the curbside of the vehicle.

[iii.] (c) The interior of each vehicle shall be maintained in a clean, safe condition, with clear passage to operable doors.

[iv.] (d) All persons in the vehicle shall be secured in seats with safety belts in all vehicles required by law to be equipped with safety belts.

[v.] (e) When transporting more than six children, there shall be one adult in addition to the driver in the vehicle at all times.

[vi.] (f) The driver or second adult shall ensure that each child is received by a responsible person.

[vii.] (g) There shall be no standees in any vehicle transporting children.

[3.] **10:122-7.4** Transportation records[:]

[i.] (a) Each center shall keep in a file a list of children transported, the name of each driver, a photostatic copy of his/her current bus driver's license and the year, make and model of each vehicle used.

[ii.] (b) These records shall be available upon request to any authorized representatives of the Department.

[4.] **10:122-7.5** Insurance[:]

(a) Each center or person providing transportation services shall maintain liability insurance for bodily injury or death in minimum amounts of \$300,000 per person and \$500,000 per accident.

(b) In the event that the transportation services are provided by a private individual or firm under contract or other arrangement with the center or parents, the center must maintain a file copy of that individual's or firm's insurance coverage in the amounts specified above and make a copy of such coverage available to the [Department] **Bureau upon request.**

[5.] **10:122-7.6** Special regulation[:]

(a) The following additional regulations shall be required for centers serving specially handicapped, non-ambulatory children:

[i.] **1.** A ramp device shall be provided to permit entry and exit of a child from the vehicle. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.

[ii.] **2.** Wheelchairs shall be securely fastened to the floor.

[iii.] **3.** The arrangements of the wheelchairs shall not impede access to the exit door.

10:122-7.2[7] Vehicle requirements

(a) The following vehicle requirements shall apply to any center where transportation services are provided for the children, **to those activities specified in N.J.A.C. 10:122-7.1**, whether provided directly or indirectly by or through the auspices of a center or its sponsor or otherwise with the knowledge and/or concurrence of a center or its sponsor.

1. Vehicle definitions:

i. Type I [V]vehicles [:] are vehicles with a capacity of [seven-teen(17)] or more persons.

ii. Type II [V]vehicles [:] are vehicles with a capacity of fewer than [seventeen (17)] persons.

2. Vehicle specifications:

i. Inspection requirements: Any vehicle used for the purposes noted in N.J.A.C. 10:122-7.1 shall be registered with the Office of the County Superintendent of Schools and shall be inspected semiannually by the New Jersey Division of Motor Vehicles.

(1) [In addition, t]The center shall conduct a daily check of the vehicle, which shall include all safety equipment, in order to insure that the vehicle is in sound operating condition.

ii. Vehicles manufactured after April 1, 1977:

(1) [Type I vehicles: a]All Type I vehicles shall comply with the specifications for Type I vehicles prescribed by the New Jersey Department of Education and with the Federal Motor Vehicles and School Bus Safety Amendments of 1974.

(2) [Type II vehicles: a]All Type II vehicles with a capacity of more than six **but fewer than 10** persons shall comply with the specifications for Type II vehicles prescribed below in this section.

(3) All [T]type II vehicles with a capacity of 10 or more persons [also] shall comply with the requirements of the Federal Motor Vehicle and School Bus Safety Amendments of 1974.

iii. Vehicles manufactured before April 1, 1977:

(1) [Type I vehicles: a]All Type I vehicles shall comply with the specifications for Type I vehicles prescribed by the New Jersey Department of Education in existence at the time the vehicle was manufactured.

(2) [Type II vehicles: a]All Type II vehicles with a capacity of more than six persons shall comply with the specifications for Type II vehicles contained in the Standards for Approval of Child Care Centers in force at the time the vehicle was manufactured.

iv. (No change.)

v. Requirements for Type II vehicles manufactured after April 1, 1977: [a]All vehicles with a capacity of more than six but fewer than [17] **10** persons shall comply with the following requirements:

(1) **The maximum capacity of a vehicle shall not exceed the number of safety belts installed.**

Renumber (1)-(6) as (2)-(7).

[(7)](8) There shall be a clearly marked **standard first-aid kit containing first-aid equipment recommended by the American Red Cross or the local or State health department.** [the following items as a minimum:

6-single units sterile pads 3x3 inches

2-1 inch x 10 yds. bandages

12-plastic strip bandages

1-triangular bandage

1-1 inch x 2 1/2 yds. adhesive

2-paper cups

1-scissors

1-First Aide guide booklet

[(8)](9) (No change in text.)

[(9)](10) All stanchions and guardrails in van-type vehicles and buses shall be padded [to minimize injury producing impact forces].

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Driver Control Service Reciprocity Agreement Between Delaware and New Jersey

Proposed Repeal: N.J.A.C. 13:19-6

Authorized By: Joan H. Wiskowski, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:2-3, 3-16 and 5-30.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Joan H. Wiskowski, Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
Trenton, New Jersey 08666

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

This proposal is known as PRN 1982-43.

The agency proposal follows:

Summary

The proposal repeals the regulations governing Reciprocity Agreements.

Social Impact

Reciprocity between Delaware and New Jersey is now covered by statute (N.J.S.A. 39:5D-1 et seq.). The proposed repeal will eliminate the public's confusion as to which provision is controlling and will facilitate uniform application of procedures within the Division of Motor Vehicles.

Economic Impact

The proposed repeal will delete duplicative provisions of the administrative code thereby engendering more efficient and uniform application of procedures. The public will suffer no economic detriment.

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

SUBCHAPTER 6. [RECIPROCITY AGREEMENT BETWEEN DELAWARE AND NEW JERSEY'] (RESERVED)

[13:19-6.1 Purpose

(a) The Motor Vehicle Division, Delaware State Highway Department, State of Delaware, and the Division of Motor Vehicles, Department of Law and Public Safety, of the State of New Jersey, cognizant of the need for uniformity and reciprocity in the administration and enforcement of their respective motor vehicle laws and regulations as related to the out-of-State violations of their respective operators, have determined that an effective agreement, followed by prompt administrative action on the part of both Delaware and

New Jersey, will establish a more uniform and positive method of driver control.

(b) Interstate travel is today the rule and not the exception, and law violations and accidents of many drivers occur in more than one state. It is recognized that effective driver control can be accomplished only if there is agreement to maintain uniform procedures of reporting with similar and concurrent actions of suspension by either jurisdiction.

13:19-6.2 Reports of single conviction

(a) Upon receipt of a conviction report from a court for the violation of a motor vehicle law by a driver from the alternate state and revocation or suspension action is not taken by the motor vehicle authority of the state in which the violation occurred, a copy of the conviction report shall be forwarded to the proper authority of the home state of the driver.

(b) The motor vehicle authority of the home state of the driver shall upon receipt of a copy of the conviction report, treat the conviction in the same manner as if the violation had occurred in the home state.

13:19-6.3 Revocation or suspension

(a) When revocation or suspension action is taken by the state where the violation occurred, a copy of the notice of revocation or suspension shall be forwarded to the home state of the driver.

(b) Such notice shall contain the reason for the action taken, the effective date and the period of revocation or suspension. If the revocation or suspension is based on court action, a copy of the court report is to accompany the notice.

(c) The home state shall upon receipt of a copy of notice of revocation or suspension, process and take action in the same manner as if the violation or reason for action had occurred in the home state.

13:19-6.4 Speeding

(a) Upon receipt of a conviction report from a court for a violation of the speeding laws by a driver from the alternate state, the state where the violation occurred will impose revocation or suspension of the reciprocity driving privilege in accordance with its law, regulation or policy, and forward a copy of notice to the driver's home state.

(b) The suspension order shall be accompanied by a copy of the court report and shall include the miles per hour the driver was traveling and the legal speed limit in the location where the violation was committed.

(c) The driver's home state shall impose revocation or suspension in accordance with its law, regulation or policy.

13:19-6.5 Point System or other violation repeater program

(a) When the motor vehicle authority revokes or suspends the reciprocity driving privilege of a driver from the alternate state under a Point System or other violation repeater program, a copy of the revocation or suspension order shall be forwarded to the driver's home state.

(b) The suspension order shall include or be accompanied by a listing of the violations and the dates of the violations.

(c) The driver's home state shall impose revocation or suspension in accordance with its law, regulation or policy.

13:19-6.6 Concurrent revocation or suspension

(a) When revocation or suspension is imposed by the motor vehicle authority of the state in which the violation occurred, such suspension shall be effective 30 days after the date of determination. A copy of the order shall be transmitted to the home state of the driver.

(b) In order that the periods of suspension will coincide as to timing and be concurrent, the home state shall suspend making the effective date of the suspension the same as the suspension in the alternate state; provided, however, revocations for major offenses such as the following shall be imposed by the motor vehicle authority of the state where the violation occurred and become effective

immediately. A copy of the order of revocation shall be transmitted to the home state of the driver:

1. Driving while under the influence of intoxicating liquor;
2. Fatal accident;
3. Commission of crime involving use of motor vehicle;
4. Leaving the scene of fatal or personal injury accident;
5. Perjury or making a false affidavit to the motor vehicle authority under any law requiring the registration of motor vehicles or regulating their operation on highways;
6. Three consecutive convictions for reckless driving.

13:19-6.7 Notice of revocation or suspension action

Upon receipt of notice of revocation or suspension from the alternate state, the driver's home state shall take appropriate action and forward to the state where the violation occurred a copy of any revocation or suspension action. If no action is taken, the motor vehicle authority of the state where the violation occurred will be so informed.

13:19-6.8 Restoration

Upon restoration, the motor vehicle authority of the state in which the violation occurred shall transmit to the home state of the driver a copy of the official notice of restoration.]

(a)

DIVISION OF MOTOR VEHICLES

Driver License

Nonresident Licensees' Legend

Proposed Repeal: N.J.A.C. 13:21-8.18

Authorized By: Joan H. Wiskowski, Director, Division of Motor Vehicles.

Authority: N.J.S.A. 39:3-10.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Joan H. Wiskowski, Director
Division of Motor Vehicles
Department of Law and Public Safety
25 South Montgomery Street
Trenton, New Jersey 08666

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

The proposal is known as PRN 1982-40.

The agency proposal follows:

Summary

The proposed repeal deletes that section of the driver license regulations which provides for the issuance of "Valid in N.J. Only" licenses to nonresidents.

Social Impact

The proposed repeal establishes a method of licensing motorists which is consistent with all of the other states. Existing regulations are confusing to the public and to law enforcement personnel. New Jersey currently allows reciprocal driving privileges for nonresident motorists making this regulation unnecessary.

Economic Impact

While there is no economic impact on motor vehicle operators, there is an economic impact upon the Division of Motor Vehicles in that the administrative cost of processing the "Valid in N.J. Only" license, the confusion of procedures, and the man-hours necessary to implement the regulation will be eliminated.

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

13:21-8.18 [Nonresident licensees; legend] (Reserved)

[Any driver's license issued to an applicant whose address is other than within the geographical limits of the State of New Jersey shall be overprinted with the legend "Valid in N.J. Only". Such license shall be valid for driving a motor vehicle within the confines of the State of New Jersey.]

(b)

STATE BOARD OF ARCHITECTS

STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Division of Architectural/Engineering Responsibilities for Buildings

Rule Pre-Proposal: N.J.A.C. 13:27-7 and 13:40-8

Public Hearing: March 9, 1982.

Pursuant to the provisions of N.J.S.A. 45:3-3 and N.J.S.A. 45:3-10 (Architects) and N.J.S.A. 45:8-27 et seq., N.J.S.A. 45:8-39, and N.J.S.A. 45:8-45 (Professional Engineers and Land Surveyors), the State Board of Architects and the State Board of Professional Engineers and Land Surveyors plan to propose a rule dividing the areas of responsibilities for buildings between architects and engineers.

The Board of Architects and the Board of Professional Engineers and Land Surveyors will hold a **Public Hearing** to provide the opportunity for public comments and statements on this pre-proposal. The hearing will be held on March 9, 1982, at 10:00 A.M., at:
The Labor Education Center
Cook Campus
New Brunswick, New Jersey.

A draft memorandum prepared by a committee of both Boards describing the areas which might be addressed by a rule if proposed will be provided to interested parties up to the day of hearing upon request presented by phone or in writing to the Executive Secretary of the Board of Professional Engineers and Land Surveyors. Copies of the draft memorandum will also be available at the Public Hearing.

Any persons who wish to make presentations at the hearing should contact the Executive Secretary of the Board of Professional Engineers and Land Surveyors no later than March 1, 1982, at the following address:

Ruth L. Weisman, Executive Secretary
State Board of Professional Engineers
and Land Surveyors
1100 Raymond Boulevard, Room 317
Newark, New Jersey 07102
(201) 648-2660

This is a Notice of pre-proposal for a rule (see N.J.A.C. 1:30-

3.2). Any rule concerning the subject of this pre-proposal must still comply with the rulemaking provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Office of Administrative Law's Rules for Agency Rulemaking, N.J.A.C. 1:30.

This pre-proposal is known as PPR 1982-1.

(a)

BOARD OF DENTISTRY

**Oral Hygiene
Administration of Schools of Oral Hygiene**

Proposed Amendment: N.J.A.C. 13:30-6.2

Authorized By: State Board of Dentistry, Herman H. Weiss, D.D.S., President.
Authority: N.J.S.A. 45:6-50(c).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert J. Siconolfi, Executive Secretary
New Jersey State Board of Dentistry
Room 321
Division of Consumer Affairs
Department of Law and Public Safety
1100 Raymond Boulevard
Newark, New Jersey 07102

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

The proposal is known as PRN 1982-38.

The agency proposal follows:

Summary

The proposal provides that an individual who is a dental hygienist in the State of New Jersey may serve as director or dean of a School of Oral Hygiene in the State of New Jersey.

Social Impact

The proposal will assure that qualified individuals who are dental hygienists in the State of New Jersey may serve as a director or dean of a School of Oral Hygiene in the State of New Jersey, thus eliminating an unnecessary restriction in the current rule.

Economic Impact

The only foreseeable economic impact upon licensees of the Board, the State Board of Dentistry or Schools of Oral Hygiene is that this proposal may create the widening of job opportunities for the licensees.

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

13:30-6.2 Administration

- (a) The school shall have a director or dean who is a licensed dentist or **registered dental hygienist** in the State of New Jersey.
- (b)-(c) (No change.)

(b)

BOARD OF DENTISTRY

**General Provisions
Jurisprudence Examination for Licensure**

Proposed Amendment: N.J.A.C. 13:30-8.7

Authorized By: State Board of Dentistry, Herman H. Weiss, D.D.S., President.
Authority: N.J.S.A. 45:6-50.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert J. Siconolfi, Executive Secretary
New Jersey State Board of Dentistry
Room 321
Division of Consumer Affairs
Department of Law and Public Safety
Newark, New Jersey 07102

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

The proposal is known as PRN 1982-37.

The agency proposal follows:

Summary

The proposed amendment provides that candidates for a license in dental hygiene and dental hygiene expanded functions, and candidates for a registration in dental assisting shall successfully complete a written examination testing all candidates on applicable aspects of the Dental Auxiliaries Law and Rules.

Social Impact

The proposed amendment will insure that all candidates for licensure and registration with the Board of Dentistry are familiar with the laws and rules governing their profession. Since the current regulation requires candidates for dental licensure to successfully pass a written examination on the Dental Practice Act and Regulations, this amendment will place an equal responsibility on all licensees of the Board.

Economic Impact

The proposed amendment will present no foreseeable economic impact upon the licensees because there is no cost for taking the exam. It will present minimum economic impact on State Board of Dentistry due to the cost of preparing and correcting the exam.

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

13:30-8.7 Jurisprudence examination for licensure

- (a) (No change in text.)
- (b) **Effective June 1, 1982, all candidates for a license to practice dental hygiene, a registration to practice dental hygiene in expanded functions and a registration to serve as a registered dental assistant shall, in addition to any and all other requirements for licensure or registration, be required to take and pass to the satisfaction of the Board an examination which tests the candidate's knowledge of the rules, regulations and statutes pertaining to their particular practice in the State of New Jersey.**

(a)

BOARD OF MEDICAL EXAMINERS**General Administrative Regulations
Pronouncement of Death****Proposed Amendment: N.J.A.C. 13:35-6.5**

Authorized By: State Board of Medical Examiners, Edwin H. Albano, M.D., President.
Authority: N.J.S.A. 45:9-2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Edwin H. Albano, M.D.
President, Board of Medical Examiners
28 West State Street
Trenton, New Jersey 08608

The Board of Medical Examiners 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 1982-39.

The agency proposal follows:

Summary

Present law requires that no person may be presumed dead and the body delivered to a funeral director for subsequent burial until there has been an official pronouncement of death, followed by a signed death certificate. N.J.S.A. 26:6-6 et seq. The current Board rule codifies tradition by requiring that only the physician who was attending the presumed decedent can make the determination and pronouncement of death. The proposed rule reasserts that the determination is a medical decision for which the attending physician should retain primary responsibility, but also recognizes that the actual determination of a death does not, in most cases, require the personal examination of the attending doctor who may reside far from the location of the death or actually be unavailable or unreachable at the time. The proposal also recognizes that in a cosmopolitan state such as New Jersey, with a large transient population, there will on occasion have been no known attending physician. In a hospital, the pronouncement of death can properly be made by any member of a hospital's medical or professional nursing staff. Outside a hospital, where it might be more difficult to locate a physician, another physician or a registered nurse at a nursing home or a certified emergency medical technician trained pursuant to N.J.S.A. 26:2K-1 et seq. or working in an ambulance squad, can make the determination and pronouncement, after attempting to notify the attending physician, if any.

Social Impact

The proposed rule is expected to have a beneficial social impact by avoiding the current distress occasioned when a family member dies and the body cannot be removed from the scene because of temporary inability to locate the attending physician (or any physician, when the decedent had none) in a timely manner. The rule will also alleviate the present burden on local ambulance squads which are currently called upon by family members to transport a person who is plainly deceased to a hospital solely for the purpose of finding a physician authorized to make the pronouncement of death. The proposal provides other alternatives which may ease this situation in certain parts of the state or during time of physician unavailability.

Economic Impact

The proposed rule is not expected to have any significant economic impact. If anything, costs to families of the decedent may be lessened by not requiring a lengthy trip to the location of the death by the decedent's personal attending physician, as the service will be permitted to be performed by a properly trained health care professional closer to the scene.

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

13:35-6.5 Pronouncement of death [at a home medical or non-medical facility]

[(a) In the event of a death at a home, medical, or a non-medical facility, an official pronouncement of the death shall be the primary responsibility of the attending physician or designated substitute.

(b) Upon notification of a probable death at a non-medical facility, the attending physician or designated substitute shall proceed without inordinate delay to the location of the presumed decedent and make the proper determination and pronouncement of the death. In no case shall a physician direct a funeral director or representative to remove the presumed decedent from the premises until an official pronouncement of the death has been made. In the case of any death, whether at a home, medical or non-medical facility, the death certificate shall be completed and signed by the attending physician or designated substitute within a reasonable period of time not to exceed 24 hours after the pronouncement of death.

(c) The county medical examiner, cases of death within such jurisdiction, shall without inordinate delay require the proper and established means for the pronouncement of the death, arrange for the removal of the body and completion of the death certificate.

(d) Any violation of the foregoing rule by a licensee or any person association or corporation may be considered as the basis for disciplinary proceedings and sanctions pursuant to N.J.S.A. 45:1-14, 45:9-1, 45:9-22 and 45:9-26.]

(a) The official pronouncement of a death is a medical determination and is the primary responsibility of the decedent's attending physician or designated covering physician.

(b) Upon notification of an apparent death, the attending physician (or designated covering physician) shall proceed without inordinate delay to the location of the presumed decedent and shall make the proper determination and pronouncement of the death; except that:

1. Where the apparent death has occurred outside a licensed hospital and the attending or covering physician has been notified but is unable to go to the location to make the determination and pronouncement, said physician may specify another physician or a professional nurse (R.N.) or an emergency medical technician or paramedic certified by the Board of Medical Examiners to attend the presumed decedent and make the determination and pronouncement. In every such instance, a written record (which may be contained within a police report) shall be prepared describing the circumstances and identifying the physician and the person designated to perform the death pronouncement responsibility. Such report shall be promptly communicated orally to the attending physician for use in preparation of the death certificate, and a copy of the report shall be provided to the physician as soon as practicable.

2. Where the probable death has occurred outside a licensed hospital and the attending or covering physician is known but cannot be reached after exercise of reasonable diligence, or no attending physician is known, then any physician, professional nurse or certified emergency medical technician or paramedic may proceed to the scene and make the determination and pronouncement of death. A written record shall be prepared as set forth in (b)1 above. Following pronouncement of death, the information shall be promptly communicated to the physician for preparation of the death certificate and a copy of the report provided as soon as practicable. If no attending physician is known,

the death shall be immediately reported to the County Medical Examiner.

3. Where the probable death has occurred within a licensed hospital, and where the attending physician has been notified and is unavailable or cannot be reached, the covering physician or any member of the professional medical staff or professional nurse at the hospital may make the determination and pronouncement.

(c) In no case shall a funeral director or representative be instructed to remove the presumed decedent from any premises until an official pronouncement of the death has been made.

(d) In the case of any death, whether at a home, medical or non-medical facility, the death certificate shall be completed and signed by the attending or covering physician or, if none, the physician to whom the report was delivered, within a reasonable time, not to exceed 24 hours after the pronouncement of death. Within a licensed hospital, the term attending or covering physician shall be deemed to include any member of the professional medical staff having personal knowledge of the death and last sickness particulars.

(e) In cases of death within the jurisdiction of the county medical examiner, the examiner shall without inordinate delay require the proper and established means for the determination and pronouncement of death as set forth in (b) above, and shall arrange for the removal of the body and completion of the death certificate.

(f) Any violation of the foregoing rule by a licensee or by any person, association or corporation may be considered as the basis for disciplinary proceedings or other sanctions as permitted by law pursuant to N.J.S.A. 45:1-14 et seq. and 45:9-1 et seq.

(a)

NEW JERSEY RACING COMMISSION

**Horse Racing
Thoroughbred Rules**

Proposed New Rules: N.J.A.C. 13:70-1.28 and 1.29 and 13:70-13A, 14A.14

Proposed Amendments: N.J.A.C. 13:70-2.1, 3.9, 3.15, 3.16, 3.25, 3.35, 4.2, 4.10, 4.11, 5.7, 5.19, 5.20, 5.24, 6.5, 6.18, 12.1, 14A.2, 14A.8, 15.1, 16.7, 16.8, 19.41, 22.7, 29.14, 29.19, 29.28, 29.32, 29.55 and 31.3

Proposed Repeal: N.J.A.C. 13:70-3.45, 13.15 through 13.20, 23.7, 29.11, 29.50 and 29.52

Authorized By: New Jersey Racing Commission, John J. Reilly, Executive Director.
Authority: N.J.S.A. 5:5-30.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. 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, New Jersey 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 1982-44.

The agency proposal follows:

Summary

N.J.A.C. 13:70-1.28 would serve as an addition to existing regulations to clarify the Commission's right to review and modify all penalties to licensees imposed by racing officials.

New N.J.A.C. 13:70-1.29 would mandate that the Commission grant full reciprocity to disciplinary action imposed by other State racing commissions.

N.J.A.C. 13:70-2.1 (definition chapter) would be amended to delete the definition for "known bleeders" which is no longer an applicable standard and to amend the definition for what constitutes a race day in the event of a portion of a racing card is cancelled due to unforeseen circumstances.

N.J.A.C. 13:70-3.9 would be amended to substitute the title of Executive Director instead of Secretary to parallel the existing Commission table of organization.

The amendment to rule 13:70-3.15 would consolidate the provisions of two existing rules with respect to fire safety practices.*

N.J.A.C. 13:70-3.16 would be amended to provide greater discretion to the Stewards to punish violators of the smoking restrictions in the barn areas of racetracks.

The proposed amendment to N.J.A.C. 13:70-3.25 would add the State Veterinarian to the list of officials to be included in the communications system provided by the permitholders.

N.J.A.C. 13:70-3.35 would be amended to include a prohibition against employees of the Mutuel Department at various racetracks from wagering.

N.J.A.C. 13:70-3.45 would be deleted as its provisions are now consolidated into N.J.A.C. 13:70-3.15.

N.J.A.C. 13:70-4.2 and 13:70-4.3 would be amended to liberalize existing requirements with respect to the eligibility of corporations to own race horses and to provide standards for licensing of corporate principals.

N.J.A.C. 13:70-4.11 would be amended to provide greater flexibility to the Stewards to deal with disciplinary licensees who materially falsified their license applications.

N.J.A.C. 13:70-5.19, 5.20 and 5.24 would be amended to liberalize the regulations dealing with the ability of groups of individuals to participate in joint ownership of race horses.

N.J.A.C. 13:70-6.5 would be amended to provide guidelines for the coupling of horses as entries wherein multiple or corporate ownership is involved and further to permit "entries" to be split on a case basis in stake or other special races.

The amendment to N.J.A.C. 13:70-6.18 would permit horses to enter races at thoroughbred tracks in New Jersey if stabled on the grounds of approved farms licensed by the Commission.

The proposed revision to N.J.A.C. 13:70-6.55 would amend the time periods a horse is disqualified from racing for respiratory bleeding and would delete the provision dealing with known bleeders, now codified elsewhere.

N.J.A.C. 13:70-12.1 would be amended to provide for greater access to claiming privileges to be afforded licensed owners.

N.J.A.C. 13:70-13.15 through 13.20 would be deleted as the Commission will be seeking to adopt a new subchapter to cover hearing practice and due process requirements for contested cases before the Commission. This new subchapter N.J.A.C. 13:70-13A.1 et. seq. would codify practice before the Commission for all contested cases.

N.J.A.C. 13:70-14A.2 would be amended to provide a mechanism for certification in New Jersey of respiratory bleeders certified by other racing jurisdictions.

The proposed change in N.J.A.C. 13:70-14A.8 would provide greater flexibility to the Commission to discipline repetitive offenders of the trainer responsibility rule.

New N.J.A.C. 13:70-14A.13 would establish a pre-race blood testing program for horses competing at thoroughbred racetracks in New Jersey.

The proposed amendments to N.J.A.C. 13:70-16.7 and 16.8 will provide some guidelines for the Stewards in dealing with repetitive offenders of the regulations as well as increasing the maximum amount of fines which the Stewards can impose.

N.J.A.C. 13:70-19.41 as amended would require licensed veterinarians to promptly advise the Commission of the intended or actual administration of new drugs and to provide samples when so requested.

N.J.A.C. 13:70-24.3 as amended would liberalize the ability of licensed owners to enter claims for horses entered in hurdle or steep-lechase races.

N.J.A.C. 13:70-29.14 would be amended to require the mutuel manager to consult whenever possible with the Commission representative at the mutuel department in any emergency situation before reaching a decision.

The proposed amendment to N.J.A.C. 13:70-29.28 would be of a technical nature and permit the mutuel vendor to offset "lost" nonissued tickets resulting from computer malfunction.

N.J.A.C. 13:70-29.32 would be amended to vest discretion in the stewards to order refunds wherein it is in the public interest to do so as a result of late scratches removing a patron of a betting entry from competition.

N.J.A.C. 13:70-29.50 and 29.52 would be deleted as each provision governs wagering pools no longer offered in the State.

N.J.A.C. 13:70-31.3 would be amended to increase the maximum fine amounts which could be imposed against licensees.

Social Impact

It is anticipated that the revisions to N.J.A.C. 13:70-1.28 will be of a positive social impact in that said section will codify the Commission's authority to modify penalties imposed by racing officials wherein the integrity of racing would be served thereby. The proposed amendment to N.J.A.C. 13:70-3.16 will provide greater flexibility and authority to the Board of Stewards to punish violators of the Commission's rules and regulations; this disciplinary scheme should better serve the interest of safeguarding the public by better insuring the integrity of racing. Similarly, the proposed amendment to N.J.A.C. 13:70-4.11 would be of significant benefit in protecting the public interest in that the proposed amendment would provide greater flexibility to the Commission to deal with prospective licensees who have falsified their criminal records on license applications. The amendments to N.J.A.C. 13:70-5.19, 5.20, 5.24, 12.1 and 24.3 would impact the public interest in that these sections when viewed as a whole, would greatly increase the ability of the general public to participate in the ownership of race horses competing in New Jersey. The proposed amendment to N.J.A.C. 13:70-14A.8, as well as N.J.A.C. 13:70-16.17 and 16.8, should serve to have a positive social impact in the State by providing for a more comprehensive regulatory scheme to regulate and discipline the conduct of licensees, thereby aiding the integrity of racing.

Economic Impact

The suggested revision to N.J.A.C. 13:70-6.55 will be of direct benefit to persons within the racing industry by reducing the costs attendant to certifying horses in need of medication to prevent respiratory bleeding. The proposed amendment to N.J.A.C. 13:70-4.2, 4.3, 5.19, 5.20 and 5.24 should impact State revenues from racing in a positive fashion by increasing the licensing fees for horse ownership involving corporations and partnerships. The proposed amendments to N.J.A.C. 13:70-14A.8, 16.7 and 16.8, as well as 31.3, should also largely increase State revenues from racing by increasing maximum fine amounts which could be imposed against licensees. The New Jersey Racing Commission further anticipates that the various amendments discussed previously concerning the social impact of these regulations should also have a positive impact on the general economic health of racing in the State by establishing a new comprehensive regulatory scheme which would serve to increase the confidence of the public in the integrity of the contest which they are wagering upon. It is not anticipated that any other amendments would have any significant impact.

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

13:70-1.28 Modification of penalties

The Commission may modify on its own motion any penalty or decision imposed by a racing official pursuant to the rules and regulations as herein contained.

13:70-1.29 Reciprocity

Full force and effect shall be given to the denial, revocation or suspension of any license by any other racing commission or turf governing body.

13:70-2.1 Definitions

...
 ["Known bleeder" means a horse which bleeds from the nostrils or mouth twice within 12 consecutive months in any racing jurisdiction.]

...
 "Race Day" means a day [from 12:00 P.M. to 6:00 P.M. post meridian Eastern Standard Time.] **in which a numerical majority of scheduled races is conducted and shall be a part of the permit holder's allocated racing days.** [Any permit holder making application and receiving Commission approval to race at night, shall conclude the race day by 1:00 P.M. on Monday through Friday and by 12:00 A.M. Saturday.]

13:70-3.9 Review of application approval

Applications may be approved after due consideration by the [Secretary] **Executive Director** of the Racing Commission to whom such power is delegated, but the New Jersey Racing Commission may, in its discretion, review any such findings made by the Executive Director to determine whether any applicant merits approval.

13:70-3.15 [Inspection of barn area] **Fire inspection stable area**

[(a) The barn area of each track association is to be inspected twice during the racing season to insure that each permittee has adequately guarded against the hazards of fire.]

(a) The Racing Commission shall appoint annually a qualified engineering firm to inspect the stable area at all tracks licensed by the Commission to insure that said stable areas are adequately guarded against the hazards of fire.

[(b) The Racing Commission will appoint annually, a qualified engineering company to make fire inspections.]

(b) The engineering firm so appointed shall be paid by the track associations in an amount established by the Commission and shall conduct two such inspections of each stable area during the racing season and report thereon to the Commission.

[(c) The compensation of the inspection company shall be fixed by the Commission and paid by the respective track associations.]

(c) All recommendations of the engineering firm relating to fire conditions in the stable area shall be acted upon immediately by the permit holder.

13:70-3.16 Smoking Prohibited

Smoking is prohibited under the shed row of any barn. Persons found violating this rule will be reported to the stewards and shall be subject to a fine of \$25.00 for the first offense, \$50.00 for the second offense and to [an indefinite] **suspension** for the third or subsequent violation.

13:70-3.25 Communication system

An association shall install and maintain in good service, a communication system between the stewards' stand, [and], patrol judges [.] **and the State Veterinarian.**

13:70-3.35 Division of departments

(a) The departments shall be divided and designated as follows:

PROPOSALS

1.-2. (No change.)

3. Mutuel department (including manager of the mutuel department and all employees under his control, including calculators, sheet writers, supervisors, [ticket checkers, ticket room.] money room, messenger and runners, outbook clerks, program clerks, porters, information and change clerks, approximate odd board calculator, clerks and boardmen, miscellaneous assistants, cashiers and sellers);];

i. **All of the individuals mentioned in (a)3 above, when assigned to work shall be prohibited from wagering. Violation of the above may subject the individual to a fine, suspension or both, or to revocation of his or her license;**

4.-12. (No change.)

13:70-3.45 [Fire inspection] **(Reserved)**

(a) The racing commission shall appoint annually a qualified engineering firm to inspect the stable area at all tracks licensed by the commission to insure that said stable areas are free from the hazards of fire.

(b) The engineering firm so appointed shall be paid by the track association in an amount established by the commission.

(c) All recommendations of the engineering firm relating to fire conditions in the stable area shall be acted upon immediately by the permit holder.]

13:70-4.2 Items requiring registration

(a) The following must be registered with the Racing Commission and the fee payable for such registration shall be as follows:

1.-2. (No change.)

3. Corporate Stable Name – initial registration \$1,000;

4. Corporate Stable Name – annual registration \$250.00

13:70-4.3 Corporations

(a) No license as an owner shall be granted to a corporation or to the lessee or lessees of any corporation unless [such corporation shall have no more than ten stockholders or members each of whom shall be the registered and beneficial owner of stock or membership in such corporation; nor shall any corporation having more than ten such shareholders have the power to lease for racing purposes to any natural person or person or partnership any horse owned or controlled by it.] **all corporate officers, members of the Board of Directors, managers and stockholders owning directly or indirectly five percent or more of said corporation's issued stock have been licensed.**

(b) Each [stockholder] such person must file an application for an owner's license.

(c) [All the stockholders or members of a corporation which owns or leases horses for racing purposes in the State and also all such corporations shall make and file with the Commission, as and when requested by it, a report or reports containing such information as the Commission may specify; and upon refusal or failure to file such report or reports the Commission may refuse a license to any lessee or lessees of such corporation or may revoke any such license which it may have granted.] **Any and all changes in either the corporate structure or the respective interest of stockholders as described in (a) above must be promptly filed with the Commission.**

(d) **All corporations shall race under a stable name approved by the Commission and shall be required to file application for same on a form prescribed by the Commission.**

13:70-4.10 Age requirement

No application for a license will be considered for or granted to a [boy] **person** under 16 years of age.

13:70-4.11 False or misleading statements

Any person making any false, untrue or misleading statement on an application for license or registration or in a written or oral examination **in connection with such an application** may be [denied such a license or registration or may be suspended indefinitely] **disciplined as provided for in these rules and regulations.**

LAW AND PUBLIC SAFETY

13:70-5.7 [Duplicate stable names] **(Reserved)**

[A person cannot register more than one stable name at the same time.]

13:70-5.19 [Partnerships registered] **Multiple ownership**

Each and every [partnership] multiple ownership must be registered with the Commission. **All multiple ownerships with the exception of partnerships wherein no more than two persons are involved shall race in a multiple ownership stable name. No license shall be granted to any partnership, syndicate or other form of multiple ownership or to the lessee of any such entity excluding corporations wherein the number of persons having a beneficial interest therein exceeds 30.**

13:70-5.20 Contents of [partnership] **multiple ownership papers**

(a) [Partnership] Multiple ownership papers shall, among other things, set forth the following:

1.-7. (No change.)

13:70-5.24 [Partner's] Liability

All the parties in [a partnership] **any multiple ownership** shall be jointly and severally liable for all stakes, forfeits and other obligations.

13:70-6.5 Coupled horses

All horses owned wholly or in part by the same owner or the spouse of any such owner, or trained by the same trainer, must be coupled and run as an entry. **For purpose of this section "ownership" shall be construed to mean any person required to be licensed as an owner pursuant to these rules and in the instance of multiple ownerships, persons possessing at least a five percent commonality of interest in each of the respective horses. Provided however that when a trainer enters two or more horses in a stake, handicap, futurity or other special event under bonafide separate ownerships, the horse may, at the request of the association and with the approval of the Commission, be permitted to race as separate wagering entities. If the race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions insofar as possible but the divisions in which they compete and their post positions shall be drawn by lot.**

13:70-6.18 Stabling

No horse shall be permitted to enter or start unless stabled on the grounds of the association **or at a farm approved by the Commission** [in stabling approved by the said association] except with the permission of the racing secretary.

13:70-6.55 [Bleeding and known bleeders] **Respiratory bleeders**

[(a)] A horse placed on the veterinarian's list for respiratory bleeding must remain on the list for [a minimum of] 25 calendar days and a **second time** respiratory [known] bleeder must remain on the list for [a minimum of six] **three** months. A bleeder in the above categories is automatically released from the veterinarian's list after these dates; however, a horse which **evidences respiratory bleeding** [bleeds] a third time is barred from further racing in New Jersey.

[1. "Known bleeder" means a horse which bleeds from the nostrils or mouth twice within 12 consecutive calendar months in any racing jurisdiction.]

13:70-12.1 Claiming races on the flat

In claiming races on the flat, any horse is subject to claim for its entered price by any owner who has started a horse on the flat at the meeting at which the claim is made. **Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.**

SUBCHAPTER 13. [APPEALS,] OBJECTIONS AND PRO-TESTS

13:70-13.15 [Hearing] (Reserved)

[When a person is disciplined or penalized under these rules, he may request a hearing before the Commission.]

13:70-13.16 [Hearing request] (Reserved)

[Such a request must be filed in writing at the office of the Commission within three days of date of said penalty or imposition of said discipline.]

13:70-13.17 [Form of hearing request] (Reserved)

[The request shall be signed by the person making it and must set forth his reasons for believing he is entitled to a hearing.]

13:70-13.18 [Written or oral presentation; hearing] (Reserved)

[An applicant for a hearing will be heard in person, or by counsel, or he may submit his case in writing.]

13:70-13.19 [Written complaints and requests] (Reserved)

[All complaints and requests to the Commission must be made in writing and all papers filed with the Commission shall be the property of the Commission.]

13:70-13.20 [Appeals] (Reserved)

[An appeal from the decision of a racing official to the Commission shall not affect such decision until the appeal has been acted upon by the Commission unless otherwise ordered by a court of competent jurisdiction.]

SUBCHAPTER 13A. APPEALS

13:70-13A.1 Right of appeal

When any person is disciplined by the Stewards or any official representing the Commission pursuant to the laws of New Jersey or rules of the Commission, said penalty may be appealed to the Commission and a hearing requested.

13:70-13A.2 Imposition of penalty; Commission

The Commission may directly impose any disciplinary action provided for in its rules and regulations.

13:70-13A.3 Nature of proceedings

All hearings before the Stewards and Commission will be de novo proceedings and shall be accompanied by notice and an opportunity to be heard.

13:70-13A.4 Appeal procedure

In the event that an appeal is taken to the Commission, said appeal must be filed in writing at the office of the Commission within three days of the date of imposition of penalty by the Commission or the Stewards.

13:70-13A.5 Acting on appeals

The Commission shall act on all appeals in accordance with the laws of the State of New Jersey and the rules and regulations promulgated by the Commission.

13:70-13A.6 Frivolous appeals

Withdrawal by the appellant of a notice of appeal filed with the Commission whenever imposition of the disciplinary action has been stayed or enjoined pending a final decision by the Commission shall be deemed a frivolous appeal and referred to the Stewards for further disciplinary action in the event the appellant fails to show good cause to the Stewards why such withdrawal should not be deemed frivolous.

13:70-13A.7 Hearing; costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to the right of appeal contained in this subchapter and the laws of the State of New Jersey.

13:70-3A.8 Stay pending appeal

(a) A notice of appeal filed with the Commission pursuant to this subchapter may be accompanied by a request for a stay pending a final decision by the Commission. Such a request for a stay shall be made on a form prescribed by the Commission and shall be accompanied by security of not less than \$100.00. The Executive Director of the Commission may approve such stay requests in matters involving:

1. The loss of an owner of purse money of \$500.00 or more;
2. A fine of \$200.00 or more;
3. Suspension from one or more racing activities for seven days or more.

(b) Such a request for stay may be denied by the Executive Director of the Commission where to grant the same would be adverse to the best interests of racing or inimical to the integrity of the sport.

13:70-14A.2 Administering medication

(a) (No change.)

1.-3. (No change.)

4. That have been certified as respiratory bleeders in racing jurisdictions wherein such certification is pursuant to criteria substantially similar to this section. The Executive Director of the Commission shall make annual report to the Commission of those jurisdictions in compliance herewith which compliance shall be certified to by the Commission.

13:70-14A.8 [Second Offense] Repetitive offenders

Any individual suspended or disciplined in any fashion for a second or subsequent offense in violation of [N.J.A.C. 13:70-14A.7] or any comparable rule of any other racing commission or turf governing body may be deemed a repetitive offender and may constitute grounds for [license denial or revocation] further disciplinary action by the Commission consistent with subchapter 31 of this chapter (see N.J.A.C. 13:70-31.3).

13:70-14A.14 Pre race blood testing program

(a) All thoroughbred permit holders may, as a condition of their permit, be required to conduct a pre race blood testing program in a manner directed by the Commission.

(b) All costs and expenses so incurred shall be borne by the respective thoroughbred permit holders.

(c) All horses entered to start in any race where parimutuel wagering is conducted shall be subject to a pre race blood and/or urine test.

(d) Such horses shall be tested in their respective barn area on the grounds of the permit holders on the day of the race at such time as designated by the Commission and shall be under the care of a duly licensed attendant designated by the trainer of the horse.

(e) A licensed veterinarian approved by the Commission shall be the only person allowed to draw blood for testing. A quantity of 20 cubic centimeters or such amount as the veterinarian may designate shall be extracted from each horse for testing purposes. The horse identifier or assistant horse identifier shall accompany the veterinarian during all such testing.

(f) Should the forensic analysis of such sample be classified as suspicious for any drug, the horse shall be scratched.

(g) Should the forensic analysis of such sample be classified as positive for any drug, the horse shall be scratched and placed on the Steward's list for seven days.

(h) As a prerequisite to participating in a race meeting where

pre race testing is in effect, a declaration of acceptance is required. The signer consents both for himself or as the duly authorized agent of the owner or owners of the horse to permit the licensed veterinarian appointed and approved by the New Jersey Racing Commission to obtain biological samples prior to the race for the purpose of testing. The owner, by his agent or representative by such declaration shall consent to the scratching of the horse from the race in the event such test is positive or suspicious. A trainer shall receive a warning for the first time horse in his charge shall show a positive pre race test. If the same horse shall again be positive on a pre race test, then the trainer may be fined, suspended or both.

(i) The cost of all pre race testing of blood and/or urine shall be borne by the track association.

(j) The cost to the respective track association for testing each unit shall be established by the New Jersey Racing Commission.

13:70-15.1 List of racing officials

(a) The racing officials shall include:
1.-11. (No change.)

12. Horse identifier.

13:70-16.7 Punishment for violations

The stewards shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions, or both, for infractions. **The stewards may consider the prior record of any licensee for similar violations of the rules of this Commission or other racing commission or turf governing body in determining the extent of punishment to be imposed.**

13:70-16.8 Fines

The stewards may not impose a fine in excess of [\$250.00] **\$500.00**. If it is deemed necessary that a larger fine be imposed, the stewards shall so recommend to the Racing Commission.

13:70-19.41 Veterinary reports

Veterinary practitioners shall make daily reports to the State Veterinarian and to the stewards of all horses under treatment by them, on forms to be furnished by the association. [violation of this rule shall be reported to the Racing Commission and to the Stewards.] **Treatment of any horse with a drug for which the practitioner has not submitted a report pursuant to this rule shall be accompanied by a written report to the State Veterinarian of such administration or intended administration but in no event less than 72 hours before any such horse shall start. The pharmaceutical inserts accompanying such drug shall be made a part of said report which shall also be accompanied by a sample of the drug when so directed by the State Veterinarian. Failure to comply with the foregoing may subject the practitioner to disciplinary action by the stewards.**

13:70-22.7 Appointment of sub-agents

An authorized agent may appoint a sub-agent only when authorized to do so by the above [said] written instrument and, to be effective, notice of such appointment must be given immediately in writing to the Racing Commission and the Racing Secretary. **Application for a license must be filed for each sub-agency so created.**

13:70-23.7 [Amount of fines] (Reserved)

[The stewards may not impose a fine in excess of \$250.00. If it is deemed necessary that a larger fine should be imposed, the stewards shall so recommend to the Racing Commission.]

13:70-24.3 Claiming races

In claiming races over jumps and hurdles, any horse is subject to claim for its entered price by any owner who has started a horse in a steeplechase or hurdle race at the meeting at which the claim is made. **Any licensed owner who has an interest in any starter shall thereafter be eligible to claim individually.**

13:70-29.11 [Age restrictions] (Reserved)

(a) No person under the age of 12 shall be admitted to any race track enclosure as a spectator during the hours when the running of races is being conducted.

(b) Any child between the ages of 12 and 16 must be accompanied by an adult, parent or guardian.

(c) No person under the age of 18 shall be permitted to wager or in any manner participate in any pari-mutuel pool or system.]

13:70-29.14 Emergencies

Should any emergency arise in connection with the operation of the pari-mutuel department not covered by these rules and an immediate decision is necessary, the manager of the pari-mutuel department shall make [the decision] **a good faith effort to contact and consult with the supervisor of mutuels prior to making the decision, and render a full report to the Racing Commission.**

13:70-29.19 Discretion; manager of mutuel department

(a) (No change.)

1.-3. (No change.)

4. [The said manager may prohibit wagering on any particular horse in any race.] **The said manager shall determine what pools shall be permitted in sweepstakes.**

[5. The said manager shall determine what pools shall be permitted in sweepstakes.]

13:70-29.28 Mechanical breakdowns

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

(c) **In the event of any totalisator malfunction requiring the totalisator company to purchase any non-issued ticket "lost" in the totalisator computer, the totalisator company shall be permitted to credit losing tickets so purchased to the extent of winning tickets similarly purchased. The proceeds of such winning tickets which exceed any credit for losing tickets shall revert to the State.**

13:70-29.32 Coupled horses

If two or more horses in a race are coupled on the same mutuel ticket, there shall be no refund unless all of the horses so coupled are excused before off-time, or all of the horses so coupled are locked in the gate. **Discretion is, however, vested in the stewards to order a refund wherein a part of an entry in a stake, handicap or futurity is excused before off-time where it is in the public interest to do so. In such an instance, the remaining part of the entry shall race for the purse only.**

13:70-29.50 [Big exacta] (Reserved)

(a) No big exacta wagering shall be conducted without permission of the New Jersey Racing Commission. The races in which big exacta type wagering will be permitted shall be only those designated by the Commission, and separate pools shall be established therefor.

(b) The big exacta is a form of pari-mutuel wagering in which the bettor selects the two horses that will finish first and second in each of two consecutive races in the exact order as officially posted.

(c) Big exacta tickets shall be sold only at big exacta windows by the permittee and only from automatic double issue machines.

(d) Each bettor purchasing big exacta tickets shall designate his two selections as the first two horses to finish in that order in the first race of the two consecutive races.

(e) After the official declaration of the first two horses to finish in the first race of the big exacta, each bettor holding a ticket combining the first two horses in the exact order of finish must, prior to the running of the second big exacta race, exchange such winning ticket for a big exacta exchange ticket at the big exacta windows and, at such time, shall select the two horses to finish in the second

race of the big exacta in the exact order as officially posted. No further money shall be required of the holder of the ticket in order to make the exchange.

(f) No big exacta exchange ticket upon the second race shall be issued except upon the surrender of the big exacta ticket from the first race as described in these rules. The big exacta pool obtained from the sales of big exacta tickets upon the first race shall be held, subject to these rules, and divided among the winning tickets of the big exacta exchange tickets, subject to these rules to the contrary. Big exacta windows shall be open for the purpose of making the exchange as described only after the first race has been declared official and such windows shall close at official post time at the start of the second race of the big exacta races.

(g) If a winning big exacta ticket from the first race is not presented for exchange within the time provided the bettor shall receive a refund equal to the cost of the original purchased ticket.

(h) If a horse is scratched in the first race of the big exacta races, all big exacta tickets on the scratched horse will be refunded.

(i) If a horse is scratched in the second race of the big exacta races, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net big exacta pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winners of the first race of the big exacta. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the big exacta. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net big exacta pool.

(j) If no big exacta ticket is sold as a winning combination in the first race of the big exacta, the pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool. In such an instance the big exacta race shall end and the pool closed for the day.

(k) If no big exacta exchange ticket is sold on the winning combination the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(l) If a big exacta exchange ticket combines only one of the two winners and no big exacta exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(m) If no exchange ticket includes either the first or second horse of the second half of the big exacta the entire net pool shall be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.

(n) In the event of a dead heat for place in the first race of the big exacta races, all big exacta tickets combining the first horse and either of the place horses shall be eligible for exchange for big exacta tickets.

(o) In the event of a dead heat for place in the second race of the big exacta races, the big exacta pool shall be divided, calculated and distributed as a place pool to the holders of the big exacta exchange tickets combining the first horses and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one combination, then the other combination having the winning horses, shall be declared the winner. If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the big exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(p) If for any reason the second of the big exacta races is cancelled or declared "no race", the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two horses of the first race of the big exacta otherwise eligible for big exacta exchange tickets.

(q) If there is a dead heat for the winning horse in either of the two consecutive races for the big exacta, holders of tickets combin-

ing those horses in either order will be entitled to participate in the big exacta, as prescribed in these rules.

(r) Selling, buying, bartering or exchanging, or any attempt to buy, sell, barter or exchange, a big exacta ticket other than through pari-mutuel machines shall be deemed illegal and prohibited.

(s) Entries shall be allowed in an exacta race.]

13:70-29.52 [Superfecta] (Reserved)

[(a) The superfecta (or other approved name) is a form of pari-mutuel wagering. Each bettor selects, in order, the first, second, third and fourth placed horses in the designated superfecta race. The superfecta pool shall be held entirely separate from all other pools, and is no part of a daily double, exacta or other wagering pool.

(b) Superfecta tickets shall be sold in not less than \$2.00 denominations and only from machines capable of issuing four numbers.

(c) Races in which superfecta pools shall be conducted shall be approved by the commission and shall be clearly designated in the program.

(d) The design of superfecta tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(e) If a horse is scratched or declared a nonstarter, no further superfecta tickets may be issued designating such horse and all superfecta tickets previously issued designating such horse shall be refunded and the money deducted from the gross pool.

(f) Failure to select a winning combination, short finishes:

1. If there is a failure to select, in order, the first four horses, payoff shall be made on superfecta tickets selecting the first three horses, in order; failure to select the first three horses, payoff to superfecta tickets selecting the first two horses, in order; failure to select the first two horses, payoff to superfecta tickets selecting the winner to win; failure to select the winner to win shall cause a refund of all superfecta tickets.

2. If less than four horses finish, payoff shall be made on tickets selecting the actual finishing horses in order, ignoring the balance of the selection.

(g) In the event of a dead heat or dead heats, all superfecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead-heated, shall be winning tickets, and, contrary to the usual practice, the aggregate number of winning tickets shall divide the net pool and be paid the same payoff price.

(h) Coupled entries and fields are prohibited in superfecta races:

1. This rule shall be prominently displayed throughout the betting area of each track conducting the superfecta and printed copies of this rule shall be distributed by the track to patrons upon request.]

13:70-29.55 Cash sell system

(a) (No change.)

1.-3. (No change.)

4. (No change.)

i.-vii. (No change.)

viii. Outs cashed report;

ix. Manual Cash Council Report.

13:70-31.3 Penalties

(a) The penalties for violation of the law, the rules and regulations or the directives of the Commission shall be as follows:

1. (No change.)

2. Monetary fines not exceeding [\$2,000] **\$5,000** for each violation. The Stewards may not impose directly a fine in excess of [\$250.00] **\$500.00**.

3.-6. (No change.)

(b) (No change.)

TRANSPORTATION

(a)

LOCAL AID

Urban Revitalization Urban Revitalization, Special Demonstration and Emergency Projects

Proposed Amendments: N.J.A.C. 16:22-1.1, 1.2 and 1.4

Authorized By: Melvin R. Lehr, Assistant Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5 and 6.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
New Jersey Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 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 1982-25.

The agency proposal follows:

Summary

The proposed amendment will alter the existing rules for selection and funding of projects for the \$4.5 million remaining to be appropriated and other funds remaining to be allocated from the Transportation Rehabilitation and Improvement Bond Fund of 1979 for urban revitalization, special demonstration and emergency projects. It was originally planned to allocate the funds now remaining in two final rounds of application and review, one beginning in September, 1981, and one in September, 1982. There are, however, many worthwhile projects which are ready for implementation and which could be expedited if earlier funding were available.

The Department proposes, therefore, following appropriation of these funds, to consolidate the remaining stages. Because most proposed projects are in the urban revitalization category, the Commissioner will be able to use these projects funds that were originally proposed for the special demonstration and emergency programs. Applications may be made and projects may be funded at any time for all three programs while funds remain. These steps will speed the orderly termination of the program and accounts.

To further increase flexibility, it has been decided to allow municipalities other than those qualifying for urban aid under P.L. 1978, c. 14, to submit projects and to include as one of the program objectives the improvement of the total transportation network in the municipality. In addition, the County/Municipal Screening Committee will no longer be used to make recommendations on projects. While this Screening Committee has been very helpful in the past, it is thought that this final phase of the program, which is likely to consist of widely varied projects, will be better served by recommendations submitted by the joint Department of Transportation/Department of Community Affairs Task Force. Final decisions will continue to be made by the Commissioner of Transportation.

Social Impact

The program is designed to improve the quality of transportation and economic and social conditions in New Jersey municipalities, particularly older urban centers. The acceleration of this program will expedite the achievement of those goals.

Economic Impact

Acceleration of this program will stimulate economic development in areas affected by selected projects.

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

16:22-1.1 Appropriation of funds

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

(c) Shortly after September, 1980, it is the Departments' intention to allocate \$3 million to support urban revitalization projects, \$1.5 million to support special demonstration projects and \$1.5 million for projects of an emergency nature. [Following September 1981, an additional \$3 million is proposed for allocation to support the urban revitalization projects and an additional \$1.5 million for projects of an emergency nature. The final allocation for the Urban Revitalization Program (Part I) will be made following September, 1982 and include \$1.5 million plus any excess funds remaining under the special demonstration and emergency projects. The accumulative total of this three-year program is \$12 million.] **Subsequent to November 1, 1981, any funds remaining to be allocated will be allocated by the Department for urban revitalization, and emergency projects. The accumulative cost of the program is \$12 million.**

16:22-1.2 Objectives

(a) Objectives for Part I—Urban revitalization projects are as follows[.]:

[1. Eligible municipalities are those which were qualified by the Department of Community Affairs for Urban Aid Funding under P.L. 1978 Chapter 14 Fiscal Year 1980.]

[2.] **1. Projects submitted for funding under this program will be ranked based upon how well they satisfy the objectives outlined in these guidelines. A project need not fulfill all of the program objectives to be considered for funding. Municipalities are encouraged to submit for consideration projects which satisfy some or all of the following objectives:**

i.-v. (No change.)

vi. Significantly improve air quality in congested urban centers[.];

vii. Improve the total transportation network in the municipality.

(b) Objectives for Part II—Special demonstrations are as follows[.]:

1.-2. (No change.)

3. [Excess funds remaining as of October 1, 1982 will] **Funds remaining as of November 1, 1981 may be made available to the urban revitalization program.**

(c) Objectives for Part III—Emergency projects are as follows[.]:

1.-2. (No change.)

16:22-1.4 Applications and agreements

(a) Applications and agreements for Part I—Urban revitalization projects are as follows[.]:

1. [Projects must be submitted annually by September 1 for consideration.] **Applications may be submitted at any time.** Applications should include projects descriptions, cost estimates and otherwise meet the general criteria for local aid bond issue projects.

2.-4. (No change.)

5. Submittals will be evaluated by [the county/municipal screening committee and a task force from the Department of Community Affairs and] the New Jersey Department of Transportation. Recommendations will be presented to the Commissioner of Transportation for consideration.

(b) Applications and agreements for Part II—Special Demonstrations are as follows [.]:

1. [Projects must be submitted annually by September 1 for consideration.] **Applications may be submitted at any time.** Applications should include project descriptions, cost estimates and otherwise meet the general criteria for local aid bond issue projects.

2. Submittals will be evaluated by [the County/Municipal Screening Committee and] a Task Force from the Department of Community Affairs and the New Jersey Department of Transportation. Recommendations will be presented to the Commissioner of Transportation for consideration.

(c) (No change.)

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 4**

Proposed Amendment: N.J.A.C. 16:28A-1.4

Authorized By: David W. Gwynn, Chief Engineer,
Transportation Operations and Local Aid.

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 February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mr. Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 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 1982-41.

The agency proposal follows:

Summary

This proposed amendment will increase and decrease the distances of designated bus stops along Route 4 in Teaneck Township, Bergen County.

Social Impact

This amendment will restrict parking along the areas designated and enhance safety within Teaneck Township.

Economic Impact

The Department will incur direct and indirect costs for 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]).

16:28A-1.4 Route 4

(a) (No change.)

(b) The certain parts of State highway Route 4 described in (b) of this section shall be and hereby are designated and established as "no parking" zones where parking is prohibited at all times. [and] [i]n accordance 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.--2. (No change.)

3. Along Route 4 eastbound on the southerly side in the Township of Teaneck [.], **Bergen County:**

i. Wilson Avenue - Mid-block:

(1) Beginning at a point [614] **670** feet west of the westerly curb line of Wilson Avenue and extending 150 feet westerly therefrom.

ii. Wilson Avenue - Far side:

(1) Beginning at the easterly curb line of Wilson Avenue and extending [100] **170** feet easterly therefrom.

iii. Belle Avenue - Mid-block:

(1) Beginning at a point [285] **265** feet west of the westerly curb line of Belle Avenue and extending [135] **150** feet westerly therefrom.

iv. Queen Anne Road - Mid-block:

(1) Beginning at a point [206] **160** feet east of the easterly curb line of the southerly ramp of Queen Anne Road and extending 135 feet easterly therefrom.

v. Queen Anne Road - Mid-block:

(1) Beginning at a point [1796] **930** feet east of the easterly curb line of the southerly ramp of Queen Anne Road and extending [135] **150** feet easterly therefrom.

vi. Teaneck Road - Far side:

(1) Beginning at the easterly curb line of the south east ramp of Teaneck Road extending [100] **110** feet easterly therefrom.

vii. Phelps Road - Mid-block:

(1) Beginning [at] **50 feet east** of the easterly curb line of Phelps Road and extending [100] **150** feet easterly therefrom.

viii. Hancock Avenue - Mid-block:

(1) Beginning at a point 282 feet east of the easterly curb line of Hancock Avenue and extending [135] **150** feet easterly therefrom.

4. Along Route 4 westbound on the northerly side in the Township of Teaneck:

[i. Beginning at a point 150 feet west of westerly curb line of Belle Avenue and extending 135 feet westerly therefrom.]

i. Belle Avenue - Far side:

(1) **Beginning at the westerly curb line of Belle Avenue and extending 150 feet westerly therefrom.**

[ii. Beginning at a point 1060 feet west of the westerly curb line of Belle Avenue and extending 135 feet westerly therefrom.]

ii. Wilson Avenue - Near side:

(1) **Beginning at the easterly curb line of Wilson Avenue and extending 105 feet easterly therefrom.**

[iii. Beginning at the easterly curb line of Wilson Avenue and extending 105 feet easterly therefrom.]

iii. Wilson Avenue - Mid-block:

(1) **Beginning at a point 615 feet west of the westerly curb line of Wilson Avenue and extending 160 westerly therefrom.**

[iv. Beginning at a point 614 feet west of the westerly curb line of Wilson Avenue and extending 150 feet westerly therefrom.]

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

**Applications: Forms
Personal History Disclosure Form**

Proposed Amendment: N.J.A.C. 19:41-7.14

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

PROPOSALS

OTHER AGENCIES

Authority: N.J.S.A. 5:12-63(c) and 5:12-70(a).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert J. Genatt
Director, Legal Division
Princeton Pike Office Park
Building No. 5
CN-208
Trenton, New Jersey 08625

The Casino Control 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 1982-46.

The agency proposal follows:

Summary

N.J.A.C. 19:41-7.14 requires all applicants, licensees, registrants or persons required to be qualified under the Casino Control Act to complete and submit all appropriate application, registration, business enterprise disclosure and personal history disclosure forms as directed by the Casino Control Commission or Division of Gaming Enforcement. There is no change in the wording of this regulation proposed. However, the regulation is followed by an Office of Administrative Law Note which states:

Personal history disclosure form number 4 was adopted but is not reproduced herein. Information on this form may be obtained from the Casino Control Commission, 379 West State Street, Trenton, New Jersey 08625.

The note is misleading in that it suggests that only Personal History Disclosure Form 4 has been adopted. In fact a variety of forms referred to in the regulation have been adopted and the present proposal is to repeal one of those forms, Personal History Disclosure Form 2, and replace it with Personal History Disclosure Form 2A. The Commission requests that the Office of Administrative Law change the above-quoted note to read:

The forms referred to in this regulation have been adopted but are not reproduced herein. Information on any form may be obtained from the Casino Control Commission, Princeton Pike Office Park, Building No. 5, CN-208, Trenton, New Jersey 08625.

The Casino Control Commission, therefore, pursuant to its authority under N.J.S.A. 5:12-63(c) and 5:12-70(a), proposes to repeal Personal History Disclosure Form 2, adopted pursuant to N.J.A.C. 19:41-7.14, and adopt in its place Personal History Disclosure Form 2A.

The proposed Form 2A, while considerably shorter than the present Form 2, is still over 20 pages long, and the Commission perceives no need to publish it in full.

Social Impact

The proposed Form 2A, like the present Form 2, will have to be filled out by all applicants for casino employee licenses. (See N.J.S.A.5:12-90). However, the proposed Form 2A is considerably shorter, simpler and less demanding than the present Form 2. Completion of Form 2A will require less time and effort than is the case with Form 2. The proposed Form 2A has been designed to make the minimum demands upon casino employee license applicants while at the same time supplying the Casino Control Commission and Division of Gaming Enforcement with sufficient initial information to commence the mandatory investigation of all applicants, which is necessary for an informed decision on their fitness for licensure.

Economic Impact

The proposed change does not affect the fees connected with the license applications and should not affect the administrative time and effort needed to rule on such applications. There is, therefore, no perceived economic impact.

A summary of the proposal follows.

1. There is no change in the existing text of N.J.A.C. 19:41-7.14 (Form of application). However, Personal History Disclosure Form 2, which was originally filed and adopted on December 15, 1977, as part of R.1977 d.475, is hereby proposed for repeal. A new form, Personal History Disclosure Form 2A, is proposed to replace Form 2.

OFFICE OF ADMINISTRATIVE LAW NOTE: Proposed Personal History Disclosure Form 2A was submitted as part of this notice of proposed rule but is not reproduced herein. Copies of this form can be obtained from:

Casino Control Commission
Princeton Pike Office Park
Building No. 5
CN-208
Trenton, New Jersey 08625

or

Office of Administrative Law
Administrative Filings
CN 301
Trenton, New Jersey 08625

Too, in response to the request of the Casino Control Commission, the Office of Administrative Law will amend its "note" at 19:41-7.14 to read as follows:

NOTE: Personal History Disclosure Forms 1, 2, and 3, a Casino Hotels Facilities Statement, and a Statement of Gaming School Proposal were adopted by the Casino Control Commission as part of R.1977 d.475, effective December 15, 1977. Too, Personal History Disclosure Form 4 was adopted by the Commission as part of R.1978 d.175, effective May 25, 1978. These Forms, the Statement and the Proposal, are not reproduced herein, but can be obtained from:

Casino Control Commission
Princeton Pike Office Park
Building No. 5
CN-208
Trenton, New Jersey 08625

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Office of Administrative Law
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RULE ADOPTIONS

AGRICULTURE

BANKING

(a)

(c)

INSECT CONTROL

THE COMMISSIONER

**Insect Control
Mediterranean Fruit Fly (*Ceratitis capitata*)**

**Regulation Number 13
Interest Rates**

Adopted New Rules: N.J.A.C. 2:22-2

Readopted Amendment: N.J.A.C. 3:1-1.1

Proposed: September 10, 1981 at 13 N.J.R. 550(a).
Adopted: December 16, 1981 by Phillip Alampi, Secretary,
Department of Agriculture.
Filed: December 21, 1981 as R.1981 d.508, **without
change.**

Proposed: November 2, 1981 at 13 N.J.R. 753(b).
Adopted: December 22, 1981 by Angelo R. Bianchi,
Commissioner, Department of Banking.
Filed: December 22, 1981 as R.1981 d.511, **without
change.**

Authority: N.J.S.A. 4:1-21.5 and 4:7-1.

Authority: N.J.S.A. 31:1-1(b).

Effective Date: January 18, 1982.

Effective Date: December 22, 1982.

(b)

(d)

DIVISION OF DAIRY INDUSTRY

DIVISION OF BANKING

**Milk Marketing Orders
Order 57-3 (Federal Order No. 2) and Order
63-1 (Federal Order No. 4)**

**Investments
State Chartered Commercial Banks; Approved
Subsidiaries**

**Adopted Amendments: N.J.A.C. 2:54-1.1
and 2.1**

Adopted Amendments: N.J.A.C. 3:11-2.1

Proposed: November 16, 1981 at 13 N.J.R. 798(a).
Adopted: December 23, 1981 by Woodson W. Moffett,
Jr., Director, Division of Dairy Industry.
Filed: December 23, 1981 as R.1981 d.512, **without
change.**

Proposed: November 16, 1981 at 13 N.J.R. 799(a).
Adopted: December 30, 1981 by Angelo R. Bianchi,
Commissioner, Department of Banking.
Filed: December 30, 1981 as R.1981 d.516, **without
change.**

Authority: N.J.S.A. 4:12A-25 and 26.

Authority: N.J.S.A. 17:9A-60(b).

Effective Date: January 18, 1982.

Effective Date: January 18, 1982.

ENVIRONMENTAL PROTECTION**(a)****DIVISION OF FISH, GAME AND WILDLIFE****Nongame and Exotic Wildlife Inspection Fees****Adopted Amendment: N.J.A.C. 7:25-4.6**

Proposed: November 16, 1981 at 13 N.J.R. 806(a).
 Adopted: December 23, 1981 by Jerry Fitzgerald English,
 Commissioner, Department of Environmental
 Protection.
 Filed: December 23, 1981 as R.1981 d.513, **without
 change.**

Authority: N.J.S.A. 23:2A-5.

Effective Date: January 18, 1982.

HEALTH**(b)****DRUG UTILIZATION REVIEW COUNCIL****Interchangeable Drug Products****Notice of Correction: N.J.A.C. 8:71 (14 N.J.R. 45(d))**

Take notice that an error appears in the January 4, 1982 Register at 14 N.J.R. 45(d) concerning the list of interchangeable drug products. Specifically, the drug Spirinolactone 25 mg/Hydrochlor-thiazide 25 mg (Barr) should have been deleted from the list of drugs which were not adopted. Spirinolactone manufactured by Bolar was adopted. Spirinolactone manufactured by Barr is properly treated as it appears on the list of those drugs on which action is still pending.

HUMAN SERVICES**(c)****DIVISION OF PUBLIC WELFARE****Public Assistance Manual Amendments Required by the Federal Omnibus Reconciliation Act of 1981****Readopted Amendments: N.J.A.C. 10:81-1.11, 2.4, 2.8, 2.17-2.23, 3:5, 3.9, 3.18, 3.19, 3.20, 3:43, 3.44, 3.45, 4.2, 5.9, 6.1, 8.22, 8.23 and 8.24**

Proposed: November 2, 1981 at 13 N.J.R. 759(a).
 Adopted: December 30, 1981 by Timothy Carden,
 Commissioner, Department of Human Services.
 Filed: December 31, 1981 as R.1981 d.518, **without
 change.**

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

Effective Date: December 31, 1981.

(d)**DIVISION OF PUBLIC WELFARE****Assistance Standards Handbook Amendments Required by the Federal Omnibus Reconciliation Act of 1981****Readopted New Rule: N.J.A.C. 10:82-3.13 and 4.16****Readopted Amendments: N.J.A.C. 10:82-1.2, 1.4, 2.1, 2.2, 2.4, 2.7-2.9, 2.19, 3.2, 4.1, 4.4, 4.5, 4.7, 4.15 and 5.3**

Proposed: November 2, 1981 at 13 N.J.R. 763(a).
 Adopted: December 30, 1981 by Timothy Carden,
 Commissioner, Department of Human Services.
 Filed: December 31, 1981 as R.1981 d.519, **without
 change.**

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

Effective Date: December 31, 1981.

(a)

DIVISION OF PUBLIC WELFARE

**Food Stamp Manual
Revisions Required by the Federal Omnibus
Reconciliation Act of 1981**

**Readopted Amendments: N.J.A.C. 10:87-1.4,
1.15, 1.17, 1.18, 2.2, 2.3, 2.35, 3.19, 5.10,
6.2, 6.5, 6.15, 6.16, 7.6, 7.13, 7.14, 7.15,
7.16, 7.17, 7.18, 9.7, 9.17, 12.1, 12.4, 12.5
and 12.6**

Proposed: November 2, 1981 at 13 N.J.R. 769(a).

Adopted: December 30, 1981 by Timothy Carden,
Commissioner, Department of Human Services.

Filed: December 31, 1981 as R.1981 d.517, **with
substantive and technical changes** not requiring
additional public notice and comment.

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

Effective Date: December 31, 1982.

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]***).

10:87-6.15 Calculating net and gross income and benefit
levels

(a) The procedures below shall be used to calculate net and gross
income and benefit levels.

1. (No change from proposal.)

2. [Rounding: In calculating net monthly income, the amounts
shall be rounded down to whole dollar amounts by dropping all
cents. Such rounding shall occur before and after each calculation,
except for the computation of shelter costs. For example, any cents
in gross weekly earnings shall be dropped prior to the application
of the weekly conversion factor. Any cents resulting from that
multiplication shall then be dropped prior to the computation of the
20 percent earned income deduction in Step 2. The cents shall be
dropped after this calculation.

i. Rounding shelter expenses: The individual costs used in Step
6 in N.J.A.C. 10:87-6.15(a)1vi shall be computed using exact
dollars and cents. The cents will be dropped from the total shelter
costs prior to deducting the shelter costs from the household's
adjusted income.] **Rounding: The CWA shall, when calculating
food stamp net income and benefit levels, round those income
and deduction amounts ending in \$.01 through \$.49 down, and
those ending in \$.50 through \$.99 up, to the next dollar. Where
two or more figures are to be added together, for example,
weekly paystubs to determine monthly earned income, the
actual figures including cents are added and that total is
rounded to the nearest dollar. The CWA shall use the rounding
procedure for the work allowance and shelter cost deductions.**

ii. **When to round: The CWA shall round the following:**

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

(4) Supplemental Security *Income* benefits;

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

3. Eligibility and benefits: Except for households considered
destitute in [section 16 of this subchapter] N.J.A.C. 10:87-6.16,
the household's net monthly income as calculated in *[paragraph
1 of this section]* ***N.J.A.C. 10:87-6.15(a)1i-viii*** shall be
compared to the monthly income eligibility standard for the
appropriate household size in N.J.A.C. 10:87-12.3 (Appendix
A, Table III) to determine eligibility for the month[.] for [In no

event will eligibility for participation in the Program exist if net
Food Stamp income exceeds the allowable standards for the
appropriate household size as found in Appendix A, Table II.]
**households containing a member who is 60 years of age or over,
or who receives SSI or disability payments under Title II of the
Social Security Act. For all other households, the CWA shall
compare a household's gross income to the monthly income
eligibility standards in N.J.A.C. 10:87-12.4 (Appendix A,
Table IV) for the appropriate household size to determine
eligibility for the month. The amount of the household's benefit
is determined in accordance with N.J.A.C. 10:87-12.6
(Appendix A, Table VI).**

10:87-9.17 Miscellaneous administrative procedures

(a) (No change.)

(b) **Volunteers: A volunteer, or any other person not employed by
the CWA shall not conduct application interviews. However, such
persons may participate in the following activities:**

[1. Outreach efforts: **Volunteers may locate potential recipients
(through prescreening workshops, etc.), provide them with
application forms, provide transportation to the Food Stamp Office,
teach Nutritional Education (if requested), and generally promote
the Food Stamp Program.]**

***1. Informational activities: Volunteers may locate potential
recipients (through prescreening workshops, etc.), provide
them with application forms, provide transportation to the
Food Stamp Office, teach Nutritional Education (if requested),
and generally promote the Food Stamp Program.***

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

[3.]*[2.]* *3.* (No change in text.)

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

10:87-12.5 Food stamp allotment proration

(a) ***[The formula for determining food stamp allotment
proration follows: Full month's benefits X (31 - date of
application) 30 allotment.]* * To determine a prorated food
stamp allotment, multiply the full month's benefit times the
multiplication factor for the appropriate date of application
found in (a)1 below:**

1. Food stamp allotment proration multiplication factors:

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

(b) After *[using the formula]* *determining the prorated allotment, using the steps* in (a) above *[to determine the allotment]*, the CWA shall round the product down if it ends in 1 through 49 cents and up if it ends in 50 through 99 cents. If the computation results in an allotment of \$1.00, \$3.00, or \$5.00, the allotment shall be rounded up to \$2.00, \$4.00, or \$6.00, respectively.

ENERGY

(a)

THE COMMISSIONER

Energy Conservation Energy Efficiency in New and Renovated Buildings

Adopted Amendment: N.J.A.C. 14A:3-4.4

Proposed: November 16, 1981 at 13 N.J.R. 835(a).
Adopted: December 24, 1981 by Charles A. Richman,
Acting Commissioner, Department of Energy.
Filed: December 29, 1981 as R.1981 d.514, with
substantive and technical changes not requiring
additional notice and comment.

Authority: N.J.S.A. 52:27F-11g,o,q.

Effective Date: January 18, 1982.

DEP Docket No.: 010-81-11.

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]*).

14A:3-4.4 Standards

(a) All buildings subject to the provisions of this subchapter shall comply with the standards of the Energy Subcode of the Uniform Construction Code [as such is adopted by the New Jersey Department of Community Affairs except where the energy efficiency standard for any particular appliance is established by the Department of Energy.] *.* **The Department adopts the model code of the Building Officials and Code Administrators International, Inc., known as the "BOCA Basic Energy Conservation Code 1981" ("model code").**

1.-2 (No change from proposal.)

(b) **The energy subcode is amended as follows:**

1. (No change from proposal.)

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

iii. **Delete Figure E-301.2.1a and add Table E-301.2.1 below:**

Table E-301.2.1

Region†	Annual heating degree days-°F	MAXIMUM ALLOWABLE U _o VALUES FOR GROSS EXTERIOR WALL ASSEMBLIES	
		Maximum *["U"]* *U _o ***	
		A1	A2
I	5000	0.190	0.29
II	5500	0.185	0.28
III	6000	0.180	0.27

†See Figure E-301.5

iv. (No change from proposal.)

v. **Modify Table E-301.2.2 to read as follows:**

TABLE E-301.2.2

Region†	Annual heating degree days *-°F*	MAXIMUM ALLOWABLE U _o VALUES FOR ROOF/CEILING ASSEMBLIES	
		Maximum "U _o "	
I	5000	0.0475	
II	5500	0.0450	
III	6000	0.0425	

†See Figure E-301.5.

vi.-x. (No change from proposal.)

xi. **Delete Figure E-301.3.1 and add Table E-301.3.1 below:**

TABLE E-301.3.1

Region†	Annual heating degree days-°*[f]**F*	MAXIMUM ALLOWABLE U _o VALUES FOR GROSS EXTERIOR WALL ASSEMBLIES	
		Maximum "U _o " Btu/hr-ft ² -°F	
		Over 3 Stories	3 Stories & Under
I	5000	0.355	0.295
II	5500	0.345	0.285
III	6000	0.330	0.275

†See Figure E-301.5.

xii. (No change from proposal.)

xiii. **Delete Figure E-301.3.2 and add Table E-301.3.2 below:**

TABLE E-301.3.2

Region†	Annual heating degree days-°F	MAXIMUM ALLOWABLE U _o VALUES FOR ROOF/CEILING ASSEMBLIES	
		Maximum "U _o " Btu/hr-ft ² -°F	
I	5000	*0*.084	
II	5500	0.080	
III	6000	0.076	

†See Figure E-301.5.

xiv.-xxiii. (No change from proposal.)

2. (No change from proposal.)

3. **The following amendments are made to Article 5 of the energy subcode entitled "Plumbing Systems"*[;]**:***

i. (No change from proposal.)

ii. **Add Section E-504.0 SWIMMING POOLS as follows:**

(1) **E-504.1 Pool Heaters.**

(A) E-504.1.1. All pool heaters shall be equipped with an ON-OFF Switch mounted for *[each]* **easy** access to allow shutting off the operation of the heating without adjusting the thermostat setting and to allow restarting without relighting the pilot light.

(B) (No change from proposal.)

(C) E-504.1.3. Active solar heating systems should be used to supply a portion *[fo]* **of** the pool heating requirements when conditions permit their cost-effective installation.

(2) E-504.2. Pool Covers. Heated swimming pools shall be equipped **by the builder when built** with a pool cover.

(A) Exception: Outdoor pools deriving over 20 percent of the energy *[from]* **for** heating from non-depletable sources (computed over an operating season) shall not be required to be equipped **by the builder when built** with a pool cover.

(3) (No change from proposal.)

TREASURY-GENERAL

(a)

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Retirement

Medical Examination: Physicians

Adopted Amendment: N.J.A.C. 17:2-6.26

Proposed: November 2, 1981 at 13 N.J.R. 748(a).

Adopted: December 22, 1981 by Board of Trustees, Public Employees' Retirement System, John P. Olender, Secretary.

Filed: December 30, 1981 as R.1981 d.515, **without change**.

Authority: N.J.S.A. 43:15A-17.

Effective Date: January 18, 1982.

(b)

BOARD OF TRUSTEES OF THE TEACHERS' PENSION AND ANNUITY FUND

Teachers' Pension and Annuity Fund Purchases and Eligible Service

Adopted Amendments: N.J.A.C. 17:3-5

Proposed: September 10, 1981 at 13 N.J.R. 618(b).

Adopted: November 6, 1981 by Board of Trustees of the Teachers' Pension and Annuity Fund, Mary C. Conrey, Secretary.

Filed: December 21, 1981 as R.1981 d.510, **without change**.

Authority: N.J.S.A. 18A:66-56.

Effective Date: January 18, 1982.

(c)

BOARD OF TRUSTEES OF THE TEACHERS' PENSION AND ANNUITY FUND

Teachers' Pension and Annuity Fund Compulsory Retirement

Adopted Amendment: N.J.A.C. 17:3-6.15

Proposed: September 10, 1981 at 13 N.J.R. 620(a).

Adopted: November 6, 1981 by Board of Trustees of the Teachers' Pension and Annuity Fund, Mary C. Conrey, Secretary.

Filed: December 21, 1981 as R.1981 d.509, **without change**.

Authority: N.J.S.A. 18:66-56.

Effective Date: January 18, 1982.

TREASURY-TAXATION

(d)

DIVISION OF TAXATION

Corporation Business Tax Installment Payments

Adopted New Rules: N.J.A.C. 18:7-3.13, 3.14, 3.15 and 3.16

Adopted Amendments: N.J.A.C. 18:7-3.7, 3.9, 3.11, 11.12, 13.6 and 14.2

Proposed: October 8, 1981 at 13 N.J.R. 688.

Adopted: December 24, 1981 by Sidney Glaser, Director, Division of Taxation.

Filed: January 6, 1982 as R.1981 d.6, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 54:10A-27.

Effective Date: January 18, 1982.

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]**).

18:7-3.17 Equitable relief from certain otherwise mandatory installment payments of corporation business tax

(a) (No change from proposal.)

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

3. Taxpayers which have realized a nonrecurring, extraordinary gain which would distort the amount of their installment payment. The recognition of such gain must cause the distortion, and the gain must have been nonrecurring and extraordinary as those terms are

used in the application of generally accepted accounting principles
[]**, **but not limited to those principles.** * * [For example, such
a gain may have resulted from a sale of a plant or business seg-
ment.]*

4. (No change from proposal.)

(d)-(d) (no change from proposal.)

OTHER AGENCIES

(a)

NEW JERSEY TURNPIKE AUTHORITY

Limitations on Use of Turnpike Out-of-Service School Buses

Adopted Amendment: N.J.A.C. 19:9-1.9

Proposed: November 2, 1981 at 13 N.J.R. 751(b).

Adopted: December 14, 1981 by William J. Flanagan,
Executive Director, New Jersey Turnpike Authority.

Filed: December 31, 1981 as R.1981 d.520, **without
change.**

Authority: N.J.S.A. 27:23-29.

Effective Date: January 18, 1982.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

Department of Environmental Protection
Division of Water Resources
Office of Water Allocation
CN 029
Trenton, New Jersey 08625

(a)

THE COMMISSIONER

State Certifications of Draft NPDES Permits

Public Notice

Jerry Fitzgerald English, Commissioner of the Department of Environmental Protection, pursuant to the "New Jersey Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., is authorized to assess compliance of a surface water discharge with State law pertaining to discharges to the waters of the State. The Department is requested by the United States Environmental Protection Agency, as required by section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., to certify that a discharge, as described in a draft National Pollutant Discharge Elimination System permit, will not violate the requirements of State law.

The Department publishes public notice of certifications in the DEP Bulletin. Copies of the Bulletin may be obtained by calling (609) 292-3178 or writing to the Documents Distribution Center, P.O. Box 1390, Trenton, New Jersey 08625.

Please note that if any person presently diverting or claiming the right to divert more than 100,000 gallons of water per day for agricultural or horticultural purposes fails to apply to establish its privilege to divert water prior to February 10, 1982 his previous right shall no longer be valid, and he shall be required to re-apply.

This Notice is published as a matter of public information for those persons who divert water for agricultural or horticultural purposes.

(b)

DIVISION OF WATER RESOURCES

Notice of Filing Requirement: Water Diversions of More Than 100,000 Gallons Per Day for Agricultural or Horticultural Purposes

Public Notice

Take notice that pursuant to section 6 of the Water Supply Management Act, P.L. 1981, c.262 (C. N.J.S.A. 58:1A-1 et seq.), as amended by P.L. 1981, c.277:

All persons having or claiming a right to divert more than 100,000 gallons of water per day for agricultural or horticultural purposes pursuant to prior legislative or administrative action, including persons previously exempted from the requirement to obtain a permit, shall renew that right by applying for a water usage certification prior to February 10, 1982 to the Department of Environmental Protection or the appropriate county agricultural agent. A letter claiming such a right received prior to February 10, 1982 by the Department of Environmental Protection or the appropriate county agricultural agent shall satisfy this requirement provided that a completed application obtained from the Department of Environmental Protection or the appropriate county agricultural agent shall be filed at a later date with the Department of Environmental Protection or the appropriate county agricultural agent.

Applications, letters, or questions concerning claims shall be addressed to:

LATE NOTICES

EDUCATION

(a)

STATE BOARD OF EDUCATION

Health, Safety and Physical Education Audiometric Screening

Proposed New Rules: N.J.A.C. 6:29-8.1 and 6:29-8.2

Authorized By: New Jersey State Board of Education,
Fred G. Burke, Secretary.
Authority: N.J.S.A. 18A:4-15 and 18A:40-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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.

This proposal is known as PRN 1982-31.

The agency proposal follows:

Summary

The proposed new rules for audiometric assessment establish requirements for screening to detect an educationally significant loss of hearing in public school pupils to ensure optimal educational development.

These regulations are proposed pursuant to the provisions of Chapter 427, Laws of 1979, which require an auditory assessment of public school pupils. The Department of Education, in consultation with the Department of Health, is mandated to establish regulations for the assessment.

The regulations specify the procedures for hearing screening which is a simple and quick means to determine which pupils may have a hearing impairment and need to receive further evaluation. A hearing screening records the pupil's responses to a number of frequencies at a constant intensity (loudness) level. The screening is not intended to make a diagnosis, but to determine which pupils require further examination.

The purpose of the screening is to detect any educationally significant loss of hearing in pupils to ensure optimal educational development. The audiometric screening will be conducted by the school nurse or other school personnel trained in audiometric assessment. The parent or guardian of pupils failing the screening shall be notified of the failure and the need for further evaluation by the physician or primary health care provider.

Social Impact

The loss of hearing has a profound impact on social and emotional, as well as academic development. Hearing loss severely impairs basic communication which is essential to the child's ability to interact with others. Through the enactment of these regulations, it is expected that there will be an increase in the early detection of hearing loss in order to determine the appropriate intervention.

Economic Impact

The cost of these regulations may be divided into three areas: equipment, facility and personnel time.

The equipment needed is an audiometer. An audiometer is not needed for permanent location in each school but may be shared by different schools within a district or different schools within a county. A survey conducted by the New Jersey Speech and Hearing Association indicated that of the 14 counties surveyed, 11 had one audiometer per school or close to that, the other three counties reported at least one for every two schools. This seems sufficient to conduct the screening without purchasing additional equipment. Schools will be required to have the audiometer calibrated yearly. This is essential to ensure the accuracy of the machine and would cost the county/district/school between \$30.00 and \$40.00.

The appropriate screening facility has been defined as any environment quiet enough so that an adult with normal hearing can respond to the test signals. If the room is too noisy one can expect some pupils to fail the test who should not, and ultimately could result in an over-referral of pupils for further evaluation. Most schools should be able to utilize a small office, a portion of the library or any other area. If such an area cannot be found, acoustic tile (estimated at \$0.32 per sq. ft.) or acoustic paneling (estimated at \$5.92 per 4x8 foot panel) may be used to produce the desired conditions.

The major cost associated with audiometric screening is personnel time. While the major responsibilities for the screening will rest with the school nurse, additional personnel may conduct the screening to permit greater flexibility within the district. The school nurse and the speech correctionist have the appropriate training and background to effectively conduct this screening. If other personnel are to be involved, training programs will be offered by the Department of Health and the New Jersey Speech and Hearing Association.

The average screening takes approximately three minutes per pupil. Assuming that an individual could conduct about 70 screenings in one day, it would cost on the average \$90.66 for the nurse to conduct the screening and \$84.24 for the speech correctionist to conduct the screenings. The total cost would be determined by the number of pupils to be screened and the actual salary of personnel assigned the responsibility. Currently, most schools have hearing screening programs established so the cost for personnel time would not be new.

Full text of the proposed new rule follows.

CHAPTER 29

HEALTH, SAFETY AND PHYSICAL EDUCATION

SUBCHAPTER 8. AUDIOMETRIC SCREENING

6:29-8.1 Definitions

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

"Audiometer" means an electroacoustical generator which provides pure tones at selected frequencies of output through calibrated earphones mounted in MX41/AR earmuffs. Audiometers shall be calibrated annually to the American National Standard Specifications for Audiometers (ANSI 1969).

"Audiometric screening" means a procedure used to determine a pupil's response to an auditory signal at a given frequency and decibel level.

"Health care personnel" means a certified school nurse or an employee of the district board of education trained in audiometric screening and who is working under the immediate direction of the medical inspector, including but not limited to speech correctionists and audiologists.

"Pupils at risk for hearing impairment" means pupils with communication disorders, pupils with cleft palate, pupils with allergies, pupils with frequent upper respiratory or middle ear infections, pupils taking ototoxic medication, pupils who are exposed to sudden or continuous loud noises.

"Screening room" means any environment in which an adult with normal hearing can hear a 20dB HL signal at the frequencies of 500Hz, 1000Hz, 2000Hz, 3000Hz and 4000Hz.

6:29-8.2 Screening procedures

(a) Each district board of education shall develop and adopt policies and procedures to provide audiometric screening.

(b) Auditory screening shall be conducted for pupils who are:

1. Enrolled in pre-school programs;
2. Enrolled in grades kindergarten through four;
3. Enrolled in grades, six, eight, and 10;
4. Entering the district with no recent record of hearing screening;
5. At risk for hearing impairments;
6. Referred to the Child Study Team for evaluation;
7. Referred for screening by a teacher, a parent or at the pupil's own request.

(c) The medical inspector, certified school nurse, or the health care personnel shall conduct the hearing screening. All screening shall be conducted in cooperation with the school nurse.

(d) Each pupil shall be screened individually with an audiometer which is calibrated annually to the American National Standard Specifications for Audiometers (ANSI 1969) at 20db HL in a screening room at the following frequencies: 500 Hz, 1000Hz, 2000Hz, 3000Hz and 4000Hz.

(e) A pupil who fails to respond to any one frequency in either ear shall be screened again in four to six weeks.

(f) If a pupil fails to respond to the same frequency or frequencies in the same ear on the second valid screening, the pupil shall be considered to have failed the screening and should be referred for further evaluation.

(g) A pupil who fails to respond at a different frequency or different frequencies on the second screening shall be screened a third time within two weeks.

(h) A pupil who fails to respond at any one frequency on the third screening shall be considered to have failed the screening and should be referred for further evaluation.

(i) The parent or guardian of pupils failing auditory screening shall be notified in writing by the school nurse of the necessity for additional evaluation by a physician or family health care provider.

TREASURY-GENERAL

(a)

STATE TREASURER

Contributions to a United Fund Payroll Deductions

Proposed New Rules: N.J.A.C. 17:28

Authorized By: Clifford Goldman, State Treasurer.
Authority: N.J.S.A. 52:14-15.9c and 52:18A-30.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before February 17, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford Goldman
State Treasurer
State House
Trenton, New Jersey 08625

The State Treasurer 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 1982-49.

The agency proposal follows:

Summary

The proposed rules provide State employees with the option to designate charitable organizations other than a united fund to receive contributions in the form of payroll deductions. The "donor option" would be administered by the united fund authorized by statute to receive payments from the State Treasurer deducted from state employees' compensation (see N.J.S.A. 52:14-15.9c). The rules ensure that designated charitable organizations are legitimate, tax exempt charities complying with relevant State laws.

Social Impact

The rules will provide a variety of charitable organizations with access to the public workplace to solicit and collect contributions and to further their respective missions. The rules will afford State employees broader avenues of expression by affording State employees more freedom in designating recipients of their charitable contributions. The rules will ensure a truly united and comprehensive fund drive. The rules are intended to conform the payroll deduction scheme provided under N.J.S.A. 52:14-15.9c with State and Federal guarantees of freedom of speech and expression, and guarantees of equal protection of the laws. See, e.g., *NBUF, Inc. v. Define*, ___ F.2d ___ (D.C. Cir. 1981). The provision of a donor option will also provide an additional source of funds to organizations which are neither affiliated with nor a member of the chosen united fund. These include such groups as Easter Seals, the Cancer Society, the Heart Fund, CARE, Save the Children Federation and the National Black United Fund. This new source of funds may replace some Federal funds that are no longer provided due to budgetary cutbacks. Strengthening non-profit charitable organizations will also permit them to provide social services not provided by public agencies because of budgetary cutbacks.

Economic Impact

The rules will have no significant impact on State finances. The provision of a donor option will impose additional administrative costs on the united fund, some of which costs will be deducted from designated contributions. However, the provision of a donor option

may well encourage increased total charitable giving by State employees through payroll deductions.

Full text of the proposed new rule follows.

CHAPTER 28
PAYROLL DEDUCTIONS FOR CONTRIBUTIONS
TO A UNITED FUND

SUBCHAPTER 1. GENERAL PROVISIONS

17:28-1.1 Purpose
The State Treasurer shall in his discretion make deductions from State employees' compensation for the payment of voluntary contributions to a united fund. N.J.S.A. 52:14-15.9c. This chapter is intended to provide eligible charitable organizations access to the public workplace for soliciting and collecting such contributions. This chapter is intended to afford public employees freedom in designating recipients of their charitable contributions and is promulgated pursuant to N.J.S.A. 52:14-15.9c and N.J.S.A. 52:18A-30.

17:28-1.2 Scope
No deductions shall be made from compensation payable by the State Treasurer or his agents for the payment of contributions to a united fund pursuant to N.J.S.A. 52:14-15.9c, unless such united fund complies with the requirements of this chapter.

17:28-1.3 Definitions
"Compensation" means compensation payable by the State Treasurer to a State employee.
"Eligible charitable organization" means any benevolent, philanthropic, patriotic, or eleemosynary organization other than a united fund or its member charitable organizations that meets the following requirements (provided, that affiliates of a united fund, for example those of other geographical areas, shall be deemed "eligible charitable organizations", and all member charitable organizations of a united fund may be deemed "eligible charitable organizations" at the discretion of the united fund):
1. It has tax exempt status under Federal and State laws;
2. It complies with applicable requirements of the Charitable Fund-Raising Act of 1971, P.L. 1971, c. 469; and
3. Neither it nor its officers or agents have been found to have violated the Charitable Fund-Raising Act of 1971, P.L. 1971, c.469, N.J.S.A. 2A:111-30 (repealed by 2C:98-2), or N.J.S.A. 2C:20-4.

"Ineligible charitable organization" means any organization that is neither a united fund nor an eligible charitable organization.
"Net payroll deduction" means a payroll deduction minus allowed administrative expenses.
"Payroll deduction" means a contribution deducted from a State employee's compensation pursuant to N.J.S.A. 52:14-15.9c.
"State employee" means any person employed by, or holding a public office, or position of, the State or any board, body, agency or commission thereof, whose compensation is payable by the State Treasurer.
"United fund" means a united fund, community chest or united appeals that may receive contributions deducted from a State employee's compensation pursuant to N.J.S.A. 52:14-15.9c.

SUBCHAPTER 2. DONOR OPTION

17:28-2.1 Donor option
The united fund that receives payroll deductions shall afford each State employee the option to designate an eligible charitable organization to which the united fund shall pay the payroll deduction, minus allowable administrative expenses. The option must be afforded at least once annually, at the time the State employee provides written authorization for the payroll deduction. This section shall not limit a State employee's right to withdraw written authorization to the State Treasurer to deduct voluntary contributions from his or her compensation pursuant to N.J.S.A. 52:14-15.9c.

17:28-2.2 Form of written authorization
(a) A State employee who wishes the State Treasurer to make payroll deductions pursuant to N.J.S.A. 52:14-15.9c, shall so state in writing, on a form approved by the State Treasurer, which form shall provide the following:

1. Clearly marked spaces of equal size where the State employee may indicate that he wishes his payroll deduction to be paid to the united fund for transfer, minus administrative expenses, to an eligible charitable organization or that he wishes his payroll deduction to be paid to the united fund without any further designation.

2. A short statement that in order for his or her authorization to be effective, the State employee must clearly indicate his wishes in one of the spaces described in (a)1 above.

i. The State employee must designate either that the payroll deduction shall be paid to the united fund without further designation, or that the payroll deduction shall be paid to the united fund for transfer, minus administrative expenses, to the named eligible charitable organization.

(b) In addition to (a) above, the united fund shall provide the State employee with a list, based on information supplied by the Attorney General, of all eligible charitable organizations registered under the Charitable Fund-Raising Act of 1971, P.L. 1971, c.469.

17:28-2.3 Record keeping
The united fund shall receive copies of all executed donor option forms described in N.J.A.C. 17:28-3.2, and shall maintain and store such forms. The united fund shall also make these records available for inspection by the State Treasurer.

17:28-2.4 Pledges to ineligible charitable organizations; notice to employee
The united fund shall notify a State employee when the State employee has designated an ineligible charitable organization as the recipient to his net payroll deduction contribution, or has failed to designate the recipient of payroll deduction.

17:28-2.5 Verification of eligible charitable organization
The united fund shall verify that the organization to which a State employee has designated his contribution be paid is an eligible charitable organization. However, the united fund shall not be held liable for payments made in good faith to organizations that are not eligible charitable organizations.

17:28-2.6 Notice to eligible charitable organizations
The united fund shall, within six months after it receives notice from the State Treasurer, give written notice to the eligible charitable organization that one or more State employees have designated it to receive a payroll deduction minus allowable administrative expenses. Such notice shall recite the total pledged contribution and the allowed administrative expenses.

17:28-2.7 Allowable administrative expenses
The united fund may deduct from a payroll deduction designated for payment to an eligible charitable organization up to six percent of the payroll deduction to defray administrative expenses.

17:28-2.8 Regular payments to eligible charitable organizations
The united fund shall remit net payroll deductions to designated eligible charitable organizations on a regular basis, at least quarterly after giving notice pursuant to N.J.A.C. 17:28-3.6.

17:28-2.9 Unfulfilled pledges
The united fund shall not be responsible for the payment of State employees' pledges of payroll deductions that are unfulfilled by the employee for any reason.

INDEX OF RULES ADOPTED THIS MONTH SUPPLEMENTING THE NEW JERSEY ADMINISTRATIVE CODE

**See the January 4, 1982 New Jersey Register for complete index of
adopted rules supplementing the New Jersey Administrative Code**

The New Jersey Register supplements the New Jersey Administrative Code. The New Jersey Register should be used in the same way as a pocket part, to complete the Code with rules promulgated between the most recent update of each Code title and the most recent Register.

Each rule promulgated subsequent to the most recent update of the Code is listed below in order of its Code citation. At the bottom of the listings for each title is the date of the most recent update for that title. Accompanying the Code citation for each rule is a brief description of its contents, its Office of Administrative Law (OAL) document citation (which should be used if ordering from OAL a copy of the rule), and the Register citation for its adoption notice.

The adoption notice citation can be used to find, in the pertinent Register, the Register citation for the rule as it was proposed and the substance of any changes in the proposed rule upon adoption.

The full text of the proposed rule plus the changes in the proposed rule upon adoption constitute an official copy of the promulgated rule. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Publications
CN 301
Trenton, New Jersey 08625

The complete index will appear in the first issue of each month, with a supplemental index appearing in the second issue of each month (covering only rules adopted in that issue).

In order to be sure that you have a copy of each proposed rule which may have been adopted but which does not yet appear in the most recent Code update, you should retain each Register beginning with July 5, 1979.

N.J.A.C. CITATION		DOCUMENT CITATION	ADOPTION NOTICE (N.J.R. CITATION)
AGRICULTURE—TITLE 2			
2:22-2	Mediterranean fruit fly control	R. 1981 d.508	14 N.J.R. 101(a)
2:54-1.1, 2.1	Milk Marketing Order 57-3 and Order 63-1	R. 1981 d.512	14 N.J.R. 101(b)
BANKING—TITLE 3			
3:1-1.1	Readoption: Interest rates on mortgages	R. 1981 d.511	14 N.J.R. 101(c)
3:11-2.1	Commercial bank lending: Approved subsidiaries	R. 1981 d.516	14 N.J.R. 101(d)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:25-4.6	Nongame and exotic wildlife inspection	R. 1981 d.513	14 N.J.R. 102(a)
HUMAN SERVICES—TITLE 10			
10:81	PAM: Readopted Federal requirements	R. 1981 d.518	14 N.J.R. 102(c)
10:82	ASH: Readopted Federal requirements	R. 1981 d.519	14 N.J.R. 102(d)
10:87	FSM: Readopted Federal requirements	R. 1981 d.517	14 N.J.R. 103(a)
ENERGY—TITLE 14A			
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17:3-5	Teachers' Pension: Purchase and eligible service	R. 1981 d.510	14 N.J.R. 105(b)
17:3-6.15	Teachers' Pension: Compulsory retirement	R. 1981 d.509	14 N.J.R. 105(c)
TREASURY—TAXATION—TITLE 18			
18:7-3	Installment payments for corporation tax	R. 1982 d.6	14 N.J.R. 105(d)
18:7-11.12, 13.6, 14.2	Installment payments for corporation tax	R. 1982 d.6	14 N.J.R. 105(d)
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19:9-1.9	Out-of-service school buses	R. 1981 d.520	14 N.J.R. 106(a)

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Filing Deadlines

February 1 issue:
Proposals January 7
Adoptions January 18

February 16 issue:
Proposals January 21
Adoptions February 1