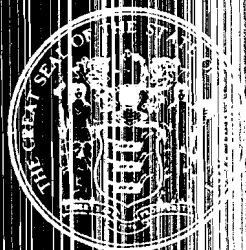


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THE JOURNAL OF STATE AGENCY RULEMAKING

VOLUME 25 NUMBER 2
January 19, 1993 Indexed 25 N.J.R. 219-388
(Includes adopted rules filed through December 23, 1992)

MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: NOVEMBER 16, 1992

See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT DECEMBER 21, 1992

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Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until **February 18, 1993**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

On occasion, a proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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NEW JERSEY REGISTER

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

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EXECUTIVE ORDER

(a)

OFFICE OF THE GOVERNOR

Governor Jim Florio

Executive Order No. 76(1992)

Termination of Limited State of Emergency

Issued: December 22, 1992.

Effective: December 22, 1992.

Expiration: Indefinite.

WHEREAS, Executive Order No. 73, issued on December 11, 1992, declared a limited State of Emergency in Atlantic, Burlington, Cape May, Cumberland, Middlesex, Monmouth and Ocean Counties, and Executive Order No. 74, issued on December 11, 1992, extended the State of Emergency to Bergen, Hudson and Salem Counties, and Executive Order No. 75, issued on December 11, 1992, extended the State of Emergency

to Camden, Essex, Gloucester, Hunterdon, Mercer, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, because of severe weather conditions which threatened the health, safety and resources of the residents of this State; and

WHEREAS, the immediate threat posed by the severe weather conditions of December 11, 1992 has passed and ceased to endanger the health, safety or resources of residents; and

WHEREAS, I wish to express my personal appreciation to the people of New Jersey for the manner in which they cooperated during this emergency and to the law enforcement, military and emergency response personnel of the State for their untiring efforts.

NOW, THEREFORE, I, JAMES J. FLORIO, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby declare that the State of Emergency is hereby terminated effective at noon on December 22, 1992. Executive Order Nos. 73, 74 and 75 are rescinded.

1. This Order shall take effect immediately.

RULE PROPOSALS

AGRICULTURE (a)

STATE AGRICULTURE DEVELOPMENT COMMITTEE

Creation of Farmland Preservation Programs Creation of Municipally Approved Farmland Preservation Programs

Reproposed Amendments: N.J.A.C. 2:76-3.12 and 4.11

Authorized By: State Agriculture Development Committee,
Arthur R. Brown, Jr., Chairman.

Authority: N.J.S.A. 4:1C-5f.

Proposal Number: PRN 1993-26.

Submit written comments by February 18, 1993 to:

Donald D. Applegate
Executive Director
State Agriculture Development Committee
CN 330
Trenton, New Jersey 08625

Oral comments will be heard by the State Agriculture Development Committee at its Legislation and Policy Subcommittee meeting on February 11, 1993. **Individuals interested** in providing oral comment at the meeting should contact the State Agriculture Development Committee office at (609) 984-2504 for the time and location of the meeting. The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 2:76-3.12(a)13iv and 4.11(a)13iv amend the deed restrictions placed on lands enrolled in a Farmland Preservation Program or Municipally Approved Farmland Preservation Program pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c. 32, as amended.

The proposed amendments were previously published in the New Jersey Register on March 16, 1992 at cite 24 N.J.R. 894(a). During the 30 day public comment period, comments were received from the Burlington County Agriculture Development Board, the New Jersey Farm Bureau, Hunterdon County Agriculture Development Board and Atlantic County Agriculture Development Board. The general consensus of the comments received were in opposition to adopting the proposed rule amendments. The State Agriculture Development Committee reviewed the public comment and decided not to adopt the amendments and to allow for further study and review (see 24 N.J.R. 2831(a)). At its meeting on November 19, 1992, the Committee re-evaluated the proposed amendments and determined that additional public comment would be needed prior to reaching any final conclusions.

Although the current rules do not limit the landowner from residing in the residence constructed for agricultural labor employed on the premises, generally, the Committee's approval of any new agricultural labor units to be constructed on the premises is conditioned on the landowner placing a restriction in the deed which prohibits the Grantor from living in the unit. The proposed amendments now incorporate the restriction to prohibit the Grantor from residing in the agricultural labor unit and further prohibits Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's spouse's parents, and Grantor's spouse's lineal descendants, adopted or natural from residing in a new agricultural labor unit approved by the board and Committee. The Committee's intent is to ensure that the residential unit will provide housing for agricultural labor employed on the premises and not serve as a primary residence for the owner or a family member.

Social Impact

The proposed amendments affect farmland owners who are participants and applicants in a Farmland Preservation Program or Municipally Approved Farmland Preservation Program. The proposed amendments will have a positive impact by ensuring that the premises will be retained in agricultural use and production for the required eight year period.

Economic Impact

The proposed amendments will have little or no economic impact upon participants or applicants to a Farmland Preservation Program or

Municipally Approved Farmland Preservation Program. The proposed rule amendment which prevents the Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's spouse's parents, and Grantor's spouse's lineal descendants, adopted or natural from residing in housing for agricultural labor only pertains to any new construction requiring the Committee's and board's approval.

At the time of enrolling the premises in an eight year program, the landowner voluntarily agrees to the loss of any rights as limited by the deed restrictions for a period of eight years in exchange for the eligibility for certain benefits.

Regulatory Flexibility Analysis

The majority of the land potentially subject to enrollment in an eight year program is owned by small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments impose compliance requirements regarding the non-agricultural use of land and buildings, and restrictions on the uses of housing for agricultural labor. Differing standards of compliance based on business size are not an option since these type of restrictions form the very basis of the program which is designed in the public interest to protect farmland in the State. Further, a farmland owner's decision to participate in the program is voluntary subject to meeting the necessary requirements.

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

2:76-3.12 Deed restrictions

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

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

"1. through "12. (No change.)

"13. Grantor may construct any new buildings for agricultural purposes. The construction of any new building which shall serve as a residential use, regardless of its purpose, shall be prohibited except as follows:

i.iii. (No change.)

iv. The above exceptions shall not be permitted unless jointly approved in writing by the Grantee and the Committee. Approval for such exceptions shall only be granted upon the determination that the proposed construction would have a positive impact on the continued use of the Premises for agricultural production. **If Grantee and the Committee grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural.**

"14. through "21." (No change.)

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

2:76-4.11 Deed restrictions

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

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

"1. through "12. (No change.)

"13. Grantor may construct any new buildings for agricultural purposes. The construction of any new building which shall serve as a residential use, regardless of its purpose, shall be prohibited except as follows:

i.iii. (No change.)

iv. The above exceptions shall not be permitted unless jointly approved in writing by the Grantee and the Committee. Approval for such exceptions shall only be granted upon the determination that the proposed construction would have a positive impact on the continued use of the Premises for agricultural production. **If Grantee and the Committee grant approval for the construction of agricul-**

tural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural.

"14. through "21." (No change.)

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

(a)

STATE AGRICULTURE DEVELOPMENT COMMITTEE Acquisition of Development Easements

Reproposed Amendment: N.J.A.C. 2:76-6.15

Authorized By: State Agriculture Development Committee

Arthur R. Brown, Jr., Chairman.

Authority: N.J.S.A. 4:1C-5f.

Proposal Number: PRN 1993-25.

Submit written comments by February 18, 1993 to:

Donald D. Applegate

Executive Director

State Agriculture Development Committee

CN 330

Trenton, New Jersey 08625

Oral comments will be heard by the State Agriculture Development Committee at its Legislation and Policy Subcommittee meeting on February 11, 1993. **Individuals interested** in providing oral comment at the meeting should contact the State Agriculture Development Committee office at (609) 984-2504 for the time and location of the meeting. The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 2:76-6.15(a)14i amends the deed restrictions placed on lands permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, as amended.

The proposed amendment was previously published in the New Jersey Register on March 16, 1992 at cite 24 N.J.R. 896(a). During the 30 day public comment period, comments were received from the Burlington County Agriculture Development Board, the New Jersey Farm Bureau, Hunterdon County Agriculture Development Board and Atlantic County Agriculture Development Board. The general consensus of the comments received were in opposition to adopting the proposed rule amendment. The State Agriculture Development Committee reviewed the public comment and decided not to adopt the amendments and to allow for further study and review (see 24 N.J.R. 2833(a)). At its meeting on November 19, 1992, the Committee re-evaluated the proposal and determined that additional public comment would be needed prior to reaching any final conclusions.

The current rule specifies that if the board and the Committee grant approval for the construction of agricultural labor housing on the premises, such housing shall not be used as a residence for Grantor. The proposed rule amendment further prohibits Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's spouse's parents, and Grantor's spouse's lineal descendants, adopted or natural from residing in a new agricultural labor unit approved by the board and Committee. The Committee's intent is to ensure that the residential unit will provide housing for agricultural labor employed on the premises and not serve as a primary residence for a family member.

Social Impact

The proposed amendment affects farmland owners who are participants and applicants in the Agriculture Retention and Development Program by clarifying the statutory standard contained in N.J.S.A. 4:1C-32, which states that "any development for nonagricultural purposes is expressly prohibited."

The proposed amendment will have a positive impact by ensuring that the premises will be retained for agricultural use and production.

Economic Impact

The proposed amendment will have little or no economic impact upon participants or applicants to the Agriculture Retention and Development Program.

The proposed amendment which prevents the Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's

spouse's parents, and Grantor's spouse's lineal descendants, adopted or natural from residing in housing for agricultural labor only pertains to any new construction requiring the Committee's and board's approval. Moreover, the Committee intended that residual dwelling site opportunities be the sole housing opportunity for family members.

At the time of acquiring a development easement on the premises, the landowner is compensated for the loss of any rights as limited by the deed restrictions. The proposed amendment merely reiterates that nonagricultural development on the premises is prohibited.

Regulatory Flexibility Analysis

The majority of the land potentially subject to permanent development easement purchase is owned by small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment imposes compliance requirements which are identified in the Grantor's Deed of Easement. Differing standards of compliance based on business size are not an option since these type of restrictions form the very basis of the program which is designed in the public interest to protect farmland in the State. Further, a farmland owner's offer to sell a development easement is voluntary, as is the acceptance of any State offer.

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

2:76-6.15 Deed restrictions

(a) The following statement shall be attached to and recorded with the deed of the land and shall run with the land: "Grantor promises that the Premises shall be owned, used and conveyed subject to:

"1. through "13. (No change.)

"14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Grantee and the Committee. If Grantee and the Committee grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, **Grantor's spouse, Grantor's parents, Grantor's lineal descendants adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural**; and

ii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Grantee and Committee.

"16. through "22." (No change.)

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

BANKING

(b)

PINELANDS DEVELOPMENT CREDIT BANK

Pinelands Development Credit Bank Rules

Proposed Readoption: N.J.A.C. 3:42

Authorized By: Pinelands Development Credit Bank, Board of Directors, Jeff Connor, Chairman, and Commissioner of Banking.

Authority: N.J.S.A. 13:18A-30 et seq.

Proposal Number: PRN 1993-34.

Submit written comments by February 18, 1993 to:

John T. Ross

Executive Director

Pinelands Development Credit Bank

CN 035

Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to the requirements of Executive Order No. 66(1978), N.J.A.C. 3:42 expires on April 4, 1993. The Pinelands Development

Credit Bank has reviewed the rules and has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order.

The Pinelands Development Credit Bank Act (the "Act"), N.J.S.A. 13:18A-30 et seq., established the Pinelands Development Credit Bank for the purpose of regulating and promoting the use of Pinelands Development Credits ("PDCs") to further the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50). By facilitating the sale of PDCs, the Bank is providing a source of remuneration for land owners whose property is located within areas of the Pinelands designated by the Plan for conservation or agricultural use.

In exchange for placing an encumbrance on the title to the property, a credit is issued to the owner who may sell or borrow against the value of the credit. Credits are redeemed in the form of increased density allowances for those wishing to build in regional growth areas.

The rules proposed for re-adoption establish criteria regarding the sale, transfer, conveyance, encumbrance, redemption, and documentation of Pinelands Development Credits. In addition, the rules specify the conditions under which the Bank may purchase PDCs.

Subchapter 1 establishes the purpose of the rules. It also enumerates the duties and powers of the Pinelands Development Bank Board of Directors and its Executive Director. Procedures and rules governing the Board are set forth. Subchapter 2 provides interpretations, definitions and word usage.

Subchapter 3 outlines the procedure for issuance of PDCs. It includes the eligibility criteria for landowners as well as application requirements. It also outlines Bank procedure in issuing PDC certificates and the use of conservation or agricultural easements. In addition, it also establishes the required procedures involved with the sale, transfer, conveyance or encumbrance of PDCs. Subchapter 4 sets forth the requirements of the Pinelands Development Credits Registry, including its contents, availability to the public, and the annual report.

Subchapter 5 enumerates the criteria to be considered by the Bank Board in the purchase of credits by the Bank itself, including the definition of a hardship and the credit price to be paid by the bank. Subchapter 6 is reserved.

Subchapter 7 establishes procedures and requirements regarding the sale of PDCs owned by the Pinelands Development Credit Bank, Board of Directors. Two methods for those sales are permitted: by open bidding at a duly advertised auction or by receipt of written, sealed bids. In addition, this subchapter establishes criteria that govern the conveyance of PDCs at no cost. Subchapter 8 is reserved. Subchapter 9 addresses amendment of these rules by the Board or by petition of an interested person.

Social Impact

The rules proposed for re-adoption provide a mechanism through which counties and local governments may further the patterns of development called for under the Pinelands Comprehensive Management Plan. The public benefits from the rules since they further the preservation of open space and the conservation of groundwater resources.

Economic Impact

The rules proposed for re-adoption facilitate the use of PDCs as a method of providing equity to landowners whose property lies in areas ill-suited for development activity. The rules create a market in which citizens and the Board may buy, sell and redeem credits. This provides an economic benefit to such landowners.

In addition, the rules allow the Board to recoup the funds it expends in purchasing PDCs. These funds may then be used to purchase additional PDCs. Although developers seeking to purchase credits will incur costs, these developers will realize enhanced economic benefits from the ability to pursue residential development projects in designated growth areas of the Pinelands. The sale of credits is a voluntary program; bids are submitted by willing participants only. Credits sold for more than the minimum bid should have a positive economic impact for landowners entitled to PDCs.

Regulatory Flexibility Analysis

The only reporting or recordkeeping requirements imposed by these rules concern the procedures governing the sale and conveyance of Board-owned PDCs. No reporting or recordkeeping requirements are imposed upon bidders for such credits or upon applicants for their conveyance at no cost. However, bidders and applicants are required to comply with the bidding and application procedures, respectively. While a portion of these bidders and applicants may be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et

seq., there is typically no cost for professional services incurred. The bidding is conducted in substantially a standard manner, and the information required of a no-cost conveyance applicant would be otherwise developed in the course of preparation for a pinelands project. Accordingly, no differentiation is provided for small businesses.

Full text of the proposed re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:42.

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

DIVISION OF FISH, GAME AND WILDLIFE FISH AND GAME COUNCIL

1993-94 Fish Code

Largemouth Bass and Smallmouth Bass

Proposed Amendment: N.J.A.C. 7:25-6.13

Authorized By: Fish and Game Council, Cole Gibbs, Chairman.

Authority: N.J.S.A. 13:1B-29 et seq.

DEPE Docket Number: 61-92-12.

Proposal Number: PRN 1993-27.

Public comments concerning the proposed amendment will be accepted at a public hearing to be held on:

Tuesday, February 9, 1993 at 7:30 P.M.
Assumpink Wildlife Conservation Center
Eldridge Road
Assumpink Wildlife Management Area
Robbinsville, New Jersey 08691

Submit written comments by February 18, 1993 to:

Robert McDowell, Director
Division of Fish, Game and Wildlife
Department of Environmental Protection and Energy
CN 400
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to the 1993-94 Fish Code prohibits the harvest of largemouth bass and smallmouth bass from April 15 through June 15 by establishing a catch-and-release fishery during this period. Specifically, the proposed amendment prohibits the possession of bass from April 15 through June 15 and requires that all bass caught during this period must be immediately returned to the water unharmed. The existing 1993-94 Fish Code provides for the limited harvest of largemouth bass and smallmouth bass; it sets a daily creel and possession limit of one bass in total of either species and a minimum size limit of 18 inches from April 15 to June 15. The Council is proposing this amendment in order to increase the public's opportunity to catch large bass.

Social Impact

The primary impact of the proposed amendment is that fishermen will no longer be allowed to retain large trophy-sized largemouth bass or smallmouth bass from April 15 to June 15. The Council acknowledges that these restrictions will have some adverse effects on certain existing bass tournament rules. For example, bass tournaments often require contestants to bring fish back to a central location for weighing. Under this rule, a fisherman is prevented from possessing any bass regardless of size from April 15 through June 15. The Council, however, finds that bass tournament sponsors could institute alternative rules, such as mix and match or an honor system, which do not require the "possession" of fish. Therefore, the negative social impact of this amendment could be minimized. The Council further finds that by preventing the removal of the large bass from the fishery a positive social impact will result in that the public will have an increased opportunity to catch these large bass thereby enhancing the recreational use of the resource. Therefore, the Council finds that the positive social impact of enhanced recreational use outweighs the rule's negative social impact. Furthermore, the Council notes that public comment received during the public hearing for the 1993-94 Fish Code overwhelmingly supported the establishment of a catch-and-release fishery for bass from April 15 to June 15.

Economic Impact

No adverse impact on the local economy is anticipated as a result of this action.

Environmental Impact

The proposed amendment which prohibits the harvest of large adult bass during the spawning season, which runs from approximately April 15 to June 15, reflects a conservative environmental position. The weight of the scientific evidence neither supports nor opposes this position. Although this amendment will increase the number of spawning adult bass, this factor is just one of several environmental factors which determine whether the number of bass from spawning will increase. The Council, however, holds that in light of this scientific uncertainty a conservative position best protects the resource and ensures the sustained viability of the bass population.

Regulatory Flexibility Statement

This proposed amendment to the 1993-94 Fish Code imposes restrictions on anglers engaged in recreational fishing. The requirements are not, therefore, imposed upon small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-15 et seq.

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

7:25-6.13 Warmwater fish

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

(d) The minimum size of smallmouth bass shall be 12 inches [except that during the period of April 15 through June 15, an 18 inch minimum size limit shall be in effect].

(e) The minimum size of largemouth bass shall be 12 inches [except that during the period of April 15 through June 15, an 18 inch minimum size limit shall be in effect].

(f) The daily creel and possession limit for largemouth bass and smallmouth bass shall be five in total, except that during the period of April 15 through June 15[, the limit is one in total] **the possession of these bass is prohibited and all bass caught shall be immediately returned to the water unharmed.**

(g)-(p) (No change.)

(a)

PINELANDS COMMISSION**Pinelands Comprehensive Management Plan Development Review Approval and Waiver Expiration Proposed Amendments: N.J.A.C. 7:50-4.1 and 4.70**

Authorized By: New Jersey Pinelands Commission,
Terrence D. Moore, Executive Director.

Authority: N.J.S.A. 13:18A-6j.

Proposal Number: PRN 1993-28.

A **public hearing** concerning this proposal will be held on:

Thursday, January 28, 1993 at 7:00 P.M.

Room No. 10, Pemberton Township Municipal Building

500 Pemberton-Browns Mills Road

Pemberton, New Jersey

Submit written comments by February 18, 1993 to:

William Harrison

Assistant Director

Pinelands Commission

P.O. Box 7

New Lisbon, NJ 08064

The agency proposal follows:

Summary

The New Jersey Pinelands Commission is proposing amendments to its rules regarding the expiration of approvals granted by the Pinelands Development Review Board (between February 8, 1979 and June 28, 1979) and those granted under the Commission's Interim Rules and Regulations (between June 28, 1979 and January 14, 1981). Similar changes are being proposed to the Commission's rules on waiver approvals issued upon the basis of an applicant having secured valid municipal development approval prior to February 8, 1979 and having documented expenditures made in reliance thereon (referred to as A-2

waivers). The proposed amendments specify the date by which an applicant must secure construction permits for development approved under one of these scenarios, provided all necessary approvals from the municipal planning board or board of adjustment have been obtained.

On November 2, 1987, the Commission established by rule an expiration date for approvals issued by the Pinelands Development Review Board, those issued under the Interim Rules and Regulations and those issued under the A-2 waiver provisions. These approvals expired on January 14, 1991 unless the applicant had secured all necessary approvals from the municipal planning board or board of adjustment (or where not required, all necessary construction permits) by that date. The rules did not explicitly state when such approvals would expire if a municipal approval had been obtained by January 14, 1991 without accompanying construction permits.

N.J.A.C. 7:50-4.70(b) was amended in March of 1992 to clarify the Commission's intentions that the approvals would expire unless all necessary construction permits had been obtained within the period of protection provided under the Municipal Land Use Law for the municipal board approvals. However, these amendments did not successfully clarify the rules, thereby necessitating the changes being proposed at this time.

The expiration date which the Commission is proposing coincides with P.L. 1992, c.82 (the Permit Extension Act), which extends any government approval which had expired or is scheduled to expire between January 1, 1989 and December 31, 1994 until December 31, 1994. Pursuant to Section 4c of the Permit Extension Act, the provisions of the Act do not extend any permit or approval issued pursuant to the "Pinelands Protection Act," if the extension would result in a violation of Federal law, or any State rules or regulations requiring approval by the Secretary of the Interior pursuant to P.L. 95-625 (16 U.S.C. section 471(i)). The Commission's rules, including its expiration provisions, required and received the approval of the Secretary of the Interior. As required by the National Parks and Recreation Act of 1978, the changes being proposed at this time will be submitted to the Secretary of Interior for approval.

On October 5, 1992, the Commission issued a notice in the New Jersey Register explaining the effects of the Permit Extension Act upon the various approvals it has issued. The notice stated that approvals issued by the Pinelands Development Review Board and those issued under the Interim Rules and Regulation and A-2 waiver provisions had not been extended by the Act. The proposed amendments will not extend those approvals which expired on January 14, 1991 because all necessary approvals had not been obtained by that date. The amendments only establish a fixed expiration date for those projects which received all necessary board approvals by January 14, 1991.

Social Impact

The proposed amendments should have a positive social impact because they will eliminate any uncertainty which currently exists concerning the expiration of approvals issued by the Pinelands Development Review Board, approvals issued under the Interim Rules and Regulations, and those issued under the Commission's A-2 waiver provisions, for which all necessary board approvals were obtained before January 14, 1991. The amendments will enable those holding such approvals to better plan the construction of the proposed development, having now a date by which they must act on the Commission's approvals. The amendments will also provide municipalities with a clear understanding of the expiration of the approvals which are subject to the proposed changes.

Economic Impact

The Commission has issued approvals for 11,993 residential units under its A-2 waiver provisions. The waivers for approximately 4,800 of these units expired on January 14, 1991. All necessary municipal approvals were secured by January 14, 1991 for the remaining 7,193 units, of which more than half have been constructed. The expiration of the waivers for most of the remaining units under the current rules is to occur in the immediate future, as the period of protection for the municipal board approvals is about to lapse under the Municipal Land Use Law.

Approximately 11,300 residential units were approved either by the Pinelands Development Review Board or by the Pinelands Commission under the Interim Rules and Regulations. In the same time period in which these approvals were issued (from February 8, 1979 to January 14, 1981), the Commission also approved 156 applications for commercial development. Applicants were not required to send the Commission

notices of local approvals for these development projects; as a result, the Commission does not have complete information on the current status of all of these projects. Most of the development approved prior to 1981 has been constructed, while the approvals for many of the remainder expired on January 14, 1991; there are several developments whose expiration is imminent under the current rules.

Through the Permit Extension Act, the Legislature recognized that an economic emergency existed in the State of New Jersey characterized by severe losses in the construction industry and related trades. The effects of the proposed amendments will be the same as those envisioned by the Legislature through the benefits of the Permit Extension Act. Specifically, applicants will be able to proceed with obtaining construction permits until December 31, 1994. They will have up to one year to start construction after obtaining the construction permits. This will have a positive impact upon the construction industry and the overall economy of the State.

Environmental Impact

Under these proposed amendments, it is anticipated that a significant number of units will be developed which are inconsistent with the current provisions of the Pinelands Comprehensive Management Plan. However, the amendments will not result in further impacts upon the resources of the Pinelands than those anticipated when the approvals were first issued. Because the amendments will not extend those approvals which expired on January 14, 1991, the environmental benefits already realized under the original expiration provisions will continue and additional benefits will be realized with an absolute termination date for those projects whose approvals will expire pursuant to these amendments.

Regulatory Flexibility Analysis

The proposed amendments do not impose new reporting or recordkeeping requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Approval or waiver applicants or recipients who desire extensions where municipal planning board or board of adjustment approvals were required by January 14, 1991 are required to obtain all necessary approvals, including all necessary construction permits, by December 31, 1994 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D-21 of the running of the period of planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D-47 or 40:55D-52, whichever is later. Where no municipal planning board or board of adjustment approvals were required, extensions will not be permitted for approval or waiver applicants or recipients who did not receive necessary construction permits by January 14, 1991 or whose necessary construction permits issued prior to January 14, 1991 became invalid pursuant to N.J.A.C. 5:23-2.16(b) after that date. Extensions are not permitted to those who did not receive necessary planning board or board of adjustment approvals prior to January 14, 1991.

These requirements should not impose any additional costs or need for professional services on small businesses because the approvals and permits are otherwise required; the proposed amendments provide certain timeframes applicable to those desiring approval or waiver extensions. The Pinelands Commission anticipates an overall positive impact from the proposed amendments, as they result in additional time being available to obtain needed permits. For this reason, no differentiation in requirements is made based upon business size.

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

7:50-4.1 Applicability

(a) (No change.)

(b) As of January 14, 1991, the provisions of this Plan shall apply to any proposed development or portion thereof which received approval from the Pinelands Commission pursuant to the Interim Rules and Regulations or which received approval from the Pinelands Development Review Board [unless said development has received all other necessary approvals from the municipal planning board and board of adjustment or, where no such approval is required, construction permits have been issued prior to that date and no renewal or extension of any other approval is necessary after that date. Said approvals by the Pinelands Commission and the Pinelands Development Review Board shall be null and void as of January 14, 1991.] **and said approvals expired as of that date or**

will expire subsequent to that date, without exception, unless the requirements in (b)1, 2 and 3 or in (b)4 below have been and continue to be met:

1. **All necessary municipal planning board or board of adjustment approvals were obtained by January 14, 1991;**

2. **No additional approval, extension, renewal or any other action whatsoever is required or received from either the municipal planning board or board of adjustment after January 14, 1991; and**

3. **All necessary approvals, including all necessary construction permits, are obtained by December 31, 1994 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D-21 of the running of the period of the planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D-47 or 40:55D-52, whichever is later; and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after the latter of said dates; or**

4. **Where no municipal planning board or board of adjustment approvals were required, all necessary construction permits were issued prior to January 14, 1991 and no such permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after that date.**

(c) (No change.)

7:50-4.70 Effect of grant of waiver; expiration; recordation; effective date

(a) (No change.)

(b) **Waivers approved under former N.J.A.C. 7:50-4.66(a)1ii, repealed effective November 2, 1987, and former N.J.A.C. 7:50-4.55(a)1iii, repealed effective September 12, 1985, shall expire as follows:**

1. (No change.)

2. **Any waiver previously approved under the prior municipal development approval standard contained in the [now] previously repealed N.J.A.C. 7:50-4.66(a)1ii expired[, without exception,] as of January 14, 1991 [unless all necessary approvals for the proposed development were obtained by that date from the municipal planning board and board of adjustment or, where no such approval was required, all necessary construction permits have been issued prior to that date and no such permit or approval is subsequently allowed to expire, lapse, or needs to be renewed or extended after that date] or will expire subsequent to that date, without exception, unless the requirements in (b)2i, ii and iii or in (b)2iv below have been and continue to be met:**

i. **All necessary municipal planning board or board of adjustment approvals were obtained by January 14, 1991;**

ii. **No additional approval, extension, renewal or any other action whatsoever is required or received from either the municipal planning board or board of adjustment after January 14, 1991; and**

iii. **All necessary approvals, including all necessary construction permits, are obtained by December 31, 1994 or within 18 months of the expiration of any tolling pursuant to N.J.S.A. 40:55D-21 of the running of the period of the planning board or board of adjustment approval pursuant to N.J.S.A. 40:55D-47 or N.J.S.A. 40:55D-52, whichever is later; and no construction permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after the latter of said dates; or**

iv. **Where no municipal planning board or board of adjustment approvals were required, all necessary construction permits were issued prior to January 14, 1991 and no such permit becomes invalid pursuant to N.J.A.C. 5:23-2.16(b) after that date.**

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

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Policies and Procedures Pertaining Strictly to Community Colleges Auditing and Accounting Standards for County Colleges Noncredit Courses

Proposed Amendment: N.J.A.C. 9:4-3.12

Authorized By: Board of Higher Education, Edward D.

Goldberg, Chancellor and Secretary.

Authority: N.J.S.A. 18A:64A-7.

Proposal Number: PRN 1993-36.

Submit comments by February 18, 1993 to:

Valerie Van Baaren, Esq.
Administrative Practice Officer
20 West State Street
CN 542
Trenton, New Jersey 08625

The agency proposal follows:

Summary

A component of the county college funding formula is institutional enrollments in differential categories. The six categories and their weights are: Group I, General Liberal Arts Courses (1.0), Group II, Liberal Arts and Sciences Laboratory Courses (1.25), Group III, Light Technology Courses (1.25), Group IV, High Technology and Allied Health Courses (2.0), Group V, Remedial, Developmental, and English as a Second Language (1.75), and Group VI, Noncredit Courses (.75). Noncredit courses are offerings developed to meet the needs of non-degree seeking students and which do not meet the calendar and content requirements of credit hour courses. The proposed amendment applies only to those courses eligible for State funding under Group VI, Noncredit Courses. Some colleges do not offer noncredit courses that are eligible for State funding.

Noncredit courses, for purposes of State funding, mean remedial (courses not included in Group V), developmental, general education diploma and adult basic education courses. Remedial courses are courses in reading, writing and mathematics designed to raise competence in these skills. Developmental courses develop occupational skills geared toward securing initial employment, or upgrading occupational skills. General education diploma courses prepare students for New Jersey high school equivalency diplomas. Adult basic education courses teach reading, writing and mathematics skills to adults whose lack of ability to speak, read or write the English language constitutes a substantial impairment to obtaining or retaining employment commensurate with their occupational skills.

The Department of Higher Education periodically reviews the certified institutional enrollment reports of the county colleges. In one of the reviews conducted in 1990, several practices in the reporting of enrollment data were found to be in violation of the noncredit course regulations or did not comply with Board of Higher Education policy. Those practices included: tuition charges for courses which exceeded the Board's maximum limits; lack of documentation to indicate what tuition was being charged; absence of documentation that would indicate course development costs that were being charged to corporate, private or public agencies; and inclusion in the certified enrollment data of contact hours for students enrolled in high school equivalency courses with non-specified sessions which they did not attend.

Proposed amendment paragraph (g)1 requires that the colleges maintain documentation, for audit purposes, of course, laboratory, and other fees charged. This requirement will ensure differentiation of the specific charges for the consumer and enable auditors to determine if the colleges are within the maximum tuition levels for noncredit courses established by the Board of Higher Education. The colleges will be informed that the documentation of tuition, laboratory, and other fees may be satisfied by an invoice and/or a breakdown of these charges in a college publication. No additional recordkeeping would be required as a result of this regulatory revision.

Proposed amendment paragraph (g)2 requires the colleges who seek funding for noncredit courses, for which course development fees are charged (courses contracted by business/industry/public agency), to submit to the Department semi-annually a list of the courses, clients, and developmental costs incurred. This revision will also enable auditors to monitor compliance with the Board of Higher Education's tuition policy. The Department does not believe that requiring the colleges to submit such a list poses an inconvenience. The specific information required should be readily available in the agreement between the college and the contracting party, and is easily recorded.

Proposed paragraph (g)3, which addresses tuition for training courses (courses contracted for by business/industry/public agency), delineates the basis for State support as the number of students who actually attend the course (rather than, for example, the number of students originally anticipated and contracted for). This stipulation ensures that tuition levels are within the maximum levels established by the Board of Higher Education.

For noncredit courses with non-specified sessions (in which students advance at their own pace, and often on their own schedule, with faculty instruction), the proposed amendment to subsection (k) provides for State funding based upon student attendance at a majority of scheduled or available class sections within a week.

Social Impact

The proposed amendment will clarify the method of recording data regarding noncredit courses at county community colleges. This is essential to the county community college audit process and will standardize the reporting process. This will ensure that the county community colleges comply with the Board of Higher Education maximum tuition limitation policies.

Economic Impact

The proposed amendment will ensure: that the tuition charged by county community colleges does not exceed Board of Higher Education maximum limits; that students, corporate, private or public agencies receive an itemized list of charges; that full-time equivalent support for development costs are charged once unless the course is redefined; and standardized calculation of attendance for high school equivalency and other courses with non-specified sessions. These requirements may result in reduced revenues for those county community colleges which have not complied with the community college noncredit course rules or Board of Higher Education maximum tuition policies.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment contains provisions regarding accounting practices at county community colleges.

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

9:4-3.12 Noncredit courses

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

(g) To be eligible for State funding, noncredit courses as defined in this section shall be in compliance with the Board of Higher Education tuition ceiling currently in effect.

1. Colleges may, as allowed for credit courses, institute course and/or laboratory fees where appropriate, as long as these fees are clearly differentiated from tuition in promotional material and invoices rendered to a student. Documentation of course, laboratory and other fees charged to all clients must be maintained by the college for audit purposes. Course, laboratory and other fees are not eligible for reimbursement under this section.

2. Colleges requesting State FTE support may charge course development fees. Such fees may be charged once for the development of a given course. Costs for the refinement of a course previously developed and for which fees have been charged are also allowable. All course development costs must be fully documented as actual course development costs. Colleges must forward to the Department semi-annual reports reflecting the course, clients, developmental costs and a minimal breakdown of those costs.

3. Tuition for training courses must be based upon the seats contractually reserved by the contracting agency. In no case,

however, shall the State Full-Time Equivalent (FTE) support exceed the number of students actually attending a given course as determined pursuant to N.J.A.C. 9:4-3.14.

(h)-(j) (No change.)

(k) The equivalent credit-hour calculation for a noncredit course shall be based upon only those students who are formally registered and in attendance at the institutional session to be selected by the college for the equivalent credit-hour count. For noncredit courses with non-specified sessions, funding shall be based on a weekly student attendance. In order to qualify for attendance during any particular week, a student must attend a majority of the scheduled or available class sessions within a week.

(l) (No change.)

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Hearing Aid Assistance to the Aged and Disabled Eligibility Manual

Proposed Redooption: N.J.A.C. 10:69

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-36 through 42, and 30:4D-7, 7a, b and c.

Agency Control Number: 92-P-13.

Proposal Number: PRN 1993-18.

Submit comments by February 18, 1993 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712

Trenton, NJ 08625-0712

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the Hearing Aid Assistance to the Aged and Disabled (HAAAD) Eligibility Manual (N.J.A.C. 10:69) is due to expire on June 6, 1993. The Division of Medical Assistance and Health Services (Division) has reviewed the rules and has determined them to be necessary, adequate, reasonable, proper and responsive for the purpose for which they were originally promulgated.

The HAAAD Eligibility Manual was promulgated as a statement of policy and procedures relating to eligibility for a payment of up to \$100.00 in a calendar year in which a hearing aid is purchased for individuals who meet the age or disability, income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program. It should be noted that, although the HAAAD program is defined as a separate program, it is administered by, and its eligibility is determined through the criteria of, the PAAD program. The HAAAD program is fully State funded under the administration of the Division of Medical Assistance and Health Services of the New Jersey Department of Human Services.

Subchapter 1 presents the rationale for the HAAAD program and lists the laws on which the program is based.

Subchapter 2 defines words and terms used with a specific focus in the manual for setting forth the procedures and policies of the HAAAD program.

Subchapter 3 sets forth the administrative structure which provides for the administration and operation of the hearing aid assistance program.

Subchapter 4 describes the HAAAD application process. The process includes all activity relating to the application, from receipt by the Division until the eligibility has been officially decided. Provision is made for an authorized agent, in those instances where the applicant cannot file an application on his or her own behalf. The subchapter includes a definition of the responsibilities of the various program constituents, the PAAD Bureau's responsibility to process the application, the appli-

cant's responsibility to complete the application accurately and to provide documentation as necessary, and the beneficiary's responsibility to repay the cost of benefits incorrectly paid on his or her behalf.

Subchapter 5 describes eligibility requirements. Income levels for eligibility determination are defined for single persons or married couples, for applicants who are either aged or disabled. Although United States citizenship is not required for HAAAD eligibility, residence in the State of New Jersey is required, hence residency is defined at some length in the subchapter.

The subchapter discusses the extent to which persons covered by other assistance will be considered eligible for HAAAD benefits. Other topics covered include (1) the applicant's certification of the veracity of the application information, (2) authorizing the assignment of benefits to the State of New Jersey if the applicant has other applicable coverage, and (3) specification of the eligibility period to be a calendar year, during which only one \$100.00 benefit may be paid. The subchapter also covers recoveries for benefits incorrectly paid.

Since the chapter was last adopted, a regulatory change was made as the result of a legislative amendment. In 1991, N.J.A.C. 10:69-5.1 was amended as the result of legislation increasing the income limits for HAAAD eligibility from \$13,650 to \$15,700 for single persons, and from \$16,750 to \$19,250 for married couples, retroactive to January 1, 1991 (see 23 N.J.R. 3514(a)).

The proposed redooption will enable eligible persons to receive a supplemental check of up to \$100.00 to offset the cost of a hearing aid. The total Hearing Aid Assistance benefit paid in State Fiscal Year 1992 was \$297,500.

Social Impact

The proposed redooption impacts on all potential HAAAD recipients or applicants for the HAAAD program because the application procedures and eligibility considerations affect their ability to obtain the supplemental payment through the program.

The proposed redooption is concerned with eligibility; therefore it will not impact on hearing aid providers.

The rules should be continued because the social situation is unchanged: people with enough income to disqualify them from Medicaid coverage may not be able to pay for hearing aids.

Economic Impact

The proposed redooption will have no economic impact on an HAAAD applicant because there is no change in the provisions governing the hearing aid assistance program. Eligible persons will be able to receive a supplemental check of up to \$100.00 to offset the cost of a hearing aid.

The proposed redooption will have no economic impact on hearing aid providers because this manual regulates eligibility of HAAAD beneficiaries.

The Division of Medical Assistance and Health Services has found that hearing aid supplemental payments through the HAAAD program totalled \$297,500 in State Fiscal Year 1992.

Regulatory Flexibility Statement

The proposed redooption does not impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because the proposed rule regulates beneficiaries of the HAAAD program and the government agency which administers the HAAAD program, neither of which is a small business. Consequently, a regulatory flexibility analysis is unnecessary.

Full text of the proposed redooption may be found in the New Jersey Administrative Code at N.J.A.C. 10:69.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES**Social Services Program for Individuals and Families
Personal Needs Allowance: Residential Health Care
Facilities and Boarding Homes
Annual Adjustment****Proposed Amendment: N.J.A.C. 10:123-3.4**

Authorized By: William Waldman, Acting Commissioner,
Department of Human Services.

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

Proposal Number: PRN 1993-19.

Submit comments by February 18, 1993 to:

Celia J. Rechtman
Office of Legal and Regulatory Liaison
Division of Youth and Family Services
CN 717

Trenton, New Jersey 08625-0717

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 10:123-3.4, Amount, increases the amount of the personal needs allowance for certain residents of residential health care facilities and boarding houses. The amount of the personal needs allowance to be reserved by owners and operators of residential health care facilities and boarding houses, for the use of Supplemental Security Income or General Public Assistance recipient residents, is being increased by one dollar and 50 cents from \$65.00 to \$66.50. This increase is based on a proportionate share of the total 1993 Federal cost of living increase in the Federal Supplemental Security Income (SSI) rate, published at 57 Fed. Reg. 48619 (October 27, 1992), prorated for calendar year 1993 according to an anticipated operative date for this rule of May 1, 1993.

Presently, the Division of Youth and Family Services uses the normal rulemaking process of proposal and adoption to effectuate the annual adjustment in the personal needs allowance. This has resulted in the adjustment becoming effective no earlier than the fifth month of each year. To compensate, the Division has prorated the full yearly amount of the adjustment over the remaining months of the year, so as to assure the residents the full benefit of any increase. In an attempt to provide the personal needs allowance to residents of residential health care facilities and boarding homes in a more timely manner (January of each year), the formula used to set the personal needs allowance had been proposed as an amendment to the rules in the September 9, 1992 edition of the New Jersey Register at 24 N.J.R. 3088(a). In that proposal, an amendment was proposed to require publication of an annual notice of the personal needs allowance for the new year through the New Jersey Register and by other appropriate means of publication. Based on comments received, however, the Division has determined it appropriate to make further adjustments to the proposed formula for calculating the personal needs allowance. This necessitates a re-publication of the proposed formula, which would not be able to be completed in time to make the adjustments to the 1993 personal needs allowance. As a result, the Division will continue to use the normal rulemaking and prorating processes for calendar year 1993 and re-propose the above-mentioned rule change to become effective for calendar year 1994. The 1993 personal needs allowance has been calculated using a 12 month base; the 1994 allowance shall also be calculated using a 12 month base.

Social Impact

The annual personal needs allowance adjustment has a beneficial impact on certain residents of residential health care facilities and boarding houses in that it allows those residents who rely on Supplemental Security Income or General Public Assistance to maintain their spending power in equilibrium with the cost of living. The personal needs allowance may be used at the resident's discretion to purchase clothing and incidentals that the residential health care facilities and boarding homes do not provide.

Economic Impact

The approximately 8,000 residents in over 500 New Jersey residential health care facilities and boarding houses who are eligible to receive a personal needs allowance will benefit by having their spending power

adjusted annually, to keep pace with the cost of living. There will be no negative impact on facility owners, since they also will benefit from the annual Federal cost of living adjustment in the Supplemental Security Income rate.

Regulatory Flexibility Statement

The proposed amendment will not result in any increase in the amount or type of reporting, recordkeeping or compliance requirements relating to personal needs allowances. It increases the dollar amount of the personal needs allowance for certain residents of residential health care facilities and boarding houses. Fewer than 500 facilities Statewide serve Supplemental Security Income or General Public Assistance residents. The proposed amendment is not expected to have any adverse or additional economic impact on these facilities or on any small businesses, as the term is defined in N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act.

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

10:123-3.4 Amount

The owner or operator of each residential health care facility or boarding home shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein, a personal needs allowance in the amount of at least [~~\$65.00~~] **\$66.50** per month. No owner or operator or agency thereof shall interfere with the recipient's retention, use, or control of the personal needs allowance.

INSURANCE

(b)

DIVISION OF ADMINISTRATION**Medical Fee Schedules: Automobile Insurance
Personal Injury Protection Coverage****Proposed Amendments: N.J.A.C. 11:3-29.2, 29.4 and 29.6**

Authorized By: Samuel F. Fortunato, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 39:6A-4.6.

Proposal Number: PRN 1993-46.

Submit comments by February 18, 1993 to:

Veric M. Mason
Assistant Commissioner
Legislative and Regulatory Affairs
New Jersey Department of Insurance
CN 325

Trenton, New Jersey 08625-0325

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 11:3-29.4 by adding a new subsection (h) to address questions relating to reimbursement for services performed by assisting surgeons. The proposed subsection recognizes that where medical necessity exists, assisting surgeons in New Jersey have customarily been reimbursed at up to 20 percent of the primary physician's fee. Medical services or procedures that may require the participation of an assisting surgeon have been identified by the New Jersey State Board of Medical Examiners at N.J.A.C. 13:35-4.1.

The New Jersey Medical Fee Schedule for physicians' services establishes upper limits for reimbursement of physician charges but not assisting surgeon charges. It therefore follows that the primary physician be compensated at a usual, customary and reasonable fee but not exceeding the fee schedule and that assisting surgeons, in appropriate cases, be compensated at a percentage of the primary physician's fee (not exceeding 20 percent) and reimbursed accordingly even if the total reimbursement for the two fees exceeds the fee schedule.

Similarly, proposed new N.J.A.C. 11:3-29.4(i) recognizes that radiologists have been customarily compensated for the professional component of radiology services at up to 40 percent of the global charge which includes both the technical and professional components. When

each component is subject to the fee schedule, in no case may the sum of the components exceed the global charge which appears on the fee schedule as the upper limit of the insurer's liability. A proposed definition of "global charge" has been added to the definitions at N.J.A.C. 11:3-29.2.

The Department is also proposing to amend three of the fee schedules that appear at N.J.A.C. 11:3-29.6.

The revised schedule for physicians' services at proposed N.J.A.C. 11:3-29.6(a) incorporates CPT-4 code changes made by the American Medical Association (AMA) which became effective January 1, 1992. Several codes which are unrelated to auto accident injuries have been deleted.

The Department is proposing clarification of CPT-4 code 93762, "Peripheral thermogram," by adding the words "including any series" to the present description. Thermograms in New Jersey are ordinarily provided in a three-part series to the cervical, thoracic and lumbar areas. The Department, upon careful review of the matter, is satisfied that the upper level fee of \$432.00 is the 75th percentile charge for the thermogram series and that the singular reference in the schedule to "Peripheral thermogram" is therefore misleading.

Code No. 7881 on the dental fee schedule has been deleted. This code, described as "T.M.J. therapy," was used by a large dental insurer for internal accounting purposes and was mistakenly included in the database from which the dental fee schedule was derived.

The inscription appearing at the end of the physician's fee schedule and the dental fee schedule has been changed to read as follows:

THE DOLLAR AMOUNTS APPEARING ON THIS SCHEDULE ARE THE UPPER LIMITS OF THE INSURANCE COMPANY'S LIABILITY FOR REIMBURSEMENT AND WILL NOT BE EXCEEDED IN ANY CASE. THESE AMOUNTS DO NOT REPRESENT A PROVIDER'S USUAL, CUSTOMARY AND REASONABLE FEE WHICH IN MOST INSTANCES WILL BE BELOW THE UPPER LIMIT AMOUNTS SHOWN ON THE SCHEDULE.

The upper level limits on the fee schedules for nurses and allied professional health services, ambulance services, physicians' and dental services are currently being reviewed by the Department. This review, when completed, will determine whether and to what extent changes in upper level limits may be required.

The proposed changes to the durable medical equipment and prosthetic devices schedule at N.J.A.C. 11:3-29.6(e) are based on Medicare-allowed charges as of June 30, 1992. Eighty Medicare codes which had appeared on the old schedule were discontinued by Medicare while 86 new codes were added. For items which appeared on both the old and new schedules, the average percentage increase for new equipment was 6.7 percent; for used equipment 0.3 percent; and for rentals 1.5 percent.

Also added to the definitions at N.J.A.C. 11:3-29.2 is a proposed definition of HCPCS. The fee schedules for ambulance services and durable medical equipment and prosthetic devices are each based on the Federal Health Care Financing Administration's Common Procedure Code System.

Social Impact

The proposed amendments to the medical fee schedules and rules affect automobile insurers, automobile insurance purchasers, and providers of medical and dental services and equipment to insureds injured in automobile accidents.

The amendments to the physicians' fee schedule, in particular, will enable physicians and insurers alike to achieve uniformity in their data processing systems with respect to the AMA code changes.

New language at N.J.A.C. 11:3-29.4(h) and (i) is intended to provide needed clarification and is consistent with New Jersey practice relating to compensation for assisting surgeons and radiologists in instances where the fee schedules and rules are applicable.

Economic Impact

The medical fee schedules and rules are intended to limit the amount of medical expenses paid by individuals and their automobile insurers and thereby lower the cost of automobile insurance in New Jersey.

The proposed amendments to the current fee schedule for durable medical equipment and prosthetic devices will have the net effect of increasing the upper limits of automobile insurers' liability for reimbursement of fees for such medical equipment and prosthetic devices provided to auto accident victims. Providers should continue to bill at their usual, customary and reasonable rates.

The proposed amendments will not have an economic impact on the Department of Insurance because no additional costs are necessary to implement these revisions to the fee schedules.

Regulatory Flexibility Statement

The proposed amendments will apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These "small businesses" include insurers authorized to write private passenger automobile insurance. Less than 10 of the more than 200 automobile insurers in New Jersey qualify as "small businesses."

A regulatory flexibility analysis is not required because these rules do not impose reporting, recordkeeping or other compliance requirements on small businesses beyond the statutory requirements. The medical fee schedules contained in the rules set forth the limits of liability for the medical expense benefit portion of the personal injury protection coverage contained in automobile insurance policies.

While the rules do not impose reporting, recordkeeping and other compliance requirements, it is fully expected that all automobile insurers, including those qualifying as small businesses, will implement the fee schedules in their claims adjudication processes so as to reduce loss expenses for personal injury protection medical expense claims.

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

11:3-29.2 Definitions

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

...
"Global charge" means the sum of the technical and professional components.

...
"HCPCS" means the Federal Health Care Financing Administration's (HCFA's) Common Procedure Code System.

11:3-29.4 Application of the Medical Fee Schedules

(a)-(g) (No change.)

(h) The insurer's limit of liability for medically necessary assisting surgeon expenses shall be 20 percent of the primary physician's allowable fee determined pursuant to the fee schedule and rules.

(i) The insurer's limit of liability for the professional component of allowable global charges for radiology services shall be 40 percent of the global charge.

11:3-29.6 Medical Fee Schedules

AGENCY NOTE: The Department is proposing for deletion current N.J.A.C. 11:3-29.6(a), (b) and (e)—the medical fee schedules for physicians' services, dental services and durable medical equipment and prosthetic devices. The text of those schedules is not reproduced herein, but may be found in the New Jersey Administrative Code. The full text of proposed new N.J.A.C. 11:3-29.6(a), (b) and (e) follows:

(a) The following is the Medical Fee Schedule for physicians' services:

STATE OF NEW JERSEY
PERSONAL AUTO INJURY FEE SCHEDULE—PHYSICIANS' SERVICES

CPT-4 Code	Description of Services	Region 1	Region 2	Region 3
10060	I&D ABSCESS, SIMPLE OR SINGLE	\$91	\$86	\$81
10061	I&D ABSCESS, COMPLICATED OR MULTIPLE	275	269	269
10120	INCIS & REMOVAL OF FOREIGN BODY, SIMPLE	99	91	86
10121	INCIS & REMOVAL, MULTIPLE OR COMPLICATED	301	301	301
10140	I&D OF HEMATOMA, SIMPLE	80	75	84
10141	I&D OF HEMATOMA, COMPLICATED	583	583	583
10160	PUNCTURE ASPIRATION OF ABSCESS	92	102	112
11000	DEBRIDEMENT OF SKIN; UP TO 10%	37	37	37
11040	DEBRIDEMENT; SKIN, PARTIAL THICKNESS	52	43	48
11041	DEBRIDEMENT; SKIN, FULL THICKNESS	93	107	113
11042	DEBRIDEMENT; SKIN, SUBCUTANEOUS TISS	188	162	140
11043	DEBRIDEMENT; SKIN, SUB-Q TISS, MUSCLE	454	454	486
11044	DEBRIDEMENT; SKIN, SUB-Q, MUSCLE, BONE	648	648	648
11730	NAIL AVULSION, SIMP, PARTIAL OR COM	61	61	50
11750	EX NAIL/MATRIX, PART/COMP, PERMANENT	346	372	377
11765	WEDGE EXC OF SKIN NAIL FOLD	146	146	146
12001	SIMPLE REPAIR, SCALP ETC; TO 2.5 CM	107	124	120
12002	SIMPLE REPAIR, SCALP ETC; 2.6-7.5 C	162	162	162
12004	SIMPLE REPAIR, SCALP ETC; 7.6-12.5 C	233	233	233
12011	SIMP REPAIR, FACE ETC; TO 2.5 CM	131	152	147
12013	SIMP REPAIR, FACE ETC; 2.6-5.0 CM	190	190	189
12031	INTER REPAIR, SCALP ETC; TO 2.5 CM	207	207	207
12032	INTER REPAIR, SCALP ETC; 2.6-7.5 C	277	277	277
12041	INTER REPAIR, NECK, ETC; TO 2.5 CM	218	218	218
12042	INTER REPAIR, NECK ETC; 2.6-7.5 CM	286	286	286
12051	INTER REPAIR, FACE ETC; TO 2.5 CM	438	394	482
12052	INTER REPAIR, FACE ETC; 2.6-5.0 CM	540	540	594
13101	COMPLEX REPAIR, TRUNK; 2.6-7.5 CM	491	491	491
13120	COMPX REPAIR, SCALP ETC; 1.1-2.5 CM	405	405	405
13121	COMPX REPAIR, SCALP ETC; 2.6-7.5 CM	637	637	637
13131	COMPX REPAIR, CHECKS ETC; 1.1-2.5 CM	547	547	567
13132	COMPX REPAIR, CHECKS ETC; 2.6-7.5 CM	846	846	809
13150	COMPX REPAIR, NOSE ETC; TO 1.0 CM	438	438	438
13151	COMPX REPAIR, NOSE ETC; 1.1-2.5 CM	639	639	648
13152	COMPX REPAIR, NOSE ETC; 2.6-7.5 CM	1040	1040	1040
13300	COMPLICATED REP; OVR 7.5 CM ANY AREA	1431	1431	1431
14000	ADJ TISS TRANSFER, TRUNK; TO 10 SQ CM	513	513	542
14001	ADJACENT TIS TRANS OR REAR, TRUNK	920	920	951
14020	ADJ TISS TRANS, SCALP ETC; TO 10 SQ CM	1096	1096	1096
14040	ADJ TISS TRANS, CHIN ETC; TO 10 SQ CM	1225	1225	1269
14060	ADJ TISS TRANS, NOSE ETC; TO 10 SQ CM	1589	1589	1589
15100	SPLIT GRAFT, TRUNK ETC; TO 100 SQ CM	1261	1261	1261
16000	INITIAL TREATMENT, FIRST DEGREE BURN	75	75	75
16020	DRESS/DEBRIDE SM BURN; NO ANESTHESIA	87	87	93
16025	DRESS/DEBRIDE MED BURN; NO ANES	124	124	124
17250	CHEMICAL CAUT OF GRANULATION TISS	57	57	54
19000	PUNCTURE ASPIRATION CYST PAST	107	118	113
20220	BIOPSY, BONE, TROCAR OR NEEDLE; SUPER	317	317	313
20550	INJ, TEND SHEATH, LIGAMENT, TRIGGER P	96	96	91
20600	ARTHROCENTESIS, ASP &/OR INJ; SM JNT	81	86	86
20605	ARTHROCEN, ASP &/OR INJ; INTER JOINT	86	92	96
20610	ARTHROCEN, ASP &/OR INJ; MAJOR JOINT	102	113	113
20670	REMOVAL OF IMPLANT; SUPERFICIAL	187	187	187
20680	REMOVAL OF IMPLANT; DEEP	806	809	864
21320	MANIP TREATMNT, NOSE FX; STABILIZATION	719	719	719
21455	CLOSE MANIP TREAT, FIXATN, MANDIB FX	2398	2398	2398
21800	RIB, FRACTURE(S), CLOSED (SIMPLE)	86	86	86
23350	INJECTION PROC, SHOULDER ARTHROGRAPH	132	132	132
23420	REPAIR SHOULDER CUFF AVULSION, CHRON	3294	3294	3294
23500	TREAT CLOSED CLAVICLE FX; NO MANIPUL	237	237	237
23505	TREAT CLOSED CLAVICLE FX; W/MANIPUL	468	468	468
23600	TREATMENT CLOSED HUMERAL FX; NO MANIP	430	430	430
23605	TREATMENT CLOSED HUMERAL FX; W/MANIP	617	617	617
23650	TREAT CLOSED SHOULDER DISLOC, W/MANIP	354	354	339
23655	TREATMENT OF CLOSED SHOULDER DISLOC	450	450	450
24640	RADIAL HEAD SUBLUXATION, CHILD, MANI	194	194	194

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24650	CLOSED RADIAL HEAD/NECK FX; NO MANIP	505	505	505
25111	EXCISION GANGLION, WRIST; PRIMARY	1000	1000	1101
25500	CLOSED RADIAL SHAFT FX; NO MANIP	452	452	452
25505	CLOSED RADIAL SHAFT FX; W/ MANIP	559	559	559
25560	CLSD RADIAL & ULNAR SHAFT FX; NO MANIP	728	728	728
25565	CLSD RADIAL & ULNAR SHAFT FX; W/ MANIP	843	843	843
25600	C/S DIS RAD FX/ EPIPHYS SEP; NO MANIP	498	486	513
25605	C/S DIS RAD FX/EPIPHYS SEP; W/ MANIP	657	594	702
25610	CLSD COMPLEX, DIST RAD FX/EPIPHY SEP	719	719	719
25635	TREATMENT CLOSED CARPAL BONE FX W M	481	481	481
26600	TX CLOSED METACARP FX, SNG; W/O MANIP	323	323	346
26605	TX CLOSED METACARP FX, SNG; W/ MANIP	428	428	432
26720	TX CLOS PHALAN SHAFT FX; W/O MANIP	224	224	210
26725	TX CLOS PHALANG SHAFT FX, W/ MANIP	344	344	344
26750	TX CLOS DIST PHALANG FX; W/O MANIP	156	156	156
26755	TX CLOS DIST PHALANG FX; W/ MANIP	194	194	194
26770	TX CLOS INTERPHAL JNT DIS; W/O ANESTH	154	154	154
27125	PARTIAL HIP REPLACEMENT, PROSTHESIS	4429	4429	4429
27130	ARTHROPLAS; TOT HIP REPLAC W/WO GRF	4932	4618	5185
27236	OPEN TX CLOSE/OPEN FEM FX, INT FIX	3422	3422	3422
27244	OPEN TX CHANTERIC FEM FX; W INT FIX	2971	2971	2971
27370	INJECT PROCEDURE KNEE ARTHROGRAPHY	139	139	165
27447	ARTHRO, KNEE, TOT, CNDYL&PLAT; MED & LAT	5022	5022	5402
27506	OPEN TX CLOS/OPEN FEM SHAFT FX	3955	3955	3955
27520	PATELLA, FRACTURE, CLOSED (SIMPLE), WITHOUT RED	444	444	444
27750	TX CLOSED TIBIAL SHAFT FX; W/O MAN	648	648	648
27752	TIBIA, SHAFT FRACTURE, CLOSED (SIMPLE)	817	817	817
27760	TX CLOSED DISTAL TIBIAL FX; W/O MAN	451	451	451
27762	TX CLOS DIST TIBIAL FX; W/MANIP	544	544	544
27786	TX CLOSED DISTAL FIBULAR FX; W/O MAN	521	521	518
27788	TX CLOSED DISTAL FIBULAR FX; W/ MAN	602	602	602
27802	TX CLOS TIB & FIB FX, SHAFT; W/ MANIP	1046	1046	1046
27808	TX CLOS BIMALLEOLAR ANKL FX, W/O MAN	648	648	648
27810	TX CLOS BIMALLEOLAR ANKLE FX, W/ MAN	803	803	803
27814	OPEN TX CLOS/OPEN BIMALL ANKLE FX	2522	2522	2522
27818	TX CLOS TRIMALL ANKLE FX; W/ MANIP	1107	1107	1107
27822	OPEN TX CL/OP TRIMALL ANKLE FX; ONLY	3155	3155	3155
28090	EXC LES TEN, SHEATH, CAP W/SYNOV; FOOT	844	844	844
28124	PART EX, PHALANXO FASCIAL REL	687	687	687
28126	CONDYLECTOMY, PHALANX BASE SNG EA	648	648	648
28153	RESECTION, HEAD OF PHALANX	648	648	648
28160	HEMIPHALANGECTOMY/JOINT EX, SNG, EACH	917	917	917
28455	TRTM. OF CLOSED TARSAL BONE FRACTURE	347	347	366
28470	METATARSAL FX CLSD; W/O MANIP, EA W M	384	384	384
28475	METATARSAL FX CLSD; W/ MANIP, EA	390	390	390
28490	PHALANGES FX, CLSD; W/O MANIPULATION	148	148	148
28510	PHAL NT GT TOE FX CLSD W/O MANIP, EA	132	132	132
28515	PHAL NT GT TOE FX CLSD W/ MANIP EA	219	219	219
29065	CAST SHOULDER TO HAND (LONG ARM)	216	226	216
29075	CAST ELBOW TO FINGER (SHORT ARM)	188	216	205
29085	CAST HAND & LOWER FOREARM- GAUNTLET	185	185	185
29105	SPLINT LONG ARM (SHOULDER TO HAND)	137	137	137
29125	SPLINT SHORT ARM (FOREARM-HAND(STAT))	114	135	135
29130	SPLINT FINGER; STATIC	91	91	91
29240	STRAPPING; SHOULDER	89	89	89
29260	STRAPPING; ELBOW OR WRIST	69	69	70
29280	STRAPPING; HAND OR FINGER	58	58	62
29345	CAST LONG LEG (THIGH TO TOES)	279	279	279
29365	CAST CYLINDER (THIGH TO ANKLE)	208	208	208
29405	CAST SHORT LEG (BELOW KNEE TO TOES)	243	269	243
29425	CAST SHORT LEG; WALKING/AMBULATORY	280	291	296
29505	SPLINT LONG LEG (THIGH-ANKLE/TOES)	67	67	67
29515	SPLINT SHORT LEG (CALF TO FOOT)	128	124	135
29530	STRAPPING; KNEE	93	93	91
29540	STRAPPING; ANKLE	75	75	75
29550	STRAPPING; TOES	59	59	65
29580	STRAPPING; UNNA BOOT	90	107	102
29700	CAST REM/BIV;GAUNTLET/BOOT/BODY	90	90	90
29705	CAST REM/BIV;FULL ARM/FULL LEG	83	83	86
29870	ARTHROSCPY, KNEE, DIAG, W/WO SYNOV BX	1785	1785	1785
29874	ARTHROSCPY, KNEE, SURG; REMOVE F-BODY	2452	2452	2452

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Interested Persons see Inside Front Cover

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29875	ARTHROSCOPY, KNEE, SURG; SYNOVECTMY, LTD	2594	2594	2594
29876	ANTHROSCOPY, KNEE, SURG; SYNOVECT, COMP	2798	2798	2798
29877	ARTHROSCOPY, KNEE, SURG; CHONDROPLASTY	2640	2640	2640
29880	ARTHRO, KNEE SRG, W/MENISECTOMY	2998	2998	2998
29881	ARTHROSCOPY, W/MENISCTMY MED OR LAT	2627	2700	3106
29882	ARTHROSCOP, W/MENSUS REP MED OR LAT	3189	3189	3189
29888	ARTHRO, AID ANT CRUC LGMNT, RP/AG/RC	4567	4567	4567
30200	INJECTION TURBINATE(S), THERAPEUTIC	76	76	75
30300	REMOVAL FOR BODY, INTRANAL; OFFICE	96	96	96
30420	RHINOPLASTY; INCL MAJOR SEPTAL REP	4041	4041	4213
30520	SEPTOPLASTY W/WO CARTILAGE IMPLANT	2479	2479	2700
30901	CONTROL NASAL HEMORRHAGE, ANT SMP; U	104	107	102
30903	CNTROL NASAL HEMORRHAGE, ANT, COMP; U	159	143	162
30905	CONTROL NASAL HEMORRHAGE POST; INIT	405	405	405
31000	LAVAGE CANNULATION; MAXIL SINUS, UNI	113	113	124
31201	ETHMOIDECTOMY; INTRANASAL, TOTAL	2714	2714	2714
31250	NASAL ENDOSCOPY, DIAGNOSTIC	226	226	226
31500	INTUBATION, ENDOTRACHEAL EMERGENCY	275	275	269
31505	LARYNGOSCOPY INDIRECT; DIAGNOSTIC	121	121	129
31515	LARYNGOSCOPY, DIRECT; FOR ASPIRATION	346	346	346
31525	LARYNGOSCOPY, DIR; DIAG, EXCEPT NEWBORN	421	421	421
31575	LARYNGOSCOPY, FLEX FIBERSCOPIC; DIAG	351	377	351
31600	TRACHEOSTOMY, PLANNED	1075	1075	1075
31622	BRONCHOSCOPY, DIAG; W W/O CELL WASHNG	737	702	778
31645	BRONCHOSCOPY; W/ASP TRACH TREE INIT	756	756	756
32000	THORACENTESIS, INITIAL/SUBSEQUENT	305	249	291
32020	TUBE THORACOSTOMY W/WO WATER SEAL	806	853	804
32405	BX LUNG/MEDASTINUM; PERCUTAN NDLE	408	408	408
32480	LOBECTOMY, TOTAL OR SEGMENTAL	5660	5660	5660
33210	INS TEMP CARD ELECT/PACEMAKER CATH	831	831	831
33212	INSERT/REPLC PULSE GENERATOR/AICD	1262	1262	1262
35301	THROMBOENDARDECTOMY; CAROTID, ETC; NCK	4215	4215	4215
35656	BYPASS GFT; FEMORAL-POPLITEAL	3937	3937	3937
36000	INTRO NEEDLE/INTRACATHETER, VEIN; UN	118	103	124
36010	INTRO CATH; SUP/INF VENA CAVA, RT HRT	470	470	446
36200	CATHETER; AORTANA CAVA, RT HRT	462	462	464
36400	VENIPUNCTURE, < 3 YR; FEM JUGULAR/SAGI	50	50	50
36410	VENIPUNCTURE, > 3 YR, DIAG/THER, COMPL	41	41	43
36415	ROUTINE VENIPUNCTURE 4 SPECMEN COLL	10	10	10
36425	VENIPUNCTURE, CUTDOWN; AGE 1 OR OVER	59	59	59
36430	TRANSFUSION, BLOOD/COMPONENTS; INDIR	153	153	162
36488	PLACE CENT VEN CATH; PERCUT; AGE 2& <	156	156	156
36489	PLACE CENT VENOUS CAT; PERCUT, > 2	324	273	316
36491	PLCMT CENT VEN CATH HYPERAL, > 2YR	444	442	437
36600	ART PUNCTURE, WITHDRAW BLD FOR DIAG	105	102	107
36620	ART CATH/CANNULAT FOR SAMP; PERCUTAN	216	216	216
36800	INS CANNULA HEMODIALYSIS; VEIN-VEIN	571	571	571
36830	ARTERIOVEN FIST, NONAUTOGENOUS GRAFT	2833	2833	2833
36860	CANNULA DECLOTTING; WO BALLOON CATH	73	73	73
37609	LIGATION/BIOPSY, TEMPORAL ARTERY	584	584	584
37620	INTERRUPT, INFERIOR VENA CAVA BY SUT	2539	2539	2539
43220	ESOPHAGOSC, RIG/FIBEROPT; W/DIR DILAT	918	918	918
43235	ESOPHAGOGASTRODUODENOSCOPY; DIAGNOST	594	541	648
43245	ESOPHAGOGASTRODUODENOSCOPY, DILATION	883	883	883
43246	ESOPHAGOGASTRODUODENOSCOPY, FOR TUBE	1093	1093	1093
43247	ESOPHAGOGASTRODUODENOSCOPY; W/REM FB	988	988	988
43255	ESOPHAGOGASTRODUOD; FOR HEMORRHAGE	1053	1053	1053
43260	ERCP W/WO BX +/SPEC COLLECTION	1000	939	1026
43450	ESOPHAG, INDIRECT DILATE SOUND, INIT	152	152	152
43451	ESOPHAG, INDIRECT DILATE SOUND, SUBS	162	162	162
43830	GASTROSTOMY, TEMPORARY (SEP. PROC.)	1594	1594	1594
44005	ENTEROLYSIS	2485	2485	2485
44120	ENTERECTOMY, RES SM INTES; W/ANASTOMO	2994	2994	2994
44140	COLECTOMY, PARTIAL; W/ANASTOMOSIS	3102	3102	3284
44143	COLECTOMY, PART; END COLOST/CLS DIST	3461	3461	3461
44145	COLECTOMY, PARTIAL; W/COLOPROCTOSTOMY	3501	3501	3501
44160	COLECTMY W/REM TERM ILEUM & ILEOCOL	3354	3354	3354
45300	PROCTOSIGMOIDOSCOPY; DIAGNOSTIC (SEP)	129	129	124
45330	SIGMOIDOSCOPY, FLEX FIBEROPTIC; DIAGN	269	254	259
45355	COLONOSCOPY W/SIGMOID, TRANSAB/COLOT	354	377	335
45378	COLONOSCOPY, FIBER BEYOND SPLEN FLEX	809	702	783

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46040	I&D ISCHIORECTAL/PERIRECTAL ABSCESS	466	466	466
46050	I&D PERIANAL ABSCESS, SUPERFICIAL	155	155	155
46600	ANOSCOPY, DIAGNOSTIC (SEPARATE PROC)	93	114	93
46604	ANOSCOPY, DX W/DILATE, DIRECT, INSTRUM	124	124	124
46700	ANOPLASTY FOR STRICTURE, ADULT	1296	1296	1296
47000	BIOPSY LIVER, NEEDLE, PERCUTANEOUS	396	396	396
47600	CHOLECYSTECTOMY	1991	1991	2433
47605	CHOLECYSTECTOMY W/CHOLANGIOGRAPHY	2183	2106	2296
47610	CHOLECYSTECTOMY W/EXPL COMMON DUCT	2686	2686	2686
49000	EXPLOR LAPAR/CELIOTOMY W/WO BX(S)	2114	2114	2204
49080	PERITONEOCENTESIS, ABD PARACEN; INIT	202	216	247
49421	INS INTRAPERI CANN/CATH DRAIN, PERM	1012	1012	1012
50230	NEPHRECTOMY, RAD, W/RGNL LYMPHADEC	3916	3916	3916
50392	INTRO OF INTRACATHETER RENAL PELVIS	666	666	666
50394	INJECT PROC FOR PYELOGRAPHY (SEPARA)	122	122	122
51600	INJ PROC CYSTOGRAPHY/VOID URCYSTOG	80	80	80
51700	BLAD IRRIG, SIMP, LAVAGE &/ INSTILLA	70	65	78
51725	SIMPLE CYSTOMETROGRAMIC AGNT	166	166	166
51736	SIMPLE UROFLOWMETRY	86	86	86
51741	ELECTRONIC UROFLOWMETRY	178	178	178
52000	CYSTOURETHROSCOPY ETHROPX, SIMP	249	249	304
52005	CYSTOURETHROSC, W/URETERAL CATH	543	489	594
52204	CYSTOURETHROSC, W/BIOPSY	512	512	512
52276	CYSTOURETHROSC; DIR VIS INT URTHROT	964	964	964
52281	CYSTOURETHROSC W/DILAT URETH STR	464	432	486
52310	CYSTOURETHROSC; W/REM FB UR/BLAD, SIM	582	582	631
52332	CYSTOURETHROSC; W/ INS INDWELL STENT	866	866	945
52335	CYSTOURETHROSC; W/URETEROSC & PYELOSC	934	934	934
52500	TRNSURETH RESECT OF BLADDER NECK	1620	1620	1620
53600	DILAT URET STRICT, W/ SOUND, MALE, IN	77	78	81
53601	DILAT URET STRICT, W/ SOUND, MALE SU	64	64	63
53620	DIL UR STRIC, FILLIFRM/FOLL, MALE, IN	132	132	132
53621	DIL UR STRIC, FILLIFRM/FOLL, MALE, SU	124	124	124
53660	DIL FEM UR W/ SUPPOS &/INSTILL, INIT	80	75	70
53661	DIL FEM UR W/ SUPPOS &/ INSTILL, SU	69	65	59
53670	CATHETERIZATION; SIMPLE	81	81	91
53675	CATHETERIZATION; COMPLICATED	155	155	155
54235	INJ CORPORA CAVERNOSA W/PHARM AGNTS	105	105	104
58980	LAPAROSCOPY; SURGICAL	1747	1620	1922
59160	CURETTAGE, POSTPARTUM	848	848	848
59515	CESAREAN DELIV INC POSTPARTUM CARE	2968	2968	3187
59812	SPONT ABORT, TRIMEST, COMPLETE SURG	773	773	809
59820	TREAT MISS ABORT, COMP SURG, 1ST TRIM	756	809	809
62270	SPINAL PUNCTURE LUMBAR; DIAGNOSTIC	216	216	216
62278	INJ ANESTH SUB; EPIDURAL/CAUDAL, SIM	388	354	388
62279	INJ ANESTH SUB; EPIDURAL/CAUDAL, CON	378	378	378
62282	INJ NEUROLYTIC SUB; EPIDURAL/CAUDAL	486	486	486
62284	INJ PROC MYELOGRAPHY, SPINAL/POST	535	535	589
62289	INJ SUB OT THAN ANES/NEUROLYT; EP/C	420	420	432
63030	LAMINOTOMY; 1 INTRSP, LMBR, UNILAT	4650	4650	4861
64440	INJ, ANESTH AGNT; PARAVERTEBR, NRV, SN	92	92	83
64445	INJ, ANESTH AGNT; SCIATIC NERV	113	113	113
64450	INJ, ANESTH AGNT; OT PERIPH NRV/BRAN	84	84	86
64505	INJ, ANESTH AGNT; SPHENOPALATINE GAN	432	432	432
64640	DESTR BY NEUROLYTIC AGNT; OT PER NRV	118	118	118
64721	NEUR &/ TP; MEDIAN NRV @ CARPAL TUN	1380	1620	1620
65205	REM FB, EXTERN EYE; CONJUNC SUPERFI	53	53	53
65210	REM FB, EXTERN EYE; CONJUNC EMBEDDE	80	80	80
65220	REM FB, EXTERN EYE; CORN, W/O SLIT L	103	103	103
65222	REM FB, EXTERN EYE; CORN W/ SLIT LM	112	112	113
65420	EX OR TRANSPOS PIERYGIUM; W/O GRAFT	1296	1296	1296
65435	REM CORNEA EPITHELIUM WWO CHEMOCAL	156	156	156
67101	REP RET DETACH, CRYOTHERAPY/DIATHERM	1646	1646	1646
67105	REP RET DETACH; PHOTCOAG, W/WO DRAIN	1635	1635	1635
67107	REP RETINAL DETACH; SCLERAL BUCKLIN	3713	3713	3713
67145	PROPHY RET DETACH; PHOTOCOAGULATION	1508	1508	1508
67500	RETROBULBAR INJECTION; MEDICATION	126	126	126
69420	MYRING W ASPIRE &/EUST TUBE INFLA	167	167	183
69433	MYRING/TYMPANOSTMY, LOC/TOP ANES, TUBE	306	306	324
69436	MYRING/TYMPANOSTMY, GEN ANES; W TUBE	704	704	704
70110	X-RAY MANDIBLE, COMP, MIN 4 VIEWS	65	65	65

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70150	X-RAY FACIAL BONES, COMP, MIN 3 VIEWS	69	69	69
70160	X-RAY NASAL BONES, COMP, MIN 3 VIEWS	60	60	66
70200	X-RAY ORBITS, COMP, MIN 4 VIEWS	72	72	65
70210	X-RAY SINUSES, PARTIAL, < 3 VIEWS	82	82	86
70220	X-RAY SINUSES, COMP, MIN 3 VIEWS	95	89	102
70250	X-RAY SKULL, < 4 VIEWS, W/VO STEREO	67	67	67
70260	X-RAY SKULL, COMP, MIN 4 VIEWS, W/VO	81	74	70
70330	X-RAY TMJ, OPEN/CLOSED, BILATERAL	166	166	166
70336	MRI, TEMPOROMANDIBULAR JOINT	875	875	875
70355	ORTHOPANTOGRAMAR JOINT	70	70	70
70360	X-RAY NECK, SOFT TISSUE	45	45	43
70450	CAT SCAN, HEAD OR BRAIN, W/O CONTRAST	453	371	432
70460	CAT SCAN, HEAD OR BRAIN W/CONTRAST	517	428	458
70470	CAT SCAN, HEAD/BRN, WO CONT, FOL CONTR	612	535	535
70480	CAT SCAN, ORBIT/SELLA/FOSSA, WO CONTR	536	536	539
70481	CAT SCAN, ORBIT/SELLA/FOSSA, W/CONTR	505	505	505
70486	CAT SCAN, MAXILLOFACIAL, W/O CONTRAST	539	536	539
70487	CAT SCAN, MAXILLOFACILA, W/CONTRAST	357	357	357
70490	CAT SCAN, NECK, SOFT TISSUE, WO CONTR	539	539	539
70491	CAT SCAN, NECK, SOFT TISSUE, W CONTR	501	501	481
70540	MRI, ORBIT, FACE AND NECK	918	918	918
70551	MRI, BRAIN, W/O CONTRAST	891	891	918
70552	MRI, BRAIN, W/CONTRAST	1096	1096	1096
71010	X-RAY CHEST, SINGLE, FRONTAL	43	41	48
71020	X-RAY CHEST, 2 VIEWS, FRONTAL/LATERAL	66	57	65
71021	X-RAY CHEST, 2 VIEWS, APICAL LORDOTIC	70	70	70
71022	X-RAY CHEST, 2 VIEWS, OBLIQUE PROJECT	80	80	80
71030	X-RAY CHEST, COMPLETE, MIN 4 VIEWS	73	77	77
71035	X-RAY CHEST, SPECIAL VIEWS	15	15	15
71100	X-RAY RIBS, UNILAT, 2 VIEWS	80	68	75
71101	X-RAY RIBS, UNI, INCL CHEST, 3 VIEWS	81	89	91
71110	X-RAY RIBS, BILAT, 3 VIEWS	80	80	80
71111	X-RAY RIBS, BI, INCL CHEST, 4+ VIEWS	96	96	96
71120	X-RAY STERNUM, MIN 2 VIEWS	70	70	70
71250	CAT SCAN, CHEST, W/O CONTRAST	513	467	475
71260	CAT SCAN, CHEST, W/CONTRAST	580	527	507
71270	CAT SCAN, CHEST, WO CONT, FOL BY CONTR	476	476	476
72010	X-RAY SPINE, ENTIRE, SURVEY, A/P & LAT	135	129	145
72020	X-RAY SPINE, SINGLE VIEW	53	53	43
72040	X-RAY CERVICAL SPINE, A/P & LATERAL	65	65	65
72050	X-RAY CERV SPINE, A/P LAT, MN 4 VIEWS	107	96	107
72052	X-RAY CERV SPINE, COMP, OBLIQ/FLEX/EX	117	105	113
72070	X-RAY THORACIC SPINE, A/P & LATERAL	73	71	75
72072	X-RAY THOR SPINE, AP LAT, CERVICOTHOR	61	61	61
72074	X-RAY THOR SPINE, COMP, INCL OBLIQUES	83	83	83
72080	X-RAY THORACOLUMBAR SPINE, A/P & LAT	75	72	70
72090	X-RAY SPINE, SCOLIOSIS STUDY	79	79	75
72100	X-RAY LUMBOSACRAL SPINE, A/P & LAT	75	75	75
72110	X-RAY LUMBOSACRAL SPINE, COMPLETE	129	108	118
72114	X-RAY LUMB/SAC SPINE, INCL BENDING	140	133	131
72120	X-RAY LUMB/SAC SPINE, BENDING ONLY	81	81	89
72125	CAT SCAN CERVICAL SPINE WO CONTRAST	453	453	498
72128	CAT SCAN THORACIC SPINE WO CONTRAST	572	572	572
72131	CAT SCAN LUMBOSACRAL SPINE WO CONTR	550	513	577
72141	MRI, CERVICAL SPINE, W/O CONTRAST	918	864	891
72148	MRI, LUMBOSACRAL SPINE, W/O CONTRAST	914	914	918
72170	X-RAY PELVIS, ANTEROPOSTERIOR ONLY	66	59	63
72190	X-RAY PELVIS, COMP, 3 OR MORE VIEWS	67	67	67
72192	CAT SCAN PELVIS, W/O CONTRAST	413	413	372
72193	CAT SCAN PELVIS, W/CONTRAST	432	392	353
72194	CAT SCAN PELVIS, WO CONT FOL BY CONT	550	550	550
72196	MRI, PELVIS	938	938	938
72200	X-RAY SACROILIAC JOINTS, < 3 VIEWS	77	77	77
72202	X-RAY SACROILIAC JOINTS, 3 OR MORE	93	93	93
72220	X-RAY SACRUM & COCCYX, MIN 2 VIEWS	73	73	75
73000	X-RAY CLAVICLE, COMPLETE	61	60	65
73010	X-RAY SCAPULA, COMPLETE	62	62	62
73020	X-RAY SHOULDER, 1 VIEW	62	62	65
73030	X-RAY SHOULDER, COMPLETE, MIN 2 VIEWS	70	70	70
73050	RADIOL EXAM, ACROMIOCLAVICULAR, BILAT	81	81	81
73060	RADIOLOGIC EXAMS, HUMERUS, 2+ VIEWS	73	66	66

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73070	X-RAY ELBOW, A/P & LATERAL	65	59	65
73080	X-RAY ELBOW, COMPLETE, MIN 3 VIEWS	67	65	70
73090	X-RAY FOREARM, A/P & LATERAL VIEWS	63	59	59
73100	X-RAY WRIST, A/P & LATERAL VIEWS	62	62	59
73110	X-RAY WRIST, COMPLETE, MIN 3 VIEWS	70	65	70
73120	X-RAY HAND, 2 VIEWS	59	54	59
73130	X-RAY HAND, MINIMUM 3 VIEWS	65	65	65
73140	X-RAY FINGER(S), MINIMUM 2 VIEWS	56	51	59
73220	MRI UPPER EXTREMITY, NOT JOINT	929	929	929
73221	MRI UPPER EXTREMITY JOINT	902	902	902
73500	X-RAY HIP, UNIL, 1 VIEW	63	63	65
73510	X-RAY HIP, UNIL, COMP, MIN 2 VIEWS	81	70	75
73520	X-RAY HIPS, BIL, MIN 2 VIEWS EA SIDE	96	100	102
73540	X-RAY PELVIS & HIPS, INFNT/CHILD, MIN 2	73	73	73
73550	X-RAY FEMUR, A/P & LATERAL VIEWS	75	70	70
73560	X-RAY KNEE, A/P & LATERAL VIEWS	70	70	70
73562	X-RAY KNEE, AP & LAT, OBLIQ, MIN 3 VIEWS	75	80	80
73564	X-RAY KNEE, COMPLETE	91	91	91
73590	X-RAY TIBIA, & FIBULA, A/P & LATERAL	65	65	75
73600	X-RAY ANKLE, A/P & LATERAL	57	57	70
73610	X-RAY ANKLE, COMPLETE PROCEDURE	75	65	70
73620	X-RAY FOOT, A/P & LATERAL	54	57	55
73630	X-RAY FOOT, COMPLETE, MIN 3 VIEWS	70	70	70
73650	X-RAY CALCANEUS, MINIMUM 2 VIEWS	59	64	65
73660	X-RAY TOE(S), MINIMUM 2 VIEWS	59	56	57
73700	CAT SCAN LEG, W/O CONTRAST	486	486	486
73720	MRI LOWER EXTREMITY, NOT JOINT	891	908	918
73721	MRI LOWER EXTREMITY JOINT	907	896	891
74000	X-RAY ABDOMEN, SINGLE A/P VIEW	54	53	59
74010	X-RAY ABDOMEN, AP, OBLIQUE, CONE VIEWS	48	44	39
74020	X-RAY ABDOMEN, COMP, DECUB/ERECT	46	54	54
74022	X-RAY ABDOMEN, ACUTE SERIES	61	60	60
74150	CAT SCAN ABDOMEN, W/O CONTRAST	465	423	443
74160	CAT SCAN ABDOMEN, W/CONTRAST	575	471	513
74170	CAT SCAN ABD WO CONT FOLL BY CONT	624	578	583
74181	MRI, ABDOMENNT FOLL BY CONT	958	958	958
74210	X-RAY PHARYNX &/OR CERV ESOPHAGUS	108	108	108
74220	X-RAY ESOPHAGUSRV ESOPHAGUS	114	112	113
74240	X-RAY UPPER GI, W/O KUB/VIDEO	159	173	178
74241	X-RAY UPPER GI, W/KUB	182	187	221
74245	X-RAY UPPER GI, W/SM BOWEL, MULT FILM	221	220	259
74246	UPPER GI SERIES/BARIUM, W/O KUB	174	190	209
74247	UPPER GI SERIES, BARIUM, W/KUB	216	223	226
74249	UPPER GI, BARIUM, W/SM BOWEL FOLLOW	284	284	300
74250	X-RAY SMALL BOWEL, INCL MULT FILMS	153	153	162
74270	CONTRAST X-RAY COLON, BARIUM ENEMA	167	166	199
74280	CONTRAST X-RAY COLON, BARIUM, AIR CONT	232	222	229
74290	CHOLECYSTOGRAPHY, ORAL CONTRAST	104	116	127
74400	UROGRAPHY/PYELOGRAPHY, IV, W WO KUB	168	168	173
74405	UROGRAPHY, IV, W/HYPERTENSIVE CONTR	210	210	210
74410	UROGRAPHY, INFUSION, DRIP/BOLUS TECH	188	188	188
74415	UROGRAPHY, INF, W/NEPHROMATOGRAPHY	198	216	226
74420	UROGRAPHY, RETROGRADE, W WO KUB	55	55	55
75754	COR ANGIO, BI, LFT VENT/SUPVALV, S/I	178	178	178
76000	FLUOROSCOPY, UP TO ONE HOUR	67	67	65
76140	CONSULT, XRAY MADE ELSEWHERE, WRITTEN	54	53	54
76150	XERORADIOGRAPHY	24	23	26
76375	CAT SCANS, OTHER PLANES	243	232	216
76506	ECHOENCEPHALOGRAPHY	101	101	101
76511	OPHTHALMIC ULTRASOUND, A-MODE	216	216	216
76512	OPHTHALMIC ULTRA, CONTACT B-SCAN	298	298	296
76516	OPHTHAL BIOMETRY, ULTRASOUND, A-MODE	188	196	216
76519	OPHTHAL BIOMETRY, W IOL POWER CALC	188	202	216
76536	ECHOGRAM, HEAD/NECK, B-SCAN/REAL TIME	182	182	191
76700	ECHOGRAM, ABDOMEN, W IMAGE DOCUMENT	226	213	221
76705	ECHOGRAM, ABDOMEN, LIMITED	203	168	173
76770	ECHOGRAM, RETROPERITONEAL, COMPLETE	232	221	226
76775	ECHOGRAM, RETROPERITONEAL, LIMITED	198	198	198
76805	ECHOGRAM, PREGNANT UTERUS, COMPLETE	243	216	216
76815	ECHOGRAM, PREGNANT UTERUS, LIMITED	177	146	162
76816	ECHOGRAM, PREG UTERUS, REPEAT/FOLOWUP	132	132	119

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76818	FETAL BIOPHYSICAL PROFILE	223	223	216
76830	ECHOGRAM, TRANSVAGINAL	269	269	269
76856	ECHOGRAM, PELVIC, NON-OB, COMPLETE	226	185	194
76857	ECHOGRAM, PELVIC, NON-OB, LTD/FOLLOW	147	164	180
76870	ECHOGRAM, SCROTUM AND CONTENTS	291	291	269
76872	ECHOGRAM, PROSTATE, TRANSRECTAL	311	311	311
76880	ECHOGRAM, EXTREMITY, NON-VASCULAR	246	246	246
78006	THYROID IMAGING W/UPTAKE, SINGLE	233	233	243
78007	THYROID IMAGING W/UPTAKE, MULTIPLE	171	171	171
78215	LIVER & SPLEEN IMAGING, STATIC ONLY	164	164	164
78223	HEPATOBIILIARY DUCT IMAGE, INCL GALL	145	145	145
78300	BONE IMAGING, LIMITED AREA	193	193	193
78305	BONE IMAGING, MULTIPLE AREAS	324	319	313
78306	BONE IMAGING, WHOLE SKELETON	296	269	269
78315	BONE SCAN, 3-PHASE TECHNIQUE	269	269	269
78351	BONE DENSITY, DUAL PHOTON ABSORPT	199	199	199
78460	MYOCARDIAL IMAGING, RESTING	258	258	254
78461	MYOCARDIAL IMAGING, EXERCISE	513	568	469
78464	MYOCARDIAL IMAGING, TOMOGRAM, REST	628	628	628
78465	MYOCARDIAL IMAGING, TOMOGR, EXERCISE	697	697	848
78472	CARD BLD POOL, WALL MOTION, REG EJ FR	339	339	339
78481	CARD BLD POOL, 1ST PASS, EJ FRACTION	205	205	205
78580	PULM PERFUSION IMAGING, PARTICULATE	115	115	113
78707	KIDNEY IMAGING, VASC & FUNCT STUDIES	310	310	310
78990	PROVISION OF DIAG RADIONUCLIDES	89	89	107
80002	1-2 CLINICAL CHEM TESTS	35	35	35
80003	3 CLINICAL CHEMISTRY TESTS	25	25	25
80004	4 CLINICAL CHEMISTRY TESTS	24	24	24
80006	6 CLINICAL CHEMISTRY TESTS	51	51	51
80007	7 CLINICAL CHEMISTRY TESTS	26	26	26
80010	10 CLINICAL CHEMISTRY TESTS	29	29	29
80012	12 CLINICAL CHEMISTRY TESTS	37	37	37
80016	13-16 BLOOD/URINE TESTS	46	51	43
80018	17-18 BLOOD/URINE TESTS	41	37	43
80019	19 OR MORE BLOOD/URINE TESTS	37	42	37
80031	DRUG MONITORING, ONE DRUG	80	80	80
80058	HEPATIC FUNCTION PANEL	45	45	45
80059	HEPATITIS PANEL	77	77	77
80062	CARDIAC EVALUATION PANEL	51	51	51
80073	RENAL PANEL	43	43	43
81000	URINALYSIS WITH MICROSCOPY	12	12	13
81002	URINALYSIS W/O MICROSCOPY	12	12	10
81005	URINALYSIS, ANY # OF CONSITUENTS	11	11	11
81015	MICROSCOPIC EXAM OF URINE	8	8	8
82150	ASSAY OF SERUM AMYLASE	18	18	16
82172	APOLIPOPROTEIN IMMUNOASSAY	18	18	18
82250	ASSAY BLOOD BILIRUBIN	19	19	19
82270	TEST FECES FOR BLOOD DIRECT	12	12	15
82310	ASSAY CALCIUM IN BLOOD, CHEMICAL	16	16	16
82372	ASSAY SERUM CARBAMAZEPINE	57	57	57
82374	ASSAY BLOOD CARBON DIOXIDE	11	11	11
82643	RIA ASSAY FOR DIGOXIN	49	49	49
82660	TEST FOR DRUGS	67	67	67
82947	ASSAY BLOOD FLUID GLUCOSE	12	12	12
82948	STICK ASSAY OF BLOOD GLUCOSE	12	12	12
82950	GLUCOSE TEST	14	14	13
82951	GLUCOSE TOLERANCE TEST (GTT)	42	42	42
82952	GTT-ADDED SAMPLES	45	45	45
82977	ASSAY OF GGT ENZYME	15	15	15
83001	PITUITARY GONADOTROPIN RIA	66	66	66
83002	PITUITARY GONADOTROPINS RIA	59	59	59
83020	ASSAY HEMOGLOBINS RIA	13	13	12
83036	GLYCOSYLATED HEMOGLOBIN TEST	38	38	39
83540	ASSAY SERUM IRON	15	15	15
83545	AUTO-ASSAY SERUM IRON	24	24	24
83550	SERUM IRON BONDING TEST	31	31	31
83555	SERUM IRON BINDING, AUTO-TEST	12	12	12
83705	ASSAY BLOOD LIPID GROUPS	29	29	29
83718	ASSAY BLOOD LIPOPROTEIN, PRECIP	17	18	15
83719	BLOOD LIPOPROTEIN ASSAY, ULTRACENT	33	33	33
83720	BLOOD LIPOPROTEIN ASSAY, FRACT CALC	16	16	16

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83725	ASSAY BLOOD LITHIUMRACT CALC	27	27	26
83735	ASSAY BLOOD MAGNESIUM, CHEMICAL	25	25	25
84045	ASSAY PHENYTOIN	57	57	57
84065	ASSAY PROSTATE PHOSPHATASE, FRACTION	41	41	41
84075	ASSAY ALKALINE PHOSPHOTASE, BLOOD	15	15	15
84132	ASSAY BLOOD POTASSIUM	13	13	12
84144	ASSAY PROGESTERONE	62	62	68
84146	RIA ASSAY FOR PROLACTIN	79	79	80
84165	ASSAY SERUM PROTEINS, ELEC FRAC, QUAN	42	42	42
84180	ASSAY URINE PROTEIN FRAC, QUAN	30	30	30
84231	RADIOIMMUNOASSAY	94	94	94
84233	ASSAY ESTROGEN	43	43	43
84295	ASSAY BLOOD SODIUM	19	19	19
84403	RIA ASSAY BLOOD TESTOSTERONE	95	95	95
84420	ASSAY THEOPHYLLINERONE	54	54	54
84435	ASSAY THYROXINE (T-4)	25	25	25
84436	RIA ASSAY, TRUE THYROXINE	22	24	21
84439	RIA ASSAY, FREE THYROXINE	53	53	50
84443	ASSAY THYROID STIM HORMONE	60	59	66
84450	UV-ASSAY TRANDAMINASE (SGOT)	14	14	14
84460	UV-ASSAY TRANSAMINASE (SGPT)	14	14	14
84478	ASSAY BLOOD TRIGLYCERIDES	18	18	16
84479	ASSAY TRIIODOTHYTONINE (T-3)	16	16	15
84480	RIA ASSAY, TT-3E (T-3)	58	58	64
84520	ASSAY BLOOD, UREA, NITROGEN	12	12	13
84550	ASSAY BLOOD URIC ACID	19	19	19
84702	CHORIONIC GONADOTROPIN TEST	58	58	60
84703	CHORIONIC GONADOTROPIN ASSAY	29	29	30
84999	CLINICAL CHEMISTRY TEST	90	90	90
85005	BASOPHIL BLOOD CELL COUNT	15	15	15
85007	DIFFERENTIAL WBC COUNT, W/MORPH + PLT	12	12	11
85009	DIFFERENTIAL WBC COUNT, BUFFY COAT	9	9	9
85014	HEMATOCRIT COUNT, BUFFY COAT	12	10	12
85018	HEMOGLOBIN, COLORIMETRIC	12	10	10
85021	AUTOMATED HEMOGRAM, R/WBC, HGB, HCT, IN	17	15	16
85022	AUTOMATED HEMOGRAM, MAN DIFF, WBC	19	21	21
85023	AUTOMATED HEMOGRAM, PLAT, AUT + MAN, CBC	31	31	25
85024	AUTOMATED HEMOGRAM, PLT, AUT + AUT PART	27	30	26
85025	AUTO HEMOGRAM, PLATLETE, AUT + AUT COMP	18	18	18
85027	AUTOMATED HEMOGRAM, HEM + PLAT COUNT	23	22	23
85029	AUTOMATED HEMOGRAM, RDW + MPV 1-3 IND	4	4	4
85031	MANUAL HEMOGRAM, COMPLETE CBC	21	20	21
85044	RETICULOCYTE COUNT	15	15	15
85060	BLOOD SMEAR INTERPRETATION	37	37	37
85100	BONE MARROW EXAMINATION	269	269	269
85580	BLOOD PLATELET COUNT	15	15	15
85595	ELECTRONIC PLATELET COUNT	14	15	14
85610	PROTHROMBIN TIME	16	15	14
85650	RBC SEDIMENTATION RATE, WINTROBE	16	15	16
85651	RBC SEDIMENTATION RATE, WESTERGREN	15	15	14
85730	THROMBOPLASTIN TIME, PART, PLAS/WHOLE	23	23	22
86006	ANTIBODY, QUALITATIVE, FIRST	26	26	26
86008	ANTIBODY, QUANT., FIRST	54	54	54
86016	RBC SALINE ANTIBODIES, HP + ANTIHUMAN	18	18	18
86038	ANTINUCLEAR ANTIBODIES, RIA	42	42	42
86060	ANTISTREPTOLYSIN O TITER	32	32	32
86082	BLOOD TYPING, ABO & RHO(D)	23	23	20
86100	BLOOD TYPING, RHO(D) ONLY	6	6	6
86128	COLLECTION, PROCESS & STORAGE BLOOD	432	432	432
86140	C-REACTIVE PROTEIN	25	25	25
86244	ASSAY ALPHA-1 FETROPROTEIN	65	65	65
86255	FLUORESCENT ANTIBODY; SCREEN	78	78	83
86256	FLUORESCENT ANTIBODY; TITER	68	68	68
86280	HEMAGGLUTINATION INHIBITION	30	30	30
86287	HEPATITIS HAA, RIA, OR EIA	32	32	31
86289	HEPATITIS BC ANTIBODY TEST, HBCAB	49	49	49
86291	HEPATITIS BS ANTIBODY TEST, HBSAB	37	37	37
86296	HEPATITIS A ANTIBODY TEST, HAAB	51	51	51
86300	HETEROPHILE ANTIBODY SCREEN	20	20	20
86310	HETEROPHILE ANTIBODIES	35	35	35
86312	HIV ANTIBODY DETECTION	51	51	51

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86316	IMMUNOASSAY, TUMOR ANTIGEN	61	61	63
86317	IMMUNOASSAY, INFECTIOUS AGENT	67	74	60
86319	IMMUNOASSAY TECHNIQUE FOR DRUGS	54	54	54
86329	IMMUNODIFFUSION, EACH	67	67	67
86357	LYMPHOCYTES, T&B DISTINCTION	178	178	178
86403	RAPID TEST, INFECTIOUS AGENT	20	20	19
86421	RADIOALLERGOSORBENT TESTS, 5/ <	34	34	34
86422	RADIOALLERGOSORBENT TESTS, 6/ >	346	346	346
86423	RADIOIMMUNOSORBENT TEST IGE, QUANT	58	58	58
86430	RHEUMATOID FACTOR TEST	18	18	16
86580	TB INTRADERMAL TEST	15	15	15
86585	TB TINE TEST	14	13	15
86592	BLOOD SEROLOGY, QUALITATIVE	15	15	14
86999	IMMUNOLOGY PROCEDURE	82	82	82
87015	SPECIMEN CONCENTRATION	32	32	32
87040	BLOOD CULTURE FOR BACTERIA	51	51	54
87045	STOOL CULTURE FOR BACTERIA	45	45	45
87060	NOSE/THROAT CULTURE, BACTERIA	15	15	16
87070	CULTURE SPECIMEN, BACTERIA	35	32	36
87072	CULTURE OF SPECIMEN BY KIT	20	18	21
87081	BACTERIA CULTURE SCREEN	18	16	19
87082	CULTURE OF SPECIMEN BY KIT, SINGLE	19	19	19
87084	CULTURE OF SPECIMEN BY KIT, COL EST	19	19	19
87085	CULTURE OF SPECIMEN BY KIT, COL CNT	15	15	15
87086	URINE CULTURE, COLONY COUNT	30	26	31
87087	URINE BACTERIA CULTURE, COMMERC KIT	22	22	24
87088	URINE BACTERIA CULTURE, ID + COM KIT	26	26	26
87101	SKIN FUNGUS CULTURE	25	25	25
87102	FUNGUS ISOLATION CULTURE	38	38	38
87106	FUNGUS IDENTIFICATION	26	26	26
87109	MYCOPLASMA CULTURE	74	74	74
87110	CULTURE, CHLAMYDIA	80	80	80
87177	OVA AND PARASITES SMEARS	63	63	63
87184	ANTIBIOTIC SENSITIVITY, EACH, DISC	25	25	22
87186	ANTIBIOTIC SENSITIVITY, MIC	16	16	16
87205	SMEAR, STAIN & INTERPRET, ROUTINE	17	17	17
87210	SMEAR, STAIN & INTERPRET, WET + SIMPLE	16	16	15
87253	VIRUS INOCULATION FOR TEST, ADDL STD	70	70	70
87999	MICROBIOLOGY PROCEDURE	26	26	26
88104	CYTOPATHOLOGY, W/CENTRIF, WO/CRV + VAG	73	73	71
88108	CYTOPATHOLOGY, CONCENTRATION	102	102	102
88150	CYTOPATHOLOGY, PAP SMEAR, TECH	19	21	21
88151	CYTOPATHOLOGY INTERPRETATION, PHYS	21	21	21
88155	CYTOPATHOLOGY, PAP SMEAR, W/HORMONAL	25	23	21
88160	CYTOPATHOLOGY, ANY OTHER SOURCE	46	46	46
88161	CYTOPATHOLOGY, PREP, SCRIN + INTERPET	9	9	9
88170	FINE NEEDLE ASPIRATION, W/WO PREP	136	136	136
88173	INTERPRETATION OF SMEAR	118	118	118
88300	SURGICAL PATHOLOGY, GROSS	28	28	26
88302	SURGICAL PATHOLOGY, COMP, NORM TISS	48	50	48
88304	SURGICAL PATHOLOGY, COMP, ABNORM TSS	73	80	75
88305	SURGICAL PATHOLOGY, COMP, WO/COMPLEX	124	124	129
88307	SURGICAL PATHOLOGY, COMP, COMPLEX	192	192	194
88309	SURGICAL PATHOLOGY, COMP, COMPLX, DIS	269	269	269
88311	DECALCIFY TISSUE, COMPLX, DIS	21	21	21
88312	SPECIAL STAINS, GROUP 1	65	65	65
88313	SPECIAL STAINS, GROUP2 + OTHERS	21	21	21
88346	IMMUNOFLUORESCENT STUDY	42	42	42
88399	SURGICAL PATHOLOGY PROCEDURE	43	43	43
90292	HOSPITAL DISCHARGE DAY	81	81	91
90782	INJECTION SUBCU/(IM)T	27	29	26
90801	DIAGNOSTIC INTERVIEW, PSYCH	197	197	237
90843	INDIVIDUAL PSYCHOTHERAPY, 20-30 MIN	78	78	78
90844	INDIVIDUAL PSYCHOTHERAPY, 45-50 MIN	128	129	129
90900	BIOFEEDBACK TRNG BY ELECTROMYOGRAM	108	110	110
90935	HEMODIALYSIS, SINGLE EVAL	1868	1868	1868
92004	EYE EXAM & TREATMENT, NEW PT, COMP	75	75	75
92012	EYE EXAM & TREATMENT, COMP	57	57	59
92014	EYE EXAM & TREATMENT	75	75	75
92020	GONIOSCOPY W/EVALUATION	59	59	59
92081	VISUAL FIELD EXAM, LIMITED	57	57	57

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92082	VISUAL FIELD EXAM, INTERMEDIATE	65	65	65
92083	VISUAL FIELD EXAM, EXTENDED	89	89	89
92100	SERIAL TONOMOMETRY, 1 OR MORE SESSIONS	42	42	42
92225	OPHTHALMOSCOPY, EXTENDED, INITIAL	126	126	126
92226	OPHTHALMOSCOPY, EXTENDED, SUBSEQUENT	65	65	65
92235	OPHTHALMOSCOPY W/ANGIOGRAPHY	287	287	287
92250	OPHTHALMOSCOPY W/FUNDUS PHOTOGRAPHY	74	74	74
92551	PURE TONE AUDIOMETRY, AIR ONLY	24	24	24
92552	PURE TONE AUDIOMETRY, AIR & BONE	33	33	33
92553	AUDIOMETRY, AIR & BONE	47	47	47
92557	COMPREHENSIVE AUDIOMETRY	80	80	72
92566	IMPEDANCE HEARING TEST	30	30	32
92567	TYMPANOMETRY	24	22	26
92982	PERCUT TRANSLUMINL CORN ANGIO; 1 VESL	3207	3207	3241
93000	ELECTROCARDIOGRAM, COMPLETE	54	54	59
93010	ELECTROCARDIOGRAM REPORT	38	37	43
93014	REPORT ON TRANSMITTED ECG	40	40	40
93015	CARDIOVASC STRESS TEST, TRAC/INTERP	291	269	296
93018	CARDIOVASC STRESS TEST, INTERP ONLY	182	182	188
93040	RHYTHM ECG WITH REPORT ONLY	47	47	47
93042	RHYTHM ECG, REPORT	27	27	27
93224	24 HR ECG, SCANNER, RECORD/INTERP	322	322	322
93227	24 HR ECG, SCANNER, REV/INTERP ONLY	162	162	162
93307	ECHOCARDIOGRAPHY, REALTIME, COMPLETE	342	308	376
93320	DOPPLER ECHOCARDIOGRAPHY, COMPLETE	257	257	232
93325	DOPPLER COLOR FLOW VELOCITY MAPPING	162	162	162
93501	HEART CATHETERIZATION RIGHT, ONLY	1117	1117	1117
93503	HEART CATH RT; W/SWAN-GANZ CATH	774	756	809
93545	INJ FOR SELECT CORONARY ANGIOGRAPHY	1242	1242	1242
93547	HRT CATH LFT COR ANG & VENT ANG	1583	1620	1566
93548	HRT CAT LFT COR ANG VENT AORT RT AO	1539	1539	1539
93549	HRT CAT RT & LFT COR ANG VENT ANG	1674	1755	1993
93552	LT HRT CAT COR ANG VEN CIN; VIS BYPS	2183	2183	2183
93553	LT CT COR ANG/VEN CIN; VISL; AORTGPHY	2106	2106	2106
93762	PERIPHERAL THERMOGRAM, INCLUDING ANY SERIES	432	432	432
93870	CAROTID ARTERY IMAGING	397	397	432
93910	LOWER LIMB ARTERY STUDY	257	257	256
93950	NONINVASIVE EXTREMITY VEIN STUDIES	171	171	171
93960	QUANTITATIVE VENOUS FLOW STUDIES	269	269	269
94010	SPIROMETRY	64	57	65
94060	BRONCHOSPASM EVALUATION	127	127	135
94160	VITAL CAPACITY SCREENING	25	25	25
94240	RESIDUAL LUNG CAPACITY	81	81	81
94375	RESPIRATORY FLOW VOLUME LOOP	88	88	84
94700	BLOOD GAS ANALYSIS, REST ONLY	60	60	60
94720	CARBON MONOXIDE DIFFUSING CAPACITY	107	107	107
95020	INTRCUT TSTS, EXTRACTS, 15-20 MIN: <11	76	76	76
95021	INTRCUT TSTS, EXTRACTS, 15-20 MN:11-20	107	107	107
95117	IMMUNOTHERAPY INJECTIONS, PROF SERV	23	23	26
95155	SUPRV/PRV SNG/MLT ANTS, >1 MULT DOSE	133	133	133
95819	EEG, STANDARD/PORTABLE, SAME FACILITY	166	162	162
95860	ELECTROMYOGRAPHY, 1 LIMB	265	265	265
95861	ELECTROMYOGRAPHY, 2 LIMBS	314	314	314
95869	ELECTROMYOGRAPHY, SPECIFIC MUSCLES	179	179	179
95900	MOTOR NERVE CONDUCTION TESTING, EACH NERVE	122	116	122
95904	SENSORY NERVE CONDUCTION TESTING, EACH NERVE	116	110	122
96900	ACTINOTHERAPY (ULTRAVIOLET LIGHT)	21	21	21
96912	PHOTOCHEMOTHERAPY: PSORALENS & PUVA	32	32	32
97010	PHYS MED TRI 1 AREA HOT/COLD PACKS	31	38	34
97012	PHYS MED TRI 1 AREA, TRACTION MECH	35	35	35
97014	PHY MED TR TO ONE AREA; ELEC STIM	27	27	33
97018	PMT TO ONE AREA; PARAFFIN BATH	37	37	37
97022	PMT TO ONE AREA; WHIRLPOOL	30	30	30
97024	PMT TO ONE AREA; DIATHERMY	21	21	21
97110	PHYSIOTHERAPY: THERAPEUTIC EXERCISE	55	60	55
97118	PMT ONE AREA; INIT 30 MIN; ELEC STIM	46	46	46
97124	PMT ONE AREA; INIT 30 MIN; MASSAGE	32	32	34
97128	PHYSIOTHERAPY: ULTRASOUND	33	37	37
97145	PHYS MED TRT TO ONE AREA EA ADD'L	17	17	17
97240	POOL THERAPY/HUBBARD TANK W THERAPEUTIC	37	37	37
97260	MANIPULATION, PERFORMED BY PHYSICIAN	45	45	45

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97530	KINETIC ACTIV INCREASE COORD, STRENGTH	65	65	72
97700	VISIT WITH ORTHOT/PROSTH/ADL CHECK, 30 MIN	60	60	56
97720	EXTREMITY TEST/STRENGTH, DEXTERITY	60	60	60
99000	SPECIMEN HANDLING, DOC TO LAB	11	10	12
99050	AFTER HOURS, ADD TO BASIC SERVICE	54	54	54
99054	SERV SUNDAY/HOLIDAY, ADD TO BASIC	50	54	57
99058	OFFICE EMERGENCY CARE	52	52	52
99172	CRITICAL CARE, FOLLOW-UP, LIMITED	140	140	140
99173	CRITICAL CARE, FOLLOW-UP, INTERMED	220	220	220
99201	OFF OR O/P VST NP; PROB FOCUSED	66	66	69
99202	OFF OR O/P VST NP; EXP PROB FOCUSED	62	62	74
99203	OFF OR O/P VST NP; DETAILED LOW	89	89	84
99204	OFF OR O/P VST NP; COMPREHENS MOD	114	102	122
99205	OFF OR O/P VST NP; COMPREHENS HIGH	144	147	147
99211	OFF OR O/P VST EST PT; MINIMAL	34	30	34
99212	OFF OR O/P VST EST PT; PROBLM FOCUSED	39	42	44
99213	OFF OR O/P VT EST PT; EXP PRB FOCUSED	47	45	49
99214	OFF OR O/P VST EST PT; DETAILED MOD	64	64	64
99215	OFF OR O/P VST EST PT; COMPREH HIGH	99	86	99
99221	INT HOSP CARE PER DAY; COMPREH LOW	148	148	148
99222	INT HOSP CARE PER DAY; COMPREH MOD	143	143	147
99223	INT HOSP CARE PER DAY; COMPREH HIGH	184	166	196
99231	SUB HOSP CARE PER DAY; PROBLM FOCUSED	61	61	64
99232	SUB HOSP CARE PER DAY; EXP PRB FOCUSED	74	64	74
99233	SUB HOSP CARE PER DAY; DETAILED HIGH	96	96	94
99241	OFF CONSULT; PROBLEM FOCUSED	78	78	78
99242	OFF CONSULT; EXP PROBLEM FOCUSED	98	98	102
99243	OFF CONSULT; DETAILED LOW	133	133	137
99244	OFF CONSULT; COMPREHENSIVE MOD	171	171	171
99245	OFF CONSULT; COMPREHENSIVE HIGH	195	195	196
99252	INT IP CONSULT; EXP PROBLEM FOCUSED	126	126	126
99253	INT IP CONSULT; DETAILED LOW	164	164	171
99254	INT IP CONSULT; COMPREHENSIVE MOD	203	182	221
99255	INT IP CONSULT; COMPREHENSIVE HIGH	214	214	221
99261	FU IP CONSULT EST PT; PROBLEM FOCUSED	53	53	53
99262	FU IP CONSULT EST PT; EXP PROB FOCUS	64	64	64
99282	ER VISIT; EXP PROBLEM FOCUSED LOW	74	74	74
99283	ER VISIT; EXP PROBL FOC LOW-MODERATE	101	99	102
99284	ER VISIT; DETAILED MODERATE	160	160	167
99285	ER VISIT; COMPREHENSIVE HIGH	212	212	221
99291	CRITICAL CARE PROLONGED; FIRST HOUR	207	207	207

THE DOLLAR AMOUNTS APPEARING ON THIS SCHEDULE ARE THE UPPER LIMITS OF THE INSURANCE COMPANY'S LIABILITY FOR REIMBURSEMENT AND WILL NOT BE EXCEEDED IN ANY CASE. THESE AMOUNTS DO NOT REPRESENT A PROVIDER'S USUAL, CUSTOMARY AND REASONABLE FEE WHICH IN MOST INSTANCES WILL BE BELOW THE UPPER LIMIT AMOUNTS SHOWN ON THE SCHEDULE.

(b) The following is the Medical Fee Schedule for dental services:

**STATE OF NEW JERSEY
PERSONAL AUTO INJURY FEE SCHEDULE—DENTAL SERVICES**

ADA Code	Description of Services	Region 1	Region 2	Region 3
0110	INITIAL ORAL EXAM	\$24	\$26	\$28
0120	PERIODIC ORAL EXAM	18	21	21
0121	RECALL EXAM-ADULT (W/X RAYS & PROPHY)	68	70	79
0122	RECALL EXAM-CHILD (W/X RAYS, PROPHY, FLUOR)	68	65	72
0123	RECALL EXAM-CHILD W/X-RAYS, PROPHY, FLUO	54	61	62
0124	RECALL EXAM-ADULT, W/PROPHY	58	54	61
0130	EMERGENCY ORAL EXAM	27	27	30
0210	FULL MOUTH X-RAY SERIES	55	55	61
0220	X-RAY, PERIAPICAL, FIRST FILM	8	10	10
0222	X-RAY INTRA-ORAL TWO FILMS	15	15	16
0223	X-RAY INTRA-ORAL THREE FILMS	19	19	22
0224	X-RAY INTRA-ORAL FOUR FILMS	24	27	27
0225	X-RAY INTRA-ORAL FIVE FILMS	29	30	32
0226	X-RAY INTRA-ORAL SIX FILMS	33	32	37
0227	X-RAY INTRA-ORAL SEVEN FILMS	42	40	43
0228	X-RAY INTRA-ORAL EIGHT FILMS	41	43	48
0229	X-RAY INTRA-ORAL NINE FILMS	46	48	48
0230	X-RAY, PERIAPICAL, ADDITIONAL FILM	5	5	6
0240	X-RAY, INTRAORAL OCCLUSAL FILM	18	20	21
0270	X-RAY, BITEWING, SINGLE FILM	10	10	10

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0272	BITEWING X-RAYS, TWO FILMS	16	16	17
0273	BITEWING X-RAYS, THREE FILMS	18	20	22
0274	BITEWING X-RAYS, FOUR FILMS	22	21	26
0280	BITEWING X-RAY, ADDITIONAL FILM	5	5	5
0290	X-RAY POST-ANT-LAT-SKLL FCL BN SURV	54	54	54
0321	X-RAY TMJ SINGLE FILM	36	36	36
0330	PANORAMIC X-RAY SERIES	48	51	55
0340	CEPHALOMETRIC FILM	50	53	55
0410	BACTERIOLOGIC CULTURE	22	24	21
0450	HISTOPATHOLOGIC EXAMINATION	63	63	64
0460	PULP VITALITY TESTS	20	21	24
0470	DIAGNOSTIC CASTS	43	46	45
0471	DIAGNOSTIC PHOTOGRAPHS	26	26	25
1110	PROPHYLAXIS, ADULT-INCL. SCALING	42	48	49
1120	PROPHYLAXIS, CHILD-INCL. SCALING	28	31	32
1201	TOPICAL APPL OF FLUORIDE W/PROPHYLAXIS	40	40	49
1203	TOPICAL APPL OF FLUORIDE	17	18	21
1210	FLUORIDE SOD TOP APPL 4 EXCL PROPH	16	16	19
1211	TOP APPL SOD FLUOR 4 INCL PROPHYL	47	53	53
1220	FLUORIDE STAN TOP APPL 1 EXCL PROPH	17	19	21
1221	TOP APPL STAN FLUOR 1 INCL PROPHYL	43	45	53
1230	TOPICAL APPL OF FLUORIDE	17	19	21
1231	APPLICATION OF FLUORIDE W/PROPHYLAXIS	43	44	51
1330	ORAL HYGIENE INSTRUCTION	23	28	25
1340	TRAINING IN PREVENTIVE DENTAL CARE	30	30	28
1350	TOPICAL APPL OF SEALANT, PER QUAD	39	32	37
1351	TOPICAL APPL OF SEALANT, PER TOOTH	24	26	29
1510	SPACE MAINTAINER-FIXED UNILATERAL	168	196	188
1515	SPACE MAINTAINER-FIXED BILATERAL	285	306	257
1550	RECEMENTATION OF SPACE MAINTAINER	33	33	33
2110	AMALGAM, ONE SURFACE, PRIMARY TOOTH	44	43	44
2120	AMALGAM, TWO SURFACES, PRIMARY TOOTH	57	64	64
2130	AMALGAM, THREE SURFACES, PRIMARY TOOTH	76	83	83
2131	AMALGAM, FOUR SURFACES, PRIMARY TOOTH	98	101	98
2140	AMALGAM, ONE SURFACE, PERM. TOOTH	42	45	49
2150	AMALGAM, TWO SURFACES, PERM. TOOTH	57	64	65
2160	AMALGAM, THREE SURFACES, PERM. TOOTH	74	81	86
2161	AMALGAM, 4+ SURFACES, PERMANENT	91	100	107
2170	RESTORATION AMALGAM PIN RETAINED	79	79	79
2190	PIN RETENTION, EXCLSV E OF AMLGM, PER PIN	20	20	24
2210	SILICATE RESTORATION, ONE SURFACE	18	16	20
2310	ACRYLIC OR PLASTIC RESTORATION	30	30	37
2330	COMPOSITE-ONE SURFACE	52	55	60
2331	COMPOSITE-TWO SURFACES	71	77	83
2332	COMPOSITE-THREE SURFACES	92	102	105
2334	PIN RETENTION	22	26	26
2335	COMPOSITE INVOLVING INCISAL ANGLE	114	125	135
2336	LIGHT CURED COMPOSITE-INCISAL	137	151	158
2337	LIGHT CURED COMPOSITE, 1 SUR W/ACID ETCH	59	64	70
2338	LIGHT CURED COMPOSITE, 2 SUR W/ACID ETCH	81	86	97
2339	LIGHT CURED COMPOSITE, 3 SUR W/ACID ETCH	112	118	135
2340	ACID ETCH FOR RESTORATION	28	26	31
2510	GOLD INLAY, 1 SURFACE	294	294	294
2520	GOLD INLAY, 2 SURFACES	423	423	415
2525	2 SURFACE INLAY INCLUDING ONLAY	545	545	551
2530	3-SURFACE GOLD FOIL	507	505	508
2535	3 SURFACE INLAY INCLUDING ONLAY	649	622	643
2540	ONLAY PER TOOTH (IN ADD'N TO INLAY)	481	501	505
2620	INLAY, PORCELAIN/CERAMIC, TWO SURFACES	511	511	511
2630	INLAY, PORCELAIN/CERAMIC, THREE SURFACES	495	495	492
2710	CROWN, PLASTIC (ACRYLIC)	201	206	246
2711	CROWN, PLASTIC (ACRYLIC-PREFABRICATED)	169	186	157
2720	CROWN, RESIN/HIGH NOBLE METAL	591	550	603
2722	CROWN, RESIN/NOBLE METAL	518	518	518
2740	CROWN, PORCELAIN	567	625	605
2750	CROWN, PORCELAIN/HIGH NOBLE	555	605	628
2751	CROWN, PROCELAIN/BASE METAL	540	552	580
2752	CROWN, PORCELAIN/NOBLE METAL	534	560	588
2790	GOLD/HIGH NOBLE METAL	626	608	648
2791	BASE METAL FULL CAST	474	438	482
2792	NOBLE METAL FULL CAST	553	537	589

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Interested Persons see Inside Front Cover

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2810	CROWN, 3/4 CAST-GOLD	656	613	672
2830	CROWN, STAINLESS STEEL (PREFABRICATED)	131	143	160
2840	TEMPORARY CROWN-FRACTURED TOOTH	106	91	102
2891	CAST POST & CORE (IN ADD'N TO CROWN)	177	201	207
2892	PREFAB. POST & CORE (IN ADD'N TO CROWN)	158	170	182
2910	RE-CEMENT INLAY	39	41	45
2920	RECEMENT CROWN	37	41	42
2930	PREFAB STAINLESS STEEL CROWN-PRIMARY	124	133	151
2932	PREFABRICATED RESIN CROWN	153	153	153
2940	SEDATIVE FILLING	42	43	46
2950	CROWN BUILDUP, PIN OR POST RETAINED	126	134	148
2951	PIN RETN. PER TOOTH IN ADD'N TO RESTOR.	19	19	24
2952	CAST POST & CORE IN ADD'N TO CROWN	187	212	212
2954	PREFAB POST & CORE IN ADD'N TO CROWN	150	159	175
2960	LABIAL VENEER (LAMINATE) CLAIRSIDE	334	314	328
2962	LABIAL VENEER (PORCELAIN LAMINATE) LAB.	373	425	425
2980	REPAIR TO CROWN	133	123	133
3110	PULP CAP, DIRECT-OVER PULP EXPOSURE	31	30	37
3120	PULP CAP, INDIRECT	25	25	30
3130	RECALCIFICATION TEMPORARY PER TOOTH	40	40	40
3220	VITAL PULPOTOMY	85	82	80
3310	ROOT CANAL THERAPY, ONE CANAL	340	319	327
3315	RT CANAL THER 1 EXC RST-TRADITIONAL	324	351	351
3320	ROOT CANAL THERAPY, TWO CANALS	401	399	407
3325	RT CANAL THER 2 EXC RST-TRADITIONAL	405	432	459
3330	ROOT CANAL THERAPY, THREE CANALS	501	516	521
3335	RT CANAL THER 3 EXC RST-TRADITIONAL	497	541	568
3340	ROOT CANAL THERAPY, FOUR CANALS	539	610	591
3410	APICOECTOMY (AND/OR) CURETTAGE, SEP SURG PR	288	300	327
3411	APICOECTOMY PER TOOTH, EA ADD'L ROOT	186	186	186
3420	APICOECTOMY W/ENDODONTIC PROC PER ROOT	314	318	310
3430	RETROGRADE FILLING (PER ROOT)	101	90	92
3440	APICAL CURETTAGE	147	140	132
3450	ROOT AMPUTATION (PER ROOT)	217	195	238
3920	HEMISECTION	177	166	194
3940	RECALCIFICATION	20	20	20
3950	CANAL PREP & PREFITTING PREFORMED POST	56	56	52
3960	BLEACHING DISCOLORED TOOTH	73	72	73
4210	GINGIVECTOMY/GINGIVOPLASTY PER QUAD	259	273	264
4211	GINGIVECTOMY/GINGIVOPLASTY SINGLE SITE	104	106	106
4212	GINGIVECTOMY PER TOOTH LESS THAN 5	71	81	81
4220	GINGIVAL CURETTAGE PER QUADRANT	102	109	104
4240	GINGIVAL FLAP PROCEDURES	309	325	371
4250	MUCOGINGIVAL SURGERY PER QUADRANT	330	330	330
4260	OSSEOUS SURGERY, PER QUADRANT	628	570	597
4261	OSSEOUS GRAFT, SINGLE SITE	271	244	296
4262	OSSEOUS GRAFT, MULTIPLE SITES	380	380	380
4263	OSSEOUS SURGERY, SINGLE SITE	398	398	425
4270	PEDICLE SOFT TISSUE GRAFTS	391	391	391
4271	FREE SOFT TISSUE GRAFTS	365	419	422
4272	APICALLY REPOSITIONING FLAP	334	334	334
4320	PROVISIONAL SPLINT, INTRACORONAL	94	100	97
4321	PROVISIONAL SPLINT, EXTRACORONAL	80	80	98
4330	OCCUSAL ADJUSTMENT, LIMITED	45	50	52
4331	OCCUSAL ADJUSTMENT, COMPLETE	199	172	176
4340	PERIO SCALING & ROOT PLANING, FULL MOUTH	112	91	105
4341	PERIO SCALING & ROOT PLANING, PER QUAD	115	108	107
4345	SCALING-GINGIVAL INFLAMMATION	55	55	55
4360	APPLIANCE TO BREAK HARMFUL HABIT	270	270	296
4361	APPLIANCE FOR BRUXISM	266	266	292
4910	PERIODONTAL PROPHYLAXIS	65	69	75
5110	COMPLETE UPPER DENTURE	630	689	739
5120	COMPLETE LOWER DENTURE	633	705	739
5130	IMMEDIATE UPPER DENTURE	694	769	796
5140	IMMEDIATE LOWER DENTURE	685	745	804
5211	PARTIAL DENTURE, UPPER	431	468	506
5212	PARTIAL DENTURE, LOWER	569	555	601
5213	PARTIAL DENTURE, UPPER	872	827	871
5214	LOWER PARTIAL	723	794	830
5215	UPPER PARTIAL DENTURE	780	810	800
5216	PARTIAL DENTURE, LOWER	745	745	781

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5217	DENT PART LOWER 2 GOLD CLASPS ACR	718	718	718
5218	PARTIAL DENTURE, LOWER	796	796	847
5230	PARTIAL DENTURE-LOWER	726	726	702
5231	PARTIAL DENTURE-LOWER	676	784	730
5240	DENT PART LWR LGL BAR 2 CLSP CST BS	750	750	750
5241	DENT PART LOWER CHROME LNGL BAR CST	745	757	757
5250	PARTIAL DENTURE-UPPER	702	702	701
5251	PARTIAL DENTURE-UPPER	676	756	703
5261	DENT PART UPPER CHROME PLTL BAR CST	750	757	757
5281	UNILATERAL PARTIAL DENTURE	388	388	388
5310	DENT PART ADDTL CLASP WITH RST EACH	81	81	81
5410	DENTURE ADJUSTMENT	36	35	38
5415	DENT ADJUST COMPL OR PART U OR L	35	35	35
5421	LOWER PARTIAL DENTURE ADJUSTMENT	31	31	31
5510	REPAIR BROKEN COMPLETE DENTURE BASE	81	74	89
5520	REPL. EA. MISS/BROKEN TOOTH COM. DEN.	61	55	68
5610	DENTURE REPAIR	69	80	80
5620	DENTURE REPAIR	83	80	87
5630	DENTURE REPAIR	60	66	74
5640	DENTURE REPAIR	60	64	72
5650	DENTURE REPAIR	75	80	88
5660	DENTURE REPAIR	102	103	123
5670	DENTURE REPAIR	76	76	76
5680	DENTURE REPAIR	84	82	90
5690	DENTURE REPLACE BROKN CLSP EA ADDTL	80	80	80
5725	REBASE U/L DENTURE PART OR COMPLETE	190	190	171
5730	DENTURE RELINING: UPPER COMPLETE	142	142	145
5731	DENTURE RELINING: LOWER COMPLETE	150	150	150
5735	RELINE U/L DENT PART OR COMP OFFICE	162	162	162
5740	DENTURE RELINE PARTIAL UPPER OFFICE	118	118	121
5741	DENTURE RELINE PARTIAL LOWER OFFICE	135	135	135
5750	DENTURE RELINE UPPER COMPLETE LAB	195	199	209
5751	DENTURE RELINE LOWER COMPLETE LAB	205	205	212
5755	RELINE U/L DENT PART OR COMP LAB	198	242	216
5760	DENTURE RELINE UPPER PARTIAL LAB	205	201	214
5761	DENTURE RELINE LOWER PARTIAL LAB	203	203	212
5820	DENTURE, TEMPORARY PARTIAL UPPER	266	270	269
5821	DENT TEMP PART-STAYPLATE LOWER	270	270	270
5850	TISSUE CONDITIONING	78	71	86
5974	ENDOSSEOUS IMPLANT (IN THE BONE)	948	948	948
6210	BRIDGE PONTIC CAST HIGH NOBLE METAL	594	594	606
6212	BRIDGE PONTIC CAST NOBLE METAL	517	517	517
6240	BRIDGE PONTIC PORCELAIN FUSED/HI NOBLE	579	604	629
6241	BRIDGE PONTIC PROCELAIN FUSED/BASE METAL	552	537	581
6242	BRIDGE PONTIC PROCELAIN FUSED/NOBLE	532	563	586
6250	BRIDGE PONTIC RESIN/HIGH NOBLE METAL	579	579	577
6251	BRIDGE PONTIC/PREDOM BASE METAL	438	438	438
6252	BRIDGE PONTIC RESIN WITH NOBLE METAL	533	533	533
6530	GOLD INLAY-THREE SURFACES	552	552	552
6545	BONDED RESIN RETAINER (MARYLAND BRIDGE)	197	224	233
6640	REPAIRS REPL BRKN FCNG WITH ACRYLIC	102	108	102
6710	BRIDGE ABUTMENT CROWN, PLASTIC	224	224	224
6720	BRIDGE ABUTMENT CROWN RESIN/HIGH NOBLE	565	565	574
6721	BRIDGE ABUTMENT CROWN PLASTIC/NON-PREC	486	486	486
6722	BRIDGE ABUTMENT CROWN RESIN/BASE METAL	553	553	553
6750	BRIDGE ABUTMENT CROWN RESIN/NOBLE METAL	588	612	632
6751	BRIDGE ABUTM CROWN PORCELAIN/NOBLE MTL	552	546	583
6752	BRIDGE ABUTM CROWN PROCELAIN/NOBLE MTL	538	562	588
6780	BRIDGE ABUTMENT CROWN 3/4 CAST NOBLE MTL	614	614	614
6790	BRIDGE ABUTM CROWN FULL CAST HIGH NOBLE	658	592	681
6792	BRIDGE ABUTM CROWN FULL CAST NOBLE METAL	566	566	589
6930	RECEMENT BRIDGE	53	55	57
6950	PRECISION ATTACHMENT	217	219	215
6960	DOWEL PIN METAL	161	161	151
6970	REPAIRS TO CROWNS	125	125	135
6980	REPAIR TO FIXED BRIDGE	148	159	154
7110	EXTRACTION, SINGLE TOOTH	60	69	69
7111	TOOTH EXTRACT. W/X-RAY & GENL ANAESTH	114	114	114
7120	SIMPLE EXTRACTION-ADDITIONAL TOOTH	56	64	65
7130	ROOT REMOVAL-EXPOSED ROOTS	78	70	81
7210	SURGICAL EXTRACTION	113	120	132

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7220	SURGICAL EXTRACTION-TISSUE IMPACTION	161	176	170
7230	SURGICAL EXTRACTION-PARTIAL IMPACTION	236	234	232
7235	EXTRACTION SURG PARTIAL BONY IMPACT	238	243	216
7240	SURGICAL EXTRACTION-FULL IMPACTION	306	283	293
7241	SURGICAL EXTR-FULL IMPACT.-DIFFICULT	332	322	336
7245	EXTRACTION SURG COMPL BONY IMPACT	324	286	324
7250	SURGICAL REMOVAL, RESIDUAL ROOTS	110	117	124
7270	TOOTH REIMPLANTATION	233	233	233
7280	SURG. EXPOSURE OF TOOTH FOR ORTHO	272	272	296
7281	SURG. EXPOSURE OF TOOTH TO AID ERUPTION	191	207	172
7286	BIOPSY OF ORAL TISSUE, SOFT	124	131	115
7310	ALVEOPLASTY-PER QUAD W/EXTRACTIONS	137	116	138
7320	ALVEOPLASTY-PER QUAD W/O EXTRACTIONS	189	189	177
7425	EXCISION PERICORONAL GINGIVA	119	119	131
7430	SURGICAL EXCISION	214	211	226
7431	SURGICAL EXCISION	271	271	271
7450	REMOVAL OF CYST	168	151	181
7451	REMOVAL OF CYST	359	359	362
7460	REMOVAL OF CYST	238	238	238
7461	REMOVAL OF CYST	559	559	559
7470	REMOVAL OF EXOSTOSIS	355	355	366
7510	INCISION & DRAINAGE, INTRAORAL ABSCESS	65	70	69
7910	SUTURE OF WOUND	78	78	78
7960	FRENECTOMY	227	222	236
7970	SURG. REPAIR EXCISION OF HYPERPLASTIC	158	150	174
8000	ORTHODONTIC PAYMENT	638	638	638
8001	ORTHODONTIC-FIRST PAYMENT	1657	1657	1657
8002	ORTHODONTIC-FINAL PAYMENT	1791	1791	1791
8010	ORTHODONTIC WORK-UP	183	188	186
8110	TOOTH GUIDANCE APPLIANCE REMOVABLE	308	326	293
8120	TOOTH GUIDANCE APPLIANCE FIXED	478	515	478
8210	REMOVABLE APPLIANCE THERAPY	282	278	317
8220	FIXED APPLIANCE THERAPY	357	357	357
8360	REMOVABLE APPLIANCE THERAPY	247	247	247
8370	FIXED APPLIANCE THERAPY	397	397	397
8460	ORTHO TREATMENT MIXED DENT CL 1 MAL	3354	3354	3354
8470	ORTHO TREATMENT MIXED DENT CL 2 MAL	3597	3462	3516
8560	ORTHO TREATMENT PERM DENT CL 1 MAL	3240	3340	3354
8570	ORTHO TREATMENT PERM DENT CL 2 MAL	3408	3354	3462
8580	ORTHO TREATMENT PERM DENT CL 3 MAL	3380	3380	3570
9110	EMERGENCY PALLIATIVE TREATMENT	39	41	46
9210	LOCAL ANESTHESIA	27	25	30
9220	GENERAL ANESTHESIA	115	99	102
9230	ANALGESIA	25	27	30
9240	INTRAVENOUS SEDATION	92	88	102
9310	CONSULTATION	54	47	53
9430	VISITS OFFICE REG HRS-NO OPER SV	36	31	37
9610	DRUGS THERAPEUTIC INJECTION	35	35	35
9630	DRUGS OTHER AND/OR MEDICAMENTS	18	20	21
9910	APPLICATION OF DESENSITIZING MEDICATION	21	22	22
9930	COMPLICATIONS UNUSUAL CIRCUMSTANCES	41	41	41
9950	OCCLUSION ANALYSIS MOUNTED CASE	75	75	75
9951	OCCLUSAL ADJUSTMENT	29	26	32

THE DOLLAR AMOUNTS APPEARING ON THIS SCHEDULE ARE THE UPPER LIMITS OF THE INSURANCE COMPANY'S LIABILITY FOR REIMBURSEMENT AND WILL NOT BE EXCEEDED IN ANY CASE. THESE AMOUNTS DO NOT REPRESENT A PROVIDER'S USUAL, CUSTOMARY AND REASONABLE FEE WHICH IN MOST INSTANCES WILL BE BELOW THE UPPER LIMIT AMOUNTS SHOWN ON THE SCHEDULE.

(e) The following is the Medical Fee Schedule for durable medical equipment and prosthetic devices:

STATE OF NEW JERSEY
PERSONAL AUTO INJURY FEE SCHEDULE
DURABLE MEDICAL EQUIPMENT AND PROSTHETIC DEVICES
CODES BEGINNING WITH "A"

HCPCS CODE	DESCRIPTION	FEE FOR NEW EQUIPMENT
A4214	Sterile saline or water, 30 cc vial	\$1.37
A4310	Insertion tray without drainage bag and without catheter (accessories only)	5.56
A4311	Insertion tray without drainage bag with indwelling catheter, Foley type, two-way latex with coating (teflon, silicone, silicone elastometer, or hydrophilic, etc.)	10.68

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A4312	Insertion tray without drainage bag with indwelling catheter, Foley type, two-way, all silicone	12.49
A4313	Insertion tray without drainage bag with indwelling catheter, Foley type, three-way, for continuous irrigation	12.91
A4314	Insertion tray with drainage bag with indwelling catheter, Foley type, two-way latex with coating (Teflon, silicone, silicone elastometer, or hydrophilic, etc.)	16.19
A4315	Insertion tray with drainage bag with indwelling catheter, Foley type, two-way, all silicone	17.27
A4316	Insertion tray with drainage bag with indwelling catheter, Foley type, three-way, for continuous irrigation	19.57
A4320	Irrigation tray for bladder irrigation with bulb or piston syringe	5.02
A4322	Irrigation syringe, bulb or piston	2.60
A4323	Sterile saline irrigation solution, 1000 ml	7.19
A4326	Male external catheter specialty type, e.g., inflatable, faceplate, etc., each	11.02
A4327	Female external urinary collection device, metal cup, each	25.38
A4328	Female external urinary collection device; pouch, each	10.17
A4329	External catheter starter set, male/female, includes catheters/urinary collection device, bag/pouch and accessories (tubing, clamps, etc.) 7 day supply	30.36
A4330	Perianal fecal collection pouch with adhesive	6.12
A4338	Indwelling catheter; Foley type, two-way latex with coating (Teflon, silicone, silicone elastometer or hydrophilic, etc.)	8.77
A4340	Indwelling catheter; specialty type, (e.g., Coude, Mushroom, Wing, etc.)	14.25
A4344	Indwelling catheter, Foley type, two-way, all silicone	12.86
A4346	Indwelling catheter, Foley type, three-way, for continuous irrigation	18.74
A4347	Male external catheter with or without adhesive, with or without anti-reflux device; per dozen	16.90
A4351	Intermittent urinary catheter; straight tip	1.72
A4352	Intermittent urinary catheter; Coude (curved) tip	5.36
A4354	Insertion tray with drainage bag but without catheter	8.68
A4355	Irrigation tubing set for continuous bladder irrigation through a three-way indwelling Foley catheter	8.69
A4356	External urethral clamp or compression device (not to be used for catheter clamp)	36.53
A4357	Bedside drainage bag, day or night, with or without anti-reflux device, with or without tube	6.95
A4358	Urinary leg bag; vinyl, with or without tube	6.94
A4359	Urinary suspensory; without leg bag	27.63
A4361	Ostomy faceplate	13.88
A4362	Skin barrier; solid, 4 x 4 or equivalent; each	4.19
A4363	Skin barrier; liquid (spray, brush, etc.) powder or paste; per oz.	4.05
A4364	Adhesive for ostomy or catheter; liquid (spray, brush, etc.) cement, powder or paste; any composition (e.g., silicone, latex, etc.); per oz.	3.83
A4367	Ostomy belt	6.99
A4397	Irrigation supply; sleeve	4.43
A4398	Irrigation supply, bags	9.43
A4399	Irrigation supply, cone/catheter	11.78
A4400	Ostomy irrigation set	42.60
A4402	Lubricant	1.78
A4404	Ostomy rings	1.31
A4454	Tape, all types, all sizes	2.03
A4455	Adhesive remover or solvent (for tape, cement or other adhesive)	2.41
A4560	Pessary	22.66

HCPCS CODE	DESCRIPTION	FEE IF NEW	FEE IF USED	MONTHLY RENTAL
A4611	Battery, heavy duty; replacement for patient-owned ventilator	140.08	121.48	14.01
A4612	Battery cables; replacement for patient-owned ventilator	39.17	38.51	3.92
A4613	Battery charger; replacement for patient-owned ventilator	131.80	98.08	13.18
A4618	Breathing circuits	7.97	8.78	.80
A4622	Tracheostomy or laryngectomy tube	64.29	—	—
A4623	Tracheostomy, inner cannula (replacement only)	7.93	—	—
A4624	Tracheal suction catheter, any type, each	2.02	—	—
A4625	Tracheostomy care or cleaning starter kit	6.75	—	—
A4626	Tracheostomy cleaning brush, each	3.05	—	—
A4627	Spacer, bag or reservoir, with or without mask, for use with metered dose inhaler	18.38	13.77	1.84
A4630	Replacement batteries. Medically necessary T.E.N.S. owned by patient	8.44	—	—
A4631	Replacement batteries for medically necessary electronic wheelchair owned by patient	78.87	59.15	7.89
A4635	Underarm pad, crutch, replacement, each	6.64	4.96	.66
A4636	Replacement, handgrip, cane, crutch, or walker, each	2.93	2.19	.29
A4637	Replacement, tip, cane, crutch, walker, each	1.88	1.41	.19
A4640	Replacement pad for use with medically necessary alternating pressure pad owned by patient	49.50	37.12	4.95
A5051	Pouch, closed; with barrier attached (1 piece)	2.62	—	—
A5052	Pouch, closed; without barrier attached (1 piece)	1.84	—	—
A5053	Pouch, closed; for use on faceplate	2.88	—	—
A5054	Pouch, closed; for use on barrier with flange (2 piece)	2.39	—	—
A5055	Stoma cap	1.69	—	—
A5061	Pouch, drainable; with barrier attached (1 piece)	3.78	—	—
A5062	Pouch, drainable; without barrier attached (1 piece)	3.19	—	—
A5063	Pouch, drainable; for use on barrier with flange (2 piece system)	2.92	—	—

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A5064	Pouch, drainable; with faceplate attached; plastic or rubber	7.35	—	—
A5065	Pouch, drainable; for use on faceplate; plastic or rubber	5.37	—	—
A5071	Pouch, urinary; with barrier attached (1 piece)	4.18	—	—
A5072	Pouch, urinary; without barrier attached (1 piece)	4.03	—	—
A5073	Pouch, urinary; for use on barrier with flange (2 piece)	3.65	—	—
A5074	Pouch, urinary; with faceplate attached; plastic or rubber	7.75	—	—
A5075	Pouch, urinary; for use on faceplate; plastic or rubber	3.79	—	—
A5081	Continent device; plug for continent stoma	3.18	—	—
A5082	Continent device; catheter for continent stoma	10.57	—	—
A5093	Ostomy accessory; convex insert	1.68	—	—
A5102	Bedside drainage bottle, rigid or expandable	26.39	—	—
A5105	Urinary suspensory; with leg bag, with or without tube	35.03	—	—
A5112	Urinary leg bag; latex	17.84	—	—
A5113	Leg strap; latex, per set	4.26	—	—
A5114	Leg strap; foam or fabric, per set	9.16	—	—
A5119	Skin barrier; wipes, box per 50	9.73	—	—
A5121	Skin barrier; solid, 6 × 6 or equivalent, each	5.09	—	—
A5122	Skin barrier; solid, 8 × 8 or equivalent, each	7.86	—	—
A5123	Skin barrier; with flange (solid, flexible or accordian), any size, each	5.84	—	—
A5126	Adhesive; disc or foam pad	1.21	—	—
A5131	Appliance cleaner, incontinence and ostomy appliances, per 16 oz.	15.77	—	—

CODES BEGINNING WITH "E"

HCPCS CODE	DESCRIPTION	FEE FOR NEW EQPT	FEE FOR USED EQPT	MONTHLY RENTAL
E0100	Cane, includes canes of all materials, adjustable or fixed, with tip	16.37	12.02	1.64
E0105	Cane, quad or three prong, includes canes of all materials, adjustable or fixed, with tips	40.94	29.99	4.09
E0110	Crutches forearm, includes crutches of various materials, adjustable or fixed, pair, complete with tip	60.06	45.04	6.01
E0111	Crutch forearm, includes crutches of various materials, adjustable or fixed, each, with tip and handgrip	55.60	36.08	5.56
E0112	Crutches underarm, wood, adjustable or fixed, pair, with pads, tips and handgrips	36.96	28.66	3.70
E0113	Crutch underarm, wood, adjustable or fixed, each, with pad, tip and handgrip	24.69	12.67	2.47
E0114	Crutches underarm, aluminum, adjustable or fixed, pair with pads, tips and handgrips	51.53	36.28	5.15
E0116	Crutch underarm, aluminum, adjustable or fixed, each, with pad, tip and handgrip	22.72	14.46	2.27
E0130	Walker, rigid (pickup), adjustable or fixed height	56.05	43.47	5.61
E0135	Walker, folding (pickup), adjustable or fixed height	61.63	45.51	6.16
E0141	Walker, wheeled, without seat	99.41	71.02	9.94
E0142	Rigid walker, wheeled, with seat	231.50	154.39	23.15
E0143	Folding walker, wheeled, without seat	105.43	74.38	10.54
E0145	Walker, wheeled, with seat and crutch attachments	180.70	135.53	18.07
E0146	Walker, wheeled, with seat	116.60	87.45	11.66
E0147	Heavy duty, multiple breaking system, variable wheel resistance walker	255.83	221.57	25.58
E0153	Platform attachment, forearm crutch, each	57.41	49.15	5.74
E0154	Platform attachment, walker, each	64.20	53.32	6.42
E0155	Wheel attachment, rigid pick-up walker attachments	25.64	22.16	2.56
E0156	Seat attachment, walker	21.87	14.06	2.19
E0157	Crutch attachment, walker, each	57.41	44.26	5.74
E0158	Leg extensions for a walker	26.36	21.56	2.64
E0160	Sitz type bath, portable, fits over commode seat	22.17	12.22	2.22
E0161	Sitz type bath, portable, fits over commode seat, with faucet attachments	44.57	17.94	4.21
E0163	Commode chair, stationary, with fixed arms	92.37	63.68	9.24
E0164	Commode chair, mobile, with fixed arms	167.00	86.97	16.70
E0165	Commode chair, stationary with detachable arms	149.90	112.43	14.99
E0166	Commode chair, mobile with detachable arms	220.50	165.38	22.05
E0167	Pail or pan for use with commode chair	10.30	7.93	1.03
E0175	Foot rest, for use with commode chair, each	53.65	35.23	4.74
E0176	Air pressure pad or cushion, nonpositioning	91.90	68.93	9.19
E0177	Water pressure pad or cushion, nonpositioning	91.90	68.93	9.19
E0178	Gel pressure pad or cushion, nonpositioning	101.48	75.38	10.15
E0179	Dry pressure pad or cushion, nonpositioning (e.g., Eggcrate)	55.54	40.26	5.55
E0180	Pressure pad, alternating with pump, light duty	237.90	178.43	23.79
E0181	Pressure pad, alternating with pump, heavy duty	253.90	190.43	25.39
E0182	Pump for alternating pressure pad	288.50	216.38	28.85
E0184	Dry pressure mattress (e.g., Eggcrate)	244.03	74.85	24.40
E0185	Gel pressure pad for mattress	184.83	153.18	18.48
E0186	Air pressure mattress	196.20	147.15	19.62
E0187	Water pressure mattress	198.20	148.65	19.82
E0188	Synthetic sheepskin pad	23.85	14.04	2.39

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E0189	Lambswool sheepskin pad, any size	36.30	23.31	3.63
E0191	Heel or elbow protector, each	10.42	6.73	1.04
E0192	Low pressure and positioning pad for wheelchair	317.96	237.79	31.80
E0193	Powered air flotation bed (low air loss therapy)	9798.00	7348.50	979.80
E0194	Air fluidized bed	25429.40	19072.05	2542.94
E0196	Gel pressure mattress	221.50	166.13	22.15
E0197	Air pressure pad for mattress	119.99	102.13	12.00
E0198	Water pressure pad for mattress	126.16	106.76	12.62
E0199	Dry pressure pad for mattress (e.g., Eggcrate)	54.52	53.76	5.45
E0200	Heat lamp, without stand (table model), includes bulb, or infrared element	70.04	54.44	7.00
E0202	Phototherapy (bilirubin) light with photometer	906.50	679.88	90.65
E0205	Heat lamp, with stand, includes bulb, or infrared element	110.92	63.69	11.09
E0210	Electric heat pad, standard	29.16	30.28	2.92
E0215	Electric heat pad, moist	46.64	37.18	4.66
E0220	Hot water bottle	5.51	4.16	.55
E0225	Hydrocollator unit, includes pads	177.95	172.29	16.73
E0230	Ice cap or collar	6.94	5.20	.69
E0235	Paraffin bath unit, portable	161.20	120.90	16.12
E0236	Pump for water circulating pad	316.90	237.68	31.69
E0237	Water circulating heat pad with pump	339.91	216.43	30.82
E0238	Non-electric heat pad moist	29.56	13.99	2.96
E0239	Hydrocollator unit, portable	372.28	303.77	37.23
E0249	Pad for water circulating heat unit	73.69	96.78	7.37
E0250	Hospital bed, fixed height, with any type side rails, with mattress	764.50	573.38	76.45
E0251	Hospital bed, fixed height, with any type side rails, without mattress	624.40	468.30	62.44
E0255	Hospital bed, variable height, Hi-lo, with any type side rails, with mattress	835.60	626.70	83.56
E0256	Hospital bed, variable height, Hi-lo, with any type side rails, without mattress	608.80	456.60	60.88
E0260	Hospital bed, semi-electric (head and foot adjustment), with any type side rails, with mattress	1276.60	957.45	127.66
E0261	Hospital bed, semi-electric (head and foot adjustment), any type side rails, without mattress	927.10	695.33	92.71
E0265	Hospital bed, total electric (head, foot and height adjustments), any type side rails, with mattress	1580.40	1185.30	158.04
E0266	Hospital bed, total electric (head, foot and height adjustments), any type side rails, without mattress	1606.30	1204.73	160.63
E0271	Mattress, innerspring	171.14	131.08	17.11
E0272	Mattress, foam rubber	150.75	101.91	15.08
E0275	Bed pan, standard, metal or plastic	14.46	11.30	1.45
E0276	Bed pan, fracture, metal or plastic	13.07	14.14	1.31
E0277	Alternating pressure mattress	44.18	33.14	4.42
E0280	Bed, cradle, any type	30.63	20.82	3.06
E0290	Hospital bed, fixed height, without side rails, with mattress	508.20	381.15	50.82
E0291	Hospital bed, fixed height, without side rails, without mattress	363.50	272.63	36.35
E0292	Hospital bed, variable height, Hi-lo, without side rails, with mattress	595.30	446.47	59.53
E0293	Hospital bed, variable height, Hi-lo, without side rails, without mattress	565.00	423.75	56.50
E0294	Hospital bed, semi-electric (head and foot adjustment), without side rails, with mattress	922.60	691.95	92.26
E0295	Hospital bed, semi-electric (head and foot adjustment), without side rails, without mattress	917.00	687.75	91.70
E0296	Hospital bed, total electric (head, foot and height adjustments), without side rails, with mattress	1159.50	869.63	115.95
E0297	Hospital bed, total electric (head, foot and height adjustments), without side rails, without mattress	1168.50	876.38	116.85
E0305	Bed side rails, half length	124.20	93.15	12.42
E0310	Bed side rails, full length	145.92	128.13	14.59
E0325	Urinal; male, jug type, any material	6.95	6.92	.70
E0326	Urinal; female, jug type, any material	9.14	7.22	.91
E0430	Portable gaseous oxygen system, includes regulator with flow gauge, humidifier, cannula or mask and tubing	—	—	54.99
E0435	Oxygen system, liquid, portable, includes portable container, supply reservoir, flow humidifier, cannula or masks, tubing and refill adaptor	—	—	54.99
E0450	Volume ventilator; stationary	—	—	767.32
E0452	Intermittent assist device with continuous positive airway pressure device (CPAP)	—	—	159.65
E0453	Therapeutic ventilator; suitable for use 12 hours or less per day	—	—	319.30
E0457	Chest shell (cuirass)	—	—	61.36
E0459	Chest Wrap	437.40	328.05	43.74
E0460	Negative pressure ventilator; portable (e.g., Porta-lung)	—	—	672.75
E0462	Rocking bed with or without side rails	2454.70	1841.02	245.47
E0480	Percussor, electric or pneumatic, home model	385.60	289.20	38.56
E0500	IPPB machines with manual valves, external power source, includes cylinder regulator, built-in nebulization	—	—	99.23
E0550	Humidifier, durable for extensive supplemental humidification during IPPB treatment or oxygen delivery; e.g., Cascade	498.00	373.50	49.80
E0560	Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery; e.g., Cascade Jr.	132.10	68.74	13.21
E0565	Compressor, air power source for equipment which is not self-contained or cylinder driven	435.30	326.48	43.53
E0570	Nebulizer, with compressor; e.g., DeVilbiss Pulmo-Aid	—	—	54.62

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E0575	Nebulizer, self-contained, ultrasonic	—	—	95.53
E0585	Nebulizer, with compressor and heater	—	—	73.03
E0600	Suction pump, home model, portable	—	—	66.65
E0601	Nasal continuous airway pressure (CPAP) device	—	—	93.23
E0605	Vaporizer, room type	28.60	23.79	2.86
E0606	Postural drainage board	148.00	111.00	14.80
E0607	Home blood glucose monitor	162.28	131.82	16.23
E0608	Apnea monitor	1455.70	1091.78	145.57
E0609	Blood glucose monitor with special features (e.g., voice synthesizers, automatic timers, etc.)	435.50	339.64	43.55
E0610	Pacemaker monitor self-contained, (checks battery depletion, includes audible and visible check systems)	323.85	261.66	32.39
E0615	Pacemaker monitor self-contained, (checks battery depletion and other pacemaker components, includes digital/visible check systems)	357.53	170.77	35.75
E0621	Sling or seat, patient lift, canvas or nylon	65.71	65.88	6.57
E0627	Seat lift mechanism incorporated into a combination liftchair mechanism	273.68	205.27	27.37
E0628	Separate seat lift mechanism for use with patient-owned furniture; electric	273.68	205.27	27.37
E0629	non-electric	273.68	205.27	27.37
E0630	Patient lift, hydraulic, with seat or sling	796.40	597.30	79.64
E0635	Patient lift, electric with seat or sling	914.30	685.73	91.43
E0650	Pneumatic compressor, non-segmental home model, (lymphedema pump)	541.36	406.03	54.14
E0651	Pneumatic compressor, segmental home model (lymphedema pump) without calibrated gradient pressure	992.94	570.07	99.29
E0652	Pneumatic compressor, segmental home model (lymphedema pump) with calibrated gradient pressure	3732.98	3235.90	355.79
E0655	Pneumatic appliance for use with pneumatic compressor, half arm	86.50	93.74	8.65
E0660	Pneumatic appliance for use with pneumatic compressor, full leg	133.96	93.85	13.40
E0665	Pneumatic appliance for use with pneumatic compressor, full arm	94.13	69.80	9.41
E0666	Pneumatic appliance for use with pneumatic compressor, half leg	113.82	96.28	11.38
E0667	Pneumatic appliance for use with segmental pneumatic compressor, leg	299.32	246.51	29.31
E0668	Pneumatic appliance for use with segmental pneumatic compressor, arm	309.67	260.20	29.51
E0690	Ultraviolet cabinet, appropriate for home use	654.39	867.44	65.44
E0720	TENS, two lead, localized stimulation	447.80	—	44.78
E0730	TENS, four lead, larger area/multiple nerve stimulation	453.50	—	45.35
E0731	Form fitting conductive garment for delivery of TENS	249.32	—	24.93
E0744	Neuromuscular stimulator for scoliosis	854.10	640.58	85.41
E0745	Neuromuscular stimulator, electronic shock unit, non-clinical model	780.50	585.38	78.05
E0747	Osteogenesis stimulator (non-invasive)	2813.76	2058.18	281.38
E0749	Osteogenesis stimulator (surgically implanted)	2035.20	1526.40	203.52
E0776	IV pole	94.41	72.32	9.44
E0781	Ambulatory infusion pump with administrative equipment, worn by patient	1877.90	1408.43	187.79
E0782	Infusion pump, implantable	3616.95	2778.64	361.70
E0791	Parenteral infusion pump, stationary, single or multi-channel	1862.80	1397.10	186.28
E0840	Traction frame, attached to headboard, simple cervical traction	50.31	33.21	5.03
E0850	Traction stand, free standing, simple cervical traction	58.36	39.68	5.84
E0860	Traction equipment, overdoor, cervical	28.17	22.15	2.82
E0870	Traction frame, attached to footboard, simple extremity traction (e.g., Buck's)	86.94	52.94	8.69
E0880	Traction stand, free standing, simple extremity traction (e.g., Buck's)	90.73	53.32	9.07
E0890	Traction frame, attached to footboard, simple pelvic traction	93.73	70.17	9.37
E0900	Traction stand, free standing, simple pelvic traction (e.g., Buck's)	93.64	75.79	9.36
E0910	Trapeze bars, A/K/A patient helper, attached to bed, with grab bar	160.90	120.68	16.09
E0920	Fracture frame, attached to bed, includes weights	326.50	244.88	32.65
E0930	Fracture frame, free standing, includes weights	340.60	255.45	34.06
E0935	Passive motion exercise device	—	—	534.50
E0940	Trapeze bar, free standing, complete with grab bar	260.60	195.45	26.06
E0941	Gravity assisted traction device, any type	372.50	279.38	37.25
E0942	Cervical head harness/halter	16.41	12.31	1.64
E0943	Cervical pillow	26.52	29.95	2.65
E0944	Pelvic belt/harness/boot	33.95	23.16	3.40
E0945	Extremity belt/harness	35.83	28.45	3.58
E0946	Fracture, frame, dual with cross bars, attached to bed, (e.g., Balken, 4 poster)	547.20	410.40	54.72
E0947	Fracture frame, attachments for complex pelvic traction	440.23	319.92	44.02
E0948	Fracture frame, attachments for complex cervical traction	429.31	316.24	42.93
E0950	Tray	85.65	60.78	8.57
E0951	Loop heel, each	13.99	11.70	1.40
E0952	Loop toe, each	13.44	11.70	1.34
E0953	Pneumatic tire, each	56.79	42.59	5.68
E0954	Semi-pneumatic caster, each	42.53	31.18	4.25
E0958	Wheelchair attachment to convert any wheelchair to one arm drive	348.70	261.53	34.87
E0959	Amputee adapter (device used to compensate for transfer of weight due to lost limbs to maintain proper balance)	70.88	57.41	7.09
E0961	Brake extension, for wheelchair	13.84	12.56	1.33

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E0962	1" cushion, for wheelchair	49.22	36.92	4.92
R0963	2" cushion, for wheelchair	58.25	37.36	5.83
E0964	3" cushion, for wheelchair	60.41	43.54	6.04
E0965	4" cushion, for wheelchair	67.55	57.15	6.76
E0966	Hook on head rest extension	53.59	41.97	5.36
E0967	Wheelchair hand rims with 8 vertical rubber tipped projection, pair	109.37	82.03	10.53
E0968	Commode seat, wheelchair	150.10	112.58	15.01
E0969	Narrowing device, wheelchair	118.04	90.74	11.80
E0970	No. 2 footplates, except for elevating legrest	61.98	60.08	5.80
E0971	Anti-tipping device wheelchairs	52.14	37.95	5.21
E0972	Transfer board, wheelchair	39.09	28.72	3.91
E0973	Adjustable height detachable arms, desk or full length, wheelchair	73.49	78.81	7.31
E0974	"Grade-Aid" <device to prevent rolling back on an incline> for wheelchair	66.90	50.68	5.08
E0975	Reinforced seat upholstery, wheelchair	47.27	33.99	4.73
E0976	Reinforced back, wheelchair, upholstery or other material	56.29	33.99	4.81
E0977	Wedge cushion, wheelchair	57.03	38.55	2.91
E0978	Belt, safety with airplane buckle, wheelchair	37.08	26.99	3.39
E0979	Belt, safety with velcro closure, wheelchair	26.88	22.84	2.69
E0980	Safety vest, wheelchair	25.79	20.10	2.58
E0990	Elevating legrest, each	80.00	71.93	8.00
E0991	Upholstery seat	36.93	28.71	3.20
E0992	Solid seat insert	65.01	44.90	6.50
E0993	Back, upholstery	31.70	34.21	2.98
E0994	Arm rest, each	14.51	10.44	1.39
E0995	Calf rest, each	23.05	20.49	2.31
E0996	Tire, solid, each	26.58	18.11	2.61
E0997	Caster with a fork	58.02	44.29	5.80
E0998	Caster without fork	33.42	25.50	3.34
E0999	Pneumatic tire with wheel	91.15	79.60	9.12
E1000	Tire, pneumatic caster	46.48	24.32	4.65
E1001	Wheel, single	79.93	89.39	7.41
E1031	Rollabout chair, any and all types with castors 5" or greater	472.20	354.15	47.22
E1050	Fully-reclining wheelchair, fixed full length arms, swing-away detachable elevating legrests	1062.10	796.57	106.21
E1060	Fully-reclining wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	931.90	698.93	93.19
E1065	Power attachment (to convert any wheelchair to motorized wheelchair; e.g., Solo)	2400.62	1728.00	211.01
E1066	Battery charger	205.17	188.65	20.52
E1069	Deep cycle battery	96.43	68.18	8.59
E1070	Fully-reclining wheelchair, detachable arms, desk or full length, swing-away detachable footrests	976.90	732.68	97.69
E1083	Hemi-wheelchair, fixed full length arms, swing-away detachable elevating legrests	593.60	445.20	59.36
E1084	Hemi-wheelchair, detachable arms, desk or full length arms, swing-away detachable elevating legrests	827.80	620.85	82.78
E1085	Hemi-wheelchair, fixed full length arms, swing-away detachable footrests	587.40	440.55	58.74
E1086	Hemi-wheelchair, detachable arms, desk or full length, swing-away detachable footrests	786.30	589.73	78.63
E1087	High strength lightweight wheelchair, fixed full length arms, swing-away detachable elevating legrests	954.20	715.65	95.42
E1088	High strength lightweight wheelchair, detachable arms desk or full length, swing-away detachable elevating legrests	1272.10	954.07	127.21
E1089	High strength lightweight wheelchair, fixed length arms, swing-away detachable footrest	805.00	603.75	80.50
E1090	High strength lightweight wheelchair, detachable arms desk or full length, swing-away detachable footrests	967.80	725.85	96.78
E1091	Youth wheelchair, any type	854.40	640.80	85.44
E1092	Wide heavy duty wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	1120.10	840.07	112.01
E1093	Wide heavy duty wheelchair, detachable arms, desk or full length, swing-away detachable footrests	946.20	709.65	94.62
E1100	Semi-reclining wheelchair, fixed full length arms, swing-away detachable elevating legrests	840.30	630.23	84.03
E1110	Semi-reclining wheelchair, detachable arms (desk or full length), elevating legrests	909.10	681.83	90.91
E1130	Standard wheelchair, fixed full length arms, fixed or swing-away detachable footrests	374.20	280.65	37.42
E1140	Wheelchair, detachable arms, desk or full length, swing-away detachable footrests	577.20	432.90	57.72
E1150	Wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	642.70	482.03	64.27
E1160	Wheelchair, fixed full length arms, swing-away detachable elevating legrests	505.50	379.13	50.55
E1170	Amputee wheelchair, fixed full length arms, swing-away detachable elevating legrests	706.60	529.95	70.66
E1171	Amputee wheelchair, fixed full length arms, without footrests or legrests	642.50	481.88	64.25
E1172	Amputee wheelchair, detachable arms (desk or full length) without footrests or legrests	726.30	544.73	72.63
E1180	Amputee wheelchair, detachable arms (desk or full length), swing-away detachable footrests	776.40	582.30	77.64
E1190	Amputee wheelchair, detachable arms (desk or full length), swing-away detachable elevating legrests	897.00	672.75	89.70
E1195	Heavy duty wheelchair, fixed full length arms, swing-away detachable elevating legrests	814.10	610.58	81.41
E1200	Amputee wheelchair, fixed full length arms, swing-away detachable footrests	668.00	501.00	66.80

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E1210	Motorized wheelchair w/micro switch fixed full length arms, swing-away detachable elevating legrests	3122.40	2341.80	312.24
E1211	Motorized wheelchair, detachable arms, desk or full length, swing-away detachable elevating legrests	3359.90	2519.93	335.99
E1212	Motorized wheelchair, fixed full length arms, swing-away detachable footrests	2512.30	1884.23	251.23
E1213	Motorized wheelchair, detachable arms, desk or full length, swing-away detachable footrests	2863.30	2147.48	286.33
E1221	Wheelchair with fixed arm, footrests	344.80	258.60	34.48
E1222	Wheelchair with fixed arm, elevating legrests	680.10	510.08	68.01
E1223	Wheelchair with detachable arms, footrests	639.10	479.33	63.91
E1224	Wheelchair with detachable arms, elevating legrests	1054.40	790.80	105.44
E1225	Semi-reclining back for customized wheelchair	302.50	226.88	30.25
E1226	Full-reclining back for customized wheelchair	499.29	328.84	32.54
E1227	Special height arms for wheelchair	229.67	172.25	22.58
E1228	Special back height for wheelchair	167.30	125.48	16.73
E1230	Power-operated vehicle (3 or 4 wheel non-highway), specify brand name & model number	1684.22	1066.31	168.42
E1240	Lightweight wheelchair, detachable arms (desk or full length), swing-away detachable elevating legrests	848.60	636.45	84.86
E1250	Lightweight wheelchair, fixed full length arms, swing-away detachable footrests	573.70	430.28	57.37
E1260	Lightweight wheelchair, detachable arms (desk or full length), swing-away detachable footrests	809.10	606.83	80.91
E1270	Lightweight wheelchair, fixed full length arms, swing-away detachable elevating legrests	631.90	473.93	63.19
E1280	Heavy duty wheelchair, detachable arms (desk or full length), elevating legrests	1010.20	757.65	101.02
E1285	Heavy duty wheelchair, fixed full length arms, swing-away detachable footrests	800.20	600.15	80.02
E1290	Heavy duty wheelchair, detachable arms (desk or full length), swing-away detachable footrests	993.00	744.75	99.30
E1295	Heavy duty wheelchair, fixed full length arms, elevating legrests	950.70	713.03	95.07
E1296	Special wheelchair seat height from floor	293.10	246.86	29.31
E1297	Special wheelchair seat depth, by upholstery	63.84	68.92	6.38
E1298	Special wheelchair seat depth and/or width, by construction	298.89	256.55	29.89
E1310	Whirlpool, non-portable (built-in type)	3390.32	1782.23	193.11
E1372	Immersion external heater for nebulizer	147.81	83.09	14.78
E1375	Nebulizer portable with small compressor, with limited flow	—	—	296.10
E1400	Oxygen concentrator, mfr spec max flow < = rate ≤ 2 liters/min at 85% or greater concentration	—	—	296.10
E1401	Oxygen concentrator, max flow rate 2-3 liters/min	—	—	296.10
E1402	Oxygen concentrator, max flow rate 3-4 liters/min	—	—	296.10
E1403	Oxygen concentrator, max flow rate 4-5 liters/min	—	—	296.10
E1404	Oxygen concentrator, max flow rate >5 liters/min at > = 85% concentration	—	—	296.10

CODES BEGINNING WITH "L"

HCPCS CODE	DESCRIPTION	FEE FOR NEW EQPT
L0100	Cervical, craniostenosis, helmet molded to patient model	351.53
L0110	Cervical, craniostenosis, helmet, non-molded	88.13
L0120	Cervical, flexible, non-adjustable (foam collar)	16.38
L0130	Cervical, flexible, thermoplastic collar, molded to patient	143.00
L0140	Cervical, semi-rigid, adjustable (plastic collar)	38.82
L0150	Cervical, semi-rigid, adjustable molded chin cup (plastic collar with mandibular/occipital piece)	72.34
L0160	Cervical, semi-rigid, wire frame occipital/mandibular support	126.09
L0170	Cervical, collar, molded to patient model	378.20
L0172	Cervical, collar, semi-rigid, thermoplastic foam, two-piece	90.40
L0174	Cervical, collar, semi-rigid, thermoplastic foam, two-piece with thoracic extension	156.71
L0180	Cervical, multiple post collar, occipital/mandibular supports, adjustable	228.01
L0190	Cervical, multiple post collar, occipital/mandibular supports, adjustable cervical bars (SOMI, Guilford, Taylor types)	325.67
L0200	Cervical, multiple post collar, occipital/mandibular supports, adjustable cervical bars, and thoracic extension	316.70
L0210	Thoracic, rib belt, custom fitted	26.15
L0220	Thoracic, rib belt, custom fabricated	92.33
L0300	Thoracic-lumbar-sacral-orthoses, (TLSO), flexible dorso-lumbar surgical support, custom fitted	115.80
L0310	TLSO, flexible dorso-lumbar surgical support, custom fabricated	282.69
L0315	TLSO, flexible dorso-lumbar surgical support, elastic type, with rigid posterior panel	172.38
L0317	TLSO, flexible dorso-lumbar surgical support, hyperextension, elastic type, with rigid posterior panel	215.10
L0320	TLSO, anterior-posterior control (Taylor type), with apron front	328.29
L0330	TLSO, anterior-posterior-lateral control (Knight-Taylor type), with apron front	350.22
L0340	TLSO, anterior-posterior-lateral-rotary control (Arnold, Magnuson, Steindler types), with apron front	395.88
L0350	TLSO, anterior-posterior-lateral-rotary control, flexion compression jacket, custom fitted	576.00
L0360	TLSO, anterior-posterior-lateral-rotary control, flexion compression jacket, molded to patient	1,035.62
L0370	TLSO, anterior-posterior-lateral-rotary control, hyperextension (Jewett, Lennox, Baker, Cash types)	322.39
L0380	TLSO, anterior-posterior-lateral-rotary control, with extensions	406.53
L0390	TLSO, anterior-posterior-lateral control (body jacket), molded to patient model	1,109.97
L0400	TLSO, anterior-posterior-lateral control (body jacket), molded to patient model, with interface material	1,253.02
L0410	TLSO, anterior-posterior-lateral control (body jacket), two-piece construction, molded to patient model	1,048.73

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L0420	TLSO, anterior-posterior-lateral control (body jacket), two-piece construction, molded to patient model, with interface material	1,128.02
L0430	TLSO, anterior-posterior-lateral control (body jacket), with interface material, custom fitted	914.86
L0440	TLSO, anterior-posterior-lateral control (body jacket), with overlapping front section, spring steel front, custom fitted	817.28
L0500	Lumbar-sacral-orthoses, (LSO), flexible, (lumbo-sacral surgical support), custom fitted	87.07
L0510	LSO, flexible (lumbo-sacral surgical support), custom fabricated	163.16
L0515	LSO, flexible (lumbo-sacral surgical support), elastic type, with rigid posterior panel	110.30
L0520	LSO, anterior-posterior-lateral control (Knight, Wilcox types), with apron front	323.18
L0530	LSO, anterior-posterior control (Macausland type), with apron front	243.05
L0540	LSO, lumbar flexion, (Williams flexion type)	309.87
L0550	LSO, anterior-posterior-lateral control (body jacket), molded to patient model	989.91
L0560	LSO, anterior-posterior-lateral control (body jacket), molded to patient model, with interface material	1,135.90
L0565	LSO, anterior-posterior-lateral control (body jacket), custom fitted	667.17
L0600	Sacroiliac, flexible (sacroiliac surgical support), custom fitted	58.06
L0610	Sacroiliac, flexible (sacroiliac surgical support), custom fabricated	172.90
L0620	Sacroiliac, semi-rigid, (Goldthwaite, Osgood types), with aprong front	360.05
L0700	Cervical-thoracic-lumbar-sacral-orthoses (CTLSO), anterior-posterior-lateral control, molded to patient model (Minerva type)	1,452.84
L0710	CTLSO, anterior-posterior-lateral control, molded to patient model, with interface material, (Minerva type)	1,604.90
L0810	Halo procedure, cervical halo incorporated into jacket vest	1,611.09
L0820	Halo procedure, cervical halo incorporated into plaster body jacket	1,510.92
L0830	Halo procedure, cervical halo incorporated into Milwaukee type orthosis model	1,969.94
L0860	Addition to halo procedures, magnetic resonance image compatible system	774.08
L0900	Torso support, ptosis support, custom fitted	92.81
L0910	Torso support, ptosis support, custom fabricated	202.24
L0920	Torso support, pendulous abdomen support, custom fitted	125.38
L0930	Torso support, pendulous abdomen support, custom fabricated	236.90
L0940	Torso support, post surgical support, custom fitted	118.26
L0950	Torso support, post surgical support, custom fabricated	229.10
L0960	Torso support, post surgical support, pads for post surgical support	50.08
L0970	TLSO, corset front	84.49
L0972	LSO, corset front	72.12
L0974	TLSO, full corset	110.68
L0976	LSO, full corset	94.41
L0978	Axillary crutch extension	116.92
L0980	Peroneal straps, pair	10.31
L0982	Stocking supporter grips, set of four (4)	9.78
L1000	Cervical-thoracic-lumbar-sacral orthosis (CTLSO) (Milwaukee), inclusive of furnishing initial orthosis, including model	1,445.62
L1010	Addition to cervical-thoracic-lumbar-sacral orthosis (CTLSO) of scoliosis, axilla sling	41.21
L1020	Addition to CTLSO or scoliosis orthosis, kyphosis pad	51.55
L1025	Addition to CTLSO or scoliosis orthosis, kyphosis pad, floating	103.57
L1030	Addition to CTLSO or scoliosis orthosis, lumbar bolster pad	37.53
L1040	Addition to CTLSO or scoliosis, lumbar of lumbar rib pad	45.12
L1050	Addition to CTLSO or scoliosis orthosis, sternal pad	57.21
L1060	Addition to CTLSO or scoliosis orthosis, thoracic pad	73.37
L1070	Addition to CTLSO or scoliosis orthosis, trapeze sling	66.11
L1080	Addition to CTLSO or scoliosis orthosis, outrigger	37.12
L1085	Addition to CTLSO or scoliosis orthosis, outrigger, bilateral with vertical extensions	110.01
L1090	Addition to CTLSO or scoliosis or orthosis, lumbar sling	71.58
L1100	Addition to CTLSO or scoliosis orthosis, ring flange, plastic or leather	113.66
L1110	Addition to CTLSO or scoliosis orthosis, ring flange, plastic or leather, molded to patient model	154.66
L1120	Addition to CTLSO or scoliosis orthosis, cover for upright, each	23.76
L1200	Thoracic-lumbar-sacral-orthoses (TLSO), inclusive of furnishing initial orthosis only	971.24
L1210	Addition to TLSO (low profile), lateral thoracic extension	205.11
L1220	Addition to TLSO (low profile), anterior thoracic extension	207.78
L1230	Addition to TLSO (low profile), Milwaukee type superstructure	476.65
L1240	Addition to TLSO (low profile), lumbar derotation pad	56.37
L1250	Addition to TLSO (low profile), anterior asis pad	54.54
L1260	Addition to TLSO (low profile), anterior thoracic derotation pad	54.54
L1270	Addition to TLSO (low profile), abdominal pad	55.46
L1280	Addition to TLSO (low profile), rib gusset (elastic), each	61.72
L1290	Addition to TLSO (low profile), lateral trochanteric pad	51.23
L1300	Other scoliosis procedure, body jacket molded to patient model	1,307.02
L1310	Other scoliosis procedure, post-operative body jacket	1,298.69
L1500	Thoracic-hip-knee-ankle orthoses (THKAO), mobility frame, (Newington, Parapodium types)	1,138.24
L1510	THKAO, standing frame	747.52
L1520	THKAO, swivel walker	1,443.95
L1600	Hip orthosis (HO), abduction control of hip joints, flexible, freika type with cover	73.52
L1610	HO, abduction control of hip joints, flexible, frejka cover only	35.79

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L1620	HO, abduction control of hip joints, flexible, Pavlik harness	103.18
L1630	HO, abduction control of hip joints, semi-flexible (Von Rosen type)	103.02
L1640	HO, abduction control of hip joints, static pelvic band or spreader bar, thigh cuffs	286.38
L1650	HO, abduction control of hip joints, static, adjustable, custom fitted (Ilfled type)	159.01
L1660	HO, abduction control of hip joints, static, plastic, custom fitted	98.58
L1680	HO, abduction control of hip joints, dynamic, pelvic control, adjustable hip motion control, thigh cuffs (Rancho hip action type)	740.43
L1685	HO, abduction control of hip joints post-operative hip abduction type, custom fabricated	786.30
L1686	HO, abduction control of hip joints post-operative hip abduction type, custom fitted	785.25
L1700	Legg Perthes orthosis, Toronto type	917.50
L1710	Legg Perthes orthosis, Newington type	1,066.91
L1720	Legg Perthes orthosis, trilateral, Tachdijan type	792.45
L1730	Legg Perthes orthosis, Scottish Rite type	687.24
L1750	Legg Perthes orthosis, Legg Perthes sling (Sam Brown type)	157.98
L1755	Legg Perthes orthosis, pattern bottom type	1,097.88
L1800	Knee orthosis, KO, elastic with stays	38.86
L1810	KO, elastic with joints	61.52
L1815	KO, elastic with condylar pads	59.34
L1820	KO, elastic with condylar pads and joints	94.31
L1825	KO, elastic knee cap	34.34
L1830	KO, immobilizer, canvas longitudinal	62.17
L1832	KO, adjustable knee joints, positional orthosis, rigid support, custom fitted	476.27
L1834	KO, without knee joint, rigid, molded to patient model	521.71
L1840	KO, derotation, medial-lateral, anterior cruciate ligament, custom fabricated to patient model	682.12
L1845	KO, double upright, thigh and calf, with adjustable flexion and extension joint, medial-lateral and rotation control, custom fitted	623.14
L1846	KO, double upright, thigh and calf, with adjustable flexion and extension joint, medial-lateral and rotation control, molded to patient model	737.98
L1850	KO, Swedish type	197.66
L1855	KO, molded plastic, thigh and calf sections, with double upright knee joints, molded to patient model	834.87
L1858	KO, molded plastic, polycentric knee joints, pneumatic knee pads (CTL)	808.65
L1860	KO, modification of supracondylar prosthetic socket, molded to patient model (SK)	752.94
L1870	KO, double upright, thigh and calf lacers, molded to patient model with knee joints	684.44
L1880	KO, double upright, non-molded thigh and calf cuffs/lacers with knee joints	491.55
L1900	Ankle-foot orthosis (AFO), spring wire, dorsiflexion assist, calf band	161.65
L1902	AFO, ankle gauntlet, custom fitted	64.64
L1904	AFO, molded ankle gauntlet, molded to patient model	356.61
L1906	AFO, multiligamentous ankle support	72.94
L1910	AFO, posterior, single bar, clasp attachment to shoe counter	234.93
L1920	AFO, single upright with static or adjustable stop, (Phelps or Perlstein type)	215.09
L1930	AFO, custom fitted, plastic	143.47
L1940	AFO, molded to patient model, plastic	435.59
L1945	AFO, molded to patient model, plastic, rigid anterior tibial section (floor reaction)	671.58
L1950	AFO, spiral, molded to patient model, (IRM type), plastic	546.81
L1960	AFO, posterior, solid ankle, molded to patient model, plastic	494.86
L1970	AFO, plastic molded to patient model, with ankle joint	450.40
L1980	AFO, single upright, free dorsiflexion, solid stirrup, calf band/cuff (single bar "BK" orthosis)	293.83
L1990	AFO, double upright free plantar dorsiflexion, solid stirrup, calf band/cuff (double bar "BK" orthosis)	373.71
L2000	Knee-ankle-foot-orthosis (KAFO), single upright, free ankle, solid stirrup, thigh and calf bands/cuffs (single bar "AK" orthosis)	747.92
L2010	KAFO, single upright, free ankle, solid stirrup, thigh and calf bands/cuffs (single bar "AK" orthosis), without knee joint	676.31
L2020	KAFO, double upright, free knee, free ankle, solid stirrup, thigh and calf hands/cuffs (double bar "AK" orthosis)	743.31
L2030	KAFO, double upright, free ankle, solid stirrup, thigh and calf bands/cuffs (double bar "AK" orthosis), without knee joint	919.05
L2036	KAFO, full plastic, double upright, free knee, molded to patient model	1,399.25
L2037	KAFO, full plastic, single upright, free, molded to patient model	1,236.66
L2038	KAFO, full plastic, without knee joint, multi-axis, molded to patient model (lively orthosis or equal)	1,282.70
L2040	HKAFO, torsion control, bilateral rotation straps, pelvic band/belt	137.71
L2050	HKAFO, torsion control, bilateral torsion cables, hip joint, pelvic band/belt	290.62
L2060	HKAFO, torsion control, bilateral torsion cables, ball bearing hip joint, pelvic band/belt	349.52
L2070	HKAFO, torsion control, unilateral rotation straps, pelvic band/belt	89.24
L2080	HKAFO, torsion control, unilateral, torsion cables, hip joint, pelvic band/belt	282.87
L2090	HKAFO, torsion control, unilateral torsion cables, ball bearing hip joint, pelvic band/belt	270.88
L2102	Ankle-foot-orthosis (AFO), fracture orthosis, tibial fracture cast orthosis, plaster type casting material, molded to patient	280.90
L2104	AFO, fracture orthosis, tibial fracture cast orthosis, synthetic type casting material, molded to patient	300.98
L2106	AFO, fracture orthosis, tibial fracture cast orthosis, thermoplastic type casting material, molded to patient	420.32
L2108	AFO, fracture orthosis, tibial fracture cast orthosis, molded to patient model	765.61
L2112	AFO, fracture orthosis, tibial fracture orthosis, soft custom fitted	334.57
L2114	AFO, fracture orthosis, tibial fracture orthosis, semi-rigid custom fitted	439.58

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L2116	AFO, fracture orthosis, tibial fracture orthosis, rigid custom fitted	495.75
L2122	Knee-ankle-foot-orthosis (KAFO), fracture orthosis, femoral fracture cast orthosis, plaster type casting material, molded to patient	656.03
L2124	KAFO, fracture orthosis, femoral fracture cast orthosis, synthetic type casting material, molded to patient	734.37
L2126	KAFO, fracture orthosis, femoral fracture cast orthosis, thermoplastic type casting material, molded to patient	902.15
L2128	KAFO, fracture orthosis, femoral fracture cast orthosis, molded to patient model	1,209.09
L2132	KAFO, fracture orthosis, femoral fracture cast orthosis, soft custom fitted	663.70
L2134	KAFO, fracture orthosis, femoral fracture cast orthosis, semi-rigid custom fitted	739.97
L2136	KAFO, fracture orthosis, femoral fracture cast orthosis, rigid custom fitted	880.56
L2180	Addition to lower extremity fracture orthosis, plastic shoe insert with ankle joints	73.22
L2182	Addition to lower extremity fracture orthosis, drop lock knee joint	62.13
L2184	Addition to lower extremity fracture orthosis, limited motion knee joint	85.93
L2186	Addition to lower extremity fracture orthosis, adjustable motion knee joint, lerman type	125.95
L2188	Addition to lower extremity fracture orthosis, quadrilateral brim	249.24
L2190	Addition to lower extremity fracture orthosis, waist belt	62.86
L2192	Addition to lower extremity fracture orthosis, hip joint, pelvic band, thigh flange, and pelvic belt	272.37
L2200	Addition to lower extremity, limited ankle motion, each joint	42.96
L2210	Addition to lower extremity, dorsiflexion assist, (plantar flexion resist), each joint	53.95
L2220	Addition to lower extremity, dorsiflexion and plantar flexion assist/resist, each joint	71.09
L2230	Addition to lower extremity, split flat caliper stirrups and plate attachment	68.56
L2240	Addition to lower extremity, round caliper and plate attachment	55.90
L2250	Addition to lower extremity, foot plate, molded to patient model, stirrup attachment	253.37
L2260	Addition to lower extremity, reinforced solid stirrup (Scott-Craig type)	164.08
L2265	Addition to lower extremity, long tongue stirrup	74.03
L2270	Addition to lower extremity, varus/valgus correction ("T") strap, padded/lined or malleolus pad	47.36
L2280	Addition to lower extremity, molded inner boot	282.70
L2300	Addition to lower extremity, abduction bar (bilateral hip involvement), jointed, adjustable	222.95
L2310	Addition to lower extremity, abduction bar, straight	80.56
L2320	Addition to lower extremity, non-molded lacer	134.72
L2330	Addition to lower extremity, lacer, molded to patient model	253.59
L2335	Addition to lower extremity, anterior swing band	155.45
L2340	Addition to lower extremity, pre-tibial shell, molded to patient model	351.01
L2350	Addition to lower extremity, prosthetic type "BK" socket, molded to patient model (used for "PTB" "AFO" orthosis)	627.52
L2360	Addition to lower extremity, extended steel shank	46.52
L2370	Addition to lower extremity, patten bottom	222.30
L2375	Addition to lower extremity, torsion control, ankle joint and half solid stirrup	80.97
L2380	Addition to lower extremity, torsion control, straight knee joint, each joint	70.17
L2385	Addition to lower extremity, straight knee joint, heavy duty, each joint	79.30
L2390	Addition to lower extremity, offset knee joint, each joint	70.52
L2395	Addition to lower extremity, offset knee joint, heavy duty, each joint	92.90
L2405	Addition to knee joint, drop lock, each joint	32.97
L2415	Addition to knee joint, cam lock (Swiss, French, Bail types), each joint	122.01
L2425	Addition to knee joint, disc or dial lock for adjustable knee flexion, each joint	146.57
L2435	Addition to knee joint, polycentric joint, each joint	118.41
L2492	Addition to knee joint, lift loop for drop lock ring	86.12
L2500	Addition to lower extremity, thigh/weight bearing, gluteal/ischial weight bearing, ring	186.08
L2510	Addition to lower extremity, thigh/weight bearing, quadrilateral brim, molded to patient model	473.01
L2520	Addition to lower extremity, thigh/weight bearing, quadrilateral brim, custom fitted	309.95
L2525	Addition to lower extremity, thigh/weight bearing, ischial containment/narrow M-L brim, molded to patient model	872.97
L2526	Addition to lower extremity, thigh/weight bearing, ischial containment/narrow M-L brim, custom fitted	458.59
L2530	Addition to lower extremity, thigh/weight bearing, lacer, non-molded	192.13
L2540	Addition to lower extremity, thigh/weight bearing, lacer, molded to patient model	262.44
L2550	Addition to lower extremity, thigh/weight bearing, high roll cuff	173.11
L2570	Addition to lower extremity, pelvic control, hip joint, clevis type, two position hip joint, each	352.15
L2580	Addition to lower extremity, pelvic control, pelvic sling	323.83
L2600	Addition to lower extremity, pelvic control, hip joint, clevis type or thrust bearing, free, each	158.91
L2610	Addition to lower extremity, pelvic control, hip joint, clevis type or thrust bearing, lock, each	152.57
L2620	Addition to lower extremity, pelvic control, hip joint, heavy duty, each	219.37
L2622	Addition to lower extremity, pelvic control, hip joint, adjustable flexion, each	210.12
L2624	Addition to lower extremity, pelvic control, hip joint, adjustable flexion, extension, abduction control, each	197.31
L2627	Addition to lower extremity, pelvic control, plastic, molded to patient model, reciprocating hip joint and cables	1,158.68
L2628	Addition to lower extremity, pelvic control, metal frame, reciprocating hip joint and cables	1,169.36
L2630	Addition to lower extremity, pelvic control, band and belt unilateral	152.53
L2640	Addition to lower extremity, pelvic control, band and belt bilateral	280.63
L2650	Addition to lower extremity, pelvic and thoracic control, gluteal pad, each	87.36
L2660	Addition to lower extremity, thoracic control, thoracic band	105.59
L2670	Addition to lower extremity, thoracic control, paraspinal uprights	125.23
L2680	Addition to lower extremity, thoracic control, lateral support uprights	112.35
L2750	Addition to lower extremity orthosis, plating chrome or nickel, per bar	54.80
L2760	Addition to lower extremity orthosis, extension, per extension, per bar (for lineal adjustment for growth)	43.74

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L2770	Addition to lower extremity orthosis, stainless steel, per bar or joint	43.46
L2780	Addition to lower extremity orthosis, non-corrosive finish, per bar	39.55
L2785	Addition to lower extremity orthosis, drop lock retainer, each	21.95
L2795	Addition to lower extremity orthosis, knee control, full knee cap	66.92
L2800	Addition to lower extremity orthosis, knee control, knee cap, medial or lateral pull	80.00
L2810	Addition to lower extremity orthosis, knee control, condylar pad	57.66
L2820	Addition to lower extremity orthosis, soft interface for molded plastic, below knee section	55.81
L2830	Addition to lower extremity orthosis, soft interface for molded plastic, above knee section	58.53
L2840	Addition to lower extremity orthosis, tibial length sock, fracture or equal, each	35.78
L2850	Addition to lower extremity orthosis, femoral length sock, fracture or equal each	43.65
L3215	Orthopedic footwear, ladies shoes, oxford	79.32
L3219	Orthopedic footwear, mens shoes, oxford	82.12
L3650	Shoulder orthosis (SO), figure of "8" design abduction restrainer	42.46
L3660	SO, figure of "8" design abduction restrainer, canvas and webbing	76.06
L3670	SO, acromio/clavicular (canvas and webbing type)	87.42
L3700	Elbow orthosis (EO), elastic with stays	48.44
L3710	EO, elastic with metal joints	79.85
L3720	EO, double upright with forearm/arm cuffs, free motion	510.77
L3730	EO, double upright with forearm/arm cuffs, extension/flexion assist	544.70
L3740	EO, double upright with forearm/arm cuffs, adjustable position lock with active control	652.96
L3800	Wrist-hand-finger-orthosis (WHFO) short opponens, no attachments	112.58
L3805	WHFO, long opponens, no attachment	265.19
L3810	WHFO, addition to short and long opponens, thumb abduction "C" bar	38.30
L3815	WHFO, addition to short and long opponens, second M.P. abduction assist	37.53
L3820	WHFO, addition to short and long opponens, I.P. extension assist with M.P. extension stop	74.42
L3825	WHFO, addition to short and long opponens, M.P. extension stop	38.39
L3830	WHFO, addition to short and long opponens, M.P. extension assist	56.63
L3835	WHFO, addition to short and long opponens, M.P. spring extension assist	60.95
L3840	WHFO, addition to short and long opponens, spring swivel thumb	41.41
L3845	WHFO, addition to short and long opponens, thumb I.P. extension assist, with M.P. stop	47.75
L3850	WHFO, addition to short and long opponens, action wrist with dorsiflexion assist	99.93
L3855	WHFO, addition to short and long opponens, adjustable M.P. flexion control	70.27
L3860	WHFO, addition to short and long opponens, adjustable M.P. flexion control and I.P.	97.11
L3900	WHFO, dynamic flexor hinge; reciprocal wrist extension/flexion, finger flexion/extension, wrist or finger driven	984.26
L3901	WHFO, dynamic flexor hinge; reciprocal wrist extension/flexion, finger flexion/extension, cable driven	1,156.39
L3902	WHFO, external powered, compressed gas	1,423.90
L3904	WHFO, external powered, electric	1,713.93
L3906	WHFO, wrist gauntlet, molded to patient model	345.54
L3907	WHFO, wrist gauntlet with thumb spica, molded to patient model	372.72
L3908	WHFO, wrist extension control cock-up, canvas or leather design, non-molded	47.88
L3910	WHFO, Swanson design	278.37
L3912	WHFO, flexion glove with elastic finger control	69.72
L3914	WHFO, wrist extension cock-up	57.04
L3916	WHFO, wrist extension cock-up, with outrigger	89.91
L3918	WHFO, knuckle bender	47.31
L3920	WHFO, knuckle bender, with outrigger	77.23
L3922	WHFO, knuckle bender, two segment to flex joints	58.67
L3924	WHFO, Oppenheimer	75.78
L3926	WHFO, Thomas suspension	71.89
L3928	WHFO, finger extension with clock spring	50.57
L3930	WHFO, finger extension, with wrist support	45.22
L3932	WHFO, safety pin, spring wire	27.49
L3934	WHFO, safety pin, modified	29.05
L3936	WHFO, Palmer	61.81
L3938	WHFO, dorsal wrist	61.81
L3940	WHFO, dorsal wrist, with outrigger attachment	74.80
L3942	WHFO, reverse knuckle bender	46.28
L3944	WHFO, reverse knuckle bender, with outrigger	73.51
L3946	WHFO, composite elastic	58.39
L3948	WHFO, finger knuckle bender	45.82
L3950	WHFO, combination Oppenheimer, with knuckle bender and two attachments	118.44
L3952	WHFO, combination Oppenheimer, with reverse knuckle bender and two attachments	119.21
L3954	WHFO, spreading hand	65.20
L3960	Shoulder-elbow-wrist-hand orthosis SEWHO, abduction positioning, airplane design	566.85
L3962	SEWHO, abduction positioning, Erbs Palsey design	526.63
L3963	SEWHO, molded shoulder, arm, forearm, and wrist, with articulating elbow joint	965.08
L3964	SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, adjustable	517.74
L3965	SEWHO, radial arm support attached to wheelchair, balanced and fitted to patient, adjustable Rancho type	710.17
L3966	SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, reclining	697.49
L3968	SEWHO, mobile arm support attached to wheelchair, balanced and fitted to patient, friction arm support, (friction dampening to proximal and distal joints)	846.68

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L3969	SEWHO, mobile arm support, monosuspension arm and hand support, overhead elbow forearm hand sling support, yoke type arm suspension support	523.46
L3970	SEWHO, addition to mobile arm support, elevating proximal arm	253.02
L3972	SEWHO, addition to mobile arm support, offset or lateral rocker arm with elastic balance control	170.60
L3974	SEWHO, addition to mobile arm support, supinator	139.07
L3980	Upper extremity fracture orthosis, humeral	272.10
L3982	Upper extremity fracture orthosis, radius/ulnar	255.57
L3984	Upper extremity fracture orthosis, wrist	201.68
L3985	Upper extremity fracture orthosis, forearm, hand with wrist hinge	486.86
L3986	Upper extremity fracture orthosis, combination of humeral, radius/ulnar, wrist, (example—Colles fracture)	368.78
L3995	Addition to upper extremity orthosis, sock, fracture or equal, each	21.47
L4000	Replace gridle for Milwaukee orthosis	891.37
L4010	Replace trilateral socket brim	413.32
L4020	Replace quadrilateral socket brim, molded to patient model	618.99
L4030	Replace quadrilateral socket brim, custom fitted	310.53
L4040	Replace molded thigh lacer	252.65
L4045	Replace non-molded thigh lacer	193.44
L4050	Replace molded calf lacer	274.16
L4055	Replace non-molded calf lacer	157.66
L4060	Replace high roll cuff	195.37
L4070	Replace proximal and distal upright for "AKO"	162.83
L4080	Replace metal bands "KAFO", proximal thigh	75.31
L4090	Replace metal bands "KAFO-AFO", calf or distal thigh	59.44
L4100	Replace leather cuff "KAFO", proximal thigh	80.40
L4110	Replace leather cuff "KAFO-AFO", calf or distal thigh	69.59
L4130	Replace pretibial shell	302.79
L4310	Multi-Podus or equal orthotic preparatory management system for lower extremities	275.13
L4320	Addition to AFO, Multi-Podus (or equal) orthotic preparatory management system for lower extremities, flexible foot positioner w/soft interface for AFO, with velcro closure, custom fitted	94.23
L4350	Pneumatic ankle control splint (aircast or equal)	64.30
L4360	Pneumatic walking splint (aircast or equal)	203.25
L4370	Pneumatic full leg splint (aircast or equal)	115.96
L4380	Pneumatic knee splint (aircast or equal)	76.28
L5000	Partial foot, shoe insert with longitudinal arch, toe filler	310.43
L5010	Partial foot, molded socket, ankle height, with toe filler	939.85
L5020	Partial foot, molded socket, tibial tubercle height, with toe filler	1,336.23
L5050	Ankle Symes, molded sock, Sach foot	1,767.70
L5060	Ankle Symes, metal frame, molded leather socket, articulated ankle/foot	1,966.12
L5100	Below knee, molded socket, shin, Sach foot	1,425.79
L5105	Below knee, plastic socket, joints and thigh lacer, Sach foot	2,688.46
L5150	Knee disarticulation (or through knee), molded socket, external knee joints, shin, Sach foot	3,294.44
L5160	Knee disarticulation (or through knee), molded socket, bent knee configuration, external knee joints, shin, Sach foot	2,461.44
L5200	Above knee, molded socket, single axis constant friction knee, shin, Sach foot	2,010.07
L5210	Above knee, short prosthesis, no knee joint ("stubbies"), with foot blocks, no ankle joints, each	1,938.78
L5220	Above knee, short prosthesis, no knee joint ("stubbies"), with articulated ankle/foot, dynamically aligned, each	2,168.99
L5230	Above knee, for proximal femoral focal deficiency, constant friction knee, shin, Sach foot	2,429.79
L5250	Hip disarticulation, Canadian type; molded socket, hip joint, single axis constant friction knee, Sach foot	3,964.65
L5270	Hip disarticulation, tilt table type; molded socket, locking hip joint, single axis constant friction knee, shin, Sach foot	3,329.66
L5280	Hemipelvectomy, Canadian type; molded socket, hip joint, single axis constant friction knee, shin, Sach foot	3,313.07
L5300	Below knee, molded socket, Sach foot, endoskeletal system including soft cover and finishing	1,800.81
L5310	Knee disarticulation (or through knee), molded socket, Sach foot endoskeletal system, including soft cover and finishing	3,522.65
L5320	Above knee, molded socket, open end, Sach foot, endoskeletal system, single axis knee, including soft cover and finishing	2,611.90
L5330	Hip disarticulation, Canadian type; molded socket, endoskeletal system, single axis knee, hip joint, Sach foot, including soft cover and finishing	3,729.91
L5340	Hemipelvectomy, Canadian type; molded socket, endoskeletal system, single axis knee, hip joint, Sach foot, including soft cover and finishing	5,070.18
L5400	Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment, suspension, and one cast change, below knee	875.51
L5410	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension, below knee, each additional cast change and realignment	344.27
L5420	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension and one cast change "AK" or knee disarticulation	986.87
L5430	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension, "AK" or knee disarticulation, each cast change and realignment	472.21
L5450	Immediate post surgical or early fitting, application of non-weight bearing rigid dressing, below knee	276.28
L5460	Immediate post surgical or early fitting, application of non-weight bearing rigid dressing, above knee	326.14
L5500	Initial, below knee "PTB" type socket, "USMC" or equal pylon, no cover, Sach foot, plaster socket, direct formed	922.17

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L5505	Initial, above knee—knee disarticulation, ischial level socket, “USMC” or equal pylon, no cover, Sach foot, plaster socket, direct formed	1,224.84
L5510	Preparatory, below knee, “PTB” type socket, “USMC” or equal pylon, no cover, Sach foot, plaster cover, molded to model	969.62
L5520	Preparatory, below knee, “PTB” type socket, “USMC” or equal pylon, no cover, Sach foot, thermoplastic or equal, direct formed	1,252.59
L5530	Preparatory, below knee, “PTB” type socket, “USMC” or equal pylon, no cover, Sach foot, thermoplastic or equal, molded to model	1,256.38
L5535	Preparatory, below knee, “PTB” type socket, “USMC” or equal pylon, no cover, Sach foot, prefabricated, adjustable open end socket	1,306.05
L5540	Preparatory, below knee, “PTB” type socket, “USMC” or equal pylon, no cover, Sach foot, laminated socket, molded to model	1,269.86
L5560	Preparatory, above knee—knee disarticulation, ischial level socket, “USMC” or equal pylon, no cover, Sach foot, plaster socket, molded to model	1,500.31
L5570	Preparatory, above knee—knee disarticulation, ischial level socket, “USMC” or equal pylon, no cover, Sach foot, thermoplastic or equal, direct formed	1,581.76
L5580	Preparatory, above knee—knee disarticulation, ischial level socket, “USMC” or equal pylon, no cover, Sach foot, thermoplastic or equal, molded to model	1,753.04
L5585	Preparatory, above knee—knee disarticulation, ischial level socket, “USMC” or equal pylon, no cover, Sach foot, prefabricated adjustable open end socket	1,638.70
L5590	Preparatory, above knee—knee disarticulation, ischial level socket, “USMC” or equal pylon, no cover, Sach foot, laminated socket, molded to model	1,608.83
L5595	Preparatory, hip disarticulation—hemipelvectomy, pylon, no cover, Sach foot, thermoplastic or equal, molded to patient model	2,844.43
L5600	Preparatory, hip disarticulation—hemipelvectomy, pylon, no cover, Sach foot, laminated socket, molded to patient model	3,045.18
L5610	Addition to lower extremity, above knee, hydracandence system	1,361.24
L5611	Addition to lower extremity, above knee—knee disarticulation, “OHC” 4-bar linkage, with friction swing phase control	1,037.38
L5613	Addition to lower extremity, above knee—knee disarticulation, “OHC” 4-bar linkage, with hydraulic swing phase control	1,618.35
L5616	Addition to lower extremity, above knee, universal multiplex system, friction swing phase control	925.39
L5618	Addition to lower extremity, test socket, Symes	209.39
L5620	Addition to lower extremity, test socket, below knee	193.07
L5622	Addition to lower extremity, test socket, knee disarticulation	324.49
L5624	Addition to lower extremity, test socket, above knee	304.51
L5626	Addition to lower extremity, test socket, hip disarticulation	371.26
L5628	Addition to lower extremity, test socket, hemipelvectomy	381.54
L5629	Addition to lower extremity, below knee, acrylic socket	297.65
L5630	Addition to lower extremity, Symes type, expandable wall socket	355.27
L5631	Addition to lower extremity, above knee or knee disarticulation, acrylic socket	404.25
L5632	Addition to lower extremity, Symes type, “PTB” brim design socket	180.23
L5634	Addition to lower extremity, Symes type, posterior opening (Canadian) socket	217.05
L5636	Addition to lower extremity, Symes type, medial opening socket	166.63
L5637	Addition to lower extremity, below knee, total contact	219.90
L5638	Addition to lower extremity, below knee, leather socket	338.09
L5639	Addition to lower extremity, below knee, wood socket	831.38
L5640	Addition to lower extremity, knee disarticulation, leather socket	572.60
L5642	Addition to lower extremity, above knee, leather socket	443.84
L5643	Addition to lower extremity, hip disarticulation, flexible inner socket, external frame	1,011.85
L5644	Addition to lower extremity, above knee, wood socket	378.79
L5645	Addition to lower extremity, below knee, flexible inner socket, external frame	490.59
L5646	Addition to lower extremity, below knee, air cushion socket	357.30
L5647	Addition to lower extremity, below knee, suction socket	523.36
L5648	Addition to lower extremity, above knee, air cushion socket	422.90
L5649	Addition to lower extremity, ischial containment/narrow M-L socket	1,413.30
L5650	Addition to lower extremity, total contact, above knee or knee disarticulation socket	477.00
L5651	Addition to lower extremity, above knee, flexible inner socket, external frame	760.91
L5652	Addition to lower extremity, suction suspension, above knee or knee disarticulation, socket	279.79
L5653	Addition to lower extremity, knee disarticulation, expandable wall socket	372.39
L5654	Addition to lower extremity, socket insert, Symes (Kemblo, Pelite, Aliplast, Plastazote or equal)	218.93
L5655	Addition to lower extremity, socket insert, below knee (Kemblo, Pelite, Aliplast, Plastazote or equal)	228.29
L5656	Addition to lower extremity, socket insert, knee disarticulation (Kemblo, Pelite, Aliplast, Plastazote or equal)	281.78
L5658	Addition to lower extremity, socket insert, above knee (Kemblo, Pelite, Aliplast, Plastazote or equal)	245.52
L5660	Addition to lower extremity, socket insert, Symes, silicone gel or equal	407.19
L5661	Addition to lower extremity, socket insert, multi-durometer, Symes	442.77
L5662	Addition to lower extremity, socket insert, below knee, silicone gel or equal	384.40
L5663	Addition to lower extremity, socket insert, knee disarticulation, silicone gel or equal	497.21
L5664	Addition to lower extremity, socket insert, above knee, silicone gel or equal	497.21
L5665	Addition to lower extremity, socket insert, multi-durometer, below knee	330.99
L5666	Addition to lower extremity, below knee, cuff suspension	51.44

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L5668	Addition to lower extremity, below knee, molded distal cushion	77.28
L5670	Addition to lower extremity, below knee, molded supracondylar suspension ("PTS" or similar)	194.85
L5672	Addition to lower extremity, below knee, removable medial brim suspension	241.93
L5674	Addition to lower extremity, below knee, latex sleeve suspension, each	43.05
L5675	Addition to lower extremity, below knee, latex sleeve suspension or equal, heavy duty, each	54.04
L5676	Addition to lower extremity, below knee, knee joints, single axis, pair	219.04
L5677	Addition to lower extremity, below knee, knee joints, polycentric, pair	309.38
L5678	Addition to lower extremity, below knee, joint covers, pair	24.23
L5680	Addition to lower extremity, below knee, thigh lacer, non-molded	229.02
L5682	Addition to lower extremity, below knee, thigh lacer, gluteal/ischial, molded	488.16
L5684	Addition to lower extremity, below knee, fork strap	39.59
L5686	Addition to lower extremity, below knee, back check (extension control)	44.11
L5688	Addition to lower extremity, below knee, waist belt, webbing	55.16
L5690	Addition to lower extremity, below knee, waist belt, padded and lined	69.30
L5692	Addition to lower extremity, above knee, pelvic control belt, light	90.91
L5694	Addition to lower extremity, above knee, pelvic control belt, padded and lined	118.09
L5695	Addition to lower extremity, above knee, pelvic control, sleeve suspension, neoprene or equal, each	130.45
L5696	Addition to lower extremity, above knee or knee disarticulation, pelvic joint	147.87
L5697	Addition to lower extremity, above knee or knee disarticulation, pelvic band	50.65
L5698	Addition to lower extremity, above knee or knee disarticulation, silesian bandage	87.99
L5699	All lower extremity prosthesis, shoulder harness	117.93
L5710	Addition, exoskeletal knee-shin system, single axis, manual lock	229.69
L5711	Addition, exoskeletal knee-shin system, single axis, manual lock, ultra-light material	376.27
L5712	Addition, exoskeletal knee-shin system, single axis, friction swing and stance phase control (safety knee)	304.92
L5714	Addition, exoskeletal knee-shin system, single axis, variable friction swing phase control	351.58
L5716	Addition, exoskeletal knee-shin system, polycentric mechanical stance phase lock	514.95
L5718	Addition, exoskeletal knee-shin system, polycentric friction swing and stance phase control	595.55
L5722	Addition, exoskeletal knee-shin system, single axis, pneumatic swing, friction stance phase control	601.20
L5724	Addition, exoskeletal knee-shin system, single axis, fluid swing phase control	1,195.58
L5726	Addition, exoskeletal knee-shin system, single axis, external joints, fluid swing phase control	1,268.89
L5728	Addition, exoskeletal knee-shin system, single axis, fluid swing and stance phase control	1,980.69
L5780	Addition, exoskeletal knee-shin system, single axis, pneumatic hydropneumatic swing phase control	767.47
L5785	Addition, exoskeletal system, below knee, ultra-light material (Titanium, carbon fiber or equal)	320.90
L5790	Addition, exoskeletal system, above knee, ultra-light material (Titanium, carbon fiber or equal)	451.75
L5795	Addition, exoskeletal system, hip disarticulation, ultra-light material (Titanium, carbon fiber or equal)	642.84
L5810	Addition, endoskeletal knee-shin system, single axis, manual lock	344.91
L5811	Addition, endoskeletal knee-shin system, single axis, manual lock, ultra-light material	457.76
L5812	Addition, endoskeletal knee-shin system, single axis, friction swing and stance phase control (safety knee)	370.46
L5816	Addition, endoskeletal knee-shin system, polycentric, mechanical stance phase lock	535.54
L5818	Addition, endoskeletal knee-shin system, polycentric, friction swing and stance phase control	715.25
L5822	Addition, endoskeletal knee-shin system, single axis, pneumatic swing, friction stance phase control	1,358.75
L5824	Addition, endoskeletal knee-shin system, single axis, fluid swing phase control	1,006.78
L5828	Addition, endoskeletal knee-shin system, single axis, fluid swing and stance phase control	1,996.04
L5830	Addition, endoskeletal knee-shin system, single axis, pneumatic swing phase control	1,397.62
L5850	Addition, endoskeletal system, above knee or hip disarticulation, knee extension assist	86.19
L5910	Addition, endoskeletal system, below knee, alignable system	331.16
L5920	Addition, endoskeletal system, above knee or hip disarticulation, alignable system	326.39
L5940	Addition, endoskeletal system, below knee, ultra-light material (Titanium, carbon fiber or equal)	319.24
L5950	Addition, endoskeletal system, above knee, ultra-light material (Titanium, carbon fiber or equal)	607.51
L5960	Addition, endoskeletal system, hip disarticulation, ultra-light material (Titanium, carbon fiber or equal)	678.32
L5970	All lower extremity prosthesis, foot, external keel, Sach foot	124.87
L5972	All lower extremity prosthesis, flexible keel foot (Safe, Sten, Bock, Dynamic or equal)	225.20
L5974	All lower extremity prosthesis, foot, single axis ankle/foot	149.30
L5976	All lower extremity prosthesis, energy storing foot (Seattle Carbon Copy II or equal)	400.31
L5978	All lower extremity prosthesis, foot, multi-axial ankle/foot (Greissinger or equal)	187.15
L5980	All lower extremity prosthesis, flex foot system	2,828.85
L5982	All exoskeletal lower extremity prosthesis, axial rotation unit	478.23
L5984	All endoskeletal lower extremity prosthesis, axial rotation unit	377.66
L5986	All lower extremity prosthesis, multi-axial rotation unit ("MCP" or equal)	414.95
L6000	Partial hand, Robin-Aids, thumb remaining (or equal)	881.85
L6010	Partial hand, Robin-Aids, little and/or ring finger remaining (or equal)	968.62
L6020	Partial hand, Robin-Aids, no finger remaining (or equal)	890.81
L6050	Wrist disarticulation, molded socket, flexible elbow hinges, triceps pad	1,491.49
L6055	Wrist disarticulation, molded socket with expandable interface, flexible elbow hinges, triceps pad	2,047.43
L6100	Below elbow, molded socket, flexible elbow hinge, triceps pad	1,558.79
L6110	Below elbow, molded socket (Muenster or Northwestern suspension types)	1,928.42
L6120	Below elbow, molded double wall split socket, step-up hinges, half cuff	1,589.40
L6130	Below elbow, molded double wall split socket, stump activated locking hinge, half cuff	1,801.47
L6200	Elbow disarticulation, molded socket, outside locking hinge, forearm	1,871.18
L6205	Elbow disarticulation, molded socket with expandable interface, outside locking hinges, forearm	3,168.40
L6250	Above elbow, molded double wall socket, internal locking elbow, forearm	2,050.61

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L6300	Shoulder disarticulation, molded socket, shoulder bulkhead, humeral section, internal locking elbow, forearm	2,879.35
L6310	Shoulder disarticulation, passive restoration (complete prosthesis)	2,377.99
L6320	Shoulder disarticulation, passive restoration (shoulder cap only)	1,474.39
L6350	Interscapular thoracic, molded socket, shoulder bulkhead, humeral section internal locking elbow, forearm	3,344.81
L6360	Interscapular thoracic, passive restoration (complete prosthesis)	1,958.57
L6370	Interscapular thoracic, passive restoration (shoulder cap only)	1,876.84
L6380	Immediate post surgical or early fitting, application of initial rigid dressing, including fitting, alignment and suspension of components and one cast change, wrist disarticulation or below elbow	914.24
L6382	Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment and suspension of components and one cast change, elbow disarticulation or above elbow	1,154.60
L6384	Immediate post surgical or early fitting, application of initial rigid dressing including fitting, alignment and suspension of components and one cast change, shoulder disarticulation	1,406.05
L6386	Immediate post surgical or early fitting, each additional cast change and realignment	313.90
L6388	Immediate post surgical or early fitting, application of rigid dressing only	273.65
L6400	Below elbow, molded socket, endoskeletal system, including soft prosthetic tissue shaping	1,638.59
L6450	Elbow disarticulation, molded socket, endoskeletal system, including soft prosthetic tissue	1,993.94
L6500	Above elbow, molded socket, endoskeletal system, including soft prosthetic tissue shaping	2,047.91
L6550	Shoulder disarticulation, molded socket, endoskeletal system, including soft prosthetic tissue shaping	2,487.09
L6570	Interscapular thoracic, molded socket, endoskeletal system, including soft prosthetic tissue shaping	2,942.19
L6580	Preparatory, wrist disarticulation or below elbow, single wall plastic socket, friction wrist, flexible elbow hinges, figure of eight harness, humeral cuff, Bowden cable control, USMC or equal pylon, no cover, molded to patient model	1,064.80
L6582	Preparatory, wrist disarticulation or below elbow, single wall socket, friction wrist, flexible elbow hinges, figure of eight harness, humeral cuff, Bowden cable control, USMC or equal pylon, no cover, direct formed	914.24
L6584	Preparatory, elbow disarticulation or below elbow, single wall plastic socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, molded to patient model	1,494.44
L6586	Preparatory, elbow disarticulation or above elbow, single wall socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, direct formed	1,297.97
L6588	Preparatory, shoulder disarticulation or interscapular thoracic, single wall plastic socket, shoulder joint, locking elbow, friction wrist, chest strap, fair lead cable control, USMC or equal pylon, no cover, molded to patient model	2,189.21
L6590	Preparatory, shoulder disarticulation or interscapular thoracic, single wall socket, shoulder joint, locking elbow, friction wrist, chest strap, fair lead cable control, USMC or equal pylon, no cover, direct formed	2,012.22
L6600	Upper extremity additions, polycentric hinge, pair	140.17
L6605	Upper extremity additions, single pivot hinge, pair	159.25
L6610	Upper extremity additions, flexible metal hinge, pair	103.86
L6615	Upper extremity addition, disconnect locking wrist unit	138.56
L6616	Upper extremity addition, additional disconnect insert for locking wrist unit, each	59.40
L6620	Upper extremity addition, flexible-friction wrist unit	288.58
L6623	Upper extremity addition, spring assisted rotational wrist unit with latch release	467.97
L6625	Upper extremity addition, rotation wrist unit with cable lock	321.96
L6628	Upper extremity addition, quick disconnect hook adapter, Otto Bock or equal	321.81
L6629	Upper extremity addition, quick disc lamin collar w/coupling piece, Otto Bock or equal	101.79
L6630	Upper extremity addition, stainless steel, any wrist	142.36
L6632	Upper extremity addition, latex suspension sleeve, each	41.94
L6635	Upper extremity addition, lift assist for elbow	153.57
L6637	Upper extremity addition, nudge control elbow lock	253.99
L6640	Upper extremity additions, shoulder abduction joint, pair	195.19
L6641	Upper extremity addition, excursion amplifier, pulley type	132.56
L6642	Upper extremity addition, excursion amplifier, lever type	190.09
L6645	Upper extremity addition, shoulder flexion-abduction joint, each	206.87
L6650	Upper extremity addition, shoulder universal joint, each	214.36
L6655	Upper extremity addition, standard control cable, extra	47.80
L6660	Upper extremity addition, heavy duty control cable	59.15
L6665	Upper extremity addition, teflon or equal, cable lining	32.96
L6670	Upper extremity addition, hook to hand, cable adapter	43.80
L6672	Upper extremity addition, harness, chest or shoulder, saddle type	142.05
L6675	Upper extremity addition, harness, figure of "8" type, for single control	71.86
L6676	Upper extremity addition, harness, figure of "8" type, for dual control	78.27
L6680	Upper extremity addition, test socket, wrist disarticulation or below elbow	157.50
L6682	Upper extremity addition, test socket, elbow disarticulation or above elbow	192.76
L6684	Upper extremity addition, test socket, shoulder disarticulation or interscapular thoracic	223.60
L6686	Upper extremity addition, suction socket	452.96
L6687	Upper extremity addition, frame type socket, below elbow or wrist disarticulation	356.55
L6688	Upper extremity addition, frame type socket, above elbow or elbow disarticulation	371.44
L6689	Upper extremity addition, frame type socket, shoulder disarticulation	482.14
L6690	Upper extremity addition, frame type socket, interscapular thoracic	490.33
L6691	Upper extremity addition, removable insert, each	301.77
L6692	Upper extremity addition, silicone gel insert or equal, each	364.95
L6700	Terminal device, hook, dorrance, or equal Model #3	325.28
L6705	Terminal device, hook, dorrance, or equal Model #5	196.82

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L6710	Terminal device, hook, dorrance, or equal Model #5X	263.89
L6715	Terminal device, hook, dorrance, or equal Model #5Xa	221.37
L6720	Terminal device, hook, dorrance, or equal Model #6	556.04
L6725	Terminal device, hook, dorrance, or equal Model #7	265.84
L6730	Terminal device, hook, dorrance, or equal Model #7L0	431.23
L6735	Terminal device, hook, dorrance, or equal Model #8	195.72
L6740	Terminal device, hook, dorrance, or equal Model #8X	247.97
L6745	Terminal device, hook, dorrance, or equal Model #88X	226.63
L6750	Terminal device, hook, dorrance, or equal Model #10P	223.39
L6755	Terminal device, hook, dorrance, or equal Model #10X	224.49
L6765	Terminal device, hook, dorrance, or equal Model #12P	233.05
L6770	Terminal device, hook, dorrance, or equal Model #99X	225.85
L6775	Terminal device, hook, dorrance, or equal Model #555	273.03
L6780	Terminal device, hook, dorrance, or equal Model #SS555	308.63
L6790	Terminal device, hook, "ACCU" hook or equal	372.54
L6795	Terminal device, hook "2" load or equal	875.24
L6800	Terminal device, hook—APRL VC or equal	707.35
L6805	Terminal device, modifier, wrist flexion unit	252.08
L6806	Terminal device, hook, TRS grip, VC	1,176.87
L6807	Terminal device, hook, TRS adept, child, VC	895.05
L6808	Terminal device, hook, TRS adept, infant, VC	744.49
L6809	Terminal device, hook, TRS Super Sport, passive	284.88
L6810	Terminal device, hook, pincher tool, Otto Bock or equal	130.35
L6825	Terminal device, hand, dorrance, VO	859.12
L6830	Terminal device, hand, APRL, VC	993.53
L6835	Terminal device, hand, Sierra, VO	869.14
L6840	Terminal device, hand, Becker Imperial	562.76
L6845	Terminal device, hand, Becker Lock Grip	585.60
L6850	Terminal device, hand, Becker Plylite	536.26
L6855	Terminal device, hand, Robin-Aids, VO	553.52
L6860	Terminal device, hand, Robin-Aids, VO soft	514.41
L6865	Terminal device, hand, passive hand	247.26
L6867	Terminal device, hand, Detroit infant hand, (mechanical)	780.11
L6868	Terminal device, hand, Passive infant hand, (Steeper, Hosmer or equal)	162.92
L6870	Terminal device, hand, child mitt	221.05
L6872	Terminal device, hand, NYU child hand	752.69
L6873	Terminal device, hand, mechanical infant hand, Steeper or equal	295.27
L6875	Terminal device, hand, Bock, VC	705.53
L6880	Terminal device, hand, Bock, VO	435.00
L6890	Terminal device, glove for above hands, production glove	125.56
L6895	Terminal device, glove for above hands, custom glove	379.27
L6900	Hand restoration (cast, shading and measurements included), partial hand, with glove, thumb or one finger remaining	1,295.70
L6905	Hand restoration (casts, shading and measurements included), partial hand, with glove, multiple fingers remaining	1,292.16
L6910	Hand restoration (cast, shading and measurements included), partial hand, with glove no fingers remaining	1,122.97
L6915	Hand restoration (shading, and measurements included), replacement glove for above	407.73
L6920	Wrist disarticulation, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal switch, cables, two batteries and one charger, switch control of terminal device	4,877.49
L6925	Wrist disarticulation, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal electrodes, cables, two batteries and one charger, myoelectronic control of terminal	5,479.18
L6930	Below elbow, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal switch, cables, two batteries and one charger, switch control of terminal device	4,499.94
L6935	Below elbow, external power, self-suspended inner socket, removable forearm shell, Otto Bock or equal electrodes, cables, two batteries and one charger, myoelectronic control of terminal device	5,371.69
L6940	Elbow disarticulation, external power, molded inner socket, removable humeral shell, outside locking hinges, forearm, Otto Bock or equal switch, cables, two batteries and one charger, switch	6,343.68
L6945	Elbow disarticulation, external power, molded inner socket, removable humeral shell, outside locking hinges, forearm, Otto Bock or equal electrodes, cables, two batteries and one charger	7,000.80
L6950	Above elbow, external power, molded inner socket, removable humeral shell, internal locking elbow, forearm, Otto Bock or equal switch, cables, two batteries and one charger, switch control of	6,592.75
L6955	Above elbow, external power, molded inner socket removable humeral shell, internal locking elbow, forearm, Otto Bock or equal electrodes, cables, two batteries and one charter, myoelectronic	7,861.37
L6960	Shoulder disarticulation, external power, molded inner socket, removable shoulder shell, should bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal switch, cables, two	8,585.21
L6965	Shoulder disarticulation, external power, molded inner socket, removable shoulder shell, shoulder shell, shoulder bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal	9,850.27
L6970	Interscapular-thoracic, external power, molded inner socket, removable shoulder shell, shoulder bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal switch, cables, two	10,616.81
L6975	Interscapular-thoracic, external power, molded inner socket, removable shoulder shell, shoulder bulkhead, humeral section, mechanical elbow, forearm, Otto Bock or equal electrodes, cables, two	11,783.36
L7010	Electronic hand, Otto Bock, Steeper or equal switch controlled	2,225.07

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L7015	Electronic hand, Systemtechnik, Variety Village or equal switch controlled	4,117.35
L7020	Electronic Greifer, Otto Bock or equal switch controlled	2,556.81
L7025	Electronic hand, Otto Bock or equal, myoelectronically controlled	2,507.23
L7030	Electronic hand, Systemtechnik, Variety Village or equal, myoelectronically controlled	4,255.34
L7035	Electronic Greifer, Otto Bock or equal, myoelectronically controlled	2,468.65
L7040	Prehensile actuator, Hosmer or equal, switch controlled	1,956.78
L7045	Electronic hook, child, Michigan or equal, switch controlled	947.19
L7160	Electronic elbow, Boston or equal, switch controlled	10,781.93
L7165	Electronic elbow, Boston or equal, myoelectronically controlled	12,233.01
L7170	Electronic elbow, Hosmer or equal, switch controlled	3,893.67
L7180	Electronic elbow, Utah or equal, myoelectronically controlled	23,158.53
L7185	Electronic elbow, adolescent, Variety Village or equal, switch controlled	4,178.52
L7186	Electronic elbow, child, Variety Village or equal, switch controlled	6,585.92
L7190	Electronic elbow, adolescent, Variety Village or equal, myoelectronically controlled	5,747.84
L7191	Electronic elbow, child, Variety Village or equal, myoelectronically controlled	6,915.81
L7260	Electronic wrist rotator, Otto Bock or equal	1,625.89
L7261	Electronic wrist rotator, for Utah arm	2,826.48
L7266	Servo control, Steeper or equal	618.60
L7272	Analogue control, UNB or equal	1,496.06
L7274	Proportional control, 12 volt, Utah or equal	4,656.89
L7360	Six volt battery, Otto Bock or equal, each	215.51
L7362	Battery charger, six volt, Otto Bock or equal	183.20
L7364	Twelve volt battery, Utah or equal, each	370.97
L7366	Battery charger, 12 volt, Utah or equal	472.71
L8000	Breast prosthesis, mastectomy bra	23.24
L8010	Breast prosthesis, mastectomy sleeve	59.82
L8020	Breast prosthesis, mastectomy form	169.82
L8030	Breast prosthesis, silicone or equal	200.15
L8300	Truss, single with standard pad	58.20
L8310	Truss, double with standard pads	119.68
L8320	Truss, addition to standard pad, water pad	36.38
L8330	Truss, addition to standard pad, scrotal pad	32.71
L8400	Prosthetic sheath, below knee, each	15.37
L8410	Prosthetic sheath, above knee, each	15.52
L8415	Prosthetic sheath, upper limb, each	15.28
L8420	Prosthetic sock, wool, below knee, each	17.40
L8430	Prosthetic sock, wool, above knee, each	18.76
L8435	Prosthetic sock, wool, upper limb, each	13.73
L8440	Prosthetic shrinker, below knee, each	37.82
L8460	Prosthetic shrinker, above knee, each	47.66
L8465	Prosthetic shrinker, upper limb, each	40.26
L8470	Stump sock, single ply, fitting, below knee, each	4.64
L8480	Stump sock, single ply, fitting, above knee, each	5.86
L8500	Artificial larynx, any type	596.58
L8501	Tracheostomy speaking valve	72.92
L8600	Implantable breast prosthesis, silicone or equal	245.90
L8605	Other prosthetic procedures-devices: tissue expander	305.06
L8610	OPPD: ocular	426.64
L8613	OPPD: ossicula	222.38
L8615	OPPD: temporomandibular joint	188.17
L8620	OPPD: radial head	179.61
L8622	OPPD: proximal ulna/radius	192.44
L8623	OPPD: distal ulna	192.44
L8624	OPPD: distal radius	205.27
L8625	OPPD: trapezium	179.61
L8626	OPPD: wrist	491.80
L8627	OPPD: lunate	325.02
L8628	OPPD: carpus	179.61
L8629	OPPD: scaphoid	179.61
L8630	OPPD: metacarpophalangeal joint	192.44
L8640	OPPD: patella	102.00
L8641	OPPD: metatarsal joint	179.61
L8642	OPPD: haliux implant	179.61
L8655	OPPD: flexor tendon in hand or finger	102.64
L8656	OPPD: extensor tendon in hand or finger	102.64
L8657	OPPD: tendon other than hand or finger	102.64
L8658	OPPD: interphalangeal joint	188.17
L8690	OPPD: testicle	149.68

CODES BEGINNING WITH "Q" THRU "V"

HCPCS CODE	DESCRIPTION	FEE FOR NEW EQPT	MONTHLY RENTAL FEE
Q0036	Oxygen concentrator high humidity	—	296.10
Q0038	Oxygen contents, gaseous, per unit (for use with owned gaseous stationary systems or when both a stationary and portable gaseous system are owned; 1 unit = 50 cubic feet)	204.80	—
Q0039	Oxygen contents, liquid, per unit (for use with owned stationary liquid systems or when both a stationary and portable liquid system are owned; 1 unit = 10 lbs.)	204.80	—
Q0040	Portable oxygen contents, gaseous per unit (for use only with portable gaseous systems when no stationary gas system is used; 1 unit = 5 cubic ft.)	30.81	—
Q0041	Portable oxygen contents, liquid, per unit (for use with portable liquid systems when no stationary liquid system is used; 1 unit = 1 lb.)	30.81	—
Q0042	Stationary compressed gas system rental, includes contents (per unit), regulator with flow gauge, humidifier, nebulizer, cannula or mask and tubing, 1 unit = 50 cubic ft.	—	296.10
Q0043	Stationary liquid oxygen system rental, includes content (per unit), use of reservoir, contents indicator, flowmeter, humidifier, nebulizer, cannula or mask and tubing; 1 unit of contents = 10 lbs.	—	296.10
Q0046	Portable liquid oxygen system rental, includes flowmeter, refill adapter, contents gauge, cannula and tubing	—	54.99
V2620	Prosthetic, eye, glass, stock	304.96	—
V2621	Prosthetic, eye, plastic, stock	293.40	—
V2622	Prosthetic, eye, glass, custom	671.89	—
V2623	Prosthetic, eye, plastic, custom	671.89	—

LABOR

(a)

DIVISION OF PROGRAMS

Temporary Disability Benefits

Proposed Redoption with Amendments: N.J.A.C. 12:18

Authorized By: Raymond L. Bramucci, Commissioner, Department of Labor.

Authority: N.J.S.A. 43:21-25 et seq.

Proposal Number: PRN 1992-536.

Submit written comments by February 18, 1993 to:

Linda Flores
 Special Assistant for External and Regulatory Affairs
 Office of the Commissioner
 Department of Labor
 CN 110
 Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

Pursuant to Executive Order Number 66(1978), N.J.A.C. 12:18, Temporary Disability Benefits, expires on March 7, 1993. The Division of Programs, Department of Labor, has reviewed these rules and, with the exception of the following amendments, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order.

N.J.A.C. 12:18-1.1 is the definitions section which defines the significant terms used in the chapter.

N.J.A.C. 12:18-1.2 through 1.4 describe both the procedure for the application for exemption and the service of papers and the standard governing the reimbursement of funds.

N.J.A.C. 12:18-2 addresses the administration of Private Plan Disability Benefits. N.J.A.C. 12:18-2.1 through 2.4 describe the extent of coverage, benefits, proof of coverage and choice of doctors.

One of the requirements for a person to be eligible for temporary disability benefits under the Temporary Disability Benefits Law, N.J.S.A. 43:21-25 et seq., is that the person be under the care of a legally licensed physician, dentist, optometrist or chiropractor who, when requested by the Division, must certify within the scope of the practitioner's practice, the disability of the claimant. Licensed practicing podiatrists and psychologists were added by statute to the list of healthcare professionals who are permitted to certify a disability for purposes of the law. Accordingly, N.J.A.C. 12:18-2.4, Choice of doctor, was expanded to include licensed podiatrists and psychologists as required by these amendments.

N.J.A.C. 12:18-2.5 prohibits the administration or application of the plan so as to derive a profit therefrom. Appeals from private plan determinations, applications for approval of private plans and minimum private plan requirements are discussed at N.J.A.C. 12:18-2.6 through 2.9. N.J.A.C. 12:18-2.10 through 2.21 address concurrent coverage, employee consent and evidence thereof, standards for the certification of approval of private plans and the withdrawal of approval.

N.J.A.C. 12:18-2.22 through 2.26 deal with insurer liability, security requirements, exchange of information, reporting requirements, assessment of administrative costs, liability of successor employers, continuation of plan on successor employers, and the scope and application of hearing provisions.

N.J.S.A. 43:21-41(d), Requirements for entitlement, was amended to increase the requirements for entitlement to benefits for periods of disability beginning on or after October 1, 1984 to 20 base weeks or 12 times the Statewide average weekly wages. The Temporary Disability Benefits Law was also amended to modify the definition of "base week" with respect to periods of disability beginning on or after October 1, 1985 to mean any calendar week during which an individual earned remuneration equal to not less than 20 percent of the Statewide average weekly remuneration. N.J.A.C. 12:18-2.27 reflects these statutory amendments as they relate to minimum earnings eligibility requirements for Temporary Disability Benefits.

N.J.A.C. 12:18-2.43 through 2.48 provide for the conduct of hearings, including the statutory amendments to N.J.S.A. 43:21-17 and 50, which permit non-attorneys to represent parties involved in private plan hearings, as well as the rules governing the issuance of decisions and judicial review of same, the inspection of records and the issuance of subpoenas. N.J.A.C. 12:18-2.43 has been repealed and replaced by a new rule on the conduct of hearings referencing the applicable Administrative Procedure Act and Uniform Administrative Rules, and providing for non-attorney representation. N.J.A.C. 12:18-2.48 has been modified to increase the reimbursement rate for mileage which will be paid to witnesses testifying at private plan hearings. This increased rate reflects the present mileage reimbursement rate allowed by the State of New Jersey.

N.J.A.C. 12:18-3.1 describes the administration of the State Plan Disability Benefits Program, including coverage, notice and proof of disability, claims filing, reduction of benefits, concurrent coverage, notice, and appeals. N.J.A.C. 12:18-3.2 providing for impartial examinations and certification of disability by licensed healthcare professionals was amended to include licensed podiatrists and psychologists to reflect the statutory amendments discussed above. In addition, the fee for such examinations was increased from \$25.00 to \$75.00.

Social Impact

The chapter establishes the Temporary Disability Benefits Program which provides for financial assistance to individuals who are not working due to illness and/or accidental injuries which are non-work related. This

program has a tremendous positive social impact as it provides security for individuals who are unemployed during periods of illness.

N.J.A.C. 12:18-1.1 and 2.4 were amended to reflect an amendment of the statute which adds licensed podiatrists and psychologists to the list of healthcare professionals who are permitted to certify a disability for the purposes of the Temporary Disability Benefit Law. The addition benefits claimants by expanding the pool of healthcare professionals available to them under the statute.

N.J.A.C. 12:18-2.27 was changed to reflect a statutory amendment which specifies the earnings requirements for benefit entitlement and indexes the earnings requirements, expressed as a percentage of the Statewide average weekly wage. An alternative earnings test (previously \$2,200.00 in covered wages) is also indexed at 12 times the Statewide average weekly wage. This has a positive effect in that annual statutory amendments are not necessary to reflect increases in the Statewide average weekly wage.

N.J.A.C. 12:18-2.43 reflects an amendment to the statute which broadens the scope of individuals who are permitted to represent parties at hearings before the Division. The amendment now permits non-attorneys to represent claimants and employers at such hearings, thereby providing greater flexibility to the claimants when making this determination.

N.J.A.C. 12:18-2.48, which increases the mileage rate for reimbursement of travel expenses incurred by witnesses testifying at hearings, was amended for conformance with the rate presently paid by the State for mileage. The change assures uniformity and consistency among the various programs administered by the State.

N.J.A.C. 12:18-3.2(g), sets forth the fee for impartial examinations by licensed healthcare professionals. The fee was increased from \$25.00 to \$75.00 to provide for a fair and equitable payment for services rendered by these professionals. This change will benefit claimants since it will expand the pool of licensed healthcare professionals willing to perform the requisite examination. In addition, the increased fee will conform to the fee for examinations allowed in other programs administered by the State, such as vocational rehabilitation, social security, etc. The increase, therefore, assures uniformity and consistency in State policy.

Economic Impact

The proposed readoption will have a positive effect on employees since they will be assured of the existence of a program that provides financial assistance in times of economic hardship. Employers are required to pay temporary disability contributions for their employees to receive these benefits, and to keep employee records and provide certain employee information to the Department and claimants concerning disability benefit claims.

The amendment to N.J.A.C. 12:18-2.27 reflects the statutory amendment which specifies the earnings requirements for benefit entitlement. To be entitled to benefits, a claimant must have 20 base weeks in which he or she earned 20 percent of the Statewide average weekly wage or, in the alternative, must earn 12 times the Statewide average weekly wage. This rule relates to N.J.A.C. 12:15 which is amended annually to provide for earnings requirements which are indexed and expressed as a percentage of the Statewide average weekly wage. The indexing of the requirements has the positive effect of avoiding annual amendments to the rules.

The amendment to N.J.A.C. 12:18-2.43 permitting non-attorneys to represent parties at hearings will have a positive economic impact on the public since individuals are granted more flexibility in choosing professional services, thereby potentially resulting in economic savings.

The amendment to N.J.A.C. 12:18-2.48 increasing the mileage reimbursement rate for witnesses testifying at private plan hearings will have no economic impact on the trust fund since the number of hearings being conducted is miniscule. Accordingly, no increases in the contribution rate are envisioned.

The amendment to N.J.A.C. 12:18-3.2(g) which increases the fee for impartial examinations from \$25.00 to \$75.00 will not have any economic impact on the claimant or employer since this fee is paid out of administrative funds. Moreover, the number of these examinations is miniscule; therefore, no economic impact to the trust fund is projected. In addition, the increased fee is expected to result in greater numbers of properly performed examinations which, in turn, will result in improved healthcare and economic savings in the future.

Regulatory Flexibility Analysis

The proposed readoption with amendments does impose some recordkeeping, reporting and compliance requirements on businesses, some of which are defined as small businesses pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-1 et seq. Specifically, employers are

required to keep employee records and to provide certain employee information to the Department and claimants concerning disability benefit claims, with costs attendant to these requirements. It is necessary to apply these requirements to all employers, regardless of size, to ensure the overall effectiveness and success of the Temporary Disability Benefits Program.

The Department does not believe that employers will have to enlist the services of outside professionals in order to comply with the rules.

The proposed readoption does not impose any requirements on employers which are not already in effect under the current rules.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:18.

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

12:18-1.1 Definitions

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

...

"Claimant's authorized representative" means an individual who represents or acts in behalf of a claimant who is incapable of fulfilling the requirements of filing claims for disability benefits, and who is so authorized by a power of attorney or other authorization satisfactory to the Division. Such authorized representative must file with the Division, on a form prescribed by the Director, a duly sworn affidavit that the claimant, according to information received from the claimant's **licensed** physician, dentist, [chiropracist or] chiropractor, **podiatrist or psychologist** is incapable of making a claim for disability benefits and that he assumes the responsibility of acting on behalf of such claimant in accordance with the Act and this Chapter.

"Director" means the Director of the Division of Employment Security in the Department of Labor [and Industry].

...

12:18-2.4 Choice of doctor

An employee covered under a private plan shall have the right to choose his own attending **licensed** physician, dentist, [chiropracist or] chiropractor, **podiatrist or psychologist**, but he may be required to submit, not more often than once a week, to an examination by a **licensed** physician, dentist, [chiropracist or] chiropractor, **podiatrist or psychologist** designated by the employer, insurer, or organization paying benefits.

12:18-2.27 Exchange of information

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

(d) If the private plan of an employer provides as a condition of eligibility for benefits with respect to a period of disability commencing on or after January 1, 1953, that an otherwise eligible employee shall have established at least [17] **20** or a lesser number of base weeks within the 52 calendar weeks preceding the week in which his period of disability commenced and the employee has not established such base weeks from his employment with the employer, then the insurer which has undertaken to pay the benefits provided by the plan shall request the Division to provide each payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

1. Name, address and social security number of the employee;
2. Date on which the disability commenced;
3. The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of not less than [\$15.00] **20 percent of the Statewide average weekly wage** immediately preceding his disability, as may be necessary to determine the required number of base weeks;
4. The number of calendar weeks in the 52 calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than [\$15.00] **20 percent of the Statewide average weekly wage** from the employer.

(e) If the private plan of an employer provides, with respect to periods of disability commencing before January 1, 1968, that the maximum total benefits payable to any eligible employee in any 12-month period may be computed as an amount equal to 3/4 of the employee's base weeks occurring in the 52 consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced multiplied by the employee's weekly benefit amount and it appears that such provision will be applicable with respect to any period of disability because the employee has not established a sufficient number of base weeks from his employment with the employer to provide total benefits at least equal to 26 times his weekly benefit amount, then the insurer which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

1. Name, address and social security number of the employee;
2. Date on which the disability commenced;
3. The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of not less than [\$15.00] **20 percent of the Statewide average weekly wage** immediately preceding his disability, as may be necessary to determine the required number of base weeks;
4. The number of calendar weeks in the 52 consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than [\$15.00] **20 percent of the Statewide average weekly wage** from the employer.

(f) (No change.)

12:18-2.40 Time of filing

Any complaint shall be deemed filed on the day it is delivered to the Office of the Disability Insurance Service, Labor [and Industry] Building, CN 957, John Fitch Plaza, Trenton, New Jersey 08625-0957, or if mailed, the complaint shall be deemed filed on the postmarked date appearing on the envelope in which the complaint is mailed; provided, postage is prepaid and the envelope is properly addressed.

12:18-2.43 Conduct of hearings

[(a) The hearing before the hearing officer shall be conducted in such order and manner as may provide a fair and impartial hearing to ascertain the facts and determine the rights of the parties.

(b) At such hearing, evidence exclusive of *ex parte* affidavits, may be produced by any party, but the hearing officer shall not be bound by the rules of evidence.

(c) The hearing officer shall open the hearing by ascertaining the facts and summarizing the issues involved on the record.

(d) Any individual may appear for himself or any party may be represented by an attorney at law of the State of New Jersey. Appearances for and on behalf of any party other than the Division at formal hearings on any proceeding subject to judicial review shall be limited to an attorney at law of the State of New Jersey.

(e) Any individual who is a party, or any attorney representing a party, may examine or cross-examine witnesses, inspect documents and explain or rebut any evidence. The hearing officer may examine each party or witness to such extent as he deems necessary.

(f) Any number of proceedings before the hearing officer may be consolidated for the purpose of hearing when the facts and circumstances are similar in nature and the rights of any party will not be prejudiced thereby. Notice of such consolidation shall be given to the parties or their representatives.

(g) All testimony at any hearing shall be under oath or affirmation and recorded, but need not be transcribed unless the order on the disputed claim is to be reviewed.

(h) The hearing officer may take additional evidence if he deems it necessary, provided the parties shall be given proper notice of the time and place of hearing.

(i) The parties may stipulate the facts and issues involved and based thereon the hearing officer may make a determination and an order disposing of the issues which shall be final and binding.]

(a) **The hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and Uniform Administrative Procedure Rules, N.J.A.C. 1:1.**

(b) **Any individual may appear for himself or herself or any party will be represented by an attorney or non-attorney pursuant to N.J.S.A. 43:21-17.**

12:18-2.48 Issuance of subpoenas

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

(c) Witness fees at the rate of \$1.00 for each day of attendance upon a hearing in response to a subpoena to testify and mileage at the rate of [\$0.10] **\$0.25** per mile from the residence of the witness to the place of hearing and return, shall be paid upon presentation of a voucher signed by the individual entitled thereto and properly certified by the hearing officer before whom the individual appeared as a witness.

(d) Witness fees at the rate of \$2.00 for each day of attendance upon a hearing in response to a subpoena *duces tecum* and mileage at the rate of [\$0.10] **\$0.25** per mile from the residence of the witness to the place of the hearing and return, shall be paid upon presentation of a voucher signed by the individual entitled thereto and properly certified by the hearing officer before whom the individual appeared as a witness.

SUBCHAPTER 3. STATE PLAN

12:18-3.1 Extent of coverage

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

(f) If a claimant shall refuse to submit to a physical examination by a **licensed** physician, dentist, podiatrist [or], chiropractor, or **psychologist** designated by the Commissioner of Labor [and Industry] or his designee, the claimant shall be disqualified from receiving all benefits for the period of disability in question, except as to benefits already paid.

(g) If a physical examination of a claimant is required, the Commissioner of Labor [and Industry] or his designee shall authorize such examination to be made by a legally-licensed physician, dentist, podiatrist [or], chiropractor, or **psychologist**. Upon submission of a written report of the examination to the Department of Labor [and Industry], a fee not exceeding [\$25.00] **\$75.00** for each such examination shall be paid to the examining physician, dentist, podiatrist [or], chiropractor or **psychologist** which fee shall be charged to the administration account. In cases requiring the services of a specialist or a diplomate, or in cases requiring clinical tests supporting a diagnosis, the Commissioner of Labor [and Industry] or his designee shall, in his discretion, authorize such services or tests, the fees to be fixed in advance, not to exceed the fees professionally established for such services or tests by the appropriate state or county organization, whichever is the lesser.

12:18-3.2 Notice and proof of disability

(a) (No change.)

(b) Proof of disability on which a claim for benefits under the State plan is based shall be furnished by any claimant who expects to be or has been totally unable to perform the duties of his employment for a period of eight or more consecutive days and is under the care of a legally licensed physician, dentist, **podiatrist**, **chiropractor** or [chiropracist] **psychologist**. A claimant's authorized representative may furnish proof of disability and file a claim for benefits on behalf of the claimant. The proof and claim accompanied by a certification of the attending physician, dentist, **podiatrist**, **chiropractor**, or [chiropracist] **psychologist**, shall be furnished to the Division, on Form DS-1 (Proof and Claim for Disability Benefits) not later than 30 days after the commencement of the period of disability for which benefits are claimed. "Supplemental Proof and Claim for Disability Benefits" (Form DS-7B) shall be filed as proof of continued disability, when requested by the Division.

(c) (No change.)

12:18-3.3 Filing of claims for benefits

(a) (No change.)

(b) Disability benefits shall be payable to any claimant while outside of this State, provided he complies with the Act and this [Subchapter] **subchapter**. In such case, the attending physician, den-

tist, [or chiroprapist] **chiropractor, podiatrist or psychologist** shall be licensed under the law applicable to the place where the claimant is receiving treatment.

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF MEDICAL EXAMINERS

Athletic Trainers Registration Requirements

General Rules of Conduct

Proposed New Rules: N.J.A.C. 13:35-10

Authorized By: New Jersey State Board of Medical Examiners,

Michael B. Grossman, President.

Authority: N.J.S.A. 45:9-37.38.

Proposal Number: PRN 1993-20.

Submit written comments by February 18, 1993 to:

Charles Janousek, Executive Director

State Board of Medical Examiners, Room 914

28 W. State Street

Trenton, New Jersey 08608

The agency proposal follows:

Summary

The State Board of Medical Examiners is proposing to adopt new rules to govern the practice of athletic trainers within New Jersey. The proposed rules define eligibility and educational requirements for registration and clarify which activities a registered athletic trainer may perform independently and which activities require the direction of a licensed physician. Examination requirements are also set forth. With the adoption of these rules the Board of Medical Examiners hopes to provide guidance to practicing athletic trainers as to the allowable scope of practice and the specific standards that must be attained in order to be registered.

Social Impact

These proposed new rules establish parameters within which registered athletic trainers may practice. By creating more definite guidelines as to independent and physician-directed activities, the rules will impact beneficially on those individuals, scholastic and professional, who use the services of athletic trainers.

Economic Impact

The proposed new rules should have no economic impact on any individuals or organizations within the State since no additional costs are imposed beyond those implicit in the education and examination requirements already mandated by statute. The fees mentioned in N.J.A.C. 13:35-6.13(a)8 have been in effect for a number of years as part of the Board of Medical Examiners' fee schedule.

Regulatory Flexibility Statement

Of the approximately 250 athletic trainers currently practicing athletic training within the State of New Jersey, as individuals none qualify as "small businesses" for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Thus, a regulatory flexibility analysis is not required because these proposed new rules impose no reporting, recordkeeping or other compliance requirements on small businesses.

Full text of the proposed new rules follows.

SUBCHAPTER 10. ATHLETIC TRAINERS

13:35-10.1 Scope and purpose

(a) This subchapter is promulgated by the New Jersey State Board of Medical Examiners, pursuant to N.J.S.A. 45:9-37.35 et seq., providing for the registration and regulation of athletic trainers within the State of New Jersey.

(b) The rules contained in this subchapter shall apply to all individuals currently practicing as athletic trainers, as well as those individuals studying to become athletic trainers within this State. The rules are designed to better define the allowable activities, professional standards, and the educational requirements of athletic trainers.

13:35-10.2 Definitions

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

"Advisory Committee" means the Athletic Training Advisory Committee established under N.J.S.A. 45:9-37.39.

"Athlete" means an individual who participates in an interscholastic, intercollegiate or intramural athletic activity being conducted by an educational institution licensed in the State of New Jersey or a professional athletic activity.

"Athletic trainer" means a person who practices athletic training as an employee of a school, college, university or professional athletic team.

"Athletic training" means the practice of physical conditioning and reconditioning of athletes and the prevention of injuries incurred by athletes. Athletic training shall also include, at the direction of a physician licensed in the State of New Jersey, the application of physical treatment modalities to athletes as recommended by the Advisory Committee and defined in N.J.A.C. 13:35-10.6(c).

"Board" means the State Board of Medical Examiners.

"Direction of a licensed physician" means the designing and overseeing of a plan of care for the athlete by the physician or chiropractor.

"Professional athletic team" means any team, group or individual athlete paid to perform at athletic events and activities.

13:35-10.3 Education standards

The requirement of N.J.S.A. 45:9-37.42 that an athletic trainer must provide proof of graduation or successful completion of a program of education, training, and experience approved by the Board shall be defined as the curriculum or program of education, training, and experience which was approved during the entire course of the applicant's education, training, and experience by the National Athletic Trainers Association.

13:35-10.4 Examinations

The requirement of N.J.S.A. 45:9-37.43 that an athletic trainer must pass an examination approved by the Board shall be deemed to have been met by evidence of passing the examination administered by the National Athletic Trainers Association. The Advisory Committee, in its discretion and with prior approval of the Board, may develop and administer an alternative examination, testing the applicant's knowledge in the areas outlined in N.J.S.A. 45:9-37.43.

13:35-10.5 (Reserved)

13:35-10.6 Approved activities

(a) A registered athletic trainer may provide the full spectrum of pre-season, in-season and post-season conditioning programs. These programs include, but are not limited to, maintenance and reconditioning programs, as well as bandaging, wrapping, taping, padding, and splinting procedures for the prevention and management of injuries.

(b) Nothing in this subchapter shall be interpreted to prohibit registered athletic trainers from providing first-aid, including first-aid for wound care.

(c) A registered athletic trainer may, at the direction of a licensed physician as provided in N.J.A.C. 13:35-10.2, administer the following physical treatment modalities:

1. Cold;

2. Heat;

3. Light;

4. Sound;

5. Electricity;

6. Electromagnetic waves;

7. Water; and

8. Traditional mobilization techniques, rehabilitative exercise programs, traction, and massage.

(d) A registered athletic trainer may, at the direction of a licensed physician as provided in N.J.A.C. 13:35-10.2, provide testing of neuromotor and musculoskeletal functional capability for the purposes of conditioning, reconditioning or otherwise evaluating the athlete's performance capability. However, nothing in this

subchapter shall be interpreted to permit a registered athletic trainer to conduct electromyographic testing or nerve conduction velocity studies.

(e) A registered athletic trainer shall establish a written plan of care under the direction of a licensed New Jersey physician, as to the use of the modalities and tests enumerated in (c) and (d) above. A written record for an injured athlete shall be created by the athletic trainer and maintained for a period of seven years from the date of the last entry.

(f) Nothing in this subchapter shall be interpreted to prohibit registered athletic trainers from being employed or performing activities which do not require licensure or registration provided they do not hold themselves out as being able to perform athletic training in that employment or performance.

(g) Nothing in this section shall be interpreted to prohibit unregistered individuals from applying bandaging, wrapping, taping, padding or splinting techniques to an athlete.

13:35-10.7 Violations

Without limiting the prosecution of any practices which may be unlawful under any other state or Federal law, a violation of this subchapter shall be deemed to be a violation of the Athletic Training Practice Act, N.J.S.A. 45:37-35 et seq., and shall be subject to the sanctions and penalties provided for thereunder.

13:35-10.8 Fees

The fee schedule for athletic trainers is determined by the Board and appears at N.J.A.C. 13:35-6.13(a)8.

(a)

STATE BOARD OF PHARMACY

Patient Profile Record System

Proposed Amendments: N.J.A.C. 13:39-7.14

Authorized By: Board of Pharmacy, H. Lee Gladstein, Executive Director.

Authority: N.J.S.A. 45:14-26.2.

Proposal Number: PRN 1993-31.

Submit written comments by February 18, 1993 to:

H. Lee Gladstein, Executive Director
State Board of Pharmacy
Post Office Box 45013
Newark, New Jersey 07101

The agency proposal follows:

Summary

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-58, "OBRA 90"), which was signed into law on November 5, 1990, amended the 1965 Medicaid law to condition Federal Medicaid payments for outpatient drugs on, among other requirements, the implementation of state requirements for pharmacist counseling of individuals receiving Medicaid benefits. The Board has reviewed its rules and determined that the standards set forth in N.J.A.C. 13:39-7.14 for a patient profile record system (PPRS), which include standards for patient counseling, are generally consistent with OBRA 90 requirements for patient counseling, but that some amendments and clarification are necessary, as more specifically outlined below.

1. Subsection (b) has been amended to require the pharmacist to record additional information in the PPRS, as required by OBRA 90: the patient's telephone number and gender and the pharmacist's comments relevant to the patient's drug therapy. The Board notes that although subsection (c) requires the pharmacist to record allergies, idiosyncrasies and chronic conditions which may relate to drug utilization, the proposed amendment to subsection (b) requires the pharmacist to include within the PPRS a broader category of information, such as a patient's inability to swallow pills.

2. In subsection (c), the phrase "chronic conditions" has been changed to "medical conditions" for clarification and to more closely track the language used in OBRA 90.

3. Subsection (e)1 has been amended to mandate patient counseling; under the present rule counseling is left to the pharmacist's discretion. Consistent with a September 23, 1992 policy statement of the Health

Care Financing Administration, the regulatory agency responsible for implementing the provisions of OBRA 90, amendments to this subsection clarify that patient counseling may be performed only by a pharmacist, although ancillary personnel may extend the offer to receive counseling if the pharmacist chooses not to make an offer directly. Amendments to subsection (e)1 also reflect the patient's right to refuse counseling.

In order to ensure a consistent level of care for all patients, the proposed amendments will not be limited to individuals receiving Medicaid benefits but will apply to all patients.

Social Impact

The proposed amendments will ensure Board compliance with OBRA 90 requirements for patient counseling and will have a positive impact on patient care. Together with existing patient profile record system requirements, the amendments will promote high practice standards for all pharmacists. Pharmacist involvement in the delivery of pharmaceutical care assures that each patient's drug therapy meets that patient's unique needs; enables the pharmacist to detect potential problems with drug therapy and help prevent drug-related health problems; and enables the patient to make informed decisions regarding the risks of drug therapy.

Economic Impact

The proposed amendments to subsection (b) will require the inclusion of a limited amount of additional information in the patient profile record system. Inclusion of this supplementary information should require only a few additional moments of the pharmacist's time and accordingly should result in little, if any, economic impact upon the pharmacist.

The proposed amendment to subsection (c) is for clarification only and accordingly will create no economic impact upon licensees.

Because the proposed amendments to subsection (e) will require mandatory rather than discretionary patient counseling, pharmacists may be required to expend more time counseling patients. The amount of additional time necessary will vary depending upon the individual's prior practices with regard to counseling. The Board believes, however, that any adverse economic impact upon pharmacists as a result of this requirement will be more than outweighed by the benefits to patients who receive counseling as well as to the general public. High quality patient care not only protects the patient's health and safety but serves to contain health care costs by helping avoid adverse outcomes from drug therapy.

Regulatory Flexibility Analysis

If, for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., individual practicing pharmacists are deemed to be "small businesses" within the meaning of the Act, the following analysis applies:

The Board currently licenses approximately 11,000 pharmacists, and the proposed amendments would apply to all Board licensees. The proposed amendment to subsection (b) imposes an additional recordkeeping requirement upon licensees, who will be required to include additional information in the patient profile record system. As stated, compliance costs relating to the expenditure of additional pharmacist time in recording this information are expected to be insignificant.

No compliance or other requirements are imposed as a result of the proposed clarifying amendment to subsection (c).

Compliance with the proposed amendment to subsection (e), which mandates patient counseling, is likely to result in the expenditure of additional time on the part of some pharmacists and ancillary personnel. The Board cannot estimate with any certainty the initial or annual costs of compliance, as these costs will vary depending upon each pharmacist's current practice with regard to patient counseling. Professional services required for compliance may include the services of additional personnel to provide patient counseling. As stated, the Board believes any adverse economic impact upon licensees will be more than outweighed by the social and economic benefits to the patient and to the general public, as outlined above. Since the intent of the amendments is to comply with Federal requirements as well as to provide high quality care for all patients, no exemption for any small business is possible.

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

13:39-7.14 Patient profile record system

(a) (No change.)

(b) The following information shall be recorded in the PPRS:

1. (No change.)

2. The address and telephone number of the patient;

3. Indication of the patient's age, birth date or age group (infant, child, adult) and gender;

4.-5. (No change.)

6. The prescriber's name; [and]

7. The name, strength and quantity of the drug dispensed[.]; and

8. Pharmacist comments relevant to the patient's drug therapy.

(c) The pharmacist shall attempt to ascertain and shall record any allergies and idiosyncrasies of the patient and any [chronic] medical conditions which may relate to drug utilization, as communicated to the pharmacist by the patient.

1. If there are no patient allergies, idiosyncrasies or [chronic] medical conditions which may relate to drug utilization, the pharmacist shall so indicate on the patient profile record system.

(d) (No change.)

(e) Upon receipt of a new or refill prescription, a pharmacist shall examine the patient's profile record either in a manual or electronic data processing system before dispensing the medication, to determine the possibility of a harmful drug interaction, reaction or misutilization of the prescription. Upon determining a harmful drug interaction, reaction or misutilization, the pharmacist shall take the appropriate action to avoid or minimize the problem, which shall, if necessary, include consultation with the patient and/or the physician.

1. Upon receipt of a new prescription [for a drug which has not been previously dispensed to a patient], the pharmacist shall [determine if the patient requires additional information or consultation to support the prescriber's instructions, and if so, proceed appropriately] make reasonable efforts to counsel the patient or caregiver. The offer to counsel may be made by ancillary personnel. However, the responsibility of counseling shall remain with the pharmacist. A pharmacist shall not be required to counsel a patient or caregiver when the patient or caregiver refuses such consultation.

2.-5. (No change.)

(f)-(j) (No change.)

(a)

STATE BOARD OF REAL ESTATE APPRAISERS

Apprentice Program

Proposed New Rules: N.J.A.C. 13:40A-7

Proposed Amendment: N.J.A.C. 13:40A-6.1

Authorized By: State Board of Real Estate Appraisers,

Kevin Earle, Executive Director.

Authority: N.J.S.A. 45:14F-8(n).

Proposal Number: PRN 1993-32.

Submit written comments by February 18, 1993 to:

Kevin Earle, Executive Director
State Board of Real Estate Appraisers
Post Office Box 45032
Newark, New Jersey 07101

The agency proposal follows:

Summary

The Real Estate Appraisers Act, P.L.1991, c.68 ("the Act"), mandated the Board of Real Estate Appraisers to establish licensing standards which meet standards acceptable to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, as created by section 1102 of Title XI of Publ. L. 101-73 (12 U.S.C. section 3310), and certification standards consistent with standards established by the Appraisal Foundation, a not-for-profit corporation established on November 30, 1987 by several professional appraisal organizations to enhance the quality of professional appraisals. See N.J.S.A. 45:14F-8(h). In accordance with the Act, the Board adopted rules requiring applicants to furnish documentation demonstrating that the applicant had accumulated at least 2,000 hours of appraisal experience gained in not less than two nor more than four years. See N.J.A.C. 13:40A-2.4 and 3.4.

Since promulgation of these rules on December 16, 1991, the Board has received approximately 200 inquiries from individuals seeking to enter the appraisal field concerning the conditions under which the

required experience may be obtained. Although the Appraisal Standards Board of the Appraisal Foundation has issued an advisory letter which has been helpful in relieving some confusion in the appraisal community on this issue, the Board believes more specific criteria for training are necessary.

Accordingly, the Board is proposing new rules, set forth at N.J.A.C. 13:40A-7, to establish a voluntary appraiser apprentice program. The rules define conditions under which appraisal experience may be obtained and the method by which appraisal experience may be documented. Participation in the apprentice program is not a prerequisite for certification or licensure. However, individuals who do not participate in the program must submit substantially similar documentation when making application for certification or licensure.

N.J.A.C. 13:40A-7.1 sets forth the purpose and scope of the proposed rules. N.J.A.C. 13:40A-7.2 lists application requirements which include certain basic age, character and education requirements and a requirement that apprentices designate a "supervising appraiser." The supervising appraiser must be an individual who agrees to perform the responsibilities set forth for supervising appraisers in N.J.A.C. 13:40A-7.6.

Educational requirements are set forth in N.J.A.C. 13:40A-7.3. Permit applicants must have completed at least 45 classroom hours consisting of one course (30 hours) in basic principles of appraising and one course (15 hours) in the Uniform Standards of Professional Appraisal Practice. Permit renewal requirements are listed in N.J.A.C. 13:40A-7.4. Responsibilities of the apprentice and the supervising appraiser are set forth in N.J.A.C. 13:40A-7.5 and 7.6 and include the requirements that the apprentice work under direct supervision, as defined in N.J.A.C. 13:40A-7.6, and keep a detailed log of appraisal work. The format of the log is set forth in N.J.A.C. 13:40A-7.7. The Board anticipates that individuals participating in the apprentice program and maintaining the log as required under the rules will be deemed, when applying for licensure or certification, to have submitted documentation sufficient to demonstrate attainment of experience requirements for licensure or certification.

The Board is also proposing to amend N.J.A.C. 13:40A-6.1 to establish an annual apprentice permit fee.

Social Impact

The proposed new rules will provide guidance to individuals seeking to enter the appraisal field in this State as to the conditions under which appraisal experience required for certification or licensure may be obtained. Submission of a log in the format outlined, upon subsequent application for certification or licensure, should facilitate the application process for those who participated in the apprentice program. Participation in the program, however, is voluntary.

The Board believes the standards for issuing permits and for supervision of apprentices will encourage appraisal firms and/or individual appraisers to hire apprentices and will reassure financial institutions as well as individuals who utilize appraisers who employ apprentices that the apprentices issued a permit by the Board are receiving adequate training and supervision.

Economic Impact

Individuals who choose to obtain appraisal experience by participating in the apprentice program will be required to pay a \$60.00 annual permit fee and will incur costs to meet the classroom-hour requirement. Since the 45 classroom hours required for a permit are part of the total hours needed for certification or licensure, however, permit applicants will not incur educational costs in excess of those for full certification or licensure. Maintaining a log of appraisal experience should, in the Board's opinion, involve only minimal time and expense and will reduce the time and expense involved in documenting appraisal experience upon subsequent application for certification or licensure.

Appraisal firms or individual appraisers employing individuals participating in the apprentice program may incur expenses, such as the costs of additional staff time, to ensure that apprentices are adequately supervised. Although speculative, the Board does not anticipate that any additional expenses incurred by appraisal firms in this regard will be passed on to the public in the form of increased fees for real estate appraisal services. Rather, the Board believes an effective apprentice program should result in a leveling of fees because a larger number of individuals adequately trained to perform appraisal services will be available to the public.

Regulatory Flexibility Analysis

The proposed new rules will apply to individuals who choose to gain appraisal experience by participating in the apprentice program established hereunder. These individuals would not be considered small businesses under the criteria of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16.

The proposed new rules will also apply to appraisal firms which utilize certified or licensed staff appraisers to supervise apprentices, the majority of which would be considered small businesses within the definition set forth in the Act. The Board cannot estimate the number of appraisal firms to which the rules will apply, however, since it licenses individuals and not entities and since participation in the apprentice program is voluntary.

Individual "supervising appraisers" within appraisal firms must ensure that apprentices working under a permit issued by this Board receive adequate supervision. The supervisor is required to personally review, approve, and sign each appraisal report prepared by the apprentice; sign the log at least once a month; and provide the apprentice with a copy of any final appraisal document in which the apprentice had a professional contribution. Compliance costs are as stated in the Economic Impact statement, and no professional services are likely to be needed in order to comply. Since compliance with the proposed new rules is voluntary, no exemption based upon business size is necessary.

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

13:40A-6.1 Fee schedule

(a) Charges for examinations, certification, licensure, **apprentice permits** and other services are as follows:

1.-18. (No change.)

19. **Apprentice permit fee, annual \$60**

SUBCHAPTER 7. APPRENTICE PERMITS**13:40A-7.1 Purpose and scope**

The rules in this chapter establish a voluntary real estate appraiser apprentice program for individuals in the process of acquiring the 2,000 hours of appraisal experience required in order to be licensed or certified pursuant to this chapter.

13:40A-7.2 Application for apprentice permit; general requirements

(a) Each applicant for an apprentice permit shall submit, with a completed application form and the permit fee set forth in N.J.A.C. 13:40A-6.1, proof satisfactory to the Board that he or she:

1. Is more than 18 years of age;

2. Is of good moral character, as established by references from individuals, schools and other records acceptable to the Board;

3. Has a high school diploma or its equivalent; and

4. Has successfully completed the educational requirements set forth in N.J.A.C. 13:40A-7.3.

13:40A-7.3 Educational requirements

(a) To be eligible to receive an apprentice permit, an applicant shall have successfully completed:

1. One course covering Basic Principles of Appraising at least 30 classroom hours in length; and

2. One course covering the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation at least 15 classroom hours in length, which the applicant shall have taken subsequent to April 27, 1987.

(b) The Board shall grant credit for the courses required pursuant to (a) above only if the individual has successfully completed an examination pertinent to that educational offering.

(c) An applicant may obtain credit for the classroom hour requirement from any of the following: colleges, universities, community colleges or junior colleges accredited by the New Jersey Department of Higher Education or any State accrediting agency approved by the Board; real estate appraisal or real estate related organizations as approved by the Board; State or Federal agencies or commissions as approved by the Board; and proprietary schools as approved by the Board.

(d) The Board shall not grant credit for correspondence courses or for video and remote television educational offerings.

13:40A-7.4 Annual apprentice permit renewal

An apprentice may renew his or her annual permit a maximum total of three times, upon submission to the Board of a renewal application, the permit renewal fee, and a log in the form set forth in N.J.A.C. 13:40A-7.7.

13:40A-7.5 Responsibilities of apprentice

(a) The holder of an apprentice permit issued by the Board shall work only under the "direct supervision," as that term is defined in N.J.A.C. 13:40-7.6, of a "supervising appraiser," who shall be an individual licensed or certified by this Board who has acknowledged in writing his agreement to perform the responsibilities of a supervisor set forth in 13:40A-7.6. Prior to commencing any work as an apprentice, the holder of an apprentice permit shall inform the Board in writing of the identity of any individuals who have agreed to serve as a "supervising appraiser" for the apprentice. The holder of an apprentice permit shall inform the Board in writing, within seven days, in the event that any individual previously designated as a "supervising appraiser" ceases to agree to perform the responsibilities of a "supervising appraiser," or in the event that any individual not previously designated as a "supervising appraiser" agrees to supervise the work product of the apprentice.

(b) The holder of an apprentice permit issued by the Board shall have the following duties and responsibilities:

1. The apprentice shall maintain and submit to the Board upon application for permit renewal a log which meets the requirements set forth in N.J.A.C. 13:40A-7.7;

2. The apprentice shall ensure that the log is available at all times for inspection by the Board; and

3. When performing appraisal assignments, the apprentice shall carry on his person the permit issued by the Board.

13:40A-7.6 Responsibilities of supervising appraiser

(a) Any individual designated as a "supervising appraiser" by the holder of an apprentice permit shall acknowledge in writing to the Board that he or she agrees to perform all responsibilities set forth in (b) below.

(b) A supervising appraiser shall have the following duties and responsibilities:

1. The supervisor shall at all times be responsible for and provide direct supervision of the work performed by the apprentice. For purposes of this section, to "directly supervise" means:

i. To personally review the work product of the apprentice; and

ii. To approve and sign each appraisal report including work product prepared by the apprentice or in which the apprentice has made a professional contribution and to sign all such reports and certify that all such reports have been independently and impartially prepared in compliance with the Uniform Standards of Professional Appraisal Practice, these rules and applicable statutory standards.

2. The supervisor shall, at least once a month, sign the log required to be kept by the apprentice pursuant to N.J.A.C. 13:40A-7.6 and shall set forth thereon his or her license or certification number.

3. The supervisor shall provide the apprentice with a copy of any final appraisal report in which the apprentice's work product has been utilized or in which the apprentice made a professional contribution.

13:40A-7.7 Real estate appraiser apprentice log

(a) A real estate appraiser apprentice shall maintain a log which shall include the following information concerning each appraisal assignment in which the apprentice participates:

1. The name and address of the client;

2. The type of appraisal report;

3. The address of the appraised property;

4. A description of work performed; and

5. The number of hours claimed for the assignment.

(b) Appraisal logs submitted to the Board shall indicate the nature of the apprentice's participation in each assignment and the apprentice shall set forth within the log, for each assignment, information indicating whether the apprentice was involved in obtaining, calculating, or preparing:

1. Land/site inspections and descriptions;

2. Building inspections and descriptions;
3. Neighborhood descriptions and analysis;
4. Highest and best use analysis;
5. Research of comparable sales and analysis;
6. Cost analysis;
7. Income analysis (only for apprentices whose experience includes income properties);
8. Meaningful sales analysis;
9. Correlation of data into final value; and
10. Any other components of the appraisal process.

(a)

NEW JERSEY RACING COMMISSION**Harness Rules****Pre-race Blood Gas Analyzing Machine Testing Program****Proposed New Rule: N.J.A.C. 13:71-23.3A**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1993-33.

Submit written comments by February 18, 1993 to:

Michael Vukcevic, Deputy Director
New Jersey Racing Commission
CN 088

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The primary objective of this proposed new rule is to establish the regulations necessary to implement a blood gas analyzing machine testing program at the State's racetracks. This new rule is in response to the increasing attention and concern devoted by aspects of the scientific community, as well as the public and horsemen, regarding horses participating in race meetings with certain chemical imbalances.

The blood gas analyzing machine is an instrument utilized in the medical field. It is also utilized in other jurisdictions both to determine whether chemical imbalances exist in the bodies of race horses and as a means to assess if remedial action is warranted based upon those determined levels.

In recognition of these concerns, the response in other jurisdictions, and actual testing of the blood gas analyzing machine in this State, the proposed new rule provides that an excess bicarbonate, sodium and pH level in the standardbred race horse is deemed adverse to the best interests of harness racing and adverse to the best interests of the horse. The proposed rule authorizes a licensed racetrack association, with the prior authorization of the New Jersey Racing Commission ("Commission") and subject to any imposed conditions, to adopt a track rule conditioning the acceptance of the entry of a horse in a race upon its registering on a blood gas analyzing machine levels of bicarbonate (HCO₃), sodium (Na) and pH below those designated in the approved track rule.

The judges, under the proposed rule, may cause a horse to be scratched only where two tests conducted utilizing the blood gas analyzing machine register readings for the horse at or in excess of each of the three levels (bicarbonate, sodium and pH) as set forth in the Commission approved track rule. However, in the event that any owner, trainer or licensed representative thereof refuses to cooperate in connection with the testing of a horse at a track association where such a testing program is in place, the proposed rule also permits the judges to order the horse scratched.

The proposed new rule further establishes a procedure to be followed in the event a Commission licensed owner or trainer of a particular horse claims that the action levels stated within the track rule are physiologically normal for the horse. Where such a claim is made, the owner or trainer may request that the track association, at the sole expense of the requesting licensee, place the horse in guarded quarantine for a minimum period of 48 hours. During such period, the horse is to be periodically re-tested utilizing the blood gas analyzing machine. In the event the judges are satisfied that the levels calling for the scratching of a horse are physiologically normal for that particular horse, the judges

may permit the horse to subsequently race notwithstanding the implemented track rule. In the event of such a determination, the judges may require that the horse re-establish that such levels are physiologically normal to it, pursuant to the quarantine procedure described *infra.*, but no earlier than 35 days after the last quarantine period for said horse and at the sole expense of the track association.

The rule, as proposed, requires that all persons participating in any blood gas analyzing machine testing program act at the direction of the designated Commission representative. As concerns the actual conduct of the testing program, the proposed rule requires that all horses participating in any race where testing is to be conducted have blood drawn for such purpose. Further, only a licensed veterinarian approved by the Commission or its Executive Director may be authorized to draw blood pursuant to the testing program.

The proposed rule provides that the Commission, in its sole discretion, shall have the authority to rescind its approval of any track rule authorized by the rule and, further, to order the discontinuance of any blood gas analyzing machine testing program established pursuant to this proposed rule, assuming adoption.

Social Impact

This proposed new rule will not impact upon society as a whole. However, the Commission is of the view that the rule as proposed will advance the integrity of the State's racing industry since it serves to insure that horses with abnormally excessive chemical imbalances in their systems do not participate in race events within this State. The proposed rule further serves to promote the public perception of the sport in that it responds to an area of increasing concern to the wagering public, the horsemen and aspects of the scientific community.

Economic Impact

It is anticipated that the proposed new rule will have a limited economic impact on the horsemen. In that the rule concerns a blood testing program, the results of which could result in the scratching of a horse entered to participate in a race where certain blood chemical concentrate threshold levels are met or exceeded, an economic impact would arise. This results from the fact that, as a consequence of being scratched, the horse would not be eligible to compete for purse money distributed as a result of the outcome of the race from which it was scratched. Further, dependent upon the rules of the particular track association where the blood gas analyzing machine testing program occurs, it may be the case that any horse scratched as a result of such testing forfeits any entry fee associated with the race from which it was scratched. An additional economic impact arises where the licensed owner or trainer of a horse, contending that the blood chemical concentrate levels set forth in the proposed regulation are physiologically normal for the horse, requests that the quarantine procedure allowed for by the proposed regulation be implemented. In such case, the requesting licensee would be responsible for costs incurred in connection with the horse's quarantine.

In addition, where a racetrack association elects to establish a track rule toward implementation of a blood gas machine testing program at the facility, the association may, as a condition to Commission approval, be required to expend funds and provide resources necessary to implement and continue with the testing program. These expenses might, among other things, include the cost of the blood gas analyzing machine. Moreover, although the licensee is responsible for costs associated with the quarantine procedure outlined above, the racetrack association would be required to bear the cost of the quarantine of the horse where a request is made by the judges that the horse re-establish that the bicarbonate, sodium and pH levels set forth in the approved track rule are normal to it.

Regulatory Flexibility Analysis

The proposed new rule does not impose reporting or recordkeeping requirements. Compliance requirements are imposed on track associations and judges, neither of which are small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Track associations employ more than 100 people, and judges are individuals.

The proposed new rule does impose requirements on licensed owners and trainers, some of which are small businesses. The licensed owner or trainer of a horse requested to be held in guarded quarantine under N.J.A.C. 13:71-23.3A(c) must bear the expense of such quarantine. In addition, the refusal of a licensed owner or trainer, or their representative, to cooperate in or permit the testing of a horse under this rule shall be deemed to be acting contrary to the track rule under which the horse was entered to race, and the horse will be ordered scratched

by the judges. The costs to the owners or trainers of a guarded quarantine will vary in each instance depending on the horse and the quarantine facility; however, the decision to quarantine rests with the owner or trainer. The cost to an owner or trainer of a scratched entry can vary greatly, depending on the horse and the race, but is dependent on the owner's or trainer's compliance with the proposed rule. It is not anticipated that owners or trainers will have to employ professional services in order to comply with this rule.

Since the purpose of this rule is to advance the integrity of the State's racing industry, uniform application of its requirements is needed to most effectively meet that objective. Therefore, no exemptions from or differentiation in requirements are provided based on business size.

Full text of the proposed new rule follows:

13:71-23.3A Pre-race blood gas analyzing machine testing program

(a) An excess bicarbonate, sodium and pH level in the race horse is deemed adverse to the best interests of harness racing, and adverse to the best interests of the horse in that such condition alters its normal physiological state. Accordingly, with the prior authorization of the Commission and subject to those conditions as the Commission may determine to impose, a track association may adopt a track rule which provides that its acceptance of the entry of a horse in a race is subject to the condition that all persons with an interest in the horse consent to it being scratched should, on the date of the race and as a result of pre-race blood testing utilizing a blood gas analyzing machine, the horse registers levels of bicarbonate (HCO₃), sodium (Na), and a pH level at or in excess of the levels stated in the approved track rule. In such event, the entry of a horse shall constitute permission for a veterinarian appointed in accordance with (e) below to obtain blood samples from the entered horse, and shall further constitute consent to the judges scratching of the horse from the race in accord with this section.

(b) Where the Commission approves the track association's adoption of a track rule as described in (a) above, and a horse is entered to participate in a race at the track association following the adoption of said rule, the judges shall order scratched any entered horse which on the day of the scheduled race registers readings in excess of each of the three levels (bicarbonate, sodium and pH) as set forth in the approved track rule, on each of two tests conducted utilizing the blood gas analyzing machine.

(c) If the levels of bicarbonate, sodium and pH are determined to equal or exceed those set forth in the approved track rule for any single horse, and the licensed owner or trainer of that horse contends that such levels are physiologically normal for the particular horse, said licensee may request that the horse be held in guarded quarantine. In the event so requested, the track association implementing the track rule pursuant to (a) above shall make such guarded quarantine available, for a period of time to be determined by the judges but in no event less than 48 hours, at the sole expense of the licensee requesting same. During any quarantine, the horse shall be re-tested periodically and, although the horse may not race during such quarantine period, it may be exercised and trained at times prescribed by the association and consistent with the ability to monitor the horse. If the judges are satisfied, on the basis of the evident facts, the quarantine and the testing of the horse's blood utilizing the blood gas analyzing machine, that the three levels (bicarbonate, sodium and pH) set forth in the approved track rule are physiologically normal for that particular horse, the judges notwithstanding the implementation of the track rule may permit the horse to race. In such case, the judges in their discretion may, at the sole expense of the track association implementing the track rule, require that the horse re-establish that such levels are physiologically normal to it pursuant to the procedure set forth in this subsection but no sooner than 35 days after the last quarantine period for the horse.

(d) Where the Commission approves the track association's adoption of a track rule as described in (a) above, and a horse is entered to participate in a race at the track association following the adoption of said rule, any owner, trainer or licensed representative of same who refuses to cooperate in connection with the testing of the horse, or who fails to permit any horse to be tested utilizing the blood gas analyzing machine, shall be deemed to be acting contrary to the

track rule under which condition the horse was entered to race. In such circumstance, the judges shall order the horse scratched.

(e) All persons participating in any blood gas analyzing machine testing or quarantine process as described in this section, whether an employee of the Racing Commission or the track association, shall act at the direction of the Commission representative as designated by the Commission or its Executive Director. In no event shall a horse entered to participate in a race have blood drawn, for the purpose of testing utilizing the blood gas analyzing machine, without all horses participating in said race having also had blood drawn for the purpose of such testing. Only a licensed veterinarian, approved by the Commission or its Executive Director, shall draw blood from any horse for testing on the blood gas analyzing machine. The procedures outlined or authorized in this section shall govern the conduct of any blood gas analyzing machine testing program, notwithstanding anything to the contrary in N.J.A.C. 13:71-23.3.

(f) Nothing contained in this section shall prohibit the Racing Commission, in its sole discretion, from rescinding its approval of any track rule authorized pursuant to (a) above, and from ordering the discontinuance of any testing program utilizing the blood gas analyzing machine as established pursuant to this section.

PUBLIC UTILITIES

(a)

BOARD OF REGULATORY COMMISSIONERS OFFICE OF CABLE TELEVISION

Notice of Change in Hearing Date and Comment Period

Pre-Proposal of New Rule: N.J.A.C. 14:18-2.11 On-Premises Wiring

Pre-Proposal Number: PPR 1992-9.

Take notice that a Notice of Pre-Proposal pertaining to a new rule dealing with on-premises cable television wiring was published in the New Jersey Register on December 21, 1992, at 24 N.J.R. 4496(a).

Within that notice, it was noted that a public hearing concerning the proposal would be held at the Board's Newark offices at 10:00 A.M. on Monday, January 21, 1993, and that written comments would be accepted until that date.

The purpose of this notice is to advise the public that the **public hearing** concerning this proposal has been **rescheduled** and will be held on Monday, February 8, 1993, at 1:00 P.M. at:

Board of Regulatory Commissioners
10th Floor Hearing Room
Two Gateway Center
Newark, New Jersey

In addition, be further advised that **interested persons** may submit written comments on the issues raised by the pre-proposal by February 11, 1993 to:

Celeste M. Fasone, Director
Office of Cable Television
Two Gateway Center
Newark, New Jersey 07102

TRANSPORTATION

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Route 24 in Morris, Essex and Union Counties

Proposed Amendment: N.J.A.C. 16:28-1.36

Authorized By: Thomas M. Downs, Commissioner, Department of Transportation.

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

Proposal Number: PRN 1993-48.

Submit written comments by February 18, 1993 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625
(609) 530-2041

The agency proposal follows:

Summary

A newly constructed section of Route 24 is opening for traffic. The new portion of Route 24 extends from the Route 24 and Route I-78 interchange in Springfield Township (Union County) to I-287 in Morris Township (Morris County). The proposed amendment will establish a 55 mph speed limit zone on Route 24 in Hanover and Morris Townships, and the Boroughs of Florham Park and Chatham in Morris County; Millburn Township, Essex County; and Summit City and Springfield Township, Union County, for the efficient flow of traffic, the enhancement of safety and the well-being of the populace. With the new designation of Route 24, the existing portion of Route N.J. 24 will be renumbered as Route 124 to reflect the existing speed limits on that segment of the roadway.

Social Impact

The proposed amendment will establish a speed limit zone along Route 24 in Morris, Essex and Union Counties. A uniform and enforceable speed limit for this linear route is necessary for the enhancement of safety and the efficient flow of traffic. An absence of an enforceable speed limit would be a highly undesirable condition and would be adverse to the safety of the public. Appropriate signs will be erected to advise the motoring public of the legal speed limit.

Economic Impact

The Department will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of speed limit zone signs. The costs involved in the installation and procurement of signs vary, depending upon the material used, size and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not impose reporting, recordkeeping or compliance requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment will primarily affect the motoring public and the governmental entities responsible for the enforcement of the rules.

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

16:28-1.36 Route 24 including collector distribution roads

(a) The rate of speed designated for the certain parts of State highway Route 24 described in this subsection shall be established and adopted as the maximum legal rate of speed [thereat].

1. For both directions of traffic:

i.-xi. (No change.)

xii. 55 miles per hour along the new limited access section of Route 24 between [the interchange with the John F. Kennedy Parkway in Millburn Township and the City of Summit to the interchange with Route I-78 in Springfield Township.] **I-287 in Hanover Township, Morris Township, Florham Park Borough, and Chatham Borough, Morris County; Millburn Township, Essex County; and Summit City and I-78 in Springfield Township, Union County.**

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping
Route U.S. 9 in Cape May, Atlantic, Burlington,
Ocean, Monmouth and Middlesex Counties**

Proposed Amendment: N.J.A.C. 16:28A-1.7

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-198
Proposal Number: PRN 1993-21.

Submit comments by February 18, 1993 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will establish revised and updated "restricted parking and stopping" zones along Route U.S. 9 in the following municipalities and counties for the efficient flow of traffic and the enhancement of safety along the highway system:

In Cape May County: Lower Township, Middle Township, Dennis Township, and Upper Township.

In Atlantic County: Somers Point City, Linwood City, Northfield City, Pleasantville City, Absecon City, and Port Republic City.

In Burlington County: Bass River Township.

In Ocean County: Little Egg Harbor Township, Tuckerton Borough, Eagleswood Township, Stafford Township, Barnegat Township, Ocean Township, Lacey Township, Berkeley Township, Pine Beach Borough, Beachwood Borough, Dover Township, and Lakewood Township.

In Monmouth County: Howell Township, Freehold Township, Freehold Borough, Manalapan Township, and Marlboro Township.

In Middlesex County: Old Bridge Township, South Amboy City, and Woodbridge Township.

In the interest of safety and as part of a review of current conditions along the highway system, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of the revised "restricted parking and stopping" zones along Route U.S. 9 in Cape May, Atlantic, Burlington, Ocean, Monmouth, and Middlesex Counties was warranted.

The proposed amendment at N.J.A.C. 16:28-1.7 expands the restriction to both sides of the highway; includes all ramps and connections to the highway which are under the jurisdiction of the Commissioner of Transportation; adds an exception for other approved parking restrictions; requires signs notifying the motorists of the restrictions, and recodifies the rule for clarity, in accordance with the Department's format, by placing the restrictions by municipalities within respective counties.

The Department, therefore, proposes to amend N.J.A.C. 16:28A-1.7, based upon the traffic investigations.

Social Impact

The proposed amendments will establish revised and updated "no stopping or standing" zones along Route U.S. 9 in Cape May, Atlantic, Burlington, Ocean, Monmouth and Middlesex counties for the efficient flow of traffic, the enhancement of safety, and the well-being of the general public. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zone signs where required. The costs involved in the installation and procurement of signs vary, depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed

the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not place any reporting, recordkeeping or other compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment primarily affects the motoring public and the governmental entities responsible for the enforcement of the rule. Therefore, a regulatory flexibility analysis is not required.

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

16:28A-1.7 Route U.S. 9

(a) The certain parts of State Highway Route U.S. 9 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times, except [as provided in N.J.S.A. 39:4-139] **in areas covered by other parking restrictions adopted in accordance with the Administrative Procedure Act and N.J.A.C. 1:30.** In accordance with the provisions of N.J.S.A. 39:4-198, proper signs shall be erected.

[1. No stopping or standing along both sides for the entire length within the corporate limits of the following municipalities including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation; except in areas covered by other parking restrictions.

- i. Woodbridge Township, Middlesex County;
- ii. Madison Township, Middlesex County;
- iii. Marlboro Township, Monmouth County; and
- iv. In the City of Northfield, Atlantic County.

2. No stopping or standing along the westerly side in Freehold Township between the Freehold Borough corporate line and Schanck Road.

3. Along both sides of Route U.S. 9 in Manalapan Township from a point 1,845 feet north of the northerly curb line of Franklin Lanes to a point 135 feet northern therefrom.

4. No stopping or standing along both sides for the entire length within the corporate limits of Howell Township including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

5. No stopping or standing in Lakewood Township along both sides:

- i. From the northerly curb line of John Street to the Ocean County-Monmouth County line;
- ii. From the northerly curb line of Spruce Street to a point 300 feet north of the center line of Prospect Street.

6. No stopping or standing in Dover Township, Ocean County:

- i. Along both sides:
 - (1) From a point 160 feet south of the southerly curb line of Church Road (Co. Rd. 620) to a point 100 feet north of the northerly curb line of Church Road (Co. Rd. 620);
 - (2) Between a point 300 feet north of, and 300 feet south of, the intersection of Cox Cro Road (Co. Rd. 16).

7. No stopping or standing in Berkeley Township, Ocean County:

i. Along the northbound side from the Lacey Township-Berkeley Township corporate line to the Berkeley Township-Pine Beach Borough corporate line;

ii. Along the southbound side from the Beachwood Borough-Berkeley Township corporate line to the Berkeley Township-Lacey Township corporate line.

iii. Within the corporate limits of Berkeley Township including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation.

8. No stopping or standing along both sides: in Lacey Township and Ocean Township in Ocean County:

i. Along both sides for the entire length within the Township of Lacey and Ocean Township in Ocean County.

9. No stopping or standing in Stafford Township along both sides of Route US 9 from the northerly curb line of Route 180 to a point 135 feet south of the southerly curb line of Oxycocus Road.

10. No stopping or standing in the Borough of Tuckerton, Ocean County:

i. Along the northbound side:

(1) From the prolongations of the southerly curb line of Wood Street to the southerly curb line of Marine Street;

(2) From the prolongation of the northerly curb line of Locust Street to a point 710 feet north of the prolongation of the northerly curb line of Locust Street;

ii. Along the southbound side:

(1) From a point 32- feet north of the northerly curb line of Locust Street to a point 730 feet north of the northerly curb line of Locust Street;

(2) From the southerly curb line of Lakeside Drive to a point 50 feet south of the prolongation of the southerly curb line of Jarvis Avenue.

11. No stopping or standing in Bass River Township, Burlington County along the northerly side (southbound) from a point 200 feet east of the easterly curb line of North Maple Avenue (County Road 563) to a point 200 feet west of the westerly curb line of North Maple Avenue (County Road 653).

12. No stopping or standing in Middle Township, Cape May County for the entire length within the corporate limits, including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation; except in bus stops and time limited parking areas designated by this section.

13. No stopping or standing along the west side of Route U.S. 9 in the City of Absecon, Atlantic County:

i. From Route US 30 to Ohio Avenue.

14. No stopping or standing in Upper Township, Cape May County along both sides for the entire length within the corporate limits of Upper Township, including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking areas.

15. No stopping or standing in Dennis Township, Cape May County:

i. Along the southbound side:

(1) From a point 1,300 feet north of the center line of Seaville Avenue, to a point 1,450 feet north of the center line of Seaville Avenue.

16. No stopping or standing in Eagleswood Township, Ocean County:

i. Along the northbound side:

(1) From a point 100 feet south of the southerly curb line of Bay Avenue to a point 100 feet north of the northerly curb line of Bay Avenue.

17. No stopping or standing in Linwood City, Atlantic County:

i. Along both sides:

(1) For the entire length within the corporate limits of the City of Linwood.

18. No stopping or standing in Dennis Township, Cape May County:

i. Along both sides:

(1) Beginning 170 feet from the northerly curb line of Tompkins Lane and extending 360 feet northerly therefrom.

19. No stopping or standing in Little Egg Harbor Township, Ocean County:

i. Along both sides:

(1) For the entire length within the corporate limits including all ramps and connections under the jurisdiction of the Commissioner of Transportation except in approved designated Bus Stops and Time Limit Parking Areas. Signs to be posted only in areas where an official township resolution has been submitted.

20. No stopping or standing in the city of Somers Point, Atlantic County:

i. Along both sides:

(1) For the entire length within the corporate limits of the City of Somers Point, including all ramps, and connections under the jurisdiction of the Commissioner of Transportation except at approved bus stops or time limit parking areas.

21. No stopping or standing along both sides in Atlantic County:

i. City of Port Republic:

(1) For the entire length within the corporate limits, including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation, except in approved designated bus stops and time limit parking areas.]

1. Stopping or standing along both sides for the entire length within the corporate limits of the following municipalities shall be prohibited, including all ramps and connections thereto which are under the jurisdiction of the Commissioner of Transportation, except in areas covered by other parking restrictions:

- i. Cape May County:
 - (1) Lower Township;
 - (2) Middle Township;
 - (3) Dennis Township; and
 - (4) Upper Township.
 - ii. Atlantic County:
 - (1) Somers Point City;
 - (2) Linwood City;
 - (3) Northfield City;
 - (4) Pleasantville City;
 - (5) Absecon City; and
 - (6) Port Republic City.
 - iii. Burlington County:
 - (1) Bass River Township.
 - iv. Ocean County:
 - (1) Little Egg Harbor Township;
 - (2) Tuckerton Borough;
 - (3) Eagleswood Township;
 - (4) Stafford Township;
 - (5) Barnegat Township;
 - (6) Ocean Township;
 - (7) Lacey Township;
 - (8) Berkeley Township;
 - (9) Pine Beach Borough;
 - (10) Beachwood Borough;
 - (11) Dover Township; and
 - (12) Lakewood Township.
 - v. Monmouth County:
 - (1) Howell Township;
 - (2) Freehold Township;
 - (3) Freehold Borough;
 - (4) Manalapan Township; and
 - (5) Marlboro Township.
 - vi. Middlesex County:
 - (1) Old Bridge Township;
 - (2) South Amboy City; and
 - (3) Woodbridge Township.
- (b)-(c) (No change.)

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping
Route U.S. 22 in Hunterdon County**

Proposed Amendment: N.J.A.C. 16:28A-1.13

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-198.
Proposal Number: PRN 1993-23.

Submit comments by February 18, 1993 to:
Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will establish a "restricted parking and stopping" zone along Route U.S. 22 in Clinton Township, Hunterdon County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the Clinton Township Police Department, and as part of the Department's on-going investigation of current traffic conditions, the Department's Bureau of Traffic Engineering and Safety Programs recommends the establishment of a "restricted parking and stopping" zone along Route U.S. 22 in Clinton Township in Hunterdon County.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.13. The amendment expands the restriction to both sides of the highway; adds an exception for other approved parking restrictions; and requires signs notifying the motorists of the restrictions.

Social Impact

The proposed amendment will establish a "restricted parking and stopping" zone along Route U.S. 22 in Hunterdon County for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "restricted parking and stopping" zone signs. The costs involved in the installation and procurement of signs vary, depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not place any reporting, recordkeeping or compliance requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment primarily affects the motoring public and the governmental entities responsible for the enforcement of the rules.

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

16:28A-1.13 Route U.S. 22

(a) The certain parts of State highway Route U.S. 22 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139. In accordance with the provisions of N.J.S.A. 39:4-198, proper signs will be erected.

1. No stopping or standing along both sides:

- i. (No change.)
- ii. In Hunterdon County:

(1) Clinton Township:

(A) [From the easterly curb line of Petticoat Lane to the Clinton Township-Lebanon Borough corporate line.] **For the entire length within the corporate limits, including all ramps and connections thereto, which are under the jurisdiction of the Commissioner of Transportation; except in areas covered by other parking restrictions adopted in accordance with the Administrative Procedure Act and N.J.A.C. 1:30.**

(2) (No change.)

iii. (No change.)

2.-3. (No change.)

(b) (No change.)

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Parking and Stopping Handicapped Parking Space
Route N.J. 57 in Warren County**

Proposed Amendment: N.J.A.C. 16:28A-1.36

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-197.5 and 39:4-199.

Proposal Number: PRN 1993-22.

Submit comments by February 18, 1993 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will establish a "restricted parking space" for handicapped persons along Route N.J. 57 in the Borough of Washington, Warren County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon the receipt of a petition by the Municipal government of Washington Borough, Warren County, for the placement of an on-street handicapped parking space along Route 57 (West Washington Avenue) in the Central Business District, the local government, by Resolution No. 54-92, May 19, 1992 approved the placement of an on-street handicapped parking space along the south side of the State highway east of the intersection of Broad Street, in the interest of safety and the well-being of the populace. The Department's Bureau of Traffic Engineering and Safety Programs, upon receipt of said Resolution, conducted a traffic investigation. The investigation proved that the establishment of the Handicapped Parking Space along Route N.J. 57 in Warren County was warranted.

Parking in the area depicted will be for the sole use of persons issued Special Vehicle Identification cards by the Division of Motor Vehicles.

The Department, therefore, proposes to amend N.J.A.C. 16:28A-1.36 based upon the request from the local government of Washington Borough and the traffic investigation.

Social Impact

The proposed amendment will establish a "restricted parking space" for handicapped persons along Route N.J. 57 in Washington Borough, Warren County, for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local government will incur direct and indirect costs for mileage, personnel and equipment requirements. The local government will bear the costs for the installation of "restricted parking space" for Handicapped Persons signs. The costs involved in the installation and procurement of signs vary, depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violation Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendment does not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment primarily affects the motoring public and the governmental entities responsible for the enforcement of the rules.

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

(CITE 25 N.J.R. 274)

16:28A-1.36 Route 57

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

(d) The certain parts of State highway Route 57 described in this subsection shall be designated and established as a restricted parking space, for the use of persons who have been issued Special Vehicle Identification Cards by the Division of Motor Vehicles. No other person shall be permitted to park in these areas. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established handicapped parking space:

1. Along the south side of West Washington Avenue, in the Borough of Washington, Warren County:

i. Beginning at a point 93 feet east of the easterly curb line of Broad Street and extending 23 feet easterly therefrom.

(b)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

Speed Limits

**Routes N.J. 27 in Middlesex and Somerset Counties
and N.J. 71 in Monmouth County**

Proposed Amendments: N.J.A.C. 16:28-1.44 and 1.83

Authorized By: Richard C. Dube, Director, Division of Traffic Engineering and Local Aid.

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

Proposal Number: PRN 1993-24.

Submit comments by February 18, 1993 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy and Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will establish revised "speed limit" zones along the following Routes, within the respective counties and municipalities for the efficient flow of traffic, enhancement of safety and the well-being of the populace:

On Route N.J. 27 in Middlesex County, North Brunswick Township, and in Somerset County, Franklin Township.

On Route N.J. 71 in Monmouth County, Brielle Borough, Manasquan Borough, Sea Girt Borough, Spring Lake Heights Borough, Belmar Borough, Avon-by-the-Sea Borough, Bradley Beach Borough, Allenhurst Borough, Deal Borough, West Long Branch Borough, Oceanport Borough, Eatontown Borough, Wall Township, Neptune Township, Ocean Township, Asbury Park City, Long Branch City, and the Village of Loch Arbor.

Based upon requests from the local governments, and as part of a review of current conditions, the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of the revised "speed limit" zones along Routes N.J. 27 in Middlesex and Somerset Counties and N.J. 71 in Monmouth County were warranted.

N.J.A.C. 16:28-1.44, Route N.J. 27, and N.J.A.C. 16:28-1.83, Route N.J. 71, are being amended to effect revised speed limit zones by mileposts and expand the direction of travel to include the northbound and southbound sides of the highway. Additionally, N.J.A.C. 16:28-1.83 is being revised to indicate the specific restrictions within the municipalities by direction of travel within Monmouth County, in compliance with the Department's format of rulemaking. Speed limits presently posted along Routes N.J. 27 and N.J. 71 have not been changed and where speed limits boundaries have changed appropriate signs will be posted.

The Department, therefore, proposes to amend N.J.A.C. 16:28-1.44 and N.J.A.C. 16:28-1.83.

Social Impact

The proposed amendments will establish revised "speed limit" zones along Routes N.J. 27 in Middlesex and Somerset Counties and N.J. 71 in Monmouth County for the efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "speed limit" zone signs. The costs involved in the installation and procurement of signs vary, depending upon the material used, size, and method of procurement. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendments do not place any reporting, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments primarily affect the motoring public and the governmental entities responsible for the enforcement of the rules.

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

16:28-1.44 Route 27

(a) The rate of speed designated for the certain parts of State highway Route 27 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:
 - i-vii. (No change.)
 - viii. 40 miles per hour between Beekman Road and 200 feet north of Evelyn Avenue, South Brunswick Township—North Brunswick Township, Middlesex County, and Franklin Township, Somerset County (approximate mileposts 9.24 to [10.61] **10.56**); thence
 - ix. 45 miles per hour between 200 feet north of Evelyn Avenue [and 100 feet north of Skillman Lane,] and Six Mile Run, North Brunswick Township, Middlesex County, and Franklin Township, Somerset County (approximate mileposts [10.61 to 12.29] **10.56** to **11.54**); thence
 - x. 40 miles per hour between [100 feet north of Skillman Lane] Six Mile Run and 100 feet north of Sandford Street, North Brunswick Township—City of New Brunswick, Middlesex County and Franklin Township, Somerset County (approximate mileposts [12.29] **11.54** to 15.41); thence
 - xi-xix. (No change.)

16:28-1.83 Route 71¹

(a) The rate of speed designated for the certain parts of State highway Route 71 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic:
 - i. In Monmouth County:
 - (1) 30 miles per hour from Higgins Avenue at milepost 0.00, Brielle Borough, to Blakely Avenue, Manasquan Borough; thence
 - (2) 40 miles per hour to Walling Avenue, Wall Township (West Belmar); thence
 - (3) 30 miles per hour to Fifth Avenue, Belmar; thence
 - (4) 35 miles per hour to Evergreen Avenue, Bradley Beach; thence
 - (5) 30 miles per hour to Edgemont Avenue, Ocean Township; thence
 - (6) 35 miles per hour to Lincoln Avenue, (Elberon); thence
 - (7) 40 miles per hour to Whale Pond Brook Bridge; thence
 - (8) 35 miles per hour to Pinewood Avenue, West Long Branch; thence
 - (9) 40 miles per hour to Mount Drive; thence
 - (10) 30 miles per hour to Wall Street; thence
 - (11) 40 miles per hour to Route 36—Route 71 traffic circle; thence
 - (12) 45 miles per hour to Reynolds Drive; thence
 - (13) 35 miles per hour to 200 feet south of Rose Court, Eatontown; thence

- (14) 30 miles per hour to the intersection of Route 35;
- (15) The legal speed limits through school zones shall be subject to the provisions of Title 39:4-98(a) of the Revised Statutes.]

(1) Brielle Borough:

(A) 30 miles per hour from Higgins Avenue to the Borough of Manasquan—Borough of Brielle corporate line (Robert Swamp Brook) (approximate mileposts 0.00 to 0.61); thence

(2) Manasquan Borough:

(A) Zone 1: 30 miles per hour from the Borough of Brielle—Borough of Manasquan corporate line to Blakely Avenue, except for 25 miles per hour when passing through the Saint Dennis School zone (mileposts 0.78 to 0.86) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 0.61 to 1.55); thence

(B) Zone 2: 40 miles per hour from Blakely Avenue to the Borough of Manasquan—Borough of Sea Girt corporate line (approximate mileposts 1.55 to 1.71); thence

(3) Sea Girt Borough:

(A) 40 miles per hour from the Borough of Manasquan—Borough of Sea Girt corporate line to Manasquan Turnpike (County Road 20) except for 25 miles per hour when passing through the Sea Girt School zone (mileposts 1.79 to 1.96) while "25 mph when flashing" signs are operating during recess or while children are going to or leaving school, during opening or closing hours (approximate mileposts 1.71 to 2.30); thence

(4) Spring Lake Heights Borough:

(A) 40 miles per hour from the Borough of Sea Girt—Township of Wall—Borough of Spring Lake Heights corporate line to the Township of Wall—Borough of Spring Lake Heights Corporate line except for 25 miles per hour when passing through the Spring Lake Heights School zone (mileposts 3.32 to 3.48) while "25 mph when flashing" signs are operating during recess or while children are going to or leaving school, during opening or closing hours (approximate mileposts 2.43 to 4.12); thence

(5) Wall Township:

(A) Zone 2: 40 miles per hour from the Borough of Spring Lake Heights northerly—Township of Wall southerly corporate line (Polly Pond Brook) to Walling Avenue (approximate mileposts 4.12 to 4.64); thence

(B) Zone 3: 30 miles per hour from Walling Avenue to the Township of Wall—Borough of Belmar corporate line (approximate mileposts 4.64 to 4.86); thence

(6) Belmar Borough:

(A) Zone 1: 30 miles per hour from the Township of Wall—Borough of Belmar corporate line to Route N.J. 35 (12th Avenue) (approximate mileposts 4.86 to 5.09); thence

(B) Zone 2: 35 miles per hour from 12th Avenue to 8th Avenue (approximate mileposts 5.09 to 5.41); thence

(C) Zone 3: (8th Avenue) 25 miles per hour from Route N.J. 71-35 to "F" Street (approximate mileposts 5.41 to 5.56); thence

Zone 3A: ("F" Street) 25 miles per hour from 8th Avenue to 5th Avenue (approximate mileposts 5.56 to 5.78); thence

(D) Zone 4: 30 miles per hour from Fifth Avenue to the Borough of Avon-By-The-Sea—Borough of Belmar corporate line (Shark River) (approximate mileposts 5.78 to 5.90); thence

(7) Avon-By-The-Sea Borough:

(A) Zone 1: 30 miles per hour from the Borough of Belmar—Borough of Avon-By-The-Sea corporate line (Shark River) to Poole Avenue (approximate mileposts 5.90 to 6.01); thence

(B) Zone 2: 35 miles per hour from Poole Avenue to the Borough of Bradley Beach—Borough of Avon-By-The-Sea corporate line (Sylvan Lake) (approximate mileposts 6.01 to 6.63); thence

(8) Bradley Beach Borough:

(A) Zone 1: 35 miles per hour from the Borough of Avon-By-The-Sea—Borough of Bradley Beach corporate line (Sylvan Lake) to Evergreen Avenue (approximate mileposts 6.63 to 6.81); thence

(B) Zone 2: 30 miles per hour from Evergreen Avenue to the Township of Neptune—Borough of Bradley Beach corporate line (Fletcher Lake) (approximate mileposts 6.81 to 7.48); thence

(9) Neptune Township:

(A) 30 miles per hour from the Borough of Bradley Beach—Township of Neptune corporate line (Fletcher Lake) to the Township of Neptune—City of Asbury Park corporate line (Wesley Lake) (approximate mileposts 7.48 to 7.92); thence

(10) Asbury Park City:

(A) 30 miles per hour from the Township of Neptune—City of Asbury Park corporate line to the City of Asbury Park—Village of Loch Arbor corporate line (Deal Lake) (approximate mileposts 7.92 to 9.40); thence

(11) Loch Arbor Village:

(A) Zone 1: 30 miles per hour from the City of Asbury Park—Village of Loch Arbor corporate line (Deal Lake) to Edgemont Avenue (approximate mileposts 9.40 to 9.45); thence

(B) Zone 2: 35 miles per hour from Edgemont Avenue to the Village of Loch Arbor—Borough of Allenhurst corporate line (approximate mileposts 9.45 to 9.62); thence

(12) Allenhurst Borough:

(A) 35 miles per hour from the Village of Loch Arbor—Borough of Allenhurst corporate line to the Borough of Allenhurst—Borough of Deal corporate line (approximate mileposts 9.62 to 9.94); thence

(13) Deal Borough:

(A) 35 miles per hour from the Borough of Allenhurst—Borough of Deal corporate line to the Borough of Deal—Township of Ocean, City of Long Branch corporate line (approximate mileposts 9.94 to 11.67); thence

(14) Ocean Township:

(A) 35 miles per hour from the Borough of Deal—Township of Ocean corporate line to the Township of Ocean—Borough of West Long Branch corporate line (Whale Pond Stream) (approximate mileposts 11.67 to 12.58); thence

(15) West Long Branch Borough:

(A) Zone 1: 35 miles per hour from the City of Long Branch—Borough of West Long Branch corporate line (Cedar Avenue) to Mount Drive (approximate mileposts 12.95 to 13.62); thence

(B) Zone 2: 30 miles per hour from Mount Drive to Wall Street (approximate mileposts 13.62 to 13.90); thence

(C) Zone 3: 40 miles per hour from Wall Street to Route N.J. 36 (approximate mileposts 13.90 to 14.77); thence

(D) Zone 4: 45 miles per hour from Route N.J. 36 to the Borough of West Long Branch—Borough of Eatontown, Borough of Oceanport corporate line (Turtle Mill Creek) (approximate mileposts 14.77 to 15.05); thence

(16) Eatontown Borough:

(A) 35 miles per hour from the Borough of Oceanport—Borough of Eatontown corporate line (Main Street) to Cliffwood Avenue except for 25 miles per hour when passing through the Meadow Brook School Zone (mileposts 15.87 to 15.95) while "25 MPH WHEN FLASHING" signs are operating during recess or while children are going to or leaving school, during opening or closing hours (approximate mileposts 15.71 to 16.25); thence

(B) Zone 3: 30 miles per hour from Cliffwood Avenue to Route N.J. 35 (approximate mileposts 16.25 to 16.76); thence

2. For northbound direction of traffic:

i. In Monmouth County:

(1) Sea Girt Borough:

(A) 40 miles per hour from Manasquan Turnpike (County Road 20) to the Borough of Spring Lake Heights—Borough of Sea Girt corporate line (approximate mileposts 2.30 to 2.43);

(2) Long Branch City:

(A) 35 miles per hour from the Borough of Deal—City of Long Branch corporate line to the City of Long Branch—Borough of West Long Branch corporate line (Cedar Avenue) (approximate mileposts 11.67 to 12.95).

3. For southbound direction of traffic:

i. In Monmouth County:

(1) Wall Township:

(A) Zone 1: 40 miles per hour from the Borough of Sea Girt northwesterly Township of Wall southwesterly corporate line (Manasquan Turnpike) to the Borough of Spring Lake Heights southerly—Township of Wall northwesterly corporate line (Wreck Pond) to (approximate mileposts 2.30 to 2.43)

(CITE 25 N.J.R. 276)

(2) Ocean Township:

(A) 35 miles per hour from the Borough of Deal—Township of Ocean corporate line to the Township of Ocean Borough of West Long Branch corporate line (Whale Pond Stream) (approximate mileposts 11.67 to 12.58); thence

(3) West Long Branch Borough:

(A) Zone 1: 35 miles per hour from the Township of Ocean—Borough of West Long Branch corporate line (Whale Pond Stream) to the Borough of West Long Branch—City of Long Branch corporate line (Cedar Avenue) (approximate mileposts 12.58 to 12.95).

(4) Oceanport Borough:

(A) Zone 1: 45 miles per hour from the Borough of West Long Branch—Borough of Oceanport southwesterly corporate line (Turtle Mill Creek) to Reynolds Drive (approximate mileposts 15.05 to 15.41); thence

(B) Zone 2: 35 miles per hour from Reynolds Drive to the Borough of Oceanport northeasterly—Borough of Eatontown southeasterly corporate line (Main Street) (approximate mileposts 15.41 to 15.71).

(5) Eatontown Borough:

(A) Zone 1: 45 miles per hour from the Borough of West Long Branch—Borough of Eatontown corporate line (Turtle Mill Creek) to Reynolds Drive (approximate mileposts 15.05 to 15.41); thence

(B) 35 miles per hour from Reynolds Drive to the Borough of Eatontown—Borough of Oceanport corporate line (Main Street) (approximate mileposts 15.41 to 15.71).

¹See also N.J.A.C. 16:28-1.49.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Applications

Employee Licenses; Renewal of Employee Licenses

Proposed Amendments: N.J.A.C. 19:41-1.3 and 14.3

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.

Authority: N.J.S.A. 5:12-63, 69, 70a and b, 80, 94 and 95.

Proposal Number: PRN 1993-38.

Submit written comments by February 18, 1993 to:

David C. Missimer
Senior Assistant Counsel
Casino Control Commission
Tennessee Avenue and the Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

The Commission recently adopted a new subchapter, N.J.A.C. 19:41-14, which establishes and codifies procedures governing the renewal applications of employee licensees (see notice of adoption published elsewhere in this issue of the New Jersey Register). These rules will become operative on July 1, 1993. Subsection (h) of N.J.A.C. 19:41-1.3 currently requires an applicant for renewal of an employee license to pick up the renewed license credential within 30 days of notification that the license has been renewed. The proposed amendment to this section would delete subsection (h) in recognition of the fact that an identical provision has been included in the new subchapter on the renewal of employee licenses (see N.J.A.C. 19:41-14.5(e)).

The amendments to N.J.A.C. 19:41-14.3(a) are being proposed at the request of the Division of Gaming Enforcement (Division). Under current application requirements, the application form and release authorization which must be submitted by every applicant for the issuance or renewal of an employee license must be notarized by a person authorized to administer oaths in New Jersey. At the time that the new subchapter on employee license renewals was proposed for publication, the requirements that the application form and release authorization be notarized were deleted for renewal applications. The Division has subsequently advised the Commission that its investigative efforts will be

severely hampered if the release authorization and application form are not notarized. Accordingly, the proposed amendments to N.J.A.C. 19:41-14.3(a) would reinstate the requirements that the application form and release authorization submitted as part of an application for renewal be notarized.

Social Impact

The proposed amendment to N.J.A.C. 19:41-1.3(h) will have no social impact since it will merely eliminate the duplication in the rules of an existing regulatory requirement. Similarly, the amendments to N.J.A.C. 19:41-14.3(a) should have no social impact since they will, prior to the operative date of that section, simply reinstate the current requirements that application forms and release authorizations be notarized. Failure to adopt these amendments would, however, in the opinion of the Division, undermine the State's ability to assure the strict regulation of casino gaming in this State in accordance with the mandate of the Casino Control Act (see N.J.S.A. 5:12-1(b)6).

Economic Impact

As discussed in the Summary, in the event that these proposed amendments are adopted prior to the operative date of the recently adopted rule at N.J.A.C. 19:41-14.3, which would eliminate the application notarization requirement, the proposed amendments would reinstate the application notarization requirement, with any attendant fees, if charged. Therefore, these proposed amendments are not anticipated to have any economic impact because they would not impose any new obligation on any person.

Regulatory Flexibility Statement

The proposed amendments will only affect individual natural persons required to hold employee licenses under the provisions of the Casino Control Act. Therefore, a regulatory flexibility analysis is not required pursuant to the provisions of N.J.S.A. 52:14B-16 et seq., as no small business is affected.

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

19:41-1.3 Employee licenses

(a)-(g) (No change.)

[(h) The Commission shall notify an applicant for renewal of an employee license in writing when a renewal application is granted and the applicant shall appear in person at the Commission's Casino Employee License Information Unit in Atlantic City within 30 days of the notice to obtain his or her new license credential. Should the applicant fail to appear as required by this subsection, the Commission shall notify casino licensees that the applicant can no longer be employed in the licensed position after the expiration date of the applicant's current license credential until the applicant appears as required and receives his or her new license credential.]

19:41-14.3 Contents of renewal application

(a) An application for the renewal of an employee license shall include:

1. A completed Employee License Renewal Application form [certified and] signed by the applicant **and notarized by a person authorized to administer oaths in the State of New Jersey**. This form shall contain all relevant information since the applicant's initial application for licensure or most recent renewal application concerning the following:

i.-vii. (No change.)

2. A Release Authorization signed by the applicant **and notarized by a person authorized to administer oaths in the State of New Jersey**, which Release Authorization shall direct all courts, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions, and all governmental agencies, to release any and all information pertaining to the applicant as requested by the Division or Commission; and

3. (No change.)

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

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls

Proposed Readoption: N.J.A.C. 19:45

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.

Authority: N.J.S.A. 5:12-63(c) and (f), 69, 70(g), (j), (l)-(n), 99
and 101.

Proposal Number: PRN 1993-39.

Submit written comments by February 18, 1993 to:

Mary S. LaMantia, Assistant Counsel
Casino Control Commission
Tennessee and Boardwalk
Atlantic City, New Jersey 08401

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 19:45 is scheduled to expire on March 24, 1993. The rules were initially promulgated in 1978 to implement provisions of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., concerning the Casino Control Commission's (Commission) responsibility to regulate and monitor casino licensees' management controls, including employee and supervisory tables of organization, N.J.S.A. 5:12-70(j); security standards, N.J.S.A. 5:12-70(j); practices and procedures for negotiable transactions, N.J.S.A. 5:12-70(g); procedures for control over internal fiscal affairs, N.J.S.A. 5:12-70(l); a uniform system of accounting methods, N.J.S.A. 5:12-70(m); and periodic financial reporting, N.J.S.A. 5:12-70(n). The rules also implement section 99 of the Act, which requires that all casino licensees submit to the Commission a system of internal procedures and administrative and accounting controls, and section 101 of the Act, which sets forth standards for the extension of credit and check-cashing.

The Commission has continually reviewed and updated the extensive and detailed requirements set forth in chapter 45. The rules were readopted without change in 1983 and again in 1988 (see 15 N.J.R. 240(a), 15 N.J.R. 699(a); 20 N.J.R. 382(a), 20 N.J.R. 930(a)), with numerous modifications effected through the amendment process in the intervening years.

Since the 1988 readoption, the ongoing review of chapter 45 has resulted in the adoption of more than 50 new rules and amendments. For example, recent amendments reduced the standard staffing levels for table games, N.J.A.C. 19:45-1.12, and set forth procedures whereby a casino may conduct certain low limit table games that would not otherwise comply with these staffing requirements. N.J.A.C. 19:45-1.12A, see 23 N.J.R. 3250(a), 24 N.J.R. 649(a). Other amendments to N.J.A.C. 19:45-1.8 codified the requisite records retention schedules for casino licensees, thereby eliminating the need for records destruction petitions. New rules addressed, among other things, multi-casino linked progressive slot machines, N.J.A.C. 19:45-1.39A (see 22 N.J.R. 624(a), 1381(a)); slot counter checks, N.J.A.C. 19:45-1.25A (see 22 N.J.R. 3205(a), 23 N.J.R. 1455(a)); wire transfers, N.J.A.C. 19:45-1.24A and 1.24B (see 20 N.J.R. 3012(a), 21 N.J.R. 1151(b)); and automated coupon redemption machines, N.J.A.C. 19:45-1.46A (see 22 N.J.R. 3708(b), 23 N.J.R. 885(a)).

The Commission has reviewed N.J.A.C. 19:45 and determined the rules to be necessary, reasonable and proper for the purposes for which they were originally promulgated. Since the rules are continually reviewed and reevaluated, the chapter is proposed for readoption at this time without amendment.

N.J.A.C. 19:45 creates a system of internal and accounting controls mandated by the Act, and standards and procedures which ensure the integrity of casino operations. Such rules are essential to assure the public trust and confidence in the credibility and integrity of the regulatory process and of casino operations, in accordance with the goals of the Act, N.J.S.A. 5:12-1(b)(6).

Social Impact

The readoption of N.J.A.C. 19:45 will continue to benefit the public and the casino industry. The standards and procedures set forth in chapter 45 have been effective in preserving the integrity of casino operations. The Casino Control Act expressly recognizes that an essential element of the regulation of casino gaming is the maintenance of the

public trust and confidence in the credibility and integrity of the regulatory process and of casino gaming, N.J.S.A. 5:12-1(b)(6).

The rules benefit the casino industry by establishing a system of uniform accounting controls and procedures which protect a casino's assets. The failure to readopt these rules would enhance the danger of fiscal irregularities in the industry which would in turn reflect adversely on the image of Atlantic City. Failure to maintain public confidence in the integrity of the industry could also result in less participation by both operators and the public, thus limiting the anticipated benefits of casino gaming in this State.

Economic Impact

The rules benefit the casino industry by providing the casinos with a logical, systematic framework for conducting operations, and by protecting against unlawful diversion of a casino's assets. The rules do impose certain costs of compliance upon the industry, since each licensee is obligated to institute internal control systems and procedures and employ personnel to maintain them. However, to the extent that any reduction in the costs of compliance may be effected through regulatory amendment, without posing a threat to the integrity of casino gaming, such changes have been and will continue to be proposed.

Costs are incurred by the regulatory agencies in assuring proper implementation and compliance with the standards set forth in chapter 45. Nevertheless, the rules provide an efficient procedure for regulating and monitoring the accounting and internal controls of each casino licensee, and ensure the accurate reporting of gross revenue by each casino licensee.

Regulatory Flexibility Statement

The rules proposed for reoption affect only the operations of casino licensees, none of which qualify as a small business under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. A regulatory flexibility analysis is thus not required.

Full text of the proposed reoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:45.

(a)

CASINO CONTROL COMMISSION

**Accounting and Internal Controls
Procedures and Requirements for the Use of
Automated Coupon Redemption Machines; CCTV
Coverage**

**Proposed Amendments: N.J.A.C. 19:45-1.10, 1.11
and 1.46A**

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 69(a), 70(g) and (l), 99(a).

Proposal Number: PRN 1993-40.

Submit comments by February 18, 1993 to:

Seth Brilliant, Assistant Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, NJ 08401

The agency proposal follows:

Summary

On April 20, 1992, the Commission proposed amendments to N.J.A.C. 19:45-1.10, 1.11, and 1.46A. That proposal would have codified a recent Commission interpretation permitting automatic coupon redemption machines to be located immediately adjacent to the casino floor if there is proper closed circuit television (CCTV) surveillance of the machine. See 24 N.J.R. 1472(a). On June 3, 1992, the Commission determined, by a 3 to 2 vote, to delete the portion of the proposal that required CCTV coverage of the machines. The revised proposal was published on September 21, 1992 at 24 N.J.R. 3255(a).

Comments in support of the revised proposal were received from Greate Bay Hotel and Casino, Inc. (Sands Hotel and Casino), Resorts International Hotel, Inc. (Merv Griffin's Resorts International Hotel and Casino), and Adamar of New Jersey, Inc. (TropWorld Casino and Entertainment Resort). The Division of Gaming Enforcement objected to the

revised proposal, indicating that in its opinion, CCTV coverage was necessary to deter, document, and aid in the prosecution of coupon redemption fraud which occurs at automated coupon redemption machines.

On November 4, 1992, the Commission determined, by a 3 to 2 vote, not to adopt the revised proposal which omitted the CCTV coverage requirement, and further decided to republish the proposal in the alternative, with and without the CCTV coverage requirement.

Accordingly, Alternative A would permit automated coupon redemption machines to be located immediately adjacent to the casino floor, and would require CCTV surveillance of the machines. Alternative B differs only in that it would not require such CCTV coverage.

Please note that these proposed alternative amendments supersede both prior proposals on automated coupon redemption machines. Accordingly, any comments submitted in response to the earlier proposals will not be considered in connection with the present proposal unless they are specifically resubmitted during the present comment period. Additional comment from any other interested parties is also permissible.

Social Impact

Both alternative amendments would provide casino licensees with greater flexibility to serve their patrons by permitting coupon redemption machines to be located immediately adjacent to the casino floor. Such an arrangement would also conserve and make more efficient use of casino floor space.

Economic Impact

Although the ultimate economic impact of this proposed amendment cannot be predicted with certainty, it is anticipated that, under either alternative amendment, casino licensees may eventually be able to reduce the time, labor and expense involved in redeeming coupons, by installing automated coupon redemption machines immediately adjacent to the casino floor. However, there may be less of a reduction in costs to casino licensees if Alternative A is adopted, because that alternative amendment requires CCTV coverage of such machines.

Regulatory Flexibility Statement

Both alternative amendments affect casino licensees, none of which are "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Accordingly, no regulatory flexibility analysis is required.

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

ALTERNATIVE A

19:45-1.10 Closed circuit television system: **surveillance department control; surveillance department restrictions**

(a) (No change.)

(b) The closed circuit television system shall include, but need not be limited to, the following:

1. Light sensitive cameras with zoom, scan, and tilt capabilities to effectively and clandestinely monitor in detail and from various vantage points, the following:

i-iv. (No change.)

v. The operations conducted at automated coupon redemption machines;

Recodify existing v.-viii. as vi.-ix. (No change in text.)

2.-5. (No change.)

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

19:45-1.11 Casino licensee's organization

(a) (No change.)

(b) In addition to satisfying the requirements of (a) above, each casino licensee's system of internal controls shall include, at a minimum, the following departments and supervisory positions. Each of these departments and supervisors shall be required to cooperate with, yet perform independently of, all other departments and supervisors. Mandatory departments are as follows:

1. A surveillance department supervised by a casino key employee holding a license endorsed with the position of director of surveillance. The supervisor of the surveillance department shall be subject to the reporting requirements specified in (c) below. The surveillance department shall be responsible for, without limitation, the following:

- i-iii. (No change.)
- iv. **The clandestine surveillance of the operation of automated coupon redemption machines;**
Recodify existing iv.-viii. as v.-ix. (No change in text.)
- 2.-9. (No change.)
- (c)-(f) (No change.)

19:45-1.46A Procedures and requirements for the use of an automated coupon redemption machine

- (a)-(e) (No change.)
- (f) **Automated coupon redemption machines may be located on or immediately adjacent to the casino floor, provided that closed circuit television coverage of all automated coupon redemption machines is provided, pursuant to N.J.A.C. 19:45-1.10 and 1.11.** Each automated coupon redemption machine shall have imprinted, affixed or impressed on the outside of the machine a unique asset identification number. Each automated coupon redemption machine shall contain a lockable coupon storage box which retains the coupons accepted by the machine. Each coupon storage box located inside the machine shall also have imprinted, affixed or impressed thereon the asset identification number of the corresponding machine.
- (g)-(p) (No change.)

ALTERNATIVE B

19:45-1.46A Procedures and requirements for the use of an automated coupon redemption machine

- (a)-(e) (No change.)
- (f) **Automated coupon redemption machines may be located on or immediately adjacent to the casino floor.** Each automated coupon redemption machine shall have imprinted, affixed or impressed on the outside of the machine a unique asset identification number. Each automated coupon redemption machine shall contain a lockable coupon storage box which retains the coupons accepted by the machine. Each coupon storage box located inside the machine shall also have imprinted, affixed or impressed thereon the asset identification number of the corresponding machine.
- (g)-(p) (No change.)

(a)

**CASINO CONTROL COMMISSION
Accounting and Internal Controls
Drop Boxes and Slot Cash Storage Boxes
Procedure for Opening, Counting and Recording
Contents of Drop Boxes and Slot Cash Storage
Boxes
Removal of Slot Drop Buckets and Slot Cash Storage
Boxes; Meter Readings
Computer Recordation and Monitoring of Slot
Machines
Proposed Amendments: N.J.A.C. 19:45-1.16, 1.33,
1.42 and 1.44**

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.
Authority: N.J.S.A. 5:12-63(c), 69, 70(f) and 99.
Proposal Number: PRN 1993-41.

Submit comments by February 18, 1993 to:
Barbara A. Mattie
Chief Analyst—Operations
Casino Control Commission
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, NJ 08401

The agency proposal follows:

Summary

The proposed amendments would eliminate the necessity for a casino licensee to maintain two complete sets of slot cash storage boxes for each bill changer unit by permitting the use of "replacement" slot cash storage boxes. The replacement slot cash storage box would contain a

unique identification number that is assigned upon insertion of the slot cash storage box into the slot machine's bill changer. The slot cash storage box's unique identification number would be linked to the slot machine's asset number so that the slot machine's revenues can be accurately recorded and reported. The proposed amendment at N.J.A.C. 19:45-1.44(b)8 provides casino licensees with an option to either utilize a computer system or a manual system to track slot cash storage boxes with a unique identification number.

Social Impact

The proposed amendments are not anticipated to have any social impact.

Economic Impact

The proposed amendments would provide a cost savings to the casino industry by eliminating the necessity that two complete sets of slot cash storage boxes be maintained for each bill changer unit. Instead, casino licensees would be permitted to maintain the number of slot cash storage boxes necessary to replace the slot cash storage boxes removed and counted on any given day. By eliminating the necessity for casino licensees to maintain two complete sets of slot cash storage boxes, the manufacturers of said boxes may lose revenue due to lost sales. Further, if a casino licensee elects to utilize a computer system in lieu of a manual system to track slot cash storage boxes with a unique identification number, the casino licensee may incur an additional expense since it will be necessary to either reprogram and/or modify its own computer system.

Regulatory Flexibility Statement

A regulatory flexibility statement is not required since the proposed amendments will only affect the operation of New Jersey casino licensees, none of which qualify as small business protected under the Regulatory Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.16 Drop boxes and slot cash storage boxes

- (a) (No change.)
- (b) Each bill changer in a casino shall have contained in it a secure metal container known as a "slot cash storage box" in which shall be deposited all cash inserted into the bill changer. Each slot cash storage box shall:
 - 1.-4. (No change.)
 - 5. Have an asset number at least two inches in height, permanently imprinted, affixed or impressed on the outside of the slot cash storage box which corresponds to the asset number of the slot machine to which the bill changer has been attached[, except that]. **In lieu of the asset number, a casino licensee may develop and maintain, with prior Commission approval, a system for assigning a unique identification number to its slot cash storage boxes, which system ensures that each slot cash storage box can readily be identified, either manually or by computer, when in use with, attached to, and removed from a particular bill changer. Each such unique identification number shall be at least two inches in height and shall be permanently imprinted, affixed or impressed on the outside of each slot cash storage box that does not otherwise bear an asset number. In addition, emergency slot cash storage boxes may be maintained without such numbers, provided the word "emergency" is permanently imprinted, affixed or impressed thereon, and when put into use, are temporarily marked with the asset number of the slot machine to which the bill changer is attached, and provided further, that the casino obtains the express written approval of a Commission inspector before placing an emergency slot cash storage box into use.**
- (c)-(d) (No change.)

19:45-1.33 Procedure for opening, counting and recording contents of drop boxes and slot cash storage boxes

- (a)-(g) (No change.)
- (h) Procedures and requirements for conducting the count shall be the following:
 - 1. As each drop box or slot cash storage box is placed on the count table, one count team member shall verbalize, in a tone of voice to be heard by all persons present and to be recorded by the

audio recording device, the game, table number, and shift marked thereon for drop boxes, or the asset or **unique identification** number market thereon for slot cash storage boxes;

2.-8. (No change.)

9. As the contents of each slot cash storage box are counted, one count team member shall record on the Slot Cash Storage Box Report or supporting documentation the following information:

i. The asset number of the bill changer to which the slot cash storage box contents correspond **or, if a casino licensee utilizes slot cash storage boxes with a unique identification number, the number shall be recorded along with the asset number of the slot machine;**

ii.-v. (No change.)

10.-11. (No change.)

(i)-(j) (No change.)

19:45-1.42 Removal of slot drop buckets and slot cash storage boxes; meter readings

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

(c) Procedures and requirements for removing slot drop buckets and slot cash storage boxes from the casino shall be the following:

1. If the slot drop buckets and slot cash storage boxes are removed in conformity with (b)1 above:

i. The slot drop bucket shall be removed from its compartment and an empty slot drop bucket shall be placed in the compartment after which the compartment shall be closed and locked; and on those slot machines where a bill changer is attached, the slot cash storage box shall be removed from its compartment and an empty slot cash storage box shall be placed in the compartment **and, if applicable, a unique identification number shall be assigned and recorded,** after which the compartment and the bill changer door shall be closed and locked;

ii.-iii. (No change.)

2. (No change.)

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

19:45-1.44 Computer recordation and monitoring of slot machines

(a) (No change.)

(b) The computer permitted by (a) above shall be designed and operated to automatically perform the function relating to slot machine meters in the casino as follows:

1.-3. (No change.)

4. Record the number and total value of coins or slot tokens automatically paid by the slot machine as the result of a jackpot; [and]

5. Record the number and total value of coins and slot tokens to be paid manually as a result of a jackpot[.];

6. Record the number and total value of coins or slot tokens vended from the slot machine hopper to make change; [and]

7. Record the total value of each denomination of currency accepted and stored in the slot cash storage box[.]; **and**

8. **Record, if applicable, the unique identification number on the corresponding slot cash storage box and the asset number of the slot machine in which the slot cash storage box was placed for the purpose of recording and determining which slot cash storage box was placed into which slot machine bill changer.**

(c) (No change.)

(a)

CASINO CONTROL COMMISSION

Taxes

Gross Revenue Tax; Section 144 Investment

Obligation Alternative Tax; Section 144.1

Investment Tax Credits

Proposed Readoption with Amendments: N.J.A.C. 19:54

Proposed Repeal: N.J.A.C. 19:54-2

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.

Authority: N.J.S.A. 5:12-63c, 69, 70e, 144a and f, and 144.1c.

Proposal Number: PRN 1993-42.

Submit comments by February 18, 1993 to:

David C. Missimer, Senior Assistant Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, NJ 08401

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Casino Control Commission proposes to re-adopt, with amendments, N.J.A.C. 19:54 concerning the gross revenue tax, the investment obligation alternative tax and investment tax credits. These rules would otherwise expire on March 24, 1993.

Subchapter 1 of chapter 54 initially became effective on May 25, 1978. These rules implement the provisions of the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., which impose a gross revenue tax obligation on casino licensees (see N.J.S.A. 5:12-144a) and fulfill the Commission's obligation to promulgate rules to facilitate the collection of this tax (see N.J.S.A. 5:12-70e). The rules were readopted on April 15, 1983, and again on March 24, 1988, pursuant to the provisions of Executive Order No. 66(1978).

Several amendments are being proposed to N.J.A.C. 19:54-1 during its readoption in order to conform the rules to various statutory amendments which have occurred since the rules were first adopted. In addition, various technical modifications to the rules are being proposed as part of a Commission effort to establish a uniform system of citation within the Commission's rules.

The primary amendment proposed to N.J.A.C. 19:54-1.1, Description of tax, deletes outdated regulatory language concerning the adjustment of the gross revenue tax rate; comparable language was previously eliminated from the Act. N.J.A.C. 19:54-1.2, Definitions, contains several proposed amendments which are also required due to prior statutory changes which modified the substance or codification of the provisions at issue. For example, section 104 of the Act no longer addresses qualification requirements concerning casino licensure or casino management agreements; accordingly, all references to section 104 in the relevant definitions are deleted. The definition of "casino operator" has to be modified since a single casino licensee is no longer required to lease or own 100 percent of the casino hotel facility (see N.J.S.A. 5:12-82). As an alternative, the proposal designates the casino operator, where there is no casino management agreement, as the casino licensee who is responsible for submitting and maintaining the internal controls required by section 99 of the Act. The definition of "casino revenue fund" is also modified to reflect new sources of funding which are now statutorily required to be deposited in that account. Finally, the advent of 24 hour casino gaming has required the Commission to adopt the use of the "gaming day" concept when calculating and reviewing the gaming revenues of casino licensees. Similar technical or clarifying amendments are proposed to N.J.A.C. 19:54-1.3, 1.4, 1.5 and 1.6.

Significant amendments are being proposed to N.J.A.C. 19:54-1.5 through 1.13 to reflect the fact that section 149 of the Act has been amended to transfer the tax enforcement responsibilities specified therein from the State Treasurer to the Commission. The Commission has been exercising this authority since the statutory changes were approved and the proposed amendments to these sections merely codify existing practice. Three sections of the existing rules, N.J.A.C. 19:54-1.11, 1.12 and 1.13, which deal almost exclusively with the Treasurer's responsibilities or the relationship between the Treasurer and the Commission vis-a-vis the tax collection process, are proposed for repeal since they are no longer relevant.

An amendment to N.J.A.C. 19:54-1.5(e) is proposed to recognize that gross revenue tax deposits are made on a weekly, not monthly, basis. Again, this amendment will codify current practice. Proposed amendments to N.J.A.C. 19:54-1.8 also reflect current Commission practice pursuant to which the Commission "examines" the gross revenue records of casino licensees rather than "audits" those records as that term is defined under generally accepted auditing standards. The remaining amendments to this subchapter are proposed for purposes of clarification or organization but do not effect any substantive change to current requirements or practices.

The rules contained in subchapter 1 of chapter 54 enable the Commission to assure that the gross revenue tax imposed by subsection 144a of the Act is computed, collected, verified and enforced in an efficient

and reliable manner. The proceeds of this tax are used to fund various programs which benefit senior and disabled citizens of New Jersey. Although the Commission plays no role in the creation or specification of the programs to which gross revenue tax proceeds are dedicated, the Commission, and the rules contained in subchapter 1, play a significant role in assuring that funds are available to implement the programs which are selected by the Legislature. These rules remain an effective and necessary component of the Commission's regulatory structure and are therefore proposed for readoption.

Subchapter 2 of chapter 54 addresses the investment alternative tax obligations of casino licensees under subsections 144b through i of the Act. Pursuant to the terms of N.J.S.A. 5:12-144g, the Commission is no longer responsible for the implementation and enforcement of the investment obligation and alternative tax created by section 144 of the Act. This responsibility was transferred to the Casino Reinvestment Development Authority (CRDA) in 1986. The CRDA has, since that time, incorporated by reference in its own rules the regulatory provisions contained in N.J.A.C. 19:54-2 (see N.J.A.C. 19:65-5.1).

The Commission has advised the CRDA that the Commission does not intend to readopt N.J.A.C. 19:54-2 since the Commission no longer has the statutory authority to promulgate such rules. If the CRDA determines that these rules are necessary to the regulation of investments or tax obligations which arose pursuant to N.J.S.A. 5:12-144, the Commission has suggested that the CRDA take steps to publish and adopt the rules as part of the CRDA's own regulatory structure. If the CRDA advises the Commission that the CRDA would like to adopt the rules prior to their repeal by the Commission, the Commission will delay the operative date of the repeal of subchapter 2 for a period of time sufficient for such action to occur.

The rules contained in subchapter 3 were originally filed and became effective on April 7, 1986. These rules implement the Commission's obligation to provide a standard upon which a casino licensee may petition the CRDA for a deferral of an investment obligation under a claim of "extreme financial hardship" (see N.J.S.A. 5:12-144.1c). The rules also establish a procedural framework to facilitate the Commission's processing and review of petitions by casino licensees for determinations of extreme financial hardship. These rules remain necessary to the Commission's responsibility to assist the CRDA in the implementation of the investment tax credits authorized by N.J.S.A. 5:12-144.1 and they are proposed for readoption without amendment. The Commission is proposing, however, that these rules be recodified as subchapter 2 of chapter 54 when the repeal of the present subchapter 2 becomes operative.

Social Impact

Pursuant to the New Jersey Constitution, Article 4, section 7, paragraph 2 and N.J.S.A. 5:12-145, the gross revenue tax provides monies to be used for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits for eligible senior citizens and disabled residents. The manner in which the proceeds of this tax are distributed is determined by the Legislature. The Commission's role, and the purpose of these rules, is to insure the verification and collection of the tax revenues which fund the various social programs established by the Legislature. The failure to readopt these rules would seriously impair those social programs which rely upon the accurate assessment and collection of the gross revenue tax by the Commission.

Economic Impact

As noted above, the primary purpose of these rules is to assure that the gross revenue tax obligations of casino licensees are efficiently and accurately implemented and enforced. It would be highly speculative to predict in monetary terms how the collection of the gross revenue tax might be affected if these rules were not readopted. The failure to readopt these rules would, however, without doubt, introduce unnecessary uncertainty into the gross revenue tax collection process and might possibly require the expenditure of other resources to verify accurate payment. The implementation of these rules does require costs to be incurred by the Commission, but these costs are approved during the Legislative budget review process and are funded through fees collected from the casino industry.

Pursuant to N.J.S.A. 5:12-144.1, the Legislature has provided a procedure whereby casino licensees may petition the CRDA for a deferral of a tax credit investment obligation under a claim of extreme financial hardship. These rules impose a slight economic burden on a

petitioning casino licensee by requiring it to amass and supply to the Commission and Division information and documentation necessary to establish extreme financial hardship. Correspondingly, the receipt of this information may impose a slight economic burden on the Commission and Division during the processing and review of the information.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the rules proposed for readoption do not impose any reporting, recordkeeping or compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These rules affect casino licensees, none of which are small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:54.

Full text of the proposed repeal of N.J.A.C. 19:54-2 may be found in the New Jersey Administrative Code.

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

19:54-1.1 Description of tax

[Section 144(a)] **Subsection 144a** of the Act imposes an annual tax on gross revenues, as defined in [Section] **section 24** of the Act, in the amount of eight percent of such gross revenues; but effective July 1, 1979, the tax shall be 12 percent of such gross revenues when two or three licensed casinos are in operation, 10 percent when four licensed casinos are in operation and eight percent when five or more licensed casinos are in operation. However, if a third licensed casino is not in operation by April 1, 1980, the annual tax shall be 14 percent of gross revenues derived by the two operating casinos from July 1, 1979, until the operation of a third licensed casino or June 30, 1980, whichever occurs first. The full 14 percent tax payment shall be made prior to July 1, 1980].

19:54-1.2 Definitions

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

"Casino licensee" or "licensed casino" includes the holder of a casino license or [temporary casino permit] **interim casino authorization**.

"Casino management agreement" means a written agreement between [a casino licensee which owns or leases, as tenant, 100 percent of the entire casino hotel facility] **one or more casino licensees or casino service industry enterprise licensees** and another casino licensee whereby the latter agrees to provide complete management of a casino in accordance with [Sections 82(b)(4) and 104] **section 82** of the Act.

...
"Casino operator" means:

1. Where there is no casino management agreement with regard to the casino hotel facility, the casino operator shall be the casino licensee which [leases, as tenant, 100 percent of the entire casino hotel facility in accordance with Sections 82(b)(4) and 104(a) of the Act; or if there is no lease agreement, the casino licensee which owns 100 percent of the entire casino hotel facility in accordance with Section 82(b)(1) of the Act] is **responsible for submitting and maintaining the internal controls required by section 99 of the Act**; or

2. (No change.)

"Casino Revenue Fund" means a separate special account established in the Department of the Treasury for deposit of all revenues from the tax imposed by [Section 144] **subsection 144a of the Act, the investment alternative taxes imposed by subsections 144e and 144.1a of the Act, any interest earned pursuant to paragraph 2 of subsection 144.1a or section 145.1 of the Act and any penalties payable to the Casino Revenue Fund pursuant to section 145 of the Act**.

["Day" means, in computing taxes or deposits due for any period, the last day of the period shall end either at midnight or at the close of business, provided that the casino is continuously open for business until the closing time, whichever is later.]

"Gaming day" is defined in N.J.A.C. 19:45-1.1A.

"Lease" or "lease agreement" means a written agreement for the lease of [100 percent of] the approved hotel in accordance with [Sections] section 82 [and 104] of the Act, including any such lease which is capitalized under generally accepted accounting principles.

19:54-1.3 Tax year

For the purposes of the tax on gross revenues, the tax year shall be the calendar year. In the year in which a casino operator commences gaming operations, the tax year for that casino operator shall begin with the commencement of operations and terminate on the last gaming day of the current calendar year.

19:54-1.4 Tax payer

(a) The obligation to file returns and reports and to pay the gross revenue tax and any investment alternative taxes shall be upon the casino operator who shall be primarily liable therefor. In the event of a transfer of operations to a different casino operator, the transferrer-operator will be obligated to file a return and to pay all taxes based upon gross revenues derived by the said transferrer during the tax year in which the transfer occurred. The appointment of a conservator under the Act shall not be deemed a transfer to a different casino operator but, for the duration of the conservatorship, the conservator shall file all returns and pay all taxes on behalf of the former or suspended casino licensee who shall remain primarily liable therefor.

(b) In accordance with [Sections] section 82 [and 104] of the Act, each casino licensee which is a party to either a casino management agreement or a lease with the casino operator, shall be individually and severally liable for any acts, omissions and violations by the casino operator regarding the taxation obligations imposed by the Act regardless of actual knowledge of such act, omission or violation and notwithstanding any provision of such agreement or lease to the contrary.

(c) In the event of a sale or other transfer by the casino operator of its interest in the licensed premises to another casino licensee, the transferee shall be liable for any default by the former casino operator in its taxation obligations with respect to the licensed premises. The liability of the transferee shall not, however, release any other party from potential liability.

(d) Nothing in this section shall be construed to limit the authority of the State Treasurer or the Commission to enforce any tax obligation by way of a lien against the property of a taxpayer or otherwise as provided by the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the revised Statutes, by the [Casino Control] Act or by any other applicable law.

19:54-1.5 Payment of tax

(a) In accordance with [Section 148(a)] subsection 148a of the Act, the gross revenues tax shall be due and payable annually on or before the 15th calendar day of March [provided] except that if the 15th calendar day of March is a Saturday, Sunday or legal holiday, the due date shall be advanced to the next preceding regular business day. The gross revenues tax shall be based upon the gross revenues derived by the casino operator during the previous tax year. [Notwithstanding the foregoing if a third licensed casino is not in operation by April 1, 1980, the two operating casinos shall be required to pay the 14 percent gross revenues tax on all gross revenues derived from July 1, 1979 to the date of operation of a third licensed casino or June 30, 1980, whichever occurs first and such tax shall be paid in full by July 1, 1980.] The amount of the annual tax shall be computed in accordance with [section 6 of this subchapter] N.J.A.C. 19:54-1.6.

(b) The annual nature of the tax notwithstanding, the casino operator shall make weekly deposits of the tax at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer pursuant to [Section 145(b)] subsection 145b of the Act, provided that deposits for a given week shall be made no later than the Monday of the succeeding week. If such Monday is a legal holiday, the deposit shall be made on the next business day. In the event that the week for which the weekly deposit is being made includes gaming days from two calendar months, the casino operator shall deposit and report separately, the amount of the

deposit attributable to the gaming days of each month. The deposits shall be deposited to the credit of the Casino Revenue Fund.

(c) The amount of the required weekly deposit for a given week shall be determined by [the following calculations:

1. The total tax liability incurred by the casino operator based upon gross revenues derived by the operator from the commencement of the tax year to the close of business at 6:00 A.M. on Saturday of the given week; MINUS

2. The] subtracting the total amount of deposits made by the casino operator in the current tax year up to and including the week preceding the given week from the total tax liability incurred by the casino operator for the current tax year. The total tax liability for the current tax year shall be based upon the gross revenues derived by the casino operator from the commencement of the current tax year to the end of the gaming day which commenced on the Friday of the given week.

(d) The amount of deposits required for a given month shall be the amount determined by [the following calculations:

1. The total tax liability incurred by the casino operator based upon gross revenues derived by the operator from the commencement of the tax year to the close of the last day of the given month; MINUS

2. The] subtracting the total amount of deposits made by the casino operator in the current tax year up to and including the month preceding the given month [in question] from the total tax liability incurred by the casino operator for the current tax year. The total tax liability for the current tax year shall be based upon the gross revenues derived by the casino operator from the commencement of the tax year to the end of the gaming day which commenced on the last calendar day of the given month.

(e) In the event that the total amount of deposits made for the entire tax year is determined to be less than the annual tax liability for the entire year, the casino operator shall remit the requisite additional payment to the State Treasurer [along with the annual tax return of such casino operator]. In the event that the total amount of such deposits is determined to be greater than the annual tax liability, the casino operator may be allowed to reduce the amount of its [monthly] weekly deposits in the succeeding tax year by the amount of the overpayment, provided, however, that the casino operator shall not claim any such credit against [monthly] deposits unless the [State Treasurer or the] Commission first certifies the existence and amount of the overpayment. Nothing in this section shall limit any authority of the [State Treasurer] Commission under [Sections] sections 149 and 150 of the Act and the "State Tax Uniform Procedure Law," Section 9 of Title 54 of the Revised Statutes, including the authority to determine the insufficiency of any deposit or deposits, to require payments of penalties and interest or to allow or disallow any claim for refund due to overpayment of taxes.

19:54-1.6 Computation of tax

(a) The gross revenues tax shall be [12] eight percent of gross revenues [derived when two or three licensed casinos are in operation, 10 percent derived when four licensed casinos are in operation and eight percent derived when five or more licensed casinos are in operation. However, if a third casino is not in operation by April 1, 1980, the tax shall be 14 percent of gross revenues derived by the two operating casinos from July 1, 1979, until the operation of a third licensed casino or June 30, 1980, whichever occurs first]. The gross revenues for the tax year, or portion thereof, shall be the amount obtained from the following calculation:

1. The sum of the totals for the tax year, or portion thereof, which appear in the casino department accounts for revenues from table games [and], the casino department accounts for revenues from coin-operated devices, and the casino department accounts for any other authorized games approved by the Commission, which accounts are to be maintained in accordance with generally accepted accounting principles as part of the uniform chart of accounts for casino departments;

2. [MINUS] Minus only the lesser of the following:

i. Four percent of the sum total derived in [paragraph 1 of this subsection] (a)1 above; or

ii. (No change.)

(b) Nothing in this section shall be construed to limit the authority of the Commission[, Division or State Treasurer] to redetermine the amount of tax liability or to require adjustments or corrections to the accounts of the casino operator.

19:54-1.7 Return and reports

(a) The casino operator shall file with the [State Treasurer] **Commission** an annual tax return for purposes of the [Gross Revenues Tax] **gross revenues tax**. The return shall be filed no later than March 15 following the tax year. [At the same time, the casino operator shall file a copy of the annual return with the Commission.] Filing of [this copy] **the annual tax return** shall satisfy the reporting of gross revenues requirement imposed by [Section 148(a)] **subsection 148a** of the Act. The **annual tax** return shall be made on a form promulgated and distributed by the Commission pursuant to [Section] **section 151** of the Act. The casino operator shall provide all information required on the form and shall attest to the accuracy of such information. The **annual tax** return shall be signed by the [president] **chief executive officer, chief** financial [vice president] **officer, treasurer, or [corporate] controller** if the casino operator is a corporation[.]; by a general partner if the operator is a partnership[.]; by the chief executive officer if the operator is any other form of business association[.]; or by the proprietor if the operator is a sole proprietorship.

(b) On or before the 10th calendar day of each month, the casino operator shall file with [both] the Commission [and the State Treasurer] a monthly **gross revenue tax** report [and reconciliation statement] which shall reflect the amount of gross revenues derived during the preceding month, the amount of **tax deposits [made] required** for that month, [the amount of deposits, if any, which are made simultaneously with the filing of the report,] the amount of gross revenues derived during the year to the end of the **preceding** month, and the [amount of deposits made during] **tax liability** for the year **calculated** to the end of the **preceding** month. The monthly **gross revenue tax** report [and reconciliation statement] shall be on a form promulgated and distributed by the Commission, pursuant to [Section] **section 151** of the Act. The casino operator shall provide all information requested on the form which shall be sworn to and signed by the same individual designated in [subsection] (a) **above** [of this section] to sign the annual return.

19:54-1.8 [Audits] **Examination of accounts** and records

The casino operator shall permit duly authorized representatives of the Commission[, the Division and the State Treasurer] to [conduct periodic and special audits of] **examine** the operator's accounts[.] **and records** [and financial statements] **for the purpose of certifying gross revenues**. [In addition, the casino operator shall discharge all accounting and auditing responsibilities imposed by the Act or the regulations of the Commission including the responsibility to have an annual audit performed by a certified public accountant in accordance with Section 70(n) of the Act.] In the event that any records or documents deemed pertinent by an [auditor] **examiner** are in the possession of another licensee or entity, the casino operator shall be responsible for making those records or documents available to the [auditor] **examiner**. Further, the casino operator shall be individually and severally liable for any relevant accounts, records or documents maintained or required to be maintained by any other licensee or entity with regard to the casino.

19:54-1.9 Determination of tax liability; notice; disputes; hearings

(a) If a return or deposit required by [Section] **section 145** of the Act or by these regulations with respect to the [Gross Revenue Tax] **gross revenue tax** is not filed or paid, or if a return or deposit when filed or paid is incorrect or insufficient in the opinion of the [State Treasurer] **Commission**, the amount of tax due or deposit shall be determined [by the State Treasurer from such information as may be available. The Commission shall, upon request, provide the State Treasurer with any relevant information including audits done by the Commission or the Division] **by the Commission through an examination of the casino licensee's books and records. The Commission is empowered to determine whether a casino operator or other casino licensee has fully satisfied its obligations with regard**

to the gross revenues tax and to require that a casino operator or casino licensee make additional payments, including the payment of interest or penalty, or take additional steps to comply.

(b) If the [State Treasurer] **Commission** determines that the casino operator has not satisfied its obligation as to payment of tax or deposit, a notice of such determination shall be given to the casino operator and to other licensees liable for the payment under [section 4 of this subchapter] **N.J.A.C. 19:54-1.4**. Such determination shall finally and irrevocably fix the tax unless within 30 days after receiving notice of such determination, the casino operator or any other licensee liable for the payment shall apply to the [State Treasurer] **Commission** for a hearing, or unless the [State Treasurer] **Commission** on [his] its own motion shall redetermine the same. **Any Commission hearing will be governed as to notice and procedure by the general hearing rules of the Commission (see N.J.A.C. 19:42).**

(c) In discharging [his] its responsibilities under this Act, the [State Treasurer] **Commission** shall have all the authority granted by the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, and all proceedings shall be conducted in accordance with said law, except to the extent that a specific provision of the [Casino Control] Act or these regulations may be in conflict therewith. Nothing herein shall prevent the [State Treasurer] **Commission** from employing additional procedures including informal conferences with a licensee at which the licensee may present legal and factual contentions to the [Treasurer] **Commission**. Such informal conferences shall not, however, be a substitute for a formal hearing as defined and described in the said "State Tax Uniform Procedure Law."

19:54-1.10 Penalties and sanctions

(a) A casino operator who shall fail to file [his] its return when due or to pay the tax or deposit when the same becomes due shall be subject to such penalties and [interests] **interest** as provided in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. [If the State Treasurer determines that the failure to comply with any provisions of the Act or these regulations regarding the Gross Revenues Tax was excusable under the circumstances, he may remit such part or all of such penalty as shall be appropriate under the circumstances.]

(b) If the [State Treasurer] **Commission** determines that any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment. In this regard, a monthly deposit shall be considered part of the tax required to be shown on a return.

(c) (No change.)

[(d)] The certificate of the State Treasurer to the effect that a tax or deposit has not been paid, that a return has not been filed, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of the Act or rules or regulations adopted thereunder, shall be presumptive evidence thereof. The State Treasurer shall immediately forward a duly certified copy of such certificate to the Commission. Such certified copy shall become part of the records of the Commission and shall be admissible in any court or before any administrative body in this State.]

[(e)](d) In addition to the foregoing, any casino operator or other **casino licensee** which violates any of the provisions of the Act or these regulations regarding the [Gross Revenues Tax] **gross revenues tax** shall be liable to any sanction, penalty or other consequence which the Commission may be authorized to impose, such as those delineated in [Sections] **sections 111, 129 and 130** of the Act.

[19:54-1.11 Delegation by State Treasurer

The State Treasurer may delegate any of his responsibilities, including the responsibility to determine deficiencies, conduct hearings and issue certificates, to an appropriate designee such as the Division of Taxation which shall perform those responsibilities in accordance with the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of the Casino Control Act or these regulations may be in conflict therewith.

OTHER AGENCIES

PROPOSALS

19:54-1.12 Exchange of information

The State Treasurer or his designee shall permit the Commission and the Division to examine any records relating to the tax obligations of a casino licensee and shall immediately apprise the Commission and Division of any irregularity in the tax records, returns, deposits, reports or other information supplied or to be supplied by such licensee.

19:54-1.13 Commission authority and responsibility

(a) The Commission is charged under Section 63(d) of the Act with the responsibility to collect all taxes imposed by the Act. Consistent with that responsibility, the Commission is empowered to determine whether a casino operator or other casino licensee has fully satisfied its obligations with regard to the Gross Revenues Tax and to require that a casino operator or licensee make additional payments including payment of interest or penalty, or take additional steps to comply. The Commission may render such a determination where the State Treasurer has taken no action and, where the State Treasurer has acted, the Commission may make further determinations not inconsistent with the authority reposed by the Act in the Treasurer.

(b) The Commission and Division shall be notified of any formal or informal hearing to be held by the State Treasurer in regard to

tax obligations of a casino operator or other casino licensee, and the Commission and Division shall be allowed to appear and participate in such hearing. In the event of an appeal to the Tax Court or to any court of this State, the Commission shall be permitted to intervene in order to contest any factual question or to argue any legal issue arising under the Act or the regulations thereunder. Nothing herein shall limit the authority of the Commission to hold its own hearings to determine any matter where the State Treasurer has not acted, or where the Treasurer has acted, to determine any matters not inconsistent with the authority reposed in the Treasurer by the Act. Any Commission hearing will be governed as to notice and procedure by the regulations of the Commission as to hearings generally. N.J.A.C. 19:42-1.1 et seq.]

(AGENCY NOTE: N.J.A.C. 19:54-2 is proposed for repeal, but not reproduced herein.)

SUBCHAPTER [3.]2. SECTION 144.1 INVESTMENT TAX CREDITS

Recodify existing N.J.A.C. 19:54-3.1 and 3.2 as **19:54-2.1 and 2.2** (No change in text.)

RULE ADOPTIONS

BANKING

(a)

DIVISION OF REGULATORY AFFAIRS

Secondary Mortgage Loan Act Rules

Adopted New Rules: N.J.A.C. 3:18-1, 3, 8.1, 9 and 11

Adopted Amendments: N.J.A.C. 3:18-2.1, 4.1, 4.2, 5.1, 5.2, 7.4, 7.5, 8.2, 10.5 and 10.7

Adopted Repeals: N.J.A.C. 3:18-1, 3, 9 and 10.8

Adopted Repeal and New Rule: N.J.A.C. 3:18-5.3

Proposed: August 17, 1992 at 24 N.J.R. 2760(a).

Adopted: December 22, 1992 by Jeff Connor, Commissioner, Department of Banking.

Filed: December 23, 1992 as R.1993 d.50, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:11A-54.

Effective Date: January 19, 1993.

Expiration Date: January 19, 1993 (Agency Note: Proposed re-adoption is pending (see 24 N.J.R. 3982(a) and anticipated to be adopted and filed with OAL on or before January 19, 1993).

Summary of Public Comments and Agency Responses:

The Department received comments from the following persons:

1. Samuel J. Damiano, President, New Jersey Council of Savings Institutions.
2. Jo Ann Brown, Senior Counsel, Household Finance.
3. Lawrence S. Rigie, Esq.
4. David B. Ward, Esq., Counsel to the New Jersey Financial Services Association.
5. Kimberly S. Tolman, Senior Staff Attorney, ITT Consumer Financial Corporation.
6. Marianne McConnell, Esq., Assistant Vice President, Beneficial Management Corporation.
7. Stephen A. Sobin, President, State-Wide Capital Corp.
8. Leonard A. Bernstein, Esq., Reed Smith Shaw & McClay.

Summaries of all comments, and the Department's responses, follow:

COMMENT: N.J.A.C. 3:18-1.3(a) and (b) permit a real estate broker or attorney to charge a separate fee for originating, brokering or acquiring a secondary mortgage loan. Has the Department changed its position to permit these individuals to broker second mortgage loans?

RESPONSE: N.J.A.C. 3:18-1.3(a) and (b) provide that if a real estate licensee or attorney receives separate or additional compensation for originating, brokering or acquiring a secondary mortgage loan, it must be licensed. However, even if licensed, an attorney or real estate licensee may only broker secondary mortgage loan business as permitted in N.J.S.A. 17:11A-46(j). That section permits a licensee under the Act to solicit on behalf of another licensee or lender expressly authorized to make secondary mortgage loans in this State only if (1) such solicitation results in no additional cost or expense to the borrower; and (2) the application and all advertising in connection therewith clearly disclose the identity of the person or entity which will be making the loan. Only then may a licensee collect a fee or commission from the lender, regardless of whether the licensee is an attorney or a real estate broker or salesman.

COMMENT: Do the limitations on permitted charges outlined at N.J.A.C. 3:18-3.2 apply to depositories such as savings banks?

RESPONSE: The limits on charges contained in this section only apply to licensees, not to banks, savings banks and savings and loan associations. The rules specifically provide that nothing contained therein is to be construed as expanding or restricting the powers otherwise conferred by law on such financial institutions. N.J.A.C. 3:18-1.3(d).

COMMENT: N.J.A.C. 3:18-3.2 should be amended to permit licensees to charge a \$25.00 service charge for satisfying the mortgage, consistent with N.J.S.A. 46:18-3.2.

RESPONSE: Pursuant to a 1991 statutory change, lenders are permitted to collect at closing a service charge of up to \$25.00 for cancelling a mortgage, in addition to the fee charged by the county recording officer. P.L. 1991, c.289, §2, effective September 20, 1991. A recent amendment to the Secondary Mortgage Loan Act, N.J.S.A. 17:11A-34 et seq. (the "Act") clarifies that licensees under the Act are also permitted to charge this service charge. P.L. 1992, c.20, §2, effective June 12, 1992. The Department will propose a rule in the near future to make the rules consistent with this statute.

COMMENT: N.J.A.C. 3:18-1.2 should be amended to provide that a person registered to receive assignment of a secondary mortgage loan pursuant to subchapter 11 does not need to also be licensed to acquire a secondary mortgage loan.

RESPONSE: N.J.A.C. 3:18-1.2 requires a person to be licensed to receive assignment of a secondary mortgage loan in this State. This requirement is consistent with the Act. N.J.S.A. 17:11A-36(a).

The Act also provides that a licensee may only assign a secondary mortgage loan to a banking institution, an association, a licensee under the Act, one of the specified Federal agencies or "other persons or entities as from time to time approved by the commissioner to facilitate and assure the steady flow of secondary mortgage funds into the State." N.J.S.A. 17:11A-46(h). Typically, these "other persons" would be located outside New Jersey, since only then could they assure the flow of funds from outside the State.

Accordingly, although a licensee is exempt from the registration requirements of chapter 11, a registrant who is typically located outside of New Jersey is not exempt from the licensing requirement, and a registrant must therefore be licensed to make or receive secondary mortgage loans within New Jersey.

COMMENT: Proposed N.J.A.C. 3:18-8.1(b) should be amended to provide that other activities may be conducted in a licensed location with the permission of the Commissioner.

RESPONSE: N.J.A.C. 3:18-8.1(b) as proposed in general permits a licensee to conduct its secondary mortgage loan business in the same office in which it conducted other licensed activities. The Department views it as unnecessary for the Commissioner to approve all such activities.

COMMENT: Since the Department has given provisional approval to receive assignment of secondary mortgage loans to several institutions, many institutions will be simultaneously applying to register to receive assignment. The Department should therefore amend N.J.A.C. 3:18-11.3(c) to permit the provisional approval to remain in effect until the Department has either filed the registration or refused to file for cause.

RESPONSE: The Department intends to promptly register all provisionally approved assignees. However, to ensure that all provisional assignees have an opportunity to register under these rules, the Department has provided on adoption that provisional assignees have until March 1, 1993 to file for registration, and such provisional approval shall end on March 31, 1993.

COMMENT: Proposed N.J.A.C. 3:18-11.3(c) should be amended to provide that provisional approvals to receive assignment of secondary mortgage loans expire on December 31, 1992 (now March 31, 1993), regardless of any agreement or order to the contrary. The Department when granting provisional approval to secondary mortgage loan assignees frequently stated in the approval letter that such approval would expire 30 days after the implementation of such rules.

RESPONSE: The Department views N.J.A.C. 3:18-11.3(c) as extending all provisional approvals to March 31, 1993, and will not take any administrative action to prevent such an assignee from receiving assignment during this period based on a provision in the order or agreement setting forth an earlier date for the termination of approval.

COMMENT: The Department should amend N.J.A.C. 3:18-11.5 to provide that the registration of a person filing for renewal shall be automatic unless the Department denies the application within 60 days.

RESPONSE: The Department will consider such a change when the period of renewal approaches in two years based on the experience it acquires during the interim period.

COMMENT: Subchapter 11 should be amended to clarify that a person previously registered or approved to receive assignment of secondary mortgage loans may continue to hold these loans after the registration or approval has expired.

RESPONSE: Neither the Act nor these rules limit the ability of a person outside this State to receive a secondary mortgage loan. Rather, approval is required before a licensee assigns a secondary mortgage loan. Once the loan is assigned outside the State, no further approval is necessary. Accordingly, the change suggested by the commenter is not necessary, and a person who has been registered or approved to receive these loans may continue to hold them after such approval or registration has expired.

COMMENT: The rules should be amended to clarify that a licensee does not need to obtain a branch office license for an attorney's office where secondary mortgage loans are closed and fees are received incident to the closing.

RESPONSE: N.J.S.A. 17:11A-46(a) provides that a secondary mortgage loan need not be closed at the office of a licensee provided that it is closed in New Jersey at the office of an attorney admitted to practice in this State. The Department may propose an amendment consistent with Section 46(a) to clarify that a licensee does not need to license an attorney's office because loans are closed there or because fees are received there incident to the closing.

COMMENT: The definition of "closed-end loan" in N.J.A.C. 3:18-1.1 should be expanded to conform to the definition under the Act which permits balloon payment loans and adjustable rate loans on the terms therein provided.

RESPONSE: The Department agrees, and has made this minor substantive change upon adoption.

COMMENT: N.J.A.C. 3:18-3.2(a)1 provides that the licensee may impose third party charges on the borrower only after they have been incurred by the licensee. Does this provision permit the licensee to request or require the borrower to pay these fees directly to the person providing the service?

RESPONSE: The Act permits a licensee to collect these fees only after they have been actually paid by the licensee to a third party. N.J.S.A. 17:11A-44.9. The Department construes this to mean that the licensee may seek reimbursement for these charges after they have been paid, but may not request or require the borrower to pay the third party directly.

COMMENT: N.J.A.C. 3:18-3.2 should be amended to permit a licensee to charge for recording fees, consistent with N.J.S.A. 17:11A-44.9.

RESPONSE: The Department agrees, and will propose such a change in the near future to bring the rule into conformity with the Act.

COMMENT: The rules as proposed only permit a licensee to collect an attorney review fee. Allowing licensees to only obtain reimbursement of review fees will likely cause lenders to pass the costs on to borrowers in the form of increased discount points or rate.

RESPONSE: The Department views N.J.S.A. 46:10A-6 and Opinion No. 608 of the Advisory Committee on Professional Ethics as already limiting the amount a lender may charge to reimbursement of review fees.

COMMENT: The Act as recently amended by P.L. 1992, c.20 permits a licensee to charge no more than three discount points computed as a percentage of the amount of the loan. The proposed rules permit a lender to charge up to three discount points, which are defined as a percentage of the principal amount of the loan.

To compute the maximum amount, are the discount points to be computed as a percentage of the gross amount of the loan (face amount of the loan including points) or as a percentage of the net amount of the loan exclusive of discount points?

RESPONSE: The Department views discount points as constituting a percentage of the amount of the loan exclusive of the discount points.

COMMENT: Do the rules as proposed require a person to be licensed to service secondary mortgage loans?

RESPONSE: The Department does not view the Act as requiring a person to be registered to receive assignment of servicing rights. A change upon adoption at N.J.A.C. 6:18-11.3(b) has been made to clarify this point.

COMMENT: Is there a restriction on the ability of a registrant to assign secondary mortgage loans?

RESPONSE: Once a person is registered to receive assignment of secondary mortgage loans, there is no restriction on its subsequent assignment of secondary mortgage loans. However, a person acquiring secondary mortgage loans in this State must be licensed under the Act. N.J.A.C. 3:18-1.2(a)2; N.J.S.A. 17:11A-36.

COMMENT: Do the proposed registration requirements apply to lenders who receive collateral assignments of these loans?

RESPONSE: Pursuant to N.J.A.C. 3:18-6.1, a licensee may pledge any portion or all of its secondary mortgage loan receivables as collateral security for a bona fide commercial loan provided the licensee continues to service all such pledged accounts in its own licensed name at its own licensed location. A person lending money based on such a pledge does not need to be registered.

COMMENT: The provisions of N.J.A.C. 3:18-8.1(b), which requires that offices of licensees be separate, apart and distinct from the office and operations of other persons, is too restrictive. A licensee should not, for example, be prohibited from sharing office space with an affiliated corporation which is licensed as a mortgage banker. Such a restriction unnecessarily prefers licensees who conduct multistate licensed lending through a single corporate entity over those who legitimately conduct such activities through affiliated or subsidiary corporations. The standard which should be applied is that premises should be maintained in such a manner as will not result in confusion to consumers who might visit the office.

RESPONSE: In the Department's view, it would be confusing to consumers for there to be two persons operating at a licensed location without offices which are separate, apart and distinct. However, so long as there is separation in the office, a licensee may occupy an office with an affiliated corporation.

COMMENT: The Summary incorrectly provides that a licensee may not charge discount points on an open-end loan.

RESPONSE: The Summary noted that licensees may make open-end loans only upon the same terms and conditions permitted to banks, savings banks and savings and loan associations. N.J.S.A. 17:11A-44.8. The rules of the Department regulating such loans, N.J.A.C. 3:1-14.5, do not permit interest in advance, and contain no exception for discount points. Pursuant to N.J.S.A. 46:10B-11.1, discount points are deemed to be interest charged on the loan. Accordingly, the Summary concluded that licensees were not permitted to charge discount points on open-end loans.

This issue concerns a construction of the Act and not these proposed rules. Accordingly, further changes in these rules is not necessary based on this comment. However, the Department will immediately propose a rule amending N.J.A.C. 3:1-14.5 to allow banks, saving banks and savings and loan associations to charge up to three discount points on open-ended loans. Through the parity section, N.J.S.A. 17:11A-44.8, licensees under the Act will conclusively be able to charge these fees.

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

SUBCHAPTER 1. GENERAL PROVISIONS

3:18-1.1 Definitions

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

"Act" means the Secondary Mortgage Loan Act, N.J.S.A. 17:11A-34 et seq.

"Borrower" means an individual, association, joint venture, partnership, limited partnership, limited partnership association, or any other group of individuals however organized, except a corporation, who applies for a secondary mortgage loan, whether such loan is granted, or who has obtained such a loan.

"Branch office" means any location where, in the regular course of business, secondary mortgage loan applications are distributed to or received from consumers, mortgage records are maintained, underwriting decisions are made, mortgage commitments are issued, or any fees or charges relating to the secondary mortgage loan are received from consumers. A location shall not be considered a branch office merely because any or all of the following activities are conducted at the location:

1. Consumers receive information concerning available loan products from a computer terminal;
2. Consumers are prequalified for a mortgage loan, so long as no additional fee is charged for this service; and
3. Advertising materials are distributed to consumers so long as the materials do not in any way resemble an application for a secondary mortgage loan.

"Closed-end loan" means a secondary mortgage loan pursuant to which the licensee advances to the borrower a specified amount of

money and the borrower agrees to repay the principal and interest in substantially equal installments over a stated period of time*, except that:

1. The amount of the final installment payment may be substantially greater than the previous installments if the term of the loan is at least 36 months, or under 36 months if the remaining term of the first mortgage loan is under 36 months; or

2. The amounts of the installments may vary as a result of the change in the interest rate pursuant to N.J.S.A. 17:11A-44.7(b)*.

"Commissioner" means the Commissioner of the New Jersey Department of Banking.

"Compensation" means and includes money, chattels, personal services or any other tangible or intangible thing of value.

"Department" means the New Jersey Department of Banking.

"Discount point" means an amount of money equal to one percent of the principal amount of the loan and payable only at closing.

"Financial institution" means a person that is duly licensed or chartered by a state or the Federal government to provide financial services to the public, and includes the following:

1. A state or Federal bank or savings bank;
2. A state or Federal savings and loan association;
3. An insurance company; and
4. A state or Federal credit union.

"Licensed office" means a principal office or a branch office.

"Licensee" means a person licensed in this State as a secondary mortgage loan lender, or a person required to be licensed.

"Open-end loan" means a secondary mortgage loan made by a licensee pursuant to a written agreement between the licensee and the borrower whereby:

1. The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

2. The amount of each advance and permitted interest and charges are debited to the borrower's account and payments and other credits are credited to the same account;

3. Interest is computed on the unpaid principal balance or balances of the account from time to time; and

4. The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

"Person" means an individual, association, joint venture, partnership, limited partnership, limited partnership association, corporation or any other group of individuals however organized.

"Secondary mortgage loan" means a loan made to a borrower which is secured in whole or part pursuant to a security agreement by any interest in real property which is subject to one or more prior mortgage liens and on which there is erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes. The following shall not constitute secondary mortgage loans:

1. A loan to be repaid in 90 days or less;

2. A loan in which the real property is taken as security for a home repair contract executed in accordance with N.J.S.A. 17:16C-62 et seq.; and

3. A loan which is the result of the private sale of a dwelling if title to the dwelling is in the name of the seller and the seller has resided in said dwelling for at least one year, if the buyer is purchasing said dwelling for his own residence and, as part of the purchase price, executes a secondary mortgage in favor of the seller.

3:18-1.2 License requirement

(a) No person shall engage in the secondary mortgage loan business in this State without first obtaining a license. A person is engaged in the secondary mortgage loan business if such person:

1. Advertises, causes to be advertised, solicits, negotiates, offers to make or makes a secondary mortgage loan, whether directly or by any person acting for his benefit; or

2. Becomes the subsequent holder in this State of a promissory note or mortgage, indenture or any other similar instrument or document received in connection with a secondary mortgage loan.

3:18-1.3 Exceptions to license requirement

(a) A real estate broker or salesman licensed in New Jersey pursuant to Chapter 15 of Title 45 of the Revised Statutes is not required to obtain a license to negotiate a secondary mortgage loan in the normal course of business as a real estate broker or salesman. A real estate broker or salesman receiving separate or additional compensation for originating, brokering or acquiring a secondary mortgage loan, in addition to the real estate sales commission, shall be deemed to be engaged in the business of a licensee and must be licensed or employed by a licensee.

(b) An attorney authorized to practice law in New Jersey is not required to obtain a license to negotiate a secondary mortgage loan in the normal course of business as an attorney. An attorney who receives separate or additional compensation for originating, brokering or acquiring a mortgage loan shall not qualify for this exemption and must be licensed.

(c) A person who makes one or two secondary mortgage loans in this State during any calendar year which are at an interest rate which is not in excess of the usury rate in existence at the time the loan is made, and on which the borrower has not agreed to pay, directly or indirectly, any charge, cost, expense or fee whatsoever, other than said interest, shall not be required to obtain a license.

(d) Nothing contained in this chapter expands or restricts the powers otherwise conferred by law upon financial institutions to engage in the secondary mortgage loan business, and no financial institution in exercising any power otherwise so conferred upon it shall be subject to any provision of this chapter.

3:18-2.1 Preservation of records

(a) Every licensee shall preserve the books, accounts and records for at least two years after making the final entry on any secondary mortgage loan or application. The assignment or sale of a secondary mortgage loan shall constitute the final entry for the licensee assigning the secondary mortgage loan. The denial or withdrawal of an application shall constitute the final entry on any secondary mortgage loan application which is denied or withdrawn. In the case of an open-end loan, a licensee shall preserve the books, accounts and records for at least two years after each entry.

(b) A licensee may keep its secondary mortgage loan records at either:

1. A licensed branch office in this State; or

2. An unlicensed site in or out of this State, or a licensed branch office outside of this State, provided that, in either instance, the licensee secures the prior approval of the Department of Banking. The approval of the Department will be given only if the licensee enters into an agreement with the Department governing the maintenance and production of records at such site. The provisions of the agreement shall include, but shall not be limited to, the designation of the site where the records will be maintained, the fees and expenses chargeable by the Department for conducting the examinations, and the right of the Department to rescind the agreement.

SUBCHAPTER 3. MORTGAGE LOANS

3:18-3.1 Types of mortgage loans

(a) A licensee may make closed-end or open-end loans, and may charge, contract and receive thereon interest at an annual percentage rate agreed to by the licensee and the borrower.

(b) Nothing contained in (a) above shall be construed to permit a licensee to charge a rate of interest in excess of that permitted by N.J.S.A. 2C:21-19.

3:18-3.2 Permitted charges

(a) A licensee may charge a borrower only the following fees incident to a secondary mortgage loan, in addition to interest:

1. Third party charges actually incurred by a licensee on behalf of a borrower incident to the processing of a secondary mortgage loan application or the closing of the loan. The licensee may collect third party charges only after they have been incurred by the licensee, and the licensee may not charge the borrower more than

the amount the borrower is charged by the third party for the service. The licensee may not collect any third party charges except the following:

- i. Fees for title examination, abstract of title, survey or title insurance;
 - ii. Appraisal fees;
 - iii. Credit report fees; and
 - iv. Reasonable attorney review fees paid to an attorney authorized to practice law in New Jersey, if not otherwise prohibited;
2. Charges for late payment by the borrower as may be provided in the note or loan agreement, provided that no late charge shall exceed five percent of the amount of payment in default. A licensee shall not charge more than one late charge on any one payment in arrears;
 3. Check collection charges in the amount charged to the licensee; and
 4. No more than three discount points.
- (b) A licensee shall not charge interest in advance of it being earned, other than as discount points.
- (c) Nothing contained in this section shall limit a licensee's ability to impose charges upon foreclosure.

3:18-3.3 Prepayment of secondary mortgage loan

A borrower may prepay a secondary mortgage loan at any time without penalty.

3:18-3.4 Method of computing interest

A licensee may only compute interest using the 365/365 method or the 360/360 method.

3:18-3.5 Collateral security

(a) A licensee shall not require or accept from a borrower any collateral or security for a secondary mortgage loan other than a mortgage, indenture or any other similar instrument or document which creates a lien upon any real property or an interest in real property including, but not limited to, shares of stock in a cooperative corporation.

(b) For purposes of this section, the co-signature of a person, other than a spouse or other person having an interest in the real property used as security for the loan, shall constitute prohibited collateral or security unless the co-signer is a joint borrower.

(c) A person not having an interest in the real property used as security for the loan shall be considered a joint borrower if:

1. The borrowers sign an affidavit affirming their agreement to be jointly liable and to share in the proceeds of the secondary mortgage loan; and
2. The licensee issues the proceeds check or checks in all borrowers' names. If borrowers may access a line of credit by writing checks or otherwise, this requirement will be satisfied if all borrowers have the authority to draw against the account.

3:18-4.1 Agent or broker and company licensed or authorized by the State of New Jersey

(a) When a licensee requires fire or casualty insurance in connection with a secondary mortgage loan, such insurance shall be written by or through a duly licensed insurance agent or broker of the State of New Jersey, with an insurance company authorized to do business in this State.

(b) A licensee may make available insurance covering direct or indirect damage or loss, by fire or other perils, including those of extended coverage, to the property of the borrower all or part of which is the security for the loan, which insurance shall be for a term not to exceed the term of the loan and in an amount not to exceed the amount of the loan together with an amount needed to satisfy all prior liens on such property.

3:18-4.2 Designation of particular agent or broker

(a) No licensee shall require a borrower, as a condition to obtaining a secondary mortgage loan, to negotiate for or obtain a policy of insurance or renewal thereof, covering the property involved in the transaction, from or through a particularly designated insurance agent or broker.

(b) No licensee shall compel a borrower to purchase credit life or accident and health insurance, or credit involuntary unemployment insurance, in connection with a secondary mortgage loan.

3:18-5.1 Affiliation between a licensee and its attorney prohibited

(a) A licensee shall not charge a borrower an attorney review fee if the attorney to whom the fee is to be paid is an employee, partner, officer, director or stockholder of the licensee.

(b) For purposes of this subchapter, "stockholder" means and includes a person who directly, indirectly or acting through one or more other persons owns, controls or has power to vote 10 percent or more of any class of voting securities of a corporate licensee.

3:18-5.2 Licensee's participation in legal fees prohibited

(a) The following persons shall not receive compensation from an attorney who is providing legal service in accordance with N.J.S.A. 17:11A-46(g) for the preparation of documents or for any other services performed for and on behalf of the attorney:

1. A licensee;
2. An employee, partner, officer, director or stockholder of a licensee; or
3. Any other person in which a licensee is an employee, partner, officer, director or stockholder.

3:18-5.3 Attorney's statement must be detailed

To obtain reimbursement from the borrower at closing for attorney review fees charged to the licensee in connection with a secondary mortgage loan, the licensee shall issue to the borrower at or before the closing of a secondary mortgage loan an itemized listing prepared by the attorney of the specific legal services performed by the attorney for and on behalf of the licensee and the charge to the licensee for each such service.

3:18-7.4 Credit life, accident and health, and involuntary unemployment insurance

Any licensee who advertises the availability of credit life or accident insurance, or involuntary unemployment insurance, shall specifically state that such insurance is optional.

3:18-7.5 Certain types of advertising prohibited

(a) The use of any of the following types of advertising shall be deemed to be misleading or deceptive, and as such in violation of N.J.S.A. 17:11A-46(k)(5):

1. and 2. (No change.)

3:18-8.1 Branch offices

(a) Before operating a branch office, a licensee shall obtain a branch office license from the Commissioner. A licensee shall apply to the Commissioner for permission to establish a branch office or offices on a form prescribed by the Commissioner. The application form requires basic information about the licensee and the proposed site, such as the name and address of the licensee and a description of the proposed branch office. An applicant shall submit with the application the required fees.

(b) A licensee may conduct its secondary mortgage loan business in the same office in which it conducts other licensed activities, unless otherwise prohibited. However, a licensee may not share office space with another person, including an affiliated corporation, unless the office and operations of the licensee are separate, apart and distinct from the offices and operations of the other person or persons. In addition, a licensee may not establish a branch office within an establishment which is primarily devoted to social or recreational activities, or which impairs the ability of the public to gain access to the licensee.

(c) Each licensee which maintains more than one office shall designate one office as the principal office. The designation of the principal office shall be filed with the Commissioner. Any change in the designation shall be filed within 10 days of the effective date of the change. The Commissioner shall endorse the change of address on the license.

(d) Each licensee shall submit any change of address for the principal office or any branch office or any change in the licensed supervisory individual within 10 days of the change. The Com-

missioner shall issue confirmation of the change in address. In addition, a licensee shall notify the Commissioner prior to closing a principal or branch office.

(e) Each licensee shall display the license so that it is easily observable by the general public. The address and name on the license must be the same as the address of the place of business and the name of the licensee where the license is on display.

(f) A branch office of a licensee under the Act does not also constitute a branch office of another licensee merely because the first licensee distributes or receives applications of that other licensee at the branch office.

3:18-8.2 Banking institution or savings and loan association location prohibited

A licensee is prohibited from engaging in the secondary mortgage loan business at a location which is utilized by a banking institution or savings and loan association as a main branch or any other office, except that no licensee shall be prohibited from engaging in the secondary mortgage loan business at a location utilized by a banking institution, or savings and loan association, where the office and operations of the licensee are separate, apart and distinct from the offices and operations of the banking institution or the savings and loan association, and when employees of the banking institution or savings and loan association are not employed by or soliciting for the licensee.

SUBCHAPTER 9. DISCLOSURE OF TERMS

3:18-9.1 Required disclosures

(a) At or before the time a secondary mortgage loan is made, the licensee shall deliver a closing statement to the borrower setting forth the net proceeds of the loan, itemized fees incurred or disbursed, interest charges, full amount of the loan and the terms by which the loan is to be repaid.

(b) The licensee shall provide the borrower with a copy of every paper he is called upon to sign.

3:18-9.2 Compliance with Federal law

Where any disclosure is required pursuant to this subchapter which is also required by any Federal law or regulation, compliance with such Federal law or regulation shall be deemed to be compliance with this subchapter.

3:18-10.5 Bonds

(a) No license will be issued unless and until the applicant has posted with the Department of Banking a bond in the amount required by this subchapter in a form prescribed by the Commissioner by a surety company authorized to do business in the State of New Jersey. A person employed by a licensee which already has an adequate surety bond, as defined by this section, does not need to obtain an additional surety bond to become licensed.

(b) Every licensee shall obtain and maintain a surety bond in the following minimum amounts:

1. For a sole proprietorship with one licensed office: \$25,000;
2. For a licensee other than a sole proprietorship with one licensed office: \$35,000;
3. For a licensee with two to five licensed offices: \$60,000;
4. For a licensee with six to ten licensed offices: \$75,000;
5. For a licensee with 11 to 15 licensed offices: \$100,000;
6. For a licensee with 16 or more licensed offices: \$125,000.

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

3:18-10.7 Replacement of license

If a natural person upon whom a corporation, partnership, association, or other entity relies for its license pursuant to N.J.S.A. 17:11A-36(b), or a natural person otherwise supervising an office or offices pursuant to N.J.A.C. 3:18-8.1, discontinues his or her affiliation or employment with such entity for any reason whatsoever, the entity may continue to operate under its license for a period of 90 days or for such other extended period as the Commissioner determines necessary for the entity to replace that natural person with another licensed natural person; provided, that the entity so

notifies the Department of Banking within 10 days following that natural person's discontinuance of affiliation or employment with the licensed entity.

3:18-10.8 (Reserved)

SUBCHAPTER 11. ASSIGNMENT OF SECONDARY MORTGAGE LOANS

3:18-11.1 Definitions

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

"Applicant" means an applicant to become registered, or a licensee seeking to register a person, to receive the assignment, sale or transfer of secondary mortgage loans from a licensee.

"Banking institution" means a New Jersey chartered bank, a New Jersey chartered savings bank, a New Jersey chartered savings and loan association, a national banking association having its principal office in this State or a Federal association having its principal office in this State.

"Biennial period" means a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the succeeding even-numbered year.

"Registrant" means a person that is registered under this subchapter to receive the assignment, sale or transfer of secondary mortgage loans from a licensee.

"Servicing rights" includes the right to receive payments directly from borrowers and to administer secondary mortgage loan accounts.

3:18-11.2 Restraints on assignments

(a) A licensee shall not assign, sell or transfer a secondary mortgage loan to a person other than the following:

1. A banking institution;
2. A person licensed under the Act;
3. The Federal National Mortgage Association;
4. The Federal Home Loan Mortgage Corporation; or
5. Any other person located outside New Jersey that is registered with the Department to acquire secondary mortgage loans.

(b) A licensee shall not assign, sell or transfer the servicing rights of a secondary mortgage loan to a registrant unless that registrant is specifically registered with the Department to acquire servicing rights.

3:18-11.3 Procedure for registration

(a) To register to acquire secondary mortgage loans from a licensee without servicing rights, an applicant shall submit the following to the Department:

1. A registration form requiring basic information about the proposed registrant, such as its name and address;
2. A statement that the person acquiring the loans irrevocably submits itself to the jurisdiction of the Department for any administrative action brought by the Department in connection with any secondary mortgage loan secured by New Jersey real property which it purchases from a licensee under the Act;
3. A statement that the person acquiring the loans, and its successors and assigns, irrevocably designates the Commissioner as its registered agent to receive service of process in an administrative action brought by the Department regarding any matter to which jurisdiction has been submitted pursuant to (a)2 above;
4. A statement that the person acquiring the loans agrees not to obtain the servicing rights of any secondary mortgage loan from a licensee without first having been registered to receive servicing rights; and
5. The required registration fee.

(b) To register to acquire secondary mortgage loans from a licensee with servicing rights, *[or to acquire servicing rights separately,]* an applicant shall submit, in addition to the items set forth in (a)1, 2 and 3 above, the following to the Department:

1. In the case of a chartered or licensed financial institution, a certificate of good standing executed by the institution's primary regulator;

2. In the case of an applicant other than a chartered or licensed financial institution, the following items;

- i. A statement detailing the applicant's experience in dealing in transactions of the type for which approval is sought, including brief resumes of key personnel;
- ii. Copies of balance sheets and earnings records for the last three calendar or fiscal years; and
- iii. A copy of the person's latest Annual Report to Shareholders; and

3. The required registration fee.

(c) Any person that received provisional approval from the Department to acquire secondary mortgage loans prior to *[adoption of this subchapter]* ***January 19, 1993*** must file a registration form with the Department before *[the beginning of the next biennial period]* ***March 1, 1993***. All such provisional approvals shall expire on *[December 31, 1992]* ***March 31, 1993***.

3:18-11.4 Review of registration filings

(a) The Commissioner shall file the registration within 60 days of its receipt by the Department. The registration shall become effective when the applicant receives notification of the filing of the registration from the Department.

(b) The Commissioner may refuse to register, revoke a registration or suspend a registration for any of the reasons set forth in N.J.S.A. 17:11A-39.1. An opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1, shall be provided prior to such refusal to register, revocation or suspension.

3:18-11.5 Renewal of registration

(a) Registration shall be effective for the remainder of the biennial period.

(b) To renew a registration, an applicant for renewal shall file the following with the Department:

- 1. A renewal registration form requiring basic information about the registrant, such as its name and address;
- 2. A statement that the applicant agrees not to obtain the servicing rights of any secondary mortgage loan from a licensee without first having been registered to receive servicing rights;
- 3. In the case of a person other than a chartered or licensed financial institution for which registration is sought to receive servicing rights, copies of balance sheets and earnings records for the last two calendar or fiscal years;
- 4. In the case of a chartered or licensed financial institution for which registration is sought to receive servicing rights, a certificate of good standing executed by the institution's primary regulator; and
- 5. The required registration fee.

3:18-11.6 Registration fees

(a) The Department shall charge the following biennial fees to register or renew a registration pursuant to this subchapter:

- 1. The filing of a registration to receive secondary mortgage loans without servicing rights \$100.00
- 2. The filing of a registration by a chartered or licensed financial institution to receive secondary mortgage loans with servicing rights \$100.00
- 3. The filing of a registration to receive secondary mortgage loans with servicing rights by other than a chartered or licensed financial institution \$300.00

(b) When the initial registration is issued in the second year of the biennial period, the registration fee shall be an amount equal to one-half of the registration fee set forth in (a) above.

(c) The Department may charge an additional per diem examination charge pursuant to N.J.A.C. 3:1-6.6 to review a registration when the registration materials require additional review.

PERSONNEL

(a)

MERIT SYSTEM BOARD

Overtime Compensation

Adopted Amendments: N.J.A.C. 4A:3-5.3, 5.6 and 5.9

Proposed: October 19, 1992 at 24 N.J.R. 3588(a).

Adopted: December 22, 1992, by the Merit System Board;

Anthony J. Cimino, Commissioner, Department of Personnel.

Filed: December 22, 1992 as R.1993 d.44, without change.

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

Effective Date: January 19, 1993.

Expiration Date: September 6, 1993.

Summary of Public Comments and Agency Responses:

A public hearing on the proposed amendments to N.J.A.C. 4A:3-5, 5.6 and 5.9 was held on November 5, 1992. Henry Maurer served as hearing officer. One person presented comments on the proposal at the hearing. The hearing officer recommended adoption of the amendments as proposed. The hearing records may be reviewed by contacting the Regulations Unit at (609) 984-0118 or by writing to Janet Share Zatz, Director of Appellate Practices and Labor Relations, Department of Personnel, CN 312, Trenton, New Jersey 08625. In addition, two persons submitted written comments.

COMMENT: Deirdre Webster, Esq., a representative of the American Federation of State, County and Municipal Employees (AFSCME), stated that AFSCME supports the proposal because it encourages fiscal responsibility.

COMMENT: Arthur J. Verpent commented that, although management should be willing to work as long as necessary to get their jobs done, managers in the State should be treated uniformly with a compensation package regardless of whether they are aligned with a bargaining unit. He urged, therefore, that middle and lower level management be compensated for additional work that they must do in light of staff cutbacks.

COMMENT: D. Craig Stevens, Director of Personnel, and Ronald S. Tuminski, Acting Assistant Commissioner, Management and Budget, Department of Environmental Protection and Energy (DEPE), expressed support for the proposed changes but noted that some exceptional situations have occurred in which managers are on 24 hour call for a period of time. In these situations, they said, an exception to the extended comp time prohibition should be granted. DEPE would be willing to report these exceptional circumstances to the Department of Personnel.

RESPONSE: The Board sympathizes with the concerns expressed for State employees serving in middle and lower level management titles. However, the proposed amendments are narrowly drawn to affect only high level managers, who will be prohibited from receiving comp time under the amendments. Affected employees will include commissioners, assistant and deputy commissioners, division directors, and managers whose salary ranges are above Range 32. Employees serving in titles with lower ranges and in lower level positions than those mentioned will continue to have the same comp time rights under the rules. The amendments recognize that high level and highly paid employees are already being adequately compensated for their level of responsibility.

With regard to the suggestion by the representatives of DEPE, the Board notes that rule relaxation procedures, pursuant to N.J.A.C. 4A:1-1.2(c), are available to address exceptional situations.

Full text of the adopted amendments follows.

4A:3-5.3 40 hours or less in a workweek: State service

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

(d) Overtime compensation under this section shall be paid as follows:

1. (No change.)

2. Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time, provided that employees serving as a commissioner or department head; an

assistant or deputy commissioner; a division director or equivalent; and employees in exempt positions in titles which are not represented in collective negotiations with established salary ranges at or above range 32, and in such exempt positions in titles with single rates or no range who are receiving a salary at or above the first step of such ranges, shall not be granted such compensation. In no event shall employees in non-limited titles have any entitlement to cash overtime compensation.

3. (No change.)

4. Employees in non-limited (NL, NE) positions who are not eligible for cash overtime compensation shall not receive a cash payment for unused comparable time off upon separation from service.

4A:3-5.6 Federal fair labor standards applicable to more than 40 hours in a workweek for 3E, 4E, NL and N4 titles: State service

(a) (No change.)

(b) Overtime compensation for employees in exempt positions shall be as follows:

1. (No change.)

2. Exempt employees in non-limited workweek titles (NL, N4) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work time patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time, provided that employees serving as a commissioner or department head; an assistant or deputy commissioner; a division director or equivalent; and employees in exempt positions in titles which are not represented in collective negotiations with established salary ranges at or above range 32, and in such exempt positions in titles with single rates or no range who are receiving a salary at or above the first step of such ranges, shall not be granted such compensation. See N.J.A.C. 4A:3-5.7(e)2 as to special project rates.

3. Employees in exempt positions who are not eligible for cash overtime compensation shall not receive a cash payment for unused comparable time off upon separation from service.

4A:3-5.9 Appointing Authority responsibilities: State service

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

(f) Upon demand for reports of compensatory time off or comparable time off, the appointing authority shall make available to the Commissioner or his or her representative the following items:

1. The names, titles and salary ranges of employees receiving compensatory time off or comparable time off;

2. The names, titles and salary ranges of employees receiving payment for unused compensatory time off or comparable time off, the amount paid to each such employee, and the number of hours on which the payment was based;

3. The number of days on which compensatory time off or comparable time off was earned;

4. The total number of hours each employee worked beyond the normal workweek;

5. The total number of hours of compensatory time off or comparable time off earned by each employee;

6. The total number of hours of compensatory time off or comparable time off used by each employee;

7. The balance of unused compensatory time off or comparable time off for each employee; and

8. A justification for the granting of compensatory time off or comparable time off for each employee.

Recodify (f) as (g) (No change in text.)

(a)

MERIT SYSTEM BOARD

Promotional Examinations

Adopted Amendments: N.J.A.C. 4A:4-2.6 and 2.15

Proposed: October 19, 1992 at 24 N.J.R. 3589(a).

Adopted: December 22, 1992 by the Merit System Board;

Anthony J. Cimino, Commissioner, Department of Personnel.

Filed: December 22, 1992 as R.1993 d.45, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 11A:2-6(d), 11A:4-1, 11A:4-14 and 11A:6-28.

Effective Date: January 19, 1993.

Expiration Date: June 6, 1993.

Summary of Public Comments and Agency Responses:

A public hearing on the proposed amendments was held on November 5, 1992. Henry Maurer served as hearing officer. Six persons presented comments on the proposed amendments to N.J.A.C. 4A:4-2.6 and 2.15 at the hearing. The hearing officer recommended the adoption of the proposal with a change recommended at N.J.A.C. 4A:4-2.6(a)3. The hearing records may be reviewed by contacting the Regulations Unit at (609) 984-0118 or by writing to Janet Share Zatz, Director of Appellate Practices and Labor Relations, Department of Personnel, CN 312, Trenton, N.J. 08625. In addition, 19 persons submitted written comments.

COMMENT: Gregory B. Vida, Director of Human Resources, Department of Community Affairs, strongly supported the proposed amendments to N.J.A.C. 4A:4-2.6. He stated the change in promotional examination eligibility would address the frequently heard complaint that the Performance Assessment Review (PAR) system is of little value in rewarding competent employees or denying unsatisfactory workers advancement.

RESPONSE: The Department of Personnel appreciates Mr. Vida's comments.

COMMENT: D. Craig Stevens, Director of Personnel, and Ronald S. Tuminski, Acting Assistant Commissioner, Management and Budget, Department of Environmental Protection and Energy (DEPE), also supported the proposed amendments to N.J.A.C. 4A:4-2.6. However, they asked that the rule be clarified to provide that an employee whose performance improves to a three after the closing date would not become eligible for the examination.

RESPONSE: With regard to the request for clarification by the representatives of DEPE, the Board notes that the current language of N.J.A.C. 4A:4-2.6(a) provides that applicants must meet all of the specified criteria "by the announced closing date." Thus, an employee who receives a rating of four or five in each of the two rating periods immediately preceding the closing date would not be eligible for the examination, even if he or she receives a rating of three or better in the rating period following the closing date. Thus, there is no need to modify the rule based on this comment.

COMMENT: Several representatives from Local 195, International Federation of Professional and Technical Engineers (IFPTE), stated that the current PAR system is based on favoritism, and that the proposed changes would compound these problems. Comments of this nature were submitted by Dominick Critelli, Local 195 President; Russell P. Gann, Marlboro Chapter President; James J. Gray, Trenton OMSC Chapter President; Anthony F. Mellaci, Bridge Chapter President; William Shawlot, Mays Landing Chapter President; William Sheppard, Vineland Chapter President; and nine individual Local 195 members whose signatures could not be clearly identified.

Robert Pursell, Area Director, Communications Workers of America (CWA) opposed the amendment, arguing that the Department of Personnel should improve compliance with the current PAR regulations, instead of punishing State workers. Abby Demel-Brown, President, CWA Local 1031, also opposed the amendment, contending that the current PAR system is too subjective.

RESPONSE: The change in the promotional eligibility rule was proposed for three reasons. First, the public policy underlying the civil service system, as set forth in N.J.S.A. 11A:1-2(c), is to encourage and reward meritorious performance. Providing a link between promotional eligibility and meritorious performance, as measured by an employee's PAR, furthers this policy. Second, as a practical matter, compliance with

the PAR system is enhanced when greater consequences are attached to PAR ratings. Third, as a matter of sound personnel practice, employees who are not performing satisfactorily should not be advanced to a higher position. For these reasons, the Board agrees with those commenters who stated that the amendment will result in an overall improvement of the system.

COMMENT: Deirdre Webster, Esq., representing the American Federation of State, County and Municipal Employees (AFSCME), opposed the amendment on the grounds that a worker with a four or five rating who is ineligible for a promotional examination may be denied another opportunity for promotion for several years, even if his or her performance improves.

RESPONSE: The Board is concerned about the impact of the proposed amendment on an employee who receives a rating of four or five in one year, but thereafter improves his or her performance to a rating of three or better. As noted by the representative for AFSCME, such an employee could be barred from promotional opportunities for several years. Therefore, in response to this comment, the Board is modifying the amendment upon adoption to provide that an employee is ineligible for promotion only if he or she received a PAR rating of four or five in each of the two rating periods immediately preceding the examination closing date. The Board is also inserting the word "final" to clarify that the four or five rating refers to the final rating, not the interim rating.

COMMENT: Gregory B. Vida, Department of Community Affairs, supported the amendments to N.J.A.C. 4A:4-2.15, stating that these changes would further the goal of advancing employees on the basis of performance.

RESPONSE: The Department of Personnel agrees with and appreciates Mr. Vida's comment.

COMMENT: Ed Moser, CWA Local 1033, opposed the amendment set forth at N.J.A.C. 4A:4-2.15(c)2, arguing that this provision was unfair to employees who would be rated one or two, but for the negligence of their supervisors. He urged that PAR ratings not be used in the scoring of promotional examinations. John Kraus, an employee of the Department of Personnel presenting comments as an interested individual, also opposed the amendment at paragraph (c)2 on similar grounds. Instead of this amendment, he suggested greater efforts toward ensuring compliance with the PAR system. He also stated the amendment was vague by failing to specify a time frame, thus allowing use of a rating two or more years prior to the closing date. Deirdre Webster, AFSCME, said that the amendment at paragraph (c)2 made no provision for a situation where the personnel office lost a PAR, but the employee had proof of a higher rating.

RESPONSE: The Board notes that the amendment at paragraph (c)2 codifies current practice. There may be an adverse impact on some employees who are performing at a superior level, but whose supervisors have not completed PAR ratings. However, the exclusion of PAR ratings from the scoring of promotional examinations would be inconsistent with the statutory directive set forth at N.J.S.A. 11A:4-14 and would have a far greater adverse impact on the majority of employees whose supervisors complete PAR ratings. Moreover, overall compliance with the PAR system is expected to improve as a result of these rule changes.

With regard to the issue of time frames raised by Mr. Kraus, the Board notes that the language of subsection (c) refers to the final PAR rating "for the rating period immediately preceding the announced closing date." This language is also applicable to paragraph (c)2, a subordinate paragraph, and therefore an employee's rating will be deemed "Meets Standards" only when there is no final rating for the rating period immediately preceding the announced closing date.

With regard to Ms. Webster's comment, the Board notes that N.J.A.C. 4A:6-5.2(b) requires an employee to be provided with a copy of his or her rating. Thus, if an employee believes that the score on a promotional examination does not reflect his or her correct PAR rating, correction can be sought through the appeal process. See N.J.A.C. 4A:4-6.4.

COMMENT: D. Craig Stevens and Ronald Tuminski, DEPE, said that the amendment to N.J.A.C. 4A:4-2.15(c)3 has merit, but the Department of Personnel should track this information instead of the State agencies.

RESPONSE: The amendment at paragraph (c)3 is based on a longstanding prohibition against the use of performance ratings as a scoring factor when a supervisor competes against a subordinate, and broadens this prohibition to situations where an individual who acts as a reviewer competes in the exam. The existence of such a situation is ascertained through the forms completed by the appointing authority for each promotional examination, and the Department of Personnel is not

aware of any significant problems in reporting this information. Therefore, the Board does not see any need to modify this provision with regard to obtaining information on candidates who act as reviewers for other exam candidates.

COMMENT: Deirdre Webster, AFSCME, asked whether the procedures for the evaluation of seniority as referred to in N.J.A.C. 4A:4-2.15(d) would be set through rulemaking or negotiations.

RESPONSE: The language proposed in subsection (d) continues the current practice whereby the Department of Personnel establishes procedures for evaluating seniority through internal processes, in the same manner as the Department establishes other elements of the examination scoring system.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

4A:4-2.6 Eligibility for promotional examination

(a) Applicants for promotional examinations shall meet all of the following criteria by the announced closing date:

1. (No change.)
2. Meet all other requirements contained in the announcement. If an examination announcement is amended, all requirements must be met by the announced closing date;

3. Have not received a Performance Assessment Review (PAR) ***final*** rating of a Four, Marginally Below Standards, or Five, Significantly Below Standards (or equivalent in an approved local service evaluation program) ***[for the rating period]*** ***in each of the two rating periods*** immediately preceding the announced closing date; and

Recodify 3. as 4. (No change in text.)

(b)-(g) (No change.)

4A:4-2.15 Rating of examinations

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

(c) Candidates for State service promotional examinations shall receive credit for the final Performance Assessment Review (PAR) rating on file in the candidate's personnel office as of the announced closing date for the rating period immediately preceding the announced closing date.

1. Credit shall be awarded as follows:
 - i. Three points for Significantly Above Standards;
 - ii. Two points for Exceeds Standards; or
 - iii. One point for Meets Standards;

2. When there is no final rating on file for a candidate as of the announced closing date, the rating for that period shall be deemed Meets Standards and credit shall be given for that rating.

3. Performance ratings shall not be used as a scoring factor in promotions when the supervisor who completes a performance rating for a subordinate or acts as a reviewer for a subordinate's rating competes in the same promotional examination as the subordinate.

(d) The Commissioner shall set procedures for the evaluation of seniority in promotional examinations.

(e) (No change in text.)

(a)

MERIT SYSTEM BOARD

Medical and Psychological Disqualification Appeals

Adopted Amendment: N.J.A.C. 4A:4-6.5

Proposed: October 19, 1992 at 24 N.J.R. 3596(a).

Adopted: December 22, 1992, by the Merit System Board;

Anthony J. Cimino, Commissioner, Department of Personnel.

Filed: December 22, 1992 as R.1993 d.46, **without change**.

Authority: N.J.S.A. 11A:2-6(d), 11A:4-1(e); 42 U.S.C. 12101 et seq.

Effective Date: January 19, 1993.

Expiration Date: June 6, 1993.

Summary of Public Comments and Agency Responses:

A public hearing on the proposed amendment to N.J.A.C. 4A:4-6.5 was held on November 5, 1992. Henry Maurer served as hearing officer. Two persons presented comments on the proposal at the hearing. The hearing officer recommended adoption of the amendment as proposed. The hearing records may be reviewed by contacting the Regulations Unit at (609) 984-0118 or by writing to Janet Share Zatz, Director of Appellate Practices and Labor Relations, Department of Personnel, CN-312, Trenton, New Jersey 08625.

No written comments received.

COMMENT: Tom Murphy, a representative of the Patrolmen's Benevolent Association (PBA), stated that the PBA understands that the proposal reflects the provisions in the Federal Americans with Disabilities Act (ADA). However, the PBA is concerned that a delay in conducting medical examinations until conditional offers of employment are made will delay police officer hiring, thereby jeopardizing public safety. As an ameliorative measure, Mr. Murphy suggested that representatives of the PBA and the Commissioner of Personnel meet to discuss a valid physical performance test.

COMMENT: Deirdre Webster, Esq., a representative of the American Federation of State, County and Municipal Employees (AFSCME), commented that the proposed amendments will not have an adverse impact on employees represented by AFSCME. In addition, the changes are positive in light of their conformance with the ADA. An impact will primarily be felt by police officers and firefighters.

RESPONSE: The Board agrees that the appointment process will be lengthened as a result of the proposed amendments. However, the proposed amendments must be in place to ensure that merit system procedures are in compliance with Federal law. While the PBA's input on the examination process is welcomed, the Department of Personnel has no plans at this time to resume physical performance testing of candidates for police officer.

Full text of the adoption follows.**4A:4-6.5 Medical and/or psychological disqualification appeals****(a) (No change.)**

(b) In accordance with the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., an appointing authority may only require a medical and/or psychological examination after an offer of employment has been made and prior to appointment, and may condition the offer of employment on the results of such examinations, if:

1. All eligibles for the title, to whom an offer of employment is made, are subjected to such examinations;

2. Information obtained pursuant to this section regarding the medical condition or history of an employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

i. Such information shall be available to appropriate appointing authority and Department of Personnel representatives in connection with inquiries into the ability of an applicant to perform essential job functions;

ii. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

iii. Authorized first aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment, or if any specific procedures are needed in the case of fire or other evacuation; and

iv. Government officials investigating compliance with the Americans with Disabilities Act, or any other Federal or State law prohibiting discrimination on the basis of disability or handicap, shall be provided relevant information on request; and

3. The results of such examinations are used only in accordance with the Americans with Disabilities Act.

Recodify existing (b)-(g) as (c)-(h) (No change in text.)

(a)**MERIT SYSTEM BOARD****Leaves, Hours of Work and Employee Development
Readoption with Amendments: N.J.A.C. 4A:6**

Proposed: October 19, 1992 at 24 N.J.R. 3590(a).

Adopted: December 22, 1992 by the Merit System Board (Subchapters 1 through 5) and the New Jersey Employee Awards Committee (Subchapter 6); Anthony J. Cimino, Commissioner, Department of Personnel.

Filed: December 22, 1992 as R.1993 d.47 with **substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 11A:2-6(d), 11A:6-1 through 11A:6-28, 18A:31-2, 30:4-178, 34:11B-1 et seq., 38:23-1, 38:23-2, 38:23-4, 38A:4-4, 40A:14-177, 52:14-26.2; Executive Order No. 12 (1990); 29 U.S.C. 201 et seq., 42 U.S.C. 12101 et seq.

Effective Date: December 22, 1992, Readoption.

January 19, 1993, Amendments.

Expiration Date: December 22, 1997.

Summary of Public Comments and Agency Responses:

A public hearing on the proposed readoption was held on November 5, 1992. Henry Maurer served as hearing officer. Nine persons presented comments on N.J.A.C. 4A:6 at the hearing. The hearing officer recommended the adoption of the proposal with the changes discussed below. The hearing records may be reviewed by contacting the Regulations Unit at (609) 984-0118 or by writing to Janet Share Zatz, Director of Appellate Practices and Labor Relations, Department of Personnel, CN 312, Trenton, N.J. 08625. In addition, 29 persons submitted written comments.

COMMENT: J.S. Wiedemann, Director of Human Resources, Department of the Treasury, opposed the amendments to N.J.A.C. 4A:6-1.2 and 1.9, concerning the granting of vacation leave and administrative leave in hours. He said that scheduling and coverage are better managed when half-days are used. Further, his Department's time and leave reporting system, TALRS, would have to be reprogrammed to accommodate this change.

Abby Demel-Brown, President, CWA Local 1031, stated that she was in favor of permitting workers to use vacation and administrative leave time in hour increments. Hopefully, she commented, this change would stop the unfair system of docking workers who are late for work, and would allow workers to take care of personal business without using a whole or half day of leave time.

RESPONSE: The amendments would require vacation and administrative leave to be tracked in hours, but would not require appointing authorities to grant leave in increments of one hour. Thus, the amendments would not require the Department of Treasury or any other State agency to change its policy of granting vacation and administrative leave in half-day increments. A half-day of vacation leave granted to a 35-hour employee would be reported as 3.5 hours vacation leave. The mandatory change in tracking is a necessary step to enable eventual creation of a central, uniform tracking system for the entire State government.

COMMENT: On N.J.A.C. 4A:6-1.4, Sick leave procedures, Ed Moser, Communications Workers of America (CWA) Local 1033, proposed that the phrase "on the employee's initiative or with the employee's consent" be added to (j) after the words "appointing authority representatives." He argued that this change was necessary to curb abuse by supervisors or managers who seek to make medical judgments about the ability of an employee to perform his or her job.

Mr. Wiedemann, Department of the Treasury, asked, with regard to the proposed amendment to N.J.A.C. 4A:6-1.4 and the similar amendment to N.J.A.C. 4A:6-1.7, whether the Department of Treasury central personnel files are an appropriate and sufficiently confidential place to house such medical records.

RESPONSE: These amendments have been carefully drafted to reflect the requirements of the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq. The Merit System Board is not free to make substantial changes in the requirements set by Federal law. Thus, in response to Mr. Moser's suggestion, the ADA provides that supervisors and managers may have access to information on the medical condition or history of an employee, but only for limited purposes, including

inquiries into the ability of an employee to perform job-related functions. There is no basis, therefore, for adding the language proposed by Mr. Moser. In response to Mr. Wiedemann's inquiry, the ADA explicitly requires that such information be collected and maintained on separate forms and kept in separate medical files. Therefore, the central personnel files of the Department of the Treasury are not adequate for this purpose, and separate, confidential medical files must be established.

COMMENT: Charles Plumeri, Director of Personnel Management Improvement Programs, Department of Personnel, spoke at the public hearing on the basis for N.J.A.C. 4A:6-1.22, Donated leave program. He explained that the rule had its origin in a pilot program in three State departments: Labor, Personnel and Public Advocate. A total of 46 employees, all with serious illnesses, received donated leave. No significant problems were reported in the administration of the program. He emphasized the purely voluntary nature of the program, and urged adoption of the rule. In written comments, Mr. Plumeri submitted a copy of an article published by the Council of State Governments describing Connecticut's Donation of Leave Program. The article explains the benefits of this successful program, which led to the establishment of similar programs in other states.

Nicholas R. Scalera, Director, Division of Youth and Family Services, Department of Human Services, supported the rule, calling the program an innovative and humanistic response to employees in need.

David Matos, Chief of Staff, Department of the Public Advocate, urged adoption of the rule, based on the successful experience with the program in that Department. He noted that the program was initiated at the request of individual employees, who sought a means to help others. He reported that there had been no incidents of coercion, intimidation or retaliation in connection with the donated leave program.

D. Craig Stevens, Director of Personnel, and Ronald S. Tuminski, Acting Assistant Commissioner, Department of Environmental Protection and Energy (DEPE), also supported adoption of the rule and presented suggested modifications, which are discussed below.

Donna C. Bocco, Director of Professional Education, American Career Society, stated that places of employment which conduct leave donation programs find them satisfactory, and the program for State employees is an excellent example of encouraging volunteerism.

Jeffrey S. Maffei, an individual State employee, said that the donated leave program offers a compassionate approach, which has helped two fellow employees in his office with very serious illnesses. Moreover, he argued that the program has economic benefits, such as reducing the cost to taxpayers of individuals who would otherwise require governmental assistance.

RESPONSE: The donated leave program has been established, on a pilot basis, in three State agencies. The experience in these departments has been very successful, with no evidence of coercion or other problems. Similar programs have been established in Connecticut and other states, all with positive results. Such programs provide assistance to employees in need and boost the morale of donors and recipients, all without additional cost to the taxpayers. For these reasons, the Board believes that the rule extending the donated leave program to all agencies in State government should be adopted. The Department appreciates the commenters' supportive comments.

COMMENT: Tom Murphy, representing the Patrolmen's Benevolent Association (PBA), expressed support for the donated leave program, noting that the PBA has supported such programs in local jurisdictions. He expressed concern about the potential for nepotism, favoritism and cronyism, and suggested that such problems could be minimized through a Labor/Management oversight committee.

RESPONSE: In response to the suggestion by the PBA, the Board encourages labor organizations to advise the Department of Personnel of any problems with the program, including coercive actions prohibited by N.J.A.C. 4A:6-1.22(e). However, administration of the program will be the primary responsibility of the appointing authorities, as is the case with other leave programs, with oversight responsibility on the part of the Department of Personnel through the Office of Personnel Management. At this time, no other program is subject to a labor/management oversight committee, and the Board is not prepared to initiate such a structure without further review.

COMMENTS: Robert Pursell, Area Director, Communications Workers of America (CWA), opposed the rule. First, he argued that the program is illegal since Title 11A makes no provision for transferring leave and there has been no negotiation with the CWA over the alteration of an existing term and condition of employment. Second, a disability leave program should be provided by the State government,

not by other State workers. As an alternative, he proposed a leave bank made up of sick leave days from workers who resign, and from those who retire with more days than the amount needed to receive the statutory maximum of \$15,000 for one-half of unused sick days. Third, the program will be subject to abuse, whereby workers will be intimidated to donate leave time against their will.

Ms. Demel-Brown, CWA Local 1031, opposed the donated leave time rule because too much pressure to donate will be placed on workers with large accumulated balances of sick time. A better way of handling the problem of disabled employees, she suggested, would be to cover them with a disability policy.

Don Klein, Executive Vice President, CWA Local 1040, also opposed the donated leave rule, calling it a "take-back" of benefits. He also said that an employee cannot foresee his or her future need for such leave. Suzanne Dyer, Vice President, CWA Local 1039, opposed the rule on similar grounds.

Dorothy Harris, an employee of Jersey City State College, opposed the rule, stating that she does not want to be told to donate sick days she may need in the future.

RESPONSE: In response to the objections offered by the CWA, the Board believes the program is clearly lawful under N.J.S.A. 11A:6-1, which authorizes the Board to adopt rules for State employees on leaves of absence. Moreover, this program does not take any statutory or contractual benefits away from State employees, but rather allows voluntary transfer of some of those benefits between employees. The CWA's proposal for a "bank" of unused sick leave, on the other hand, is of doubtful legality since it goes beyond the boundaries set forth in N.J.S.A. 11A:6-16 et seq. for unused leave upon separation from service.

Mr. Klein, Ms. Dyer and Ms. Harris object to the program, in part, because an employee may need all of his or her leave time in the future due to illness. However, the essence of the program is its voluntary nature. Every employee will be free to decide whether he or she can afford to donate leave time and, within certain limits, how much to donate.

COMMENT: Kathleen M. Immordino, Chief, Bureau of Personnel and Human Development, Department of the Public Advocate, urged adoption of N.J.A.C. 4A:6-1.22, based on her Department's experience with the pilot program. However, in N.J.A.C. 4A:6-1.22(a)2, she proposed substituting the word "catastrophic" for "serious" in describing an illness or injury. This change, she said, would emphasize the severity of the condition required for participation.

RESPONSE: The term "catastrophic" was used in the original pilot program description. The Board agrees that the use of this term is more consistent with the intent of the program, and therefore the word "catastrophic" will be substituted for the word "serious." Although the term is being changed upon adoption, the intention is to clarify the original intent of the program, not to now place more stringent limits on eligibility.

COMMENT: Mr. Stevens and Mr. Tuminski, DEPE, suggested adding the following to the eligibility criteria in N.J.A.C. 4A:6-1.22(a): "Has neither been disciplined for abuse of leave time nor docked pay for unauthorized absence in the three year period prior to the request to participate as a recipient, or since starting employment, whichever period is less." This change, they argued, would reduce the number of applicants who are in need mainly because of their own past conduct.

RESPONSE: The Board believes it would be arbitrary and unduly harsh to deny the benefits of this program to an employee who is suffering from a catastrophic illness and who may have been docked for an infraction such as failing to follow proper call-in procedures.

COMMENT: Robert J. Yokavonus, Assistant Commissioner, Department of Labor, asked that N.J.A.C. 4A:6-1.22 specify that leave donations take place within the same department. Similar comments were submitted by Ms. Immordino, Department of the Public Advocate, and Mr. Stevens and Mr. Tuminski, DEPE.

RESPONSE: The Board agrees that it would not be feasible to provide for interdepartmental leave donations in the absence of a new administrative office to run such a program. Therefore, in keeping with the original intent of the program, the Board is adding a new (c)4 as follows: "A leave donor shall be in the same department or autonomous agency as the leave recipient."

COMMENT: Mr. Yokavonus objected to the requirement in N.J.A.C. 4A:6-1.22(b)2 that notice be provided to negotiations representatives, arguing that such a requirement was unnecessary.

ADOPTIONS

PERSONNEL

RESPONSE: The Board believes that this requirement will further encourage the donation of leave time, and will not be unduly burdensome to appointing authorities.

COMMENT: Mr. Yokavonus, Department of Labor, suggested eliminating the requirement in N.J.A.C. 4A:6-1.22(c) that an employee receive at least five days to participate. For some employees, he said, the donation of four days would enable them to retain health benefits.

RESPONSE: The Board believes that the five-day minimum threshold provides another measure of severity of need, and has been shown to be a workable standard.

COMMENT: Mr. Stevens and Mr. Tuminski, DEPE, suggested changing the 10-day maximum for donation, set forth in N.J.A.C. 4A:6-1.22(c), to 10 percent of an employee's balance or 10 days, whichever is greater. This change, they asserted, would give employees greater flexibility in evaluating their own needs and generosity.

RESPONSE: The Board believes that the 10-day maximum for donation sets a reasonable limit.

COMMENT: In N.J.A.C. 4A:6-1.22(c)1, Deirdre Webster, Esq., representing the American Federation of State, County and Municipal Employees (AFSCME), questioned the need for the 180-day limit on receiving donated leave, when other employees may be willing to donate leave and medical documentation shows the need for additional leave. Mr. Stevens and Mr. Tuminski, DEPE, asked whether the 180-day limit is to be applied per career, per calendar year, per 12-month period, or per episode.

RESPONSE: The Board notes that 180 working days represents approximately nine months, and there would be very few situations where there would be a need for donated leave beyond 180 days. In such rare circumstances, relaxation of the rule could be sought. In response to Mr. Stevens and Mr. Tuminski, the 180-day limit applies to each employee who is a leave recipient.

COMMENT: Ms. Immordino, Department of the Public Advocate, suggested that the donated leave program be extended to cover employees who are absent to care for a seriously ill family member. Mr. Stevens and Mr. Tuminski asked for clarification on this issue.

RESPONSE: The donated leave pilot program was initially intended to benefit employees who have exhausted leave time due to their own illness or injury. This intent is reflected in the rule, and the suggested amendment would constitute a major, substantive change. However, after additional State-wide experience with the program, consideration will be given to the suggested expansion.

COMMENT: In N.J.A.C. 4A:6-1.22(d)1, Mr. Yokavonus, Department of Labor, said that the return of unused donated days on a pro-rated basis is administratively cumbersome. Instead, he suggested, excess donated days should be returned as they are received. Mr. Stevens and Mr. Tuminski, DEPE, suggested that paragraph (d)1 should be modified to prorate and return unused time in hours, including less than a full day, since that is how leave time will be tracked in all State agencies.

RESPONSE: The Board believes that the pro-rated return of unused donated leave, except if it results in less than one day per donor, is workable and is more equitable than returning excess days as they are received. It is suggested, however, that before returning excess days, leave donors be asked whether they are willing to donate the days to the next employee who may be eligible for the program in that agency.

COMMENT: Mr. Yokavonus, Department of Labor, suggested two further restrictions on participation in the donated leave program: first, the donor should be at a higher or equal salary than the recipient; and second, that there should be some minimum amount of time that the employee would anticipate being without pay in order to qualify. He further suggested that the names of all recipients be provided to the Department of Labor to avoid duplicate payments under the Temporary Disability Insurance (TDI) program.

RESPONSE: Based on experience with the pilot program, as well as the voluntary nature of the program, the Board believes there is no necessity for the salary restriction. Similarly, the eligibility requirement for a catastrophic illness, together with the minimum of five days donated leave, obviates the need for a further restriction concerning a minimum number of anticipated days without pay. With regard to TDI benefits, such benefits are paid based upon information supplied by the appointing authority on the employee's paid leave time. Information on donated leave should be included without any need to modify this rule.

COMMENT: Mr. Stevens and Mr. Tuminski, DEPE, criticized N.J.A.C. 4A:6-4.1, stating that it is important to provide a mechanism for a department to petition the Commissioner of Personnel for delegation of training on subject matter that is specific to that department,

or subject matter for which HRDI does not have sufficient expertise. In particular, they cited the need for the employer to conduct specific health and safety training under the Worker and Community Right-to-Know Act. Similar comments were submitted by James Ross, Health and Safety Coordinator, DEPE, and Leslie Reid-Green, Hazardous Site Mitigation Specialist, DEPE. Both stressed that DEPE has unique health and safety training needs, as well as in-house expertise in such matters as hazardous materials.

RESPONSE: Executive Order No. 12(1990) mandated the consolidation of training functions within the Department of Personnel. However, N.J.A.C. 4A:6-4.1(b) provides for delegation of training programs to other agencies by the Commissioner of Personnel. Thus, the concerns expressed by the commenters should be addressed in the delegation process.

COMMENT: On N.J.A.C. 4A:6-4.2(b), Mr. Stevens and Mr. Tuminski questioned the ability of HRDI to conduct a needs assessment for each appointing authority.

RESPONSE: The rule calls for such needs assessments to be conducted "in cooperation with State agencies." The Board anticipates that the unique and specialized needs of each agency will be taken into account, since the needs assessment will be conducted in cooperation with each agency.

COMMENT: Richard F. Keevey, Director of the Office of Management and Budget, Department of the Treasury, suggested deletion of N.J.A.C. 4A:6-4.2(b)3, since the administrative code is not an appropriate vehicle to address the issue of one State agency's authority to bill other State agencies.

RESPONSE: The Board agrees with this comment, and N.J.A.C. 4A:6-4.2(b)3 will be deleted.

COMMENT: With regard to the Certified Public Manager (CPM) program, Mr. Stevens and Mr. Tuminski, DEPE, called for elimination of the practice of mandating a number of slots to each department and requiring up front payment based on the assigned number of slots.

RESPONSE: This practice was ended as part of the consolidation of training functions, and nothing in N.J.A.C. 4A:6-4.4 calls for that practice to be resumed.

COMMENT: On N.J.A.C. 4A:6-5.2, Performance Assessment Review (PAR) procedure, Mr. Stevens and Mr. Tuminski, DEPE, urged that all employees in the same department be placed on the same rating cycle, regardless of anniversary date. This change, they contended, would reduce administrative confusion and strengthen compliance.

RESPONSE: The rule changes concerning the PAR program are intended to provide a closer link between PAR ratings and the consequences of those ratings. One of the major consequences of a PAR rating concerns advancement to the next step of the salary range. Maintaining the link between the rating cycle and the anniversary date underscores this consequence. However, the Department of Personnel anticipates initiating a pilot program in some State agencies, including the DEPE, along the lines suggested. After evaluating the experience with the pilot program, further consideration will be given to changing the rules.

COMMENT: With regard to N.J.A.C. 4A:6-5.2(b)4, Mr. Stevens and Mr. Tuminski, DEPE, said that it was unnecessary for employees on the eighth step to have two interim ratings.

RESPONSE: In order to maintain the link between PAR ratings and anniversary date advancement, employees on the eighth step must receive their final rating after 18 months. The practice of two interim ratings, which is already followed in many departments, avoids a situation where an employee must wait 12 months between an interim and final rating.

COMMENT: On N.J.A.C. 4A:6-5.2(d)1, Mr. Stevens and Mr. Tuminski agreed with the requirement that the supervisor prepare job performance standards prior to the commencement of the working test period, but suggested that these standards remain in place for the full rating cycle.

RESPONSE: Performance standards may be expected to change after the working test period, when the employee is still learning the job. Therefore, it is appropriate for the supervisor and the employee to jointly develop job performance standards after the end of the working test period.

COMMENT: Pamela P. Lyons, Chairperson, Affirmative Action Officers' Council, suggested that standards that measure performance with regard to EEO/AA activity be mandated for the PARs of managers who are responsible for the hiring, promotion, training and other related personnel functions.

RESPONSE: The Board agrees that managers should be accountable for promoting equal employment opportunity within the units they supervise, as well as implementing the affirmative action program of their agency. However, mandating a specific performance standard in this area would be problematic in view of the wide variety of responsibilities among managers in State government.

COMMENT: Mr. Wiedemann, Department of the Treasury, supported the change to N.J.A.C. 4A:6-5.3, providing that an employee with a "four" rating will also be denied an increment. The change, including the ability to grant an increment after 90 days if performance improves, gives the appointing authority a tool to improve employee performance. This change was also supported by Mr. Stevens and Mr. Tuminski, DEPE, who asked for clarification that the 90-day improvement provisions applied only to a "four" rating, and not a "five" rating.

Mr. Pursell, CWA, expressed his strong opposition to the change in N.J.A.C. 4A:6-5.3(a). This rule, he said, punishes workers instead of addressing management's failure to follow existing PAR regulations.

Several representatives from Local 195 International Federation of Professional and Technical Engineers (IFPTE), stated that the current PAR system is based on favoritism, and that the proposed changes would compound these problems. Comments of this nature were submitted by Dominick Critelli, Local 195 President; Russell P. Gann, Marlboro Chapter President; James J. Gray, Trenton OMSC Chapter President; Anthony F. Mellaci, Bridge Chapter President; William Shawlot, Mays Landing Chapter President; William Sheppard, Vineland Chapter President; and nine individual Local 195 members whose signatures could not be clearly identified.

RESPONSE: As was stated with respect to the rule change on promotional eligibility, the public policy underlying the civil service system, as set forth in N.J.S.A. 11A:1-2(c), is to encourage and reward meritorious performance. Advancement to the next step of the salary range is one way of rewarding meritorious performance. Conversely, a merit increment should not be awarded when the employee's performance does not meet established standards. The Board notes that this rule change makes a distinction between a "four" and "five" rating with respect to increments: the increment of an employee with a "four" rating may be restored after 90 days upon improved performance; while the employee with a "five" rating must wait for the next rating cycle.

COMMENT: Mr. Pursell, CWA, asked for clarification as to whether disputes over withholding of increments can be arbitrated. He also criticized the provision at N.J.A.C. 4A:6-5.3(e), arguing that this change eliminated due process by finding a worker guilty before proven innocent.

RESPONSE: Under N.J.A.C. 4A:6-5.3(b) an employee who receives a four or five rating may appeal such rating through departmental non-contractual grievance procedures, with a right of further appeal to the Merit System Board. With respect to the amendment at N.J.A.C. 4A:6-5.3(e), the rule provides that a rating of five constitutes "evidence" of incompetency, inefficiency or failure to perform duties. The rule does not state that such a rating is conclusive in determining an employee's guilt of such charges.

Upon Agency review, additional changes are being made in the re-adopted rules:

In N.J.A.C. 4A:6-4.4(c), the proposed language provides insufficient guidance as to the cost for participation in the CPM program. Therefore, upon adoption, this subsection will be changed to reflect the formula in the former rule, with provision for adjustment based on the sending agency's fiscal condition.

In N.J.A.C. 4A:6-5.2(g), the proposed language did not clearly describe the "PAR Coordinator." Therefore, the words "within the personnel office" are being added to clarify that a PAR Coordinator is a designated individual within the personnel office of each department. In addition, the Department of Personnel's PAR Program Coordinator is no longer part of the Human Resource Development Institute. Therefore, the reference to HRDI in subsection (g) will be deleted.

Full text of the re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 4A:6.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with astericks ***thus***; deletions from proposal indicated in brackets with astericks *[thus]*).

4A:6-1.2 Vacation leave

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

(e) In State service, vacation leave may be granted and shall be recorded and tracked in hours.

Recodify (e)-(h) as (f)-(i) (No change in text.)

4A:6-1.3 Sick leave

(a)-(h) (No change.)

(i) See N.J.A.C. 4A:6-1.22 for the donated sick leave program in State service.

4A:6-1.4 Sick leave procedures: State service

(a)-(i) (No change.)

(j) In accordance with the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., information obtained pursuant to this section regarding the medical condition or history of an employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

1. Such information shall be available to appropriate appointing authority representatives in connection with inquiries into the ability of an employee to perform job-related functions;

2. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

3. Authorized first aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment, or if any specific procedures are needed in the case of fire or other evacuation; and

4. Government officials investigating compliance with the Americans with Disabilities Act, or any other Federal or State law prohibiting discrimination on the basis of disability or handicap, shall be provided relevant information on request.

4A:6-1.7 Sick Leave Injury (SLI) reporting and appeal procedures: State service

(a)-(h) (No change.)

(i) In accordance with the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., information obtained pursuant to this section regarding the medical condition or history of an employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

1. Such information shall be available to appropriate appointing authority and Department of Personnel representatives in connection with inquiries into the eligibility of the employee for benefits under this section;

2. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

3. Authorized first aid and safety personnel may be informed, when appropriate, if the condition might require emergency treatment, or if any specific procedures are needed in the case of fire or other evacuation; and

4. Government officials investigating compliance with the Americans with Disabilities Act, or any other Federal or State law prohibiting discrimination on the basis of disability or handicap, shall be provided relevant information on request.

4A:6-1.9 Administrative leave: State service

(a) Full-time State employees in the career and senior executive service and those employees of Rutgers, the State University, New Jersey Institute of Technology, and the University of Medicine and Dentistry of New Jersey who perform services similar to those performed by employees of the New Jersey State Colleges who are in the career service shall be granted three days of administrative leave in each calendar year for personal business, including emergencies and religious observances.

1.-2. (No change.)

3. Administrative leave may be granted and shall be recorded and tracked in hours.

(b)-(f) (No change.)

4A:6-1.21 Family leave

(a) This section describes leaves for which employees in State and local service may be eligible, pursuant to the Family Leave Act, L. 1989, c.261. The Division on Civil Rights, Department of Law and Public Safety, has promulgated rules to implement and enforce the Family Leave Act. See N.J.A.C. 13:14.

(b) The following definitions are used in this section:

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1.-5. (No change.)

6. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

i. (No change.)

ii. The placement for adoption of a child with the employee; or

iii. (No change.)

7.-12. (No change.)

(c) An employee shall be entitled to a family leave of 12 weeks in any 24-month period, unless denied under (d) below.

1.-3. (No change.)

4. See N.J.A.C. 13:14-1.10 concerning proof of need for family leave.

(d)-(i) (No change.)

(j) An employee may, at his or her option, use paid leave for family leave purposes. An employee who chooses to use paid leave (vacation, sick or administrative) must meet the requirements set forth in this subchapter for the type of leave requested.

4A:6-1.22 Donated leave program: State service

(a) A State employee shall be eligible to receive donated sick or vacation leave if the employee:

1. Has completed at least one year of continuous State service;

2. Is suffering from a *[serious]* ***catastrophic*** health condition or injury which is expected to require a prolonged absence from work by the employee; and

3. Has exhausted all accrued sick, vacation and administrative leave and all compensatory time off.

(b) A State employee may request that the appointing authority approve his or her participation in the program, as a leave recipient or leave donor. The employee's supervisor may make such a request on behalf of the employee for his or her participation in the program as a leave recipient.

1. The employee or supervisor requesting the employee's acceptance as a leave recipient shall submit to the appointing authority medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from serious health condition or injury.

2. When the appointing authority has approved an employee as a leave recipient, the appointing authority shall, with the employee's consent, post or circulate the employee's name along with those of other eligible employees in a conspicuous manner to encourage the donation of leave time, and shall provide notice to all negotiations representatives in that appointing authority.

i. If the employee is unable to consent to this posting or circulation, the employee's family may consent on his or her behalf.

(c) A leave recipient must receive at least five sick days or vacation days or a combination thereof from one or more leave donors to participate in the donated leave program. A leave donor shall donate only whole sick days or whole vacation days and may not donate more than 10 such days to any one recipient.

1. A leave recipient shall receive no more than 180 sick days or vacation days, and shall not receive any such days on a retroactive basis.

2. A leave donor shall have remaining at least 20 days of accrued sick leave if donating sick leave and at least 12 days of accrued vacation leave if donating vacation leave.

3. A leave donor shall not revoke the leave donation.

4. A leave donor shall be in the same department or autonomous agency as the leave recipient.

(d) While using donated leave time, the leave recipient shall accrue sick leave and vacation leave and be entitled to retain such leave upon his or her return to work.

1. Any unused, donated leave shall be returned to the leave donor or donors on a prorated basis upon the leave recipient's return to work, except that if the proration of leave days results in less than one day per donor to be returned, that leave time shall not be returned.

2. Upon retirement, the leave recipient shall not be granted supplemental compensation on retirement for any unused sick days which he or she had received through the leave donation program.

(e) An employee shall be prohibited from threatening or coercing or attempting to threaten or coerce another employee for the

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purpose of interfering with rights involving donating, receiving or using donated leave time. Such prohibited acts shall include, but not be limited to, promising to confer or conferring a benefit such as an appointment or promotion or making a threat to engage in, or engaging in, an act of retaliation against an employee.

SUBCHAPTER 4. HUMAN RESOURCE DEVELOPMENT: TRAINING, EDUCATION, CAREER DEVELOPMENT AND EMPLOYEE ASSISTANCE PROGRAMS

4A:6-4.1 General Provisions

(a) (No change.)

(b) In State Service, the Commissioner shall establish training and education, performance evaluation and assistance programs for employees. The Commissioner shall also review and approve career development programs for employees. These responsibilities may be delegated to agencies other than the Department of Personnel only by written order of the Commissioner.

4A:6-4.2 Department of Personnel functions: State service

(a) The Commissioner shall administer a Human Resource Development Institute (HRDI) which is responsible for the following functions:

1. Planning, development, and delivery of all training and education programs for State employees, except for programs exempted by Executive Order 12 (1990) or delegated by the Commissioner in writing.

2. Planning, development, and delivery of all evaluation and assistance programs for State employees.

3. Review and approval of all career development programs for State employees.

4. Management of all ancillary operations, quality control efforts, facilities, and administrative support that are allocated to State Government training programs.

5. Coordination of State service programs for employees seeking agency, career, or location changes and for employees affected by job displacement.

(b) In cooperation with State agencies, the Human Resource Development Institute (Institute) shall assess State government Human Resource Development (HRD) needs and develop training and education plans and programs for each agency and for the State government as a whole. The Institute shall deliver or arrange the delivery of these programs as appropriate.

1. Neither agency employees nor outside consultants may develop or deliver training and education programs that the Institute is capable of developing or delivering without the prior written approval of the Institute director. If the Institute is not capable of developing or delivering a program of instruction that an agency needs, the Institute director may authorize the agency to assign employees temporarily to develop or deliver the program, or to hire a consultant for the same purpose. The Institute staff shall supervise and direct the delivery of any such program.

2. No State agency except the Institute may employ or retain any person whose primary duty is staff training or human resource development, except as specifically permitted by Executive Order No. 12(1990) or by the Commissioner of Personnel in writing.

[3. If an agency's needs for training and education of employees or clients exceed its allocated share of the Institute's resources, the Institute may charge the agency for the delivery of services to meet the additional needs.]

(c) The Institute shall establish guidelines and procedures for career development programs, help State agencies develop these programs, and review and approve career development plans and programs.

(d) The Institute shall evaluate the results and effects of all State government HRD programs based on the following criteria:

1. Contribution to State government-wide goals and objectives.

2. Response to legitimate State government HRD needs.

3. Allocation of resources to areas of greatest need.

4. Achievement of desired changes in employee knowledge, skills, attitudes, and performance.

(e) The Institute shall maintain a comprehensive system to record the training and education experiences of its clients, including all State government employees.

(f) Each State agency may designate a customer liaison to the Institute, whose responsibilities, which shall be in addition to his or her other job assignments in the agency, shall be the following:

1. Review and approve the designation of members of the agency to participate in HRD programs, subject to eligibility criteria established by the Institute.

2. Assist the Institute in setting HRD priorities related to the agency's mission and goals.

4A:6-4.3 Training and Education Programs: State Service

(a) State Government training and education programs include, but are not limited to, the following:

1. Employee orientation programs;
2. Agency specific technical and topical programs;
3. Programs mandated by State and Federal statutes;
4. Health and safety programs;
5. General training programs;
6. Computer and information systems training;
7. Basic literacy and remedial programs;
8. Clerical and support programs;
9. Apprenticeship programs;
10. Supervisory and management training; and
11. Executive training and development.

4A:6-4.4 Certified Public Manager Program: State service

(a) The Human Resource Development Institute shall develop and administer the Certified Public Manager Program (CPM) for supervisors and managers. The program shall meet criteria established by the National Certified Public Managers Consortium. The Commissioner of Personnel shall be Chief Administrative Officer of the program. The Director of the HRDI shall be the Program Director.

(b) The Program shall consist of progressive levels of instruction delivered jointly by the Institute and Rutgers, the State University. The Institute shall set eligibility criteria and design the courses.

(c) ***[Each participant may be required to pay part of the cost of participation in any level of the program, as determined by the Institute.]*** ***For that part of the program for managerial training, the employee shall be responsible for 25 percent of the cost and the department or agency for 75 percent of the cost, provided however that the HRDI Director may set a different cost allocation depending upon the fiscal condition of the department or agency. If a different cost allocation is set, HRDI shall notify affected departments or agencies prior to soliciting nominations for employee participants.***

(d) In order to provide expert guidance to the program, the Commissioner shall appoint a CPM Policy Board consisting of representatives from State government, private sector organizations, and institutions of higher education.

4A:6-4.5 Career Development Programs: State service

(a) Departments or agencies may, with the approval of the HRDI Director and consistent with their goals, workforce planning and technological changes, implement programs that prepare employees to move to new assignments or career opportunities.

(b) Programs in support of career development include, but are not limited to, the following: tuition assistance (N.J.A.C. 4A:6-4.6), employee interchanges (N.J.A.C. 4A:6-4.8), and internships (N.J.A.C. 4A:6-4.9).

4A:6-4.7 (Reserved)

4A:6-5.1 General provisions

(a) (No change.)

(b) In State service, a Performance Assessment Review (PAR) program shall apply to all employees in the career service, and those in unclassified titles as designated by particular departments or agencies.

1. While not mandated, departments and agencies are encouraged to include all unclassified titles in the PAR program.

2. The PAR program shall use a standardized form to be designated by the Department of Personnel and a five-level rating scale to include the following ratings:

- i. One, for Significantly Above Standards;
 - ii. Two, for Exceeds Standards;
 - iii. Three, for Meets Standards;
 - iv. Four, for Marginally Below Standards; and
 - v. Five, for Significantly Below Standards.
- (c)-(d) (No change.)

4A:6-5.2 PAR procedure: State service

(a) (No change.)

(b) At the end of six months and at the end of one year, the employee and the supervisor shall review the employee's performance. The supervisor shall designate an interim performance rating at the end of six months and a final rating at the end of one year.

1. When there is a change either in job assignment or supervisor during the evaluation period, the old performance plan shall be closed out. The employee's performance during the portion of the rating period under the old performance plan shall be rated and a new performance plan shall be prepared. The final rating shall be a proration of all ratings received during the review period.

2. When there is a change in job title during the evaluation period, the former supervisor shall assign a final rating for the former performance plan and title. A performance plan for the new title shall be developed.

3. For employees who are newly hired or whose anniversary dates have changed, the rating period shall end in accordance with the employee's new anniversary date.

4. The final PAR rating for an employee who is at the eighth step of the salary range will be based on an evaluation of performance over 18 months. Interim ratings will be assigned at the end of six months and again at the end of 12 months, and the final rating will be assigned and recorded at the end of 18 months. Once the employee reaches the ninth step of the salary range, the evaluation of the employee's performance again will be based on a 12 month period as described in (b) above.

5. When appropriate, performance improvement plans shall be set at each review.

6. The employee shall be entitled to a copy of the rating.

(c) Where a rating of four or five is received, a performance conference shall be conducted after three months or such shorter period of time as determined by the supervisor.

(d) A performance plan for each rating period shall be established within a reasonable time after completion of the previous rating period. New employees shall receive a performance plan within a reasonable time after appointment.

1. The supervisor shall prepare job performance standards prior to the commencement of the working test period which identify essential tasks and emphasize training and development. Upon the employee's successful completion of the working test period the supervisor and the employee shall jointly develop complete job performance standards.

(e) A supervisor's own PAR shall provide that the supervisor shall complete the PAR of his or her subordinates.

(f) The Department of Personnel may require additional reports, information or audits of an agency's PAR program.

(g) A complaint that an entire agency or unit is in violation of this subchapter shall be presented to the PAR coordinator ***within the personnel office*** for the subject department. The PAR coordinator shall, within 30 days, investigate the complaint, respond in writing to the individual(s) presenting the complaint and implement remedial action as appropriate. If the individual(s) is (are) dissatisfied with the response of the PAR coordinator, or if no action has been taken within 30 days of the complaint, the individual(s) may appeal the matter to the PAR Program Coordinator, *[Human Resource Development Institute,]* Department of Personnel.

1. Complaints concerning an individual's PAR rating or performance standards shall be addressed through noncontractual grievance procedures. See N.J.A.C. 4A:6-5.3(b) through (d).

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4A:6-5.3 PAR use and review: State service

(a) An employee receiving an annual PAR rating of a four or a five shall be denied an anniversary date increment.

1. An appointing authority may request an anniversary date increment for an employee who was denied an increment because of receiving a four rating but whose performance has subsequently improved. If approved by the Department of Personnel, such increment shall not be effective until a pay period beginning at least 90 days after the employee's anniversary date.

2. An employee who receives an annual rating of a four or five shall be referred by the appointing authority to the Employee Advisory Service. See N.J.A.C. 4A:6-4.10.

(b) An employee who has received an annual PAR rating of a four or a five may appeal such rating through departmental non-contractual grievance procedures. See N.J.A.C. 4A:2-3.1. In addition to the grievance procedure requirements, all appeals shall be accompanied by a copy of the PAR evaluation.

(c) An employee may appeal the final departmental decision to the Merit System Board within 20 days of receipt of the decision. 1.-3. (No change.)

(d) An employee who disagrees with his or her PAR job performance standards may utilize the noncontractual grievance procedures. The Department of Personnel may designate a person to aid in the resolution of such matters.

(e) A rating of a five shall constitute evidence of incompetency, inefficiency or failure to perform duties. In a disciplinary action, an employee may challenge the basis of any rating that is an issue in the proceeding.

(f) Performance ratings may be used as a factor in promotion (see N.J.A.C. 4A:4-2.15) and layoff (N.J.A.C. 4A:8-2.2(c)4).

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT Maintenance of Hotels and Multiple Dwellings Methods, Devices and Systems for Indirect Apportionment of Heating Costs in Multiple Dwellings

Adopted Amendment: N.J.A.C. 5:10-25.2

Proposed: October 19, 1992 at 24 N.J.R. 3597(a).

Adopted: December 14, 1992 by Stephanie R. Bush,

Commissioner, Department of Community Affairs.

Filed: December 18, 1992 as R.1992, d.39, **without change**.

Authority: N.J.S.A. 55:13A-7.10.

Effective Date: January 19, 1993.

Expiration Date: November 17, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

5:10-25.2 Application to the Department

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

(c) An owner of a multiple dwelling who proposes to institute a method or system for indirect apportionment of heating costs shall provide the following information to the Bureau:

1.-6. (No change.)

7. A copy of the billing format used or proposed to be used to bill unit occupants for apportioned heating costs, which shall include, but not be limited to, the following:

i. Billing date;

ii. Billing period;

iii. Measurement units and formula used for calculating energy use, the energy usage calculated from that reading, and the charge per unit for energy;

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iv. A statement that the bill is not from the utility;

v. A statement that the total of the bills for the dwelling units shall not exceed the cost for the heating of all dwelling units that is paid to the utility, and the amount of that total charge; and

vi. A local or toll-free number of the landlord or the landlord's authorized agent that an occupant can call to obtain information, to request service or maintenance, or to submit complaints.

8. A copy of information concerning indirect apportionment of heating costs, which shall be provided to existing and prospective occupants, including:

i. A statement of the range of accuracy of the system when it is functioning properly;

ii. Average square foot apportioned heating cost for the building over the last heating season, if the apportionment system was already installed, or an estimate based upon manufacturer's data or information from a similar installation;

iii. For each occupant, the square footage of that occupant's unit; and

iv. A statement of the maintenance schedule for the system;

9. (No change.)

EDUCATION

(b)

STATE BOARD OF EDUCATION

Notice of Administrative Correction

Thorough and Efficient System of Free Public Schools

Interim Rules for Districts Placed in Level II and III Monitoring Prior to July 1, 1993

Corrective Action by Commissioner of Education

N.J.A.C. 6:8-5.4

Take notice that the Office of Administrative Law has discovered an error in the current codification of N.J.A.C. 6:8-5.4, Corrective Action by Commissioner of Education, as set forth in the most recent adopted amendments to N.J.A.C. 6:8 (see 24 N.J.R. 3039(a) and 4508(a)). Both the proposal caption and the Summary reflect the Department's intent that N.J.A.C. 6:8-5 be recodified as N.J.A.C. 6:8-5A. However, while such is indicated in the original proposal and adoption documents, neither the published proposal nor adoption depict the recodification of N.J.A.C. 6:8-5.4 as 6:8-5A.6 in the rule text. That oversight is corrected through this notice of administrative correction, published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface **thus**; deletions indicated in brackets [thus]):

6:8[5.4]5A.6 Corrective action by Commissioner of Education
(No change in text.)

(c)

STATE BOARD OF EDUCATION

Thorough and Efficient System of Free Public Schools

Programs and Services for Pupils At Risk

Adopted Repeal and New Rules: N.J.A.C. 6:8-6

Proposed: October 5, 1992 at 24 N.J.R. 3494(a).

Adopted: December 2, 1992 by State Board of Education, John Ellis, Secretary, State Board of Education and Commissioner, Department of Education.

Filed: December 18, 1992 as R.1993, d.40, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15, 18A:7A-1 et seq., P.L. 1991, c.3 and c.62.

Effective Date: January 19, 1993.
 Expiration Date: December 11, 1996.

Summary of Public Comments and Agency Responses:

No one spoke regarding this rulemaking at the public testimony session held by the State Board of Education on October 21, 1992. Written comments were received from three individuals: Edwina E. Lee, Assistant Executive Director, New Jersey School Boards Association; Sarah W. Mitchell, Director, Division of Advocacy for the Developmentally Disabled, Department of the Public Advocate and Jean Paashaus, Summit, New Jersey.

COMMENT: A commenter suggested that the plan for utilizing at-risk aid required in N.J.A.C. 6:8-6.2 is unclear regarding whether it is an individual student plan or a general plan and what year the plan should be based on.

RESPONSE: The required plan is a general plan to meet identified pupil needs which is developed annually, as stated in N.J.A.C. 6:8-6.2(6).

COMMENT: A commenter questioned if the intervention goal for at-risk programs and services defined in N.J.A.C. 6:8-6.2(b)3 is entirely met by the functions of the Pupil Assistance committee (PAC) mandated in N.J.A.C. 6:26.

RESPONSE: No. The PAC is only one programmatic response among many for identifying and meeting the needs of pupils at risk.

COMMENT: A commenter suggested that the individual pupil improvement plan required in N.J.A.C. 6:8-6.2(c) could cause harmful alterations in a student's program.

RESPONSE: The Department disagrees. The plan has been used without complaint of abuses for eight years under existing regulations, and is necessary to respond to the specific educational deficiencies and needs of individual pupils based on State approved assessments of pupil achievement required by N.J.A.C. 6:39.

COMMENT: A commenter suggested that the budget documentation called for in N.J.A.C. 6:8-3 should indicate that programs designed for pupils referred to PACs are automatically covered by State aid.

RESPONSE: The Department disagrees; programs are not necessarily generated by the PAC referral process, although State aid can be used for programs and services for pupils at risk who are referred to PACs.

COMMENT: A commenter suggests that N.J.A.C. 6:8-6.2(e) will reduce the effectiveness of services to students in the early grades because they will not be assessed by the State until fourth grade.

RESPONSE: The Department disagrees. Research does not confirm the usefulness of standardized assessments in the primary grades.

COMMENT: A commenter suggested that the current requirement in N.J.A.C. 6:8-6.2(e)1 identifying a certified staff member to be responsible for each individual student improvement plan should be maintained.

RESPONSE: The Department disagrees. The existing requirement was based on the previous compensatory education structure in which a basic skills instructor was assigned to the pupil. This structure no longer exists as a program supported by statute. The staff selected to provide programs and services for pupils at risk should be based on the pupils' needs.

Summary of Agency-Initiated Change(s):

Proposed N.J.A.C. 6:8-6.2(a) has been changed upon adoption. A cross-reference to N.J.A.C. 6:8-4.10 has been added to clarify that plans for programs and services for pupils at risk must be submitted in the same manner as other State and Federally mandated programs and services.

Full text of the adoption follows (additions indicated in boldface with asterisks ***thus***).

SUBCHAPTER 6. PROGRAMS AND SERVICES FOR PUPILS AT RISK

6:8-6.1 Assessment of pupil needs

Each district board of education shall annually identify those needs and conditions which place pupils at risk of not acquiring the knowledge, skills, behaviors and attitudes necessary for school success, school completion, and successful functioning as an adult in society. The assessment shall include, but not be limited to, assessments of pupil achievements as required by N.J.A.C. 6:39, and information contained in the Annual Pupil Assistance Committee Report, N.J.A.C. 6:26-4.

6:8-6.2 Programs and services for pupils at risk

(a) District boards of education shall approve a plan for utilizing at-risk aid generated by the Quality Education Act, P.L. 1990, c. 52, as well as foundation aid and other State and Federal funds for programs and services for pupils at risk, by October 1 each year. The plan shall be submitted to ***and approved by*** the Department of Education ***in accordance with the provisions of N.J.A.C. 6:8-4.10***.

(b) The plan shall specify programs and services to address the conditions which place pupils at risk, including assistance to parents and guardians in promoting school success. The plan shall be based on the assessment of pupil needs and address those needs within the framework of the following goals:

1. Prevention: To enhance the health, self-esteem and learning of life skills necessary for age-appropriate development and productive functioning in the school setting and in society;

2. Intervention: To identify and assist pupils who are not meeting standards for behavior and achievement in areas such as attendance, conduct, and mastery of the curriculum, as well as performing below State minimum levels of proficiency; and

3. Improving the learning environment: To improve the school climate so that pupils experience school as a safe, supportive and disciplined place where academic and interpersonal growth and learning can take place.

(c) For each pupil performing below State minimum levels of proficiency after completion of three academic years of instruction beyond kindergarten, the district board of education shall ensure the development, implementation and monitoring of an individual pupil improvement plan. The district board of education shall ensure that:

1. The pupil and the pupil's parent(s) or guardian(s) are informed of the need for and content of the individual pupil improvement plan in the language or mode of communication which is understood by the pupil and the parent(s) or guardian(s) in accordance with N.J.A.C. 6:3-2.2(k); and

2. Ongoing communication takes place among the regular classroom teacher, and the parent(s) or guardian(s) of the pupil for whom the plan has been developed and those responsible for providing services described in the individual pupil improvement plan.

(d) The district board of education shall provide for the staff training necessary to implement the programs and services for pupils at risk specified in the annual plan.

(e) Programs and services for pupils at risk may be offered during the regular school day, beyond the regular school day or during the summer. To the extent that such programs and services do not fall within the scope of authorized certification pursuant to N.J.A.C. 6:11, or cannot reasonably be provided except outside the school setting, such programs and services may be delivered by qualified individuals who are not necessarily certified but are supervised by appropriately certified school staff members.

6:8-6.3 Budget documentation

The district board of education shall provide documentation to the county offices of education through the annual budget process, pursuant to N.J.S.A. 18A:7D-27, in support of the annual programs and services plan developed in accordance with N.J.A.C. 6:8-6.2.

(a)

STATE BOARD OF EDUCATION

Nonpublic Nursing Services

Adopted New Rules: N.J.A.C. 6:29-8

Proposed: October 5, 1992 at 24 N.J.R. 3495(a).

Adopted: December 2, 1992 by State Board of Education, John Ellis, Secretary, State Board of Education and Commissioner, Department of Education.

Filed: December 18, 1992 as R.1993 d.41, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

ADOPTIONS

Authority: N.J.S.A. 18A:1-1, 18A:4-10, 18A:4-15 and 5, P.L. 1991, c.226.

Effective Date: January 19, 1993.

Expiration Date: February 8, 1995.

Summary of Public Comments and Agency Responses:

Written comments received from the following: Miriam Cohen, B.S.N., R.N.C., Public Health Nursing Supervisor, Middlesex County Department of Health; Ronald Cohen, Health Officer, Middle Brook Regional Health Commission; Jennifer Daily, St. Ann Regional School; Kenneth W. Gravett, Director, Midway School; Kenneth Hawkswell, Director of Health, Township of West Milford, Department of Health; Cheryl Holmes, St. Ann Regional School; Robert F. Larkin, Superintendent of Schools, New Brunswick Board of Education; and Edwina M. Lee, Assistant Executive Director/Advocacy, New Jersey School Boards Association.

Speaker on July 15, 1992: Vincent Calabrese, Financial Consultant, Independent Child Study Teams.

One individual spoke at the July 15, 1992 monthly public testimony session provided by the State Board of Education and no one spoke in regard to this rulemaking at the public testimony session held on October 21, 1992. Eight letters containing comments were received.

COMMENT: Two commenters suggested a "phase-in" model be developed to allow currently employed licensed practical nurses (LPNs) to become registered nurses (RNs).

RESPONSE: The Department disagrees. The law requires equal access to appropriate health care services for nonpublic school students. According to the State Board of Nursing and the American Academy of Pediatrics, the LPN does not represent a standard of professional capability equivalent to the RN license. Access to assessment services and administration of medication, both considered essential to the school environment, are not within the independent professional capabilities of LPNs. Therefore, LPNs may not be approved as providers of nursing services required under the statute.

COMMENT: Three commenters recommended the inclusion of vision screening as a required nursing service.

RESPONSE: The Department disagrees, as vision screening was not included in the mandated services specified in the new law. Vision screening may be considered under the provision of N.J.A.C. 6:29-8.2(b) as an additional medical service.

COMMENT: A commenter suggests Mantoux testing should be addressed.

RESPONSE: If a nonpublic school has been identified by the Department of Health based on the annual incidence of the disease or reactor rates in its community, nursing services related to the administration of the Mantoux test may be provided through the use of these funds as a required service. Notification of school is done by State and county departments of health.

COMMENT: A commenter suggested that N.J.A.C. 8:57-4, which mandates immunizations, should be referenced in N.J.A.C. 6:29-8.2(a)1iii which mandates recordkeeping and notification of local or county health officials, of any student who has not been properly immunized.

RESPONSE: The Department agrees that the reference to the rule mandating immunizations would provide clarification and has made the change upon adoption.

COMMENT: A commenter questions whether allocated funds may be used to provide medical examinations, as assistance with medical examinations is specified as a nursing service.

RESPONSE: A physician may be funded under N.J.A.C. 6:29-8.2(b) as an additional medical service.

COMMENT: A commenter suggests the rules should be more specific as to who pays for the services of the school medical inspector which are delivered in support of the nonpublic nursing services.

RESPONSE: The Department disagrees. No greater specificity is useful regarding funding for school physicians who provide services under the law as each district board of education has the authority to determine which optional medical services are to be provided in consultation with the nonpublic schools.

COMMENT: Two commenters suggested the term emergency care be further clarified to identify the emergency services required during after school hours.

RESPONSE: The Department disagrees. The law states that the same emergency care must be extended to nonpublic school pupils as afforded to public school pupils. The need for specific emergency services may vary considerably across districts and the rules should remain flexible

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to meet the needs of nonpublic schools. If emergency care is not available for students in a given school district, it does not have to be a priority service for nonpublic school students. Such emergency care could still be among those services requested by a nonpublic school as part of their negotiations with the school district to provide additional medical services.

COMMENT: Three commenters suggested additional medical services should be specified.

RESPONSE: The Department disagrees. The language in the rules is intentionally broad to allow for flexibility in meeting the needs of nonpublic schools. Additional medical services should be among those services discussed by a nonpublic school during the required conference with the chief school administrator of the school district.

COMMENT: A commenter suggested that rule language indicate the meeting be held annually and that the meeting be with the chief school administrator or with a designee of the chief school administrator.

RESPONSE: The Department agrees. The requirement that the meeting be held annually was recommended and accepted by the State Board on May 6, 1992, and was included in the rule test in the proposal at 24 N.J.R. 3495(a). The chief school administrator has the authority to delegate functions to designees without requiring specific permission in the rules. However, to provide clarity, this change has been made upon adoption.

COMMENT: A commenter suggested the type of equipment and supplies which may be purchased should be specified.

RESPONSE: The Department disagrees. The language in the proposed rule allows for flexibility in meeting the needs of nonpublic schools.

COMMENT: A commenter recommended that language should be added indicating that these funds will only supplement appropriations by county boards of health. The funds will be in addition to, not instead of, services currently provided by other public or private funds.

RESPONSE: The Department has no authority under N.J.S.A. 18A:40-23 et seq. to set rules governing funding arrangements between school districts and health departments or private agencies.

COMMENT: A commenter stated the six percent limit on administrative costs should not apply to a vendor who has contracted with a district board of education to provide the medical services. Additionally, administrative costs expended by a district board of education should be limited to six percent of the allocated funds, or the actual costs, whichever is less.

RESPONSE: The Department agrees. The change was recommended and accepted by the State Board on September 2, 1992 and was included in the code language in the proposal at 24 N.J.R. 3495(a) and is herein adopted.

COMMENT: A commenter suggested that a single reporting document prepared and designed by the Department of Education be used.

RESPONSE: The rule was modified in the final proposal to more specifically indicate the reporting requirements. The Department will provide the reporting form for the kind and number of services provided during the school year and the financial form detailing expenditure of the allocated funds for the previous year.

COMMENT: A commenter suggests the rules should include the reporting responsibilities of a public school district when it contracts with an outside agency for nursing services.

RESPONSE: The Department agrees. Modifications which were included in the final proposal language eliminated references to agencies other than school districts. N.J.S.A. 18A:40-23 et seq. gives the full responsibility for implementation and reporting to district boards of education.

COMMENT: A commenter suggests code language should provide for boards of health which previously provided nursing services to nonpublic schools to be funded directly.

RESPONSE: The Department disagrees. N.J.S.A. 18A:40-23 et seq. does not include a provision for allowing funding to be directed to agencies other than the Department of Education and district boards of education.

COMMENT: One commenter supported the intent and potential benefit the proposed regulations will have in the delivery of nursing services to nonpublic school students.

RESPONSE: The Department agrees.

Summary of Agency-Initiated Changes:

The Department has made a minor change in N.J.A.C. 6:29-8.2(a)1iii to provide clarity, by cross referencing the rules which mandate

immunizations. The phrase "pursuant to N.J.A.C. 8:57-4" has been added after "student who has not been properly immunized."

The Department has made a minor change in N.J.A.C. 6:29-8.3(a) and (b) to provide clarity, by adding "or designee" after chief school administrator, in response to a comment.

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

SUBCHAPTER 8. NURSING SERVICES TO NONPUBLIC SCHOOLS

6:29-8.1 Purpose

These rules are designed to provide standards for district boards of education for the provision of required nursing services to nonpublic school pupils and for additional medical services which may be provided to nonpublic school pupils, according to N.J.S.A. 18A:40-23 et seq.

6:29-8.2 Adoption of policies and procedures

(a) District boards of education having nonpublic schools within their district boundaries shall adopt and implement policies and procedures for the following:

1. The extension of nursing services provided to public school pupils to those pupils who are enrolled full-time in the nonpublic school within the limits of funds appropriated or otherwise made available for this purpose. Such services shall be provided by a professional registered nurse licensed in the State of New Jersey who is an employee of the school district, an employee of a third-party contractor, or an independent contractor. Independent contractor means an individual whose employment criteria satisfies those requirements necessary for treatment as an independent contractor for ***[Federal]* *federal*** employment tax purposes. The services shall include:

- i. Assistance with medical examinations, including dental screening;
- ii. Conducting screening of hearing examinations;
- iii. The maintenance of student health records, with notification of local or county health officials of any student who has not been properly immunized ***pursuant to N.J.A.C. 8:57-4***; and
- iv. Conducting scoliosis examinations of pupils between the ages of 10 and 18; and

2. The extension of emergency care provided to public school pupils to those pupils who are enrolled full-time in the nonpublic school who are injured or become ill at school, or during participation on a school team or squad pursuant to N.J.A.C. 6:29-1.3(a)1.

(b) District boards of education having nonpublic schools within their district boundaries may adopt and implement policies and procedures for providing the pupils who are enrolled full-time in the nonpublic school with additional medical services.

1. Such additional medical services may only be provided when all services required in (a)1 and 2 above have been provided for or will be provided to pupils enrolled full-time in the nonpublic school as documented in the reporting procedures required in N.J.A.C. 6:29-8.6(a)2.

6:29-8.3 Conference with nonpublic school

(a) Each chief school administrator ***or designee*** of a district in which a nonpublic school is located shall confer annually with the administrator of the nonpublic school for the following purposes:

1. To advise the nonpublic school of the limit of funds appropriated or otherwise made available for the provision of nursing services for the full-time pupils enrolled in the nonpublic schools; and

2. To agree upon the nursing services which shall be provided and additional medical services which may be provided as set forth in N.J.S.A. 18A:40-23 et seq. and within the limit of available funds.

(b) In the event that the chief school administrator ***or designee*** and the nonpublic school administrator cannot reach agreement regarding the nursing services and additional medical services to be provided, the county office of education shall be consulted for clarification.

6:29-8.4 Administrative guidelines

(a) The nursing services provided to nonpublic school pupils shall not include instructional services.

(b) District boards of education may provide the necessary equipment, materials and services for immunizing pupils who are enrolled full-time in the nonpublic school from diseases as required by the State Sanitary Code adopted pursuant to N.J.S.A. 26:1A-7 or for diseases against which immunization may be recommended by the State Department of Health.

(c) Equipment and supplies comparable to that in use in the district can be purchased and transportation costs charged to the funds allocated for each participating nonpublic school as long as they are directly related to the provision of the required nursing services and additional medical services which may be provided. Such equipment may be loaned without charge to the nonpublic school for the purpose of providing the services under these provisions. However, such equipment remains the property of the district board of education.

(d) A pupil who is enrolled in a nonpublic school and whose parent or guardian objects to the pupil receiving any services provided under the rules in this subchapter shall not be compelled to receive the services except for a physical or medical examination to determine whether the pupil is ill or infected with a communicable disease.

6:29-8.5 Fiscal responsibilities

(a) The funds expended by a district board of education for administrative costs shall be limited to the actual costs or six percent, whichever is less, of the funds allocated for each participating nonpublic school.

(b) Each participating nonpublic school shall receive nursing services to the limit of funds available based upon its enrollment on the last school day prior to October 16 of the preceding school year.

6:29-8.6 Reporting procedures

(a) Each board of education providing nursing services to nonpublic schools shall submit the following information to the county superintendent of schools on or before October 1 and a copy shall be forwarded to the administrator(s) of the nonpublic school(s) within their district boundaries:

1. A written statement verifying that the required conference was held with the nonpublic school(s);

2. A copy of the contract document and minutes of the board of education meeting submitted for approval, which describe the methods by which the nursing services to the nonpublic school pupils will be provided for the ensuing school year, including a rationale for the distribution of funds; and

3. A description of the kind and number of services which were provided during the previous school year on a form provided by the Department of Education.

6:29-8.7 Authorizing statutes and regulations

Each nonpublic school which receives nursing services shall be provided with a copy of N.J.S.A. 18A:40-23 et seq. and this subchapter, by the board of education which is responsible for such services.

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Fisheries

Summer Flounder; Otter and Beam Trawls

Adopted Amendments: N.J.A.C. 7:25-18.1 and 18.12

Adopted New Rule: N.J.A.C. 7:25-18.4

Proposed: November 16, 1992 at 24 N.J.R. 4249(a).

Adopted: December 28, 1992 by Scott A. Weiner, Commissioner,
Department of Environmental Protection and Energy.

Filed: December 28, 1992 as R.1993 d.56, with substantive and
technical changes not requiring additional public notice and
comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 23:2B-6.

DEPE Docket Number: 52-92-10.

Effective Date: January 19, 1993.

Expiration Date: February 15, 1996.

The New Jersey Department of Environmental Protection and Energy (Department) is adopting the amendments to N.J.A.C. 7:25-18.1 and N.J.A.C. 7:25-18.12 and new rule N.J.A.C. 7:25-18.14 proposed on November 16, 1992 at 24 N.J.R. 4249(a). A public hearing on the proposal was held on December 2, 1992. The comment period closed on December 16, 1992.

Ninety-one individuals submitted written comments while 15 provided testimony at the public hearing. Several of these individuals provided both written and oral comments. Two different form letters were received from 19 commercial fishermen, while 38 commercial fishermen signed a petition with an accompanying statement.

The following is a list of those persons and organizations that submitted written comments or provided testimony at the public hearing directly related to the proposal.

Individual—Organization

John Aber
Jack Baker
Rick Barlet—Berkeley Striper Club
Bill Barto—What Ever Fish Products, Inc.
Dan Basmajian
Nanez E. Begj
Joseph L. Benny—Fisherman's Dock Co-Op
Robert E. Best
Albert E. Bigelow, Jr.
Philip Bouchard
Brian Boyce—Belford Seafood Co-Op
Joe Branin—Belford Seafood Co-Op
Barry Brosky
Thomas L. Brower—Fisherman's Dock Co-Op
Thomas Buban
Bill Bund
Mark Carducal—Fisherman's Dock Co-Op
Mike Chaswith
John Cole—Fisherman's Dock Co-Op
Jack Collins—New Jersey General Assembly
Robert Cope, Jr.
Jack Crockenberg
Robert Daly—Belford Seafood Co-Op
Capt. Peter F. Del Rossi—Fortescue Captains & Boat Owners
Association
Gary Dickerson—Jersey Coast Anglers Association
William Dickerson
Gerald J. Doran
Daniel J. Duffy—Fisherman's Dock Co-Op
Robert Evenhurn—Belford Seafood Co-Op
Carl Fabaic—Belford Seafood Co-Op
Becky Facemeyer—Legislative Aide to Assemblyman Jack Collins
Harold J. Ford—Fisherman's Dock Co-Op
William Fox—Fisherman's Dock Co-Op

Greg Frank—Cape May Cty. Party & Charter Boat Association
John Gaine—Fisherman's Dock Co-Op
Randal Gant, Jr.—Fisherman's Dock Co-Op
Marianne Gemigroni
Gary Giacalone
G. Giovanelli
Eugene J. Grasso
Paul Haertel
Hal Hagaman
Jim Harris—Trawler Abracadabra, Inc.
Frank Helpa
Edward Isaksen—Belford Seafood Co-Op
Grace Ann Isaksen—Belford Seafood Co-Op
Richard Isaksen, Jr.—Belford Seafood Co-Op
Robert Isaksen—Belford Seafood Co-Op
Fred Johnson—Belford Seafood Co-Op
George W. Johnson—Fisherman's Dock Co-Op
Richard Johnson—Fisherman's Dock Co-Op
Homer Jonny
Charles R. Kelly
Saxton Kendrick—Urbahn and Lynn Associates, P.C.
Thomas Kennedy
Robert LeRoy—Fisherman's Dock Co-Op
Denis Lovgren
James Lovgren—Pt. Pleasant Fisherman's Co-Op
Emanuel Luftglass—Insurance Affiliates, Inc.
Jan MacCriskin
James Matthews—Fisherman's Dock Co-Op
Sue McKee
Hans Myklebust—Fisherman's Dock Co-Op
Ludwig Myklebust—Fisherman's Dock Co-Op
Lester G. Nelsen
Ronald Raria—Belford Co-Op
Bob Reinert—Fisherman's Dock Co-Op
Wayne Richard—Belford Seafood Co-Op
Capt. Neil D. Robbins—Cape May Cty. Party & Charter Boat
Association

Joseph Ronketty
Ronnie Rosenberg
Vincent Rubino—Fisherman's Dock Co-Op
Len Sanns
Jonathan Savage—Cumberland Cty. Dept. of Planning & Development
Marvin A. Shinn—Fisherman's Dock Co-Op
Albert F. Shopp
Ronald Shopp
David Showell—Absecon Bay Sportsman Center
Richard A. Smith
Capt. James J. Sullivan—Nada Jane
Eric C. Thieleman—Fisherman's Dock Co-Op
Albert C. Thompson, Jr.
William Thompson
Raymond Throckmorton
Brian Tilton
John F. Werth
Joseph B. Wolfe—Trio Neptune I
Ben B. Yahara
Raymond Zane—New Jersey Senate
Ron Zochi
Claudia Zochi

Summary of Public Comments and Agency Responses:

The following is a summary of comments received on the Department's proposal and the Department's responses to the comments.

General

1. COMMENT: A commenter suggested that recreational fishing should be prohibited from sunset to sunrise as a way to conserve summer flounder stocks.

RESPONSE: The Department recognizes the benefits of regulating the harvest of certain natural resources by setting legal hours of harvest. No data is available to determine the amount of summer flounder harvested between sunset and sunrise; therefore, the contribution of setting legal hours of harvest to the recommended reduction in fishing mortality as recommended by the Mid-Atlantic Fishery Management Council (MAFMC) and Atlantic States Marine Fisheries Commission (ASMFC) cannot be calculated. The Department also believes this re-

commendation would increase enforcement efforts required to prohibit fishing at night and create unnecessary hardships on fishermen at this time.

2. COMMENT: Commenters agreed with the entire proposal as a way to conserve summer flounder stocks and suggested that the management measures outlined in the proposal should have been instituted previously to rebuild stocks. One commenter suggested that a healthier summer flounder stock will provide an economic benefit to all businesses involved in the fishery.

RESPONSE: The Department agrees with the commenters' statements and has recognized the need to rebuild summer flounder stocks which will provide for long term economic benefits.

3. COMMENT: A commenter suggested that mates on party boats will experience an economic impact due to the bag limit because income received from filleting fish will be reduced as catches are reduced.

RESPONSE: The Department disagrees with the commenter's statement. The Marine Recreational Fisheries Statistics Survey for the Atlantic and Gulf Coasts indicates that less than six percent of the recreational fishing trips for summer flounder resulted in a harvest of more than six summer flounder per person during the years 1986 to 1990. In addition, the Department believes there will be long term economic benefits to party boat mates as the summer flounder stock is rebuilt and catch restrictions are relaxed. The Department also recognized the importance of economic benefits derived by mates from filleting summer flounder aboard party boats by specifically allowing this activity under amendments to N.J.A.C. 7:25-18.1 adopted effective December 7, 1992 (see 24 N.J.R. 4368(b)). Under this adopted amendment, no one can fillet flatfish at sea except mates aboard permitted party boats.

4. COMMENT: Commenters suggested that the data used to document the decrease in summer flounder due to overfishing are inaccurate.

RESPONSE: The Department disagrees with the commenter's statement. The amendments and new rule are necessary to implement the Summer Flounder Fishery Management Plan developed by the MAFMC and ASMFC and are based upon the best scientific information available. The Department recognizes that improved data will allow for a more finely tuned management system which will continue to meet the needs of the fishery.

5. COMMENT: Commenters suggested that the proposed new regulations should not be adopted because there is no way to enforce the regulations due to a lack of money and enforcement personnel.

RESPONSE: The Department recognizes that enforcement personnel are limited, but believes that current enforcement levels, in addition to education of the public, will result in sufficient compliance. The Department believes compliance of previous size limits and mesh regulations was good. The proposal also included sections dealing with proper stowing of nets which the Department believes will actually ease the burden of enforcement.

6. COMMENT: A commenter suggested that area closures in the ocean for all fishing would be a good way to conserve summer flounder.

RESPONSE: The Department agrees that area closures are viable fishery management tools. Area closures, however, require constant monitoring by law enforcement personnel and would require a total change in the management regime proposed by the MAFMC and ASMFC. It is, therefore, not practical to implement such a measure at this time.

7. COMMENT: A commenter questioned the validity of the proposal having positive environmental impacts.

RESPONSE: The Department disagrees with the commenter's statement. This proposal is consistent with recommendations made by the MAFMC and ASMFC. Implementation of this proposal along with similar coastwide regulations should increase the abundance of summer flounder available to both commercial and recreational fishermen and assure the continued viability of this resource.

8. COMMENT: A commenter disagreed with the estimate of the cost of new nets (\$1,000) provided in the Economic Impact section of the proposal to comply with proposed mesh regulations. The commenter suggested that nets cost at least \$2,000 and the State should institute a subsidy program to help fishermen pay for new nets.

RESPONSE: In order to comply with new mesh regulations, the Department estimated the cost that may be incurred by fishermen to replace cod ends only, not replace entire nets. The Department does not refute the commenter's estimate of a new net, but the purchase of entire nets is not necessary to comply with mesh regulations. In addition, Federal regulations have required the use of 5½ inch mesh nets in the summer flounder fishery in the past and will mandate the use of larger

meshes in the current fishery management plan to fish in federal waters. Most vessels landing summer flounder in New Jersey also fish for this species in Federal waters and have already been subject to the 5½ inch mesh restriction. Because there will be minimal additional economic impact resulting from the mesh size provision, the Department does not concur that a subsidy program is warranted.

9. COMMENT: Commenters indicated that it was not right to prohibit the sale of recreationally caught fish. The commenters did not indicate the amount of fish they regularly caught and sold.

RESPONSE: The proposed and adopted amendments and new rule do not prohibit the sale of fish by recreational anglers. However, anyone fishing for summer flounder by the method commonly known as angling (hook and line or rod and line) will be subject to the possession limit (six fish), as well as the fishing season.

10. COMMENT: Commenters suggested that the rule make provisions for the commercial harvest of summer flounder by hook and line. Although the commenters recommended a variety of restrictions for a commercial hook and line category, they agreed that eligibility should be based on past performance and items such as possession of a Federal summer flounder permit and the 1,000 pound landing requirement.

RESPONSE: The Department agrees with the commenters that a commercial hook and line fishery should be provided for. In all likelihood the commercial hook and line harvest has contributed to New Jersey commercial landings in the past and was considered by the MAFMC when assigning New Jersey a commercial quota. However, to incorporate a commercial hook and line category into the rules at this time would constitute a substantive change between the proposal and the adoption and would require additional public comment with an associated delay in adoption. Since the Federally mandated commercial quota begins the first of January 1993, it is imperative to adopt this rule as expeditiously as possible for the benefit of New Jersey fishermen. Additionally the hook and line fishery for summer flounder does not usually begin until late April or May. The Department has not incorporated a hook and line commercial category at this time, but will prepare a proposal in conjunction with the Summer Flounder Committee of the Marine Fisheries Council and present it to the full Council at the next scheduled meeting on February 6, 1993. It is anticipated that the amendment will be proposed in the March 15, 1993 New Jersey Register.

N.J.A.C. 7:25-18.1(b)

11. COMMENT: Commenters suggested that the 14 inch size limit is unnecessary and that it should remain at 13 inches.

RESPONSE: The Department disagrees with the commenter's statement. A 13 inch recreational size limit would not achieve the recommended reduction in fishing mortality described in the Summer Flounder Fishery Management Plan prepared by the MAFMC and ASMFC. If a 13 inch recreational size limit were instituted, then the recreational fishing season would have to be shortened to achieve the recommended reduction in fishing mortality.

12. COMMENT: Commenters suggested that large fluke should be returned to the waters to get a chance to spawn instead of keeping large fish and returning small fish that will not spawn.

RESPONSE: The Department acknowledges that larger fish contribute more to spawning activity than smaller fish but believes that allowing all fish to spawn at least once by instituting minimum size limits is a more effective way to protect spawning fish. In addition, minimum mesh sizes are designed to release small fish and retain large fish. No mesh has been developed that would satisfy the commenter's suggestion.

N.J.A.C. 7:25-18.1(b) and (c)

13. COMMENT: Commenters suggested that the six summer flounder per day recreational possession limit is unnecessary and a 14 inch size limit alone is sufficient to restrict summer flounder catches.

RESPONSE: The Department disagrees with the commenter's statement. A 14 inch size limit alone without a six fish per day possession limit will not result in the necessary reduction of 47 percent in fishing mortality as recommended by the MAFMC and ASMFC. In order to reach the recommended reduction in fishing mortality without a possession limit, a 15 inch minimum size limit would be required.

14. COMMENT: A commenter suggested that two fish under the legal size limit should be included in the recreational daily possession limit.

RESPONSE: The Department recognizes that some small fish harvested by hook and line do not survive after being returned to the water, but disagrees with allowing undersized fish to become part of a legal possession limit. Allowing two undersized fish to be retained would increase the possession limit from six fish to eight fish and would not

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allow New Jersey to reach the recommended reduction in fishing mortality described in the Summer Flounder Fishery Management Plan prepared by the MAFMC and ASMFC.

N.J.A.C. 7:25-18.1(c)

15. COMMENT: Commenters recommended that the recreational possession limit for summer flounder should be increased from six fish to 10 or 12 fish per day.

RESPONSE: The Department disagrees with the commenter's statements. The purpose of the amendments and new rule is to implement the Summer Flounder Fishery Management Plan developed by the MAFMC and ASMFC to protect and manage summer flounder populations in New Jersey. Failure to implement management measures in compliance with the plan would authorize the National Marine Fisheries Service (NMFS) to prohibit landing of summer flounder from Federal waters (greater than three miles from shore) in New Jersey. In accordance with possession limits for the recreational fishery recommended by the MAFMC and ASMFC, the Department is instituting a six summer flounder possession limit. Although the Summer Flounder Fishery Management Plan allows for some flexibility in determining possession limits, the six fish possession limit was calculated using regional data from the Mid-Atlantic region to achieve the recommended reduction in fishing mortality. If New Jersey deviates from the recommended possession limit, then state specific data are used to calculate possession limits, and a three fish possession limit would be necessary to achieve the recommended reduction in fishing mortality assuming approximately a 20 week fishing season. Increasing the recreational possession limit from three fish to 10 or 12 fish would require an extremely limited fishing season to achieve the recommended reduction in fishing mortality. The Department believes that a six fish possession limit and a 20 week fishing season is the best alternative to minimize social and economic impacts to the recreational fishing community.

16. COMMENT: Commenters suggested that the recreational fishing season should be June 1 to October 15 in place of the May 15 to September 30 season included in the proposal, or that there should be a split season from May 15 to September 30 in the northern part of the State and June 1 to October 15 in the southern part of the State, or that the season should be from May 1 through October 15. Other commenters recognizing the interest in different seasons suggested a season beginning before Memorial Day and ending in early October.

RESPONSE: The Summer Flounder Fishery Management Plan prepared by the MAFMC and ASMFC allows for some flexibility in setting the recreational fishing season. The season cannot be longer than 20 weeks and must be within the period of May through October. The Department recognizes that the recommended season of June 1 to October 15 or a split season of May 15 to September 30 in the northern part of the State and June 1 to September 30 in the southern part of the State meet the requirements as set forth in the Summer Flounder Fishery Management Plan. The Department believes that a split season would create an unnecessary burden on enforcement personnel and would be more confusing to fishermen than a single Statewide season. The Department also recognizes that the recommendations on the fishing season were regional in nature in that commenters in the southern part of the State requested a later season while commenters in the northern part of the State requested an earlier season. In order to accommodate the regional requests and retain a single Statewide season, the Department is changing the recreational fishing season from May 15 to September 30 to May 24 to October 9.

17. COMMENT: A commenter suggested that the recreational fishing season of May 15 to September 30 is good because the season opens before Memorial Day, increasing business for marina owners during a major holiday weekend.

RESPONSE: The Department agrees with the commenter's statement. The amended recreational fishing season of May 24 to October 9 satisfies the regional desires of commenters while allowing the season to be open over the Memorial Day weekend during most years.

18. COMMENT: Commenters suggested that the recreational six fish possession limit should be transferred to a total allowable catch for party boats, whereby the vessel could land six summer flounder for each fisherman and crew member aboard the vessel, regardless of who actually harvested the fish.

RESPONSE: The Department disagrees with the commenter's statement. The Summer Flounder Fishery Management Plan prepared by the MAFMC and ASMFC allows for pooling of fish on board a vessel provided that the total number of summer flounder does not exceed

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six fish times the number of fishermen on board. Allowing fishermen to leave the vessel in possession of more than six summer flounder, however, would create a severe enforcement problem. In order to enforce a total allowable catch for party boats, enforcement personnel would be required to check every fisherman on the vessel to calculate the total catch. In addition, a total allowable catch for party boats would create an easy way to circumvent recreational possession limits, whereby fishermen found in possession of more than six summer flounder could contend that the fish were harvested aboard a party boat.

19. COMMENT: A commenter disagreed with allowing party boats a total allowable catch because the system would allow a fisherman to harvest and possess more than six summer flounder, which would be in violation of the recreational possession limit regulation and would cause enforcement problems.

RESPONSE: The Department agrees with the commenter's statements that a total allowable catch system aboard party boats would allow for violation of recreational possession limits and create enforcement problems.

20. COMMENT: One commenter suggested that the six summer flounder possession limit will have a great economic impact on Delaware Bay businesses. Results of an unscientific survey conducted in a part of Cumberland County suggest that 75 percent of fishermen would not return to fish if a six summer flounder possession limit was imposed.

RESPONSE: The Department cannot comment on the results of an unscientific survey that it has not had an opportunity to review. The Department believes that a long term economic benefit to Delaware Bay businesses will result from a larger summer flounder stock. In addition, the Marine Recreational Fisheries Statistics Survey for the Atlantic and Gulf Coasts indicates that less than six percent of the recreational fishing trips for summer flounder from 1986 to 1990 resulted in a harvest of more than six summer flounder per person. Therefore, the effects of the possession limit to the average fisherman will be minimal. As previously discussed in the response to comment 13, to increase the possession limit above six fish would result in a drastic reduction in the season which the Department believes would result in significant negative economic and social impacts to businesses and fishermen in New Jersey.

N.J.A.C. 7:25-18.14

21. COMMENT: A commenter stated that the summer flounder plan is a good plan and the Department used commercial fishing industries input well in developing the plan.

RESPONSE: The Department agrees with the commenter's statement and recognized that public input would make the proposal more responsive to the needs of the commercial fishing industry.

N.J.A.C. 7:25-18.14(a)

22. COMMENT: A commenter suggested that branding of otter trawl doors is impractical because doors are often lent from vessel to vessel.

RESPONSE: When preparing the proposal, the Department did not take into consideration the practice of lending doors from vessel to vessel. In order for this practice to continue and allow the Department to accurately determine the responsible party if gear is abandoned, the proposed rule has been modified to allow a fisherman to borrow doors. The fisherman borrowing doors must notify the Department, in advance, of the documentation number or State registration number indelibly stamped or branded on the borrowed doors, as well as owner and vessel to which the doors belong.

N.J.A.C. 7:25-18.14(b)

23. COMMENT: Commenters disagreed with the restrictions on trawl net availability during the hours of darkness and within State waters. They suggested that no problems exist with illegal activity, and if problems do exist then enforcement and penalties should be increased. Also, during the winter months there are no summer flounder in State waters; therefore, the restrictions are unnecessary during winter months.

RESPONSE: The Department disagrees with the commenters' statements. The Department has received many complaints and has apprehended violators trawling at night in waters where trawling is illegal. The Department agrees that there are no summer flounder in State waters during the winter, but the restrictions on trawl net availability are aimed at reducing illegal trawling for all species of fish, some of which are available during the winter months.

24. COMMENT: Commenters indicated that there has been illegal otter trawling in Raritan Bay and support the restrictions on the availability of nets within the area where trawling is prohibited as a means to curtail illegal trawling activity.

RESPONSE: The Department agrees that illegal otter trawling in certain areas of the State has been a problem based upon past enforcement efforts which have resulted in a number of apprehensions. The Department agrees with the commenters' statement that the restriction regarding availability of nets should reduce illegal otter trawling in waters of the State where this activity is prohibited.

25. COMMENT: A commenter disagreed with a statement in the Economic Impact section of the proposal that suggests that no economic impact will occur by restricting net availability because the crew will have to work more hours per day to properly stow and re-rig nets.

RESPONSE: The Department recognizes that additional deck time will be necessary to properly stow nets; however, this additional deck time will not affect the income of the vessel owner or crew. Vessel owner profits and crew payments are based upon the value of landings, not on deck work time.

26. COMMENT: Commenters suggested that the proposed regulations on restricting net availability will increase injury risks to crew members by requiring increased deck work while the vessel is underway or during adverse weather conditions. They also suggested that an easier and safer way to restrict net availability would be to place the net on a net reel, cover and tie the net without removing the cod end or leg wires.

RESPONSE: After carefully considering commenters' suggestions, the Department has modified the proposal to include suggestions of commenters. The adoption has been modified to allow for a trawl to be acceptably restricted for use if the doors are disconnected, the net is completely covered, securely bound, and the cod end closure line is removed. The requirement to remove the cod end has been deleted from the adopted rule.

27. COMMENT: A commenter suggested that fly nets should be exempted from the regulations concerning proper stowing of nets.

RESPONSE: The Department disagrees with the commenter's statement. Although summer flounder are not harvested by fly nets, the restrictions on trawl net availability are aimed at reducing illegal trawling for all species, some of which are harvested by fly nets. Therefore, the restrictions regarding the availability of nets should also apply to fly nets.

28. COMMENT: A commenter suggested that the enforcement provisions regarding the availability of nets and branding of trawl doors were slipped through the Marine Fisheries Council without input from commercial representatives.

RESPONSE: The Department disagrees with the commenter's statement. The provisions were discussed at a Marine Fisheries Council meeting held in May 1992. In addition, commercial representatives had ample opportunity to provide input at the public hearing held in December 1992 or through the written comment period.

N.J.A.C. 7:25-18.14(f)

29. COMMENT: A commenter opposed the decrease in net retrieval time from 60 minutes to 15 minutes, but suggested that anyone fishing illegally should have to retrieve their net immediately.

RESPONSE: The Department agrees that anyone fishing illegally should retrieve their net immediately and current law enforcement practices follow this recommendation. The proposed decrease in net retrieval time will serve to reduce time spent by law enforcement officers in checking vessels. In addition, the U.S. Coast Guard has requested this change to ease their burden of enforcement. In order to reduce time spent in checking vessels, cooperate with the U.S. Coast Guard in their request and at the same time be responsive to the commenter's suggestion, the proposal has been modified to allow for a 30 minute time period to commence net retrieval.

N.J.A.C. 7:25-18.14(i)1

30. COMMENT: A commenter suggested that the definition of a directed fishery should be changed from possession of 100 pounds of summer flounder to possession of 500 pounds of summer flounder.

RESPONSE: The Department disagrees with the commenter's statement. The Summer Flounder Fishery Management Plan prepared by the MAFMC and ASMFC requires anyone landing more than 100 pounds of summer flounder per trip to be included in a directed fishery. The Department agrees with this definition. Because trawlers fishing in a non-directed fishery will not be subject to mesh regulations, discard mortality will increase if the minimum poundage of summer flounder allowed to be landed in a non-directed fishery is increased. If the NMFS modifies the definition of a directed summer flounder fishery in the federal regulations, New Jersey will also consider this option and address it as a future amendment if deemed advisable.

N.J.A.C. 7:25-18.14(i)3

31. COMMENT: A commenter opposed the 5½ inch mesh regulation for otter trawls because legal fish will be lost. Catches will be reduced and income will be reduced.

RESPONSE: The Department acknowledges that some legal fish will be lost by using a 5½ inch mesh otter trawl. The Department disagrees, however, that the use of a 5½ inch mesh otter trawl will result in significant loss of income. A 5½ inch mesh otter trawl will result in the retention of approximately 50 percent of 14 inch fish and a much higher percentage of fish greater than 14 inches. Similarly, the net will also retain some fish less than 14 inches, and all fish greater than 13 inches taken in a commercial fishery will be legal to sell. Because a 5½ inch mesh net will lose some 14 inch fish, the Department has proposed a smaller size limit of 13 inches for the commercial fishery in part to compensate fishermen for loss of larger fish.

32. COMMENT: Commenters suggested that a 5 inch mesh regulation is sufficient to release undersized summer flounder.

RESPONSE: The Department disagrees with the commenter's statement. Results of surveys conducted by the MAFMC and NMFS in cooperation with New Jersey and other east coast states indicate that a 5½ inch mesh net is appropriate in conjunction with the proposed size limits. Additional mesh assessment studies are being proposed by the MAFMC in conjunction with commercial fishermen. If the results of new studies indicate that a change in mesh sizes is warranted, then the Department will amend the mesh size.

N.J.A.C. 7:25-18.14(i)4ii

33. COMMENT: A commenter disagreed with the limited entry system for the directed commercial fishery and suggested that anyone should be allowed to buy a vessel and fish commercially for summer flounder.

RESPONSE: The Department disagrees with the commenter's statement. The directed commercial fishery for summer flounder will be controlled by a quota; therefore, the harvest of summer flounder will no longer depend solely on availability. The New Jersey quota was based upon historical New Jersey landings. The Department, therefore, believes it is essential to protect the economic investments of those fishermen having a history in the fishery by establishing a limited entry system. The Department believes that fishermen not eligible to participate in a directed summer flounder fishery because they have not previously participated, will experience no significant economic impact because they have never experienced a economic gain from the fishery nor have they any significant investment in the fishery. Those fishermen that are not eligible to participate in a directed fishery will still be able to land 100 pounds of summer flounder on each trip.

N.J.A.C. 7:25-18.14(i)5

34. COMMENT: Commenters recommended that there should be no commercial quota for 1993.

RESPONSE: The Department disagrees with the commenters' statement. The Summer Flounder Fishery Management Plan adopted by the MAFMC and ASMFC recommends a commercial quota and mandates a 47 percent reduction in fishing mortality. The management goal of reducing fishing mortality cannot be met without a commercial quota. New Jersey has been assigned a commercial quota for 1993 by the MAFMC and will not be permitted to harvest more than that amount. The quota allocation system developed by New Jersey was designed with the input of commercial fishermen to benefit and protect the traditional fishery.

N.J.A.C. 7:25-18.14(i)5ix

35. COMMENT: A commenter suggested that monthly reports of catches are unnecessary because the same information is collected by the National Marine Fisheries Service (NMFS) and is immediately available to keep track of the commercial quota and also that requiring monthly reports is unenforceable.

RESPONSE: The Department agrees that similar information is collected by the NMFS; however, the Department does not agree that the data are always immediately available. In addition, the data collected by the NMFS is reported from fish dealer logs while the data collected by the Department will be reported directly from the fishermen. The Department believes that the proposed reporting system is an excellent way to check the accuracy of the NMFS data.

36. COMMENT: A commenter suggested that if no summer flounder are landed in a certain month, then a monthly reporting form should not be required.

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RESPONSE: The Department disagrees with the commenter's statement. It is essential that every vessel in the directed commercial fishery report every month to accurately keep track of the commercial quota. If a vessel does not report, the Department has no way of knowing whether the vessel did not land summer flounder or that the vessel simply did not send a report. In addition, the amended proposal includes permit suspensions for those vessels not reporting their catches. Therefore, monthly reporting is necessary even if no summer flounder are landed.

Summary of Agency-Initiated Changes

1. At N.J.A.C. 7:25-18.1(c) the Department has included a provision to allow the Commissioner to modify the possession limit of summer flounder for the recreational fishery by notice. The Commissioner must first consult the Marine Fisheries Council and is restricted to establishing a possession limit of between 0 to 15, inclusive. Under the Federal summer flounder regulations, the Northeast Regional Director of the National Marine Fisheries Service may modify the possession limit in Federal waters (greater than three miles from shore) to address changes in the abundance of summer flounder stocks. It is important that New Jersey be able to react quickly to conform to the possession limit in Federal waters so an enforcement loophole is not created.

2. The text of N.J.A.C. 7:25-18.1 as published in this notice of adoption incorporates substantial amendments to that section adopted at 24 N.J.R. 4368(b).

3. At N.J.A.C. 7:25-18.14(i)4ii(1), the Department has added the words "in New Jersey" to clarify that commercial fishing vessels must have landed summer flounder in New Jersey to be eligible for a New Jersey Summer Flounder Permit. The words "in New Jersey" had been inadvertently omitted from the proposal. This provision, as corrected, was the recommendation of the New Jersey Marine Fisheries Council's Summer Flounder Committee and was explained in the Summary of the proposal.

4. At N.J.A.C. 7:25-18.14(i)4ii(2) and (3), the Department has expanded the list of New Jersey licenses to qualify for eligibility for a New Jersey Summer Flounder Permit to include pound nets and gill nets. Because of the 1000 pound landing requirement, it is not anticipated that many of these license holders would qualify for the New Jersey Summer Flounder Permit. However, the Department wants to provide the opportunity for these license holders to participate in a directed summer flounder fishery if they have done so historically.

Summary of Hearing Officer's Recommendations and Agency Responses:

Steve Herb, Assistant Director for Operations of the Division of Fish, Game and Wildlife, served as hearing officer at the December 2, 1992 public hearing regarding the proposal on summer flounder management. After receiving testimony presented at the public hearing and written comments received during the comment period, he recommended the Department adopt the amendments to N.J.A.C. 7:25-18.1 and 7:25-18.12 and the new rule N.J.A.C. 7:25-18.14 with the following modifications:

1. In N.J.A.C. 7:25-18.1, technical corrections, such as incorporating additional language, are necessary to correctly reflect the most recent version of N.J.A.C. 7:25-18.1 because of a December 7, 1992 adoption of a previous amendment to prohibit the filleting of flounder at sea. The current amendment was proposed prior to the adoption and thus lacked the most recent language.

2. In N.J.A.C. 7:25-18.1(c), the open season for the recreational harvest of summer flounder should be modified from the proposed open season of May 15 through September 30 to May 24 through October 9. This section should also be modified to permit the Commissioner, after consultation with Marine Fisheries Council, to adjust the possession limit of summer flounder to between 0 to 15 inclusive, by notice.

3. In N.J.A.C. 7:25-18.14(a), a provision should be included that would permit fishermen operating in the otter trawl fishery to borrow trawl doors from other fishermen, provided they notify the Department in advance.

4. N.J.A.C. 7:25-18.14(b)3 should be modified so the cod end of the net does not need to be removed or the leg wires detached to meet the definition of a net "not available for immediate use." This should be replaced by language to indicate that the towing wires should be detached from the trawl doors and the cod end closure line should be removed.

5. In N.J.A.C. 7:25-18.14(f), the amount of time to commence haul back should be increased from the proposed 15 minutes to 30 minutes.

6. In N.J.A.C. 7:25-18.14(i)4ii(1), the language should be clarified to indicate that in order to be eligible for a New Jersey Summer Flounder

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Permit, the vessel must have landed 1000 pounds of summer flounder in New Jersey in each of two years during the period of 1985-1992. The reference to "in New Jersey" had been inadvertently omitted from the proposal.

7. In N.J.A.C. 7:25-18.14(i)4ii(2) and (3), the list of New Jersey licenses to qualify for eligibility for a New Jersey Summer Flounder Permit should be expanded to include pound nets and gill nets.

As set forth above, these recommendations were adopted by the Department.

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

7:25-18.1 Size and possession limits

(a) (No change.)

(b) A person shall not take from the marine waters in the State or have in his possession any summer flounder, commonly called fluke, under 14 inches in length, winter flounder under 10 inches in length, red drum under 14 inches in length or weakfish under 13 inches in length except as provided in N.J.A.C. 7:25-18.14.

(c) A person angling with a hand line or with rod and line or spearfishing shall not possess any summer flounder or summer flounder parts beginning October *[1]* ***10*** through May *[14]* ***23*** nor shall any person angling with a hand line or with rod and line or spearfishing possess more than six summer flounder at any time during the period beginning May *[15]* ***24*** through ***[September 30]* *October 9***. ***The Commissioner, after consultation with the Marine Fisheries Council, may modify the possession limit of summer flounder during the open season (May 24 through October 9) by notice, to be consistent with the possession limit of summer flounder established by the Northeast Regional Director of the National Marine Fisheries Service. The possession limit shall be set from a range of 0 to 15. The Department shall provide notice of any change by filing and publishing in the New Jersey Register. All such notices shall be effective when the Department files notice with the Office of Administrative Law or as specified otherwise in the notice.***

(d)-(f) (No change.)

(g) Any person violating the provisions of (a), (b), (c), (d) or (e) above shall be liable to a penalty of \$20.00 for each fish taken or possessed. Each fish taken or possessed shall constitute an additional separate and distinct offense.

(h)-(q) (No change.)

7:25-18.12 Weakfish management

Recodify existing (b)-(h) as (a)-(g) (No change in text.)

7:25-18.14 Otter and beam trawls

(a) All trawl net doors possessed on the waters of the State of New Jersey must contain the official documentation number or the state registration number of the vessel to whom they belong indelibly branded or stamped in block letters no less than two inches in height on the surface of each door.

1. Trawl doors shall be used only by the vessel which corresponds to the branded or stamped numbers. ***A vessel may utilize another vessel's trawl doors provided the vessel owner utilizing such doors contacts the Division's Bureau of Law Enforcement at 609-748-2050 in advance and provides the following information: name of owner and vessel borrowing doors, name of owner, vessel and branded or stamped number of borrowed doors. The vessel owner borrowing the trawl doors shall also be responsible for contacting the Bureau of Law Enforcement in advance to indicate when he will begin utilizing his own trawl doors.***

(b) No vessel may have available for immediate use any otter or beam trawl while on the marine waters of this State during the hours between sunset and sunrise except on the Atlantic Ocean, at a distance of greater than two miles from the coast line. An otter or beam trawl that conforms to one of the following is considered not "available for immediate use":

1. A net stowed below deck, provided:

i. It is located below the main working deck from which the net is deployed and retrieved;

ii. The towing wires, including the "leg" wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference;

2. A net stowed and lashed down on deck, provided;

i. It is securely fastened to the deck of the vessel;

ii. The towing wires, including the leg wires are detached from the net; and

iii. It is fan-folded (flaked) and bound around its circumference; or

3. A net is on a reel and is covered and secured; provided:

i. The entire surface of the net is covered with canvas or other similar material ***[that is securely bound]* *and held in place by line bound securely around the entire net in such a manner so that no section of the net is exposed***;

ii. The towing wires^{*}[, including the leg wires, are detached from the net]^{*} ***or towing lines located between the net and the trawl doors shall be completely detached from the trawl doors***; and

iii. The cod end ***[is removed from the net and stored below deck or lashed down on deck]* *closure rope shall be removed from the cod end***.

(c) To determine compliance with any established minimum mesh requirement for an otter or beam trawl, the following procedures shall be employed. Stretched mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of two and three-tenths millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the cod end of the net will be the average measurement of any series of 20 consecutive meshes measured at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(d) No person shall use any device or method which would have the effect of reducing an established minimum mesh size; provided, however, that chafing gear which does not obstruct the meshes of the top half of the cod end may be attached and net strengtheners may be attached to the cod end of the trawl net if such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

(e) The operator of, or any other person aboard, any fishing vessel shall immediately comply with instructions and signals issued by an authorized law enforcement officer and comply with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch, for the purpose of enforcement of this section.

(f) Any vessel in the act of fishing, upon being boarded and instructed by an authorized law enforcement officer, shall haul back, or retrieve from the waters for inspection, all gear being utilized. After being so instructed, the operator of the vessel, or any other person so instructed, shall have a ***[15]* *30*** minute time period to commence haul back and shall continue haul back or retrieval at an ordinary rate and without interruption until the gear is on board and available for inspection.

(g) Possession of an otter trawl and doors shall subject said vessel to inspection for compliance with this section by authorized enforcement personnel. Any nets or doors possessed or used in violation of this section shall be subject to forfeiture under authority of N.J.S.A. 23:10-21.

(h) Violation of any section of this subchapter, or any license or order issued pursuant to it, shall subject the violator to the penalties prescribed in N.J.S.A. 23:2B-14, Penalties consist of \$100.00 to \$3,000 for the first offense and \$200.00 to \$5,000 for any subsequent offense.

(i) Special provisions applicable to the commercial harvest of summer flounder are as follows:

1. The possession of more than 100 pounds of summer flounder on board a vessel or landed from a vessel shall constitute a directed fishery for summer flounder.

2. A person shall not possess any summer flounder less than 13 inches in length which have been harvested by vessels in a commercial fishery for summer flounder.

3. A person utilizing an otter or beam trawl in a directed fishery for summer flounder shall not use a net of less than 5.5 inches

stretched diamond mesh or 6.0 inches minimum stretched square mesh, inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. The possession of any net less than the minimum specified above in this paragraph on board a vessel in a directed fishery for summer flounder is prohibited unless it is not available for immediate use as defined in (b) above or is one of the following:

i. Vessels fishing in the fly net fishery are exempt from the minimum mesh size requirement. A fly net is a two seam otter trawl with the following configuration:

(1) The net has large mesh webbing in the wings with a stretch mesh measure of eight inches to 64 inches;

(2) The first body (belly) section of the net consists of 35 meshes or more of eight inch stretch mesh webbing or larger; and

(3) In the body section of the net the stretch mesh decreases in size relative to the wings and continues to decrease throughout the extensions to the cod end, which generally has a webbing of two inch stretch mesh.

4. A vessel shall not land more than 100 pounds of summer flounder in New Jersey on any one trip, after ***[45 days following the effective date of this regulation]* *March 5, 1993***, unless said vessel is in possession of its valid New Jersey Summer Flounder Permit to participate in a directed fishery for summer flounder.

i. Applicants for a New Jersey Summer Flounder Permit shall complete an application provided by the Department and submit the application so it is received by the Department no later than June 30, 1993. Applications for a New Jersey Summer Flounder Permit received after June 30, 1993 shall be denied.

ii. To be eligible for a New Jersey Summer Flounder Permit the vessel's owner shall meet the following criteria:

(1) The vessel shall have landed at least 1,000 pounds of summer flounder ***in New Jersey*** in each of two years during the period of 1985-1992;

(2) The vessel shall have possessed a valid New Jersey otter trawl *** , pound net, or gill net*** license or a valid Federal summer flounder permit during each of the two years it qualified based upon the pounds of summer flounder landed in (i)4i(1) above. Vessels providing documentation regarding the amount of summer flounder landed for two years between January 1, 1985 and November 2, 1988 are exempt from this requirement; and

(3) Applicants shall provide weigh out slips to document the amount of summer flounder landed and copies of their New Jersey otter trawl^{*}, **pound net or gill net*** license or Federal summer flounder permit for the respective years.

iii. The New Jersey Summer Flounder Permit shall be on board the vessel to which it is issued at all times. The permit is valid in 1993 and subsequent years unless revoked as part of a penalty action. The New Jersey Summer Flounder Permit is not transferable and shall remain with the vessel in the name of the owner. The owner may transfer his or her permit to his or her replacement vessel upon application to the Department.

iv. A vessel that does not qualify for a New Jersey Summer Flounder Permit shall be permitted to land not more than 100 pounds of summer flounder on any trip.

5. The annual summer flounder harvest quota for New Jersey shall be determined by the Mid-Atlantic Fishery Management Council as implemented by the National Marine Fisheries Service. All landings of summer flounder in New Jersey shall be applied to the New Jersey annual summer flounder quota.

i. The New Jersey annual quota for the summer flounder fishery shall be divided into three seasons as follows:

(1) January-April: 39.28 percent of the annual quota.

(2) May-August: 16.83 percent of the annual quota.

(3) September-December: 43.89 percent of the annual quota.

ii. The Commissioner, or his or her designee, shall close the season for the commercial summer flounder fishery upon seven days public notice of the projected date the season quota shall be caught. Public notice shall include letters by first class mail to all Federally licensed summer flounder dealers in New Jersey and New Jersey Summer Flounder Permit holders.

ADOPTIONS

iii. Once the season has been closed for the commercial summer flounder fishery no vessel shall land any summer flounder and no dealer shall accept any summer flounder landed in New Jersey.

iv. If the Commissioner, or his or her designee, closes the season prematurely because of unanticipated environmental events resulting in the quota not being landed by the projected date and at least one month remains in the current season, then the Commissioner, or his or her designee, may reopen the season for a specified period of time upon seven days public notice. Public notice shall be made as specified in (i)5ii above.

v. If the quota for a particular season is not taken, the balance shall be reallocated for the following season, except that any balance existing as of December 31 of any year shall not be reallocated.

vi. If the quota for a particular season is exceeded, the amount overharvested shall be deducted from the following season.

vii. If the quota for any year is exceeded, the amount overharvested will be deducted from the following year's annual quota. The remaining annual quota will then be allocated as defined in (i)5i above.

viii. Beginning in 1994, the Department shall notify the holders of New Jersey Summer Flounder Permits of the season allocations no later than January 31 of the year to which the allocation applies. Notification shall be accomplished by first class mail to permit holders.

ix. All New Jersey Summer Flounder Permit holders shall be required to complete monthly reports supplied by the Department. The monthly report shall be signed by the permittee attesting to the validity of the information and be submitted so it is received by the Department no later than five working days following the end of the reported month at the following address:

Summer Flounder Program
Nacote Creek Research Station
P.O. Box 418
Port Republic, NJ 08241

(1) The monthly report shall include but not be limited to the following information: name, New Jersey Summer Flounder Permit number of the vessel, total amount (in pounds) of each species taken, dates caught, time at sea, duration of fishing time, number of tows, area fished, crew size, landing port, date sold and buyer. This information shall be provided for any trip in which summer flounder are landed.

(2) If no trips for summer flounder were taken and no summer flounder were landed during the month, a report to that effect shall be required.

6. Any person violating the provisions of this section shall be subject to the penalties prescribed in N.J.S.A. 23:2B-14 in addition to the following:

i. Failure to submit the application by June 30, 1993 or to attach the required documentation to the application shall result in the denial of the permit.

ii. Falsification or misrepresentation of any information on the application including documentation provided to verify the amount of summer flounder landed as specified in (i)4 above shall result in the denial or revocation of the permit in addition to any civil or criminal penalties prescribed by law.

iii. Failure to comply with the provisions of (i)5iii above, landing summer flounder after the season has been closed, shall result in the suspension or revocation of the vessel's New Jersey Summer Flounder Permit according to the following schedule:

- (1) First offense: 60 days suspension
- (2) Second offense: 120 days suspension
- (3) Third offense: permanent revocation

iv. Prior to revocation of the permit, the permittee shall have the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(j) Special provisions applicable to a directed weakfish fishery are as follows:

1. The possession of more than 100 pounds of weakfish on board a vessel or landed from a vessel shall constitute a directed fishery for weakfish.

ENVIRONMENTAL PROTECTION

2. A person shall not possess any weakfish less than 11 inches in length that have been harvested by otter or beam trawl during the period from September 1 through December 31. During the period of January 1 through August 31 the minimum size limit for weakfish harvested by otter or beam trawl is 13 inches in length pursuant to N.J.A.C. 7:25-18.1(b).

3. A person utilizing an otter or beam trawl in a directed fishery for weakfish shall not use a net of less than 3.0 inches stretched mesh inside measurement applied throughout the cod end for at least 75 continuous meshes forward of the terminus of the net. After advertisement and public distribution of the Council meeting agenda and consultation with the Marine Fisheries Council, the Commissioner may modify the mesh size upon notice if more current scientific data indicate a more appropriate mesh size is equivalent to the 11 inch minimum size limit for weakfish specified in (j)2 above. The Department shall provide notice of any change by filing and publishing in the New Jersey Register. All such notices shall be effective when the Department files notice with the Office of Administrative Law or as specified otherwise in the notice. The possession of any net less than the minimum mesh specified above in this paragraph, or as modified by the Commissioner, on board a vessel in a directed fishery for weakfish is prohibited.

(a)

OFFICE OF ENERGY

Notice of Administrative Change

Control and Prohibition of Air Pollution by Vehicular Fuels

N.J.A.C. 7:27-25.7, 27.9 and 27.10

Take notice that the Department of Environmental Protection and Energy finds it necessary to change the mailing addresses in N.J.A.C. 7:27-25.7(b), 25.9(e) and 25.10(b) to reflect current circumstances. These changes are made through this notice of administrative change, published pursuant to N.J.A.C. 1:30-2.7(c).

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

7:27-25.7 Exemptions

(a) (No change.)

(b) Application for an exemption shall be made on forms obtained from the Department. Any person may request application forms from:

Assistant Director of **Air and Environmental Quality Enforcement**

Division of [Environmental Quality] **Facility**

Wide Enforcement

Department of Environmental Protection
and Energy

CN [027]422

Trenton, New Jersey 08625-0422

(c)-(l) (No change.)

7:27-27.9 Variance for contemporaneous averaging

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

(e) Any retailer or wholesale purchaser-consumer seeking the Department's approval of a variance pursuant to this section shall apply on forms obtained from the Department. Any person may request an application form from:

Assistant Director of **Air and Environmental Quality Enforcement**

Division of **Facility Wide Enforcement**

Department of Environmental Protection
and Energy

CN [027]422

Trenton, New Jersey 08625-[0027]0422

(f)-(s) (No change.)

7:27-27.10 Variance for shortage of supply

(a) (No change.)

(b) Application for a temporary variance pursuant to this section shall be made on forms obtained from the Department. Any person may request an application form from:

Assistant Director of Air and Environmental Quality Enforcement
Division of Facility Wide Enforcement
Department of Environmental Protection and Energy
CN [027]422
Trenton, New Jersey 08625-[0027]0422

(c)-(n) (No change.)

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Primary Care Physician/Dentist Loan Redemption Program

Adopted New Rules: N.J.A.C. 9:16-1

Proposed: April 6, 1992 at 24 N.J.R. 1192(a).

Adopted: June 10, 1992 by the Board of Higher Education, Edward D. Goldberg, Chancellor and Secretary.

Filed: December 11, 1992 as R.1993 d.30, with **substantive and technical changes** not requiring additional notice and public comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:72D-1 et seq.

Effective Date: January 19, 1993.

Expiration Date: January 19, 1998.

Summary of Public Comments and Agency Responses:

The Board received one letter with regard to the proposal from Robert T. Pickett, Esq., the attorney for the Newark Community Health Centers, Inc. The letter contained two comments. The specific comments and responses thereto are set forth below:

COMMENT: The Newark Community Health Centers, Inc. objected to the proposed definition of "Resident of the State of New Jersey" at N.J.A.C. 9:16-1.2. The noticed proposal defined "resident" as an "individual who is living in the State with the intention of making his or her home here and not for a temporary purpose." The commenter stated that N.J.S.A. 18A:72D-3 intends that a program participant be a resident of New Jersey at the time his or her participation in the program commences. It does not require that a participant live in New Jersey at the time he or she submits an application to the program.

RESPONSE: The Board concurs with this comment which requests clarification of the definition of residency. Therefore, N.J.A.C. 9:16-1.2 has been changed to specifically provide that a resident is an individual who is currently living in New Jersey, or who intends to live in New Jersey. This clarification is in accordance with the Board's intent and will allow for broadened recruitment of qualified physicians and dentists to practice in New Jersey's most underserved communities.

COMMENT: The Newark Community Health Centers, Inc. requests deletion of the proposed provision at N.J.A.C. 9:16-2.1(a)7 which requires that individuals "not be in default" of any qualified student loan. The commenter argues that given the high loan default rate by minority students, the provision would potentially eliminate a significant percentage of eligible minority program participants.

RESPONSE: The Board disagrees with this comment. The noticed language represents sound public policy, a principle which is firmly established within the student financial community. In addition, the Board is not aware of any empirical evidence which supports the contention that this requirement would deter or diminish the full participation of minority students.

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

CHAPTER 16 PRIMARY CARE PHYSICIAN AND DENTIST LOAN REDEMPTION PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

9:16-1.1 Purpose and scope

The purpose of this chapter is to prescribe rules and procedures for Primary Care Physician and Dentist Loan Redemption Program which is intended to promote access to primary care services in medically underserved areas of the State by improving the distribution of primary care health personnel. This program provides for the redemption of eligible student loan expenses of its participants in exchange for a specified period of service in such medically underserved areas.

9:16-1.2 Definitions

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

"Chancellor" means the Chancellor of the New Jersey Department of Higher Education or his or her designee.

"Commissioner" means the Commissioner of the New Jersey Department of Health or his or her designee.

"Eligible student loan expenses" means qualifying student loans, including interest paid or due on such loans, that a program participant has obtained to cover his or her cost of attendance at an institution of undergraduate medical or dental education.

"Medically underserved area" means an urban or rural area or population group within the State of New Jersey which has a medical or dental manpower shortage as determined by the Commissioner, or a public or not-for-profit private health care facility or other facility which is so designated. A list of medically underserved areas shall be specified annually by the Commissioner and published in the New Jersey Register prior to February 1.

"Primary care" for physicians means the practice of family medicine, general internal medicine, general pediatrics, general obstetrics, gynecology, and any other areas of medicine defined as such by the Commissioner of Health.

"Primary care" for dentists means the practice of general dentistry and pedodontics.

"Program" means Primary Care Physician and Dentist Loan Redemption Program.

"Qualifying student loans" means Federally Insured Student Loan (FISL), Stafford Loan, Perkins (formerly National Direct Student Loan—NDSL), PLUS (student), Supplemental Loan for Students (SLS), Health Professions Student Loan (HPSL), Health Education Assistance Loan (HEAL), New Jersey College Loans to Assist State Students (NJCLASS), other State loans, and other Federal loans.

"Resident of the State of New Jersey" means an individual who ***[is living in the State with the intention of]* *is currently living in New Jersey, or intends to live in New Jersey as evidenced by*** making his or her home ***[here]* *in New Jersey*** and not for ***[a]* temporary purpose*s***. Temporary absences from the State, with subsequent returns to the State or intent to return when the purpose of the absences has been accomplished, do not interrupt continuity of residence.

"Undergraduate medical or dental education" means the period of time between entry into medical or dental school and the award of the medical (M.D., D.O.) degree or dental (D.M.D., D.D.S.) degree respectively.

SUBCHAPTER 2. PROGRAM REQUIREMENTS

9:16-2.1 Eligibility

(a) To be eligible for participation in the program, an applicant must:

1. Be a resident of the State of New Jersey;
2. Be licensed to practice in the State of New Jersey;
3. Secure an undergraduate medical/dental school faculty member's recommendation for program participation;
4. In the case of medical applicants, an applicant must:

ADOPTIONS

i. Execute a contract with the Department of Higher Education, at the completion of residency training, which specifies, at a minimum, the length of service and total amount of debt to be redeemed in return for specified service rendered;

5. In the case of dental applicants, an applicant must:

i. Execute a contract with the Department of Higher Education, at the completion of dental undergraduate education or residency training if such training is required in a primary care specialty, which specified, at a minimum, the total amount of debt to be redeemed in return for specified service rendered;

6. Agree to practice primary care medicine or dentistry in a New Jersey underserved area as designated by the New Jersey Department of Health; and

7. Not be in default on any qualifying student loan.

9:16-2.2 Application and selection procedures

(a) The Chancellor shall annually determine the number of program positions available based upon the need for primary care physicians and dentists in medically underserved areas of the State and the availability of funding for the program.

(b) To receive consideration for participation in the program, an applicant must annually submit a completed program application to the Chancellor.

(c) Upon receipt of application materials, the Chancellor shall determine the eligibility of applicants in the order of priority defined in N.J.S.A. 18A:72D-1 et seq.

(d) The Chancellor, in consultation with the Commissioner, shall match eligible applicants to medically underserved areas based upon the Commissioner's ranking of such areas and applicant preference.

(e) Service in the designated area for a selected physician applicant must begin upon completion of his or her medical residency training. For a selected dental applicant, service in the designated area must begin upon completion of his or her undergraduate dental training or residency training if such training is required in a primary care specialty.

(f) Each selected applicant shall serve a six-month probationary period upon initial placement in a service site.

(g) At the completion of each applicant's probationary period, a medical or dental staff member at his or her designated site shall submit to the Chancellor a recommendation of either the continuation of the applicant's placement, a change of placement, or the applicant's unsuitability for the program.

1. If the recommendation is a change in placement, the Chancellor shall place the applicant in an alternate placement site.

2. If the recommendation is the applicant's unsuitability for the program, the Chancellor shall take such recommendation into consideration in determining the applicant's final acceptance into the program.

(h) Satisfactory completion of the probationary period shall constitute final acceptance as a program participant and entitle the participant to receive credit for the probation period in the calculation of his or her first full year of service.

(i) At the time an applicant is accepted as a program participant, the Chancellor will encumber those program funds necessary to provide for the redemption of the participant's eligible student loan expenses.

9:16-2.3 Terms of loan redemption

(a) Total maximum loan redemption under the program shall be the amount of each participant's eligible student loan expenses up to, but in no event exceeding, \$70,000.

(b) After the successful completion of a six-month probationary period, during which time there are no redemption benefits, each participant's redemption credit shall be:

1. Fifteen percent of eligible student loan expenses for one full year of service, which shall include the probationary period;

2. An additional 20 percent for a second full year of service;

3. An additional 25 percent for a third full year of service; and,

4. An additional 40 percent for a fourth full year of service.

(c) In no event shall service for less than the full calendar year of each period of service entitle the participant to any redemption benefits for such period.

INSURANCE

9:16-2.4 Procedure for loan redemption

(a) Upon completion of each full year of service, each program participant shall apply to the Chancellor for the earned amount of indebtedness redemption specified in his or her contract. At the time of application, the applicant shall submit to the Chancellor a Participation Performance Report, which shall include:

1. A certification, indicating that the participant, provided primary care services for a full year, attested to by the Chief Executive Officer or Director of the applicable service site and details of the satisfactory performance of the participant at the site.

(b) The Chancellor shall authorize payment to a participant for that portion of his or her indebtedness to be forgiven as specified in his or her contract. Checks shall be made payable jointly to the program participant and the lending institution designated by the participant to insure proper application of the payment to eligible indebtedness as defined in N.J.S.A. 18A:72D-1 et seq.

9:16-2.5 Cancellation of contract obligations and involuntary termination of service

(a) The Chancellor shall cancel a participant's contractual obligations if he or she determines:

1. On the basis of a sworn affidavit of a qualified physician that the participant is totally and permanently disabled;

2. On the basis of a death certificate or other evidence of death that is conclusive under state law that the participant has died; or

3. On the basis of substantiating documentation provided by the participant that continued enforcement of the service obligation may result in extreme hardship for the participant.

(b) The Chancellor may terminate a participant's service in the program when:

1. The participant is convicted of a felony or an act of gross negligence in the performance of his or her service obligations; or

2. The participant's license to practice medicine or dentistry is suspended or revoked.

9:16-2.6 Termination by participant prior to completion of contractual service requirements

A participant desiring to terminate program participation prior to the completion of the requirements of his or her loan redemption contract must notify the Chancellor, in writing, three months prior to his or her intended date of termination.

9:16-2.7 Reversion of unexpended funds

In the event that any or all funds encumbered for a particular participant are not paid due to the participant's failure to fulfill his or her contractual term of service or his or her involuntary termination of service, such funds will revert to the program fund and be available to enroll other participants.

INSURANCE

(a)

DIVISION OF FRAUD

Motor Vehicle Insurance Fraud: National Automobile Theft Bureau

Adopted Amendments: N.J.A.C. 11:16-2

Proposed: October 19, 1992 at 24 N.J.R. 3606(a).

Adopted: December 23, 1992 by Samuel F. Fortunato,

Commissioner, Department of Insurance.

Filed: December 23, 1992 as R.1993 d.48, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e); 17:33A-1 et seq., and 17:23-8 et seq.

Effective Date: January 19, 1993.

Expiration Date: January 31, 1996.

Summary of Public Comments and Agency Responses:

One public comment was received from an insurer (New Jersey Citizens United Reciprocal Exchange (NJ CURE)).

COMMENT: The commenter states that the Department's proposed amendments are invalid because they lack statutory authority. The com-

menter argues that no New Jersey statute requires an insurer to become a member or a service company of any of the following: the Insurance Crime Prevention Institute ("ICPI"); the National Insurance Crime Bureau ("NICB"); or any successor organization of the National Automobile Theft Bureau ("NATB").

The commenter further states that the NATB ceased existence beginning January 1, 1992, and that the statutory provisions of N.J.S.A. 17:23-8 et seq.; 17:23-19; and 17:33A-1 et seq. nowhere mention ICPI, NICB, or any successor organization to the NATB. The commenter argues that since no New Jersey statute requires an insurer to affiliate with the NICB, the proposed amendments lack statutory authority.

RESPONSE: N.J.S.A. 17:23-19 refers to the NATB, and the Department recognizes that the Legislature to date has not amended this provision to reflect the name change from NATB to the NICB. The Assembly Law, Public Safety and Corrections Committee Statement states with regard to S-3122 which became N.J.S.A. 17:23-19 that: "This bill requires an insurer of automobiles to report the theft or salvage of a motor vehicle to the National Automobile Theft Bureau for inclusion in the NATB's central index file." The statement further notes that "the bureau maintains a computerized program containing reports of stolen or abandoned motor vehicles throughout the United States." The Committee's Statement further states that:

The availability of such information is essential not only to facilitate the successful investigation of motor vehicle thefts, but also to frustrate and prevent insurance fraud schemes. The reporting requirement set forth in this bill will ensure our State's participation in this program and thus assure that the bureau's information base is up-to-date and accurate.

Additionally, the Department notes that the Committee was more concerned with the "reporting of theft or salvage rather than the establishment of a central reporting agency." The Department interprets the Legislature's intent as requiring insurers to report the theft or salvage of a motor vehicle so that this information is included on a national central index file in order to facilitate the successful investigation of motor vehicle thefts. The Department believes that the most effective manner in which to achieve this purpose is to continue to require insurers to report information on thefts or salvage to the same organization which now operates under a different name.

Full text of the adoption follows.

SUBCHAPTER 2. REPORTS TO THE NATIONAL INSURANCE CRIME BUREAU

11:16-2.1 Purpose and scope

This subchapter governs the reporting of motor vehicle theft or salvage and related transactions between insurers and the National Insurance Crime Bureau ("NICB"), in implementation of P.L.1989, c.65. This subchapter applies to all insurers transacting motor vehicle insurance in New Jersey.

11:16-2.3 NICB membership or service company requirement

(a) By December 20, 1989, every insurer transacting motor vehicle insurance in New Jersey that is not already a member or a service company of the NICB, shall make application to become either a member or a service company of the NICB. An insurer shall pay all assessments for membership or service company status as may be required by the NICB in the manner prescribed by the NICB.

(b) An insurer shall become and remain either a member or a service company of the NICB as a condition of maintaining its authorization to conduct the business of motor vehicle insurance in New Jersey.

(c) Applications for membership and service company status and related information can be secured from:

NICB
10330 South Roberts Road—3A
Palos Hills, Illinois 60465-1998

11:16-2.4 Insurer reporting requirements

(a) Insurers shall report to the NICB all motor vehicles involved in losses as follows:

1. All thefts of a motor vehicle, or any of its major component parts, shall be reported within two working days from the receipt of sufficient information from the insured. The NICB shall acknowledge the receipt of each theft report received from an insurer within 10 working days. If the insurer has not received any acknowledgment

or communication from the NICB within 10 working days following its submission to the NICB of the report, the insurer shall immediately communicate with the NICB to determine the status of its report.

2. All losses involving motor vehicle salvage, however sustained, including salvage retained by either an insured or a third party claimant, shall be reported to the NICB within five working days after the sale of salvage; or, if the insured is permitted to retain salvage, within five working days after the date of loss payment.

3. All insurers required to submit reports to the NICB in compliance with this subchapter shall be bound by all of the reporting requirements of the NICB.

11:16-2.5 Insurer cooperation with NICB

Insurers shall cooperate with the NICB and shall release information in their possession to the NICB upon its reasonable request.

11:16-2.6 NICB cooperation with insurers

The NICB shall cooperate with insurers in the resolution of errors and the investigation of claims suspected to be fraudulent.

11:16-2.7 Deferred claim processing and payment

(a) Notwithstanding any provision of Title 11 of the New Jersey Administrative Code to the contrary, an insurer shall defer the processing and payment of a claim filed under comprehensive or other coverage in accordance with the following:

1. No insurer shall pay a claim filed by an insured under comprehensive or other coverage for theft of a motor vehicle or its major component parts unless said claim has first been reported to and acknowledged by the NICB.

2. An insurer shall defer the payment of a claim for five calendar days following receipt of the acknowledgment from the NICB of the insurer's report. If no further communication is received from the NICB during this five-day period indicating unresolved questionable circumstances, the insurer shall continue with the processing of the claim in accordance with the provisions of this section and other provisions of Title 11 of the New Jersey Administrative Code.

3. If the NICB indicates in its response to the insurer that coverage is in effect by more than one insurer for the same motor vehicle or that the motor vehicle has been previously reported as stolen and unrecovered, or that previous claims on the vehicle have been reported, the insurer shall promptly investigate and resolve such discrepancy.

4. If the NICB discovers an erroneous vehicle identification number (VIN) and the NICB is unable to clear up such discrepancy internally, the NICB shall send a questionnaire to the insurer. This questionnaire shall be returned within five working days of receipt by the insurer. If the NICB and insurer are unsuccessful, after due diligence, in resolving the VIN error after a 30-day period from the date of the receipt by the insurer of sufficient information from the insured, the insurer shall proceed with the processing of the loss claim.

5. If the NICB indicates in its response to the insurer or the insurer finds that it has reasonable cause to believe that the loss may have been caused by the criminal or fraudulent act of any person, the insurer shall suspend the processing of the claim and promptly begin an investigation. The insurer shall promptly provide such information to the NICB and shall cooperate fully with the NICB in its investigation of criminal or fraudulent acts.

11:16-2.8 NICB record retention

Such reports as may be required to be filed with the NICB by an insurer pursuant to P.L.1989, c.65, this subchapter and the operating procedures of the NICB, shall be maintained by the NICB for at least a period of five years from the date of entry into the NICB system, except that in the case of motor vehicle salvage, such reports shall be maintained for a period of at least two years from such entry.

(a)

DIVISION OF ENFORCEMENT AND CONSUMER PROTECTION**Insurance Producer and Limited Insurance Representative Standards of Conduct: Marketing; Activities for Which a Person Must be Licensed as an Insurance Producer or Registered as a Limited Insurance Representative****Adopted Amendment: N.J.A.C. 11:17A-1.3**

Proposed: September 21, 1992 at 24 N.J.R. 3220(a).

Adopted: December 23, 1992 by Samuel F. Fortunato, Commissioner, Department of Insurance.

Filed: December 23, 1992 as R.1993 d.49, **with a substantive change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 17:22A-1 et seq., 17:22A-3, 17:22A-17c, 17:22A-23(e), 17:22A-24 and 17:1C-6(e).

Effective Date: January 19, 1993.

Expiration Date: January 2, 1995.

Summary of Public Comments and Agency Responses:

Comments were received from the Alliance of American Insurers and New Jersey Manufacturers Insurance Company.

COMMENT: Both commenters favored the proposed amendment which would extend the compliance deadline set forth in N.J.A.C. 11:17A-1.3(e) from October 1, 1992 to January 1, 1993.

RESPONSE: Since adoption of the January 1, 1993 extension cannot be made effective before that date and since no objection has been expressed with regard to such extension, the Department has changed the extended deadline for compliance to May 1, 1993. This will allow the Department additional time to promulgate any amendments to the rules that may be required as a result of Governor Jim Florio's conditional veto of A-1272 and will also allow parties affected by the rules to achieve timely compliance.

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

11:17A-1.3 Who must be licensed; exceptions

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

(e) Officers or employees of insurers authorized to do business in this State and who solicit, negotiate or effectuate insurance in the name of and on behalf of the insurer, for compensation of any type, shall have secured licensure as an insurance producer, or registration as a limited insurance representative, as appropriate, on or before ***[January 1, 1993]* *May 1, 1993***. This requirement shall apply to insurer officers or employees whose employment duties include the solicitation, negotiation and effectuation of insurance contracts on behalf of their employer. This requirement shall not apply to insurer officers or employees whose participation in the solicitation, negotiation and effectuation of insurance contracts is incidental to their employment duties.

LABOR

(b)

DIVISION OF WORKERS' COMPENSATION**Investigation of Discrimination Complaints Appeal Procedures****Adopted Amendments: N.J.A.C. 12:235-9.4**

Proposed: May 4, 1992 at 24 N.J.R. 1684(a) (see also 24 N.J.R. 3090(a)).

Adopted: December 23, 1992, by Raymond L. Bramucci, Commissioner, Department of Labor.

Filed: December 23, 1992 as R.1993 d.51, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:1-20; 34:1A-3(e); and 34:15-64.

Effective Date: January 19, 1993.

Expiration Date: May 3, 1996.

Summary of Public Comments and Agency Responses:

The Department of Labor (Department) received public comments from three commenters during the comment period on the proposed amendment to N.J.A.C. 12:235-9.4 concerning discrimination complaint appeal procedures: Neil F. Flaherty, Assistant Vice President, Selective Insurance; William J. Scherman, Esq., on behalf of Gelman and Gelman; and Kenneth H. Wind, Esq.

COMMENT: The 10 day period for filing an appeal is too restrictive. Many unnecessary appeals could be filed merely to protect the right of appeal, which would produce additional unnecessary administrative and legal costs. A more appropriate time frame would be 30 days.

RESPONSE: The Department does not believe that a 10 day period for filing a notice of appeal is restrictive, as that time period gives each party ample opportunity to consult counsel for a determination as to the propriety of an appeal. Such consultation will prevent unnecessary appeals. Additionally, the 10 day period will help to bring a speedy resolution to all discrimination appeals.

COMMENT: The rules should specifically state that Judges of Compensation will not be responsible for hearing discrimination appeals. If Judges of Compensation were to hear these appeals, there could be conflict in that the rules provide for an appeal of a discrimination finding to go to the Office of Administrative Law, and not to the Appellate Division of the Superior Court, where other compensation appeals are filed.

RESPONSE: The Department does not intend to have Judges of Compensation hear discrimination appeals, and N.J.A.C. 12:235-9.4(c) has been amended upon adoption to clarify this position.

COMMENT: N.J.A.C. 12:235-9.4(c)2 and 3 provide for a 20 day period in which to conduct a discrimination appeal hearing, and a seven day notice of appeal to all parties, respectively. This time period conflicts with the 21 day schedule which is currently in place in the Division for Workers' Compensation hearings. The 20 day period should be changed to a 31 day period to allow scheduling of the discrimination hearings to coincide with other case scheduling.

RESPONSE: The Division does not intend to have Judges of Compensation hear the discrimination appeals. Accordingly, there is no relationship between the scheduling of a discrimination complaint hearing and the normal scheduling of workers' compensation cases, and, thus, the time periods should remain as proposed.

COMMENT: Appeals should go directly to the Superior Court, as do all Workers' Compensation appeals. To require otherwise would cause hardship to employers and employees, and confusion among attorneys who would have to refer to both the Administrative Procedure Act and the Rules of the Division of Workers' Compensation.

RESPONSE: The determination of a discrimination complaint pursuant to N.J.S.A. 34:15-39.1 has no relationship whatsoever to the orderly process of a workers' compensation case in which an injured worker seeks benefits for a work-related injury. A discrimination complaint is not a workers' compensation case, per se, and each complainant or his or her employer must be allowed to exhaust all administrative remedies in accordance with the Administrative Procedure Act.

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

12:235-9.4 Investigation of discrimination complaints; appeal procedures

(a) Upon receipt of a complaint for discrimination, the Division shall conduct an investigation and forward the complaint and results of the investigation to the Director within 90 days.

(b) The Director or his or her designee, upon review of the investigative report, shall make a determination as to whether discrimination exists. This determination shall be forwarded to the complainant and the employer within 30 days of the receipt of the investigative report.

(c) Any individual who wishes to appeal the determination of the Director or his or her designee may request an informal administrative hearing *to be conducted by a hearing officer of the Department of Labor who shall not be a Judge of Compensation*.

1. The individual shall submit to the Division a written request for a hearing within 10 days from the date the individual receives the determination of the Director or his or her designee.

2. The Department shall conduct the hearing within 20 days from the date the Division receives the request for an informal hearing.

3. The Division shall notify both parties in writing as to the time and location of the hearing not less than seven days prior to the hearing.

4. The parties may be represented by counsel or any other representative, or may represent himself or herself at the hearing.

5. The parties may present evidence, call witnesses and cross-examine witnesses at the hearing.

6. The Division shall mail to the parties the written decision of the Hearing Officer within 20 days from the date of the hearing.

(d) Any individual who disagrees with the decision of the Hearing Officer may submit to the Division a written request for a formal hearing to be held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 10 days from the date of the receipt of Hearing Officer's decision.

13:70-4.2 Items requiring registration

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

1. Stable name—\$50.00;
2. Corporate stable name—\$50.00;
3. Multiple ownership—\$50.00;
4. Partnerships—\$25.00.

13:70-4.15 Requirements; farms or licensed tracks

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

(c) Any farm or training center making application for licensure as an off-track stabling facility shall pay a \$50.00 annual license fee and be liable to inspection by the employees of the Commission, and shall be required to provide unrestricted access to all stabling facilities to the employees and agent of the Commission upon demand.

(d)-(f) (No change.)

13:70-9.41 Jockey agent license fee

Each jockey agent must obtain a license from the Racing Commission, and the fee therefor shall be \$50.00.

13:70-22.5 License fees

The fee for each license shall be \$50.00 as set forth in N.J.A.C. 13:70-4.1. If an agent represents more than one owner, a separate written instrument shall be filed for each owner and the fee paid in each case.

LAW AND PUBLIC SAFETY

(a)

NEW JERSEY RACING COMMISSION

Thoroughbred Rules

License Fees

Adopted Amendments: N.J.A.C. 13:70-4.1, 4.2, 4.15, 9.41 and 22.5

Proposed: November 2, 1992 at 24 N.J.R. 4021(a).

Adopted: December 17, 1992 by the New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Filed: December 22, 1992 as R.1993 d.43, **without change.**

Authority: N.J.S.A. 5:5-30.

Effective Date: January 19, 1993.

Expiration Date: January 25, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

13:70-4.1 Persons required to have licenses

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

- | | |
|-----------------------------------|---------|
| 1. Assistant starter: | \$10.00 |
| 2. Assistant trainer: | \$30.00 |
| 3. Authorized agent: | \$50.00 |
| 4. Clocker: | \$10.00 |
| 5. Certificate of identification: | \$10.00 |
| 6. Jockey: | \$50.00 |
| 7. Jockey agent: | \$50.00 |
| 8. Jockey apprentice: | \$30.00 |
| 9. Owner: | \$50.00 |
| 10. Pari-mutuel employee: | \$25.00 |
| 11. Plater: | \$20.00 |
| 12. Stable employee: | \$5.00 |
| 13. Starter: | \$10.00 |
| 14. Trainer: | \$50.00 |
| 15. Valet: | \$20.00 |
| 16. Vendor: | \$50.00 |
| 17. Veterinarians: | \$50.00 |

(b) (No change.)

(b)

NEW JERSEY RACING COMMISSION

Harness Rules

License Fees; Partnership Registration

Adopted Amendments: N.J.A.C. 13:71-7.1, 7.5, 7.26, 7.35 and 24.5

Proposed: November 2, 1992 at 24 N.J.R. 4023(a).

Adopted: December 17, 1992 by the New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Filed: December 23, 1992 as R.1993 d.52, **without change.**

Authority: N.J.S.A. 5:5-30.

Effective Date: January 19, 1993.

Expiration Date: January 25, 1995.

Summary of Public Comments and Agency Responses:

COMMENT: The New Jersey Standardbred Breeders' and Owners' Association ("SBOA") registered their objection to the proposed license fee for the partnership category. The SBOA stated that the owners now pay enough fees as owner, multiple ownership and stable name license fees each require a \$50.00 fee. According to the SBOA, the imposition of a fee for a partnership would constitute a hardship.

RESPONSE: Rejected. There presently is no fee for a partnership category. The actual administrative costs to the Racing Commission of licensing this category are the same as other entity categories, such as multiple ownership and stable name which currently carry a \$50.00 fee. The current budget crisis necessitates the need to now impose a \$25.00 fee, which constitutes half the fee of similar categories.

Full text of the adoption follows.

13:71-7.1 Persons required to have licenses; fingerprints and photographs

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

1. Driver/Trainer: \$50.00
2. Owner: \$50.00
3. Pari-Mutuel Employee: \$25.00
4. Stable Employee: \$ 5.00
5. Stable Name: \$50.00
6. Starter: \$10.00
7. Plater: \$20.00

ADOPTIONS

- 8. Timer: \$10.00
- 9. Vendor: \$50.00
- 10. Identification License: \$10.00
- 11. Authorized Agent: \$50.00
- 12. Veterinarians: \$50.00
- (b) (No change.)

13:71-7.5 Items requiring registration

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

- 1. Each stable name must be duly registered with the Racing Commission. The fee shall be \$50.00.
- 2.-3. (No change.)
- 4. Partnerships (two individuals or any combination of entities and/or individuals) shall be registered with the Commission. The fee shall be \$25.00 annually.

13:71-7.26 Requirements; farms or licensed tracks

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

(c) Any farm or training center making application for licensure as an off-track stabling facility shall pay a \$50.00 annual license fee and be liable to inspection by the employees of the Commission and shall be required to provide unrestricted access to all stabling facilities to the employees and agent of the Commission upon demand.

(d)-(f) (No change.)

13:71-7.35 Badges

(a) All licensed personnel who enter the stable area of any track under the jurisdiction of the New Jersey Racing Commission in any capacity whatsoever shall wear upon their outside apparel in a prominent position the authorized badges containing picture identification supplied by the Commission. This rule shall also apply to State, track, veterinarian personnel, as well as the vendors and suppliers authorized in the stable area, and the badges shall be readily available and produced by such personnel upon request of track security, county and city police, State police, Commission inspectors and stewards at said request. Failure to comply with this rule will result in a \$5.00 fine for the first offense; \$10.00 fine for the second; \$25.00 for the third; and ejection from the grounds upon the fourth offense.

1. All persons working in or about the licensed premises shall be required to be licensed in their appropriate category by the New Jersey Racing Commission.

(b) (No change.)

13:71-24.5 License fees

The fee for each license shall be \$50.00 as set forth in N.J.A.C. 13:71-7.1. If an agent represents more than one owner, a separate written instrument shall be filed for each owner and the fee paid in each case.

(a)

NEW JERSEY RACING COMMISSION

Casino Simulcasting

Adopted New Rules: N.J.A.C. 13:72

Proposed: October 19, 1992 at 24 N.J.R. 3666(b).

Adopted: December 18, 1992 by the New Jersey Racing Commission, Frank Zanzucchi, Executive Director.

Filed: December 23, 1992 as R.1993 d.53, **with a substantive and a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: Casino Simulcasting Act, P.L. 1992, c.19; N.J.S.A. 5:5-30.

Effective Date: January 19, 1993.

Expiration Date: January 19, 1998.

On December 16, 1992, the New Jersey Racing Commission ("Racing Commission"), pursuant to N.J.S.A. 5:5-30, the Casino Simulcasting Act, (P.L. 1992, c.19, approved June 12, 1992), and in accordance with the

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applicable provisions of the Administrative Procedures Act, adopted new rules N.J.A.C. 13:72-1.1 through 9.6. These rules were adopted as proposed in the notice published October 19, 1992, at 24 N.J.R. 3666(b), with substantive and technical changes not requiring additional public notice and comment.

The adoption creates a new chapter N.J.A.C. 13:72, which generally establishes the rules governing casino simulcasting. These rules were adopted as joint rules by the Casino Control Commission ("Commission"), N.J.A.C. 19:55, also on December 16, 1992 (see notice of adoption published elsewhere in this issue of the New Jersey Register). In addition to N.J.A.C. 19:55, and as authorized by the Casino Simulcasting Act, the Commission individually proposed and on December 16, 1992 voted to adopt various amendments to existing chapters of its rules necessary for casino licensees to: implement casino simulcasting; permit the conduct of authorized games other than slot machines in casino simulcasting facilities; and to require the equal employment officer of each casino licensee which conducts casino simulcasting to comply with the requirement in the Casino Simulcasting Act to accord first preference for employment, in comparable positions available in casino simulcasting facilities, to any eligible employees at the Atlantic City Racetrack who may lose employment as a result of implementation of casino simulcasting.

With regard to the jointly adopted rules, specifically N.J.A.C. 13:72 as concerns the Racing Commission, comments were received from William C. Murtha, Vice President and General Counsel of the Casino Association of New Jersey ("CANJ"). Additionally, the Commission furnished the Racing Commission with comment relevant to the joint rules as received by the Commission from Joseph A. Corbo, Jr., Associate General Counsel, Resorts International Hotel, Inc. ("Resorts"), and Thomas C. Bonner, Vice President General Counsel, Showboat Casino-Hotel, Atlantic City, New Jersey ("Showboat"). Each of those received comments, as well as the comments received by the Racing Commission on behalf of CANJ, contained additional comments related to the then proposed amendments to the pre-existing regulations of the Casino Control Commission. In addition, the Racing Commission received a written comment from Henry E. Desch, Business Manager and Secretary-Treasurer, Sports Arena Employees' Local No. 137, AFL-CIO, which related only to the amendments then proposed by the Commission to its pre-existing rules. A letter identical in substance to that received by the Racing Commission was furnished by Mr. Desch to the Commission.

Summary of Public Comments and Agency Responses:

As noted, comments relevant to N.J.A.C. 13:72 were received by the Racing Commission as propounded by the Casino Association of New Jersey, Resorts International Hotel, Inc., and the Showboat Casino-Hotel, Atlantic City, New Jersey. A summary of these comments as they relate to N.J.A.C. 13:72, and the Racing Commission's response, is set forth immediately below.

COMMENT: CANJ, in its comments, recommended that the definition of "interstate common pool," as contained in the Casino Simulcasting Act, should be included in N.J.A.C. 13:72-1.1. Resorts and Showboat adopted this comment by reference.

RESPONSE: Rejected. Since the definition of "interstate common pool" is delineated in the Casino Simulcasting Act, it is a matter of law. Accordingly, there exists no need to repeat that same definition within the rules.

COMMENT: The CANJ commented that the definition of hub facility, as set forth in N.J.A.C. 13:72-1.1, should be amended so as not to require that the hub facility be physically located within this State. This comment was adopted by reference by Resorts and Showboat.

RESPONSE: Rejected. The mandate of N.J.A.C. 13:72-1.1, that the hub facility be located within the State of New Jersey, is rationally related to the regulatory function. The hub facility will house equipment and employees, whose functions are essential to the integrity of racing and casino simulcasting. The location of the hub facility in this State is required to allow the Racing Commission and Commission to license, regulate and achieve access to the hub facility and its employees in an efficient manner.

COMMENT: The CANJ commented that N.J.A.C. 13:72-6.3 through 6.4 should be amended to require: that a hub facility be licensed as a non-gaming casino service industry, and not as a gaming-related casino service industry as required by N.J.A.C. 13:72-6.3; that the requirement of N.J.A.C. 13:72-6.3, that employees of a hub facility be licensed or registered with the Commission as if the hub facility were itself a casino licensee, be deleted; that the requirement of N.J.A.C. 13:72-6.3, that a hub facility submit for Commission approval a jobs compendium, be

deleted; and that the requirement of N.J.A.C. 13:72-6.4, that enterprises transacting business with a hub facility be subject to vendor registration and casino service industry licensing requirements applicable to any enterprise which transacts business with a casino licensee, be deleted. Additionally, CANJ commented that N.J.A.C. 13:72-6.2 should be amended to provide that pari-mutuel machines and totalisators do not constitute "simulcast wagering equipment" and, this being the case, manufacturers, suppliers and repairers thereof are not gaming-related casino service industries. These comments were adopted by reference by Resorts and Showboat.

RESPONSE: Rejected. The Racing Commission is of the view that N.J.A.C. 13:72-6.3 satisfies its regulatory mandate in that it subjects the hub facility, its employees and certain vendors of the hub facility to licensure by the Racing Commission. The Casino Control Commission has recommended the licensure requirements of N.J.A.C. 13:72-6.3 and 6.4, subject of the instant comment, as rationally related to its regulatory mandate. The Racing Commission thus accepts the recommendations of the Commission, embodied in the cited regulations and subject of the instant comment of CANJ, as such. As concerns the comment that N.J.A.C. 13:72-6.2 should be amended, the Racing Commission notes that the Legislature elected to amend N.J.S.A. 5:12-92(a) to encompass casino service industry licensure of simulcast wagering equipment. The Racing Commission accepts the language of N.J.A.C. 13:72-6.2, as recommended by the Commission, as consistent with this legislative mandate.

COMMENT: CANJ commented that subchapter 9, N.J.A.C. 13:72-9 should be deleted from the rules. Resorts and Showboat adopted this comment by reference.

RESPONSE: Although the comment of the Casino Hotel Association reflects that subchapter 9 requires "... that the hub facility actually be supervised by [the] regulators . . .," the rules by their terms makes clear that the function of the Supervisor of Mutuels, with the assistance of the Verifier, is otherwise. As evidenced by the rules, although the hub facility will be unique to this State, the duties of these Racing Commission officials will be similar to that assumed by such officials at the State's racetracks. Their function at the hub facility will not be one of pervasive supervision, but one characterized as oversight. They shall among other things ensure that the pari-mutuel related activities of the hub facility are conducted in accord with law and accepted practice, verify computations and reports the results of which could impact upon the integrity of casino simulcasting racing, and directly engage in the preparation of reports necessary to the regulatory functions.

The Racing Commission is cognizant that the hub facility will operate with strict control in its serving as a conduit for simulcast races and race related items. Nevertheless, such a facility will be confronted with a myriad of situations requiring immediate decision making which could impact upon the integrity of racing. For example, the hub facility will be responsible for locking the totalisator and determining the status of a wagering pool that cannot successfully be transmitted to a host wagering facility. The consequences of unchecked decisions, which once acted upon cannot be rectified despite subsequent detection, further mandate the need for the presence of these regulatory officials at a facility so vital to the integrity of casino simulcasting and racing.

While the regulatory concerns of the Racing Commission require the physical presence at the hub facility of its Supervisor of Mutuels and Verifiers, those concerns will be particularly heightened during the initial phase of its operation. In view of the comments, it is to be emphasized that the rules do provide that the duties of the Supervisor of Mutuels and Verifier may be assumed by employees of the hub facility after one year subject to certain contingencies as set forth in N.J.A.C. 13:72-9. However, at this time, the Racing Commission cannot speculate as to whether such an event will in fact occur.

COMMENT: CANJ, through its comments, recommended that N.J.A.C. 13:72-2.11(a) be amended to delete its provisions authorizing pari-mutuel tickets purchased at a casino simulcasting facility to be cashed at in-State race tracks which conducted pari-mutuel wagering on the same race; and authorizing pari-mutuel tickets purchased at in-State racetracks to be presented for cashing at any casino simulcasting facility which conducted pari-mutuel wagering on the same race. Resorts and Showboat adopted this comment by reference.

RESPONSE: Accepted. As noted by the CANJ in its comment, under the existing legislation, casino simulcasting facilities must commingle wagers with the pari-mutuel pool of the sending track, while in some instances in-State tracks may be unable to do so. Under such a scenario, casino simulcasting facilities will be unable to participate in the pari-mutuel pool formed by New Jersey racetracks. Where this is the case,

the intent of the rules as proposed will be impossible to achieve. In view of this, and to avoid the potential for confusion on the part of the public, the comment is accepted, and N.J.A.C. 13:72-2.11(a) revised accordingly.

COMMENT: In its comments, Resorts commented that N.J.A.C. 13:72-2.11 should be amended to permit the cashing of pari-mutuel tickets at casino simulcasting facilities by mail.

RESPONSE: Rejected. Although racetrack patrons are permitted to cash pari-mutuel tickets at racetracks by mail, the Racing Commission accepts the recommendation of this provision as advanced by the Casino Control Commission as necessary to effectuate pari-mutuel wagering in the casino environment consistent with its own regulatory scheme.

Summary of Agency-Initiated Changes:

1. The title of N.J.A.C. 13:72-6 has been revised to "Licensing and Registration of Entities and their Employees" to describe more accurately the contents of this subchapter.

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

CHAPTER 72 CASINO SIMULCASTING

SUBCHAPTER 1. GENERAL PROVISIONS

13:72-1.1 Definitions

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

"Breakage" means the odd cents over a multiple of five or 10 cents arising from the computation of odds and payouts on amounts wagered on a simulcast horse race, as determined by the law governing the sending track.

"Casino Control Act" means the State of New Jersey Casino Control Act approved June 2, 1977, as amended.

"Casino pari-mutuel cashier" means a casino employee who sells pari-mutuel tickets representing simulcast wagers, sells credit vouchers for simulcast wagering in self-service pari-mutuel machines, pays cash for credit vouchers, and makes payouts for winning or refundable pari-mutuel tickets in a casino simulcasting facility.

"Casino simulcasting" means the simultaneous transmission by picture of running or harness horse races conducted at racetracks to casino licensees and pari-mutuel wagering at casino simulcasting facilities operated by casino licensees on the results of those races.

"Casino Simulcasting Act" means the State of New Jersey Casino Simulcasting Act, P.L.1992, c.19, approved June 12, 1992.

"Casino simulcasting facility" means a facility in an approved hotel operated by a casino licensee which conforms to the provisions of this chapter.

"Commission" means the New Jersey Casino Control Commission.

"Credit voucher" means a ticket issued by a casino pari-mutuel cashier in exchange for cash, gaming chips, slot tokens or coin coupons or by a self-service pari-mutuel machine for currency, as payment for a winning or refunded pari-mutuel ticket, or as the balance returnable after a simulcast wager has been placed.

"Dedicated line" means a telephone line which is reserved for the exclusive use of transmitting pari-mutuel wagering data between a simulcasting facility and a sending track.

"Delay period" means the time between off-time and the start of a simulcast horse race.

"Dial-up line" means a telephone line between a casino simulcasting facility and a sending track which is not reserved for the exclusive use of transmitting pari-mutuel wagering data.

"Division" means the Division of Gaming Enforcement of the New Jersey Department of Law and Public Safety.

"Hub facility" means a facility located in this State which acts as an intermediary between a casino simulcasting facility and a sending track with respect to the transmission of pari-mutuel wagering data and which is responsible for generating all reports necessary for the reconciliation of payments between casino licensees, sending tracks and the Racing Commission. The hub facility may also, but is not required to, perform other functions, including the transmission of pictures of simulcast horse races and pari-mutuel non-wagering data.

"In-State sending track" means a racetrack within the State of New Jersey which is operated by a permit holder and is equipped to conduct casino simulcasting.

"Manual merge" means the process used in the event of a systems or communications failure by which a casino simulcasting facility transmits to a sending track through telephone, facsimile machine, cellular telephone or other means of communication, the casino simulcasting facility's pari-mutuel wagering information and the process by which the sending track includes such pari-mutuel wagers in the common pari-mutuel pool in such event.

"Minus pari-mutuel pool" means a pari-mutuel pool in which insufficient monies have been wagered to permit the minimum pay-offs of winning wagers required by the rules of pari-mutuel wagering governing the race.

"Off-time," for the purposes of this chapter, means when the first horse is loaded into the starting gate in a running race and when the starting gate reaches the recall pole in a harness race. In a race, such as a steeplechase, where there is no starting gate, off-time shall mean approximately 15 seconds before the anticipated start of the race.

"Out-of-State sending track" means a racetrack in a jurisdiction other than the State of New Jersey which is equipped to conduct casino simulcasting and the operator of which is lawfully permitted to conduct a horse race meeting and to provide simulcast races to a casino licensee.

"Outstanding pari-mutuel ticket" means a winning or refundable pari-mutuel ticket which is not claimed within six months of the date of its sale.

"Pari-mutuel machine" means a mechanical, electrical or other device which is connected to a totalisator and which generates pari-mutuel tickets and credit vouchers, reads pari-mutuel tickets and receives from the totalisator the amount to be paid for winning, cancelled or refunded pari-mutuel tickets, and reads credit vouchers and calculates the amount to be paid therefor.

"Pari-mutuel ticket" means a ticket issued by a pari-mutuel machine or a self service pari-mutuel machine which represents a wager on a simulcast horse race.

"Permit holder" means the holder of an annual permit issued by the Racing Commission to conduct a horse race meeting.

"Pool definition" means a computer generated printout, itself generated by a sending track, of the pari-mutuel wagering format and scratch runner information for that day's racing program.

"Racing Commission" means the New Jersey Racing Commission.

"Receiving track" means a racetrack which is equipped to receive simulcast horse races and to conduct intertrack wagering on those races.

"Scratch" means the withdrawal of an entered horse from a race after the closing of overnight entries.

"Self service pari-mutuel machine" means a mechanical, electrical or other device connected to a totalisator which, upon the insertion of a credit voucher, coupon or currency, or any combination thereof, and the selection of a permissible simulcast wager automatically issues a pari-mutuel ticket together with a credit voucher for any balance which may be due and which, upon the insertion of a winning or refunded pari-mutuel ticket, reads the ticket and automatically issues a credit voucher in the amount of the correct payout.

"Sending track" means an in-State or out-of-State sending track.

"Simulcast horse race" means a running or harness horse race conducted at a racetrack which is simultaneously transmitted by picture to a casino licensee.

"Totalisator" means a computer which, among other things, directly or indirectly through one or more other totalisators, receives pari-mutuel wagering information and calculates pay-offs for winning pari-mutuel tickets, and generates reports with respect to such information.

13:72-1.2 Rules of Racing Commission

Except as otherwise provided in the Casino Simulcasting Act or this chapter, the rules of racing and conduct of pari-mutuel wagering in casino simulcasting facilities and hub facilities shall be subject to the rules of the Racing Commission.

SUBCHAPTER 2. CONDUCT OF CASINO SIMULCASTING

13:72-2.1 Conduct of casino simulcasting

A casino licensee may conduct casino simulcasting in a casino simulcasting facility in accordance with the provisions of the Casino Simulcasting Act and this chapter.

13:72-2.2 Hub facility

A casino licensee which conducts casino simulcasting shall absent approval from the Commission and the Racing Commission to do otherwise, utilize a hub facility.

13:72-2.3 Receipt of races from in-State sending tracks

A casino licensee which conducts casino simulcasting shall, as a condition of continued operation of casino simulcasting, receive all live races which are transmitted by in-State sending tracks. A permit holder which is authorized by the Racing Commission to conduct casino simulcasting shall have discretion to transmit all or some of the live horse races conducted at the race track to casino simulcasting facilities; provided, however, any race which is transmitted from an in-State sending track shall be transmitted to all casino simulcasting facilities. A permit holder which wishes to transmit some, but not all, of its live horse races to casino simulcasting facilities shall do so only with the prior approval of the Racing Commission.

13:72-2.4 Receipt of races from out-of-State sending tracks

A casino licensee may, with the approval of the Commission and Racing Commission and subject to the provisions of the Casino Control Act, the Casino Simulcasting Act and this chapter, conduct casino simulcasting on races from an out-of-State sending track which has been approved by the Racing Commission to participate in casino simulcasting. An out-of-State sending track which transmits any race to a casino simulcasting facility shall offer to transmit such race to all casino simulcasting facilities on the same terms.

13:72-2.5 Agreements with sending tracks

(a) Agreements for casino simulcasting between a casino licensee and a sending track shall be in writing and shall be filed with the Racing Commission, and with the Commission in accordance with the provisions of N.J.S.A. 5:12-104. Such agreements may be negotiated on behalf of casino licensees by an entity jointly established by casino licensees.

(b) Every agreement between a casino licensee and a sending track shall, in a manner consistent with the provisions of the Casino Simulcasting Act and this chapter, define, and provide for the distribution of, outstanding pari-mutuel tickets, and define, and provide for the allocation of losses in the event of, a minus pari-mutuel pool. Every such agreement shall also provide for manual merging in the event of a systems or communications failure and shall further set forth a procedure, acceptable to the Commission and Racing Commission, which shall be followed in the event that manual merging is not possible.

13:72-2.6 Conduct of authorized games in a simulcasting facility

A casino licensee may, subject to the rules of the Commission, conduct any authorized game as defined by N.J.S.A. 5:12-5 or by rule of the Commission, other than slot machines, in a casino simulcasting facility.

13:72-2.7 Hours of operation

A casino simulcasting facility may be open during permitted hours of casino operation, and shall be open and operated during such hours whenever simulcast horse races are being transmitted to a casino licensee.

13:72-2.8 Gaming and simulcast wagering by certain persons prohibited

It shall be unlawful for any person who is prohibited from wagering at a game in a casino in this State pursuant to N.J.S.A. 5:12-100n to wager in a casino simulcasting facility on either an authorized game or on casino simulcasting.

13:72-2.9 Wagering limited to simulcasting facility

Wagering on simulcast horse races within the premises of a casino licensee shall be conducted only in a casino simulcasting facility.

However, pictures of simulcast horse races may be shown on non-casino public areas of the establishment as approved by the Commission.

13:72-2.10 No fee to be charged

No fee shall be charged for placing a wager on a simulcast horse race in addition to the amount wagered.

13:72-2.11 Ticket claims

(a) Subject to the time limitations imposed by N.J.A.C. 13:72-2.12, a winning pari-mutuel ticket purchased at a casino simulcasting facility *[may]* ***shall*** be presented for cashing at a pari-mutuel window at that facility *[or at any permit holder which conducted pari-mutuel wagering on the same race, and a winning pari-mutuel ticket purchased at a permit holder may be presented for cashing at a pari-mutuel window at the permit holder or at any casino simulcasting facility which conducted pari-mutuel wagering on the same race]*.

(b) Any claim by a patron that he or she has been issued an incorrect ticket shall be made before leaving the pari-mutuel window at which it was purchased. No claim shall be considered thereafter, and no claim shall be considered for tickets which have been discarded, lost, altered, destroyed or mutilated beyond identification.

(c) Payment of wagers will be made only upon presentation of appropriate pari-mutuel tickets.

13:72-2.12 Expiration of pari-mutuel tickets

A pari-mutuel ticket shall be claimed within six months of the date of its sale, after which it becomes an outstanding pari-mutuel ticket to be paid to the Racing Commission and deposited in the Casino Simulcasting Special Fund for distribution in accordance with the provisions of the Casino Simulcasting Act. Notice of this expiration provision shall be prominently posted in a casino simulcasting facility or printed on the pari-mutuel tickets sold at the casino simulcasting facility.

SUBCHAPTER 3. CASINO SIMULCASTING FACILITY

13:72-3.1 Location

A casino simulcasting facility shall be a contiguous area located within an approved hotel operated by a casino licensee and may be adjacent to, but shall not be part of, the room in which casino gaming is conducted pursuant to the provisions of the Casino Control Act. Notwithstanding the above, a casino licensee may construct barriers within the room for the purposes of permitting the conduct of authorized games and simulcast wagering in a manner maximizing patron comfort and the efficient operation of the facility, provided that such barriers are approved by the Commission and do not interfere with security or surveillance within the facility.

13:72-3.2 Space not to reduce space authorized for casino gaming

The space required to establish and maintain a casino simulcasting facility shall not reduce the space authorized for casino gaming pursuant to N.J.S.A. 5:12-83.

13:72-3.3 Square footage requirements

(a) A casino licensee which wishes to conduct casino simulcasting shall establish and maintain a casino simulcasting facility of sufficient square footage to promote:

1. Maximum comfort for patrons and efficient operation of the facility;

2. Viewing of simulcast horse races by patrons in a comfortable manner which is not obtrusive to the conduct of authorized games within the facility; and

3. Optimum security of the facility, which shall include the installation and maintenance of security and surveillance equipment, including closed circuit television equipment, according to specifications approved by the Commission. The Commission and Division shall have direct access to the system or its signal.

13:72-3.4 Satellite cage

A casino licensee which wishes to conduct casino simulcasting shall, unless otherwise approved by the Commission, establish and maintain a satellite cage in, or immediately adjacent to, its casino simulcasting facility.

SUBCHAPTER 4. PARI-MUTUEL POOLS

13:72-4.1 Horse races from in-State sending tracks

Sums wagered in a casino simulcasting facility on horse races at an in-State sending track shall be included in the appropriate pari-mutuel pool generated at the in-State sending track for the race being transmitted, and the pari-mutuel pool shall be divided in accordance with the provisions of the Casino Simulcasting Act. Pari-mutuel pay-offs at casino simulcasting facilities shall be made in accordance with the odds generated at the in-State sending track.

13:72-4.2 Horse races from out-of-State sending tracks

(a) Except as provided in this section, sums wagered in a casino simulcasting facility on horse races at an out-of-State sending track shall be combined with comparable pari-mutuel pools at the out-of-State sending track, and the types of wagering, takeout, distribution of winnings, rules of racing and percentage of deposits remaining undistributed from pari-mutuel pools after payment is made to winning ticket holders shall be determined in accordance with the law or policy applicable to the out-of-State sending track.

(b) With the prior approval of the Racing Commission and the concurrence of an out-of-State sending track, a casino licensee may form an interstate common pool with receiving tracks or entities in other states other than the state in which the sending track is located.

(c) In any event, however, monies resulting from breakage on amounts wagered on horse races in a casino simulcasting facility and outstanding pari-mutuel tickets sold at a casino simulcasting facility shall in all instances be paid to the Racing Commission and deposited in the Casino Simulcasting Special Fund for distribution in accordance with the provisions of the Casino Simulcasting Act.

13:72-4.3 Transmission data line

A transmission data line shall be a dedicated line. There shall be a minimum of one back-up line, which may be a dial-up line. In addition, each out-of-State sending track shall maintain a cellular phone in its totalisator room. These requirements may be waived only in exceptional cases for good cause shown with the prior written approval of the Commission and Racing Commission. Any application for such waiver shall be supported by documentation of the precautions which will be taken to assure that the alternative method of transmitting data, which may include the use of cellular phones, will be secure.

13:72-4.4 Facsimile machines and telephone lines

A casino simulcasting facility, hub facility and the totalisator room at a sending track shall each contain a facsimile machine and a direct dial-up telephone line, the numbers of which shall be provided to the Commission, Division and Racing Commission.

13:72-4.5 Pool definition

Prior to the opening of wagering on a simulcast horse race, a sending track shall transmit a pari-mutuel pool definition to a casino simulcasting facility. Upon receipt of the pool definition, pari-mutuel machines at a casino simulcasting facility may be opened for wagering.

13:72-4.6 Scratches

A sending track shall at all times inform a casino simulcasting facility of scratches and pool change information, and any scratch from a simulcast horse race after wagering has commenced shall be verified immediately by facsimile from the sending track to the casino simulcasting facility.

13:72-4.7 Locking of pari-mutuel machines

All pari-mutuel machines in a simulcasting facility shall be locked at off-time.

13:72-4.8 Ticket sales

No ticket may be issued after the totalisator has been locked or wagering has ceased, whichever occurs first.

13:72-4.9 Cease wagering

Wagering shall cease not later than off-time.

13:72-4.10 Cancellation of tickets

(a) Except as provided in this section, no pari-mutuel ticket on a current race shall be cancelled once a patron has left the pari-mutuel window where the ticket was purchased.

(b) Pari-mutuel tickets on wagers such as trifectas where probable pay-offs or odds are not displayed to the public may be cancelled at any time prior to off-time.

(c) No pari-mutuel ticket purchased at a self-service pari-mutuel machine on a current race shall be cancelled.

(d) Pari-mutuel tickets on advance races, whether purchased from a casino pari-mutuel cashier or a self-service pari-mutuel machine, may be cancelled by any casino pari-mutuel cashier until the race immediately preceding the race for which the cancellation has been requested has been declared official.

(e) A casino pari-mutuel cashier may cancel a pari-mutuel ticket on a current race during the delay period provided the ticket was purchased in the final transaction at the pari-mutuel window before off-time, and further provided that the ticket was incorrectly issued by the cashier or that the patron who ordered the ticket left the pari-mutuel window without paying for or accepting the ticket.

13:72-4.11 Refunds

A pari-mutuel ticket on a horse that is scratched may be refunded. Pari-mutuel tickets representing wagers where a patron must select more than one horse may be refunded only as to the combinations including the scratched horse.

13:72-4.12 Odds display

A casino licensee which conducts casino simulcasting shall prominently display in its casino simulcasting facility the approximate odds for each horse in a simulcast race for the purpose of informing patrons of the actual wagering on each horse.

13:72-4.13 Pari-mutuel machines closed

(a) If, for any reason, pari-mutuel machines are closed during the wagering on a simulcast race before off-time, they shall remain closed until after the race. Wagering shall cease on that race, and the pay-offs for that race shall be computed on the sums then wagered in each pari-mutuel pool.

(b) In the event that pari-mutuel ticket issuing machines are inadvertently closed for any reason, said machines shall be opened only by the Supervisor of Mutuels at the hub facility, or such person at the hub facility who has assumed his or her duties pursuant to N.J.A.C. 13:72-9.3.

13:72-4.14 Overpays caused by totalisator

Overpays caused by totalisator error shall be borne by the operator of the totalisator equipment causing the error.

13:72-4.15 Mechanical breakdowns

(a) In the event of an irreparable breakdown of the totalisator or all pari-mutuel and self-service pari-mutuel machines during the wagering on a race, the wagering on that race shall be declared closed, and the pay-off for that race shall be computed on the sums wagered in each pari-mutuel pool at the time of the breakdown.

(b) In the event of a totalisator malfunction requiring the operator of the totalisator equipment to purchase any non-issued ticket "lost" in the totalisator computer, the operator of the totalisator equipment 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 be paid to the Racing Commission and deposited in the Casino Simulcasting Special Fund for distribution in accordance with the provisions of the Casino Simulcasting Act. For example, if the "lost" tickets on a race cost \$1,000 and pay off \$800.00, the operator of the totalisator equipment must pay \$200.00. However, if the "lost" tickets cost \$1,000 and pay off \$1,200, the operator of the totalisator equipment need pay nothing and \$200.00 shall be paid to the Racing Commission and deposited in the Casino Simulcasting Special Fund.

13:72-4.16 Emergencies not covered by this chapter

In the event that an emergency arises with respect to simulcast wagering in a casino simulcasting facility which is not covered by this chapter and an immediate decision is necessary, the simulcast

shift supervisor or above shall make a good faith effort to contact and consult with the Supervisor of Mutuels or such person who has assumed to his or her duties pursuant to the provisions of N.J.A.C. 13:72-9.3 prior to taking action, and shall promptly render a written report regarding the incident to the Commission, Division and Racing Commission.

13:72-4.17 Transmission failure

In the event of failure to transmit pari-mutuel information to a sending track, no further wagers shall be accepted in a casino simulcasting facility until and unless the failure has been corrected. The casino simulcasting facility and sending track shall attempt to manually merge any wagers which have already been accepted but which have not been transmitted to the sending track due to the failure. Notice of this procedure and any backup procedure established in accordance with N.J.A.C. 13:72-2.5(b) shall be posted in a prominent location in the casino simulcasting facility. In any instance where manual merging or recourse to the backup procedure is required, actual notice thereof shall be publicly announced in the casino simulcasting facility.

13:72-4.18 Commingling notice

A casino licensee shall display prominently in its casino simulcasting facility notice that it is commingling wagers as required by the Casino Simulcasting Act. Such notice shall further provide that this procedure may result in changes in pools and pari-mutuel odds during the running of a simulcast race.

SUBCHAPTER 5. LICENSING OF EMPLOYEES

13:72-5.1 Employees of a simulcasting facility

All employees of a casino simulcasting facility shall be licensed or registered in accordance with the rules of the Commission.

SUBCHAPTER 6. LICENSING AND REGISTRATION OF
[CASINO SERVICE INDUSTRIES]
ENTITIES AND THEIR EMPLOYEES

13:72-6.1 Sending tracks

All sending tracks shall be licensed, or determined to be exempt from licensure, in accordance with the provisions of N.J.S.A. 5:12-92c. Any exemption of a sending track shall be subject to the conditions set forth in N.J.S.A. 5:12-92c, and each sending track shall have on file with the Commission a vendor registration form, any updates to which shall be filed with the Commission within 10 days of the occurrence of any changes.

13:72-6.2 Simulcast wagering equipment

All manufacturers, suppliers and repairers of simulcast wagering equipment, including totalisators, pari-mutuel machines and self-service pari-mutuel machines, to casino licensees or hub facilities shall be licensed in accordance with the provisions of N.J.S.A. 5:12-92a.

13:72-6.3 Hub facility

A hub facility shall be licensed in accordance with the provisions of N.J.S.A. 5:12-92a, and all employees of the hub facility shall be licensed or registered with the Commission as if the hub facility were itself a casino licensee. Additionally, a hub facility shall submit for Commission approval a jobs compendium and descriptions of its security procedures and accounting controls. A hub facility and its employees, and vendors of a hub facility other than casino licensees, shall further be subject to the licensure jurisdiction of the Racing Commission.

13:72-6.4 Other enterprises

Any other enterprise transacting business with a casino licensee or hub facility with respect to casino simulcasting shall be subject to the vendor registration and casino service industry licensing requirements applicable to any enterprise which transacts business with a casino licensee.

SUBCHAPTER 7. RECONCILIATION WITH SENDING TRACKS AND PAYMENTS TO RACING COMMISSION

13:72-7.1 Reconciliation with sending tracks

Each casino licensee which conducts casino simulcasting shall, in conformance with information provided by the hub facility, reconcile all simulcasting wagers with sending tracks on at least a weekly basis.

13:72-7.2 Outstanding pari-mutuel tickets

Each casino licensee which conducts casino simulcasting shall deposit all funds for outstanding pari-mutuel tickets in a separate account and maintain an ongoing, daily record of such tickets.

13:72-7.3 Payments to Racing Commission

Each casino licensee which conducts casino simulcasting shall, after the reconciliation of wagers, payment of fees to sending tracks, and retention of monies to which it is entitled under the provisions of the Casino Simulcasting Act, transmit to the Racing Commission all underpays and moneys due it pursuant to this chapter and in accordance with the provisions of the Casino Simulcasting Act.

SUBCHAPTER 8. RACE INFORMATION

13:72-8.1 Race information availability

A casino licensee which conducts casino simulcasting shall make available to patrons of its casino simulcasting facility the following information for each simulcast race: the names of entrants, their sires, dams and grandsires, their wagering numbers, post positions, jockeys, morning line odds, owner and owners' colors, trainers, sex, color, year of birth; the distance and number of the race; amount of purse; and conditions and claiming price, if any. For harness races, the performance lines for at least the last six races of each entrant shall also be available. The availability of such information, and the procedures for obtaining same, shall prominently be displayed in the casino simulcasting facility. Nothing in this chapter shall preclude a casino licensee from charging patrons a fee for providing such information.

SUBCHAPTER 9. SUPERVISORS OF MUTUELS AND VERIFIERS

13:72-9.1 Supervisor of Mutuels

A Supervisor of Mutuels shall be present at a hub facility at all times when casino simulcasting is being conducted. Unless determined by the Commission and Racing Commission that a longer period is necessary, for a period of one year from the date of commencement of casino simulcasting the Supervisor of Mutuels shall be an employee or designee of the Racing Commission whose compensation shall be reimbursed to the Racing Commission by the hub facility, or, if a designee, paid directly by the hub facility. If a Supervisor of Mutuels is not an employee of the Racing Commission, he or she shall be licensed as a casino key employee.

13:72-9.2 Duties of Supervisor of Mutuels

(a) The duties of a Supervisor of Mutuels at the hub facility shall include:

1. Overseeing the pari-mutuel related activities of the hub facility;
2. Determining calculations, overpays, underpays and directing any necessary adjustments to race totals;
3. Verify machine computation of all daily double, exacta and other multiple wagering pools;
4. Reviewing all necessary computer sheets and test checking the machine calculations of payouts, breakage, and commissions of each pool;
5. Verifying cancellation reports as transmitted from casino simulcasting facilities;
6. Preparing and submitting to the Racing Commission a daily summary result of the pari-mutuel operations, with copies to the Commission and Division;
7. Preparing and submitting to the Racing Commission a seven-day financial report and a seven-day comparative statistic report, with copies of the Commission and Division;

8. Daily reconciliation of the daily pari-mutuel sales with the hub facility's daily statement thereof and the Racing Commission's daily summary of results from pari-mutuel wagering; and

9. Reporting all discrepancies and irregularities to the Racing Commission, Division and Commission.

13:72-9.3 Assumption of duties of Supervisor of Mutuels

Subject to the provisions N.J.A.C. 13:72-9.1, not less than one year after the commencement of casino simulcasting the duties of a Supervisor of Mutuels set forth in N.J.A.C. 13:72-9.2 may be assumed by qualified employees of the hub facility, who shall be licensed as casino key employees and as may otherwise be required pursuant to N.J.A.C. 13:72-6.3. Notwithstanding the above, the Racing Commission may determine, at its own cost, to continue to have its employees or designees perform some or all of the duties of the Supervisor of Mutuels as set forth in N.J.A.C. 13:72-9.2.

13:72-9.4 Verifier

There shall be assigned to each Supervisor of Mutuels in a hub facility a Verifier, who shall be present at a hub facility at all times when casino simulcasting is being conducted. Unless determined by the Commission and Racing Commission that a longer period of time is necessary, for a period of one year from the date of commencement of casino simulcasting the Verifier shall be an employee or designee of the Racing Commission whose compensation shall be reimbursed to the Racing Commission by the hub facility, or, if a designee, paid directly by the hub facility. It shall be the duty of a Verifier to assist a Supervisor of Mutuels in carrying out the duties set forth in N.J.A.C. 13:72-9.2. If a Verifier is not an employee of the Racing Commission, he or she shall be licensed as a gaming-related casino employee.

13:72-9.5 Assumption of duties of Verifier

Subject to the provisions of N.J.A.C. 13:72-9.4, not less than one year after the commencement or casino simulcasting the duties of a Verifier may be assumed by qualified employees of the hub facility, who shall be licensed as gaming-related casino employees and as may be otherwise required pursuant to N.J.A.C. 13:72-6.3. Notwithstanding the above, the Racing Commission may determine, at its own cost, to continue to have its employees or designees perform some or all of the duties of the verifier as set forth in N.J.A.C. 13:72-9.4.

13:72-9.6 Continued access to hub facility by Racing Commission

The Racing Commission, its employees and agents shall at all times have access to the hub facility in order to maintain the integrity of horse racing and, together with the Commission and Division, to effectuate the purposes of the Casino Simulcasting Act. Such access shall in no way be affected by the replacement of Supervisors of Mutuels and Verifiers by employees of the hub facility, as provided in N.J.A.C. 13:72-9.3 and 13:72-9.5.

STATE

(a)

DIVISION OF ELECTIONS

Distribution of State Voter Registration Forms through Public Agencies

Adopted New Rules: N.J.A.C. 15:10-7

Adopted Amendment: N.J.A.C. 15:10-1.5

Proposed: March 2, 1992 at 24 N.J.R. 736(a) (see also 24 N.J.R. 1688(a) and 2531(a)).

Adopted: December 23, 1992 by Daniel J. Dalton, Secretary of State.

Filed: December 24, 1992 as R.1993 d.54, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 1991, c.318.

Effective Date: January 19, 1993.

Expiration Date: April 15, 1996.

Summary of Public Comments and Agency Responses:

The proposed rules were published in the New Jersey Register on March 2, 1992. Secondary notification was given by publishing notices in four newspapers with wide general circulation. The Division received comments from the following:

New Jersey Division of Motor Vehicles
 New Jersey Transit Corporation
 New Jersey Department of Labor Division of Worker's Compensation
 New Jersey Department of Labor Division of Employment Security
 and Job Training
 New Jersey Department of Labor Division of Administration

In the course of receiving comments from the above referenced agencies, the Division was notified by the New Jersey Attorney General that those sections of the legislation affecting the county welfare agencies "are incompatible with federal law governing the administration of public assistance programs . . ." which specifically prohibit those agencies from participating in voter registration activities.

As a result of this ruling, all references to county welfare agencies have been deleted from the rules as proposed. All other aspects of the rules as they affect other agencies remain unchanged.

COMMENT: The agencies commenting on the proposed rules all cited the need to clarify N.J.A.C. 15:10-7.3(a), as it was felt that the proposed rule was inconsistent with the authorizing legislation and too broad in its scope. The Division of Motor Vehicles (D.M.V.) commented that the authorizing legislation only requires an employee of D.M.V. to provide voter registration services to individuals making application for the original issuance, a renewal, or a correction of a driver's license or a State identification card.

The Department of Labor's Division of Worker's Compensation, the Division of Employment Security and Job Training and Robert Yokavonus, Assistant Commissioner of Labor all stated that the rules requiring each employee of their Divisions to provide voter registration services is not consistent with the authorizing legislation, which only requires an employee of each division to provide those services. Additionally, the Division of Worker's Compensation commented that the authorizing legislation only required its employees to make the appropriate inquiries of those individuals seeking temporary disability and unemployment benefits pursuant to N.J.S.A. 43:21-19 et seq.

The New Jersey Transit Corporation (NJTC) commented that the proposed rules go further than the statute in that they apply to each employee of NJTC, and requires the employee to specifically ask if the person is registered to vote. Additionally, NJTC stated that the statute refers to each major bus and rail terminal and all staffed rail locations, while the rules refer to all offices of the public agencies.

RESPONSE: The Secretary of State agrees with the agencies' comments that N.J.A.C. 15:10-7.3(a) should be clarified. The agencies' comments concerning the rules that require "each employee" and not "an employee" as provided in the authorizing legislation are addressed by amending N.J.A.C. 15:10-7.3(a) upon adoption. The concerns of the Division of Motor Vehicles that N.J.A.C. 15:10-7.3(a) is in conflict with the statute as it relates to DMV is addressed by adding N.J.A.C. 15:10-7.3(i) upon adoption. The comments of NJTC regarding location and employee responsibility are addressed by adding N.J.A.C. 15:10-7.3(j) upon adoption. The Division of Worker's Compensation comment concerning to whom its employees should make the appropriate inquiry is addressed by adding N.J.A.C. 15:10-7.3(k). These paragraphs, as revised or added upon adoption, are as follows:

(a) An employee of a public agency dealing with any member of the public appearing at offices of the public agency shall ask if the person is registered to vote and, if not, whether the person wishes to register. The employee shall also inform the person:

(i) In addition to the requirements of (a) through (h) above, an employee of the Division of Motor Vehicles shall ask of every applicant for the original issuance, a renewal, or a correction of a driver's license or a State identification card whether the applicant is registered to vote and, if not, whether the person wishes to register.

(j) In addition to the requirements of (a)1 and 2 and (b) through (h) above, an employee of New Jersey Transit Corporation at each major bus and rail terminal and at all staffed rail stations at which the corporation maintains operations shall provide the person with any assistance necessary in completing the form.

(k) In addition to the requirements of (a) through (h) above, an employee of the Division of Worker's Compensation shall ask of every

applicant for benefits under N.J.S.A. 43:21-19 et seq., whether the applicant is registered to vote and, if not, whether the person wishes to register.

COMMENT: The Division of Motor Vehicles (DMV) commented that the rules require employees of DMV to transmit completed forms to the agency head. DMV felt that this was unnecessary and completed forms should be sent directly to the Secretary.

RESPONSE: P.L. 1991, c.318 provides that employees of DMV when accepting a completed form shall "forward it to the Secretary of State or, in the case of an agent of the division, to the director of the division." The Secretary, for the purpose of these rules, defines agents of DMV as employees. In order for the rules to be consistent for all DMV personnel, and to comply with P.L. 1991, c.318, N.J.A.C. 15:10-7.5(a) is deleted upon adoption, subsequent subparagraphs are recodified accordingly, and N.J.A.C. 15:10-7.5(c) (now codified as (a)) would apply to all DMV personnel.

COMMENT: Robert Yokavonus, Assistant Commissioner of the Department of Labor, commented that employees are concerned that inquiring of each client if they are registered to vote is a violation of one's right to privacy. Mr. Yokavonus also suggested in his comments that completed forms be forwarded directly to the county election officials, rather than to the Secretary.

RESPONSE: Voter registration information is a public record and, as such, asking if a person is registered to vote is not an invasion of one's privacy. The statute provides that all Divisions with the Department of Labor shall forward completed forms to the Secretary.

COMMENT: The Secretary has received verbal comments from various public agencies concerning the requirement that a person witnessing a voter registration form must provide their home address. The agencies were concerned that this requirement was an invasion of the employee's right to privacy and personal safety.

RESPONSE: The Secretary requested an Attorney General's opinion as to whether public agency employees could use the address of the public agency when witnessing the voter registration form. The opinion of the Attorney General's office was that employees when witnessing the voter registration form at the public agency, could use the agency address.

COMMENT: A number of the public agencies, after being informed that employees could use the agency address when witnessing voter registration forms, felt that using the address of the agency as that of the witness might cause some embarrassment to those individuals receiving services and could act as a deterrent to their registering to vote.

RESPONSE: The Secretary is sensitive to the concerns of individuals and public agency employees regarding their right to privacy. An agency code system has been developed to protect individuals from becoming stigmatized as a result of registering to vote at certain public agencies. The agency locations will be assigned an identification code consisting of a series of letters and numbers that will identify the agency location to election officials. The agencies are required to provide to the Secretary a list of the names and addresses of employees that witness voter registration forms. The list will be confidential and only used as a means of assisting in verification of the registration application.

COMMENT: The Division of Security and Job Training commented that requiring employees and agents of a public agency to "report at least weekly to the agency head" is onerous, and should be changed to monthly reports. The Division also commented that employees should not be required to make a statement volunteering assistance in completing the form, and should only be required to do so if asked by the applicant.

RESPONSE: The rules require the agencies to report to the Secretary in May and October of each year regarding utilization of voter registration services. N.J.A.C. 15:10-7.7(a) is amended upon adoption to state "report at least monthly to the agency head"; this allows agencies to require either weekly or monthly reports from their employees.

P.L. 1991 c.318 provides that the employee shall provide the applicant with any assistance necessary in completing the form and forward it to the Secretary of State; therefore, the applicant must be made aware that the assistance is available.

COMMENT: The Division of Employment Security and Job Training, in the Department of Labor, comments that requiring employees to directly ask individuals seeking services of the agency whether or not they are registered to vote is too blunt. The commenter states that the proposed rules actually go beyond the legislative intent, in that the legislation only requires that "an employee of the division shall inquire

of every applicant for such services whether the applicant, if not already registered to vote from the place of his or her present residence, wishes to be so registered . . ."

The commenter goes on to suggest wording which, it is felt, is not overly intrusive of their clientele and yet meets the intent of the legislation. The suggested question to be used by their employees is: "If you are not registered to vote at your present address, would you like my assistance in registering you?"

RESPONSE: The proposed rules do not mandate or specify the actual wording that employees must ask. The wording suggested by the Division of Employment Security and Job Training is excellent and the Division of Elections has no problem with this question being utilized as meeting the requirements of the proposed regulations. No amendment of the rules is required to enable the implementation of this suggested line of questioning.

COMMENT: The New Jersey Attorney General informed the Division that ". . . the provisions of L. 1991, c.318 #9, requiring the use of county welfare agency facilities and personnel in your voter registration activity, are incompatible with federal law governing the administration of public assistance programs, including Aid to Families with Dependent Children and Medicaid, by county welfare agencies . . ."

RESPONSE: All references to welfare agencies in the implementing rules and regulations have been deleted. Specifically, the definition of "public agency" in N.J.A.C. 15:10-7.1 has been amended to read:

"Public agency" means any agency defined as such in N.J.S.A. 19:31-6.3a, excluding county welfare agencies and boards of social services.

In addition, N.J.A.C. 15:10-7.5(b), dealing with the transmittal of received and accepted voter registration forms, has been deleted.

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

15:10-1.5 Completion of form

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

(c) In order for the registrant to be deemed validly registered, the following items on the voter registration form must be completed in the following manner:

1.-8. (No change.)

9. The form shall be rendered invalid if the date of witnessing is earlier than the date of signature. If the date of witnessing is on or after the date of signature, a difference in the dates shall not render the form invalid.

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

SUBCHAPTER 7. DISTRIBUTION OF STATE VOTER REGISTRATION FORMS THROUGH PUBLIC AGENCIES

15:10-7.1 Definitions

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

"Agency head" means the Division Director, Executive Director or administrative officer listed in N.J.S.A. 19:31-6.4f.

"Applicant" means a person applying to register as a voter.

"Employee" includes an agent of the Division of Motor Vehicles and employees of such agent, as well as the employees of other public agencies.

"Form" means the voter registration form described in N.J.S.A. 19:31-6.4.

"Office" or "public office" means the place where voter registration forms must be made available to the public pursuant to N.J.S.A. 19:31-____ (P.L.1991, c.318, section 3).

"Public agency" means any agency defined as such in N.J.S.A. 19:31-6.3a*, excluding county welfare agencies and boards of social services*.

"Registered voter" means a voter who is registered to vote in the State of New Jersey.

"Secretary" means the Secretary of State.

"Transmittal" includes mailing, forwarding or direct delivery of forms to the agency head, the Secretary or the county board or superintendent of elections.

15:10-7.2 Prominent display of forms at public agencies; posting of notice

(a) Each public agency shall maintain a supply of forms located prominently within public view at each of its public offices.

(b) In addition to the prominent display of forms, each public office of a public agency shall display a sign which shall be provided by the Secretary of State.

(c) During the month of January in each year, the Secretary shall inform the agency head of each public agency of the closing dates for registration for the regular municipal, primary and general elections to be held that year.

(d) Each public agency shall post a notice informing the public of the closing dates described in (c) above.

15:10-7.3 Voter registration procedure; assistance to applicants; witnessing forms

(a) Each employee of a public agency dealing with any member of the public appearing at offices of the public agency shall ask if the person is registered to vote and, if not, whether the person wishes to register. The employee shall also inform the person:

1. That forms for registration are available at that office;

2. That the employee will assist the applicant in completing the form if asked to do so; and

3. That registering or not registering to vote will not affect the availability of any benefit or service that the public agency administers.

(b) If a person wishes to register at the office of a public agency, the agency employee dealing with that person shall provide the person with a form and shall assist the person in completing the form, if asked to do so.

(c) The employee assisting an applicant shall, if asked to do so, witness the applicant's signature if the employee is a registered voter.

(d) If the employee assisting an applicant is not a registered voter, the employee shall make reasonable efforts to provide the applicant with a witness who is a registered voter and, if a witness cannot be provided readily, the employee shall inform the applicant:

1. That the form cannot be completed at the office due to the need for a proper witness for the applicant's signature;

2. That the applicant's signature must be witnessed by a registered voter; and

3. That the form can be mailed or delivered to the Secretary, the appropriate county commissioner of registration or any public agency, as defined herein, once it has been completed, signed and witnessed.

(e) The employee assisting the applicant shall, if possible:

1. Make note of any defects observed on the completed form;

2. Make the applicant aware of any such defects; and

3. Assist the applicant in correcting the defects.

(f) The employee shall inform the applicant that the form can be mailed to the Secretary or given to the employee for transmittal to the Secretary or the appropriate county commissioner of registration.

(g) The employee shall inform the applicant:

1. That the applicant is not actually registered until his or her form is reviewed and accepted by the county commissioner of registration;

2. That the county commissioner of registration will notify the applicant, by mail of the acceptance or rejection of his or her application; and

3. That questions regarding the further processing of the form should be directed to the county commissioner of registration.

(h) Detailed instructions for employees of public agencies and for applicants can be obtained from the Secretary by any public agency.

***(i) In addition to the requirements of (a) through (h) above, an employee of the Division of Motor Vehicles shall ask of every applicant for the original issuance, a renewal, or a correction of a driver's license or a State identification card whether the applicant is registered to vote and, if not, whether the person wishes to register.**

(j) In addition to the requirements of (a)1 and 2 and (b) through (h) above, an employee of New Jersey Transit Corporation at each major bus and rail terminal and at all staffed rail stations at which

the corporation maintains operations shall provide the person with any assistance necessary in completing the form.

(k) In addition to the requirements of (a) through (h) above, an employee of the Division of Worker's Compensation shall ask of every applicant for benefits under R.S. 43:21-19 et seq. whether the applicant is registered to vote and, if not, whether the person wishes to register.*

15:10-7.4 Receipt, acceptance and stamping or marking; defects

(a) When a completed, signed and witnessed form is accepted by a public agency, it shall be stamped or marked with the date of receipt by placing the stamp or mark on the right side of block No. 8 on the form. The form shall also be initialed, below the "street address" portion of block No. 8, by the employee who stamps or marks the date of receipt.

(b) Forms which appear defective or improperly completed shall be stamped or marked, initialed and transmitted as if they had been completed properly.

15:10-7.5 Transmittal of received and accepted forms

*(a) Employees of the Division of Motor Vehicles shall transmit forms to the agency head, who shall in turn transmit such forms to the Secretary upon receipt.

(b) Employees of county welfare boards and county boards of social services shall transmit forms to the county board of elections, which shall in turn transmit such forms to the county superintendent of elections, in counties with such superintendents, upon receipt.*

*(c)**(a)* Employees of *[other]* public agencies shall transmit forms directly to the Secretary.

*(d)**(b)* Any person or agency mailing forms may send individual forms separately or batches of forms in bulk. Postage shall be provided by each public agency sending the forms.

*(e)**(c)* Any public agency transmitting forms in bulk shall first sort them by county of applicant's address.

*(f)**(d)* On the closing dates of registration for municipal, primary and general elections, and during the 10 days preceding such dates, forms shall be transmitted daily. In any event, forms must be transmitted no later than the day after the close of registration for any of the elections recited above. At other times, forms shall be transmitted not more than five days after receipt or acceptance.

15:10-7.6 Preparation, transmittal and updating of lists of offices

(a) Each public agency shall prepare and maintain a list of its public offices. The list shall include the street location and mailing address (if different) and telephone number of each office and shall indicate those locations where bilingual (English/Spanish) forms and instructions are provided to applicants.

(b) A copy of the list described in (a) above shall be mailed upon promulgation to the Secretary and shall be updated to show changes as they occur. Updates shall be mailed to the Secretary with the reports described in N.J.A.C. 15:10-7.7.

(c) Mailings to the Secretary shall be addressed to Department of State, Election Division, CN 304, Trenton, New Jersey 08625-0304.

15:10-7.7 Reports of utilization

(a) Employees and agents at each public office of a public agency shall report at least weekly to the agency head regarding utilization of voter registration services, using the format set forth in (c) below.

(b) Each agency head shall report the aggregate of such utilization to the Secretary in May and October of each year, not later than 10 days after the close of registration for the primary election and the general election, respectively.

(c) The format for reporting utilization of voter registration services shall be as follows:

Name of agency	Office location	Time period	Number of registrations
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TRANSPORTATION

(a)

NEW JERSEY TRANSIT CORPORATION
Conduct and Safety of the Public in the Use of the
NJ TRANSIT Equipment and Facilities

Adopted New Rules: N.J.A.C. 16:83

Proposed: October 19, 1992 at 24 N.J.R. 3674(a).
Adopted: December 18, 1992 by the New Jersey Transit
Corporation, Shirley A. DeLibero, Executive Director.
Filed: December 21, 1992 as R.1993 d.42, without change.
Authority: N.J.S.A. 27:25-5(e), (k) and (l).
Effective Date: January 19, 1993.
Expiration Date: January 19, 1998.

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

Full text of the adoption follows.

CHAPTER 83
CONDUCT AND SAFETY OF THE PUBLIC IN THE USE OF
NJ TRANSIT EQUIPMENT AND FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

16:83-1.1 Purpose; scope

The New Jersey Transit Corporation (NJ TRANSIT) and its subsidiaries are responsible for the provision of rail and bus services in the State of New Jersey. NJ TRANSIT owns and operates equipment (railcars and buses) and facilities. The facilities include, but are not limited to, rail and bus stations or terminals. NJ TRANSIT's major stations and terminals are centers of activity through which large numbers of people pass each day. NJ TRANSIT receives requests from the public for permission to exercise their constitutional rights of expressions at such stations and terminals. NJ TRANSIT, through this chapter, informs the public of how they can exercise their rights on or about NJ TRANSIT facilities and the procedures to be followed in exercising such rights. NJ TRANSIT also delineates, in this chapter, the standards of behavior to be followed at all facilities and in regard to all equipment of the NJ TRANSIT corporation.

16:83-1.2 Definitions

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

"Block" means to interfere with free passage or to hinder the usage of so as to deny availability or application of purpose of a portion of property, real estate, facility or equipment.

"Certificate of Registration" means the document authorized by a designated NJ TRANSIT official which delineates the restrictions as to specific times, specific locations, and certain conditions under which a person may carry out noncommercial, public expression at the specified NJ TRANSIT facility (see Appendix A, incorporated herein by reference).

"Certificate of Registration holder" means a person who holds a valid daily Certificate of Registration.

"Commercial expression" means any public expressive conduct that solely proposes a commercial transaction including, but not limited to, the sale, offer, promotion, peddling, vending, advertisement or display of goods and/or services.

"Controlled Dangerous Substances" means a drug, substance or immediate precursor as defined in Schedule I through V of the New Jersey Criminal Justice Code, N.J.S.A. 2C:35-2. The term "controlled dangerous substance" shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in N.J.S.A. 33:1-1 et seq., or tobacco products. The term "controlled dangerous substance" shall include controlled substance analogues.

"Disrupt" means to act to hinder, interfere, upset, impede or otherwise oppose the orderly accomplishment or pursuit of a task,

duty or objective or to interrupt the proper and normal course of any independent lawful activity.

"Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance or controlled substance analogue, in violation of the provisions of these rules or of Chapter 35 of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:35-1 et seq. and as more particularly defined in N.J.S.A. 2C:36-1.

"Equipment" means any railroad, NJ TRANSIT locomotive, engine, passenger car, coach, trolley, street railway car, bus, motor coach, crane, construction or emergency device or other passenger conveyance. Additionally, "equipment" as used in this chapter, unless a different meaning is clearly applicable, means and includes any NJ TRANSIT "Motor Vehicle" as defined under Title 39, Motor Vehicle and Traffic Laws of New Jersey.

"Expressive area" means designated portions of specific NJ TRANSIT facilities where a Certificate of Registration holder may locate and may exercise non-commercial public expression.

"Facilities" means all stations, and/or terminals owned or operated by NJ TRANSIT under contract, lease or other agreements or arrangements, including joint service arrangements. Further, the term "facilities" shall mean rights of way and related trackage and sidings, rails, catenary systems, depots, yards, tunnels, bridges, structures, storage areas, parking areas, offices, buildings, signal and communications systems and networks, dispensing machines, signal power, fuels, power plants, emergency exits, ventilation systems, signage, lighting, repair and maintenance shops and other real estate operated, used, owned, leased, held or occupied by NJ TRANSIT for or incidental to the operations, rehabilitation or improvement of rail and/or bus operations in the State of New Jersey.

"Knowingly" means that with the knowledge or the awareness of one's conduct, or of the existing circumstances, that a certain result will occur from such conduct or as a result of such circumstances.

"Non-commercial expression" means the public exercise of rights which concern political, social, religious or other issues to the extent that such expression is protected by the United States or State Constitutions, as applicable. Non-commercial public expression includes, but is not limited to, leafletting, public speaking and solicitation of contributions for religious, political or charitable causes. This definition is not intended to apply, and does not apply, to talking, reading, wearing political buttons or other forms of private expressions which are permitted throughout the public areas of facilities and equipment. Any advertisement or solicitation that solely proposes a commercial transaction is expressly excluded.

"Obstruct" means to walk, run, stand, sit, lie, drive or place an object in such a manner as to block passage by another person or by a vehicle or to require another person or vehicle to take evasive action to avoid physical contact.

"Official" means any person or persons designated by NJ TRANSIT to have supervisory and/or operational authority and responsibility for NJ TRANSIT facilities and/or equipment, or any portion thereof.

"Person" means any person, individual or individuals, corporation, society, organization, company, association, partnership, firm, or other entity.

"Personal notice" means an oral, or spoken, communication directed to an individual or a group of individuals from an NJ TRANSIT official.

"Police officer" means any member of the NJ TRANSIT Police Department, or any other law enforcement officer who has jurisdiction in the facility or on the equipment in which a violation of these rules shall occur.

"Possess" means to have or to exercise control or command over any item, device, tool, product or matter.

"Public area" means such portions of NJ TRANSIT facilities and equipment which are routinely and normally accessible to members

of the public and are adapted to provide for the convenience of persons utilizing the incidental services of NJ TRANSIT.

"Purposely" means intentionally, deliberately or with the objective, design or plan to participate in such conduct which is known or expected to or is likely to cause a certain or specific result.

"Restrict" means to confine or set limits or to hold within bounds and limitations. Additionally, the term "restrict" shall include the exclusion of designated persons or groups.

"Restricted area" means such portions or portion of NJ TRANSIT facilities and equipment which are separately secured, locked, fenced, posted or otherwise adapted so as to put persons on notice that unauthorized entry is not permitted. Additionally, "restricted area" shall include portions of NJ TRANSIT facilities which are the subject of notification by personal communication, public announcement or appropriate signs that such areas are temporarily not to be entered and/or remained upon.

16:83-1.3 Commercial expression

(a) A contract with NJ TRANSIT shall be required of any person or organization seeking to engage in commercial expression at any facility.

(b) Information concerning contracts for commercial expression is available by contacting the following:

NJ TRANSIT
Real Estate Department
One Penn Plaza East
Newark, New Jersey 07105-2246

(c) Personal access to vehicles or equipment, whether stationary or mobile, for the purpose of conducting commercial expressive activities, shall be prohibited.

(d) Nothing in this chapter shall be construed as impairing or expanding any right which NJ TRANSIT lessees or licensees may otherwise have to regulate access to those areas under their control by virtue of their interest in the premises.

16:83-1.4 Non-commercial expression

(a) NJ TRANSIT, in this chapter, sets forth limitations on the times, places and manner of non-commercial expression at the passenger facilities specified at N.J.A.C. 16:83-2.2(d), to ensure that the orderly and safe flow of pedestrians and vehicles is not obstructed and that the normal operations of business are not unduly disrupted. These limitations are not intended to apply, nor do they apply, to talking, reading, wearing political buttons or other similar private forms of expression, all of which are permitted throughout the public areas of NJ TRANSIT facilities and/or equipment.

16:83-1.5 NJ TRANSIT disclaimer

NJ TRANSIT is not responsible for the views and ideas expressed in the conduct of non-commercial expression by a person or organization holding a certificate of registration. Through signs, public announcements and/or personal communication, NJ TRANSIT may advise the public of the presence of a person or organization and may disclaim responsibility for, and/or sponsorship of, that person or organization's cause.

16:83-1.6 Enforcement

If NJ TRANSIT determines that any person's conduct violates any of these regulations, NJ TRANSIT shall notify the violator to stop the wrongful conduct, or to leave the facility and/or equipment. If the violator fails to cease the wrongful conduct or to leave the property when so notified, the wrongful conduct, if done purposely, shall constitute trespass and the violator is subject to arrest, to fine and/or to imprisonment pursuant to the applicable laws and/or ordinance.

SUBCHAPTER 2. CERTIFICATE OF REGISTRATION FOR NON-COMMERCIAL EXPRESSION

16:83-2.1 Non-commercial expression; generally

(a) To accommodate persons and organizations who desire to engage in non-commercial expression at the specified NJ TRANSIT facilities, the Manager of Stations and Facilities or his or her designee will issue Certificates of Registration (Certificates) on a first-come, first-serve basis, to conduct non-commercial expression

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in the specified areas (as designated on the map attached to the Certificate and on Appendices B-1 through B-10) of the particular NJ TRANSIT facility to persons or organizations who complete the application. If the application is being made on behalf of an organization, the application must state the number of persons requesting a Certificate. These Certificates will be issued without charge, when fully completed and consistent with these regulations subject to availability and limitations of space. These Certificates will be issued immediately upon application in person or by telefax, and within one day of receipt of the completed application by mail.

(b) Applications for Certificates of Registration, and the Certificates of Registration, may be obtained on weekdays between 9:00 A.M. to 5:00 P.M.:

1. For Newark Penn Station, Trenton Station, Westfield Station and Atlantic City Rail Terminal, from:

The Office of the Manager of Revenue
and Facilities

Penn Station Newark
Raymond Plaza West
Newark, N.J. 07102; or

2. For Newark Broad St. Station, Dover Station, Hoboken Terminal, and Summit Station, from:

The Office of the Manager of Revenue
and Facilities

Hoboken Terminal
One Hudson Place
Hoboken, N.J. 07030, or

3. For Lakewood Bus Garage from:

Supervisor
Lakewood Bus Garage
First and Lexington Aves.
Lakewood, N.J. 08701

(c) During other hours, the applications and Certificates may be obtained from:

The New Jersey Transit Police Department
Broad Street Station
25 University Avenue
Newark, N.J. 07104

16:83-2.2 Application for Certificate of Registration

(a) The application for a Certificate of Registration, signed by the applicant, shall contain the following:

1. The applicant's name and telephone number;
2. If applicable, the name of the organization which the applicant represents;
3. If more than one Certificate is requested, the name(s) and title(s) of the person(s) who will have supervision of and responsibility for the expressive conduct at the specified facility during the term of the Certificate; and
4. If applicable, a statement that the proposed solicitation or sale of printed matter is for a non-commercial purpose, that is, for contributions which will be used:
 - i. By a religious group;
 - ii. By a political organization;
 - iii. By an organization that has received an Internal Revenue Service determination that it is tax exempt under 20 U.S.C.A. 501(c)(3), (c)(4), or by (i)(5); or
 - iv. By an organization duly registered with the State of New Jersey as a charitable organization, in accordance with N.J.S.A. 45:17A-1 et seq.

(b) At the option of the applicant, the applicant's address and/or telephone number may be listed on the application. No applicant shall be required to list an address or telephone number on an application for a certificate of registration for non-commercial expression.

16:83-2.3 Disposition of application; appeal of denial

(a) Upon receipt of the completed application, the appropriate NJ TRANSIT official or designee shall immediately give, telefax or mail the applicant the requested number of Certificates, if available.

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(b) If the applicant is denied a Certificate after completing the application, the applicant may immediately appeal this denial by contacting:

Executive Director
New Jersey Transit Corporation
One Penn Plaza East
Newark, New Jersey 07105-2246

(c) An appeal shall be made in writing and shall include a statement describing the nature of the appeal and what factual issues, if any, shall be in dispute. Within two business days after receipt of such appeal, the Executive Director or his or her designee shall conduct a review, if any factual dispute exists, and render a decision within one business day thereafter. The decision of the Executive Director or his or her designee shall be made in writing and shall set forth the legal and/or factual basis for the decision.

16:83-2.4 Validity of Certificate of Registration

(a) A Certificate of Registration is valid for up to, but not more than, five days. Each certificate is valid up until closing time of the facility. If the facility does not close, the Certificate is valid up to 12:00 midnight of the date(s) appearing on the Certificate, and, if valid the following day, is valid beginning at 6:00 A.M.

(b) Each certificate shall be valid only for the person or organization designated by NJ TRANSIT on that certificate. Certificates shall not be transferred or assigned to another person(s) or organization(s).

(c) NJ TRANSIT may limit the number of valid continuous Certificates of Registration to the maximum number of persons established for the particular facility, as shown on the maps in Appendix B, incorporated herein by reference. The maximum number of persons shall be indicated on the map attached to each Certificate of Registration. If the number of applicants or persons covered by an application of an organization exceeds the maximum number of Certificate of Registration holders indicated on the map of the specified facility, NJ TRANSIT will distribute the maximum number of Certificates on a "first-come, first-served" basis.

(d) Certificates of Registration issued in accordance with this chapter shall be valid only at the facility specified on the Certificate. These facilities are the Newark Broad Street Station, Dover Station, Hoboken Terminal, Newark Penn Station, Summit Station, Trenton Station and Westfield Station and the Atlantic Rail Terminal and Lakewood Garage.

16:83-2.5 Limitation of Certificate; access during emergency

(a) NJ TRANSIT may temporarily defer or modify the Certificate for emergent public health, welfare or safety reasons including extraordinary weather, power failures, accidents, disasters, strikes, riot, fire, civil disorder, service disruptions, special NJ TRANSIT-sponsored customer service events or other events which create a dangerous condition in the relevant expressive area or which substantially interfere with the transportation related activities of the facility.

(b) NJ TRANSIT may temporarily grant or restrict public access to its facilities and equipment, or to portions thereof, at its discretion for emergent public health, safety or welfare reasons without prior notice. When there is threat to the public health, safety or welfare, NJ TRANSIT facilities and equipment, or portions thereof, may be closed by any NJ TRANSIT official who has the authority to do so upon personal communication, public announcement or conspicuous signage.

16:83-2.6 Noise

Certificate of Registration holders shall at no time shout, make outcries, use devices for voice and/or sound amplification, or other devices that substantially disrupt transportation-related activities.

16:83-2.7 Placards

Only placards made of cloth, heavy paper, cardboard or similar light weight materials shall be used by Certificate holders. Such placards shall be no larger than 48 inches by 24 inches. Placards shall be exhibited no higher than nine feet from the floor and shall not be affixed to any wall, door, window, canopy or any other interior or exterior portion of the facility.

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16:83-2.8 Tables

No Certificate of Registration holder shall use a table, unless the map attached to the Certificate expressly provides for this use in the designated expressive area.

16:83-2.9 Maintenance of area

Certificate of Registration holders shall not leave materials unattended and shall remove the same at the end of each daily session. Certificate of Registration holders shall at all times keep the area in a reasonably clean, neat, and uncluttered condition.

16:83-2.10 Inspection of Certificate

A Certificate of Registration holder who is exercising non-commercial expression in an NJ TRANSIT facility shall have a valid Certificate of Registration available at all times, on his or her person, for inspection by an authorized NJ TRANSIT representative or local official.

16:83-2.11 Liability

Certificate of Registration holders assume all liability for any and all damage or injury arising out of the Certificate holder's non-commercial expressive activity, on or about NJ TRANSIT's facilities and, by accepting the Certificate of Registration, agree to release the State of New Jersey, NJ TRANSIT and its subsidiaries, and any of their servants, employees or agents from any liability or damages resulting from the Certificate holder's use or occupancy of NJ TRANSIT's facilities in connection with the Certificate of Registration.

SUBCHAPTER 3. RESTRICTIONS AND PROHIBITIONS FOR ALL NJ TRANSIT FACILITIES AND EQUIPMENT

16:83-3.1 Prohibited acts

(a) Except as otherwise provided for in this chapter, the following conduct is prohibited in NJ TRANSIT facilities and equipment, as set forth below:

1. No person shall disrupt or obstruct passage to or from a loading area, information booth, emergency or fire exit, restroom, hallway, stair, staircase, landing, escalator, elevator, ticket machine, ticket counter, concession counter, bench, seat, chair, platform, door or other walkway of a facility or equipment.

2. No person shall enter or remain in any area of a NJ TRANSIT facility or equipment upon notification by personal communication from an authorized NJ TRANSIT employee, public announcement, or sign that access to such area is conditional unless such person complies with the specified condition(s).

3. No person shall throw, drop, shoot, project, propel, cast or otherwise strike in, into or place upon any facility or equipment any projectile, stick, stone or other foreign matter or object.

4. No person shall dump, discard, unload, reject, throw out, scrap, abandon, dispose or otherwise rid themselves of any junk, refuse, trash, rubbish, waste, garbage, rubble, debris or other litter and unused matter into or upon any NJ TRANSIT facility or equipment without the authorization of NJ TRANSIT. This prohibition does not apply to refuse incidental to normal and routine usage of the facilities and equipment.

5. No person shall climb or attempt to climb into or upon any NJ TRANSIT facility or equipment without the express authority of NJ TRANSIT.

6. No person shall knowingly obtain, possess or use any Controlled Dangerous Substance, as defined in these rules, unless the substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner (as defined in N.J.S.A. 24:21-2), while acting in the course of his or her professional practice, except as otherwise authorized by N.J.S.A. 24:21-1 et seq.

7. No person shall knowingly possess or use any drug paraphernalia as defined in these rules unless obtained directly, or pursuant to a valid prescription or order form, from a practitioner, (as defined in N.J.S.A. 24:21-2) while acting in the course of his or her professional practice, or except as otherwise authorized by N.J.S.A. 24:21-1 et seq.

8. No person may consume or possess any alcoholic beverage, distilled spirits, wine, beer or malt nor shall any person possess an open, unsealed container of these beverages within the confine of NJ TRANSIT facilities or equipment except in such areas and at such times as designated by NJ TRANSIT as permitting the sale and/or consumption of these beverages.

9. No person shall ride, roll, skate or coast upon any bicycle, skate, skateboard, roller blades, scooter or other device propelled by physical exertion or mechanical means within NJ TRANSIT facilities or equipment other than parking areas, with the exception of devices utilized by disabled persons.

10. No person shall ignite, light, kindle or otherwise create, burn, maintain, preserve or sustain any fire except where expressly authorized by NJ TRANSIT.

11. No person shall light, smoke, or carry any lighted tobacco or tobacco product in any area of NJ TRANSIT facilities or equipment with the exception of those portions thereof designated and specially marked by NJ TRANSIT for smoking and using tobacco products.

12. No person, without an appropriate license from NJ TRANSIT or without prior agreement with NJ TRANSIT, may offer or agree to carry baggage, parcels, or belongings of others for personal pecuniary gain.

13. No person without an appropriate license from NJ TRANSIT or other appropriate authority, shall hire, attempt to hire, flag, hawk or otherwise provide cab services for personal pecuniary gain.

14. No person shall engage in, attempt to engage in or participate in any conduct which purposely and unlawfully disrupts, interferes with, or otherwise interrupts the commercial activities and pursuits of lessees, tenants and customers operating within NJ TRANSIT facilities and/or equipment and which serves no legitimate purpose of the person.

15. No person shall subject other persons, patrons, employees, tenants or tenants' employees to any or all of the following unlawful conduct:

i. Engaging in, or threatening, fighting or other violent or tumultuous behavior;

ii. Creating a hazardous or physically dangerous condition by any act which serves no legitimate purpose of the actor;

iii. Subjecting another to striking, kicking, shoving, spitting, punching or other offensive touching, or threatening to do so; or

iv. Engaging in any course of alarming conduct or of repeatedly committed acts with the purpose to alarm or seriously annoy such other person.

16. No person shall cause damage, injury or harm by vandalizing, defacing, marking, marring, scratching, gouging, tearing, burning, moving, altering or writing upon NJ TRANSIT facilities and equipment.

17. No person shall, while in or about NJ TRANSIT facilities or equipment, create, cause, maintain or sustain any noise that disrupts the transportation operations of the facility or equipment.

18. No person shall solicit funds (without first obtaining a Certificate of Registration in accordance with the requirements of this chapter, or shall panhandle, or beg within the confines of NJ TRANSIT facilities or equipment for any reason whatsoever.

19. No person shall spit into or upon any public or restricted area except in appropriate receptacles designed for such purpose.

20. No person shall urinate or defecate in any public or non-public area other than in urinals or toilets expressly provided for that purpose.

21. No person shall jointly occupy with one or more persons any single urinal, toilet booth or stall with the exception of those persons granting assistance to disabled or incompetent persons or to small children.

22. No person shall utilize public lavatories for the purpose of bathing, changing clothes, laundering clothes or personal belongings, and all washing activities shall be limited to the immediate needs of personal hygiene.

23. No person shall refuse to tender or display compensation in the form of fare, currency, ticket, token or pass for the available transportation services, nor shall any person take actions with the purpose of avoiding this obligation.

ADOPTIONS

ADOPTIONS

24. No person shall bring, escort, carry or otherwise accompany any animal except seeing eye/hearing dogs appropriately restrained and charged, or other domestic animals restrained in appropriate carriers.

25. No person may engage in protected expression without complying with the terms and conditions of a valid Certificate of Registration or with a valid contract.

26. No person shall be allowed access to any NJ TRANSIT equipment, whether stationary or mobile, for the purpose of conducting any public expression.

27. No person shall erect any permanent or temporary structure on NJ TRANSIT property without the authorization of NJ TRANSIT.

28. No person shall operate any vehicle nor shall any vehicle be parked upon NJ TRANSIT facilities in such a manner as is in violation of the provisions of Title 39, Motor Vehicle and Traffic Laws of New Jersey.

APPENDIX A

CERTIFICATE OF REGISTRATION

Name: _____

Name of Organization
(if applicable): _____

Address (Optional): _____

Telephone Number (Optional): _____

TRANSPORTATION

Facility: _____

Date(s) of Non-Commercial
Public Expression: _____

Time(s) of Non-Commercial
Public Expression: _____

Purpose of Non-Commercial
Public Expression: _____

You are hereby permitted to engage in non-commercial public expression in the designated area (as shown on the map attached hereto and made a part hereof) of the NJ TRANSIT Facility stated above, on the date(s) and during the time(s) set forth above, subject to the terms and conditions of N.J.A.C. 16:83, a copy of which is attached hereto and made a part hereof.

Authorized by: _____
(Name and Title of NJ TRANSIT Official)

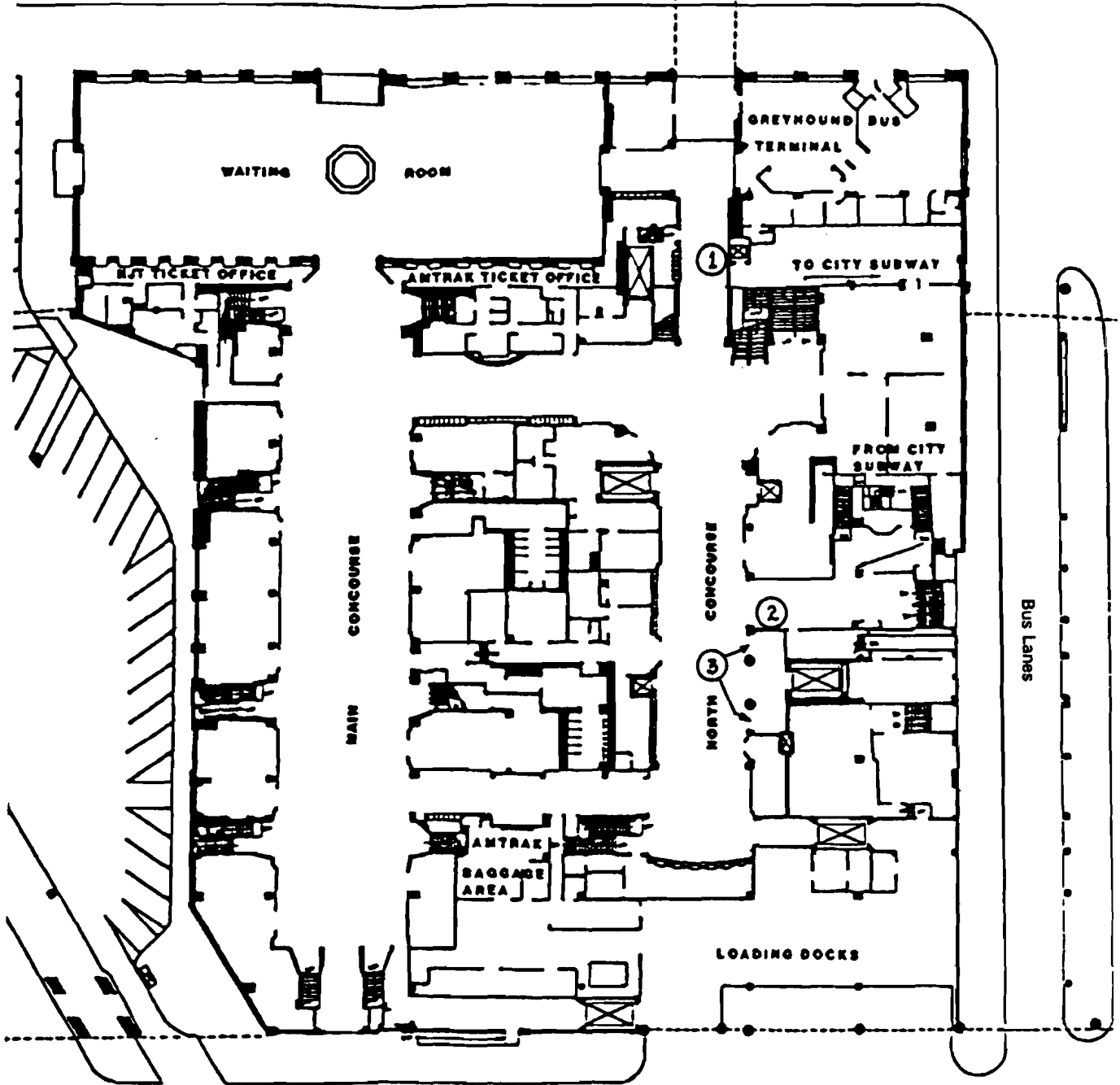
The undersigned agrees to comply with all of the terms and conditions of this Certificate of Registration.

(Signature of Certificate Holder)

APPENDIX B

RAYMOND PLAZA WEST

PEDESTRIAN BRIDGE (ABOVE)



RAYMOND PLAZA EAST

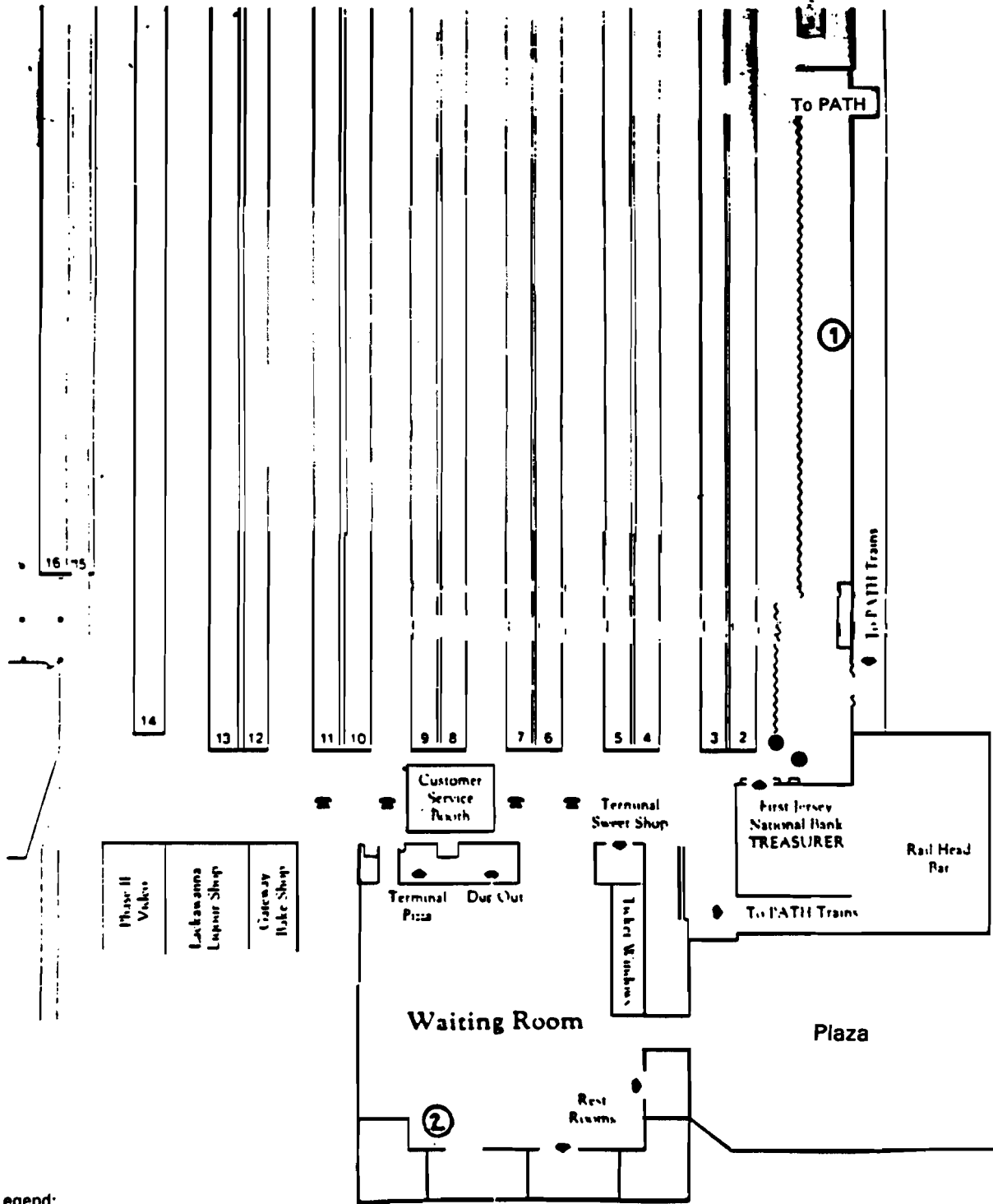
Legend:

Location 1 = 3 persons

Location 2 = 2 persons

Location 3 = 4 persons

Pennsylvania Station

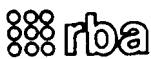
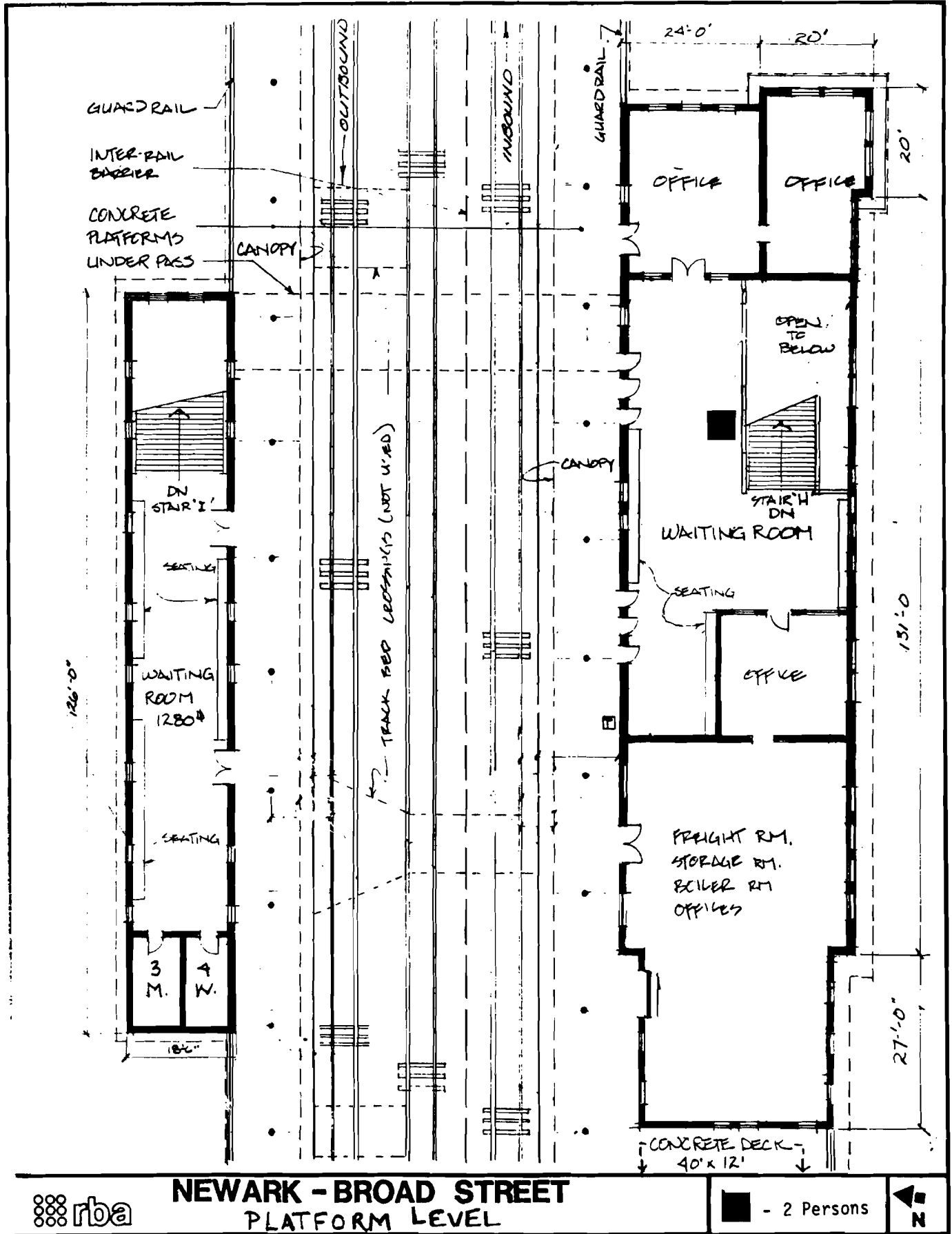


Legend:

Location 1 = 5 persons

Location 2 = 2 persons

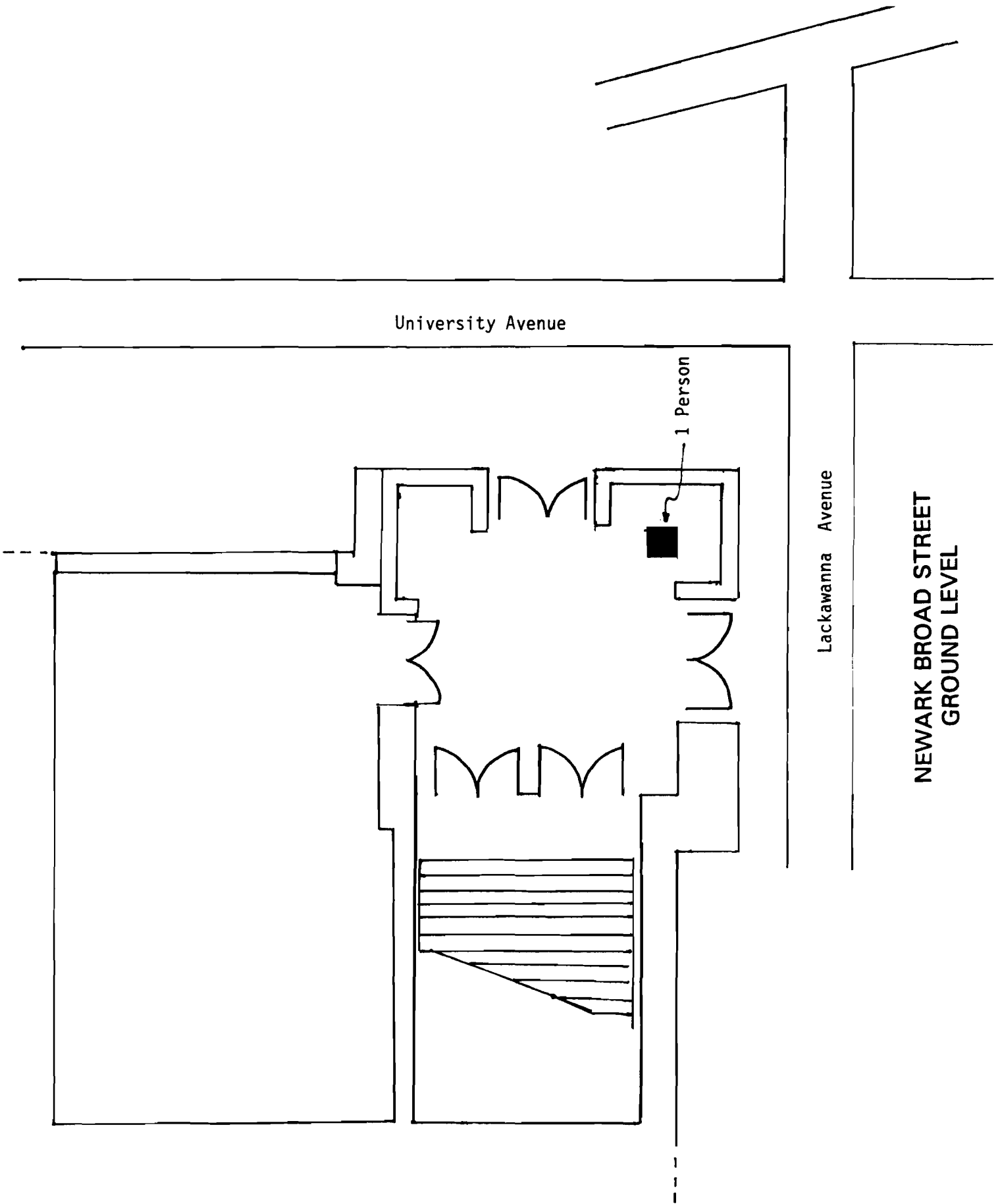
Hoboken Terminal

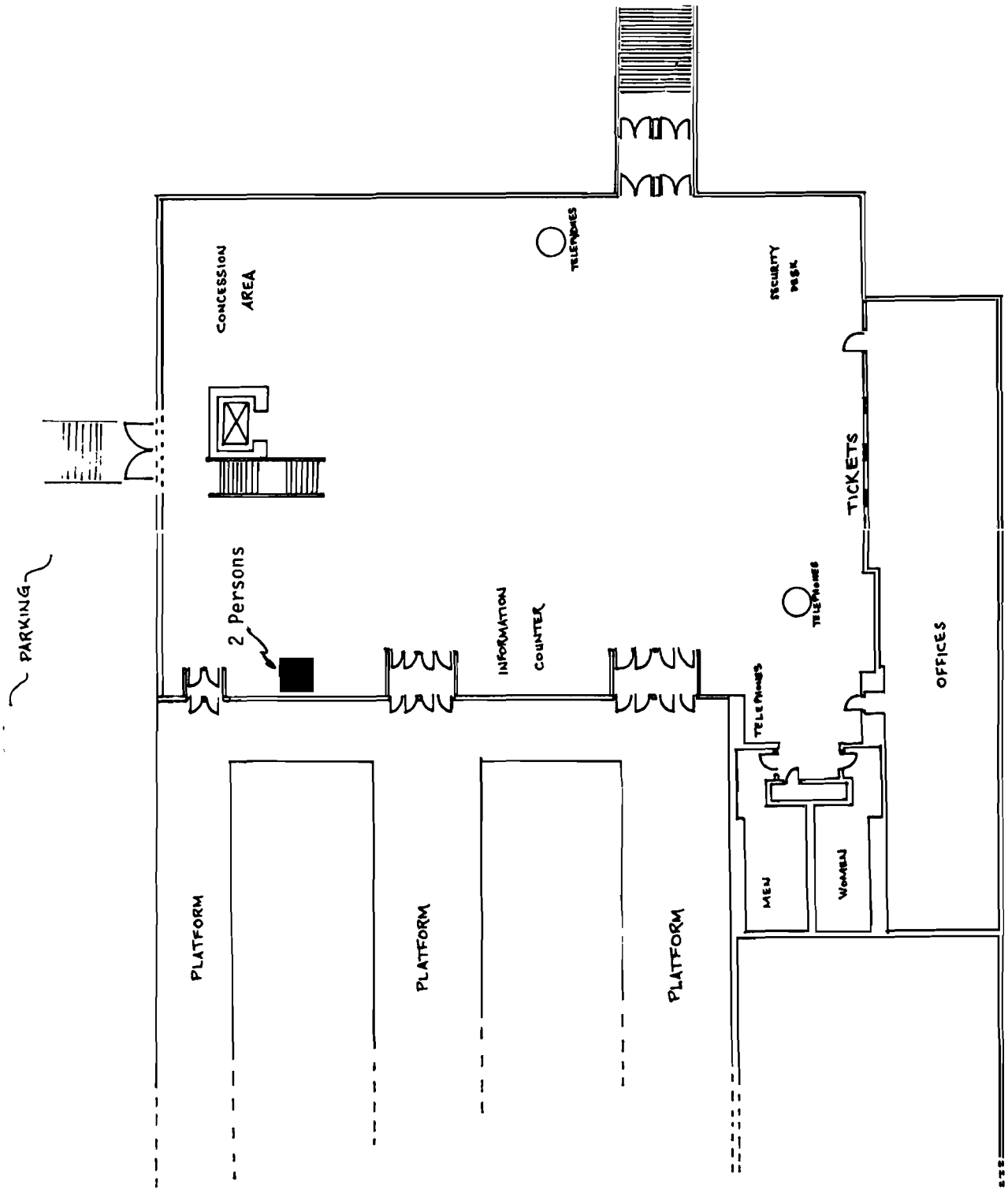


NEWARK - BROAD STREET PLATFORM LEVEL

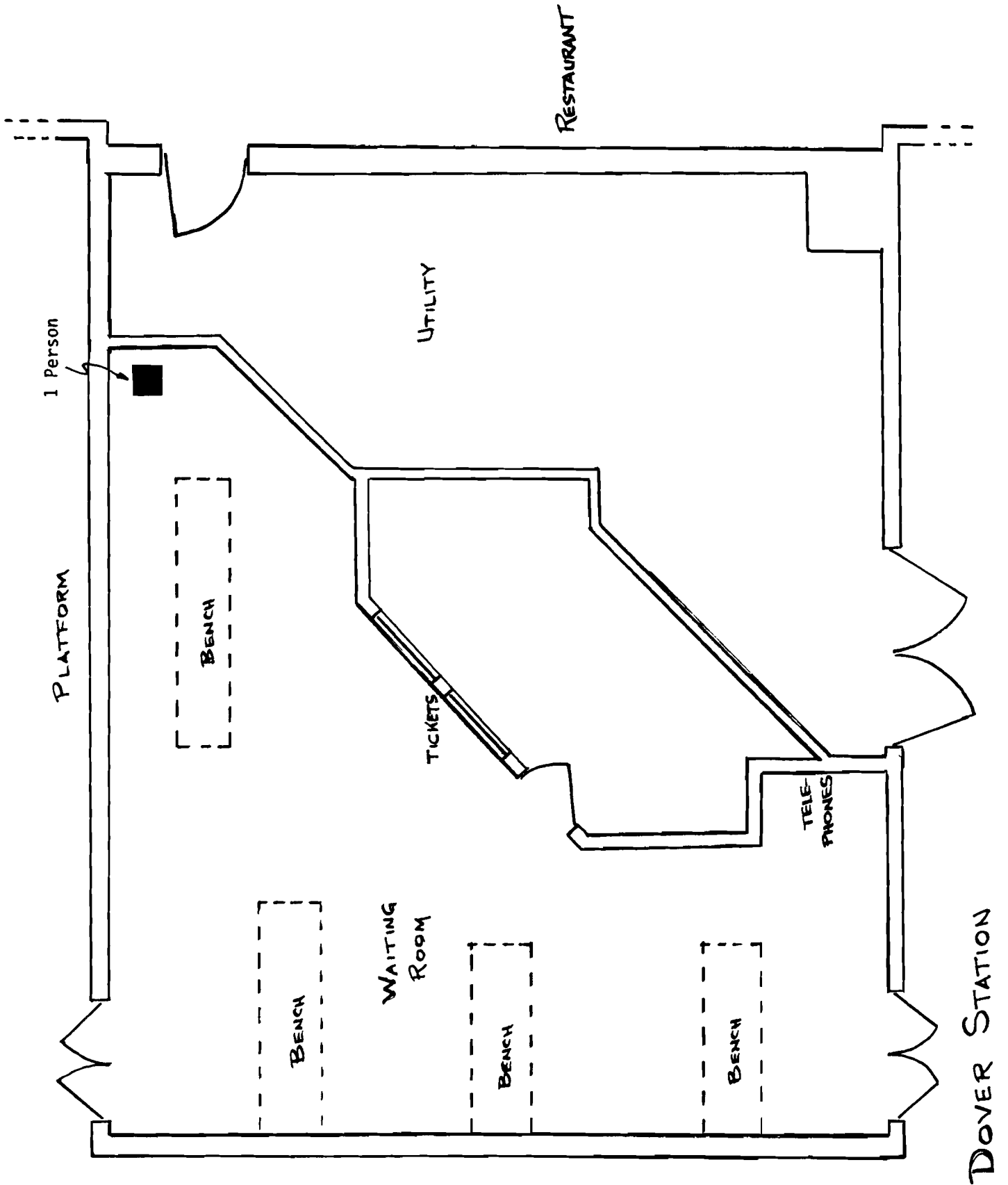
■ - 2 Persons

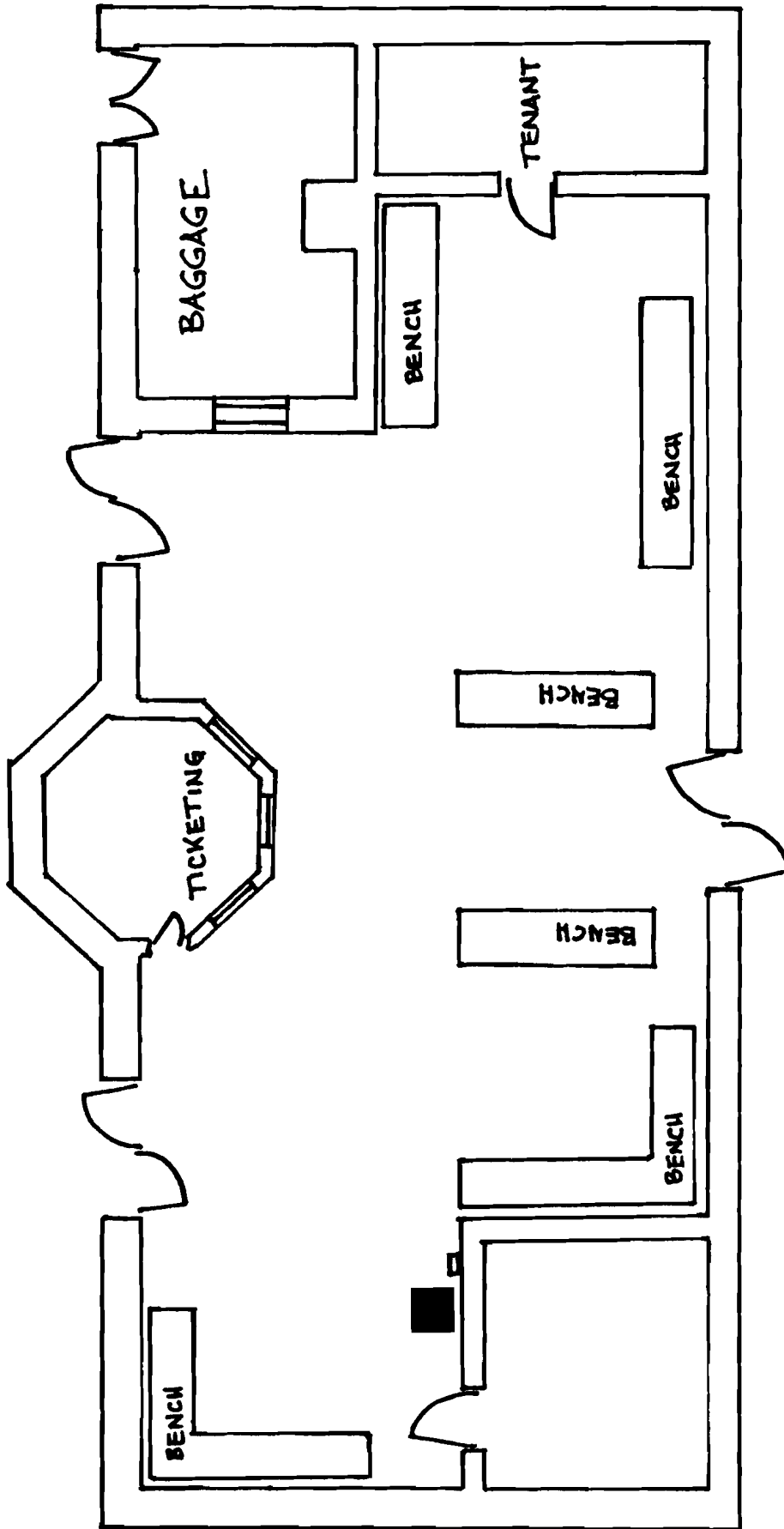






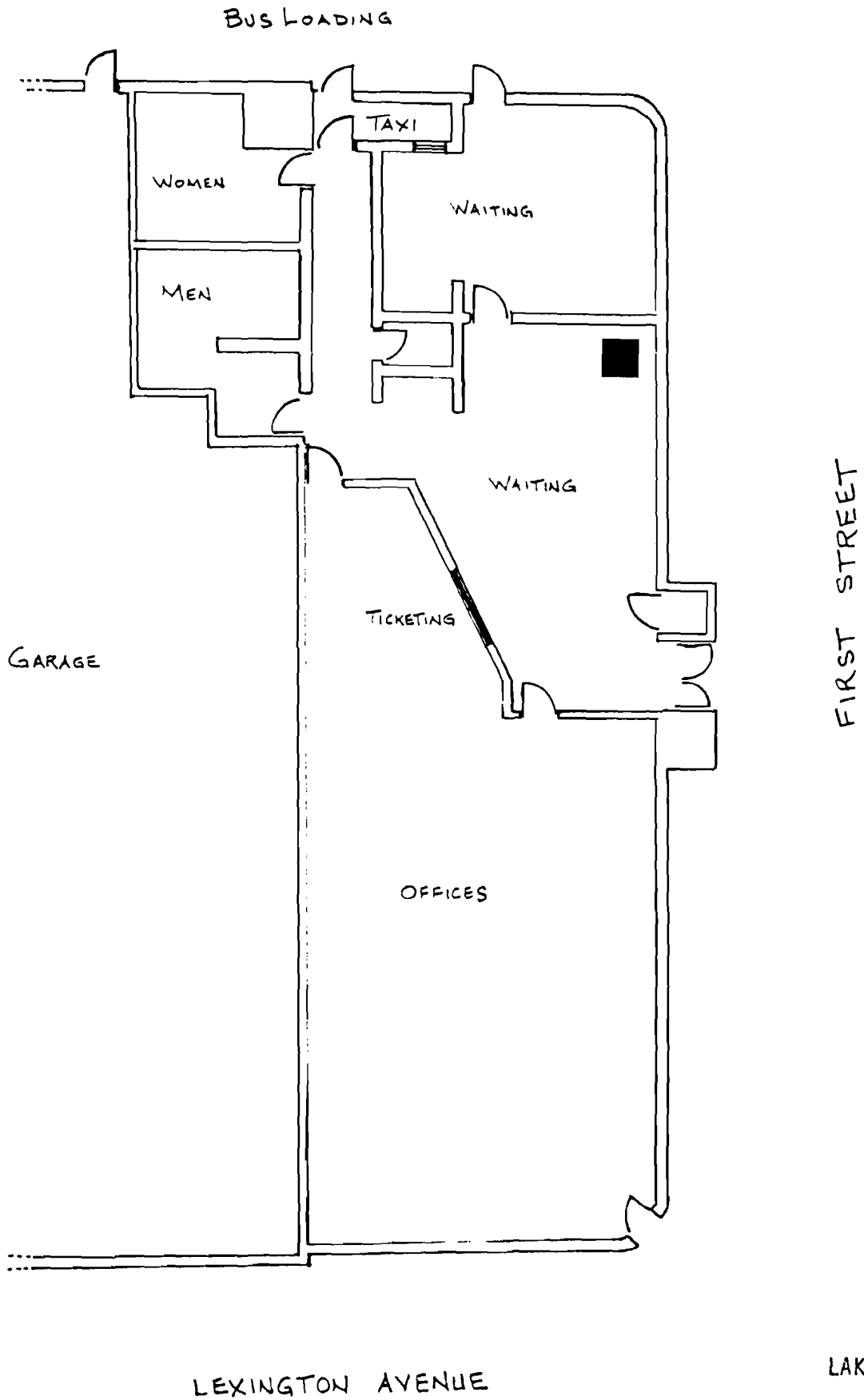
ATLANTIC CITY TERMINAL



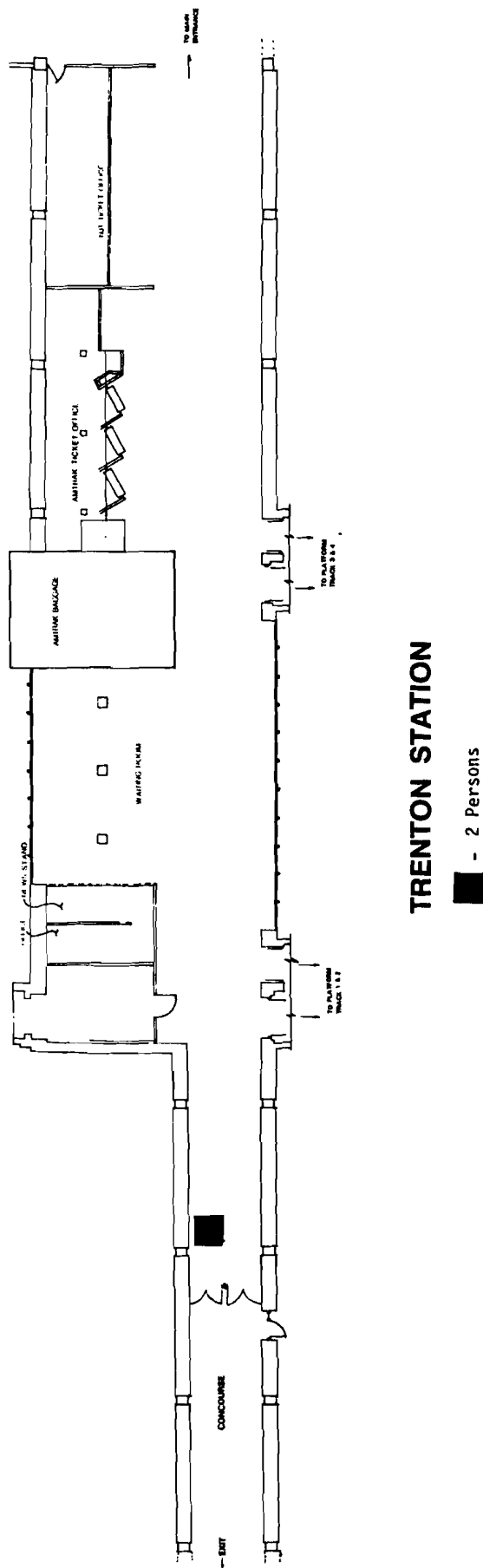


WESTFIELD STATION
INBOUND BLDG.

■ - 1 Person

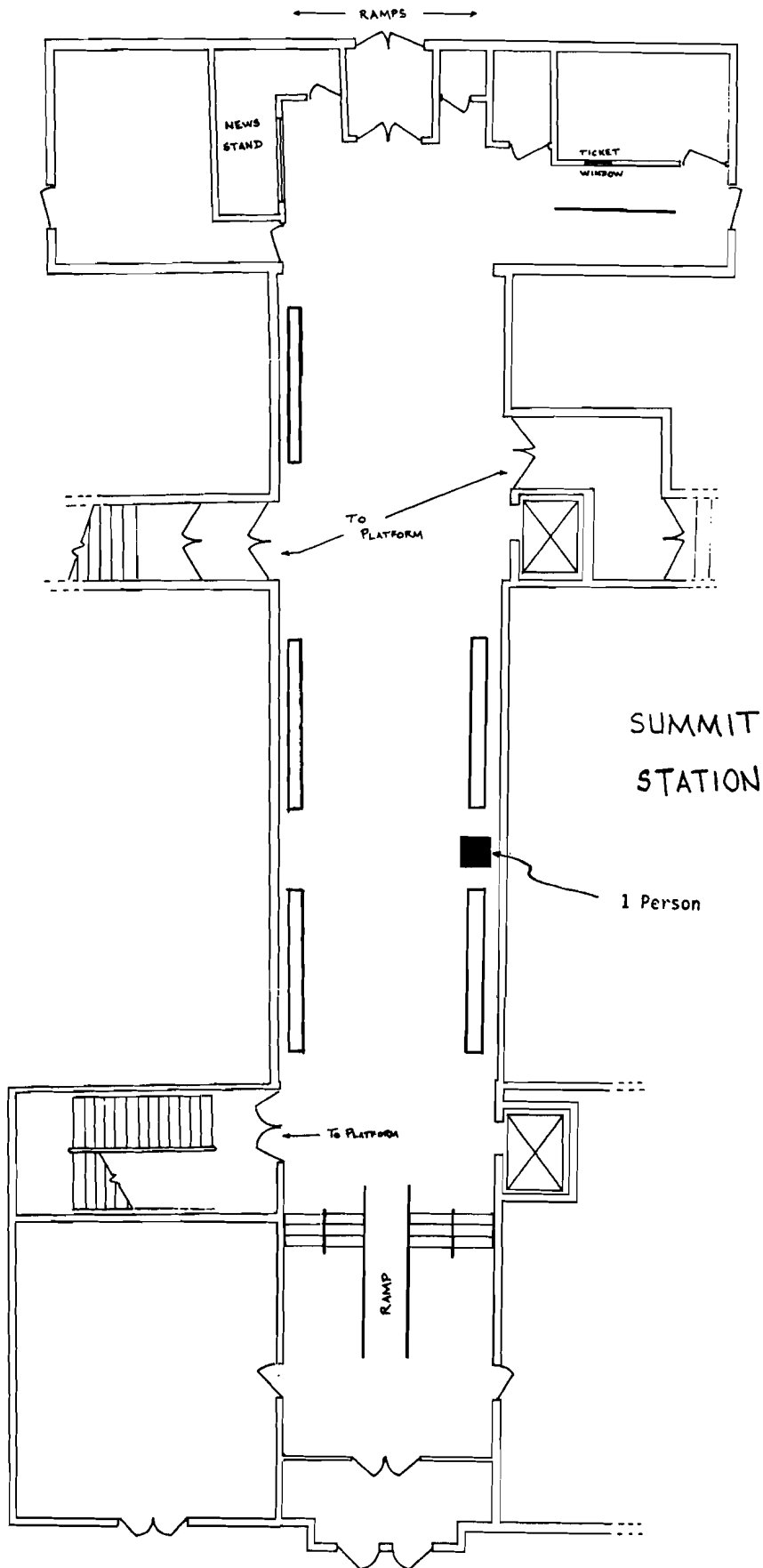


LAKEWOOD GARAGE
 ■ - 2 Persons



TRENTON STATION

■ - 2 Persons



OTHER AGENCIES**(a)****DELAWARE RIVER BASIN COMMISSION****Administrative Manual—Rules of Practice and Procedure: Review of Electric Generation and Cogeneration Facilities**

Adopted: December 9, 1992 by the Delaware River Basin

Commission, Irene B. Brooks, Chairman pro tem.

Filed: December 15, 1992 as R.1993 d.31.

Effective Date: December 9, 1992.

Full text of the adoption follows.

No. 92-22

A RESOLUTION to amend the Administrative Manual—Rules of Practice and Procedure.

WHEREAS, the Rules of Practice and Procedure presently require the review and approval of all projects involving a withdrawal of surface or ground water whenever the daily average withdrawal during any month exceeds 100,000 gallons per day; and

WHEREAS, the Rules of Practice and Procedure presently require the review and approval of all discharges of waste water to surface or ground waters having a design capacity of 50,000 gallons per day or more; and

WHEREAS, one or both of these requirements normally cause major electric generating projects to be reviewed by the Delaware River Basin Commission; and

WHEREAS, as a matter of policy the Commission has imposed special requirements on new electric generating facilities regarding the replacement of depletive water use during critical hydrologic periods; and

WHEREAS, the Rules of Practice and Procedure do not specifically address similar electrical generating projects if they elect to use an existing source of water supply; and

WHEREAS, the Commission is currently conducting a study of consumptive use in the Basin, now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. Section 2-3.5(b) of the Rules of Practice and Procedure is amended by the addition of a new paragraph (17):

(17) Electric generating or cogenerating facilities designed to consumptively use in excess of 100,000 gallons per day of water during any 30-day period.

2. This resolution shall become effective immediately. However, the administration and enforcement of this amendment shall be reviewed at the completion of the consumptive use study and this amendment shall be reconsidered by the Commission at that time, in light of the relative impacts of non-power plant consumptive uses in the Basin and electric generation and cogeneration plant consumptive use.

(b)**DELAWARE RIVER BASIN COMMISSION****Amendments to Comprehensive Plan, Water Code of the Delaware River Basin, Water Quality Regulations and Rules of Practice and Procedure Regarding Water Quality Standards and Policies**

Adopted: December 9, 1992 by the Delaware River Basin

Commission, Irene B. Brooks, Chairman pro tem.

Filed: December 15, 1992 as R.1993 d.32.

Effective: December 9, 1992.

Full text of the adoption follows.

No. 92-21

A RESOLUTION to amend the Comprehensive Plan, Water Code of the Delaware River Basin, Water Quality Regulations and

Rules of Practice and Procedure in relation to water quality standards and policies to protect existing water quality in certain waters of the Basin.

WHEREAS, water quality standards and policies now in effect for the Delaware River between Hancock, New York and Delaware Water Gap are based on the protection of designated uses for primary-contact recreation and aquatic life and do not specifically preserve the existing high level of water quality from degradation; and

WHEREAS, in 1988 the Commission and the National Park Service initiated the development of a water quality protection plan for the Middle Delaware Scenic and Recreational River and tributaries within the boundary of the National Recreation Area prompted by the existing and planned rapid growth and development in the drainage area and the potential decline in water quality due to increased point and non-point source pollution; and

WHEREAS, in 1989 the Watershed Association of the Delaware River petitioned the Commission to classify the Delaware River from Hancock, New York to the Delaware Water Gap as an Outstanding National Resource Water, as described by U.S. Environmental Protection Agency anti-degradation regulations; and

WHEREAS, in response to the petition and other considerations, the Commission expanded the areal scope of the water quality protection planning effort to include the Upper Delaware Scenic and Recreational River corridor; and

WHEREAS, proposed changes to the Commission's regulations were developed with scientific and policy input from the Commission's Water Quality Advisory Committee, Commission staff and comments received from the public throughout the planning, public briefing and public hearing processes; and

WHEREAS, Commission reports describing issues and alternatives were disseminated in March 1990, October 1990 and April 1991 and public briefings held in November and December 1990 and April 1992 concerning scenic rivers protection alternatives; and

WHEREAS, public hearings were held on the proposed amendments on May 5, 1992 in Matamoras, Pennsylvania; May 6, 1992 in Narrowsburg, New York and May 15, 1992 in Wilmington, Delaware; and

WHEREAS, the proposed revisions set forth an overall framework for providing special water quality protection measures for interstate and contiguous waters deemed by the Commission to have exceptionally high scenic, recreational, ecological or water supply values and classify certain stream reaches as Special Protection Waters, thus activating the provisions of the Special Protection Waters policies in these reaches; and

WHEREAS, the proposed amendments define the goals of the water quality protection strategy, set forth pollution control policies and requirements and define the institutional structure within which the Commission, the state environmental agencies and others will share overall water quality management responsibilities; and

WHEREAS, an October 1992 Response Document was prepared which reviewed the testimony received and recommended that the Commission at this time adopt proposed policies and regulations which would: (1) establish a Special Protection Waters policy as part of the Commission's existing antidegradation policy; (2) control point sources of pollution potentially impacting Special Protection Waters; and (3) classify the waters in the Upper Delaware Scenic and Recreational River corridor, the Delaware Water Gap National Recreation Area, and the Delaware River between Millrift and Milford, Pennsylvania as either Outstanding Basin Waters or Significant Resource Waters; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. Article 1 of the Administrative Manual—Part III, Water Quality Regulations is hereby amended as follows:

a. Subsection 1.20.9 is redesignated as subsection 1.20.10.

b. New subsection 1.20.9 is added to read as follows:

1.20.9 "Special Protection Waters" are waters classified as either Outstanding Basin Waters or Significant Resource Waters by the Commission (see 3.10.3 of Article 3).

2. Article 2 of the Administrative Manual—Part III, Water Quality Regulations is hereby amended as follows:

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a. Section 2.20 is revised to read as follows:

Section 2.20 Additional Requirements. Any of the signatory parties may impose standards, including water quality criteria and effluent quality requirements, with respect to waste discharges within its jurisdiction more stringent than those provided by the Comprehensive Plan and these Regulations.

b. Section 2.30 is added to read as follows:

Section 2.30 Regional Requirements. It shall be the policy of the Commission to promote and encourage planning for regional solutions to water pollution problems including problems derived from both point and non-point sources of pollution. The Commission may recognize that the most efficient and environmentally acceptable regional solution may be small multiple facilities spread throughout a watershed. The use of regional water pollution control facilities and/or institutional arrangements providing optimum combinations of efficiency, reliability and service area will be required throughout the Delaware River Basin to the maximum extent feasible. The Commission will cooperate with industries and state, county and municipal agencies seeking a regional solution to water pollution problems. The Commission may provide planning, and when necessary, constructing, financing and operating services required for regional solutions to water pollution problems where other appropriate agencies do not provide such services.

3. Article 3 of the Administrative Manual—Part III, Water Quality Regulations, the Comprehensive Plan and Article 3 of the Water Code of the Delaware River Basin are hereby amended as follows:

a. Subsection 3.10.3A is redesignated as subsection 3.10.3B.

b. Subsection 3.10.3B is redesignated as subsection 3.10.3A and revised to read as follows:

3.10.3A Antidegradation of Waters.

1. Interstate Waters

It is the policy of the Commission to maintain the quality of interstate waters, where existing quality is better than the established stream quality objectives, unless it can be affirmatively demonstrated to the Commission that such change is justifiable as a result of necessary economic or social development or to improve significantly another body of water. In implementing this policy, the Commission will require the highest degree of waste treatment determined to be practicable. No change will be considered which would be injurious to any designated present or future use.

2. Special Protection Waters

It is the policy of the Commission that there be no measurable change in existing water quality except towards natural conditions in waters considered by the Commission to have exceptionally high scenic, recreational, ecological, and/or water supply values. Waters with exceptional values could be classified by the Commission as Outstanding Basin Waters or Significant Resource Waters.

In determining waters suitable for classification as Special Protection Waters, the Commission will consider nomination petitions from local, state and federal agencies and governing bodies, and the public for waters potentially meeting the definition of Outstanding Basin Waters and Significant Resource Waters as described in 3.10.3A.2.a.

The following policies shall apply to waters classified by the Commission as Outstanding Basin Waters or Significant Resource Waters and their drainage areas:

a. Definitions

1). "Outstanding Basin Waters" are interstate and contiguous intrastate waters that are contained within the established boundaries of national parks; national wild, scenic and recreational rivers systems; and/or national wildlife refuges that are classified by the Commission under Subsection 2.g.1). hereof as having exceptionally high scenic, recreational, and ecological values that require special protection.

2). "Significant Resource Waters" are interstate waters classified by the Commission under Subsection 2.g.2). hereof as having exceptionally high scenic, recreational, ecological, and/or water supply uses that require special protection.

3). "Existing Water Quality" is defined as the actual concentration of a water constituent at an in-stream site or sites, as determined through field measurements and laboratory analysis of data collected

over a time period determined by the Commission to adequately reflect the natural range of the hydraulic and climatologic factors which affect water quality. Existing water quality shall be described in terms of (a) an annual or seasonal mean of the available water quality data, (b) two-tailed upper and lower 95 percent confidence limits around the mean, and (c) the 10th and 90th percentiles of the data set from which the mean was calculated. Where available data are insufficient to determine existing water quality, existing water quality may be estimated from data obtained from sites within the same ecoregion or from best scientific judgment.

4). "Measurable Change" is defined as an actual or estimated change in a mean (annual or seasonal) in-stream pollutant concentration that is outside the range of the two-tailed upper and lower 95 percent confidence limits that define existing water quality. In the absence of adequate available data, background concentrations will be assumed to be zero and "measurable change" will be based on in-stream concentrations greater than the detection limit for each parameter, based on the lowest limit of the most sensitive technique specified in 40 CFR Part 136.

5). "Public Interest" is a determination of all the positive and negative social, economic and water resource impacts associated with a project affecting a Significant Resource Water. A project that is in the public interest is one that, at a minimum, provides housing, employment, and/or public facilities needed to accommodate the adopted future population, land use, and other goals of a community and region without causing deleterious impacts on the local and regional environment and economy. In general, such a project would be one that conforms to a locally-adopted growth management plan which is undergoing active implementation by local officials, is supported by the larger community as a whole, and is compatible with national, state and regional objectives as well. For a project not fully meeting the above criteria, the Commission will weigh the positive and negative impacts to determine public interest.

6). "Regional Resources Management Plan" is a management plan developed and adopted by the government agency that is assigned primary responsibilities for the overall management of a National park, scenic and recreational river and/or wildlife refuge which contains waters that have been classified by the Commission as Outstanding Basin Waters. A regional resources management plan is one that addresses, among other subjects, the location and general size of allowable wastewater treatment facilities. A regional resources management plan, or applicable portions thereof, may be incorporated into the Commission's Comprehensive Plan.

7). "Natural Condition" is the ecological state of a water body that represents conditions without human influence.

8). "Detection limit" is the lowest level of a substance that can be measured in natural waters by a specific analytical method. Detection limit as defined herein, corresponds to the most currently-acceptable values for parameter specific detection limits as specified in 40 CFR Part 136.

9). "Non-discharging/Load Reduction Options" are options whereby the amount of wastewater discharged to a surface stream is reduced by (a) instituting load reduction measures involving reductions in pollutants at the source possibly accompanied by water conservation practices to reduce the amount of flow received at a wastewater treatment plant; and/or (b) using land-based wastewater disposal whereby treated wastewater effluent is further treated by percolation and other soil-based processes instead of in-stream processes.

10). "Natural Wastewater Treatment Systems" are soil-based, vegetative and/or aquatic wastewater treatment systems characterized by the use of low energy treatment processes that use and simulate "natural" environmental processes such as primary and secondary productivity, crop production, wetlands, ponds and others.

11). "Non-Point Sources" are sources of pollutants carried by surface and sub-surface runoff that are derived from human activities and land use.

12). "Cumulative Impact" is the net sum of all individual impacts including all point and non-point source impacts.

13). "Boundary Control Points" are locations where monitoring and other activities occur to determine existing water quality, no

measurable change, and related pollution control requirements as applicable. Boundary Control Points for Outstanding Basin Waters will generally correspond to federally-established boundaries for National parks, etc. while those for Significant Resource Waters will generally correspond to the confluence of an intrastate tributary with the classified interstate water.

14). "Interstate Special Protection Waters Control Points" are general locations used to assess water quality for purposes of defining and protecting Existing Water Quality.

15). "Growth Management Plans" are locally developed and adopted plans expressing the social, economic, and environmental goals and objectives of the local community. A growth management plan in this context can be one plan, a series of plans, local ordinances, and other official documents of a municipality. Growth management plans outline the community's desired growth patterns and related infrastructure. To be considered in the Commission's determination of public interest, growth management plans must be undergoing active implementation and forming the basis for local governmental decisions.

16). "Expanding Wastewater Treatment Project" refers to alterations or additions to existing wastewater treatment facilities that result in a reviewable project in accordance with the Commission's *Rules of Practice and Procedure* or any new or increased loading from an existing facility that was not anticipated at the time of NPDES permit issuance.

17). "Best Management Practices" are any structural or non-structural measure designed to reduce stormwater runoff and resulting non-point source loads.

18). "Special Protection Waters Non-Point Source Reviewable Project"

—Reserved—

b. Water Quality Management Policies

1). Outstanding Basin Waters shall be maintained at their existing water quality. Point and non-point sources of pollutants originating from outside the boundaries of stream reaches classified as Outstanding Basin Waters shall be treated as required and then dispersed in the receiving water so that no measurable change occurs at Boundary and Interstate Special Protection Waters Control Points. Point sources of pollutants discharged to Outstanding Basin Waters shall be treated as required and then dispersed in such a manner that complete mixing of effluent with the receiving stream is, for all practical intents and purposes, instantaneous.

2). Significant Resource Waters shall not be degraded below existing water quality as defined although localized degradation of water quality may be allowed for initial dilution if the Commission finds that the public interest warrants these changes. Point and non-point sources of pollutants originating from outside the boundaries of stream reaches classified as Significant Resource Waters shall be treated as required and then dispersed in the receiving water so that no measurable change occurs at Boundary and Interstate Special Protection Waters Control Points. If localized degradation of water quality is allowed for initial dilution purposes, the Commission will designate mixing zones for each point source and require the highest possible point and non-point source treatment levels necessary to limit the size and extent of the mixing zones. Mixing zone size will be based on site-specific channel characteristics. In general, mixing zones should not exceed a radial distance equal to 1/4 of the width of the river under low flow design conditions unless site-specific characteristics indicate otherwise.

c. Policy on Allowable Discharges

1). Direct discharges of wastewater to Special Protection Waters are discouraged. No new or expanded wastewater discharges shall be permitted in waters classified as Special Protection Waters until all non-discharge/load reduction alternatives have been fully evaluated and rejected because of technical and/or financial infeasibility.

2). The general number, location and size of future wastewater treatment facilities discharging to Outstanding Basin Waters (if any) shall be developed taking into consideration any adopted regional

resource management plan as defined in Section 3.10.3.A.2.a.6). and, on an individual project basis, based on the feasibility of non-discharging options.

3). Discharges to Significant Resource Waters shall only be allowed for circumstances which are demonstrably in the public interest as defined in Section 3.10.3.A.2.a.5).

d. Policies Related to Wastewater Treatment Facilities

1). All wastewater treatment facilities discharging to waters classified as Special Protection Waters shall have available standby power facilities unless it can be shown that a proposed discharge can be interrupted for an extended period with no threat to the water quality of Special Protection Waters. Existing facilities must comply with this requirement upon their next permit renewal under the delegated national pollutant discharge elimination system (NPDES) permit program.

2). All wastewater treatment facilities discharging to Special Protection Waters that are not staffed 24 hours every day shall have a remote alarm that will continuously monitor plant operations whenever the plant is not staffed. The alarm system will be designed to alert someone available with authority and knowledge to take appropriate action. Existing facilities must comply with this requirement upon their next permit renewal under the delegated NPDES program.

3). All new wastewater treatment facilities discharging to Outstanding Basin Waters shall not have visual discharge plumes. Existing facilities must comply with this requirement upon their next permit renewal under the delegated NPDES program.

4). All new wastewater treatment facilities discharging to Special Protection Waters shall prepare and implement an emergency management plan following the guidance provided in the Water Pollution Control Federation's *Manual of Practice SM-8, Emergency Planning for Municipal Wastewater Facilities*, the U.S. EPA's *Design Criteria for Mechanical, Electric and Fluid System and Component Reliability* or other suitable manuals. Emergency management plans shall include an emergency notification procedure covering all affected downstream users. Existing facilities must comply with this requirement upon their next permit renewal under the delegated NPDES program.

5). All applicants seeking wastewater treatment project approval under Section 3.8 of the Compact shall satisfactorily prove the technical and/or financial infeasibility of using natural wastewater treatment technologies.

6). The minimum level of wastewater treatment for all new and expanding wastewater treatment projects discharging to Special Protection Waters, including projects approved by the Commission after September 1988, will be "Best Demonstrable Technology". Equivalent effluent criteria for industrial facilities and seasonal limits, if any will be developed on a case-by-case basis. The following 30-day average effluent criteria define Best Demonstrable Technology:

5-day CBOD:	10 mg/l or less
Dissolved oxygen:	6.0 mg/l or greater
Total suspended solids:	10 mg/l or less
Ammonia-nitrogen:	1.5 mg/l or less
Total nitrogen:	10.0 mg/l or less
Total phosphorus:	2.0 mg/l or less
Fecal coliform:	50/100 ml or less

7). Best demonstrable technology for disinfection shall be ultraviolet light disinfection or an equivalent disinfection process that results in no harm to aquatic life, does not produce toxic chemical residuals, and results in effective bacterial and viral destruction.

e. Policies Concerning the Control of Non-Point Sources

—Reserved—

f. Policies Regarding Inter-Government Responsibilities

1). Inter-relationship of State and Commission Responsibilities.
The applicable state environmental agency shall assure to the extent possible, that existing water quality in Special Protection Waters is not measurably changed by pollution discharged into the intrastate tributary watersheds within its jurisdiction. For water quality management purposes, the state environmental agency and

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the Commission will jointly establish Boundary Control Points as described in Section 3.10.3.A.2a.13). and g.4).

In performing this responsibility, the state environmental agency shall require that all new or expanding wastewater treatment facilities and existing wastewater treatment plants applying for a discharge permit or permit renewal under the delegated NPDES program to comply with the policies as prescribed in Section 3.10.3.A.2.d. unless it can be demonstrated, after consultation with the Commission, that these requirements are not necessary for the protection of existing water quality in the Special Protection Waters due to distance from Special Protection Waters, time of travel, the existence of water storage impoundments, the waste assimilation characteristics of the receiving stream, and other relevant hydrological and limnological factors.

The Commission shall, to the extent practicable and necessary, coordinate and oversee all Special Protection Waters, activities and assist the efforts of each state environmental agency to control pollutants originating from intrastate tributary watersheds. The Commission shall determine pollution control requirements for discharges to Special Protection Waters; for non-point sources draining directly into Special Protection Waters; and total non-point source loads emanating from intrastate tributary watersheds as measured at Boundary Control Points.

OTHER AGENCIES

g. Classified Special Protection Waters

1). The following stream reaches are classified as Outstanding Basin Waters:

(a) The Upper Delaware Scenic and Recreational River (Delaware River between River Mile 330.7 and 258.4);

(b) Those portions of intrastate tributaries located within the established boundary of the Upper Delaware Scenic and Recreational River Corridor;

(c) The Middle Delaware Scenic and Recreational River (Delaware River between River Miles 250.1 and 209.5);

(d) Those portions of tributaries located within the established boundary of the Delaware Water Gap National Recreation Area.

2). The following stream reaches are classified as Significant Resource Waters:

(a) The Delaware River between River Miles 258.4 (the downstream boundary of the Upper Delaware Scenic and Recreational River) and 250.1 (the upstream boundary of the Delaware Water Gap National Recreation Area).

3). Definitions of existing water quality for waters classified in 1). and 2). above are presented in Table 1.

4). The location of Boundary and Interstate Special Protection Waters Control Points are described in Table 2.

TABLE 1: DEFINITION OF EXISTING WATER QUALITY IN THE DELAWARE RIVER BETWEEN HANCOCK, NEW YORK AND THE DELAWARE WATER GAP

Part A: Upper Delaware Scenic & Recreational River				
PARAMETER	MEAN	95 PERCENT CONFIDENCE LIMITS OF MEAN	10TH AND 90TH PERCENTILES	ADDITIONAL
Dissolved oxygen (mg/l)	9.0	8.9 to 9.2	7.5 and 11.0	Never below 6.0 mg/l (night time); May-Sept; reachwide
BOD ₅ (mg/l)	0.67	0.6 to 0.8	0.3 and 1.9	May-Sept; reachwide
Conductivity (umhos/cm)	68	66.6 to 69.3	52 and 88	non-seasonal; reachwide
Fecal coliform (colonies/100 ml)	24	21 to 28	4 and 200	May-Sept; reachwide
Total suspended solids (mg/l)	4.0	2.9 to 5.6	2.0 and 16	non-seasonal; reachwide
Total phosphorus (ug/l)	29	27 to 31	18 and 50	non-seasonal; reachwide
Ammonia + ammonium (ug/l)	15	13 to 18	10 and 50	as nitrogen; May-Sept; reachwide
Ammonia + ammonium (ug/l)	22	20 to 25	10 and 60	as nitrogen; non-seasonal; reachwide
Total kjeldahl nitrogen (ug/l)	202	172 to 237	100 and 530	May-Sept; reachwide
Nitrite + nitrate nitrogen (ug/l)	293	256 to 336	123 and 492	May-Sept; reachwide
Hardness (mg/l as CaCO ₃)	21	19.9 to 22.2	17.0 and 27.0	non-seasonal; reachwide
Biocriteria: Shannon-Wiener	3.6	3.4 to 3.8	2.7 and 4.3	May-Sept; reachwide
Biocriteria: Equitability	0.8	0.7 to 0.9	0.5 and 1.1	May-Sept; reachwide
Biocriteria: EPT	15.5	13.8 to 17.2	8.0 and 24.0	May-Sept; reachwide

PART B: DELAWARE RIVER FROM MILLRIFT THROUGH THE DELAWARE WATER GAP INCLUDING THE MIDDLE DELAWARE SCENIC AND RECREATIONAL RIVER				
PARAMETER	MEAN	95 PERCENT CONFIDENCE LIMITS OF MEAN	10TH AND 90TH PERCENTILES	ADDITIONAL
Dissolved oxygen (mg/l)	9.2	9.1 to 9.4	7.5 and 12.8	Never below 6.0 mg/l (night time); non-seasonal; reachwide
BOD ₅ (mg/l)	0.63	0.6 to 0.7	0.3 and 1.6	May-Sept; reachwide
Conductivity (umhos/cm)	76	75 to 77	60 and 95	non-seasonal; reachwide
Fecal coliform (colonies/100 ml)	47	42 to 53	9 and 272	May-Sept; reachwide
Total suspended solids (mg/l)	3.4	3.0 to 3.8	1.0 and 12.0	non-seasonal; reachwide
Total phosphorus (ug/l)	27	25 to 29	14 and 40	May-Sept; reachwide
Ammonia + ammonium (ug/l)	23	21 to 26	10 and 50	May-Sept; reachwide
Ammonia + ammonium (ug/l)	41	37 to 44	10 and 187	non-seasonal; reachwide
Total kjeldahl nitrogen (ug/l)	293	276 to 312	101 and 860	non-seasonal; reachwide
Total kjeldahl nitrogen (ug/l)	206	189 to 225	100 and 490	May-Sept; reachwide
Nitrite + nitrate nitrogen (ug/l)	246	233 to 260	100 and 490	non-seasonal; reachwide
Nitrite + nitrate nitrogen (ug/l)	206	191 to 223	92 and 392	May-Sept; reachwide
Hardness (mg/l as CaCO ₃)	24	24 to 25	20 and 30	non-seasonal; reachwide
Biocriteria: Shannon-Wiener	3.6	3.4 to 3.7	3.2 and 4.1	May-Sept; reachwide
Biocriteria: Equitability	0.8	0.7 to 0.9	0.5 and 1.1	May-Sept; reachwide
Biocriteria: EPT	13.9	12.8 to 15.1	8.0 and 20.0	May-Sept; reachwide

PART C: NOTES ON STATISTICS USED TO DEFINE EXISTING WATER QUALITY
<p>The definitions of Existing Water Quality presented in Parts A and B of this table were developed by performing parametric statistical analyses using logarithmic transformation of available water quality data to derive normality. The numbers represent the anti-log of the statistical results and, thus, will differ from numbers generated by using non-transformed data. Means derived from log transformations, for example, will be lower than means derived from non-transformed data. The 95 percent confidence limits were derived from a two-tailed distribution. Biocriteria were not developed using log-transformed data. The three indices used to develop the biocriteria were derived from specialized transformations of the original data, resulting in values that are normally distributed.</p>

Table 2. BOUNDARY AND INTERSTATE SPECIAL PROTECTION WATERS CONTROL POINTS

BOUNDARY	CONTROL POINTS	MAP REFERENCE
Northern Boundary-UDSRR	Delaware River Mile 330.7	DRBC River Mile maps & UDSRR River Management Plan
Eastern Boundary-UDSRR	New York streams in Delaware & Sullivan Counties: Blue Mill; Humphries; Abe Lord; Bouchoux; Pea; Hoolihan; Basket; Hankins; Callicoon; Mitchell Pond; Tenmile; Grassy Swamp; Narrow Falls; York Lake; Beaver Brook; Halfway; Mill; Fish Cabin; Mongaup; Shingle Kill	UDSRR River Management Plan
Western Boundary-UDSRR	Pennsylvania streams in Wayne & Pike Counties: Shingle Hollow; Stockport; Factory; Equinunk; Weston; Little Equinunk; Cooley; Hollister; Schoolhouse; Beaverdam; Calkins; Peggy Run; Masthope; Westcolang; Lackawaxen; Verga Pond; Panther; Shohola; Twin Lakes; Pond Eddy; Bush Kill	UDSRR River Management Plan
Northern Boundary-Eight mile reach between UDSRR and MDSRR	Delaware River Mile 258.4 (railroad crossing at Millrift, Pennsylvania)	DRBC River Mile maps; UDSRR River Management Plan
Eastern & Western Boundaries-Eight mile reach between UDSRR & MDSRR	Confluence of New York streams (Orange County); Pennsylvania streams (Pike County); and New Jersey streams (Sussex County) with the Delaware River: Sparrowbush; Neversink; Cummins	U.S.G.S. Port Jervis South & North topographic maps
Northern Boundary-DWGNRA	Delaware River Mile 250.1 near the confluence of Cummins Creek	DRBC River Mile map & DWGNRA Tract Map
Eastern Boundary-DWGNRA	New Jersey streams in Sussex County: Shimers; White; Big Flatbrook; Little Flatbrook	DWGNRA Tract Maps
Western Boundary-DWGNRA	Pennsylvania streams in Pike & Monroe Counties: Crawford Branch; Vandermark; Sawkill; Raymondskill; Conashugh; Dry; Adams; Dingmans; Hornbeck; Deckers; Alicias; Brodhead-Hellers; Hellers; Toms; Denmark; Little Bushkill; Bushkill; Shawnee; Brodhead; Cherry; Caledonia; Slateford	DWGNRA Tract Maps
SPECIAL PROTECTION WATERS	CONTROL POINTS (General Locations)	RIVER MILE
Upper Delaware Scenic & Recreational River	Buckingham Access Area	325
	Lordville Bridge	322
	Kellams Bridge	313
	Callicoon Access Areas	303
	Damacus/Cochecton	298
	Skinnners Falls	295
	Narrowsburg area	290
	Ten Mile River Access Area	284
	Lackawaxen Access Area	277
	Barryville/Shohola Bridge	273
Pond Eddy Bridge	266	
Delaware River between the UDSRR & the DWGNRA	Millrift	258
	Matamoras/Port Jervis	254
	Northern boundary-DWGNRA	250
Delaware Water Gap National Recreation Area	Milford Beach	247
	Dingmans Access Area	239
	Eshback Access Area	232
	Bushkill Access Area	228
	Depew Access Area	221
	Smithfield Beach	218
	Worthington S.F. Access	215
	Kittatinny Visitor Center	211
	Upstream end of Arrow Island	210

c. Subsection 3.10.4F.1 is reviewed to read as follows:

1. Discharges to intermittent streams may be permitted by the Commission only if the applicant can demonstrate that there is no reasonable economical alternative, the project is environmentally acceptable, and would not violate the stream quality objectives set forth in Section 3.10.3B.1.a.

d. Section 3.50 is deleted.

4. Subsection 2—3.5(a)(4) and (5) of the Administrative Manual—Rules of Practice and Procedure are revised to read as follows:

4). The construction of new municipal sewage treatment facilities or alteration or addition to existing municipal sewage treatment facilities when the design capacity of such facilities is less than a daily average rate of 10,000 gallons per day in the drainage area to Outstanding Basin Waters and Significant Resource Waters or less than 50,000 gallons per day elsewhere in the Basin; and all local sewage collector systems and improvements discharging into authorized trunk sewage systems;

5). The construction of new facilities or alteration or addition to existing facilities for the direct discharge to surface or ground waters of industrial wastewater having design capacity of less than 10,000 gallons per day in the drainage area to Outstanding Basin Waters and Significant Resource Waters or less than 50,000 gallons per day elsewhere in the Basin; except where such wastewater contains toxic concentrations of waste materials;

5.a. This resolution shall become effective immediately except as otherwise provided in Subsection b herein.

b. The Commission may extend the time within which the provisions of the resolution are effective as to any applications now pending before the Commission or any signatory party or any existing docket conditions which require compliance with the resolution.

(a)

NEW JERSEY HIGHWAY AUTHORITY

Garden State Parkway Speed Limits

Adopted Amendment: N.J.A.C. 19:8-1.2

Proposed: September 21, 1992 at 24 N.J.R. 3222(a) (see also 24 N.J.R. 4241(a)).

Adopted: December 17, 1992 by the New Jersey Highway Authority, David W. Davis, Executive Director.

Filed: December 17, 1992 as R.1993 d.33, **without change**.

Authority: N.J.S.A. 27:12B-5(j) and 27:12B-18.

Effective Date: January 19, 1993.

Expiration Date: July 5, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

19:8-1.2 Speed limits

(a) Unless otherwise posted or when conditions make such maximum legal rate of speed unsafe, the maximum legal rate of speed at which any motor vehicle may be operated on the main roadway of the Parkway in both directions of traffic shall be 55 miles per hour for its entire length, except as follows:

1. Forty-five miles per hour on the Great Egg Harbor Bridge; and

2. Forty-five miles per hour on the Alfred E. Driscoll Bridge.

(b) Unless otherwise posted, or when conditions make such maximum legal rate of speed unsafe, the maximum legal rate of speed at which any motor vehicle may be operated at facilities off the main roadway of the Parkway shall be 25 miles per hour.

(b)

CASINO CONTROL COMMISSION

Applications

Renewal of Employee Licenses

Adopted New Rules: N.J.A.C. 19:41-14

Proposed: June 15, 1992 at 24 N.J.R. 2133(a).

Adopted: December 16, 1992 by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: December 17, 1992 as R.1993 d.34, **with substantive and technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-63, 69, 70a and b, 80, 94 and 95.

Effective Date: January 19, 1993.

Operative Date: July 1, 1993.

Expiration Date: May 12, 1993.

Summary of Public Comments and Agency Responses:

Comments were received from the Sands Hotel and Casino (Sands), TropWorld Casino and Entertainment Resort (TropWorld) and the Division of Gaming Enforcement (Division).

COMMENT: Sands commented that it did not object to any portion of the proposal other than N.J.A.C. 19:41-14.2(d). This subsection of the proposal directs that the license of any licensee who fails to file his or her license renewal application by the deadline specified in the rule shall expire on its stated expiration date. Sands believes that this requirement is too rigid, too restrictive and too punitive.

RESPONSE: The comment of the Sands is rejected to the extent that it objects to the adoption of N.J.A.C. 19:41-14.2(d). This provision of the new rules is central to their success in assuring that the Commission's employee license credential system is an effective regulatory control over the utilization of qualified individuals in licensed casinos. The Commission will never be able to issue renewal licenses to employees on a timely basis unless each applicant is required to submit the renewal application in accordance with a schedule which allows the Division to investigate and the Commission to process the renewal application prior to the expiration of the current license. Unless this requirement is enforced, the Commission will have to continue allowing employees to work using some type of temporary credential or documentation, thus undermining the efficiency and effectiveness of the employee licensing system. The Commission believes the more appropriate solution to this problem is making employees aware of their obligation to submit renewal applications in a timely manner and enforcing this obligation on a consistent basis.

COMMENT: TropWorld supports the proposed new rules but suggests that they be modified to include a two month grace period for late applications in the first two years of their implementation. According to TropWorld, the new rules represent such a significant departure from past Commission practice that some employees may lose their licenses due to inadvertence or negligence. This loss of employees would in turn have a detrimental effect on the operations of their employers.

RESPONSE: Although the Commission is aware of the concerns expressed by TropWorld, the Commission intends, with the assistance and cooperation of the casino licensees, to minimize these concerns by instituting a comprehensive informational campaign advising employee licensees of the changes in renewal procedures prior to the operational date of the new rules. The Commission believes that the value of this informational campaign would be diminished if employee licensees were simultaneously advised that filing deadlines could still be missed without consequence. Sooner or later, every person involved in the licensing process, including every employee licensee who seeks to renew a license, is going to have to acknowledge and abide by the requirements of the new renewal process. The Commission believes that its planned informational campaign and the transition provisions included in the new rules are adequate to justify full implementation of the revised procedures on July 1, 1993. Accordingly, the Commission directed at adoption that the new rules become operational on July 1, 1993.

COMMENT: The Division submitted a comment indicating that it did not endorse or oppose the new rules. The Division did express its concern about the impact of the new rules on existing employee licensees and suggested that the new rules may increase regulatory costs.

RESPONSE: The Division's concerns about the impact of the proposed rules on existing employee licensees mirror those expressed by the other commenters and the Commission's response is the same as well. The Commission has not seen any data which would indicate that regulatory costs will increase should the new rules be adopted; therefore, the Division's comment on this issue is rejected.

Summary of Agency-Initiated Changes:

The Casino Control Act was amended, subsequent to the approval of the proposal for publication, to eliminate the requirement that junket representatives employed by junket enterprises be individually licensed (see P.L. 1992, Chapter 9, section 12; approved, May 19, 1992). Accordingly, the reference to licensed employees of a junket enterprise contained in N.J.A.C. 19:41-14.1(b) has been deleted upon adoption of the new rules. In addition, the rules' operative date has been appropriately inserted at N.J.A.C. 19:41-14.7(a), and a date (January 1, 1994) six months from that operative date inserted at N.J.A.C. 19:41-14.7(b).

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

SUBCHAPTER 14. APPLICATIONS FOR THE RENEWAL OF EMPLOYEE LICENSES

19:41-14.1 Scope of subchapter; effect of expiration of license

(a) This subchapter shall govern applications for the renewal of the following employee licenses:

1. Casino key employee;
2. Junket representative;
3. Gaming school—resident director;
4. Casino employee—gaming;
5. Casino employee—nongaming; and
6. Gaming school—instructor.

(b) Except as otherwise provided by N.J.A.C. 19:41-14.4 and 19:42-3.8, no applicant for the renewal of an employee license may, after the expiration date of that license, be employed on the basis of that license by a casino licensee*[,] *or* gaming school *[or junket enterprise]* in any position which requires the possession of a current and valid employee license.

19:41-14.2 Time for filing

(a) An application for the renewal of an employee license shall be mailed to each employee licensee at the address on file with the Commission at least seven months prior to the expiration date of his or her license. The completed application for renewal shall be filed with the Commission no later than the last day of the month which is five months prior to the month in which the current license term expires. The filing deadlines for employee license renewal applications are as follows:

If the Current License Term Expires on the Last Day of:	Then the Renewal Application Must be Filed by the Last Day of:
January	August of prior year
February	September of prior year
March	October of prior year
April	November of prior year
May	December of prior year
June	January of current year
July	February of current year
August	March of current year
September	April of current year
October	May of current year
November	June of current year
December	July of current year

(b) No application shall be considered filed in accordance with (a) above unless:

1. The application contains all application materials required by N.J.A.C. 19:41-14.3; and
2. All application materials have been completed in accordance with the requirements of the Act, the Commission's regulations and any instructions included with the materials.

(c) Any applicant for the renewal of an employee license who files an incomplete renewal application within the filing deadline specified in (a) above shall be promptly notified by the Commission of any deficiency in the renewal application. To qualify as an "incomplete renewal application" for purposes of this section, an application must include, at a minimum, the license renewal fee and an Employee License Renewal Application form (see N.J.A.C. 19:41-14.3). Any licensee filing an incomplete renewal application shall have until the filing deadline established in (a) above or 21 days from the date of service of the deficiency notice, whichever is later, to file a complete renewal application.

(d) Failure of a licensee to file a complete renewal application with the Commission in accordance with the requirements of (a) through (c) above shall be deemed a failure to apply for renewal of the license and shall result in the termination of the license on its stated expiration date.

1. Any licensee whose current license will be terminated pursuant to this section may, prior to the expiration date of the current license, apply for a new license of the same type by filing the appropriate renewal application materials identified in N.J.A.C. 19:41-14.3 and paying the initial license application fee required by N.J.A.C. 19:41-9. After the expiration date of the current license, the former licensee shall be required to file a complete application for the issuance of a new license. Under either circumstance, the filing of the application for a new license shall not affect the termination of the former license on its stated expiration date.

2. Any casino key employee licensee whose license expires due to the failure of the licensee to file a complete and timely renewal application in accordance with the provisions of this section shall not be eligible to receive a temporary casino key employee license until one year after the expiration date of the former license.

(e) Any licensee whose license has been suspended by the Commission must continue to file renewal applications during the suspension period in order to remain eligible to return to work immediately should the license be reinstated. The suspended licensee shall be required to file complete renewal applications in accordance with the requirements of this section as if the suspended license were renewed pursuant to the terms of N.J.S.A. 5:12-94 and (a) above; provided, however, the suspended licensee shall only be required to pay one license renewal fee during the suspension period. Failure of a suspended licensee to file a renewal application in accordance with the requirements of this subsection shall be deemed a failure to apply for renewal of the license but shall not affect the validity of any ongoing proceeding concerning the former licensee's qualification for licensure.

19:41-14.3 Contents of renewal application

(a) An application for the renewal of an employee license shall include:

1. A completed Employee License Renewal Application form certified and signed by the applicant. This form shall contain all relevant information since the applicant's initial application for licensure or most recent renewal application concerning the following:
 - i. Any changes in the name, address or the telephone number of the applicant;
 - ii. The name and address of the applicant's present employer and the name of his or her supervisor;
 - iii. The applicant's employment history with casino licensees;
 - iv. A history of any disciplinary action taken by employers against the applicant;
 - v. A history of all action taken by any jurisdiction against any license, work permit, or certificate held by the applicant to work in casino gaming;
 - vi. All criminal arrests, charges, custodial confinements, indictments and convictions of the applicant; and
 - vii. All civil litigation in which the applicant is named as a defendant or respondent.
2. A Release Authorization signed by the applicant which shall direct all courts, probation departments, selective service boards, employers, educational institutions, banks, financial and other in-

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stitutions, and all governmental agencies, to release any and all information pertaining to the applicant as requested by the Division or Commission; and

3. Payment of the appropriate license renewal fee due in accordance with N.J.A.C. 19:41-9.

(b) In addition to the materials identified in (a) above, an application for the renewal of a casino key employee license, a gaming school-resident director license or a junket representative license shall include:

1. A Personal Financial Statement certified and signed by the applicant containing a detailed, itemized list of the applicant's assets and liabilities in a form required by the Commission; and

2. Copies of any Federal income tax returns filed by the applicant with the Internal Revenue Service since the applicant's initial license was granted or most recent application for renewal was filed, whichever occurred later.

(c) In addition to the materials identified in (a) and (b) above, an application for the renewal of a junket representative license shall include, in a form required by the Commission, designation of an agent to receive service of process in this State and an affirmation that the applicant submits to the jurisdiction of this State.

19:41-14.4 Modification of license at renewal

(a) An applicant for the renewal of an employee license may, in lieu of renewing his or her current license, apply for a modification of his or her current license at renewal to any employee license which is lower in rank. For purposes of this section, the rank of employee licenses, from highest to lowest, is as follows:

1. Casino key employee;
2. Junket representative;
3. Gaming school—resident director;
4. Casino employee—gaming;
5. Casino employee—nongaming; and
6. Gaming school—instructor.

(b) An application for modification of an employee license at renewal shall be in writing and shall be subject to the following requirements:

1. The applicant shall be required to file a complete application for the renewal of the modified license in accordance with the requirements of N.J.A.C. 19:41-14.2 and 14.3; and

2. The applicant shall be required to demonstrate that he or she satisfies the educational or experiential requirements for the modified license and any positions to be endorsed thereon.

(c) Notwithstanding (b)1 above, any applicant who has filed a complete and timely application for the renewal of his or her current employee license may, no later than the last day of the month which is two months prior to the month in which the current license term expires, file a written application for modification of his or her current license at renewal.

1. The application for modification shall include any information necessary to satisfy the requirement of (b)2 above.

2. If the application for modification is submitted by a casino key employee who requests renewal as a junket representative, the application shall also include the form and affirmation required by N.J.A.C. 19:41-14.3(c).

3. An applicant who files an application for modification of an employee license at renewal after the application deadline for the current license shall:

- i. Not be entitled to a refund of any license renewal fee previously paid for his or her current license (see N.J.A.C. 19:41-9.19); and
- ii. Be obligated to pay any expenses which have been incurred by the Commission and Division in processing the application for renewal of the current license which are in excess of the renewal deposit as of the date that the application for modification was received.

19:41-14.5 Processing

(a) Upon the receipt of a complete renewal application within the time period required by N.J.A.C. 19:41-14.2, the renewal application shall be transmitted to the Division which shall conduct such investigation as it deems necessary to determine the continued qualification of the applicant.

(b) The Commission shall consider each complete and timely application for the renewal of an employee license no sooner than one month prior to, but no later than, the expiration date of the current license. If the Division does not file an investigative report on a complete and timely application for renewal of an employee license, the Commission may grant the renewal of the license unless the Division requests, in writing, no later than 40 days prior to the expiration date of the current license, that such application for renewal not be considered until an investigative report has been submitted by the Division.

(c) Nothing in this section shall be deemed to be inconsistent with the authority of the Division pursuant to N.J.S.A. 5:12-94 to request the Commission to reconsider the status of any license at any time.

(d) If an applicant for renewal requests a hearing in accordance with the provisions of N.J.A.C. 19:42-3, or the Commission finds that the Division has requested that consideration of an application be delayed until an investigative report is submitted, the Commission shall provide the applicant with a document permitting the applicant to remain employed under his or her existing license credential until such application has been finally determined by the Commission; provided, however, nothing herein shall be deemed to relieve an applicant for renewal of the obligation to file any subsequent application for renewal which is due pursuant to N.J.A.C. 19:41-14.2 during the course of the hearing process.

(e) The Commission shall notify an applicant in writing when a renewal application is granted, and the applicant shall appear in person at the Commission's Casino Employee License Information Unit in Atlantic City within 30 days of the notice to obtain his or her new license credential. Should the applicant fail to appear as required by this subsection, the Commission may notify casino licensees that the applicant can no longer be employed in the licensed position after the expiration of the applicant's current license credential until the applicant appears as required and receives his or her new license credential.

19:41-14.6 Duration of renewed licenses

(a) Except as provided in (b) below, all employee licenses shall be renewed for a term of three years.

(b) The first two successive renewal terms of a casino key employee license shall be for one year; successive renewal terms thereafter shall be for two years.

19:41-14.7 Transitional rules governing certain renewals

(a) Notwithstanding any other provision of this subchapter to the contrary, any application for the renewal of an employee license which was scheduled to expire prior to *[the operative date of this section]* ***July 1, 1993*** may be granted if:

1. A complete application for renewal, including the payment of all required fees, was filed in accordance with Commission renewal procedures in effect as of the date on which the license term was scheduled to expire; and

2. The Division has not filed an investigative report with the Commission on the renewal of the license by the last day of the sixth month following the operative date of this section.

(b) Notwithstanding any other provision of this subchapter to the contrary, any application for the renewal of an employee license which is scheduled to expire *[within six months following the operative date of this section]* ***by January 1, 1994*** may be granted during the fifth month following the date on which the license term is scheduled to expire if:

1. A complete application for renewal, as defined in N.J.A.C. 19:41-4.3, is filed no later than the date on which the license term is scheduled to expire; and

2. The Division has not filed an investigative report with the Commission on the renewal of the license by the end of the fourth month following the date on which the license term is scheduled to expire.

19:41-14.8 Renewal of license after expiration of license term; relation to previous license term

(a) The term of any employee license which is renewed by the Commission after the date on which the previous license term would

normally have expired in accordance with the requirements of N.J.S.A. 5:12-94 shall relate back to and begin on the day following the expiration date of the previous license term.

(b) Notwithstanding (a) above, the term of any employee license which has been suspended by the Commission and which is reinstated and renewed by the Commission after the date on which the previous license term would normally have expired in accordance with the requirements of N.J.S.A. 5:12-94 shall begin on the day following the date of the Commission vote reinstating and renewing the license.

(a)

CASINO CONTROL COMMISSION**Accounting and Internal Controls****Removal of Slot Drop Buckets and Slot Cash Storage Boxes; Meter Readings****Adopted Amendment: N.J.A.C. 19:45-1.42**

Proposed: November 2, 1992 at 24 N.J.R. 4026(a).

Adopted: December 16, 1992 by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: December 17, 1992 as R.1993 d.36, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-63, 69 and 70(l)

Effective Date: January 19, 1993.

Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

COMMENT: The Division of Gaming Enforcement supports the adoption of the proposed amendment with one minor change. The Division recommends that the proposed amendment be changed to indicate that whenever the bill meters must be read and recorded due to a variance, the slot cash storage box must also be removed and the contents counted. This clarification would make it clear that the casino licensee must compare the total amount of cash removed from the slot cash storage box for the period between the reading of the bill meters.

RESPONSE: Accepted.

COMMENT: Greate Bay Hotel and Casino, Inc. (Sands) suggests three changes to the proposal. The first change would clarify that the bill meters will not be required to be read and recorded any more frequently than once a week. Secondly, the Sands recommends the elimination of the requirement that the slot machine's and bill changer's meter readings be taken prior to the slot machine being available for patron use. Lastly, the Sands recommends that the threshold of the variance which must be recorded be increased from \$25.00 to \$100.00, that the requirement to read and record the bill meters when a variance occurs be eliminated and that casino licensees maintain a log at the casino, rather than file a written report, for all variances of \$100.00 or more.

RESPONSE: Partially accepted. The proposed amendment has been revised to indicate that meter readings will not be required to be read and recorded more frequently than once a week. The Sands' recommendation that patrons be permitted to play the slot machine prior to the accounting department reading the meters has been rejected. In order to verify the slot machine's gross revenue, the meter reading must be taken after the slot drop bucket or slot cash storage box is removed and prior to the machine being available for patron use. The Sands' recommendation that the variance which must be recorded be increased from \$25.00 to \$100.00 has also been rejected. Since the cash removed from the slot cash storage box is gross revenue and since there should be no variance at all, the request to increase the reported variances has been rejected. The Sands' recommendation to eliminate the requirement to read and record the bill meters when a variance of \$25.00 or more occurs has also been rejected. Since the cash removed from the bill changer's slot cash storage box is gross revenue, any variances should be accurately reported. Finally, Sands' recommendation that the casino licensee record the variance on a log maintained at the casino has been rejected. The number of variances of \$25.00 or more are not anticipated to be significant, and, therefore, the reporting requirements should not be onerous for casino licensees.

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

19:45-1.42 Removal of slot drop bucket and slot cash storage boxes; meter readings

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

(e) Accounting department employees with no incompatible functions shall, at least once a week, read and record on a Slot Meter Sheet the numbers on the in-meter, drop meter, jackpot meter, manual jackpot meter and change meter. Accounting department employees shall ***periodically*** read and record on a Slot Meter Sheet the numbers on the bill meters in accordance with a schedule ***[submitted to]* *established by the casino licensee*** and approved by the Commission*, **but in no event shall the casino licensee be required to read and record the bill meters more than once a week***. These procedures shall be performed in conjunction with the removal and replacement of the slot drop buckets or slot cash storage boxes prior to opening the slot machine for patron play.

(f) (No change.)

(g) Whenever there is a variance of \$25.00 or more between the meter reading taken from the change meter and recorded on the Slot Meter Sheet pursuant to (f) above, and the total amount of cash removed from the bill changer's slot cash storage box, the casino licensee's accounting department shall, as expeditiously as possible, read and record ***on a Slot Meter Sheet*** the bill changer's bill meters*, **and shall remove the slot cash storage box and count the contents in accordance with N.J.A.C. 19:45-1.33***. The meter readings from the bill meters shall be compared to the total amount of cash removed from the slot cash storage box ***for the period from the last date the bill meters were read*** to verify the variance. The casino licensee shall be required to file an incident report with the casino controller, Commission and Division whenever a variance between the meter readings from the change meter and the cash removed from the slot cash storage box is \$25.00 or more. The incident report shall include, at a minimum, the following:

1. The date of the meter reading;
2. The date the report was filed;
3. The amount of the variance, by denomination;
4. The asset number of the bill changer involved;
5. An indication as to the cause of the variance, if available;
6. An indication as to whether the bill meters confirmed the variance; and
7. The signature and license number of the preparer.

(b)

CASINO CONTROL COMMISSION**Casino Simulcasting****Accounting and Internal Controls****Satellite Cages****Gaming Equipment****Advertising**

Adopted New Rules: N.J.A.C. 19:45-1.14A and 1.15A; 19:50-3.6; and 19:55

Adopted Amendments: N.J.A.C. 19:40-1.2; 19:41-1.3; 19:42-5.9 and 5.10; 19:43-14.1, 14.2 and 15.2; 19:45-1.1, 1.2, 1.7, 1.8, 1.10 through 1.16, 1.19, 1.20, 1.25, 1.27, 1.32, 1.46; 19:46-1.1, 1.2, 1.3, 1.5, 1.6, 1.9 through 1.20, 1.27 and 1.33; 19:47-1.3 through 1.6, 2.3, 5.1, 5.6, 8.2; 19:50-1.4; 19:51-1.2 and 1.14; and 19:53-1.13

Proposed: October 19, 1992 at 24 N.J.R. 3695(a).

Adopted: December 16, 1992 by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: December 17, 1992 as R.1993 d.37, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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Authority: N.J.S.A. 5:12-5, 7, 9, 21, 24, 44.1, 69(e), 79(a)1, 92, 99, 100, 101, 103, 104, 119 and 191 through 210.

Effective Date: January 19, 1993.

Expiration Date: August 24, 1994, N.J.A.C. 19:40,
 May 12, 1993, N.J.A.C. 19:41,
 May 12, 1993, N.J.A.C. 19:42,
 December 21, 1997, N.J.A.C. 19:43,
 March 24, 1993, N.J.A.C. 19:45,
 April 28, 1993, N.J.A.C. 19:46,
 April 28, 1993, N.J.A.C. 19:47,
 May 12, 1993, N.J.A.C. 19:50,
 August 14, 1996, N.J.A.C. 19:51,
 April 28, 1993, N.J.A.C. 19:53,
 January 19, 1998, N.J.A.C. 19:55.

Agency Note: The following sections of this proposal were recodified, effective December 21, 1992 (see 24 N.J.R. 4563(a)):

Published as:	Recodified as:
19:43-1.2	19:51-1.2
19:43-1.14	19:51-1.14
19:51-1.1	19:43-14.1
19:51-1.2	19:43-14.2
19:52-1.2	19:43-15.2

These changes are reflected herein as current codification.

Summary of Public Comments and Agency Responses:

Casino Association of New Jersey (CANJ), Greate Bay Hotel and Casino, Inc. (Sands), Atlantic City Showboat, Inc. (Showboat), Resorts International Hotel, Inc. (Resorts), Adamar of New Jersey, Inc. (TropWorld), Sports Arena Employees Local 137 (Local 137) and the National Football League (NFL) filed comments in response to this proposal. In addition to their own comments, Showboat and Resorts joined in the comments filed by CANJ.

COMMENT: CANJ commented that the definition of hub facility in N.J.A.C. 19:55-1.1 should be amended to delete the requirement that it be located in New Jersey, and that N.J.A.C. 19:55-6.3 and 6.4 should be amended to: (a) require that a hub facility be licensed as a non-gaming, rather than a gaming-related, casino service industry; (b) delete the requirement that employees of a hub facility be licensed or registered with the Commission as if the hub facility were itself a casino licensee; (c) delete the requirement that a hub facility submit for Commission approval a jobs compendium; and (d) delete the requirement that enterprises transacting business with a hub facility related to casino simulcasting be subject to the vendor registration and casino service industry licensing requirements applicable to an enterprise which transacts business with a casino licensee.

RESPONSE: Rejected. As recognized by CANJ itself, the concept of a hub facility is beneficial from both a business and regulatory standpoint. A hub facility will house the totalisator and operations which are vital to the integrity of casino simulcasting and racing. The mere fact that it serves both the regulators and the regulated to have these operations performed in one or more hub facilities rather than in 12 casino simulcasting facilities in no way vitiates the requirement that they be subject to the same regulation as if the operations were being conducted by casino licensees themselves. The requirement that a hub facility be located in New Jersey is amply justified to ensure that the Racing Commission and Division of Gaming Enforcement will have access thereto. Additionally, it will assure that employment opportunities attributable to hub facilities will inure to New Jersey residents. The requirement that a hub facility be a gaming related casino service industry is amply justified by the very nature of its operations. Additionally, the Legislature amended N.J.S.A. 5:12-92(a) to require that manufacturers, suppliers and repairers of simulcast wagering equipment be licensed to that standard, and a hub facility will be operating such equipment.

COMMENT: CANJ commented that N.J.A.C. 19:55-9 should be deleted. This portion of the proposal requires the presence of a supervisor of mutuels and a verifier at a hub facility for a minimum period of one year, during which their compensation is payable, directly or indirectly, by the hub facility. CANJ stated that while the presence of such officials may be necessary at in-state race tracks during the running of live races, "there is no need for their constant presence or supervision of casino simulcasting."

RESPONSE: Rejected. The Racing Commission recommended that the presence of these officials is necessary to promote the integrity of

casino simulcasting and racing, particularly during the initial phase of operations. The Casino Control Commission (Commission) believes the proposed rules reasonably balance that recommendation with the comment of CANJ in that they provide for the removal of these officials after one year unless both the Racing Commission and Commission agree otherwise, or unless the Racing Commission determines to maintain their presence at its own expense.

COMMENT: CANJ commented that N.J.A.C. 19:55-6.2 should be amended to provide the totalisators and pari-mutuel machines are not "simulcast wagering equipment" and that, therefore, manufacturers, suppliers and repairers thereof are not gaming-related casino service industries.

RESPONSE: Rejected. The Legislature amended N.J.S.A. 5:12-92(a) to provide that manufacturers, suppliers and repairers of simulcasting wagering, as well as gaming, equipment are gaming related casino service industries. The Commission believes that totalisators and pari-mutuel machines clearly constitute "simulcast wagering equipment."

COMMENT: CANJ commented that N.J.A.C. 19:55-2.11(a) should be amended to delete the provision whereby pari-mutuel tickets purchased at a casino simulcasting facility may be cashed at in-State race tracks which conducted pari-mutuel wagering on the same race, as well as the converse.

RESPONSE: Accepted. CANJ correctly noted that, under the current legislation, casino simulcasting facilities are required to commingle wagering with the pari-mutuel pool of the sending track, whereas in some instances in-state race tracks may be unable to do so. In such cases, casino simulcasting facilities will not be able to participate in the pari-mutuel pool formed by in-State race tracks, and reciprocity in cashing pari-mutuel tickets will be impossible.

COMMENT: Resorts commented that N.J.A.C. 19:55-2.11 should be amended to permit the cashing of pari-mutuel tickets at casino simulcasting facilities by mail.

RESPONSE: Rejected. The Commission does not currently permit casino licensees to redeem chips, slot tokens, or gaming plaques by mail. Permitting the cashing of pari-mutuel tickets by mail could facilitate simulcast wagering by underaged persons or persons excluded from entering a casino hotel.

COMMENT: CANJ commented that the definition of "interstate common pool" should be included in N.J.A.C. 19:55-1.1.

RESPONSE: Rejected. "Interstate common pool" is defined in N.J.S.A. 5:12-192, and its definition need not be repeated in the proposal.

COMMENT: The NFL commented that the definition of "authorized game" in N.J.A.C. 19:40-1.2 should be modified to make it clear that the Commission cannot approve any kind of sports betting as an "authorized game." It also indicated that the definition in this proposal appeared to be inconsistent with the definition of "authorized game" in an earlier proposal published at 24 N.J.R. 3223(a) on September 21, 1992, and subsequently adopted by the Commission.

RESPONSE: Rejected. The requested modification is unnecessary. The regulatory definition of an "authorized game" is consistent with the statutory definition in section 5 of the Casino Control Act, N.J.S.A. 5:12-5, as amended by the Casino Simulcasting Act, P.L. 1992, c. 9, and there is no need to clarify it further. Additionally, the definition is not inconsistent with the one in the prior published proposal; it merely broadens the definition to provide for the conduct of authorized games in the casino simulcasting facility as well as the casino, and includes gaming tournaments, which are included in N.J.S.A. 5:12-5, as amended, but were not included in the prior regulatory definition.

COMMENT: CANJ, Showboat, Resorts, TropWorld and Sands commented that N.J.A.C. 19:45-1.14A should be amended or deleted to permit simulcast wagering to be conducted in a satellite cage rather than a separate simulcast counter meeting the physical requirements of that section.

RESPONSE: While these comments are rejected, N.J.A.C. 19:45-1.14A(c) has been added to clarify that the simulcast counter may be contiguous to a satellite cage, with ingress and egress thereto, provided that it is otherwise physically and functionally segregated from the satellite cage. Thus, while casino licensees may conserve space in constructing a satellite cage and simulcast counter in this manner, the segregation of simulcasting revenue from gross revenue will not be jeopardized. Notwithstanding this clarification, it should be noted that the simulcast counter is required to be located within the casino simulcasting facility, while a satellite cage may, pursuant to N.J.A.C. 19:55-3.4, be located immediately adjacent thereto. It should also be

noted that, subject to the approval of the Commission, a casino licensee need not establish and maintain a satellite cage with respect to its casino simulcasting facility.

COMMENT: CANJ, Showboat, Resorts, TropWorld and Sands commented that N.J.A.C. 19:45-1.11(b) and 1.12(h) should be amended or deleted to permit more flexibility with respect to the reporting lines of simulcast counter personnel, as well as the functions which such personnel may perform at a given time.

RESPONSE: The Commission recognizes that some casino licensees may desire to have their simulcast counter personnel in their table games, rather than their casino accounting department. Accordingly, minor changes have been made to N.J.A.C. 19:45-1.11(b)4, 19:45-1.11(b)8, 19:45-1.12(h) and 19:45-1.15A to provide this flexibility. Additionally, a technical amendment has been made to N.J.A.C. 19:45-1.11(b)10 to clarify that the simulcast counter manager need not hold a separate license endorsement.

It should also be noted that some of the flexibility sought by the commenting parties is permissible under the original proposal. For example, a general cashier may act as a casino pari-mutuel cashier, but may not perform such incompatible functions at the same time. It should further be noted that, subject to the requisite Commission approval, which will address issues such as incompatible functions and scope of authority, the simulcast counter manager may be a person with additional responsibilities.

Notwithstanding this flexibility, N.J.A.C. 19:45-1.12(h)2, which is adopted as published, mandates that there be a simulcast counter shift supervisor licensed as a casino key employee who shall be the first level supervisor responsible for the direct supervision of the operation and conduct of the simulcast counter.

COMMENT: CANJ commented that N.J.A.C. 19:45-1.15A(h) should be amended to eliminate the requirement for a security department report whenever there is a discrepancy in balancing the simulcast count sheet total plus the simulcast inventory against the pari-mutuel window net as generated by the totalisator. TropWorld and Sands recommended that a threshold discrepancy of \$250.00 be established before such a report is required, and Resorts recommended a threshold of up to \$500.00.

RESPONSE: The Commission agrees that a minor amendment should be made to this section to provide for the generation of a security department report only when the discrepancy is \$250.00 or more. This amendment will make the regulation consistent with that established by approved internal controls for other cashiers.

COMMENT: CANJ commented that N.J.A.C. 19:45-1.19(c) should be amended to delete the requirement that tips received by casino pari-mutuel cashiers be distributed on a weekly basis. Showboat commented that N.J.A.C. 19:45-1.19(c) and (d) should be deleted.

RESPONSE: The comment of CANJ is accepted, and a minor amendment has been made to N.J.A.C. 19:45-1.19(c) to delete the requirement that tips be distributed weekly. Thus, the frequency for the distribution of such tips will be left to the discretion of casino licensees, as N.J.S.A. 5:12-101(o)2, as amended, permits with respect to dealers.

COMMENT: TropWorld and Showboat commented that N.J.A.C. 19:50-3.6 should be amended because it establishes conditions for serving alcoholic beverages identical to those imposed upon such service in the casino room.

RESPONSE: Rejected. The comments correctly note that the pertinent statutory amendment, which permits the sale of alcoholic beverages in a casino simulcasting facility, N.J.S.A. 5:12-103(g)6, does not specifically prohibit the "offering" of alcoholic beverages in the facility. However, the Commission is unaware of any reason why it should permit alcoholic beverages to be served under different conditions in a casino simulcasting facility, in which authorized games can be conducted, than in a casino room.

COMMENT: Showboat commented that N.J.A.C. 19:50-3.6(e) should be amended because it could be read to prohibit the service of alcoholic beverages in the casino simulcasting facility when the facility is open, but the simulcast counter has been closed.

RESPONSE: Rejected. A casino simulcasting facility may be open during permitted hours of casino operation, N.J.A.C. 19:55-2.7, and the casino simulcasting facility is open any time that either authorized games or simulcast wagering are being conducted. However, it is possible that the proposal could be read to prevent the service of alcoholic beverages in the casino simulcasting facility when it is open and the casino has

been closed, a circumstance which could occur. The proposal was not intended to have such an effect, and a minor modification has been made to clarify this.

COMMENT: Sands commented that N.J.A.C. 19:45-1.11(b)9 should be amended to delete the requirement that each satellite cage be supervised by a casino key employee.

RESPONSE: Rejected. The proposal recognizes that satellite cages may vary in the functions they perform by providing that the license endorsement of the supervisor shall depend upon the extent of such functions. The Commission nevertheless believes any and all satellite cages should be supervised by a casino key employee.

COMMENT: Sands commented that N.J.A.C. 19:45-1.27 should be amended because it makes no provision for the extension of credit in the simulcasting facility.

RESPONSE: Rejected. To the extent Sands implies that credit may not be extended in a casino simulcasting facility for authorized games, it is incorrect. The fact that there is no provision for the issuance of credit for simulcast wagering purposes was noted and discussed in the summary to this proposal at 24 N.J.R. 3696.

COMMENT: Resorts commented that N.J.A.C. 19:45-1.46 should be amended to permit that any coupon issued for a dollar amount may be redeemed at any redemption location in the casino or casino simulcasting facility, including the simulcast counter.

RESPONSE: Rejected. The proposed amendment would be inconsistent with a primary intent of this proposal, the segregation of simulcasting revenue from gross revenue.

COMMENT: Local 137 commented that N.J.A.C. 19:53-1.13(b)4 should be amended to delete the reference to undertaking good faith efforts with respect to the obligation to give first preference in hiring, under certain circumstances, to former employees of Atlantic City Racetrack.

RESPONSE: Accepted. The proposal did not intend that the quoted words dilute the statutory obligation, and the Commission agrees that the words could be so viewed.

Summary of Agency-Initiated Changes:

N.J.A.C. 19:45-1.15A(h) requires in part the reporting of certain discrepancies by casino pari-mutuel cashiers to a supervisor, security and the Commission verbally. The report should be made to the Division, not the Commission, and this minor amendment has been made.

The title of N.J.A.C. 19:55-6 has been changed to "Licensing and Registration of Entities and Their Employees" to describe more accurately the contents of this subchapter.

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

19:40-1.2 Definitions

All words and terms which are defined in the New Jersey Casino Control Act (P.L. 1977, c.110, as amended) are used in these rules and regulations as defined in that Act. The following words and terms, when used in these rules and regulations, shall have the following meanings, unless the context clearly indicates otherwise.

...
 "Authorized game" or "authorized gambling game" means roulette, baccarat, blackjack, craps, big six wheel slot machines, mini-baccarat and any variations or composites of such games, provided that such variations or composites are found by the Commission suitable for use in the casino or casino simulcasting facility after an appropriate test or experimental period under such terms and conditions as the Commission may deem appropriate; and any other game which is determined by the Commission to be compatible with the public interest and to be suitable for use in the casino or casino simulcasting facility after such appropriate test or experimental period as the Commission may deem appropriate. "Authorized game" or "authorized gambling game" includes gaming tournaments in which players compete against one another in one or more of the games listed herein or in approved variations or composites thereof if the tournaments are authorized by the Commission.

...
 "Casino employee" means any natural person employed in the operation of a licensed casino or a casino simulcasting facility, including, without limitation, boxmen; dealers or croupiers; floormen; machine mechanics; casino security employees; count

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room personnel; cage personnel; slot machine and slot booth personnel; collection personnel; casino surveillance personnel; casino simulcasting facility personnel involved in wagering-related activities in a casino simulcasting facility; and data processing personnel; or any other natural person whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment and assets associated therewith or who, in the judgment of the Commission, is so regularly required to work in a restricted casino area that licensure as a casino employee is appropriate.

... "Casino key employee" means any natural person employed in the operation of a licensed casino or a casino simulcasting facility in a supervisory capacity or empowered to make discretionary decisions which regulate casino or casino simulcasting facility operations, including without limitation, pit bosses; shift bosses; credit executives; casino cashier supervisors; casino or casino simulcasting facility managers and assistant managers; managers or supervisors of casino security employees; or any other natural person empowered to make discretionary decisions which regulate the management of an approved hotel, including, with limitation, hotel managers; entertainment directors; and food and beverage directors; or any other employee so designated by the Commission for reasons consistent with the policies of the Act.

... "Casino service industry" means any form of enterprise which provides casino applicants or licensees with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility on a regular or continuing basis, including, without limitation, junket enterprises, security businesses, gaming schools, manufacturers, distributors and servicers of gaming and casino simulcasting devices or equipment, hub facilities, in-State and out-of-State sending tracks as defined in N.J.S.A. 5:12-192, garbage haulers, maintenance companies, good purveyors, and construction companies. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S.A. 2C:37-7, shall be considered a casino service industry for the purposes of the Casino Control Act regardless of the nature of its business relationship, if any, with licensed casinos in this State. For purposes of this section, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of the Act who has applied to the Commission for a casino license or any approval required under the Act.

"Casino simulcasting" is defined in N.J.A.C. 19:55-1.1.
"Casino simulcasting facility" is defined in N.J.A.C. 19:55-3.1 through 3.4.

... "Game" or "gambling game" means any banking or percentage game located within the casino or casino simulcasting facility played with cards, dice or any electronic, electrical, or mechanical device or machine for money, property, or any representative of value.

... "Gross revenue" means the total of all sums, including checks received by a casino licensee pursuant to section 101 of the Act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or four percent of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons. "Gross revenue" shall not include any amount received by a casino licensee from casino simulcasting pursuant to the Casino Simulcasting Act. For purposes of this section, any check which is invalid and unenforceable pursuant to subsection 101(f) of the Act shall be treated as cash received by the casino licensee from gaming operations.

... "Hub facility" is defined in N.J.A.C. 19:55-1.1.

... "Pari-mutuel ticket" is defined in N.J.A.C. 19:55-1.1.

"Pari-mutuel window" is defined in N.J.A.C. 19:45-1.14A(d)1.

... "Satellite cage" is defined in N.J.A.C. 19:45-1.14.

... "Simulcast counter" is defined in N.J.A.C. 19:45-1.14A(c).

"Simulcast horse race" is defined in N.J.A.C. 19:55-1.1.

"Simulcast payout" means the money paid to a patron in exchange for a credit voucher or a winning, cancelled or refunded pari-mutuel ticket.

19:41-1.3 Employee licenses

(a) No natural person shall be employed in the operation of a licensed casino or a casino simulcasting facility in a supervisory capacity or be empowered to make discretionary decisions which regulate casino or casino simulcasting facility operations or the management of an approved hotel unless he or she is over 18 years of age and holds a current and valid casino key employee license authorizing employment in the particular position. The following positions, without limitation, shall require a casino key employee license:

1.-11. (No change.)

(b) No natural person shall be employed in the operation of a licensed casino or a casino simulcasting facility or in a position whose employment duties require or authorize access to restricted casino areas unless he or she is over 18 years of age and holds a current and valid casino employee license authorizing employment in the particular position. The following positions, without limitation, shall require a casino employee license:

1.-5. (No change.)

6. Any natural person employed by a casino or its agent to provide physical security in a casino hotel;

7. Casino simulcasting facility personnel involved in wagering-related activities in a casino simulcasting facility; and

8. (No change in text.)

(c) (No change.)

(d) Every casino key employee and casino employee, except those approved by the Chairman, shall wear in a conspicuous manner their license credential issued by the Commission at all times while employed in the casino and casino simulcasting facility areas which includes without limitation, the casino and casino simulcasting facility floors, cashiers' cage, satellite cages, countrooms, eye-in-the-sky and closed circuit television monitoring.

(e) No casino licensee shall permit any casino key employee or casino employee, except those approved by the Chairman, to work in the casino or casino simulcasting facility areas without the wearing of their license credential as required herein.

(f) (No change.)

(g) In those situations where a license credential is lost or destroyed, a casino key employee or casino employee may be authorized to enter the casino and casino simulcasting facility areas to perform employment duties so long as:

1.-3. (No change.)

(h) (No change.)

19:42-5.9 Underage gaming-violations

(a) No casino licensee or agent or employee thereof, shall allow, permit or suffer any person under the age at which a person is authorized to purchase and consume alcoholic beverages in this State ("underage person") to:

1. Enter a casino or casino simulcasting facility, except to pass directly to another room, unless the underage person is licensed under the Act and is acting in the regular course of his or her licensed activities;

2. Remain in a casino or casino simulcasting facility, unless the underage person is licensed under the Act and is acting in the regular course of his or her licensed activities;

3. Wager at any game or at casino simulcasting in a casino or casino simulcasting facility;

4.-6. (No change.)

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

19:42-5.10 Underage gaming violations—affirmative defenses

(a) (No change.)

(b) For purposes of establishing an affirmative defense to a violation of N.J.S.A. 5:12-119 and N.J.A.C. 19:42-5.9, the term "writing" in N.J.S.A. 5:12-119(b) shall include the following:

1.-2. (No change.)

3. A writing which is made and signed by the underage person, and which contains, at a minimum, the following information:

i. (No change.)

ii. A statement that the representation of age is being made to induce the licensee to permit the person to enter, remain or wager at a game or at casino simulcasting in a casino or casino simulcasting facility, to be rated, receive complimentaries, obtain approval of a credit limit, or to utilize credit.

19:43-14.1 Applicability of advertising regulations

(a) (No change.)

(b) The following notices and communications shall not be deemed advertisements for purposes of this chapter, but shall be subject to any review and approval by the Commission otherwise required by the Act or by regulation:

1. (No change.)

2. Any signage or other directional devices contained in a casino or casino simulcasting facility for the purpose of identifying the location of approved games; and

3. (No change.)

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

19:43-14.2 Criteria governing advertising

(a) (No change.)

(b) Any on-site advertising of casino or casino simulcasting facility operations shall contain the phrase "Bet With Your Head, Not Over It," or some comparable language approved by the Commission.

(c) All advertising which appears in print, or on a billboard or sign shall contain the words "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER" or some comparable language approved by the Commission, which contains the words "gambling problem" and "call 1-800-GAMBLER" to appear legibly on all print.

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

(f) The use or statement of the following information shall be permissible with respect to all advertisements:

1. Descriptions of the games available at a licensed casino or casino simulcasting facility, or of any variation thereof which is permitted by regulation, including, but not limited to, types of wagers offered, provided, however, that no advertisement may contain information which is prohibited by (e)3 above;

2. (No change.)

3. The location of the casino or the casino simulcasting facility;

4. The hours of a casino's or the casino simulcasting facility's operation; or

5. Descriptions of any amenities available at a casino or casino simulcasting facility.

(g) (No change.)

19:43-15.2 Entertainment within the casino room and casino simulcasting facility

(a) No entertainment shall be offered within the casino room or the casino simulcasting facility itself, unless the casino licensee receives approval from the Commission to provide such entertainment. The casino licensee shall file a written submission with the Commission and the Division at least five days prior to the commencement of such entertainment, which submission shall include, at a minimum, the following information:

1.-3. (No change.)

4. The exact location of the entertainment on the casino floor and casino simulcasting facility;

5.-6. (No change.)

(b) The submission in (a) above shall be deemed approved by the Commission unless the casino licensee is notified in writing to the contrary within three days of filing.

(c) The Commission may at any time after the granting of approval require the licensee to immediately cease any entertainment

offered within the casino room or casino simulcasting facility if the entertainment provided is in any material manner different from the description contained in the submission filed pursuant to (a) above, or in any way compromises the integrity of gaming operations.

(d) In reviewing the suitability of an entertainment proposal, the Commission shall consider the extent to which the entertainment proposal:

1. (No change.)

2. May unduly interfere with the security of the casino room or casino simulcasting facility or any of the games therein or any restricted casino area; or

3. (No change.)

19:45-1.1 Definitions

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

... "Casino check" means a check which is drawn by a casino licensee upon the licensee's account at any New Jersey banking institution and made payable to a person in redemption of the licensee's gaming chips, pursuant to N.J.S.A. 5:12-100(k), in return, either in whole or in part, of a person's deposit on account with the casino licensee pursuant to N.J.S.A. 5:12-101(b), for winnings from slot machine or simulcast wagering payoffs, and which is identifiable in a manner approved by the Commission as a check issued for one of these purposes. At a minimum, such identification method shall include an endorsement or imprinting on the check which indicates that the check is issued in redemption of gaming chips, in return of funds on account with the casino licensee or for winnings from slot machine or simulcast wagering payoffs.

... "Casino licensee" means a holder of any license issued pursuant to the Casino Control Act, that authorizes the ownership or operation of a casino or casino simulcasting facility.

"Casino supervisor" means a person employed in the operation of a casino or of the authorized games in a casino simulcasting facility in a supervisory capacity or empowered to make discretionary decisions which regulate casino operations, including but not limited to, boxmen, floormen, pit bosses, casino shift managers, the assistant casino manager, and the casino manager.

... "Pari-mutuel window net" means the total amount of credit vouchers issued and wagers placed on simulcast horse races at a pari-mutuel window less the total amount of simulcast payouts at the same pari-mutuel window. Pari-mutuel window net shall be calculated by the totalisator.

... "Shift" means the regular, daily work period of a group of employees administering and supervising the operation of table games, slot machines, simulcast counter, and cashiers' cage, working in relay with another such succeeding or preceding group of employees or specific times, as approved by the Commission, during the day that all drop boxes attached to gaming tables are removed, expeditiously transported to the count room, and replaced with empty ones.

... "Simulcast count sheet" is defined in N.J.A.C. 19:45-1.15A(b).

"Simulcast handle" means the amount of currency, coin, gaming chips, slot tokens and coupons wagered by patrons on a simulcast horse race.

19:45-1.2 Accounting records

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

(c) The detailed, supporting, and subsidiary records shall include, but not necessarily be limited to:

1.-2. (No change.)

3. Records supporting the accumulation of the costs and number of persons, by category of service, for regulated complimentary services. Such records shall include, on a daily basis, the name of each person provided with complimentary services, the category of

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services provided, the retail value of the aggregate of each category of service provided to such person, and the person authorizing the receipt of such service. A copy of this record shall be submitted to the Division of Gaming Enforcement's office located on the casino premises no later than two days subsequent to its preparation. Excepted from this requirement are the individual names of persons authorizing or receiving complimentary tickets for theatre or other entertainment events with a face value of less than \$25.00, parking, beverages served in bars, the casino and casino simulcasting facility or complimentary services or items, including cash or slot tokens, issued pursuant to a complimentary distribution program regulated by N.J.A.C. 19:45-1.46.

4.-9. (No change.)

10. Records used by the casino licensee to reconcile simulcast wagers with sending tracks pursuant to N.J.A.C. 19:55-7.1, calculate outstanding pari-mutuel tickets pursuant to N.J.A.C. 19:55-7.2 and calculate payments to the Racing Commission pursuant to N.J.A.C. 19:55-7.3.

19:45-1.7 Annual audit and other reports

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

(c) The financial statements required by this section shall include a footnote reconciling and explaining any differences between the financial statements included in the casino licensee's annual report, filed in conformity with N.J.A.C. 19:45-1.6, and the audited financial statements. Such footnote shall, at a minimum, disclose the effect of such adjustments on:

1. Revenues from the casino and authorized games in the casino simulcasting facility;

2. Casino simulcasting revenues;

Recodify existing 2.-5. as 3.-6. (No change in text.)

(d)-(i) (No change.)

19:45-1.8 Retention, storage and destruction of books, records and documents

(a) (No change.)

(b) For the purposes of this section, "books, records and documents" shall be defined as any book, record or document pertaining to, prepared in or generated by the operation of a casino, a casino simulcasting facility or an approved hotel including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records. This definition shall apply without regard to the medium through which the record is generated or maintained, for example, paper, magnetic media or encoded disk.

(c) All original books, records and documents shall be retained by a casino licensee in accordance with the following schedules. For purposes of this subsection, "original books, records or documents" shall not include copies of originals, except for copies which contain original comments or notations or parts of multi-part forms.

1.-3. (No change.)

4. With the exception of cashed pari-mutuel tickets and credit vouchers, the original books, records and documents related to the revenues and expenses of casino simulcasting, including but not limited to all reports generated by the totalisator and all records maintained in accordance with N.J.A.C. 19:45-1.2(c)10, shall be retained by a casino licensee or a hub facility for a minimum of one year.

5. The following original books, records and documents shall be retained by a casino licensee for a minimum of six months.

i. Coupons entitling patrons to cash, slot tokens or simulcast wagers, including unused, voided and redeemed coupons;

ii.-xi. (No change.)

6. Cashed pari-mutuel tickets and credit vouchers shall be retained by a casino licensee for a minimum of 30 days from the date on which they are cashed, cancelled or refunded in the casino licensee's casino simulcasting facility.

Recodify existing 5. as 7. (No change in text.)

(d)-(i) (No change.)

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19:45-1.10 Closed circuit television system; surveillance department control; surveillance department restrictions

(a) (No change.)

(b) The closed circuit television system shall include, but need not be limited to, the following:

1. Light sensitive cameras with zoom, scan, and tilt capabilities to effectively and clandestinely monitor in detail and from various vantage points, the following:

i. The gaming conducted at each gaming table in the casino and casino simulcasting facility and the activities in the casino and casino simulcasting facility pits;

ii.-iv. (No change.)

v. The operations conducted in the simulcast counter.

Recodify existing v.-vi. as vi.-vii. (No change in text.)

viii. The entrances and exits to the casino, casino simulcasting facility and the count rooms; and

Recodify existing viii. as ix. (No change in text.)

2.-3. (No change.)

4. One or more monitoring rooms in the establishment which shall be in use at all times by the employees or agents of the surveillance department of the licensee assigned to monitor the activities in the casino and casino simulcasting facility and to be used as necessary by the inspectors and agents of the Commission and Division.

5. (No change.)

(c)-(g) (No change.)

(h) Entrances to the closed circuit television monitoring rooms shall not be visible from the casino area or casino simulcasting facility.

19:45-1.11 Casino licensee's organization

(a) Each casino licensee's system of internal controls shall, in accordance with the provisions of N.J.A.C. 19:45-1.11A, include tables of organization. Each casino licensee shall be permitted, except as otherwise provided in this section and N.J.A.C. 19:53-1.13, to tailor its organizational structure to meet the needs or policies of its own particular management philosophy. The proposed organizational structure of each casino licensee shall be approved by the Commission in the absence of a conflict between the organizational structure and the criteria listed below, which criteria are designed to maintain the integrity of casino and casino simulcasting facility operations. Each casino licensee's tables of organization shall provide for:

1.-4. (No change.)

(b) In addition to satisfying the requirements of (a) above, each casino licensee's system of internal controls shall include, at a minimum, the following departments and supervisory positions. Each of these departments and supervisors shall be required to cooperate with, yet perform independently of, all other departments and supervisors. Mandatory departments are as follows:

1. A surveillance department supervised by a casino key employee holding a license endorsed with the position of director of surveillance. The supervisor of the surveillance department shall be subject to the reporting requirements specified in (c) below. The surveillance department shall be responsible for, without limitation, the following:

i.-ii. (No change.)

iii. The clandestine surveillance of the operation of the casino simulcasting facility;

Recodify existing iii.-iv. as iv.-v. (No change in text.)

vi. The detection of cheating, theft, embezzlement, and other illegal activities in the casino, casino simulcasting facility, count rooms, slot booths, and cashiers' cage;

Recodify existing vi.-viii. as vii.-ix. (No change in text.)

2. (No change.)

3. A management information system ("MIS") department supervised by a casino key employee holding a license endorsed with the position of executive employee. The MIS department shall be responsible for the quality, reliability and accuracy of all computer systems used by the casino licensee in the conduct of casino and

casino simulcasting facility operations including, without limitation, specification of appropriate computer software, hardware, and procedures for security, physical integrity, audit, and maintenance of:

i.-iii. (No change.)

4. A table games department supervised by a casino key employee holding a license endorsed with the position of casino manager. The table games department ***may be responsible for the operation and conduct of the simulcast counter and*** shall be responsible for the operation and conduct of the following games.

i.-x. (No change.)

5. (No change from proposal.)

6. A credit department supervised by a casino key employee holding a license endorsed with the position of credit manager. The credit department shall be responsible for the credit function including, without limitation, the following:

i.-iii. (No change.)

iv. The communication in writing of the names and addresses of patrons with newly approved credit limits to the supervisors of the security and surveillance departments on a daily basis in accordance with the casino licensee's approved procedures.

7. A security department supervised by a casino key employee holding a license endorsed with the position of director of security. The security department shall be responsible for the overall security of the establishment including, without limitation, the following:

i.-iii. (No change.)

iv. The physical safeguarding of assets transported to and from the casino, casino simulcasting facility, slot, and cashiers' cage departments;

v.-vii. (No change.)

viii. The recordation of any and all unusual occurrences within the casino and casino simulcasting facility for which the assignment of a security department employee is made. Each incident, without regard to materiality, shall be assigned a sequential number and, at a minimum, the following information shall be recorded in indelible ink in a bound, laboratory-type notebook from which pages cannot be removed and each side of each page of which is sequentially numbered:

1.-6. (No change.)

ix. (No change.)

8. A casino accounting department supervised by a casino key employee holding a license endorsed with the position of controller. The supervisor of the casino accounting department ***may be responsible for the operation and conduct of the simulcast counter and*** shall also be responsible for the control and supervision of the cashiers' cage*[,] ***and*** any satellite cages ***[and simulcast counter]***. The casino accounting department shall be responsible for, without limitation, the following:

i. (No change.)

ii. The preparation and control of records and data; and

iii. The control of stored data, the supply of unused forms, and the accounting for and comparing of forms used in operating the casino and casino simulcasting facility.

9. A cashiers' cage supervised by a casino key employee holding a license endorsed with the position of cage manager. The supervisor of the cashiers' cage shall report to the supervisor of the casino accounting department and shall be responsible for the control and supervision of cage and slot cashiers, change persons and casino clerks. The cashiers' cage may be separated into independent operations for table games and slot machines. If a casino licensee elects to operate both a table games cage and a slot machine cage, each independent cage operation shall be supervised by a casino key employee holding a license endorsed with the position of cage manager. If a casino licensee elects to operate one or more satellite cages, each satellite cage shall be supervised by a casino key employee holding a license whose endorsement shall depend upon the functions performed by the satellite cage. The cashiers' cage shall be responsible for, without limitation, the following:

i.-iv. (No change.)

10. A casino licensee which elects to conduct casino simulcasting shall operate a simulcast counter supervised by a casino key

employee ***[holding a license endorsed with the position of simulcast counter manager]*** ***designated as simulcast counter manager, who shall perform the functions set forth in N.J.A.C. 19:45-1.12(h)3***.

(c)-(f) (No change.)

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

(a) Each casino licensee shall be required to employ the personnel herein described in the operation of its casino and casino simulcasting facility, regardless of the position titles assigned to such personnel by the casino licensee in its approved jobs compendium. Functions described in this section shall be performed only by persons holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to perform such functions, or by persons holding the appropriate license and position endorsement required by the casino licensee's approved jobs compendium to supervise persons performing such functions, subject to the limitations imposed by N.J.A.C. 19:45-1.11(a). Each casino licensee shall at all times maintain a level of staffing which ensures the proper operation and effective supervision of all table games in the casino and casino simulcasting facility.

(b) The following personnel shall be used to operate the table games in an establishment:

1.-6. (No change.)

7. Casino shift manager shall be the supervisor assigned to each shift with the responsibility for the supervision of table games conducted in the casino and casino simulcasting facility. In the absence of the casino manager and the assistant casino manager, should the establishment have an assistant casino manager, the casino shift manager shall have the authority of a casino manager.

8. (No change.)

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

(e) The casino manager or shift manager shall notify the Commission and the Division no later than 24 hours in advance of implementing or changing any plan for revised supervision, provided, however, that notice may be provided less than 24 hours in advance in circumstances which are emergent or may otherwise not reasonably be anticipated. Such notice shall include, without limitation, the following information:

1.-4. (No change.)

5. The basis for the decision to revise the number of supervisory personnel, which shall include any relevant factors which demonstrate that proper operation and effective supervision of the affected gaming tables will be maintained, including, as applicable, a showing:

i. That the revised supervision is justified by a reduced volume of play at the specified times and gaming tables in the casino or casino simulcasting facility;

ii.-iv. (No change.)

(f)-(g) (No change.)

(h) The following personnel of the casino accounting ***or table games*** department shall, at a minimum, be used to operate a simulcast counter in a casino simulcasting facility:

1. Casino pari-mutuel cashiers shall be licensed as casino employees and shall be assigned the responsibility of generating, and issuing to patrons, pari-mutuel tickets and credit vouchers, making simulcast payouts to patrons, and redeeming credit vouchers for patrons;

2. Simulcast counter shift supervisor shall be licensed as a casino key employee and shall be the first level supervisor assigned the responsibility for directly supervising the operation and conduct of the simulcast counter;

3. Simulcast counter manager shall be licensed as a casino key employee and shall be the executive assigned the responsibility and authority for the supervision and management of the overall operations of the simulcast counter, including without limitation, the hiring and termination of all simulcast counter personnel and the creation of high employee morale and good customer relations, all in accordance with the policies and practices established by the casino licensee's board of directors or non-corporate equivalent.

Recodify existing (h) as (i) (No change in text.)

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19:45-1.12A Personnel assigned to the operation and conduct of low limit table games

- (a) (No change.)
- (b) Each casino licensee may request Commission approval to operate low limit table games pursuant to this section by filing a submission at least 30 days before the operation of such table games is to commence or before changes in a previous submission are to become effective, unless otherwise permitted by the Commission. Each such submission shall contain, without limitation, the following information:
 1. A floor plan of the casino and casino simulcasting facility showing the type, location and configuration of all low limit table games proposed by the casino licensee and all other table games located within the same pit as a low limit table game;
 - 2.-3. (No change.)
- (c) In explaining why a reduced staffing requirement is sufficient for its low limit table games, a casino licensee may justify its proposal in any way it deems appropriate including, without limitation, the elimination of the availability of credit at such tables.

19:45-1.13 Firearms; possession within casino or casino simulcasting facility

- (a) No person, including the security department members, shall possess or be permitted to possess any pistol or firearm within a casino or casino simulcasting facility without the express written approval of the Commission provided that employees and agents of the Division may possess such pistols or firearms at the discretion of the director of the Division.
- (b) To obtain approval for the possession of a pistol or firearm within a casino or casino simulcasting facility, a person shall be required to demonstrate that:
 - 1.-2. (No change.)
 3. There is a compelling need for the possession of such pistol or firearm within the casino or casino simulcasting facility.
- (c) Each casino licensee shall cause to be posted in a conspicuous location at each entrance to the casino and casino simulcasting facility a sign that may be easily read stating: "By law, no person shall possess any pistol or firearm within the casino or casino simulcasting facility without the express written permission of the Casino Control Commission."

19:45-1.14 Cashiers' cage; satellite cages; master coin bank; coin vaults

- (a) Each establishment shall have on or immediately adjacent to the gaming floor a physical structure known as a cashiers' cage ("cage") to house the cashiers and to serve as the central location in the casino for the following:
 1. The custody of the cage inventory comprising currency including patrons' deposits, coin, patron checks, gaming chips and plaques, and of forms, documents, and records normally associated with the operation of a cage;
 - 2.-4. (No change.)
- (b)-(f) (No change.)
- (g) Each establishment may also have one or more "satellite cages" separate and apart from the cashiers' cage, but in or adjacent to the casino or casino simulcasting facility, established to maximize security, efficient operations, or patron convenience and comfort and designed and constructed in accordance with N.J.A.C. 19:45-1.14(c). Subject to Commission approval, a satellite cage may perform any or all of the functions of the cashiers' cage. The functions which are conducted in a satellite cage shall be subject to the applicable accounting controls set forth in this chapter.
- (h) Each casino licensee shall file with the Commission and Division the names of all persons authorized to enter the cage, any satellite cages, the master coin bank and any coin vaults; all persons possessing the combination or keys to the locks securing the entrance to the cage, any satellite cages, master coin bank and coin vaults; as well as all persons possessing the ability to operate alarm systems for the cage, any satellite cages, master coin bank and coin vaults.

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19:45-1.14A Simulcast counter

- (a) The casino simulcasting facility shall contain a physical structure known as a simulcast counter to house the casino pari-mutuel cashiers and to serve as the central location in the casino simulcasting facility for the following:
 1. The custody of the simulcast counter inventory including, without limitation, currency and coin and the forms and documents normally associated with the operation of a simulcast counter;
 2. The receipt of currency, coin, gaming chips, coupons and slot tokens for simulcast wagering; and
 3. Such other functions normally associated with the operation of a simulcast counter.
 - (b) The simulcast counter shall be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein; such design and construction shall, at a minimum, include the following:
 1. One or more numbered pari-mutuel windows, each of which shall contain a pari-mutuel machine and a cashier's drawer, in which shall be deposited all currency, coins, gaming chips, slot tokens, coupons and duplicate slips evidencing exchanges with the cashiers' cage, satellite cage or simulcast vault, or a self-service pari-mutuel machine;
 2. A work area containing at least one remote management console ("RMC") and terminal to generate reports on pari-mutuel wagering, which shall be used only by the simulcast shift supervisor or above, and casino pari-mutuel cashiers, who shall only be allowed access under the direct supervision of the simulcast supervisor or above; and
 3. A simulcast vault, which shall be secured by a lock, the key to which shall be maintained and controlled by the simulcast shift supervisor or above, and which shall contain a supply of currency and coin under the control of a simulcast shift supervisor or above to be utilized for the pari-mutuel window inventories and to replenish the pari-mutuel inventories, when necessary.
 - *(c) The simulcast counter may be contiguous to a satellite cage, with ingress and egress thereto, provided that the simulcast counter and satellite cage are otherwise physically and functionally segregated.***
- 19:45-1.15 Accounting controls for the cashiers' cage, satellite cages, master coin bank, and coin vaults**
- (a)-(b) (No change.)
 - (c) The cashiers' cage and any satellite cage shall be physically segregated by personnel and function as follows:
 - 1.-2. (No change.)
 3. Chip bank cashiers shall not have access to currency or cash equivalents, but shall operate with a limited inventory of \$0.50 and \$0.25 cent coins which may only be used to facilitate odds payoffs or vigorish bets. Such cashiers' functions shall be, but are not limited to, the following:
 - i.-iii. (No change.)
 - iv. Receive gaming chips from the general cashiers and main bank cashiers in exchange for proper documentation; and
 - v. (No change.)
 4. Reserve cash ("main bank") cashiers' functions shall be, but are not limited to, the following:
 - i.-v. (No change.)
 - vi. Receive from general, chip and check bank cashiers, documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashiers' cage;
 - vii. Be responsible for the reserve cash bankroll; and
 - viii. Receive gaming chips, slot tokens and coupons from the simulcast vault or casino pari-mutuel cashiers;
 5. Master coin bank cashiers' functions shall be, but not limited to, the following:
 - i.-v. (No change.)
 - (d)-(f) (No change in text.)

19:45-1.15A Accounting controls within the simulcast counter

- (a) Whenever a casino pari-mutuel cashier begins a shift, he or she shall commence with an amount of currency and coin to be known as the "simulcast inventory," and no casino simulcasting

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facility shall cause or permit currency, coin, gaming chips, slot tokens or coupons to be added to, or removed from, such simulcast inventory during such shift except:

1. In collection of simulcast wagers;
2. In collection for the issuance of credit vouchers;
3. In payment of winning or properly cancelled or refunded pari-mutuel tickets;
4. In payment for credit vouchers; or
5. In exchanges with the cashiers' cage, a satellite cage or simulcast vault.

(b) A "simulcast count sheet" shall be completed and signed by the simulcast shift supervisor at the simulcast vault and the following information, at a minimum, shall be recorded thereon at the commencement of a shift:

1. The date, time and shift of preparation;
2. The denomination of currency and coin in the simulcast inventory issued to the casino pari-mutuel cashier;
3. The total amount of each denomination of currency and coin in the simulcast inventory issued to the casino pari-mutuel cashier;
4. The pari-mutuel window number to which the casino pari-mutuel cashier is assigned; and
5. The signature of the simulcast shift supervisor in the simulcast vault.

(c) The casino pari-mutuel cashier assigned to the pari-mutuel window shall count the simulcast inventory in the presence of the simulcast shift supervisor at the simulcast vault and shall agree the count to the simulcast count sheet. The casino pari-mutuel cashier shall sign the count sheet attesting to the accuracy of the information recorded thereon.

(d) The simulcast inventory shall be placed in a cashier's drawer and transported directly from the simulcast vault to the appropriate pari-mutuel window by the casino pari-mutuel cashier.

(e) At the conclusion of a casino pari-mutuel cashier's shift, the cashier's drawer and its contents shall be transported directly to a designated area in the simulcast counter, where the casino pari-mutuel cashier shall count the contents of the drawer and record the following information, at a minimum, on the simulcast count sheet:

1. The date, time and shift of preparation;
2. The denomination of currency, coin, gaming chips, slot tokens and coupons in the drawer;
3. The total amount of each denomination of currency, coin, gaming chips, slot tokens and coupons in the drawer;
4. The total of any exchanges;
5. The total amount in the drawer; and
6. The signature of the casino pari-mutuel cashier;

(g) The simulcast shift supervisor shall compare the pari-mutuel window net for the shift as generated by the terminal and if it agrees with the simulcast count sheet total plus the simulcast inventory, shall agree the count to the simulcast count sheet and sign the simulcast count sheet attesting to the accuracy.

(h) If the pari-mutuel window net for the shift as generated by the RMC does not agree with the simulcast count sheet total plus the simulcast inventory, the simulcast shift supervisor shall record any overage or shortage. If the count does not agree, the casino pari-mutuel cashier and the simulcast shift supervisor shall attempt to determine the cause of the discrepancy in the count. If the discrepancy cannot be resolved by the casino pari-mutuel cashier and the simulcast shift supervisor, such discrepancy shall immediately be reported to the simulcast counter manager, or casino accounting department supervisor in charge at such time, the security department and the *[Commission]* *Division* verbally. *[A]* *If the discrepancy is \$250.00 or more, a* security department member will then complete the standard security report in writing, as approved by the Division, and immediately forward a copy to the Commission and the Division.

19:45-1.16 Drop boxes and slot cash storage boxes

(a) Each gaming table in a casino or casino simulcasting facility shall have attached to it a metal container known as a "drop box" in which shall be deposited all cash, issuance copies of Counter Checks exchanged at the gaming table for gaming chips and plaques,

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duplicate Fill and Credit Slips, Requests for Credit forms, Requests for Fill forms and Table Inventory forms. Each drop box shall have:

1.-4. (No change.)

5. Permanently imprinted or impressed thereon, and clearly visible from a distance of 20 feet, a number corresponding to a permanent number on the gaming table to which it is attached and a marking to indicate game and shift, except that emergency drop boxes may be maintained without such number or marking, provided the word "emergency" is permanently imprinted or impressed thereon and, when put into use, are temporarily marked with the number of the gaming table and identification of the game and shift, and provided further, that the casino licensee obtains the express written approval of a Commission inspector before placing an emergency drop box into use.

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

19:45-1.19 Acceptance of tips or gratuities from patrons

(a) No casino key employee or boxperson, floorperson, or any other casino employee who serves in a supervisory position shall solicit or accept, and no other casino employee shall solicit, any tip or gratuity from any player or patron of the casino or casino simulcasting facility where he or she is employed. The casino licensee shall not permit any practices prohibited by (a) of this section.

(b) (No change.)

(c) All tips and gratuities allowed casino pari-mutuel cashiers shall be:

1. Immediately deposited in a transparent locked box reserved for that purpose;
2. Accounted for; and
3. Placed in a pool for distribution pro rata among the casino pari-mutuel cashiers *[on a weekly basis]* with the distribution based upon the number of hours each cashier has worked.

(d) Upon receipt from a patron of a tip or gratuity, a dealer or casino pari-mutuel cashier assigned to the gaming table or pari-mutuel window shall extend his or her arm in an overt motion, and deposit such tip or gratuity in the locked box reserved for such purpose.

19:45-1.20 Table inventories

(a) Whenever a gaming table in a casino or casino simulcasting facility is opened for gaming, operations shall commence with an amount of gaming chips, coins and plaques to be known as the "table inventory" and no casino licensee shall cause or permit gaming chips, coins or plaques to be added to or removed from such table inventory during the gaming day except:

1.-5. (No change.)

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

19:45-1.25 Procedure for exchange of checks submitted by gaming or simulcast wagering patrons

(a) Except as otherwise provided in this section, no casino licensee or any person licensed under the Casino Control Act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under the Casino Control Act, shall:

1. Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming or simulcast wagering activity as a player; or
2. Release or discharge any debt which is uncollectible, either in whole or in part, which represents any losses incurred by any player in gaming or simulcast wagering activity without maintaining a written record of the deposit, check return and collection efforts as required by sections 19:45-1.28 and 19:45-1.29; or

3. Make any loan which represents any losses incurred by any player in gaming or simulcast wagering activity without receiving from said player in exchange therefore, a check in the amount of said loan, which check shall conform with the Casino Control Act and these regulations.

(b) No casino licensee or any person licensed under the Act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under the Act, may accept a check, other than a recognized travelers' check or other cash equivalent, from any person to enable such person to take part in

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gaming or simulcast wagering activity as a player, or may give cash or cash equivalents in exchange for such check unless the requirements of this section and 19:45-1.26, 19:45-1.27, 19:45-1.28, and 19:45-1.29 concerning check cashing, redeeming, consolidating, collecting and recording procedures are observed by the casino licensee and its employees and agents. For purposes of this chapter, the term "check" when used in connection with an exchange, redemption, substitution or consolidation by a patron shall mean any draft drawn by the patron which is a "cash item" as defined in Regulation J of the Board of Governors of the Federal Reserve System, 12 C.F.R. 210.2(e), and which is drawn on an account maintained in a "depository institution" as defined in Section 19(b) of the Federal Reserve Act, 12 U.S.C. §461(b), including share drafts and drafts drawn on negotiable order of withdrawal accounts or similar accounts; the term "checking account" shall mean any account on which a "check" is drawn; and the term "bank" shall include any "depository institution" as defined in 12 U.S.C. §461(b). For purposes of this chapter, a check received from a person by cage cashiers may be presumed by the casino licensee not to be exchanged to enable such person to take part in gaming activity as a player, if the casino licensee shall cause to be posted at each general cashier station in the cashiers' cage a conspicuous sign that reads:

"By law, personal checks cannot be exchanged for currency or coin to be used for gaming or simulcasting wagering purposes."

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

(f) Prior to the acceptance of any casino check from a patron, a general cashier shall determine the validity of such casino check by contacting the New Jersey casino licensee which issued the check and shall verify the following information:

1.-4. (No change.)

5. That the check represents:

i. (No change.)

ii. The redemption of the casino licensee's gaming chips;

iii. The winnings from slot machine payoffs; or

iv. The winnings from simulcast wagering.

(g) (No change.)

(h) A general cashier of the New Jersey casino which issued the casino check shall provide such information, as required by (f) above, to the casino licensee accepting such check and shall indicate that verification was requested by notating in a log the following information:

1.-6. (No change.)

7. The reason for the check as either:

i. (No change.)

ii. The redemption of the casino licensee's gaming chips;

iii. The winnings from slot machine payoffs; or

iv. The winnings from simulcast wagering.

(i)-(n) (No change.)

(o) If the total amount of chips or plaques possessed by a patron exceeds \$500, the casino licensee shall request the patron to apply all chips or plaques in his possession to the redemption of Counter Checks or Slot Counter Checks exchanged for purposes of gaming prior to exchanging such chips or plaques for cash or prior to departing from the casino or casino simulcasting facility areas.

(p) (No change.)

19:45-1.27 Procedures for granting credit, and recording checks exchanged, redeemed or consolidated

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

(c) Prior to the casino licensee's approval of the patron's credit limit, a credit department representative with no incompatible functions shall:

1. (No change.)

2. Verify the patron's current casino credit limits and outstanding balances which shall include the following:

i.-ii. (No change.)

iii. The current balance and status of the patron's credit account at each casino including checks deposited by New Jersey casino licensees that have not yet cleared the bank and derogatory information. ("Derogatory" is defined as patron credit accounts partially or

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completely uncollectible, checks returned unpaid by the patron's bank, settlements, liens, judgments, and any other credit problems of the patron);

3.-5. (No change.)

(d)-(f) (No change.)

(g) Prior to approving a credit limit increase, a representative of the casino licensee's credit department shall:

1.-5. (No change.)

6. For slot play, the information for the patron's player rating shall be recorded on a player rating form by slot department supervisors, or put directly into the casino licensee's computer system pursuant to an approved submission, or generated by insertion of a card, by a patron, into a card reader attached to a slot machine. Such ratings shall include, but not be limited to, the following:

i.-v. (No change.)

7. (No change.)

(h)-(i) (No change.)

(j) Any patron having a check returned to any casino unpaid by the patron's bank shall have his credit privileges suspended at all New Jersey casino licensees until such time as the returned check has been paid in full or the reason for the derogatory information has been satisfactorily explained. All derogatory information concerning a patron's credit account shall be reported by each casino licensee on a daily basis to a casino credit bureau used by New Jersey casino licensees. Each New Jersey casino licensee shall request written documentation of any derogatory information pertaining to its patrons to be reported to that casino licensee on a daily basis by a casino credit bureau used by the New Jersey casino licensees. All documentation obtained from the casino credit bureau shall be maintained in the patron's credit file. Any casino licensee desiring to continue the patron's credit privileges on the basis of a satisfactory explanation having been obtained for the returned check may do so if the licensee records the explanation for its decision in the credit file before accepting any further checks from the patron along with the signature of the credit department representative accepting the explanation.

(k)-(o) (No change.)

19:45-1.32 Count room; characteristics

(a) Each casino licensee shall have immediately adjacent to the cashiers' cage a room specifically designated for counting the contents of drop boxes and slot cash storage boxes which shall be known as the "count room."

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

19:45-1.46 Procedure for control of coupon redemption and other complimentary distribution programs

(a) The procedures contained in (c) through (n) below shall apply to casino licensees offering coupon redemption programs which entitle patrons to redeem coupons for complimentary cash, slot tokens or simulcast wagers including, but not limited to, complimentary cash or slot tokens issued in connection with bus programs. No complimentary cash or slot tokens may be distributed, or complimentary simulcast wagers accepted, by a casino licensee under any coupon redemption program that does not comply with the requirements of this section.

(b) Detailed procedures controlling all programs entitling patrons to complimentary cash, slot tokens or simulcast wagering not regulated by (a) above shall be submitted by the casino licensee to the Commission and Division at least 15 days prior to implementing the program. The procedures for all such programs shall be deemed acceptable by the Commission unless the casino licensee is notified in writing to the contrary. Detailed procedures controlling all programs entitling patrons to complimentary items or services other than cash, slot tokens or simulcast wagers shall be prepared prior to implementation of the programs and shall be maintained as an accounting record by the casino licensee. Complimentary items or services, including cash, slot tokens or simulcast wagers, distributed through programs and regulated by this subsection shall be reported in accordance with the procedures contained in (l) and (n) below.

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(c) Each coupon, or part thereof, issued by a casino licensee shall only be redeemable for a specific amount of cash, slot tokens or simulcast wagers.

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

(i) Coupons redeemable for cash or slot tokens shall only be redeemed by changepersons or at the slot change booths or the cashiers' cage located on the casino floor. A changeperson, slot cashier or general cage cashier shall accept the coupons in exchange for the stated amount of cash or slot tokens and shall cancel the coupons upon acceptance. Cancellation of coupons by changepersons shall be in a manner that will permit subsequent identification of the individual who accepted and cancelled the coupon. Redeemed coupons shall be maintained by the slot or general cashier and shall be exchanged with the Main or Master Coin Bank for a like amount of cash at the conclusion of gaming activity each day, at a minimum. Changepersons shall exchange redeemed coupons with slot booths for a like amount of cash at the conclusion of each shift, at a minimum. Notwithstanding the above, an automated coupon redemption machine may be utilized to accept coupons, provided that, the acceptance of coupons by an automated coupon redemption machine complies with the procedures and requirements established by this section and N.J.A.C. 19:45-1.46A. Coupons redeemable for simulcast wagers shall only be accepted by casino pari-mutuel cashiers at the simulcast counter in exchange for the simulcast wagers stated on the coupons. Cancellation of coupons by casino pari-mutuel cashiers shall be in a manner that permits subsequent identification of the individual who accepted and cancelled the coupon. Redeemed coupons shall be maintained by the casino pari-mutuel cashier, or in the simulcast vault, and shall be exchanged with the Main Bank for a like amount of cash not less frequently than at the conclusion of each day.

(j)-(k) (No change.)

(l) Each licensee shall file a monthly report with the Commission and Division which shall include the following information:

1. For all programs regulated by (a) above, each licensee shall list by type of coupon, the total number of coupons used, the total number of coupons redeemed, the total value of the complimentary cash, slot tokens or simulcast wagers given to patrons in redemption of coupons and any liability to patrons remaining on unredeemed coupons; and

2. (No change.)

(m) (No change.)

(n) In addition to the monthly report required to be filed in (l) above, the casino licensee shall accumulate both the dollar amount of and the number of persons redeeming coupons pursuant to (a) above, and the dollar amount of and the number of persons receiving complimentary items or services pursuant to (b) above, and shall include this information on the quarterly complimentary report required by N.J.A.C. 19:45-1.9. Complimentary items or services, including cash, slot tokens and simulcast wagers, distributed through programs regulated by this section shall not be subject to the daily complimentary reporting requirements imposed pursuant to N.J.A.C. 19:45-1.2.

19:46-1.1 Gaming chips; value and non-value; physical characteristics

(a) (No change.)

(b) Value chips may be issued by a casino licensee in denominations of \$.50, \$1.00, \$2.50, \$5.00, \$20.00, \$25.00, \$100.00, \$500, \$1,000 and \$5,000. It, however, shall be within the discretion of the casino licensee to determine which of these denominations will be utilized in its casino or casino simulcasting facility and what amount of each denomination will be necessary for the conduct of gaming operations.

(c) Each denomination of value chip shall have a different primary color from every other denomination of value chip. The primary color to be utilized by each casino licensee for each denomination of value chip shall be:

1.-10. (No change.)

11. Chip colors shall fall within the above tolerances when such chips are viewed both in daylight and under incandescent light. In conjunction with the aforementioned primary colors, each casino licensee shall utilize contrasting secondary colors for the edge spots

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on each denomination of value chip. Unless otherwise approved by the Commission, no casino licensee shall use a secondary color on a specific denomination of chip identical to the secondary color used by another casino licensee on that same denomination of chip.

(d) Each denomination of value chip utilized in a casino or casino simulcasting facility shall, unless otherwise authorized by the Commission.

1. Have its center portion, which contains the value of the chip and the name or trade name of the casino licensee issuing it, of a different shape for each denomination of chip;

2. Have the name, trade name, or other approved identification of the casino licensee issuing it and the denomination of such chip molded into the outer rim of the chip;

3.-4. (No change.)

(e) (No change.)

(f) Each non-value chip utilized in a casino or casino simulcasting facility shall be issued solely for the purpose of gaming at roulette. The non-value chips at each roulette table shall:

1. Have the name or trade name of the casino licensee issuing them molded into the center of such chip;

2. Contain a design, insert or symbol differentiating those chips from the non-value chips being used at every other roulette table in the casino or casino simulcasting facility;

3.-4. (No change.)

(g) (No change.)

(h) Non-value chips issued at a roulette table shall only be used for gaming at that table and shall not be used for gaming at any other table in the casino or casino simulcasting facility nor shall any casino licensee or its employees allow any patron to remove non-value chips from the table from which they were issued.

(i) (No change.)

(j) Non-value chips shall only be presented for redemption at the table from which they were issued and shall not be redeemed or exchanged at any other location in the casino or casino simulcasting facility. When so presented, the dealer at such table shall exchange them for an equivalent amount of value chips which may then be used by the patron in gaming or redeemed as any other value chips.

(k)-(n) (No change.)

(o) No casino licensee shall issue or cause to be utilized in its casino or casino simulcasting facility any value or non-value chips unless and until such chips are approved by the Casino Control Commission. In requesting approval of such chips, a casino licensee, prior to having any such chips manufactured, shall first submit to the Commission a detailed schematic of its proposed chips which shall show the front, back and edge of each denomination of value chip and each non-value chip and the design and wording to be contained thereon all of which shall be depicted on such schematic as they will appear both as to size and location, on the actual chip. Once the design schematics are approved by the Commission, no value or non-value chip shall be issued or utilized until and unless a sample of each denomination of value chip and each color of non-value chip is also submitted to and approved by the Commission.

(p) No casino licensee or other person licensed by the Commission shall manufacture for, sell to, distribute to or use in any casino outside of Atlantic City, any value or non-value gaming chips having the same edge design as those approved for use in Atlantic City casinos and casino simulcasting facilities.

19:46-1.2 Gaming plaques; physical characteristics

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

(d) No casino licensee shall issue or cause to be utilized in its casino or casino simulcasting facility any gaming plaques unless and until such plaques are approved by the Casino Control Commission or its authorized designee. In requesting approval of such plaques, a casino licensee, prior to having any such plaques manufactured, shall first submit to the Commission a detailed schematic of its proposed plaques which shall show the front, back and edge of each denomination of plaque and the design and wording to be contained thereon all of which shall be depicted on such schematic as they will appear, both as to size and location, on the actual plaque. Once the design schematics are approved by the Commission, no plaque shall be issued or utilized until and unless a sample of each de-

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nomination of plaque is also submitted to and approved by the Commission or its authorized designee.

(e) (No change.)

19:46-1.3 Primary, secondary and reserve sets of gaming chips

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

(c) Each casino licensee shall have a reserve non-value chip for each color utilized in the casino or casino simulcasting facility with a design insert or symbol different from those non-value chips comprising the primary set.

(d) The casino licensee shall remove the primary set of gaming chips from active play whenever it is believed the casino or casino simulcasting facility is taking on counterfeit chips or whenever any other impropriety or defect in the utilization of the primary set of chips makes removal of the primary set necessary or whenever the Commission or its designee so directs. An approved secondary set of value chips and a reserve non-value chip shall be placed into active play whenever the primary set is removed.

(e) (No change.)

19:46-1.5 Nature and exchange of gaming chips, slot tokens and plaques

(a) All wagering on authorized games in a casino or casino simulcasting facility shall be conducted with gaming chips or plaques, provided, however, that slot tokens or coins shall be permitted for use in slot machines or simulcast wagering.

(b) Gaming chips or plaques shall be issued to a person only at the request of such person and shall not be given as change in any other but a gaming transaction. Gaming chips and plaques shall only be redeemed at the cashiers' cage; provided, however, that gaming chips may be exchanged by a patron at the slot booths for coin or slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)1 to play the slot machines and may be used for simulcast wagering.

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

(f) Each casino licensee shall redeem promptly its own genuine gaming chips and plaques by cash or by check dated the day of such redemption on an account of the casino licensee as requested by the patron, except when the gaming chips or plaques were obtained or being used unlawfully. Slot tokens shall be redeemed or exchanged in the following manner:

1. (No change.)

2. Slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 shall be exchangeable for a coupon which is redeemable for goods or services offered by, or on behalf of, the casino licensee; provided, however, that a casino licensee shall require that the amount of tokens exchangeable be equal to the face value of the coupon, the denomination of which shall be approved by the Commission.

(g) Each casino licensee shall have the right to demand the redemption of its gaming chips, slot tokens or plaques from any person in possession of them and such person shall redeem said chips, slot tokens or plaques upon presentation of an equivalent amount of cash by the casino; provided, however, that slot tokens issued pursuant to N.J.A.C. 19:46-1.33(c)2 shall be exchanged in accordance with (f)2 above.

(h) (No change.)

(i) A casino licensee shall redeem promptly its own genuine gaming chips, tokens and plaques from other legally operated casino licensees upon the representation that such chips, tokens and plaques were received or accepted unknowingly, inadvertently or in error, were unavoidably received in slot machines through patron play or were redeemed from patrons. Each casino licensee shall submit to the Commission for approval a system for the exchange of foreign gaming chips, tokens and plaques.

(j) Each casino licensee shall cause to be posted and remain posted in a prominent place on the front of the cashiers' cage and any satellite cages a sign that reads as follows:

"By law, gaming chips or plaques issued by another casino may not be used, exchanged or redeemed in this casino or casino simulcasting facility."

(k) (No change.)

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19:46-1.6 Receipt of gaming chips, tokens or plaques from manufacturer or distributor; inventory, storage and destruction of chips, tokens and plaques

(a) When gaming chips, tokens or plaques are received from the manufacturer or distributor thereof, they shall be opened and checked by at least three people, one of whom shall be from the accounting or auditing department of the casino licensee. Any deviation between the invoice accompanying the chips, tokens and plaques and the actual chips, tokens or plaques received or any defects found in such chips, tokens or plaques shall be reported promptly to the Commission and Division.

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

(d) Any gaming chips received that are part of the secondary set of chips shall be recorded in the chip inventory ledger as such and shall be stored in a locked compartment in the casino vault separate from the reserve chips.

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

19:46-1.9 Roulette; inspection procedures; security procedures

(a) (No change.)

(b) If a casino licensee uses a roulette wheel which has external movable parts, any adjustments to the movable parts shall be made by a casino supervisor or a member of the casino maintenance department, in the presence of a security department member. Adjustments to the movable parts of a roulette wheel that is located on the casino floor, or in a casino simulcasting facility, shall only be made:

1. When the casino or casino simulcasting facility is not open to the public; or

2. If the roulette wheel is moved to a secure location outside the casino or casino simulcasting facility as approved by the Commission.

(c)-(f) (No change.)

19:46-1.10 Blackjack table; physical characteristics

(a) (No change.)

(b) The cloth covering the blackjack table shall have imprinted thereon the name or trade name of the casino licensee and shall have specific areas designated for the placement of wagers. Such betting areas shall not exceed seven in number.

(c)-(g) (No change.)

19:46-1.11 Craps table; physical characteristics

Craps shall be played on a table oblong in shape with rounded corners and high walled sides. The cloth of the table shall have the name or trade name of the casino licensee imprinted thereon and shall be marked as depicted in the following diagram except that the payout odds contained on the following diagram shall be modified to reflect the actual payout odds utilized by the casino licensee in accordance with the payout odds provisions in the rules on craps.

Editor's Note: (No change.)

19:46-1.12 Baccarat and minibaccarat table; physical characteristics

(a) Baccarat-Punto Banco shall be played on a table having numbered places 10 to 14. The cloth covering the table shall have imprinted thereon the name or trade name of the casino licensee and shall be marked in a manner similar to that depicted in the following diagram.

Editor's Note: (No change.)

(b) Baccarat-Chem de Fer shall be played on a table having numbered places for 9 to 14 seated players. The cloth covering the table shall also have the name or trade name of the casino licensee imprinted thereon.

(c) Minibaccarat shall be played at a table having on one side places for the participants, and on the opposite side a place for the dealer.

1. The cloth covering the minibaccarat table shall have imprinted thereon the name or trade name of the casino licensee.

2.-6. (No change.)

19:46-1.13 Big six wheel; physical characteristics

(a) (No change.)

(b) Each Big Six Wheel Table shall have the name or trade name of the casino licensee imprinted on the cloth covering it and shall

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have a drop box and a tip box attached to it at the locations depicted in the following diagram.

(c) (No change.)

Editor's Note: Diagrams regarding the Bix Six Wheel were adopted with these rules but are not reproduced herein. Information on these diagrams may be obtained from the Casino Control Commission, Arcade Building, Tennessee Avenue and the Boardwalk, Atlantic City, New Jersey 08401.

19:46-1.13A Sic bo table; sic bo shaker; physical characteristics

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

(d) Sic bo shall be played with a sealed container, to be known as a "sic bo shaker," which shall be used to shake the dice in order to arrive at the winning combinations. The sic bo shaker shall be designed and constructed to contain any feature the Commission may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:

1.-2. (No change.)

3. The sic bo shaker shall have the name or trade name of the casino licensee or identifying logo imprinted or impressed thereon; and

4. (No change.)

19:46-1.14 Red dog table; physical characteristics

(a) (No change.)

(b) The cloth covering the red dog table shall have imprinted thereon the name or trade name of the casino licensee.

(c)-(f) (No change.)

19:46-1.15 Dice; physical characteristics

(a) Each die used in gaming at craps or sic bo shall:

1.-2. (No change.)

3. Be transparent and made exclusively of cellulose except for the spots, name or trade name of the casino licensee and serial numbers or letters contained thereon;

4.-9. (No change.)

10. Have the name or trade name of the casino licensee in which the die is being used imprinted or impressed thereon.

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

19:46-1.16 Dice; receipt, storage, inspections and removal from use

(a) When dice for use in the casino or casino simulcasting facility are received from the manufacturer or distributor thereof, they shall immediately following their receipt be inspected by a member of the security department and a casino supervisor to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the die conform to commission standards and are completed in a condition to assure fair play. Boxes satisfying these criteria together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a locked cabinet or storage area. The cabinet or primary storage area shall be located in the cashiers' cage or in another secure place in or immediately adjacent to the casino, the location and physical characteristics of which shall be approved by the Commission or its authorized designee. The secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be approved by the Commission or its authorized designee.

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

(d) All envelopes and containers used to hold or transport preinspected dice to the casino floor or casino simulcasting facility and those collected by security at the end of each shift or gaming day shall be transparent.

1.-2. (No change.)

(e)-(l) (No change.)

19:46-1.17 Cards; physical characteristics

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

(f) The design to be placed on the backs of cards used by casino licensees shall be submitted to the chairman for approval prior to use of such cards in gaming activity.

(g) (No change.)

(h) Nothing in this section shall prohibit a manufacturer from manufacturing decks of cards with jokers contained therein provided

such jokers are not used by the casino licensee in the play of the games.

19:46-1.18 Cards; receipt, storage, inspections and removal from use

(a) When decks of cards are received for use in the casino or casino simulcasting facility from the manufacturer or distributor thereof, they shall be placed for storage in a locked cabinet area by at least two individuals, one of whom shall be from the casino department and the other from the security department. The cabinet or primary storage area shall be located in the cashiers' cage or in another secure place in or immediately adjacent to the casino, the location and physical characteristics of which shall be approved by the Commission or its authorized designee. Any secondary storage areas shall be located in secure areas, the location and physical characteristics of which shall be approved by the Commission or its authorized designee.

(b)-(p) (No change.)

19:46-1.19 Dealing shoes

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

(f) All dealing shoes and shuffling devices in the casino and casino simulcasting facility shall be inspected at the beginning of each gaming day by a floorperson prior to cards being placed in them. The purpose of this inspection shall be to assure that there is no contrivance with or through the shoe or shuffling device.

19:46-1.20 Approval of gaming and simulcast wagering equipment; retention by Commission or Division; evidence of tampering

(a) The Commission shall have the discretion to review and approve all gaming and simulcast wagering equipment and other devices used in a casino, casino simulcasting facility or hub facility as to quality, design, integrity, fairness, honesty and suitability including without limitation gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, sic bo shakers, sic bo electrical devices, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, dice, cards, locking devices, card reader devices, data processing equipment, pari-mutuel machines, self-service pari-mutuel machines and totalisators.

(b) The Commission shall have the discretion to require a prototype or sample of any model of gaming and simulcast wagering equipment or of other device used in a casino, casino simulcasting facility or hub facility to be placed in its custody and retained by it or the Division as a control for comparison purposes.

(c) Any evidence that gaming equipment or other devices used in a casino, casino simulcasting facility or hub facility including, without limitation, gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, sic bo shakers, sic bo electrical devices, gaming chips, plaques, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, locking devices, card reader devices, data processing equipment, tokens, slot machines, pari-mutuel machines, self-service pari-mutuel machines and totalisators have been tampered with or altered in any way which would affect the integrity, fairness, honesty or suitability of the gaming equipment or other devices for use in a casino, casino simulcasting facility or hub facility shall be immediately reported to an agent of the Commission and the Division. A member of the casino licensee's security department shall be required to insure that the gaming equipment or other device and any evidence required to be reported pursuant to this subsection is maintained in a secure manner until the arrival of an agent of the Division. Rules concerning evidence of tampering with dice and cards may be found at N.J.A.C. 19:46-1.16(g) and 19:46-1.18(n), respectively.

19:46-1.27 Slot machine areas; density; arrangement; floor plans; slot stools

(a)-(j) (No change.)

(k) Slot machines shall not be permissible in casino simulcasting facilities.

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19:46-1.33 Issuance and use of tokens for gaming in slot machines
 (a) A casino licensee may, with the approval of the Casino Control Commission, issue metal tokens designed for gaming use in its slot machines provided that such tokens:

1. Clearly identify the name or trade name and location of the casino issuing them;

2.-9. (No change.)

(b) (No change.)

(c) Slot tokens approved for issuance by a casino licensee pursuant to this section shall either be:

1. Issued to a patron upon request or in accordance with a complimentary distribution program authorized pursuant to N.J.A.C. 19:45-1.46 and:

i. (No change.)

ii. Available as a payout from the payout reserve container (hopper) of such slot machines;

iii. Available for use in simulcast wagering; and

iv. (No change in text.)

2. (No change.)

19:47-1.3 Making and removal of wagers; approval of minimum wagers

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

(f) Each casino licensee shall submit to the Commission for its review and approval in accordance with N.J.A.C. 19:47-8.2 the proposed minimum wagers to be permitted at each craps table in the casino and the casino simulcasting facility. Each casino licensee shall provide notice in accordance with N.J.A.C. 19:47-8.3 of the minimum and maximum wagers in effect at each craps table.

19:47-1.4 Payout odds

(a) (No change.)

(b) No casino licensee or any employee or agent thereof shall pay off winning wagers at the game of craps at less than the odds listed below. A casino licensee may pay off winning wagers at higher odds than those listed below provided that such odds are uniform within the casino and the casino simulcasting facility.

WAGER	PAYOUT ODDS
Pass Bet	1 to 1
Don't Pass Bet	1 to 1
Come Bet	1 to 1
Don't Come Bet	1 to 1
Place Bet 4 to Win	9 to 5
Place Bet 5 to Win	7 to 5
Place Bet 6 to Win	7 to 6
Place Bet 8 to Win	7 to 6
Place Bet 9 to Win	7 to 5
Place Bet 10 to Win	9 to 5
Place Bet 4 to Lose	5 to 11
Place Bet 5 to Lose	5 to 8
Place Bet 6 to Lose	4 to 5
Place Bet 8 to Lose	4 to 5
Place Bet 9 to Lose	5 to 8
Place Bet 10 to Lose	5 to 11
Four the Hardway	7 to 1
Six the Hardway	9 to 1
Eight the Hardway	9 to 1
Ten the Hardway	7 to 1
Field Bet	1 to 1 on 3, 4, 9, 10, 11 2 to 1 on 2 2 to 1 on 12
Any Seven	4 to 1
Any Craps	7 to 1
Craps 2	30 to 1
Craps 3	15 to 1
Craps 12	30 to 1
11 in one roll	15 to 1

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

19:47-1.5 True odds on place bets (buy and lay bets); vigorish prohibited

(a) Buy Bets: In addition to the payout odds set forth in N.J.A.C. 19:47-1.4 for place bets to win on 4, 5, 6, 8, 9 and 10, a casino licensee may offer a player the option of receiving true odds on these bets in return for the player paying to the casino licensee, at the time of making the bet, a percentage of the amount wagered which in no event shall exceed five percent of such water. Under such circumstances, a casino licensee shall conform to the odds listed below in paying off winning wagers on these bets:

BET	ODDS
4 to Win	2 to 1
5 to Win	3 to 2
6 to Win	6 to 5
8 to Win	6 to 5
9 to Win	3 to 2
10 to Win	2 to 1

(b) Lay Bets: In addition to or in lieu of the payout odds set forth in N.J.A.C. 19:47-1.4 for place bets to lose on 4, 5, 6, 8, 9 and 10, a casino licensee may offer a player true odds on these bets in return for the player paying to the casino licensee, at the time of making the bet, a percentage of the amount the player could win on such bet which in no event shall exceed 5 percent of such wager. Under such circumstances, a casino licensee shall conform to the odds listed below in paying off winning wagers on these bets:

BET	ODDS
4 to Lose	1 to 2
5 to Lose	2 to 3
6 to Lose	5 to 6
8 to Lose	5 to 6
9 to Lose	2 to 3
10 to Lose	1 to 2

(c) (No change.)

19:47-1.6 Supplemental wagers made after come out roll in support of pass; don't pass; come and don't come bets (making and laying odds)

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

(e) A casino licensee may allow an additional wager in support of a Pass or Come Bet in an amount up to five times the amount of the original Pass or Come Bet. A casino licensee may allow an additional wager in support of a Don't Pass or Don't Come Bet in an amount so calculated as to provide winnings not in excess of up to five times the amount originally wagered on the Don't Pass or Don't Come Bet. The original Pass, Don't Pass, Come or Don't Come Bet and any additional wager allowed pursuant to this subsection shall be paid at the same odds as the original and supplemental wagers are paid under (a) through (d) above. The amount of the additional wager accepted from the patron may exceed the maximum additional wager otherwise allowed and posted pursuant to (f) below, to the extent that a wager in excess of the maximum is necessary to facilitate the payout permitted herein.

(f) Any casino licensee offering additional wagers greater than the additional wagers authorized under (a) through (d) above shall advise patrons of the maximum additional wager being offered by complying with the notice requirements set forth in N.J.A.C. 19:47-8.3.

19:47-2.3 Wagers

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

(e) Each casino licensee shall submit to the Commission for review and approval in accordance with N.J.A.C. 19:47-8.2 the minimum wagers permitted at each blackjack table in the casino and the casino simulcasting facility. Each casino licensee shall provide notice in accordance with N.J.A.C. 19:47-8.3 of the minimum and maximum wagers in effect at each blackjack table.

(f)-(l) (No change.)

19:47-5.1 Wagers

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

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(e) Each casino licensee shall submit to the Commission for review and approval in accordance with N.J.A.C. 19:47-8.2 the minimum wagers permitted at each roulette table in the casino and the casino simulcasting facility. Each casino licensee shall provide notice in accordance with N.J.A.C. 19:47-8.3 of the minimum and maximum wagers in effect at each roulette table.

19:47-5.6 Big six wheel; wagers and rotation of wheel

(a) Each casino licensee shall submit to the Commission for review and approval in accordance with N.J.A.C. 19:47-8.2 the minimum wagers permitted at each big six wheel in the casino and the casino simulcasting facility. Each casino licensee shall provide notice in accordance with N.J.A.C. 19:47-8.3 of the minimum and maximum wagers in effect at each big six table.

(b)-(f) (No change.)

19:47-8.2 Minimum and maximum wagers

(a) Each casino licensee or applicant shall submit to the Commission a proposal specifying the minimum wagers and any other limitations at all authorized table games in its casino or casino simulcasting facility. Such submission shall be made at least 30 days before gaming operations are to commence or before changes in a previously submitted proposal are to become effective, unless otherwise permitted by the Commission. Each such submission shall contain, but not be limited to the following information.

1. A floor plan of the casino and the casino simulcasting facility showing the location and configuration of all table games authorized by the Commission or proposed by the licensee or applicant for authorization;

2. The number of such table games, by game, authorized by the Commission or proposed by the licensee or applicant for such authorization in the licensee's or applicant's casino or casino simulcasting facility;

3.-4. (No change.)

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

19:50-1.4 Classification of authorized locations

(a) Authorized locations shall be classified as follows:

1.-5. (No change.)

6. All locations authorized pursuant to N.J.S.A. 5:12-103(g)(6) shall be classified as Type VI (casino simulcasting facility) locations.

(b) The activities permitted in each type of authorized location, subject to applicable laws, rules, and regulations, are as follows:

1.-5. (No change.)

6. In a Type VI location, a CHAB licensee shall be entitled to sell any alcoholic beverage by the glass or other open receptacle, but not in an original container, for on-premises consumption within a casino simulcasting facility.

(c) (No change.)

(d) The Commission may, consistent with the requirements of (b) above, issue two or more types of authorizations for the same authorized location, or different types of authorizations for different areas of the same authorized location. This subsection shall not apply to Type I, Type V or Type VI authorized locations.

19:50-1.5 Standards for qualification

(a) (No change.)

(b) No CHAB license which authorizes the sale of alcoholic beverages within a casino or casino simulcasting facility shall issue to any applicant who does not hold a casino license issued pursuant to the Act.

(c) No CHAB license which authorizes the possession, sale or storage of alcoholic beverages within any part of the premises, other than a casino or casino simulcasting facility, shall issue to any applicant who would not qualify under the standards for licensure of a non-gaming related casino service industry pursuant to N.J.S.A. 5:12-92(c).

(d)-(f) (No change.)

19:50-2.2 Additional operating conditions of CHAB licensees

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

(f) No CHAB licensee shall sell or offer to sell alcoholic beverages at a price below "cost," as defined by the Division of Alcoholic

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Beverage Control, except that CHAB licensees may serve complimentary alcoholic beverages:

1. (No change.)

2. In Type II (hotel), Type III (package goods), Type IV (room service) or Type VI (casino simulcasting facility) authorized locations, pursuant to sections 99 and 102 of the Act and the Commission's regulations concerning complementaries;

3.-4. (No change.)

19:50-3.6 Conditions of operation in Type VI (casino simulcasting facility) locations

(a) No alcoholic beverage shall be sold, given or be available for consumption, offered, delivered or otherwise brought to a patron within a casino simulcasting facility unless requested by the patron.

(b) No alcoholic beverage in an original container shall be brought into a Type VI location except by the CHAB licensee authorized to sell alcoholic beverages in that Type VI location.

(c) No CHAB licensee shall serve any alcoholic beverage in a Type VI location except by the glass or other open receptacle, but not in an original container, for on-premises consumption within the authorized location.

(d) No alcoholic beverage shall be displayed in a Type VI location except incidental to delivery or consumption by a patron.

(e) Alcoholic beverages may be served in a Type VI location only when the casino simulcasting facility is open, but shall not be served later than 15 minutes prior to the *[closing of the] *time that the* casino room *is required to close*.

19:51-1.2 License requirements

(a) No enterprise shall provide goods or services directly related to casino, simulcast wagering or gaming activity to, or otherwise transact business directly related to casino, simulcast wagering or gaming activity with, a casino applicant or licensee, its employees or agents unless licensed in accordance with subsections 92a and b of the Act. In determining whether an enterprise shall be licensed pursuant to this subsection, the Commission shall consider, without limitation, whether the enterprise satisfies one or more of the following criteria:

1. Whether the enterprise manufactures, supplies or distributes devices, machines, equipment, items or articles which:

i. Are specifically designed for use in the operation of a casino or casino simulcasting facility;

ii. Are needed to conduct an authorized game or simulcast wagering; or

iii. Have the capacity to affect the play or outcome of an authorized game or simulcast wagering;

2. Whether the enterprise provides maintenance, service or repair pertaining to simulcast wagering equipment, devices, machines, equipment, items, or articles governed by (a)1 above;

3. Whether the enterprise provides services directly related to the operation, regulation or management of a casino or casino simulcasting facility; or

4. Whether the enterprise provides such other goods or services determined by the Commission to be so utilized in or incident to gaming, casino or simulcast wagering activity as to require licensing in order to contribute to the public confidence and trust in the credibility and integrity of the gaming industry in New Jersey.

(b) Enterprises required to be licensed in accordance with subsections 92a and b of the Act and (a) above shall include, without limitation, the following:

1. Manufacturers, suppliers, distributors, servicers and repairers of roulette wheels, roulette balls, big six wheels, gaming tables, slot machines, cards, dice, gaming chips, gaming plaques, slot tokens, dealing shoes, drop boxes, computerized gaming monitoring systems, totalisators, pari-mutuel machines and self-service pari-mutuel machines;

2. Schools teaching gaming and dealing techniques; and

3. Casino credit reporting services, casino simulcasting hub facilities and suppliers of casino security services.

(c) Unless otherwise licensed in accordance with (a) above, no enterprise shall, on a regular or continuing basis, provide goods or services regarding the realty, construction, maintenance, or business

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of a proposed or existing casino hotel or related facility, to a casino licensee or applicant, its employees or agents unless such enterprise is licensed or exempted in accordance with subsections 92c and d of the Act or authorized to do so pursuant to N.J.A.C. 19:41-11.3(g). In determining whether an enterprise is subject to the requirements of this subsection, it shall not matter whether the casino licensee or applicant is a party to any agreement pursuant to which said goods or services are being provided. Enterprises subject to the provisions of this subsection shall include, without limitation, suppliers of alcoholic beverages, food and nonalcoholic beverages, gaming table layouts, non-value gaming chip sorters, in-State and out-of-State sending tracks, licensors of authorized games to casino licensees and applicants, garbage handlers, vending machine providers, linen suppliers, maintenance companies, shopkeepers located within the approved hotel, limousine services and construction companies contracting with casino licensees or applicants or their employees or agents.

(d)-(j) (No change.)

19:51-1.14 Casino service industry licenses

(a) No casino service industry license shall issue unless the individual qualifications of each of the following persons shall have been established in accordance with all provisions including those cited, of the Act and of the regulations of the Commission.

(b) (No change.)

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:

i.-v. (No change.)

vi. Each officer of the enterprise who is significantly involved in or has authority over the conduct of business directly related to casino, gaming or simulcast wagering activity and each officer whom the Commission may consider appropriate for qualification in order to insure the good character, honesty and integrity of the enterprise;

vii.-x. (No change.)

2. (No change.)

19:53-1.13 Designation, authority and responsibility of equal employment officer; responsibility of applicant or licensee and chief executive officer

(a) (No change.)

(b) The authority and responsibilities of the equal employment officer required pursuant to (a) above shall include, without limitation, the following:

1.-3. (No change.)

4. The responsibility to *[undertake good faith efforts to]* ensure that any employee at the Atlantic City Racetrack on or after June 12, 1992, who loses employment with that racetrack as a direct result of the implementation of casino simulcasting and who has been licensed by the New Jersey Racing Commission for five consecutive years immediately preceding the loss of employment, shall be given first preference for employment whenever any comparable position becomes available in any casino simulcasting facility, provided the person is qualified pursuant to the standards set forth in the Act.

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

CHAPTER 55 CASINO SIMULCASTING

SUBCHAPTER 1. GENERAL PROVISIONS

19:55-1.1 Definitions

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

“Breakage” means the odd cents over a multiple of five or 10 cents arising from the computation of odds and payouts on amounts wagered on a simulcast horse race, as determined by the law governing the sending track.

“Casino Control Act” means the State of New Jersey Casino Control Act approved June 2, 1977, as amended.

“Casino pari-mutuel cashier” means a casino employee who sells pari-mutuel tickets representing simulcast wagers, sells credit vouchers for simulcast wagering in self-service pari-mutuel machines, pays

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cash for credit vouchers, and makes payouts for winning or refundable pari-mutuel tickets in a casino simulcasting facility.

“Casino simulcasting” means the simultaneous transmission by picture of running or harness horse races conducted at racetracks to casino licensees and pari-mutuel wagering at casino simulcasting facilities operated by casino licensees on the results of those races.

“Casino Simulcasting Act” means the State of New Jersey Casino Simulcasting Act, P.L. 1992, c.19, approved June 12, 1992.

“Casino simulcasting facility” means a facility in an approved hotel operated by a casino licensee which conforms to the provisions of this chapter.

“Commission” means the New Jersey Casino Control Commission.

“Credit voucher” means a ticket issued by a casino pari-mutuel cashier in exchange for cash, gaming chips, slot tokens or coupons or by a self-service pari-mutuel machine for currency, as payment for a winning or refunded pari-mutuel ticket, or as the balance returnable after a simulcast wager has been placed.

“Dedicated line” means a telephone line which is reserved for the exclusive use of transmitting pari-mutuel wagering data between a casino simulcasting facility and a sending track.

“Delay period” means the time between off-time and the start of a simulcast horse race.

“Dial-up line” means a telephone line between a casino simulcasting facility and a sending track which is not reserved for the exclusive use of transmitting pari-mutuel wagering data.

“Division” means the Division of Gaming Enforcement of the New Jersey Department of Law and Public Safety.

“Hub facility” means a facility located in this State which acts as an intermediary between a casino simulcasting facility and a sending track with respect to the transmission of pari-mutuel wagering data and which is responsible for generating all reports necessary for the reconciliation of payments between casino licensees, sending tracks and the Racing Commission. The hub facility may also, but is not required to, perform other functions, including the transmission of pictures of simulcast horse races and pari-mutuel non-wagering data.

“In-State sending track” means a racetrack within the State of New Jersey which is operated by a permit holder and is equipped to conduct casino simulcasting.

“Manual merge” means the process used in the event of a systems or communications failure by which a casino simulcasting facility transmits to a sending track through telephone, facsimile machine, cellular telephone or other means of communication, the casino simulcasting facility’s pari-mutuel wagering information and the process by which the sending track includes such pari-mutuel wagers in the common pari-mutuel pool in such event.

“Minus pari-mutuel pool” means a pari-mutuel pool in which insufficient monies have been wagered to permit the minimum pay-offs of winning wagers required by the rules of pari-mutuel wagering governing the race.

“Off-time,” for the purposes of this chapter, means when the first horse is loaded into the starting gate in a running race and when the starting gate reaches the recall pole in a harness race. In a race, such as a steeplechase, where there is no starting gate, off-time shall mean approximately 15 seconds before the anticipated start of the race.

“Out-of-State sending track” means a racetrack in a jurisdiction other than the State of New Jersey which is equipped to conduct casino simulcasting and the operator of which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to a casino licensee.

“Outstanding pari-mutuel ticket” means a winning or refundable pari-mutuel ticket which is not claimed within six months of the date of its sale.

“Pari-mutuel machine” means a mechanical, electrical or other device which is connected to a totalisator and which generates pari-mutuel tickets and credit vouchers, reads pari-mutuel tickets and receives from the totalisator the amount to be paid for winning, cancelled or refunded pari-mutuel tickets, and reads credit vouchers and calculates the amount to be paid therefor.

"Pari-mutuel ticket" means a ticket issued by a pari-mutuel machine or a self service pari-mutuel machine which represents a wager on a simulcast horse race.

"Permit holder" means the holder of an annual permit issued by the Racing Commission to conduct a horse race meeting.

"Pool definition" means a computer-generated printout, itself generated by a sending track, of the pari-mutuel wagering format and scratch information for that day's racing program.

"Racing Commission" means the New Jersey Racing Commission.

"Receiving track" means a racetrack which is equipped to receive simulcast horse races and to conduct intertrack wagering on those races.

"Scratch" means the withdrawal of an entered horse from a race after the closing of overnight entries.

"Self-service pari-mutuel machine" means a mechanical, electrical or other device connected to a totalisator which, upon the insertion of a credit voucher, coupon or currency, or any combination thereof, and the selection of a permissible simulcast wager automatically issues a pari-mutuel ticket together with a credit voucher for any balance which may be due and which, upon the insertion of a winning or refunded pari-mutuel ticket, reads the ticket and automatically issues a credit voucher in the amount of the correct payout.

"Sending track" means an in-State or out-of-State sending track.

"Simulcast horse race" means a running or harness horse race conducted at a racetrack which is simultaneously transmitted by picture to a casino licensee.

"Totalisator" means a computer, which, among other things, directly or indirectly through one or more other totalisators, receives pari-mutuel wagering information, calculates payoffs for winning pari-mutuel tickets, and generates reports with respect to such information.

19:55-1.2 Rules of Racing Commission

Except as otherwise provided in the Casino Simulcasting Act or this chapter, the rules of racing and conduct of pari-mutuel wagering in casino simulating facilities and hub facilities shall be subject to the rules of the Racing Commission.

SUBCHAPTER 2. CONDUCT OF CASINO SIMULCASTING

19:55-2.1 Conduct of casino simulating

A casino licensee may conduct casino simulating in a casino simulating facility in accordance with the provisions of the Casino Simulating Act and this chapter.

19:55-2.2 Hub facility

A casino licensee which conducts casino simulating shall, absent approval from the Commission and the Racing Commission to do otherwise, utilize a hub facility.

19:55-2.3 Receipt of races from in-State sending tracks

A casino licensee which conducts casino simulating shall, as a condition of continued operation of casino simulating, receive all live races which are transmitted by in-State sending tracks. A permit holder which is authorized by the Racing Commission to conduct casino simulating shall have discretion to transmit all or some of the live horse races conducted at the racetrack to casino simulating facilities; provided, however, any race which is transmitted from an in-State sending track shall be transmitted to all casino simulating facilities. A permit holder which wishes to transmit some, but not all, of its live horse races to casino simulating facilities shall do so only with the prior approval of the Racing Commission.

19:55-2.4 Receipt of races from out-of-State sending tracks

A casino licensee may, with the approval of the Commission and Racing Commission and subject to the provisions of the Casino Control Act, the Casino Simulating Act and this chapter, conduct casino simulating on races from an out-of-State sending track which has been approved by the Racing Commission to participate in casino simulating. An out-of-State sending track which transmits any race to a casino simulating facility shall offer to transmit such race to all casino simulating facilities on the same terms.

19:55-2.5 Agreements with sending tracks

(a) Agreements for casino simulating between a casino licensee and a sending track shall be in writing and shall be filed with the Racing Commission, and with the Commission in accordance with the provisions of N.J.S.A. 5:12-104. Such agreements may be negotiated on behalf of casino licensees by an entity jointly established by casino licensees.

(b) Every agreement between a casino licensee and a sending track shall, in a manner consistent with the provisions of the Casino Simulating Act and this chapter, define, and provide for the distribution of, outstanding pari-mutuel tickets, and define, and provide for the allocation of losses in the event of, a minus pari-mutuel pool. Every such agreement shall also provide for manual merging in the event of a systems or communications failure and shall further set forth a procedure, acceptable to the Commission and Racing Commission, which shall be followed in the event that manual merging is not possible.

19:55-2.6 Conduct of authorized games in a casino simulating facility

A casino licensee may, subject to the rules of the Commission, conduct any authorized game as defined by N.J.S.A. 5:12-5 or by rule of the Commission, other than slot machines, in a casino simulating facility.

19:55-2.7 Hours of operation

A casino simulating facility may be open during permitted hours of casino operation, and shall be open and operated during such hours whenever simulcast horse races are being transmitted to a casino licensee.

19:55-2.8 Gaming and simulcast wagering by certain persons prohibited

It shall be unlawful for any person who is prohibited from wagering at a game in a casino in this State pursuant to N.J.S.A. 5:12-100n to wager in a casino simulating facility on either an authorized game or on casino simulating.

19:55-2.9 Wagering limited to casino simulating facility

Wagering on simulcast horse races within the premises of a casino licensee shall be conducted only in a casino simulating facility. However, pictures of simulcast horse races may be shown in non-casino public areas of the establishment as approved by the Commission.

19:55-2.10 No fee to be charged

No fee shall be charged for placing a wager on a simulcast horse race in addition to the amount wagered.

19:55-2.11 Ticket claims

(a) Subject to the time limitations imposed by N.J.A.C. 19:55-2.12, a winning pari-mutuel ticket purchased at a casino simulating facility *[may]* ***shall*** be presented for cashing at a pari-mutuel window at that facility *[or at any permit holder which conducted pari-mutuel wagering on the same race, and a winning pari-mutuel ticket purchased at a permit holder may be presented for cashing at a pari-mutuel window at the permit holder or at any casino simulating facility which conducted pari-mutuel wagering on the same race]*.

(b) Any claim by a patron that he or she has been issued an incorrect ticket shall be made before leaving the pari-mutuel window at which it was purchased. No claim shall be considered thereafter, and no claim shall be considered for tickets which have been discarded, lost, altered, destroyed or mutilated beyond identification.

(c) Payment of wagers shall be made only upon presentation of appropriate pari-mutuel tickets.

19:55-2.12 Expiration of pari-mutuel tickets

A pari-mutuel ticket shall be claimed within six months of the date of its sale, after which it becomes an outstanding pari-mutuel ticket to be paid to the Racing Commission and deposited in the Casino Simulating Special Fund for distribution in accordance with the provisions of the Casino Simulating Act. Notice of this expira-

tion provision shall be prominently posted in a casino simulcasting facility or printed on the pari-mutuel tickets sold at the casino simulcasting facility.

SUBCHAPTER 3. CASINO SIMULCASTING FACILITY

19:55-3.1 Location

A casino simulcasting facility shall be a contiguous area located within an approved hotel operated by a casino licensee and may be adjacent to, but shall not be part of, the room in which casino gaming is conducted pursuant to the provisions of the Casino Control Act. Notwithstanding the above, a casino licensee may construct barriers within the room for the purposes of permitting the conduct of authorized games and simulcast wagering in a manner maximizing patron comfort and the efficient operation of the facility, provided that such barriers are approved by the Commission and do not interfere with security or surveillance within the facility.

19:55-3.2 Space not to reduce space authorized for casino gaming

The space required to establish and maintain a casino simulcasting facility shall not reduce the space authorized for casino gaming pursuant to N.J.S.A. 5:12-83.

19:55-3.3 Square footage requirements

(a) A casino licensee which wishes to conduct casino simulcasting shall establish and maintain a casino simulcasting facility of sufficient square footage to promote:

1. Maximum comfort for patrons and efficient operation of the facility;
2. Viewing of simulcast horse races by patrons in a comfortable manner which is not obtrusive to the conduct of authorized games within the facility; and
3. Optimum security of the facility, which shall include the installation and maintenance of security and surveillance equipment, including closed circuit television equipment, according to specifications approved by the Commission. The Commission and Division shall have direct access to the system or its signal.

19:55-3.4 Satellite cage

A casino licensee which wishes to conduct casino simulcasting shall, unless otherwise approved by the Commission, establish and maintain a satellite cage in, or immediately adjacent to, its casino simulcasting facility.

SUBCHAPTER 4. PARI-MUTUEL POOLS

19:55-4.1 Horse races from in-State sending tracks

Sums wagered in a casino simulcasting facility on horse races at an in-State sending track shall be included in the appropriate pari-mutuel pool generated at the in-State sending track for the race being transmitted, and the pari-mutuel pool shall be divided in accordance with the provisions of the Casino Simulcasting Act. Pari-mutuel pay-offs at casino simulcasting facilities shall be made in accordance with the odds generated at the in-State sending track.

19:55-4.2 Horse races from out-of-State sending tracks

(a) Except as provided in this section, sums wagered in a casino simulcasting facility on horse races at an out-of-State sending track shall be combined with comparable pari-mutuel pools at the out-of-State sending track, and the types of wagering, takeout, distribution of winnings, rules of racing and percentage of deposits remaining undistributed from pari-mutuel pools after payment is made to winning ticket holders shall be determined in accordance with the law or policy applicable to the out-of-State sending track.

(b) With the prior approval of the Racing Commission and the concurrence of an out-of-State sending track, a casino licensee may form an interstate common pool with receiving tracks or entities in other states other than the state in which the sending track is located.

(c) In any event, however, monies resulting from breakage on amounts wagered on horse races in a casino simulcasting facility and outstanding pari-mutuel tickets sold at a casino simulcasting facility shall in all instances be paid to the Racing Commission and deposited in the Casino Simulcasting Special Fund for distribution in accordance with the provisions of the Casino Simulcasting Act.

19:55-4.3 Transmission data line

A transmission data line shall be a dedicated line. There shall be a minimum of one back-up line, which may be a dial-up line. In addition, each out-of-State sending track shall maintain a cellular phone in its totalisator room. These requirements may be waived only in exceptional cases for good cause shown with the prior written approval of the Commission and Racing Commission. Any application for such waiver shall be supported by documentation of the precautions which will be taken to assure that the alternative method of transmitting data, which may include the use of cellular phones, will be secure.

19:55-4.4 Facsimile machines and telephone lines

A casino simulcasting facility, hub facility and the totalisator room at a sending track shall each contain a facsimile machine and a direct dial-up telephone line, the numbers of which shall be provided to the Commission, Division and Racing Commission.

19:55-4.5 Pool definition

Prior to the opening of wagering on a simulcast horse race, a sending track shall transmit a pari-mutuel pool definition to a casino simulcasting facility. Upon receipt of the pool definition, pari-mutuel machines at a casino simulcasting facility may be opened for wagering.

19:55-4.6 Scratches

A sending track shall at all times inform a casino simulcasting facility of scratches and pool change information, and any scratch from a simulcast horse race after wagering has commenced shall be verified immediately by facsimile from the sending track to the casino simulcasting facility.

19:55-4.7 Locking of pari-mutuel machines

All pari-mutuel machines in a casino simulcasting facility shall be locked at off-time.

19:55-4.8 Ticket sales

No ticket may be issued after the totalisator has been locked or wagering has ceased, whichever occurs first.

19:55-4.9 Cease wagering

Wagering shall cease not later than off-time.

19:55-4.10 Cancellation of tickets

(a) Except as provided in this section, no pari-mutuel ticket on a current race shall be cancelled once a patron has left the pari-mutuel window at which the ticket was purchased.

(b) Pari-mutuel tickets on wagers such as trifectas where probable pay-offs or odds are not displayed to the public may be cancelled at any time prior to off-time.

(c) No pari-mutuel ticket purchased at a self-service pari-mutuel machine on a current race shall be cancelled.

(d) Pari-mutuel tickets on advance races, whether purchased from a casino pari-mutuel cashier or a self-service pari-mutuel machine, may be cancelled by any casino pari-mutuel cashier until the race immediately preceding the race for which the cancellation has been requested has been declared official.

(e) A casino pari-mutuel cashier may cancel a pari-mutuel ticket on a current race during the delay period provided the ticket was purchased in the final transaction at the pari-mutuel window before off-time, and further provided that the ticket was incorrectly issued by the cashier or that the patron who ordered the ticket left the pari-mutuel window without paying for or accepting the ticket.

19:55-4.11 Refunds

A pari-mutuel ticket on a horse that is scratched may be refunded. Pari-mutuel tickets representing wagers where a patron must select more than one horse may be refunded only as to the combinations including the scratched horse.

19:55-4.12 Odds display

A casino licensee which conducts casino simulcasting shall prominently display in its casino simulcasting facility the approximate odds for each horse in a simulcast horse race for the purpose of informing patrons of the actual wagering on each horse.

19:55-4.13 Pari-mutuel machines closed

(a) If, for any reason, pari-mutuel machines are closed during the wagering on a simulcast race before off-time, they shall remain closed until after the race. Wagering shall cease on that race, and the pay-offs for that race shall be computed on the sums then wagered in each pari-mutuel pool.

(b) In the event that pari-mutuel ticket issuing machines are inadvertently closed for any reason, said machines shall be opened only by the Supervisor of Mutuels at the hub facility, or such person at the hub facility who has assumed his or her duties pursuant to N.J.A.C. 19:55-9.3.

19:55-4.14 Overpays caused by totalisator errors

Overpays caused by totalisator error shall be borne by the operator of the totalisator equipment causing the error.

19:55-4.15 Mechanical breakdowns

(a) In the event of an irreparable breakdown of the totalisator or all pari-mutuel and self-service pari-mutuel machines during the wagering on a race, the wagering on that race shall be declared closed, and the pay-off for that race shall be computed on the sums wagered in each pari-mutuel pool at the time of the breakdown.

(b) In the event of a totalisator malfunction requiring the operator of the totalisator equipment to purchase any non-issued ticket "lost" in the totalisator computer, the operator of the totalisator equipment 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 be paid to the Racing Commission and deposited in the Casino Special Simulcasting Fund for distribution in accordance with the provisions of the Casino Simulcasting Act. For example, if the "lost" tickets on a race cost \$1,000 and pay off \$800.00, the operator of the totalisator equipment must pay \$200.00. However, if the "lost" tickets cost \$1,000 and pay off \$1,200, the operator of the totalisator equipment need pay nothing and \$200.00 shall be paid to the Racing Commission and deposited in the Casino Simulcasting Special Fund.

19:55-4.16 Emergencies not covered by this chapter

In the event that an emergency arises with respect to simulcast wagering in a casino simulcasting facility which is not covered by this chapter and an immediate decision is necessary, the simulcast shift supervisor or above shall make a good faith effort to contact and consult with the Supervisor of Mutuels or such person who has assumed his or her duties pursuant to the provisions of N.J.A.C. 19:55-9.3 prior to taking action, and shall promptly render a written report regarding the incident to the Commission, Division and Racing Commission.

19:55-4.17 Transmission failure

In the event of failure to transmit pari-mutuel information to a sending track, no further wagers shall be accepted in a casino simulcasting facility until and unless the failure has been corrected. The casino simulcasting facility and sending track shall attempt to manually merge any wagers which have already been accepted but which have not been transmitted to the sending track due to the failure. Notice of this procedure and any backup procedure established in accordance with N.J.A.C. 19:55-2.5(b) shall be posted in a prominent location in the casino simulcasting facility. In any instance where manual merging or recourse to the backup procedure is required, actual notice thereof shall be publicly announced in the casino simulcasting facility.

19:55-4.18 Commingling notice

A casino licensee shall display prominently in its casino simulcasting facility notice that it is commingling wagers as required by the Casino Simulcasting Act. Such notice shall further provide that this procedure may result in changes in pools and pari-mutuel odds during the running of a simulcast race.

SUBCHAPTER 5. LICENSING OF EMPLOYEES

19:55-5.1 Employees of casino simulcasting facilities

All employees of a casino simulcasting facility shall be licensed or registered in accordance with the rules of the Commission.

SUBCHAPTER 6. LICENSING AND REGISTRATION *[OF CASINO SERVICE INDUSTRIES]*
ENTITIES AND THEIR EMPLOYEES

19:55-6.1 Sending tracks

All sending tracks shall be licensed, or determined to be exempt from licensure, in accordance with the provisions of N.J.S.A. 5:12-92c. Any exemption of a sending track shall be subject to the conditions set forth in N.J.S.A. 5:12-92c, and each sending track shall have on file with the Commission a vendor registration form, any updates to which shall be filed with the Commission within 10 days of the occurrence of any changes.

19:55-6.2 Simulcast wagering equipment

All manufacturers, suppliers and repairers of simulcast wagering equipment, including totalisators, pari-mutuel machines and self-service pari-mutuel machines, to casino licensees or hub facilities shall be licensed in accordance with the provisions of N.J.S.A. 5:12-92a.

19:55-6.3 Hub facility

A hub facility shall be licensed in accordance with the provisions of N.J.S.A. 5:12-92a, and all employees of the hub facility shall be licensed or registered with the Commission as if the hub facility were itself a casino licensee. Additionally, a hub facility shall submit for Commission approval a jobs compendium and descriptions of its security procedures and accounting controls. A hub facility and its employees, and vendors of a hub facility other than casino licensees, shall further be subject to the licensure jurisdiction of the Racing Commission.

19:55-6.4 Other enterprises

Any other enterprise transacting business with a casino licensee or hub facility with respect to casino simulcasting shall be subject to the vendor registration and casino service industry licensing requirements applicable to any enterprise which transacts business with a casino licensee.

SUBCHAPTER 7. RECONCILIATION WITH SENDING TRACKS AND PAYMENTS TO RACING COMMISSION

19:55-7.1 Reconciliation with sending tracks

Each casino licensee which conducts casino simulcasting shall, in conformance with information provided by the hub facility, reconcile all simulcast wagers with sending tracks on at least a weekly basis.

19:55-7.2 Outstanding pari-mutuel tickets

Each casino licensee which conducts casino simulcasting shall deposit all funds for outstanding pari-mutuel tickets in a separate account and maintain an ongoing, daily record of such tickets.

19:55-7.3 Payments to Racing Commission

Each casino licensee which conducts casino simulcasting shall, after the reconciliation of wagers, payment of fees to sending tracks, and retention of monies to which it is entitled under the provisions of the Casino Simulcasting Act, transmit to the Racing Commission all underpays and moneys due it pursuant to this chapter and in accordance with the provisions of the Casino Simulcasting Act.

SUBCHAPTER 8. RACE INFORMATION

19:55-8.1 Race information availability

A casino licensee which conducts casino simulcasting shall make available to patrons of its casino simulcasting facility the following information for each simulcast race: the names of entrants, their sires, dams and grandsires, their wagering numbers, post positions, jockeys, morning line odds, owners and owners' colors, trainers, sex, color, year of birth; the distance and number of the race; amount of purse; and conditions and claiming price, if any. For harness races, the performance lines for at least the last six races of each entrant shall also be available. The availability of such information, and the procedures for obtaining same, shall prominently be displayed in the

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casino simulcasting facility. Nothing in this chapter shall preclude a casino licensee from charging patrons a fee for providing such information.

SUBCHAPTER 9. SUPERVISORS OF MUTUELS AND VERIFIERS

19:55-9.1 Supervisor of Mutuels

A Supervisor of Mutuels shall be present at a hub facility at all times when casino simulcasting is being conducted. Unless determined by the Commission and Racing Commission that a longer period is necessary, for a period of one year from the date of commencement of casino simulcasting the Supervisor of Mutuels shall be an employee or designee of the Racing Commission whose compensation shall be reimbursed to the Racing Commission by the hub facility, or, if a designee, paid directly by the hub facility. If a Supervisor of Mutuels is not an employee of the Racing Commission, he or she shall be licensed as a casino key employee.

19:55-9.2 Duties of Supervisor of Mutuels

(a) The duties of a Supervisor of Mutuels at the hub facility shall include:

1. Overseeing the pari-mutuel-related activities of the hub facility;
2. Determining calculations, overpays, underpays and directing any necessary adjustments to race totals;
3. Verifying machine computation of all daily double, exacta and other multiple wagering pools;
4. Reviewing all necessary computer sheets and test checking the machine calculations of payouts, breakage, and commissions of each pool;
5. Verifying cancellation reports as transmitted from casino simulcasting facilities;
6. Preparing and submitting to the Racing Commission a daily summary result of the pari-mutuel operations, with copies to the Commission and Division;
7. Preparing and submitting to the Racing Commission a seven-day financial report and a seven-day comparative statistic report, with copies to the Commission and Division;
8. Daily reconciliation of the daily pari-mutuel sale with the hub facility's daily statement thereof and the Racing Commission's daily summary of results from pari-mutuel wagering; and
9. Reporting all discrepancies and irregularities to the Racing Commission, Division and Commission.

19:55-9.3 Assumption of duties of Supervisor of Mutuels

Subject to the provisions of N.J.A.C. 19:55-9.1, not less than one year after the commencement of casino simulcasting the duties of a Supervisor of Mutuels as set forth in N.J.A.C. 19:55-9.2 may be assumed by qualified employees of the hub facility, who shall be licensed as casino key employees and as may otherwise be required by N.J.A.C. 19:55-6.3. Notwithstanding the above, the Racing Commission may determine, at its own cost, to continue to have its employees or designees perform some or all of the duties of a Supervisor of Mutuels set forth in N.J.A.C. 19:55-9.2.

19:55-9.4 Verifier

There shall be assigned to each Supervisor of Mutuels in a hub facility a Verifier, who shall be present at a hub facility at all times when casino simulcasting is being conducted. Unless determined by the Commission and Racing Commission that a longer period of time is necessary, for a period of one year from the date of commencement of casino simulcasting the Verifier shall be an employee or designee of the Racing Commission whose compensation shall be reimbursed to the Racing Commission by the hub facility, or, if a designee, paid directly by the hub facility. It shall be the duty of a Verifier to assist a Supervisor of Mutuels in carrying out the duties set forth in N.J.A.C. 19:55-9.2. If a Verifier is not an employee of the Racing Commission, he or she shall be licensed as a gaming-related casino employee.

19:55-9.5 Assumption of duties of Verifier

Subject to the provisions of N.J.A.C. 19:55-9.4, not less than one year after the commencement of casino simulcasting the duties of a Verifier may be assumed by qualified employees of the hub facility,

who shall be licensed as gaming-related casino employees and as may otherwise be required by N.J.A.C. 19:55-6.3. Notwithstanding the above, the Racing Commission may determine, at its own cost, to continue to have its employees or designees perform some or all of the duties of a Verifier set forth in N.J.A.C. 19:55-9.4.

19:55-9.6 Continued access to hub facility by Racing Commission

The Racing Commission, its employees and agents shall at all times have access to the hub facility in order to maintain the integrity of horse racing and, together with the Commission and Division, to effectuate the purposes of the Casino Simulcasting Act. Such access shall in no way be affected by the replacement of Supervisors of Mutuels and Verifiers by employees of the hub facility, as provided in N.J.A.C. 19:55-9.3 and 9.5.

(a)

CASINO CONTROL COMMISSION

**Gaming Equipment; Rules of the Games
Blackjack Table; Card Reader Device; Physical
Characteristics; Inspections
Cards; Physical Characteristics
Approval of Gaming Equipment; Retention by
Commission or Division; Evidence of Tampering
Definitions; Procedure for Dealing Cards; Insurance
Wagers; Irregularities**

**Adopted Amendments: N.J.A.C. 19:46-1.10, 1.17 and
1.20, and 19:47-2.1, 2.6, 2.9 and 2.15.**

Proposed: July 6, 1992 at 24 N.J.R. 2351(a).

Adopted: December 16, 1992 by the Casino Control Commission, Steven P. Perskie, Chairman.

Filed: December 17, 1992 as R.1993 d.38, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:12-63(c); 69, 70(f), 99 and 100(e).

Effective Date: January 19, 1993.

Expiration Date: April 23, 1993, N.J.A.C. 19:46 and 19:47.

Summary of Public Comments and Agency Responses:

COMMENT: The Division of Gaming Enforcement supports the proposed amendments.

RESPONSE: Accepted.

COMMENT: Trump Plaza Associates (Trump Plaza) requests that the proposed amendment to N.J.A.C. 19:47-2.15, Irregularities, not be adopted. The proposed amendment requires that all hands be called dead and each player's wager returned if the dealer accidentally inserts his or her hole card into a card reader device and the value of the dealer's first card is not an ace, king, queen, jack or 10. Trump Plaza believes that if this requirement is adopted, it will potentially permit the dealer to work in collusion with a player at the Blackjack table by helping the player avoid losing his or her wager by inserting his or her hole card when not required. Trump Plaza suggests that the game continue as normal if the dealer accidentally inserts his or her hole card when not required by the regulations.

RESPONSE: Rejected. If a dealer incorrectly inserts his or her hole card (second card) into the card reader device, by having knowledge of the value of his or her hand, the dealer may signal to any of the players at the table whether it is advantageous to stand or draw additional cards. If the player wins, as a result of the dealer's knowledge, the house must pay the patron, and therefore, loses money which otherwise may have been won if the player did not have knowledge of the value of the dealer's hand. If the player wins, when they should have lost, the amount of gross revenue is decreased. When the dealer incorrectly inserts his or her hole card, the financial risk to the casino and the State is greater if the hands are played out rather than calling the round of play dead.

Summary of Change Upon Adoption:

Due to the adoption of N.J.A.C. 19:46-1.10(d) effective September 21, 1992, proposed N.J.A.C. 19:46-1.10(f) is adopted as subsection (g). Con-

cerning N.J.A.C. 19:46-1.20(a) and (c), the text reproduced herein also reflects amendments adopted elsewhere in this issue of the New Jersey Register as part of the casino simulcasting rulemaking.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks *thus*; deletion from proposal indicated in brackets with asterisks *[thus]*):

19:46-1.10 Blackjack table; card reader device; physical characteristics; inspections

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

[(f)](g) A blackjack table may have attached to it, as approved by the Commission, a card reader device which permits the dealer to read his or her hole card in order to determine if the dealer has a blackjack in accordance with N.J.A.C. 19:47-2.6. If a blackjack table has an approved card reader device attached to it, the floorperson assigned to the table shall inspect the card reader device at the beginning of each gaming day. The purpose of this inspection shall be to insure that there has been no tampering with the device and that it is in proper working order.

19:46-1.17 Cards; physical characteristics

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

(c) Each suit shall be composed of 13 cards—ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, 2. The face of the ace, king, queen, jack and 10 value cards may contain an additional marking, as approved by the Commission, which will permit a dealer, prior to exposing his or her hole card at the game of blackjack, to determine the value of that hole card.

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

19:46-1.20 Approval of gaming and simulcast wagering equipment; retention by Commission or Division; evidence of tampering

(a) The Commission shall have the discretion to review and approve all gaming and simulcast wagering equipment and other devices used in a casino, casino simulcasting facility or hub facility as to quality, design, integrity, fairness, honesty and suitability including without limitation gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, sic bo shakers, sic bo electrical devices, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, dice, cards, locking devices, card reader devices, data processing equipment, pari-mutuel machines, self-service pari-mutuel machines and totalisators.

(b) (No change.)

(c) Any evidence that gaming equipment or other devices used in a casino, casino simulcasting facility or hub facility including, without limitation, gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, sic bo shakers, sic bo electrical devices, gaming chips, plaques, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, locking devices, card reader devices, data processing equipment, tokens, slot machines, pari-mutuel machines, self-service pari-mutuel machines and totalisators have been tampered with or altered in any way which would affect the integrity, fairness, honesty or suitability of the gaming equipment or other devices for use in a casino, casino simulcasting facility or hub facility shall be immediately reported to an agent of the Commission and the Division. A member of the casino licensee's security department shall be required to insure that the gaming equipment or other device and any evidence required to be reported pursuant to this subsection is maintained in a secure manner until the arrival of an agent of the Division. Rules concerning evidence of tampering with dice and cards may be found at N.J.A.C. 19:46-1.16(g) and 19:46-1.18(n), respectively.

19:47-2.1 Definitions

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

... "Card reader device" is defined in N.J.A.C. 19:46-1.10.

...

19:47-2.6 Procedure for dealing cards

(a)-(i) (No change.)

(j) In lieu of the procedures set forth in (h) above, a casino licensee may permit a blackjack dealer to deal his or her hole card face downward after a second card and before additional cards are dealt to the players provided that said dealer not look at the face of his or her hole card until after all other cards requested by the players pursuant to those regulations are dealt to them; provided, however, if a casino licensee elects to utilize a card reader device and the dealer's first card is an ace, king, queen, jack or 10 of any suit, the dealer shall determine whether the hole card will give the dealer a blackjack prior to dealing any additional cards to the players at the table, in accordance with procedures approved by the Commission. The dealer shall insert the hole card into the card reader device by moving the card face down on the layout without exposing it to anyone, including the dealer, at the table. Notwithstanding any other provisions of this subchapter to the contrary, if the dealer has a blackjack, no additional cards shall be dealt and each player's wager shall be settled in accordance with N.J.A.C. 19:47-2.3 and 2.7.

(k)-(o) (No change.)

19:47-2.9 Insurance Wagers

(a) (No change.)

(b) An insurance bet may be made by placing on the insurance line of the layout an amount not more than half the amount staked on the player's initial wager, except that a player may bet an amount in excess of half the initial wager to the next unit that can be wagered in chips, when because of the limitations of the value of chip denominations, half the initial wager cannot be bet. All insurance wagers shall be placed immediately after the second card is dealt to each player and prior to any additional cards being dealt to any player at the table, if a card reader device is not in use and, if a card reader device is in use, prior to the dealer inserting his or her hole card into the card reader device.

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

19:47-2.15 Irregularities

(a)-(i) (No change.)

(j) If the dealer accidentally inserts his or her hole card into a card reader device and the value of his or her first card is not an ace, king, queen, jack or 10, all hands shall be called dead, the cards collected and each player's wager returned.

(k) If a card reader device malfunctions the dealer may only continue dealing the game of blackjack at that table using the dealing procedures applicable when a card reader device is not in use.

(a)

CASINO CONTROL COMMISSION

**Casino Service Industries
License Requirements**

Adopted Amendment: N.J.A.C. 19:51-1.2

Proposed: November 16, 1992 at 24 N.J.R. 4241(b).

Adopted: December 16, 1992 by the Casino Control Commission,
Steven P. Perskie, Chairman.

Filed: December 17, 1992 as R.1993 d.35, **without change.**

Authority: N.J.S.A. 5:12-69, 70a, 92 and 94.

Effective Date: January 19, 1993.

Expiration Date: April 27, 1994.

Agency Note: The adopted amendments were proposed as amendments to N.J.A.C. 19:43-1.2. That section was recodified as N.J.A.C. 19:51-1.2 effective December 21, 1992 (see 24 N.J.R. 4563(a)). The text of the rule adopted herein also reflects amendments to the rule concurrently adopted elsewhere in this issue of the New Jersey Register as part of the casino simulcasting rulemaking.

Summary of Public Comments and Agency Responses:

Comments were received from the Division of Gaming Enforcement (Division), Harvey's Wagon Wheel, Inc. (Harvey's), Bet Technology, Inc. (Bet Technology), Ken Perrie and Technical Casino Services, Inc. (TCS).

ADOPTIONS

COMMENT: The amended rules include licensors of new casino games among those non-gaming related casino service industries required to obtain licensure prior to conducting any casino business. A casino licensee or applicant must obtain a transactional waiver before doing business with such an enterprise prior to licensure. N.J.A.C. 19:51-1.2(g) through (h). Harvey's, Bet Technology and Ken Perrie, each the holder of the intellectual property rights to a new casino game, agree that the rules provide "an appropriate balance of the legitimate regulatory concerns and the burdens imposed by the licensing process." They comment that this approach, by reducing the costs of licensure, may encourage licensors to make their new games available to Atlantic City casinos. The commentators note that this may help reverse the trend of declining table games revenue and will also further the legislative intent reflected in recent amendments to the Casino Control Act giving the Commission more authority to legalize new games. P.L. 1991, c.182 and P.L. 1992, c.9.

RESPONSE: The Commission agrees, as evidenced by the adoption herein.

COMMENT: TCS noted its support of amendments which reclassify manufacturers and distributors of gaming table layouts as non-gaming-related CSI's, rather than gaming related.

RESPONSE: The Commission agrees, and has adopted such provision in N.J.A.C. 19:51-1.2(c).

COMMENT: TCS comments that the granting of a transactional waiver should not require the approval of the Division, as provided in N.J.A.C. 19:51-1.2(h)3. TCS contends that such rule is "inconsistent with the statutory mandate of the Casino Control Act which provides that the Commission is responsible for deciding all applications and the Division of Gaming Enforcement is responsible for investigating all applications."

RESPONSE: The Commission does not agree that Division approval is either inappropriate or inconsistent with the Act. Although the decision to grant a transactional waiver is within the Commission's discretion, it is consistent with the Division's investigative function that it "provide the Commission with all information necessary for such action." N.J.S.A. 5:12-76(a). In a sensitive matter such as this, where the Commission is requesting information from the Division prior to completion of a full investigation, the Commission may validly choose to give substantial deference to the position of the Division. To do otherwise might require the Division to disclose information which could jeopardize an ongoing investigation.

COMMENT: TCS argues that distributors of non-value gaming chip sorters should not be subject to the transactional waiver process, since "chip sorting machines are not needed to conduct an authorized game and do not have the capacity to affect the play or the outcome of an authorized game."

RESPONSE: The standards cited by the commenter are to be utilized by the Commission in determining if an enterprise must be licensed as a gaming-related CSI pursuant to section 92a of the Act. N.J.A.C. 19:51-1.2(a). The applicable standard is set forth in subsections (g) and (h), which provide that the Commission may require a non-gaming CSI applicant to apply for a waiver prior to conducting casino business if the Commission determines that it is "necessary in order to contribute to the public confidence and trust in the credibility and integrity of the gaming industry in New Jersey." Although equipment such as non-value chip sorters and table layouts do not require gaming-related licensure, their proximity to and association with gaming operations differentiates such items from other, less sensitive types of non-gaming-related goods and services.

COMMENT: TCS suggests that gaming table manufacturers should not be required to obtain gaming-related CSI licensure, since such equipment does not have the capacity to affect the play or outcome of an authorized game. N.J.A.C. 19:51-1.2(a)1iii.

RESPONSE: The Commission disagrees. While gaming tables do not meet the criteria stated in subparagraph (a)1iii, other adopted standards consider whether a particular item is "specifically designed for use in the operation of a casino," N.J.A.C. 19:51-1.2(a)1i, or is "needed to conduct an authorized game." N.J.A.C. 19:51-1.2(a)1ii. Other types of equipment have similarly been viewed as "directly related to gaming," for example, gaming chips, gaming plaques and drop boxes.

COMMENT: The Division stated its support for new provisions that provide an illustrative list of gaming-related enterprises, and which provide criteria by which the Commission may determine if an enterprise is gaming-related or non-gaming related.

OTHER AGENCIES

RESPONSE: The Commission agrees that the amended rule provides a useful clarification and updating of the standards for casino service industry (CSI) licensure.

COMMENT: The Division supports amendments to the list of non-gaming related enterprises to include suppliers of gaming table layouts, nonvalue chip sorters, in-State and out-of-State sending tracks and licensors of new games. N.J.A.C. 19:51-1.2(c).

RESPONSE: The Commission agrees, and has adopted the proposed amendments.

COMMENT: The Division notes that under new subsection (g), the Commission may require that certain non-gaming related enterprises file an application and obtain a transactional waiver before conducting any casino business prior to licensure. The Division points out that the filings required for a non-gaming related enterprise are less detailed than those filed by a gaming-related enterprise, and may not provide enough information for the Division to discover potentially disqualifying facts in the time available to respond to a transactional waiver request. The Division suggests that such a non-gaming related company should also be required to file its last three federal income tax returns and that each qualifier should be required to file his or her most recent federal income tax return.

RESPONSE: Although the content of a non-gaming service industry license application is beyond the scope of this rule, the Commission will consider the Division's suggestion in implementing the new transactional waiver process for non-gaming-related CSI applicants.

COMMENT: The Division suggests that the non-gaming enterprises subject to subsection (g) should be limited to those expressly listed in that subsection, except "in the unusual case where an enterprise is not properly includable in [subsections (b) and (c)]." The Division contends that this would avoid an undue number of "unnecessary" petitions for gaming-related licensees and applicants seeking a ruling that they are similar to the listed enterprises and therefore need only be licensed as a non-gaming-related enterprise. It maintains that the suggested language would provide necessary guidance to vendors, and to casino licensees filing Vendor Registration Forms on the vendor's behalf, in determining the applicable license requirements.

RESPONSE: The Commission appropriately retains discretion to determine that a vendor, though not providing goods or services "directly related to gaming," must be licensed before conducting casino business for purposes of ensuring public confidence in the integrity of gaming in Atlantic City. The Division's suggested language would not provide any greater certainty as to "the unusual case" where a non-gaming vendor would be required to file a non-gaming-related CSI application before conducting casino business. Where a casino licensee files a Vendor Registration Form on behalf of a vendor, the Commission's review will discern whether a CSI license application should have been filed pursuant to either N.J.A.C. 19:51-1.2(g) or N.J.S.A. 5:12-92(a).

COMMENT: The Division supports the new provision which empowers it to veto any transactional waiver.

RESPONSE: The Commission agrees and has adopted the proposed amendment.

Full text of the adoption follows.

19:51-1.2 License requirements

(a) No enterprise shall provide goods or services directly related to casino, simulcast wagering or gaming activity to, or otherwise transact business directly related to casino, simulcast wagering or gaming activity with, a casino applicant or licensee, its employees or agents unless licensed in accordance with subsections 92a and b of the Act. In determining whether an enterprise shall be licensed pursuant to this subsection, the Commission shall consider, without limitation, whether the enterprise satisfies one or more of the following criteria:

1. Whether the enterprise manufactures, supplies or distributes devices, machines, equipment, items or articles which:
 - i. Are specifically designed for use in the operation of a casino or casino simulcasting facility;
 - ii. Are needed to conduct an authorized game or simulcast wagering; or
 - iii. Have the capacity to affect the play or outcome of an authorized game or simulcast wagering;
2. Whether the enterprise provides maintenance, service or repair pertaining to simulcast wagering equipment, devices, machines, equipment, items, or articles governed by (a)1 above;

3. Whether the enterprise provides services directly related to the operation, regulation or management of a casino or casino simulcasting facility; or

4. Whether the enterprise provides such other goods or services determined by the Commission to be so utilized in or incident to gaming, casino or simulcast wagering activity as to require licensing in order to contribute to the public confidence and trust in the credibility and integrity of the gaming industry in New Jersey.

(b) Enterprises required to be licensed in accordance with subsections 92a and b of the Act and (a) above shall include, without limitation, the following:

1. Manufacturers, suppliers, distributors, servicers and repairers of roulette wheels, roulette balls, big six wheels, gaming tables, slot machines, cards, dice, gaming chips, gaming plaques, slot tokens, dealing shoes, drop boxes, computerized gaming monitoring systems, totalisators, pari-mutuel machines and self-service pari-mutuel machines;

2. Schools teaching gaming and dealing techniques; and

3. Casino credit reporting services, casino simulcasting hub facilities and suppliers of casino security services.

(c) Unless otherwise licensed in accordance with (a) above, no enterprise shall, on a regular or continuing basis, provide goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility, to a casino licensee or applicant, its employees or agents unless such enterprise is licensed or exempted in accordance with subsections 92c and d of the Act or authorized to do so pursuant to N.J.A.C. 19:41-11.3(g). In determining whether an enterprise is subject to the requirements of this subsection, it shall not matter whether the casino licensee or applicant is a party to any agreement pursuant to which said goods or services are being provided. Enterprises subject to the provisions of this subsection shall include, without limitation, suppliers of alcoholic beverages, food and nonalcoholic beverages, gaming table layouts, non-value gaming chip sorters, in-State and out-of-State sending tracks, licensors of authorized games to casino licensees and applicants, garbage handlers, vending machine providers, linen suppliers, maintenance companies, shopkeepers located within the approved hotel, limousine services and construction companies contracting with casino licensees or applicants or their employees or agents.

(d) No enterprise shall, on a regular or continuing basis, conduct business as a junket enterprise with a casino licensee or applicant, its employees or agents unless such enterprise is licensed in accordance with subsections 92c and d and section 102 of the Act or is authorized to do so pursuant to N.J.A.C. 19:41-11.3.

(e) In determining if a person or enterprise does or will, on a regular or continuing basis, conduct business as a junket enterprise or provide goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility to casino licensees or applicants, their employees or agents, the following factors, without limitation, shall be considered:

1. Number of transactions;
2. Frequency of transactions;
3. Dollar amounts of transactions;
4. Nature of goods or services provided or business transacted;

5. Maximum potential period of time necessary to fully provide the goods, perform the services, or complete the business which is the subject of the transaction;

6. The recommendation of the Division of Gaming Enforcement; and

7. The public interest and the policies established by the Act.

(f) Notwithstanding the provisions of (e) above, persons and enterprises which conduct business as a junket enterprise or provide, or imminently will provide, goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility to casino licensees or applicants, their employees or agents shall, unless otherwise determined by the Commission, be deemed to be transacting such business on a regular or continuing basis if:

1. The total dollar amount of such transactions with a single casino licensee or applicant, its employees or agents, is or will be equal to or greater than \$75,000 within any 12-month period; or

2. The total dollar amount of such transactions with all casino licensees or applicants, their employees or agents, is or will be equal to or greater than \$225,000 within any 12-month period.

(g) Based upon an analysis of the factors contained in (e) above, the Commission may, in its discretion, require an enterprise which is otherwise governed by the provisions of N.J.S.A. 5:12-92c, N.J.A.C. 19:41-11.3(g), and (c) above to be licensed as a subsection 92c casino service industry enterprise prior to conducting any business whatsoever with a casino licensee or applicant if the Commission determines that such action is necessary in order to contribute to the public confidence and trust in the credibility and integrity of the gaming industry in New Jersey. Enterprises subject to this requirement shall include manufacturers, suppliers and distributors of gaming table layouts and non-value gaming chip sorters and licensors of authorized games to casino licensees and applicants.

(h) Notwithstanding the provisions of (a) or (g) above, upon application for a transactional waiver by a casino licensee or applicant for each business transaction, the Commission may permit an applicant for a casino service industry enterprise license to conduct a business transaction with the casino licensee or applicant prior to the licensure of the casino service industry license applicant if:

1. A completed application for the appropriate casino service industry enterprise license required by (a) or (g) above has been filed by the applicant;

2. At least 30 days has elapsed since the filing of the completed application required by (h)1 above, unless the Division reports on an application for a transactional waiver prior thereto;

3. The Division does not object to the granting of the transactional waiver; and

4. The casino licensee or applicant shows good cause for granting the transactional waiver.

(i) (No change in text.)

(j) In determining whether a person or enterprise has exceeded or will exceed the dollar thresholds established in (f) above, all types of business, including junket business, transacted by that person or enterprise with casino licensees or applicants, their employees or agents shall be accumulated.

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION AND ENERGY

(a)

NEW JERSEY CLEAN AIR COUNCIL

Notice of Public Hearing

Getting Your Car Inspected in 1995

New Enhanced Automobile Inspection and Maintenance (I/M) Procedures

Take notice that the New Jersey Clean Air Council, pursuant to the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., will hold a public hearing entitled "Getting Your Car Inspected in 1995, New Enhanced Automobile Inspection and Maintenance (I/M) Procedures." The public hearing will be held on:

Monday, April 19, 1993 at 9:00 A.M.
Lewis Herrmann Labor Education Center Auditorium
Rydgers Lane (west of Route No. 1)
Rutgers University, New Brunswick, NJ

The objectives of the Clean Air Council 1993 public hearing are to clarify various issues surrounding the Clean Air Act's requirement for more stringent auto inspection/maintenance (I/M) procedures. Since automobiles are a major source of air pollutants, NJ still exceeds the air quality standards. This hearing will address the new I/M procedures, benefits, cost and quality control of this newly proposed system.

Persons wishing to make oral presentations are asked to reserve a 15 minute time period by telephoning or writing to:

Ms. Lorraine Sedlak
New Jersey Department of Environmental Protection
and Energy
Policy and Planning
CN 418
Trenton, New Jersey 08625
609-777-1758

Presenters should bring 15 copies of their remarks to the hearing for use by the Council members, the hearing transcriber, and the press. The hearing record will be held open for 15 days following the date of the public hearing so that additional written testimony can be received.

Submit written comments to:

Ms. Lorraine Sedlak
New Jersey Department of Environmental Protection
and Energy
Policy and Planning
CN 418
Trenton, New Jersey 08625

(b)

DIVISION OF PARKS AND FORESTRY

Notice of Public Hearing on the Proposed Sale of Properties

Comprising Part of Delaware and Raritan Canal State Park

Take notice that the State of New Jersey, Department of Environmental Protection and Energy by the Division of Parks and Forestry, will hold a public hearing to seek comments on the proposed sale of the following State-owned Delaware and Raritan Canal State Park lands no longer required for park purposes.

Property Description

All that certain land at Delaware and Raritan Canal State Park containing approximately 1.14 acres designated as Block 148A, Lot 53 on the current Tax Map of the city of Trenton, county of Mercer, State of New Jersey. These lands have been declared surplus to the needs of the Division of Parks and Forestry and are to be sold in accordance

with Department of Treasury rules and regulations. The appraisal value will be determined and certified by Green Acres office prior to the sale of the subject property.

The parcel maps will be available for review Monday through Friday between the hours of 9:00 A.M. to 4:00 P.M. at the Division of Parks and Forestry's office located on 501 East State Street, Trenton, New Jersey beginning on January 19, 1993.

The proposed sale of these State-owned lands will not interfere with or affect the use of all remaining State-owned lands for this stated purpose.

The public hearing will be held on:

Tuesday, February 23, 1993 at 2:00 P.M.
at the Division of Parks and Forestry Office
501 E. State Street
4th Floor Washington Conference Room
Trenton, NJ 08625

Persons wishing to make oral presentations are asked to limit their comments to a three to five minute time period. Presenters should bring a copy of their comments to the hearing for use by the Department. The hearing record will be kept open for a period of seven days following the date of the public hearing so that additional written comments can be received.

Anyone in need of special assistance to participate in the public hearing should please contact Carl R. Nordstrom, Deputy Director at (609) 292-2733.

Interested persons may submit written comments until March 3, 1993 to:

Gregory A. Marshall
Director
Division of Parks and Forestry
Department of Environmental Protection and Energy
CN 404
Trenton, New Jersey 08625

(c)

OFFICE OF REGULATORY POLICY

Amendment to the Sussex County Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Sussex County Water Quality Management (WQM) Plan. The amendment proposal has been submitted by the Sussex County Department of Planning and Development. The amendment is for the Wantage Township Wastewater Management Plan (WMP). The WMP delineates the ground water discharge areas for facilities with a design capacity of less than 2,000 gallons per day (gpd), the ground water discharge areas for facilities with a design capacity of less than 20,000 gpd (wastewater flows not to exceed 390 gal/acre/day), and the service areas of the Regency at Sussex and High Point High School existing sewage treatment plants (STPs). The WMP identifies the following three proposed STPs for wastewater generated from any water treatment process: STP for Borough of Sussex water treatment facility, STP for Simmons Water Company, and the STP for Baldwin Well Drilling Company. The WMP also identifies the existing STP at the Department of Corrections High Point Annandale Unit.

This notice is being given to inform the public that a plan amendment has been proposed for the Sussex County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the Sussex County Department of Planning and Development, Division of Environmental Resource Planning, County Administration Building, P.O. Box 709, Newton, New Jersey 07860; and the NJDEPE, Office of Regulatory Policy, CN-423, Third Floor, 401 East State Street, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling either the Office of Regulatory Policy at (609) 633-7021 or the Sussex County Department of Planning and Development at (201) 579-0500.

The Sussex County Board of Chosen Freeholders will hold a **public meeting** on the proposed Sussex County WQM Plan amendment at which time all interested persons may appear and shall be given an opportunity to be heard. The public meeting will be held on Wednesday, February 24, 1993 at 6:10 P.M. in the Freeholder meeting room, County Administration Building, Plotts Road, Newton, New Jersey. **Interested persons** may submit written comments on the amendment to Ms. Lyn Halliday, Sussex County Department of Planning and Development, at the address cited above, with a copy sent to Mr. Barry Chalofsky, Office of Regulatory Policy, at the NJDEPE address cited above. All comments must be submitted within 15 days following the public meeting. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the Sussex County Board of Chosen Freeholders with respect to the amendment request. In addition, if the amendment is adopted by Sussex County, the NJDEPE must review the amendment prior to final adoption. The comments received in reply to this notice will also be considered by the NJDEPE during its review. Sussex County and the NJDEPE thereafter may approve and adopt this amendment without further notice.

(a)

OFFICE OF REGULATORY POLICY
Amendment to the Northeast Water Quality
Management Plan

Public Notice

Take notice that on December 10, 1992, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Northeast Water Quality Management Plan was adopted by the Department. This amendment amends the adopted Florham Park Sewerage Authority (FPSA) Wastewater Management Plan (WMP). The amendment proposes expansion of the sewer service area to the FPSA sewage treatment plant, as delineated in the FPSA WMP, to include the proposed Triumph Office Park development in East Hanover Township. This additional sewer service area includes 175,000 square feet of office space.

(b)

OFFICE OF REGULATORY POLICY
Amendment to the Upper Raritan Water Quality
Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking comment on a proposed amendment to the Upper Raritan Water Quality Management (WQM) Plan. This amendment would identify a discharge to groundwater treatment facility proposed to serve an 81,668 square foot commercial supermarket/retail building known as Petticoat Junction located at Block 13.01, Lots 1, 1.01, and 1.02 in Clinton Township, Hunterdon County. This proposal would amend the Clinton Township Wastewater Management Plan (WMP). The site is presently identified in the WMP as being part of the service area of the proposed Township of Clinton West Sewage Treatment Plant (STP). The proposed Petticoat Junction facility will be abandoned and flows conveyed to the Clinton West STP when service is available.

This notice is being given to inform the public that a plan amendment has been proposed for the Upper Raritan WQM Plan. All information related to the WQM Plan and the proposed amendment is located at NJDEPE, Office of Regulatory Policy, 401 East State Street, 3rd Floor, CN-423, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling the Office of Regulatory Policy at (609) 633-7021.

Interested persons should submit written comments on the proposed amendment to Mr. Barry Chalofsky, at the NJDEPE address cited above with a copy sent to Mr. Roy DeBoer, GABTK Partnership, 1065 Rt. 22 West, Bridgewater, New Jersey 08807. All comments must be submitted within 30 days of the date of this public notice. All comments

submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEPE with respect to the amendment request.

Any interested person may request in writing that NJDEPE hold a nonadversarial public hearing on the amendment (or extend the public comment period in this notice up to 30 additional days). These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of the date of this public notice to Mr. Chalofsky at the NJDEPE address cited above. If a public hearing for the amendment is held, the public comment period in this notice shall be extended to close 15 days after the public hearing.

(c)

OFFICE OF REGULATORY POLICY
Amendment to the Mercer County Water Quality
Management Plan
Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment, requested by West Windsor Township, will amend the West Windsor Township Wastewater Management Plan to significantly expand the sewer service area of the Stony Brook Regional Sewerage Authority within West Windsor Township. The majority of the expansion will be in the Big Bear Brook Watershed.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at Mercer County Planning Division, McDade Administration Building, Room 412, 640 South Broad Street, P.O. Box 8068, Trenton, New Jersey 08650; and the NJDEPE, Office of Regulatory Policy, 3rd Floor, 401 East State Street, CN-423, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling either the Mercer County Planning Division at (609) 989-6545 or the Office of Regulatory Policy at (609) 633-7021.

The Mercer County Planning Board will hold a **public hearing** on the proposed WQM Plan amendment. The public hearing will be on Wednesday, March 10, 1993 at 8:30 A.M., in Room 211 of the McDade Administration Building. **Interested persons** may submit written comments on the proposed amendment to the Secretary, Mercer County Planning Board at the address cited above; and to Mr. Barry Chalofsky, Office of Regulatory Policy, at the NJDEPE address cited above. All comments must be submitted within 15 days following the public hearing. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the County Planning Board and the County Executive with respect to this amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEPE must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEPE during its review. Mercer County and the NJDEPE thereafter may approve and adopt this amendment without further notice.

(d)

OFFICE OF REGULATORY POLICY
Amendment to the Mercer County Water Quality
Management Plan
Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment, requested by Mr. Frank Petrino on behalf of the East Windsor Municipal Utilities Authority, will amend the East Windsor Wastewater Management Plan to expand the East Windsor Municipal Utilities Authority sewer service area. This amendment also

clarifies the extent to which the wastewater collection system will be modified to divert a portion of the wastewater flow to the new satellite plant during its phased construction.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the Mercer County Planning Division, McDade Administration Building, Room 412, 640 South Broad Street, P.O. Box 8068, Trenton, New Jersey 08650; and the NJDEPE, Office of Regulatory Policy, 3rd Floor, 401 East State Street, CN-423, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling either the Mercer County Planning Division at (609) 989-6545 or the Office of Regulatory Policy at (609) 633-7021.

The Mercer County Planning Board will hold a public hearing on the proposed WQM Plan amendment. The public hearing will be on Wednesday, March 10, 1993 at 8:30 A.M., in Room 211 of the McDade Administration Building. Interested persons may submit written comments on the proposed amendment to the Secretary, Mercer County Planning Board at the address cited above; and to Mr. Barry Chalofsky, Office of Regulatory Policy, at the NJDEPE address cited above. All comments must be submitted within 15 days following the public hearing. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the County Planning Board and the County Executive with respect to this amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEPE must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEPE during its review. Mercer County and the NJDEPE thereafter may approve and adopt this amendment without further notice.

(a)

OFFICE OF REGULATORY POLICY
Amendment to the Mercer County Water Quality
Management Plan
Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on a proposed amendment to the Mercer County Water Quality Management (WQM) Plan. This amendment, requested by Peter Blicher, on behalf of Hopewell Woods, Inc., will amend the Hopewell Borough and Hopewell Township Wastewater Management Plans (WMPs). This amendment will add Block 8, Lots 64, 92 and 93 of Hopewell Township to the Stony Brook Regional Sewerage Authority Hopewell Borough Sewage Treatment Plant sewer service area.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the Mercer County Planning Division, McDade Administration Building, Room 412, 640 South Broad Street, P.O. Box 8068, Trenton, New Jersey 08650; and the NJDEPE, Office of Regulatory Policy, 3rd Floor, 401 East State Street, CN-423, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling either the Mercer County Planning Division at (609) 989-6545 or the Office of Regulatory Policy at (609) 633-7021.

Interested persons may submit written comments on the proposed amendment to the Secretary, Mercer County Planning Board at the address cited above; and to Mr. Barry Chalofsky, Office of Regulatory Policy, at the NJDEPE address cited above. All comments must be submitted within 10 working days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the County Planning Board, the County Executive and by NJDEPE with respect to this amendment request. If significant comments are received, a public hearing will be held on Wednesday, March 10, 1993 at 8:30 a.m., in Room 211 of the McDade Administration Building. Notice regarding the decision whether the public hearing as scheduled will be held, will be published in The Times of Trenton and the Hopewell Valley News on February 25, 1993 or may be verified by calling the Mercer County Division of Planning.

If the amendment is adopted by Mercer County, the NJDEPE must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEPE during its review. Mercer County and the NJDEPE thereafter may approve and adopt this amendment without further notice.

HEALTH

(b)

DIVISION OF HEALTH FACILITIES EVALUATION AND LICENSING

Notice of Action on Petition for Rulemaking
Hospital Licensing Standards

N.J.A.C. 8:43G-15.2(g)

Petitioner: Louis P. Scibetta, representing the New Jersey Hospital Association.

Take notice that on November 20, 1992 the New Jersey State Department of Health received a petition from Louis P. Scibetta, representing the New Jersey Hospital Association, requesting that the Department amend its hospital licensing standards at N.J.A.C. 8:43G-15.2 to include the use of electronic imaging technology as an acceptable means of storage and retrieval of medical records. Public notice of this petition was published in the December 21, 1992 New Jersey Register at 24 N.J.R. 4591(a).

In accordance with N.J.A.C. 1:30-3.6 and after thorough review of the petition, the Department has determined that the matter will receive further deliberations. Further actions by the Department will include consultation with technical experts and/or professional associations in the area of medical records to gather relevant information on the issues presented in the petition.

Upon the conclusion of the Department's deliberations and no later than April 15, 1993, the decision will be mailed to the petitioner and published in a future New Jersey Register.

A copy of this notice has been mailed to the petitioner, as required by N.J.A.C. 1:30-3.6.

(c)

MANAGEMENT AND ADMINISTRATION
Notice of Availability of Directory of Department of
Health Grant Programs

Take notice that, in compliance with N.J.S.A. 52:14-34.4 et seq. (P.L. 1987, c.7), the Department of Health hereby publishes notice of grant availability in the Directory of Department of Health Grant Programs. Copies of the Directory can be obtained by contacting the Grant Evaluation and Review Program, Office of Financial and General Services, Department of Health at 609-588-7448.

HUMAN SERVICES

(d)

DIVISION OF YOUTH AND FAMILY SERVICES

Notice of Availability of Grant Funds
Title IV-E Independent Living Program

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the Department of Human Services announces the following availability of funds:

A. Name of grant program: Division of Youth and Family Services—Title IV-E Independent Living Program, U.S. Department of Health and Human Services, Title IV-E of the Social Security Act (Sections 472, 474(a), 475(1) and 477).

B. Purpose for which the grant program funds shall be used: The purpose of the funding is to develop four regional programs (one in each of the Division's four regions) to provide aftercare services to youth

who are beginning the transition to independence and are aging-out of foster care placement, residential treatment, group homes, youth shelters, etc. These funds are intended to provide a spectrum of services to youth to assist them in making the transition from out-of-home placement to independence. The aftercare services shall be initiated at least six months prior to discharge and shall continue at least one year after discharge from placement, based on the premise that intense supervision and ongoing support are primary factors for successful transition.

Services may include, but not be limited to, training in daily living skills, budgeting, locating and maintaining housing, career planning, individual and group counseling, supervision, advocacy, case management services, and the provision of other services and assistance designed to improve the participant's transition to independent living.

C. Amount of money in the grant program: Funding in the amount of \$400,000 from the Independent Living Program of the Omnibus Budget Reconciliation Act of 1989 is available. These are annualized Federal Fiscal Year 1992 (October 1, 1992-September 30, 1993) funds and no matching funds are required. The distribution of these funds for program development is as follows: \$100,000 per the Division's Regional Offices—Northern, Metropolitan, Central, and Southern.

D. Organizations which may apply for funding under this program: Any non-profit or for-profit organization or agency with the ability to provide aftercare services to youth may apply. The applicant is responsible for the provision of the services and management of the program both fiscally and programmatically.

E. Qualifications needed by an applicant to be considered for funding: Through written proposals, agencies must demonstrate the capacity to carry out the purposes of the proposal and the ability to evaluate the success of their program. Applicants must demonstrate their ability to understand the program components necessary to provide aftercare services and to successfully develop and implement their proposal.

F. Procedure for eligible organizations to apply: Interested applicants may request an RFP (Request for Proposal) package from the Division of Youth and Family Services through their regional offices, by calling: Jean Mendres, Northern Region (201) 977-4000, Joseph Makowski, Metropolitan Region, (201) 648-4100, Gena Haranis, Central Region, (609) 777-2000, Bonnie Schwebel, Southern Region, (609) 567-0010.

G. Address to which application must be submitted: Completed proposals shall be delivered, mailed or faxed (verified for receipt) to the appropriate Regional Office. FAX numbers can be requested by contacting the Regional Office.

NORTHERN REGION

New Jersey Division of Youth and Family Services
Northern Regional Office
100 Hamilton Plaza
7th Floor, Room 710
Paterson, NJ 07501
Attention: Jean Mendres

METROPOLITAN REGION

New Jersey Division of Youth and Family Services
Metropolitan Regional Office
153 Halsey Street—2nd Floor
Newark, NJ 07101
Attention: Joseph Makowski

This region is requesting a submission of 10 copies with the proposal.

CENTRAL REGION

New Jersey Division of Youth and Family Services
Central Regional Office
Capital Center
50 East State Street—5th Floor
Trenton, NJ 08625
Attention: Gena Haranis

SOUTHERN REGION

New Jersey Division of Youth and Family Services
Southern Regional Office
392 North White Horse Pike
P.O. Box 594
Hammonton, NJ 08037
Attention: Bonnie Schwebel

H. Deadline by which applications must be submitted: Applications must be received by the appropriate Regional Office as stated above by February 12, 1993 at 4:00 P.M. Mailed proposals must be postmarked by February 12, 1993.

I. Date by which applicants shall be notified of acceptance or rejection: March 3, 1993.

(a)

COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED

Notice of Availability of Grant Funds Volunteer Services for Individuals Who Are Blind and Visually Impaired

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the New Jersey Commission for the Blind and Visually Impaired, Department of Human Services hereby announces the availability of the following grant program funds:

A. Name of program: Volunteer Services for Individuals Who Are Blind and Visually Impaired.

B. Purpose: To obtain an agency that will be responsible for implementing a volunteer service for individuals who are blind and visually impaired. The goal of the program is to enable individuals who are blind and visually impaired to achieve maximum independence and fuller participation in everyday social, education and employment activities with the assistance of a volunteer. Responsibilities include: Recruitment, screening, training and support of volunteers; matching volunteers on a one to one individualized basis with individuals who are blind and visually impaired; continue maintaining recruited volunteers and active client/volunteer matches made by a previous volunteer program; maintaining accurate and up to date records; reporting results of the program and fiscal expenditures on a regularly scheduled basis to the New Jersey Commission for the Blind and Visually Impaired. The level of service for the contract year will be 35 client/volunteer matches. Priority service areas: Middlesex, Monmouth and Northern Ocean Counties.

C. Amount of available funding for the program: Up to \$41,421 is available for a one year contract. This contract may be renewable conditional upon performance and availability of funds.

D. Organizations which may apply for this funding: Profit or not-for-profit agencies and organizations which have experience in the provision of volunteer services.

E. Qualifications needed by an applicant to be considered for funding: Knowledge and experience in volunteer recruitment, screening, training and matching a volunteer with an individual in need of volunteer assistance. Experience in working with or some understanding of the needs of individuals who are blind and visually impaired is preferred. Capability of visiting clients in their place of residence and providing a site where volunteer support and recognition can be held. Ability to maintain accurate and up to date program and fiscal records. Ability to provide the above services to non-English speaking populations.

F. Procedure for eligible organizations to apply: RFP available as of January 19, 1993 from the address indicated below or by telephone.

G. Address to which applications must be submitted:

Program Development/Contract Unit
New Jersey Commission for the Blind
and Visually Impaired
153 Halsey Street, PO Box 47017
Newark, NJ 07101
(201) 648-2211 or (201) 648-2899

H. Deadline by which applications must be submitted: March 5, 1993.

I. Date applicant is to be notified of acceptance or rejection: March 26, 1993.

(b)

DIVISION OF MENTAL HEALTH AND HOSPITALS

Notice of Availability of Grant Funds Youth Case Management Program

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the Department of Human Services hereby announces the availability of the following grant program funds:

Name of Program: Division of Mental Health and Hospitals Youth Case Management Program.

Purpose: The purpose of the funding is to establish a new sponsor for the Youth Case Management Program which serves Hudson County children and adolescents. Youth case management is a programmatic initiative intended to provide coordination of community based services

for seriously emotionally disturbed youth. Youth case managers function as brokers providing assessment, planning, linkage, counseling and monitoring of services to the target population as clients proceed along a less restrictive continuum.

It is anticipated that the Youth Case Management Program will assist in decreasing admissions to the State Psychiatric Hospital, reduce the utilization of acute care services and facilitate improved post-discharge follow-up by providing necessary support in the community.

The primary target population is youth returning to the community from Arthur Brisbane Child Treatment Center, Children's Crisis Intervention Services (CCIS), Post 28 Day Group Homes and 5-10 Year Old Treatment Group Homes. The secondary target population is at-risk youth referred by child welfare, education, mental health, family crisis and psychiatric emergency services.

Amount of available funding under this program: Funding in the amount of \$180,000 is available on an annualized basis for this program.

Organizations which may apply for funding under this program: Any non-profit agency/hospital in New Jersey which meets qualifications of Department of Human Services as specified in the Contract Policy and Information Manual and currently provides mental health or related services, or is capable of providing mental health services needed by these clients.

Procedure for eligible organizations to apply: Interested applicants may request an application package from the Division of Mental Health and Hospitals, Northern Regional Office, 100 Hamilton Plaza, 8th Floor, Paterson, New Jersey 07505 or by calling Leslie Myers, Regional Children's Services Coordinator at (201) 977-4397. Completed applications (six copies) must be submitted to Leslie Myers by close of business on Friday, February 5, 1993. Fax submissions will not be accepted.

Deadline by which applications must be submitted: February 5, 1993.

Date the applicant is to be notified of acceptance or rejection: February 19, 1993.

LAW AND PUBLIC SAFETY

(a)

BOARD OF MEDICAL EXAMINERS

Notice of Receipt of Petition for Rulemaking and Action Thereon

N.J.A.C. 13:35-2.5(g)

Petitioner: Radiological Society of New Jersey.

Take notice that on October 23, 1992, the Board of Medical Examiners received a petition for rulemaking from John D. Fanburg, Esq., representing the Radiological Society of New Jersey ("petitioner"), concerning N.J.A.C. 13:35-2.5, Medical Standards Governing Screening and Diagnostic Medical Testing Offices.

Petitioner requests the Board to amend N.J.A.C. 13:35-2.5(g) as follows to delete palpation as part of mammography screening protocol (deletions indicated in brackets with asterisks).

(g) In addition to compliance with all other subsections of this rule, a mammography screening program shall establish a written protocol which shall be documented in the facility policy and procedure manual and which shall be brought to the attention of pertinent personnel.

1. The protocol shall include specific criteria for screening: for example, age, family history, personal medical history, permissible frequency of testing and other indicators. It shall provide for "[palpation by a physician or by instructed licensed registered nurse personnel, and for]" appropriate positioning preparatory to the test. The screening program shall include instruction in breast self-examination, which may be provided in the form of written materials.

Petitioner requests that the Board reevaluate its position regarding palpation as part of mammography screening and adopt nationally and internationally recognized criteria and protocol for these procedures. In support of its petition, petitioner submitted resolutions of the American College of Radiology ("ACR"), which petitioner suggests clarify the differences between screening mammography and diagnostic mammography. Petitioner states that the ACR does not require the radiologist or a nurse at the mammography screening office to perform a physical examination. Petitioner also suggests that the Board's definition of a "screening test" provides that it is a test which results in a determination less complete than a physical examination performed by a physician.

Take further notice that on November 11, 1992, the Board considered the petition for rulemaking and determined that additional time was needed to study and evaluate the petition. Accordingly, the Board referred the petition to its Executive Committee for further review and evaluation. The Board anticipates that the Executive Committee will conclude its deliberations and respond to the petition by the end of May, 1993.

A copy of this notice has been mailed to the petitioner, as required by N.J.A.C. 1:30-3.6.

(b)

DIVISION OF CRIMINAL JUSTICE

Notice of Receipt of Petition for Rulemaking Administration and Maintenance Responsibilities for Law Enforcement Funds

N.J.A.C. 13:77-2.2, 2.4 and 2.5

Petitioner: John T. Paff, Chairman, FEAR (Forfeiture Endangers American Rights).

Take notice that on September 21, 1992, the Department of Law and Public Safety received a petition for rulemaking from John T. Paff, Chairman, FEAR (Forfeiture Endangers American Rights). The petition requests that the Department amend its forfeited property distribution rules N.J.A.C. 13:77-2.2, 2.4 and 2.5. Petitioner's stated purposes in requesting the amendments include (1) "clarification" of law enforcement fund administration and maintenance responsibilities and (2) public "control" of law enforcement fund expenditures.

Two requested amendments are intended to require the entity funding a prosecuting agency (and permit no other entity or agency) to establish, administer and maintain law enforcement funds for forfeited property. The third requested amendment is intended to require a funding entity to disburse funds from a Special Law Enforcement Fund only by resolution and only upon the entity's certification that the disbursement serves a law enforcement purpose.

STATE

(c)

NEW JERSEY STATE COUNCIL ON THE ARTS

Notice of Grants Application Process and Revised Deadlines

Organizational Grants in Aid to the Arts Fiscal Year 1994 (July 1, 1993-June 30, 1994)

Take notice that the New Jersey State Council on the Arts, acting under the authority of P.L. 1966, c. 214, hereby announces, in accordance with N.J.S.A. 52:14-34.4 et seq., the availability of the following grant program:

Name of program: Organizational Grants in Aid to the Arts, Fiscal Year 1994.

General Operating Support (for arts organizations)

Special Project Support (for arts projects)

Arts Basic to Education Expansion Project Support (for arts organizations)

Purpose: To stimulate and encourage the production and presentation of the arts in New Jersey, and to foster public interest in and support of the arts in New Jersey through the award of matching grants to eligible organizations.

Eligible applicants: Must be a New Jersey incorporated, nonprofit organization that is tax exempt as 501(c)(3) or (4) by determination of the Internal Revenue Service, or a unit of government; must have been in existence and active in presenting, producing or servicing the fine, performance or literary arts for at least two years prior to making application; must have a board of trustees empowered to formulate policies and be responsible for the administration of the organization, its programs and its finance; and must comply with all existing State and Federal regulations and laws as described in the Guidelines and Application.

Ineligible applicants: Organizations that are unincorporated, incorporated in another state or incorporated as profit-making entities.

Grant size: Grants will range in size, but generally will not exceed 20 percent of projected general operating expenses or 50 percent of project expenses.

Amount of available funding for the program: Will depend on the finalization of the Council's legislative appropriation for Fiscal Year FY 94.

Match: All grants offered under this program must be matched at least dollar-for-dollar. In-kind contributions and indirect costs are not allowed as any part of the match. All grants offered through this program must be matched with cash. General Operating Support applicants must be able to project a 4:1 match of applicant cash to NJSCA dollars; Special Project applicants who are arts organizations, a 1:1 match of applicant cash to NJSCA dollars and Special Project applicants who are not arts organizations, a 3:1 match of applicant cash to NJSCA dollars.

Projected deadline for submission: Complete applications, including all support materials, must be postmarked or delivered to Council Offices no later than February 10, 1993, (5:00 P.M. if delivered in person to office). All prospective applicants that are not direct recipients of FY 93 NJSCA Grants must submit a Letter of Intent. **Projected deadline for letters of intent is January 6, 1993 (5:00 P.M. Receipt).** These deadlines are subject to change that would place them later in the year. The NJSCA urges all organizations interested in applying for FY 94 support to call the Grants Office immediately to discuss issues related to deadlines and eligibility.

Decisions: All complete applications by eligible applicants will be evaluated by an independent panel of experts and by the NJSCA according to the published criteria for evaluation. The Council reviews the evaluations of all applications as well as Council funding priorities and issues. Its final recommendations are voted upon by the full Council at its annual meeting, tentatively scheduled for July 27, 1993. Applicants are notified in writing of the Council's decision within six weeks following the annual meeting.

To receive a set of guidelines and application forms, call (609) 292-6130 or write GRANTS 94, New Jersey State Council on the Arts, CN-306, Trenton, NJ 08625.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Notice of Tax Rate

Petroleum Products Gross Receipts Tax

January 1, 1992-June 30, 1993

This notice is to advise petroleum products gross receipts taxpayers that for the period January 1, 1993 through June 30, 1993 the applicable tax rate for fuel oils, aviation fuels, and motor fuels, as converted to a cents per gallon rate pursuant to N.J.S.A. 54:15B-3 will be \$0.04 per gallon. The rate is effective for tax due for months ending during that period and this rate remains unchanged from the per gallon rate effective during the prior six month period.

**ECONOMIC DEVELOPMENT
AUTHORITY**

(b)

**COMMERCE AND ECONOMIC DEVELOPMENT
DEVELOPMENTAL DISABILITIES COUNCIL**

**Notice of Opportunity for Informal Public Input
Non-Profit and Disability Micro-Loan Fund**

Take notice that the New Jersey Developmental Disabilities Council has granted funds to the New Jersey Economic Development Authority to establish the Non-Profit and Disability Micro-Loan Fund. The program for loans from the Fund is a joint effort of the Developmental Disabilities Council, the Economic Development Authority and the Department of Commerce and Economic Development.

The purpose of the fund program is to encourage a diverse workforce environment in New Jersey by providing loans to qualified, for-profit subsidiaries of non-profit organizations, disabled-owned businesses, start-up businesses, or business expansion efforts, which are likely to succeed and repay the loan. The agencies intend that people with disabilities, disability-owned businesses, organizations providing meaningful employment to people with disabilities in an integrated work setting, and for profit operations providing integrated and diverse workforce employment will be eligible for Fund loans. Concerning eligibility, the following terms are intended to mean as follows:

"Diverse workforce" means a group of employees within the same company or organization, performing as a team, where individual capacities may be different; a combined labor pool of disabled and non-disabled persons, wherein each person's capabilities are maximized and limitations minimized.

"Integrated work setting" means a work setting or other task performance arrangement where the person with a disability performs his or her assigned function in tandem with and in proximity to people without disabilities as an integral part of the production or service process.

"Meaningful employment" means being employed at a task or function which offers ample opportunity to contribute to the completed product or service in a direct manner, at a prevailing rate of pay as is standard for the industry in question, without reliance on displacement, grouping or segregation within the workplace.

"Qualified borrower" means an individual, non-profit organization, profit operation, or subsidiary with the demonstrated capacity to start, operate and maintain a for-profit operation, addressing the Fund programs' objective, or with the capacity and willingness to learn and the appropriate financial resources.

The agencies intend that the Non-Profit and Disability Micro-Loan Fund program operate as a government lender of last resort. Applicants for program funds would have to first be denied funding from a bank or private lending organization before applying to the program. The agencies contemplate requiring payment of a non-refundable loan processing fee of \$100.00 upon acceptance for consideration of a completed loan application. Selection of loan recipients will be based on a sound feasible business plan, the capacity of the applicant to meet the program eligibility standards set forth above, and the capacity of the Fund.

This notice is intended to provide the public with advance information concerning the agencies' intentions for the Non-Profit and Disability Micro-Loan Fund program, and to provide an opportunity for public input on the program prior to its formalization through rulemaking.

Further information on the program, in the form of a brochure, may be obtained from, or questions addressed to, the Developmental Disabilities Council at (609) 292-3745 or the Department of Commerce and Economic Development at (609) 292-3860.

Written comments on the Fund program, as set forth in this notice, may be submitted by February 18, 1993 to:

Dennis Rizzo
NJ Developmental Disabilities Council
CN 700
Trenton, New Jersey 08625

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the December 7, 1992 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1993 d.1 means the first rule adopted in 1993.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT NOVEMBER 16, 1992

NEXT UPDATE: SUPPLEMENT DECEMBER 21, 1992

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
24 N.J.R. 165 and 318	January 21, 1992	24 N.J.R. 2651 and 2752	August 3, 1992
24 N.J.R. 319 and 508	February 3, 1992	24 N.J.R. 2753 and 2970	August 17, 1992
24 N.J.R. 509 and 672	February 18, 1992	24 N.J.R. 2971 and 3202	September 8, 1992
24 N.J.R. 673 and 888	March 2, 1992	24 N.J.R. 3203 and 3454	September 21, 1992
24 N.J.R. 889 and 1138	March 16, 1992	24 N.J.R. 3455 and 3578	October 5, 1992
24 N.J.R. 1139 and 1416	April 6, 1992	24 N.J.R. 3579 and 3784	October 19, 1992
24 N.J.R. 1417 and 1658	April 20, 1992	24 N.J.R. 3785 and 4144	November 2, 1992
24 N.J.R. 1659 and 1840	May 4, 1992	24 N.J.R. 4145 and 4306	November 16, 1992
24 N.J.R. 1841 and 1932	May 18, 1992	24 N.J.R. 4307 and 4454	December 7, 1992
24 N.J.R. 1933 and 2102	June 1, 1992	24 N.J.R. 4455 and 4606	December 21, 1992
24 N.J.R. 2103 and 2314	June 15, 1992	25 N.J.R. 1 and 218	January 4, 1993
24 N.J.R. 2315 and 2486	July 6, 1992	25 N.J.R. 219 and 388	January 19, 1993
24 N.J.R. 2487 and 2650	July 20, 1992		

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:13A-1.2, 18.1, 18.2	Lemon Law hearings: exceptions to initial decision	24 N.J.R. 1843(a)	
Most recent update to Title 1: TRANSMITTAL 1992-5 (supplement November 16, 1992)			
AGRICULTURE—TITLE 2			
2:6	Animal health: biological products for diagnostic or therapeutic purposes	24 N.J.R. 2974(a)	
2:6	Animal health: extension of comment period regarding biological products for diagnostic or therapeutic purposes	24 N.J.R. 3981(a)	
2:32-2.4	Sire Stakes Program: stallion standing full season	24 N.J.R. 3981(b)	
2:90-1.4, 1.5	Certification of soil erosion and sediment control plans	24 N.J.R. 3587(a)	R.1993 d.13 25 N.J.R. 65(a)
Most recent update to Title 2: TRANSMITTAL 1992-5 (supplement October 19, 1992)			
BANKING—TITLE 3			
3:1-2.1-2.9, 2.18, 2.20, 2.21	Branch and charter application procedures for banks, savings banks, and savings and loan associations	24 N.J.R. 3034(a)	R.1992 d.483 24 N.J.R. 4341(a)
3:18	Secondary Mortgage Loan Act rules	24 N.J.R. 3982(a)	
3:18-1, 2.1, 3, 4.1, 4.2, 5.1, 5.2, 5.3, 7.4, 7.5, 8.1, 8.2, 9, 10.5, 10.7, 10.8, 11	Secondary Mortgage Loan Act rules	24 N.J.R. 2760(a)	R.1993 d.50 25 N.J.R. 285(a)
Most recent update to Title 3: TRANSMITTAL 1992-8 (supplement November 16, 1992)			
CIVIL SERVICE—TITLE 4			
Most recent update to Title 4: TRANSMITTAL 1992-1 (supplement September 21, 1992)			
PERSONNEL—TITLE 4A			
4A:3-5.3, 5.6, 5.9	Comparable time off restrictions	24 N.J.R. 3588(a)	R.1993 d.44 25 N.J.R. 290(a)
4A:4-2.6, 2.15	Promotional examinations	24 N.J.R. 3589(a)	R.1993 d.45 25 N.J.R. 291(a)
4A:4-6.4, 6.6	Selection and placement appeals	24 N.J.R. 4467(a)	
4A:4-6.5	Medical and psychological examinations as condition of employment	24 N.J.R. 3596(a)	R.1993 d.46 25 N.J.R. 292(a)
4A:6	Leaves, hours of work, employee development, and awards program	24 N.J.R. 3590(a)	R.1993 d.47 25 N.J.R. 293(a)
Most recent update to Title 4A: TRANSMITTAL 1992-3 (supplement October 19, 1992)			
COMMUNITY AFFAIRS—TITLE 5			
5:10-25.2	Indirect apportionment of heating costs in multiple dwellings	24 N.J.R. 3597(a)	R.1993 d.39 25 N.J.R. 299(a)
5:14-1.6, 2.2, 3.1, 4.1, 4.5, 4.6, 4.7	Neighborhood Preservation Balanced Housing Program: per unit developer fees and costs; other revisions	24 N.J.R. 1144(a)	
5:19	Continuing care retirement communities	24 N.J.R. 1146(a)	
5:23	Uniform Construction Code	24 N.J.R. 1420(b)	
5:23-2.1, 2.15	Uniform Construction Code: licensing disputes	24 N.J.R. 4(a)	
5:23-2.5	UCC: increase in building size	24 N.J.R. 1421(a)	
5:23-2.17, 8	Asbestos Hazard Abatement Subcode	24 N.J.R. 1422(a)	

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
5:23-3.4, 4.4, 4.18, 4.20, 5.3, 5.5, 5.19A, 5.21, 5.22, 5.23, 5.25	Uniform Construction Code: mechanical inspector license and mechanical inspections	24 N.J.R. 3457(a)		
5:23-4.18, 4.20	UCC enforcing agencies: minimum fees	24 N.J.R. 169(b)		
5:23-5.4, 5.5	Uniform Construction Code: licensure of elevator subcode officials and inspectors	24 N.J.R. 4309(a)		
5:23-5.5	UCC: administrative correction regarding elevator inspector licensure	_____	_____	24 N.J.R. 4344(a)
5:23-9.7	Uniform Construction Code: manufacturing, production and process equipment exemption	24 N.J.R. 3458(a)		
5:27-3.5	Rooming and boarding houses: conformity with Fair Housing Act amendments	24 N.J.R. 4310(a)		
5:80-32	Housing and Mortgage Finance Agency: project cost certification	24 N.J.R. 2208(a)		
5:91	Council on Affordable Housing: procedural rules	24 N.J.R. 2671(a)	R.1992 d.491	24 N.J.R. 4344(b)

Most recent update to Title 5: TRANSMITTAL 1992-11 (supplement November 16, 1992)

MILITARY AND VETERANS' AFFAIRS—TITLE 5A

Most recent update to Title 5A: TRANSMITTAL 1992-2 (supplement September 21, 1992)

EDUCATION—TITLE 6

6:3-2.6	Conditions for access to pupil records	24 N.J.R. 3038(a)	R.1992 d.490	24 N.J.R. 4362(a)
6:8	Thorough and efficient system of public schools	24 N.J.R. 3039(a)	R.1992 d.510	24 N.J.R. 4508(a)
6:8-5.4	Corrective action by Commissioner: administrative correction	_____	_____	25 N.J.R. 299(b)
6:8-6	Programs and services for pupils at risk	24 N.J.R. 3494(a)	R.1993 d.40	25 N.J.R. 299(c)
6:8-9.4, 9.8	Educational improvement plans in special needs districts: fiscal, strategy and program requirements	24 N.J.R. 4467(b)		
6:12-1.2, 1.7-1.10, 1.14	Governor's Teaching Scholars Program	24 N.J.R. 3050(a)	R.1992 d.489	24 N.J.R. 4362(b)
6:29-3.4	Medical examination requirement for interscholastic athletic participation	24 N.J.R. 4150(a)		
6:29-8	Nonpublic school nursing services	24 N.J.R. 3495(a)	R.1993 d.41	25 N.J.R. 300(a)
6:31-1.1-1.7, 1.9-1.16	Multiple indicators for exit from bilingual programs	24 N.J.R. 3497(a)	R.1993 d.14	25 N.J.R. 66(a)

Most recent update to Title 6: TRANSMITTAL 1992-6 (supplement November 16, 1992)

ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7

7:0	Well construction and sealing: request for public comment regarding comprehensive rules	24 N.J.R. 3286(a)		
7:1-1.3, 1.4	Delegations of authority within the Department	23 N.J.R. 3276(a)	R.1992 d.473	24 N.J.R. 4363(a)
7:1A-2.13, 5.2	Water supply loan programs: administrative corrections concerning eligible project costs and priority determination	_____	_____	24 N.J.R. 4364(a)
7:1C-1.5, 1.6, 1.7	Ninety-day construction permit fees	24 N.J.R. 2768(a)		
7:1J	Spill Compensation and Control Act: processing of damage claims (repeal 17:26)	24 N.J.R. 1255(a)	R.1993 d.2	25 N.J.R. 68(a)
7:1K	Pollution Prevention Program	24 N.J.R. 3609(a)		
7:6-1.24, 9.2	Boating rules: rotating lights; "personal watercraft"	24 N.J.R. 1694(a)	R.1992 d.506	24 N.J.R. 4556(a)
7:6-1.45	Seven Presidents Park, Long Branch: boating restrictions within jetty areas	25 N.J.R. 57(a)		
7:7-1.7	Coastal Permit Program fees	24 N.J.R. 2768(a)		
7:7A-1.4, 2.7, 8.10	Freshwater wetlands protection: project permit exemptions; hearings on contested letters of interpretation	24 N.J.R. 912(b)		
7:7A-16.1	Freshwater wetlands permit fees	24 N.J.R. 2768(a)		
7:7E-7.4	Coastal zone management: Outer Continental Shelf oil and gas exploration and development	25 N.J.R. 5(a)		
7:7E-7.5	Alternative traffic reduction programs in Atlantic City	24 N.J.R. 1986(a)		
7:8	Stormwater management	24 N.J.R. 4469(a)		
7:8	Stormwater runoff and nonpoint source pollution control: public meeting and request for comment	24 N.J.R. 4470(a)		
7:9-4	Surface water quality standards: request for public comment on draft Practical Quantitation Levels	24 N.J.R. 4008(a)		
7:9-4 (7:9B-1), 6.3	Surface water quality standards	24 N.J.R. 3983(a)		
7:9-4.14 (7:9B-1.14)	NJPDES program and surface water quality standards: request for public comment regarding total phosphorous limitations and criteria	24 N.J.R. 4008(b)		
7:9-4.14, 4.15	Surface water quality standards: administrative corrections to proposal	24 N.J.R. 4471(a)		
(7:9B-1.14, 1.15)				
7:9-6	Ground water quality standards	24 N.J.R. 181(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:9A-1.1, 1.2, 1.6, 1.7, 2.1, 3.3, 3.4, 3.5, 3.7, 3.9, 3.10, 3.12, 3.14, 3.15, 5.8, 6.1, 8.2, 9.2, 9.3, 9.5, 9.6, 9.7, 10.2, 12.2-12.6, App. A, B	Individual subsurface sewage disposal systems	24 N.J.R. 1987(a)		
7:11-2.2, 2.3, 2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: rates for sale of water	24 N.J.R. 4472(a)		
7:11-2.9	Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: administrative correction concerning standby charge	_____	_____	24 N.J.R. 4518(a)
7:11-4.3, 4.4, 4.9	Manasquan Reservoir Water Supply System: rates for sale of water	24 N.J.R. 4474(a)		
7:12	Shellfish-growing water classifications	24 N.J.R. 3657(a)	R.1992 d.508	24 N.J.R. 4518(b)
7:13-7.1	Flood plain redelineation of Green Brook in Scotch Plains and Watchung	24 N.J.R. 4475(a)		
7:14A-1, 2, 3, 5-14, App. F	NJPDES program and Clean Water Enforcement Act requirements	24 N.J.R. 344(b)		
7:14A-1.8, 3.9, App. A, B; 10.3, App. H	Statewide Stormwater Permitting Program: administrative corrections and changes	_____	_____	24 N.J.R. 4364(a)
7:14A-1.9, 3.14	Surface water quality standards	24 N.J.R. 3983(a)		
7:14A-3.13	Statewide Stormwater Permitting Program: administrative correction regarding DSW permit conditions	_____	_____	24 N.J.R. 4522(a)
7:14B	Underground storage tanks	24 N.J.R. 2975(a)	R.1992 d.498	24 N.J.R. 4523(a)
7:14B	Underground storage tanks: public hearing	24 N.J.R. 3286(b)		
7:15-1.5, 3.4, 3.6, 4.1, 5.22	Statewide water quality management planning	24 N.J.R. 344(b)		
7:22-3.4, 3.7, 3.8, 3.9, 3.11, 3.17, 3.20, 3.26, 3.27, 3.32, 3.34, 3.37, 4.4, 4.7, 4.8, 4.9, 4.11, 4.13, 4.17, 4.20, 4.26, 4.29, 4.32, 4.34, 4.37, 4.46, 5.4, 5.11, 5.12, 6.17, 6.27, 10.2, 10.3, 10.8, 10.9, 10.11, 10.12	Financial assistance programs for wastewater treatment facilities	24 N.J.R. 4310(b)		
7:25-11	Introduction of imported or non-native shellfish or finfish into State's marine waters	24 N.J.R. 3660(a)		
7:25-16.1	Defining freshwater fishing lines	24 N.J.R. 204(a)		
7:25-16.1	Freshwater fishing line for Rahway River in Union County	24 N.J.R. 2977(a)		
7:25-18.1	Filleting of flatfish at sea	24 N.J.R. 1456(a)	R.1992 d.476	24 N.J.R. 4368(b)
7:25-18.1, 18.5	Atlantic sturgeon management	24 N.J.R. 205(a)		
7:25-18.1, 18.12, 18.14	Summer flounder management; otter and beam trawls	24 N.J.R. 4249(a)	R.1993 d.56	25 N.J.R. 303(a)
7:25-18.16	Taking of horseshoe crabs	24 N.J.R. 2978(a)		
7:26-1.4, 2.13, 6.3, 6.8	Solid waste management: scrap metal shredding residue, animal manure, interdistrict and intradistrict flow	24 N.J.R. 1995(a)	R.1993 d.27	25 N.J.R. 92(a)
7:26-2.11, 2.13, 2B.9, 2B.10, 6.2, 6.8	Solid waste flow through transfer stations and materials recovery facilities	24 N.J.R. 3286(c)		
7:26-4.3	Thermal destruction facilities: compliance monitoring fees and postponed operative date	24 N.J.R. 1999(a)		
7:26-4.3	Thermal destruction facilities: extension of comment period regarding compliance monitoring fees	24 N.J.R. 2687(a)		
7:26-4A.6	Hazardous waste program fees: annual adjustment	24 N.J.R. 2001(a)		
7:26-5.4, 7.4, 7.6, 9.4, 12.4	Hazardous waste manifest discrepancies	23 N.J.R. 3607(a)	R.1993 d.5	25 N.J.R. 98(a)
7:26-6.5, 6.6	Interdistrict and intradistrict solid waste flow	24 N.J.R. 3291(a)		
7:26-8.2	Hazardous waste exclusions: household waste	23 N.J.R. 3410(a)	R.1992 d.496	24 N.J.R. 4523(b)
7:26-8.20	Used motor oil recycling	24 N.J.R. 2383(a)		
7:26-12.3	Hazardous waste management: interim status facilities	24 N.J.R. 4253(a)		
7:26A-6	Used motor oil recycling	24 N.J.R. 2383(a)		
7:26B	Environmental Cleanup Responsibility Act rules	24 N.J.R. 2773(b)	R.1992 d.497	24 N.J.R. 4524(a)
7:26B-1.3, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 5.4, 13.1, App. A	Environmental Cleanup Responsibility Act rules	24 N.J.R. 720(a)	R.1993 d.3	25 N.J.R. 100(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26B-1.3, 1.5, 1.6, 1.8, 1.9, 1.10, 1.13, 5.4, 13.1, App. 1	ECRA rules: extension of comment period	24 N.J.R. 1281(a)		
7:26B-7, 9.3	Remediation of contaminated sites: Department oversight	24 N.J.R. 1281(b)		
7:26C	Remediation of contaminated sites: Department oversight	24 N.J.R. 1281(b)		
7:26D	Cleanup standards for contaminated sites	24 N.J.R. 373(a)		
7:26D	Cleanup standards for contaminated sites: additional public hearing and extension of comment period	24 N.J.R. 1458(b)		
7:26D	Cleanup standards for contaminated sites: additional public hearing and extension of comment period	24 N.J.R. 2003(b)		
7:26E	Technical requirements for contaminated site remediation	24 N.J.R. 1695(a)		
7:27-1.4, 1.6-1.30, 8.4, 8.14-8.24, 16.9, 21	Air contaminant emission statements from stationary sources	24 N.J.R. 2979(a)		
7:27-1.4, 1.36, 1.37, 1.38, 8.1, 8.3, 8.4, 8.24, 18	Control and prohibition of air pollution from new or altered sources: emission offsets	24 N.J.R. 3459(a)		
7:27-8.1, 8.3, 8.27	Air pollution control: requirements and exemptions under facility-wide permits	24 N.J.R. 4323(a)		
7:27-25.1, 25.3	Control and prohibition of air pollution by vehicular fuels: administrative corrections	_____	_____	24 N.J.R. 4524(b)
7:27-25.7, 27.9, 27.10	Control and prohibition of air pollution by vehicular fuels: administrative corrections	_____	_____	25 N.J.R. 309(a)
7:27-26	Low Emissions Vehicle Program	24 N.J.R. 1315(a)		
7:27-26	Low Emissions Vehicle Program: correction to proposal	24 N.J.R. 1458(c)		
7:27A-3.10	Civil administrative penalties for violations of emission statement requirements	24 N.J.R. 2979(a)		
7:27A-3.10	Air pollution civil administrative penalties: administrative correction	_____	_____	24 N.J.R. 4524(b)
7:28-15, 16.2, 16.8	Medical diagnostic x-ray installations; dental radiographic installations	25 N.J.R. 7(a)		
7:28-42.3	Radio frequency protection guides: administrative corrections	_____	_____	24 N.J.R. 4526(a)
7:28-42.4	Radio frequency protection guides for whole body exposure: administrative correction	_____	_____	24 N.J.R. 4371(a)
7:30	Pesticide Control Code	24 N.J.R. 2776(a)	R.199d d.509	24 N.J.R. 4526(b)
7:36-9	Green Acres Program: nonprofit land acquisition	24 N.J.R. 2405(a)		
7:61	Commissioners of Pilotage: licensure of Sandy Hook pilots	24 N.J.R. 3477(a)		

Most recent update to Title 7: TRANSMITTAL 1992-11 (supplement November 16, 1992)

HEALTH—TITLE 8

8:2	Creation of birth record	24 N.J.R. 4325(a)		
8:21-3.13	Repeal (see 8:21-3A)	24 N.J.R. 3100(a)		
8:21-3A	Registration of manufacturers and wholesale distributors of non-prescription drugs, and manufacturers and wholesale distributors of devices	24 N.J.R. 3100(a)		
8:31B-4.40	Uncompensated care collection procedures	24 N.J.R. 1124(c)		
8:33-3.11	Certificate of Need process for demonstration and research projects	24 N.J.R. 3104(a)		
8:33A	Hospital Policy Manual	24 N.J.R. 3280(a)	R.1992 d.512	24 N.J.R. 4528(a)
8:33A-1.2, 1.16	Hospital Policy Manual: applicant preference; equity requirement	24 N.J.R. 4476(a)		
8:33G	Computerized tomography services: certification of need	24 N.J.R. 4221(a)		
8:33I-1	Megavoltage radiation oncology services: certification of need	24 N.J.R. 4222(a)		
8:33M-1.6	Bed need methodology for adult comprehensive rehabilitation services	24 N.J.R. 4225(a)		
8:33R	Psychiatric health care facilities and services: policy manual for planning and certificate of need reviews	24 N.J.R. 3598(a)	R.1993 d.29	25 N.J.R. 111(a)
8:39-13.4, 27.1, 27.8, 29.4, 33.2, 45, 46	Long-term care facilities: use of restraints and psychoactive drugs; pharmacy supplies; Alzheimer's and dementia care services	24 N.J.R. 4228(a)		
8:41	Mobile intensive care programs	24 N.J.R. 3255(b)		
8:43	Residential health care facilities: standards for licensure	24 N.J.R. 2506(a)	R.1992 d.502	25 N.J.R. 109(a)
8:43	Licensure of residential health care facilities	25 N.J.R. 25(a)		
8:43A	Ambulatory care facilities: public meeting and request for comments regarding Manual of Standards for Licensure	24 N.J.R. 3603(a)		
8:43E	Recodification (see 8:33R)	24 N.J.R. 3598(a)	R.1993 d.29	25 N.J.R. 111(a)
8:43I	Hospital Policy Manual (recodified as 8:33A)	24 N.J.R. 3280(a)	R.1992 d.512	24 N.J.R. 4528(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:65-2.5	Controlled dangerous substances: physical security controls	24 N.J.R. 174(a)		
8:71	Interchangeable drug products (see 24 N.J.R. 949(a))	24 N.J.R. 59(b)		
8:71	Interchangeable drug products (see 24 N.J.R. 947(b), 1897(a), 2560(a), 3173(b), 4260(a))	24 N.J.R. 61(a)		
8:71	Interchangeable drug products (see 24 N.J.R. 1896(a), 2560(b), 3174(a))	24 N.J.R. 735(a)		
8:71	Interchangeable drug products (24 N.J.R. 2559(a))	24 N.J.R. 1673(a)		
8:71	Interchangeable drug products (see 24 N.J.R. 2557(b), 3173(a), 4260(b))	24 N.J.R. 1674(a)		
8:71	Interchangeable drug products (see 24 N.J.R. 3174(c), 3728(a), 4262(a))	24 N.J.R. 2414(b)		
8:71	Interchangeable drug products (24 N.J.R. 4261(a))	24 N.J.R. 2997(a)		
8:71	Interchangeable drug products	24 N.J.R. 4009(a)		
8:71	Interchangeable drug products	25 N.J.R. 55(a)		
8:100	State Health Planning Board: public hearings on draft chapters of State Health Plan	24 N.J.R. 3788(a)		
8:100	State Health Plan: draft chapters	24 N.J.R. 3789(a)		
8:100	State Health Plan: draft chapters on AIDS, and preventive and primary care	24 N.J.R. 4151(a)		

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9:1-1.2, 3.1, 3.2, 3.4, 3.5	Teaching university	24 N.J.R. 1464(a)	R.1992 d.466	24 N.J.R. 4371(a)
9:1-5.11	Regional accreditation of degree-granting proprietary institutions	24 N.J.R. 3207(a)		
9:6A	State college personnel system	24 N.J.R. 3052(a)		
9:7	Student Assistance Programs	24 N.J.R. 2510(a)	R.1992 d.486	24 N.J.R. 4373(a)
9:16-1	Primary Care Physician and Dentist Loan Redemption Program	24 N.J.R. 1192(a)	R.1993 d.30	25 N.J.R. 310(a)

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10:8	Administration of State-provided Personal Needs Allowance	24 N.J.R. 681(a)		
10:16	Child Death and Critical Incident Review Board concerning children under DYFS supervision	24 N.J.R. 3506(a)	R.1992 d.513	24 N.J.R. 4536(a)
10:36	Patient supervision at State psychiatric hospitals	24 N.J.R. 4232(a)		
10:38A	Pre-Placement Program for patients at State psychiatric facilities	24 N.J.R. 4326(a)		
10:46-1.3, 2.1, 3.2, 4.1, 5	Developmental Disabilities: determination of eligibility for division services	24 N.J.R. 211(a)		
10:51	Pharmaceutical Services Manual	24 N.J.R. 3053(a)		
10:52-1.9, 1.13	Reimbursement methodology for distinct units in acute care hospitals and for private psychiatric hospitals	24 N.J.R. 4477(a)		
10:52-1.23	Inpatient hospital services: adjustments to Medicaid payer factors	24 N.J.R. 4478(a)		
10:53-1.1	Reimbursement methodology for special hospitals	24 N.J.R. 4477(a)		
10:69-5.8; 69A-5.4, 5.6, 6.12, 7.2; 69B-4.13	HAAAD, PAAD, and Lifeline programs: fair hearing requests, prescription reimbursement, benefits recovery	24 N.J.R. 4329(a)		
10:69A	Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual	24 N.J.R. 4479(a)		
10:69A-2.1, 4.1-4.4, 5.3, 5.5	PAAD prescription copayment	24 N.J.R. 4328(a)		
10:72-1.1, 3.4, 4.1	New Jersey Care: Medicaid eligibility of children	24 N.J.R. 1860(a)	R.1992 d.484	24 N.J.R. 4378(a)
10:81-11.4, 11.9	Public Assistance Manual: provision of information regarding services to AFDC clients; legal representation in child support matters	24 N.J.R. 2327(a)	R.1993 d.1	25 N.J.R. 115(a)
10:81-11.5, 11.7, 11.9, 11.20, 11.21	Public Assistance Manual: child support and paternity services	24 N.J.R. 2328(a)		
10:83	Service Programs for Aged, Blind or Disabled Persons	24 N.J.R. 3074(a)	R.1992 d.477	24 N.J.R. 4379(a)
10:83-1.2	Emergency Assistance benefits for SSI recipients	24 N.J.R. 326(a)	R.1992 d.488	24 N.J.R. 4379(b)
10:83-1.2	Emergency Assistance benefits for SSI recipients: public hearing and extension of comment period	24 N.J.R. 1204(a)		
10:84	Administration of public assistance programs: agency action on public hearing	24 N.J.R. 4480(a)		
10:84-1	Administration of public assistance programs	24 N.J.R. 4480(b)		
10:85-1.1, 2.1, 3.1-3.5, 4.1, 4.2, 5.1-5.8, 6.8, 7.2, App. D	General Assistance program: time-limited eligibility for employable persons; alien eligibility; payment of hospital medical services	24 N.J.R. 3075(a)	R.1992 d.503	24 N.J.R. 4538(a)

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10:87-2.4, 2.6, 2.31, 2.39, 3.8, 3.14, 4.1, 4.8, 5.1, 5.9, 5.10, 6.9, 6.20, 10.3, 10.6, 10.18, 11.26, 11.29, 12.1	Food Stamp Program revisions	24 N.J.R. 3207(b)		
10:89-2.3, 3.1, 3.4, 3.6, 4.1	Home Energy Assistance	Emergency (expires 2-6-93)	R.1992 d.517	24 N.J.R. 4593(a)
10:97-1.3, 7.3	Business Enterprise Program for the blind and visually impaired: promotion and transfer	24 N.J.R. 2798(a)	R.1992 d.515	24 N.J.R. 4551(a)
10:120-1.2	Youth and Family Services: scope of responsibilities and services	23 N.J.R. 3420(b)	R.1992 d.471	24 N.J.R. 4386(a)
10:121A	Manual of Requirements for Adoption Agencies	24 N.J.R. 3500(a)	R.1992 d.514	24 N.J.R. 4552(a)
10:122B	Division of Youth and Family Services: requirements for foster care	23 N.J.R. 3693(a)	R.1993 d.15	25 N.J.R. 116(a)
10:122C	DYFS: approval of foster homes	23 N.J.R. 3696(a)	R.1993 d.16	25 N.J.R. 117(a)
10:122D	DYFS: foster care services	23 N.J.R. 3703(a)	R.1993 d.17	25 N.J.R. 124(a)
10:122E	DYFS: removal of foster children and closure of foster homes	23 N.J.R. 3708(a)	R.1993 d.18	25 N.J.R. 127(a)
10:123-3.4	Personal needs allowance for eligible residents of residential health care facilities and boarding houses	24 N.J.R. 3088(a)		
10:124	Children's Shelter Facilities and Homes: manual of standards	24 N.J.R. 3089(a)	R.1992 d.485	24 N.J.R. 4387(a)
10:124-5.1	Children's shelter facilities and homes: local government physical facility requirements	24 N.J.R. 4482(a)		
10:133	DYFS: initial response and service delivery	23 N.J.R. 3714(a)	R.1993 d.19	25 N.J.R. 132(a)
10:133A	DYFS: initial response and screening	23 N.J.R. 3717(a)	R.1993 d.20	25 N.J.R. 134(a)
10:133B	DYFS: information and referral	23 N.J.R. 3720(a)	R.1993 d.21	25 N.J.R. 136(a)
10:133C-3	DYFS: assessment of family service needs	24 N.J.R. 217(a)	R.1993 d.22	25 N.J.R. 136(b)

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10A:6	Inmate access to courts	24 N.J.R. 2799(a)	R.1992 d.470	24 N.J.R. 4390(b)
10A:71-3.47	Inmate parole hearings: victim testimony process	24 N.J.R. 4483(a)		

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11:1-31	Surplus lines insurer eligibility	24 N.J.R. 9(a)		
11:1-32.4	Automobile insurance: limited assignment distribution servicing carriers	24 N.J.R. 519(a)		
11:1-32.4	Workers' compensation self-insurance	24 N.J.R. 1944(a)		
11:1-32.4	Workers' compensation self-insurance: extension of comment period	24 N.J.R. 2708(b)		
11:1-33	Public Advocate reimbursement disputes	24 N.J.R. 2706(a)		
11:1-34	Surplus lines: exportable list procedures	24 N.J.R. 4331(a)		
11:2-17.7	Payment of health insurance claims	23 N.J.R. 3196(c)	R.1992 d.493	24 N.J.R. 4391(a)
11:2-17.11	Payment of third-party claims: written notice to claimant	24 N.J.R. 522(a)		
11:2-26	Insurer's annual audited financial report	24 N.J.R. 1940(a)		
11:2-26	Insurer's annual audited financial report: extension of comment period	24 N.J.R. 2708(a)		
11:2-33	Workers' compensation self-insurance	24 N.J.R. 1944(a)		
11:2-33	Workers' compensation self-insurance: extension of comment period	24 N.J.R. 2708(b)		
11:2-35.1-35.6	Insurer relief from FAIR Act obligations	24 N.J.R. 3212(a)	R.1993 d.24	25 N.J.R. 138(a)
11:3-2A	New Jersey Automobile Full Insurance Underwriting Association claims payment deferral for residual bodily injury	24 N.J.R. 3480(a)	R.1992 d.494	24 N.J.R. 4392(a)
11:3-16.7	Automobile insurance: rating programs for physical damage coverages	24 N.J.R. 3604(a)		
11:3-16.12	Automobile insurance: filings reflecting paid, apportioned MTF expenses and losses	24 N.J.R. 4486(a)		
11:3-16.12	Automobile insurance: public hearing and extension of comment period regarding filings reflecting paid, apportioned MTF expenses and losses	25 N.J.R. 56(a)		
11:3-19.3, 34.3	Automobile insurance eligibility rating plans: incorporation of merit rating surcharge	24 N.J.R. 2332(a)		
11:3-28.8	Reimbursement of excess medical expense benefits paid by insurers	24 N.J.R. 3215(a)		
11:3-29.1, 29.2, 29.4	Motor bus medical expense benefits coverage	24 N.J.R. 3605(a)	R.1993 d.25	25 N.J.R. 140(a)
11:3-29.6	Automobile PIP coverage: physical therapy services	24 N.J.R. 2998(a)		
11:3-33.2	Appeals from denial of automobile insurance: failure to act timely on written application for coverage	24 N.J.R. 2128(b)		

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11:3-34.4	Automobile insurance coverage: eligible person qualifications	24 N.J.R. 3420(a)	R.1992 d.481	24 N.J.R. 4396(a)
11:3-35.5	Automobile insurance rating: eligibility points of principal driver	24 N.J.R. 2331(a)		
11:3-42	Producer Assignment Program	24 N.J.R. 3421(a)	R.1992 d.482	24 N.J.R. 4397(a)
11:4-14.1, 15.1, 16.2, 19.2, 28.3, 36	BASIC health care coverage	24 N.J.R. 1205(a)		
11:4-16.5	Individual health insurance: disability income benefits riders	24 N.J.R. 338(a)		
11:4-16.8, 23, 25	Medicare supplement coverage: minimum standards	24 N.J.R. 12(a)	R.1993 d.26	25 N.J.R. 141(a)
11:5-1.8	Real Estate Commission: deposit of monies paid to broker	24 N.J.R. 3483(a)	R.1993 d.8	25 N.J.R. 178(a)
11:5-1.9	Real Estate Commission: transmittal of funds to lenders	24 N.J.R. 4268(a)		
11:5-1.15	Real Estate Commission: advertising by brokers and licensees	24 N.J.R. 3484(a)	R.1993 d.9	25 N.J.R. 178(b)
11:5-1.16	Real Estate Commission: documentation of offers and counter-offers	24 N.J.R. 3485(a)	R.1993 d.10	25 N.J.R. 179(a)
11:5-1.23	Real Estate Commission: transmittal by licensees of written offers on property	24 N.J.R. 3486(a)		
11:5-1.28	Real Estate Commission: surety bond posting by precicensure schools	24 N.J.R. 3488(a)	R.1993 d.11	25 N.J.R. 180(a)
11:5-1.36	Real Estate Guaranty Fund assessment	25 N.J.R. 56(b)		
11:5-1.38	Real Estate Commission: pre-proposal regarding buyer-brokers	24 N.J.R. 3488(b)		
11:13	Commercial lines insurance	24 N.J.R. 2830(a)	R.1992 d.492	24 N.J.R. 4408(a)
11:16-2	Reports to National Insurance Crime Bureau regarding motor vehicle theft or salvage	24 N.J.R. 3606(a)	R.1993 d.48	25 N.J.R. 311(a)
11:17-1.2, 2.3-2.15, 5.1-5.6	Insurance producer licensing	24 N.J.R. 3216(a)		
11:17A-1.2, 1.7	Appeals from denial of automobile insurance: failure to act timely on written application for coverage; premium quotation	24 N.J.R. 2128(b)		
11:17A-1.3	Licensure as insurance producer or registration as limited insurance representative: compliance deadline	24 N.J.R. 3220(a)	R.1993 d.49	25 N.J.R. 313(a)
11:19-2	Financial Examination Monitoring System: data submission by domestic insurers	24 N.J.R. 2999(a)		
11:19-3	Financial Examination Monitoring System: data submission by surplus lines producers and insurers	24 N.J.R. 3003(a)		

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12:60-3.2, 4.2	Prevailing wages on public works contracts: telecommunications worker	24 N.J.R. 2689(a)		
12:60-3.2, 4.2	Prevailing wages on public works contracts: extension of comment period	24 N.J.R. 3015(b)		
12:60-3.2, 4.2	Prevailing wages for public works: extension of comment period	24 N.J.R. 3607(a)		
12:100-4.2	Public employee safety and health: occupational exposure to bloodborne pathogens	24 N.J.R. 3607(b)		
12:100-4.2, 10, 17.1, 17.3	Safety standards for firefighters	24 N.J.R. 73(a)	R.1993 d.28	25 N.J.R. 180(b)
12:110	Public employee occupational safety and health: procedural standards	24 N.J.R. 4234(a)		
12:190	Regulation of explosives	24 N.J.R. 4235(a)		
12:235-9.4	Workers' Compensation: appeal procedures regarding discrimination complaint decisions	24 N.J.R. 1684(a)	R.1993 d.51	25 N.J.R. 313(b)
12:235-9.4	Workers' Compensation appeal procedures regarding discrimination complaint decisions: extension of comment period	24 N.J.R. 3090(a)		

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12A:11	Certification of women-owned and minority-owned businesses: Waiver of Executive Order No. 66(1978) expiration provision	24 N.J.R. 4333(a)		
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7:6-1.24, 9.2	Boat Regulation Commission: rotating lights; "personal watercraft"	24 N.J.R. 1694(a)	R.1992 d.506	24 N.J.R. 4556(a)
7:6-1.45	Boat Regulation Commission: restrictions within Seven Presidents Park jetty areas	25 N.J.R. 57(a)		

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13:20-37	Motor vehicles with modified chassis height: extension of comment period	24 N.J.R. 4333(b)		
13:21-19.9	Motor Vehicle Franchise Committee: administrative hearing costs	24 N.J.R. 3015(c)		
13:24-4.1, 4.2	Amber light permit for rural route letter carrier vehicles	24 N.J.R. 4236(a)		
13:30-8.5	Board of Dentistry: complaint review procedures	24 N.J.R. 2800(a)		
13:30-8.6	Board of Dentistry: professional advertising	24 N.J.R. 2801(a)		
13:31-1.11, 1.17	Electrical contractor's business permit: telecommunications wiring exemption	24 N.J.R. 339(a)		
13:33-1.35, 1.36	Ophthalmic dispensers and technicians: referrals; space rental agreements	24 N.J.R. 4010(a)		
13:33-1.41, 1.43	Licensed ophthalmic dispensers: continuing education	25 N.J.R. 57(b)		
13:35-6.13	Bio-analytical laboratory directorships: license fees	24 N.J.R. 4011(a)		
13:35-6.13	Physician assistant licensing fees	24 N.J.R. 4334(a)		
13:35-6.13, 9	Acupuncture Examining Board: practice of acupuncture	24 N.J.R. 4013(a)		
13:35-6.17	Corporate medical practice: administrative correction regarding significant beneficial interest	_____	_____	24 N.J.R. 4409(a)
13:35-6.18	Board of Medical Examiners: control of anabolic steroids	24 N.J.R. 4012(a)		
13:36-5.12, 5.20	Mortuary Science: licensee advertising; referral fee prohibition	24 N.J.R. 3016(a)		
13:37	Certification of homemaker-home health aides: open public forum	24 N.J.R. 1861(a)		
13:37-13.1, 13.2	Nurse anesthetist: conditions for practice	24 N.J.R. 4020(a)		
13:38-1.2, 1.3, 2.5	Practice of optometry: permissible advertising	24 N.J.R. 4237(a)		
13:40-5.1	Land surveys: setting of corner markers	24 N.J.R. 51(a)		
13:40-5.1	Land surveys: extension of comment period regarding setting of corner markers	24 N.J.R. 554(a)		
13:40A-1, 2, 2A, 3.6, 6.1, 6.2, 6.3	Board of Real Estate Appraisers: certified residential classification; general appraiser; temporary visiting license; fees and designations	24 N.J.R. 3489(a)		
13:41-2.1	Board of Professional Planners: professional misconduct	24 N.J.R. 3221(a)		
13:44-2.5, 2.7, 2.11	Veterinary Medical Examiners: referral fee prohibition; product endorsements; licensee advertising	24 N.J.R. 3017(a)	R.1992 d.478	24 N.J.R. 4409(a)
13:44B	Per diem compensation for members of professional and occupational licensing boards	24 N.J.R. 3019(a)	R.1992 d.480	24 N.J.R. 4410(a)
13:44E-2.7	Chiropractic practice: referral fees	24 N.J.R. 1470(a)	R.1992 d.507	24 N.J.R. 4557(a)
13:44F	Rules of State Board of Respiratory Care	24 N.J.R. 2336(a)	R.1993 d.7	25 N.J.R. 185(a)
13:44G-14.1	Board of Social Work Examiners: fees for licensure, certification, and services	24 N.J.R. 2523(a)	R.1993 d.23	25 N.J.R. 191(a)
13:45A-9.2, 9.3, 9.4	Advertising of merchandise by manufacturer	24 N.J.R. 684(a)	R.1993 d.6	25 N.J.R. 192(a)
13:45A-24	Toy and bicycle safety	24 N.J.R. 3019(b)		
13:45A-24	Toy and bicycle safety: extension of comment period	24 N.J.R. 3666(a)		
13:46-9.17	Boxing inspectors	24 N.J.R. 3492(a)	R.1992 d.511	24 N.J.R. 4557(b)
13:46-23.5, 23A	State Athletic Control Board: standards of ethical conduct	24 N.J.R. 4489(a)		
13:47K-5.2	Weights and measures: magnitude of allowable variations for packaged commodities	24 N.J.R. 1233(a)		
13:70-4.1, 4.2, 4.15, 9.41, 22.5	Thoroughbred racing: licensure fees; partnership registration	24 N.J.R. 4021(a)	R.1993 d.43	25 N.J.R. 314(a)
13:70-12.4	Thoroughbred racing: claimed horse	24 N.J.R. 4022(a)		
13:71-7.1, 7.5, 7.26, 7.35, 24.5	Harness racing: licensure fees; partnership registration	24 N.J.R. 4023(a)	R.1993 d.52	25 N.J.R. 314(b)
13:72	Casino simulcasting of horse races	24 N.J.R. 3666(b)	R.1993 d.53	25 N.J.R. 315(a)
13:75-1.7	Violent Crimes Compensation Board: minimum compensable losses	24 N.J.R. 4491(a)		
13:75-1.19	Violent Crimes Compensation Board: moneys received from other sources by claimants	24 N.J.R. 4239(a)		
13:75-1.31	Violent Crimes Compensation Board: injury from crime of burglary	24 N.J.R. 4491(b)		
13:77	Division of Criminal Justice: distribution of forfeited property	24 N.J.R. 4492(a)		
13:81-1.2, 2.1	Statewide 9-1-1 emergency telecommunications system	24 N.J.R. 4493(a)		
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14:3-7.15	Discontinuance of services to customers: notification of municipalities and others	24 N.J.R. 3023(a)		
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N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
14:3-11	Solid waste collection regulatory reform	24 N.J.R. 1459(a)		
14:5A	Nuclear generating plant decommissioning: periodic cost review and trust fund reporting	23 N.J.R. 3239(b)	R.1992 d.472	25 N.J.R. 193(a)
14:6-5	Natural gas service: inspection and operation of master meter systems	24 N.J.R. 4494(a)		
14:9B	Private domestic wastewater treatment facilities	24 N.J.R. 1863(a)		
14:10-5	Competitive telecommunications services	24 N.J.R. 1868(a)		
14:10-7	Telephone access to adult-oriented information	24 N.J.R. 1238(a)		
14:11	Board of Regulatory Commissioners: administrative orders	24 N.J.R. 1684(b)		
14:11-7.10	Solid waste disposal facilities: initial tariff for special in lieu payment	24 N.J.R. 3286(c)		
14:12-1.2, 3.6, 4.1-4.3, 5.3	Demand side management	24 N.J.R. 2804(a)		
14:18-2.11	Cable television: pre-proposal regarding disposition of on-premises wiring	24 N.J.R. 4496(a)		
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15:10-1.5, 7	Distribution of voter registration forms through public agencies	24 N.J.R. 736(a)	R.1993 d.54	25 N.J.R. 320(a)
15:10-1.5, 7	Distribution of voter registration forms through public agencies: extension of comment period	24 N.J.R. 1688(a)		
15:10-1.5, 7	Distribution of voter registration forms through public agencies: extension of comment period	24 N.J.R. 2531(a)		

Most recent update to Title 15: TRANSMITTAL 1992-2 (supplement July 20, 1992)

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