

NEW JERSEY



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IN THIS ISSUE
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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Livestock and Poultry Importations General Requirements; Prior Import Permits

Proposed New Rule: N.J.A.C. 2:3-1.8

Authorized By: Arthur R. Brown, Jr., Secretary,
Department of Agriculture.
Authority: N.J.S.A. 4:5-54 through 75; 4:5-93.21 through
93.50; and 4:5-106.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert E. Horton, DVM, Director
Division of Animal Health
Department of Agriculture
CN 330
Trenton, NJ 08625
609-292-3965

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

This proposal is known as PRN 1983-433.

The agency proposal follows:

Summary

The purpose of the proposed new rule is to state where a person can obtain a required prior import permit for entry of livestock into New Jersey in order to prevent the introduction of contagious and parasitic disease.

Social Impact

The proposed new rule will affect cattle breeders, cattle dealers, swine breeders, goat breeders and veterinarians who will be requesting from the Department of Agriculture prior permits for livestock entering New Jersey from those areas outside of the State which are not disease free.

Economic Impact

The proposed new rule does not impose any new or additional fees for obtaining prior import permits. However, an economic benefit will be realized since the requests for import permits will ensure that livestock imported from areas outside of New Jersey which are not disease free will be kept in quarantine, separate and apart from native livestock until tested free of disease and will thus prevent exposure of the livestock industry of New Jersey to devastating disease. This in turn will prevent economic loss to animal breeders and dealers. There will be no added cost to the Department of Agriculture.

Full text of the proposed new rule follows.

2:3-1.8 Prior import permits

Permits for entry as required for a specific class of livestock may be obtained by the consignee from the Director, Division of Animal Health, New Jersey Department of Agriculture, CN 330, Trenton, New Jersey 08625, telephone number 609-292-3965.

CIVIL SERVICE

(b)

CIVIL SERVICE COMMISSION

Compensation Title Reevaluation Requests and Appeals

Proposed New Rule: N.J.A.C. 4:1-7.6

Authorized By: Civil Service Commission, Peter J.

NEW JERSEY REGISTER

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Calderone, Assistant Commissioner, Department of Civil Service.
Authority: N.J.S.A. 11:1-7a, 11:5-1a, 11:8-3.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone
Assistant Commissioner
Department of Civil Service
CN 312
Trenton, NJ 08625

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

This proposal is known as PRN 1983-400.

The agency proposal follows:

Summary

Proposed N.J.A.C. 4:1-7.6 is a new rule that details the complex procedures employed when a title reevaluation is requested or a title reevaluation determination is appealed. All State agencies utilize this action as a regular part of good management procedures but especially at the present time to help effectuate State-wide departmental reorganizations.

Proposed subsections (a) through (d) are general provisions. Subsection (a) provides that this section, as in all of subchapter 7, applies to State service only. Subsection (b) defines the basis and substance of a reevaluation request or appeal. Proposed subsections (c) and (d) inform individuals and agencies where to submit their requests or appeals and details the substance of a decision letter.

Proposed subsections (e) through (h) are procedural. They detail the levels of appeal, the action required of the employer and employee at each level, the functions of the Division of Classification and Compensation and the Job Content Evaluation Committee and, at the final level of review, the procedure followed by the President of the Civil Service Commission and the Commission.

The final proposed subsection, (i) and (j), state the procedures to be followed after the Civil Service Commission has approved a title reevaluation. Subsection (h) provides the effective date of an approved reevaluation. Subsection (i) provides that if one or more titles of an approved title series is appealed, the approval of the title series will still be effective.

Social Impact

Proposed N.J.A.C. 4:1-7.6 provides all interested parties a clear, detailed description of the reevaluation process. It also provides multilevel review giving all parties the opportunity for a thorough exchange of views. This rule should be well received by all employees and employers affected by Civil Service rules since it provides necessary information in readily understood language.

Economic Impact

Proposed N.J.A.C. 4:1-7.6 should have a minimal additional economic impact since the mechanism for reevaluation review is presently in operation.

Full text of the proposed new rule follows.

4:1-7.6 Title reevaluation requests and appeals (State)

(a) This section applies only to State service.

(b) A reevaluation is a review of a title to determine its proper salary range. A request for a reevaluation must identify and explain the areas of substantive change in job content and include evidence that all employees in the title are performing specific tasks at a higher

level than defined in the current class specification. Increased volume of work is not evidence of substantive change in job content.

(c) Employees, union representatives, and appointing authorities may request a reevaluation or appeal a decision from a reevaluation. A request initiated by an employee or the employee's representative shall be submitted to the appointing authority. A request initiated by an appointing authority shall be submitted to the Division of Classification and Compensation.

(d) All parties requesting a reevaluation or appealing a decision shall be notified of a determination by decision letter which includes an analysis, findings of fact, conclusion, decision and appeal rights. The analysis shall be based on the New Jersey Job Content Evaluation system, the "modified Hay point system," which evaluates the factors of know-how, problem solving and accountability associated with the functions and responsibilities of a title.

(e) An appointing authority that receives a request for reevaluation shall conduct a review and notify all parties of its decision within 30 days of receipt of the request. The decision letter shall indicate either that there is no substantive change in job content or that the request shall be submitted to the Department of Civil Service, in which case the appointing authority shall submit a request for reevaluation to the Division of Classification and Compensation.

1. If the employee requesting reevaluation does not receive a decision letter from the appointing authority within the specified 30 days, s/he may, in the following 20 days, submit an appeal including a copy of the original request to the Division of Classification and Compensation, Department of Civil Service, CN 313, Trenton, New Jersey 08625.

2. An employee who disagrees with the appointing authority's decision may appeal the decision to the Division of Classification and Compensation. The appeal shall include a copy of the initial request, the appointing authority's decision letter, a statement identifying the specific portion of the decision being contested, and the basis for the appeal.

(f) The Director of of the Division of Classification and Compensation shall review a request or appeal and make a determination. A decision letter shall be issued within 60 days of receipt of the appeal.

1. The Director may forward the request or appeal to the Job Content Evaluation Committee (Committee). The Committee shall notify all parties of the time and place of the meeting at least seven days prior to the meeting date. Subsequent to the meeting, the Committee shall recommend an evaluation to the Director who shall accept, reject or modify the recommendation and inform all parties of the decision.

2. Appellants who disagree with the decision from the Director of the Division of Classification and Compensation may appeal the decision to the President of the Civil Service Commission. The appeal shall include copies of the determinations and decision letters from the lower levels and state which findings are being disputed and the basis for the appeal. Appeals shall be submitted in writing within 20 days of receipt of the decision letter to:

Department of Civil Service
Division of Appellate Practice
and Labor Relations
CN 312
Trenton, New Jersey 08625

(g) The President of the Civil Service Commission may render a decision based on the written record, appoint an independent salary reviewer, or refer the appeal to the Civil Service Commission. If the President appoints an independent salary reviewer to conduct an informal review of the appeal, all parties will be advised of the review date and shall present their arguments before the reviewer. An employee appealing his/her reevaluation before a salary reviewer may be heard personally or be represented by counsel or an authorized union representative. The strict postponement policy set forth in N.J.S.A. 11:1-25 et seq. shall be followed.

1. The salary reviewer shall not consider new arguments added subsequent to the decision from the last level of appeal.

2. The salary reviewer shall submit a report and recommendation to the President of the Civil Service Commission within 30 days after the review.

3. The report and recommendation shall be sent to all parties. Exceptions may be filed within 15 days of receipt of the report and recommendation with the Division of Appellate Practices and Labor Relations. If exceptions are filed, cross-exceptions may be filed within five days of receipt of the exceptions. Exceptions and cross-exceptions shall be served on all parties.

(h) A decision by the President of the Civil Service Commission or by the Commission is the final administrative determination.

(i) If an appeal is upheld, the effective date of the reevaluation shall be the first pay period after expiration of 14 days from the date the appeal was filed with the Division of Classification and Compensation.

(j) An appeal from one or more titles in a title series that has been reevaluated and approved by the Commission shall not delay the implementation of the total title series.

(a)

CIVIL SERVICE COMMISSION

Examinations and Applications Examination Rules

Proposed Readoption with Amendments:

N.J.A.C. 4:1-8.1, 8.2, 8.4 through 8.9 (4:2-8.3 recodified as 4:1-8.9, and 4:2-8.4 recodified as 4:1-8.10), 8.11 through 8.17, 8.19 through 8.23, and 4:3-8.7

Proposed Readoption without changes:

N.J.A.C. 4:1-8.3, 4:2-8.1, 4:3-8.2 and 4:3-8.3

Proposed Recodification: N.J.A.C. 4:2-8.9 and 4:3-8.8 as 4:1-21.6

Proposed Repeal: N.J.A.C. 4:1-8.6, 8.8B, 8.10, 8.15, 8.16, 8.18; 4:2-8.2 through 8.13; 4:3-8.1, 8.4 through 8.6, and 8.8 through 8.17

Authorized By: Civil Service Commission, Peter J. Calderone, Assistant Commissioner.

Authority: N.J.S.A. 11:1-7a, 11:4-1, 11:4-2, 11:5-1a, 11:6-2e, 11:9-1, 11:9-2, 11:9-3, 11:9-6, 11:9-7, 11:9-8, 11:9-9, 11:9-14.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter J. Calderone
Assistant Commissioner
Department of Civil Service
CN 312
Trenton, NJ 08625

The Civil Service Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on October 4, 1983. The re-adoption of the existing rules becomes

effective upon acceptance for filing by the Office of Administrative Law of the notice of their re-adoption. The concurrent amendments and the repeal of rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-413.

The agency proposal follows:

Summary

In accordance with the "sunset" provisions of Executive Order 66(1978), the Civil Service Commission has reviewed the rules codified at N.J.A.C. 4:1-8, 4:2-8 and 4:3-8 which regulate the examination process. The subchapters describe the criteria for announcing an examination, the qualifications for eligibility for an examination, the procedure for filing an examination application, actions and the basis for actions against applicants and eligibles, regulations for administering examinations and the appeal process. After reviewing these rules, the Commission proposes that sections be consolidated and the language revised accordingly.

Presently, most of N.J.A.C. 4:2-8 and 4:3-8 concern examination matters that are set forth in N.J.A.C. 4:1. These rules are proposed for incorporation in N.J.A.C. 4:1. Those sections in N.J.A.C. 4:2 and N.J.A.C. 4:3 that are identical and do not appear in N.J.A.C. 4:1 have been added to N.J.A.C. 4:1 with appropriate language revisions. N.J.A.C. 4:2-8.1, 4:3-8.2, 4:3-8.3 and 4:3-8.7 and are being retained and continued since their substance is not contained in N.J.A.C. 4:1 and further study is needed. However, N.J.A.C. 4:3-8.7 is being recodified as N.J.A.C. 4:3-8.4 so the subchapter can be read without a gap.

Proposed N.J.A.C. 4:1-8.1 and 4:1-8.2 set forth the rules that are the purpose and character of examinations. Currently these provisions are found in N.J.A.C. 4:1-8.1, 4:1-8.2, 4:1-8.9 and 4:1-8.17.

N.J.A.C. 4:1-8.3, Notice of Examinations, is being re-adopted without change.

Proposed N.J.A.C. 4:1-8.4 sets forth the qualifications for eligibility for promotional examinations. This rule allows for those persons on approved leave of absence to qualify for a promotional examination. This section is a revision and incorporation of N.J.A.C. 4:1-8.4 and N.J.A.C. 4:1-8.6 and includes N.J.A.C. 4:2-8.1, 4:2-8.2, 4:2-8.5, 4:3-8.4 and 4:3-8.5.

Proposed N.J.A.C. 4:1-8.5 concerns the conditions under which a competitive examination can be waived for promotional appointments. The proposal reflects language changes from the current text of N.J.A.C. 4:1-8.5.

Proposed N.J.A.C. 4:1-8.6 sets forth the criteria for holding an open competitive examination. These provisions are currently found in N.J.A.C. 4:1-8.7.

Proposed N.J.A.C. 4:1-8.7 sets forth the qualifications an applicant must meet to be eligible for an examination. Currently this provision is found in N.J.A.C. 4:1-8.8.

Proposed N.J.A.C. 4:1-8.8 sets forth the residency requirements which must be met for an open competitive examination and the standards used to determine an applicant's single legal residence. Currently these provisions are found in N.J.A.C. 4:1-8.8, 4:1-8.8A; 4:2-8.7, 4:2-8.8 and 4:3-8.6.

Proposed N.J.A.C. 4:1-8.9 and N.J.A.C. 4:1-8.10 provide for substitution of experience or special examination for education requirements. Currently these provisions are found in N.J.A.C. 4:2-8.3, 4:2-8.4, 4:3-8.16 and 4:3-8.17.

Proposed N.J.A.C. 4:1-8.11 and 4:1-8.12 set forth the procedure and time limitations for filing an examination application as well as the procedure to be followed to supplement or amend the application. Currently these provisions are found in N.J.A.C. 4:1-8.12, 4:1-8.17 and 4:1-8.13.

N.J.A.C. 4:1-8.13 is to be reserved. This will allow essential flexibility to add a new rule in the future. Additionally, it preserves the codification of N.J.A.C. 4:1-8.14, Action Against Applicants and Eligible Employees, which is cited on numerous Civil Service forms as well as by parties involved in Civil Service actions.

Proposed N.J.A.C. 4:1-8.14 sets forth the actions that may be taken by appointing authorities or the Civil Service Commission for specific causes as listed. The proposal is a revision of the current text of N.J.A.C. 4:1-8.14.

Proposed N.J.A.C. 4:1-8.15 sets forth the provisions concerning where an examination shall be held and the limitations imposed upon the late arrivals of applicants. Currently, these provisions are found in N.J.A.C. 4:1-8.11.

Proposed N.J.A.C. 4:1-8.16 is a new section replacing N.J.A.C. 4:1-8.22. The proposal sets forth the provision that disabled or handicapped persons may request accommodation for taking an examination by indicating the request on the examination application. The current section, N.J.A.C. 4:1-8.22, is being repealed since the procedure is no longer in effect.

Proposed N.J.A.C. 4:1-8.17 sets forth the provisions concerning a request for waiver of examination by persons who are unable to take an examination due to handicap. Currently, this provision is in N.J.A.C. 4:1-8.23.

Proposed N.J.A.C. 4:1-8.18 sets forth the provisions for how an examination is to be conducted. This section is a revision of the provisions found in N.J.A.C. 4:1-8.19 and 4:1-8.20.

Proposed N.J.A.C. 4:1-8.19 sets forth the conditions under which a make-up examination may be administered. Currently these provisions are found in N.J.A.C. 4:1-8.21, 4:3-8.10 and 4:3-8.11.

Proposed N.J.A.C. 4:1-8.20, which incorporates N.J.A.C. 4:3-8.10 and 4:3-8.11, sets forth the conditions under which make-up examinations may be administered for police and fire titles. This section is separate from N.J.A.C. 4:1-8.19 because it is specific to these titles.

Proposed N.J.A.C. 4:1-8.21, 4:1-8.22 and 4:1-8.23 set forth the provisions for appealing matters relating to examinations. Provisions for State appeals and local government appeals have been separated since the procedures are significantly different. These provisions are currently found in N.J.A.C. 4:1-8.15, 4:1-8.16, 4:2-8.11 and 4:3-8.13.

N.J.A.C. 4:1-21.6 is being recodified from N.J.A.C. 4:2-8.9 and 4:3-8.8 to N.J.A.C. 4:1-21.6 with no change in text since it properly belongs in Subchapter 21.

Social Impact

The social impact on State and local government employees who are subject to Civil Service laws and rules remains generally unchanged by the readoption with amendments of Subchapter 8. The Department of Civil Service is mandated to develop, administer, and announce examinations, to process examination applications and promulgate eligible lists. In order to satisfy these mandates, examination rules have been promulgated, reviewed and amended on an ongoing basis. An example of this continuing review process is the recently adopted rule providing a procedure for processing requests from handicapped persons for waiver of an examination. This rule, which is proposed for readoption, was a direct result of legislation and led to a review of all of the Department's rules concerning handicapped persons. This review, in turn, resulted in proposed amendments to the readoption.

Economic Impact

The economic impact of the proposed readoption with amendments of Subchapter 8 will have a negligible economic impact on State and local government employees since both the existing rules and the amendments reflect current and ongoing policy and practices.

In fiscal year 1977-78, the Division of Examinations announced 12,733 examinations and processed 173,794 applications. The number of eligibles included in certifications was 52,036; 6,818 were permanently appointed. These figures fluctuated slightly in the intervening years due to the economy and departmental fiscal constraints; however, during fiscal year 1981-82 the number had grown to 13,409 examinations announced and 211,614 applications

processed. The number of eligibles certified as a result of the examinations was 56,450; 7,646 were permanently appointed. In order to maintain the constitutionally mandated examination process, the regulations in this area provide for a uniform and an organized examination program. The readoption of the rules as proposed is based on review of the necessary administrative procedures for Civil Service testing in conformity with practical considerations and agency appropriations.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 4:1-8, 4:2-8 and 4:3-8, as amended in the New Jersey Register.

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

SUBCHAPTER 8. EXAMINATIONS AND APPLICATIONS

4:1-8.1 [Ordering examinations held] Purpose

(a) The [Chief Examiner and Secretary,] **President of the Civil Service Commission** shall order examinations held[, whenever necessary,] to establish employment lists for [positions] **titles** in the classified service [of the State and local governments].

[4:1-8.2 Examinations to be competitive]

(b) [Except as provided in Subchapter 10. (Noncompetitive and Labor Appointments) of this Chapter, appointments and promotions shall be made only according to merit and fitness to be ascertained, as far as practicable, by examinations, which as far as practicable, shall be competitive. Examination shall be considered competitive when applicants are tested or evaluated as to their relative qualifications and abilities or when an applicant is rated against an established standard.] **Appointments and promotions shall be made according to merit and fitness to be ascertained, as far as practicable, by an examination which shall test an applicant's knowledge, skills and abilities in order to determine his or her relative qualifications to perform the duties of the title.**

[4:1-8.17 Applications held confidential]

(c) All applications for examinations filed with the Commission shall be held confidential and not open to public inspection. They may be held open to such limited inspection, examination and copying by such persons and under such circumstances as the President may determine to be in the [best] public interest.

4:1-8.[9]2 Character of examinations

(a) [Competitive examinations shall be designed to test fairly and determine the relative qualifications, fitness and ability or aptitude of applicants to perform the duties of the class or position for which they are held and] **After receiving a recommendation for an examination from an appointing authority, a determination shall be made as to whether a promotional examination, open competitive examination or both shall be held. An examination may consist of any one or more of the following:**

1. Written tests;
2. Oral tests;
3. Performance tests;
4. Medical examinations;
5. Physical **performance** tests [of strength, stamina or dexterity];
6. Evaluation of education, training, experience or other qualifications [set forth] **submitted** in the **examination** application [for examination in] **and** any supporting evidence or proofs [submitted] **presented** with such application; [or]
7. **Assessment Center evaluations; or**
- [7.] **8. Any other appropriate measure of [fitness] knowledge, skills and abilities.**

4:1-8.3 Notice of examinations

(a) The availability of the Civil Service examination announcement bulletin shall be advertised prior to each publication date. For State titles, the advertisement shall be published in three daily newspapers of general circulation throughout the State. For local government titles, the advertisement shall be published in the newspapers of general circulation throughout the State and in the county, municipality or school district.

(b) Notice of open competitive examinations shall be posted in the offices of the Commission and announced in the Civil Service examination announcement bulletin at least two weeks before the closing date for filing applications.

(c) Notices of promotional examinations and application forms shall be provided by the Department of Civil Service or through the appointing authority to employees who qualify for the examination. Notice of promotional examinations shall be posted by the appointing authority throughout the organization to which the examination is open in order to notify all employees of the promotional opportunity.

(d) Examination announcements shall include:

1. The title of the examination;
2. The salary rate or range;
3. A reference to duties and responsibilities;
4. Minimum qualification requirements for admission to the examination; and
5. Information for filing applications.

4:1-8.4 Promotional examinations

(a) [Whenever an examination is to be held to promulgate an employment list, t]The Department of Civil Service, after receiving the recommendations of the appointing authority, shall determine whether a promotion or open competitive test or both shall be held. [except that, i]nsofar as it is consistent with the best interests of the service, vacancies shall be filled by promotions [of permanent employees] based on competitive examinations [which shall] [include] including an evaluation of service records [of service] and [such] other tests or measures of [fitness as may be necessary] knowledge, skills and abilities.

[(b) See also N.J.A.C. 4:3-8.1, 4:3-8.2.]

(b) An applicant for a promotional examination shall meet all of the following criteria by the closing date for filing an application:

1. Have permanent status in a title to which the examination is open for an aggregate of one year. Such permanent service shall be without interruption except for an approved leave of absence (continuous service);
2. Meet all the requirements specified in the examination announcement; and
3. File the application on or before the closing date.

(c) Applicants for promotion from entry level law enforcement or firefighter titles shall have three years of permanent service without interruption except for an approved leave of absence (continuous service) in a title to which the examination is open.

(d) Employees who have been demoted to or are appointed from a special reemployment list to a title to which the examination is open may, in order to satisfy the permanent time requirement, include permanent continuous service in any higher related or comparable title.

(e) Where seniority is a factor in examination scoring:

1. Suspensions, leaves of absences without pay and any period of time an employee is laid off shall be deducted from seniority calculations.
2. Military leave, education, sick or disability leave or any other leave designated by the Civil Service Commission or by law shall not be deducted from seniority calculations.

(f) The time requirements specified in (b) and (c) above may be reduced to completion of the working test period if:

1. There is currently an incomplete promotional list or the number of employees eligible for examination will result in an incomplete list;

2. It appears that vacancies to be filled within the lifetime of the promotional list will exceed the maximum number of eligibles that could result from the examination;

3. A promotional examination was announced with the normal service requirements and all candidates failed the examination; or

4. Other valid reasons as determined by the Civil Service Commission.

4:1-8.5 Promotion upon waiver of competitive examination

(a) The President of the Civil Service Commission may authorize the promotion of a qualified permanent employee[,] by regular appointment [and] without [a] competitive examination[,] provided that [all of the following conditions are met]:

1. The employee has [previously taken and passed an examination for] been successfully tested in the basic skills required [in] for the [position] title to which the promotion is to be made;

2. The employee has not, within [three years] one year previous to the announced closing date [for filing applications,] failed [to pass] a promotional examination for the [position] title to which the promotion is to be made[,] ; however, [but] if the employee [shall have passed] subsequently passed an examination for the [position] title, s/he shall be eligible for the title [notwithstanding the earlier failure];

3. The employee is serving [under a provisional appointment] provisionally in the [class or position] title to which the promotion is to be [effected] made;

4. [Not more than three eligibles employees file applications to take such test when only one promotional appointment is to be made, or when more than one promotional appointment is to be made,] [t]The number of interested eligible employees [who file applications to take the examination] does not exceed [by more than two] the number of promotional appointments to be made by more than two; and

5. Preference rights of veterans will not be affected.

4:1-8.6 Qualifications for promotional examinations

(See New Jersey Administrative Code for text proposed for repeal.)

4:1-8.[7]6 Criteria for holding an [O]open competitive examination[s]

(a) An open competitive examination may be held to promulgate an employment list to fill a vacancy when the Department of Civil Service determines that [it is not consistent with the best interests of the service to fill such vacancy by promotion for any of the following or other sufficient reasons]:

1. There is no appropriate eligible list to fill the vacancy;
2. It is not in the best interest of the service to fill the vacancy by promotion;

[1.] 3. The vacancy is in an entrance level [position in any series of classes] title;

[2.] 4. [When] [f]Fewer than three permanent employees in the next lower in-series title are qualified to take a promotional examination;

[3.] 5. [When it appears that the employment] A list resulting from a promotional examination [which is to be held] will be exhausted before all present or anticipated vacancies are filled; or

[4.] 6. [When [t]The [position] title [for which an examination is to be held is of such a character as to] requires special, technical or professional training or qualifications which are not required in the lower [class] titles in the series.

4:1-8.[8]7 Qualifications [of applicants] for open competitive examinations

(a) [In order t]To qualify for open competitive examination, an applicant [must] shall meet all of the following qualifications by the closing date for filing the examination application:

1. Be a resident of the State or[, the governmental subdivision in

which he seeks employment.] **designated local government if specified in the examination announcement. Residency shall be determined pursuant to N.J.A.C. 4:1-8.8;** [An individual is considered a resident when residing in this State or the governmental subdivision immediately prior to the announced closing date for filing examination application. This residency requirement shall not apply in any examination when:

- i. A different residency requirement is specified by law or provided by commission regulation;
- ii. In the considered judgment of the commission, because of the character of the work, such a limitation would seriously restrict the commission's ability to recruit a sufficient number of qualified residents for the position or it has been demonstrated that advertisement as provided by these rules has failed to produce a sufficient number of qualified residents.]

2. Meet [all] the requirements specified in the [official] examination announcement [of the examination];

3. Meet age requirements specified in the examination announcement;

i. Veterans who are over a maximum age requirement may recalculate their age for recording purposes pursuant to N.J.S.A. 38:23A-2; and

ii. An applicant shall be considered above the maximum age requirement on the day of his or her birthday.

[3.] 4. File an examination application [for examination] on the form furnished by the Civil Service [c]Commission, setting forth fully and truthfully all information required and submitting all necessary supporting evidence or other proof[, on or before the announced closing date for filing such application].

[See also N.J.A.C. 4:2-8.6, 4:2-8.7, 4:2-8.8, 4:3-8.6 and 4:3-8.7.]

4:1-8.8[A] Residence standards

(a) ["Residence"] **Where residence requirements have been established, residence means a single legal residence or**, more accurately, domicile [When an applicant, eligible, or employee inhabits more than one location, residence shall mean the place or abode where s/he intends to remain and to which, if absent, s/he intends to return].

[(b)] The following [general] standards [will] **shall** be used in determining [the acceptable] residence:

- 1. Whether the locations in question are owned or rented;
- 2. Whether, if owned, the value of the claimed residence exceeds that of other locations;
- 3. Whether time actually spent in the claimed residence exceeds that of other locations;
- 4. Whether the degree of kinship among those persons living in the claimed residence is closer than those with whom the applicant, eligible, or employee lives elsewhere. If an applicant claims a parent's residence because of separation from his/her spouse, a court order or other evidence of separation may be requested;
- 5. Whether return after repeated absences, considered with all other factors, [indicates] **establishes** that the claimed residence is [a principal residence] **the actual domicile**;
- 6. Whether, if the residence requirement of the anticipated or actual appointment was eliminated, the applicant, eligible, or employee would be likely to remain in the claimed residence;
- 7. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card **and other documents** is the same as the claimed legal residence; a post office box number in lieu of street address is not acceptable; **and**
- 8. Whether the school district attended by child(ren) living with the applicant, eligible, or employee is the same as the claimed residence.

(b) **Unless otherwise specified, residency requirements shall be met by the announced closing date for filing an examination application.**

(c) [All applicants, except those for police and firefighter positions, must meet the residence requirements by the closing date

for filing applications and maintain the required residence up to and including the date of appointment.] The Department of Civil Service will enforce residence requirements up to and including the date of appointment. It is the responsibility of the appointing authority to enforce residence requirements after appointment.

[(d)] Police officers and firefighters must satisfy residence requirements by the closing date for filing applications.]

[(e)] In State service, all appeals from an adverse determination based on failure to meet residence requirements shall be submitted to the Department of Civil Service, Division of Examinations.]

(d) **Persons residing on military bases in the State of New Jersey shall be considered residents of both the State of New Jersey and the county in which the base is located.**

(e) **When a position requires that an employee live a specific distance from the place of employment or work site, the appointing authority shall send a special residence request to the Division of Examinations. The request must be received and approved in time for the special residence requirement to be included in the Civil Service examination announcement bulletin. If the request is not received and approved before announcement of the examination, the Department of Civil Service will not permit individuals who take the examination to be rejected because they do not meet the appointing authority's residence requirement. However, at the discretion of the Division of Examinations, special residence limitations may be added after the promulgation of an eligible list if subsequent events require such action.**

[(h)] (f) [In local service, appeals from an adverse determination based on rejection from an examination for failure to meet the residence requirements shall be appealed to the Department of Civil Service, Division of Examinations. Appeals from adverse determinations based on an eligible being rejected from certification or appointment because of failure to meet the residence requirements shall be submitted to the Department of Civil Service, Division of Local Government Services.] **Residency appeals shall be determined pursuant to N.J.A.C. 4:1-8.21, 4:1-8.22 and 4:1-8.23.**

[4:1-8.8B Reducing the age of veterans]

(See 14 N.J.R. 455(a) and 14 N.J.R. 1089(b) for text proposed for repeal.)

[4:2-8.3]4:1-8.9 Professional qualifications substitution program

[(a)] This section provides for substituting appropriate prior work experience for college educational requirements for entry-level professional titles.]

[(b)](a) [It is the policy of the Civil Service Commission to encourage career development and upward mobility for employees and prospective employees. Therefore,] **Experience appropriate to the related profession may be substituted for college educational requirements for designated open competitive or promotional examinations for entry-level professional titles.**

[(c)](b) [Standards:] **The following standards shall be considered:**

- 1. Applicants may be considered eligible to take entry-level professional open competitive and promotional examinations by substituting appropriate work experience for college educational requirements[.];
- 2. Appropriate prior work experience shall be substituted on a year for year basis; **for example**, five years of appropriate prior work experience may be substituted for a requirement of a B.A. degree and one year of experience[.];
- 3. For those class titles which require only specific course work or major fields of study, the successful completion of same shall be required and no substitution of experience for such requirements will be permitted unless the specific course work has been completed[.]; **and**
- 4. Non-professional career employees must have permanent status

and the required time in grade to be considered eligible to take promotional examinations.

[(d) Procedure:

1. The Department of Civil Service will announce and conduct open competitive and promotional examinations.]

[2.](c) [Announcement of open competitive examinations will be made in the regular monthly "Job Opportunities Bulletin." The "Job Opportunities Bulletin" shall include general information on eligibility requirements and how prospective applicants may utilize the Professional Qualifications Substitution Program [outlined above].

[3.](d) Appointing authorities shall post, for ready access to employees, information about how employees may utilize[d] the Professional Qualifications Substitution Program [as outlined above].

[4.](e) [See N.J.A.C. 4:2-8.4 f]For provisions for substituting [CLEP] College Level Examination Program (CLEP) scores for college educational requirements[.], see N.J.A.C. 4:1-8.10.

[4:1-8.10 Questions not to be asked]

(See New Jersey Administrative Code for text proposed for repeal.)

[4:2-8.4] **4:1-8.10** College Level Examination Program (CLEP)

[(a) This section provides for substituting acceptable College Level Examination Program (CLEP) examination scores for college credits requirements.]

[(b)](a) [It is the policy of the Civil Service Commission to encourage career development and upward mobility for all employees and prospective employees. Therefore, the Commission recognizes acceptable] **College Level Examination Program (CLEP) scores are acceptable** as a substitution for college credits required for open competitive or promotional examinations. Acceptable scores are those consistent with scores accepted for credit by Thomas A. Edison College as published annually in its catalog.

[(c) Standards:]

(b) The following standards shall be considered:

1. Applicants may be considered eligible to take open competitive and promotional examinations by substituting a combination of education, appropriate work experience and acceptable CLEP scores[.];

2. Acceptable scores on the CLEP General Examination and Subject Examinations will be considered the same as college undergraduate credits[.];

3. Acceptable scores on the five-part CLEP General Examination [shall] **may** be substituted for up to 30 undergraduate college credits[.];

4. Where specific course work and/or a major field of study are required in the job specification or examination announcement:

i. An acceptable score on an appropriate CLEP Subject Examination may be substituted for college credit hours[.];

ii. An acceptable subscore on an appropriate subsection of the CLEP General Examination may be substituted for undergraduate college credit hours for the course work requirement[.];

5. Acceptable scores achieved on any of the CLEP Subject Examinations shall be viewed to correspond to those credits normally earned during the final two years of a four-year college curriculum[.];

6. Acceptable scaled scores or subscores on the CLEP General Examination shall be viewed to correspond to those credits normally earned during the first two years of a four-year college curriculum[.]; **and**

7. Non-professional career employees must have permanent status and the required time in grade to be considered eligible to take promotional examinations.

[(d)](c) The CLEP General Examination and Subject Examinations are given at educational testing sites. Information

about testing site locations and application procedures can be obtained from the Educational Testing Service (ETS), Princeton, New Jersey and Thomas Edison College, Trenton, New Jersey.

[1. The Department of Civil Service will announce and conduct open competitive and promotional examinations.]

[2.](d) [Announcement of open competitive examinations will be made in the regular monthly "Job Opportunities Bulletin." The **Job Opportunities Bulletin** shall include general information on eligibility requirements and how prospective applicants may utilize CLEP [as outlined above].

[3.](e) Appointing authorities shall post, for ready access to employees, information about how employees may utilize CLEP [as outlined above].

[4.](f) [See N.J.A.C. 4:2-8.3 f]For provisions for substituting experience for college educational requirements[.], see N.J.A.C. **4:1-8.9.**

4:1-8.[12] **11** [Time for f]Filing of applications

(a) [The Chief Examiner and Secretary shall determine and include or cause to be determined and included in the public announcement of every examination a] **A closing date for the filing of applications, except in continuous recruitment[.], shall be included in the public announcement of every examination.**

(b) **All applications shall be filed by the announced closing date;** [A]applications [not] received [within the prescribed time limit] **after the closing date** will not be accepted, except that **mailed** applications [sent by mail] will be accepted if postmarked on **or before** the last day for filing and [actually] received before the examination is held.

[(b)] (c) The period for filing applications may be extended or reopened [by direction of the Chief Examiner and Secretary] provided that such action shall be properly advertised[.], or [in the case of promotion examinations] posted.

[(c)] (d) **The time and date that the Department of Civil Service receives the application** [of receipt] shall be recorded on each application. [and this] **The recorded time** shall be conclusive in any dispute concerning the time of filing.

4:1-8.[13] **12** Amendment of applications

(a) Prior to the [expiration of the period] **announced closing date** for filing applications [for an examination], an application which has been filed [and which] **but** [contains errors or] is **incorrect or incomplete[)]** may be amended or supplemented[:] **by filing corrective or supplemental material or an amended application.**

[1. By the filing of corrective or supplemental information; or]

[2. By the filing of an amended application, clearly designated as such, which shall be complete in itself, but shall]

1. An amended application shall be completed in full and clearly marked as an amendment. [include the] **It shall include all [desired] corrections and additions and shall be accompanied by all necessary [documentary] documentation, evidence or proof [in support thereof].**

(b) After the [expiration of the period] **announced closing date** for filing applications [for an examination], an **incorrect or incomplete** application which has been filed [and which contains errors or is incomplete)] may not be amended or supplemented by the addition of new items.

(c) Further information may be requested of the applicant[. This information must be submitted to the Civil Service Department] to explain [ing obvious] inconsistencies or to amplify and clarify [information] previously furnished **information.**

4:1-8.13 (Reserved)

4:1-8.14 Action against [prospective employees] **applicants and eligibles**

(a) The [Chief Examiner and Secretary shall take the] following actions **shall be taken** for any cause [listed] in [subsection] (b) **below** [of this Section or for any other good cause]:

1. Rejection of [the] examination application [of a person for admission to an examination];
2. [Refuse] **Refusal** to test an applicant;
3. [Refuse] **Refusal** to place [the] a candidate's name [of a person] on the employment list;
4. [Refuse] **Refusal** to certify [the] an eligible's name [of an eligible person]; [or]
5. [Remove] **Removal of** [from the employment list the] an eligible's name [of an eligible person.] **from the employment list;** or

6. Removal from employment.

(b) [Any of the following shall constitute good cause for such action by the Chief Examiner and Secretary against any prospective employee who:] **Cause for such actions as listed in (a) above is established where the applicant or eligible:**

1. Lacks the [established] qualification requirements for the [positions or employment for] title [which he applies];
2. [By law, i]s ineligible, **by law**, for [appointment or] employment in the [position] title;
3. Is physically or [mentally] **psychologically** unfit to perform effectively the duties of the [position] title;
4. Is addicted to the excessive use of drugs, narcotics or intoxicating beverages;
5. Has been convicted of any crime or other unlawful offense or has committed any act involving moral turpitude or infamous or disgraceful conduct;]
- [6.] **4.** Has been dismissed from the public service for delinquency or misconduct after an opportunity for a hearing;
- [7.] **5.** Has made a false statement of any material fact or attempted any deception or fraud in any Civil Service application, examination or in any information submitted to secure eligibility or appointment; [or]
- 6. Has a prior employment history which relates adversely to the title; or**
- 7. Other sufficient reasons as determined by the Civil Service Commission.**

[8. Refuses to execute any oath prescribed by law.]

(c) **An appointing authority may refuse to appoint an eligible due to a record of criminal conviction that relates to the appointment sought. See N.J.S.A. 11:10-6.1.**

[c] (d) [The Chief Examiner and Secretary may admit to an examination and subsequently, with the concurrence of the appointing authority, certify as eligible for employment any person who is ineligible under paragraphs, 6 and 7 of subsection (b) of this Section, but who has been rehabilitated to the extent that such employment would not be against public interest.] **A candidate who is ineligible pursuant to (b) 4, 5 and 6 above may be admitted to the examination and, with the appointing authority's concurrence, certified to the title.** [In accordance with N.J.S.A. 40A:14-122 and 40A:14-9] **However**, this exception shall not apply to police and fire [positions] titles, nor [shall this exception] extend to local government services [situations] when [such exception is] specifically precluded by law.

[d] (e) No person suffering a physical defect due to injury incurred in the armed services shall be discriminated against because of such defect unless the Civil Service Commission considers the defect incapacitating.

[e] (f) [The rejection of an application or other action against any person, under this rule, shall not be effective until the person is notified in writing of such action, together with the reasons therefor.] **When the applicant or candidate receives written notice of the action, including the reasons, the action becomes effective.**

[(f) See also N.J.A.C. 4:3-8.12.]

(g) **An applicant or eligible may appeal the above actions. See N.J.A.C. 4:1-8.21, 4:1-8.22 and 4:1-8.23.**

[4:1-8.15 Right of review]

(See New Jersey Administrative Code for text proposed for repeal.)

4:1-8.[11]15 Time and place of examinations

(a) An examination may be held in one or more sessions and at one or more places. [and a] **Applicants shall be notified of the time and place [at which they shall be required to appear for such] of the examination.**

(b) Officials having control of the buildings of any jurisdiction operating under Civil Service shall furnish convenient offices and rooms for examination purposes upon requisition by the **Civil Service Commission.**

(c) [The administration of a] **All or any part of an examination may be postponed or cancelled at any time for sufficient reason. Notice of such postponement or cancellation shall be provided in an appropriate manner.**

(d) Candidates shall [appear] **be at the examination center at the designated time and shall not be admitted after such time except in accordance with these rules.**

(e) Candidates for written examinations and examinations containing a written and performance part [arriving not more than thirty (30) minutes late at the examination center test room] shall be admitted to the examination **if they arrive at the examination center test room within 30 minutes after the designated time.** Candidates arriving more than [thirty (30)] minutes after the [ir] designated time shall not be admitted to the examination.

(f) [If c]Candidates [are notified that a " for a timed test"] is to be held, they] shall not be admitted if they are more than five [(5)] minutes late at the examination center test room. Examples of timed tests are typing, stenography and transcribing examinations.

(g) Candidates for oral and performance examinations shall be admitted **up to 30 minutes late** provided that the last scheduled candidate has not started the examination. [Candidates shall not be admitted if the last scheduled candidate has started the examination and thirty (30) minutes have elapsed since the late arrival's scheduled time.] The last scheduled candidate shall be admitted [up to but not] **if no more** more than [thirty (30)] minutes late.

(h) [Late arriving c]Candidates **who arrive late and are admitted to the examination** will receive total allotted time to complete an examination.

[(i) See also N.J.A.C. 4:2-8.10, 4:3-8.9, 4:3-8.10 and 4:3-8.11.]

4:1-8.22 Reasonable accommodation in testing handicapped applicants

(a) The Chief Examiner and Secretary shall make reasonable accommodation for administering examinations to otherwise qualified handicapped applicants.

(b) Such applicants must submit a request for accommodation along with the examination application. It must specify the nature of the handicap and the accommodation desired.

(c) The decision of the Chief Examiner and Secretary on whether or not accommodation can be made shall be final. (See also N.J.A.C. 4:1-8.23 waiver of examination.)]

4:1-8.16 Accommodation for disabled or handicapped persons

(a) **Otherwise qualified candidates who have a disability or handicap may request accommodation in taking an examination by indicating their request for accommodation on the examination application.**

(b) **Upon receipt of the application with the candidate's request for accommodation, the Division of Examinations shall provide reasonable accommodation where appropriate and notify the candidate of the arrangements.**

(c) **The Division of Examinations may arrange reasonable accommodation for disabled or handicapped persons who request accommodations but did not indicate the request on the examination application.**

[4:1-8.16 Admission to examination pending review]

(See New Jersey Administrative Code for text proposed for repeal.)

4:1-8.[23]17 Waiver of examination for [permanently] handicapped [individuals] **persons**

(a) The President of the Civil Service Commission may waive an examination for otherwise qualified permanently handicapped examination applicants who cannot be accompanied pursuant to N.J.A.C. 4:1-8.22 and for otherwise qualified provisional employees where reasonable accommodation in testing cannot be made.]

(b)(a) **Otherwise qualified** [E]examination applicant or **provisional employees who have a handicap that precludes the taking of an examination** may [submit a] request [for] a waiver of an examination. [to] **The request shall be filed with the** [Director,] Division of [Administrative] **Appellate Practices and Labor Relations** after the Chief Examiner and Secretary has determined that reasonable accommodation cannot be made. The request must be submitted within 20 days of the receipt of the Chief Examiner and Secretary's decision and include the following:], **Department of Civil Service, and shall include:**

1. The title and symbol number of the examination for which the waiver is requested **or the provisional's title and employer;**

2. A statement from the appointing authority **from which employment is sought or continued** that the applicant or employee can satisfactorily perform the duties of that title under actual conditions of service;

3. **A statement as to whether the applicant or employee has filed for or taken an examination for the title, the results of any examination and whether accommodation for the handicap has been made previously; and**

[3.] 4. A doctor's statement with supporting medical documentation and related information describing the specific [permanent] handicap and how **the handicap** [this is related to taking the examination] **precludes the applicant or employee from taking an examination; and**

[4.] 5. A statement of **agreement** by the applicant or employee [that s/he agrees] to undergo such additional physical or psychological examination as may be required by the President of the Civil Service Commission.

(b) **Where reasonable accommodation can be made, the request for waiver will be denied and referred to the Division of Examinations for consideration.**

(c) **Where reasonable accommodation cannot be made, the President of the Civil Service Commission shall determine whether to grant an examination waiver.**

1. **If an examination is waived, the President shall determine whether the applicant is to be employed or placed on an eligible list and the manner of such placement. The President may, in appropriate circumstances, grant seniority for record purposes.**

2. **Determinations by the President shall be final.**

(c) Provisional employees may submit a request for waiver of examination to the Director, Division of Administrative Practices and Labor Relations, if an examination has not been announced and there is no eligible list. The request must include the following information:

1. The employee's provisional title;

2. A statement from the employee's appointing authority that s/he can satisfactorily perform the duties of his or her provisional title under actual conditions of service;

3. A doctor's statement with supporting medical documentation and related information describing the specific permanent handicap and how this is related to taking the examination;

4. A statement by the employee that s/he agrees to undergo such additional physical or psychological examination as may be required by the President of the Civil Service Commission.

(d) The Director, Division of Administrative Practices and Labor Relations, shall refer all requests for waiver of examination to the Chief Examiner and Secretary who shall review such requests and determine whether or not an accommodation can be made in administering an examination. The Chief Examiner and Secretary's

decision regarding accommodation shall be final. If accommodation can be made, the provisional employee must file an application when the examination is held. If accommodation cannot be made, the request for waiver of examination will be submitted to the President of the Civil Service Commission.

(e) The President shall determine whether or not the examination shall be waived. If an examination is waived, the President shall determine whether the applicant shall be immediately employed with permanent status subject to successful completion of the working test period or shall be placed on an eligible list and the manner of such placement. Determinations by the President shall be final.]

4:1-8.18 Applications retained for Commission]

(See New Jersey Administrative Code for text proposed for repeal.)

4:1-8.[19]18 Conduct of examinations

(a) [Every e]Examinations shall [be so conducted as to] assure all applicants of an equal opportunity to demonstrate their [qualifications] **knowledge, skills** and abilities. [The Chief Examiner and Secretary shall institute procedures and take precautionary measures or other necessary action] **Precautions shall be taken to prevent:**

1. Unauthorized persons from securing in advance questions or other material to be used in **the development of** [a test] **an examination**, unless the same are available [for] to all applicants;

[3.] 2. Unauthorized persons from securing information concerning the number or [identify] **identity** of applicants [in any competitive test] until all parts of the examination have been held and the resulting employment list has been promulgated;

[2.] 3. [The i]Identification of **an applicants' test papers or work** [by an examiner or any other person] where [identity is concealed] **anonymity is required**, of papers or work of an applicant in a test] before [the papers or work of] all **examinations** [applicants in such test] have been rated;

[5.] 4. [Any person from] **The** [impersonating] **impersonation of** of an applicant [in any test,] either in person[,] or by the improper exchange of applicant numbers or in any other manner;

[4.] 5. [An applicant, while taking an examination, from using] **The use of** any unauthorized [source of] information or other material as an aid in answering the questions or performing work assigned [in any test]; **and**

6. The participation [or continued participation] in an examination [or any part thereof by an applicant] when such participation would be likely to result in any physical injury to the applicant or any other person or in [any] property damage.

[(b) See also N.J.A.C. 4:2-8.12, 4:2-8.13, 4:3-8.14 and 4:3-8.15]

4:1-8.20 Penalties]

(b) [Applicants who violate the provisions of these rules relating to conduct of persons during examinations shall be subject to mandatory disqualification from further participation in such examination, possible rejection from future examinations, and, where applicable, to legal prosecution and punishment as provided by law.] **Applicants or other persons who violate examination requirements may be subject to disqualification from participation in such examination, rejection from future examinations, and, where applicable, to prosecution and punishment as provided by law.**

4:1-8.[21]19 Make-up examinations

(a) Make-up examinations [shall] **may be permitted for the following** [causes] **reasons:**

1. Administrative error by the Department of Civil Service[;] **or**

[2. Administrative error by] the appointing authority[, in promotional examinations, provided the Department of Civil Service is notified in writing of the error];

[3.] 2. Military assignments of a temporary or emergency nature

occurring after the candidate files an application and on or before the examination date, provided the candidate furnishes evidence of assignment;

[4.] **3.** Serious illness or disability of the candidate on the test date, provided the candidate submits a physician's certificate [is supplied] which specifies that [the physician advised] the candidate was not to take the test on that day for medical reasons;

[5.] **4.** Serious illness or death in the candidate's immediate family [of the candidate], provided the candidate [furnishes] submits evidence of the illness or death;

[6.] **5.** Natural disasters ("acts of God"); for example, flood[,] or riot [and so forth];

[7.] **6.** Vacation or travel plans [outside the state] which cannot be reasonably changed provided supportive sworn statement and appropriate evidence are [furnished] submitted; or

[8.] **7.** Other valid [cause] reasons [as determined by the Chief Examiner and Secretary].

(b) Except in the case of administrative error, the candidate must notify the Department of Civil Service of a make-up request no later than five days after the examination date or, in the case of military assignment or vacation or travel, before the test date.

(c) Make-up examinations will be administered as far as possible under the same conditions as the original examination and, in the case of oral or performance examinations, by the same personnel [whenever possible. The exceptions to this are] **except that:**

1. Police and fire **physical performance and** promotional written make-up examinations will be held [with the next scheduled test and any resultant eligibles will be added to the original list.] **pursuant to N.J.A.C. 4:1-8.20;**

2. Skilled trade performance tests and physical performance tests will be held with the next scheduled test and [any resultant] **the** eligibles will be added to the original list[.]; **and**

3. For open competitive examinations which are held more than once a year and which may be scheduled again within six months, make-up tests may be held with the next regularly scheduled test for the same title and jurisdiction and [any resultant] **the** eligibles will be added to the original list.

(d) All candidates taking make-up examinations, except those specified in (c)1 and (c)3 above, [will] **shall, as a precondition to taking the make-up test,** be required to sign a statement [attesting to the fact] that they have no knowledge of the content of the test as the result of information gained from or furnished by other candidates who participated in the original test [as a precondition to taking the make-up test].

(e) When a test[ing format is used that] requires multiple assessments of a candidate[, such as assessment centers or targeted selection,] which results in a group consensus rating by a panel of [specially trained subject matter] experts, a make-up examination shall [be deemed inappropriate and will] not be held. The only exception to this will be documented error on the part of the Department of Civil Service. In this case, a make-up may be granted if practicable.

[4:3-8.10] **4:1-8.20** Make-up [tests on physical part of police and fire] examinations **for police and fire titles**

(a) [This section describes the procedure to be used for make-up tests on the physical part of police and fire examinations.]

[(b) Procedure:]

[1.] The Division of Examinations will grant make-up tests on the physical performance part of [the above examinations] **police and fire examinations** to [individuals] **candidates** who pass the written examination but [who] because of some temporary physical incapacity are not able to participate in the physical performance test. This incapacity will be determined by the staff doctor at the time of the examination.

[2.] **1.** If the staff doctor determines that the [individual] **candidate** should not participate in the physical part of the [test] **examination**, the [individual in question] **candidate** will be permitted to take a make-up **examination** [test]. The make-up [test] **examination**

must be taken within 14 days of the date of the written examination if a medical [physical] examination is scheduled in that period; ~~or~~ **if a medical examination cannot be scheduled within 14 days, the make-up examination may be taken on the next scheduled date.**

[(c)] **2.** The Division of Examinations[, Department of Civil Service,] will not notify the [individual] **candidate** of the date of the make-up physical performance test[.]; **however,** [I]it will be the [responsibility of the] individual's **responsibility** to contact the Division [of Examinations] as soon as [s/he] **he or she** is [physically] able to participate. [so that a make-up test can be arranged.]

3. If the [applicant] **candidate** is successful in passing the physical performance part, his[or] her name will be added to the employment list. This procedure [will] **shall** not effect any appointments made prior to the addition of the applicant's name to the employment list.

[4:3-8.11] **Make-up examinations in police and fire promotional situations**

(a) This section describes the procedure to be used for make-up police and fire promotional examinations.

(b) Procedure:

1. The Division of Examinations will use every means possible, including making special arrangements where practicable, to test candidates for police and fire promotional examinations on the day of the examination.]

[2.](b) [Candidates who miss the original] **The Division of Examinations will grant make-up tests for promotional examinations [and] to candidates who submit proper evidence of a valid reason for missing the examination.** [will be given a make-up examination] **The examination will be given at the next testing series for police and fire promotional [examinations] titles.** [The make-up examination will be the same examination given to all candidates of each rank at that time. The comparability of this examination with the original examination will be determined by statistical means.]

[3.] **1.** [The names of successful] **If the candidate[s] in the make-up examination passes the promotional examination, his or her name will be [put on] added to the original employment list in the proper [rank] order of rank and certified accordingly in future certifications.** Any certifications and appointments made prior to this addition to the employment list would not be affected by this procedure.

4:1-8.21 Appeals: General

(a) **Examination matters including actions pursuant to N.J.A.C. 4:1-8.14 and complaints related to the examination process may be appealed pursuant to N.J.A.C. 4:1-8.22 (State) or N.J.A.C. 4:1-8.23 (local).**

(b) **The appellant has the burden of proof in an examination appeal.**

(c) **An appeal shall not interfere with the promulgation of an employment list, a certification or an appointment unless ordered otherwise by the Commission.**

(d) **A person who has an appeal pending concerning rejection of an application may be admitted to the examination at the discretion of the Director of Examinations. However, the applicant's examination shall not be processed while the review is pending.**

[4:2-8.11] **Appeals concerning eligibility and examination matters]**

4:1-8.22 Appeals: State

(a) This section [delineates the examination appeal system.] **shall apply to all examination appeals in State government and those matters in county and municipal government as provided in N.J.A.C. 4:1-8.23.**

[(b) The examination appeal system encompasses all complaints on the following matters:

1. Rejection of an application;
2. Refusal to test an applicant;
3. Refusal to place the name of a person on the employment list;
4. Refusal to certify the name of an eligible;
5. Removal from the employment list of the name of an eligible person; and
6. All other complaints that are integrally related to the examination process.

(c) The burden of proof in an examination appeal is on the appellant.]

[(d)] (b) Appeals must include the examination title and symbol number, [They must specify the adverse] the action being appealed and [delineate] the specific objections. Appeals protesting examination questions must [be specific regarding] specify the questions being contested. (While candidates are not permitted to copy specific questions, they are permitted to copy down the question numbers.)

[(e)] (c) First level of appeal [of examination appeals]:

1. [The first level of] **Submit the appeal** [is] to the Division of Examinations, Department of Civil Service, CN 310, Trenton, New Jersey 08625[.], [This appeal must be taken] within 20 days of notice of the action **being appealed** [complained of].

[2.] The assistant director[, in charge of the appropriate unit] will review the appeal and [inform] **send** the appellant [of his/her determination. This] a **decision** letter [of decision will include] **including** findings of fact, conclusion, decision and [information regarding right of] appeal **rights** to the Director[, Division] of Examinations.

[(f)](d) Second level of appeal [of examination appeals]:

1. [The second level of] **Submit the appeal** [is] **with all issues and related proofs or arguments** to the Director[, Division] of Examinations, Department of Civil Service, CN 310, Trenton, New Jersey 08625[.], [This appeal must be taken] within 20 days of the notice of the decision of the assistant director[.]; [The appellant must present all issues and related proofs or arguments pertaining to the appeal to the Director, Division of Examinations.]

2. The Director[, Division] of Examinations will review the appeal and [inform] **send** the appellant [of his/her determination. This] a **decision** letter [of decision will include] **including** findings of fact, conclusion, decision and [information regarding right of] appeal **rights** to the Civil Service Commission.

[(g)] (e) Third level of appeal [of examination appeals]:

1. [Appellant have a right to] **Submit the appeal** to the Civil Service Commission [from the Director, Division of Examinations' decision] within 20 days of receipt of [that] the **decision letter** [(N.J.A.C. 4:1-8.15). Appeals should be addressed] to the Director, Division of [Administrative] **Appellate Practices and Labor Relations**, CN 312, Trenton, New Jersey 08625. [On appeal to the Civil Service Commission, t]The Commission will only consider the issues and related proofs or arguments presented to the Director of [the Division of] Examinations[.];

[2. An appeal to the Civil Service Commission must include all information specified in (d) above. Upon receipt of an appeal, the Director, Division of Administrative Practices and Labor Relations will compile all necessary information from the Department of Civil Service and/or the appointing authority.]

[3. When all the necessary information is compiled, the appeal will be presented to the Civil Service Commission for its final administrative determination.]

[(h)] 2. Appeals [to the Civil Service Commission regarding examination matters] will be treated as a review of the written record [pursuant to N.J.A.C. 4:1-8.15]. No hearing will be granted except in those limited instances where the Commission determines[, following this review of the written records,] that a significant dispute of material fact exists which can only be resolved through a hearing.

[(i)](f) [If there is more than one party to an appeal each party]

All parties must be served copies of all materials [submitted on all other parties].

[(j)] (g) Refer to N.J.A.C. 4:2-12.1[6 and 12.8] and 4:2-12.2 for appeals from rejection for psychological, psychiatric or medical reasons.

[(k)] An appointing authority may refuse to appoint an examination candidate due to a record of criminal convictions provided the appointing authority conforms to the requirements of Chapter 160, Laws of 1974. Such refusals to appoint are subject to review by the Civil Service Commission on appeal.]

[(l)] (h) A [decision of the] Civil Service Commission **decision** is [a] the final administrative determination. [As such, any further appeal should be directed to the Appellate Division of the Superior Court.]

[4:3-8.13 Appeals concerning eligibility and examination matters]

4:1-8.23 Appeals: County and Municipal Government Services

(a) **This section shall apply to local governments only.**

[(a)] This section delineates the appropriate Division within the Department of Civil Service which will consider appeals dealing with various topics and describes the appeal system within the Department of Civil Service.]

[(b)] The eligibility and examination appeal system encompasses all complaints on the following matters (and all other complaints that are integrally related to the examination process):]

[1.] (b) **The following appeals shall be submitted to the Division of Examinations under the same procedures as in** [will consider the following types of appeal] N.J.A.C. 4:1-8.22:

[i. Pre-establishment of eligible list:]

[(1)] 1. Appeals concerning rejection of a person's application because [s/he did not meet] **of not meeting** the announced qualification requirements (education and/or experience);

[(2)] 2. Appeals concerning the granting of veteran's preference;

[(3)] 3. Appeals concerning the validity of examination in whole or specific questions;

[(4)] 4. Appeals concerning the administration of any examination[.];

[ii. Post-establishment of eligible list:]

[(1)] 5. Appeals concerning the grading of any examination including the actual calculation of seniority on promotions;

[(2)] 6. Appeals resulting from failure of any examinations[.]; and

7. **Appeals pursuant to N.J.A.C. 4:1-8.14 that are not covered in (c) below.**

[2.] (c) The Division of [Local] **County and Municipal Government Services** [will] **shall** consider the following [types of] **appeals under the procedures below:**

[i. Pre-establishment of eligible list:]

[(1)] 1. Appeals concerning [the geographic (residency) scope of open competitive examinations] **refusal to certify or appoint an eligible because of failure to meet residence requirements pursuant to N.J.A.C. 4:1-8.8;**

[(2)] 2. Appeals concerning the validity of announced requirements for [admittance to all local] promotional examinations[.];

[(3)] 3. Appeals concerning the title and organizational unit scope [which] for promotional examinations [are opened to];

[(4)] 4. Appeals concerning time-in-grade requirements for promotional examinations;

[(5)] 5. Appeals concerning seniority entitlement for eligibility for promotion[.];

[ii. Post-establishment of eligible list:]

6. [(1) All a] Appeals concerning the removal of an eligible's name from an [local] open competitive or promotional list;

[(2)] 7. Requests to extend the duration of an existing list [in the local service]; and

[(3)] 8. Requests for the limited revival of an expired list including those in accordance with N.J.S.A. 11:9-10.1.

[(c) The burden of proof in an examination appeal is on the appellant.]

(d) Appeals must include the examination title and symbol number, [the] they must specify the adverse [the] action being appealed and [delineate] the specific objections. Appeals protesting examination questions must [be specific regarding] specify the questions being contested. (While candidates are not permitted to copy specific questions, they are permitted to copy down the question numbers.)

[(e) First level of appeal to the Division of Examinations:

1. The first level of appeal is to the Division of Examinations, Department of Civil Service, CN 310, Trenton, New Jersey 08625. This appeal must be taken within 20 days of notice of the action complained of.

2. The assistant director in charge of the appropriate unit will review the appeal and inform the appellant of his/her determination. This letter of decision will include findings of fact, conclusion, decision and information regarding right of appeal to the Director, Division of Examinations.]

[(f) (e) First level of appeal [to the Division of Local Government Services]:

1. [The first level of] **Submit the** appeal [is] to the Division of [Local] **County and Municipal** Government Services, Department of Civil Service, CN 316, Trenton, New Jersey 08625, [the] This appeal must be taken [within 20 days of notice of the action being appealed] [complained of].

[2.] The [appropriate] office manager will review the appeal and [inform] **send** the appellant [of his/her determination. This] **a decision** letter [of decision will include] including findings of fact, conclusion, decision and [information regarding right of] appeal rights to the Director, Division of [Local] **County and Municipal** Government Services.

[(g) Second level of appeal to the Division of Examinations:

1. The second level of appeal is to the Director, Division of Examinations, Department of Civil Service, CN 310, Trenton, New Jersey 08625. This appeal must be taken within 20 days of notice of the decision of the assistant director. The appellant must present all issues and related proofs or arguments pertaining to the appeal to the Director, Division of Examinations.

2. The Division of Examinations will review the appeal and inform the appellant of his/her determination. This letter of decision will include findings of fact, conclusion, decision and information regarding right of appeal to the Civil Service Commission.]

[(h) (f) Second level of appeal: [to the Division of Local Government Services]:

1. [The second level of] **Submit the** appeal [is] **with all issues and related proofs or arguments** to the Director, Division of [Local] **County and Municipal** Government Services, Department of Civil Service, CN 316, Trenton, New Jersey 08625[.], [This appeal must be taken] within 20 days of notice of the decision of the office manager[.]. The appellant must present all issues and related proofs or arguments pertaining to the appeal to the Director, Division of Local Government Services.];

2. The Director, Division of [Local] **County and Municipal** Government Services will review the appeal and [inform] **send** the appellant [of his/her determination. This] **a decision** letter [of decision will] including findings of fact, conclusion, decision and [information regarding right of] appeal rights to the Civil Service Commission.

[(i) Third level of appeal to the Division of Examinations:

1. Appellants have a right to appeal to the Civil Service Commission from the Director, Division of Examinations' decision within 20 days of receipt of that decision (N.J.A.C. 4:1-8.15). Appeals should be addressed to the Director, Division of Administrative Practices and Labor Relations, CN 312, Trenton, New Jersey 08625. On appeals to the Civil Service Commission, the Commission will only consider the issues and related proofs or arguments presented to the Director, Division of Examinations.

2. An appeal to the Civil Service Commission must include all

information specified in (d) above. Upon receipt of an appeal, the Director, Division of Administrative Practices and Labor Relations will compile all necessary information from the Department of Civil Service and/or the appointing authority.

3. When all the necessary information is compiled, the appeal will be presented to the Civil Service Commission for its final administrative determination.]

[(j) (g) Third level of appeal [to the Division of Local Government Services]:

1. [Appellants have a right to] **Submit the** appeal to the Civil Service Commission [from the Director, Division of Local Government Services, decision] within 20 days of receipt of [that] **the decision letter** [(N.J.A.C. 4:1-8.15). Appeals should be addressed] to the Director, Division of [Administrative] **Appellate** Practices and Labor Relations, CN 312, Trenton, New Jersey 08625. [On appeals to the Civil Service Commission, t]The Commission will only consider the issues and related proofs or arguments presented to the Director[, Division] of [Local] **County and Municipal** Government Services.

[2. An appeal to the Civil Service Commission must include all information specified in (d) above. Upon receipt of an appeal, the Director, Division of Administrative Practices and Labor Relations will compile all necessary information from the Department of Civil Service and/or the appointing authority.

3. When all the necessary information is compiled, the appeal will be forwarded to the Civil Service Commission for its final administrative determination.]

[(k) 2. Examination [A]appeals [to the Civil Service Commission from a decision of the Director, Division of Examinations] will be treated as a review of the written record [pursuant to N.J.A.C. 4:1-8.15]. No hearing will be granted except in those limited instances where the Commission determines], following a review of the written record,] that a significant dispute of material fact exists which can only be resolved through a hearing.

[(l) Appeals to the Civil Service Commission from a decision of the Director, Division of Local Government Services, will be treated as a review of the written record pursuant to N.J.A.C. 4:1-8.15. No hearing will be granted except in those instances where the Commission determines, following a review of the written record, that a significant dispute of material fact exists which can only be resolved through a hearing.]

[(m)(h) [If there is more than one party to an appeal each] **All [party] parties to an appeal must be served** copies of all materials [submitted on all other parties].

[(n) (i) Refer to [N.J.A.C. 4:3-12.6 and N.J.A.C. 4:3-12.8] **N.J.A.C. 4:3-12.1 and 4:3-12.2** for appeals from rejection for psychological, psychiatric or medical reasons.

[(o) An appointing authority may refuse to appoint due to a record of criminal convictions provided the appointing authority conforms to the requirements of Chapter 160, Laws of 1974. Such refusals to appoint are subject to review by the Civil Service Commission on appeal.]

[(p) (j) A [decision of the] Civil Service Commission decision is [a] **the final administrative determination.** [As such, any further appeal should be directed to the Appellate Division of the Superior Court.]

SUBCHAPTER 8. EXAMINATIONS AND APPLICATIONS

4:2-8.1 Interim status of permanent employees promoted to higher class

(a) This section describes the policy and procedure applicable to any employee with permanent status in the classified service who has been promoted to a higher class in the same organizational unit and is serving provisionally or in a working test period.

(b) The provisional or probationary employee is considered to be continuing in the lower class (permanent status) while serving provisionally or in a working test period in the higher class and continues to accrue seniority in the lower class.

(c) Procedures:

1. It is not necessary to grant this employee a leave of absence from the lower class. An employee's tenure rights to the lower class continue until the employee becomes permanent (successfully completes his working test period) in the higher class. Appointments replacing the employee in the lower class are made in accordance with the laws and rules concerning permanent positions. An employee in the higher class is not eligible for other promotional examinations at the higher level while serving his/her working test period. If an employee fails the working test period, or otherwise returns to his/her lower permanent title, and a promotional examination for which s/he is eligible was announced in the interim, s/he may request a make-up examination.

2. Any such employee who is discontinued in that higher class during provisional employment or his/her working test period shall be returned to the duties and responsibilities of the lower class unless s/he has been otherwise disqualified for further employment. See N.J.A.C. 4:2-4.1 for procedures for the return of provisional employees and employees who fail their working test period and provisional employees to their permanent titles.

(d) This policy and procedure applies to all situations in which a permanent employee is promoted to a higher class whether the promotion is from the noncompetitive or labor division to the competitive divisions or within any of the divisions of the classified service.

1. Promotion is to be interpreted for salary reasons only: an employee in the non-competitive or labor division can be appointed to a higher position but is not eligible for a promotion.

4:2-8.2 through 4:2-8.13 (Repeal and Reserve)

(See New Jersey Administrative Code for text proposed for repeal.)

4:3-8.1 [Policy as to opening of promotional examination] (Reserved)

(See New Jersey Administrative Code for text proposed for repeal.)

4:3-8.2 Policies concerning the promotion of professional and non-professional employees in county welfare boards

(a) This section defines the Department of Civil Service's policies with regard to promotions of professional and non-professional employees in the Social Work and Income Maintenance series of positions in County Welfare Boards.

(b) Definitions:

1. Social Work Series: A group of positions involving the gathering of required social information, the assessment of the case, and the implementation of a preventative, rehabilitative, and/or supportive social services treatment program. This series encompasses the following titles:

- i. Administrative Supervisor of Social Work;
- ii. Assistant Administrative Supervisor of Social Work;
- iii. Social Work Supervisor;
- iv. Social Work Specialist;
- v. Social Worker;
- vi. Social Service Technician;
- vii. Social Service Aide.

2. Income Maintenance Series: A group of positions involving the performance of eligibility determination, validation of initial public assistance applications, and redeterminations of eligibility for financial assistance. This series encompasses the following titles:

- i. Administrative Supervisor of Income Maintenance;
- ii. Assistant Administrative Supervisor of Income Maintenance;
- iii. Income Maintenance Supervisor;
- iv. Income Maintenance Specialist;
- v. Income Maintenance Technician;
- vi. Income Maintenance Aide.

(c) General policy:

1. In all promotional situations in County Welfare Boards (including promotions from non-professional to professional

positions) the Department of Civil Service will adhere to its standard policy of opening eligibility for promotion down to the class level of the provisional incumbent if any.

2. For a period of one year from the date of the issuance of this section, eligibility to compete in promotional examinations will automatically be opened to lower level classes of positions in both the Income Maintenance and Social Work series regardless of the occupational series from which the provisional appointment is made. After the expiration of this initial one year period, eligibility to compete in promotional examinations will be limited to class titles within the respective series indicated above unless the appointing authority:

- i. Provisionally promotes a permanent employee from series to the other; or
- ii. Specifically requests in writing that a promotional examination be opened to both series.

(d) In order to qualify for promotional examinations to higher level positions in either the Social Work or Income Maintenance series all applicants must meet both the following two conditions:

1. S/he must be a permanent employee in a class to which the examination is opened for at least one year immediately preceding the announced closing date for filing applications; and

2. S/he must possess both the educational and work experience requirements contained in the class specification for the position to which the promotion is being made.

(e) Lateral title changes from positions in one series to comparable positions in the other series will not be granted except for those who had previously attained permanent status in the other series.

4:3-8.3 Interim status of permanent employees promoted to higher class

(a) This section describes the policy and procedure applicable to any employee with permanent status in the classified service who has been promoted to a higher class in the same organizational unit and is serving provisionally or in a working test period.

(b) The provisional or probationary employee is considered to be continuing in the lower class (permanent status) while serving provisionally or in a working test period in the higher class and continues to accrue seniority in the lower class.

(c) Procedures:

1. It is not necessary to grant this employee a leave of absence from the lower class. An employee's tenure rights to the lower class continue until the employee becomes permanent (successfully completes his working test period) in the higher class. Appointments replacing the employee in the lower class are made in accordance with the laws and rules concerning permanent positions. An employee in the higher class is not eligible for other promotional examinations at the higher level while serving his/her working test period. If an employee fails the working test period, or otherwise returns to his/her lower permanent title, and a promotional examination for which s/he is eligible was announced in the interim, s/he may request a make-up examination.

2. Any such employee who is discontinued in that higher class during provisional employment or his/her working test period shall be returned to the duties and responsibilities of the lower class unless s/he has been otherwise disqualified for further employment. See N.J.A.C. 4:2-4.1 for procedures for the return of provisional employees and employees who fail their working test period and provisional employees to their permanent titles.

(d) This policy and procedure applies to all situations in which a permanent employee is promoted to a higher class whether the promotion is from the noncompetitive or labor division to the competitive divisions or within any of the divisions of the classified service.

1. Promotion is to be interpreted for salary reasons only: an employee in the non-competitive or labor division can be appointed to a higher position but is not eligible for a promotion.

- 4:3-8.4 [Exceptions to the qualifications for promotional examination]
- 4:3-8.5 [Eligibility for promotion and seniority]
- 4:3-8.6 [Eligibility of persons residing on military reservations in the State of New Jersey]
(See New Jersey Administrative Code for text proposed for repeal.)

4:3-8.7 **4** Service credits schedule for volunteer firefighters
 [(a) This section establishes a schedule to be used for assigning service credits for qualifying volunteer firefighters when competing in open-competitive examinations for permanent appointments to a paid fire department force.]
 [(b) When a municipality has a volunteer fire company and paid positions are created, any volunteer firefighter who has actively served for at least two years is entitled to service credits in addition to his earned examination [rating] score. The highest possible examination score will be 90 percent before the additional possible 10 point maximum service credit. Service credits are to be not less than three nor more than 10 points[. These provisions are stipulated in] pursuant to N.J.S.A. 40A:14-45. **To calculate credit, add one point more than the number of years in service to a passing score; for example, add three points for two years of service, four points for three years of service, five points for four years of service, etc..**

[(c) Schedule:]
 [1. To a passing examination score additional points will be added based on the number of years service in accordance with the following:
 i. For the minimum of two years, three points will be awarded;
 ii. For three years service, four points will be awarded;
 iii. For four years service, five points will be awarded;
 iv. For five years service, six points will be awarded;
 v. For six years service, seven points will be awarded;
 vi. For seven years service, eight points will be awarded;
 vii. For eight years service, nine points will be awarded;
 viii. For nine years service, ten points will be awarded.]
 [ix.] Any service time in excess of nine years will be awarded the 10 point maximum.
 [2. The highest possible examination score will be 90 percent, prior to the additional possible 10 point maximum credit.]

4:3-8.8 through 4:3-8.17 (Repeal and Reserve)
 (See New Jersey Administrative Code for text proposed for repeal.)

[4:2-8.9]
 [4:3-8.8] **4:1-21.6** Discriminatory inquiries on preemployment application forms used by appointing authorities

(a) This section addresses the extent to which preemployment applications may contain questions concerning subject areas which may be discriminatory. Discriminatory questions include questions based on sex, race, ancestry or national origin, political or religious affiliations, age, marital status or handicap. This section does not apply to application forms used by the Department of Civil Service for examination purposes, to Civil Service post-employment forms, or to questions required by the State or Federal government for statistical purposes.

(b) Discrimination is prohibited under Civil Service laws and rules. Specific classes or categories of discrimination in employment are prohibited under Federal and State Civil Rights law and Executive Order No. 61. The Civil Service Commission, exercising its responsibility to enforce the provisions of Civil Service laws and rules, is issuing the following guidelines.

1. Name: To verify qualifications, an applicant may be asked if s/he ever worked or was educated under another name[.];

2. Address: An applicant may be asked to supply his/her permanent address. The applicant may be asked to give the name and address of a person to contact to learn the applicant's address if s/he moves from present address. Do not ask for an applicant's past residence[.];

3. Age or birthdate[.];
 i. Questions shall not be included in the preemployment application unless the qualifications required by the Department of Civil Service or any applicable statute or rule include age. Permitted questions on applications must be accompanied by the statement "Do not answer unless it is a requirement as indicated in the public announcement from the position in the Civil Service Bulletin[.];

ii. An applicant may be asked if s/he has working papers and is under the lawful mandatory retirement age[.];

4. Sex and race/ethnic group:
 i. Questions concerning sex and race/ethnic groups may be used only for gathering data for statistical reporting purposes. They are to be accompanied by the statement that the information is used to comply with EEOC guidelines and the New Jersey State Affirmative Action Program. The portion of the form containing this information should be separable from the remainder of the application and removed before referring application for selection and interviewing purposes [.];

ii. Questions concerning sex or national origin may be used if the position has been assigned a bona fide occupational qualification in accordance with the provisions of N.J.A.C. 4:2-6.3. Such questions must be accompanied by a statement that "The Department of Civil Service has determined that a bona fide occupational qualification is necessary for the Title of _____; Civil Service Commission position number _____; determination issued (date)" [.];

5. Marital status: An applicant may not be asked his/her marital status. If this information is needed for tax, pension or insurance purposes, obtain the information after appointment[.];

6. Number of children. An applicant may not be asked how many children/dependents s/he has. If it is necessary to know the number of dependents for tax, pension or insurance purposes, obtain the information after appointment[.];

7. Provisions for child care: Do not ask questions concerning child-care arrangements[.];

8. Height and weight: Do not ask an applicant his/her height and weight[.];

9. Education: An applicant may be asked the highest level of education completed, vocational or professional education and schools attended[.];

10. Military record: Preemployment applications are not to contain questions concerning dates, conditions, or type of discharge. Necessary information for veterans preference purposes will be obtained by the Department of Civil Service. An applicant may be asked to include military service experience which is pertinent to the position applied for in the employment history section of the preemployment application. An applicant may be asked if s/he has been called to report for military duty[.];

11. Organizations: Questions concerning organizations to which an applicant belongs must pertain to the specific job requirements[.];

12. Driver's license: An applicant may be asked if s/he possesses a valid driver's license, but the question must be accompanied by the statement "Do not answer unless it is a requirement as indicated in the public announcement for the position in the Civil Service Bulletin." Do not request an applicant's driver's license number[.];

13. Language: An applicant may be asked what languages, other than English, s/he speaks, reads and/or writes, but the question must be accompanied by the statement "Do not answer unless it is a requirement as indicated in the public announcement for the position in the Civil Service Bulletin"[.];

14. Relatives: The name and address of relatives may not be required on a preemployment application. The applicant may be asked to give the name and address of a person to notify in case of

an emergency[.];

15. Citizenship:

i. Do not ask the applicant if s/he is a United States citizen or to submit a birth certificate, naturalization or baptismal record with the application. In certain instances such as employment of teachers or law enforcement officers, the employer may set citizenship as a criteria and inquire if the applicant is a citizen[.];

ii. An applicant may be asked if s/he is a permanent resident alien, and/or if s/he is in the United States on a visa which prohibits him/her from working here. These questions may be accompanied by the statement that if hired, the person may be required to submit proof of authorization to work in the United States[.];

16. Physical disabilities:

i. An applicant may be asked the following question: "Are you able to perform essential job related functions safely?" When voluntary action is being taken to overcome the effects of past discrimination, applicants may be invited to indicate whether and to what extent they are handicapped. The applicant must be apprised verbally or in writing (if written questionnaire used) that the information:

(1) Will be used in connection with remedial, voluntary or affirmative action efforts;

(2) Will be kept confidential; **and**

(3) Is requested on a voluntary basis, and refusal to furnish it will not subject applicant to adverse treatment.

ii. An offer of employment may be conditioned on successful completion of a medical examination, provided records are separate and confidential and the results of such examination are used only to determine applicant's ability to safely perform job-related functions and to determine reasonable accommodations necessary. Employers are obligated under law to make reasonable accommodations for the handicapped[.];

17. Photographs: An applicant may not be asked to supply a photograph with a preemployment application. After employment a photograph for identification purposes only may be required[.];

18. Arrest Records: Questions may not be asked concerning an applicant's arrest record. The only exceptions to this regulation are law enforcement agencies. Law enforcement agencies may request all information concerning arrest records. Such information may preclude employment. An applicant may be questioned about any arrest on criminal charges pending at the time of questioning[.];

19. Conviction record: An applicant may be asked to provide information on any criminal convictions which have not been expunged by the court. Expunged records are not to be considered for preemployment purpose except that information divulged on an expunged record may be examined for employment as a law enforcement officer. Questions about convictions must be accompanied by a statement advising the applicant that a criminal conviction record may only be considered when the crime related adversely to the position for which s/he is applying and will not preclude the person from consideration for appointment. An authorized certificate of rehabilitation must be reviewed and precludes denial of employment for job related reasons[.];

20. Credit: Questions may not be asked concerning credit rating, bankruptcy, car ownership, rental or home ownership or length of residence at an address unless bondability is a valid job requirement[.];

21. References: Applicants may be asked to supply the names of persons willing to provide character or professional references[.];

22. Availability for work on Saturdays and/or Sundays or holidays: An applicant may be asked if s/he is available for work on Saturdays and/or Sundays, weekends or holidays. The applicant must be advised that reasonable accommodation will be made for religious needs[.];

23. Neuter gender: a personal pronoun in a preemployment application must use both the feminine and masculine pronouns (i.e. his/her)[.]; **and**

24. Prefix: Do not require a prefix to an applicant's name (i.e., Mr., Mrs., Miss or Ms.).

COMMUNITY AFFAIRS

(a)

LOCAL FINANCE BOARD

Municipal Port Authorities Annual Budgets; Approval of Obligations; Guaranteed Bonds, Financing Agreements

Proposed New Rules: N.J.A.C. 5:30-10.1 and 10.2

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

Authority: N.J.S.A. 52:27BB-10, 40:68A-29 et seq. and
40:68A-43.1 (P.L.1981, c.547).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-403.

The agency proposal follows:

Summary

The proposed new rules govern the monitoring and approval process of the Local Finance Board with regard to certain fiscal affairs of municipal port authorities such as annual budget, obligations, municipal guarantees of authority bonds, financing agreements and the lease, sale and disposition of real property. N.J.S.A. 40:68A-43.1 (P.L.1981, c.547) authorizes the adoption of these rules by the Local Finance Board.

Social Impact

The New Jersey system of regulating local finance has proven to be a sound one which has served local governments and the public well. The proposed regulations will, pursuant to the provisions of P.L.1981, c.547, continue that effort by providing for greater oversight by the State of the financial condition and operation of municipal port authorities. The review and approval process of the annual budgets and financing arrangements of municipal port authorities by the Local Finance Board as required by P.L.1981, c.547 will serve to reinforce and protect the fiscal integrity of both municipal port authorities and municipalities which may choose to guarantee their bonds. These regulations will safeguard public funds.

Economic Impact

The requirement for compliance may involve some minor added administrative costs for municipal port authorities. For the local units affected by these regulations, the effect of the proposed regulations will be negligible as this type of information is required by statute.

Full text of the proposed new rules follows.

SUBCHAPTER 10. MUNICIPAL PORT AUTHORITIES

5:30-10.1 Annual budgets of municipal port authorities

(a) Every municipal port authority shall submit its annual budget to the Local Finance Board at least 45 days prior to the date upon which such budget is scheduled for final adoption for approval by the Local Finance Board.

(b) In reviewing and approving each such budget, the Local Finance Board shall consider whether:

1. All estimates of revenue contained in such budget are reasonable, accurate and fairly stated;
2. The items of appropriation contained in such budget are properly set forth;
3. The budget, in itemization, form, arrangement and content will permit the exercise of the comptroller function within the authority; and
4. The operating income anticipated in such budget will, together with all other anticipated revenues:
 - i. Produce sufficient revenues to satisfy all obligations to the bondholders of the authority;
 - ii. Meet operating expenses, capital outlays and debt service requirements; and
 - iii. Provide for necessary reserves, all as may be required by law, regulations or terms of contracts and agreements.

(c) The Local Finance Board may require that a municipal port authority provide it with whatever information and documentation it may deem necessary in connection with its review.

(d) If the Local Finance Board finds that the foregoing conditions have been satisfied, it shall approve the budget; otherwise, it may determine either to disapprove it or to require amendments thereto. In considering whether or not to approve the budget, the Local Finance Board shall not substitute its discretion with respect to an amount of an appropriation when the amount is not made mandatory by law or regulation.

(e) In the event the Local Finance Board shall disapprove the proposed budget, the Board shall notify the authority and shall give the authority and any other interested parties an opportunity to be heard.

5:30-10.2 Approval of municipal port authorities obligations; municipal guarantees of authority bonds; financing agreements; and leases, sales or dispositions of real property

- (a) No authority shall adopt any final resolution authorizing:
1. The issuance of bonds, notes, mortgages or other obligations;
 2. The entry into any agreement providing for a municipal guarantee of authority bonds;
 3. The entry into any financing agreement; or
 4. The entry into any agreement for the leasing, sale or disposition of real property unless and until it shall have obtained the approval of the Local Finance Board to do so.

(b) Prior to the adoption of any such proposed resolution, the authority shall submit the proposed resolution to the Local Finance Board for review and approval.

(c) The Local Finance Board may, by resolution adopted within a reasonable time, approve or disapprove any such resolution proposed by the authority, or may require changes in the proposed resolution.

(d) The Local Finance Board shall, in the course of its review, give consideration to:

1. The nature, purpose and scope of the proposed project financing or of the lease, sale or disposition of real property;
2. The engineering and feasibility studies or appraisals prepared in connection therewith;
3. The terms and provisions of the proposed agreements for the lease, sale or disposition of real property, financing agreements, security agreements and, in the instance of a negotiated offering, the proposed or maximum conditions of sale;
4. The proposed or maximum schedule of debt service payments

required and the impact thereof on the budget and financial condition of the authority and of the local unit or units which created the authority;

5. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report and feasibility studies; and the initial rate, rent, fee or charge schedule or structure proposed by the authority, or other proposed method of raising the amounts required to finance the operations of the authority, pay debt service on its obligations and maintain reserves required by law, regulation or terms of contracts and agreements. The Local Finance Board may examine the estimates, computations or calculations made in connection with this submission, may require the submission of any papers, documents, appraisals, witnesses, information, audits or investigations and may take any action which it may determine advisable in connection with this project.

(e) If after such review and consideration, the Local Finance Board determines that the project cost has been accurately determined, that the method for funding the project and the proposed financing arrangements are reasonable and feasible, that the proposed arrangements would not impose an undue financial burden on the authority, the local unit or the residents of the local unit which created the authority and would not materially impair the credit of the authority of the local unit or substantially reduce their ability to pay punctually the principal and interest on their outstanding indebtedness and supply essential public services and improvements; and in the case of a lease, sale or disposition of real property, that the terms of the lease, sale or disposition are fair and reasonable in light of current market conditions, it shall approve the resolution proposed by the port authority.

(f) The Local Finance Board may waive the provisions of (d) and (e) above when the proposed financing agreement, guarantee agreement or debt authorization does not exceed \$50,000 or when the proposed agreement for the leasing, sale or disposition of real property does not exceed an annual rental or total sale proceeds of \$15,000.

(g) At any time within 12 months after approval by the Local Finance Board, the authority may adopt the resolution so approved and, after adoption, shall immediately transmit a copy to the Local Finance Board. Failure of any authority to act within 12 months after approval by the Local Finance Board will void the resolution adopted by the Local Finance Board.

(a)

DIVISION OF COMMUNITY RESOURCES

**Management Assistance Programs
Handicapped Persons' Recreational
Opportunities Act**

**Proposed Readoption with Amendments:
N.J.A.C. 5:36 (to be recodified as N.J.A.C.
5:51)**

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 52:27D-170 et seq., specifically 52:27D-173.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

William L. Stubbs, Director
 Division of Community Resources
 Department of Community Affairs
 363 West State Street
 Trenton, NJ 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on October 16, 1983. The re-adoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their re-adoption. The concurrent amendments to the existing rules become effective upon publication in the Register of a notice of their adoption.

This proposal is known as PRN 1983-402.

The agency proposal follows:

Summary

The purpose of this proposal is to re-adopt, with minor changes, the existing regulations for the administration of the Handicapped Persons' Recreational Opportunities Act of 1978 (N.J.S.A. 52:27D-170 et seq.). This Act authorizes the Department of Community Affairs to make grants to local governments for the purpose of establishing recreational programs for the handicapped. The Act encourages and supports the promotion, planning, development, implementation and maintenance of comprehensive recreation and leisure services to handicapped persons by local governments. The local governments may operate the program itself or may contract with a private nonprofit organization for that purpose. The regulations proposed for re-adoption are necessary because they set forth procedures and requirements for the making of applications and the awarding of grants.

The general purposes of the Act are to reinforce the status of handicapped persons as members of society; promote less restrictive environment in providing recreation and leisure services for handicapped persons; and assist local governments in commencing or expanding recreation and leisure services for handicapped persons. The subchapter provides criteria to determine eligible applicants; outlines the application procedure to receive funding; explains the application processing and review procedure; and provides for the Director of the Division of Local Government Services to make determinations as required to effectuate the purposes of the program.

In the five years in which the program has been in existence, the Department has entered into 181 grant agreements under which approximately half a million handicapped people were served at a total cost of \$750,000 in State funds (\$150,000 per year) and \$150,000 in local matching funds.

The minor amendments proposed in conjunction with the re-adoption are technical in nature and involve the correction of the title of the Act, as referenced in the regulations, the designation of the bureau and division now responsible for administration of the program and the deletion of provisions which are no longer applicable by their terms. With these minor amendments, the Department finds that the regulations can be expected to be adequate for the continuing administration of the program.

Social Impact

The program provides handicapped people with recreational opportunities equal to those enjoyed by the rest of the population and thereby assists them in entering the mainstream of society. Through the 181 grant agreements entered into in the past five years over half a million handicapped people were served in the State of New Jersey.

Economic Impact

By assisting the handicapped in becoming full participants in society, the program helps remove them from a state of dependency and makes them better able to be economically productive. Over

the past five years, the State has expended \$750,000 and \$150,000 in local matching funds in meeting the objectives of the Act.

Full text of the proposed re-adoption can be found in the New Jersey Administrative Code at N.J.A.C. 5:36.

Full text of the proposed amendments to the re-adoption follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

[5:36-1.1] 5:51-1.1 Introduction and general provisions

(a) The Handicapped Persons' Recreational Opportunities Act of [1977] **1978** encourages and supports the promotion, planning, development, implementation and maintenance of comprehensive recreation and leisure services to handicapped persons by municipal and county governments as a public policy of the State of New Jersey.

(b) The Handicapped Persons' Recreational Opportunities Act of [1977] **1978** is administered by the Division of [Local Government Services] **Community Resources** in the Department of Community Affairs through the Bureau of [Local Management Services] **Community Programs**. All correspondence and inquiries should be addressed to the [Administrative Assistance Unit, Bureau of Local Management Services, Division of Local Government Services] **Director, Division of Community Resources**, Department of Community Affairs, 363 West State Street, Trenton, New Jersey 08625.

(c) (No change.)

[5:36-1.2] 5:51-1.2 Definitions

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

"Bureau" means the Bureau of [Local Management Services] **Community Programs** within the Division of [Local Government Services] **Community Resources**.

"Director" means the Director of the Division of [Local Government Services] **Community Resources**.

"Division" means the Division of [Local Government Services] **Community Resources** within the New Jersey Department of Community Affairs.

[5:36-1.3] 5:51-1.3 Eligible applicants

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

(c) Grants to be awarded for Special Events or Comprehensive Recreation Services will be subject to the following limitations:

1. Limitations necessitated by the State budget and the availability of appropriated funds. [For the fiscal year ending June 30, 1979, a total of \$150,000 has been appropriated for the Handicapped Persons' Recreational Opportunities Act.]

2. [For the fiscal year ending June 30, 1979,] Special Events grants may not exceed \$25,000 **annually** [of the \$150,000 appropriated]. No more than \$1,000 may be awarded **annually** to any one municipality, nor more than \$2,500 to any one county for a Special Events grant.

3. (No change.)

4. Limitations for periods after fiscal year 1979 shall be as provided in the appropriations or as determined by the Director in light of needs and experience.]

[5:36-1.4] 5:51-1.4 Application procedure

(No change in text.)

[5:36-1.5] 5:51-1.5 Application processing and review procedure

(a) Professional staff of the Bureau of [Local Management Services] **Community Programs** will register and review the application for conformity with application procedures and regulations established by the Department.

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

[5:36-1.6] **5:51-1.6** Additional determinations
(No change in text.)

[5:36-1.7 Termination of regulations
These provisions of this subchapter shall expire five years from their effective date.]

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Water Supply Bond Loan Regulations for Rehabilitation of Water Supply Facilities

Proposed Amendments: N.J.A.C. 7:1A-2.3, 2.4, 2.5, 2.8, 2.9, 2.12, 2.13, 2.14, 2.18, 2.20, and 2.35

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: Water Supply Bond Act of 1981, P.L. 1981, c.261.
DEP Docket No. 044-83-07.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert Oberthaler, Program Manager
Division of Water Resources
Water Supply and Watershed Management
Administration
1474 Prospect Street
CN 029
Trenton, NJ 08625

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

This proposal is known as PRN 1983-419.

The agency proposal follows:

Summary

The proposed amendments revise and further supplement the Water Supply Bond Loan Regulations, N.J.A.C. 7:1A-1 and 2 ("regulations"), based upon the Division of Water Resource's experience in administering the program since its final adoption on August 16, 1982 (see 14 N.J.R. 915(a)). The regulations establish procedures governing loans for State or local projects for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately operating publicly-owned water supply transmission facilities pursuant to the Water Supply Bond Act of 1981, P.L. 1981, c.261("Act"). Any political subdivision of the State or agency thereof shall be eligible to apply for a water supply bond rehabilitation loan. The Division of Water Resources has determined that the proposed amendments will facilitate the process of awarding loans to eligible applicants.

P.L. 1982, c.131, appropriated \$25 million for high priority rehabilitation of inadequate water supply systems. The current

year's application period, extended from October 1 to November 1, 1982 (see 14 N.J.R. 1172(a)), produced only 16 applications. The 16 applications received will not utilize the entire P.L. 1982, c.131, appropriation. The Division proposes to amend N.J.A.C. 7:1A-2.5(d) to allow for additional application periods as deemed necessary to utilize all available funding by the Division upon publication of a notice of the details of the additional application period in the New Jersey Register. The Division would be required to hold at least one initial application period with a closing date of October 1 of each year. N.J.A.C. 7:1A-2.3(a), 2.5(d), 2.8(b), 2.12(c), 2.12(d), 2.12(h), 2.12(j), 2.12(m) and 2.13(g) have also been amended to replace "year" with "application period" to allow for additional application periods in conformance with the proposed amendment to N.J.A.C. 7:1A-2.5(d). These proposed amendments will insure that all funds appropriated in any annual appropriation can be awarded as loans.

N.J.A.C. 7:1A-2.12(a)5 has been amended, based upon our program experience, to further expedite the process of awarding loans. If in any application period there shall be less eligible projects than funds available for any of the three size categories, the eligible projects shall only be required to receive the minimum number of priority points set forth at N.J.A.C. 7:1A-2.12, and the remainder of the competitive priority ranking provisions of the regulations shall be waived. This new provision will further expedite the processing of loan applications and the Department of Environmental Protection's ultimate goal of the rehabilitation of eligible water supply transmission facilities.

N.J.A.C. 7:1A-2.12(a), (c), and (e) as amended would reduce the minimum residential size requirement for maximum \$3 million loan from 75,000 residents to 50,000 residents. Under the previous limitations only eight publicly-owned water supply systems could apply for a maximum \$3 million loan. The proposed amendment would expand the top category to include as eligible a total of 19 publicly-owned water supply systems. The proposed amendment would allow a greater number of larger publicly-owned water supply systems in New Jersey the opportunity to apply for larger loan amounts.

N.J.A.C. 7:1A-2.9 has been revised to incorporate the informal financial term procedures developed between the Department of Environmental Protection and the Department of the Treasury during the initial stages of the rehabilitation program. N.J.A.C. 7:1A-2.9(b) allows the Department of the Treasury needed flexibility to set the interest rates for loans. N.J.A.C. 7:1A-2.9(c) now allows for a loan maturity period of not more than 10 years unless a longer loan maturity period not to exceed 15 years, reduced from 20 years, can be justified to the satisfaction of the Department. This proposed change will insure more rapid repayment and reuse of loan funds for new projects. Also, the regulation will expressly allow for prepayment by the borrower prior to the end of the loan maturity period without penalty. A new subsection N.J.A.C. 7:1A-2.9(e) has been added by which all other financial loan terms are to be established by agreement between the Department and the Department of Treasury. These agreed upon loan terms will be made available to all applicants, by the Department in all cases, prior to the execution of any loan award document. Early experience with the rehabilitation program illustrated the need for flexibility when dealing with the complex and fluid nature of the financial markets.

Several other proposed changes to the regulations will be necessary to insure that the rehabilitation program begins to work efficiently. The Division of Water Resources' rehabilitation program experience indicates the following amendments should be adopted:

N.J.A.C. 7:1A-2.5(b)8 has been revised to allow departmental discretion regarding submission of supporting background and summary sheets to substantiate project cost estimates.

N.J.A.C. 7:1A-2.5(c)1 has been revised in order to clarify that the authorized agent designated on the application form and the person signing the application are the same person. In addition,

different parties may act as authorized agent and signer of the Loan Award Agreement.

N.J.A.C. 7:1A-2.8(b) has been revised so as to require that applicants are notified only of disapproval of their applications. Approved applications will proceed directly to priority ranking with subsequent issuance of a Notice of Intent to Award or an unfundable notification. This revision will reduce departmental paperwork.

N.J.A.C. 7:1A-2.12(c)2 and 3 have been revised to allow for the allocation of a greater percentage of the total departmental appropriation for the rehabilitation program to larger water supply systems.

N.J.A.C. 7:1A-2.12(f)9 has been revised to allow priority point awards for reduced percentage ranges for elimination of water losses from the system as a result of project implementation. The reduced percentage ranges have been determined to be more appropriate as a result of program experience. The previous ranges were determined to be too high after divisional review.

Additional language has been provided at N.J.A.C. 7:1A-2.12(k) to allow an irrevocable reduction in the total eligible loan amount originally stipulated in the Notice of Intent to Award in circumstances where changes in project costs, scope, or other circumstances result in a reduction in the total eligible loan amount. This provision will permit the Department to be released from the full initial obligation amount specified in the Notice of Intent so that unused funds may be awarded again as soon as possible.

A new rule has been proposed at N.J.A.C. 7:1A-2.13(c)3iii which specifies that provisions and submissions required by the Department and/or stipulated in the Loan Award Document shall be included in project specifications.

An additional category has been proposed at N.J.A.C. 7:1A-2.14(b)5 to clarify that interest expenses from other financial arrangements shall not be loan eligible costs.

N.J.A.C. 7:1A-2.14(d) has been revised to require that borrowers are provided the actual cost incurred for the total construction cost of the project by the contractor(s) and subcontractor(s). This clarifies the original language concerning which party provides actual costs, and specifies total costs in accordance with generally accepted accounting principles as specified at N.J.A.C. 7:1A-2.18(a)3.

A new subsection has been proposed at N.J.A.C. 7:1A-2.14(f) that requires submission, prior to award, of final construction contracts and specifications with any modifications made since original design approval. The borrower will also be required to make additional necessary certifications to the Department. These submissions will allow a departmental check for debarred contractors, review of any changes as a result of the bidding process and negotiations, and rebudgeting as a result of the bid construction costs, and provide for needed certifications from the borrower to the Department.

A new subsection has been proposed at N.J.A.C. 7:1A-2.14(g) requiring the borrower to forward copies of final executed construction contracts and subcontracts and associated documents to the Department within 10 days of their execution. These documents are necessary for project administration and proper maintenance of records.

N.J.A.C. 7:1A-2.18(a)1 has been proposed to require borrowers to certify that the project or element thereof has been initiated and completed in accordance with the time schedule included in the Loan Award Document. The existing text of (a)1 requires timely completion as a precedent to each payment and as a loan condition. Timely completion has an impact on the rate of loan drawdown, accrued deferred interest and loan repayment amounts, and possibly repayment dates. The certification has been deemed necessary in conjunction with the other certifications required in N.J.A.C. 7:1A-2.18(a).

N.J.A.C. 7:1A-2.18(a)5 has been added requiring that the borrower examine and certify that the performance bond or guarantee meets applicable statutory requirements. This places the burden on the borrower, rather than the State, to assure the bond

is nondiscriminatory and financially satisfactory. The certification shall be initially provided with the design application along with the submitted plans, specifications and unexecuted bond form.

N.J.A.C. 7:1A-2.18(a)8 has been added requiring that loan ineligible project elements be bid as separate line items in the total bid specifications from loan eligible project elements. This requirement provides an easy and efficient method, in advance of incurring actual construction expenses, to breakdown eligible/ineligible construction expenses for payment request purposes to the State, and payments to contractors and subcontractors. This will eliminate estimates by the engineer-in-charge and/or contractors/subcontractors that may be subject to dispute and delays.

N.J.A.C. 7:1A-2.18(a)9 is a new rule requiring that each general contractor bidding on the rehabilitation project shall name the principal subcontractors at the time of bid submission. This requirement will preclude the practice of "bid shopping" by general contractors after notification of bid award.

N.J.A.C. 7:1A-2.20, a contractual provision, has been proposed to require furnishing of proper facilities by the borrower and the contractors for access and inspection. This requirement will provide clear advance notice regarding contractor responsibilities in the proper monitoring of on-site construction work.

N.J.A.C. 7:1A-2.35 revises the administrative hearings section to require that any person requesting a hearing specify in writing and in detail the basis for its appeal. Also the Division would now have the ability to attempt to settle any dispute by conducting appropriate settlement proceedings.

Note that the proposed amendments, concerning the priority determination section at N.J.A.C. 7:1A-2.12, shall not apply upon adoption to the 16 applications already received by the Department by November 1, 1982. However, the other changes proposed to facilitate the administration and final award of individual loans shall be applied to the initial 16 applicants.

Social Impact

A major positive impact will result from the proposed amendments which revise and further supplement the regulations, based upon the Division's experience. More efficient operation of publicly-owned water supply transmission facilities in the State will result from the completion of rehabilitation projects financed by Water Supply Bond Loan funds. The rehabilitation and repair of antiquated or damaged publicly-owned water supply transmission facilities will help conserve our vital water resources and lend increased support to the State's revitalization and economic development.

Economic Impact

The economic impact of the proposed amendments will be realized by the provision of bond fund loans for the rehabilitation or repair of antiquated, obsolete, damaged or inadequately publicly-owned water supply transmission facilities. While the expenditure of such funds will require repayment in accordance with the Water Supply Bond Act of 1981, and the regulations, economic benefits will be realized by the improvement of such eligible water supply facilities.

Environmental Impact

The Water Supply Bond Act of 1981 sets forth the Legislature's determination that the health, safety, welfare, commerce and prosperity of the people of New Jersey depend on the availability of a safe, adequate and reliable supply of water. The proposed amendments have a positive environmental impact by facilitating the completion of rehabilitation projects financed by Water Supply Bond Loan funds, with regulatory changes deemed necessary by current experience with the regulations.

Full text of the proposal follows (additions indicated in boldface **text**; deletions indicated in brackets [thus]). The complete text of N.J.A.C. 7:1A-2 can be found at 14 N.J.R. 10(a) and 573(c), with amendments at 14 N.J.R. 499(c) and 915(a).

7:1A-2.3 Eligibility and criteria

(a) Any applicant operating an antiquated, obsolete, damaged, or inadequately operating water supply transmission facility in need of rehabilitation or repair is eligible for a loan in any [year] **application period** where it satisfactorily completes the loan application process in a timely manner, meets the eligibility criteria set forth in this subchapter, receives the minimum priority score, and ranks high enough on the priority list to be funded. To receive a loan the project shall meet the following criteria to the satisfaction of the Department:

1.-6. (No change.)

7:1A-2.5 Application procedures

(a) (No change.)

(b) An applicant for a water supply rehabilitation loan shall submit:

1.-7. (No change.)

8. An estimate of preliminary, developmental, and construction costs by unit prices for the project. Labor, equipment, materials, supplies, overhead and contractor's and consultant's profit with supporting background and summary sheets [shall be included] **may be requested by the Department** to substantiate the estimates of unit costs. Total project costs and those project costs that the applicant anticipates to be eligible for a bond loan shall be separately summarized:

9.-10. (No change.)

(c) Signature:

1. Applications shall be signed for the applicant by a person or persons authorized by resolution or ordinance to file an application for a State loan, **represent the applicant in all matters relating to the application process**, and to obligate the applicant to the terms and conditions of the loan award document.

2. (No change.)

(d) Applications should be submitted well in advance of the application closing date for the [year] **application period** in which the applicant wishes to be awarded a loan. The application closing date for the **initial application period** for each year of the program shall be October 1 of the appropriate fiscal year.

1. **Additional application periods may be established as deemed necessary by the Division upon publication of a notice of the details of the additional application period in the New Jersey Register.**

2. The application closing date for any [year] **application period** may be extended, if deemed necessary by the Division, upon publication of a notice of extension in the New Jersey Register.

(e)-(f) (No change.)

7:1A-2.8 Department approval/disapproval

(a) (No change.)

(b) The applicant shall be promptly notified in writing of any [approval or] disapproval. A disapproval of an application shall not preclude its reconsideration or resubmittal for the next application [year.] **period if resubmitted by the applicant.**

7:1A-2.9 Amount and terms of loan

(a) (No change.)

(b) The interest rate for the loan shall be established at a rate [equal to the average interest rate on the latest sale of Water Supply Bonds sold prior to the date of the loan award document.] **deemed appropriate by the Department of Treasury.**

(c) [The first annual or semi-annual repayment of the loan by the borrower to the Department shall be due on or before the date of the second anniversary of the date of the last loan advance to the borrower from the Department or one year after construction is completed, whichever comes first, and shall continue, in an agreed amount, for a period not to exceed 10 years from the date of the execution of the loan award document unless a longer repayment period not to exceed 20 years can be justified to the satisfaction of the Department. The 10 percent withholding requirement of

N.J.A.C. 7:1A-2.21 shall not be considered as the last loan advance for the purposes of this section.] **The loan maturity period shall be for a period of no more than 10 years from the date payments to the borrower begin, unless a longer loan maturity period not to exceed 15 years can be justified to the satisfaction of the Department. Principal and accrued interest may be prepaid by the borrower prior to the end of the loan maturity period without penalty.**

(d) (No change.)

(e) **All other financial loan terms shall be established by agreement between the Department and the Department of Treasury. Loan terms shall be made available to all applicants by the Department in all cases prior to execution of any loan award document.**

7:1A-2.12 Priority determination

(a) Each project shall be assigned priority points in accordance with the provisions outlined in this section. A project shall be ranked by the number of priority points it receives.

1. (No change.)

2. A water supply system serving between 10,001 and [75,000] **50,000** residents shall be eligible for a loan if it receives at least 12 priority points.

3. A water supply system serving greater than [75,000] **50,000** residents shall be eligible for a loan if it receives at least 20 priority points.

4. (No change.)

5. **If in any application period there shall be less eligible projects than funds available for any of the three size categories, the eligible projects shall only be required to receive the minimum number of priority points set forth in (a) 1 through 3 above and the remainder of the competitive priority ranking provisions of this section shall be waived.**

(b) (No change.)

(c) Three separate priority lists shall be established in each [program year] **application period** according to the size of the water supply system as set forth in (a) above. Appropriations for each of the three separate priority lists shall be determined as a percentage of the total periodic appropriations by the Legislature to the Department for the purpose of implementing this chapter.

1. (No change.)

2. [Forty] **Thirty** percent of the total Department appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve between 10,001 through [75,000] **50,000** residents; and

3. [Thirty] **Forty** percent of the total departmental appropriation for the purposes of implementing this regulation shall be appropriated for those eligible water supply systems that serve greater than [75,000] **50,000** residents.

(d) If in any [program year] **application period** there are an insufficient number of eligible projects on any of the three separate priority lists, the funds designated for said category shall be disbursed to eligible projects on the other priority lists in the same proportions as set forth in (c) above.

(e) A maximum loan amount for each project shall be set for each of the three categories of projects as follows:

1. (No change.)

2. A water supply system serving between 10,001 and [75,000] **50,000** residents may receive a loan of up to one million dollars maximum;

3. A water supply system serving greater than [75,000] **50,000** residents may receive a loan of up to three million dollars maximum;

4. (No change.)

(f) Priority points shall be given for the following factors and in the amount shown below:

1.-8. (No change.)

9. Priority points shall be awarded for the leakage and other unaccountable water losses from the transmission system to be

eliminated as part of the eligible project scope which shall be expressed as a percentage of the present daily demand, as calculated in (f)7 above.

i. Two points shall be awarded for the elimination of water losses of between [five] **one** through [10] **two** percent of the present daily demand included as a part of the eligible project scope.

ii. Seven points shall be awarded for the elimination of water losses of between [11] **three** through [16] **five** percent of the present daily demand included as a part of the eligible project scope.

iii. Twelve points shall be awarded for the elimination of water losses of between [17] **six** through [20] **eight** percent of the present daily demand included as a part of the eligible project scope.

iv. Fourteen points shall be awarded for the elimination of water losses of between [21] **nine** through [24] **11** percent of the present daily demand included as a part of the eligible project scope.

v. Sixteen points shall be awarded for the elimination of water losses of between [25] **12** through [28] **15** percent of the present daily demand included as a part of the eligible project scope.

vi. Eighteen points shall be awarded for the elimination of water losses of between [29] **16** through [32] **20** percent of the present daily demand included as a part of the eligible project scope.

vii. Twenty points shall be awarded for the elimination of water losses of [33] **21** percent or more of the present daily demand included as a part of the eligible project scope.

10. (No change.)

(g) (No change.)

(h) The Division shall establish and maintain a separate priority list for each [program year] **application period** for each of the size groups as set forth in (a) above in accordance with the number of priority points awarded each project pursuant to this section.

(i) (No change.)

(j) The applicants receiving a Notice of Intent to Award a loan shall obtain all necessary Federal, State and local permits and approvals within six months of receipt of the Notice of Intent to Award a loan. Failure to obtain the required permits within the required time period shall make the project ineligible for a loan for that [year] **application period** unless prior approval for an extension has been granted by the Division pursuant to N.J.A.C. 7:1A-2.13(g).

(k) If subsequent to the issuance of [an] a **Notice of Intent to Award**, the applicant discovers that costs will exceed those previously estimated, or that the scope of the project will be modified, or any other circumstances appear which affect the award of priority points, the applicant shall notify the Department immediately. The Department shall then recalculate, if appropriate, the applicant's priority determination utilizing the new information submitted.

1. At the discretion of the Department, the **Notice of Intent to Award** may be recalled if the revised priority determination indicates that some other project should be given priority for selection or that sufficient funds would not be available for the project.

2. **In addition, if any changes in the project costs, scope or other circumstances result in a reduction in the total eligible loan amount from the total amount specified in the Notice of Intent to Award, the Notice of Intent to Award may be recalled and revised to reflect the irrevocable reduction in the total eligible loan amount approved for the project.**

(l) (No change.)

(m) Applicants with approved projects on a priority list that are not awarded loans in [a year] **any application period**, who wish to apply for a position on any subsequent priority list in any subsequent [year] **application period**, may apply by a timely filing of a new Water Supply Loan Application Form and by updating the other application documents required by N.J.A.C. 7:1A-2.5. This application will be treated as a new application for a Water Supply Loan and evaluated in accordance with this chapter.

7:1A-2.13 Project development phase of Water Supply Bond Loan Program

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

(c) The applicant shall submit all materials required by this subsection, prepared in accordance with accepted engineering practice within the specified time period.

1.-2. (No change.)

3. The construction specifications for the water supply rehabilitation project shall include but not be limited to:

i.-ii. (No change.)

iii. All other provisions, submissions and certifications as deemed necessary by the Department or required in the loan award document.

4.-5. (No change.)

(d)-(f) (No change.)

(g) Any applicant who fails to submit the required materials prepared in a proper manner and the required permits within the six month period shall lose its eligibility for a loan during that [year] **application period** unless the time period is extended by the Division.

1. The Division may extend the time for submission of the required materials and/or permits for up to three months if the applicant justifies the need for such extension to the satisfaction of the Division.

2. The Division may grant an additional three months' extension for the submission of the required permits if the applicant demonstrates to the satisfaction of the Division that the permits are delayed through no fault of its own and that the delay is due to extremely unusual circumstances.

7:1A-2.14 Eligible project costs

(a) (No change.)

(b) Ineligible project costs shall be those costs set forth below:

1.-4. (No change.)

5. Interest expenses.

(c) (No change.)

(d) Borrowers shall be provided the actual costs incurred and properly documented for **the total cost of the project by the contractor(s) and subcontractor(s).** [up to the maximum specified in the loan award document.]

(e) Project **application**, design and development costs shall not be reimbursed until construction contracts have been awarded.

(f) Prior to any final award of bids for construction contracts the borrower shall submit for departmental review and approval the final construction contracts with work specifications detailing any changes made since previous departmental design approval.

1. The borrower shall name the party to be awarded the construction contract for the project.

2. The Department reserves the right to require the borrower to readvertise the bid specifications for the project if the certifications required in (f)3 below are deemed unsatisfactory by the Department.

3. The borrower shall certify to the Department the following:

i. **The borrower's compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;**

ii. **That all contracts for the project will be awarded to the qualified, responsible and responsive bidder submitting the lowest acceptable bid; and**

iii. **That the bid prices included in the bid specifications are reasonably balanced.**

(g) The borrower shall forward copies of the executed construction contracts and subcontracts and associated documents to the Department within 10 days of their execution.

7:1A-2.18 Loan conditions

(a) The following requirements, in addition to such other statutes, rules, terms and conditions as may be applicable to particular loans, are conditions of each loan and conditions precedent to each payment under a loan award document:

1. The borrower shall certify that the project or phase of the project [must have been] was initiated and completed in accordance with the time schedule specified in the loan award document.

2.-4. (No change.)

5. The borrower shall certify that the borrower includes in all its construction or development contracts for the project a requirement that the contractor post a performance bond or other performance guarantee in an amount equal to the full cost of the project.

i. This performance bond or guarantee shall remain in effect until the Division's final inspection of the project and determination in writing that the project is satisfactorily completed.

ii. The performance bond or performance guarantee shall be both nondiscriminatory and financially satisfactory to the Department[.] and meet all statutory requirements.

6.-7. (No change.)

8. Bid specifications shall require that rehabilitation project elements which constitute ineligible project costs be bid as separate line items in the total bid specifications from rehabilitation project elements which constitute eligible project costs.

9. Bid specifications shall require that each general contractor bidding on the rehabilitation project name the principal subcontractors at the time of his bid submission to the borrower.

7:1A-2.20 Access

(a) The borrower and its contractors and subcontractors shall provide access to the Department personnel and any authorized representative of the Department to the facilities, premises and records related to the project.

1. All contracts executed by the borrower and its contractors and subcontractors shall contain provisions allowing for departmental access to any facilities, premises and records related to the project.

2. The borrower shall submit to the Department such documents and information as requested by the Department.

i. All borrowers, contractors and subcontractors may be subject to a financial audit.

ii. Records shall be retained and available to the Department for a minimum of three years after issuance of the final payment by the Department.

7:1A-2.35 Administrative hearings

(a) (No change.)

(b) A borrower may request a hearing within 15 days of a decision by the Director of the Division. **The borrower shall be required to specify in writing and in detail the basis for its appeal.** Where required by law the Department shall hold a hearing based upon such request.

(c) **Following receipt of an acceptable request for a hearing pursuant to (b) above, the Department may attempt to settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate. If such efforts at settlement fail, the Department may file the request for a hearing with the Office of Administrative Law.**

[c] (d) The Commissioner shall grant and conduct such hearings in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., and any rules promulgated pursuant to those Acts [.] **provided the conditions of (b) above have been satisfied by the borrower.**

(a)

NEW JERSEY WATER SUPPLY AUTHORITY

**Sale of Water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Systems
Procedures for Rate Adjustments**

Proposed Amendments: N.J.A.C. 7:11-2.10 through 2.13

Authorized By: Robert E. Hughey, Chairman, New Jersey Water Supply Authority, and Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 58:1B-70.
DEP Docket No. 043-83-07.

A public hearing concerning the proposal will be held on September 30, 1983 at 9:30 A.M. at:
Labor Education Center
Rutgers University
Ryderson Lane and Clifton Avenue
New Brunswick, NJ 08903

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-420.

The agency proposal follows:

Summary

The proposed amendments would institute a more detailed procedure for rate adjustments for the "Schedule of Rates, Charges and Debt Service Assessments for the Sale of Water from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir Systems", N.J.A.C. 7:11-2. In particular, the proposed amendments would add a new provision at N.J.A.C. 7:11-2.11 which would require the New Jersey Water Supply Authority ("Authority") to institute the following procedures prior to any rate adjustment:

1. Provide official notice to all contractual water customers and other interested parties at least six months prior to the proposed effective date of any rate adjustments.

2. Schedule a meeting within 45 days of the official notice with representatives from the contractual water customers in order to present and explain the proposed adjustment. Contractual water customers shall be invited to submit written questions which shall become part of the hearing record.

3. After the meeting with the contractual water customers, a public hearing shall be held before one or more of the Authority members acting as hearing officer(s). Questions submitted by the contractual water customers at the above described meeting and those questions received by the Authority no later than 15 days prior to the public hearing shall be addressed at this time. Statements will also be

received by all interested persons. In the event that a response cannot be immediately given at the public hearing, then a written response will be prepared within 10 working days and copies provided to all contractual water customers and attendees at the public hearing and made a part of the hearing record.

4. The hearing record will remain open for 25 working days after the public hearing. After the close of the hearing record a Hearing Officer's Report, including all issues and questions raised at the public hearing, shall be prepared and submitted to the Authority prior to any final action on any rate adjustment.

Social Impact

The proposed amendments will have minimum social impact. The proposed amendments represent the Authority's efforts to ensure that rates for raw water withdrawn, diverted or allocated from the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir Complex are equitably assessed and sufficient to provide the revenues required by the Authority.

Economic Impact

An economic impact results from N.J.A.C. 7:11-2 by adjusting the charges for such raw waters withdrawn, diverted or allocated from the Delaware and Raritan Canal and/or Spruce Run-Round Valley Reservoir Complex. Adequate rates and charges are required from the users of the water from these facilities and the provisions for such adjustments are incorporated in all water use agreements with users of these facilities.

Environmental Impact

The proposal will have a positive environmental impact by further clarifying the procedures for rate adjustments to ensure that the Authority continues to have the revenues necessary to insure proper management of the precious water resources supplied by the Delaware and Raritan Canal and the Spruce Run/Round Valley Reservoir Complex.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]). The complete text of N.J.A.C. 7:11-2 can be found at 15 N.J.R. 122(a) and 891(a).

7:11-2.10 Rate adjustment

(a) The New Jersey Water Supply Authority reserves the right to review and revise the General Rate Schedule from time to time by the establishment of a new General Rate Schedule promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any regulations promulgated thereto.

1. A purchaser shall be notified of such changes not less than six months in advance of the effective date of such revision[.] **pursuant to N.J.A.C. 7:11-2.11.**

2. Adjustments made under this section shall be subject to public hearing[.] **and all other requirements of N.J.A.C. 7:11-2.11.**

3. Any contract for the sale of water shall be subject to the exercise of this power.

(b) The New Jersey Water Supply Authority reserves the right to annually review the sales base to make adjustments, if necessary, in the General Rate Schedule as set forth at N.J.A.C. 7:11-2.2 and the Debt Service Assessment rate as set forth at N.J.A.C. 7:11-2.3. Any said adjustments shall be promulgated pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and any regulations promulgated thereto.

1. If any adjustment is required, at least six months notice shall be provided prior to the next fiscal year[.] **to a purchaser pursuant to N.J.A.C. 7:11-2.11.**

2. Adjustments made under this section shall be subject to public hearing[.] **and all other requirements of N.J.A.C. 7:11-2.11.**

(c) (No change.)

7:11-2.11 Procedures for rate adjustments

(a) **Prior to adopting an adjustment in the Schedule of Rates, Charges and Debt Service Assessments established in this**

subchapter, the Authority shall comply with the following rate-making procedures and schedule:

1. **Official notice:** Official notice of the proposed rate adjustment shall be given to all contractual water customers and other interested parties at least six months prior to the proposed effective date. Thereafter, all appropriate supporting documents and financial records of the Authority in support of the proposed adjustments shall be made available for review at the Authority's offices in Clinton, New Jersey.

2. **Meeting with contractual customers:** Within 45 days after sending official notice to the contractual water customers of the proposed rate adjustment, Authority staff shall meet with representatives from the contractual water customers in order to present and explain the proposed adjustment.

i. At that time, contractual water customers will be invited to submit written questions which shall be put into the hearing record and which will be addressed by Authority staff at the public hearing.

ii. In order to be addressed at the public hearing, such questions must be received by the Authority no later than 15 days prior to the public hearing.

3. **Public hearing:** After meeting with the contractual customers and after giving sufficient opportunity for submission of written questions on the proposed rate adjustment, a public hearing shall be held, at which one or more members of the Authority shall serve as hearing officer(s). The public hearing agenda shall include, but not be limited to:

i. Opening statement by the hearing officer(s);

ii. Staff response to the questions raised by the contractual water customers prior to the hearing;

iii. Statements by all interested parties, including the contractual water customers, intervenors who are judged by the hearing officer(s) to meet the criteria established in (a)3iv below, and any other party of interest.

iv. Requests for intervention for purposes of directing questions to the staff as delineated under (a)3v below.

(1) Any person other than a contractual water customer who is substantially and specifically affected by the proposed rate adjustment may move either in writing prior to the public hearing or orally during the public hearing to intervene in the proceedings for purposes of directing questions to the staff, as delineated under (a)3v below.

(2) Anyone seeking to intervene must identify themselves as well as the manner in which he/she will be affected. The hearing officer(s) will then either approve or deny the request.

v. Questions by contractual water customers and qualified intervenors.

(1) Agenda item (a)3iii above provides for the submission of statements by any interested party.

2. In addition, under this agenda item all contractual water customers and qualified intervenors may question the staff on any aspect of the need for, the basis of or any provision of the proposed rate adjustment.

vi. Responses from staff.

(1) In the event that a response cannot be immediately given at the hearing, then a written response shall be prepared within 10 working days after the public hearing, and a copy of that written response shall be provided to all contractual water customers and attendees at the hearing and made a part of the hearing record.

(2) Within 10 working days of receipt of the answer, contractual water customers and attendees will be permitted to respond in writing to the answers of the staff for the record.

4. **Hearing record:** The hearing record shall remain open for at least 25 working days after the public hearing in order to allow additional written comments to be submitted.

5. **Hearing officers' report:** After the hearing record is closed, a hearing officers' report, including responses to all issues and questions raised during the public hearing proceedings, shall be

prepared and submitted to the Authority prior to the Authority taking final action on the proposal.

7:11-[2.11] **2.12** Special user rates: Spruce Run/Round Valley Reservoirs System
(No change in text.)

7:11-[2.12] **2.13** Short-term user rate
(No change in text.)

7:11-[2.13] **2.14** Late payment interest charge
(No change in text.)

(a)

DIVISION OF WATER RESOURCES

**Flood Hazard Area Delineations
Delineated Floodway along North Branch
Foulerton's Brook, Borough of Roseland,
Essex County**

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

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et
seq.
DEP Docket No. 040-83-07.

A **public hearing** concerning this proposal will be held on
September 15, 1983 at 1:00 P.M. at:
Borough of Roseland Municipal Building
Eagle Rock Avenue at Harrison Avenue
Roseland, NJ 07068

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before September 15,
1983. These submissions, and any inquiries about submissions and
responses, should be addressed to:
Clark Gilman
Bureau of Flood Plain Management
Division of Water Resources
CN 029
Trenton, NJ 08625

The Department of Environmental Protection thereafter may adopt
this proposal without further notice (see: N.J.A.C. 1:30-3.5). The
adoption becomes effective upon publication in the Register of a
notice of adoption.
This proposal is known as PRN 1983-414.

The agency proposal follows:

Summary

The proposed amendment is a modification of the floodway and
flood hazard area delineation of the North Branch Foulerton's
Brook in the Borough of Roseland, which was adopted in
November 1979. This amendment would affect the floodway and
flood hazard area limits along 750 feet of the North Branch
Foulerton's Brook in Roseland. It is proposed to reconstruct a
spillway, construct a retention basin, and construct a riprap
trapezoidal channel between Eagle Rock Avenue and the
downstream face of the reconstructed spillway and the upper reach
of the retention basin upstream to Becker Farm Road. The
modification has been proposed by the owner of the parcel,
Bellemead Development Corporation, to allow for development
along this portion of the North Branch.

Social Impact

The proposed delineation applies added flood protection to the
Borough of Roseland, Essex County, within the Passaic River
Basin. This proposed delineation would more accurately define the
flood hazard area to coincide with the proposed development after
completion of the development project. The public safety, health,
and general welfare shall continue to be adequately protected if the
amended flood delineation should be adopted by the Department.

Economic Impact

The proposed floodway delineation will have a relatively positive
economic impact by allowing development in a previously
designated floodway while still preserving the flood carrying
capacity of the North Branch Foulerton's Brook.

Full text of the proposal follows. See the Index of Adopted Rules
for previous amendments to N.J.A.C. 7:13-1.11(d).

7:13-1.11 Delineated floodways
(a)-(c) (No change.)
(d) A list of delineated streams in the Passaic-Hackensack Basin
and a list of delineated streams in the Raritan Basin follow:
1.-44. (No change.)
45. (See proposal at 15 N.J.R. 659(a).)
46. (No change.)
47. (See proposal at 15 N.J.R. 989(a).)
48. . . . The floodway and flood hazard area of the North Branch
Foulerton's Brook for approximately 750 feet from Eagle Rock
Avenue Bridge upstream to Becker Farm Road Bridge.

(b)

DIVISION OF WATER RESOURCES

**New Jersey Pollutant Discharge Elimination
System
Oil and Grease Effluent Limitations**

Proposed New Rule: N.J.A.C. 7:14A-14

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 58:10A-4 and 58:11-51.
DEP Docket No. 041-83-07.

A **public hearing** concerning this proposal will be held on
September 19, 1983 from 10:00 A.M. until the close of receipt of
comments at:
Labor Education Center
Rutgers University
Ryers Lane and Clifton Avenue
New Brunswick, NJ

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before October 7, 1983.
These submissions, and any inquiries about submissions and
responses, should be addressed to:
Dr. Ching Volpp
Water Quality Management
Division of Water Resources
CN 029
Trenton, NJ 08625
Telephone: (609) 984-4428

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

This proposal is known as PRN 1983-415.

The agency proposal follows:

Summary

The proposed new rule exercises authority conferred by N.J.S.A. 58:10A-4 and N.J.S.A. 58:11-51, and establishes effluent limitations and their uniform application for petroleum-based and nonpetroleum-based oil and grease discharges to surface waters of the State, and for indirect discharges into domestic treatment works (DTW's), including discharges resulting from precipitation events. The proposal affects all existing and new dischargers of oil and grease to surface waters of the State. Indirect dischargers as defined in proposed amendments to N.J.A.C. 7:14A-1.9 (see 15 N.J.R. 1059(b)), discharging petroleum-based oil and grease, are also required to meet prescribed effluent limitations. However, indirect dischargers may be exempted from the effluent limitations if the domestic treatment works (DTW) exhibits the ability to control oil and grease discharged into their facility. Discharges resulting from precipitation events equivalent to a rainfall intensity equal to or less than two (2.0) inches per hour are also regulated by this proposal. All dischargers affected by the new rule shall design and operate a facility with adequate hydraulic capacity to accommodate the runoff characteristics of the discharger's site. Combined sewer overflows are exempted. The new rule shall be codified as subchapter 14 of the New Jersey Pollutant Discharge Elimination System (NJPDES) rules (N.J.A.C. 7:14A).

The proposed new rule also establishes minimum monitoring requirements, sampling protocol and analytical methods for testing. Those indirect dischargers who are Significant Indirect Users (SIU's) required to obtain an individual NJPDES permit, pursuant to proposed N.J.A.C. 7:14A-10.5 (see 15 N.J.R. 1059(b)), are required to monitor if the SIU discharges petroleum-based oil and grease. The Department may set more stringent monitoring requirements based upon an evaluation of the data submitted by a discharger effected by the new rule. Where a discharger has demonstrated consistent compliance, the Department, upon request, may reduce the monitoring requirements.

Note should be taken of the requirement that wherever applicable, a discharger continues to be subject to more stringent Federal, interstate, State or local standards.

Social Impact

There was an evident need for State-prescribed effluent limitations for oil and grease. Depending upon its geographic location and/or industrial category, a discharger to surface waters is now subject to differing oil and grease effluent limitations or water quality standards imposed by the Delaware River Basin Commission, the Interstate Sanitation Commission, the United States Environmental Protection Agency, or the State of New Jersey. These various effluent limitations or standards were reflected in NPDES/NJPDES permits issued by USEPA or by the Department. The proposed new rule prescribes the uniform application of State-designated effluent limitations for average and maximum concentrations of oil and grease to be administered through the NJPDES permit system. All dischargers of oil and grease to surface waters shall meet the prescribed effluent limitations except where a more stringent limitation is imposed. Such might be the case where the Interstate Sanitation Commission has imposed standards based upon regional needs.

All indirect dischargers will have the same effluent limitations, thereby lessening the advantage certain indirect dischargers enjoyed because of less stringent requirements imposed by the DTW into which they discharged.

The Department worked closely with a task force established to review and comment on the proposed new rules. The task force consisted of members from the academic community and representatives from consulting engineering firms, environmental groups, affected industries, sewage authorities and regulatory

agencies. The Basis and Background document describes this process in detail.

Economic Impact

The Department reviewed available effluent data from more than 300 dischargers permitted within the State for average and maximum concentrations of oil and grease during a five year period. The data indicates that the proposed standards can be met by 90 percent of the present dischargers including oil refineries, oil terminals and bulk stations. The dischargers are expected to continue to exhibit compliance with the proposed effluent limitations. Furthermore, statistical analyses of the data indicated that for petroleum hydrocarbons and oil and grease, compliance would increase only slightly from this high level even if the effluent limitations were made much less stringent.

The Department reviewed the purchase and retrofitting cost for process equipment used to remove oil and grease. Since the equipment is standard within the industry and the proposed effluent limitations are presently attainable, any cost to a discharger in order to comply with the proposed effluent limitations is expected to be reasonable.

Indirect dischargers discharging into a DTW that has the treatment capability to control oil and grease will not have to meet the effluent limitations prescribed by this new rule when the DTW is granted an exemption by the Department. This will decrease the cost of compliance for these indirect dischargers.

The sampling protocol is based upon existing Department sampling requirements. Actual costs for monitoring may decrease, given the provision for a reduction in monitoring frequency.

Environmental Impact

There will be small, yet significant, positive impact on the environment from the proposed rule, even though this rule establishes oil and grease effluent limitations already attained by most oil and grease dischargers. A uniformly administered permit program will ensure a higher compliance rate than the 90 percent now experienced by the Department. In addition those oil and grease dischargers presently discharging at a less stringent effluent limitation will be required to discharge at the more stringent effluent limitation established by the new rule.

Full text of the proposed new rule follows.

SUBCHAPTER 14. OIL AND GREASE EFFLUENT LIMITATIONS

7:14A-14.1 Purpose and scope

(a) This subchapter establishes effluent limitations for petroleum-based and nonpetroleum-based oil and grease for all discharges to surface waters and for indirect discharges into domestic treatment works (DTW's), including discharges resulting from precipitation events, as well as minimum monitoring requirements, sampling protocol, analytical methods and exemptions from the established effluent limitations.

(b) The requirements of this subchapter shall apply to all existing and new dischargers to surface waters and indirect dischargers of oil and grease, required to have a NJPDES permit.

7:14A-14.2 Definitions

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

"Closed conduit" means any closed natural or artificial duct, such as a pipe, for conveying fluids.

"Existing discharger" means any discharger of oil and grease who has an oil and grease effluent limitation specified in the NJPDES/DSW permit upon the effective date of this subchapter.

"Froude number" means the numerical quantity used to characterize the type of flow in an open channel from which a

representative grab sample may be taken for the purposes of this subchapter.

“Grab sample” means a single sample collected at a particular time and place.

“Holding time” means the length of the time from collection of the sample until the time of initiation of the analysis.

“Hydraulic jump” means the sudden passage of water in an open channel from low depth to high depth, during which the velocity changes from supercritical ($Fr > 1$) to subcritical ($Fr < 1$), where Fr stands for Froude Number.

“New discharger” means any discharger of oil and grease to surface waters who is not an existing discharger.

“Oil and grease” includes the nonpetroleum-based pollutants of animal and vegetable origin which are analyzed by the analytical method for oil and grease referenced in 40 CFR Part 136 as of July 1, 1982, including subsequent amendments, and the petroleum-based pollutants analyzed by method 418.1 for petroleum hydrocarbons cited in Methods for Chemical Analysis of Water and Wastes, USEPA, Environmental Monitoring and Support Laboratory, Office of Research and Development, Cincinnati, OH, March 1983, including amendments and revisions.

“Open channel” means any natural or artificial waterway or closed conduit, including a gravity sewer, in which water flows with a free surface.

“Reynolds number” means the numerical quantity used to characterize the type of flow in a closed conduit from which a representative grab sample may be taken for the purposes of this subchapter.

“Sheen” means an iridescent appearance on the surface of water.

7:14A-14.3 Implementation

Existing dischargers shall meet the effluent limitations specified for new dischargers within two years of the effective date of this subchapter or until the Department issues a renewal NJPDES/DSW permit, whichever condition occurs later.

7:14A-14.4 Oil and grease effluent limitations

(a) Existing and new dischargers to surface waters shall meet the following oil and grease limitations.

1. Existing dischargers shall continue to meet all applicable standards and limitations, but in no case shall the discharge:
 - i. Exhibit a visible sheen;
 - ii. Exceed an average monthly discharge limitation of 15 mg/l; and
 - iii. Exceed a concentration of 30 mg/l in any single sample.
2. New dischargers shall discharge an effluent that does not:
 - i. Exhibit a visible sheen; and
 - ii. Exceed an average monthly discharge limitation of 10 mg/l; and
 - iii. Exceed a concentration of 15 mg/l in any single sample.

- (b) Indirect dischargers shall satisfy the following requirements:
 1. No oil and grease effluent limitations shall be imposed on indirect dischargers who are discharging nonpetroleum-based oil and grease of animal and vegetable origin.
 2. Indirect dischargers discharging petroleum-based oil and grease shall meet the following effluent limitations except where the Department has determined that more stringent effluent limitations apply, based upon the expected efficiency of the indirect dischargers' equipment.
 - i. The average monthly discharge limitation shall not exceed 100 mg/l; and
 - ii. The concentration in any single sample shall not exceed 150 mg/l.

(c) Existing and new dischargers to surface waters, and petroleum-based oil and grease indirect dischargers with discharges resulting from precipitation events, shall operate a facility designed for the runoff characteristics of the site with adequate hydraulic capacity to meet the following effluent limitations for any single precipitation event, except when a rainfall intensity exceeds two (2.0) inches per hour as recorded by the nearest National Weather Service station (United States Department of Commerce) or as

recorded by the discharger's own calibrated rain gauge. Rainfall records shall be kept for review by the Department.

1. Existing dischargers to surface waters shall continue to meet all applicable standards and limitations, but in no case shall the discharge exhibit a visible sheen and exceed a concentration of 30 mg/l in any single sample.

2. New dischargers to surface water shall discharge an effluent that does not exhibit a visible sheen and exceed a concentration of 15 mg/l in any single sample.

3. Indirect dischargers shall meet a maximum concentration of 150 mg/l.

(d) In addition to the effluent limitations specified in this subchapter, dischargers to surface waters and indirect dischargers shall satisfy all applicable standards and limitations, any local industrial waste ordinances, or other legally binding requirements, whichever is more stringent.

7:14A-14.5 Minimum monitoring requirements

(a) Dischargers to surface waters, including industrial treatment works and DTW's, shall meet the following minimum monitoring requirements based upon the nature of the oil and grease discharge.

1. All industrial treatment works dischargers discharging nonpetroleum-based oil and grease and all DTW's shall meet the following monitoring schedule:

Permitted Flow (Million gallons daily)	Monitoring Frequency
<1 MGD	Quarterly
1 – 10 MGD	Monthly
>10 MGD	Biweekly

2. All industrial treatment works dischargers discharging petroleum-based oil and grease or mixed nonpetroleum and petroleum-based oil and grease shall meet the following monitoring schedule:

Permitted Flow (Million gallons daily)	Monitoring Frequency
<0.1 MGD	Monthly
0.1 – 1 MGD	Biweekly
>1 – 5 MGD	Weekly
>5 MGD	2/Week

(b) The following shall apply to indirect dischargers regulated under N.J.A.C. 7:14A-10.5 and 13.5, discharging process wastewater:

1. Indirect dischargers who are Significant Indirect User (SIU's) required to obtain an individual NJPDES permit shall meet the following minimum monitoring requirements based upon the nature of the oil and grease discharge:

- i. Dischargers of nonpetroleum-based oil and grease of animal and vegetable origin shall not be required to monitor.
- ii. Dischargers of petroleum-based oil and grease shall follow the same monitoring schedule as industrial treatment works dischargers to surface waters specified above in (a)2.

2. Indirect dischargers possessing a permit by rule (see N.J.A.C. 7:14A-1.9) are not required to submit monitoring reports.

(c) Discharges as a result of precipitation events from dischargers to surface waters and from SIU's required to obtain an individual NJPDES permit who discharge petroleum-based oil and grease shall be monitored in the following way:

1. The discharger shall monitor for oil and grease during the first precipitation event of the month which causes a discharge and which is preceded by a minimum dry period of 72 hours.

2. During each precipitation event, the discharger shall take samples 15, 30 and 45 minutes after the onset of the discharge.

3. The discharger shall analyze each sample individually and report a maximum value for the samples.

(d) The Department may set more stringent monitoring requirements different than the frequency set out in (a) and (c) above.

(e) Upon the request of a discharger to surface waters or an SIU required to obtain an individual NJPDES permit, where the discharger has met the required oil and grease limitations for each of the reporting periods during the preceding 12 months, the Department may reduce the monitoring requirements of (a) above by up to 50 percent but to no less than quarterly reporting.

1. Whenever a report indicates the discharger has exceeded its effluent limitations, the discharger shall resume its former, more frequent reporting schedule.

(f) If a discharger to surface waters or an SIU required to obtain an individual NJPDES permit can demonstrate to the Department that the discharge consists entirely of uncontaminated non-contact cooling water, the Department may exempt this discharge from the monitoring requirements for oil and grease.

1. If the uncontaminated nature of discharge should change, the discharger must notify the Department within 30 days of the nature of the change.

2. Based upon this information the Department, within its discretion, may require additional monitoring.

7:14A-14.6 Sampling protocol

(a) All samples shall be grab samples collected and stored in one-liter, wide-mouth glass bottles fitted with TEFLON R-lined screw caps or ground-glass stoppers.

1. Air space in a full sample bottle must be kept at one inch. If the bottle is overfilled, the sample shall be discarded and a new sample collected.

2. All, rather than an aliquot portion, of the sample shall be used for analysis.

3. A sample shall be collected in one bottle and may not be transferred to another bottle before analysis.

4. Before the samples may be taken from a closed conduit via a valve or faucet arrangement, enough water shall be allowed to flush through the valve or faucet prior to filling the bottle in order to obtain a representative sample.

5. Samples shall be preserved by the addition of a sufficient amount of HCl (1:1) or H₂ SO₄ (1:1) at the time of collection to achieve a pH of less than 2, allowing time for any carbon dioxide to be released prior to capping the sample bottle.

i. The sample must be cooled to 4°C.

ii. Holding time shall not exceed three days for petroleum-based oil and grease, and 24 hours for nonpetroleum-based oil and grease.

(b) Representative grab samples taken from an open channel must be obtained at one of the following locations:

1. Where the Froude number equals or exceeds 1 at the time of sampling and at least 90 percent of the time when a discharge exists, computed according to the following formula:

$$Fr = \frac{V}{\sqrt{gy}}$$

Where Fr = Froude number (dimensionless).

V = mean velocity of the fluid in the channel (ft/sec).

g = the acceleration of gravity (32.2 ft/sec²).

y = Vertical depth of flow (ft).

2. Immediately downstream of a hydraulic jump.

3. From a sampling point located immediately after a V-notch weir, properly installed as a flow measuring device.

(c) Representative grab samples taken from a closed conduit must be obtained at a point where the Reynolds number exceeds 4,000 at the time of sampling and at least 90 percent of the time when a discharge exists, computed according to this formula:

$$R = Vd/v$$

Where R = Reynolds number (dimensionless).

V = mean velocity of the fluid in the pipe (ft/sec).

d = diameter of the pipe (ft)

v = kinematic viscosity (ft²/sec).

Using the following values for v, kinematic viscosity:

32°F	1.931 ft ² /sec x 10 ⁻⁵
40°F	1.664 ft ² /sec x 10 ⁻⁵
50°F	1.410 ft ² /sec x 10 ⁻⁵
60°F	1.217 ft ² /sec x 10 ⁻⁵
70°F	1.059 ft ² /sec x 10 ⁻⁵
80°F	0.930 ft ² /sec x 10 ⁻⁵
90°F	0.826 ft ² /sec x 10 ⁻⁵
100°F	0.739 ft ² /sec x 10 ⁻⁵
110°F	0.667 ft ² /sec x 10 ⁻⁵
120°F	0.609 ft ² /sec x 10 ⁻⁵

(d) The discharger may request that the Department approve an alternate sampling protocol. The discharger shall demonstrate to the satisfaction of the Department that a representative sample shall result from such sampling protocol.

7:14A-14.7 Analytical methods

(a) All sample analyses required by this subchapter shall be performed by laboratories certified by the Department in accordance with the N.J.A.C. 7:18, Regulations Governing Laboratory Certification and Standards of Performance.

1. Nonpetroleum-based oil and grease samples shall be analyzed in accordance with the latest test methods for oil and grease referenced in 40 CFR Part 136.

2. For petroleum-based oil and grease the infrared method for petroleum hydrocarbons, Method 418.1, cited in Methods for Chemical Analysis of Water and Wastes, USEPA, Environmental Monitoring and Support Laboratory, Office of Research and Development, Cincinnati, OH, March 1983, shall be used.

3. A discharger may request that the Department approve an alternate method for analysis. Pending the Department's determination, the discharger shall utilize the methods cited above.

7:14A-14.8 Exemptions

(a) Combined sewer overflows shall be exempted from the effluent limitations specified at N.J.A.C. 7:14A-14.4.

(b) The Department may grant an exemption from the effluent limitations specified at N.J.A.C. 7:14A-14.4(b)2 for indirect dischargers discharging petroleum-based oil and grease if the following conditions are met:

1. The DTW into which the indirect discharger discharges submits a request for the exemption indicating it meets all of the following criteria:

i. The discharge from the DTW has met a 10 mg/l average and 15 mg/l maximum limitations for oil and grease for each of the reporting periods during the preceding 12 months, as determined by the Department; and

ii. The sludge disposal option currently utilized or planned by the DTW considers petroleum hydrocarbons a beneficial constituent; and

iii. The DTW shows that the costs for oil and grease removal at the plant are in proportion to the other operation and maintenance costs of the plant.

2. The Department shall have 90 days to review the request for the exemption and make a tentative decision to grant or deny the request. If additional information from the applicant is required, the 90 day period may be extended. The Department shall publicly notice the tentative decision.

HEALTH

(a)

CONSUMER HEALTH SERVICES

Licensing Fees of Wholesale Food and Cosmetic Establishments

Proposed Amendment: N.J.A.C. 8:21-9.5

Authorized By: J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Authority: N.J.S.A. 24:15-14.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter D. Stratton
Chief, Food and Milk
Consumer Health Services
CN 364
Trenton, NJ 08625

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

This proposal is known as PRN 1983-429.

The agency proposal follows:

Summary

The purpose of the proposed amendment is to carry out the intent of the 1983 Appropriations Act (S1600) which permits the Department of Health to increase its license fees for wholesale food and cosmetic plants in order to support State inspectional and administrative activities aimed at protecting the consumer's health, safety and general well-being.

Pursuant to N.J.S.A. 24:15-1 et seq. the Department of Health is mandated to inspect and license wholesale food and/or cosmetic plants that operate in this State. The provisions of the above mentioned statute also grant the power to the Commissioner to establish reasonable fees up to \$250.00 for any service performed in the licensing and inspection of these establishments. (N.J.S.A. 24:15-14). In order for this department to continue these essential public health services, the licensing fees associated with these establishments were increased up to \$500.00 through passage of the 1983 Appropriations Act (S1600). The proposed amendments to N.J.A.C. 8:21-9.5 double the current annual license fees.

Social Impact

The proposed amendment would have a beneficial social impact because it would allow the Department to continue its effort to prevent adulterated and/or unwholesome food and cosmetic items from reaching the consumer. The Department currently licenses and inspects all wholesale food and cosmetic establishments that are engaged in the manufacturing, distribution and handling of food/cosmetic items. Enforcement efforts are aimed at 1. preventing food related morbidity and mortality; 2. avoiding cost-associated adversities resulting from food/cosmetic borne illnesses; and 3. creating and maintaining an environment in which food/cosmetics are produced, processed, stored or prepared that promotes mental health as well as physical health, by providing safe foods/cosmetics which meet the consumer's accepted aesthetic values.

Economic Impact

If the proposed amendment is not adopted a significant adverse impact to both the affected industries as well as to the consumer is imminent. For example, the Department through its comprehensive plant inspection and food sampling programs has, heretofore, been able to assure receiving states and foreign countries that food and cosmetic items produced in this State are safe and can be freely distributed nationwide and to international markets. Without the necessary fiscal support, the Department would have no alternative but to withdraw from these cooperative programs, which would create both an immediate and longlasting adverse economic impact on a significant portion of the food and cosmetic industries within this State.

New Jersey is a member of the National Shellfish Sanitation Program which is a cooperative interstate certification program among 26 shellfish producing states. If New Jersey, due to fiscal constraints, was forced to withdraw from this program, shellfish dealers could not ship their products across state lines. This restraint of commerce would have a devastating economic impact to this segment of New Jersey's industry.

The states of Connecticut and Pennsylvania, by law, require all bakery products and non-alcoholic beverages produced in New Jersey and sold to these states to be approved by this Department. Approval is granted when the Department inspects and certifies the establishment is operating in substantial compliance with State standards. If the Department was placed in a position whereby it could not provide this service, bakery and non-alcoholic products produced in this State could not be distributed in Connecticut and Pennsylvania.

Numerous foreign countries also require this Department to approve food/cosmetic items which are imported to these countries. Approximately 50 major food and/or cosmetic firms export its products to foreign countries that require a "Certificate of Free Sale/Purity." This trade has been conservatively estimated at 7.5 million dollars annually. A Certificate is issued based upon satisfactory compliance with State standards. This is determined by conducting a thorough inspection of the facility and a comprehensive review of the products and its labels. If this Department is no longer equipped with the necessary inspectional and administrative staff to carry out this certification process, further restraint of trade would result.

Economic losses would not be limited to industry. The consumer who is a victim of fraud or a foodborne illness, which may result in the loss of time at work, hospitalization or private medical expenses would also experience unnecessary economic losses. The likelihood of these events taking place increases with the decrease in control of the food and cosmetic industry.

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

8:21-9.5 License fees

(a) The department shall collect from each applicant for a license, under the provisions of these regulations an annual fee in the following amounts:

1. For each wholesale food or cosmetic establishment having an annual gross business of less than \$25,000, [~~\$25.00;~~] **\$50.00;**
2. For each wholesale food or cosmetic establishment with a gross annual business in excess of \$25,000 but not in excess of \$50,000, [~~\$40.00;~~] **\$80.00;**
3. For each wholesale food or cosmetic establishment with a gross annual business in excess of \$50,000 but not in excess of \$100,000, [~~\$50.00;~~] **\$100.00;**
4. For each wholesale food or cosmetic establishment with a gross annual business in excess of \$100,000 but not in excess of \$500,000, [~~\$75.00;~~] **\$150.00;**
5. For each wholesale food or cosmetic establishment with a gross annual business in excess of \$500,000 but not in excess of \$1,000,000, [~~\$150.00;~~] **\$300.00;**

6. For each wholesale food or cosmetic establishment with a gross annual business in excess of \$1,000,000, [\$250.00.] **\$500.00.**

(a)

CONSUMER HEALTH SERVICES

Food and Drugs Wholesale Food Establishments

Proposed New Rule: N.J.A.C. 8:21-13 Proposed Repeal: N.J.A.C. 8:21-2.31, 2.32, and 2.33

Authorized By: J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Authority: N.J.S.A. 24:2-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Peter D. Stratton
Chief, Food and Milk
Consumer Health Services
Trenton, NJ 08625

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

This proposal is known as PRN 1983-430.

The agency proposal follows:

Summary

The purpose of this proposal is to update the existing State regulations to reflect the changes and current problems that have occurred in the food industry in the last 12 years. The revisions also parallel Federal standards thus promoting uniformity between intrastate and interstate manufacturing and/or distribution of foods. This proposed new rule completely revises the current standards set forth in N.J.A.C. 8:21-2.31 through 2.33 which will be held in reserve after the adoption of the proposal. These old standards are antiquated and in many respects are no longer applicable to the food industry. The proposed amendments, on the other hand, reflect and address the dynamic changes that have occurred in the food industry. Furthermore, the existing requirements associated with the cold storage of pork products, no longer fall under the purview of this department but rather the United States Department of Agriculture.

Those standards in N.J.A.C. 8:21-2.31 through 2.33 that are still applicable have been incorporated into the proposed revisions.

The repeal of outdated regulations and the inclusion of modern standards will provide the industry with a better understanding of good manufacturing practices and concurrently assist health officials in the enforcement of these sanitary regulations in their continuing effort to protect the public's health and safety.

Social Impact

The proposed new rule will have a beneficial social impact by increasing consumer protection. The new rule updates and expands current sanitary regulations in order to: (1) prevent food related morbidity and mortality; (2) avoid cost-associated adversities resulting from foodborne illnesses; (3) create and maintain an environment in which foods are produced, stored, or handled that promotes mental health as well as physical health by providing safe

food which meets societies accepted aesthetic values, and (4) prevents fraud and deception to the consumer by assuring properly labeled products are sold.

Economic Impact

The proposed new rule, if adopted, would not cause any significant financial burden to the food industry. To the contrary, by identifying the critical control points in its operation, these rules aid the industry in directing their limited resources to those areas which have shown to be most beneficial in preventing adulteration and contamination to their products which may lead to a foodborne outbreak or a recall. The amendments parallel the United States Food and Drug Administration's (FDA) standards which already apply to establishments that distribute food interstate. Adoption of the proposal by this State, therefore, will promote uniformity in enforcement and standardize regulations applicable to all establishments engaged in the production and/or distribution of food.

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

8:21-2.31 [Equipment and utensil sanitization] (Reserved)

[(a) All tableware shall, after each use, be sanitized. A spoon or other utensil, once used for tasting food, shall not be reused until it has been cleaned and sanitized.

(b) All kitchenware and food contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous food shall be sanitized prior to such use, and following any interruption of operations during which contamination of the food contact surfaces is likely to have occurred. Where equipment and utensils are used for the preparation of potentially hazardous food on a continuous or production line basis, the food contact surfaces of such equipment, and utensils shall be cleaned and sanitized at intervals throughout the day on a schedule satisfactory to the Department of Health authority.

(c) Prior to washing, all equipment and utensils, shall be preflushed or prescraped, and when necessary, presoaked to remove gross food particles and soil.

(d) Effective concentrations of a suitable detergent shall be used in both manual and mechanical dishwashing.

(e) When manual dishwashing is employed, equipment and utensils shall be thoroughly washed in a detergent solution which is kept clean, and then shall be rinsed free of such solution. All eating and drinking utensils and, where required, the food contact surfaces of all other equipment and utensils shall be sanitized by one of the following methods.

1. Immersion for at least one-half minute in clean hot water at a temperature of at least 170 degrees Fahrenheit;

2. Immersion for a period of at least one minute in a sanitizing solution containing:

i. At least 50 parts per million of available chlorine at a temperature not less than 75 degrees Fahrenheit; or

ii. At least 12.5 parts per million of available iodine in a solution having a pH not higher than 5.0 and a temperature of not less than 75 degrees Fahrenheit; or

iii. Any other chemical sanitizing agent which has been demonstrated to the satisfaction of the department or health authority to be effective and nontoxic under use conditions, and for suitable field test is available. Such sanitizing agents, in use solutions, shall provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine at a temperature of not less than 75 degrees Fahrenheit.

3. Equipment too large to treat by methods listed in paragraphs 1 and 2 of this subsection may be treated:

i. With live steam from a hose, in the case of equipment in which steam can be confined; or

ii. By rinsing with boiling water; or

iii. By spraying or swabbing with a chemical sanitizing solution

of at least twice the minimum strength required for the particular sanitizing solution when used for immersion sanitization;

iv. A three compartment sink or its equivalent shall be provided and used wherever washing and sanitization of equipment or utensils are conducted manually: Provided, that establishments where the only utensils to be washed are limited to spatulas, tongs and similar devices, and when the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one compartment sink may be approved by the department or health authority for this purpose. At least a two compartment sink shall be provided and used for washing kitchenware and equipment which does not require sanitization or procedures approved by the department or health authority under subparagraph x of this paragraph. Single compartment sinks, such as cooks' and bakers' sinks, may be used for the prerinsing of utensils;

v. Sinks used for manual washing and sanitizing operations shall be of adequate length, width and depth to permit the complete immersion of the equipment and utensils, and each compartment of such sinks shall be supplied with hot and cold running water. Dish baskets shall be of such design as to permit complete immersion of the utensils and equipment components being sanitized therein;

vi. When hot water is used as the sanitizing agent in manual operations, thermometers, accurate to ± 2 degrees Fahrenheit, shall be provided convenient to the sink to permit frequent checks of the water temperature;

vii. Dish tables, drainboards or racks of adequate size for proper handling of soiled utensils prior to washing and for cleaned utensils following rinsing or sanitation, shall be provided, and shall be so located or constructed as not to interfere with the proper use of the dishwashing facilities, provided that, the drainboards shall not be required for cooks' and bakers' rinse sinks;

viii. Sinks, dish tables and drainboards shall be constructed of galvanized metal or better, suitably reinforced, of such thickness and design as to resist denting and buckling, and sloped so as to be self-draining;

ix. Dishwashing machines shall be of such materials and so designed and constructed as to be easily cleanable, and shall be capable, when operated properly, of rendering all surfaces of equipment and utensils clean to sight and touch, and sanitized;

x. When spray type dishwashing machines are used, the following additional requirements shall be met:

(1) Wash water shall be kept clean, and rinse water tanks shall be so protected by distance, baffles or other effective means as to minimize the entry of wash water into the rinse water.

(2) The flow pressure shall not be less than 15 or more than 25 pounds per square inch on the water line at the machine, and not less than 10 pounds per square inch at the rinse nozzles. A suitable gauge cock shall be provided immediately upstream from the final rinse valves to permit checking the flow pressure of the final rinse water.

(3) The wash water temperature shall be at least 140 degrees Fahrenheit and in single tank conveyor machines shall be at least 160 degrees Fahrenheit. When hot water is relied upon for sanitization, the final or fresh rinse water shall be at a temperature of at least 180 degrees Fahrenheit at the entrance of the manifold. When a pumped rinse is provided, the water shall be at a temperature of at least 170 degrees Fahrenheit. When chemicals are relied upon for sanitization, they shall be of a class or type approved by the department and shall be applied in such concentration and for such a period of time as to provide effective bactericidal treatment of the equipment and utensils.

(4) Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles.

(5) An easily readable thermometer shall be provided in each tank of the dishwashing machine which will indicate to an accuracy of 2 degrees Fahrenheit the temperature of the water or solution therein. In addition, a thermometer of equal accuracy shall be provided which will indicate the temperature of the final rinse water as it enters the manifold.

(6) Jets, nozzles and all other parts of each machine shall be maintained free of chemical deposits, debris and other soil. Automatic detergent dispensers, if used, shall be kept in proper operating condition.

xi. When an immersion type dishwashing machine is employed for equipment and utensils washing and sanitizing the applicable requirements pertaining to manual dishwashing shall be met: Provided, that a two compartment system shall be deemed adequate when the temperature of the wash water is maintained at or above 140 degrees Fahrenheit and hot water at a temperature of at least 170 degrees Fahrenheit is used as the sanitizing agent.

xii. Any other type of machine, device or facilities and procedures may be approved by the department or local health authority for cleaning or sanitizing equipment and utensils, if it can be readily established that such machine, device or facilities and procedures will routinely render equipment and utensils clean to sight and touch, and provide effective bactericidal treatment.]

8:21-2.32 [Certification of pork refrigeration by cold storage warehouse operator] (Reserved)

[(a) Operators of cold storage warehouses in which foods are held at temperature of five degrees Fahrenheit or less may apply to the Department of Health for special permission to issue certificates certifying the refrigeration of pork at the required temperature and for the periods of time necessary for the destruction of trichinae.

(b) The temperature and periods of time necessary for the destruction of trichinae shall be based upon the size of the pieces or packages of pork. Pork in group 1 shall consist of pieces not exceeding six inches in depth, or stored as solidly frozen blocks not exceeding six inches in thickness. Pork in group 2 shall consist of pieces or layers or contents of barrels or containers, the thickness of which exceeds six inches, but is not in excess of 27 inches. Pork in group 1 and group 2 to be refrigerated for the destruction of trichinae shall be subjected to a temperature of five degrees Fahrenheit or minus 10 degrees Fahrenheit or minus 20 degrees Fahrenheit for not less than the corresponding number of successive days, as indicated in the following table:

TABLE

Temperature	Group 1	Group 2
5 degrees F.	20 days	30 days
-10 degrees F.	10 days	20 days
-20 degrees F.	6 days	12 days

(c) Marking containers: The boxes or other containers of pork, to be subjected to the required refrigeration for the destruction of trichinae, shall be marked when received with the words "Cold Storage" and with the word "Received" followed by the month, day and year when placed in cold storage and with the lot number assigned to the pork and, when so refrigerated and released to the owner, with the word "Delivered" followed by the month, day and year, together with the words "Refrigerated for the destruction of trichinae at" followed by the temperature and the number of days the pork was held under such temperature.

(d) Issuance of certificates. A certificate certifying that the pork had been kept at the required temperature and number of days for the destruction of trichinae shall be executed in duplicate by the permittee and the original issued to the owner of the pork at the time of the release of each lot or part of a lot of pork refrigerated in accordance with the provisions of this Section. The duplicate certificate shall be retained by the permittee and placed on file. The certificate shall be in the following form:

To

Name of Owner

.....

Address

Lot No.....
Certificate No.....

This is to certify that the pork consisting of (describe types of cut of meat) weighing lbs., contained in (number and type of container), and constituting (insert "the full" or "part of") lot above indicated, has been kept at DEGREES TEMPERATURE FOR DAYS for the destruction of trichinae in accordance with the Regulations adopted by the Board of Health of the State of New Jersey.

Dated..... 19.....

.....
Name of Refrigerating Co.
BY

NAME AND ADDRESS OF REFRIGERATING COMPANY

(e) Records to be kept. The permittee shall assign to each lot of pork, when received for refrigeration for the destruction of trichinae, a distinguishing lot number for the purpose of identification and shall keep an accurate record of such lot number and shall make and keep a record of:

- 1. Date of receipt;
- 2. The name and business address of the owner;
- 3. The number and type of containers constituting the lot together with the types of cut of meat and the weight;
- 4. The temperature and number of days kept under such temperature for the destruction of trichinae; and
- 5. The number of certificate issued for said lot. These records shall be kept by the permittee at his place of business for at least one year, and shall be open for inspection to authorized representatives of the Department of Health.]

8:21-2.33 [Preparation, distribution and sale of custard and cream filled bakery products] (Reserved)

(a) Definitions: When used in this Section, the terms custard or cream filled products are defined as any bakery products consisting in whole or in part of milk, milk products, eggs, shortening or other ingredients capable of supporting rapid and progressive growth of bacteria.

(b) All commercially prepared custard or cream filled products shall be made under clean conditions.

(c) All custard or cream filling mix shall be heated to a boiling temperature (not less than 212 degrees Fahrenheit) before and after the addition of a stabilizer or by such other method demonstrated to accomplish the same results.

(d) Upon completion of the cooking of the custard or cream filling mix, it shall immediately be transferred into previously sterilized containers, properly covered, and chilled without delay to 50 degrees Fahrenheit or below and maintained at such temperature until sold.

(e) The filling apparatus shall be of suitable impervious material and shall be cleaned and properly sterilized before each use. No cloth filling bags shall be used.

(f) The hands of employees engaged in the preparation of custard or cream filled products shall not touch the custard or cream filling.

(g) No pastries or other products containing custard or cream fillings shall be displayed in windows or showcases, except those that are chilled at 50 degrees Fahrenheit or below.

(h) No pastries or other products containing custard or cream fillings shall be sold or delivered from vehicles, except such vehicles be equipped with refrigerated compartments maintained at a temperature of 50 degrees Fahrenheit or below.]

SUBCHAPTER 13. RULES GOVERNING WHOLESALE FOOD ESTABLISHMENTS

8:21-13.1 Separability

If any provision or application of any provision of this regulation is held invalid, that invalidity shall not affect other provisions or applications of this regulation.

8:21-13.2 Definitions

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

"Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practices.

"Adulteration" means the term "adulteration" as defined in N.J.S.A. 24:5-8.

"Approved" shall mean acceptable to the Department, Local Health Authority, or other appropriate Administrative Agency based on its determination as to the conformance with applicable standards and good public health practices.

"Color additive" means a material which is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and when added or applied to a food, drug or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that the term does not include any material which the Commissioner, by regulation, determines is used (or is intended to be used) solely for a purpose or purposes other than coloring and nothing herein contained shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color whether before or after harvest. The term "color" includes black, white and intermediate grays.

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

"Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. 301 et seq.: 52 Stat. 1040 et seq.).

"Food" means: 1. Articles used for food or drink for man or other animals; 2. Chewing gum and 3. Articles used for components of any such article. The term also includes any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale in whole or in part of food.

"Food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that the term does not include:

- 1. A pesticide chemical in or on a raw agricultural commodity; or
- 2. A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
- 3. A color additive; or
- 4. Any substance used in accordance with a sanction or

approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat., 1260), as amended and extended (21 U.S.C. 71).

"Food contact surfaces" are those surfaces that contact food and those surfaces from which drainage onto foods or onto surfaces that contact food ordinarily occurs during the normal course of operations.

"Local Health Authority" means the local board or local board of health of any municipality or the boards, body or officers in such a municipality lawfully exercising any of the powers of the local board of health under the laws governing such municipality, and includes any consolidated board of health, local or county board of health created and established pursuant to law.

"Lot" means a collection of primary containers or units of the same size, type, and style containing a finished product produced under conditions as nearly uniform as possible and designated by a common container, code or marking; and, in any event, "lot" means no more than a day's production.

"Misbranding" means the "misbranded" or "misbranding" as defined in N.J.S.A. 24:5-16 and 17.

"Multiservice containers" means containers intended for use more than one time.

"Nontoxic materials" means materials for food contact surfaces utilized in the transporting, processing, storing or packaging of food which are free of substances which may render the food injurious to health or which may adversely affect the flavor, color, odor or bacteriological quality of the food.

"Person" means an individual, a firm, partnership, company, corporation, trustee, association or any public or private entity.

"Pesticide chemical" means any substance which, alone, in chemical combination or in formulation with one or more other substances, is a "pesticide" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. secs. 135) as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

"Plant" means the building or facility or parts thereof, used for or in connection with the manufacturing, storage, processing, packaging, labeling or handling of food which is not sold or distributed directly to the ultimate consumer (retail).

"Potentially hazardous food" means any food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less.

"Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

"Rework" means clean unadulterated product, removed after or during processing, that is suitable for reprocessing and for use as food.

"Safe temperatures" as applied to potentially hazardous food, means temperatures of 45 degrees Fahrenheit or below, and 140 degrees Fahrenheit or above unless otherwise specified, and 0 degrees Fahrenheit or below for frozen foods.

"Sanitize" means adequate treatment of surfaces by a process that is effective in destroying the vegetative cell of microorganisms of public health significance and in substantially reducing numbers of other microorganisms. Such treatment shall not adversely affect the product and shall be safe for the consumer.

"Single service container" means a container intended for one-

time usage only.

8:21-13.3 Facilities and procedures for the storage, distribution, handling and processing of food

(a) Grounds: The grounds surrounding a plant under the control of the operator shall be kept in a condition that will not cause the food to be contaminated and/or adulterated. The methods for adequate maintenance as a minimum shall be:

1. Properly storing equipment, removing litter, and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place or harborage for rodents, insects or other pests.

2. Maintaining roads, yards, and other parking lots so that they do not constitute a source of contamination to the food.

3. Adequately draining areas that may contribute contamination to food by seepage, by foot-borne filth, or by providing a breeding place for rodents, insects or other pests.

(b) Plant layout and design: Buildings used for and in conjunction with the handling of food shall be suitable in size, construction and design to facilitate maintenance and sanitary operations for processing purposes. The plant layout and design shall be in such a manner that the purity, quality, and wholesomeness of the food therein manufactured, produced, packaged, prepared, stored, sold or distributed shall not be impaired. No loading or unloading of trucks or other vehicles shall take place within an establishment unless acceptable segregation or isolation of the mixing, processing or filling operations is provided. The plant and facilities shall:

1. Be kept in good repair and shall be maintained in a sanitary condition at all times.

2. Provide sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations.

3. Take proper precautions to reduce the potential for contamination of end products, raw materials, or food-packaging materials with microorganisms, chemicals, filth, or other extraneous material. The potential for contamination shall be reduced by any effective means including the separation by location, partition, air flow, enclosed systems or other effective means, of the following operations:

- i. Receiving;
- ii. Raw material storage;
- iii. Food preparation and processing operations;
- iv. Weighing, wrapping, packaging, and packing;
- v. Finished product storage and shipping;
- vi. Portable equipment and utensil cleaning and sanitizing; and
- vii. Equipment and vehicle maintenance.

4. Provide floors, walls and ceilings that are of such construction as to be easily cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes shall be installed in such a manner that drip or condensation does not contaminate the food, raw materials or food contact surfaces. Aisles or walking spaces between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of the food or food contact surfaces.

5. Permanently fixed artificial light sources shall be installed to provide:

- i. At least 20 foot candles of light in utensils and equipment storage areas and in laboratory and toilet areas.

- ii. At least 10 foot candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

- iii. Permanently fixed artificial light sources shall be installed to provide at least 30 foot candles of light on all food preparation surfaces and at equipment or utensil-washing work levels.

- iv. Light fixtures which are located in processing, preparation, equipment/utensil washing areas or other areas where food may be exposed shall be of the safety/shatter-proof

type, or otherwise protected to prevent food contamination and/or adulteration in case of breakage.

6. Ventilation:

i. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, grease, condensation, vapors, obnoxious odors, smoke, product dust and fumes;

ii. Exhaust hoods and ventilating devices shall be maintained clean and operated in areas where needed to expel excessive heat, steam, vapor, smoke, grease, fumes, product dust and obnoxious odors and to prevent the dissipation of these objectionable odors throughout the room.

iii. On all new installations or in extensively remodeled establishments, ventilating systems, including hood ventilators, shall be designed, maintained and operated in accordance with N.J.A.C. 5:23-1 and shall be designed to prevent grease or condensate from dripping into food or onto food preparation surfaces.

iv. All ducts in ventilating hoods shall be provided with filters which are readily removable for cleaning and replacement excepting those systems which are effectively self-cleaning.

v. Ventilation systems shall comply with applicable State and local fire prevention requirements and shall, when vented to the outside air, discharge in such a manner as not to create a nuisance.

vi. Where intake or exhaust air ducts are used, they shall be designed and maintained so as to prevent the entrance of dust, dirt, insects, rodents or other contaminating materials.

vii. In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

8:21-13.4 Sanitary facilities and controls

(a) The establishment shall be provided with adequate sanitary facilities and control measures to protect the purity, quality, and wholesomeness of the food. Facilities and controls shall include, but not be limited to the requirements of this section.

(b) **Water supply:** The water supply shall be sufficient for the operations intended and shall be derived from an adequate and approved source. Any water that contacts food or food-contact surfaces shall be safe and of adequate sanitary quality. Running water at a suitable temperature and under pressure as needed shall be provided in all areas where the processing of food, the cleaning of equipment, utensils, or containers, or employee sanitary facilities require.

1. The water supply shall be from a public or private water supply system which is constructed, protected, operated, and maintained in conformance with the New Jersey Safe Drinking Water Act (N.J.S.A. 58:12A-1 et seq.) and regulations (N.J.A.C. 7:10-1) and local laws, ordinances, and regulations; provided, that if approved by the Department of Environmental Protection, a nonpotable water supply system may be permitted within the establishment for purposes such as air conditioning and fire protection, only if such system complies fully within N.J.A.C. 8:24-6.6 (Size, installation and maintenance of plumbing), and the nonpotable water supply is not used in such a manner as to bring it into contact, either directly or indirectly, with food, food equipment or utensils.

(b) **Sewage:** All sewage and waste water shall be disposed of by means of a public sewage system or disposal system which is constructed and maintained in conformance with N.J.A.C. 7:9-2, Standards for the Construction of Individual Subsurface Sewage Disposal Systems, the New Jersey Water Pollution Control Act regulations, N.J.A.C. 7:14 and local laws, ordinances, and regulations.

(c) **Plumbing:** Plumbing shall be so sized, installed and maintained in accordance with applicable State and local standards as to carry sufficient quantities of water to required locations throughout the establishment; prevent contamination

of the water supply; properly convey sewage and liquid waste from the establishment to the sewer or sewage disposal system; and does not constitute a source of contamination of food, equipment, or utensils or create an insanitary condition or nuisance.

(d) **Drains:** Provide adequate floor drainage in all areas where floors are subject to flood-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(e) **Toilet facilities:** Each plant shall provide its employees with adequate toilet and associated hand-washing facilities within the plant. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination, except where alternate means have been taken to prevent such contamination (such as double doors, positive air-flow systems, etc.).

1. Toilet facilities shall be installed in accordance with N.J.A.C. 5:23-1. When a common toilet is used for employees and patrons, access shall not be through food preparation, food storage and utensil and equipment washing areas.

2. A supply of toilet tissue shall be provided at each toilet at all times. Handwashing signs, for example, "Wash Hands Before Resuming Work", shall be posted conspicuously in all toilet rooms and at each separate lavatory facility in a food plant. Easily cleanable receptacles shall be provided for waste materials and such receptacles in toilet rooms for women shall be covered. Such receptacles shall be emptied at least once a day, and more frequently when necessary, to prevent excessive accumulation of waste material.

3. Hot and cold water under suitable pressure shall be provided in toilet facilities. (90°F-105°F)

(f) **Hand-washing facilities:** Adequate and convenient facilities for handwashing and, where appropriate, hand sanitizing shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities shall be furnished with running water at 90 degrees Fahrenheit to 105 degrees Fahrenheit for handwashing, effective hand-cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, easily cleanable waste receptacles.

1. Handwashing facilities shall be installed in accordance with N.J.A.C. 5:23-1 and used only for the washing of hands and arms.

2. Each handwashing facility shall be designed to provide hot and cold or tempered water. Tempering may be accomplished by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

(g) **Rubbish and offal disposal:** Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces, and water supplies. Rubbish and offal disposal shall also be in conformance with N.J.A.C. 8:24-6.10.

8:21-13.5 Sanitary operations

(a) **General maintenance:** Buildings, fixtures, and other physical facilities of the plant shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are

required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the plant. These materials shall be identified and used only in such manner and under conditions as will be safe for their intended uses and stored in such a manner as to preclude the contamination to the product.

(b) Animal and vermin control: No animals or birds, other than those essential as raw material, shall be allowed in any area of a food plant. Effective measures shall be taken to exclude pests from the processing and storage areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues.

1. No person shall apply insecticides or rodenticides in or around any food establishment unless they do so in full compliance with New Jersey Department of Environmental Protection regulations N.J.A.C. 7:30.

(c) Sanitation of equipment and utensils: All utensils and food-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonfood-contact surfaces of equipment used in the operation of food plants shall be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) shall be stored in appropriate containers and handled, dispensed, used, and disposed of in a manner that prevents contamination of food or food-contact surfaces.

1. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and food-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surface may have become contaminated.

2. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use.

3. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

4. Equipment and utensil cleanliness and sanitizing procedures shall also be in conformance with the procedures as outlined in N.J.A.C. 8:24-5.3 through 5.6.

(d) Storage and handling of cleaned portable equipment and utensils. Cleaned and sanitized portable equipment and utensils with food-contact surfaces shall be stored in such a location and manner that food-contact surfaces are protected from splash, dust, and other contamination.

8:21-13.6 Equipment and procedures

(a) General: All plant equipment and utensils shall be suitable for their intended use, so designed and of such material and workmanship as to be adequately cleanable, and properly maintained. The design, construction, and use of such equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment shall be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

1. Food-contact surfaces shall be corrosion free when in

contact with food. They shall be made of nontoxic material that will withstand the environment of its intended use and the action of food ingredients, cleaning compounds, and sanitizing agents. All food-contact surfaces shall be maintained to prevent product contamination.

2. Seams in food-contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles or to prevent microbiological contamination in places where dirt or organic material might accumulate.

3. Equipment that is in the processing or food handling area and that does not come into contact with product shall be so constructed that it can be kept in a clean condition.

4. Ingredient and product holding, conveying, and processing systems that include, but are not limited to, gravimetric, pneumatic, closed, and automated systems shall be of a design and construction that enables them to be cleaned and sanitized.

5. Regulating and recording controls, thermometers, other temperature measuring devices and temperature recording devices on equipment used to sterilize, pasteurize, or otherwise control or prevent growth of microorganisms in raw materials or products shall be accurate, effective, and adequate in number for their designated uses.

6. Each freezer and cold storage compartment used for storing and holding raw materials or products capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature measuring device and/or temperature recording device so installed as to show the temperature accurately within the compartment. Thermometers and other temperature recording devices shall be accurate to $\pm 2^\circ$ Fahrenheit.

7. Instruments used for measuring or regulating pH, acidity, water activity, or other conditions that control or prevent undesirable microbial growth in foods shall be precise and properly maintained.

8. All compressed air or other gases, mechanically introduced into foods or used to clean food-contact surfaces or equipment, shall be adequately filtered or washed and shall be free of oil and other extraneous material that might contaminate the foods.

9. All equipment ports, hatches and other openings shall be provided with tight fitting covers and shall be kept in place and used to prevent airborne contamination and/or adulteration.

10. The design, construction, installation, and materials for food equipment, shall be in compliance with N.J.A.C. 8:24-5.1 and 5.2.

8:21-13.7 Personnel

(a) No person, while affected by a disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other sources of microbiological contamination, shall work in a plant in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by that person, or of disease being transmitted by that person to other individuals.

(b) All persons, while working in direct contact with food preparation, food ingredients, or food contact surfaces shall conform to good hygienic practices to the extent necessary to prevent contamination of food products. The methods for maintaining cleanliness shall include, but are not limited to:

1. Wearing clean outer garments in a manner that prevents the contamination of food;

2. Maintaining a high degree of personal cleanliness;

3. Washing hands thoroughly (and sanitizing if necessary to prevent contamination by undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from work station, and at any other time when the hands may have become soiled or contaminated;

4. Removing all insecure jewelry and during periods in which food and beverages are manipulated by hand, removing from hands any jewelry;

5. If gloves are used in food handling, maintaining them in an intact, clean, and sanitary condition. Gloves shall be made of non-absorbent material, and can be easily cleaned and sanitized if they are designed for re-use;

6. Wearing hair nets, headbands, caps, beard covers, or other effective hair restraints in an effective manner; and

7. Refrain from smoking in food preparation areas.

8:21-13.8 Production and process controls

(a) All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing, and storing of food shall be conducted in accord with adequate sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable microorganisms, or any other objectionable material to the processed product.

(b) Raw materials and ingredients shall be inspected and segregated as necessary to assure that they are clean, wholesome, and fit for processing into food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products shall be of approved quality, and water shall not be reused for washing, rinsing, or conveying products in a manner that may result in contamination of food products.

(c) Containers and carriers of raw ingredients shall be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(d) When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in accordance with accepted standards and stored, transported, and handled in a sanitary manner.

(e) Food processing areas and equipment used for processing human food shall not be used to process nonhuman food-grade animal feed or inedible products unless there is no reasonable possibility for the contamination of the human food.

(f) Processing equipment shall be maintained in a sanitary condition through frequent cleaning including sanitization where indicated. Insofar, as necessary, equipment shall be taken apart for thorough cleaning.

(g) All food processing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microbiological growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuation, and other factors do not contribute to the decomposition or contamination of the processed products.

(h) Chemical, microbiological, or extraneous-material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected or treated or processed to eliminate the contamination where this may be effectively accomplished.

(i) Packaging processes and materials shall not transmit contaminants or objectionable substances to the products and shall provide adequate protection from contamination.

(j) Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity shall be utilized to enable positive lot

identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records shall be retained for a period of time that exceeds the shelf life of the product, except that they need not be retained more than two years.

(k) Storage and transportation of finished products shall be under such conditions as will prevent contamination, including development of pathogenic or toxigenic microorganisms, and will protect against undesirable deterioration of the product and the container. All potentially hazardous food shall be kept at 45 degrees Fahrenheit or below or 140 degrees Fahrenheit or above, and frozen foods at or below 0 degrees Fahrenheit during transportation, provided that, cold food may be allowed to reach 55 degrees Fahrenheit and hot food may be allowed to reach 130 degrees Fahrenheit if they are to be consumed within one-half hour of plating. During transportation all food shall be in covered containers or completely wrapped or packaged so as to be protected from contamination and maintain safe temperatures except for hanging meats and raw agricultural products, which will be prepared for consumption in such a manner to remove the danger of possible contaminants. All food transportation vehicles, including carts, trucks, vans, and trailers shall be kept clean, free of vermin and in good repair.

(l) Perishable and potentially hazardous food shall be stored at safe temperature and in accordance with the standards set forth in N.J.A.C. 8:24-3.2.

(m) Containers of food shall be stored above the floor, on clean racks, dollies or other clean surface in such a manner as to be protected from splash and other contamination. Additionally, foods in bulk storage must be elevated four to six inches above the floor on racks or dollies and aisles must be provided between articles in storage and walls, and masses of foods must be broken down into manageable cells with aisles to allow for cleaning and inspection and to prevent insect and rodent harborage.

1. Foods in bulk storage shall be stored at least 12 inches from each wall and there shall be a white inspection strip on the floor along each wall where food is stored.

2. Foods packaged in cans, glass or other vermin-proof containers sealed in shipping cartons and stored on clean surfaces in rooms, the floors of which are not frequently washed or otherwise subjected to water, need not be elevated and aisles need not be provided if containers are in temporary storage for five days or less or stored on dollies, skids, racks or open-ended pallets, provided such equipment is easily removeable either by hand or with the use of pallet moving equipment that is on the premises and used, and the areas are clean, and rodent, insect or other vermin harborages are not provided.

(n) The following Federal standards as now enforced and hereafter amended, shall apply in determining whether the food, facilities, methods, practices and controls used in the manufacture, processing, packing or holding of food are in conformance with or operated or administered in conformity with good manufacturing practices to assure that food for consumption is safe: Code of Federal Regulations, Title 21, Subchapter B Food for Human Consumption, sections 100, 101, 102, 104, 105, 109.15, 110.40, 113, 114, 118, 122, 123, 130, 131, 133, 135, 136, 137, 139, 145, 146, 150, 152, 155, 156, 158, 160, 161, 163, 164, 166, 168, 169, 170, 172, 173, 174, 175, 176, 177, 178, 179, 181, 182, 184, 186, 189 and 193.

(o) Foods shall be considered unsafe if any of the following occurs:

1. If it bears or contains any added or adulterous substance which is unsafe; or

2. If it is, or it bears or contains any food additive which is unsafe; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under the Federal Act and the raw agricultural commodity has been subjected to

processing such canning, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on the processed food shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

3. If it is, or it bears or contains a color additive which is unsafe under the Federal Act.

4. If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under the Federal Act.

8:21-13.9 Emergency occurrences

(a) In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at safe temperatures, the person in charge shall immediately take necessary remedial action so as to prevent the adulteration of food. A fire, flood, or power outage of such duration or similar event which jeopardizes food safety shall be reported promptly to the department and the local health authority.

(b) Only those salvaged foods which comply with N.J.A.C. 8:21-11.1 entitled "Dented Cans: Salvaged or Distressed Foods, Alcohol and Nonalcoholic Beverages and Industrial Mishandling" may be used or offered for sale.

(a)

HEALTH ECONOMICS SERVICES

Uniform Bill-Patient Summary (Inpatient) Guidelines for Completing UB-PS; Function of Intermediaries; Penalties

Proposed Amendments: N.J.A.C. 8:31B-2.4 and 2.6

Authorized By: J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with the approval of the Health Care Administration Board).
Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b and 26:2H-18d.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-428.

The agency proposal follows:

Summary

The coding tables utilized for the Uniform Bill-Patient Summary (UB-PS) have been updated in recognition of new payers being

added to the list; to provide identification for Same Day Surgery cases; and to identify the cases that have been reviewed by the Utilization Review Organization.

A penalty for late submission of UB-PS data is proposed in N.J.A.C. 8:31B-2.6 to ensure the timely receipt of this information by the Department of Health.

Social Impact

There is no discernible social impact from this proposal. The proposed amendments are only minor coding changes and do not alter the original intent or social impact of the regulation. The penalty for late submission of UB-PS data will be felt by those hospitals which do not submit the required information on time.

Economic Impact

The penalty for late submission of UB-PS data will be felt by several hospitals until they become more efficient, which is the goal of the system. Final reconciliation for these hospitals may be delayed until the data is received, which does not serve the best economic interest of the facility.

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

8:31B-2.6 Functions of UB-PS intermediaries

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

(e) The UB-PS Guidelines in section 4 of this subchapter indicate in a separate column those items required to be submitted to the Department of Health by the UB-PS intermediary. These required data, edited pursuant to subsection (c) of this section, shall be submitted to the Department of Health in a computer processable format and medium, specified by the Department of Health before July 1, 1980, within 90 days of the end of each calendar quarter. Each submission is to include the data on all patients covered by the UB-PS intermediary pursuant to subsection (a) of this section and discharged during the calendar quarter.

1. Records not received by the Department (including corrections of fatal errors) within the time frames specified will not be included in the hospital's Final Reconciliation, and the direct costs associated with them will be foregone by the hospital unless a penalty is paid to the Commission. The amount of the penalty will be up to \$200.00 times the number of working days from the date the records were due to the date the last record is received by the Department.

[1.] **2.** All data submitted to the Department of Health will be edited upon receipt and any problems detected shall be corrected by the UB-PS Intermediary with any necessary assistance from the hospital.

(f) (No change.)

Editor's Note: Submitted as part of this proposal were amendments to the inpatient procedural guidelines and coding table which are referenced but not reproduced at N.J.A.C. 8:31B-2.4. The text of these amendments may be inspected at the Department of Health, Room 600, Trenton or the Office of Administrative Law, 88 East State Street, Trenton.

(a)

HEALTH ECONOMICS SERVICES**1984 Procedural and Methodological Regulations****Proposed Amendment: N.J.A.C. 8:31B-3**

Authorized By: J. Richard Goldstein, M.D., Commissioner, Department of Health (with the approval of the Health Care Administration Board on July 7, 1983).

Authority: N.J.S.A. 26:2H-1, et seq., specifically 26:2H-5 b. and 26:2H-18d.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-431.

The agency proposal follows:

Summary

The proposal constitutes the 1984 Procedural and Methodological Regulations and contains several significant changes to the 1983 regulations. The major changes are:

1. Penalty clause for the late submission of current cost data to encourage timeliness of information transmittal to the Department to allow for the accomplishment of the rate-setting and reconciliation procedures on established schedule.
2. Provision for hospitals who may lack sufficient data to establish reimbursement rates at the same time as all other hospitals to remain on their last approved rates issued. Recognition of only a portion of the projected inflation will be made pending the availability of the required hospital data.
3. Hospitals may now elect to request a Certified Revenue Base which should provide equitable payments for effective and efficient hospitals to enable them to provide appropriate and necessary medical care.
4. The minimum requirement for full time residents in major teaching hospitals has been raised from 35 to 75 and the concept of a "degree of teaching," as presented in the 1983 regulation has been eliminated from the 1984 regulations.
5. The Capital Facilities Allowance has been revised to ensure that at least 75 percent of the internally Generated Plant Fund balance will be available for equity contribution for future approved Certificates of Need for capital expansion/renovation projects.
6. The term "DRG Appeal" is now changed to "Clinical Rate Appeal" to eliminate the confusion associated with DRG Rate Appeals routinely requested by Chapter 83 hospitals. The Clinical Rate Appeal process is clearly defined in this revision.
7. The Department is proposing to separate the various revenue centers within a hospital into three distinct areas; Routine, Ancillary and Ambulatory and each area will be treated individually with respect to charges the Department proposes to reduce in the cross-subsidization corridor to a plus or minus five percent around the overall charge to cost ratio in the Routine and Ancillary cost

centers. The Ancillary revenue centers cross subsidization corridor will be 15 percent and Ambulatory revenue center will have a separate charge to cost ratio calculated and the five percent variance will be applied.

8. An expanded glossary for Utilization Review usage is provided for clarification of the activities performed. The revisions also include an acknowledgement that qualified Utilization Review Organizations may have access to pertinent patient data to fulfill their required functions involving bill certification for payors and quality assessment of the DRG System.

9. A commission charge of up to \$2.00 per adjusted admission is being proposed. The fee increase will assist in giving support to meet the needs of the health care system.

10. A revision in the schedule of rates reconciliation process is proposed prospectively which will allow actual costs to be approved at reconciliation for outliers private referral outpatients, and other patients without rates.

Social Impact

The proposed amendments to N.J.A.C. 8:31B-3 will assist hospitals in becoming more conscientious in the submission of data to effect the timely establishment of reimbursement rates and reconciliation.

The hospitals accepting a Certified Revenue Base (CRB) will be able to manage their own hospital independently and focus their efforts on meeting the community needs for health care.

The higher threshold for number of full time residents in a teaching hospital will produce a tightened group of hospitals providing extensive teaching programs, making the major teaching category a true major teaching category.

The proposed revision of the Capital Facilities Allowance will allow the hospital to have the assurance of an adequate down payment for new building needs when the time comes for replacement of their facilities.

The usage of the term "Clinical Rate Appeal" rather than "DRG Appeal" more appropriately identifies the process which can involve appeals involving new medical practice or increased utilization of existing practice.

The separation of the hospital revenue centers into three distinct areas will provide a more logical rationale for establishing changes and developing cross-subsidization corridors, and allow hospitals to be more competitive in the outpatient areas.

The clarification of the Utilization Review activities, through the expanded glossary provided in this proposed revision, will provide a better understanding of the system for the hospital and interested parties. The ability of the Utilization Review Organization to access pertinent UB-PS data will provide a better evaluation for quality assessment to ensure that the needs of the public are being met.

The increase in Commission fees will aid the health care facilities to receive more timely rate schedules, reconciliations and appeal analyses from the Department of Health.

The revision in the reconciliation method will eliminate the automatic reimbursement screening which exists by using a charge to cost ratio developed from approved costs rather than actual costs for outliers and private referred patients. These patients were intended to be neutral relative to any screening process under the prospective reimbursement system.

Economic Impact

The proposed penalties for late submission of data to the Department will effect only the hospitals which fail to comply with timeframes already established in the regulations. It will help provide these hospitals with an incentive to submit data in a timely fashion, and avoid having rates calculated and issued later than the remaining hospitals in the State. The introduction of the Certified Revenue Base and the process required to attain this base will assure that the total hospital revenues are maintained at an efficient and effective level. Those hospitals not accepting a Certified Revenue Base will have their rates reduced to a more efficient level, thus aiding those hospitals in eliminating inefficiencies.

The proposed revision to the Capital Facilities Allowance will reduce the need to provide ever increasing funds through the Capital Facilities Formula Allowance (CFFA) in future years for facility replacement by requiring a greater share of allowance already in the rates to remain funded.

The clarification of the Clinical Rate Appeal and the process associated with its utilization will have no direct financial impact on all hospitals.

The separation of the hospital revenue centers rate three distinct areas will allow hospitals to be more competitive in outpatient areas. It also recognizes the ability hospitals have to align charges with costs in inpatient areas. Better alignment provides more accurate cost accounting and thus more accurate rates in the future. The clarification of the Utilization Review Activities will pose no further economic impact.

The proposed Reconciliation Methodology will allow hospitals to receive their actual costs for treatment provided to outliers and other patients without rates. It also eliminates the possibility that hospitals can manipulate charges to artificially increase reimbursement.

The increase in Commission fees gives the Commission the ability to generate up to 1.2 million dollars per year from the hospitals which then can be used to provide necessary services to adequately support the DRG system.

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

8:31B-3.2 Derivation of Preliminary Cost Base

(a) For a group of hospitals the Commissioner, on or before January 31, of the rate year shall propose to the Commission a Preliminary Cost Base for the initial rate period. The proposed Preliminary Cost Base for each hospital shall include:

1. The reasonable direct patient care costs as defined in N.J.A.C. 8:31B-3.20 through 3.36.
2. The reasonable indirect patient care costs calculated according to N.J.A.C. 8:31B-3.20 through 3.36.
3. The reasonable physician costs calculated according to N.J.A.C. 8:31B-3.20 through 3.36.
4. The net income from other sources as defined in N.J.A.C. 8:31B-3.25.
5. An economic factor adjustment calculated according to N.J.A.C. 8:31B-3.26, which may be periodically adjusted in accordance with N.J.A.C. 8:31B-3.42 through 3.45 and N.J.A.C. 8:31B-3.71 through 3.86.
6. A capital component, as defined in N.J.A.C. 8:31B-3.27.

¹For hospitals on a fiscal year beginning other than January 1, the rate year will be the [1983-1984] **1984-1985** fiscal year. A PCB for fiscal year hospitals will be proposed to the Commission at least 30 days prior to the hospital's "fiscal" rate year.

8:31B-3.3 Uniform Reporting: Current costs

(a) The Commissioner shall review the actual costs for the institutions as reported in accordance with the [Uniform Cost Reporting Regulation (N.J.A.C. 8:31A-5.5).] **Financial Elements and Reporting (N.J.A.C. 8:31B-4)**. This review will be performed according to the methodology outlined below. Costs so reported shall be subject to revision due to subsequent audits in accordance with N.J.A.C. 8:31B-3.71 through 3.86.

(b) **Late submission of current cost data, as defined in N.J.A.C. 8:31B-4.6 (c), shall result in a penalty, payable to the Commission, of up to \$200.00 per working day past the appropriate submission date.**

8:31B-3.11 Same Day Surgery

(a) Same Day Surgery is considered an alternative mode of health

care delivery which the Department of Health considers to be efficient and worthy of encouragement. [Same Day Surgery is intended to lower the cost of health care delivered to those patients who are otherwise appropriately classified as inpatients. These patients, by definition, require surgery that is performed in a fully equipped operating room (i.e. one capable of providing general anesthesia), but who are discharged on the same day that the surgery was performed.] **Same Day Surgery is intended to lower the cost of health care and provide the appropriate level of care to patients who are otherwise classified as inpatients. The patient, by definition:**

1. Is identified on the Uniform Bill-Patient Summary (UB-PS) as a one acute day but is discharged before midnight of the day of admission;

2. Had surgery performed in a fully equipped operating room, for example, one routinely equipped and capable of providing general anesthesia, and identified by an operating room charge on the UB-PS;

3. Had a normal discharge, for example, was not transferred, did not leave AMA, and was not discharged dead.

(b) Hospitals shall report to the Commissioner in writing the existence, removal or other change in status of same day surgery programs and a description of the type of procedures performed and a list of the effected DRGs no later than November 15 of the year prior to the issuance of the Proposed Schedule of Rates or Adjusted Rate Order. Hospitals found by the Commissioner to have duly designated programs may petition the Commission for an adjustment to their Schedule of Rates in accordance with N.J.A.C. 8:31B-3.51 through 3.62.

8:31B-3.12 through 8:31B-3.14 (Reserved)

8:31B-3.15 [(Reserved)] **Certified Revenue Base**

Beginning in 1984, hospitals will be able to obtain a Certified Revenue Base (CRB). A Certified Revenue Base is the preliminary cost base as approved by the Hospital Rate Setting Commission which is sufficient to meet a hospital's needs in providing adequate and appropriate health care. A hospital may elect to request a CRB, and remain on that CRB adjusted by economic factor, for as long as the hospital determines the CRB meets its needs or until such time as the Hospital Rate Setting Commission re-establishes rates for all hospitals. N.J.A.C. 8:31B-3.51, Notification Appeal and Review, provides the procedures for determining the CRB.

8:31B-3.19 Patient care cost findings: Direct costs per case, physician and non-physician

(a) Hospital case-mix:

1. [Until such time as] Uniform Bill-Patient Summary (UB-PS) data [are available for this purpose] pursuant to N.J.A.C. 8:31B-2.1, [acceptably reliable Medical Discharge Abstracts received under N.J.A.C. 8:31A-10.7] are used for determination of hospital case-mix. The appropriate patient records for the reporting period corresponding with the Financial Elements Report are classified into Diagnosis Related Groups (DRGs) (see the DRG List in N.J.A.C. 8:31B-5) using the following items as defined in the UB-PS regulation:

- i. Principal diagnosis;
- ii. Secondary diagnoses;
- iii. Principal and other procedures;
- iv. Age;
- v. Sex;
- vi. Discharge status.

2. Outliers (patients displaying atypical characteristics relative to other patients e.g., inordinately long or short lengths of stay) are determined by DRG using established trim points; any case beyond a trim point is considered an outlier. The case-mix of inpatients discharged during the reporting period (total from reported volumes) for whom the UB-PS data [or medical abstracts] could not

be classified into DRGs due to missing or unacceptable information shall be assumed to be distributed in the same manner as the case-mix of the patients who were classified. Hospitals must make every attempt to correct unacceptable data and hospitals for which more than 10 percent of the [abstracts] UB-PS data are missing or unacceptable must resubmit data or correct the unusable data before case-mix estimation will be attempted.

3. (No change.)

4. Commission approved Same Day Surgical Services as defined in N.J.A.C. 8:31B-3.11, will be considered [as other ambulatory services and not] a clinical service but treated as low trim outliers, assigned a DRG and reported on a UB-PS as "SD" (Same Day, in accordance with N.J.A.C. 8:31B-2.1.

(b) Measures of resource use:

1. [Until such time as UB-PS data are available for providing patient charge information, each inpatient medical discharge abstract is combined with the patient's summary of ancillary service charges received under N.J.A.C. 8:31-16.17 where a common linking number is found on each record.] For each patient with a UB-PS, [or a combined bill-abstract record,] measures of resource use are calculated. These measures of resource use per patient with an acceptably reliable record are then multiplied by the estimated number of cases determined in (a) above, and the total inpatient estimate of each measure of resource use is then adjusted to the actual amount of each measure. Hospitals shall make reasonable efforts to correct unacceptable data. Outpatient case-mix measures of resource use are then obtained in the aggregate from data reported to the New Jersey State Department of Health (until outpatient information is available under a Rule on Hospital Reporting of Uniform Bill-Patient Summaries (outpatient)).

2. A report of Inpatient Case-Mix and Measures of Resource Use will be produced showing DRG assigned [abstracts and merged records or] UB-PS records, estimated total cases, received charges or patient days by center, adjusted charges or patient days by center by DRG, and outliers; and a report for Outpatient Case-Mix and Measures of Resource Use will be produced.

(c) (No change.)

8:31B-3.22 Standard costs per case

(a) (No change.)

(b) 1983 Classification of Teaching (Major, Minor) and Non-teaching Hospitals

1. Teaching hospitals are defined as those hospitals which, during the Current Cost Base Reporting period, met all of the following requirements:

i. (No change.)

ii. A minimum of [35] 75 full time equivalent residents in all approved residencies combined;

iii. [Twenty] Fifty full time equivalent residents must be in the five clinical services listed in (b)1i(1) through (5) above, and half of these residents (at least [10] 25 full time equivalents) must be in Internal Medicine, [and/or] Family Practice and/or Pediatrics. **The hospital must have the principal residencies for these core areas and not just rotating residencies.**

2.-5. (No change.)

[6. In 1984, recognition of degree of teachingness will replace the three categories of teaching.]

(c) (No change.)

(d) Calculation of standards:

1. The calculation of standards will be based on the group of hospitals first receiving a PCB, or other appropriate sample of hospitals thereafter. The cost per case of each hospital's patients with UB-PS [or combined abstract/bill] records categorized by inpatient DRG are multiplied by each hospital's equalization factor. (See N.J.A.C. 8:31B-3.24(c).) The mean equalized cost of all such records in teaching or non-teaching hospitals, respectively, is the incentive standard for each DRG. Other standards to be calculated shall be, but are not limited to, the Efficiency Standard (median hospital) or lowest cost per case in a hospital which has treated more than 10 patients. (See N.J.A.C. 8:31B-3.5.)

2. Determination of Labor Unequalization Factor to Calculate Standard Cost per Case of Each Labor Market Area.

i. (No change.)

ii. The reciprocal of the [Labor Market Area] hospital's equalization factor is the hospital's unequalization factor [and is applied to the equalized total non-physician costs resulting in total non-physician unequalized costs. The total unequalized non-physician costs are divided by the total equalized non-physician costs resulting in the hospitals unequalization factor].

iii. (No change.)

[3. For 1984, the Department will develop a standard on a DRG by DRG basis for all hospitals. This standard will represent the incentive standard for non-teaching hospitals and will be increased as a function of the number of residents in ACGME or AOA accredited residencies for all hospitals with teaching functions. Essentially each standard will be hospital specific on the basis of the equation;

Standard DRG = (Non-Teaching Standard) + x (Residents/Case).

4. The equation in (d)3 above is the result of regression analysis comparing average cost per case for each DRG and the number of residents/case for all hospitals and will be used in the determination of a reasonable cost per case.]

8:31B-3.23 Reasonable Direct Costs Per Case

(a) Inpatient:

1. (No change.)

[2. The 1983 rates shall be an adjusted Rate Order and the payment rates in effect, will be adjusted by an Economic Factor. Commission approved continuous adjustments for 1982 will be included in the mark-up factor during 1983. At year end final reconciliation, all direct patient care Commission approved adjustments for 1983 and continuous adjustments for 1982 will be included in the payment rates.]

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

8:31B-3.24 Reasonable Indirect Patient Care Costs

(a) (No change.)

(b) The reasonable amount of indirect costs (exclusive of skilled nursing apportionment) will be determined for those hospitals that will receive an initial PCB. The General Service Related centers will be screened to determine disincentive or incentive amounts. Disincentive amounts will be screened in the Physician and Teaching Related Centers. The screening methodology will compare [1979] base year actual cost data. Such screens will be applied to the indirect cost centers defined below by cost center (or combined cost center) with the exception of sales and real estate taxes, outside collection costs and purchased employee health insurance, through comparison with limits relative to the median cost per unit of service. The incentive amounts for the General Service Related centers will be one-half the difference between a hospital's actual cost and 90 percent of the median unit cost. The remaining indirect cost centers will be included in the Preliminary Cost Base at the base year level as adjusted by the economic factor. Appeals of these indirect cost centers will be subject to the provisions of N.J.A.C. 8:31B-3.53 through 3.57.

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

8:31B-3.27 Capital Facilities

(a) Capital Facilities, as defined in N.J.A.C. 8:31B-4.42, shall be included in the Preliminary Cost Base in the following manner:

1. Building and fixed equipment:

i.-v. (No change.)

vi. For either option, the maximum expenditure from the Plant Fund for each year shall not exceed [50] 25 percent of the difference between the CFA and the capital cash indebtedness. [Expenditures from the Plant Fund shall be for approved Certificate of Need items only.] **If the 75 percent level per year is not**

maintained in the Plant Fund and the hospital has an overcollection at Final Reconciliation, a penalty of 10 percent of the amount not funded will be assessed against the institution. A minimum of [50 maintained in the Internally Generated Plant Fund to be used only for future replacement.

2. (No change.)

8:31B-3.29 Calculation of Return on Investment - For Profit Hospitals

(a) (No change.)

(b) This factor will be phased out by including 100 percent of the amount calculated using Medicare principles for the rate year beginning January 1, 1981; 50 percent of the factor for the rate year beginning January 1, 1982; and eliminating this factor should be included in the Indirect Costs of the Preliminary Cost Base. This prospective amount shall be reconciled at Final Reconciliation to reflect the actual percentage change for the rate year.]

(b) This adjustment will be phased out over a three year period according to the following timetable:

1. In the first rate year the hospital is subject to the Chapter 83 methodology, 100 percent of the Medicare adjustment will be included;

2. In the second rate year, 50 percent will be included; and

3. In the third rate year, the adjustment will be eliminated.

(c) Adjustments will be added in the Indirect Costs of the Preliminary Cost Base and will be set on a prospective basis and will be reconciled to actual experience for the rate year.

8:31B-3.32 [(Reserved)] Overspending challenge

Hospital base year costs will be adjusted to eliminate any costs expended in excess of Hospital Rate Setting Commission total approved revenues for rate setting purposes should the hospital elect to not accept the Certified Revenue Base (N.J.A.C. 8:31B-3.15). The actual costs of the hospital will be used, however, in the calculation of standards for rate setting purposes. The overspending challenge will be applied as an indirect adjustment net of the estimated percent of standard for direct patient care to the hospital's approved revenue.

8:31B-3.33 Alternate methodology

[(a) DRG rates will be established for hospitals without adequate 1979 billing data by utilizing the hospital's 1981 actual costs and 1981 actual case-mix from the Uniform Bill-Patient Summaries. The 1983 rates shall be an adjusted Rate Order and the payment rates effective for 1982 based on 1981 actual costs and 1981 actual case mix data, will be adjusted by an Economic Factor.

[(b) Reasonable indirect patient care costs will be based on 1979 actual costs and determined in accordance with Section 8:31B-3.24.]

(a) Hospitals without adequate cost reporting and/or billing data for the base year for the Department to set DRG price per case rates will be required to continue to bill the most recent Schedule of Rates issued by the Department until this data becomes available. Such rates shall be adjusted by one-quarter of the normally calculated economic factor for that hospital. The discharges occurring during that time frame will be reconciled to those rates.

[(c)] (b) All other components of the hospitals' schedule of rates will be calculated in accordance with Sections 8:31B-3.25 through 8:31B-3.29.

8:31B-3.39 Inclusion of payor differentials payor adjustments

(a) (No change.)

(b) Eligible organizations, Health Maintenance Organizations (HMOs) and Competitive Medical Plans (CMPs) are not precluded from negotiating directly with hospitals with respect to their rates of payment for inpatient hospital services.

However, no negotiated discount shall become a cost charged to other payers. Discounts shall be treated as courtesy adjustments, and the UB-PS records that are generated shall show the Commission-approved charges as paid in full. The value of any discounts will be considered to be paid by the hospital as secondary payer.

[(b)] (c) In order to provide for a payor differential, accumulated charge data organized by class of payor shall be made available to help determine the need for payor differentials in accordance with N.J.A.C. 8:31B-3.20 through 3.36, and for purpose of effectuating appropriate payor adjustments pursuant to N.J.A.C. 8:31B-3.71 through 3.86.

8:31B-3.40 Changes in working capital

(a)-(j) (No change.)

(k) Until such time as the Rules on Hospital Reporting of Uniform Bill- Patient Summaries (UB-PS) becomes effective, payors will be deemed to be in receipt of a bill only after the hospital has provided the payor with all information required by the current reimbursement practices of each payor. [Once the UB-PS becomes effective] [p]Payors will be deemed in receipt of the bill only after all items specified in the UB-PS regulation as being related to claims for the payor are completed by a hospital.

8:31B-3.41 Uncompensated care

(a) A portion of the Preliminary Cost Base is projected to be attributable to uncompensated care and is calculated in accordance with Financial Elements, Uncompensated Care Factor, and reviewed by the Commissioner. In addition, Grants on Behalf of the Medically Indigent for the Current Cost Base year are included as an indirect financial element offset.

1. Grants on Behalf of the Medically Indigent will be netted against uncompensated care in order to calculate the hospitals' uncompensated care requirements.

(b) (No change.)

8:31B-3.42 Schedule of Rates - Effective Date

Subject to N.J.A.C. 8:31B-3.71 through 3.86 Reconciliation, all rates issued pursuant to this subchapter, as approved or modified, shall be effective as of January 1, of the rate year except for fiscal year hospitals whose rates shall be effective as of the first day of the "fiscal" rate year. However, except where a substantial inequity may result, any appeal, adjustment or modification approved by the Commission pursuant to these regulations shall be implemented prospectively on an interim basis in accordance with N.J.A.C. 8:31B-3.65. For hospitals currently on Chapter 83, rates and charge masters in effect prior to January 1 of the rate year should be adjusted by the economic factor until such time as a new Rate Order is issued. The Commission shall notify payors of the hospital's economic factor adjustment to be applied no less than 10 working days prior to implementation of changes. [For those hospitals first receiving rates in accordance with these regulations the rate in effect prior to January 1 of the rate year will be used as interim payment. For Blue Cross and Medicaid patients the interim rate is the SHARE rate in effect as of December 1, as adjusted by the economic factor. For a hospital first receiving rates in accordance with these regulations, DRG billing begins with admissions on or after the date of implementation.] Any subsequent changes to the Schedule of Rates or mark-up factors will be effective with discharges of a particular date.

8:31B-3.43 Adjustment of charges

(a) Unless otherwise ordered by the Commission, the proposed Schedule of Rates shall be implemented on the first day of the month (within) following forty-five working days after receipt of the Schedule of Rates. Thirty working days prior to this implementation a hospital shall:

1. Adjust its current charges to reflect the Schedule of Rates and [a uniform hospital] the appropriate charge to Direct Cost ratio across all revenue centers;

2.-3. (No change.)

(b) The hospital may, subject to analysis and approval by the Department, adopt the following plus or minus variances applied to its charge to Direct cost ratio for [any specific] each revenue center [.] **in the appropriate group:** [50 percent during the initial 12 months under the Chapter 83 reimbursement system; 25 percent during the second 12 months; and 20 percent in the third 12 months.] **Routine (ACU, BCU, ICU, CCU, NBN) is five percent, Ancillary (CCA, DEL, DRU, EDG, LAB/BBK, MSS, OPM, ORR/ANS, PHT, RAD, RSP, THR) is 15 percent and Ambulatory (CLN, HHA, EMR, DIA) is five percent. The following defines these groupings:**

1. **Routine and Ancillary will be combined and will have an overall charge to cost ratio developed across these revenue centers. The appropriate variance will then be applied to each revenue center.**

2. **The Ambulatory revenue center will then have a separate charge to cost ratio calculated. The appropriate variance (five percent) will then be applied to each of these revenue centers.**

(c) The hospital must notify the Commissioner of any charges adjusted throughout the rate year which after overall estimates of net revenue to be collected.

[c] (d) The Commission may, permit cross-subsidies greater than those otherwise permitted herein so long as the hospital submits its request to the Commissioner in writing, providing documentation of the need for the subsidization and how it will be incorporated into the hospitals' revenue budget worksheet and Schedule of Rates.

8:31B-3.45 Uniform bill - case mix determination - financial reports

(a) Hospitals shall submit to the Department through the UB-PS Intermediary(ies) and within 90 days of the end of the calendar quarter, information on all inpatients discharged for the quarter containing final diagnoses and such other patient specific information as set forth in the Rule on Hospital Reporting of Uniform Bill-Patient Summaries. The net cost to the hospital of any information provided to the Department by a UB-PS Intermediary for a hospital under a memorandum of understanding developed under N.J.A.C. 8:31B-2.1 of the Rule on Hospital reporting of Uniform Bill-Patient Summaries shall be considered by the Commission in the Preliminary Cost Base established for the hospital. Beginning with the first quarter of 1985 hospitals shall also submit Uniform Bill-Patient Summaries on all outpatients containing final diagnosis or reason for visit (as defined by the Department), for each outpatient. Included with such reporting shall be a statement of gross revenue by revenue center for patients discharged in the quarter (including in-house accounts of the previous period but excluding in-house accounts of the current quarter) for inpatient, emergency service, clinic, home health, outpatient dialysis, ambulatory surgery, same day psychiatry, and private referred patients. **UB-PS records not received by the Department within the time frames specified will not be included in the hospital's Final Reconciliation unless the hospital pays to the Commission a fine as specified in the Uniform Bill-Patient Summary (inpatient) Regulation, section IV-E.**

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

8:31B-3.51 Notification appeal and review

(a) (No change)

(b) Notification by hospitals: Within 45 working days of receipt of the Proposed Schedule of Rates issued pursuant to N.J.A.C. 8:31B-3.2 through 3.15, hospitals shall notify both the Commissioner and the Commission, in writing, of their decision to:

1. **Accept the Certified Revenue Base:** Acceptance is contingent upon approval by the Commission of the Schedule of Rates. Following Commission approval, rates accepted shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45. Rates accepted shall include an additional one percent of all direct

patient care costs. The amount will be fixed and included as an indirect cost in the mark-up factor. **A hospital with an overall direct patient care disincentive will be required to present to the Hospital Rate Setting Commission a proposal to reduce its rates and have the Commission approve this proposal prior to the hospital being allowed to accept the Certified Revenue Base. The reduction in its rates will reflect the hospitals plans to eliminate inefficiencies.** Subject to approval, acceptance [waives] provides the right of the hospital to appeals set forth under N.J.A.C. [8:31B-3.53 through 3.54.] **8:31B-3.55 through 3.58. Costs for additional residents and chiefs of service may be appealed if the following criteria are satisfied:**

i. **The case where a hospital did not meet the Department criteria for classification as a teaching institution (major/minor) in the current cost base year, but satisfies the criteria for the rate year; or**

ii. **A 20 percent or greater increase in the number of third or fourth year medical students having clinical training in the hospital; or**

iii. **An increase in the number of LCGME or AOA accredited principal residencies (not rotating) with at least five FTE residents participating in each additional program.**

iv. **Other costs related to an increase in the number of residents or residencies may not be appealed under this section.**

[2. Conditional Accept: Conditional acceptance is contingent upon approval by the Commission of the Schedule of Rates. Subject to approval, conditional acceptance waives the right of the hospital to appeals set forth under N.J.A.C. 8:31B-3.53 through 3.54. Following Commission approval, rates conditionally accepted shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45. Rates conditionally accepted shall not include the additional one percent of all direct patient care costs. Hospitals may appeal the following items:

i. Changes in Scope of Teaching, which is defined as:

(1) The case where a hospital did not meet the Department criteria for classification as a Teaching Institution (major, minor) in the current cost base year, but satisfies the criteria for the rate year; or

(2) A 20 percent or greater increase in the number of third and fourth year medical students having clinical training in the hospital; or

(3) An increase in the number of LCGME or AOA accredited residencies with at least five FTE residents participating in each additional program.

Note: In evaluating appeals brought under (b)2i above, the Commission shall consider the relative efficiency of the hospital in the Current Cost Base Year, and the degree to which cost increases between the Current Cost Base and rate years in excess of the Economic Factor can reasonably be attributed to the expansion of teaching activities, considering the specific teaching programs involved and the cost centers they affect. The Commission shall also give consideration to the special needs of hospitals operated by medical schools.

ii. Physician Compensation Arrangements which are defined as a change in the method of reimbursement of physicians from/to hospital compensation basis to/from a direct billing basis. Changes in compensation due to salary or fee increases and/or the addition of personnel is not appealable for a hospital which has accepted its proposed Schedule of Rates. Resident costs associated with a change in teaching status (see (b)2i(2) above) may be considered in this area.

iii. Approved certificates of need which is defined as capital and patient care costs arising from projects for which a certificate of need has been granted. Adjustments in Patient Care Costs in excess of that which would otherwise be deemed reasonable under N.J.A.C. 8:31B-3.20 through 3.36 shall be permitted by the Commissioner acting under this Section only when:

(1) The hospital's historical level of depreciation on major

moveable equipment fails to adequately reflect purchases of equipment subject to the State's Standards and General Criteria for Certificate of Need for regionalized tertiary services; or

(2) The hospital has no overall disincentive, and no disincentive in the Patient Care Cost Centers most directly affected by the project.

Note: In evaluating appeals, for (b)2iii above the Commission shall give emphasis to any cost savings projected by the hospital in its application for such a Certificate of Need and to any existing debt obligations on existing equipment.

iv. Revenue Adjustments as discussed in N.J.A.C. 8:31B-3.56.

v. Revisions to payment rates for Same Day Surgical Units as defined in N.J.A.C. 8:31B-3.11.]

[3.] **2. Not Accept[.] The Certified Revenue Base[.] A Hospital may elect to remain on the Preliminary Cost Base by not accepting the Proposed Schedule of Rates.** A Hospital not accepting the Proposed Schedule of Rates or adjusted Rate Order shall submit exceptions, within 60 working days of receipt of the Proposed Schedule of Rates. Any hospital not accepting the Proposed Schedule of Rates will be issued a revised Proposed Schedule of Rates based upon the efficiency standard and will be subject to review of the entire Preliminary Cost Base, and thus at risk for all operating costs and revenue adjustments. Rates not accepted shall not include the additional one percent of all direct patient care costs. Also, the revised Proposed Schedule of Rates will have the overspending challenge amount as described in N.J.A.C. 8:31B-3.32 removed. In subsequent years, a hospital may elect to obtain to a Certified Revenue Base which will be calculated from the hospital's approved PCB adjusted by an appropriate economic factor as set forth in N.J.A.C. 8:31B-3.26. Should a hospital continue to not accept the Certified Revenue Base, in future years, the hospital's Preliminary Cost Base will be re-calculated using the efficiency standard from the latest available data across all hospitals then on a Certified Revenue Base in its peer category (major, minor, non-teaching). The overspending challenge will continue to be removed from the revised proposed Schedule of Rates.

8:31B-3.53 Operating costs: Retrospective exceptions

Exceptions may be addressed to matters not adequately accounted for by using audited actual costs from the current cost base year to determine an institution's Current Costs, Preliminary Cost Base, or Schedule of Rates. Except for changes in an institution's teaching classification or changes in employee health insurance coverage to or from self-insurance which are supported by adequate documentaton, all such exceptions shall be justified by a full presentation of the dollar value of the cost, the dollar value of the benefits and a complete explanation of any other benefits resulting from the program which cannot be given a dollar value, as appropriate, except where palpable injustice would result due to existing contractual arrangements, lack of adequate notice, pending appeals, and the like. However, start-up costs for approved Certificates of Need may be evaluated in accordance with N.J.A.C. 8:31B-3.53 and 3.54,(a)1-3 or evaluated in accordance with N.J.A.C. 8:31B-3.63 through 3.70 as appropriate.

8:31B-3.54 Operating costs: Prospective exceptions

(a) Issues concerning intensity and management changes proposed for the initial rate period shall be grouped according to the subsections set forth below and evaluated as follows:

1. Upon application to the Commission by any party, or upon the Commission's own motion, any requested management or intensity changes related to direct non-physician patient care costs, may be treated as a DRG Appeal if the following criteria are met:

i.-ii. (No change)

iii. **The issue can be supported with DRG case-mix management profiles based on the institutions actual experience.**

[2. Final determination with respect to the applicability of this section shall be made by the Commission.]

2. A clinical investigation of all issues treated as Clinical Rate Appeals will be performed by the Commissioner's Physician Advisory Committee (CPAC). The applicability of this section to any hospital appeal shall be made by the Commission.

3. (No change.)

8:31B-3.58 Statewide adjustments

(a) (No change.)

(b) [DRG] **Clinical rate appeals**

1. Any issue concerning differences in an institutional course of action or in patterns of medical practice, affecting a given Diagnosis Related Group or group of Diagnosis Related Groups, which is likely to significantly affect one or more institutions, shall be considered a [Diagnosis Related Group] **Clinical Rate** appeal pursuant to this subsection. **New Medical Practice Appeal is a retrospective determination of changes in medical practice indicative of improvements on the standards of quality care, supported by DRG case-mix management profiles. Increased Utilization Appeal is any issue concerning a reimbursement adjustment for inadequacies reflected in the base year, that is a result of increased utilization of an institutional course of action or patterns of medical practice. A clinical rate appeal is a retrospective determination of an increase in utilization of an established medical practice; supported by DRG case-mix management profiles.** [Application to be so considered may be made by any party, including the Commission on its own motion; however, final determination with respect to the applicability of this subsection shall be made by the Commission. Following determination that an issue is to be treated as a DRG appeal, notice shall be made to all New Jersey acute care general hospitals, Professional Standards Reveiw Organizations, the Medical Society of New Jersey, Osteopathic Society of New Jersey, affected planning and licensing authorities, major third party payors and the public Advocate which, at the direction of the Commission, shall be permitted to submit such evidence as may be appropriate. Except where otherwise directed by the Commission, the burden of proof shall be on the appellant, and appeals resolved as follows:]

2. Application to be so considered may be made by any party, including the Commission on its own motion; however, final determination with respect to the applicability of this subsection shall be made by the Commission. Following determination that an issue is to be treated as a Clinical Rate appeal, all appeal documentation will be reviewed by the Commissioner's Physician Advisory Committee (CPAC), who as technical advisors to the Commission shall determine the clinical appropriateness of the issue. Concurrently, notice shall be made to all New Jersey acute care general hospitals, Professional Standards Review Organizations, the Medical Society of New Jersey, Osteopathic Society of New Jersey, affected planning and licensing authorities, major third party payors and the Public Advocate, and the Health Care Financing Administration, which, at the direction of the Commission, shall be permitted to submit such evidence as may be appropriate. Except where otherwise directed by the Commission, the burden of proof shall be on the appellant, and appeals resolved as follows:

i. Claim unsubstantiated; [an appropriate variation in the Schedule of Rates or the Reconciliation may be made pending certification of the revenue base.] **No further adjustment in the rates.**

ii. Determination inconclusive; an appropriate temporary variation in the Schedule of Rates may be permitted for a measured period of time in order to allow for the conduct of an appropriate study to verify or discredit the claim.]

iii. Determination inconclusive; an appropriate indefinite variation in the Schedule of Rates may be permitted in order to encourage diversity of treatment. The Commission may require a study and such periodic reports as appropriate.]

[iv.] ii. Claims substantiated, however, course of action is not clearly the only [acceptable mode;] **alternative**; appropriate individual variation in the Schedule of Rates may be permitted and other variations, for similar reasons, may be considered in the DRG rate for the year the appeal was initiated and any subsequent rates **based on cost effectiveness**.

[v.] iii. Claim proven conclusively; as appropriate, the course of action may become the standard for the DRG in the year the appeal was initiated and any subsequent years for certified revenue bases.

iv. **Determination inconclusive; the appellant will be permitted 30 working days to respond to the determination with further supporting documentation. The appellant may be requested to conduct an appropriate study over a measured period of time to prove the claim conclusively, until final determination on appropriate variation may be made.**

[2.] 3. In all such appeals conducted pursuant to (b) of this section, the Commission shall consider the effectiveness and efficiency, or other significant patient benefit, likely to result from the appealed medical or institutional course of action, with respect to the health care delivery system, taken as a whole. [Case-mix material including but not limited to the mean cost per case, median cost per case and supplementary standards, shall be available to all parties. Except for paragraph five, and except where inappropriate, with respect to all proposed rate variations, a determination shall be made by the Commission as to whether or not the appealed medical or institutional course of action ought to be financed out of a variation in the Schedule of Rates; or out of incentive monies in excess of cost or the development of new efficiencies, philanthropy, grant funds or other sources.] **All issues considered by the Commission shall be consistent with the Principles of Reimbursement in effect under the DRG case-mix experiment.**

4. **Case-mix material shall include but not be limited to:**

- i. **Identification of the DRGs affected;**
- ii. **Indications/contraindications for use or provision of service/procedure;**
- iii. **Implications for use in one or more acute care hospitals;**
- iv. **Patient population (for example, LOS, inlier/outlier ratio);**
- v. **Costs;**
- vi. **Alternatives;**
- vii. **Economic benefit; and**
- viii. **Evaluation criteria, and shall be available to all parties.**

5. **Except for example, (b)2iii above and except where inappropriate, with respect to all proposed rate variations, a determination shall be made by the Commission as to whether or not the appealed medical or institutional course of action ought to be financed out of a variation in the Schedule of Rates; or out of incentive monies in excess of cost or the development of new efficiencies, philanthropy, grant funds or other sources.**

[3.] 6. Also, the Commission may consider evidence with respect to the appropriateness of a Diagnosis Related Group.

8:31B-3.66 Commission fees

(a) A charge of **up to [one dollar (\$1.00)] \$2.00** per adjusted admission as defined by the American Hospital Association, for each adjusted admission in the year of the current cost base, shall be assessed each institution for which the Commission determines a preliminary cost base.

8:31B-3.75 Schedule of rates reconciliation

(a) (No change.)

(b) To the extent that an institution's actual Net Revenues Related to Patient Care differ from the Commission approved Preliminary Cost Base, an [automatic] adjustment to the current year PCB will be calculated. A compliance adjustment to the Rate Order will then be issued to include this adjustment and adjustments for actual uncompensated care, payor differentials, and net income from other sources, in order to align gross revenue and payors' payments with net revenue requirements for the new prospective year.

1. Commission approved revenue: On an annual basis, within 90

days of receipt of all reports set forth in N.J.A.C. 8:31B-3.42 through 3.45, the Schedule of Rates, as adjusted for economic factors and other adjustments issued by the Commission during the year, will be calculated for the hospital's actual discharges and patient visits for a reporting period. Reasonable direct patient care costs per case will be multiplied by the number of cases in each DRG, to determine reasonable direct patient care costs for patients assigned to a DRG. [Until such time as Uniform Bill-Patient Summary data are available, the number of cases per DRG will be determined pursuant to the receipt of medical abstracts with sufficient information to classify the patient into a DRG.¹ Patient records not received in the time frame allowed by current regulations shall be included in Commission approved revenue of the following rate period at the rate for the earlier rate period.] Actual outpatient volumes for EMR, CLN, HHA, Ambulatory Surgery, Home Dialysis, Same Day Psychiatry, and outpatient DIA groups will be determined from the Uniform Cost Reporting Regulations. The ratio of [reasonable] **actual** direct patient care costs to gross charges [for patients assigned to DRGs and outpatient groups included on the Schedule of Rates is computed on Appendix VI. This ratio is applied to total gross revenue related to patient care less medical denials, courtesy adjustments and other administrative adjustments to determine total reasonable Direct Patient Care Costs for the reporting period.] **will be used to determine the reasonable direct patient care costs for patients not included in the schedule of rates. Gross charges for those patients will be multiplied by the ratio to arrive at the reasonable direct patient care costs. This amount is combined with the approved costs for patients with rates resulting in the total Reasonable Direct Patient Care Costs.**

¹Patients admitted in the rate year and discharged in next year, will receive the subsequent year's rate.

²The outpatient volume statistics must be reported in the same fashion as used in the development of the Preliminary Cost Base.]

2. Hospital gross revenue related to patient care: The hospital's actual rate year charge to Direct Cost ratio shall be calculated for each revenue center. Next, the hospital's actual rate year total charge to total Direct Cost ratio shall be calculated **for the Routine (ACU, BCU, ICU, CCU, NBN) and Ancillary (CCA, DEL, DRU, EDG, LAB/BBK, MSS, OPM, ORR/ANS, PHT, RAD, RSP, THR) revenue centers combined. A separate total charge to total Direct Cost ratio will be developed for the Ambulatory (CLN, HHA, EMR, DIA) revenue centers.** Each revenue center ratio will be compared to the total ratio, **for its group (for example, Routine and Ancillary, or Ambulatory),** adjusted by the discretionary subsidy of plus or minus [50 percent during the initial 12 months under the Chapter 83 reimbursement system; 25 percent during the second 12 months; and 20 percent in the third 12 months, plus any additional subsidy previously approved by the Commission.] **five percent for Routine, 15 percent for Ancillary revenue centers and five percent for Ambulatory revenue centers.** Any difference by revenue center (either positive or negative) shall be divided in half and multiplied by total rate year direct cost for the revenue center and deemed excess subsidized revenue.

3. (No change.)

4. (No change.)

8:31B-3.76 Necessity and appropriateness of health care services

(a) L. 78 c. 83 provides that reasonable payment may be made only for "appropriate and necessary health care services of high quality required by (each) hospital's mix of patients." In order to discharge this statutory obligation, two systems are required: The reimbursement system, payment by the case, establishes reasonable rates for "typical" cases; patients who are correctly assigned to a Diagnosis Related Group (DRG). However, in order to apply the "necessary and appropriate" standard to "atypical" cases, as well

as those assigned to DRGs, a system to review appropriateness and necessity is required. Such activity [is best] will be conducted by a utilization review organization.

(b) (No change.)

(c) Once designated by the Department as a qualified Utilization Review Organization, the URO shall have access to whatever hospital patient records it may consider necessary to fulfill the review functions. The URO shall be required to maintain the confidentiality of the hospital and patient.

[(c)] (d) Nothing in this regulation shall be construed to supersede or conflict with any part of Title XIB of the Social Security Act (42USC 1320c-1320c-20) or regulations adopted thereunder, nor with prevailing statutes or contracts affecting the business of insurance.

(e) **Reporting: Minimum standards for uniform reporting by the Utilization Review Organization utilizing the UB-PS data shall be determined by the Department. Format and reporting timeframe will be reviewed with the Review Organizations.**

8:31B-3.77 Definitions

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

“Admission certification” means a review of the medical necessity and appropriateness of a patient’s admission to the hospital.

“Audit Principal Diagnos[is]es and Procedures” means to examine and validate the assignment of principal diagnoses and/or procedures by physician(s) and medical record department.

“Carve-out” means a mechanism used to identify medically unnecessary days during a patient’s hospitalization which resulted from an avoidable delay. Such delays can be administrative (for example, O.R. scheduling delays) or physician related (for example, delay in responding to a consult request).

“Certification” means the process used by the Review Coordinator (R.C.) to indicate that an admission or continued stay is certified for payment purposes at given levels of care.

“Concurrent review” means a review of medical necessity and/or appropriateness conducted during a patient’s hospitalization, consisting of admission and continued stay certification.

“Continued stay review” means a review and determination of the medical necessity and appropriateness of continuation of the patient’s stay at a given level of care. Continued stay review may also include a detailed assessment of the quality of care being provided.

“Delegated” means authorization granted by a qualified utilization review organization to a hospital to conduct one or more review functions, subject to a finding of the hospital’s capability and willingness to accept such responsibility and submission of an acceptable plan for the review by the hospital. [The qualified utilization review system shall monitor the performance of the delegated hospital, maintain complete responsibility for the hospital’s performance of the delegated review functions, and may withdraw delegation and conduct its own review.]

1. “Full delegation” means complete delegation of both concurrent review and Quality Review Studies (QRS).

2. “Partial delegation” means authorization granted by the URO to a hospital to conduct a portion of the review. The remainder of review is provided by staff of the URO.

3. “Non-delegation” means the URO retains responsibility to perform all of the review activities in a hospital.

“Denial” means a formal decision by a URO or a delegated hospital committee that all or part of a patient’s stay or proposed stay is medically unnecessary and/or inappropriate, with consultation by physicians licensed to practice medicine in New Jersey (see Physician Advisor - Item Y).

“Denied days” means days which have been determined to be medically unnecessary.

“Discharge planning” means advance preparations for placement of a patient at another level of care in the appropriate setting after hospital discharge.

“Focussed review” means intensification or exemption from detailed review of certain groups of patients or common diagnoses where data indicate it is reasonable to do so. An application of sampling techniques.

1. Focus-in describes an intensified review of a specified category of patients.

2. Focus-out describes specific categories of patients who are exempt from concurrent review.

“Inliers” means inpatient cases who display common or typical patterns of resource use, and who are assigned to DRGs, as identified in N.J.A.C. 8:31B-5.2.

“Intensity of service” means the level of service that a patient receives in a hospital setting.

“Intermediate Care Facility (ICF)” means an institution which provides continuous or Intermittent nursing care to in-patients under the general direction of a professional registered nurse.

“Length of Stay” means the total number of days that a patient is hospitalized.

1. “Certified length of stay” means the number of days which have been determined to be medically necessary at covered levels of care for payment purposes.

“Outliers” means patients who display atypical characteristics relative to patients assigned to DRGs. Outliers have lengths of stay either above or below the LOS trim points established for any given DRG. Outliers are also patients who have expired during hospitalization, who have discharged themselves against medical advice, or whose length of stay is equal to zero.

“Physical Advisor (P.A.)” means a currently licensed physician who makes determinations and provides consultation on a referral basis to non-physician reviewers in cooperation with the Attending Physician on the appropriateness, quality and/or necessity of an individual’s admission to or continued stay in a hospital.

“Preadmission certification” means a form of health care review which occurs prior to a patient’s admission to a hospital and consists of a determination of the medical necessity and appropriateness of the patient’s elective admission to a hospital level of care.

“Profile” means a presentation of aggregated data in formats which displays patterns of health care services over a defined period of time.

“Quality assessment” means a retrospective medical record review program by the physician advisor to assess the quality of services rendered.

“Quality review study” means a retrospective, medical record review of the quality and/or utilization of health care services.

Reconsideration means a process which allows a patient, patient representative, or physician to request the URO to hold a formal hearing to reconsider an adverse determination.

“Review Coordinator (RC)” means a health care professional, usually a Registered Nurse, who assists physicians in performing chart review to determine if a hospital stay is medically necessary and if the services provided are appropriate.

“Retrospective review” means Medical Record Review performed after a patient has been discharged.

“Severity of illness” means the manifestation of disease or injury that clinically indicates the need for hospitalization regardless of diseases.

Skilled Nursing Facility (SNF) means an institution which is primarily engaged in providing skilled nursing care and related services for inpatients who require medical supervision of their care of rehabilitation services on a daily basis.

Utilization Review Organization (URO) means a group of physicians within a designated geographical area who review the health care provided to patients in area hospitals. Physicians may be assisted by other health care professionals.

Utilization review plan means a description of utilization review activities to be prepared by the URO and approved by DOH. The plan shall describe methodology for determining hospital delegated status; the criteria and description of the methodology review; the criteria and description of the methodology to review the performance of delegated and non-delegated review and focus program.

8:31B-3.78 Criteria for qualification

(a) Applicability: Each patient in each hospital selected by the Commissioner pursuant to L.78 c.83, Section 5b, must be subject to review by a qualified utilization review organization concerning the necessity and appropriateness of inpatient admission and continuing stay. The minimum set of activities required to so qualify are set forth below.

1. All cases:

i.-iv. (No change.)

v. Pursuant to N.J.A.C. 8:31B-3.17(b), the Department having given adequate notice to the hospital, may perform a cursory or detailed on site review at the Department's discretion of any hospital procedure deemed necessary to determine the effectiveness of the reimbursement system in effect.

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

[vi.] vii. Shall provide for an appropriate mechanism by which to hear and adjudicate appeals by patients, payers, physicians, or the hospital concerning the determinations made pursuant to this subchapter. With respect to such review, the standards to be applied shall be consistent with the prevailing patterns of medical practice in the area or state, as appropriate; and shall further provide, through the same mechanism, for appeals by individual patients in exceptional cases of DRG assignments which, although technically correct, may produce grossly inequitable or excessive payments. **To initiate an appeal, a letter of request from the patient shall be considered as authorization for the Department to review and assess any necessary information pertinent to the hospitalization or charges in question.** Upon demonstration, by substantial evidence, that application of the DRG system would result in inequitable consequences for the patient or his insurer, the qualified utilization review organization may direct treatment of the case as an outlier consistent with (a)lv above. **The patient or payer not satisfied with the decision on the first level of appeal, may request an appeal to the second level by directly notifying the appropriate Utilization Review Organization.**

[vii.] viii. (No change in text.)

[viii.] ix. Shall render a decision in any appeal within 30 working days from the date of receipt of the appeal by the qualified Utilization Review Organization (URO). The appellant, or his insurer, shall not be liable for payment to the hospital until a decision on the appeal has been made and communicated to the parties affected. A qualified URO shall not be deemed in receipt of an appeal if the hospital involved is more than one month delinquent in payment of the Commission approved rate to be paid to the URO by the hospital. Any amount not paid to the hospital because of its delinquency in payment to the URO, and the failure to hear an appeal shall not be recoverable by the hospital through bad debt of charity write-offs, but shall become a loss of revenue to the hospital.

(1) **Effective January 1, 1984, discharges subsequent to that date and all DRG Patient Appeal requests must be submitted to the Department of Health for review within one year after**

discharge date. Any requests submitted thereafter will not be processed for appeal.

2.-3. (No change.)

8:31B-3.79 Use of findings

(a) (No change.)

(b) Atypical cases:

1. (No change.)

2. Adjustment of Payment: Outliers:

i. (No change.)

ii. Inappropriate level of care:

(1) (No change.)

(2) Reimbursement will be made for each eligible patient at the statewide weighted average per diem rate of Medicaid participating long-term care facilities in effect as of [January 1 and] July 1 of each year. The statewide weighted average per diem rate will be calculated by multiplying the Medicaid Skilled Nursing Facility (Level 3) payment rates of each nursing home in effect [January 1 and] July 1 by the total Medicaid patient days of the nursing home as reported on the most recent cost report (a 12-month period). The total dollars will then be divided by the total actual Medicaid patient days to arrive at the weighted average per diem. **This will then be adjusted by a one-half year global economic factor and used prospectively for the next calendar year as the final rate.**

iii. (No change.)

(a)

HEALTH ECONOMICS SERVICES

1984 Financial Elements and Reporting

Proposed Amendments: N.J.A.C. 8:31B-4.6, 4.25, 4.64, 4.66, 4.67 and 4.131

Authorized By: J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with the approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq. specifically 26:2H-5b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-427.

The agency proposal follows:

Summary

The proposal constitutes the 1984 Financial Elements and Reporting rules and contains six changes to the 1983 rules. These changes are:

1. Identification of existing time frames in submitting cost reports and audited financial statements. These requirements have already been specified in the SHARE Regulations and the Uniform Cost Reporting Regulation.

2. Reporting of "not-at-arms-length" transactions with related organizations. The Department will be able to review these costs for reasonableness.

3. Clarification of reporting losses and gains from Parking Lot Income. Losses are treated as Case C (excluded from rate calculations) while gains are treated as Case B (offset to the rates).

4. Consistent treatment of purchase discounts. Discounts are recognized as expense recoveries against Costs Related to Patient Care.

5. Interest income on trustee-held funds related to borrowings will be treated as an offset to rates (Case B). If these funds are not available for hospital use, the interest income will be treated as a Case "C" until such time as the funds become available to the hospital.

6. The introduction of the cost reporting format for Chapter 83 hospitals into the Financial Elements.

Social Impact

The proposed amendments are consistent with the intent of Chapter 83, P.L. 1978 (S.446) to promote financial solvency of hospitals and effective cost containment. Changes 1 and 6 listed above merely restate existing regulations and make them compatible with the Financial Elements. The other changes concerning Related Organizations, Parking Lot Income, Purchase Discounts and Interest Income on Trustee Held Funds are designed to refine the Cost Reporting System for use as an effective management tool. The amendments to Related Organization benefits all consumers of health care since relevant information is made available to the Department of Health, enabling the Department to review any cost inflating practices that may be occurring with the related organizations. All payers will benefit from the change to the Parking Lot Income. It is clear from this change that the rates will not include a subsidy for artificially low parking lot charges. The reclassification of Purchase Discounts will enable a hospital to realize an incentive through a decrease in costs rather than a reduction to its Revenue Budget. Interest Income on Trustee held Funds can now be either offset or excluded from the hospital's approved budget depending on whether the funds are available for hospital use. Interest income on donor restricted funds will still not be considered as an offset to the hospital's approved budget. All of the above changes will further refine the DRG Case-Mix method of reimbursement where hospital management, payers, and all those connected with health care will benefit as hospital costs are contained.

Economic Impact

The proposed amendments 1 and 6 are simply a restatement of existing regulations into the Financial Elements and have no current economic impact. Transactions with related organizations can easily become inflated since the goods or services being purchased are not subject to open market competition which would contain costs. Disclosure of these transactions will identify any excessive costs for goods or services transferred. Change 3 encourages competitive pricing for Parking Lot charges. Loss of income due to deflated prices cannot be recovered through the rate calculation. Change 4 allows the hospital economic benefit for taking advantage of various purchase agreements. These gains are now recognized as recoveries and become part of the cost base from which an incentive can be realized. Change 5 realizes that not all interest income is available to the hospital in the year it is earned. Therefore, the income is not offset to the rates until the funds are available.

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

8:31B-4.6 Reporting period
 (a)-(b) (No change.)
 (c) **Each calendar year's Financial Elements Reporting Forms**

as defined in N.J.A.C. 8:31B-4.131 are due on April 30, of the following year. Each year's Audited Financial Statement is due on June 30, of the following year. Failure to meet these time frames will result in penalties as stated in N.J.A.C. 8:31B-3.3.

8:31B-4.25 Related organizations
 (a)-(b) (No change.)
 (c) **Disclosure of information by hospitals dealing with related firm(s): All "not-at-arms-length" transactions entered into by the hospital are to be reported to the Commission. Not-at-arms-length transactions occur when the hospital engages in any business transaction with another organization related to the hospital by either partial or full ownership or control.**
 (d) **At the Commission's request relevant information reported to the Commission may include:**
 1. **The nature of the legal relationship between the hospital and the related firm(s);**
 2. **Frequency of business transactions between the hospital and the firm(s);**
 3. **Purchase or lease contractual arrangements between the hospital and the firm(s);**
 4. **The amount of money involved; and**
 5. **The financial statements of all related organizations.**

8:31B-4.64 Sales and services not related to patient care
 (a)-(g) (No change.)
 (h) Parking Lot or Parking Garage expenses and revenues at the site of the hospital are to be netted and the remainder apportioned between employees and others per N.J.A.C. 8:31B-4.131. The provision of parking facilities to:
 1.-2. (No change.)
 3. **Others are included (Case B) if the hospital's charge for parking is not substantially inconsistent with other parking facilities in the community where the hospital is located. If the Commission determines that the hospital's parking charges are not competitive with other parking facilities, [the provision of parking to others will be treated as Case C.] all gains arising from the provision of parking service to others will be included (Case B) while all losses will be excluded (Case C).**
 (i) Non-Patient Room and Board expenses and revenues are to be netted and apportioned among employees, students and others per N.J.A.C. 8:31B-4.131. Sufficient accounting records should be maintained to identify all related expenses as well as number of persons housed. The provision of Room and Board to:
 1. **Employees and residents (including rotating residents who spend some portion of their residency at the hospital) is included. Losses incurred from housing an employee are included as an employee fringe benefit (Case B, N.J.A.C. 8:31B-4.61(a)2).**
 2. **Students are included if in an approved educational program. Losses incurred from housing a student should be assigned to Nursing and Allied Health Education (EDU) and Graduate Medical Education (GME) (Case B, N.J.A.C. 8:31B-4.61(a)2) or Non-Approved Education and Research (Case A).**
 3. **Others not involved with the patient services of the hospital are excluded (Case A).**

8:31B-4.66 Administrative items
 (a)-(b) (No change.)
 (c) **Purchase Discounts, revenue from rebates and quantity discounts, are to be [applied as offsets against Costs Related to Patient Care (Case B)] reported as expense recoveries.**
 (d)-(e) (No change.)

8:31B-4.67 Non-operating revenues (net of expenses)
 (a)-(h) (No change.)
 (i) **Interest Income on Trustee-held Funds related to borrowings or loans is a Case B, unless a hospital is prohibited from using the funds to offset current debt service obligations. If the hospital is prohibited from using the funds, the interests**

and income earned is a Case C until these funds are released for the hospital's benefit.

8:31B-4.131 Financial Elements Report

(a) The Commissioner of Health shall propose Financial Elements Report forms ("Chapter 83") and reporting instructions consistent with the first five Sections of the Financial Elements and Reporting Regulations for completion by all New Jersey hospital (see Appendix 1).

[(b) The reporting forms in this section have been temporarily replaced with the Uniform Cost Reporting Regulation (N.J.A.C. 8:31A-5.5).]

(a)

HEALTH ECONOMICS SERVICES

Diagnosis Related Groups Groups and Outliers

Proposed Amendments: N.J.A.C. 8:31B-5.1 and 5.2

Authorized By: J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with the approval
of the Health Care Administration Board).
Authority: N.J.S.A. 26:2H-1 et seq. specifically 26:2H-
5b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-426.

The agency proposal follows:

Summary

The Uniform Bill-Patient Summary (UB-PS) rules (N.J.A.C. 8:31B-2) provide the basis for a single patient data reporting system to satisfy the requirements of Chapter 83, P.L. 1978 for payment by the case. Concern has been expressed to the Department that circumstances may require multiple UB-PS being created for one inpatient treatment. Addition of the definitions of Admission, Readmission, and Transfer patients in this proposed amendment should serve to clarify this issue of multiple summaries being created.

Social Impact

By clarifying the definitions of Admission, Re-admission and Transfer patients, less confusion will result in determining a patient's status which thereby determines how the UB-PS should be completed.

Economic Impact

The proposed amendment will allow payment based upon charges, rather than by the Diagnostic Related Group (DRG) rate

per case, for those patients transferred to other acute care facilities. This method of payment will apply to both the receiving and transferring hospitals and thereby eliminate the possibility of a patient or other payor receiving more than one different price per case bill. There is no discernible economic impact relative to the other definition clarifications.

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

8:31B-5.1 Diagnosis Related Groups

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

(c) Admissions: Patient hospitalized for a condition related to a recent spell of illness:

1. Patients who are treated and subsequently admitted through the Emergency Room are considered admitted to the hospital at the time the physician orders the admission. The cause of the admission is considered the cause of the Emergency Room treatment, therefore the course of treatment shall be considered one admission. Services rendered in the Emergency Room shall be reflected in the inpatient record and the UB-PS.

2. Similarly, a patient admitted for a course of treatment as a Same Day Surgery (SDS) patient, who subsequently is admitted from that mode of treatment shall be considered one admission. Services rendered in the SDS mode shall be reflected in the inpatient record and the UB-PS.

3. Hospitals reporting on a single patient data system shall satisfy the requirement of the Uniform Bill-Patient Summary - (Inpatient) rules, N.J.A.C. 8:31B-2. Any patient who remains in the hospital beyond midnight shall be considered an admission. All admissions and discharges are subject to utilization review monitoring.

4. Re-admissions are patients admitted for a condition related to a recent past admission. The cause of the re-admission may result from a previously diagnosed condition, a chronic condition requiring crisis intervention, and/or an indication of a premature discharge.

8:31B-5.2 Outliers

(a) (No change.)

(b) Outliers are defined as:

1.-6. (No change.)

7. Transfer patients: The circumstances under medical advice in which a patient needing continued acute care is transferred from one New Jersey Acute General Hospital to another General Hospital for diagnostic and/or therapeutic reasons. Each hospital reporting on the UB-PS for the same patient shall reflect charges and the patient will be considered an outlier.

HIGHER EDUCATION

(b)

HIGHER EDUCATION ASSISTANCE AUTHORITY

Reduction in Default Rate; Institutional Monetary Incentive Objectives; Eligibility Qualifications

Proposed New Rules: N.J.A.C. 9:9-10.1 and 10.2

Authorized By: Higher Education Assistance Authority,
Jerome Lieberman, Chairman.

Authority: N.J.S.A. 18A:72-10(2).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Eric M. Perkins, Esq.
 Administrative Practice Officer
 Department of Higher Education
 225 West State Street
 CN 542
 Trenton, NJ 08625

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

This proposal is known as PRN 1983-411.

The agency proposal follows:

Summary

The proposal recognizes the vital role educational institutions play in the Guaranteed Student Loan (GSL) and Parent Loans for Undergraduate Student (PLUS) programs. Under the proposal, the Higher Education Assistance Authority will make grants to participating educational institutions for the purpose of strengthening staff resources to improve counseling and other loan support services. The grants should reduce the default rates for students attending those institutions.

Social Impact

The GSL/PLUS programs provide loans and support services to eligible undergraduate and graduate students to enable such students to obtain a collegiate education.

Economic Impact

The proposed new rules will enhance the fiscal integrity of these two loan programs by reducing default rates and stimulating greater participation by lending agencies. This would improve student access to the programs.

Full text of the proposed new rules follows.

SUBCHAPTER 10. REDUCTION IN DEFAULT RATE; INSTITUTIONAL MONETARY INCENTIVE

9:9-10.1 Reduction of defaulted loans; objectives

(a) The objective of this subchapter is to reduce defaulted loans by:

1. Reducing the eligible educational institutions' default rate in the Guaranteed Student Loan and PLUS programs through the use of preventative measures; and
2. Fostering increased cooperation between the Higher Education Assistance Authority, eligible educational institutions and eligible lending institutions.

9:9-10.2 Qualifications for eligibility

Any eligible educational institution which executes an agreement with the Authority governing educational institutional services shall be eligible for payments by the Authority under this program.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Medical Day Care Manual, Independent Clinic Services Manual
 Definition and Authorization**

Proposed Amendments: N.J.A.C.10:65-1.2, 1.6, 1.7 and 2.4; 10:66-1.2

Authorized By: George J. Albanese, Commissioner,
 Department of Human Services.
 Authority: N.J.S.A. 30:4D-3h, 4D-6b(16), 7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1983-399.

The agency proposal follows:

Summary

The proposal will amend the Medical Day Care regulations to allow periods of authorization to be granted up to six months. The current practice is for the MET (Medical Evaluation Team) to grant authorizations up to 90 days, but this limit will be imposed only on new patients during their first authorization period. The MET may authorize medical day care for less than six months depending on the patient's condition. During the authorization period, the Medical Day Care Center is obligated to discuss any changes in the patient's condition with the attending physician, and thereafter may submit a revised FD-140 indicating the need for additional or decreased services.

The rule also modifies the definition of a Medical Day Care Center to include a facility licensed as such by the New Jersey Department of Health. In addition, all Medical Day Care Centers who wish to participate in the Medicaid program must enroll as a provider and sign a provider agreement.

Social Impact

The extended period of authorization should facilitate delivery of medical day care services to Medicaid patients. However, there is no increase or decrease in medical day care services associated with this proposal.

There is no social impact on providers, who must still meet the same requirements for participation in the Medicaid program. These requirements are licensure by the Health Department and approval by the Division of Medical Assistance and Health Services.

Economic Impact

The economic impact should be minimal. Since the Division is not making any changes in reimbursement, providers will still be reimbursed in the same manner.

There is no cost to the Medicaid patient.

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

10:65-1.2 Definitions

“Medical Day Care Center” means an identifiable part of a long-term care facility, or a hospital affiliated facility, or a freestanding ambulatory care facility, **or such other facility** which is licensed by the New Jersey Department of Health to provide non-residential medical day care services and which possesses a valid and current provider agreement from the New Jersey Division of Medical Assistance and Health Services which provides services as described in N.J.A.C. 10:65-1.4.

10:65-1.6 Prior authorization

(a) (No change.)

(b) A Request for Medical Day Care Authorization or Reauthorization Form FD-140, (Exhibit IV) must be submitted by the Medical Day Care Center on each potential participant as a basis for determining a prior authorization or reauthorization for Medical Day Care Services. In order to avoid delay in approval, all information must be individualized, complete and comprehensive. The FD-140 will be reviewed by the [Local] Medical Evaluation Team, consisting of the Medical Consultant, Regional Staff Nurse, and Medicaid Social Worker and a determination will be made as to the person’s eligibility for the Medical Day Care. The maximum duration for a single authorization or reauthorization [is 90 days.] **may be for a period up to six months.**

1. The 90 day (or less) limitation will be retained on new patients for at least the first authorization period.

(c) **While an authorization/reauthorization for Medical Day Care Services is in effect and the condition of the patient changes, indicating the need for additional or decreased services, the Medical Day Care Center after consultation with the attending physician, may submit a revised FD-140.**

[(c)] (d) (No change in text.)

10:65-1.7 Participant review and evaluation

(a) (No change.)

(b) Every 90 days the participant’s individualized plan of care shall be updated by the Medical Day Care Center staff to reflect the needs of the participant for Medical Day Care [and a Request for Medical Day Care Authorization or Reauthorization, Form FD-140 must be submitted to the Medicaid District Office for review and reauthorization by the Medical Evaluation Team]. **This plan shall become part of the patient’s permanent record at the center.**

10:65-2.4. Prior authorization

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

(c) Prior authorization is required for all persons participating under the Medical Day Care Program. An individual care plan must be submitted to the Medicaid District Office for approval and authorization on Form FD-140. [Authorization shall not exceed ninety days.] **The maximum duration for a single authorization or reauthorization may be for a period up to six months.** Reauthorization can be obtained by the submission of the FD-140 form, Request for Medical Day Care Authorization or Reauthorization, which must include in item 19 recommendations for extension of such continued participation in medical day care. Allow at least two weeks prior to termination date of previous authorization for processing of reauthorization of this request.

1.-3. (No change.)

4. Period covered by authorization: An approved request for authorization/reauthorization will only be valid for a period [not to exceed three months] **up to six months** as indicated in item 21 on Form FD-140 – Request for Medical Care Authorization or Reauthorization.

10:66-1.2 Definitions

“Medical day care center” means an identifiable part of a long-term care facility, or a freestanding ambulatory care facility, **or a hospital affiliated facility, or such other facility** which is licensed by the New Jersey Department of Health to provide non-residential medical day care services and which possesses a valid and current provider agreement from the New Jersey Medicaid Program.

(a)

DIVISION OF PUBLIC WELFARE

**Home Energy Assistance Handbook
Income Computation and Eligibility Limits;
Emergency Energy Assistance; Automatic
Payments
Proposed Amendments: N.J.A.C. 10:89-
Foreword, 2.3, 3.2, 3.4 and 4.1**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4B-2 and P.L. 97-35.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Audrey Harris, Acting Director
Division of Public Welfare
CN 716
Trenton, NJ 08625

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

This proposal is known as PRN 1983-425.

The agency proposal follows:

Summary

The Home Energy Assistance (HEA) program is a Federal block grant program authorized by Title XXVI of Omnibus Budget Reconciliation Act of 1981. The purpose of the program is to assist low-income households to meet the rising cost of home energy. The proposed revisions to the HEA Handbook, which establishes the State’s policy for administering the program, update or clarify the following issues.

The term “home energy” is defined as a source of residential heating or cooling.

The specific amount of the Tenants Lifeline Credit program income disregard for SSI recipients is deleted due to frequent changes in this amount. The Division of Public Welfare will ensure that local administering agencies will be advised of the disregard amount. The gross monthly income eligibility guidelines have been increased in line with new poverty guidelines promulgated by the United States Department of Health and Human Services. The guidelines are set at 125 percent of the Federal poverty level.

Benefits for households which are otherwise directly responsible for payment of the fuel charge, but are billed by the landlord who remains responsible to the fuel vendor, are increased.

Authorization for emergency assistance payments is extended through the month of April. Also, the requirement for the county agency to obtain prior approval from the Division of Public Welfare before authorizing a second emergency assistance payment to any household is rescinded.

Finally, the provision for issuance of supplemental payments to SSI households receiving automatic payments is deleted since automatic payments are no longer issued to such households.

Social Impact

Approximately 212,000 low income households were assisted during fiscal year (FY) 1983, and it is projected that 215,000 will be served during FY 1984. This population will receive the most direct benefit since they are the ones to receive the supplement to assist them in meeting their energy costs. These revised regulations should ensure that this low income population will receive assistance promptly and efficiently.

Economic Impact

There will be no direct economic impact upon New Jersey taxpayers since the entire cost of assistance and administration is Federally funded. There will be an indirect impact to the public as a whole since there will be an influx of Federal dollars into the State's economy. The program's allocation was \$76.7 million in FY 1983 and the same level of funding is anticipated in FY 1984.

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

FOREWORD

The Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Omnibus Budget Reconciliation Act of 1981) authorizes grants to states to provide assistance to eligible low income households to offset rising costs of home energy that are excessive in relation to household income. **The term "home energy" means a source of heating or cooling in residential dwellings.**

Under the Act, responsibility for [federal] **Federal** administration of the program is assigned to the United States Department of Health and Human Services. The New Jersey Department of Human Services, Division of Public Welfare (DPW), has been designated the single state agency to administer the energy program. The county welfare agencies (CWAs), acting as the local administrative agencies, are responsible for accepting and processing program applications and the verification of program eligibility factors.

DPW is working with representatives of the American Indian population of New Jersey to determine the number of eligible households in this group and to ensure that they are adequately serviced.

This Home Energy Assistance Handbook sets forth the regulations and procedures relative to the provision of energy assistance to, or on behalf of, eligible individuals.

The regulations and procedures in this chapter are conditioned upon the principles of public assistance as contained in N.J.A.C. 10:81-1.1 through 1.10 (Public Assistance Manual). Regulations regarding complaints, safeguarding information, non-discrimination, and fraudulent receipt of assistance, as delineated in N.J.A.C. 10:81 (Public Assistance Manual), are likewise applicable to the administration of this program.

This Handbook is a public document and it is available in accordance with the conditions and procedures set forth in N.J.A.C. 10:81-1.13 (Public Assistance Manual).

Any questions regarding the application of the regulations contained within this manual shall be referred to the Home Energy Assistance Unit of DPW.

10:89-2.3 Income eligibility

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

(f) Income computation: Countable gross monthly earned and unearned income, as defined in (c) and (d) above, and verified in accordance with N.J.A.C. [10:89-4.1(e)]**10:89-4.1(d)**, shall be added to determine the household's total gross monthly income. If the household's total gross monthly income is equal to or less than the gross income limit for the household size, the household is income eligible for Home Energy Assistance.

1.-4. (No change.)

5. If a household member receives Social Security benefits and/or SSI the CWA must determine countable income as follows:

i. (No change.)

ii. For individuals receiving SSI the CWA shall deduct the [\$14.60] supplemental payment **amount** from the Tenants Lifeline Credit program which is included in the SSI check. The balance shall be considered as income to the household.

(g) Gross income eligibility limits for home energy assistance:

Household Size	Monthly Allowable Gross Income Limit
1	\$[487] 506
2	[648] 681
3	[809] 856
4	[970] 1031
5	[1131] 1206
6	[1292] 1381
7	[1453] 1556
8	[1614] 1731
9	[1775] 1906
10	
Each Additional Member	†[161] 175

10:89-3.2 Special energy assistance

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

(f) Households responsible for heating costs:

1. (No change.)

2. For program purposes a household's benefit will be determined as follows:

i. (No change.)

ii. If the household is directly responsible for payment of the fuel charge (e.g., the landlord bills the household as a separate charge from rent for fuel use although the landlord remains responsible to the fuel vendor) the benefit will be based on Schedule [C] **B** of this chapter; or

iii. (No change.)

3.-5. (No change.)

10:89-3.4 Emergency energy assistance

(a) Emergency energy assistance is available to income eligible households and is subject to the following conditions:

1.-5. (No change.)

6. Emergency energy assistance will be authorized only during the months of December, January, February, [and] March **and April**.

(b) (No change.)

(c) Emergency purchase of fuel

1.-2. (No change.)

3. The CWA must obtain prior approval from the Division of Public Welfare, Home Energy Assistance Unit, before authorizing a second payment for any emergency energy assistance.]

[4.] 3. (No change in text.)

(d)-(f) (No change.)

10:89-4.1 Opportunity and decision to apply

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

[(c) SSI households which have received automatic payments based on Schedule C in N.J.A.C. 10:89-3.6 but are directly responsible to the vendor for payment of fuel costs may file an

application to receive a supplemental payment. This supplemental payment will be the difference between the automatic payment and the household's entitlement based on Schedule A or B in N.J.A.C. 10:89-3.6, as appropriate.]

Renumber (d)-(h) as (c) through (g) (No change in text.)

[(i)] (h) If the CWA determines, based on the provisions of [(g)] (f) above, that the household is ineligible, the household must be advised that its application will be denied.

Renumber (j)-(k) as (i)-(j) (No change in text.)

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Administration Fair Hearing Guidelines

Proposed Readoption: N.J.A.C. 10:120-3

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:1-12 and 30:4C-26a.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Raymond Wolfinger
Administrative Hearings Unit
Division of Youth and Family Services
1 South Montgomery Street
CN 717
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66 (1978), this rule would otherwise expire on September 26, 1983. The readoption of this rule becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of its adoption.

This proposal is known as PRN 1983-417.

The agency proposal follows:

Summary

The New Jersey Title XX program authorized hearings for all recipients of or applicants for social services programs funded through Title XX of the Social Security Act regardless of which agency in the State, public or private, is responsible for administering the service. The applicant for, or recipient, of, services or an individual acting on behalf of an applicant or recipient, may appeal a denial, reduction, or termination of a service, or failure to act upon a request for services with reasonable promptness.

In 1981 the Federal Omnibus Budget Reconciliation Act (P.L. 97-35) and the Federal Regulations promulgated pursuant thereto (45 CFR Part 96) eliminated the Federal requirement of a hearing whenever an applicant for, or recipient of a Title XX service has that service terminated, reduced or denied, or it is not acted on within a reasonable period. Although the Federal hearing requirements were eliminated, New Jersey continues to be governed by the State Title XX Fair Hearing Guidelines. These State regulations became effective on September 26, 1978, and pursuant to Executive Order 66(1978) they will expire on September 26, 1983. The Department of Human Services is currently reviewing the departmental hearing processes and

regulations in order to determine if any changes should be made in the present system. If changes are proposed for the Title XX Fairing Hearing Guidelines such changes will be proposed through publication in the New Jersey Register. While such action is pending the current Title XX Fair Hearing Guidelines are being re-adopted in order to retain hearing regulations to govern services provided under the State's Title XX program.

The Administrative Hearings Unit (within the Division of Youth and Family Services) is responsible for processing all Title XX hearing requests. This includes docketing, forwarding contested cases to the Office of Administrative Law (OAL) for hearing, acting as liaison with the OAL, and preparing final agency decisions for the signature of the designee of the Commissioner of the Department of Human Services. The Administrative Hearings Coordinator and the Administrator of the Office of Regulatory and Legislative Affairs have reviewed the rules and find them necessary, adequate, reasonable, efficient, understandable, and responsive for the purpose for which they were promulgated. The rules are effective because they allow applicants and recipients of Title XX services an orderly mechanism for contesting decisions of public and private agencies receiving Title XX funds. Since no formal pleadings are required, it is not difficult for applicants and recipients to request hearings.

Social Impact

This rule's impact has been beneficial because it allows both applicants and recipients of Title XX services an orderly mechanism for contesting adverse decisions made by both public and private Title XX providers. The social conditions at the time of the rule's adoption still exist.

Since the Title XX Program provides a myriad of services through a variety of programs, both public and private, applicants for and recipients of such services need a centralized hearing process to act on their request for a hearing when such services are terminated, reduced, denied or not acted upon within a reasonable period. The affected public is quite large because it includes not only applicants for and recipients of Title XX services, but also the various public and private providers of these services as well as other State departments and divisions who receive Title XX funds including: Commission for the Blind and Visually Impaired, Division of Mental Health and Hospitals, Division of Mental Retardation, Division of Youth and Family Services, Department of Community Affairs, Department of Corrections, Department of Health, Department of Labor and Industry, Department of the Public Advocate, and all county welfare agencies. In the vast majority of cases the Division of Youth and Family Services (DYFS) serves as the forum through which Title XX Fair Hearings are scheduled, and DYFS issues the final decisions in all Title XX Fair Hearing cases. Since DYFS is not a party to most of these disputes this process affords two levels of objectivity: initial hearing and decision by the OAL and final decision by DYFS. The DYFS Administrative Hearings Unit coordinates the entire process.

The Administrative Hearings Unit has received 143 hearing requests in the first six months of 1983; 118 cases were certified as contested and sent to the OAL for hearing.

The public's reaction to the rule has been favorable, because they can contest an adverse Title XX program decision (public or private) at little or no cost. The continuance of the rule will insure the public will be able to request and receive Fair Hearings.

Economic Impact

The economic impact on applicants for and recipients of Title XX services who request a Fair Hearing varies, depending on the amount of money they wish to spend in preparation for the hearing, including the cost of legal representation and expert witnesses. However, the State regulations governing Title XX Fair Hearings are sufficiently simple to allow an appeal to be prosecuted without cost. For example, representation may be provided by relatives, friends or other spokesmen, or by a lawyer of the client's choice

(N.J.A.C. 10:120-3.8). In addition, the client must be afforded the opportunity to examine the contents of his case file and all documents or records to be used by the agency at the hearing, at a reasonable time before the date of the hearing as well as during the hearing (N.J.A.C. 10:120-3.9). Also, if the hearing involves a medical issue, the Administrative Law Judge may order a medical assessment by someone other than the person involved in making the original decision (N.J.A.C. 10:120-3.10).

The economic impact on the Division of Youth and Family Services includes the administrative costs of processing the hearings, reimbursement of the OAL for conducting the hearings, and the administrative costs of reviewing the Administrative Law Judge's Initial Decision and case file and preparing and sending a Final Decision to all parties, as well as insuring that the decisions are implemented. The OAL has billed DYFS approximately \$15,000 for hearings conducted for the first six months of 1983. These expenditures are shared by both Federal and State government.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:120-3.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Adoption Complaint Investigation Fees

Proposed Amendments: N.J.A.C. 10:121-3

Authorized By: George J. Albanese, Commissioner, Department of Human Services. Authority: N.J.S.A. 9:3-53.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Carol Taylor
Division of Youth and Family Services
Office of Policy and Planning
CN 717
Trenton, NJ 08625

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

This proposal is known as PRN 1983-418.

The agency proposal follows:

Summary

On March 8, 1978, the Adoption, Apprenticeship and Indenture Act (N.J.S.A. 9:3-37 et seq.) became effective and replaced and revised various parts of the previous law (N.J.S.A. 9:3-17 et seq.). The proposal amends the current regulations to reflect its new authority (N.J.S.A. 9:3-53) and the substantive changes in the fee schedules related to adoptions.

The proposed amended fee schedules are intended to meet the cost of conducting the investigation and supervision of children who have been placed for adoption by means other than through an approved adoption agency. In such cases, the Superior or County Court is required to assign the adoption complaint for study and possible supervision to an agency which is approved by the Department of Human Services for the purpose of placing children

for adoption. Adoption Complaint Investigation (ACI) Fee Schedule payments are received by the Division of Youth and Family Services for preliminary services (investigation and report) and for supervisory services (supervision and report). They may be adjusted in accordance with the prospective parents' income and expenses to insure that persons with limited financial resources are not denied an opportunity to adopt a child.

Social Impact

The fees for an ACI will impact on all prospective adoptive applicants of children who have been placed for adoption by means other than through an approved adoption agency. They take into consideration the financial ability of the prospective adoptive parents to support the adopted children, thus increasing the number of persons available to adopt.

Economic Impact

The ACI fees are based upon the amended fee schedules as found in 10:121-3.2 and should have minimal impact upon prospective adoptive applicants.

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

SUBCHAPTER 3. ADOPTION COMPLAINT INVESTIGATION FEES

10:121-3.1 Adoption complaint investigation

[(a)] The Division of Youth and Family Services, as an approved adoption agency in New Jersey, is authorized to conduct adoption complaint investigations (ACIs) and required to charge to the plaintiffs in such cases the costs of conducting such investigations pursuant to N.J.S.A. [9:3-32.] 9:3-53. The Division of Youth and Family Services charges fees to conduct ACIs, based on a person's or family's ability to pay. By use of the adjusted fee scale the Division seeks to recoup the cost of the ACI.

[(b)] Chapter 3 of Title 9 permits eligible persons or families to adopt a child in New Jersey in one of two ways: Indirectly, through an approved adoption agency; or directly, from the natural parents in what is known as a private or independent adoption. The independent adoption process requires the adopting parent to file a complaint with the court to adopt the child, after which the court orders an approved adoption agency to conduct the ACI. This consists of a preliminary investigation into the circumstances of the placement and an evaluation of the suitability and fitness of the prospective adoptive parent(s) to adopt the child, a report of which is submitted to the court for the preliminary hearing; "next friend" supervision of the placement for a six-to twelve-month period of time, as specified by the court at the preliminary hearing; and preparation and submission to the court of a final report of supervision and recommendations concerning the adoption. The court then decides to approve or disapprove the adoption.]

[(c)] The Division of Youth and Family Services hereby increases the fees it charges to conduct ACIs, so that they reflect more accurately the actual costs to the agency for completing such investigations, and so that they are more in line with fees charged by the approved adoption agencies in the State for this service.]

[(d)] Coupled with these fee revisions, the Division is also instituting a sliding-fee scale on which the said Division will seek to recoup the costs of ACI fees on the basis of a person's or family's ability to pay, so that persons with limited financial resources are not denied an opportunity to adopt a child because of an inability to pay for the investigation fees, which are required by law.]

10:121-3.2 Fees for ACI

(a) The fees [for ACI] and methods of payment for Preliminary Investigation and Report services provided by the Division of Youth and Family Services are as follows:

- 1. Preliminary Services (investigation and report): \$174.00;
2. Supervision (per month): \$36.00;

3. Financial report: \$ 44.00.]

1. A total of \$296.00 for Preliminary Investigation and Report is paid in full prior to the preliminary hearing; or

2. A monthly payment, which is determined by dividing the total fee (\$296.00) by the prospective adoptive applicant's monthly capacity to support, is made. The application's monthly capacity to support is obtained by completing DYFS Form 26-6a, Income Worksheet for Legally Responsible Relatives.

(b) The fees and methods of payment for Supervision Services and Final Report provided by the Division of Youth and Family Services are one of the following:

1. The total charge ranging from \$441.00 to \$623.97, depending upon the number of months of supervision services, is paid in full upon billing.

2. Monthly payments are made in accordance with the schedule below:

Length Supv.	Mo. Chg. for Supv.	Mo. Chg. for Final Rpt.	Combined Max. Chg. for Supv. & Final Report	Tot. Max. Chg. for Mo. Supv. & Final Report
6 mos.	\$61	\$12.50	\$73.50	\$441.00
7 mos.	61	10.71	71.71	501.97
8 mos.	61	9.37	70.37	562.96
9 mos.	61	8.33	69.33	623.97

3. Monthly payments are made in accordance with the evaluated capacity to support if the adoptive parents indicate that the other payment options would be a financial hardship. In this case, monthly payments are determined by dividing the total fee by the applicant's monthly capacity to support. The applicant's monthly capacity to support is obtained by completing DYFS Form 26-6a, Income Worksheet for Legally Responsible Relatives.

[10:121-3.3 Fee to be paid by plaintiff

A statement reflecting the fee for ACI services shall be presented to the plaintiff in each adoption case in which the Division of Youth and Family Services provides such services for payment pursuant to N.J.S.A. 9:3-32. Such fee shall, where necessary, be reduced to an amount which reflects the ability of the plaintiff to pay for such services.]

[10:121-3.4 Reduced fees

(a) Reduced fees, when warranted, shall be assessed on a monthly basis. The actual amount charged to the plaintiff shall be the lesser of:

1. The capacity of the plaintiff to pay for such services, calculated according to established procedures, based upon family size, including in such family the child proposed to be adopted and family income; or

2. The maximum monthly charge for the service rendered, calculated as provided in section 5 of this subchapter.]

[10:121-3.5 Maximum monthly charge

(a) The maximum monthly charge for preliminary services shall be 1/3 of the total fee for preliminary services, as provided in section 2 of this subchapter. Such amount shall be chargeable monthly for three months.

(b) Following the initial three months of payment, the maximum monthly charge shall be the sum of:

1. The monthly fee for supervision, as provided in section 2 of this subchapter 2; plus

2. A fraction of the cost of the final report equal to the cost of the final report, as provided in section 2 of this subchapter, divided by the number of months of supervision ordered by the court.

(c) The number of such payments shall equal the number of months of supervision ordered by the court.]

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance Automobile Rate Filers: Deductibles for Private Passenger Automobile Collision and Comprehensive Coverages

Proposed New Rule: N.J.A.C. 11:3-13

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e) and the New Jersey Automobile Insurance Reform Act of 1982, P.L. 1983, c.65, N.J.S.A. 17:29A-33 et seq., specifically 17:29A-39.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
New Jersey Department of Insurance
CN 325
Trenton, NJ 08625

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

This proposal is known as PRN 1983-423.

The agency proposal follows:

Summary

The New Jersey Automobile Insurance Reform Act of 1982 (P.L. 1983, c. 65, N.J.S.A. 17:29A-33 et seq.) specifies that the Commissioner of Insurance shall promulgate rules requiring insurers to offer a range of deductibles up to at least \$1,000 for private passenger automobile collision and comprehensive coverages (N.J.S.A. 17:29A-39). The proposed new rule at N.J.A.C. 11:3-13.3(a) sets forth the required minimum schedules for such deductibles. The rule further provides that insurers may offer other intermediary ranges of deductibles (in addition to the required schedule) as well as deductibles exceeding \$1,000, subject to review and approval by the Commissioner in accordance with applicable insurance laws and regulations. It should be noted that insurers may continue to offer actual cash value comprehensive coverage. The proposal also specifies that each insurer shall make at least the required schedule of deductibles available to its insureds effective January 1, 1984.

In order to achieve compliance with the Act, the proposed rule requires that automobile filers submit to the Commissioner or approval amended filings of rates and/or manual rules, as appropriate, which reflect at least the minimum schedules of deductibles required by this subchapter. These filings must be prepared in accordance with the Department's existing filing procedures and submitted for approval within 30 days of the

effective date of the adopted rule. Finally, to ensure that applicants and policyholders are apprised of the deductibles which are available, the proposal sets forth specific notice requirements.

Social Impact

The proposed new rules are designed to make available to insureds a wider range of deductibles for collision and comprehensive coverages. The availability of such deductibles will encourage insureds to evaluate their coverage needs, determine what level of cost they could absorb in the event of a loss and accordingly select deductible amounts which are more consistent with their desires and economic circumstances.

Economic Impact

The selection of higher deductibles can substantially decrease the cost of collision and comprehensive coverages. Insureds who are willing to absorb a higher deductible in the event of a loss will realize premium savings commensurate with the level of deductible selected.

Full text of the proposed new rule follows.

**CHAPTER 3
AUTOMOBILE INSURANCE**

**SUBCHAPTER 13. AUTOMOBILE RATE FILERS:
DEDUCTIBLES FOR PRIVATE
PASSENGER AUTOMOBILE
COLLISION AND COMPREHENSIVE
COVERAGES**

11:3-13.1 Purpose

The New Jersey Automobile Insurance Reform Act of 1982 (P.L. 1983, c. 65, N.J.S.A. 17:29A-33 et seq.) requires that each insurer offer a range of deductibles up to at least 1,000 for private passenger automobile collision and comprehensive coverages. This subchapter provides rules for the implementation of this requirement.

11:3-13.2 Scope

This subchapter applies to every insurer authorized to transact the business of automobile insurance in this State and every rating organization engaged in the business of rate-making for such insurers.

11:3-13.3 Deductibles for private passenger automobile collision and comprehensive coverages.

(a) Paragraphs 1 and 2 below set forth the minimum schedules of deductibles for private passenger automobile collision and comprehensive coverages which each insurer shall offer, effective January 1, 1984, pursuant to N.J.S.A. 17:29A-39.

- 1. Deductibles for collision coverage:
 - \$100.00
 - \$150.00
 - \$250.00
 - \$500.00
 - \$1,000.00

i. An insurer may offer a \$200.00 collision deductible in lieu of, or in addition to, the \$250.00 deductible contained in (a)1 above.

- 2. Deductibles for comprehensive coverage:
 - \$50.00
 - \$100.00
 - \$150.00
 - \$250.00
 - \$500.00
 - \$1,000.00

i. An insurer may offer a \$200.00 comprehensive deductible in lieu of, or in addition to, the \$250.00 deductible contained in (a)2 above.

(b) In addition to the required schedules in (a) above, an insurer may offer other intermediary ranges of deductibles as well as deductibles which are in excess of \$1,000.

1. The offering of such intermediary and additional deductibles shall be subject to the Commissioner's approval as set forth in N.J.A.C. 11:3-13.4.

(c) Insurers may offer actual cash value comprehensive coverage.

11:3-13.4 Filing and reporting requirements

(a) Within 30 days of the effective date of this subchapter, every automobile filer shall submit to the Commissioner for approval filings of rates or manual rules which provide a least the minimum schedules of deductibles set forth at N.J.A.C. 11:3-13.3(a).

(b) All filings of collision and comprehensive deductibles submitted for approval pursuant to this subchapter, and all changes and amendments thereto, shall be prepared in accordance with insurance laws and regulations, including the applicable provisions of N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2 and the Department's existing filing procedures.

(c) The filing of a rating organization shall be applicable to the members and subscribers of the organization.

1. Members or subscribers may submit to the Commissioner for approval a separate filing which deviates from the rating organization's filing. Such filings shall be prepared and submitted in accordance with the requirements of this subchapter.

11:3-13.5 Notice requirements

(a) Effective January 1, 1984, every insurer shall furnish an applicant for private passenger automobile insurance with a schedule of collision and comprehensive deductibles on a form attached to or accompanying the application.

(b) At least annually, every insurer shall furnish its insureds with a schedule of collision and comprehensive deductibles. The schedule may be attached to or accompany initial policies, renewal questionnaires, renewal policies or notices.

(a)

REAL ESTATE COMMISSION

Rules and Regulations

**Proposed Readoption with Amendments:
N.J.A.C. 11:5**

Authorized By: Division of the New Jersey Real Estate Commission, Daryl G. Bell, Director.

Authority: N.J.S.A. 45:15-16; 45:15-17 and 45:15-16.19(a).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Daryl G. Bell, Director
New Jersey Real Estate Commission
201 East State Street
Trenton, NJ 08625

The Real Estate Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order 66(1978), these rules expired on August 2, 1983. The readoption of these rules becomes effective upon publication in the Register of a notice of their readoption.

This proposal is known as PRN 1983-416.

The agency proposal follows:

Summary

N.J.A.C. 11:5-1 contains regulations promulgated by the New Jersey Real Estate Commission pursuant to the authority conferred upon it by N.J.S.A. 45:15-16 and 45:15-17 (Real Estate License Act) and N.J.S.A. 45:15-16.19 (a) (Land Sales Full Disclosure Act). Several sections of N.J.A.C. 11:5-1 were adopted prior and subsequent to 1978 and thus subject to readoption in 1983 pursuant to Executive Order No. 66(1978).

To comply with Executive Order No. 66(1978) the Commission began reviewing its regulations in 1982. Supervising staff members of the operating units were requested to bring to the Commission's attention suggested language changes or problems in the administration of the specific subsections with which they deal. The Commission itself reviewed each subsection at advertised public meetings on May 17th and June 28th, 1983. On the latter date the Commission voted to readopt N.J.A.C. 11:5-1 as proposed herein. While no substantive changes were made, language in the readopted subchapter was altered in the following instances:

1. The neuter word "salesperson" was substituted throughout for the masculine "salesman". New regulations and amendments adopted in the last five years contained this change; during readoption the Commission voted to conform the entire subchapter to use the neuter.

2. Provisions containing effective dates and special rules for transitional periods were not readopted and eliminated as surplusage. Sections eliminated were obsolete.

3. Minor editing changes were made in the language or form of several individual subsections to make them more easily understandable and to remove surplus verbiage.

4. Former N.J.A.C. 11:5-1.7 was readopted as N.J.A.C. 11:5-1.1(c) since it fits more logically than being stated separately elsewhere. N.J.A.C. 11:5-1.7 has been reserved.

5. N.J.A.C. 11:5-1.6 was not readopted, but has been reserved for adoption of another rule. The new rule to be proposed in the future deals with an applicant's ability to retake the license examination after failure. The Commission decided not to readopt N.J.A.C. 11:5-1.16 in its present form, but to solicit comment from the educators and industry and reformulate a substitute rule. Because of the time needed to accomplish that, the Commission decided not to delay readoption of other subsections.

6. N.J.A.C. 11:5-1.32 will be replaced by a more comprehensive substitute regulation, which is presently being formally proposed. Present text of N.J.A.C. 11:5-1.32 is not, therefore, being readopted and has been reserved.

As readopted, the subchapter maintains the continuity in the regulation of licensed brokers and salespeople, and marketing in New Jersey of out-of-state interests in land. All licensed brokers and salespeople are required to attend courses in real estate subjects at approved schools and colleges. Present Commission regulations are an important part of the education they receive. The Commission determined that the existing subchapter has well served the public and the industry and should be readopted.

Social Impact

Since the existing subchapter was readopted without substantive change, no alteration in the present social impact will occur. Present regulations impact upon licensed broker and salespeople and the public that buys, sells or leases real estate, and New Jersey purchasers of out-of-state lands. This subchapter, in connection with the statute, governs the relationship between these individuals. It ensures that the people serving the public in the real estate industry are qualified in both knowledge and integrity. The Commission presently licenses approximately 60,000 brokers and salespeople and has 363 projects registered under the Land Sales Full Disclosure Act. Public reaction to the regulations is expressed through the existence of a viable real estate market in the State in which licensed broker and salespeople act as agents for buyers and sellers. If not readopted, the Real Estate License Act and Land Sales Full Disclosure Act and the policies they express would be void of implementation.

Economic Impact

Since the existing subchapter was readopted without substantive change, no alteration in the present economic impact will occur. Currently the subchapter impacts upon the licensed brokers and salespeople, and registrants of out-of-state land, who are subject to its terms. Prelicensing educational qualifications require fees be paid to approved real estate schools and colleges. Licensees must keep and maintain certain records. Registrants under the Land Sales Full Disclosure Act must have professionals to compile information necessary for approval to market in New Jersey. Other rules set standards of conduct impossible to measure in economic terms.

Costs imposed on licensees and registrants are necessary to ensure that they are qualified to handle the public's money in the media in which they do business. Such costs are minimal in comparison to the enormous amount of money that changes hands annually in real estate transactions.

Full text of the unchanged portions of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 11:5.

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

SUBCHAPTER 1. RULES AND REGULATIONS

11:5-1.1 Disciplinary action; restitution

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

(c) **The Commission may, where the nature of the offense so warrants, impose as a condition to any future license restoration, the successful accomplishment of a written examination of the same type normally given to applicants for initial licenses.**

11:5-1.2 [Salesman's] Salesperson's license; age limit

(a) No [salesman's] **salesperson's** license shall be issued to any person who has not attained the age of 18 years.

(b) Every applicant for licensure as a [salesman] **salesperson** shall present with his application for licensure a certificate of satisfactory completion of a course of education in real estate subjects [for a minimum of 45 hours] at a school approved by the Commission as prescribed under N.J.S.A. 45:15-10.1(a) and N.J.A.C. 11:5-1.26 and N.J.A.C. 11:5-1.27, unless waived by the Commission in accordance with the provisions of N.J.S.A. 45:15-10.2.

[(c) All applications for salesmen shall be submitted with satisfactory evidence of an eighth grade education or equivalency. Satisfactory evidence shall include, but not be limited to, a photocopy of a high school diploma or transcript.]

[(d)] (c) An applicant must apply for and request the issuance of a [salesman's] **salesperson's** license not later than one year after the date of successful completion of the prescribed course. Any person who fails to apply for the issuance of a [salesman's] **salesperson's** license within the one year period shall be required to retake and successfully complete the [45 hour] **prescribed** course in real estate and the examination.

11:5-1.3 Qualifications for licensing; broker and broker-salesperson

[(a) The New Jersey Real Estate License Act (subject to certain exceptions as set forth in N.J.S.A. 45:15-11, 11.1 and 11.2), among other required qualifications, provides that: "Every applicant for a license as a broker shall have first served an apprenticeship of two full years as a duly licensed real estate salesman in this State immediately preceding the date of application."]

[(b)] (a) The Commission defines the word "apprenticeship", as used in [the aforesaid statute,] **N.J.S.A. 45:15** to require a broker-[salesman] **salesperson** relationship wherein an adequate knowledge of the methods, techniques and terminology of the

business, as well as the pitfalls for the public and licensees alike, has been engendered by intimate, intensive and successful contact with diverse aspects of the real estate business under the guidance and direction of a licensed broker. In order to satisfy the above requirement, an applicant must have been so employed [substantially] full time during his apprenticeship as a [salesman] **salesperson**. In addition, an applicant and the broker under whom he serves his apprenticeship shall see to it that the apprenticeship includes practices and experiences in all aspects of the real estate business as set forth in N.J.S.A. 45:15-3.

[(c)] (b) Approval of an applicant is not based rigidly upon the number of hours worked, number of sales, number of rentals or number of mortgage transactions, [not] **nor** on the dollar value, but rather is based upon the combined weight and variety of these elements. In addition, applicants may be required to appear and answer interrogatories relating to their general background and experience, **or supply evidence of extensive experience in a specialized field of real estate activity with the time and transactions.**

[(d)] (c) The Commission shall give due consideration to the following as guides in reviewing the qualifications of an applicant:

1. Evidence of having applied oneself fully with time equivalent to 40 hours a week over a period to two years devoted to the business.

2. Evidence of diversified experience in the field of sales, rentals and mortgages, with participation approximating six transactions a year in each of three aforementioned categories.

[3. Evidence of extensive experience in a specialized field of real estate activity with the time and transactions; that is, mortgage banking, mortgage brokerage, commercial or industrial real estate, leasing and development selling.]

[(e)] (d) Broker-salespersons shall meet the same qualifications as real estate brokers, including the qualifications as set forth in (a) through [(d)] (c) above. A person licensed as a broker-salesperson must be employed by and act under the supervision of a duly licensed real estate broker and shall not maintain an office or escrow account, except that a broker-salesperson may be authorized to serve as an office supervisor of a branch office in accordance with the provisions of N.J.A.C. 11:5-1.14.

[(f)] All applications for a broker shall be submitted with satisfactory evidence of a high school education or equivalency. Satisfactory evidence shall include but not be limited to a photocopy of a high school diploma or transcript.]

[(g)] (e) Every applicant for licensure as a broker or broker-salesperson shall present with his application for licensure examination a certificate of satisfactory completion of a course of education in real estate and related subjects [for a minimum of 90 aggregate hours] at a school approved by the Commission as prescribed under N.J.S.A. 45:15-10.1(b) and N.J.A.C. 11:5-1.27 and N.J.A.C. 11:5-1.28, unless waived by the Commission in accordance with the provisions of N.J.S.A. 45:15-10.2.

[(h)] (f) An applicant must apply for and request the issuance of a license as a broker or broker-salesperson not later than one year after successful completion of the education requirements. Any person who fails to apply for the issuance of a license as a broker or broker-salesperson within the one year period shall be required to retake and successfully complete the [90 hour] **prescribed** course in real estate and related subjects and the examination and must submit evidence of having served a two year apprenticeship immediately preceding the date of the new application.

11:5-1.4 Qualifications for corporate licensing

[(a) N.J.S.A. 45:15-9 states in part: "No license as a broker shall be granted to a corporation unless at least one of the officers of said corporation qualifies as a broker to transact business in the name and on behalf of said corporation; the license of said corporation shall cease if at least one officer does not hold license as a broker at all times, and no person shall transact business in the name and on behalf of a corporation duly licensed as a broker unless he shall hold a license as a broker or salesman".]

[(b)] (a) In interpretation of [the above quoted statute] N.J.S.A. 45:15-9, the following [regulation] shall control:

1. The Commission will hold responsible the individual licensed broker or brokers qualified to transact business in the name and on behalf of the corporate licensee in accordance with the provisions of N.J.S.A. 45:15-9 for any actions of the corporation licensee or its agents in the pursuit of its real estate brokerage business, which violate any of the provisions of the real estate statutes or the regulations promulgated thereunder.

2. Every real estate transaction in which a corporate licensee participates as a broker shall be under supervision of a broker or brokers qualified to transact business in the name and on behalf of said corporation.

3. The broker qualified to transact business in the name and on behalf of the corporate licensee, in addition to ascertaining that a separate account is maintained for the funds of others coming into the possession of the licensee, shall make certain that no such funds of others are disbursed or utilized without his express authorization and knowledge.

4. The provisions of this subsection do not apply to brokers [employed in the capacity of] **licensed as broker- [salesman] salespersons.**

[(c) No broker shall apply for a license to transact business on behalf of more than one corporation, except that any broker presently licensed to transact business on behalf of more than one corporation may renew such licenses.]

11:5-1.5 Examination rules

(a) In the conduct of examinations of real estate broker or [salesman] **salesperson** licensee, the following examination rules shall prevail:

1.-4. (No change.)

5. The real estate examination, required by N.J.S.A. 45:15-10 to be taken and successfully passed by all applicants for real estate broker[s] or [salesman] **salesperson** license[s] before said license[s] may be issued, shall be in the form of a multiple choice examination prepared by [an educational] a testing service as designated by the Commission. Fees charged to take the testing service real estate [salesman] **salesperson** and broker examinations shall be considered service fees to be paid directly to the [educational] testing service separate and apart from any fee required by N.J.S.A. 45:15-9 to be paid to the New Jersey Real Estate Commission along with a license application.

(b) (No change.)

11:5-1.6 [Examinations; failure] (Reserved)

[There shall be no time limit for re-examination with regard to failure of the examination except when the commission or its duly authorized agent determines further preparation is required.]

11:5-1.7 [Examination as a condition to restoration of license] (Reserved)

[In determination rendered upon any disciplinary action, the Commission may, where the nature of the offense so warrants, impose as a condition to any future license restoration, the successful accomplishment of a written examination of the same type normally given to applicants for initial licenses.]

11:5-1.8 Special accounts for funds of others; comingling

(a) Every resident real estate broker shall establish and maintain, in an authorized financial institution in New Jersey, and every reciprocally licensed Real Estate broker shall establish and maintain in an authorized financial institution in New Jersey or the State wherein he has a resident real estate broker's license, a special account or special accounts, separate and apart from other business or personal accounts, for the deposit of all moneys or others received by the broker acting in said capacity, or as escrow agent, or as temporary custodian, in a real estate transaction.

(b) Every real estate broker shall file with the broker's application

for licensure or license renewal an affidavit or certificate setting forth the name or names of the financial institution or institutions where said special account or accounts have been established and shall identify any and all account numbers. Any change in an existing account or the establishment of any new account shall be immediately reported to the Real Estate Commission in the form of an affidavit or certification.

OFFICE OF ADMINISTRATIVE LAW NOTE: A proposal found at 13 N.J.R. 302(b) to amend subsection (c) was never adopted, therefore the following sections (d)–(h) have been renumbered (e)–(g).

[(d)] (c) In construing N.J.S.A. 45:15-17(o) the following shall be considered to constitute commingling by a licensee:

1. Mingling the money or other property of his principals with his own;
2. Failure to maintain and deposit promptly in a special account in an authorized financial institution, separate and apart from personal or other business accounts, all moneys received by a real estate broker acting in said capacity, or as escrow agent, or as the temporary custodian of the funds of others in a real estate transaction; or
3. Failure to promptly segregate any properties received which are to be held for the benefit of others.

[(e)] (d) Where the nature of a given real estate transaction is such that the commissions earned by a broker in connection with services rendered in said transaction are included among the funds deposited to the broker's trust account, the portion of such funds deposited to the broker's trust account, the portion of such funds which constitute the broker's commission shall be promptly paid from the trust account, with appropriate annotations to the broker's business records to define the amount and source of such commissions; provided, however, that such broker shall have been previously authorized to make such commissions; provided, however, that such broker shall have been previously authorized to make such disbursement.

[(f)] (e) Within the meaning of this section, the word "promptly" means not more than five business days next following the receipt of the money or property of another.

[(g)] (f) The maintenance of clearly nominal amounts of the licensee's funds in trust accounts solely to provide continuity in such account or to meet bank service charges shall not be construed to be commingling.

[(h)] (g) Where any law or governmental regulation compels maintenance of a fixed amount of the funds of a licensee in a trust account for the purpose of providing a safety factor, the maintenance of such fixed amount shall not be construed to be commingling.

11:5-1.9 Funds of others; safeguards
(No change in text.)

11:5-1.10 Commissions; accounting to [salesman]
salesperson

(a) Unless otherwise expressly provided by written agreement between [an employing broker] a **broker with whom the salesperson is licensed** and [salesman] **salesperson**, all commissions due to a [salesman] **salesperson** from such [employing] broker shall be subject to accounting and payment to the [salesman] **salesperson** not later than 10 days from the receipt of such commission by the [employing] broker.

(b) Every licensed broker must promulgate a policy for the payment of commissions to [salesmen] **salespersons** on their termination. Such office policy must prescribe the rate of commission to be paid on such termination. The licensed broker must obtain the written signature of each [salesman] **salesperson** licensed under such broker as soon as such employment or

association is established, indicating that such [salesman] **salesperson** agrees to such policy:

1. Upon termination of employment or other association, the [employing] broker shall make a complete accounting in writing of all commissions due to said [salesman] **salesperson**.

2. In the event any commission so accounted for is not in accord with the established commission schedule, the broker shall give a complete and comprehensive written explanation of any difference.

3. Such accounting shall be made not later than 30 days after the termination of employment or other association of said [salesman] **salesperson**.

11:5-1.11 Advance fees; accounting
(No change in text.)

11:5-1.12 Permanent type records to be maintained by broker
(No change in text.)

11:5-1.13 Inspection of records

(a) [In order to reasonably effectuate the provisions of N.J.S.A. 45:15-1 et seq. and regulations thereunder, every] **Every** licensee shall make available for inspection by the Commission or its designated representatives all records of transactions, books of account, instruments, documents and forms utilized or maintained by such licensee in the conduct of the licensed business, which may be pertinent to the conduct of the investigation of any specific complaint.

(b) (No change.)

11:5-1.14 Use of name or license for the benefit of others

(a) (No change.)

(b) Lending a broker's license for the benefit of another person, firm or corporation shall be construed as including any arrangement whereby a corporation seeks to be licensed in, or whereby a corporation, firm, or individual uses as a business name, a name containing the name of a salesman or broker-salesman in, or proposed to be in, the broker's employ, which does not also contain the name of the broker of record, in the case of a corporation or the name of the employing broker, in all other cases, with the following exceptions:

1. If a broker buys the real estate business of a person who, immediately preceding the purchase, had been licensed as a broker and had used his name in the business or corporate name of the real estate business, the purchaser-broker may use the name of the former broker in a business or corporate name which does not also contain the name of the purchaser-broker[, even if the former broker is employed by the purchaser-broker as a broker-salesperson or salesperson].

2. (No change.)

11:5-1.15 Advertising rules

(a)–(b) (No change.)

(c) All advertising shall clearly indicate after the licensee's regular business name that the advertising licensee is engaged in the real estate brokerage business. Except as prescribed by N.J.S.A. 45:15-17(j), examples of permissible language shall include, but are not limited to, "Realtor," "Realist," "real estate broker," "broker," or "real estate agency." Examples of prohibited language when used alone shall include, but are not limited to, "realty," "real estate," "land sales," and "land investments." This provision shall not apply when the word "agency" appears in the advertisement as a part of the licensee's regular business name or when the licensee has legal or equitable ownership of the property. [Presently licensed individuals, partnerships, firms or corporations shall have 90 days from the effective date of this subsection to bring all advertising into compliance, except that advertising in annual publications shall be brought into compliance at their next regular publication following the effective date of this subsection.]

(d)–(i) (No change.)

(j) Any use of an insignia, emblem, logo, trade name or other form of identification in any advertising or other public utterance, either by a single licensee or any group of licensees, which suggests or otherwise implies common ownership or common management among such licensees, shall be prohibited except in the case of branch offices controlled by a single broker or licensee and duly licensed as branch offices pursuant to the provision of N.J.S.A. 45:1-1 et seq. Nothing herein provided is intended to preclude or inhibit the use, advertising or display of any insignia, emblem, logo or trade name of any bona fide trade association by any licensee provided that such licensee is a member of such trade associations.

1. (No change.)

[2. All licensees shall have one year from the effective date in which to comply with its provisions insofar as "for sale" signs and office signs are affected; and three months insofar as office stationery, contracts, business cards or used for advertising as affected. All other advertising shall comply upon the effective date of this rule.]

[3.] 2. The intent of this subsection is to further promote the general purpose of the Real Estate License Act of ensuring that all individuals, firms or corporations are clearly identifiable to the public as the licensed brokers who are financially and otherwise responsible to the consuming public for their real estate brokerage activities. It is not the intent of this subsection to limit or otherwise inhibit the operation of branch offices as set forth in N.J.S.A. 45:15-12 and sections 18 and 19 of this subchapter, nor is it the intent of this subsection to prevent the franchising of any group of licensees provided such franchising or other association is not inconsistent with the purpose of the Real Estate License Act as expressed herein.

(k) Any advertising by any licensed individual, partnership, firm or corporation referring generally to membership in any real estate multiple listing service operation shall specify the complete name of the listing service in which membership is held, except in the following categories of advertising:

1. "For sale" signs and small "spot" classified advertising of any licensee as described in [subsection (j) of this section] (j) above;

2. Business cards;

3. All business signs: Presently licensed individuals, partnerships, firms or corporations shall have 180 days from the effective date of this subsection to bring advertising into compliance, except that advertising in annual publications shall be brought into compliance at their next regular publication following the effective date of this subsection].

(i)-(m) (No change.)

11:5-1.16 Contracts of sale and listing agreements

(a) A licensed individual, partnership, firm or corporation shall immediately[, but in no event later than seven days from the date of its execution,] deliver to all parties to any agreement of sale, lease, option or any other instrument or any amendment to any agreement or other instrument affecting an interest in real property, a duplicate original of any such executed agreement or instrument or amended agreement or instrument. Any addition, deletion, or other change in any executed agreement or instrument or amended agreement or instrument shall be initiated by all parties to a transaction. This rule [shall be liberally construed so as to effectuate its purpose,] is to ensure prompt communication of the executed evidence of a transaction to all interest parties.

(b) (No change.)

(c) The commission clause or provision in all listing agreements for the sale of one to four family dwelling units or interest therein, or in all contracts for such sale, if there is no listing agreement, shall contain in print larger than the predominant size print in the writing, the language: "As seller you have the right to individually reach an agreement on any fee, commission, or other valuable consideration with any broker. No fee, commission or other consideration has been fixed by any governmental authority or by any trade association or multiple listing service." Nothing herein is intended

to prohibit an individual broker from independently establishing a policy regarding the amount of fee, commission or other valuable consideration to be charged in transaction by the broker. [Presently licensed individuals, partnerships, firms or corporations shall have until January 2, 1981, to bring all listing agreements and contracts into compliance with these subsections.]

(d)-(f) (No change.)

11:5-1.17 Participation in trade associations or listing services
(No change in text.)

11:5-1.18 Maintained offices

(a) Every resident real estate broker shall maintain a bona fide regularly established office for the transaction of business into the State of New Jersey, which shall be open to the public during usual business hours. This regulation does not apply to brokers [employed in the capacity of broker-salesman or holders of reciprocal licenses who, by statute, are not permitted to maintain offices in this State] **licensed as broker-salespersons.**

(b) (No change.)

(c) No broker's maintained place or places of business shall be in the dwelling premises of any [salesman] **salesperson** in that broker's employ.

11:5-1.19 Branch office compliance with [Section 1.18]

N.J.A.C. 11:5-1.18 (Maintained offices)

(a) In the event a real estate broker maintains a branch office or offices, every such place of business shall comply with the provisions of [Section 1.18] **N.J.A.C. 11:5-1.18** (Maintained offices) of this [Chapter] **subchapter.**

(b) No [duplicate] license shall be issued for a branch office situated in the dwelling premises of a [salesman] **salesperson.**

(c) Any branch office shall be under the direct supervision of either a licensed broker or a [salesman] **salesperson** who has been the holder of a license for at least two years immediately preceding and who would, if he so desired, qualify for a broker's license pursuant to the provisions of [Section 1.3] **N.J.A.C. 11:5-1.3** (Qualifications for licensing-broker) of this [Chapter] **subchapter.**

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

11:5-1.20 Payment of fees as prescribed by statute
(No change in text.)

11:5-1.21 Employment of [salesman] **salesperson** sponsored by broker

(a) Recognizing the statutory requirement that any licensee shall be of good moral character, the sponsoring broker, before applying for the licensing of any [salesman] **salesperson** applicant, shall assure himself that such applicant bears a good reputation for honesty and fair dealings.

(b) To this end, a competent investigative report is recommended.

11:5-1.22 Broker insurance payment provision
(No change in text.)

11:15-1.23 Obligation of licensees to the public and to each other

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

(f) At the time of the taking of any listing of residential property, a licensee shall furnish to the owner a copy of a summary of the New Jersey Law Against Discrimination **N.J.S.A. 10:5-1 et seq.** which summary shall have been prepared and furnished by the Attorney General of the State of New Jersey, shall state the provisions of the Law Against Discrimination, and shall state which properties are covered by this law and which properties are exempt from this law. Should the owner profess an unwillingness to abide by or an intention to violate this law when the licensee shall not accept these listings.

(g) (No change in text.)

11:5-1.24 Return of license when licensee ceases to be active
 (a) [In order to facilitate administrative regulation, it is directed that each] **Each** broker who ceases to be active **shall immediately** return to the Commission [immediately] his license, and licenses of all [salesman] **salespersons** and broker-[salesman] **salespersons** for cancellation.
 (b) Each employee's license must be accompanied by a letter terminating employment in compliance with N.J.S.A. 45:15-14. [Broker's failure to do so shall be considered a violation.]

11:5-1.25 Sale of interstate properties

(a) Rules concerning documents are:
 1.-5. (No change.)
 6. [The Commission shall require that all] **All** financial statements submitted in a registration **shall** be audited financial statements by certified public accountants.
 7. (No change.)
 8. In conjunction with the submission of the certified report and statement of record of the Office of Interstate Land Sales Registration, [it will be necessary to submit] the following documentation **shall be submitted**:
 i.-ix. (No change.)
 9. (No change.)
 (b) Rules concerning the designation of brokers are as follows:
 1. The subdivider must designate an original broker-of-record with the initial registration. The subdivider may thereafter substitute another broker for the one initially designated. The initially execution of all documents **and** affidavits [, and so forth,] as prescribed by the Commission.
 2. (No change.)
 (c)-(d) (No change.)
 (e) The official address of the New Jersey Real Estate Commission for delivery and receipt of all mail, telegrams, information, filing registrations, fees and other material required by this Act or these rules is:

New Jersey Real Estate Commission
 Bureau of Subdivided Land Sales Control
 201 East State Street
 CN 325
 Trenton, New Jersey 08625

(f)-(g) (No change.)
 (h) Rules concerning advertising and sales promotions are:
 1.-4. (No change.)
 5. Upon request, the bureau may authorize that the below mentioned brief legend be used: [in connection with a television or radio representation of one minute or less]

An offering statement filed with the New Jersey Real Estate Commission neither approves the offering nor in any way passes upon the merits and value of the property.

[i. A longer television or radio presentation or presentation by motion pictures or by slides requires a full legend, as set forth in paragraph 3 of this subsection, to be used.]
 6. (No change.)
 7. In cases where developments are not registered with this bureau and advertisements are placed in any media which has a distribution in the State of New Jersey, the following disclaimer must appear:

This advertisement is not an offering to New Jersey residents [which can be made only by a formal prospectus].

(i)-(j) (No change.)
 (k) A subdivision or a part thereof on which construction of a promised improvement not for public use, convenience or necessity is represented or implied and the improvement has not been

completed, shall not be registered for disposition to the public. However, the uncompleted improvement shall not constitute an objection if completion is assured by:

1. An adequate plan of development, including financial resources committed to carry out the plan as provided in [subsection (l) of this section] **(l) below** which plan is subject to the Commission's continuing review and approval;
 2. In case of failure of a developer to establish an adequate plan or to adhere to the plan once established, the Commission may require the establishment of a trust or escrow account.
 (l)-(m) (No change.)

11:5-1.26 Blockbusting; solicitation
 (No change in text.)

11:5-1.27 Educational requirements for [salesman] **salespersons** and brokers in making applications for licensure examination

(a) To establish an applicant's satisfactory completion of the educational requirements prescribed in N.J.S.A. 45:15-10, all applicants who apply [on or after September, 1967,] for a [salesman's] **salesperson's** or broker's license shall present with their application a certificate from a school approved by the Commission, evidencing satisfactory completion of a course of education in real estate subjects in accordance with the requirements of said Act and within the meaning of the rules and regulations applicable thereto.

(b) The course of education in real estate subjects to qualify an applicant for licensure examination for a [salesman's] **salesperson's** license shall consist of a minimum of 45 hours and for a broker's license a minimum of 90 hours in the areas of study at a school approved by the Commission as meeting the standards of responsible ownership, administration, curriculum, instruction and physical facilities specified hereinafter.

(c) No person shall receive credit for satisfactory completion of the prescribed 90 hour course, unless that person was the holder of a [salesman's] **salesperson's** license at the time of enrollment in said course.

(d) (No change.)
 (e) The provisions of this rule and regulation shall not apply to the following applicants for licensure examinations:

1. Applicants for licensure examination for either a [salesman's] **salesperson's** or broker's license made by certain disabled veterans pursuant to the provisions of N.J.S.A. 45:15-11;

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

[k] Every approved school shall provide a supplementary course of instruction to their 30-hour salesperson's course and to their 42-hour broker's course, which courses will have been conducted prior to July 1, 1978. These supplementary courses of instruction shall provide any student who has completed either a 30-hour salesperson's course or a 42-hour broker's course the opportunity to comply with the 45-hour salesperson's course requirements or the 90-hour broker's course requirements. These supplementary courses of instruction shall be available for a reasonable fee from June 1, 1978 through July 1, 1979. The educational requirements shall not be satisfied with the supplementary course of instruction after July 1, 1979. Each approved school shall include in these supplementary courses of instruction all subject matter not incorporated in its course material for the 30-hour salesperson's course and the 42-hour broker's course; or in the alternative shall include the following course subject hours;

1. For salesperson's supplementary course of instruction, property rights (2 hours); contracts and other property instruments (3 hours); leases and landlord-tenant relations (1 hour); mortgages (3 hours); the law of agency (2 hours); and license act regulations (4 hours).

2. For the broker's supplementary course of instruction, review and additional terminology (5 hours); advance finance (4 hours); real estate investments (5 hours); property taxes and tax appeals (2

hours); appraisals and evaluations (4 hours); urban redevelopment (3 hours); property management and landlord-tenant relations (2 hours); tax implications of problems (2 hours); license law, civil rights laws, and regulations (8 hours); zoning (3 hours); and subdivisions and developments (5 hours).]

11:5-1.28 Approved schools; requirements

(a)-(i) (No change.)

(j) The maximum teaching load per teacher or instructor shall not exceed the ratio of one teacher or instructor to 60 students per class. Each course of instruction herein provided shall be under the supervision of an instructor qualified as provided for herein who shall be present in the classroom at all sessions. Additional instructors possessing the qualifications elsewhere herein required may be utilized for instruction with respect to given subjects provided that not more than [twenty-five percent (25%)] **25 percent** of the prescribed respective instruction is done by persons other than the instructor in whom overall responsibility is vested. This limitation shall not apply where courses in real estate subjects cover [two hundred (200)] **200** classroom hours or more.

(k)-(u) (No change.)

(v) [Initial approvals] **Approvals** [(that is, the first approval subsequent to the effective date of these regulations) shall expire on December 1, 1968, and subsequent renewal] shall expire [on] **annually on** December 1. [annually thereafter.] Renewal application is to be made on Form H prescribed by the Commission.

(w) (No change.)

11:5-1.29 Fingerprinting

(a) The applicant, if a natural person, shall in connection with his or her original application for a [salesman's] **salesperson's** or broker's license, have his or her impressions taken by a recognized law enforcement agency on a State police fingerprint card (noncriminal) and submit same with his application to sit for the examination unless already submitted and on file with Commission.

(b) (No change.)

(c) All present holders of licenses, whether a natural person, corporation or partnership, as of June 30, 1970, shall submit a State police fingerprint card (noncriminal) within three (3) months from the effective date of the issuance of such renewal license for the ensuing year. Where the renewal is being made upon behalf of the corporation or partnership (general or limited), then the impression must be taken for each officer, director or controlling person, active or inactive.]

[(d)] (c) Holders of multiple licenses shall be required to file only one State police fingerprint card.

(e) This regulation shall apply to all applicants who are applying as residents or nonresidents and shall be effective as of May 27, 1971.]

11:5-1.30 Sponsoring of applications or transfers of license

The New Jersey Real Estate Commission, Department of Insurance, hereby grants to a corporation or a copartnership the right to have applications or transfers of licenses for [salesmen] **salespersons** or broker-[salesmen] **salespersons** sponsored by one other person, other than the authorized broker of record, provided such person is the holder of a broker's license and is an officer of the corporation or a member of the copartnership, as the case may be; and further provided that a power of attorney is filed with the New Jersey Real Estate Commission granting this authority to said person.

11:5-1.31 Expediting of license-procedure

For the purpose of expediting the right of licensees to engage in real estate activities, where license certificates cannot be issued without delay after all conditions have been fulfilled, the Commission directs that [the following letter be forwarded to these licensees:

Employing Broker

Address

Broker's Reference No.

Salesman's Reference No.

This will acknowledge receipt of your fee in the amount of (\$15.00) (\$30.00) in payment of a (salesman's) (broker-salesman's) (broker's) license.

Your license certificate, bearing the above date, will be issued within the next few days. In the interim, this letter will serve as your authority to engage in the real estate activities defined under the provisions of N.J.S.A. 45:15-3 of the New Jersey License Act within the limitations of the license to be issued. Further, this letter is to be prominently displayed at your (broker's) maintained place of business, pursuant to the provisions of N.J.S.A. 45:15-12 as evidence of licensure, until receipt of the aforementioned license certificate.

The authority granted herein shall be null and void ten days from the receipt hereof.] **a certificate of authority in the form of a letter to the licensee be sent to serve as a temporary license for a limited period of time.**

11:5-1.32 [Rental location operations] (Reserved)

[(a) Every licensee involved in the business of referring prospective tenants to possible rental units or locations shall enter into a written contract with the prospective tenant and give such person a copy of the contract. The licensee must disclose the manner in which the listings or units had been obtained. No licensee shall charge, accept, or receive from a prospective tenant a fee in excess of \$10.00 until such time as the prospective tenant obtains a rental through the listings furnished by the licensee.

(b) No licensee shall refer a prospective tenant to:

1. A nonexistent address;
2. Property which was not for lease or rent at the time of referral;
3. A possible rental unit or location for which the licensee does not have the lessor's, or his duly authorized agent's verbal or written consent to refer prospective tenants. Any such verbal consent shall be confirmed by the licensee, in writing, within twenty-four (24) hours of the licensee's receipt of such consent.

(c) All contracts must contain a copy of this regulation or a certificate in 10-point bold type or larger directly above the space provided for the signature of the prospective tenant, that a separate copy of the rule has been provided.]

11:5-1.33 Proscription of price-fixing and agreements in regard to method of arriving at commission

(No change in text.)

11:5-1.34 Proscription of certain discriminatory commission splits

(No change in text.)

11:5-1.35 Proscription of pressuring media

(No change in text.)

11:5-1.36 Real Estate Guaranty Fund

(No change in text.)

Date

(a)

DIVISION OF ACTUARIAL SERVICES**Hospital-Medical-Dental Services
Employees' Dental Benefit Plans; Alternate
Coverage****Proposed New Rule: N.J.A.C. 11:10-2**

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1 and 17:1C-6(e), and P.L.
1983, Chapters 142 through 145 (N.J.S.A. 17B:26-44.4
et seq., 17:48D-9.1 et seq., 17:48C-18.1 et seq. and
17B:27-51.10a et seq.)

Interested persons may submit in writing, data, views or
arguments relevant to the proposal on or before September 14,
1983. These submissions, and any inquiries about submissions and
responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
Department of Insurance
CN 325
Trenton, NJ 08625

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

This proposal is known as PRN 1983-422.

The agency proposal follows:

Summary

On April 20, 1983, P.L. 1983, Chapters 142 through 145 were
enacted. These statutes supplement certain chapters of the
insurance laws of New Jersey including those relating to individual
and group health insurance, the Dental Plan Organization Act and
the Dental Service Corporation Act of 1968.

These supplementary statutes apply to every employer or other
organization which has 25 or more employees or members and
which contributes to a dental contract requiring covered persons to
obtain dental services from a single provider or limited number of
providers. These statutes require that such persons also be offered
the option of selecting alternate coverage which permits dental
services to be obtained from any licensed dentist.

Under Section 3 of each Act, the Commissioner of Insurance is
required to promulgate rules to effectuate its purpose, including
procedures for notice of the provisions of the Act to covered
persons, employers and other organizations. This subchapter
accordingly prescribes rules for employers and organizations to
follow in notifying covered persons of their rights under the Acts.
Mainly, these rules relate to time of notice and require the notice
to be in writing.

Further, the proposal provides that insurers, dental plan
organizations or dental service corporations, as appropriate, shall
notify those employers and organizations subject to the Acts of the
various requirements.

Social Impact

The proposal will ensure that persons who are affected by the new
laws are notified of their rights and responsibilities thereunder. By
requiring employers and other organizations subject to the statutes
to notify their employees or members of the coverage option,
employees and members will be made aware of their right to choose
coverage which permits them to use any licensed dentist. Notifying

affected parties of their rights and responsibilities will help in
ensuring that the purposes of the Acts will be effectuated.

Economic Impact

Employers and other organizations are required by the new laws
to provide the option of alternate dental coverage and notice
thereof. There will be costs to employers and other organizations
in providing the alternate coverage now required by these statutes.
Many employers are also required to offer on an annual basis the
option of selecting health maintenance organization (HMO)
coverage or traditional coverage; thus, the requirement for
notification of the dental coverage alternative could be included
with the HMO option notice. Additional costs to employers and
other organizations as a result of implementing the notice
requirement of this rule are, therefore, expected to be small.

Insurers, dental plan organizations, and dental service
corporations will incur very minimal costs in notifying covered
employers and other organizations. Since these companies already
send premium and other notices to these insured groups, the cost
of adding this notice to those already being sent should be small.

The Department will incur mailing, printing and handling costs
as a result of notifying affected dental plan organizations, insurers
and dental service corporations of the requirements of the Act and
this subchapter. The Department expects to absorb these costs
within current budget resources.

Full text of the proposed new rule follows.

CHAPTER 10
HOSPITAL-MEDICAL-DENTAL SERVICES

SUBCHAPTER 2. EMPLOYEES' DENTAL BENEFIT
PLANS

11:10-2.1 Purpose

Chapters 142 through 145, P.L. 1983, require that each employer
or other organization subject thereto offer its employees or
members the option of selecting alternate coverage which permits
covered persons to obtain dental services from any dentist of their
choice whenever the employer is contributing to a dental plan
contract (as described in N.J.A.C. 11:10-2.2(a)). These statutes
also direct the Commissioner to promulgate rules and regulations
to effectuate their purposes. This subchapter is being promulgated
to meet this statutory mandate and to implement the notification
requirements of the statutes.

11:10-2.2 Scope and application

(a) This subchapter applies to each employer or other organization
which:

1. Employs or has 25 or more employees or members during the
full preceeding calendar year; and
2. Contributes to a dental plan contract.

(b) For the purposes of this subchapter, "other organization"
includes, but is not limited to, a group such as, a labor union and
an association, which enters into a dental plan contract. As used in
this subchapter, a "dental plan contract" is a contract issued by a
health insurer, dental plan organization, or dental service
corporation, which contract restricts covered persons in selecting
the providers of dental services to a single provider or a limited
number of providers.

(c) Insurers, dental plan organizations, and dental service
corporations which are authorized to enter into contracts providing
dental coverage, are also subject to this subchapter.

11:10-2.3 Notification of affected parties

(a) Within 30 days after the effective date of this subchapter, each
insurer, dental plan organization, and dental service corporation
providing a dental plan contract, shall deliver to each employer or
other organization to which this subchapter applies, a copy of P.L.

1983, Chapters 142 thru 145 (as appropriate) and this subchapter. An insurer, dental plan organization and dental service corporation, shall provide to each employer or other organization a copy of the appropriate law and this subchapter at the time of offering a dental plan contract to which this subchapter applies.

(b) Within 60 days after the effective date of this subchapter, every employer and other organization subject to this subchapter, shall offer in writing to its employees or members and their eligible dependents the option of selecting coverage which permits dental services to be obtained from any licensed dentist as an alternative to the coverage provided under a dental plan contract.

1. This option shall be offered at the time a dental plan contract is initially offered to employees or members. Each employer or other organization shall also offer this option at the time its dental plan contract is renewed. New employees or members shall be offered this option at the time they are enrolled in the dental plan contract.

(c) Employers and other organizations to which this subchapter applies, shall post in a conspicuous manner, written notice of the coverage option and the text of P.L. 1983, Chapters 142-145, whichever chapter is applicable.

11:10-2.4 Separability

If any provision of this subchapter, or its application to any person or circumstances, is held invalid, the remainder of this subchapter and its application to other persons or circumstances shall not be affected.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CRIMINAL JUSTICE

**Office of the State Medical Examiner
Death Investigations**

**Proposed Amendments: N.J.A.C. 13:49-1,
-2, -3**

**Proposed New Rules: N.J.A.C. 13:49-1.5,
-2.3, -3.3, 13:49-4 through -8**

Authorized By: Robert Goode, M.D., State Medical Examiner.

Authority: N.J.S.A. 52:17B-78 et seq. specifically 52:17B-80.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Robert Goode, M.D.
State Medical Examiner
Edwin H. Albano Institute
of Forensic Science
325 Norfolk Street
Newark, NJ 07103

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

This proposal is known as PRN 1983-408.

The agency proposal follows:

Summary

N.J.A.C. 13:49-1.1(a)5 and 6 would add two categories of death which have a high degree of public interest to the five existing categories of mandatory autopsies. Because of the potentially explosive nature of such deaths, and the civil liberty issues involved, death of prisoners and people detained by the law enforcement community should be thoroughly and completely investigated including autopsy without exception, and there should be no instance where the discretion of the medical examiner could hinder the gathering of the essential medical facts required to clarify the medicolegal issues. Infants and children who are not naturally ill should be among the most protected of our population because of their helplessness. Failure to conduct a postmortem examination could result in the failure to discover hidden child abuse, or infectious communicable disease, or other categories of causes of death which may present a risk to other family members or the community-at-large.

N.J.A.C. 13:49-1.2 (a)5 represents cosmetic clarification.

N.J.A.C. 13:49-1.3 (a) and (b) permits jurisdiction of medical examiners to be similar to the jurisdiction of prosecutors in conducting death investigations where incidents occur in one location and death occurs at a distant location within the State.

N.J.A.C. 13:49-1.5 is a new section which sets the standards for when, why, and how autopsies are to be conducted, and when adjunctive tests are to be used in order to standardize the degree of investigation and the quantity of information which may be obtained from medicolegal autopsies. The failure to conduct autopsies in the manner prescribed in this new section has, in the past, resulted in incomplete medical information being obtained and medical opinions being poorly founded. The standards set forth in this section approach national standards.

N.J.A.C. 13:49-2.1, and 2.2, standardize and clarify the method of collection of specimens within a specified time frame. This will eliminate the need for submission of tests which have a low or absent likelihood of yielding positive information, and will therefore cut costs and increase efficiency.

N.J.A.C. 13:49-2.3, is a new section which requires specimens to be preserved in the event that microscopic examination may become necessary to confirm the findings of an autopsy. In the past this procedure, which is standard among pathologists, has not been uniformly employed by medical examiners, often resulting in the loss of valuable confirmatory or clarifying information.

N.J.A.C. 13:49-3.3 is a new section which outlines the manner in which the statutorily prescribed reports are to be prepared and distributed. This represents a remedy to the existing non-standard method of record keeping in the 21 counties.

N.J.A.C. 13:49-4.1 is a new section which describes the minimum facilities which are required to be available to the medical examiners in order to perform competent medicolegal autopsies and for the management of related functions. These standards are in accordance with national standards and are intended to provide minimum facilities to support all of the functions which may be required of the medical examiners on a regular basis.

N.J.A.C. 13:49-5.1 is a new section which assigns responsibility for death investigations, outlines the manner of conducting death investigations, and details some of the essential features of death investigation in order to ensure a more complete and uniform fulfillment of the statutory responsibilities of the physician medical examiners.

N.J.A.C. 13:49-6.1 is a new section which is designed to expedite the completion of medical death certification to assist the Bureau of Vital Statistics, and to apply professional standards to the certification of death and the completion of death certificates in which additional information is pending or outstanding.

N.J.A.C. 13:49-7.1 is a new section which details the educational standards which a physician must complete in order to serve in the medical examiner system, either at the investigative level or in the function of performing autopsies as a forensic pathologist. The standards are intended to act as a remedy for

situations whereby professionals in the medical examiner system are performing functions for which they have had no specific training or instruction. The proposed regulation will tend to ensure that only qualified people will perform the functions which are required by statute.

N.J.A.C. 13:49-8.1 is a new section which is designed to provide the State Medical Examiner Office with a mechanism of enforcement of the statute pursuant to the responsibility outlined under N.J.S.A. 52:17B-80: "The State Medical Examiner shall have general supervision over the administration of and shall enforce the provisions of this act." This new section outlines procedures which can be used by the State Medical Examiner to maintain the quality of medical examiner services throughout the State as is required by law.

Social Impact

It is expected that these proposed rules will improve the quality of medical examiner death investigations; will permit the medical examiners to formulate more accurate opinions concerning deaths of public interest; will assist the county prosecutors in conducting more efficient and reliable criminal homicide investigations; will enable the insurance industry to process claims for death benefits in a swift and accurate manner with fewer disputed claims; will assist the Department of Transportation and the Division of Motor Vehicles to resolve death by auto claims, highway safety issues, transportation safety issues, and motor vehicle problems on a more scientific basis; and will assist social welfare agencies in the disposition of problems related to the welfare of children.

Economic Impact

These regulations are not expected to engender any significant increase in the cost of providing this service to the public in most of the counties which are moderately well funded. In those counties which are funded well below the per capita average for similar medical examiner systems of their size, the annual expenditure for the county medical examiner offices might increase significantly, but will nonetheless represent no significant increase in the overall county budgets. Because the county medical examiner office is such a small but highly specialized office, its budget is usually a small percent of the overall county budget and does not alter the overall budget in any significant way. The economic impact on the public may be highly beneficial in that insurance claims may be settled more promptly; death benefits may be more accurately assessed; job related, industrial, and other accidental deaths may be more thoroughly evaluated; and the public in general stands to gain from improved services rather than lose. In addition, a more accurate medical examiner system may result in more legal cases being settled out of court, therefore, decreasing the courtroom load because of better documentation of the medical facts at issue. There may be a significant decrease in the number of unnecessary courtroom trials and prosecutions.

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

SUBCHAPTER 1. POSTMORTEM EXAMINATIONS

13:49-1.1 Mandatory postmortem examination

(a) Postmortem examinations shall be performed in all cases of human deaths resulting from the following causes:

- 1.-2. (No change.)
3. [All deaths apparently caused by abortion, whether or not self-induced;]
- [4.] All deaths from causes which might constitute a threat to public health;
4. All deaths of inmates of a jail, prison, or penitentiary; all prisoners and suspects who were in the process of being detained, arrested, or transported by guards, police and law enforcement or court officers; and all witnesses or jurors in court proceedings involving criminal offenses.

5. All infants and children suspected of having been abused or neglected and children suspected of having died from sudden infant death syndrome (SIDS).

[5.]6. In all cases wherein the State Medical Examiner, the Attorney General, any assignment judge of the Superior Court, or the county prosecutor (of the county wherein the injury occurred or where the decedent expired) requests a postmortem examination.

13:49-1.2 Discretionary postmortem examination

(a) Postmortem examinations may be performed when it appears in the discretion of the county medical examiner to be in the public interest to do so in all cases of human deaths from the following causes:

- 1.-4. (No change.)
5. All deaths from motor vehicle [accidents] collisions to include drivers, occupants, and pedestrians.

13:49-1.3 Jurisdiction between counties

(a) Where an [injury] incident which is suspected of being the proximate cause of death has occurred in one county followed by death in another county, the county medical examiner of the county wherein the [accident] incident occurred shall also have jurisdiction to [conduct] participate in the investigation and to perform the postmortem examination of the deceased.

(b) [Notwithstanding,] [j]Jurisdiction to conduct the investigation and perform the postmortem examination may be transferred [to] by the county medical examiner of the county wherein the death occurred to the medical examiner wherein the incident occurred by written agreement signed by both medical examiners.

13:49-1.4 Armed forces aircraft victims

- (a) (No change.)
- (b) The county medical examiner, or such other person designated or approved by the State Medical Examiner to perform postmortem examinations, [are] is therefore authorized to allow transportation of bodies of armed forces personnel killed in aircraft accidents in territory which is within their jurisdiction to facilities designated by either the Surgeon General or other authorized member of the United States military services for such postmortem examination.
- (c) (No change.)

13:49-1.5 Medical examiner autopsies

(a) Medical examiner autopsies shall be performed only in conjunction with investigations of reportable deaths in order to establish the cause of death; to provide medical facts upon which to base a determination of the manner of death; to collect evidence and medical specimens and documentation with probative value; to clarify investigative information, or to serve the needs of public health and safety and of the courts.

(b) Medical examiner autopsies shall not be performed solely to satisfy the academic interests of a hospital or medical staff, or to circumvent the lack of family permission for hospital autopsy.

(c) The autopsy standard for apparent homicides, suicides, suspicious deaths, and deaths with no visible anatomic cause shall include a complete inspection, removal, and dissection of the cranial compartment and contents, the neck viscera and tongue, the thoracic, abdominal and pelvic compartments and viscera, and any additional dissections which may be indicated by the circumstances of death; and shall include the collection and preservation of body tissues for toxicological and microscopic examination and any additional examinations which may be required by the nature of the circumstances.

(d) X-ray examination of the whole body shall be performed in all instances where child abuse or neglect is a possibility and in the investigation of human skeletal remains. X-ray examination shall also be undertaken in all gunshot injuries where indicated for complete recovery of evidence, and in conjunction with examination and identification of human

bodies in an advanced state of decomposition, or unrecognizable bodies.

(e) No person, technician, or aide shall perform any part of the postmortem dissection of the body without the direct and immediate supervision and observation of the medical examiner or designated pathologist and then, only after proper training and guidance.

(f) Microscopic examination shall be conducted in all cases of infant death, whenever an autopsy including toxicological testing fails to disclose a cause of death, when the age of an injury requires further evaluation, whenever indicated by the circumstances of the death, and whenever else it is deemed necessary at the discretion of the medical examiner. The slides shall be retained permanently, properly labeled with medical examiner case number.

(g) Microbiologic, toxicologic, and/or nuclear radiation tests, and any other pertinent examination and study shall be conducted where applicable in death investigations involving a threat to public health.

SUBCHAPTER 2. SPECIMEN COLLECTION

13:49-2.1 Collection of specimens for alcoholic determination

(a) All county medical examiners, or the person designated by the State Medical Examiner or county medical examiner to conduct investigations and perform postmortem examinations in a county shall collect suitable specimens for determination of the alcoholic content of the blood [or] and brain tissue in all cases of violent death or death under unusual circumstances where death has occurred within 48 hours of the incident suspected of being the proximate cause of death.

(b) Said samples shall be properly labeled, refrigerated and submitted promptly to the laboratory for the required analysis.

13:49-2.2 Collection of specimens for narcotic or dangerous drug determination

(a) All county medical examiners, or the person designated by the State Medical Examiner or county medical examiner to conduct the investigations and perform postmortem examinations in a county, shall collect suitable specimens for determination of the drug content of the [blood or brain] body fluids and tissues in all cases of violent deaths or deaths under unusual circumstances where death has occurred within 48 hours of the incident suspected of being the proximate cause of death.

(b) Said samples shall be properly labeled, refrigerated and submitted to the laboratory for the required analysis.

13:49-2.3 Specimens for microscopic examination

Specimens from the vital organs and sites of fatal injury shall be retained in a suitable preservative such as formalin solution on every autopsy conducted by the medical examiners, labeled by name and case number. These shall be retained for 10 years unless histologic slides have been prepared and examined.

SUBCHAPTER 3. REPORTS AND RECORDS

13:49-3.1 Release of autopsy findings
(No change in text.)

13:49-3.2 Fees for copies of records

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

(c) All [fees collected by the State Medical Examiner shall be paid into the State Treasury and all] fees collected by the county medical examiner shall be paid into the county treasury on or before the 10th day of each month.

13:49-3.3 Filing of Reports

(a) It shall be the responsibility of the county medical examiner and the State Medical Examiner to maintain on permanent file,

full and complete records of every death investigation conducted by their respective offices, indexed by date of report of death, name of decedent, and sequential case number.

(b) The standard "Report of Investigation by Medical Examiner" shall be filed in the office within one working day on every death reported to the county medical examiner's office.

1. These reports shall be forwarded to the State Medical Examiner and the county prosecutor twice monthly on the first and 15th day of the month.

2. The medical examiner on duty shall personally sign the Report of Investigation by Medical Examiner and shall be responsible for the information therein contained.

(c) It shall be the responsibility of the physician who performs a medical examiner autopsy to write, dictate, or otherwise record a detailed description of the observations and findings resulting from the necroscopic dissection and examination within 24 hours of the completion of the dissection, and to make this available to a typist for transcription within two working days following the dissection. Each page of every autopsy shall include the decedent's name and identifying county medical examiner case number.

(d) The description and report of gross autopsy findings shall be completed, signed by the physician, and delivered to the county prosecutor and the State Medical Examiner within 30 days of completion of gross dissection in all homicidal, suspicious, and unusual deaths.

(e) The county medical examiners shall be responsible to provide all administrative reports and data requested by the State Medical Examiner.

(f) It shall be the responsibility of the county medical examiners and the State Medical Examiner to maintain sufficient clerical and administrative personnel to prepare the required investigative, technical, and administrative reports in a timely manner; and to maintain the public records in an orderly acceptable fashion.

SUBCHAPTER 4. MORGUES AND LABORATORIES

13:49-4.1 Morgue storage; facilities

(a) The county medical examiners shall be responsible to establish and maintain refrigerated storage space for dead bodies sufficient to the needs of the population and area of the jurisdiction served. In every such morgue, there shall be kept a bound register of all bodies, their origin, and disposition.

(b) The county medical examiner shall be responsible for maintaining a regular and continuous access to facilities for the examination, dissection, and storage of dead bodies under investigation, and for such histologic, radiographic, toxicologic, microbiologic, dental, photographic, and anthropologic examinations, and other studies as may be required to establish and document the cause and manner of death, to establish the identity of the deceased, or to further the investigation of events contributing to the death.

(c) If the county medical examiner shall be unable to provide the essential facilities and services described above, it shall be the responsibility of said medical examiner to call upon the State Medical Examiner for assistance at county expense.

SUBCHAPTER 5. INVESTIGATIONS

13:49-5.1 Death investigations; conduct

(a) It shall be the responsibility of the county medical examiners to have a legally authorized physician medical examiner on duty and available at all times to investigate deaths occurring within the jurisdiction of such county or counties.

(b) The duty medical examiner shall require a proper determination of death prior to assuming responsibility for the death investigation.

(c) The duty medical examiner shall take complete charge of every body whose death is reported to the office, and shall not release it for burial or cremation until sufficient information has been accumulated, proper specimens and evidence have been collected as needed, and appropriate examinations have been conducted to establish the cause and manner of death and the identity of the decedent.

(d) It shall be the responsibility of the physician medical examiner to require and obtain all pertinent information from the scene of violent, suspicious, unexpected, and unusual deaths, regardless of personal visitations, in every such death investigation conducted by the office, and to incorporate that information citing the source into the permanent records of the Office.

(e) The office of the county medical examiner shall be required to inspect the scene of homicidal, unusual or suspicious deaths, decomposed bodies, or unwitnessed and unexpected deaths, when the body still lies there dead.

1. The physician medical examiner shall not refuse to do so when requested by the State Medical Examiner or by the county prosecutor or assistant prosecutor.

i. A detailed record of the observations and an inventory of any items collected shall be personally prepared by the medical examiner or medical investigator as a separate report filed with the office.

ii. All items collected and all reports shall be identified by name of decedent if known, date, time, and county medical examiner case number.

iii. Receipts shall be required for all evidence, specimens, and property removed from the custody of the medical examiner's office.

(f) It shall be the responsibility of the medical examiner to obtain information from first hand witnesses whenever possible, taking the names of these sources and recording the information in a report filed with the office.

1. Police reports and other agency reports may supplement the medical examiner's own investigation, and shall be obtained whenever necessary to complete the case interpretation.

2. Subsequent additional information shall be recorded and filed with the case record.

3. In homicide investigations suspects or probable suspects are to be interviewed by law enforcement personnel, with guidance as may be desirable from the medical examiner, and copies of the statements are to be obtained by the medical examiner.

(g) The physician medical examiner shall not delegate to any lay medical investigator any task or function for which the lay medical investigator has not been trained or for which the lay medical investigator is not qualified. The collection of specialized medical information is the responsibility of medically trained personnel.

SUBCHAPTER 6. DEATH CERTIFICATION

13:49-6.1 Medical examiner certification and amendments

(a) It shall be the responsibility of the medical examiner to require the proper identification of the decedent for the death certificate. This may be accomplished by visual recognition if the decedent's body is in recognizable condition or by a combination of scientific means, circumstances, and personal effects if the deceased is not in recognizable condition.

(b) It shall be the responsibility of the medical examiner who issues a death certificate to conduct personally a complete physical examination of at least the external surfaces of the unclothed dead body and to make a full and complete description of this examination to be filed with the Office. The clothing and personal effects shall be viewed and an inventory prepared, and a receipt shall be obtained upon release from the medical examiner's custody.

(c) The medical examiner shall personally sign the death

certificate as required by law, and shall be responsible for the truthfulness and accuracy of the medical information herein contained.

(d) It shall be the responsibility of the medical examiner to supply all additional information required by the State Registrar for the completion of pending death certificates within a reasonable period not to exceed 120 days, on the forms provided by the Registrar, except for extenuating circumstances.

SUBCHAPTER 7. ELIGIBILITY STANDARDS

13:49-7.1 Eligibility standards of county medical examiner, deputy or assistant county medical examiner, and forensic pathologist

(a) Any person appointed or reappointed to the position of county medical examiner pursuant to N.J.S.A. 52:17B-83, deputy or assistant county medical examiner pursuant to N.J.S.A. 52:17B-84, or forensic pathologist authorized by the State Medical Examiner pursuant to N.J.S.A. 52:17B-88, on or after the effective date of this subchapter, shall have met within one year of the effective date of this subchapter the following standards relating to prior training and experience:

1. Successful completion of a minimum of 30 hours of basic education in death investigation conducted or sponsored by the Armed Forces Institute of Pathology, the American Society of Clinical Pathologists, the College of American Pathologists, the National Association of Medical Examiners, or an institution of higher education or other agency approved by the State Medical Examiner.

i. In addition, all persons appointed or reappointed to the position of county medical examiner pursuant to N.J.S.A. 52:17B-83 on or after the effective date of this subchapter who are to serve in the capacity of "County Medical Examiner Department Head", in addition to the above educational requirement, shall complete within one year of appointment a minimum of 20 hours of advanced education in death investigation conducted or sponsored by the Armed Forces Institute of Pathology, the American Society of Clinical Pathologists, the College of American Pathologists, the National Association of Medical Examiners, or an institution of higher education or other agency approved by the State Medical Examiner.

2. Successful completion of a course conducted by the Office of the State Medical Examiner on the laws, rules and regulations relating to the New Jersey Medical Examiner System.

3. Successful completion of seven full days of internship training at the New Jersey State Medical Examiner Office.

(b) Any person in office as a county medical examiner, deputy or assistant county medical examiner, or designated Forensic pathologist, on the effective date of this subchapter shall continue in office until the expiration of the term for which he was appointed, if any. If there is no term, the individual shall comply with all of the requirements of this section within one year of the effective date of this subchapter.

(c) Any person appointed to or holding the position of county medical examiner, deputy or assistant county medical examiner, or designated forensic pathologist on or after the effective date of this subchapter shall enroll in and complete a program of continuing medical education in the forensic sciences for a minimum of 20 hours of American Medical Association Category I credit, every two years while holding said position.

(d) Only those county medical examiners, deputy or assistant county medical examiners or forensic pathologists authorized by the State Medical Examiner as competent to perform

medicolegal autopsies shall perform such autopsies. Such persons shall be qualified in one of the following categories:

1. Pathologists who shall have completed a two year program of supervised training in anatomical pathology appropriate for eligibility to the American Board of Pathology are qualified to conduct death investigations and to perform postmortem examinations and autopsies under the direct guidance and supervision of a senior designated pathologist who has already been qualified to practice in an unsupervised capacity in the New Jersey Medical Examiner System, and under the general supervision of the State Medical Examiner as provided by law.

2. Pathologists who are qualified as anatomic pathologists and who have at least one year of formal supervised training or two years supervised experience in forensic pathology suitable for eligibility towards certification by the Specialty Board in Forensic Pathology may be certified to conduct death investigations and to perform postmortem examinations and autopsies under the general supervision of the State Medical Examiners as provided by law, and without additional restrictions.

3. Physicians of any speciality who, by virtue of their experience in a medical examiner system, are able to produce a portfolio of personal case studies acceptable to the State Medical Examiner and who are further able to demonstrate by interview a knowledgeable approach to forensic problems may be certified to conduct death investigations and to perform postmortem examinations and autopsies under the general supervision of the State Medical Examiner as provided by law.

(e) Nothing in this section is intended to prevent a qualified person from serving both as a county medical examiner or deputy or assistant county medical examiner and simultaneously as a designated pathologist authorized by the State Medical Examiner to perform medicolegal autopsies.

SUBCHAPTER 8. ENFORCEMENT

13:49-8.1 Enforcement of eligibility standards

(a) If any person appointed to or holding the position of or being a candidate for appointment to the position of county medical examiner, deputy or assistant county medical examiner or forensic pathologist, authorized by the State Medical Examiner to perform medicolegal autopsies, does not meet any of the eligibility standards set forth in subchapter 7, the State Medical Examiner shall declare him ineligible to perform the applicable category of professional duties prescribed in subchapter 7.

(b) If any county medical examiner, deputy or assistant county medical examiner or forensic pathologist authorized by the State Medical Examiner to perform medicolegal autopsies, having met the eligibility standards set forth in subchapter 7, has been demonstrated professionally incompetent to perform the duties of his office, the State Medical Examiner shall declare him ineligible to perform the professional duties of his office, or shall restrict the level of professional duties in accordance with the demonstrated level of professional competence of the examiner.

(c) As soon as practicable but no later than seven days from the date of the declaration of ineligibility or restriction of the duties, the State Medical Examiner shall give written notice of the declaration of ineligibility or restriction to the governing body of the county which appointed or is considering appointment of the officer.

(d) Any proceeding brought under this subchapter shall provide the officer with notice of the charges against him and afford him an opportunity to be heard, which shall conform to the provisions applicable to contested cases set forth in the Administrative Procedure Act, P.L. 1968, c. 410 (C. 52:14B-1 et seq.); P.L. 1978, c. 67 (C. 52:14F-1 et seq.), and N.J.A.C. 1:1.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Bills and Payments for Service Customers in Default; Return of Deposits

Proposed Amendments: N.J.A.C. 14:3-7.3 and 7.5

Authorized By: Board of Public Utilities, Barbara A. Curran, President. Authority: N.J.S.A. 48:2-13 and 48:2-29.5.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Edward D. Beslow, Esq. Regulatory Officer Board of Public Utilities 1100 Raymond Boulevard Newark, NJ 07102

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

This proposal is known as PRN 1983-412.

The agency proposal follows:

Summary

N.J.A.C. 14:3-7.3(b) presently provides that a utility company may apply a deposit towards the bill of a delinquent customer and require that the deposit be restored to its original amount. The proposed amendment to this rule would allow a customer, whose deposit has been used in full or part to liquidate an outstanding bill, to restore said deposit to its original amount within a six month period.

N.J.A.C. 14:3-7.5(c) presently provides that a utility company shall pay interest at the rate of at least nine percent per annum on all deposits held by it for at least three months. The proposed amendment to this rule would require that interest payments are to be made at least once a year while a deposit is held and are to take the form of cash payments or credits on bills for services rendered or to be rendered.

Social Impact

The proposed amendment to N.J.A.C. 14:3-7.3(b) recognizes the difficulty experienced by customers, especially those who are on low or fixed incomes, in meeting escalating utility bills. The proposed amendment would mitigate the economic burden on a customer who must both keep up with current utility bills and restore a deposit to its original amount thereby allowing the customer to maintain his utility service in an uninterrupted manner.

The proposed amendment to N.J.A.C. 14:3-7.5(c) would give customers the use of the interest accrued on their money which is held by a utility company in the form of a deposit.

Economic Impact

The proposal will have no economic impact on the Board of Public Utilities.

As stated above with regard to social impact, the proposed

amendment to N.J.A.C. 14:3-7.3(b) would allow a customer, whose deposit was used in whole or in part to liquidate an outstanding bill, to have his utility service continued in an uninterrupted manner while he restored the deposit to its original amount over a six month period. The proposed modification to N.J.A.C. 14:3-7.5(c) would give the customer the benefit of the interest that has accrued on the deposit money held by the utility company by means of either cash payments or credits on bills.

The proposed amendment may have a negative impact on the cash flow of the affected utility companies as it would reduce the amount of cash available for use by said companies.

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

14:3-7.3 Customers in default

(a) (No change.)

(b) If a customer who has made a deposit fails to pay a bill, the utility may apply such a deposit insofar as is necessary to liquidate the bill and may require that the deposit be restored to its original amount. **Should the utility require that the deposit be restored to its original amount, the customer shall make such restoration within a six month period.**

14:3-7.5 Return of deposits

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

(c) Simple interest at the rate of at least nine percent per annum shall be paid by the utility on all deposits held by it, provided the deposit has remained with the utility for at least three months.

1. The nine percent interest shall be applied to all deposits received by the public utility on and after August 1, 1979.

2. Interest on deposits previously collected and held by the public utility on August 1, 1979, shall be apportioned so that the nine percent shall be computed beginning August 1, 1979.

3. **Said interest payments, which shall be made at least once during each 12 month period in which a deposit is held, may take the form of cash payments or credits on bills toward utility service rendered or to be rendered.**

(a)

OFFICE OF CABLE TELEVISION

Rules of Cable Television Common Tariff

Proposed Amendment: N.J.A.C. 14:17-18

Authorized By: Office of Cable Television, John P. Cleary,
Director.

Authority: N.J.S.A. 48:5A-1 et seq.

A **public hearing** (inquiry) concerning this proposal will be held on August 31, 1983 at 10:00 A.M. at:

Office of Cable Television
1100 Raymond Boulevard
Newark, New Jersey

It is expected, during the pendency of the rate level inquiry, that the Office will grant to the greatest extent possible all waiver requests of the present rules so long as the same comply with the proposed amended rules.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Office of Cable Television
1100 Raymond Boulevard
Newark, New Jersey 07102

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

This proposal is known as PRN 1983-404.

The agency proposal follows:

Summary

The proposed rules will completely replace the "common tariff" rules as they presently exist at N.J.A.C. 14:17-18.

Regulations establishing rate ceilings under an optional common tariff plan for cable television systems are to be renewed with certain modifications. Basic service classifications are redefined on the basis of mandatory broadcasting channel signal carriage. Generic rate hearings will be held to establish common tariff rate ceilings for different levels of service. Cable companies must give 60 days notice and inform subscribers by means of a bill insert prior to any rate increase. Commercial subscribers will also be includable under the amended regulations. Tariff coverage will include more detailed tiers for specialized installation services. Other technical amendments clarify implementation and classification procedures.

Social Impact

The Common Tariff is an alternative to traditional rate-making procedures, available to all cable television companies operating in the State of New Jersey. The proposed changes will encourage rebuilds of older 12-channel cable TV systems and reward companies offering comprehensive service packages. The greater flexibility in rate structure will enable cable systems to continue experimenting with programming offerings and options to the subscribing public.

Economic Impact

The common tariff, with its proposed amendments, will continue to save cable companies from the need to absorb expensive legal fees they incur under the traditional rate-making process. By keeping operating costs lower, the tariff has also helped keep average basic monthly cable rates in New Jersey among the lowest in the nation. The present proposal will continue this effect.

Certainty in the rate structure and elimination of regulatory lag as a result of the regulations will foster growth and expansion of cable service. The ceilings to be established ease the burdens of inflation on both the cable company and the subscriber by permitting upward price adjustments while the public interest is served by limiting their frequency and amount.

Full text of the proposal follows. **Delete** the existing text of N.J.A.C. 14:17-18 as it appears in the New Jersey Administrative Code and replace it with the text reproduced below.

SUBCHAPTER 18. CATV RATE REGULATION UNDER A COMMON TARIFF

14:17-18.1 Definitions

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

"Competitive System" means any cable television system which lies wholly within the Grade A contours of at least three major network broadcast signals shall be defined as a "competitive system". The boundaries of Grade A contours in the State of New Jersey shall be delineated as defined by the Federal Communications Commissioner at 17 CFR §73.683(a).

"Classical system" means a cable television system, any part of which is located outside the Grade A contours of at least one major network broadcast station.

"Basic service," for the purposes hereof, means a cable television system's must-carry signals as required by the Federal Communications Commission in its rules or, in the absence of such a Federal requirement, such broadcast signals as would be considered must-carry signals under the rules in effect on April 15, 1981, plus all promised access and local origination channels.

14:17-18.2 Rate structures

(a) The Office with the approval of the Board will establish, subject to modification after full public hearing, maximum rates for basic service in each of the following categories:

1. Classical systems;
2. Competitive systems.

(b) For the purpose of establishing a maximum ceiling rate for each level of service for each cable television system, the Office, with the approval of the Board, shall establish, subject to modification after full public hearing, maximum rates for each additional channel of service to be provided in a tiered cable television service package, such package to always include basic service.

(c) Subject to the provisions below, a cable television company may increase or decrease its rates at its discretion up to the maximum established by the Office for each level of service in its category.

14:17-18.3 Participation

(a) Any cable television company in the State of New Jersey may establish rates under the provisions of this subchapter subject to the following terms and conditions:

1. In the first 12-month period following its election to avail itself of rates under this subchapter, a cable television company shall be entitled to increase its monthly charge for a primary connection each for level of service by an amount not to exceed \$.50.

2. In the second 12-month period it shall be entitled to increase its monthly charge for each level of service by not more than an additional \$.75.

3. Thereafter, the cable television company is entitled to increase its rates to the class ceiling for each level of service set by the Board and the Office without limitation.

4. The entitlement to raise rates to a specific level in any 12-month period shall not be lost if not exercised by the company within that 12 month period, but shall be cumulative.

5. A cable television company may reduce its rates at its discretion without impairment of its ability to increase those rates directly to its preexisting maximum allowable rate. Any such reduction or increase in rates shall not be unjustly preferential or discriminatory to any class of existing customers, except that nothing herein shall be construed as prohibiting the provision of free service to schools and libraries.

6. A company with a preexisting rate higher than the class ceiling may avail itself of the provisions of this subchapter and its ceiling is deemed to be its preexisting higher rate, however nothing herein shall be construed to allow such company to raise its rates above such preexisting higher rates.

7. A cable television company which has received an increase in rates in a separate proceeding before the Board and which subsequently elects to be governed by the provisions of this subchapter shall not be entitled to increase its rates under the provisions of this subchapter for a period of nine months following the effective date of the increase in rates allowed in the separate proceeding before the Board.

8. An election by a cable television company to avail itself of the rates under this subchapter will preclude it from petitioning for an increase in rates through an individual proceeding before the Board for a period of 18 months following such an election, or for a period of 12 months following the implementation of any increase in rates pursuant to the provisions of this subchapter above its previous high rates, whichever is later.

14:17-18.4 Implementation of tariff changes

(a) A cable television company may elect to be governed by the provisions of this subchapter by submitting written notice to that effect to the Director of the Office and servicing a copy of same upon the municipal clerks in each of the municipalities in which it renders cable television service. A newly franchised municipality added to a system that is a common tariff member shall have, as its anniversary date, its Certification date.

(b) A cable television company desiring to implement a change in its rates pursuant to the provisions of this subchapter shall submit to the Office at least 60 days in advance of the effective date of the increase, a letter reaffirming its classification or, if necessary, documenting and requesting any change thereof, as well as including a tariff revision setting forth the new rates for service. Additionally, each cable television company that makes a filing under this subsection shall, unless otherwise ordered or permitted by the Board or Director, give notice thereof, at least 60 days prior to the effective date of the requested increase, as follows:

1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the letter or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered cable television service, the charge for which is proposed to be increased.

2. Serve a notice of the filing and a statement of the effect on subscribers of various classes on all current subscribers who are billed on a recurring basis and who will be affected by said filing. Such notice must be by bill insert.

3. Proof of service and/or notice, together with a revised tariff, shall be filed with the Office at least five days in advance of the effective date of the increase. Failure to so file such documents will, absent a contrary notice from the Office, automatically cause the implementation of new rates to be delayed an additional 30 days.

(c) In the absence of contrary notice from the Office, the new rates may be implemented 60 days after filing and making of public notice. In the event of proposed classification changes, either requested by the operator or proposed by the Office, implementation of new rates would be postponed for a maximum of an additional 30 days. If no agreement can be reached within such 30 day period, the new rates would be implemented under bond pending a formal rate decision by the Office.

(d) Notwithstanding any definitions in this subchapter to the contrary, a cable television company may request, or the Office may propose that the classification of such company be revised, based on off-air signal quality, viewer habits and subscriber penetration levels.

(e) Notwithstanding any provisions in this subchapter to the contrary, no common tariff increase shall be permitted in a newly franchised municipality that does not have service available to all residents promised service in the initial system build, exclusive of areas to be constructed under a line extension formula.

(f) Notwithstanding any provisions in this subchapter to the contrary, absent a showing of necessity at a public hearing, all municipal franchise provisions as to rate freeze guarantees will take precedence over an otherwise allowable rate increase.

(g) Notwithstanding any provisions in this subchapter to the contrary, should a company elect to remove a channel or channels of additional service from any tiered level of service, its rate ceiling and its then rate for such level of service shall each be reduced by the incremental maximum rate for such additional channel or channels of service.

14:17-8.5 Provision of inadequate service

Public hearings, to be scheduled at the Director's discretion concerning the service aspects of cable television system shall be held throughout the State of New Jersey. If pursuant to such a hearing or as the result of an independent evaluation by the Office it is found that a company has failed to provide promised services or facilities, the Board may schedule a hearing thereon. Upon a finding by the Board following hearing upon notice that a cable

television company is failing to provide such services or facilities, a designated portion of the primary monthly service rate not to exceed \$1.00 per subscriber may be ordered deposited into an escrow fund. The monies in the escrow fund shall be utilized with the approval of the Director for the purpose of rectifying the inadequacies found to exist.

AGENCY NOTE: The above proposal was originally published as PRN 1982-144 at 14 N.J.R. 422(b). Comments were received and hearings on the substantive test of the proposal were held on May 19, 1982, and on March 4, 1983. As of May 2, 1982, the proposal had not been adopted and accepted for filing with the Office of Administrative Law, and therefore it automatically expired under N.J.A.C. 1:30-4.2(d).

Therefore the Office of Cable Television has resubmitted the original proposal for republication without change, except for the new hearing and comment dates, in compliance with N.J.A.C. 1:30-4.2(d). The entire record of hearing transcripts and written comments concerning the original proposal, PRN 1982-144, shall be incorporated in the record of the current proposal.

The actual maximum rate for each service level in each category will be formulated upon notice and hearing subsequent to adoption of the proposed rules.

officials, engineering studies were conducted by the Department's Bureau of Traffic Engineering. The engineering studies proved that the imposition of the speed limit prescribed was warranted. The Department therefore proposes the new rule N.J.A.C. 16:28-1.22 in compliance with the requests from local officials of the Township of Lower. Appropriate signs will be erected to advise the motoring public.

Social Impact

The proposed new rule will institute maximum speed limits for the safe and efficient flow of traffic and for the enhancement of the safety and well-being of the populace.

Economic Impact

The Department will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements.

Full text of the proposed new rule follows.

16:28-1.22 Route 109

(a) The rate of speed designated for State highway Route 109 described in this section shall be established as the maximum rate of speed thereat:

- 1. For both directions of traffic in Lower Township, Cape May County:
 - i. Forty miles per hour between the Cape Island Creek Bridge and the intersection of Route US 9 and Route 109.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

**Speed Limits For State Highways
Route 109**

Proposed New Rule: N.J.A.C. 16:28-1.22

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-98.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

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

This proposal is known as PRN 1983-407.

The agency proposal follows:

Summary

The proposed new rule will establish maximum speed limits along Route 109 in the Township of Lower, Cape May County for the safe and efficient flow of traffic. Based upon requests from local

(b)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 45 and 77**

**Proposed Amendment: N.J.A.C. 16:28A-1.31
and 1.41**

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

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

This proposal is known as PRN 1983-406.

The agency proposal follows:

Summary

The proposed amendment will establish "no parking" zones along Routes 45 and 77 at designated bus stops in Harrison Township, Gloucester County. Based upon requests from local officials, engineering studies were conducted by the Department's

Bureau of Traffic Engineering. The engineering studies revealed that "no parking" zones were warranted in the areas designated. The Department therefore proposes to amend N.J.A.C. 16:28A-1.31 and 1.41 in compliance with the request from the local officials in Harrison Township. Appropriate signs will be erected to advise the motoring public.

Social Impact

The proposed amendment will restrict parking in the areas and along the routes designated for the safe and efficient flow of traffic and the on/off loading of passengers at designated bus stops.

Economic Impact

The Department will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements.

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

16:28A-1.31 Route 45

(a) (No change.)

(b) **The certain parts of State highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with N.J.S.A. 39:4-199, permission is hereby granted to erect appropriate signs at the following established bus stops:**

1. Along Main Street, northbound on the easterly side thereof in the Township of Harrison, Gloucester County:

i. Near side bus stops:

(1) Chatham Lane: Beginning at the southerly curb line of Chatham Lane and extending 110 feet southerly therefrom.

(2) Earlington Avenue: Beginning at the southerly curb line of Earlington Avenue and extending 110 feet southerly therefrom.

ii. Mid-Block bus stops:

(1) Richwood Jefferson Road (Co. Rd. 667) (or Alt. Rt. 551): Beginning 100 feet from the southerly curb line of Richwood Jefferson Road (Co. Rd. 667) and extending 135 feet northerly therefrom.

2. Along Main Street southbound on the westerly side thereof in the Township of Harrison, Gloucester County:

i. Mid-block bus stop:

(1) Route 322 West: Beginning 40 feet from the northerly curb line of Route 322 West and extending 135 feet northerly therefrom.

ii. Near side bus stop:

(1) High Street: Beginning at the northerly curb line of High Street and extending 110 feet northerly therefrom.

16:28A-1.41 Route 77

(a) (No change.)

(b) The certain parts of State highway Route 77 described in this section shall be [and hereby are] designated and established as "no parking" zones where parking is prohibited at all times. [and in] **In accordance with the provisions of N.J.S.A. 39:4-199, permission is hereby granted to erect appropriate signs at the following established bus stops:**

1. (No change.)

2. Along the northbound (easterly side) in the Township of Harrison, Gloucester County:

i. Mid-block bus stop:

(1) Route 45 (Woodstown Road): Beginning 80 feet from the projected prolongation of the southerly curb line of Route 45 (Woodstown Road) and extending 110 feet southerly therefrom.

(a)

TRANSPORTATION OPERATIONS

**Miscellaneous Traffic Rules
Route US 206**

Proposed Amendment: N.J.A.C. 16:30-2.6

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

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-140.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

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

This proposal is known as PRN 1983-396.

The agency proposal follows:

Summary

The proposed amendment will establish a STOP Intersection at the intersection of Rising Sun Square Road and Old York Road in Bordentown Township, Burlington County, and remove the YIELD Intersection on Rising Sun Square Road. Based upon a request from local officials, engineering studies were conducted by the Department of Transportation's Bureau of Traffic Engineering. The engineering studies found the establishment of a STOP Intersection on Old York Road and the removal of the YIELD Intersection on Rising Sun Square Road warranted. The Department therefore proposes to amend N.J.A.C. 16:30-2.6 in accordance with the request from the Bordentown Township local officials. Appropriate signs will be erected advising the motoring public.

Social Impact

The proposal will provide the appropriate traffic controls along Route US 206 as designated for the safe and efficient flow of traffic and the enhancement of the safety of the populace in Bordentown Township.

Economic Impact

The Department will incur direct and indirect costs for its workforce for mileage, personnel and equipment requirements.

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

16:30-2.6 Rising Sun Square Road and Old York[e] Road

(a) In accordance with the provisions of N.J.S.A. 39:4-140, the intersection of Rising Sun Square Road and Old York[e] Road, these portions being under the jurisdiction of the New Jersey Department of Transportation in Bordentown Township, Burlington County and described in [(a) of] this section, shall be designated a Stop [and Yield] intersection:

[1. Old Yorke Road and Rising Sun Square Road:]

1. Rising Sun Square Road and Old York Road:

i. [A] Stop signs shall be [erected] **installed** on [the east side of] Old York[e] Road [facing northbound traffic at Rising Sun Square Road.] **for eastbound and westbound traffic.**
 [ii. A yield sign shall be erected on Rising Sun Square Road.]

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Election of Member-Trustee

Proposed Amendment: N.J.A.C. 17:3-1.4

Authorized By: Board of Trustees, Teachers' Pension and Annuity Fund, Mary C. Conrey, Secretary.
 Authority: N.J.S.A. 18A:66-56.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mary C. Conrey, Secretary
 Teachers' Pension and Annuity Fund
 Division of Pensions
 20 West Front Street
 CN 295
 Trenton, NJ 08625

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

This proposal is known as PRN 1983-397.

The agency proposal follows:

Summary

The proposed amendment changes certain dates and groupings concerning the election of delegates to act as member-trustees, as well as clarifying the policy of the seating arrangements for alternates and visitors at the annual convention of the members of the Teachers' Pension and Annuity Fund.

Social Impact

The proposal may affect current and future members of the Teachers' Pension and Annuity Fund.

Economic Impact

The proposal will not have any adverse, economic impact upon the persons who may be affected by this proposal.

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

17:3-1.4 Election of member-trustee

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

(f) The delegates shall be elected at a meeting of the membership in each county to be called by the county superintendent no later than the [fifth day of October] **27th day of May.**

1.-2. (No change.)

3. The secretary, shall, within five days after the meeting and no later than the 10th day of [October] **June**, forward to the secretary of the Board a certificate containing the membership register

numbers, names, addresses and school districts of the delegates and alternates.

(g)-(j) (No change.)

(k) The secretary of the Board shall also notify each delegate and alternate of the names of the candidates to be nominated for trustee that have been registered with him before the [fifth day of October] **first day of November.**

(l) The county grouping for election of trustee shall be as follows:

GROUP A	GROUP B	GROUP C
Bergen	[Hunterdon]	Atlantic
Essex	[Mercer]	Burlington
Hudson	Middlesex	Camden
Union	Monmouth	Cape May
	Morris	Cumberland
	Passaic	Gloucester
	Somerset	Hunterdon
	Sussex	Mercer
	[Union]	Ocean
	Warren	Salem

(m)-(q) (No change.)

(r) Alternates and visitors shall be seated in [the balcony or gallery] **a specified area.**

(s)-(w) (No change.)

(b)

DIVISION OF PENSIONS

Teachers' Pension and Annuity Fund Enrollment; Eligible Positions

Proposed Amendment: N.J.A.C. 17:3-2.1

Authorized By: Board of Trustees, Teachers' Pension and Annuity Fund, Mary C. Conrey, Secretary.
 Authority: N.J.S.A. 18A:66-56.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Mary C. Conrey, Secretary
 Teachers' Pension and Annuity Fund
 Division of Pensions
 20 West Front Street
 CN 295
 Trenton, NJ 08625

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

This proposal is known as PRN 1983-398.

The agency proposal follows:

Summary

The proposal adds the title of assistant principal to the current list of eligible positions whose holders can enroll in the Teachers' Pension Annuity Fund. The purpose is to clarify the status of persons holding such job titles. As a result of adding the title of assistant principal to the list, the remaining titles on the list have been renumbered.

Social Impact

The proposal may affect current and future holders of the positions of assistant principal.

Economic Impact

The proposal will not have any significant, adverse economic impact since it is merely a clarification of current policy.

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

17:3-2.1 Eligible positions

(a) With the exception of the public institutions and the Department of Higher Education, any person, who is appointed by the State or local board of education in the State, as a regular full-time employee to one of the following teaching or professional staff positions shall be required to become a member of the Fund effective as of the date of their employment:

1. Regular teacher;
 2. Special teacher;
 3. Helping teacher;
 4. Teacher-clerk;
 5. State Commissioner;
 6. Principal;
 7. Vice-principal;
 8. **Assistant principal;**
- Renumber 8.—43. as 9.—44.

(a)

STATE LOTTERY COMMISSION

Lottery Commission Rules

**Proposed Repeal: N.J.A.C. 17:20
Proposed New Rules and Recodification:
N.J.A.C. 17:20**

Authorized By: New Jersey State Lottery Commission,
Hazel Frank Gluck, Executive Director.
Authority: N.J.S.A. 5:9-7(a)(b)(f).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Judith Shaw Berry
Deputy to the Director
New Jersey State Lottery
CN041
Trenton, NJ 08625

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

This proposal is known as PRN 1983-432.

The agency proposal follows:

Summary

Joint Resolution No. 11 of 1969 established the New Jersey State Lottery Planning Commission for the Purpose of formulating a report including legislation and an administrative program for the conduct of the State Lottery for submission to the Governor and to the Legislature. The seven-member Commission engaged in a comprehensive study of existing lottery legislation and operating procedures, and after extensive investigations, public hearings, and

meetings with knowledgeable representatives of business and industry, published its Report on February 9, 1970. Among its principal recommendations were that legislation should be enacted so as to provide for the establishment of a lottery division in the Department of the Treasury, procedures for the proper administration of the division, provision for post-audits, a guarantee that at least 30 percent of gross revenues be used for institutions and education as well as other guidelines concerning limitations on the sale and purchase of lottery tickets, protection of the State from involvement in dispute over claims to prize moneys, and procedures for the licensing of agents.

Prior to the release of the Report, the voters approved an amendment to Article 4, Section VII, Paragraph 2 of the New Jersey Constitution by adding thereto a new subparagraph "C" which provided that:

"It shall be lawful for the Legislature to authorize the conduct of State Lotteries restricted to the selling of rights to participate therein, and the awarding of prizes by drawings when the entire net proceeds of any such lottery shall be for State institutions, State aid for education."

This amendment was adopted at the general election held on November 11, 1969, by a vote of 1,593,239 to 362,947. Thereafter, on February 16, 1970, an act concerning the establishment and operation of a State lottery was approved (P.L. 1970, c.13). This State Lottery Law followed very closely the recommendations of the State Planning Commission. The legislation provided for the creation of a State Lottery Commission, consisting of five members, to be appointed by the Governor by and with the advice and consent of the Senate. The legislation also provided for the appointment of a Director of the Division of the State Lottery who is required to devote his or her entire time and attention to the duties of his or her office. The Commission has the power to adopt rules and regulations relating to, among other things: the type lottery, the numbers and sizes of the prizes on the winning tickets, the manner of selecting the winning tickets, the manner of payment of prizes to the holders of winning tickets, the frequency of the drawings, the types of locations where tickets may be obtained, the method to be used in selling tickets, the licensing of agents to sell tickets, the manner and amount of compensation to be paid to licensed sales agents, the apportionment of total revenue received, and such pertinent matters necessary or desirable for the operation and administration of the lottery. In addition, the Commission is empowered to advise and make recommendations to the Director regarding the operation and administration of the lottery and to report monthly to the Governor and the Legislature the total lottery revenues, prize disbursements and other expenses. The Commission is also required to carry on a continuous study and investigation of the lottery throughout the State.

Under the law, the Director is empowered to supervise and administer the operation of the lottery and to act as Secretary and Executive Officer of the Commission. The legislation contains other details regarding the powers and duties of the Director as well as limitations and restrictions on the conduct of the lottery.

The Lottery Commission under its statutory authority, N.J.S.A. 5:9-7 (a), (b), and (f) is, by means of this proposal, exercising its powers and duties to: 1. Promulgate rules and regulations; 2. Amend, repeal, or supplement any such rules and regulations from time to time as it deems necessary or desirable; and 3. Insure that said law and rules and regulations shall be in such form and be so administered as to serve the true purposes of this act.

The most recent publication of Title 17, Subtitle F, "Lottery Commission Rules" was revised on March 29, 1979, due to:

1. L. 1981, c. 182 amending the State Lottery Law to exclude rules governing Lottery games from the jurisdiction of the "Administrative Procedure Act;"
2. Executive Order No. 66(1978), more commonly known as the "Sunset" order, mandating the expiration dates of certain rules;
3. Relocation of the Division's central office;

4. Replacement of the banking network by a courier system; and
5. Changed procedures necessary to administer an expanded agent network, generating increased revenues.

A full review with subsequent recodification was undertaken by the Division of Lottery. The proposed new text has resulted in the following:

1. Twenty-seven rules have maintained the original text but have been renumbered;
2. Twenty-nine rules contain proposed amendments;
3. One chapter, six subchapters, and 22 rules have been deleted; and
4. Twenty-four new rules have been proposed.

The proposed new rules further seek to standardize the "sunset" dates for all subchapters adopted subsequent to this recodification. As required in the 1979 revision:

1. Chapter 20, subchapter 10 expired March 28, 1979;
2. Chapter 21 expired May 26, 1983;
3. Subchapter 7 is due to expire October 25, 1983;
4. All remaining subchapters will expire on March 28, 1984.

Social Impact

The New Jersey State Lottery licenses nearly 4,000 agents, most of whom are owners of small businesses. By means of this clarified, updated set of rules and regulations, these proposed new rules will enable these individuals to serve the public more efficiently.

Economic Impact

No quantifiable additional economic impact is expected from the proposed new rules. However, as the requirements for accountability in all phases of the agency's operation have been increased, it is expected that agents will generate increased revenues for the State and for themselves.

OFFICE OF ADMINISTRATIVE LAW NOTE: Along with this proposal, the agency submitted cross-reference tables indicating the reordered text between the 1979 revisions and the current proposal, a list of the subsection citations deleted from the 1979 revisions and the reasons for the deletions and a list of textual amendments showing deleted and added language. These materials may be inspected at the Office of Administrative Law, 88 East State Street, Trenton, NJ.

Delete in its entirety the current text found at N.J.A.C. 17:20.

Delete in its entirety the text found at N.J.A.C. 17:21 which expired on May 26, 1983 and is not being repropoed.

Full text of the new rules follows.

SUBCHAPTER 1. GENERAL PROVISIONS

17:20-1.1 Scope

(a) Any decision as to the construction or interpretation of these regulations shall be made by the Director of the Division of the State Lottery, and such interpretation or construction is final and binding.

(b) In the event of a conflict between these rules and the rules of a specific lottery, the specific game rules shall govern.

(c) These rules have been drafted to avoid repetition of statutory material and rules governing specific games. These materials, along with contracts and directives from the lottery, should be read to determine the rights, duties, and powers of the banks, agents, customers, and the lottery.

17:20-1.2 Erroneous or mutilated tickets

(a) Lottery tickets made out in error or mutilated in any way prior to purchase shall be voided by the agent.

(b) Unless a mutilated lottery ticket is proven to the satisfaction of the Director to be genuine, no credit will be issued to the agent.

17:20-1.3 Persons prohibited from purchasing tickets or shares

(a) In addition to N.J.S.A. 5:9-16, the following are prohibited from purchasing tickets or shares in any New Jersey State Lottery and no prize shall be paid to:

1. Any commissioner, officer, or employee of the Lottery;
2. Any officer or employee of the State, or State contracted vendor, who participates in the design or manufacture of a New Jersey Lottery game; or
3. Any person residing in the principal place of abode of such commissioner, officer or employee, excepting a tenant not related by blood or marriage.

SUBCHAPTER 2. DEFINITION

This subchapter should be read with N.J.S.A. 5:9-3.

17:20-2.1 Definitions

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

"Act" or "law" means P.L. 1970, c.13 (N.J.S.A. 5:9-1 et seq.) as amended from time to time.

"Bank" means and includes all financial institutions, courier services, armored car services, or all other entities engaged by the Division to handle the distribution and pick-up of Lottery tickets and the pick-up and deposit of Lottery moneys.

"Claim center" means a machine agent who has been licensed under this Act to validate and redeem winning tickets at his or her location.

"Commission" means the State Lottery Commission established by the Act.

"Director" means the Director of the Division of the State Lottery.

"Division" means the Division of the State Lottery established by the Act.

"Lottery" or "State Lottery" means the lottery established and operated pursuant to the Act.

"Main bank" means the principal office of a bank.

"Machine agent" means a person who has been licensed under the Act to sell lottery tickets and in addition has been authorized by the Director to sell certain tickets through a computer linked lottery machine. When "person" is a corporation the term includes officers thereof.

"Manual agent" means a person who has been licensed under the Act to sell lottery tickets manually. When "person" is a corporation the term includes officers thereof.

"Person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, limited partnership, partnership, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any other combination of individuals. "Person" shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

"Ticket" means lottery ticket issued by the State Lottery for sale to the general public.

SUBCHAPTER 3. DIRECTOR

This subchapter should be read with N.J.S.A. 5:9-6 and 5:9-8.

17:20-3.1 Disputes over ownership or validity of winning lottery tickets

In the event that a dispute arises involving the ownership of a winning lottery ticket or the validity of such a ticket, the Director shall schedule and hold a hearing in accordance with N.J.A.C. 1:1.

SUBCHAPTER 4. LOTTERY AGENT'S APPLICATION AND LICENSE

This subchapter should be read with N.J.S.A. 5:9-11.

17:20-4.1 Application

Any person interested in being licensed as an agent of the Division of the State Lottery must first file an "Application for Lottery Agent's License" with the Division of the State Lottery.

17:20-4.2 Eligibility for license

(a) No person shall be eligible to be a licensed agent of the Division of the State Lottery if such person intends to engage in business exclusively as an agent of the State Lottery.

(b) Before issuing a license, the Director shall consider:

1. The financial responsibility and security of the person and his or her business or activity;
2. The accessibility of his or her place of business or activity to the public;
3. The sufficiency of existing licenses to serve the public convenience;
4. The volume of expected sales; and
5. The moral character of the applicant, including his or her criminal record.

17:20-4.3 Ineligibility of minors

No person under the age of legal majority at the time of his or her application shall be licensed as an agent.

17:20-4.4 Issuance of license

(a) The Director shall, in accordance with the provisions of the State Lottery Law and the rules and regulations of the State Lottery Commission, license as agents of the Division of the State Lottery, such persons as in his or her opinion will best serve the public convenience and promote the interest of the State Lottery.

(b) An agent's license shall remain in full force and effect until the license is suspended or terminated by the Director or until the Director receives a written resignation from the agent in accordance with the provision as set forth herein.

(c) An applicant for licensure must divulge any previous licensure with the New Jersey State Lottery.

17:20-4.5 License to be displayed

(a) Every agent shall prominently display in an area visible to the general public:

1. His or her license or a copy thereof; and
2. Lottery promotional signs.

(b) In addition, the "Authorized Lottery Agent Decal" shall be mounted on a prominent public window of the agent's premises.

(c) The agent shall maintain and display all Lottery flyers, betting cards and other circulating material in an area open to the public.

17:20-4.6 Bonding of agents

The Director may require a non-refundable bond from any or every licensed agent. Exceptions may be made for special/seasonal agents, whereby the fee may be determined proportionately.

17:20-4.7 Conversion of agents

The Director may in his or her sole discretion convert any licensed location from a manual-type operation to a machine-type operation, or machine-type operation to manual-type operation.

17:20-4.8 Sale of lottery tickets at specific locations licensed

The sale of lottery tickets shall be made only pursuant to a lottery agent's license at a specific location named therein.

17:20-4.9 Special/Seasonal lottery agent

(a) The Director may, upon proper application, license special lottery agents.

(b) A special license may be issued subject to such special conditions or limitations as the Director in his or her discretion may deem prudent, and consistent with the dignity of the State, the general welfare of the people and the dignity and integrity of the New Jersey State Lottery.

(c) These limitations or conditions may include, but are not limited to the following:

1. Length of licensure period;
2. Hours of day of sale;
3. Location of sale;
4. Specific persons who may sell lottery tickets; or
5. Specific sporting, charitable, social or other special events where lottery tickets may be sold.

(d) Agents holding special lottery licenses shall be subject to all rules and regulations of the Lottery Commission not inconsistent with this rule.

17:20-4.10 Transfer of ownership of license premise

(a) A lottery license issued pursuant to these regulations is not transferable.

(b) The Lottery Commission must be notified in writing at least 30 days prior to any change in ownership or corporate stock transfer of any licensed business by both the seller and the purchaser of the business.

(c) If the business to which a license is issued or the ownership thereof, including ownership of shares of stock, substantially changes, the Lottery license is automatically terminated.

(d) The new owner(s) of such a business may be issued a temporary license for a period not to exceed 90 days during which an application for licensure may be filed and reviewed.

SUBCHAPTER 5. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE

This subchapter should be read with N.J.S.A. 5:9-10.

17:20-5.1 Reasons for denial, revocation or suspension

(a) The agent's license may be denied, revoked, suspended, put on notice of proposed suspension, or its renewal rejected for any one of the following reasons or any combination of the same:

1. Whenever the agent's application for a license contains knowingly false or misleading information or is incomplete; or
2. Whenever the agent violates any of the provisions of the State Lottery Law or the rules and regulations and instructions of the State Lottery; or
3. Any person who has been convicted of a crime or a disorderly persons offense relating adversely to the duties of a lottery agent; or
4. Whenever an agent engages in conduct detrimental to a sound business relationship between the agent and the Lottery; or
5. Whenever in the discretion of the Director of the State Lottery it is determined that such revocation or suspension would be in the best interests of the State Lottery based on actions by the agent which reflect upon the agent's moral character or affect the integrity of the Commission; or
6. Whenever in the judgment of the Director the agent no longer meets the criteria set forth in N.J.S.A. 5:9-11 for the issuance of a license.

17:20-5.2 Termination procedures

(a) Upon termination of an agent's license the agent shall appear at his or her assigned bank on a date designated by the Director to render his or her final lottery accounting and surrender his or her agent's license and other lottery property. The bank shall thereupon complete the termination portion of the agent's identification certificate.

(b) In such case, the bank shall deliver one copy of said certificate to the agent and shall deliver one copy thereof to the Director.

(c) Upon the failure of any agent to settle his or her account on or before the designated date, the bank shall immediately notify the Director.

17:20-5.3 Hearings

(a) The Director shall personally hold hearings required by law and any person entitled to a hearing before the Director shall receive

a hearing upon request. All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B4, et seq. and the Uniform Rules of Practice N.J.A.C. 1:1-1.

(b) The request for a hearing shall:

1. Be in writing, signed by the petitioner or attorney in behalf of the petitioner and include the petitioner's mailing address.

2. Specify the ruling, action or matter on which the hearing is requested and indicate what relief is desired.

(c) A petition or request to the Director for hearing or other relief, unless otherwise required by law or these rules and regulations, must be received by the Director within 15 days after the date of service of the notice upon petitioner of a denial, suspension, proposed suspension or revocation of a "bank", "manual agent", "machine agent", "claim center", or "license".

(d) The Director shall issue an order or directive fixing the date and time when the hearing will be held, and shall give at least five business day's notice to the petitioner and other parties thereto by serving copies of such order or directive upon them personally or by regular mail or give such other notice as may be agreed upon and requested by all the parties.

(e) If the petitioner without sufficient reason fails to appear at the scheduled hearing, such failure may be treated as a withdrawal of the petition or request and the Director may dismiss the petition. The Director in his or her discretion may adjourn the hearing to a future date or take such action as may be just and proper under the circumstances.

(f) All hearings and contested cases will be held in the Main Lottery Office unless otherwise specified by the Executive Director.

17:20-5.4 Suspension pending trial

Any agent against whom an indictment, accusation or complaint has been filed charging commission of a crime or a disorderly persons offense relating adversely to the duties of a lottery agent may be summarily suspended as a lottery agent pending the outcome of his or her trial. The agent shall have the right to an immediate post-suspension hearing. If the agent is convicted of the offense charged, the Director may continue the suspension pending the outcome of a license revocation hearing.

17:20-5.5 Suspension or revocation after hearing

The license of any agent who is arrested for a crime or a disorderly persons offense relating adversely to the duties of a lottery agent, may at the discretion of the Director be suspended or revoked either before or after a license revocation hearing. If the license is suspended prior to a hearing, the agent shall have the right to an immediate post-suspension hearing.

17:20-5.6 Suspension or revocation after conviction

Upon being notified that a licensee has been convicted of a crime or disorderly persons offense relating adversely to the duties of a lottery agent, the Director may issue to the licensee a notice of proposed license revocation. The notice shall afford the licensee the right to request a hearing on the matter.

17:20-5.7 Reporting offenses

Any agent may have his or her license revoked for not reporting in writing to the Director his or her arrest, or the filing of an indictment, accusation, complaint, or conviction of a crime or a disorderly persons offense relating adversely to the duties of a lottery agent within five days of such arrest, indictment, accusation, complaint, or conviction.

SUBCHAPTER 6. DISTRIBUTION AND SALE OF LOTTERY TICKETS AND DEPOSIT OF LOTTERY MONEYS

This subchapter should be read with N.J.S.A. 5:9-14, 15, 16, 18, 21, 22.

17:20-6.1 Distribution of lottery tickets

(a) After an agent's application has been accepted and approved by the Director, the agent shall be assigned to a bank.

(b) The State Lottery will issue to each licensed agent a wallet-size agent identification card which must be displayed by him or her or his or her designee when picking up lottery tickets from or returning said lottery tickets to authorized banks.

(c) The agent accepts all tickets received from the Lottery in trust. Tickets in the hands of an agent are his or her responsibility and it is his or her duty as a fiduciary of the Lottery to either return the tickets to the bank within the specified time or to remit the face value of the tickets to the Lottery, minus any commission, bonuses, and reimbursement for redeemed tickets to which he or she is entitled.

17:20-6.2 Sale of lottery tickets

(a) The agent shall make available, at all times during normal business hours current lottery tickets for sale to the public.

(b) The agent shall sell only legal New Jersey State Lottery tickets.

(c) The agent may not turn down, during normal business hours, his or her machine without prior permission of the Director.

(d) No person under the legal age of majority may sell a Lottery ticket nor a share therein.

(e) No person shall sell a Lottery ticket, nor share, at a greater or lesser price than that fixed by individual game rules.

17:20-6.3 Deposit of lottery moneys

(a) Agents shall remit their net lottery receipts to the bank on the dates specified by the lottery game in question. Notwithstanding the rules of any specific game to the contrary, the Director may, in his or her discretion, require the agent to fully account for any and all lottery tickets issued to him or her and to remit immediately all sums due the lottery.

(b) Moneys received by an agent from the sale of lottery tickets are the property of the lottery and are held by the agent in trust for the lottery. The agent shall immediately segregate all moneys received from the sale of lottery tickets, and shall hold such moneys in trust for the lottery in a bank account specifically designated as a New Jersey Lottery account.

(c) Agents shall file with the Director or his or her designee reports of their receipts and transactions concerning the sale and redemption of lottery tickets in a form as prescribed by the respective game instructions.

(d) The agent shall be absolutely liable for payment of such moneys to the lottery notwithstanding the degree of care exercised with respect to such moneys by the agent.

(e) The agent shall keep current records of all operations in conformity with the State Lottery Law and this chapter, and such other instructions as may be issued by the Director.

(f) All agent lottery operations and records shall be subject, upon demand, to inspection and audit by representatives of the Division of the State Lottery.

(g) The bank shall provide the State Lottery with a statement of all transactions as required.

17:20-6.4 Lost or stolen tickets

The agent is responsible for lost, damaged, destroyed, stolen or missing lottery receipts and tickets to the lottery notwithstanding the degree of care which he or she may have exercised with regard to the tickets and receipts.

SUBCHAPTER 7. PAYMENT OF PRIZES

This subchapter should be read with N.J.S.A. 5:9-13, 17, 20, 23.

17:20-7.1 Information to be furnished by winning ticket holder

(a) The purchaser of a winning ticket, before receiving payment of his or her prize, shall furnish the Director with his or her Social Security number if he or she has one, or with any identifying

number or account number assigned to him or her by the Internal Revenue Service for Federal Income Tax purposes, in addition to such other identification data as is requested by the Director.

(b) Purchasers of winning tickets who are nonresident aliens for Federal Income Tax purposes shall also file with the Director proof of their nonresident alien status.

(c) Purchasers of winning tickets shall furnish proof of age to the Director prior to payment.

17:20-7.2 Waiver of conditions

The Director may waive compliance with any of the requirements of this Subchapter in appropriate cases if he or she is satisfied that such compliance is unnecessary.

17:20-7.3 Requirement of additional information

In any case where additional information is required to show that a person claiming a prize is the owner of the ticket and is entitled to receive payment of said prize, the Director may require the claimant to supply such further evidence as may be appropriate under the circumstances of the case.

17:20-7.4 Time of payment of prizes

(a) Except as herein provided, payment of prizes shall be awarded as soon as reasonably possible after the claimant has been identified to the satisfaction of the Director.

(b) The payment of prizes to winners who are to be paid in installments shall be made annually on the anniversary date of said lottery, except that the first payment shall be made as soon as reasonably possible after the drawing.

(c) Upon the death of a prize winner, all moneys or any portion thereof that remain payable to his or her estate shall be paid either to an executor (executrix) or administrator (administratrix) of the decedent's estate, in accordance with the provisions of N.J.S.A. 54:35-19.

(1) Said moneys may be transferred either by intestate succession or by testamentary disposition.

(2) Upon payment to the estate, the Lottery shall be absolved of any further liability for payment of prizes.

(d) Under no circumstances will payments of prize money be expedited.

17:20-7.5 Manner of payment of prizes

Payment of prizes shall be made by check and payable to the bearer of the ticket; however, the Director may, in his or her discretion, withhold payment to the bearer pending clarification of ownership of the ticket. The Director may authorize cash redemption of certain prizes payable to the bearer of the "winning" ticket. It is further provided that with respect to machine issued tickets, if the computer file shows the ticket to have been already paid, the Director in his or her discretion may refuse payment.

17:20-7.6 Discharge of State liability upon payment

(a) The State of New Jersey, its subdivisions, agents, officers, and employees, the State Lottery Commission, the Director, the Division of the State Lottery, its agents, officers, and employees shall be discharged of all liability upon payment of a prize to the bearer of any winning lottery ticket.

(b) The Director's decision regarding the determination of a winning ticket shall be final.

(c) In the event of any dispute between two or more persons claiming to be the owners and/or holders of any winning lottery ticket, the Director may, in his or her discretion, deposit the prize money in the Superior Court of the State of New Jersey and interplead all known claims and shall thereafter be relieved of any further responsibility or liability with respect to such moneys.

17:20-7.7 Unclaimed prize money

Upon the conclusion of any specific game, when the prize allocation is in excess of the allocation necessary to sustain the

payment of prizes within the prize pool, such excess shall be forfeited to the State.

17:20-7.8 Disclosure

The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional campaign. The address used shall not contain the street or house number of the winner.

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

**Corporation Business Tax
Regulated Investment Companies**

Proposed Amendment: N.J.A.C. 18:7-3.10

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:10A-27 and P.L. 1983, c.75.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

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

This proposal is known as PRN 1983-421.

The agency proposal follows:

Summary

P.L. 1983 c. 75 amended the Corporation Business Tax Act to make the tax treatment of regulated investment companies in New Jersey competitive with those in New York. Before this Act, regulated investment companies in New Jersey were taxed both on entire net worth and entire net income. This Act eliminated both those tax bases and imposed a set tax of \$250.00 per year.

Social Impact

There is no social impact other than that New Jersey's regulated investment companies know that they can exist in this State and pay just a \$250.00 corporation business tax and not be concerned with keeping records and doing the work necessary to file a CBT-100 return and make a tax payment based on taxable net worth and taxable net income.

Economic Impact

Before this Act some people felt that New Jersey scared away some companies from locating here. It is estimated that the short-run corporation business tax loss would be less than \$500,000. This State tax revenue loss appears to be more than offset by gains in the gross income tax and other taxes by virtue of more jobs being created in this State.

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

18:7-3.10 Regulated investment company; tax [assessed and] payable

(a) The tax [assessed to and] payable by a regulated investment company, entitled and electing to report as such, is \$250.00. [the sum of:

(a) A tax measured by 15 percent of its entire net worth multiplied by the following tax rates:

1. On the first \$100,000,000 of allocated net worth, two mills per dollar;
2. On the second \$100,000,000 of allocated net worth, 4/10 of a mill per dollar;
3. On the third \$100,000,000 of allocated net worth, 3/10 of a mill per dollar;
4. Over \$300,000,000 of allocated net worth, 2/10 of a mill per dollar; and

(b) A tax measured by four percent of its entire net income at the rate of 7 1/2 percent.

(c) In no case shall the total tax be less than \$250.00.]

(b) This rule is applicable to regulated investment companies whose accounting periods end on or after December 31, 1982.

(a)

DIVISION OF TAXATION

Corporation Business Tax
Extension of Time to File Return; Interest and Penalty

Proposed Amendment: N.J.A.C. 18:7-11.12

Authorized By: John R. Baldwin, Director, Division of Taxation.

Authority: N.J.S.A. 54:10A-15, 54:10A-17, 54:10A-19 and 54:10A-27.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jack Silverstein
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

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

This proposal is known as PRN 1983-405.

The agency proposal follows:

Summary

This rule governs extension of time for filing a taxpayer's final Corporation Business Tax Return and is being amended to allow the taxpayer an automatic extension of time to file said return. N.J.A.C. 18:7-11.12 is also being amended to define the term "amount of underpayment", which definition was inadvertently omitted from the most recent amendment to this rule, adopted January 18, 1982.

Social Impact

This rule governs coporation business tax taxpayers knowledge of what the Division of Taxation requires by defining the allowable automatic extension of time for filing the Corporation Business Tax

Return, form CBT-100 or BFC-1. The Division's policy and practice is an explicit recognition of settled practice in the administration of State taxes and was precipitated by amendments to the Federal Internal Revenue Code allowing an automatic six month extension.

Economic Impact

There is no economic impact on State tax revenues. This rule does not permit an extension of time to pay a tax but, rather, permits an extension of time to file a taxpayer's final return. There is a positive unmeasured economic benefit to the taxpayer insofar as the rule simplifies taxpayer's burden of complying with corporation business tax requirements.

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

18:7-11.12 Extension of time to file return; interest and [penalties] penalty

(a) No extension will be granted unless request is made on Tentative Return Form CBT-200T and is actually received by the Division on or before the due date of the return. The Tentative Return must [show]:

1. Show [T]the information required, including the [full] exact name, address, New Jersey serial number, the Federal employer identification number, if any, and the amount of the estimated tax liability; [and]

2. (No change.)

3. [In addition, taxpayer is required to make a] **Be accompanied** by the payment on account of its current year's estimated tax which is due on or before the original due date for filing of the return for which an extension is requested.

(b) [A request for an extension for a period not exceeding three months requires no reason and will receive automatic approval,] **Taxpayers using the New Jersey Corporation Business Tax Return Form CBT-100 may request an extension for a period not exceeding six months and will receive automatic approval,** provided that the taxpayer has complied with the instructions set forth on the [t]Tentative [r]Return [f]Form CBT-200T, and has paid any unpaid balance of its estimated tax. **In the case where the taxpayer is not entitled to or has not requested a Federal extension, a request for an extension for a period not exceeding three months requires no reason and will receive automatic approval, provided that the taxpayer has complied with the instructions set forth on the Tentative Return Form, and has paid any unpaid balance of its estimated tax.**

[1. If extension for a period in excess of three months is desired, request may also be made on Tentative Return Form CBT-200T. An additional extension of time not to exceed three months to file a final return shall be granted where a copy of the approved Federal extension is attached to the final return. In the event an additional Federal extension has not been requested or has been denied, an additional extension not to exceed three months may be granted if sufficient cause is submitted. Sufficient cause should be interpreted such that it is impossible or wholly impracticable to file a return within three months of the original due date of the return. In general, extension requests shall not be granted for any period exceeding six months from the original due date of the return. In general, extension requests shall not be granted for any period exceeding six months from the original due date.]

1. If extension for a period in excess of three months is desired, request may also be made on Tentative Return Form CBT-200T. In the event an additional extension has not been requested or has been denied, an additional extension not to exceed three months may be granted if sufficient cause is submitted. Sufficient cause should be interpreted so that it is impossible or wholly impracticable to file a return within three months of the original due date of the return. In general, extension requests shall not be granted for any period exceeding six months from the original due date.

2.-3. (No change.)

(c) **Banking and financial corporations may request an extension of time to file return subject to the following conditions:**

1. **No extension will be granted unless request is actually received by the Division on or before the due date of the return;**

2. **The extension shall be made on a copy of page 1 of Form BFC-1, including the exact name, address, New Jersey serial number, if applicable, the Federal employer identification number, if any, and the amount of estimated tax liability;**

3. **Be accompanied by a remittance to cover the unpaid balance of the estimated tax due for the accounting year for which an extension of time to file the return is requested; and**

4. **Be accompanied by a completed copy of Schedule L from Form BFC-1, and a copy of the taxpayer's Federal extension request.**

5. **In general, extension requests shall not be granted for any period exceeding five months from the original due date.**

6. **Where the taxpayer has requested a Federal extension, the Division shall grant the taxpayer an extension for a period not exceeding five months. In cases where the taxpayer has failed to obtain a Federal extension, the taxpayer, upon request, may be granted a two month extension for filing the return if sufficient cause is submitted. Sufficient cause should be interpreted so that it is impossible or wholly impracticable to file a return within two months from the original due date of the return.**

(d) **All extensions will be confirmed in writing by the Division.**

(e) **If the original return is not submitted within the extended period, penalty for delinquent filing will be applied as if no extension had been granted.**

[(c)] (f) **Interest and [penalties] penalty**

1.-2. (No change.)

3. **In addition, if the amount paid on or before the time of filing the return was less than 90 percent of the amount of tax due, the taxpayer shall be liable for a penalty of five percent per month, or fraction thereof, on the amount of underpayment. In this context, "filing of the return" means filing its tentative return [on Form CBT-200T] incident to its request for extension, "the time for filing" means the original due date for filing the return, and "amount of underpayment" means the difference between 100 percent of the tax shown on the final return and the total of all installments of estimated tax paid on or before the original due date for filing the return, as well as any amount paid with the tentative return.**

[(d)] (g) **Warning:**

1. **No request for extension will be considered unless taxpayer has complied with all the filing requirements [applicable to the filing of Tentative Return Form CBT-200T] for extensions set forth in this rule.**

OTHER AGENCIES

(a)

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

District Zoning Regulation Official Zoning Map

Proposed Amendment: N.J.A.C. 19:4-6.28

Authorized By: Hackensack Meadowlands Development
Commission, Anthony Scardino, Jr., Executive
Director.

Authority: N.J.S.A. 13:17-1 et seq. specifically 13:17-6(i).

A public hearing concerning this rule will be held on August 22, 1983 at 9:30 A.M. at:

Hackensack Meadowlands
Development Commission
One DeKorte Park Plaza
Lyndhurst, New Jersey 07071

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

George Cascino, Director of Engineering
Hackensack Meadowlands
Development Commission
One Dekorte Park Plaza
Lyndhurst, New Jersey 07071

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

This proposal is known as PRN 1983-424.

The agency proposal follows:

Summary

The Hackensack Meadowlands Development Commission, pursuant to the authority of N.J.S.A. 13:17-6(i) and 13:17-16, proposes to amend N.J.A.C. 19:4-6.28 concerning the Hackensack Meadowlands District official zoning map for Carlstadt, New Jersey.

The proposed amendment changes the zoning designation of a 2.44 acre portion of the existing Marshland Preservation zone, N.J.A.C. 19:4-4.12 through 4.17, identified as Block 123, portions of Lots 6, 30 and 31 (old Block 151, Lots 17, 18) in Carlstadt, New Jersey, to the Light Industrial zone "B", N.J.A.C. 19:4-4.92 through 4.101.

Social Impact

The property proposed for this zone change is located on the west side of Starke Road in Carlstadt. Starke Road, at this location, has not yet been improved or dedicated. This section of the road is the last remaining section to be constructed under the Starke Road major subdivision approved by the HMDC on June 6, 1974 (preliminary plat). The affected premises are currently identified on the Carlstadt Tax Maps as Block 123, portions of Lots 6, 30, and 31. Prior to 1978, the property was designated as Block 151, Lots 17 and 18. The rezoning of the 2.44 acre parcel discussed further below involved the larger parcel (old Lots 17 and 18) of 11.5 acres. The State of New Jersey had asserted a riparian claim to 8.5 acres of this total parcel. This riparian claim, and the manner of its configuration has held up development in the area of Starke Road as planned and approved under the major subdivision. In 1972, record title to the property was acquired by the Morris Park Avenue Corporation, which began an action against the State of New Jersey to quiet title. This action was continued by the subsequent owners, Schuyler Holding Company. On December 8, 1982, the Superior Court of New Jersey, Law Division, Bergen County, ordered a consent judgment quieting title in favor of the plaintiff, Schuyler Holding.

At present, under the Meadowlands District Official zoning map, adopted in 1972, the portions of the larger parcel of old lots 17 and 18 east of Starke Road are already zoned Light Industrial zone "B". The premises west of the road, up to Berry's Creek, are zoned Marshland Preservation. The zoning of the surrounding area to the east, north, and west is currently zoned the same Light Industrial zone B. An area to the south is zoned Marshland Preservation.

Under the above rezoning just a small portion, 2.44 acres, West of Starke Road, is proposed to be changed from Marshland Preservation to Light Industrial zone "B". The configuration of the area to be rezoned follows that of the riparian settlement. The proposed designation of the 2.44 acre parcel is, of course, to be consistent with the adjacent industrial zone. From a planning perspective, there are no other uses appropriate for this site and location other than those already permitted nearby. The lands retained by the State west of the 2.44 acre parcel are to remain the same.

The proposed rezoning will not have any appreciable effect on the HMDC Master Plan in this area, or in the District generally. The adding of 2.44 acres of Light Industrial and Distribution "B" zone is but a small increment of the total 2,305 acres of such zone already present in the District overall. As such, there will not be overcrowding of land, or undue concentration of population, causing traffic congestion from this particular proposal. In addition, the use and bulk requirements of the Light Industrial and Distribution "B" zone will provide that such uses are suitably sited, secures safety from fire, provides adequate light and air, and in general relates buildings and uses to each other so that aesthetics and land use values are maximized.

The rezoning of 2.44 acres of Marshland Preservation to Light "B" will subtract from the total 8.54 acres of Marshland Preservation on the site presently, and from the 2,210 acres of Marshland Preservation in the District overall. However, in view of the riparian settlement, the proposal provides a comprehensive treatment of the ecological factors in this area, while preserving and maintaining an ecological balance between natural space and development.

Economic Impact

The proposed rezoning would permit a reasonable and economic use of the property consistent with the area, while at the same time allowing Starke Road to be completed, with its attendant benefits of reducing traffic problems and alleviating flooding.

OFFICE OF ADMINISTRATIVE LAW NOTE: Several maps showing the proposed change in zoning designation were submitted as part of the Hackensack Meadowlands Development Commission's notice of proposed rule.

(a)

CASINO CONTROL COMMISSION

Gaming Equipment Dice; Receipt, Storage, Inspections and Removal From Use

Proposed Amendment: N.J.A.C. 19:46-1.16

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello
Deputy Director - Operations
Casino Control Commission
Division of Financial Evaluation & Control
3131 Princeton Pike Office Park
Building No. 5
CN 208
Trenton, NJ 08625

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

This proposal is known as PRN 1983-410.

The agency proposal follows:

Summary

The proposed amendment provides an additional alternative for dice inspection to take place at the pit stand. Envelopes or containers used to transport dice would be required to be transparent and any approved instrument which performs the same function could be used in lieu of a micrometer to inspect dice. Additional revisions are for reasons of clarity and consistency of language.

Social Impact

The revised language would more clearly set forth the objectives of N.J.A.C. 19:46-1.16 in maintaining security in the receipt, storage, inspection and removal from use of dice. This in turn preserves the integrity of fair game play.

Economic Impact

More efficient use of personnel resources may indirectly benefit the casinos if the instrument used in lieu of a micrometer shortens the amount of time necessary to inspect dice.

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

19:46-1.16 Dice; receipt storage, inspections and removal from use

(a) (No change.)

(b) The cabinet or storage areas shall have two separate locks. The security department shall maintain one key and the casino department or cashiers' cage shall maintain the other key[.] ; **provided, however, that no person employed by the casino department below** [Access to the cabinet or storage areas shall be limited to] the assistant shift manager [and those persons above him] in the organizational hierarchy **shall have access to the keys.** [of the casino.]

(c) Immediately prior to the commencement of gaming each **shift** or day and at such other times as may be necessary, the assistant shift manager or person above him, in the presence of a security officer, shall open the cabinet or primary storage area and shall remove the appropriate number of sets of dice for that **shift** or day.

(d) **All envelopes and containers used to hold or transport preinspected dice to the casino floor and those collected by security at the end of each shift or day shall be transparent.**

1. The envelopes or containers and the method to seal them shall be designed or constructed so that any tampering shall be evident.

2. The envelopes or containers and seals shall be approved by the commission or its authorized designee.

[(d)] (e) Unless otherwise approved by the commission or its authorized designee, all dice shall be inspected and distributed to the gaming tables in accordance with [either] one of the following alternatives:

1. Alternative No. 1: Distribution to and inspection at tables:

i. (No change.)

ii. At the time of receipt, a box [man] **person** at each craps table

shall, in the presence of the dealer, inspect the dice given to him with a micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet, which instruments shall be kept in a compartment at each craps table or pit stand, to assure that the dice conform to commission standards and are otherwise in a condition to assure fair play;

iii. Following this inspection, the box [man] person shall in the presence of the dealer place the dice in a cup on the table for use in gaming, and while the dice are at the table, they shall never be left unattended; and

iv. (No change.) [; or].

2. Alternative No. 2: Distribution to and inspection at the pit stand:

i. The assistant shift manager or person above him and the security officer who removed the dice from the cabinet or primary storage area shall distribute sufficient sets directly to the craps supervisor who will perform the inspection in each craps pit.

ii. A craps supervisor shall, in the presence of another craps supervisor, neither of whom shall be a pit boss or a person above the pit boss in the organizational hierarchy, inspect the dice at the pit stand. The dice shall be inspected with a micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet, which instruments shall be kept at the pit stand, to assure that the dice conform to commission standards and are otherwise in a condition to assure fair play.

iii. The inspection shall be performed on a flat surface which allows the dice inspection to be observed through closed circuit television cameras and by any persons in the immediate vicinity of the pit stand.

iv. Following this inspection the craps supervisor who inspected the dice shall distribute such dice to the boxperson at each craps table. The boxperson shall, in the presence of the dealer, place the dice in a cup on the table for use in gaming and while the dice are at the table they shall never be left unattended.

v. The pit boss shall place extra sets of dice for dice reserve in the pit stand.

(1) Dice in the pit stand shall be placed in a locked compartment, keys to which shall be in the possession of the pit boss or those persons above him in the organizational hierarchy.

(2) All dice taken from this reserve shall be reinspected by a casino supervisor in the presence of another casino supervisor in accordance with the inspection procedures set forth in (e)2ii above, prior to their use for actual gaming; provided, however, that if reserve dice are maintained in a locked compartment under dual key control as approved by the commission, the reserve dice may be used for gaming without being reinspected.

[2.] 3. Alternative No. [2.] 3: Inspection in storage area and distribution to tables:

i. A [casino] craps supervisor, in the presence of [another casino supervisor, one of whom shall be] an assistant shift manager or person above him, and a security officer, shall inspect sets of dice in an approved storage area.

(1) The dice shall be inspected with a micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet to assure that the dice conform to commission standards and are otherwise in a condition to assure fair play.

(2) These instruments shall be maintained in the cabinet or primary storage area;

ii. After each set of at least five dice are inspected and found to conform to commission standards, they shall be placed in a sealed envelope or container; provided, however, that reserve dice may be placed in individual sealed envelopes or containers. [The envelope or container and the method to seal the envelope or

container shall be designed or constructed so that any tampering shall be evident. The envelope or container and seal shall be approved by the commission or its authorized designee;]

iii. (No change.)

iv. At the beginning of each shift or day and at such other times as may be necessary, an assistant shift manager or person above him and a security officer shall distribute the envelopes or containers to a craps supervisor in each craps pit or place them in a locked compartment in the pit stand, keys to which shall be in the possession of the pit boss or those persons above him in the organizational hierarchy;

v. A box [man] person, at each craps table, after assuring the seal and envelopes or containers are intact and free from tampering, shall open the sealed envelope or container, in the presence of the dealer, and place the dice in a cup on the table for use in gaming.

(1) While dice are at the table, they shall never be left unattended.

(2) When the envelope or container or the seal is damaged, broken or tampered with, the dice shall be reinspected by the box [man] person, in the presence of a dealer, prior to being used for gaming activity;

for gaming activity;

vi. (No change.)

[vii. At no time shall the casino supervisors who inspected the dice act in a supervisory capacity with respect to the table at which these dice are being used; and]

[viii.] vii. A micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet shall also be maintained in a locked compartment in each craps pit stand[.]; and

viii. Any storage area in which dice are inspected in accordance with this alternative, shall be equipped with closed circuit television camera coverage capable of observing the entire inspection procedure.

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

[(f)] (g) At the end of each shift or day, a [casino] craps supervisor other than the one who originally inspected the dice, shall reinspect each die for evidence of tampering. Such evidence discovered at this time or at any other time shall be reported to an agent of the commission and division by the completion of an approved three-part Dice Discrepancy Report.

1. Such dice shall be placed in a sealed envelope or container.

i. A label shall be attached to each envelope or container which shall identify the table number, date and time and shall be signed by the box [man] person and floor [man] person or pit boss.

ii. A casino supervisor or security officer responsible for delivering the dice to an agent of the commission shall also sign the label.

iii. The Commission Inspector receiving the dice shall sign the original, duplicate and triplicate copy of the Dice Discrepancy Report and retain the original at the Commission Booth.

(1) The duplicate copy shall be delivered to the division's office located within the casino hotel facility.

(2) The triplicate copy shall be returned to the pit and shall be maintained in a secure place within the pit until a security officer collects it at the end of each shift or day.

2. All other dice at this time shall be put into envelopes or containers.

i. A label shall be attached to each envelope or container which shall identify the table number, date and time and shall be signed by the box [man] person and floor [man] person or pit boss.

ii. The envelope or container shall be appropriately sealed and maintained in a secure place within the pit until a security officer collects it at the end of each shift or day.

[(g)] (h) At the end of each shift or day, a security officer shall collect and sign all envelopes or containers of used dice and collect all triplicate copies of Dice Discrepancy Reports, if any, and shall transport them to the security department for cancellation or destruction.

[(h)] (i) At the end of each shift or day, a security officer shall

collect all extra dice in dice reserve.

1. All sealed envelopes or containers shall **either be destroyed or cancelled or returned to the cabinet or primary storage area.**

2. All envelopes or containers with broken seals shall be returned to the security department for cancellation or destruction; **provided, however, that unused dice may be returned to the cabinet or primary storage area if reinspected in accordance with one of the alternatives listed above prior to their use for actual gaming.**

[(i)] (j) The casino licensee shall submit to the commission or its authorized designee for approval, procedures for:

1.-2. (No change.)

3. A physical inventory of the dice at least once every three months.

i. This inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of dice on hand required in [1(i)] **ii** above.

ii. **Any discrepancies shall immediately be reported to the commission and division.**

[(j)] (k) All dice, other than those retained for commission or division inspection, shall [immediately after use] **within 48 hours of collection** be either destroyed or cancelled.

1. Cancellation shall occur by drilling a circular hole of at least one fourth inch in diameter through the center of each die.

2. Destruction shall occur by shredding.

3. The destruction and cancellation of dice shall take place in a secure place, the location and physical characteristics of which shall be approved by the commission or its authorized designee.

(a)

CASINO CONTROL COMMISSION

Gaming Equipment Cards; Receipt, Storage, Inspections and Removal From Use

Proposed Amendment: N.J.A.C. 19:46-1.18

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello
Deputy Director - Operations
Casino Control Commission
Division of Financial Evaluation & Control
3131 Princeton Pike Office Park
Building No. 5
CN 208
Trenton, NJ 08625

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

This proposal is known as PRN 1983-409.

The agency proposal follows:

Summary

The proposed amendments would require that transparent envelopes or containers be used to transport cards. Also, it would

not be required that the inventory of cards specify color. Additional revisions are for reasons of clarity and consistency of language.

Social Impact

The revised language would more clearly set forth the objectives of N.J.A.C. 19:46-1.18 in maintaining security in the receipt, storage, inspection and removal from use of playing cards. This in turn preserves the integrity of fair game play.

Economic Impact

There may be a slight decrease in administrative costs due to the proposed amendment simplifying somewhat the inventory of cards.

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

19:46-1.18 Cards; receipt, storage, inspections and removal from use

(a) (No change.)

(b) The cabinet or storage areas shall have two separate locks. The security department shall maintain one key and the casino department or cashiers' cage shall maintain the other key[.]; **provided, however, that no person employed by the casino department below** [Access to the cabinet or storage areas shall be limited to] the assistant shift manager [and those persons above him] in the organizational hierarchy **shall have access to the keys.** [of the casino.]

(c) Immediately prior to the commencement of gaming each **shift or day** and at such other times as may be necessary, the assistant shift manager or person above him, in the presence of a security officer, shall open the cabinet or primary storage area and shall remove the appropriate number of decks of cards for that **shift or day.**

(d) The assistant shift manager or persons above him shall distribute sufficient decks to the [casino supervisor] **pit boss.**

1. **The pit boss shall then distribute the decks to the** [or] dealer at each table, and [the pit boss] shall place extra decks for card reserve in the pit stand.

2. Cards in the pit stand shall be placed in a locked compartment, keys to which shall be in **the** possession of the pit boss or those persons above him in the organizational hierarchy.

(e) Prior to their use at a table, all decks shall be inspected by the dealer, and the inspection verified by a floor [man] **person.**

(f) Card inspection at the gaming table shall require each pack to be used to be sorted into sequence and into suit to assure that all cards are in the deck.

1. The dealer shall also check the back of each card to assure that it is not flawed, scratched or marked in any way.

i. If, after checking the cards, the dealer finds that certain cards are damaged or improper, a casino supervisor shall bring [to him] cards in substitution from the card reserve in the pit stand.

ii. **The damaged or improper cards shall be placed in a sealed envelope or container, identified by table number, date, time and shall be signed by the dealer and casino supervisor.**

2. **All envelopes and containers used to hold or transport cards collected by security at the end of each shift or day shall be transparent.**

i. **The envelopes or containers and the method to seal them shall be designed or constructed so that any tampering shall be evident.**

ii. **The envelopes or containers and seals shall be approved by the commission or its authorized designee.**

iii. The casino supervisor shall maintain the envelopes or containers in a secure place within the pit until a security officer collects them at the end of the **shift or day.**

(g) Cards damaged during the course of play shall be replaced by the dealer who shall request a casino supervisor to bring[**him**]cards in substitution from the pit stand.

1. The damaged cards shall be placed in a sealed envelope,

identified by table number, date, time and shall be signed by the dealer and casino supervisor.

2. The casino supervisor shall maintain the envelopes or containers in a secure place within the pit until a security officer collects them at the end of the **shift or day**.

(h) At the end of each **shift or day** and at such other times as may be necessary, the casino supervisor shall collect all cards used to play out the **shift or day**.

1. These cards shall be placed in a sealed envelope or container. A label shall be attached to each envelope or container which shall identify the table number, date, time and shall be signed by the dealer and casino supervisor.

2. The casino supervisor shall maintain the envelopes or containers in a secure place within the pit until a security officer collects them at the end of the **shift or day**.

(i) (No change.)

(j) At the end of each **shift or day**, a security officer shall collect and sign all envelopes or containers with damaged [or removed] cards and cards used during the **shift or day**, and shall return the envelopes to the security department.

(k) At the end of each **shift or day**, a security officer shall collect all extra decks in card reserve.

1. All sealed decks shall **either be cancelled or destroyed or returned to the cabinet or primary storage area.**

2. All decks with broken seals shall be placed in a sealed envelope or container.

i. A label shall be attached to each envelope or container which shall identify the date and time and be signed by the pit boss, and the security officer collecting the cards.

ii. The envelopes or containers shall be returned to the security department for cancellation or destruction.

(l) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, they shall be inspected for tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play.

1.-3. (No change.)

4. The individuals performing said inspection shall complete a work order form which shall detail the procedures performed and [a] list[ing of] the tables from which the cards were removed and inspected. The individual shall sign the form upon completion of the stated inspection procedures;

5. (No change.)

6. Evidence of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play discovered at this time, or at any other time, shall be reported to an agent of the commission and division by the completion of an approved three-part Card Discrepancy Report.

i. The report shall accompany the cards when delivered to the agent of the commission.

ii. The cards shall be retained for further inspection by the commission.

iii. The Commission Inspector receiving the cards shall sign the original, duplicate and triplicate copy of the Card Discrepancy Report and retain the original at the Commission Booth. The duplicate copy shall be delivered to the division's office located within the casino hotel facility. The triplicate copy shall be retained by the casino licensee.

(m) The casino licensee shall submit to the commission or its authorized designee for approval, procedures for:

1. A card inventory system which shall include, at a minimum, the recordation of the following:

i. The balance of cards on hand [by color];

ii. The cards removed from storage [by color];

iii. The cards returned to storage or received from the manufacturer [by color];

iv.-v. (No change.)

2. (No change.)

3. A physical inventory of the cards at least once every three months.

i. This inventory shall be performed by an individual with no incompatible functions and shall be verified to the balance of cards on hand required in (m) 1i above.

ii. Any discrepancies shall immediately be reported to the commission and division.

(n) Where cards in an envelope or container are inspected and found to be without any indication of tampering, marks, alterations, missing or additional cards or anything that might indicate unfair play, those cards and all other used cards shall [immediately] within 48 hours of collection be destroyed or cancelled. Once released by the commission and division, the cards submitted as evidence shall immediately be destroyed or cancelled.

1.-3. (No change.)

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES

Commercial Feeding Stuffs Association Standards

Adopted Amendment: N.J.A.C. 2:68-1

Proposed: April 18, 1983 at 15 N.J.R. 583(a).
 Adopted: July 19, 1983 by Arthur R. Brown, Jr., Secretary,
 Department of Agriculture.
 Filed: July 21, 1983 as R.1983 d.325, with technical
 changes not requiring additional public notice and
 comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 4:4-20.10.

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 August 1, 1988.

Summary of Public Comments and Agency Responses:

No comments received.

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

2:68-1.1 General rules and regulations (a)-(k) (No change from proposal.)

¹Copy on file in Director's Office, Division of [Agricultural
 Chemistry,] **Regulatory Services**, New Jersey Dept. of
 Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton,
 N.J. Copies may be procured by writing to [Bruce Poundstone,
 Division of Regulatory Services, Agricultural Experiment Station,
 University of Kentucky, Lexington, KY 40506] **Donald James,**
Dept. of Agriculture, Room *[EO111]* *E-111*, State Capital
Bldg., Charleston, West Virginia 25305.

2:68-1.2 Uniform interpretation and policy (No change from proposal.)

¹Copy on file in Director's Office, Division of [Agricultural
 Chemistry,] **Regulatory Services**, New Jersey Dept. of
 Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton,
 N.J. Copies may be procured by writing to [Bruce Poundstone,
 Division of Regulatory Services, Agricultural Experiment Station,
 University of Kentucky, Lexington, KY 40506.] **Donald James,**
Dept. of Agriculture, Room *[EO111]* *E-111*, State Capital
Bldg., Charleston, West Virginia 25305.

2:68-1.3 Glossary: Official feed terms (No change from proposal.)

¹Copy on file in Director's Office, Division of [Agricultural
 Chemistry,] **Regulatory Services**, New Jersey Dept. of
 Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton,

N.J. Copies may be procured by writing to [Bruce Poundstone,
 Division of Regulatory Services, Agricultural Experiment Station,
 University of Kentucky, Lexington, KY 40506.] **Donald James,**
Dept. of Agriculture, Room *[EO111]* *E-111*, State Capital
Bldg., Charleston, West Virginia 25305.

2:68-1.4 Medicated feeds (No change from proposal.)

¹Copy on file in Director's Office, Division of [Agricultural
 Chemistry,] **Regulatory Services**, New Jersey Dept. of
 Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton,
 N.J. Copies may be procured by writing to [Bruce Poundstone,
 Division of Regulatory Services, Agricultural Experiment Station,
 University of Kentucky, Lexington, KY 40506.] **Donald James,**
Dept. of Agriculture, Room *[EO111]* *E-111*, State Capital
Bldg., Charleston, West Virginia 25305.

2:68-1.5 Definitions of feed ingredients (No change from proposal.)

¹Copy on file in Director's Office, Division of [Agricultural
 Chemistry,] **Regulatory Services**, New Jersey Dept. of
 Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton,
 N.J. Copies may be procured by writing to [Bruce Poundstone,
 Division of Regulatory Services, Agricultural Experiment Station,
 University of Kentucky, Lexington, KY 40506.] **Donald James,**
Dept. of Agriculture, Room *[EO111]* *E-111*, State Capital
Bldg., Charleston, West Virginia 25305.

2:68-1.6 Sampling and analysis (a)-(b) (No changes from proposal.)

(c) A sample from less than these numbers of bags may be declared
 an official sample if guarantor agrees. For samples that cannot be
 representatively taken with probe described, use other sampling
 means. (Section 22.001 of the tenth edition (1965) of Official
 Methods of Analysis of the Association of Official Analytical
 Chemists. ⁽²⁾⁽¹⁾*)

⁽²⁾⁽¹⁾Copies are filed with and may be received by writing to Director,
 Division of Agricultural Chemistry, N.J. Dept. of Agriculture,
 Health-Agriculture Bldg., John Fitch Plaza, Trenton, N.J.
 08625.)*

Sampling and analysis shall be conducted in accordance with
 methods published in current edition of the official methods of
 analysis of the Association of Official Analytical Chemists ⁽²⁾⁽¹⁾
⁽¹⁾or in accordance with other recognized official methods.

⁽¹⁾Copy on file in Director's Office, Division of [Agricultural
 Chemistry,] **Regulatory Services**, New Jersey Dept. of
 Agriculture; Health-Agriculture Bldg., John Fitch Plaza, Trenton,
 N.J. Copies may be procured by writing to [Bruce Poundstone,
 Division of Regulatory Services, Agricultural Experiment Station,
 University of Kentucky, Lexington, KY 40506.] **Donald James,**
Dept. of Agriculture, Room EO111, State Capital Bldg.,
Charleston, West Virginia 25305.]*

⁽²⁾⁽¹⁾ Copy on file in Director's Office, Division of
Regulatory Services, New Jersey Dept. of Agriculture, Health-
 Agriculture Bldg., John Fitch Plaza, Trenton, N.J. Copies may
 be obtained by writing to David *[Maclean,]* ⁽¹⁾⁽²⁾**MacLean,***
AOAC, 1111 No. 19th St., Suite 210, Arlington, VA 22209.

CIVIL SERVICE**(a)****CIVIL SERVICE COMMISSION****Assignments and Transfers
Lateral Title Change****Adopted Amendment: N.J.A.C. 4:1-15.2
Adopted Repeal: N.J.A.C. 4:2-15.2**

Proposed: September 7, 1982 at 14 N.J.R. 940(b).
 Adopted: July 26, 1983 by the Civil Service Commission,
 Eugene M. McCaffrey, Sr., President.
 Filed: August 1, 1983 as R.1983 d.340, **with substantive
 changes** not requiring additional public notice and
 comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 11:1-7a, 11:5-1 and 11:11-3.

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 December 7, 1986.

Summary of Public Comments and Agency Responses:

A comment was received from a CWA representative concerning the proposed amendment that provided for promotional examinations to be given when an employee moves laterally between dissimilar titles. The commenter perceived this provision as restrictive and as having an adverse affect on the employee's permanent status. After careful consideration, the proposed rule has been revised deleting the promotional examination requirement and providing for an examination that is flexible as to its character and scope. The amendment, as adopted, will not adversely affect an employee's permanent status.

Full text of the changes between proposal and adoption follows:

4:1-15.2 Lateral title change

(a) The movement of a permanent employee from [a position in one class to a position in an] **one title to an equivalent [class] title in the same [organization unit] department or autonomous authority** [at the same or converted rate of compensation for the hours of work] shall constitute a lateral title change. ***In State service,*** such change may be made **only** if the [ranges are the same or have been converted] **titles are compensated at the same or converted rate to adjust for the hours of work *.*[and]***

1. *[if]* *If* the requirements for both *[positions]* *titles* are substantially similar requiring essentially the same tests and qualifications*,* *[and the title change does not]* [mitigate] * [operate]* *[against the principles of the merit system.]* * [An]* *The* employee *[who receives a lateral title change]* shall **retain his or her permanent status.**

[(b)]* *[See also 4:2-15.2] *2.* If *the requirements for* both lateral titles are not substantially similar and the new title requires unique tests or qualifications, a provisional appointment may be made pending *[promotional]* examination. Such provisional appointment shall not be permitted at the entry level of a title series or above the entry level if a complete promotional list exists or a promotional examination has been announced. *[Eligibility for such examination shall be limited to the organizational scope where the provisional is appointed.]

COMMUNITY AFFAIRS**(b)****DIVISION OF LOCAL GOVERNMENT
SERVICES****Local Finance Board****Notice of Correction: Executive Order No.
66(1978) Expiration Date, N.J.A.C. 5:30**

An error appears in the July 18, 1983 New Jersey Register at 15 N.J.R. 1180(a) concerning the expiration date of Chapter 30 in Title 5. The Executive Order No. 66(1978) Expiration Date for Chapter 30 should read **June 1, 1988.**

(c)**NEW JERSEY HOUSING FINANCE
AGENCY****Transfer of Ownership Interests****Adopted New Rule: N.J.A.C. 5:80-5**

Proposed: June 6, 1983 at 15 N.J.R. 822(a).
 Adopted: July 15, 1983 by New Jersey Housing Agency,
 Feather O'Connor, Secretary.
 Filed: July 19, 1983 as R.1983 d.315, **without change.**

Authority: N.J.S.A. 55:14J-34(f).

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 July 18, 1988.

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

ENVIRONMENTAL PROTECTION**(d)****DIVISION OF PARKS AND FORESTRY****State Park Service****Readoption: N.J.A.C. 7:2**

Proposed: June 6, 1983 at 15 N.J.R. 822(b).
 Adopted: July 19, 1983 by Robert E. Hughey,
 Commissioner, Department of Environmental
 Protection.
 Filed: July 21, 1983 as R.1983 d.320, **without change.**

Authority: N.J.S.A. 13:1B-3, 13:1B-15.100 et seq.

DEP Docket No. 028-83-05.

Effective Date: July 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 19, 1988.

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

(a)

DIVISION OF COASTAL RESOURCES

**Wetlands Management
Wetlands Maps in Atlantic County**

Adopted Amendment: N.J.A.C. 7:7A-1.13

Proposed: February 7, 1983 at 15 N.J.R. 119(a).
Adopted: July 26, 1983 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.
Filed: July 28, 1983 as R.1983 d.335, **without change.**

Authority: N.J.S.A. 13:9A-2.

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 11, 1985.

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

(b)

DIVISION OF WATER RESOURCES

Delineated Floodways**Readoption: N.J.A.C. 7:13-1.11**

Proposed: June 6, 1983 at 15 N.J.R. 839(a).
Adopted: July 19, 1983, by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.
Filed: July 21, 1983 as R.1983 d.321, **without change.**

Authority: N.J.S.A. 13:1B-3, specifically N.J.S.A.
58:16A-50 et seq.

DEP Docket No. 025-83-05.

Effective Date: July 21, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 19, 1988.

Summary of Public Comments and Agency Responses:

One comment was received. It asked where delineation maps were available. The answer is that a copy is sent to the municipal clerk and one is maintained at the Bureau of Flood Plain Management (BFPM). Copies are available through the BFPM for the cost of reproduction.

Another portion of the comment concerned the impact

delineating has on property values in the flood plain. As the Flood Hazard Area Control Act requires limits on development in both delineated and non-delineated areas, the impact on property values in all flood plains should not be different.

(c)

DIVISION OF FISH, GAME AND WILDLIFE

Use of Wildlife Management Areas**Adopted Amendment: N.J.A.C. 7:25-2**

Proposed: June 6, 1983 at 15 N.J.R. 840(a).
Adopted: July 26, 1983 by Robert E. Hughey,
Commissioner, Department of Environmental
Protection.
Filed: July 28, 1983 as R.1983 d.336, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 23:7-9.

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 15, 1988.
DEP Docket No. 023-83-04.

Summary of Public Comments and Agency Responses:

One written comment was received during the public comment period. The commentor questioned if there would be any problem with the public commuting through wildlife areas. The Department's response was negative in that signs in wildlife areas enhance the safety of the public and use of the areas.

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

7:25-2.18 Wildlife Management Areas

(a) This subchapter applies to the following designated Wildlife Management Areas:

- 1.-53. (No change from proposal.)
54. *[Prosperton]* ***Prosperton*** Lake.
- 55.-71. (No change from proposal.)

HEALTH

(d)

HEALTH ECONOMICS SERVICES

Hospital Reporting; Patient Case-Mix**Adopted Amendment: N.J.A.C. 8:31A-8.1**

Proposed: April 4, 1983 at 15 N.J.R. 470(b).
Adopted: July 28, 1983 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health (with the approval
of Health Care Administration Board).

Filed: August 1, 1983 as R.1983 d.338, **without change.**

Authority: N.J.S.A. 26:2H-12.

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 18, 1983.

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

(a)

CONSUMER HEALTH SERVICES

**Addition To Schedules I and IV
Rescheduling Glutethimide From Schedule
III to Schedule II**

Adopted Amendment: N.J.A.C. 8:65-10

Proposed: June 6, 1983 at 15 N.J.R. 844(a).
Adopted: August 1, 1983 by J. Richard Goldstein, M.D.,
Commissioner, Department of Health.
Filed: August 1, 1983 as R.1983 d.339, with portions
not adopted but still pending.

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

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
Exempt pursuant to N.J.S.A. 24:21-3.

Summary of Public Comments and Agency Responses:

Concerning the addition to Schedule I and IV: No comments
were received.

Concerning the rescheduling of Glutethimide:

Two responses were received from Ciba-Geigy Corporation and
USV Co. that scheduling would be economically disastrous to
their respective company's present production plans and requested
additional time to respond to the Department of Health proposal.
The Department responded by extending the comment period to
July 29, 1983 pursuant to both companies request. No additional
responses were received.

The following were **adopted** without change:

N.J.A.C. 8:65-10.1 and 8:65-10.4.

The following were **not adopted** pending extended comment
period:

N.J.A.C. 8:65-10.2 and 8:65-10.3.

HUMAN SERVICES

(b)

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

**Administration Manual
Fair Hearings**

Readoption: N.J.A.C. 10:49-5

Proposed: June 6, 1983 at 15 N.J.R. 848(a).
Adopted: July 20, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: July 22, 1983 as R.1983 d.327, **without change.**

Authority: N.J.S.A. 30:4D-7e, f, and 42 CFR 431.200 et
seq.

Effective Date: July 22, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 22, 1988.

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

(c)

DIVISION OF PUBLIC WELFARE

**Public Assistance Manual
Application Process, Establishing Program
Eligibility for AFDC**

Readoption: N.J.A.C. 10:81-2 and 3

Proposed: June 6, 1983 at 15 N.J.R. 933(a).
Adopted: July 20, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: July 20, 1983 as R.1983 d.319, **with technical
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: July 20, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 20, 1988.

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

Summary of Changes upon Adoption:

Most of the changes upon adoption are corrections to internal
citations in the Code, bringing up to date those references either by
change or deletion. Other technical changes are as follows.

At N.J.A.C. 10:81-3.18(b)3 the language added has been
relocated from N.J.A.C. 10:81-3.18(e)1, 2 and 3 to be in proper
accord with context.

N.J.A.C. 10:81-3.18(k) has been deleted and relocated to
N.J.A.C. 10:81-3.47 for suitability in context.

N.J.A.C. 10:81-3.18(l) and (m) are renumbered as a result of deletion of N.J.A.C. 10:81-3.18(k).

N.J.A.C. 10:81-3.47, relocated from N.J.A.C. 10:81-3.18(k), is considered to be more appropriate here for context as explained in N.J.A.C. 10:81-3.18(k) above.

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

10:81-2.17 Verification

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

(e) For AFDC-N cases, if the condition of insufficient income is the result of the applicant having left a job within 90 days of the date of application, the IM worker will verify with the employer that the termination was not voluntary or will ask the applicant to demonstrate good cause for leaving. (See N.J.A.C. 10:81-2.9 and *3.18(m)]**3.18(l)*.) The IM worker will also verify that the applicant has registered with the Division of Employment Services. If the client does not have evidence of having registered, registration Form NJES-*[511B]**511F* (Job Service Self-Registration Application) shall be completed at initial application and Form NJES-1A for subsequent registration renewals and redeterminations (see N.J.A.C. 10:81-2.18).

(f)-(g) (No change from proposal.)

(h) The CWA shall verify school attendance of children aged 16 and 17 relevant to work registration and training programs (see N.J.A.C. *[10:81-3.20 and]* 10:82-1.9) and aged 18 for eligibility in AFDC-N segment. (See N.J.A.C. 10:82-1.5(a) and 1.9.)

(i) (No change from proposal.)

10:81-3.3 Presumptive eligibility

(a) Presumptive eligibility shall be determined when, based on the applicant's written statement signed under oath, immediate need exists and other program requirements appear to be met (see N.J.A.C. 10:81-2.6 through 2.12 *[and 2.23]* and N.J.A.C. 10:82-2.2).

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

10:81-3.18 Employment and training requirements

(a) (No change from proposal.)

(b) *AFDC-C and -F segments (WIN Counties):* County welfare agencies, as agents of the United States Department of Labor in those geographical areas designated as WIN counties, are responsible, through the income maintenance staff, for determining who is required to register for WIN by completing Form PA-401, WIN Case Review Document (see Appendix C for sample form).

1. (No change from proposal.)

2. Those who are exempt include:

i. (No change from proposal.)

ii. (No change from proposal.)

(1) (No change from proposal.)

(2) **Incapacitated:** When verified that a physical or mental impairment as determined by a physician or licensed/certified psychologist or by the Bureau of Medical Affairs, either by itself or in conjunction with age, prevents the individual from engaging in employment and/or training, and such incapacity is expected to exist for a continuing period of at least six months *[. (See]***(see* N.J.A.C. 10:81-2.8 and *3.18(e)]* *3.18(b)3*.)

(A) (No change from proposal.)

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

***3. In the event a nonexempt individual fails to register, the penalties below apply. Any appeals resulting from refusal to register will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81-6).**

i. **AFDC-C:** Any individual who fails to register as required shall be deleted from the eligible unit in accordance with N.J.A.C. 10:82-2.5 (see N.J.A.C. 10:81-2.8). However, at any subsequent time, the individual in question may decide to

register. Upon notification from ES/WIN that the registration process has been completed, such person's needs shall be immediately reconsidered in the assistance payment.

ii. **AFDC-F:** When the principal earner fails or refuses to register as required, the entire family will be rendered ineligible to receive AFDC-F until such time notification is received from ES/WIN that the registration process has been completed (see N.J.A.C. 10:81-3.18(g)). Under these circumstances the family will not be eligible for AFDC-N.*

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

(e) Individuals who have been determined to be exempt from registration on the basis of incapacity shall be referred to the Division of Vocational Rehabilitation Services. Form PA-14, Referral for Services, shall be used for this purpose. Acceptance of referral for such services is optional with the individual and shall not affect a recipient's entitlement to benefits.

*[1. Any individual who fails to register as required shall be deleted from the eligible unit in accordance with N.J.A.C. 10:82-2.5 (see N.J.A.C. 10:81-2.8). However, at any subsequent time, the individual in question may decide to register. Upon notification from ES/WIN that the registration process has been completed, such person's needs shall be immediately reconsidered in the assistance payment.

2. When the principal earner fails or refuses to register as required, the entire family will be rendered ineligible to receive AFDC-F until such time notification is received from ES/WIN that the registration process has been completed (see N.J.A.C. 10:81-3.18(g)). Under these circumstances the family will not be eligible for AFDC-N.

3. Appeals resulting from refusal to register will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81-6).]*

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

*[(k) AFDC benefits shall not be payable for any month in which any caretaker relative with whom the child is living, is on the last day of such month, participating in a strike. Additionally, no individual's needs shall be included in determining the amount of AFDC payable for any month to a family if, on the last day of the month, such individual is participating in a strike.

1. The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted interruption of operations by employees.

2. The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers.]*

[(l)] *(k)* (No change in text from proposal.)

[(m)] *(l)* (No change in text from proposal.)

10:81-3.19 AFDC-C and -F (Non-WIN Counties)

(a) (No change from proposal.)

(b) (No change from proposal.)

1. Failure or refusal without good cause to seek, accept or retain employment or training shall be cause to delete such individual from the eligible unit, in accordance with N.J.A.C. 10:82-2.5. "Good cause" shall be determined without reference to sex of the individual, on the basis of N.J.A.C. 10:81-*[3.18(m)2]* *3.18(l)2*.

i. (No change from proposal.)

(c) (No change from proposal.)

1. Failure of the principal earner to register with the State Employment Service or refusal without good cause (see N.J.A.C. 10:81-*[3.18(m)2]* *3.18(l)2*) to seek, accept or retain employment or training shall render the entire family ineligible for assistance under the AFDC-F. In such cases eligibility for AFDC-N will not be considered.

i. (No change from proposal.)

(d) (No change from proposal.)

10:81-3.27 Change of county residence

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

- 1.-2. (No change from proposal.)
 3. (No change from proposal.)
 i. (No change from proposal.)
 ii. The receiving county has, except as noted in N.J.A.C. *[10:81-7]* ***10:81-7.1(g) and (h)***, the responsibility to:
 (1)-(4) (No change from proposal.)
 iii. The welfare of the clients shall not be adversely affected and their right to uninterrupted assistance, if in need, shall not be prejudiced by disagreement or other administrative difficulty between the counties. Any adverse change in grant resulting from transfer requires timely notice*. (See N.J.A.C. 10:81-7.1(l))* *** (see N.J.A.C. 10:81-7.1(g) and (h))***. * If the receiving county is unable to verify eligibility within prescribed time limits, as stated in (b)3ii(2) or 3 above, it must accept case responsibility in accordance with (b)3ii above and grant assistance based on presumptive eligibility until such verification is completed (see N.J.A.C. 10:81-3.3).
 iv. (No change from proposal.)

10:81-3.29 Verification of residence

(a) Verification of residence is necessary to ensure proper CWA chargeability for assistance payments. Due to the multiple-person nature of AFDC cases, the residence of dependent children will normally establish residence of a recipient family*. (See sections 26 through 28 and 32 through 34 of this subchapter.)* ***see N.J.A.C. 10:81-3.26 and 27; and 3.32 and 34**. Under some circumstances, documentary evidence of residence may not be available.

1. (No change from proposal.)

10:81-3.31 Release from a State institution

(a) (No change from proposal.)
 (b) When eligibility has been established, payment of an initial grant shall be made upon release from the institution, providing the parent and child will be living together within 30 days of the date of issuance except in circumstances identified in *[paragraph 1 of this section]* *** (b)1 below***. This application may be registered and processed up to two months before anticipated date of release.

1. (No change from proposal.)

(c) A parent or parent-person separated from a dependent child for a period no more than 30 days prior to application, who wishes to maintain an already established home for that child with whom such parent or parent-person customarily resides, may apply for and receive assistance while temporarily absent from the home. In this case, such parent or parent-person must indicate plans to return to the home within two months from the month in which assistance is initially granted *. (See sections 32 through 34 of this subchapter.)* **(see N.J.A.C. 10:81-3.32 through 34)**.*

- (d) (No change from proposal.)

1. If the individual will return to a home or plans to establish a home with a dependent child in the county receiving the inquiry and appears eligible for assistance, the CWA of that county shall register the application, assist in completion of the plan as necessary, complete the determination of eligibility and be responsible for assistance payments*. (See section 26(a) of this subchapter.)* **(see N.J.A.C. 10:81-3.26(a))**.*

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

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

10:81-3.33 Child or parent in an institution

- (a) (No change from proposal.)

1. A child whose placement is specified for a period longer than one year shall not be eligible during the entire period of placement. (See N.J.A.C. 10:82-*[2.6]* ***2.5*** regarding visits home of seven or more days.)

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

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

10:81-3.41 Action by CWA upon liquidation

- (a) (No change from proposal.)

1. (No change from proposal.)
 2. The amount of money actually received after making allowance for costs and fees of collection, medical payments made as a result of the accident or occurrence giving rise to the client's recovery, identifiable future medical expenses properly due from the proceeds and, deducting at the discretion of the CWA, up to \$200.00 for miscellaneous related expenses (see N.J.A.C. *[10:82-3.2(b)10]* ***10:82-3.2(b)9***).

- i. (No change from proposal.)

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

***10:81-3.47 Strikers**

(a) **AFDC benefits shall not be payable for any month in which any caretaker relative with whom the child is living, is on the last day of such month, participating in a strike. Additionally, no individual's needs shall be included in determining the amount of AFDC payable for any month to a family if, on the last day of the month, such individual is participating in a strike.**

1. **The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted interruption of operations by employees.**

2. **The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers.***

(a)

DIVISION OF PUBLIC WELFARE

Assistance Standards Handbook Income, Procedures for Determining Amount of Monthly Grant, Resources

Readoption: N.J.A.C. 10:82-1, 2 and 3

Proposed: June 6, 1983 at 15 N.J.R. 935(a).

Adopted: July 20, 1983 by George J. Albanese,
Commissioner.

Filed: July 20, 1983 as R.1983 d.318, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

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

Effective Date: July 20, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):
July 20, 1988.

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

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

10:82-1.2 Schedules of allowance

- (a) (No change from proposal.)

(b) The AFDC program is composed of three segments *[(see N.J.A.C. 10:81-2.4)]*. Allowance standards for persons eligible under the AFDC-C and AFDC-F segments appear in Schedule I. Allowance standards for persons eligible under the AFDC-N segment appear in Schedule II. Standards in Schedule II are set by State statute at 66-2/3 percent of the AFDC-C and -F standards.

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

10:82-1.3 Eligible unit; all segments
 (a)–(b) (No change from proposal.)
 (c) An individual who incurs a penalty of ineligibility shall not be included in the eligible unit (see N.J.A.C. *[10:82-2.5]****10:82-2.4***).
 (d) The eligible unit shall include the parent(s) and/or needy parent-person(s) with whom the eligible children live, unless such parent has incurred a penalty of ineligibility (N.J.A.C. *[10:82-2.5]****10:82-2.4***), is an SSI recipient or is an illegal alien (see N.J.A.C. 10:81-3.9(c)).

10:82-1.4 Eligible unit; AFDC-C and -F segments
 (a)–(c) (No change from proposal.)
 (d) When an applicant for AFDC-C must wait for incapacity to be established and is in immediate need, eligibility shall be considered for AFDC-F or -N. *[See also 10:81-2.7(c)2 and 3.]*
 (e) Identifying the allowance for a member of an eligible unit: When it is necessary to identify the allowance for an individual member of the eligible unit, such as when this information is required by a court order for support, his/her per capita share of the eligible unit's public assistance allowance is determined from the Per Capita Table following N.J.A.C. 10:82-2.13. *[(See N.J.A.C. 10:81-3.41(a)2i for policy relative to settlement of claims.)]*

10:82-2.4 Penalty of ineligibility
 When a member of an eligible unit has incurred a penalty of ineligibility for money payment, such individual cannot be included in the eligible unit and his/her needs shall not be taken into account in determining the family's need for assistance. (See N.J.A.C. *[10:82-2.4(b)]****10:82-2.3(b)*** regarding income of a noneligible parent and N.J.A.C. 10:81-8.13(a)2.)

10:82-2.11 Initial eligibility; AFDC-N procedures
 (a) Initial eligibility rules are:
 1.–2. (No change from proposal.)
 3. Identify all income as in N.J.A.C. 10:82-2.1(b)4i. To establish amount of calculated earned income, determine gross earned income and deduct the first \$60.00 for each employed person, provided however, that each such person earns a minimum of \$60.00. If earnings of any individual are less than \$60.00, disregard such earnings. This initial disregard only shall be deducted in determining the calculated earned income for initial eligibility, unless N.J.A.C. *[10:82-4.5(c)]****10:82-4.5(b)*** is applicable;
 4.–5. (No change from proposal.)

10:82-3.10 Evaluating LRR's capacity to support
 (a) (No change from proposal.)
 (b) Income determination rules are:
 1.–5. (No change from proposal.)
 6. ***Emancipated child in LRR's home:*** When an LRR has an emancipated child living in the home, such child shall be considered as a roomer or roomer-boarder*[, and N.J.A.C. 10:82-2.4 shall be used to determine the net income to the LRR].*
 (c)–(d) (No change from proposal.)

(a)

DIVISION OF PUBLIC WELFARE

**General Assistance Manual
 General Provisions, Administrative
 Responsibilities, Eligibility, Payments,
 Medical Care, Fiscal Procedures and
 Employability Program**

**Readoption: N.J.A.C. 10:85-2
 Readopted with Amendments: N.J.A.C. 10:85-1, 3, 4, 5, 6 and 10**

Proposed: June 6, 1983 at 15 N.J.R. 938(a).
 Adopted: July 25, 1983 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: July 25, 1983 as R.1983 d.328, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 44:8-111(d).

Effective Date: July 25, 1983.
 Expiration Date pursuant to Executive Order No.66(1978): July 25, 1988.

Summary of Public Comments and Agency Responses:

Comment, predicated on a particular case situation, was received from a legal aid society office to the effect that regulations do not stipulate that recipients of General Assistance must be issued notices which explicitly provide explanatory information as to how grants of assistance are calculated in order to enable clients to determine if an issue exists which may be appealed in a fair hearing. Also included with the comment was a suggested form designed to serve as a model to local agencies for issuance to clients in order to afford a better understanding of rights of appeal on the basis of an explanation as to how eligibility/level of grant entitlement is established.

The intent and purpose of the amended wording at N.J.A.C. 10:85-1.1(f) was to reiterate (as the commenter observed) language which appears at N.J.A.C. 10:85-7.3(a) as to hearing rights with respect to "the amount of assistance granted." The comment submitted urged substantially new and/or expanded language beyond he scope of the current proposal. To the extent the comment has merit, it will be brought to the attention of appropriate levels of administration within the Department and may be the subject of a future amendment to the rule.

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

10:85-2.2 Establishment of local assistance board
 (a)–(c) (No change from proposal.)
 (d) Rules concerning appointment of director of welfare are:
 1. (No change from proposal.)
 2. Qualifications for director:
 i.–ii. (No change from proposal.)
 iii. In situations where the LAB cannot locate a candidate possessing the qualifications enumerated above but nevertheless has a candidate whom it believes capable to function adequately as a director of welfare, action may be taken as provided in * [paragraph 4 of this subsection]****(d)4iii below***.
 3. (No change from proposal.)

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

iii. (No change from proposal.)

(1) Should the LAB decide not to reappoint the incumbent director, or should he* [/] **or* she decline reappointment, it shall be the responsibility of the Board to select promptly a new full-term candidate and to secure approval of the DPW (as described in * [paragraph 4 of this subsection]****(d)4 below***) or to designate a temporary director while a qualified full term candidate is being sought.

(2) (No change from proposal.)

iv. (No change from proposal.)

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

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

10:85-2.7 Reporting criminal offenses to law enforcement authorities

(a) (No change from proposal.)

1. (No change from proposal.)

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

iii. To Federal authorities: Knowledge of the actual commission of a *[federal]****Federal***felony unless disclosure of such information is prohibited by law (see *[Sections 150 and 217.2]*****N.J.A.C. 10:85-1.5 and 2.2(g)2***). (Refer to legal counsel for identification of *[federal]****Federal*** felonies.)

2. (No change from proposal.)

10:85-3.1 Persons eligible for general assistance

(a) (No change from proposal.)

1. Exceptions relevant to medical care:

i. (No change from proposal.)

ii. (See N.J.A.C. 10:85-3.3(g)***2*** regarding Medicaid coverage for individuals under age 21.

iii. When an individual whose application for SSI is pending requires inpatient hospital care or care in a long term care facility, the MWD shall withhold payment for such care in accordance with *[subchapter 5 of this chapter]*****N.J.A.C. 10:85-5.7***.

2. (No change from proposal.)

(b) (No change from proposal.)

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

3. Income to be counted: All income of persons in the eligible unit shall be taken into account as prescribed in *[section 3 of this subchapter]*****N.J.A.C. 10:85-3.3*** and subtracted from the applicable general assistance allowance standard. *(See Schedules I and II at the end of this chapter.)*

(c) Rules concerning persons found ineligible by *[CWB]***** CWA*** are as follows *[.]*****:**

1. Families:

i. When the county welfare agency determines a family to be financially ineligible for AFDC, such family is not eligible to receive general assistance from the MWD. The family should be advised, however, that it may apply for medical assistance and that excessive medical costs will be considered in accordance with *[section 3 of this subchapter]*****N.J.A.C. 10:85-3.3(g)1***.

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

2. (No change from proposal.)

(d) (No change from proposal.)

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

3. SSI Recipients: If an individual (or couple) who is receiving SSI benefits does not receive his *[/]****or*** her SSI payment promptly, such person(s) may be in immediate need and may apply for General Assistance. Under these circumstances, the MWD shall contact the SSA/DO to determine the anticipated length of delay and shall provide assistance for that period, based on the allowance standards in Schedule I and provided that financial eligibility exists in accordance with this subchapter. (See *[subchapter 4 of this subchapter]*****N.J.A.C. 10:85-4.2*** regarding periods for which assistance may be granted.)

i. This provision also applies when a new SSI applicant has been officially notified of eligibility to receive SSI benefits and a Form

GA-30 was not submitted in accordance with *[subchapter 6 of this chapter]*****N.J.A.C. 10:85-6.5(c)***.

ii. (No change from proposal.)

iii. Refer to *[subchapter 7 of this chapter]*****N.J.A.C. 10:85-7.2(b)2*** regarding use of a time-limited notice.

(e) (No change from proposal.)

1. (No change from proposal.)

2. (No change from proposal.)

i. An individual who is married but does not live with his *[/]****or*** her spouse shall be treated in accordance with *[paragraph 1 of this subsection]****(e)1 above***.

3. (No change from proposal.)

(f) (No change from proposal.)

10:85-3.2 Application process

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

(c) (No change from proposal.)

1. (No change from proposal.)

i. Form GA-1 (Application and Affidavit for General Assistance) shall be used in every case for the initial application. The director of welfare or MWD caseworker is empowered to receive the oath and witness the applicant's signature or the signature of an authorized agent acting in situations described in *[paragraph 2 of this subsection]****(c)2 below***.

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

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

4. Personal interview: The application shall be taken at a personal interview with the client unless an authorized agent is acting on behalf of a client in accordance with *[paragraph 2 of this subsection]****(c)2 above***. The interview may occur at the welfare office or in the client's home (or hospital or other institution, if necessary).

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

(d) (No change from proposal.)

(e) Rules concerning verification and sources of evidence are:

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

3. (No change from proposal.)

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

iii. While it is usually desirable to obtain evidence in written form, personal inspection of records by the agency personnel, where permission can be secured, is an acceptable practice and is often quicker and simpler. See *[paragraph 5 of this subsection]****(e)5 below*** for recording of such information.

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

(f) (No change from proposal.)

(g) ***Word requirement:** Eligibility for public assistance in New Jersey is directly related to an individual's willingness to work when he or she is able to do so. It is, therefore, a part of the application process to explain the work requirement to the applicant and to record in the case file the reasons for any exemption from this requirement.

1. (No change from proposal.)

2. Elements of the work requirement: Unless specifically exempt, all recipients of General Assistance benefits must comply with all parts of this section:

i. Maintain current registration with the New Jersey Division of Employment Services. All registrations will be accomplished by submittal of Form NJES-***[511B]* *511F*** by the MWD to the appropriate Special Programs Office of the New Jersey Division of Employment Services. Once registered, a GA recipient remains registered as long as he*[/]****or*** she remains on assistance.

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

3. (No change from proposal.)

i. The individual is participating in a lawful strike or is locked-out because of labor dispute. Participation in an unlawful strike, a "sympathy" strike, or walkout or refusal to cross a picket line is, however, voluntary cessation of work and is to be processed in accordance with *[paragraph 6 of this subsection]****(g)7 below***.

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

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

10:85-3.3 Financial eligibility

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

(e) Rules concerning unearned income are:

1. Definition: Unearned income includes net income from roomers, roomer-boarders (except as in *[subsection (c) of this section]****(c)2ii above***), table-boarders, rental of apartments or housekeeping units, returns from capital investments such as dividends and interest, benefits and pensions, annuities, contributions from relatives or others, compensation payments, and so forth.

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

2. Income from roomers, roomer-boarders, and table boarders: The presence of roomers, roomer-boarders, or boarders in the eligible unit's home constitutes a business arrangement. Monies received from such arrangements shall be considered gross unearned income to the eligible unit. (Note that income from provision of extensive personal services is earned income. See *[subsection (c) of this section]****(c)2ii above***.)

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

3. (No change from proposal.)

4. (No change from proposal.)

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

iii. Other items: No deductions will be made for other in-kind items, except as stated in *[subsection (c) of this section]****(c) above*** or unless they are contributed by an LRR in accordance with *[subchapter 9 of this chapter]****N.J.A.C. 10:85-9.5***. However, cash contributions from whatever source are countable income, except for occasional gifts.

iv.-viii. (No change from proposal.)

ix. **Student income:** Loans, grants, scholarships, and income from workstudy programs which may be received by full time undergraduate students are to be disregarded in computing eligibility or the amount of General Assistance to be granted. Stipends provided for living expenses, however, are not to be disregarded. (See also N.J.A.C. *[10:85-3.2(e)3]****10:85-3.2(f)3*** on eligibility of college students.)

x. (No change from proposal.)

(f) (No change from proposal.)

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

5. Shelter continuity: When a person who had been living alone and is otherwise eligible for General Assistance is hospitalized for more than 30 days, grants of assistance may be continued for up to 60 additional days for purpose of retaining shelter to which the person can return. See N.J.A.C. *[10:85-3.3(e)4ii]****10:85-3.3(e)4iii*** for appropriate deduction for in-kind income.

(g) (No change from proposal.)

1. Medically needy: Individuals and families who are ineligible for public assistance (General Assistance, AFDC, Cuban or Indochinese Refugee Assistance) or for SSI payments because their income exceeds the standards established for the applicable program may apply to the MWD on a monthly basis for assistance in paying excessive medical costs. The provisions of this subsection are not applicable to the payment of bills for inpatient hospitalization or for medical services rendered to an inpatient. * [(See N.J.A.C. 10:85-5.2 (f)1.)]**

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

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

10:85-3.4 Resources

(a) (No change from proposal.)

1. (No change from proposal.)

i. (No change from proposal.)

ii. No-fault auto insurance shall be utilized in the payment of medical expenses relative to auto accidents, hit and run accidents, and so forth. *[(See N.J.A.C. 10:85-5.4(c).)]**

2. (No change from proposal.)

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

10:85-4.1 State and local responsibilities

(a) (No change from proposal.)

(b) (No change from proposal.)

1. (No change from proposal.)

2. See N.J.A.C. *[10:85-3.2]****10:85-3.2(e)*** regarding verification of eligibility and sources of evidence.

(c) (No change from proposal.)

10:85-4.2 Periods for which assistance is granted

(a) (No change from proposal.)

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

3. Periods of less than one week: when authorized, payment shall be issued for one or more days to meet temporary situations. A per diem (daily) amount is determined by dividing the applicable monthly allowance standard by 30 (see *[section 3 of this subchapter]****N.J.A.C. 10:85-3.3(f)2vi***). Any income actually available on that day or days shall be deducted from the per diem amount. Such grants qualify for State aid up to the amount to which a client would be entitled under *[paragraph 1 of this subsection]****(a)1 above***.

4. Grants for specific needs: When an individual specifically requests assistance in an amount less than that to which he *[/]****or*** she is entitled (for example, for shelter only, food only, and so forth), such amount may be granted, subject to the notice requirement in *[subchapter 7 of this chapter]****N.J.A.C. 10:85-7.2(b)2***. However, the total amount granted during one calendar month to the client for such specific needs shall not exceed the amount for which he *[/]****or*** she is eligible, unless *[paragraph 5 of this subsection]****(a)5 below*** applies.

5. Emergency grant: An emergency grant may be made to individuals under the conditions stated in *[section 6 of this subchapter]****N.J.A.C. 10:85-4.6***. Emergency grants made in accordance with such regulations qualify for State aid.

10:85-4.4 Designation of a temporary payee

(a) (No change from proposal.)

1. (No change from proposal.)

2. (No change from proposal.)

i. Client's cooperation in selection: The cooperation of the client shall be sought, but is not required, in selection of the temporary payee. The client shall, however, be advised of his *[/]****or*** her right to request a local hearing regarding the designation of a temporary payee (see N.J.A.C. *[10:85-7.2(a)]****10:85-7.3(a)***).

10:85-4.6 Emergency grants

(a) An emergency grant shall be authorized to or for an individual(s) otherwise eligible to receive General Assistance under the regulations in this manual when circumstances set forth in *[paragraphs 1 through 3 of this subsection]****(a)1 through 3 below*** exist. In addition, these regulations shall apply to an emergency (as described in *[paragraphs 1 through 3 of this subsection]****(a)1 through 3 below*** which occurred within the seven calendar days immediately prior to the application for General Assistance if the applicant(s) is determined eligible at the time of application under established procedures and standards.

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

(b) (No change from proposal.)

(c) Persons who appear to be eligible for AFDC shall be referred immediately to the county welfare agency. However, an emergency grant may be provided under the conditions stated in *[subchapter 3 of this chapter]****N.J.A.C. 10:85-3.2(b)4ii*** and in accordance with the foregoing regulations in *[subchapter 4 of this chapter]****section 6 of this subchapter***.

(d) In an emergency situation such as sudden removal of the mother or responsible caretaker from the home, the MWD may be called upon to provide a temporary care arrangement for the child(ren) until it is possible to refer the situation to the county welfare agency or the appropriate office of the Division of Youth and Family Services*[. (See N.J.A.C. 10:85-3.2(b)4ii and 10:85-8.4(c)3.)]****(see N.J.A.C. 10:85-3.2(b)4)***.

1. (No change from proposal.)

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

(e) (No change from proposal.)

10:85-5.2 Inpatient hospital care

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

(d) [For purposes of qualifying for State aid, hospital care and services shall not include the following] **Expenses not covered. The MWD shall not authorize payments for any of the following:**

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

4. Services covered [during] **under** other laws or appropriations: Hospital services to the full extent, if any, that are covered under any foreign, Federal, or State law (other than the New Jersey General Assistance Law) or by county appropriations [shall not be reimbursable]. The amount to which the patient is entitled, when identifiable, whether or not he [/] or she asserts right to ***[the]** that*** coverage, shall be deducted from the total amount incurred for hospitalization and the remainder, if any, may be [reimbursable expense.] **paid.**

i. (No change from proposal.)

5. **Employment related injury or disease:** Hospital services for the treatment of any condition, disease, ailment, or accidental injury stemming from or incurred in the course of employment, for which benefits (in whole or in part) are payable under the provisions of any Workmen's Compensation Law, Temporary Disability Benefits Law, ***[Occupation]**Occupational*** Disease Law, or similar foreign, Federal, or State law [shall not be reimbursable]. It makes no difference whether a person actually receives benefits for hospital services under any of the aforementioned laws, nor does it matter whether any recovery is made by the patient against a third party for damages resulting from such condition, disease, ailment, or accidental injury.

6. (No change from proposal.)

7. **Services covered by health insurance:** Hospital services to the extent, if any, that such costs are or may be payable under a policy which insures ***[that]**the*** patient [shall not be reimbursable].

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

8.-9. (No change from proposal.)

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

(g) **Payment for hospitalization:** Upon certification of hospitalization, the director of welfare shall approve [an authorized all-inclusive per diem rate] **payment as approved by DPW/BMA which shall cover all items listed in (c) above.**

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

3. Reporting requirements: Each month the municipal director of welfare shall submit Form GA-6 (Report of Assistance Commitments) and Form GA-6C (Hospitalization Report) to the Division of Public Welfare, recording actual payments to hospitals for inpatient care made from the Public Assistance Trust Fund Account.

i. Date of submission of forms: Forms GA-6 and 6C shall be submitted by the 10th of the month ***following the month*** for which activity is being reported.

10:85-5.7 SSI application pending

(a) (No change from proposal.)

(b) **Payment following SSI determination*** : * If the application is approved, the withheld payments will be made through the Medical Assistance (Medicaid) program on a retroactive basis. If the application is denied, the MWD shall promptly make payment for the **withheld** costs incurred during the pending period, such payments being eligible for reimbursement to the same extent as other medical payments. **For purposes of this section an SSI application shall not be considered as denied until there has been a decision acceptable to the MWD that no appeal or no further appeal is to be taken.**

10:85-5.8 Pharmaceutical payments through DMAHS

(a) Prescription bills, except for medical supplies and equipment, incurred on behalf of recipients in certain municipalities will be

processed through the New Jersey Division of Medical Assistance and Health Services (DMAHS). ***[The municipalities involved (and four-digit codes for each) are listed in N.J.A.C. 10:85-5.9.]***

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

10:85-6.4 Fiscal and statistical reporting requirements

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

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

4. **Hospitalization Report for Assistance Month (Form GA-6C):** The record of payment for inpatient hospital care (payable upon receipt of patient's bill) for cases as listed on Form GA-6 (see *** [paragraph 2 of this subsection]**(a)2 above***) shall be summarized on Form GA-6C, prepared in triplicate and distributed as follows (record only after payment has been made by the MWD):

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

10:85-6.5 Reimbursement of assistance provided to applicants for SSI

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

(c) **Completion of Form GA-30 and Form GA-30A:** When an individual is about to apply or has already applied for SSI, the municipal welfare department will require that he or she sign Form GA-30, Authorization for Reimbursement of General Assistance from Initial SSI Payment and Form GA-30A, Agreement to Repay Assistance from Initial SSI Payment, before granting assistance. **These forms pertain to the applicant's obligation to repay the municipal welfare agency for assistance granted while the applicant's SSI application is being processed. The GA-30 is prepared in ***[triplicate]**quadruplicate*** and forwarded to the Social Security Administration as described in ***[(c)]**(c)1*** below. This form authorized the Social Security Administration to forward the applicant's initial SSI payment to the State Division so that repayment of assistance may be accomplished. A single copy of Form GA-30A is prepared at the time of application and is retained in the case record. This form contains a repayment agreement which is to be enforced in cases in which, for whatever reason, the initial SSI payment is sent directly to the applicant.**

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

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

10:85-10.7 Good cause

(a) (No change from proposal.)

(b) On worksites under the supervision of the MWD, the MWD shall determine good cause in accordance with N.J.A.C. ***[10:85-3.2(g)5]**10:85-3.2(g)6***.

(a)

DIVISION OF PUBLIC WELFARE

Monthly Reporting Policy Handbook Reporting Requirements (Good Cause)

Adopted Amendment: N.J.A.C. 10:90-2.3

Proposed: June 6, 1983 at 15 N.J.R. 849(a).

Adopted: July 21, 1983 by George J. Albanese,

Commissioner, Department of Human Services.

Filed: July 22, 1983 as R.1983 d.326, **without change.**

Authority: N.J.S.A. 44:7-6, 44:10-3 and 30:4B-2.

Effective Date: August 15, 1983.

Expiration Date pursuant to Executive Order No. 66(1978):

November 15, 1987.

Summary of Public Comments and Agency Responses:

No comments received.

(a)

DIVISION OF PUBLIC WELFARE

Medicaid Only Manual Nonfinancial Eligibility Criteria

Readoption: N.J.A.C. 10:94-3

Proposed: June 6, 1983 at 15 N.J.R. 948(a).
Adopted: July 20, 1983 by George J. Albanese,
Commissioner, Department of Human Services.
Filed: July 20, 1983 as R.1983 d.317, **without change**.

Authority: N.J.S.A. 44:7-87 and 30:4D-7.

Effective Date: July 20, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 20, 1988.

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

LAW AND PUBLIC SAFETY

(b)

DIVISION OF CRIMINAL JUSTICE

Police Training Commission

Readoption with Amendment: N.J.A.C. 13:1

Proposed: June 6, 1983 at 15 N.J.R. 866(a).
Adopted: July 19, 1983 by Irwin I. Kimmelman, Attorney
General of New Jersey.
Filed: July 19, 1983 as R.1983 d.316, **with substantive
and technical changes** not requiring additional public
notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:17B-66, specifically 52:17B-71h.

Effective Date (Readoption): July 19, 1983.
Effective Date (Amendments): August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
July 19, 1988.

Summary of Public Comments and Agency Responses
and Reasons for changes upon adoption:
No comments received.

The Police Training Commission has made several technical changes to the proposal which do not substantively amend the proposal. Furthermore, N.J.A.C. 13:1-5.1(b) is being deleted upon adoption although it should have appeared in the proposal as such. The reason for such deletion is that the Commission no longer issues special certificates. The last sentence of N.J.A.C. 13:1-11.1 is being deleted now but the Commission intends to amend the entire Subchapter 11 concerning Appeals in the near future.

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

13:1-4.1 [Need for] Certification requirement

All instructors participating in [the basic] a course [at a] **authorized by the commission [school] must be certified before they are permitted to teach except for the conditions set forth under N.J.A.C. *[13:1-7.2(n)]* *13:1-7.2(a)14.***

13:1-5.1 Certification requirements; basic course

(a) (No change from proposal.)
[(b) An individual who is not a police officer nor required by State statute to attend a commission-approved basic course shall be awarded a special certificate providing the individual complies with [subsection (a) of this section] (a) above.]

[13:16.1] *13:1-6.1* Commission to prescribe curriculum

[The basic course] A curriculum promulgated by the commission shall be [offered] **the minimum required curriculum** at a school holding commission certification. In addition to [this] the required curriculum, [the] a school may also offer, with commission approval, additional subjects and/or increase the time elements allocated to the [subject] **subjects in [the] a *[commission's]* *commission*curriculum. A trainee must complete not only the commission's minimum required curriculum, but also any additional subjects and/or increase in time elements approved by the commission.**

13:1-7.2 Responsibilities of School Director

(a) The School Director [, with respect to the basic course,] is vested with the power, responsibility and duty:
1.-7. (No change from proposal.)
8. To suspend or [remove] **dismiss a trainee who has demonstrated that he or she will be ineligible for commission certification under N.J.A.C. 13:1-5.1 or for unacceptable behavior, or for other good cause.** In such cases:
i.-iii. (No change from proposal.)
iv. The [principles] **principals** set forth in [subparagraph ii] (a) **8ii** above shall be notified in writing ***of*** the administrative disposition of [the matter] **a suspension or dismissal.**
9.-18. (No change from proposal.)

13:1-8.1 Investigation of police [officer] **officers** prior to acceptance into a basic course

(a) (No change from proposal.)
(b) **Additionally, any member of a fire department or force who is assigned to an arson investigation unit pursuant to Public Law 1981, Chapter 409, and all *[sheriff's]* *sheriffs'* officers, must undergo a medical examination given by a physician licensed to practice in New Jersey. The physician shall state, on a form prescribed by the commission, that the individual is medically fit to undergo training.**

13:1-9.8 Termination of a scholarship

A scholarship may be terminated if the scholarship recipient:
1.-3. (No change from proposal.)
4. [Terminated] **Terminates** his or her *[employment]* ***employment*** as a police officer.

13:1-11.1 Notice of appeal

All appeals to the commission shall be by a notice of appeal to the Executive Secretary setting forth the subject matter of the appeal, the relief sought and the grounds therefor. *[All appeals shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.]*

(a)

NEW JERSEY RACING COMMISSION**Harness Racing
Smoking Prohibited in Barn Areas****Adopted New Rule: N.J.A.C. 13:71-1.23**

Proposed: June 6, 1983 at 15 N.J.R. 873(b).
 Adopted: July 18, 1983 by New Jersey Racing Commission,
 Harold G. Handel, Executive Director.
 Filed: August 1, 1983 as R.1983 d.337, **without change**.

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

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 April 5, 1987.

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

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS**Maternity Leaves of Absence
Physician's Certificate; Purchase of Service
Credit****Adopted New Rule: N.J.A.C. 17:1-12.6**

Proposed: June 20, 1983 at 15 N.J.R. 1012(b).
 Adopted: July 27, 1983 by William J. Joseph, Director,
 Division of Pensions.
 Filed: July 28, 1983 as R.1983 d.334, **without change**.

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

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 May 15, 1988.

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

(c)

DIVISION OF PENSIONS**State Health Benefits Program
Premiums and Coverage; Administrative
Corrections****Adopted Amendment: N.J.A.C. 17:9**

Proposed: May 16, 1983 at 15 N.J.R. 792(b).
 Adopted: July 21, 1983 by State Health Benefits
 Commission, William J. Joseph, Secretary.
 Filed: July 26, 1983 as R.1983 d.330, **without change**.

Authority: N.J.S.A. 52:14-17.27.

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 May 16, 1988.

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

(d)

DIVISION OF PENSIONS**State Health Benefits Program
Terminating Employer; List of Names and
Addresses****Adopted Amendment: N.J.A.C. 17:9-1.5**

Proposed: May 16, 1983 at 15 N.J.R. 793(a).
 Adopted: July 21, 1983 by the State Health Benefits
 Commission, William J. Joseph, Secretary.
 Filed: July 26, 1983, as R.1983 d.332, **without change**.

Authority: N.J.S.A. 52:14-17.27.

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66 (1978):
 May 16, 1988.

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

(e)

DIVISION OF PENSIONS**State Health Benefits Program
Guidelines for Purchase of Contracts by Local
Employers****Adopted New Rule: N.J.A.C. 17:9-1.7**

Proposed: June 6, 1983 at 15 N.J.R. 884(a).
 Adopted: July 21, 1983 by State Health Benefits
 Commission, William J. Joseph, Secretary.
 Filed: July 26, 1983 as R.1983 d.331, **without change**.

Authority: N.J.S.A. 52:14-17.27.

Effective Date: August 15, 1983.
 Expiration Date pursuant to Executive Order No. 66(1978):
 May 16, 1988.

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

TREASURY-TAXATION

OTHER AGENCIES

(a)

(c)

DIVISION OF TAXATION

**HACKENSACK MEADOWLANDS
DEVELOPMENT COMMISSION**

**Sales and Use Tax
Household Soaps and Disposable Household
Paper Products: Exemption from Sales and
Use Tax**

**District Zoning Regulations
Official Zoning Map**

Adopted New Rule: N.J.A.C. 18:24-29

Adopted New Rule: N.J.A.C. 19:4-6.28

Proposed: May 16, 1983 at 15 N.J.R. 797(a).
Adopted: July 21, 1983 by John R. Baldwin, Director,
Division of Taxation.
Filed: July 21, 1983 as R.1983 d.324, **without change**.

Proposed: April 4, 1983 at 15 N.J.R. 532(a).
Adopted: June 27, 1983 by Hackensack Meadowlands
Development Commission, Anthony Scardino, Jr.,
Executive Director.
Filed: July 21, 1983 as R.1983 d.322, **with substantive
changes** not requiring additional public notice and
comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 54:32B-24 and P.L. 1982, c. 227.

Authority: N.J.S.A. 13:17-1 et seq.

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 15, 1983.

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
October 5, 1983.

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

Summary of Public Comments and Agency Responses:

COMMENT:

At the June 27, 1983 Commission meeting, Dominick Cassamassina, Director of the Hackensack Meadowlands Municipal Committee (HMMC) advised that the Committee was highly in favor of this change, and he commended the staff for considering a restudy of the balance of the land west of the Turnpike. Resolution No. 83-6 expressing affirmative support of the proposed Master Plan change was also received from the HMMC.

(b)

DIVISION OF TAXATION

COMMENT:

Thomas H. Bruinooge, Esq., representing the Berry's Creek Center Management Group urged the Commission to consider not just the 24-acre site to be rezoned, but to consider as well the impact that rezoning would have, given future development under the existing zoning on the adjacent 29 acres of Hartz-owned land presently zoned as "Highway Commercial." Mr. Bruinooge stated that his client would agree with the proposed zone change, but only if the balance of the Hartz property were rezoned from "Highway Commercial" to "Parkside Residential 2," so as to minimize the intensification of use, and traffic impacts of office development on the adjacent 29 acres.

**Transfer Inheritance Tax
Distribution by Agreement**

Adopted Amendment: N.J.A.C. 18:26-2.11

Proposed: May 16, 1983 at 15 N.J.R. 798(a).
Adopted: July 21, 1983 by John R. Baldwin, Director,
Division of Taxation.
Filed: July 21, 1983 as R.1983 d.323, **without change**.

RESPONSE:

At the June 27, 1983 Commission meeting, Chester Mattson, HMDC Director of Environmental Programs & Planning, outlined the history of this zoning amendment and stated that the shopping center which Hartz Mountain is proposing in the Service Highway Commercial zone would be a convenience center and not a shopping mall. Moreover, Hartz has agreed to reduce the shopping center from 350,000 to 250,000 square feet. A recommendation was made for ratification of the zoning amendment based on staff members belief that the proposal protects the Master plan and is consistent with it. Mr. Mattson also said that the result of traffic analysis was that this center would not adversely affect traffic under the worse circumstances. He felt Hartz was offering an admirable example of mass transportation planning, but that the HMDC would

Authority: N.J.S.A. 54:50-1.

Effective Date: August 15, 1983.
Expiration Date pursuant to Executive Order No. 66(1978):
August 15, 1983.

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

have to work with Hartz in the future for an expanded plan if one were proposed.

COMMENT:

Robert A. Goodsell, Esq., on behalf of CRUSADE, expressed opposition to the proposed rezoning to allow a community shopping center in Secaucus. In a memorandum dated June 3, 1983, Mr. Goodsell raised some of the following concerns:

I. The proposed shopping center is not a "Convenience Center" but a comparison goods center. Mr. Goodsell also expressed a need for the Commission to make a clear distinction between comparison goods stores and convenience goods stores.

II. The proposed shopping center will have a significant impact on the existing business Districts well beyond Secaucus.

III. As much as 25 percent of the current expenditures in existing central business will be diverted to the proposed shopping center, thereby having an adverse impact on his clients.

IV. To grant Hartz' rezoning request would be totally inconsistent with the Commission's Berry Creek Center decisions.

V. No adequate analysis of traffic impact has been provided by Hartz.

If the Commission were to grant the rezoning, Mr. Goodsell urged the Commission to force Hartz to abide by its own request. "In other words, if Hartz wants to build a **convenience** shopping center, then that center should be strictly limited to **convenience** goods stores as that term has been defined in the Schwartz Report."

RESPONSE:

Mr. Kenneth McPherson, on behalf of Hartz, prepared a memorandum dated June 3, 1983, responding to the concerns of the Berry's Creek Center Management Group and CRUSADE.

HMDC staff also prepared a memorandum for the HMDC Commissioners in response to comments received. After consideration of comments received and staff findings, the Commissioners ratified the rezoning subject to the following restrictions:

Full text of the adoption follows (additions shown in boldface with asterisks *thus*).

19:4-6.28 Official zoning map

The Hackensack Meadowlands District official zoning map dated November 1, 1972, is hereby made a part of these rules and regulations of the Hackensack Meadowlands Development Commission.

OFFICE OF ADMINISTRATIVE LAW NOTE: Administration Law Note: A map showing the proposed change in zoning designation was submitted as part of the Commission's notice of proposed rule. The proposed rule is adopted subject to the following restrictions:

***1. The subject property shall contain no more than 250,000 square feet of shopping facilities.**

2. The permitted shopping facilities shall include a supermarket (not less than 50,000 square feet); the remaining facilities shall offer only "convenience goods" as determined by the Chief Engineer except that a home improvement center (of not more than 50,000 square feet) may be included among the facilities.*

EMERGENCY ADOPTION

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Services Manual Dispensing Fee and Capitation Rates

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 10:51-1.7 and 3.15

Emergency Amendment Adopted: July 18, 1983, by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): July 18, 1983.

Emergency Amendment Filed: July 28, 1983 as R.1983 d.333.

Authority: N.J.S.A. 30:4D-6b(6), 7 and 7b, 4D-20, 24.

Emergency Amendment Effective Date: July 28, 1983.

Emergency Amendment Expiration Date: September 26, 1983.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before September 14, 1983. These submissions, and any inquiries about submissions and responses, should be addressed to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
324 East State Street
CN 712
Trenton, NJ 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The concurrent proposal is known as PRN 1983-447.

The agency emergency adoption and concurrent proposal follows:

Summary

Pharmacies that participate in the Medicaid and/or PAAD (Pharmaceutical Assistance for the Aged and Disabled) programs are reimbursed by the following method: cost of the drug, plus a dispensing fee. This emergency adoption will raise the dispensing fee by 20 cents (from \$2.58 to \$2.78). This fee increase pertains only to legend drugs.

The capitation fee for services to Medicaid patients in long term care facilities is also being increased by seven percent, or an increase of 2.8 cents per patient day.

The basis for the fee increase is the New Jersey Appropriations Act for FY 1984 (P.L. 1983, C. 240).

Social Impact

There should be a positive impact on both pharmaceutical providers and the community. The providers should continue to participate in both the Medicaid and PAAD programs, thereby enabling qualified individuals to receive necessary pharmaceutical services.

Economic Impact

The total cost of the fee increase has been projected to be approximately 2.5 million dollars. The cost to the state will be approximately 1.8 million dollars, with the Federal government contributing approximately \$650,000. The reason for the difference in Federal-State dollars is that only the Medicaid program is entitled to Federal matching funds. The PAAD program is wholly State funded.

The economic impact on pharmaceutical providers who participate in Medicaid and/or PAAD will vary, depending on the number of prescriptions filled under these programs.

There will be no cost to the Medicaid patient. The PAAD beneficiary is required to pay a \$2.00 copayment for each prescription.

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

10:51-1.17 Legend drug dispensing fee

(a) The dispensing fee for legend drugs, dispensed by providers having Retail Permits to patients other than those in long-term care facilities, shall be [2.58] **2.78**. Additional increments shall be given to pharmacy providers who provide the following:

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

10:51-3.15 Capitation of dispensing fee for legend drugs provided to long-term care patients

(a) The New Jersey Medicaid Program capitates the dispensing fee for legend drugs for patients in Medicaid approved long-term care facilities in accordance with the total number of Medicaid patient days in the facility(ies) serviced by the pharmacy.

1. Pharmacies with retail permits dispensing medication in a dispensing system in which a 24-hour supply of unit dose oral medication, both solid (i.e. tablets, capsules) and liquid formulations, is delivered for each patient daily, shall be reimbursed the cost of all reimbursable legend medication plus a fee of [\$.492] **\$.520** per patient day.

- i. (No change.)

2. Pharmacies with a retail permit dispensing medication in a dispensing system in which up to a one month supply of oral unit dose solid medication is delivered for each patient (i.e., unit dose solids, "bingo" card), shall be reimbursed the cost of all reimbursable legend medication plus a fee of [\$.383] **\$.411** per patient day.

3. Pharmacies with a retail permit dispensing medication in a dispensing system in which a maximum one month supply of medication is delivered for each patient monthly shall be reimbursed the cost of all reimbursable legend medication plus a fee of [\$.328] **\$.356** per patient day.

4. Pharmacies which provide ancillary computerized services, such as, but not limited to, continuously updated computerized patient profiles, clinical records (med sheets and physicians' orders

EMERGENCY ADOPTION

HUMAN SERVICES

on at least a monthly basis), etc. , will receive an added increment of \$.05 per patient day, thereby making the total fee [\$.542] **\$.570**, [\$.433] **\$.461** or [\$.378] **\$.406** depending upon the dispensing system used.

5. (No change.)

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WASTE MANAGEMENT

Solid Waste Facility Scales

Public Notice: Availability of Guidelines

Take notice that guidelines have been adopted by the Department of Environmental Protection to govern the installation and operation of scales to weigh solid waste at certain solid waste facilities. The guidelines have been adopted pursuant to P.L. 1983 c.93.

The Department intends to adopt rules concerning the installation and operation of scales, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The rules will be substantially the same as the guidelines which are the subject of this Public Notice.

Copies of the guidelines are available at the following location:

New Jersey Department of
Environmental Protection
Division of Waste Management
32 East Hanover Street
Trenton, NJ 08625

Copies of the guidelines may also be obtained by contacting Assistant Director Edward Londres at 609-292-6724.

Quality Planning Act" (N.J.S.A. 58:11A-1 et seq.) and the "Federal Water Pollution Control Act", as amended. This amendment changes the designated Sewerage Facility Planning Agency for Lower Alloways Creek Township from Salem County Department of Health to Lower Alloways Creek Township. The Water Quality Management Plan was amended on November 18, 1982, to designate Lower Alloways Creek Township as the Sewerage Planning Agency for the Hancocks Bridge portion of the Township.

All information dealing with the aforesaid water quality management plans and the "Water Quality Planning Act" is located at the Office of NJDEP, Division of Water Resources, Bureau of Planning and Standards located at 25 Arctic Parkway in the Township of Ewing, Mercer County. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Planning and Standards, at the NJDEP address cited above. All comments must be submitted by September 14, 1983. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendments. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to George Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

DIVISION OF WATER RESOURCES

Amendment to the Lower Delaware Water Quality Management Plan

Public Notice

Notice is hereby given that Lower Alloways Creek Township has applied to the New Jersey Department of Environmental Protection (NJDEP) for an amendment to the Lower Delaware Water Quality Management Plan. Lower Alloways Creek Township has requested to be the designated Sewerage Facility Planning Agency for the entire Township of Lower Alloways Creek, thereby removing this area from the jurisdiction of Salem County Department of Health, the agency that has an interim designation as the Sewerage Facility Planning Agency for parts of Salem County. The Sewerage Facility Planning Agency is provided for under the authority of the "Federal Water Pollution Control Act", as amended (33 U.S.C. 466 et seq.) for the purpose of providing comprehensive sewerage facilities planning.

This notice is being given to inform the public that NJDEP has prepared an amendment to the Lower Delaware Water Quality Management Plan which was adopted pursuant to the "Water

HUMAN SERVICES

(c)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Corrections to Administrative Code: N.J.A.C. 10:81-5.9 and 10.7

The readoption with technical changes of N.J.A.C. 10:81-2 and 3 (see the adoption in this Register) resulted in some recodification. Those changes have precipitated changes in the internal citations of the following:

At N.J.A.C. 10:81-5.9(f), change the internal reference citation from 10:81-3.18(m) to 10:81-3.18(l).

At N.J.A.C. 10:81-10.7(e)l, change the internal reference citation from 10:81-3.18(l)7 to 10:81-3.18(k)7.

(a)**DIVISION OF PUBLIC WELFARE****Assistance Standards Handbook****Corrections to Administrative Code: N.J.A.C.
10:82-4.11, 4.13 and 5.7**

Previous amendments to the New Jersey Administrative Code have precipitated the following changes in internal citations. The changes should be noted so that the cross-referencing at these citations is accurate.

At N.J.A.C. ~~10:82-4.11~~, change the internal reference citation from 10:82-2.4 to ~~10:82-2.3~~.

At N.J.A.C. ~~10:82-4.13(e)~~, change the internal reference citation from 10:82-2.4 to ~~10:82-2.3~~.

At N.J.A.C. ~~10:82-5.7~~, change the internal reference citation from 10:82-1.4(e) and 1.7 to simply ~~10:82-1.7~~.

(b)**DIVISION OF PUBLIC WELFARE****General Assistance Manual****Corrections to Administrative Code: 10:85-9.3
and 9.5**

Note that the internal references to the Code at the following citations are being changed at this time to bring them into correct format and assure correct specific reference.

At N.J.A.C. 10:85-9.3(b)4, change "subchapter 3 of this chapter" to N.J.A.C. 10:85-3.3(c)2ii and (e)2ii.

At N.J.A.C. 10:85-9.3(b)5 and 6, change "subchapter 3 of this chapter" to N.J.A.C. 10:85-3.3(e)2.

At N.J.A.C. 10:85-9.5(c)1, change N.J.A.C. 10:85-3.3 to N.J.A.C. 10:85-3.3(e)4.

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between August 16, 1982, and August 1, 1983, and which have not been adopted and filed by August 1, 1983. **The index does not contain rules proposed in this Register and listed in the Table of Rules in This Issue. These proposals will appear in the next Index of Proposed Rules.**

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:6A-5.3	Special Education Program: Appeals of ALJ decisions	6-20-83	15 N.J.R. 978(a)
1:30-3.8	Rulemaking: Agency status reports	11-1-82	14 N.J.R. 1185(a)
AGRICULTURE—TITLE 2			
2:2-1	Animal Health: readopt Reportable Diseases	8-1-83	15 N.J.R. 1202(a)
2:2-2	Readopt Brucellosis Control and Eradication	8-1-83	15 N.J.R. 1203(a)
2:2-3	Animal Health: readopt Tuberculosis Control and Eradication	8-1-83	15 N.J.R. 1203(b)
2:2-4	Readopt Swine Disease Control	8-1-83	15 N.J.R. 1204(a)
2:2-10	Repeal duplicate poultry and turkey rules	8-1-83	15 N.J.R. 1204(b)
2:3-1	Readopt Livestock and Poultry Importations	8-1-83	15 N.J.R. 1205(a)
2:6	Readopt Biological Products for Diagnostic and Therapeutic Purposes	8-1-83	15 N.J.R. 1205(b)
2:7	Readopt Poultry and Turkey Improvement Plans	8-1-83	15 N.J.R. 1206(a)
2:69	Readopt Commercial Fertilizers and Soil Conditioners	8-1-83	15 N.J.R. 1206(b)
2:69-1.11	Commercial values for fertilizers and conditioners	5-2-83	15 N.J.R. 658(a)
2:71-1	Readopt Quality of Individual Shell Eggs	7-5-83	15 N.J.R. 1050(a)
2:71-2	Readopt Grades of Fruits and Vegetables	7-5-83	15 N.J.R. 1051(a)
2:72-1.1	Readopt Bonding Requirement of Commission Merchants, Dealers, Brokers, Agents	7-5-83	15 N.J.R. 1051(b)
2:74-1	Readopt Controlled Atmosphere Storage for Apples	7-5-83	15 N.J.R. 1052(a)
BANKING—TITLE 3			
3:1-9	Readopt Home Mortgage Disclosure rules	7-18-83	15 N.J.R. 1146(a)
3:1-13.1	Insurance tie-in prohibition by lenders	6-6-83	15 N.J.R. 820(a)
3:1-13.1	Public hearing: insurance tie-in prohibition by lenders	8-1-83	15 N.J.R. 1207(a)
3:1-14	Revolving Credit Equity Loans	7-18-83	15 N.J.R. 1147(a)
3:7-4	Readopt Notice of Maturity on Long-Term Time Deposits	7-5-83	15 N.J.R. 1053(a)
3:30-1.3, 1.4	Maturity notice on fixed-term and variable savings accounts	8-1-83	15 N.J.R. 1207(b)
CIVIL SERVICE—TITLE 4			
4:1-5	Readopt appeals and hearings rules	7-18-83	15 N.J.R. 1148(a)
4:1-8.5	Promotion upon waiver of competitive examination	6-20-83	15 N.J.R. 979(a)
4:1-18.9, 18.10	Flexitime and operation hours (State)	3-21-83	15 N.J.R. 373(a)
4:1-18.11	Alternative workweek programs (State)	3-21-83	15 N.J.R. 374(a)
4:2-5	Repeal (see 4:1-5)	7-18-83	15 N.J.R. 1148(a)
4:3-5	Repeal (see 4:1-5)	7-18-83	15 N.J.R. 1148(a)
4:3-6.7	Repeal: Modification of sheriff's officer series	6-6-83	15 N.J.R. 820(b)
COMMUNITY AFFAIRS—TITLE 5			
5:3-2.1	Rooming house licensure: nonpublic records	7-18-83	15 N.J.R. 1152(a)
5:10	Readopt Hotel and Multiple Dwellings rules	5-16-83	15 N.J.R. 727(a)
5:10-1.3	State-local cooperative housing inspection	7-5-83	15 N.J.R. 1054(a)
5:10-1.4, 1.6	Row house and retirement community fire safety	7-5-83	15 N.J.R. 1054(b)
5:26-2.3, 3.1, 3.2, 3.4, 4.1-4.4, 5.2.	Planned real estate development full disclosure	7-5-83	15 N.J.R. 1055(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
6.3, 9.1, 10.1, 10.2, 11.1			
5:26-2.4	Planned real estate development registration fees	7-5-83	15 N.J.R. 1059(a)
5:27-1.5	Certificate of occupancy for boarding house change of use	6-6-83	15 N.J.R. 821(a)
5:80-2	Private investment in HFA-financed housing	8-1-83	15 N.J.R. 1208(a)
5:80-3.1	HFA housing projects: Maximum family income	8-1-83	15 N.J.R. 1212(a)
EDUCATION—TITLE 6			
6:3-3.1-3.5	Readopt rules on withdrawal from limited purpose districts	5-16-83	15 N.J.R. 728(a)
6:8-1.1, 3.4, 3.8, 4.2, 4.6	Statewide testing program	6-20-83	15 N.J.R. 979(b)
6:11-3.12, 4.7	Hiring coaches for interscholastic athletics	7-18-83	15 N.J.R. 1152(b)
6:11-4	Readopt Types of Teaching Certificates	7-18-83	15 N.J.R. 1154(a)
6:11-4.2, 4.3, 4.4	Temporary, provisional and emergency certificates	9-20-82	14 N.J.R. 1011(a)
6:20-2.10	Local districts: petty cash fund	6-20-83	15 N.J.R. 982(a)
6:20-4.1, 4.2	Tuition for private schools for the handicapped	5-16-83	15 N.J.R. 730(a)
6:21-1.4	Useful life of school buses	6-20-83	15 N.J.R. 982(b)
6:28	Readopt Special Education rules	5-16-83	15 N.J.R. 732(a)
6:28-11	Programs for preschool handicapped children	4-4-83	15 N.J.R. 556(a)
6:29-6.3	Hiring coaches for interscholastic athletics	7-18-83	15 N.J.R. 1152(b)
6:39-1.1-1.4	Statewide testing program	6-20-83	15 N.J.R. 979(b)
ENVIRONMENTAL PROTECTION—TITLE 7			
7:1D-1	Emergency water projects: Allocation of costs	2-7-83	15 N.J.R. 117(a)
7:1G	Loan procedures: Water supply interconnections	9-20-82	14 N.J.R. 1012(a)
7:1I	Sanitary Landfill Facility Contingency Fund	8-1-83	15 N.J.R. 1213(a)
7:2	State Park Service rules	6:20-83	15 N.J.R. 983(a)
7:7A-1.13	Wetlands maps in Cape May County	12-6-82	14 N.J.R. 1330(a)
7:7A-1.13	Wetlands in Middlesex County	3-21-83	15 N.J.R. 386(a)
7:9-10	Repeal duplicative review of Pinelands and coastal area sewerage installation	7-18-83	15 N.J.R. 1155(a)
7:13-1.11	Floodway delineations in Mercer County	10-18-82	14 N.J.R. 1132(a)
7:13-1.11	Floodway delineations in Mullica River Basin	10-18-82	14 N.J.R. 1133(a)
7:13-1.11	Floodway delineations in Monmouth County	2-22-83	15 N.J.R. 198(a)
7:13-1.11	Floodways along the Raritan River	5-2-83	15 N.J.R. 659(a)
7:13-1.11	Floodway delineation in Montvale, Bergen County	6-20-83	15 N.J.R. 989(a)
7:14-2.13, 2.14, 2.15	Construction of wastewater treatment facilities	10-18-82	14 N.J.R. 1135(a)
7:14-4.4	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:14A-1.9, 10.1, 10.5, 13.1, 13.2, 13.5-13.8	NJPDES: local control over dischargers	7-5-83	15 N.J.R. 1059(b)
7:15	Water quality management planning and implementation process	5-16-83	15 N.J.R. 765(b)
7:19-4	Diversion assessment and payment for public water supply	3-7-83	15 N.J.R. 276(a)
7:20A	Water diversion for growing use	11-15-82	14 N.J.R. 1249(a)
7:20A	New comment period: Water diversion for growing use	11-15-82	15 N.J.R. 73(a)
7:25-6	1984-85 Fish Code	8-1-83	15 N.J.R. 1217(a)
7:25-7.13	Crab dredging off Atlantic coast	3-21-83	15 N.J.R. 388(a)
7:25-9.2	Penalties for harvesting undersized clams	8-1-83	15 N.J.R. 1220(a)
7:25A-1.1, 1.2, 2.1, 2.3-2.5	Oyster dredging and management	6-20-83	15 N.J.R. 990(a)
7:26-1.4, 2.6, 2.11, 2.13, 3.5	Solid waste management	5-2-83	15 N.J.R. 660(a)
7:26-1.4, 9.1, 12.1	Hazardous waste recycling	12-20-82	14 N.J.R. 1435(a)
7:26-1.4, 9.1, 12.1	Hazardous waste: Gas cylinder exemption	3-21-83	15 N.J.R. 390(a)
7:26-8.13, 8.16	Dioxin and dibenzofuran contamination (with Emergency Adoption)	7-18-83	15 N.J.R. 1184(a)
7:26-12.3	Permits for existing hazardous waste facilities	7-5-83	15 N.J.R. 1063(a)
7:26-13.7	Siting of commercial hazardous waste facilities	7-5-83	15 N.J.R. 1064(a)
7:28-1, 2	Radiation protection	3-21-83	15 N.J.R. 391(a)
7:30	Pesticide Control Code: Extension of comment period	9-7-82	14 N.J.R. 946(a)
7:36-5.2	Green acres additional funding	12-20-82	14 N.J.R. 1436(a)
7:38-1	Wild and Scenic Rivers System	11-15-82	14 N.J.R. 1256(a)
HEALTH—TITLE 8			
8:21-9	Readopt licensing rules for food and cosmetic plants	4-18-83	15 N.J.R. 609(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
8:33F	Regional renal disease services: certification of need	8-1-83	15 N.J.R. 1221(a)
8:33H-3.10	Long-term care: bed need methodology	8-1-83	15 N.J.R. 1226(a)
8:43-3.22	Fire protection in residential health care	6-20-83	15 N.J.R. 991(a)
8:43-4.14	Repeal (see 8:43-7)	6-20-83	15 N.J.R. 992(a)
8:43-7	Resident rights in residential health care	6-20-83	15 N.J.R. 992(a)
8:43-8	Residential health care: Maintenance and monitoring services	3-7-83	15 N.J.R. 309(b)
8:43A	Readopt rules on Ambulatory Care Facilities	6-20-83	15 N.J.R. 994(a)
8:43B-6	Readopt Hospital Medical Staff rules	7-5-83	15 N.J.R. 1065(a)
8:44	Readopt Operation of Clinical Laboratories	6-20-83	15 N.J.R. 995(a)
8:70	Readopt: Drug Evaluation and Acceptance Criteria	6-6-83	15 N.J.R. 845(a)
8:71	Generic drug list additions (see 15 N.J.R. 90(a), 147(e), 690(c))	8-16-82	14 N.J.R. 888(a)
8:71	Additions to generic drug list (see 15 N.J.R. 148(a))	10-4-82	14 N.J.R. 1077(a)
8:71	Oxycodones; Schedule II policy	10-4-82	14 N.J.R. 1077(a)
8:71	Generic drug list changes (see 15 N.J.R. 339(a), 691(a))	11-15-82	14 N.J.R. 1278(a)
8:71	Generic drug list changes (see 15 N.J.R. 1100(c))	2-7-83	15 N.J.R. 126(b)
8:71	Generic drug list additions (see 15 N.J.R. 691(b), 1100(a))	2-7-83	15 N.J.R. 127(a)
8:71	Generic drug list additions	3-21-83	15 N.J.R. 420(a)
8:71	Additions to generic drug list	6-6-83	15 N.J.R. 846(a)
HIGHER EDUCATION—TITLE 9			
9:2-3.8	Layoff notice at State Colleges	5-2-83	15 N.J.R. 663(a)
9:3-1.1	Approval of renovation projects	7-5-83	15 N.J.R. 1070(a)
9:4-5.7	Layoff notification at county colleges	7-5-83	15 N.J.R. 1070(b)
9:7-2.3	Foreign nationals and student assistance eligibility	7-5-83	15 N.J.R. 1070(a)
9:9	Readopt Student Loan Program rules	4-4-83	15 N.J.R. 475(a)
9:12-1.11	Educational Opportunity Fund: Minimum academic progress	2-22-83	15 N.J.R. 207(a)
HUMAN SERVICES—TITLE 10			
10:3-2	Capital Funding Agreement for community-based facilities	7-5-83	15 N.J.R. 1072(a)
10:5	Social Services Block Grant (Title XX)	2-22-83	15 N.J.R. 208(a)
10:43	Readopt Need for Guardianship rules	7-5-83	15 N.J.R. 1111(a)
10:44	Readopt Standards for Public Institutions for Mentally Retarded	7-18-83	15 N.J.R. 1156(a)
10:45	Readopt Guardianship Services for mentally retarded	7-5-83	15 N.J.R. 1073(a)
10:49-1.4	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:49-1.8	Medicaid: prior authorization and emergency situations	6-20-83	15 N.J.R. 997(a)
10:49-2	Readopt rules on availability of Medicaid program information	6-20-83	15 N.J.R. 998(a)
10:49-6	Readopt Medicaid Administrative Provisions	7-5-83	15 N.J.R. 1075(a)
10:50	Readopt Transportation Services Manual	6-20-83	15 N.J.R. 999(a)
10:54-1.7	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:55-1.1, 1.2, 1.7, 1.9	Prosthetic and orthotic "approved" providers defined	9-20-82	14 N.J.R. 1032(a)
10:56-1.14, 1.21, 2.2, 3.3, 3.6 3.7, 3.15	Orthodontic treatment by general practitioners	7-18-83	15 N.J.R. 1160(a)
10:56-1.14, 3.4	Dental Services: X-ray reimbursement	12-6-82	14 N.J.R. 1338(a)
10:60-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:62-3.8	Vision Care Manual: lens and frame envelopes	5-16-83	15 N.J.R. 783(a)
10:63-1.4	Initial visit for rehabilitation services	5-16-83	15 N.J.R. 782(a)
10:66-1.6, 3.3	Proposal withdrawal: Personal care services	3-21-83	15 N.J.R. 420(b)
10:66-3.3	Independent Clinic Services: Procedure code revisions	12-6-82	14 N.J.R. 1339(a)
10:69B	Lifeline Credit and Tenants Lifeline Assistance Programs	8-1-83	15 N.J.R. 1227(a)
10:85-3.1	GAM: Household size	2-22-83	15 N.J.R. 212(a)
10:85-3.2(f)	GAM: Residency and municipal responsibility	3-7-83	15 N.J.R. 313(a)
10:85-5.3	GAM: DRG rates for outpatient services	5-2-83	15 N.J.R. 666(a)
10:87-3.23	Food Stamp Program: Student eligibility	1-3-83	15 N.J.R. 12(a)
10:87-12.3, 12.4, 12.7	FSP: Maximum income eligibility limits (with Emergency Adoption)	7-18-83	15 N.J.R. 1185(a)
10:89-3.1	Home Energy Assistance: Automatic payments	9-7-82	14 N.J.R. 957(a)
10:90-2.2, 2.4, 4.1-4.4, 4.6, 4.8, 5.3, 5.6, 6.1	Monthly Reporting Policy Handbook	7-18-83	15 N.J.R. 1162(a)
10:94-4.1-4.7, 5.1-5.7	Medicaid Only: readopt financial eligibility standards	6-20-83	15 N.J.R. 999(b)
10:94-5.4, 5.5, 5.6	Medicaid Only: eligibility computation amounts (with Emergency Adoption)	7-18-83	15 N.J.R. 1187(a)
10:100-1.23	SSI payment levels: recodified as 10:100-App. A (with Emergency Adoption)	7-18-83	15 N.J.R. 1188(a)
10:100-App. A	SSI payment levels (with Emergency Adoption)	7-18-83	15 N.J.R. 1188(a)
10:122-1.1-1.3, 2.1,	Combined standards for child care centers	6-6-83	15 N.J.R. 850(a)

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
2.2, 3.2, 3.3, 4.2-4.7, 5.1-5.4, 6.1-6.6, 6.9, 7.3			
10:123-1	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:123-2.4	Rooming houses: visits by county welfare staff	7-18-83	15 N.J.R. 1168(a)
10:125	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:126	Repeal (see 10:5)	2-22-83	15 N.J.R. 208(a)
10:127	Residential child care facilities	4-4-83	15 N.J.R. 486(a)
10:130-3	Funding of shelters for victims of domestic violence	7-18-83	15 N.J.R. 1169(a)
INSURANCE-TITLE 11			
11:3-6.1-6.4	Automobile insurance identification cards	3-7-83	15 N.J.R. 315(a)
11:3-12	Automobile rate filers: flat uniform premium tax and fees	7-18-83	15 N.J.R. 1170(a)
11:10	Dental plan organizations	3-21-83	15 N.J.R. 423(a)
LABOR-TITLE 12			
12:195	Readopt rules on Carnival-Amusement Rides	6-20-83	15 N.J.R. 1002(a)
LAW AND PUBLIC SAFETY-TITLE 13			
13:2-24.6	Alcoholic beverage wholesale pricing	1-3-83	15 N.J.R. 13(a)
13:2-24.11	ABC: manufacturers' rebates and coupons	6-20-83	15 N.J.R. 1003(a)
13:4-2.3	Fact-finding conferences on discrimination complaints	4-4-83	15 N.J.R. 500(a)
13:4-12.1	Discrimination complaints and hearings before OAL	4-4-83	15 N.J.R. 501(a)
13:18-10	Readopt Unsatisfied Claim and Judgment Fund rules on excess medical benefits	6-6-83	15 N.J.R. 872(a)
13:19-10	Point system; motorized bicycle offenses	6-20-83	15 N.J.R. 1004(a)
13:19-11	Out-of-state conviction for drunk driving	6-20-83	15 N.J.R. 1009(a)
13:20-7.4	Motor vehicle inspection: repeal odd-even system (with Emergency Adoption)	8-1-83	15 N.J.R. 1261(a)
13:21-19	Motor Vehicle Franchise Committee: procedural rules	8-1-83	15 N.J.R. 1232(a)
13:21-21	Used motor vehicles: temporary transit permits	8-1-83	15 N.J.R. 1233(a)
13:25-6	Repeal (see 13:19-10)	6-20-83	15 N.J.R. 1004(a)
13:25-9	Approved helmets for motorized bicycle operators	5-2-83	15 N.J.R. 684(a)
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16:28-1.75	Speed rates on Route 36 in Monmouth County	8-1-83	15 N.J.R. 1236(a)
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16:75	NJ TRANSIT: bus allocation rules	6-6-83	15 N.J.R. 881(a)
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17:19-2	Contractor classification: Bid prequalification	2-22-83	15 N.J.R. 235(a)
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18:7-5.2	Correction: Corporation Business Tax	11-1-82	14 N.J.R. 1299(b)
18:7-5.2	Corporation Business Tax: Entire net income	3-21-83	15 N.J.R. 427(a)
18:9	Readopt Business Personal Property Tax rules	7-5-83	15 N.J.R. 1081(a)
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18:14-3.9	Local property tax: senior citizens' deduction	6-6-83	15 N.J.R. 885(a)
18:24	Readopt Sales and Use Tax rules	7-5-83	15 N.J.R. 1086(a)
18:24-4.6, 5.16	Sales tax and capital improvements	10-4-82	14 N.J.R. 1086(a)
18:24-7.19	Sales tax moratorium on mobile homes	7-5-83	15 N.J.R. 1088(a)
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19:47-2.12	Blackjack: drawing of additional cards	8-1-83	15 N.J.R. 1242(a)
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New Publications from the Office of Administrative Law

**CONTESTED CASE HANDBOOK: A Guide to the
Administrative Hearing Process in
Public Assistance Cases**

The CONTESTED CASE HANDBOOK is a layman's explanation of welfare "fair" hearings before an administrative law judge, prepared especially for the person appearing without a lawyer, or the non-lawyer appearing with a party at a hearing. It discusses the common procedures and problems you might encounter in a hearing involving AFDC, General Assistance, or Food Stamps.

The CONTESTED CASE HANDBOOK traces the procedural steps and some of the rules of the hearing, explains the notices participants receive from the Office of Administrative Law, and what to do about them. It clearly outlines the steps up to, during and after the hearing.

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THE SPECIAL EDUCATION MANUAL is a concise guide prepared for those involved in administrative hearings concerning the education of students with special needs. In plain language, it gives the administrative hearing process conducted by the Office of Administrative Law as part of the Special Education Program in New Jersey. It tells how to request a hearing, when and how to ask for "emergency relief". It explains the notices which parents will receive, the responsibilities of the Department of Education and a board of education in this process, and the due process rights of parents and guardians. It discusses the "discovery" (exchange of information) process, the purpose of a "settlement conference", and what to do at that conference.

The SPECIAL EDUCATION MANUAL also tells how and when hearings are scheduled and how to prepare for a special education hearing, and explains the right to request an independent evaluation of a student. It details how a hearing is conducted, who may appear, how a decision is rendered, and how it may be appealed. A special feature cross-references each step of the hearing process to the appropriate Office of Administrative Law hearing rule in the New Jersey Administrative Code, N.J.A.C. 1:6A. \$2

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with Case Notes on Important Decisions involving the
Application and Interpretation of ABC Rules**

This handbook contains all Alcoholic Beverage Control rules promulgated through June 21, 1982 in the New Jersey Register, and features a comprehensive Cross-Reference Table relating current New Jersey Administrative Code citations to the former Rule and Regulation Numbers of the Division of Alcoholic Beverage Control. In addition, individual rules are annotated with notes on selected cases involving rule interpretation and application. The Case Notes include New Jersey Superior Court and Supreme Court decisions, initial OAL decisions, and agency appellate and disciplinary proceedings as reported in ABC Bulletins. \$5

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