

NEW JERSEY



REGISTER

IN THIS ISSUE "INDEX OF ADOPTED RULES"

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RULE PROPOSALS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Jurisdiction of the Office of Administrative Law

Proposed Amendment: N.J.A.C. 1:1-2.2

Authorized By: Ronald I. Parker, Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5e, f and g.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-378.

The agency proposal follows:

Summary

N.J.A.C. 1:1-2.2(d) sought to give the Office of Administrative Law jurisdiction over all issues lawfully before the agency transmitting a case to the Office of Administrative Law. After one and one-half years of experience with the rule,

the Office of Administrative Law has concluded that the rule is unnecessary. The Office of Administrative Law's original fears concerning abuses of the single controversy doctrine have proven unfounded. In addition, questions concerning a possible conflict with the decisions of the Supreme Court of New Jersey in

In re Kallen, 92 N.J. 14 (1983) and In re Uniform Adm'n. Procedure Rules, 90 N.J. 85 (1982) have been raised. Accordingly, the Office of Administrative Law intends to delete N.J.A.C. 1:1-2.2(d).

Social Impact

The deletion of N.J.A.C. 1:1-2.2(d) will remove some unnecessary conflict between the Office of Administrative Law and a few agencies. However, the deletion is unlikely to change existing transmittal practices.

The Office of Administrative Law is confident that agencies will continue to transmit disputes to the Office of Administrative Law in a form which will permit administrative law judges acting under N.J.S.A. 52:14B-10(c) to make findings of fact and conclusions of law and to render initial decisions which are final in form.

Economic Impact

The deletion of N.J.A.C. 1:1-2.2(d) will not cause any economic impact on the OAL, the agencies or the public since the rule simply stated a procedural matter of a non-economic nature.

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

1:1-2.2 Jurisdiction of the Office of Administrative Law
(a)-(c) (No change.)

[(d) Upon transmission of a case, the Office of Administrative Law shall acquire jurisdiction to hear all issues in the case lawfully before the transmitting agency and which have not been finally decided by the agency head, except that:

1. The agency head may exercise the discretion to retain and hear personally an application for emergency relief pursuant to N.J.A.C. 1:1-9.6 (Emergency Relief);

2. Upon request of the agency head and agreement of the parties, the Office of Administrative Law shall relinquish jurisdiction over any or all issues in a case to the transmitting

NEW JERSEY REGISTER

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agency, so that the agency head may personally hear those issues; and

3. Upon motion of a party and agreement of the agency head, an administrative law judge may return any or all issues in a case to the transmitting agency, so that the agency head may personally hear those issues.]

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Agriculture Development Committee Soil and Water Conservation Project Cost-Sharing

Proposed New Rule: N.J.A.C. 2:76-5

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

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-352.

The agency proposal follows:

Summary

One of the primary provisions of the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, is to provide for funding of soil and water conservation projects on agricultural lands enrolled in a farmland preservation program or a municipally approved farmland preservation program. Qualified landowners or authorized farm operators are eligible to apply for cost-share assistance from the State for soil and water conservation projects. Soil and water conservation projects are projects that are designed for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity.

The proposed new rules identify State Agriculture Development Committee and county agriculture development board responsibilities for allocating cost-share funds and for authorization of payments for approved soil and water conservation projects.

Social Impact

The proposed new rules will have a favorable social impact throughout the agricultural community by promoting interaction between the State Agriculture Development Committee, the State Soil Conservation Committee, county agriculture development boards and farmers. The proposed new rules as established by the committee, are an integral part of the soil and water cost-share program. The proposed rules will be utilized in conjunction with rules promulgated by the State Soil Conservation Committee.

The availability of cost-share funds will encourage farmers to install the proper soil and water conservation measures on their lands. Incorporating these practices into a technically sound farm conservation plan will increase crop production and enhance and protect the enforcement by minimizing soil loss and controlling runoff of fertilizers, herbicides and animals wastes into nearby streams.

Economic Impact

The proposed new rules will have a positive economic impact on the Garden State by encouraging farmers to invest in their agricultural operations. This investment, through the installation of soil and water conservation practices will not only conserve soil and water resources but will improve the overall efficiency and productivity of the farm. Capital investment by the State through cost-share programs has been authorized by the enactment of the Farmland Preservation Bond Act of 1981. The Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, is the implementing legislation which provides for State matching grants for up to 50 percent of the cost of projects. As an added incentive, a county may also provide funding to further reduce costs incurred by the farmer.

In order to effectively implement this program and to assure that State funds are properly expended, the rules clarify State Agriculture Development Committee and board responsibilities for determining cost-share limitations and for directing payments to the landowner.

Full text of the proposed new rule follows.

SUBCHAPTER 5. SOIL AND WATER CONSERVATION PROJECT COST-SHARING

2:76-5.1 Applicability

This subchapter identifies State Agriculture Development Committee rules which provide for persons enrolled in a farmland preservation program or a municipally approved farmland preservation program to apply for and receive grants for soil and water conservation projects. These rules shall be utilized in conjunction with N.J.A.C. 2:90-2 and 2:90-3, promulgated by the State Soil Conservation Committee, which prescribes procedures for development of conservation plans and approval of projects.

2:76-5.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings:

“Board” means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional

agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

“Committee” means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

“Development easement” means an interest in land, less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as determined by and acquired under the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and any relevant rules or regulations promulgated pursuant thereto.

“Farmland preservation program” means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and the maintenance and support of increased agricultural production as the first priority use of that land.

“Fund” means the “Farmland Preservation Fund” created pursuant to the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276.

“Municipally approved farmland preservation program”, hereinafter referred to as “municipally approved program,” means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and the maintenance and support of increased agricultural production as the first priority use of that land. Any municipally approved program shall be established pursuant to N.J.S.A. 4:1C-21.

“Secretary” means the Secretary of Agriculture.

“Soil and water conservation project”, hereinafter referred to as project, means any project designed for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity.

“Soil conservation district” means a governmental subdivision of this State organized in accordance with the provisions of N.J.S.A. 4:24-1 et seq.

“State Soil Conservation Committee” means an agency of the State established pursuant to N.J.S.A. 4:24-1 et seq.

2:76-5.3 Approved practices and cost-share limitations

(a) The State Soil Conservation Committee, pursuant to procedures established in N.J.A.C. 2:90-2, shall approve projects that are eligible for cost-sharing.

(b) The following cost-share limitations shall be applicable for soil and water conservation projects:

1. The State Agriculture Development Committee shall determine the limits of funding for the following:

- i. Allocation from the fund for soil and water conservation project grants;
- ii. Maximum allocation, on a Statewide basis, per eligible applicant, or unit of land, where a development easement has not been permanently retired;
- iii. Maximum allocation, on a Statewide basis, per eligible applicant, or unit of land, where a development easement has been permanently retired.

2. The committee shall inform the board of Statewide maximum funding limitations for project cost-sharing.

3. The board shall, on a jurisdiction wide basis adopt the committee’s maximum per eligible applicant or unit of land allocation or establish a lower maximum on a uniform basis.

4. The board shall inform the soil conservation district of the maximum funding available to persons enrolled in a farmland preservation program or municipally approved program who apply to the soil conservation district for grants for projects.

2:76-5.4 Eligible applicants

(a) Any landowner or farm operator as an agent for the landowner who is in a farmland preservation program or a municipally approved program shall be eligible to apply for a grant for projects.

(b) The farm operator, as an agent for the landowner, shall be designated in writing by the landowner.

2:76-5.5 Submission of application

(a) An applicant shall apply to the soil conservation district and the board for a grant for a project pursuant to N.J.A.C. 2:90-3.

2:76-5.6 Approval for project funding

(a) For projects where the applicant provides at least 50 percent of the project cost without assistance from the county and upon the soil conservation district’s approval in accordance with N.J.A.C. 2:90-3, the following procedures shall apply:

1. The application shall be forwarded to the State Soil Conservation Committee for approval;

2. A copy of the approved application shall be sent to the board for its information.

(b) For projects where the applicant receives financial assistance from county funds for the cost of projects and upon soil conservation district approval in accordance with N.J.A.C. 2:90-3, the following procedures shall apply:

1. The soil conservation district approved application shall be forwarded to the board for concurrence;

2. Following board approval, the application shall be forwarded to the State Soil Conservation Committee for approval.

(c) The State Soil Conservation Committee upon review and verification of conformance with this subchapter, N.J.A.C. 2:90-2 and 2:90-3 shall recommend funding approval by the committee.

(d) The committee shall review and approve, conditionally approve or disapprove applications for project funding and;

1. Certify that the land is part of a municipally approved program or farmland preservation program;

2. Proceed to secure project funding when approval has been granted; and

3. Notify the soil conservation district of committee’s action (informational copy sent to the State Soil Conservation Committee and the board).

2:76-5.7 Payment

(a) Upon project completion, as verified by the soil conservation district, the applicant shall request payment pursuant to procedures established by N.J.A.C. 2:90-3.

(b) The committee, following State Soil Conservation Committee verification of compliance with N.J.A.C. 2:90-2

and 2:90-3, shall request the Secretary to direct payment to the applicant. The State Soil Conservation Committee, soil conservation district and board shall be advised to such action.

(a)

DIVISION OF RURAL RESOURCES

**State Agriculture Development Committee
Acquisition of Development Easements**

Proposed New Rule: N.J.A.C. 2:76-6

Authorized By: Arthur R. Brown, Jr., Chairman, State Agriculture Development Committee.
Authority: N.J.S.A. 4:1C-5f.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-358.

The agency proposal follows:

Summary

The acquisition of development easements as provided for in the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, is an effort to encourage the preservation of agricultural lands to protect the State's diminishing farmland resources. Landowners that are in a farmland preservation program or municipally approved farmland preservation program may voluntarily apply to a county agriculture development board to sell a development easement. Funding for this purpose is authorized by the Farmland Preservation Bond Act of 1981, which provides for matching grants to counties and municipalities for up to 50 percent of the cost for acquisition of the development easement.

Once a development easement has been purchased, a restriction is attached to the deed which permanently prohibits any non-agricultural development from occurring on those lands. This restriction runs with the land and is binding upon every successor. Since the landowner still retains title to the land, he or she may sell the land for its farm value with the restrictions attached.

The proposed new rule identifies procedures for submitting an application for development easement sale, State Agriculture Development Committee and board responsibilities for reviewing the applications, appraisal procedures and conditions of easement purchase.

Social Impact

Implementation of the proposed new rule will have a positive social impact by combining the efforts of local units of government, farmers and the State to retain agriculture and agricultural land in New Jersey.

The proposed new rule provides a means whereby prime agricultural lands can be permanently restricted to agricultural use and production through the purchase of development easements. This technique of agriculture retention is not a taking of rights by the State but instead is a voluntary effort on the part of the landowner.

Permanently retaining lands in agricultural use will benefit all citizens of the State by providing a local food source, agricultural open space and other natural resource conservation amenities that are provided by a strong agricultural industry.

Economic Impact

The proposed new rule will assist local boards and the State Agriculture Development Committee in properly evaluating where Farmland Preservation Funds and local funds will be expended for development easement acquisitions. From the public's perspective, this will ensure that sound and dependable valuation estimates and reviews are performed.

This technique of agriculture retention will have a positive economic impact by providing farmers with an incentive to invest in their farming operations for the long term. In some cases, compensation received from the development rights sale will be reinvested into the farm operation. Stabilizing agriculture in an area will aid in developing proper land use patterns for both agriculture and economic development.

Full text of the proposed new rule follows.

SUBCHAPTER 6. ACQUISITION OF DEVELOPMENT EASEMENTS

2:76-6.1 Applicability

The principal purpose for acquisition of development easements is for the long term preservation of agricultural lands in order to maintain and enhance the agricultural industry in the State. These lands shall be retained for agricultural production and shall be restricted from any non-agricultural development.

2:76-6.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings:

"Application" means a standard form adopted by the State Agriculture Development Committee.

"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

"Cost" as used with respect to cost of development easements includes, in addition to the usual connotations thereof, the cost of inspection, appraisal, legal, financial, and other professional services, estimates and advice; and the cost of organizational, administrative and other work and services, including salaries, supplies, equipment and materials.

"Development easement" means an interest in land, less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as deter-

mined by and acquired under the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and any relevant rules or regulations promulgated pursuant thereto.

“Farmland preservation program” means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and the maintenance and support of increased agricultural production as the first priority use of that land.

“Governing body” means, in the case of a county, the board of chosen freeholders, and in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality.

“Municipally approved farmland preservation program”, hereinafter referred to as “municipally approved program”, means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and the maintenance and support of increased agricultural production as the first priority use of that land. Any municipally approved program shall be established pursuant to N.J.S.A. 4:1C-21.

“Secretary” means the Secretary of Agriculture.

2:76-6.3 Eligible applicants

(a) Any landowner who is in a farmland preservation program or a municipally approved program shall be eligible to apply to the board to sell a development easement.

2:76-6.4 Application

The landowner shall submit a completed application to the board for review.

2:76-6.5 Preliminary board review

(a) The board shall review and evaluate all applications to determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Landowner’s asking price;
2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;
3. The degree of imminence of change of the land from productive agriculture to nonagriculture use; and
4. Available funding.

(b) The board shall forward a copy of the application and recommendations to the committee for preliminary review.

2:76-6.6 Preliminary committee review

(a) Upon receipt of an application from the board, the committee shall review and evaluate the application to determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Landowner’s asking price;
2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;

3. The degree of imminence of change of the land from productive agriculture to nonagricultural use;

4. Available State funds.

(b) The committee shall forward its recommendation(s) to the board.

2:76-6.7 Municipal review

(a) Provided the board and the committee have determined that the land is suitable for development easement purchase, the board shall forward a copy of the application to the municipal governing body for review.

(b) Unless previously granted by prior ordinance, the municipal governing body shall by resolution approve or disapprove the application and so notify the board.

2:76-6.8 Appraisals

(a) Two appraisals shall be conducted on lands that have received board, committee, and municipal approvals.

(b) The procedure for conducting and reviewing appraisals shall be as follows:

1. The committee shall adopt a list of appraisers;
2. The board in accordance with county procedures shall select two appraisers from the list adopted by the committee;
3. Appraisers shall perform appraisals in accordance with procedures detailed in the appraiser’s handbook. (The committee shall prepare an appraiser’s handbook and make it available to the boards.);
4. Upon completion of the appraisals, the appraisers shall forward appraisal reports directly to the committee;
5. The committee shall appoint a review appraiser to evaluate the two appraisals and establish a reasonable fair market value of the development easement;
6. Upon completion of the reviewer’s fair market value determination, a fair market value certification shall be issued to the board and the committee.

2:76-6.9 Final board review

(a) The board shall negotiate a purchase price of the development easement with the landowner. In no case shall the committee make a grant to the board for more than 50 percent of the fair market certification.

(b) The board shall review the application and the negotiated offer to determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

| | | | | |
|--------------------------------------|---|-----------------------|---|---------------------------|
| nonagricultural development value | - | agricultural value | - | landowner asking price |
| nonagricultural development value | | - | | agricultural value |

2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;

3. The degree of imminence of change of the land from productive agriculture to nonagriculture use; and

4. Available funds.

(c) The board shall:

1. Approve the application and rank the application in accordance with the provisions in (b) above; or
2. Disapprove the application and state the reasons for denial.

(d) The board shall determine whether or not to proceed with processing low priority applications.

2:76-6.10 Board application to the committee

(a) The board shall submit the following information to the committee:

- 1. Negotiated development easement offer; and
- 2. Justification for arriving at its decision.

2:76-6.11 Final committee review

(a) The committee shall review the negotiated development easement offer and determine the suitability of the land for development easement purchase on the basis of the following factors:

1. Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{nonagricultural development value} - \text{agricultural value}} - \text{landowner asking price}$$

2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;

3. The degree of imminence of change of the land from productive agriculture to nonagriculture use; and

4. Available funds.

(b) The committee shall:

1. Approve the application to sell the document easement and rank the application in accordance with the provisions in (a) above; or

2. Disapprove the application and state reasons for denial.

(c) The committee shall authorize funding for 50 percent of the cost of the development easement on applications receiving a priority ranking.

2:76-6.12 Landowner decision

Upon approval and authorization of funding by the board and the committee, the board shall present to the landowner an offer to purchase the development easement. A binding offer shall be contingent upon compliance with the provisions stated in N.J.A.C. 2:76-6.13.

2:76-6.13 Terms, contingencies and conditions of purchase

(a) Upon the landowner's acceptance of an offer to sell a development easement, the board shall authorize a title search be conducted on the subject land.

(b) Upon the purchase of the development easement by the board, a statement containing the restrictions on the use and development of the land shall be attached to and recorded with the deed of the land (see N.J.A.C. 2:76-6.15).

1. Subject to committee approval, the board may establish more stringent deed restrictions for the purpose of recognizing local conditions.

(c) Deed restrictions shall be recorded as follows:

1. The statement of the deed restrictions shall be recorded with the following:

- i. County clerk;
- ii. Municipal clerk; and
- iii. Municipal tax assessor.

2. The board shall provide for notification of the development easement purchase to the following:

- i. County governing body;
- ii. County planning board;
- iii. Municipal governing body;
- iv. Municipal planning board; and
- v. Soil conservation district.

2:76-6.14 Payment procedures; schedule of payment

(a) The board and the landowner may agree upon and establish a schedule of payment which provides that the landowner may receive consideration for the easement in a lump sum, or in installments over a period of up to ten years from the date of settlement, provided that:

1. If a schedule of installments is agreed upon, the State Comptroller shall retain in the fund an amount of money sufficient to pay the landowner pursuant to the schedule.

2. The landowner shall receive, annually, interest on any unpaid balance remaining after the date of settlement. The interest shall accrue at a rate established in the installment contract.

(b) The committee, upon receipt of all approvals and verification of costs incurred by the board, shall authorize the Secretary to issue a grant to the board for 50 percent of the costs for acquisition of the development easement.

2:76-6.15 Deed restrictions

(a) The following statement shall be attached to and recorded with the deed of the land:

"Whereas the Grantors are the present owners of lands described in Schedule "A", hereinafter referred to as Premises, which is attached hereto and made a part hereof;

"The Grantors covenant for themselves, their heirs, devisees, legal representatives, successors and assigns, that the Premises will in perpetuity be held, used and conveyed subject to, and not used in violation of, the following restrictions as said restrictions may be limited or affected by the provisions of the following:

"1. The Premises shall be retained in agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and all other rules promulgated by the State Agriculture Development Committee. Agricultural use shall mean the use of land for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

"2. The Grantors will comply with agricultural management practices insofar as those practices are applicable to the land and the type of farming conducted thereon. Agricultural management practices means practices either formally set forth in current published New Jersey Agricultural Experiment Station recommendations or practices which represent the best collective professional judgment and opinion of the appropriate faculty of the New Jersey Agricultural Experiment Station and practices related to soil and water conservation and management approved by the State Soil Conservation Committee.

"3. The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural production and related uses as defined in Section 1. hereof. However, no subdivision of the land shall be permitted without the joint approval in writing of the board and the committee. Such approval is in addition to necessary local approvals.

"4. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used. The Grantor hereby retains and reserves unto itself, its heirs, successors, and assigns, all oil, gas, and other mineral rights in the land underlying the Premises, provided only that any prospective drilling and/or mining will be done by slant from adjacent property or in any other manner which will not materially affect the agricultural operation.

"5. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly permitted as an agricultural management practice.

"6. No activity shall be permitted on the land which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor any other activity which would be detrimental to the continued agricultural use of the land.

"7. Grantee and its agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. Grantee agrees to give Grantor 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week. The interior of buildings shall not be inspected.

"8. The Grantors, their heirs, successors and assigns, may use such lands to derive income from recreational activities which generally utilize the land in its existing state, so long as such activities do not interfere with the actual use of the land for agricultural production.

"9. Nothing herein shall be construed to convey a right to the public of access to or use of the Premises except as herein provided or as otherwise provided by law.

"10. Nothing herein shall impose upon the Grantor any duty to maintain or require that the Premises be maintained in any particular state, or condition, notwithstanding the Grantor's acceptance hereof.

"11. Nothing herein contained shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises on the date hereof. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, buildings, or reservoirs as may be necessary.

"12. The Grantors, their heirs, successors, and assigns may use, maintain, and improve the existing buildings and said lands for personal and family residential and recreation use subject to the following conditions: No new residential units or buildings or recreation buildings or improvements to existing buildings for purposes other than agricultural production shall be allowed except for such new residential structure or structures or improvements or converted residential structures as will provide housing for agricultural labor for the subject farm or such new residential unit or structures or converted residential unit or structures as will serve as a farm house for a household which will derive its primary source of income from agricultural production. Such exceptions are subject to prior joint approval in writing by the board and the committee.

"13. In the event a violation of these restrictions or the terms and conditions thereof is found to exist, the Grantee, or its successors or assigns, or any citizen of the State of New Jersey, acting by and through the State Agriculture Development Committee, may, after notice to the Grantors, or their personal representatives, heirs, successors, or assigns, insti-

tute a suit to enjoin by ex parte, temporary and/or permanent injunction, such violation, to require the restoration of the Premises to its prior condition, or to recover damages. The Grantee, or its successors or assigns, does not waive or forfeit the right to take other legal action as may be necessary to insure compliance with the terms, conditions, and purposes of this deed restriction by a prior failure to act.

"14. It is understood that this instrument imposes no obligation on the Grantor and no restrictions on use of the Premises except as specifically set forth herein. Nothing herein contained shall be construed to interfere with the right of the Grantor, its successors, assigns, licensees, and any party claiming under them to utilize the Premises in such manner as they may deem desirable, subject to the terms and conditions hereof.

"15. This instrument shall be binding upon the Grantor, its successors and assigns, and upon the Grantee, its successors and assigns."

BANKING

(a)

DIVISION OF CONSUMER COMPLAINTS, LEGAL AND ECONOMIC RESEARCH

Interest on Other Loans

Proposed Readoption: N.J.A.C. 3:1-1.2

Authorized By: Dominick A. Mazzagetti, Acting Commissioner, Department of Banking.

Authority: N.J.S.A. 31:1-1.1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Dominick A. Mazzagetti
Acting Commissioner
Department of Banking
Division of Consumer Complaints,
Legal and Economic Research
CN 040
Trenton, N.J. 08625

The Department of Banking thereafter may adopt this proposal without further notice (see N.J.A.C. 3:30-3.5). The readoption of these rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption.

This proposal is known as PRN 1984-359.

The agency proposal follows:

Summary

The Department of Banking proposes to readopt the rule concerning interest rates and other loans (N.J.A.C. 3:1-1.2). The rule is scheduled to expire July 27, 1984 pursuant to Executive Order No. 66.

The rule concerning interest rates charged on other loans was originally adopted on July 27, 1979 pursuant to the authority of L.1979, c.156, N.J.S.A. 31:1-1.1.

The rule was adopted to allow State chartered financial institutions to maintain parity with the rate of interest allowed by Federal Law or regulation to be charged by National Banking Associations. Since National Banks could charge a rate of one percent above the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank of New York on such loans, they were thereby afforded a substantial competitive advantage over State chartered financial institutions. It was considered that the then current rate that could legally be charged by State chartered financial institutions on loans described in N.J.S.A. 31:1-1(b)(1) was inadequate to assure the continued availability of funds for such loans. For these reasons the increase in the interest rates on such loans was considered to be in the best interests of the public and State chartered financial institutions by reason of the services and loans made by state financial institutions.

N.J.A.C. 3:1-1.2 provides that any person may charge a rate of interest on any loan which rate does not exceed one percent in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank of New York on the date of the loan, at any time when that discount rate exceeds seven percent. It excepts from the rule loans not authorized by law and loans secured by a first lien on real estate on which there is erected or is to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may also be used for non-residential purposes. Additionally, it excepts from the rule the exceptions contained in N.J.S.A. 31:1-1(e) and N.J.A.C. 3:1-1.1(c).

The rule enables State chartered financial institutions to maintain parity with rates of interests allowed to be charged by national banking associations during periods of rising interest rates.

The Department of Banking has reviewed the rule in accordance with Executive Order No.66(1978) and has determined that it is necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which it was originally promulgated.

Social Impact

The rule proposed for readoption will have a beneficial social impact since it will allow New Jersey chartered financial institutions to continue to maintain parity with national banks with regard to interest which may be charged on loans. The rule will assure the continued availability of funds for loans to that segment of the public which utilizes State chartered financial institutions thus promoting stability in the banking community and the economy of the State in general.

Economic Impact

The readoption of the rule will have a beneficial economic impact by allowing State chartered financial institutions to maintain parity with national banks. State chartered financial institutions will be able to maintain their competitive position and thus the banking industry by virtue of the loans and services it provides will assist in the growth of the economy of the State of New Jersey.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 3:1-1.2.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Licenses Required; Trainee Personnel

Proposed Amendment: N.J.A.C. 5:23-5.4

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, New Jersey 08625-0804

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

This proposal is known as PRN 1984-357.

The agency proposal follows:

Summary

The proposed amendments revise and clarify registration requirements for persons who wish to register as trainees for positions as inspectors under the State Uniform Construction Code Act and specify those functions that may and may not be performed by such trainees.

Social Impact

By establishing reasonable minimum standards for trainees, while at the same time giving those trainees authority to perform certain inspection duties, the proposed amendments will increase the ability of licensed inspectors to devote their time to inspections that are not of a minor or routine nature. Moreover, the amendments will allow trainees to get work experience that is more useful for their professional development than that obtainable under the present rules.

Economic Impact

Since it will now be possible to get more useful work from trainees, enforcing agencies will have an incentive to hire them. Such incentives will provide greater opportunities for employment of trainees which will enhance their career prospects. Licensed inspectors will then be able to concentrate their efforts in more complex or serious inspections and viola-

tions. This should be beneficial to the enforcing agencies and the residents they serve, as well as to the trainees themselves.

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

5:23-5.4 Licenses required

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

(d) Rules concerning trainee personnel are:

1. Public and private agencies may establish trainee positions for prospective licensed personnel.

2. Trainees acquiring inspection experience shall only perform their services under the direct supervision of a person who is a holder of a license of the type required by this subchapter.

3. Individuals employed as trainees must register with the office of code enforcement official licensure on forms provided by the office within one month of the effective date of their employment.

4. All trainees must renew their registration annually.

5. All trainees must notify the Office of Code Enforcement Official Licensure if there is any change in the status of their employment, within one month of such change.]

1. **Public and private enforcing agencies may establish code enforcement trainee positions to employ persons who are reasonably expected to become licensed within two years.**

2. **Persons employed as trainees shall register with the Office of Code Enforcement Licensure of the Bureau of Construction Code Enforcement on the form provided by the Office of Code Enforcement Licensure within one month of the effective date of their employment.**

3. **Persons meeting the following experience requirements shall be eligible to be employed as trainees:**

i. **Fire protection inspector trainee—**one year in the fire service;

ii. **Building inspector trainee—**three years of involvement with buildings as a journeyman, inspector, contractor or designer;

iii. **Plumbing inspector trainee—**five years as a journeyman plumber;

iv. **Electrical inspector trainee—**five years as a journeyman electrician.

4. **A trainee shall only perform functions that may be performed by a person having the lowest level of licensure of any technical inspector license class.**

5. **A trainee shall not perform any administrative functions of a subcode official or construction official.**

6. **To remain employed by an enforcing agency, a trainee must enroll in, and successfully complete, the appropriate approved course(s) within two years of the effective date of employment.**

7. **To remain employed by an enforcing agency, a trainee must pass the appropriate modules of the National Certification Test in his specific subcode area within two years of the effective date of employment.**

8. **Trainees shall not perform the inspections required by N.J.A.C. 5:23-2.18 except under the direct supervision of an official or inspector licensed in the subcode area in which the trainee position has been approved. The licensed supervisor must be on site with the trainee during performance of all required inspections.**

i. **Trainees may perform inspections that are not required by N.J.A.C. 5:23-2.18 without direct supervision.**

ii. **Trainees may perform an inspection of a singular specific point on a project, or a repetitive singular specific point**

on one or more projects, if directed to do so by a licensed supervisor where no code interpretation is required. In any such case, the inspection report shall be completed by the trainee and reviewed and countersigned by the licensed supervisor.

iii. **Trainees shall not act as subcode or construction officials or sign any permits, stickers, approved plans or inspection reports except as otherwise permitted by i. and ii. above.**

9. **Records of authorized supervised inspections by trainees and other on-the-job training activities must be signed by the supervisor and kept in the each trainee's job files. Records of attendance at work and at job-related training shall be kept in each trainee's job file.**

10. **Trainees shall renew their registration yearly and shall notify the Office of Code Licensure of any change in employment status or in address within one month of any such change.**

(e) (No change.)

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Requirements for a License

Proposed Amendment: N.J.A.C. 5:23-5.5

Authorized By: John P. Renna, Commissioner, Department of Community Affairs.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-356.

The agency proposal follows:

Summary

The proposed amendments provide that engineers and architects are only to be exempted from educational requirements for licensure in the respective subcodes if their training was directly related to the subject matter of that subcode. Fire subcode licensure requirements are amended to broaden eligibility for persons with fire service experience and to specify that fire prevention or fire protection experience must have been in the fire service. Extensions of time to make applica-

tion without being subject to the examination requirement are given to persons who were enrolled in the required courses prior to February 1, 1982 and to persons who had to meet certain conditions previously specified to them by the Department.

Social Impact

The requirement that engineers' or architects' training be related to the subcodes in which they sought licensure if they are to be exempted from the educational requirement will help ensure that they are properly equipped to do the jobs for which they are licensed. The fire service experience requirements will also help to ensure that fire protection inspectors have the type of experience that is most relevant to fire protection.

Economic Impact

Changes in licensing requirements will be of benefit to those who find it easier to be licensed as a result of those changes. Conversely, there may be an adverse economic impact on any person who will now find it more difficult to be licensed.

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

5:23-5.5 Requirements for a license

(a) (No change.)

(b) Requirements are:

1.-2. (No change.)

3. Building inspector:

i.-iii. (No change.)

iv. Persons having a college degree **in architecture or in engineering directly related to the building subcode** [or a New Jersey professional license in engineering or architecture] shall be exempted from the educational program requirements for building inspector R.C.S., building inspector I.C.S., and building inspector H.H.S.

4. Electrical inspector:

i.-ii. (No change.)

iii. Persons having a college degree in [electrical] engineering **directly related to the electrical subcode** [or a New Jersey professional license in engineering or architecture] shall be exempted from the educational program requirements for the electrical inspector H.H.S. and I.C.S. licenses.

5. Fire protection inspector:

i. Fire protection inspector H.H.S.: A candidate for a license as a fire protection inspector H.H.S. shall meet the following requirements:

(1) Seven years of experience **in the fire service** as an officer, **inspector or firefighter (other than as an apprentice or trainee), with responsibility** [responsible] for fire prevention, [or] fire protection **or firefighting** activities; or five years of experience as a journeyman in a skilled trade regulated by the fire protection subcode and two years of active service in the fire service [; or five years of experience as a fire prevention inspector; or three years of experience as a fire protection inspector]; and

(2) (No change.)

ii. Fire protection inspector I.C.S.: A candidate for a license as a fire protection inspector I.C.S. shall meet the following requirements:

(1) Five years of experience **in the fire service** as an officer, **inspector or firefighter (other than an apprentice or trainee) with responsibility** [responsible] for fire prevention, [or] fire protection **or firefighting** activities; or three years of experi-

ence as a journeyman in a skilled trade regulated by the fire protection subcode and two years of active experience in the fire service [; or three years of experience as a fire prevention inspector; or one year of experience as a fire protection inspector]; and

(2) (No change.)

iii. Fire protection inspector R.C.S.: A candidate for a license as a fire protection inspector R.C.S. shall meet the following requirements:

(1) Three years of active experience in the fire service [; or six months experience as a fire protection or fire prevention inspector]; and

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

iv. Persons having a college degree in fire science **or in architecture or in engineering directly related to the fire subcode** [or a New Jersey professional license in engineering or architecture] shall be exempted from the educational program requirements for the fire protection inspector I.C.S., fire protection inspector R.C.S. and fire protection inspector H.H.S. licenses.

6. Plumbing inspector:

i.-ii. (No change.)

iii. Persons having a college degree in [mechanical] engineering **directly related to the plumbing subcode** shall be exempted from the educational program requirements for the plumbing inspector I.C.S. and plumbing inspector H.H.S. licenses.

7.-9. (No change.)

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

(e) **Special provisions:**

1. Applicants for a technical license [for] as building inspector R.C.S., building inspector I.C.S., plumbing inspector I.C.S. **fire protection inspector I.C.S.** or electrical inspector I.C.S. who were enrolled in the required educational courses pursuant to N.J.A.C. 5:23-5.5 and 5:23-5.6 [prior to February 1, 1982 but who did not make a formal application prior to February 1, 1982] **during the period from December 31, 1980 to February 1, 1982** may be granted such license(s) without having to successfully complete the National Certification Examination required by N.J.A.C. 5:23-5.9 if the applicant applies **or reapplies** for the license(s) by [March] **December 31, 1984** and is determined by the Department to be otherwise qualified.

2. **An applicant for a technical license as building inspector R.C.S., building inspector I.C.S., fire protection inspector I.C.S., plumbing inspector I.C.S. or electrical inspector I.C.S. who applied for such license(s) prior to February 1, 1982 but whose application was rejected and who received formal notice of ineligibility dated not earlier than December 31, 1980 and not later than February 1, 1982, or who, in conjunction with proceedings before the Office of Administrative Law, executed letters of waiver or settlement stipulations during the period from December 1, 1980 through February 1, 1982, may be licensed in accordance with directives or requirements of the Department set forth in any such notice of ineligibility, letter of waiver or settlement stipulation, if such applicant reapplies for the license(s) by December 31, 1984 and is otherwise qualified.**

3. **An applicant for a technical license as building inspector H.H.S., fire protection inspector H.H.S., plumbing inspector H.H.S. or electrical inspector H.H.S. who enrolled in the respective approved H.H.S. course prior to January 17, 1984 may be granted such H.H.S. license(s) without having to complete the National Certification Examination required by N.J.A.C. 5:23-5.9 if such applicant applies for the license(s) by December 31, 1984 and is otherwise qualified.**

4. An applicant for a technical license as building inspector H.H.S., fire protection inspector H.H.S., plumbing inspector H.H.S. or electrical inspector H.H.S. who applied for such license(s) during the period from February 1, 1982 to January 17, 1984 but whose application was rejected and who received a formal notice of ineligibility dated no later than April 30, 1984, or who executed a letter of waiver or settlement stipulation pursuant to a proceeding before the Office of Administrative Law during the period from February 1, 1982 to April 30, 1984, shall be eligible to be licensed upon compliance with the directives or requirements of the Department set forth in such notice of ineligibility, letter of waiver or settlement stipulation if such applicant reapplies for the license by December 31, 1984 and is otherwise qualified.

EDUCATION

(a)

STATE BOARD OF EDUCATION

Teacher Education and Academic Credentials Teacher Preparation and Certification

Proposed Amendments: N.J.A.C. 6:11-1 through 6:11-8

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

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:6-7,
18A:6-38, and 18A:26-10.

A public hearing concerning this proposal will be held as follows:

Wednesday, July 11, 1984
3:00 P.M. to 6:00 P.M.
First Floor Conference Room (Archives)—
State Library
185 West State Street
Trenton, New Jersey 08625

All interested members of the public as well as other public agencies are invited to appear and to place their views upon the record. Persons seeking to be heard should so indicate in writing or by telephone to one of the offices shown below. Such notice shall be no later than July 9, 1984.

State Board Office
Department of Education
CN 500, 225 West State Street
Trenton, NJ 08625
(609) 292-0739

Bureau of Teacher Preparation
and Certification
Department of Education
CN 500, 225 West State Street
Trenton, NJ 08625
(609) 984-1216

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN 1984-372.

The agency proposal follows:

Summary

N.J.A.C. 6:11-1 through 8 governs the issuance of teacher certificates. The regulations have been revised to implement an initiative for certification reform that will provide greater access to teaching for academically talented individuals who are restricted under current regulations from entering the profession. The initiative will also establish more stringent, yet meaningful requirements for those who seek certification either through college preparation or alternate routes.

The following is a summary of subchapter revisions:

Subchapter 1. Bureau of Teacher Preparation and Certification

N.J.A.C. 6:11-1 explains the functions of the Bureau. It has been amended to define the relationship between the Bureau and those local school districts which are approved to operate training programs for provisional teachers. N.J.A.C. 6:11-1.1(d), which describes the role of the Bureau director, has been deleted.

Subchapter 2. State Board of Examiners

N.J.A.C. 6:11-2 governs the membership and duties of the State Board of Examiners, and no major, substantive changes are proposed.

Subchapter 3. Basic Certification Requirements

N.J.A.C. 6:11-3 explains basic requirements for certification including the requirement of certification for employment, fees for certificates, enforcement of certification regulations, grounds for revocation, recognition of degrees, and waiver of requirements. In addition to technical changes and clarifications, the proposed amendments would:

1. allow the collection of fees for certification examinations and permit approved districts to collect fees from provisionally certified teachers to pay the cost of training such teachers;
2. allow recognition of college degrees from certain foreign institutions and to require approval by the Department of Education of professional preparation received at out-of-state colleges and universities;
3. discontinue the practices of waiving the student teaching requirement for accumulated experience, issuing substandard certificates in fields of shortage, and certifying experienced graduates of out-of-state normal schools under previous regulations;

4. eliminate the high school diploma and institute the college degree as the basic academic credential required for certification; and
5. delete the provision which allows the issuance of temporary certificates to teachers from foreign countries.

Subchapter 4. Types of Certificates

N.J.A.C. 6:11-4 describes the types of standard and sub-standard certificates issued to educational personnel. In addition to technical changes and clarifications, the proposed amendments would:

1. eliminate the temporary, intern and two-month sub-standard certificates;
2. restrict the issuance of emergency certificates to personnel in the areas of administration, educational services, special education, bilingual/ESL education, and certain vocational fields;
3. institute degree and professional examination requirements for issuance of provisional certificates;
4. require periodic state review of the issuance of county substitute certificates; and
5. eliminate the provision (N.J.A.C. 6:11-4.8) which allows the various substandard issuance of certificates in cases of unforeseen shortage.

Subchapter 5. Bases for Issuance of Regular Certification

N.J.A.C. 6:11-5 explains the requirements for issuing standard instructional certificates. This subchapter has been revised to require that graduates of approved college teacher education programs pass a State licensing examination in order to be certified. In addition, proposed amendments would allow local school districts to employ provisionally certified teachers and to provide them with training during their first year of employment leading to issuance of standard certificates. Proposed new rules N.J.A.C. 6:11-5.3 to 5.7 describes the specific rules governing State-approved district training programs.

Subchapter 6. Endorsements on the Instructional Certificate

Subchapter 6 governs the issuance of endorsements to initial instructional certificates. This subchapter proposes a new rule (N.J.A.C. 6:11-6.2) which lists each endorsement available and describes the type of position which its holder is entitled to occupy. Additional amendments describe degree and professional examination requirements for endorsements and fields in which special or supplemental requirements apply. N.J.A.C. 6:11-6.3, which lists criteria to be used in the evaluation of college transcripts submitted in application for an endorsement, has been deleted. A new rule is proposed in N.J.A.C. 6:11-6.3 listing the new requirements for obtaining endorsements.

Subchapter 7. Standards for State Approval of Teacher Preparation

N.J.A.C. 6:11-7 governs the evaluation and approval of colleges and universities which prepare teachers. This subchapter has been revised to delete credit-hour and course topic requirements in the behavioral/social sciences, professional education, and teaching of reading and to reference new course topic requirements in N.J.A.C. 6:11-8.2(a). No changes are recommended in N.J.A.C. 6:11-7.1(a)2-8.

Subchapter 8. New Jersey Instructional Supplement to Standards for State Approval of Teacher Education

N.J.A.C. 6:11-8 describes course topic requirements for teacher education programs and fields of specialization. The proposed amendments would:

1. delete previous course topics requirements in professional education and substitute new ones which apply to colleges and state-approved district training programs;
2. delete the specialty area requirements used in issuing certificates on the basis of transcript evaluation in all fields except special education, bilingual/ESL education, and certain vocational areas; and
2. list requirements in those fields in which transcript evaluations will be continued.

Social Impact

There will be significant social impact as a result of revised regulations to implement certification reform. In an effort to improve the quality of new teachers in the best interest of children, these regulations provide professional access to talented candidates. They also establish a more rigorous system for assuring teacher competence by requiring a state test along with the completion of either a college program or a stringent state-approved alternative program, and by drastically restricting the use of substandard certification.

Economic Impact

There are costs associated with the validation of the state tests; these costs will be met through the budget of the Department of Education. All costs associated with maintaining the system will be borne by applicants for certification.

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

CHAPTER 11.

TEACHER [EDUCATION AND ACADEMIC CREDENTIALS] **PREPARATION AND CERTIFICATION**

SUBCHAPTER 1. BUREAU OF TEACHER [EDUCATION AND ACADEMIC CREDENTIALS] **PREPARATION AND CERTIFICATION**

6:11-1.1 Function

(a) The Bureau of Teacher [Education and Academic Credentials] **Preparation and Certification** is the focus of the [department's] **Department of Education's** activities in establishing standards for well-prepared teachers, administrators[,] and other personnel for the public schools in New Jersey.

(b) The Bureau works closely with colleges and universities which prepare teachers and other school personnel.

(c) The Bureau assists the colleges to establish and expand teacher education programs in relationship to the needs of the schools in New Jersey[,] and reviews and approves these programs in terms of standards adopted by the State Board of Education.

(d) The Bureau works directly with local school districts and consortia of institutions which offer State-approved training programs leading to the certification of teachers, and reviews these programs in accordance with standards adopted by the State Board of Education.

[(d) The Director of the Bureau acts as Secretary to the State Board of Examiners, which is charged under the law with the issuance of teachers certificates and with the preparation of regulations and standards relating to the certification of teachers and other professional employees of school districts.]

SUBCHAPTER 2. STATE BOARD OF EXAMINERS

6:11-2.1 Membership

There shall be a State Board of Examiners, consisting of the [c]Commissioner of Education, ex officio, and one assistant commissioner of education, two presidents of State colleges, one county superintendent, one superintendent of schools of a Type I district, one superintendent of a Type II district, one high school principal, one elementary school principal, one librarian employed by the State or by one of its political subdivisions and four teaching staff members other than a superintendent, principal or librarian, all of whom shall be appointed by the commissioner with the approval of the State Board.

6:11-2.2 Duties

The Board shall grant appropriate certificates to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by boards of education, and such other certificates as it shall be authorized to issue by law, based upon certified scholastic records or upon examinations, and may revoke the same under rules [and regulations] prescribed by the State Board of Education.

SUBCHAPTER 3. BASIC CERTIFICATION REQUIREMENTS

6:11-3.1 Teacher's certificate required

(a) No teacher shall be entitled to any salary unless such teacher shall be the holder of an appropriate teacher's certificate (N.J.S.A. 18A:26-2).

(b) The standard employment contract supplied by the Commissioner of Education states that the teacher ". . . before entering on the duties of such position will exhibit the certificate to the County Superintendent of Schools and to the [Superintendent] **Chief School Administrator** of the district in which such school is situated, or to the Secretary in the district where there is no [Superintendent] **Chief School Administrator**."

(c) The certificates should always be kept in the possession of the teacher.

6:11-3.2 Employment without certificate prohibited

Any contract or engagement between a board of education and a teacher shall cease and [determine and] be of no effect [against said board] whenever said board shall ascertain by notice in writing [received from the county or local superintendent, or otherwise,] that said teacher is not in possession of a proper teacher's certificate [in full force and effect, notwithstanding the term of engagement for which such contract shall have been made may not then have expired]. **This rule shall apply even though the term of the contract may not have expired.** (N.J.S.A. 18A:27-2).

6:11-3.3 State Board of Education responsible for rules; fees required

(a) The State Board of Education may make and enforce rules and regulations for the granting of appropriate certificates or licenses to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by **district** boards of education. For each certificate, a fee of not less than \$20.00 shall be charged; said fee shall be subject to change from time to time by formal

resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

(b) Rules for **certification** fees [for transcript evaluation] include the following:

1. A request for evaluation of credentials for the purpose of **determining eligibility to take a particular State licensing examination or for** obtaining information concerning qualification for issuance of any particular certificate shall be accompanied by a fee of not less than \$10.00 for each certificate **or test** to be considered; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

2. A formal application for certification shall be accompanied by a fee of not less than \$20.00 for each certificate requested; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

3. In the case of persons who file a formal application for certification and who are found not to meet certification requirements, a fee of not less than \$10.00 shall be deducted from each separate refund to that person; said fee shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

(c) The State Board may establish a fee schedule for services related to the issuance of certificates, including but not limited to fees charged **by local districts to provisional teachers to pay for their training, fees** for a duplicate certificate and for renewal of a substandard certificate; said fee schedule shall be subject to change from time to time by formal resolution of the State Board. The resolution cannot be adopted less than 30 days after it is introduced.

6:11-3.4 Teaching staff member defined

"Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him to hold a valid and effective standard or provisional or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners and includes a school nurse.

6:11-3.5 Enforcement

(a) The local [superintendent of schools] **Chief School Administrator** shall ascertain if professional staff members are properly certificated and shall report to the appropriate **district** board of education those who are not properly certificated.

(b) The county superintendent shall take measures necessary for the enforcement of the State law requiring **district** boards of education to employ only those professional staff members who are properly certificated for the positions held.

(c) The county superintendent shall notify the appropriate **district** board of education and the Commissioner of Education immediately when **he or she** learns of a professional staff member holding a position in violation of the State certification laws and [regulations] **rules**.

6:11-3.6 Assignment of titles

(a) School districts shall assign position titles to teaching staff members which are recognized in these [regulations] **rules**.

(b) If a [local] **district** board of education determines that the use of an unrecognized position title is desirable, or if a previously established unrecognized title exists, such board shall submit a written request for permission to use the proposed title to the county superintendent of schools, prior to making such appointment. Such request shall include a detailed job description. The county superintendent shall exercise his/[] or her discretion regarding approval of such request, and make a determination of the appropriate certification and title for the position. The county superintendent of schools shall review annually all previously approved unrecognized position titles, and determine whether such titles shall be continued for the next school year.

6:11-3.7 Revocation of certificate

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

(b) Certification revocation procedures are as follows:

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

i. Upon the decision of the Commissioner of Education, cases contested before the [c]Commissioner of Education, resulting in loss of tenure or dismissal of a teacher or teaching staff member for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, shall be forwarded to the State Board of Examiners for determination of possible revocation. The State Board of Examiners, after review of the record, shall determine by public vote whether or not the offense as proven is of such a nature as to warrant revocation consideration, or dismissal of the case. In such cases where the decision of the State Board of Examiners is to move for revocation of certification, the Secretary of the State Board of Examiners shall issue an order to show cause and shall issue a statement of charges upon which revocation will be considered, which shall not preclude the subsequent inclusion of new findings, and shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. After an answer has been filed on behalf of the certificate holder, the board shall refer the case to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

ii. Upon knowledge of any criminal conviction, the county superintendent of schools or the Chief school administrator shall notify the Commissioner of Education directly of such a criminal conviction involving a certificate holder, as described in N.J.S.A. 2C:51-2.a. The Secretary of the State Board of Examiners, upon being notified in writing by the Commissioner of Education of such a criminal conviction or guilty plea involving a certificate holder, whether such knowledge comes as a result of a notification by the county superintendent of schools or chief school administrator or otherwise, shall communicate with the court to obtain the judgment of conviction, copy of testimony and other evidence for presentation of the case before the State Board of Examiners. The Secretary of the State Board of Examiners shall issue an order to show cause and shall issue a statement of charges upon

which revocation will be considered, which shall not preclude the subsequent inclusion of new findings, and shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. After an answer has been filed on behalf of the certificate holder, the [board] **State Board of Examiners** shall refer the case to the Office of Administrative Law for a hearing, in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

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

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

(2) The Secretary of the State Board of Examiners shall notify the certificate holder that an answer must be filed with the State Board of Examiners no later than 20 days from the receipt of that notice. Upon timely filing of an answer, the board shall determine whether a matter is a contested case. Each contested case shall be referred to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.).

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

i. The 50 states and other such agencies which are part of the Interstate Certification Project;

ii. All New Jersey county offices of education;

iii. Appropriate governmental pension and annuity funds, or retirement services.

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

6:11-3.8 Suspension of certificates

(a) A teacher employed by a **district** board of education who shall, without the consent of the **district board of education**, leave the school before the expiration of the term of his or her employment, shall be deemed guilty of unprofessional conduct.

(b) The Commissioner of Education may, upon receiving notice of that fact, suspend the certificate for a period not exceeding one year.

6:11-3.9 Oath of allegiance required

(a) Every person whose application is pending, or who hereafter applies for a license, or any renewal thereof, to teach or supervise in any of the public schools of this State, shall subscribe to the oath of allegiance and office prescribed in N.J.S.A. 41:1-3.

(b) Any person who is a citizen or subject of any country other than the United States, such as an exchange teacher, is required to file an oath to support the Constitution of the United States while so employed.

6:11-3.10 Citizenship requirement

(a) To be eligible for a certificate, the applicant must be a citizen of the United States (except a teacher of foreign languages, unless such teacher has been a resident of the United States for more than [ten]10 years; or an applicant for tempo-

rary employment under a special program approved by the Commissioner of Education) or have preliminary citizenship status as follows:

1. Any citizen of any other country who has declared his or her intention of becoming a United States citizen and who is otherwise qualified may, with the approval of the Commissioner of Education, be granted a teacher's certificate and employed as a teacher by a **district** board of education[.] (N.J.S.A. 18A:26-1[.]).

2. Any certificate granted pursuant to this act shall be void and shall be cancelled by the State Board of Examiners who issued the same, if the holder thereof shall not have become a United States citizen within five years of the date of its issuance, and may be revoked within said period by the State Board of Examiners if the said board is satisfied that the holder thereof has abandoned his **or her** efforts to become a United States citizen or has become disqualified for such citizenship[.] (N.J.S.A. 18A:26-8.1[.]).

3. No teaching staff member shall acquire tenure unless he **or she** is, or until he **or she** shall become, a citizen of the United States[.] (N.J.S.A. 18A:28-3[.]).

6:11-3.11 **Minimum [age and high school graduation] degree and age requirement**

In addition to meeting other requirements specified in these [regulations] **rules**, applicants for teachers certificates must be at least 18 years old [and have been graduated from an approved high school or have an equivalent education as determined by the State Board of Examiners] **and have received a baccalaureate degree from an accredited institution of higher education except in certain vocational fields as indicated in N.J.A.C. 6:11-6.3.**

[6:11-3.12 (Reserved)]

6:11-[3.13] **3.12 Teachers in evening schools**

Teachers of academic subjects in accredited public evening schools and teachers in evening schools for foreign-born residents shall hold a valid New Jersey elementary or subject teacher's [certificate] **endorsement** authorizing the teaching of the specified subject or subjects in public day schools.

6:11-[3.14] **3.13 Certification for experimental curriculum**

Certification to teach in a school having an experimental curriculum not covered by these certification [regulations] **rules** may be granted by the Commissioner of Education.

6:11-[3.15] **3.14 Veterans regulation**

Veterans who received an evaluation before entering the service may continue under that evaluation, provided a request for reinstatement of the preservice status is made within a period of time equivalent to the length of the military service, upon presentation of a copy of an honorable discharge from the service. **At the expiration of the time period equivalent to the length of military service, the veteran shall be subject to rules in N.J.A.C. 6:11-5.**

6:11-[3.16] **3.15 Replacement of lost certificates**

Replacement of a lost certificate requires completion of the appropriate application form and payment of required fee.

6:11-[3.17] **3.16 Methods of appeal**

(a) An applicant who has reason to believe that his **or her** [credentials have] **application** has not been given proper consideration has the right to appeal the decision.

(b) Information concerning procedure for making such an appeal may be secured from the Secretary of the State Board of Examiners or the office of the county superintendent of schools.

6:11-[3.18] **3.17 Validation of college degrees and professional preparation**

(a) [Regulations] **Rules** of the New Jersey State Board of Education require teacher candidates to present college study completed at accredited or approved institutions.

(b) Except as indicated in (d) below, college degrees will be recognized for purposes of teacher certification in New Jersey only from colleges accredited or approved by the State Board of Department of Education **or Higher Education** of the state in which the college exists, **and from foreign institutions of higher education which are recognized by international accreditation agencies.**

(c) Professional preparation required for New Jersey teacher's certificates will be accepted from:

1. New Jersey colleges approved for the preparation of teachers by the New Jersey State Board of Education; **and**

2. Out-of-State colleges approved by the state board or department of education **or higher education** in the state in which the college is established, [except as indicated in (c) below:] **and approved by the New Jersey Department of Education on the basis of reciprocal agreements or individual review.**

3. Accredited two-year colleges provided:

i. The courses are accepted toward meeting the requirements for certification by a college approved for the preparation of teachers by the State Department of Education and such courses do appear on the official transcript of approved colleges.

ii. No more than six semester-hour credits in professional education are completed on the two-year college level.

(d) College degrees and professional preparation from colleges in states in which the state board or department of education lacks authority to regulate the establishment of colleges or their approval for purposes of teacher education, [will] **may** be accepted for purposes of teacher certification in New Jersey only if such degrees and professional preparation are accepted for purposes of teacher certification by the state department of education in the state in which the college exists.

6:11-[3.19] **3.18 Recognition of advanced standing in a college**

(a) Advanced work completed in a secondary school, which is assigned college credit by the institution of higher education which the candidate attends, shall be counted toward meeting the requirements for certification.

(b) Where advanced standing but not college credit is given by the higher institution as a basis for admission to advanced work in the field, the equivalent of college credit may be granted (for purposes of certification) for the courses which were waived by the institution.

6:11-[3.20] **3.19 Course information**

(a) Courses completed by correspondence may be accepted only if they are a part of a degree program completed by the applicant.

(b) Teaching a course in an accredited college or university shall be deemed the equivalent of having presented the course on a college transcript. Evidence of such teaching must be submitted in the form of a letter from the college president or dean.

[6:11-3.21 Student teaching

(a) The student teaching requirement in the New Jersey Instructional Supplement to the "Standards for State Approval of Teacher Education" does not apply to the following:

1. Applicants who have not had student teaching but who hold a valid regular New Jersey teacher's certificate and apply for certification to teach an additional field;

2. Applicants from other states who have not had student teaching, but who present a bachelor's degree, a valid regular (no substandard) teaching certificate from another state, and evidence of at least one year of successful teaching experience in the other state;

3. Applicants who have not had student teaching, but who, prior to the acceptance of public school employment in New Jersey, have completed three years of successful classroom teaching experience in an approved or recognized school. It is noted that, in some states, private and parochial schools are not subject to state approval. It is intended that teaching in such schools may be recognized in qualifying for this exemption.

(b) Holders of substandard New Jersey certificates issued prior to May 15, 1966, who have not completed a student teaching program, may have the student teaching deficiency removed by presenting a minimum of one year of satisfactory teaching experience in a school approved by the State Department of Education, as certified on a form (OTEC 15) provided by the State Board of Examiners.

(c) Holders of substandard New Jersey certificates issued after May 15, 1966, who have not completed a student teaching program, must complete an in-service supervised teaching and seminar program approved by the New Jersey State Department of Education. This supervised teaching program must be completed during the first or second year of teaching. To qualify for renewal of the substandard certificate (or for the exchange of an emergency for a provisional certificate), the applicant must present evidence of successful completion of the program, or a statement from a college offering the approved program, indicating acceptance of the student for enrollment in the program in the following year.]

6:11-[3.22] 3.20 Issuance of a certificate

(a) The appropriate certificate will be issued by the Bureau of [Teacher Education and Academic Credentials] **Teacher Preparation and Certification** upon completion of [the regulations specified in "Standards for State Approval of Teacher Education" and the New Jersey Instructional Supplement to these Standards.] **all requirements.** The certificate should always be kept in the possession of the teacher.

(b) Issuance of a certificate to an applicant enrolled in an approved program may be denied when the applicant fails to secure the recommendation of the preparing institution.

6:11-[3.23] 3.21 Equivalency of work taken in other countries

The Secretary of the State Board of Examiners is authorized to determine the equivalency of work taken in foreign universities and colleges and, in cases where records are unavailable or indefinite, to conduct oral, written, and performance examinations in various teaching fields in order to establish such equivalency.

6:11-[3.24] 3.22 Certification in reorganized schools

(a) When school reorganization results in the inclusion of elementary grades in combination with higher grades, the

elementary or secondary principal's certificate issued under previous rules, will be recognized as valid for this reorganized school.

(b) Further, the elementary or secondary teacher's certificate issued under previous rules, will be recognized as valid for teaching the particular subjects covered by these certificates in this reorganized school.

[6:11-3.25 Equivalency of State service

(a) Certificates may be issued to persons employed by the State Department of Education or in institutions or agencies of the State of New Jersey which offer an educational program, upon application of the divisional or institutional head and approval of the department head. All applicants for certificates who are in State service must meet the academic qualifications of the certificate being applied for.

(b) Full-time employment in such programs shall be considered as equivalent to service under the basic teacher's certificate. Administrative and supervisory experience in the central or county office staff of the State Department of Education is deemed to be the equivalent of administrative and supervisory experience in a local school district. Full-time administrative, supervisory, and teaching experience in the laboratory schools of the New Jersey State Colleges and the New Jersey School for the Deaf shall be deemed the equivalent of administrative, supervisory, and teaching experience in a local school district, when covered by the appropriate certificates.

(c) The equivalency of experience upon which the issuance of other types of certificates is requested, where the issuance of a certificate calls for prior experience of some type, shall be determined by decision of the State Board of Examiners.]

[6:11-3.26 Waiver of the student teaching requirement

(a) Effective July 1, 1973, for a teacher who has taught for two years, the Secretary of the State Board of Examiners may waive the student teaching requirement, if the following conditions are met:

1. An application for the waiver from the teacher, with the support of the employing superintendent of schools and the recommendation of the county superintendent;

2. Certification by the district superintendent of satisfactory teaching experience;

3. A statement from the superintendent that the teacher is being offered a contract to remain in that district.

(b) This waiver is limited to applicants who have taught successfully for two full consecutive years in a public school district in New Jersey under an appropriate sub-standard certificate and have been offered a contract to remain in that district and were not required to complete an approved teacher education program.]

[6:11-3.27 Designated fields of shortage

The State Board of Examiners is authorized to recommend to the State Board of Education the fields in which substandard certification is needed for a particular school year.]

[6:11-3.28 Experienced teachers eligible under previous New Jersey requirements

Graduates of approved out-of-State elementary normal school teacher education programs who present a regular certificate and successful teaching experience from another state who, had their teacher preparation and/or experience been accomplished in New Jersey, would have been eligible for a New Jersey certificate, may be issued the appropriate New Jersey certificate.]

[6:11-3.29] **6:11-3.23** Exchange teachers

(a) If a teacher from a foreign country is to be paid by a [local] **district** board of education as its own employee, it is necessary for the [local] **district** board of education to adopt a resolution stating that "_____ is employed as a substitute teacher in place of _____ for the school year 19____ as part of an experimental program of teacher exchange approved by the Commissioner of Education, to receive a salary for his services as a substitute of _____." The purpose of this resolution is to indicate that the exchange teacher employed by the [local] **district** board of education is a temporary rather than a permanent person and is actually a substitute for the permanent teacher.

(b) The teacher will be required to file an oath of allegiance with the [local] **district** board of education as required by [the revised statutes (18A:607),] **N.J.S.A. 18A:6-7** to the effect that he **or she** will support the institutions of the United States during the period of his **or her** employment within the State.

(c) The [local] **district** board of education should request, through the county superintendent's office, the Commissioner[']s of **Education**'s authorization or a letter of approval for the foreign teacher so employed, upon receipt of which the Commissioner of **Education** may issue to the said teacher a letter certifying him **or her** for the period of his **or her** temporary service in the State as a teacher employed in an experimental program, as authorized by the rules of the State Board of Education.

[6:11-3.30] Teachers from foreign countries

(a) The Commissioner of Education may, on the request of a local board of education, approve the issuance of a temporary certificate to permit the employment for a limited time of teachers from foreign countries. In such cases, a temporary certificate may be issued for a period not exceeding two years.

(b) The request from the local board of education shall include an analysis of the qualifications of the person to be employed, indicating his preparation for teaching and his previous teaching experience. Such temporary certificates shall be issued only in fields in which the foreign teacher is fully certified by his teacher certification agency, and in which he has had at least two years of successful teaching experience.]

[6:11-3.31] **6:11-3.24** Substitution of alternative educational background and/or experience

(a) Notice of certification deficiency rules are:

1. The Secretary of the State Board of Examiners shall notify all unsuccessful applicants for certification of the certification requirements lacking and of the procedures set forth in [subsection] (b) [of this Section] **below** for submitting evidence of alternative education and/or experience.

(b) Offer of alternative education and/or experience rules are:

1. Any such unsuccessful applicant may supply the State Board of Examiners with materials which the applicant considers evidence of alternative education and/or experience warranting certification.

2. Such material shall be supplied on forms provided by the Bureau of Teacher [Education and Academic Credentials] **Preparation and Certification**. These forms must be requested by the unsuccessful applicant within 15 days of the date of the Secretary's notice that the certificate has been denied.

3. The applicant wishing to substitute alternative education and/or experience for routine credentials shall complete and

return 25 copies of the forms supplied pursuant to paragraph 2 [of this subsection] **above** within 30 days of their receipt.

(c) Review of alternative education and/or experience by State Board of Examiners rules are:

1. The Secretary shall review said forms for sufficiency and transmit them to the State Board of Examiners, which shall review their contents no later than its second regular meeting after said forms have been received by the Bureau.

2. In reviewing the applicant's alternative education and/or experience, the **Board of Examiners** may request written commentary by appropriate members of the staff of the Department of Education. Copies of any such commentary shall be supplied to the applicant.

(d) Public discussion of alternative education and/or experience rules are:

1. The Secretary shall give an applicant not less than [ten] **10** days' notice of the **Board of Examiners**' meeting at which his[']or her application for certification based on alternative education and/or experience is to be considered.

2. The applicant may be present at said meeting and may be accompanied by a personal representative of his['] **or her** choice.

3. The applicant may be questioned by the **Board of Examiners** and shall be given an opportunity to be heard personally or through a representative.

(e) Decision rules are:

1. The **Board of Examiners** shall render its decision on each application for substitution no later than its first regular meeting after the application has been considered publicly.

2. The **Board[']s of Examiners**' decision shall be in written form setting forth its reasons for the decision.

(f) Appeal rules are:

1. Said decision shall be appealable to the Commissioner of Education pursuant to N.J.S.A. 18A:6-9 and N.J.S.A. 6:24-1.1 et seq.

[6:11-3.32] **3.25** Interstate contracts

In accordance with the Interstate Agreement on Qualifications of Education Personnel (N.J.S.A. 18A:26-11), the [Secretary of the State Board of Examiners] **Commissioner of Education** may, with the approval of the State Board of Education upon recommendation of the State Board of Examiners [and the Commissioner of Education], enter into contracts with other states to allow transfer of teachers' credentials between New Jersey and other states.

SUBCHAPTER 4. TYPES OF CERTIFICATES

6:11-4.1 Regular certificate

Certificates with lifetime validity are issued to candidates who meet New Jersey Standards for regular certification.

[6:11-4.2] Temporary Certificate

(a) A temporary certificate is a one-year certificate issued to applicants who come from other states with which New Jersey does not have a reciprocal agreement and who present either of the following:

1. Official transcripts containing completion of an approved teacher education program, but it does not meet all current New Jersey standards;

2. A regular (not substandard) certificate in another state and one full year of successful teaching experience in the appropriate field, but the preparation does not meet all current New Jersey standards.

(b) For renewal of a temporary certificate, the teacher must complete a prescribed number of credits during the school year for which the certificate was issued. The courses will be specified by the Bureau of Teacher Education and Academic Credentials after an evaluation of the applicant's credentials.]

6:11-[4.3] 4.2 Provisional certificate

(a) A provisional certificate is a substandard one-year certificate **issued to an applicant who is not eligible for a regular certificate**. It may be issued under certain circumstances to an applicant whose preparation does not meet completely the New Jersey requirements for standard certification. [It is issued on application of a public school district, submitted after July 1, in which the local board states that the applicant is being offered a contract of employment for which the certificate is required.]

[(b) A provisional certificate is issued only in fields of teacher shortage, as certified annually by the Commissioner of Education. A list of currently designated fields of shortage for provisional certification is available from the Bureau of Teacher Education and Academic Credentials or the county superintendent of schools.]

(b) To be eligible for the provisional certificate the applicant shall:

1. Hold a bachelor's degree from an accredited college or university (except in certain technical fields as noted in N.J.A.C. 6:11-6.3(c)) and;

2. Pass a subject matter test for teaching field(s) or a test of general knowledge for the elementary endorsement. In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject fields; and

3. Have been offered employment in a New Jersey public school district approved by the commissioner at the recommendation of the Board of Examiners to offer a certification training program; and

4. Persons who pass the appropriate test shall be granted a formal document which will enable them to seek employment as provisional teachers in the public schools.

6:11-[4.4] 4.3 Emergency certificate

(a) An emergency certificate is a substandard one-year certificate issued only in the fields of [teacher shortage as certified annually by the Commissioner of Education.] **administration, educational services, teacher of the handicapped, teacher of the blind and partially sighted, teacher of the deaf and hard of hearing, bilingual education, English as a Second Language and certain technical fields (see N.J.A.C. 6:11-8.3).**

(b) [It] **An emergency certificate** is issued only on application of a public school district, submitted after August 1, in which the [local] **district board of education declares its inability due to unforeseen shortages or other extenuating circumstances to locate a suitable certificated teacher.**

[(c) A current list of fields designated for emergency certification is available from the Bureau of Teacher Education and Academic Credentials or the county superintendent of schools.]

[6:11-4.5 Intern certificate

(a) The Commissioner of Education, upon recommendation of the State Board of Examiners, may approve undergraduate or graduate programs of teacher education, including periods of apprenticeship or internship, may authorize local school districts to affiliate as teacher training centers with such approved programs, and may authorize issuance of intern certificates to the students engaged in such programs.

(b) An intern certificate is valid for the school year in which it is issued, but may be renewed under special circumstances as determined by the Bureau of Teacher Education and Academic Credentials.]

[6:11-4.6 Two-month certificate

A certificate may be given for a period of two months by a county superintendent of schools to legalize the employment of an applicant for a position as a teaching staff member, who appears to have the qualifications for a certificate but who must have time to secure credentials and complete the application.]

6:11-[4.7] 4.4 County substitute certificate

(a) Persons who do not hold a regular instructional certificate issued by the State Board of Examiners but who can present a minimum of 60 semester-hour credits completed in an accredited college, may be granted a county substitute certificate for day-to-day substitute teaching in the county which grants the certificate.

(b) Each [local] **district board of education** shall submit to the county superintendent for review and approval, each applicant's official transcripts, oath of allegiance, and credentials [together with a statement that such a person would be employed on an emergency basis as the supply of regularly certificated teachers is inadequate to staff the school].

(c) The certificate will be issued for a three-year period, but the holder may serve for no more than 20 consecutive days in the same position in one school district during the school year. Such certificates, which are issued by the county superintendent of schools, are [designed only for emergency purposes when] **to be granted only** when the supply of properly certificated [substitutes] **teachers** is inadequate to staff the school. They carry none of the accrued benefits, such as pension and tenure, to which a regularly employed teacher is entitled, and are intended only for persons temporarily performing the duties of a fully certificated and regularly employed teacher.

(d) For specific vocational-technical skills, a vocational county substitute certificate may be issued to an applicant on the basis of appropriate work experience in lieu of 60 semester-hour college credits. Such work experience shall be substantiated by a notarized statement of previous employment.

(e) Applicants for the county substitute teaching certificate shall submit with transcripts and credentials, the appropriate fee in accordance with N.J.S.A. 18A:6-38.

(f) Persons who hold a regular New Jersey instructional certificate issued by the State Board of Examiners may serve as a substitute in areas outside the scope of this certificate, for no more than 20 consecutive days in the same position in one school district during the school year. A substitute certificate will not be needed for this service.

(g) The holder of a regular teaching certificate who is to be employed by a local district as a substitute teacher must record such certificate with the Office of the County Superintendent of Schools prior to employment in accordance with N.J.A.C. 6:11-3.1.

(h) The holder of a valid New Jersey registered nurse license may be issued a county substitute certificate to serve as a substitute for a school nurse.

(i) The holder of a county substitute certificate is authorized also to serve as an athletic coach in the district in which he or she is employed. The 20-day limitation noted in (c) above shall not apply to such coaching situations. Issuance of a certificate under these conditions shall be subject to the

approval of the county superintendent of schools as specified in N.J.A.C. [6:11-3.12] **6:29-6.3.**

(j) The State Board of Examiners shall from time to time review procedures and practices associated with the issuance of county substitute certificates.

[6:11-4.8 Certification in cases of unforeseen shortage

If unforeseen shortages of teachers occur in certain areas or extenuating circumstances exist in certain situations, and it is not possible to employ persons who meet the established requirements for teachers' certificates, the Commissioner of Education may, on the recommendation of the county superintendent of schools, issue substandard certificates in individual cases.]

[6:11-4.9] **6:11-4.5** Paraprofessional approval

(a) Schools aides and/or classroom aides, assisting in the supervision of pupil activities under the direction of a principal, teacher or other designated certified professional personnel, shall be approved in accordance with regulations and procedures adopted by the State Board of Education in February, 1968. Copies of these procedures are available from the Bureau of Teacher [Education and Academic Credentials] **Preparation and Certification** or the offices of county superintendent of schools.

(b) Current [regulations] **rules** require school districts employing aides to develop job descriptions and standards for appointment. These descriptions and standards should be based on study of local needs. The nature of the job descriptions will dictate the qualifications to be met, the proficiency standards needed, and the pay to be received.

(c) The locally developed descriptions and standards adopted by the **district** board of education shall be submitted by the [superintendent of schools or] **chief school administrator** [administrative officer] to the county superintendent for approval, in accordance with the [regulations] **rules** outlined below:

1. Any **district** board of education employing school aides or classroom aides shall submit to the county superintendent of schools a job description for each type of aide to be employed, setting forth the duties to be performed, the types of proficiency needed, the qualifications to be required, and the arrangement for supervision of the aides. The qualifications shall include proof of good moral character.

2. The county superintendent of schools shall review the job descriptions and the qualifications proposed for positions for the various types of supervisory or classroom aides. If he **or she** finds that the description and qualifications are in [accord] **accordance** with the policies of the State Board of Education, and conform to sound educational practice, he **or she** shall approve them, and notify the [school] **district** board of **education** of his **or her** approval in writing.

3. At least once each year, and at such other times as the county superintendent may require, the [superintendent of schools or] **chief school administrator** [administrative officer] shall submit to the county superintendent the names of the persons employed as aides, and a statement certifying that the persons appointed meet the qualifications approved by the county superintendent of schools and are being supervised in accordance with the approved plan. The [local superintendent] **chief school administrator** and the county superintendent shall keep appropriate records of the individuals so approved.

SUBCHAPTER 5. BASES FOR ISSUANCE OF REGULAR TEACHER CERTIFICATION

6:11-5.1 General procedure

(a) New Jersey [teacher] **regular instructional** certificates are issued to applicants who [have]:

1. Possess a baccalaureate degree from an accredited institution, who have completed approved teacher education programs in New Jersey colleges and universities (see **N.J.A.C. 6:11-7**) or equivalent programs in out-of-State institutions approved for teacher education by the State Department of Education of the [S]state in which the college is located **and who have passed a test of subject matter knowledge in the appropriate subject teaching field(s) or a test of general knowledge for the elementary endorsement; or**

[(b)] **2. [Equivalencies are determined on the basis of these regulations and the Standards for State Approval of Teacher Education (Subchapter 7) approved by the New Jersey State Board of Education.] Hold a Bachelor's degree from an accredited institution, have passed a State test of subject matter knowledge in the teaching field(s) or a State test of general knowledge for the elementary endorsement and have completed a State-approved alternative training program as described in N.J.A.C. 6:11-5.3 (except in fields as noted in N.J.A.C. 6:11-8.3c). In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject field.**

(b) State-approved alternative training programs are not authorized in the fields of teacher of the handicapped, teacher of the deaf and hard of hearing, teacher of the blind and partially sighted, bilingual education, English as a second language and certain vocational fields (N.J.A.C. 6:11-8.3(c)). The professional preparation of candidates in these fields shall be assessed on the basis of having completed an approved college program (N.J.A.C. 6:11-7) or on the basis of transcript evaluation (N.J.A.C. 6:11-8).

6:11-5.2 [Endorsements] **Reciprocity**

(a) Applicants may qualify for a regular New Jersey teachers certificate in one or more of the comprehensive or single field endorsements listed in **N.J.A.C. 6:11-6.1** [6:11-6.3] by successful completion of one of the following:

[1. Completion of a college curriculum approved by the New Jersey State Department of Education as the basis for issuing the certificate. Such programs are approved as meeting the State Board of Education Standards for State Approval of Teacher Education. Information regarding the colleges offering approved programs in the various teaching fields may be obtained from the Bureau of Teacher Education and Academic Credentials or an appropriate county superintendent's office in New Jersey.]

[2.] **1.** Completion of a college teacher education program, which is included in the [annual List of Approved Program in the] NASDTEC Certification Reciprocity System, issued by the National Association of State Directors of Teacher Education and Certification, designating approval as meeting the national standards described in Standards for State Approval of Teacher Education.

[3. Completion of an elementary teacher preparation program in the New England states, Delaware, Maryland, and Pennsylvania, provided the college or university is accredited

by a regional or national accrediting agency, the program of studies is approved and listed for purposes of the reciprocity compact by the state department of education in the state in which the institution is located, and the graduate has successfully completed the approved program, including supervised student teaching, and is recommended by the institution for teacher certification.]

[4.] 2. Completion of an appropriate out-of-State teacher education program approved by the National Council for Accreditation of Teacher Education (NCATE), provided that the program is [within six semester-hour credits of] **approved by the Commissioner of Education** as meeting New Jersey requirements in [any of] the required areas of general background, professional education, and subject specialization as stated in [the New Jersey Instructional Supplement to the Standards for State Approval of Teacher Education and the total deficiency does not exceed 12 semester-hour credits] **N.J.A.C. 6:11-7.**

[5.] 3. Completion of an appropriate teacher education program including student teaching, approved by the state department of education in the state in which the college is located, (but not appearing on the NCATE or NASDTEC list of accredited colleges and approved programs), provided that the program [meets] is **approved by the Commissioner** as meeting the minimum standards outlined in [the New Jersey Instructional Supplement to the] Standards for State Approval of Teacher Education (see **N.J.A.C. 6:11-7**).

[6.] 4. Completion of a baccalaureate or postbaccalaureate teacher preparation program in one of the states party to the Agreement, approved by the state department of education of the state in which the college is located, provided the college and program are approved, the specific program completed by the applicant was approved on or after January 1, 1964, and the state in which the college is located would issue the applicant a comparable certificate.

[7.] 5. Completion of 27 months of appropriate teaching experience in states in the Agreement, within seven years prior to applying for a certificate in another state in the Agreement, a comparable valid regular or advanced certificate, still in force, issued by one of the states in the Agreement, and the appropriate degree required for the certificate in the receiving state.

6. All applicants who present satisfactory preparation, experience, or certificates from other states must also pass a State test of subject matter or a State test of general knowledge in elementary education in order to receive a standard New Jersey certificate. All such applicants shall be eligible to take the test on the basis of preparation and experience accepted by another state.

[8. Completion of three years of successful teaching experience in the appropriate field in another state, provided the candidate presents a standard teacher's certificate in the appropriate field from the other state, currently in full force and effect, the appropriate college degree when required for the certificate by New Jersey regulations, and preparation equivalent in total semester hours but not necessarily identical in specific content to the minimum preparation in general education, professional education, and subject specialization required for the particular endorsement as stated in the New Jersey Instructional Supplement to the Standards for State Approval of Teacher Education. (Subchapter 8)]

6:11-5.3 Requirements for provisional certification for State-approved alternative training programs

(a) The State-approved training program is an alternative to the college teacher preparation program as a means to acquire standard certification. These training programs may be offered in all instructional fields except bilingual education, English as a second language, teacher of the handicapped, teacher of the deaf and hard of hearing, teacher of the blind and partially sighted, and certain vocational fields (**N.J.A.C. 6:11-8.3(c)**). To participate in a State-approved alternative training program, the candidate shall:

1. Possess a Bachelor's degree (except as noted in **N.J.A.C. 6:11-6.3(c)**);

2. Pass a State test of subject matter knowledge in the teaching field. For the elementary endorsement, the candidate shall pass a State test of general knowledge. In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject field; and

3. Have been offered employment in a school approved by the Commissioner of Education at the recommendation of the State Board of Examiners to offer a certification training program.

(b) The provisional certificate is of one-year duration and will be issued by the State Board of Examiners to participants in a State-approved training program. The standard certificate will be issued by the State Board of Examiners upon satisfactory completion of the program.

(c) The Board of Examiners shall have the right to reject the application of any candidate who is judged not to meet academic requirements comparable to those for students enrolled in New Jersey college teacher preparation programs.

(d) Provisional certificates shall not be granted to teachers of bilingual education, English as a second language, the handicapped, deaf or hard of hearing, or blind or partially sighted.

6:11-5.4 Requirements for State-approved plans

(a) Each district or consortium of schools seeking to hire a provisional teacher must submit a plan to the Department of Education and receive approval in accordance with the same procedures used for initial approval of collegiate preparation programs.

(b) Each plan shall describe the key elements of the proposed training program in accordance with guidelines established and published by the State Department of Education.

(c) Districts or consortia of institutions shall show evidence in their plans of having sought joint sponsorship of their State-approved training programs with colleges or universities.

(d) No public school district shall be authorized to employ a provisional teacher unless it has submitted a plan and received the approval of the commissioner at the recommendation of the State Board of Examiners.

6:11-5.5 Requirements for State-approved alternative training programs

(a) Each State-approved alternative training program shall provide essential knowledge and skills to provisional teachers through the following phases of training:

1. A full-time seminar/practicum of no less than 20 days duration which takes place prior to the time at which the provisional teacher takes full responsibility for a classroom. This seminar/practicum shall provide formal instruction in the essential areas for professional study listed in **N.J.A.C. 6:11-8.2**. It should introduce basic teaching skills through

supervised teaching experiences with students. The seminar and practicum components of the experience shall be integrated and shall include an orientation to the policies, organization and curriculum of the employing district.

2. A period of intensive on-the-job supervision beginning the first day on which the provisional teacher assumes full responsibility for a classroom and continuing for a period of at least ten weeks. During this time, the provisional teacher shall be visited and critiqued no less than one time per week by members of a Professional Support Team (see N.J.A.C. 6:11-5.5(b)) and shall be observed and formally evaluated at the end of five weeks and at the end of five weeks and at the end of ten weeks by the appropriately certified members of the team. During this same period, formal instruction shall be continued in essential areas listed in N.J.A.C. 6:11-8.2(a) and shall emphasize the topics of student assessment, development, and learning, curriculum and school/classroom organization. At the end of the ten-week period, the provisional teacher shall receive a formal written progress report from the chairperson of the Support Team.

3. An additional period of continued supervision and evaluation of no less than 20 weeks duration. During this period, the provisional teacher shall be visited and critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two months shall pass without a formal observation. Formal instruction shall continue in the essential areas listed in N.J.A.C. 6:11-8.2(a). Opportunities shall be provided for the provisional teacher to observe the teaching of experienced colleagues.

(b) Training and supervision of provisional teachers in State approved alternative programs shall be provided by a Professional Support Team comprised of a school principal, an experienced teacher, a college faculty member, and a curriculum supervisor. Districts or schools which do not employ curriculum supervisors or have been unable to establish a relationship with a college should provide for comparable expertise on the team. The school principal shall serve as chairperson of the team.

(c) In accordance with the provisions of N.J.S.A. 18A:26-8, all provisional teachers must pass an examination in physiology and hygiene in order to receive standard certification.

(d) The State Department of Education shall coordinate the training efforts of districts and shall establish regional programs for provisional teachers. The Department shall provide orientation programs for Support Team Members.

6:11-5.6 Requirements for the evaluation of provisional teachers

(a) Provisional teachers shall be observed and evaluated by appropriately certified Support Team Members as described in N.J.A.C. 6:11-5.5.

(b) Evaluation of provisional teachers shall be shared by at least two, but no more than three members of the Support Team.

(c) The State Department of Education shall devise standardized criteria and forms for a final comprehensive evaluation of each provisional teacher, conducted at the end of the provisional period by appropriately certified Support Team Members. Teachers who participate in the observation process shall not participate in decisions which might have a bearing on the future employment or certification of provisional teachers.

6:11-5.7 Recommendation for certification of provisional teachers

(a) At the conclusion of the alternative training program, the chairperson of the Support Team shall prepare a comprehensive evaluation report on the provisional teacher's performance. This report shall be submitted by the chairperson directly to the Bureau of Teacher Preparation and Certification and shall contain a recommendation as to whether or not a standard certificate should be issued to the provisional teacher.

(b) The final comprehensive evaluation report on each provisional teacher shall be made on standard forms developed by the State Department of Education.

(c) The final report on each provisional teacher shall include one of the following recommendations:

1. Approved; recommends issuance of a standard certificate.

2. Insufficient; recommends that a standard certificate not be issued but that the candidate be allowed to seek entry in the future into a State-approved training program.

3. Disapproved; recommends that a standard certificate not be issued and that the candidate not be allowed to enter into a state-approved training program.

(d) All certification recommendations must be either accepted or rejected by the State Board of Examiners in accordance with the same procedures used for graduates of New Jersey college preparation programs.

SUBCHAPTER 6. ENDORSEMENTS ON THE INSTRUCTIONAL CERTIFICATE

6:11-6.1 Fields; endorsements

(a) The fields in which teaching endorsements may be issued on a New Jersey instructional certificate are listed below.

(b) Students who have completed an approved teacher education program in an out-of-State college that was restricted to one subject within a comprehensive field, such as social studies, will be issued a temporary certificate in the Comprehensive field and be permitted to fulfill the remaining studies as indicated in the statement regarding temporary certificates, (6:11-4.2).]

6:11-6.[2]1 Authorizations—General

(a) Each teaching endorsement is required for the corresponding teaching assignment. Each endorsement is valid for all levels, except that the nursery school endorsement is valid in nursery schools and kindergartens, and the elementary endorsement is valid for grades kindergarten through eight.

(b) Teachers with elementary endorsements are not permitted to devote more than one-half time to teaching art, music, health, home economics, industrial arts, or physical education in elementary grades. Teachers with elementary endorsements are authorized to teach the common branch subjects, such as, reading, writing, arithmetic, and spelling in the secondary school, grades seven through 12.

[(c) Teachers with English endorsements are authorized to teach reading. This regulation applies only to those teachers currently holding English certification and who are now employed as teachers of reading.]

(c) Teachers with English endorsements who taught reading prior to February, 1976, may continue to teach in such assignment. After February, 1976, teachers of reading shall hold the appropriate endorsement.

6:11-6.2 Endorsements and authorizations

(a) Teaching endorsements and authorizations are listed below:

1. **Agriculture:** This endorsement authorizes the holder to teach agriculture/agribusiness/natural resources occupational education, including the related theory and procedures and/or coordinating supervised occupational experience programs in all public schools;

2. **Art:** This endorsement authorizes the holder to teach art in all public schools;

3. **Bilingual/bicultural education:** This endorsement authorizes the holder to teach bilingual/bicultural education in all public schools;

4. **Business education;**

i. **Comprehensive:** This endorsement authorizes the holder to teach business education subjects in all public schools; Included in the comprehensive business education endorsement are the subject areas of: bookkeeping and accounting, secretarial studies, general business, consumer education, business math, business English;

ii. **Bookkeeping and accounting:** This endorsement authorizes the holder to teach bookkeeping, accounting, and business mathematics, in all public schools;

iii. **Data processing:** This endorsement authorizes the holder to teach data processing in all public schools. Data processing normally includes the areas of keypunching, unit record operation, computer operation, programming and technology;

iv. **General business:** This endorsement authorizes the holder to teach general business studies in all public schools. General business studies normally include: business law, economic geography, economics, social business studies, consumer education, sales, retailing, advertising;

v. **Secretarial studies:** This endorsement authorizes the holder to teach secretarial studies in all public schools. Secretarial studies normally include: shorthand, typewriting, office procedures, business machines, business English;

vi. **Typewriting:** This endorsement authorizes the holder to teach typewriting in all public schools;

vii. **Marketing and Distributive occupations:** This endorsement authorizes the holder to teach marketing and distributive occupations in all public schools. Distributive occupations include: sales, advertising, retailing;

5. **Driver education:** This endorsement authorizes the holder to teach driver education in all public schools;

6. **Elementary education :** This endorsement authorizes the holder to serve as elementary school teacher in grades kindergarten through eight in all public schools. Teachers with elementary endorsements are not permitted to devote more than one half time to teaching art, music, health, home economics, industrial arts, or physical education in the elementary grades. Teachers with elementary endorsements are authorized to teach the common branch subjects such as reading, writing, arithmetic, and spelling in the secondary school;

7. **English:** This endorsement authorizes the holder to teach English in all public schools;

8. **English as a Second Language:** This endorsement authorizes the holder to teach English as a second language in all public schools;

9. **Foreign language:** This endorsement authorizes the holder to teach a designated foreign language in all public schools. See listing of foreign languages below;

i. Chinese;

ii. French;

iii. German;

iv. Greek;

v. Hebrew;

vi. Italian;

vii. Japanese;

viii. Latin;

ix. Portuguese;

x. Russian;

xi. Spanish;

xii. Other foreign languages.

10. **Health education:** This endorsement authorizes the holder to teach health education in all public schools;

11. **Health and physical education:** This endorsement authorizes the holder to teach health and physical education in all public schools;

12. **Home economics:** This endorsement authorizes the holder to teach home economics in all public schools. Home economics normally includes: homemaking and consumer education, foods and nutrition, family living and parenthood education, child development and guidance, housing and home furnishings, home management, clothing and textiles, and family health and safety;

13. **Industrial arts:** This endorsement authorizes the holder to teach industrial arts in all public schools. Industrial arts normally include: graphic arts, drafting, woodworking, metal working, arts and power mechanics;

14. **Mathematics:** This endorsement authorizes the holder to teach mathematics in all public schools;

15. **Military science:** This endorsement authorizes the holder to teach military science in all public schools;

16. **Music:** This endorsement authorizes the holder to teach vocal and instrumental music and related theory in all public schools;

17. **Nursery school:** This endorsement authorizes the holder to teach in nursery schools and kindergartens in all public schools;

18. **Physical education:** This endorsement authorizes the holder to teach physical education in all public schools;

19. **Psychology:** This endorsement authorizes the holder to teach psychology in all public schools;

20. **Reading:** This endorsement authorizes the holder to teach reading in all public schools;

21. **Science:**

i. **Comprehensive:** This endorsement authorizes the holder to teach science (comprehensive) in all public schools. Comprehensive science normally includes: physics, chemistry, biological sciences, earth and space sciences other than geography;

ii. **Biological science:** This endorsement authorizes the holder to teach biological science in all public schools. Biological science includes: botany, anatomy and physiology, zoology, biology;

iii. **Earth science:** This endorsement authorizes the holder to teach earth science in all public schools. Earth science includes: astronomy, geology, meteorology, oceanography, physical geography and space science;

iv. **Physical science:** This endorsement authorizes the holder to teach physical science in all public schools. Physical Science includes: physics, chemistry, and earth and space sciences other than geography;

22. **Social studies:** This endorsement authorizes the holder to teach social studies in all public schools;

23. **Special education**

i. **Blind or partially sighted:** This endorsement authorizes the holder to teach blind or partially sighted children in all public schools;

ii. Deaf or hard of hearing: This endorsement authorizes the holder to teach deaf or hard of hearing children in all public schools;

iii. Teacher of the handicapped: This endorsement authorizes the holder to teach physically limited, socially and emotionally maladjusted, mentally retarded (educable and trainable children), or children with multiple handicaps;

24. Speech arts and dramatics: This endorsement authorizes the holder to teach speech arts and dramatics in all public schools;

25. Teacher of agricultural occupations: This endorsement authorizes the holder to teach designated agricultural occupations in all public schools. See listing of agricultural occupations below:

- i. Agricultural mechanics;
- ii. Agricultural sales and service;
- iii. Animal husbandry;
- iv. Crop production;
- v. Greenhouse management;
- vi. Landscaping;
- vii. Natural resources occupations;
- viii. Nursery management;

26. Teacher of practical nursing: This endorsement authorizes the holder to teach practical nursing in all public schools;

27. Teacher of production, personal or service occupations: This endorsement authorizes the holder to teach designated occupations in all public schools. See listing of production, personal or service occupations below:

- i. Barbering;
- ii. Building maintenance;
- iii. Clothing, apparel and textile management, production, and services;
- iv. Cosmetology;
- v. Custodial training (includes buildings and grounds);
- vi. Dental assisting;
- vii. Dental receptionist;
- viii. Food management;
- ix. Food production;
- x. Food services;
- xi. Health occupations;
- xii. Hotel motel (front desk clerk);
- xiii. Hotel motel management;
- xiv. Laundering, cleaning, and pressing;
- xv. Medical assisting;
- xvi. Medical receptionist;
- xvii. Nursing assistances;
- xviii. Service station attendant;
- xix. Small animal care;
- xx. Small engine repair;
- xxi. Warehousing;
- xxii. Machine operator (assembly);

28. Teacher of skilled trades: This endorsement authorizes the holder to teach a designated skilled trade in all public schools. See listing of skilled trades below:

- i. Air conditioning and refrigeration;
- ii. Aircraft mechanics (air frame and power plant);
- iii. Auto body repair;
- iv. Auto mechanics;
- v. Baking;
- vi. Brick and masonry;
- vii. Cabinet making;
- viii. Carpentry;
- ix. Commercial art;
- x. Commercial photography;
- xi. Diesel mechanic;

- xii. Drafting;
- xiii. Electrical trades;
- xiv. Electricity and electronics;
- xv. Electronic motor repair;
- xvi. Electronic products servicing;
- xvii. Fire science;
- xviii. Heating and ventilating (includes oil and gas burner mechanic);
- xix. Heavy duty equipment mechanic;
- xx. Machine shop;
- xxi. Maintenance mechanic (includes industrial maintenance mechanic and industrial mechanic);
- xxii. Marine trades;
- xxiii. Millwright;
- xxiv. Office machine repair;
- xxv. Painting and decorating;
- xxvi. Plumbing and pipefitting;
- xxvii. Printing;
- xxviii. Radio and television repair;
- xxix. Sheet metal;
- xxx. Stationary engineering;
- xxxi. Tool and die making;
- xxxii. Upholstering;
- xxxiii. Water waste water;
- xxxiv. Welding;
- xxxv. Television broadcasting (issued to teachers of television broadcasting who teach trade and industry courses)

29. Teacher of technical occupations: This endorsement authorizes the holder to teach a designated technical occupation in all public schools. See listing of technical occupations below:

- i. Agricultural technology;
- ii. Air conditioning technology;
- iii. Automotive technology
- iv. Basic aviation and instrumentation (includes aviation mechanic);
- v. Chemical technology;
- vi. Computer science technology;
- vii. Construction technology;
- viii. Drafting and design technology;
- ix. Electrical technology;
- x. Electronic technology;
- xi. Engineering technology;
- xii. Food technology;
- xiii. Highway technology;
- xiv. Instrumentation technology;
- xv. Laboratory technology;
- xvi. Metallurgical technology;
- xvii. Power plant technology;
- xviii. Radio and television broadcast technology;
- xix. Telecommunications technology;

30. Teacher of vocational-technical related subjects: This endorsement authorizes the holder to teach those subjects utilized in skill and technical trades such as math, science, related theory.

[6:11-6.3 Endorsement

(a) Specific subject field endorsements include the following:

- 1. Twenty-four semester-hour credits are required in each of the following:
 - i. Biological science;
 - ii. Bookkeeping and accounting;
 - iii. Earth science;
 - iv. English;

- v. Foreign languages;
 - vi. General business studies;
 - vii. Mathematics;
 - viii. Physical science;
 - ix. Reading;
 - x. Secretarial studies;
 - xi. Speech arts and dramatics.
2. Twenty-four semester-hour credit requirement does not apply to the following: (See Subchapter 8)
- i. Agricultural occupations;
 - ii. Data processing;
 - iii. Distributive education;
 - iv. Driver education;
 - v. Practical nursing;
 - vi. Production, personal, and service occupations;
 - vii. Skilled trades;
 - viii. Technical occupations;
 - ix. Typewriting;
 - x. Vocational-technical related subjects.

(b) Comprehensive subject field endorsements include the following:

- 1. Thirty semester-hour credits are required in each of the following:
 - i. Art;
 - ii. Business education;
 - iii. Health education;
 - iv. Health and physical education;
 - v. Home economics;
 - vi. Industrial arts;
 - vii. Music;
 - viii. Physical education;
 - ix. Science;
 - x. Social studies.

2. The 30 semester-hour credit requirement does not apply to the following: (See Subchapter 8)

- i. Agriculture;
- ii. Instrumental music.

(c) Handicapped endorsements include the following:

- 1. Thirty semester-hour credits in professional education are required in each of the following: (See Subchapter 8)
 - i. Blind or partially sighted;
 - ii. Deaf or hard of hearing;
 - iii. Teacher of the handicapped.

(d) Elementary education endorsements require 24 semester-hour credits in professional education.

(e) Nursery school endorsements require 24 semester-hour credits in professional education.]

6:11-6.3 Endorsements: requirements

(a) **Holders of standard instructional certificates, except as noted in (b) below shall obtain additional instructional endorsements by:**

1. Presenting evidence of having acquired a baccalaureate degree at an accredited institution (except as noted in N.J.A.C. 6:11-6.3(c)1); and

2. Passing a State test in the subject field or a State test of general knowledge for an elementary endorsement. In order to be eligible to take a subject field test, the applicant must have completed at least 30 semester hours in a coherent major or five years of experience in the subject field.

(b) **The following subject field endorsements, while requiring a baccalaureate degree, constitute exceptions to the requirements in (a) above (see N.J.A.C. 6:11-8.3):**

1. Typewriting endorsement applicants must hold a valid New Jersey instructional endorsement in business education and demonstrate proficiency in typing.

2. Driver education endorsement candidates shall hold a New Jersey instructional endorsement in another subject field and a current New Jersey driver's license. Also required are three years of automobile driving experience and evidence of a driver education training program approved by the New Jersey State Department of Education.

3. Military science endorsement requires official evidence of 20 years of military service and recommendation by the branch of service in which the applicant served a minimum of 20 years.

(c) **Exceptions to the requirements of a baccalaureate degree (see N.J.A.C. 6:11-5.1(a)1 and 2):**

1. In the following endorsement areas, work experience is accepted in lieu of the baccalaureate degree in accordance with N.J.A.C. 6:11-8.3(c).

- i. Agricultural occupations;**
- ii. Skilled trades;**
- iii. Personal production and service occupations;**
- iv. Practical nursing;**
- v. Technical occupations.**

(d) **Applicants who receive official transcript evaluations before September 1, 1985, shall be permitted to fulfill requirements by taking the college courses indicated or by taking the appropriate State test and State-approved training program where applicable. Such applicants who choose to complete college courses must do so by September 1, 1990, after which they must take the State test. No new transcript evaluations will be issued after September 1, 1985 in fields in which State-approved training programs are authorized.**

SUBCHAPTER 7. STANDARDS FOR STATE APPROVAL OF TEACHER [EDUCATION] PREPARATION

6:11-7.1 Procedures for accreditation or approval

(a) The State Board of Education authorizes the use of Standards for State Approval of Teacher Education of the National Association of State Directors of Teacher Education and Certification (NASDTEC), in the evaluation of teacher preparation programs in colleges and universities of the State. The 198[1]3 edition of NASDTEC (further editions, subsequent amendments and supplements) is hereby authorized for use in the evaluation of teacher preparation programs, and is hereby adopted as a rule.

1. This document is available for review at the [Office] **Bureau of Teacher [Education] Preparation and Certification** [Division of Research, Planning and Evaluation], New Jersey State Department of Education, 225 West State Street, CN 500, Trenton, New Jersey 08625, or at the Office of Administrative Law, CN 301, Trenton, New Jersey 08625.

2. This document may be purchased from NASDTEC, Utah State Office of Education, Staff Development Section, 250 East Fifth South, Salt Lake City, Utah 84111.

(b) In the evaluation of undergraduate teacher preparation programs the following standards shall apply:

1. Teacher preparation programs are those curricula which lead to a recommendation for a New Jersey instructional certificate irrespective of the organizational unit of the college by which the curriculum is offered. Formal admission to teacher preparation programs shall be reviewed at the beginning of the junior year and shall be granted only to those students who have:

- i. Maintained a cumulative grade point average (GPA) of at least 2.5 (4 equals A) for the first two years of college. It is the intent of this and other standards which refer to minimum

grade point average to insure that institutions determine the intellectual competence of those recommended for certification. The required average of 2.5 should be viewed as only a minimal means of achieving this goal; the variability of the GPA among institutions should also be recognized. Therefore, institutions are encouraged to exceed this standard when appropriate and to develop additional criteria for insuring that prospective teachers are intellectually capable.

ii. Achieved acceptable levels of proficiency in the use of English language (oral and written) and mathematics. Students with deficiencies in these areas upon admission to college shall be required to demonstrate the elimination of such deficiencies through an oral or written assessment by the beginning of the junior year.

iii. Demonstrated aptitude for the profession of teaching through successful completion of an introductory course which provides appropriate practical experiences in an elementary or secondary school. This requirement would normally have to be met before the student is granted status as a junior in the program.

2. Each student shall be evaluated at the end of the junior year by college faculty (both education and subject matter) and confirmed as a candidate for certification on the basis of a comprehensive assessment of relevant indicators which shall include:

i. Having maintained a cumulative grade point average of at least 2.5 (4 equals A);

ii. Having demonstrated acceptable levels of teaching proficiency in junior field experience as indicated by the evaluation reports of college and school faculty. Such evaluations shall be communicated to the student and shall be included in the student's permanent file.

3. Only students who have been confirmed as candidates for certification shall be assigned to student teaching.

4. Colleges shall recommend for certification to the Department of Education only those students who have completed the certification program and have:

i. Maintained a cumulate grade point average of 2.5 (4 equals A);

ii. Demonstrated continued competence, aptitude, motivation, and potential for outstanding success in teaching as indicated by assessments of student teaching performance by college and school supervisors. Such assessments shall be communicated to the student and shall be a part of the student's file;

iii. Demonstrated knowledge of the behavioral/social foundations of teaching/learning through successful completion at the end of the senior year of a comprehensive oral or written test devised or selected by the institution (this standard applies to all candidates);

iv. Demonstrated knowledge of the academic subject area major through successful completion at the end of the senior year of a comprehensive oral or written test devised or selected by the institution.

5. All standards are to be applied equitably to all students, including transfer students, and without discrimination based upon legally prohibited criteria. All admissions and retention processes are to be consistent with State and institutional affirmative action policies and goals.

6. Colleges shall develop appropriate procedures for placing on probation and dismissing from the program students who fall below minimum requirements before graduation, and shall incorporate into these procedures methods for appeals by students.

7. Students completing an approved program must be recommended for a certificate by their college or university before one will be issued by the State Board of Examiners.

8. Each approved undergraduate teacher preparation program shall provide approximately 60 semester credit hours of general education including electives. General education courses shall be distributed among the arts, humanities, mathematics, science, technology and the social sciences. There must be some study in each area. The inclusion of technology as an aspect of general education is intended to allow for the inclusion of courses and topics (such as computer literacy, the history of technology and the sociological impact of technological advancement) which would contribute to the general technical literacy of students. The purpose of general education is to develop the prospective teacher as an educated person. This component of the program shall exclude courses which are clearly professional or vocational in nature, but may include up to 12 semester credit hours of overlapping with the 30 semester credit hours required in the coherent sequence of study.

9. Each approved teacher preparation program shall require its students to complete a coherent sequence of study no fewer than 30 semester credit hours in the arts/humanities, behavioral/social science and/or mathematics/science technology disciplines. Introductory courses in the coherent sequence may also satisfy up to 12 semester credit hours of the general education requirements. [Coherent sequences in areas such as psychology or sociology may satisfy part of the 18 semester credit hours required in the study of behavioral or social sciences.] The inclusion of technology as a potential academic area is intended to provide for those candidates who will be certified to teach one of the technical disciplines such as distributive occupations or industrial technology.

10. Each approved undergraduate teacher preparation program shall provide [a minimum of 18 semester credit hours in courses related to the theory of teaching learning through the study of the behavioral or social sciences. Study shall emphasize such topics as:

i. Child and adolescent development;

ii. Individual differences;

iii. Learning, motivation and memory;

iv. Testing and measurements;

v. Human relationships and group dynamics; and

vi. Cultural, minority and urban concerns.

11. Each approved undergraduate teacher preparation program shall provide a minimum of 30 semester credit hours in a coherent sequence of professional courses which shall emphasize the study of reading, school curriculum and teaching methodology, including materials and technology; instructional management; and student achievement research.] **study in the essential behavioral/social science and professional education areas listed in N.J.A.C. 6:11-8.2(a). A minimum of nine credits must be devoted to study in the behavioral/social sciences. At least 96 credits of the total program must be distributed among the general education, academic sequence, and behavioral/social science aspects of the program.** This component of the undergraduate program shall provide students, normally beginning in the sophomore year, with practical experiences in an elementary or secondary school setting; these opportunities shall increase in intensity and duration as the student advances through the program and culminate with a student teaching experience.

[12.] **11.** The student teaching experience of each approved undergraduate program shall be the equivalent of a full-time

experience of one semester's duration, and credit hours for this experience shall be included among the minimum of 30 semester credit hours in the coherent sequence of professional courses.

[13.] **12.** Collegiate faculty assigned to supervise students shall:

i. Have had experience supervising, consulting or otherwise working in an elementary/secondary school in contact with classroom teachers within the previous two years;

ii. Be full-time faculty members or part-time faculty with demonstrated expertise in the field they are supervising.

[14.] **13.** College supervisors of student teachers shall be assigned supervisory loads which permit observation of each student once every other week.

[15.] **14.** Physiology and hygiene. In accordance with the provisions of N.J.S.A. 18A:26-8 students must take an examination in physiology and hygiene, including the effects of narcotics and alcohol (see N.J.A.C. 6:11-8.2(a) [7.i.-ii.] **4**).

[16. Reading requirements. See N.J.A.C. 6:11-8.2(a) 8i.-iv. for requirements in all subject teaching programs and elementary teaching programs.]

[17.] **15.** Exceptions to one or more of the rules in this subchapter may be granted by the Commissioner of Education in cases where an institution is able to document the qualitative equivalency of an alternative approach.

SUBCHAPTER 8. NEW JERSEY INSTRUCTIONAL SUPPLEMENT TO STANDARDS FOR STATE APPROVAL OF TEACHER EDUCATION

6:11-8.1 Scope

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

[1. In conjunction with the Standards for State Approval of Teacher Education to evaluate and approve teacher education programs in New Jersey colleges;]

1. In defining the essential areas of study to be included in the professional component of approved college programs and the formal instruction component of State-approved alternative training programs.

[2. As the basis for defining the additional requirements to be met in order to qualify for a regular certificate, by applicants who are eligible initially for only a temporary certificate;

[3. As the basis for evaluating the eligibility of candidates for certificates who:

i. Have completed teacher education programs in out-of-State colleges, or

ii. Wish to qualify for New Jersey certification based on certification and experience in other states;

[4. As the basis for defining the nature and extent of the general education background, professional, and subject matter specialization studies will constitute the undergraduate and/or graduate certificate programs designed by colleges for candidates who already possess the academic degree required for a certificate;

[5. As the basis for evaluating the eligibility of individuals for emergency and provisional certificates when teacher shortages make it necessary for local public school districts to apply for such certificates for persons who do not qualify for regular certificates;

[6. As the basis for defining the additional requirements to be met in order to qualify for additional teaching authoriza-

tions by applicants who hold New Jersey regular certificates in other fields.]

2. As the basis for performing transcript evaluations and issuing certificates in fields in which State-approved training programs are not authorized; and

3. As the basis for issuing certificates in certain technical fields in which the baccalaureate degree is not required.

6:11-8.2 Common requirements; all college teacher education programs and State-approved alternative programs

[(a) Except when specifically indicated below, the following requirements apply to all college programs leading to a New Jersey teacher's certificate:

1. Approved programs, except where noted otherwise will lead to a bachelor's or higher degree. Certificate programs designed for students who already hold the appropriate degree required for the certificate will apply the accreditation policies indicated in paragraph 2 below.

2. Regulations of the New Jersey State Board of Education require teacher candidates to present college study completed at accredited or approved institutions.

i. Except as indicated in subparagraph iii below, college degrees will be recognized for purposes of teacher certification in New Jersey only from colleges accredited or approved by the State Board or Department of Education of the state in which the college exists.

ii. Professional preparation required for New Jersey teachers certificates will be accepted from:

(1) New Jersey colleges approved for the preparation of teachers by the New Jersey State Board of Education.

(2) Out-of-State colleges approved by the State Board or Department of Education in the state in which the college is established, except as indicated in 3. below.

(3) Accredited New Jersey two-year colleges provided: the courses are accepted toward meeting the requirements in professional education by a New Jersey college approved for the preparation of teachers by the New Jersey State Board of Education and such acceptance is submitted in writing to the Bureau of Teacher Education and Academic Credentials by the accepting institution, and no more than six semester-hour credits in professional education are completed on the two-year college level.

iii. College degrees and professional preparation from colleges in states in which the State Board or Department of Education lacks authority to regulate the establishment of colleges or their approval for purposes of teacher education, will be accepted for purposes of teacher certification in New Jersey only if such degrees and professional preparation are accepted for purposes of teacher certification by the State Department of Education in the state in which the college is located.

3. Except where indicated in 6:11-8.4, approved programs will include a minimum of forty-five semester-hour credits of college study in general education areas, including study in at least four of the following areas: English, mathematics, science, social studies (anthropology, economics, geography, history, political science, sociology), fine and practical arts, foreign languages, music, philosophy, psychology. Programs leading to the elementary endorsement must include study in English, mathematics, science, and social studies.

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

5. Except where indicated below, approved programs will include a minimum of fifteen semester-hour credits in professional education distributed over four or more of the following areas, and including study in each area in subparagraphs i through iii of this paragraph. This study may be accomplished in either separate or integrated courses. These fifteen credits do not include student teaching.

i. Methods of teaching: Studies designed to develop understanding of the aims and techniques of instruction, including courses such as the following: general methods, methods of teaching elementary, secondary, vocational-technical subjects, or handicapped children, visual aids in education, and individualizing instruction, or methods of teaching a specific field when so indicated in the regulations.

ii. Educational psychology: Studies designed to develop understanding of human development and learning, including courses such as the following: psychology of learning, human growth and development, child psychology, adolescent psychology, psychology of the handicapped, psychological foundations of education, educational measurements and mental hygiene.

iii. Human and intercultural relations: Studies designed to develop understanding of social interaction and culture change, including courses such as the following: urban sociology, history of minority groups, intergroup relations, and suburban and innercity problems. (This area will be required after 1975). Students enrolled in approved programs who will be graduated before that date should be encouraged to take advantage of existing courses in this area.)

iv. Field experience: Pre-student teaching field experiences and studies in working with innercity, suburban, and rural children, youth and adults in a variety of community and school programs, including activities such as tutoring, small group leadership, community agency participation and individual case studies.

v. Curriculum: Studies designed to develop understanding of curriculum design and construction, including courses such as the following: principles of curriculum construction, the elementary, secondary, special education, or vocational-technical curriculum, a study of the curriculum in a specific subject or field of teaching, and extracurricular activities.

vi. Foundations of education: Studies designed to develop understanding of the educational implications of social, political, historical, cultural and philosophical context in which schools are conducted, including courses such as the following: history of education, philosophy of education, social foundations of education, comparative education, and educational sociology.

vii. Student personnel services: Studies designed to develop understanding of the student personnel and special services program of the school, including courses such as the following: student personnel problems, principles of guidance, tests and measurements, educational, vocational, psychological, and health counseling, school psychology, school social work, educating the handicapped.

viii. Electives in professional education.

6. Student teaching:

i. This requirement is an addition to the 15 credits in professional education in paragraph 5 of this subsection;

ii. Guidelines for student teaching programs in New Jersey colleges are available on request from the Bureau of Teacher Education and Academic Credentials.

7. Physiology and Hygiene

i. In accordance with the provisions of New Jersey statutes (N.J.S.A. 18A:26-8), students must take an examination in

physiology and hygiene, including the effects of narcotics and alcohol. In lieu of this examination the applicant may present basic military training, or college study in areas such as biology, personal health problems, community health, school health, family health, health counseling, nutrition or health administration. This requirement does not apply in the fields of art, health education, home economics, industrial arts, library studies, music and physical education;

ii. It is recommended that all educational institutions giving teacher training offer study in the effects of narcotics, alcohol and tobacco upon the human system, upon character and upon society, and every student attending such institutions in preparation for teaching service be required to take and satisfactorily complete such study.

8. Reading requirements

i. All subject education teaching programs shall include six semester-hours or at least two courses in the teaching of reading as it pertains to the field for which certification is being sought. Such courses will be part of an approved program, and will be reviewed by the Bureau of Teacher Education and Academic Credentials before approval of their inclusion is forthcoming. In addition, the courses shall be constructed so that the following minimum specific knowledge is developed for students in subject teaching fields:

(1) Knowledge of the reading process as it applies to the student's major field(s) of concentration and knowledge of the components of a comprehensive reading program and the relationship to the various student populations;

(2) Knowledge of listening, language and functional learning/reading skills required for proficient reading of instructional material within the student's major field(s) of concentration;

(3) Knowledge of the relationship between content and functional learning/reading skills with emphasis on procedures for implementation during classroom instruction in the student's major field(s) of concentration;

(4) Knowledge of various classroom diagnostic procedures and techniques for effective assessment of a prescription based upon pupils' strengths and needs in the functional learning/reading skills as related to subject's specific content field(s);

(5) Knowledge of a variety of teaching techniques, organizational strategies and procedures for selecting appropriate instructional materials to adjust instruction according to the pupil's strengths and needs in reading as related to the student's major content field(s), and knowledge of ways to develop positive student attitudes toward reading which encourage lifetime reading habits.

ii. In the elementary teacher education programs, six semester-hours or at least two courses in the teaching of reading shall be so constructed that the following minimum specific knowledge is developed for these students:

(1) Understanding the nature of the reading process and the various approaches for teaching reading. Understanding of the components of the comprehensive reading program and how these are related to various pupil populations in the elementary school;

(2) Knowledge of listening, language, reading and conceptual skills necessary for the proficient reading in all areas of the elementary school;

(3) Knowledge of various classroom diagnostic instruments, procedures and techniques used for assessing students' strengths and needs in reading;

(4) Knowledge of ways to organize reading instruction and materials to meet individual needs as revealed through student assessment;

(5) Knowledge of ways to develop positive attitudes toward reading which encourage lifetime reading habits.

iii. The college dean recommending certification will attest that this reading knowledge is a component of each certification program at that college, and that each student receiving certification is able to apply the above knowledge in practical situations. In addition, every on-site evaluation team which visits teacher education programs to determine approval status shall have appropriate specialists in reading as members of the team;

iv. In addition to the course requirements for reading set forth above, colleges are directed to N.J.A.C. 6:11-7.65, standards for innovative and experimental programs, and are encouraged to utilize these regulations as an alternate approach to meeting the reading requirements.

v. This shall be effective September 1, 1977.]

(a) Approved college programs and state-approved alternative-programs shall include study in the following areas of professional education:

1. **Curriculum: Studies designed to foster an understanding of the curriculum taught and the assessment of learning, including topics such as the following: the organization and presentation of subject matter, the development and use of tests and other forms of assessment, the evaluation and selection of instructional materials and the appropriate use of textbooks and teachers' guides, the use and interpretation of standardized tests and teacher-developed instruments.**

2. **Student Development and Learning: studies designed to foster an understanding of students, their characteristics as individuals, and the ways in which they learn, including topics such as: student interests, motivation, preventing classroom disruption, creating a healthy learning climate, individual and group learning, language development, individual differences, and the role of technology in early learning.**

3. **The Classroom and the School: studies designed to foster an understanding of the school as a social unit and classroom management, including such topics as: the bureaucratic/social structure of public education, the making of teaching decisions, allocation of instructional time, setting of priorities, pacing of instruction, setting of goals, questioning techniques, student practice and independent work.**

4. **Physiology and Hygiene: In accordance with the provisions of N.J.S.A. 18A:26-8, candidates must pass an examination in physiology and hygiene, including the effects of narcotics and alcohol. In lieu of this examination, the applicant may present basic military training or study in areas such as biology, health or nutrition.**

[6:11-8.3 Authorization

(a) Each teaching endorsement is required for the corresponding teaching assignment.

(b) Each endorsement is valid for all grade levels, except that the nursery school endorsement is valid for nursery schools and kindergartens, and the elementary endorsement is valid for grades kindergarten through eight.

(c) Teachers with elementary endorsements are permitted to devote up to one-half time to teaching art, music, health, home economics, industrial arts or physical education in the elementary grades.

(d) Teachers with elementary endorsements are authorized to teach the common branch subjects, such as, reading, arithmetic, writing and spelling in secondary schools, grades seven through twelve.

(e) Teachers with English endorsements are authorized to teach reading. This regulation applies only to those teachers

currently holding English certification and who are now employed as teachers of reading.]

6:11-8.4] 3 [Teaching field endorsements] **Exceptions to requirements for standard certification**

[(a) Unless specified otherwise, approved programs will include at least one teaching major field of 24 semester-hour credits, or one comprehensive field of 30 semester-hour credits. Study within all areas listed below is recommended.

1. Required areas of study are starred (*).

2. Requirements other than, and/or different from, those prescribed in Standard for State Approval of Teacher Education are listed below.

(b) Specific field endorsements are 24 semester-hour credits unless specified otherwise below:]

(a) State-approved alternative training programs are not authorized in fields of vocational education. In addition, work experience may be substituted for the baccalaureate degree. Teachers in these fields may be employed on an emergency basis in accordance with N.J.A.C. 6:11-4.3. The emergency certificate is a one-year certificate which is renewable annually for an indefinite period. Candidates in the fields of vocational education may obtain a standard endorsement by meeting the following requirements.

1. Agricultural occupations: (experience background). Applicants who present five years of experience in a particular area of agriculture, such as farm machinery repairman, nursery worker, greenhouse florist or poultryman, may receive this endorsement without the requirement of a bachelor's degree. They must present approved training for the agricultural occupation, and have completed an approved teacher education program. Instead of [6:11-8.2(c)(a)3 above,] **approximately 60 credit-hours in general education**, the program must include eighteen semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science, mathematics and foreign language. The [24] **30 credit major field requirement does not apply to this endorsement[s].**

[2. Biological science: Biology, botany, zoology.

3. Bookkeeping and accounting: *A minimum of eight semester-hour credits in bookkeeping and accounting; #data processing; business machines; business mathematics; general business subjects. (#data will be a required area after July 1, 1973.)

4. Data processing: Instead of a 24 semester-hour major, this endorsement is available on the basis of a minimum of 12 semester-hour credits, including at least six in data processing, three in accounting and three in general business subjects.

5. Distributive occupations: Candidates who present two years of approved work experience in distributive occupations, or a program of supervised internship in a college curriculum for the preparation of business education and/or distributive education teachers, may obtain this endorsement by completing a college program of 15 semester-hour credits in content appropriate to distributive education; such as the following, including study in the three starred areas: economics, business administration, marketing and distribution, *retailing, *sales promotion, *personnel management, color and design, textiles.

6. Driver education: Instead of requirements 6:11-8.2(a), (c), (d):

i. A valid New Jersey teacher's certificate in another field,

ii. A current New Jersey driver's license,

iii. Three years of automobile driving experience, and

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iv. Evidence of satisfactory completion of a course in driver education and driver training approved by the New Jersey State Department of Education.

7. Earth science: geology, geography, physiography, astronomy.

8. Elementary Education: see Standards for State Approval of Teacher Education.

i. An applicant who has a bachelor's degree and a regular teacher's certificate in another field will be eligible for an elementary school endorsement by presenting methods of teaching each of the following areas:

- (1) Creative arts;
- (2) Health and physical education;
- (3) Language arts;
- (4) Mathematics;
- (5) Reading;
- (6) Science;
- (7) Social studies.

ii. Methods in these areas completed for the initial certificate will be credited toward this requirement.

9. English: Literature, *composition, *speech, *dramatics.

10. Foreign languages: See Standards for State Approval of Teacher Education.

11. General business: A program including study in each starred (*) field:

- i. Business law;*
- ii. Consumer education;*
- iii. Economics*
- iv. Business mathematics;
- v. Business organization and management;
- vi. Economic geography;
- vii. Finance;
- viii. Marketing or merchandising.

12. Mathematics: Algebra, *geometry, *calculus.*

13. Nursery School: A program of college studies including:

i. History, principles and philosophy of education,

ii. Child development from birth to twelve years, and related courses in psychology, mental hygiene, child health, and nutrition,

iii. Nursery school methods and curriculum including literature, story telling, music, art, and science for children two to five years of age,

iv. Child, family and community life.

v. A teacher holding a regular certificate in another field who presents six credits in specialized nursery school training including work in each of the areas starred below will be eligible for a nursery school endorsement. This study may be in separate or integrated courses.

(1) Curriculum studies, *including such areas as literature, story telling, art, and science for children approximately two to five years of age;

(2) Methods of teaching in nursery school;*

(3) Child health and nutrition for children under five years of age;

(4) Child growth and development from birth to six years.

14. Physical Science: Physics, *chemistry,* geology, astronomy.]

[15.] **2. Practical nursing: (Experience Background).** Registered nurses who present three years of approved full-time nursing experience may receive this endorsement without the requirement of a bachelor's degree if they have completed an approved teacher education program. Instead of [6:11-8.2(c) above,] **approximately 60 credit hours in general education**, the program must include eighteen semester-hour credits in

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general background courses, including study in at least three of the following fields: English, social studies, fine arts, science, mathematics, and foreign languages. The [24-] **30-credit** field requirement does not apply to this endorsement.

i. A regular school nurse certificate or a bachelor's or higher degree in nursing education will be accepted as meeting the study requirement for the practical nursing teacher's certificate.

[16.] **3. Production, personal and service occupations: (Experience Background).** Applicants who present three years of experience in occupations such as beauty culture, dry cleaning and pressing, shoe repairing, lathe operation, and commercial foods preparation, may receive this endorsement without the requirement of a bachelor's degree if they present approved training for the skilled occupation and have completed an approved teacher education program. Instead of [6:11-8.2(c) above,] **approximately 60 credit-hours in general education**, the program must include 18 semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science and mathematics. The [24-] **30-credit** field requirement does not apply to this endorsement.

[17. Reading: Completion of a 24 semester-hour-credit field in an approved teacher education program or completion of an approved master's degree program in reading, including a supervised practicum in a public school setting.

18. Secretarial studies: See Standards for State Approval of Teacher Education. Students applying for this endorsement must include methods of teaching shorthand and typewriting in their professional education credit.]

[19.] **4. Skilled trades: (Experience Background).** Applicants who present six years of approved full-time experience (which may include apprenticeship) in a skilled trade requiring a minimum learning period of two years on-the-job training before reaching the classification of skilled worker or journeyman, of any trade listed by the Federal Committee on Apprentice Training, may receive this endorsement without the requirement of a bachelor's degree. Such candidates must present approved training, and have completed an approved teacher education program. Instead of [6:11-8.2(c) above,] **approximately 60 credit-hours in general education**, the program must include 18 semester-hour credits in general background courses, including study in at least three of the following fields: English, social studies, fine arts, science and mathematics. The [24-] **30-credit** field requirement does not apply to this endorsement.

i. Graduates of approved vocational-technical high schools or institutes may receive one year of credit toward the experience requirement.

[20. Speech arts and dramatics: Speech fundamentals; public speaking; oral interpretation; dramatics.]

[21.] **5. Technical occupations: (Experience Background).** Applicants who present approved training in technical occupations such as electronic technicians, chemical technicians, industrial drafting and design technicians, engineering aides, and metallurgical technicians may receive this endorsement without a bachelor's degree. Such applicants must present approved training and either:

i. A bachelor's degree and two years of experience, or

ii. Four years experience without the bachelor's degree.

Instead of [6:11-8.2(c) above,] **approximately 60 credit-hours in general education**, the program must include eighteen semester-hour credits in background courses, including study in at least three of the following fields: English, social studies,

fine arts, science, and mathematics. The [twenty four-] 30-credit field requirement does not apply to this endorsement.

[22.] 6. Vocational-technical related subjects: A minimum of two years of approved occupational experience is required. The [24-] 30-credit field requirement does not apply to this endorsement.

[23. Typewriting: In lieu of a major in this field, the applicant must present:

- i. Course in methods of teaching typewriting, *and
- ii. Four semester-hour credits in typewriting or the equivalent of i. and/or ii. as determined by an accredited college approved for the preparation of business education teachers.*]

[(c) Comprehensive field endorsements are 30 semester-hour credits required, unless specified otherwise below.

1. Agriculture: A major in agriculture from an accredited college or university, and two years of approved agricultural experience.

2. Art: The program must include study in each of the following areas: art history and art appreciation and design, including architecture, housing and community design, house furnishings or interior architecture and design; *painting, sculpture, drawing and composition;* graphic arts, including lithography, etching, woodcuts, wood engraving, photography, silk screening, linoleum-block printing and lettering;* crafts, including plastics, woodwork metalwork, jewelry, theatre, puppetry, fashion design and illustrations, ceramics, and textile weaving.*

3. Business education

i. Bookkeeping and accounting (minimum of eight credits required);

ii. Data processing (required beginning July 1, 1973);

iii. General business studies, including consumer education, business law and economics.

iv. Secretarial studies, including a minimum of six credits in shorthand and four in typewriting. Methods of teaching shorthand and typewriting must be included in the professional education credits.

4. Handicapped: This endorsement authorizes teaching the physically limited, socially and emotionally maladjusted, mentally retarded (educable and trainable) children, or children with multiple handicaps. Instead of of 6:11-8.2(d) above, the program must include a total of thirty semester-hour credits in professional education, including eighteen in education of the handicapped. These eighteen credits must include study in each of the following areas: nature and causes of disabilities, practices and materials in teaching the handicapped, resources and community agencies available in teaching the handicapped. These thirty credits do not include student teaching.

i. The endorsement for teacher of the handicapped may also be obtained by holders of New Jersey standard teachers certificates in other fields who present a program that has included eighteen semester-hour credits in education of the handicapped including the three areas listed in this Section.

ii. Blind or partially sighted: Instead of 6:11-8.2(d) above, the program must include a total of thirty semester-hour credits in professional education, including eighteen in education of the handicapped. These eighteen credits must include study in each of the following areas: nature and causes of disabilities, curriculum and/or methods of teaching blind or partially sighted children, including typewriting and Braille, resources and community agencies available for teaching the handicapped. These thirty credits do not include student teaching.

iii. The endorsement for teaching the blind or partially sighted may also be obtained by holders of New Jersey standard teachers certificates in other fields who present a program that had included eighteen semester-hour credits in education of the handicapped, including the three areas listed in this Section.

iv. Deaf or hard of hearing: Instead of 6:11-8.2(d) above, the program must include a total of thirty semester-hour credits in professional education including eighteen in education of the handicapped. These eighteen credits must include study in each of the following areas: nature and causes of disabilities, curriculum and/or methods of teaching speech, speech reading, and language to the deaf or hard of hearing, resources and community agencies available in teaching the handicapped. These thirty credits do not include student teaching.

v. The endorsement for teaching classes for the deaf or hard of hearing may also be obtained by holders of New Jersey standard teachers certificates in other fields who present a program that has included eighteen semester-hour credits in education of the handicapped, including the three areas listed in this section.

5. Health education: See Standards for State Approval of Teacher Education.

6. Health and physical education: See Standards for State Approval of Teacher Education.

7. Home economics: See Standards for State Approval of Teacher Education.

8. Industrial Arts: See Standards for State Approval of Teacher Education.

i. Persons without a bachelor's degree who possess a background of four years of approved industrial trade or technical experience may qualify for an industrial arts endorsement if they present high school graduation or its equivalent, and an approved program that has included eighteen semester-hour credits of general background studies, including at least three of the fields of study specified in N.J.A.C. 6:11-8.2(c), (d), and (e), and content in industrial arts as specified in Standards for State Approval of Teacher Education.

9. Instrumental music: An approved program including: Proof of ability to play the piano or organ and one other instrument, the equivalent of one year (32 semester-hour credits) in the study of education in music, including study in each of the following fields: music theory (harmony, counterpoint, orchestration); music appreciation and history; instrumental music; orchestra and band; conducting; education (studies in educational psychology, principles, methods of teaching). For this certificate, requirements N.J.A.C. 6:11-8.2(a), (c), (d) and (f) do not apply.

10. Music: See Standards for State Approval of Teacher Education.

11. Physical education: See Standards for State Approval of Teacher Education. Students who complete an approved program in physical education may also obtain a health education endorsement if the program includes 18 semester-hour credits in health education.

12. Science: The approved program must include study in *biological science, *physics and *chemistry. Study in earth and space sciences is encouraged.

13. Social studies: See Standards for State Approval of Teacher Education. Applicants who have completed an approved teaching field in an out-of-State college in one of the component fields of social studies, such as, anthropology, economics, history, sociology, and so forth, that does not include all of the areas of study required in an approved social

studies teacher education program may be issued a temporary social studies certificate valid for one year and renewable annually upon presentation of a specified number of semester-hour credits of additional study applicable toward meeting the remaining requirements.]

[6:11-8.5] 7. Vocational-technical; part-time teacher

[(a)] i. This certificate is required for vocational teachers who teach on a part-time basis in any approved vocational-technical evening, apprentice, extension, industrial-in-plant training or short-term preemployment program in any of the fields of vocational education, such as, agriculture, distributive education, home economics, trades and industries or technical education, and who do not possess a certificate valid for teaching in an all-day program.

[(b)] ii. The applicant must have demonstrated evidence of practical experience to fit him for the particular position he is to fill. The adequacy will be evaluated by the particular supervisor in whose field the teaching is to be done and will be approved by recommendation of the State Director of Vocational-Technical Teacher Training to the State Board of Examiners.

[(c)] iii. The part-time vocational certificate is valid for five years from the date of issuance. Issuance of a standard certificate after five years will be predicated upon presenting evidence of the completion of an approved in-service program in methods of teaching vocational-technical subjects and a certificate of success as a teacher signed by the administrator or supervisor under whom the teaching was done.

[6:11-8.6 (Reserved)]

[6:11-8.7 Military science

(a) This certificate is required for teachers of military science.

(b) The requirements are:

1. A baccalaureate degree from an accredited institution;
2. Recommendation by the branch of service in which the applicant served a minimum of 20 years.]

(b) **State-approved alternative training programs are not authorized in fields of special education. Teachers in these fields may be employed on an emergency basis in accordance with N.J.A.C. 6:11-4.3. The emergency certificate is a one-year certificate which is renewable annually for an indefinite period. Candidates in the fields of special education may obtain an endorsement by completing an approved program at a college or university, or by meeting the following requirements as determined by an evaluation of transcripts or other official documents:**

1. Handicapped: This endorsement authorizes teaching the physically limited, socially and emotionally maladjusted, mentally retarded (educable and trainable) children, or children with multiple handicaps. Candidates for this endorsement must complete eighteen semester-hour credits in the education of handicapped, twelve semester-hour credits in education electives, and student teaching. The eighteen credits in education of the handicapped must include study in each of the following areas: nature and causes of disabilities, practices and materials in teaching the handicapped, and resources and community agencies available in teaching the handicapped.

2. Blind or partially sighted: Candidates for this endorsement must complete eighteen semester-hour credits in education of the handicapped, twelve semester-hour credits in education electives, and student teaching. The eighteen credits in education of the handicapped must include study in each of

the following areas: nature and causes of disabilities, curriculum and/or methods of teaching blind or partially sighted children, including typewriting and Braille, resources and community agencies available for teaching the handicapped.

3. Deaf or hard of hearing: Candidates for this endorsement must complete eighteen semester-hour credits in the education of the handicapped, twelve semester-hour credits in education electives, and student teaching. The eighteen credits in education of the handicapped must include study in each of the following areas: nature and causes of disabilities, curriculum and/or methods of teaching speech, speech reading, and language to the deaf or hard of hearing, resources and community agencies available in teaching the handicapped.

(c) **In accordance with N.J.A.C. 6:11-3.16, applicants who have not completed the course study requirements in technical fields or the field of special education may have such requirements waived by presenting evidence of alternative education or experience. In addition, the student teaching requirements in these fields shall be waived for those candidates who:**

- 1. Hold a valid regular New Jersey instructional certificate in another field; or**
- 2. Present a baccalaureate degree, a valid regular certificate from another state, and evidence of at least one year of successful teaching experience in the other state; or**
- 3. Have completed three years of successful classroom teaching experience in an approved or recognized school prior to the acceptance of public school employment in New Jersey; or**
- 4. Have completed two consecutive years of successful teaching experience under an emergency certificate in a New Jersey public school district.**

6:11-8.[8]4 Bilingual/bicultural education

[(a) This endorsement is required for teachers of bilingual/bicultural education in elementary and secondary schools.]

(a) **The bilingual/bicultural education endorsement requires prior completion of requirements for certification in another instructional field. Therefore, candidates will already have acquired essential knowledge and skills and shall not be required to complete student teaching or a State-approved alternative. Teachers in the field of bilingual/bicultural education may be hired on an emergency basis in accordance with N.J.A.C. 6:11-4.3. Applicants may obtain certificates by completing an approved college program or through a review of their college transcripts.**

(b) The requirements are as follows:

1. A bachelor's degree based upon a four-year program in an accredited college;
2. A regular New Jersey teaching certificate in another field;
3. Completion of [24] 30 semester-hour credits in bilingual/bicultural education, including study in the following areas.

1. Cultural and cross-cultural studies: A minimum of 12 semester-hour credits, in separate or integrated courses, including study in each of [the starred] areas (1), (2) and (3) below is required, each course should be designed to increase the understanding of crossculture variables affecting learning, and include such courses as the following:

(1)[*] Social psychology and the bilingual child or [*]Contemporary social problems (with emphasis on the bilingual/bicultural child); except

(A) An applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural and/or English as a second language education

under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(2)[*] Language and culture; except an applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or sub-standard certificate, or its equivalent, will be excused from completing three credits in this area;

(3)[*] Bilingual/bicultural field experiences, except an applicant who has completed a minimum of one full year of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area, and an applicant who has completed three or more years of successful experience will be excused from completing an additional three credits in this area;

(4) Cultural anthropology;

(5) Comparative cultures.

ii. Linguistics: Three credits in the [starred area are required.] **Area of study (1) below is required.**

(1)[*] Applied linguistics: Courses stressing techniques of second language skills development.

iii. Other areas: A minimum of nine semester-hour credits in separate or integrated courses[:]. **Area of study (1), (2) and (3) below are required.**

(1) [*]Foundations of bilingual/multicultural education (rationale, history, survey of existing models);

(2) [*]Theory and practice of teaching the bilingual child in content areas. If this requirement is fulfilled with coursework, then it should be taught in English and the other language being used as a medium of instruction, wherever possible, except an applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(3) [*]Theory and practice of teaching English as a second language, except an applicant who has completed a minimum of three full years of successful experience as a teacher of English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area.

iv. Demonstration of verbal and written proficiency in English and in one other language used also as a medium of instruction.

(c) All bilingual/bicultural certification programs to be offered at New Jersey colleges and universities must be reviewed by the Department of Higher Education and approved by the State Department of Education. Bilingual/bicultural programs shall be developed by institutions of higher education so that the requirements set forth in subsection (b) **above** of this section may be met in a variety of settings, including but not limited to specific courses.

(d) The participants in such approved programs shall acquire the skills and knowledge prescribed in these rules and regulations before the dean of education recommends the candidate to the Bureau of Teacher [Education and Academic Credentials] **Preparation and Certification** for a bilingual/bicultural certificate.

6:11-8.[9]5 Teaching English as a second language

[(a) This certificate is required for English as a second language in elementary and secondary schools.]

(a) Teachers of English as a second language may be hired on an emergency basis in accordance with N.J.A.C. 6:11-4.3. Applicants may obtain certification by completing an approved college program or through a review of their college transcripts.

(b) The requirements are as follows:

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

2. Successful completion of a college curriculum approved by the State Department of Education as the basis for issuing this certificate; or

3. Successful completion of a program of college studies including the following. [Required areas of studies are starred(*).]

i. A minimum of 45 semester-hour credits in general background courses distributed in at least four of the following fields:

(1) English;

(2) Social studies;

(3) Science;

(4) Fine arts;

(5) Mathematics;

(6) Foreign languages;

(7) Philosophy and psychology;

(8) Music.

ii. Fifteen credits in the field of professional education in accordance with New Jersey certification standards;

iii. Thirty credits, comprehensive field endorsement:

(1) Cultural and cross-cultural studies: A minimum of nine semester-hour credits in separate or integrated courses, including study in each of [the starred] areas **(A), (B), (C) and (D) below** is required—designed to increase the understanding of cross-culture variables affecting learning, including such courses as the following:

(A) [*]Social psychology of the bilingual child; or

(B) [*]Contemporary social problems (with emphasis on the bilingual/bicultural child), except an applicant who has completed a minimum of three full years of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(C) [*]Language and culture;

(D) [*]Bilingual/bicultural field experiences, except an applicant who has completed a minimum of one full year of successful experience as a teacher of bilingual/bicultural and/or English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area;

(E) Cultural anthropology;

(F) Comparative cultures.

(2) Linguistics: Twelve semester hours. Courses in [the starred] areas **(A), (B) and (C) below** are required:

(A) [*]General linguistics;

(B) [*]Phonology and structure of American English;

(C) [*]Applied linguistics (including problems of second language experience);

(D) Comparative linguistics;

(E) Semantics;

(F) Dialectology;

(G) Sociolinguistics;

(H) Psycholinguistics;

(I) Grammar systems;

(J) History and development of the English language, except an applicant who has completed a minimum of three full

years of successful experience as a teacher of English as a second language under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area. "General linguistics," "Phonology and structure of American English," and "Applied linguistics" will not be excused.

(3) Theory and practice of teaching English as a second language: Six credits, except an applicant who has completed a minimum of three full years of successful experience as a teacher of English as a second language education under a valid New Jersey standard or substandard certificate, or its equivalent, will be excused from completing three credits in this area.

(4) Foreign language: Minimum of three credits, except applicants who have not completed coursework in a language foreign to their native tongue may be excused from completing this requirement if they have:

(A) Successfully completed a State Department of Education language proficiency interview; or

(B) Successfully completed a Thomas Edison College Examination Program (TECEP); or

(C) Successfully completed a College Level Examination Program (CLEP); or

(D) Presented official verification by a college or university that an applicant has fulfilled the requirement in a manner other than through the completion of a course; or

(E) Successfully completed any other oral language proficiency instrument approved by the State Board of Examiners.

(5) Evidence of native or near-native competency in English as determined by guidelines to be established by the State Department of Education.

iv. Approved student teaching in an English as a second language setting;

v. Physiology and hygiene.

(c) The holder of a standard New Jersey teacher's certificate may qualify for an endorsement to teach English as a second language by completing the 30-credit comprehensive field endorsement.

(d) All English as a second language certification programs to be offered at New Jersey colleges and universities must be reviewed by the Department of Higher Education and approved by the State Department of Education. English as a second language programs shall be developed by institutions of higher education so that the requirements set forth in [subsection] (b) [of this section] **above** may be met in a variety of settings, including but not limited to specific courses.

1. The participants in such approved programs shall acquire the skills and knowledge prescribed in these rules and regulations before the dean of education recommends the candidate to the Bureau of Teacher Education and Academic Credentials for an English as a second language certificate.

6:11-8.10 [Teaching of psychology; certification endorsement] **Reserved**

[(a) This endorsement is required for teaching psychology in elementary and secondary schools.

(b) The requirements are as follows:

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

2. A regular New Jersey teaching certificate;

3. Completion of 24 semester-hour credits in psychology including work in each of the following areas:

i. Developmental psychology;

ii. Mental health, including courses, such as, abnormal psychology, and conflict and adjustment;

- iii. Personality or social psychology;
- iv. Experimental psychology, or learning or motivation;
- v. Psychological measurement, including courses, such as, quantitative methods, statistics, and tests and measurements.]

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Marine Finfish Purse Seine Fishing of Menhaden

Proposed New Rule: N.J.A.C. 7:25-22.2

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 23:2B-6 and 23:3-51.
DEP Docket No. 035-84-06.

Interest persons may submit in writing data, views, or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

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

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

This proposal is known as PRN1984-371.

The agency proposal follows:

Summary

The proposed new rule defines purse seine fishing, defines the area in which it may be conducted, and prohibits menhaden purse seine fishing on Saturdays, Sundays and certain holidays. The rule also requires vessels engaged in the fishery to be properly equipped to minimize slicks from fish loading activities, prohibits disposal of litter or garbage at sea, and makes the licensee responsible for cleanup of any fish which are spilled. A final provision prohibits disturbance of channel markers, fixed fishing gear, and certain leased shellfish areas.

Social Impact

The primary purpose of the proposed new rule is to lessen the conflict of menhaden purse seining upon recreational fishermen in the 0.6 mile corridor along the State's shorelines. From the standpoint of the near-shore recreational fishermen, this regulation will have a very substantial positive social impact, since it will eliminate these large vessels operating large nets from the immediate recreational fishing area.

Economic Impact

The proposed new rule will have a negative economic impact upon the menhaden industry, increasing license fees and increasing fishing costs by precluding commercial fishing from an area formerly providing a significant portion of the catch. Offsetting this negative impact, however, there will be a positive impact on the suppliers of recreational fishing equipment and bait. Further positive economic impact will result from the prohibition against discarding refuse, accompanied by imposition of responsibility on the licensee for any cleanup of spilled fish, thereby reducing beach cleaning costs and the associated negative economic effects of soiled beaches in shoreline communities.

During meetings that the Division of Fish, Game and Wildlife sponsored, representatives of the principal companies which harvest menhaden in New Jersey, stated that the increased costs involved with these regulations would be acceptable in order to resolve their conflicts with recreational fishermen and, thereby, avoid possible closure of the industry in New Jersey waters.

Environmental Impact

Prohibiting menhaden purse seine fishing within 0.6 nautical miles of the shoreline, jetties, and piers will protect a portion of the menhaden stock from commercial exploitation while it is in this 0.6 mile corridor and allow predatory fishes and birds to feed on the menhaden in this zone undisturbed. It will also create a better environment for recreational fishermen who fish in this 0.6 mile corridor by reducing conflict with the commercial menhaden vessels and making predatory fishes more readily available because of reduced disturbance. Prohibiting menhaden fishing on weekends and holidays, when the largest numbers of recreational fishermen are fishing, will also help to reduce conflict and, thereby, improve the environment for recreational fishing.

Prohibiting the disposal of refuse, requiring subsurface discharge and treatment of fish-pump effluent, and holding the licensee responsible for cleaning up any spilled fish will also have a positive environmental effect.

Full text of the proposed new rule follows.

7:25-22.2 Purse seine fishing of menhaden

(a) Persons licensed to fish for menhaden with a purse seine or shirred net in the marine waters of New Jersey pursuant to N.J.S.A. 23:3-51 and 23:3-52 shall abide by the following rules:

1. Fishing, for the purpose of this section, shall be defined as having a purse seine in the marine waters of this State.
2. Fishing shall be restricted to the Atlantic Ocean, and Delaware, Raritan and Sandy Hook Bays, not closer than 0.6 nautical miles of any point along the shore, jetties or fishing piers. It will be incumbent upon the captain of a menhaden purse seine vessel to determine the possibility of drifting inside the 0.6 nautical mile limit established herein while fishing before setting his net. Drifting into the 0.6 nautical mile restricted area along the shore, or around a pier, will not be considered a viable defense.
3. No fishing shall be conducted on Saturdays, Sundays, and the days on which Memorial Day, Independence Day or Labor Day are officially observed by the State of New Jersey.
4. All pump outlets, except normal engine cooling water, shall discharge below the vessel's water line.
5. All discharge from fish pumps must be treated with a United States Coast Guard approved anti-foaming agent.

6. No refuse, litter or garbage of any kind, or any quantity of dead fish shall be thrown overboard or released from the vessel or its net(s).

7. The licensee is responsible for cleaning up any fish which are released from split or torn nets and must initiate such cleanup no later than 24 hours after the incident begins. Such cleanup shall include, but not be limited to, the marine and estuarine waters of the State and adjacent beaches, shorelines and marshes.

8. No stakes, markers, or buoys designating channels, crab pots, lobster pots, fish pots, or traps, or staked leased shellfish grounds, including, but not limited to that portion of Delaware Bay north and west of a line from Fourteen Foot light to Deadman Shoal light (Bug light) and thence to Dennis Creek light, shall be disturbed by the act of fishing.

(a)

DIVISION OF ENVIRONMENTAL QUALITY

**Ambient Air Quality Standards
State Implementation Plan (SIP) for
Attainment and Maintenance of National
Ambient Air Quality Standards for Lead**

Proposed Amendments: N.J.A.C. 7:27

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

Authority: N.J.S.A. 13:1D-5, and -9 and N.J.S.A. 26:2C-1 et seq.

DEP Docket Number. 037-84-06.

A public hearing concerning a repropoed SIP for Lead and proposed revisions to N.J.A.C. 7:27-8, -13, and -18, including those called for in the SIP for Lead, (see separate notices in the Register following this one) will be held at the following time and location:

August 2, 1984
10:00 A.M. until the close of testimony
New Jersey State Library
185 West State Street
First Floor Meeting Room
Trenton, New Jersey.

The Department is seeking testimony from the public on the repropoed revised SIP for Lead and on the proposed amendments to N.J.A.C. 7:27-8, -13 and -18.

Interested persons may testify and submit in writing data, views or arguments relevant to the repropoed SIP for lead and the proposed amendments to N.J.A.C. 7:27-8, -13 and -18, on or before August 17, 1984. Notice of intent to testify, submissions of written testimony and any inquiries about submissions and responses should be addressed to:

Herbert Wortreich
Assistant Director
Division of Environmental Quality
CN 027
Trenton, New Jersey 08625
609-292-6704

Those persons intending to testify should indicate whether their testimony will be relevant to the SIP for Lead or to the proposed amendments to N.J.A.C. 7:27-8, -13 or -18, to permit grouping of scheduled testimony by subject, to the extent possible.

Copies of this Notice, the repropoed SIP for Lead and appendices as well as copies of the Notice for amendments to N.J.A.C. 7:27-8, -13, and -18, and the basis and background document for the proposed amendments, are being deposited and will be available for inspection, during normal office hours, until August 17, 1984 at:

New Jersey Bureau of Air Pollution Control
Room 1109, Labor and Industry Building
Trenton, New Jersey 08625

New Jersey State Library
185 West State Street
Trenton, New Jersey 08625

New Jersey Bureau of Air Pollution Control
Metropolitan Field Office
1259 Route #46
Parsippany-Troy Hills, New Jersey 07054

New Jersey Bureau of Air Pollution Control
Central Field Office
65 Prospect Street
Trenton, New Jersey 08628

New Jersey Bureau of Air Pollution Control
Newark Field Office
1100 Raymond Boulevard, Room 510
Newark, New Jersey 07102

New Jersey Bureau of Air Pollution Control
Southern Field Office
100 Larwin Road
Cherry Hill, New Jersey 08034

COUNTY LIBRARIES

| County | Municipality |
|------------|------------------------------------|
| Burlington | Mount Holly |
| Camden | Echelon Urban Complex, Voorhees |
| Cape May | Cape May Court House |
| Cumberland | Bridgeton |
| Monmouth | Freehold |
| Morris | Whippany |
| Ocean | Toms River |
| Somerset | Somerville |
| Sussex | Newton |

PUBLIC LIBRARIES

Bloomfield, Cherry Hill, East Brunswick, East Orange, Elizabeth, Hackensack, Jersey City, Linden, New Brunswick, Newark, Paterson, Phillipsburg, Plainfield, Ridgewood, Trenton, Wayne, Woodbridge, and Woodbury.

Summary

Notice of public hearing on the proposed State Implementation Plan (SIP) for Lead was published in the Register on January 17, 1984 (See 16 N.J.R. 161). A hearing was held on February 22, 1984 in Trenton and the record of comments closed on February 28, 1984 (See Appendix VI-2 for Department responses to comments). The Department hereby incorporates testimony presented and comments received between

January 17, 1984 and February 28, 1984, as part of the record of comments for the repropoed SIP for Lead.

By letter dated March 11, 1984, the United States Environmental Protection Agency (USEPA) submitted comments recommending timely amendments to N.J.A.C. 7:27-8,-13 and 18, outlined in the proposed SIP for Lead. The USEPA further recommended that additional information be included in the SIP for Lead in regard to the demonstration of attainment of the national ambient air quality standard (NAAQS) for lead in the vicinity of National Smelting of New Jersey Pedricktown (see Appendix IV-4), and United States Metals Refining Co., Carteret, the obligation of United States Metals Refining Co. to reduce fugitive emissions of lead (see page 39 of the repropoed SIP for Lead and Attachments V-2A and V-2B), and the methodology of preparing the fugitive emission inventory (see Addendum III-B1 to Attachment III-B). The Department has followed the USEPA recommendations in the repropoed SIP for Lead.

After the SIP for Lead had been proposed, the Department located two existing sources as possible sources of violations of the NAAQS for Lead. Sampling in the vicinity of the Delco Remy Division of General Motors in New Brunswick showed a violation of the NAAQS for Lead in the last quarter of 1983 and first quarter of 1984. Modeling, including the results of stack tests conducted in January 1984, showed no expected violations.

The Department's inspection of Heubach, Inc. in Newark, disclosed that the level of fugitive emissions would likely be high enough to place this plant in the category requiring modeling under the USEPA guidelines for the SIP for Lead. Subsequent modeling by the Department showed a potential for violation of the NAAQS for Lead. The Department has prepared specific study programs to determine actions to be taken in these two cases (See Appendices V-14 and V-15).

Based on the Department's downward revised estimate of the number of resource recovery facilities expected to be on line by 1990 (three), the Department has reevaluated the anticipated emissions of lead from resource recovery facilities. The Department projects that 62 tons of lead per year, rather than 283 tons per year as projected in the January 1984 proposed SIP for Lead, will be emitted in 1990.

Based on comments received during the comment period for the proposed SIP for Lead and new information, the Department has repropoed the SIP for Lead with substantive changes.

Social Impact

Implementation of the SIP would insure attainment of minimum health-based standards for ambient lead. The SIP would result in a reduction in the amount of lead reaching the human body.

Economic Impact

The SIP would commit the State to take measures including the adoption of amendments to certain Department regulations. Such regulations would have a potential economic impact on sources that emit significant quantities of lead and/or specific manufacturing and processing facilities emitting five or more tons per year of elemental lead including: primary and secondary lead smelters, lead gasoline additive plants, and lead acid storage battery manufacturing plants.

Environmental Impact

The SIP provides for the implementation, maintenance and enforcement of national ambient air quality standards for

PROPOSALS

lead in the State. The SIP would commit the State to take measures including the adoption of amendments to certain Department regulations. Existing regulations require use of air pollution control equipment representing state-of-the-art particulate emission controls to keep ambient lead concentration within ambient air quality standards.

The State may adopt the SIP for Lead without further notice. The SIP for Lead becomes effective and enforceable under the Federal Clean Air Act, 42 U.S.C. 7401 et seq., upon approval by the Administrator of the USEPA.

(a)

DIVISION OF ENVIRONMENTAL PROTECTION

Bureau of Air Pollution Control Permits and Certificates

Proposed Amendment: N.J.A.C. 7:27-8

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

Authority: N.J.S.A. 13:1D-5 and -9 and 26:2C-8 and -9.2.

DEP Docket Number. 040-84-06.

A **public hearing** concerning this proposal will be held at the following time and location:

August 2, 1984
from 10:00 AM until the close of testimony
New Jersey State Library
185 West State Street
First Floor Meeting Room
Trenton, New Jersey

Interested persons may testify at the public hearing and submit in writing, data, views, or arguments relevant to the proposed rule on or before August 17, 1984. Said submissions, and any inquiries related thereto or concerning the public hearing, should be addressed to:

Herbert Wortreich, Assistant Director
Division of Environmental Quality
Department of Environmental Protection
CN 027
Trenton, New Jersey 08625

Copies of this notice, of the proposed regulations, and of the basis and background document are being deposited and will be available for inspection during normal office hours until the closing of the hearing record on August 17, 1984 at:

Atlantic County Health Department
1200 Harding Highway
Mays Landing, New Jersey 08330

New Jersey Bureau of Air Pollution Control
Room 1108, Labor and Industry Building
John Fitch Plaza
Trenton, New Jersey 08625

ENVIRONMENTAL PROTECTION

New Jersey Bureau of Air Pollution Control
Northern Field Office
1259 Route 46
Parsippany, New Jersey 07054

New Jersey Bureau of Air Pollution Control
Southern Field Office
100A Larwin Road
Cherry Hill, New Jersey 08034

N.J. Bureau of Air Pollution Control
Metropolitan Field Office
1110 Raymond Boulevard - Fifth Floor
Newark, New Jersey 07102

Warren County Health Department
151 West Washington Avenue
Washington, New Jersey 07882

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adopted rule becomes effective upon publication of a notice of adoption in the New Jersey Register. The adopted rules become operative 60 days after the Commissioner signs said notice of adoption (see N.J.S.A. 26:2C-8).

This proposal is known as PRN 1984-370.

The agency proposal follows.

Summary

N.J.A.C. 7:27-8 sets forth requirements for permits to construct and certificates to operate new and altered equipment and control apparatus which emit air contaminants. The Department is proposing amendments to N.J.A.C. 7:27-8 which would add definitions, clarify the scope of N.J.A.C. 7:27-8, require air quality modeling if requested by the Department, clarify circumstances under which applications for permits and certificates would be denied, and revise the fee schedule for permits and certificates.

The Department is proposing new N.J.A.C. 7:27-8.2(a) 15 and 16 to clarify the permit requirements for waste treatment and certain water treatment equipment which emit air contaminants and for closed or operating dumps or solid waste facilities which are vented. Such permits have already been required and approved using existing language in the regulation.

The Department is proposing an amendment to N.J.A.C. 7:27-8.3 which would require Air Quality Simulation Modeling at the request of the Department. Applicants would be required to demonstrate that emissions from source operations with low stacks or other conditions affecting dispersion of contaminants would not result in an exceedance of the New Jersey and National Ambient Air Quality Standards or prevention of significant deterioration increments. Also, the Department would be able to require modeling to show that emissions would not unreasonably affect the public health and welfare.

The Department is proposing a new section concerning denial and conditional approval of permits. N.J.A.C. 7:27-8.5(a) would codify the Department's practice of denying permit and certificate applications if construction or operation of equipment or control apparatus would result in a violation of the Department's air pollution control regulations (N.J.A.C. 7:27), ambient air quality standards, prevention of significant deterioration (PSD) increments, or other criteria established by the Department to protect the public health and welfare from air pollution. This section is required

by the United States Environmental Protection Agency (USEPA) as part of the State Implementation Plan (SIP) for control of lead.

Also, in 1983 the EPA delegated to the State the authority to implement the Federal PSD rules. The PSD program requires extensive application and review requirements for major emitting sources locating in areas attaining the national ambient air quality standards for at least one criteria air pollutant. As condition of the delegation, the State agreed to include compliance with the PSD increments for protection of clean air as a permit requirement.

N.J.A.C. 7:27-8.5(c) would clarify the Department's practice of requiring, as a condition of approval of certain permits and certificates, that applicants monitor emissions into the outdoor atmosphere, sample raw materials used for fuel or feed material, and monitor operating parameters related to air contaminant emissions.

The Department is proposing to revise the fee schedule in a new N.J.A.C. 7:27-8.6 to increase the base fee from \$40.00 to \$250.00 and renewal free from \$20.00 to \$75.00. A fee of \$50.00 would be assessed for amendments to permits and certificates. In addition, the Department would assess new fees for special services, including evaluations of banking of emissions, prevention of significant deterioration, mathematical combinations (bubbles) and modeling analyses. Fees for these services would range from \$100.00 to \$500.00 per source operation.

Social Impact

The proposed amendment should make the rule on ambient air standards easier to understand, thereby improving the quality of applications submitted and easing administration of the rule. The additional revenue from the revised fee system would enable the State air program to more adequately and expeditiously fulfill its obligations associated with the implementation of the Air Pollution Control Act.

Economic Impact

The proposed amendments increase fees for permits and certificates needed to construct and operate control apparatus and equipment which emit air contaminants. The major source for funding the air program permitting process would be shifted from general appropriations to individual applicants. An average of approximately \$210,000.00 is collected annually by the Department under the present service fee system. The proposed new fee system is projected to generate approximately \$2,000,000.00 annually. This increase will restore the revenues to a level consistent with current costs. Also, there would be additional costs for applicants in cases where the Department requires that air quality simulation modeling be submitted with the application.

Environmental Impact

The additional revenues generated will allow the Department to more thoroughly administer the air pollution control regulations. The added modeling and conditional approval sections will allow the air pollution control program the opportunity to mitigate or prevent any adverse environmental effects which otherwise may not have been detected. Better protection of the health and welfare of the people and environment of the State will result.

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

CHAPTER 27 BUREAU OF AIR POLLUTION CONTROL

SUBCHAPTER 8. PERMITS AND CERTIFICATES

7:27-8.1 Definitions

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

"Air contaminant" means solid particles, liquid particles, vapors or gases which are discharged into the outdoor atmosphere.

"Alteration" means any change made to equipment or control apparatus or the use thereof, or in a process; including but not limited to any physical change, change in material being processed or a change in the rate of production except where such a production rate change does not increase the quantity of air contaminant emitted or does not change the quality or nature of the air contaminant emitted.

"Amendment" means any revision to a permit or operating certificate which does not reflect a change in the quality, nature, or quantity of emissions to the outdoor atmosphere or a change in the effect of the emissions on ambient air quality. The term shall not include alteration.

1. The term shall not include replacement of the equipment or the control apparatus unless the replacement is identical to that which is being replaced and continues to represent advances in the art of air pollution control developed for the kind and amount of air contaminant emitted.

2. A revision to a permit or operating certificate for the sole purpose of registering a change in the contents of a storage tank at a public storage terminal, which change does not require any physical or mechanical alteration of the equipment or additional air pollution control requirements, shall be considered an amendment.

"Banking" means reserving approved emission reductions for future use as emission offsets.

"Certificate" means either an operating certificate or a temporary operating certificate.

"Commercial fuel" means solid, liquid, or gaseous fuel normally produced[,] or manufactured, [used or] and sold for the purpose of creating useful heat.

"Control apparatus" means any device which prevents or controls the emission of any air contaminant.

"Conveyorized surface cleaner" means a surface cleaner through which the parts to be cleaned are moved by means of a continuous, automatic system.

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

"Distillates of air" means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

"Domestic treatment works": See N.J.A.C. 7:14A.

"Dump": See N.J.A.C. 7:26-1.4.

"Equipment" means any device capable of causing the emission of an air contaminant into the open air, and any stack, chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving the equipment. This shall include equipment in which the preponderance of the air contaminants emitted is caused by the manufacturing process.

["Equivalent stack diameter" means the diameter of a circular cross section having the same area as the non-circular cross sections at the point of emission discharge.]

"Incinerator" means any device, apparatus, equipment, or structure used for destroying, reducing or salvaging by fire

any material or substance including but not limited to refuse, rubbish, garbage, trade waste, debris or scrap, or a facility for cremating human or animal remains.

"Indirect emissions" means a discharge of air contaminants through openings, including but not limited to doors, windows, exhaust fans, ventilators, and roof monitors, rather than directly to the atmosphere through a stack or chimney.

"Liquid particles" means particles which have volume but are not of rigid shape and which upon collection tend to coalesce and create uniform homogeneous films upon the surface of the collecting media.

"Manufacturing process" means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

"Mathematical combination" means the summation of the emissions from two or more stacks or chimneys and the regulation of those emissions as if they came from the same sources venting through a single stack.

"Non-commercial fuel" means solid, liquid or gaseous fuel not normally produced[,] or manufactured, [used or] and sold for the purpose of creating useful heat.

"Operating certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to Section 13 of the Air Pollution Control Act of 1954, as amended, P.L. 1967, c. 106 (N.J.S.A. 26:2C-9.2), which is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

"Particles" means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

"Permit" means a "Permit to Construct, Install or Alter Control Apparatus or Equipment" issued by the Department pursuant to Section 13 of the Air Pollution Control Act of 1954, as amended, of P.L. 1967, c. 106 (N.J.S.A. 26:2C-9.2).

"Person" includes corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Prevention of significant deterioration" or PSD means a permitting process as defined in Title 40, Part 52 of the Code of Federal Regulations which is applicable to new or modified major emitting sources locating in areas attaining the national ambient air quality standards for at least one air contaminant.

"Publicly owned treatment works": See N.J.A.C. 7:14A.

"Solid fuel" means a fuel which is fired as a solid, such as anthracite or semianthracite coal, bituminous or sub-bituminous coal, lignite, coke breeze, wood or any solid by-product of a manufacturing process that may be substituted for any of the above specifically mentioned fuels.]

"Solid particles" means particles of rigid shape and definite volume.

"Solid Waste Facility": See N.J.A.C. 7:26-1.4.

"Source operation" means any manufacturing process or any identifiable part thereof emitting an air contaminant into the outdoor atmosphere [through one or more stacks or chimneys].

"Stack or chimney" means a flue, conduit or opening designed, constructed, and/or utilized for the purpose of emitting air contaminants into the outdoor [air] atmosphere.

"Stack diameter" means the internal diameter of a circular stack at the point of emission discharge.]

"Standard conditions" [shall be] means 70 degrees Fahrenheit and one atmosphere pressure (14.7 psia or 760 mm Hg).

"Storage tank" means any tank, reservoir, or vessel which is a container for liquids or gases, wherein no manufacturing process, or part thereof, takes place.

"Surface cleaner" means a device to remove unwanted foreign matter from the surfaces of non-porous or non-absorbent materials by using VOS in the liquid or vapor state.

"Temporary operating certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to Section 13 of the Air Pollution Control Act of 1954, as amended, of P.L. 1967, c. 106 (N.J.S.A. 26:2C-9.2), which is valid for a period not to exceed 90 days.

"Uncontaminated water," for the purpose of N.J.A.C. 7:27-8, means water which meets the provisions of the Safe Drinking Water Act (N.J.S.A. 58:12A-1), and in which the concentration of total volatile organic substances is less than 100 micrograms per liter.

"Volatile Organic Substances," or VOS, means any organic substances, mixture of organic substances, or mixture of organic and inorganic substances including, but not limited to, petroleum crudes, petroleum fractions, petrochemicals, solvents, diluents, and thinners which have vapor pressures or sums of partial pressures of organic substances of 0.02 pounds per square inch (1 millimeter of mercury) absolute or greater measured at standard conditions; and, in the case of surface coating formulations, includes any coalescing or other agent, regardless of vapor pressure, which evaporates from the coating during the drying phase; but does not include methane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, 1, 1, 2 trichloro-1, 2, 2 trifluoroethane, 1, 2 dichloro-1, 1, 2, 2 tetrafluoroethane, and chloropentafluoroethane.

7:27-8.2 Permits and certificates required

(a) Control apparatus and equipment for which a permit [to construct] and [a] an operating certificate [to operate] are required include:

1. All control apparatus;

2. Equipment used in a manufacturing process involving surface coating[,] including, but not limited to, spray and dip painting, roller coating, electrostatic depositing or spray cleaning, from which [emits] direct or indirect emissions of air contaminants [into the open air] occur and in which the quantity of material used in any source operation is [in excess of 10 pounds] equal to or greater than one gallon in any one hour;

3. All unheated open top surface cleaners having a top opening of greater than six square feet (0.56 square meters);

4. All heated open top surface cleaners;

5. All conveyORIZED surface cleaners;

[3.] 6. Equipment, in addition to that set forth in (a)3, (a)4, and (a)5 above, used in a manufacturing process involving surface cleaning or preparation[,] including, but not limited to, degreasing, etching, pickling, or plating, from which [emits] direct or indirect emissions of air contaminants [into the open air] occur from a tank or vessel, the capacity of which is in excess of 100 gallons;

[4.] 7. Equipment, used in a manufacturing process, other than as set forth in [subsections] (a)2, [and] (a)3, (a)4, (a)5, and (a)6 [of this Section] above, from which [emits] direct or indirect emissions of air contaminants [into the open air] either directly or indirectly] occur and in which the combined weight of all materials, excluding air and water, introduced into any one source operation is in excess of 50 pounds in any one hour;

[5.] **8.** [Tanks, reservoirs, containers and bins used for the storage of:

i. Liquids except water, including, but not limited to, acids, solvents, diluents or thinners, inks, colorants, lacquers, enamels, varnishes, liquid resins, gasolines, crude oils, petrochemicals, commercial fuels, non-commercial fuels and petroleum derivatives; and having] **Stationary storage tanks which have a capacity in excess of 10,000 gallons[;] and which are used for the storage of liquids, except uncontaminated water or distillates of air. A storage tank maintained under a pressure greater than one atmosphere gauge is exempt from the provisions of N.J.A.C. 7:27-8 provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;**

9. Stationary storage tanks which have a capacity of 2000 gallons or greater and which are used for the storage of volatile organic substances. A storage tank maintained under a pressure greater than one atmosphere gauge is exempt from the provisions of N.J.A.C. 7:27-8 provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

10. [ii. Solid particles including, but not limited to, binders, fillers, foodstuffs, detergents, fluxes, catalysts, mineral wools, resins, plastics, pigments, construction materials and solid fuels; and having a capacity in excess of 2,000 cubic feet;] **Tanks, reservoirs, containers and bins which have a capacity in excess of 2,000 cubic feet and which are used for the storage of solid particles;**

[6.] **11.** Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which [emit] **direct or indirect emissions of air contaminants [into the open air either directly or indirectly] occur;**

[7.] **12.** Commercial fuel burning equipment having a heat input rate of 1,000,000 BTU per hour or greater to the burning chamber;

[8.] **13.** Any equipment used for the burning of noncommercial fuel, crude oil or process by-products in any form;

[9.] **14.** Any incinerator, except incinerators constructed, installed or used in one or two-family dwellings or in multi-occupied dwellings containing six or less family units, one of which is owner occupied.

15. Waste or water treatment equipment which emits air contaminants, including, but not limited to, air stripping columns, aeration ponds, and lagoons; but not including aeration basins at publically owned treatment works or domestic treatment works of any size, or potable water treatment equipment with a capacity of less than 100,000 gallons per day.

16. "Equipment used for the purpose of venting a closed or operating dump or solid waste facility directly or indirectly into the outdoor atmosphere.

7:27-8.3 General provisions

(a) No person shall construct, install or alter any equipment or control apparatus without first having obtained a ["P]permit [to Construct, Install or Alter Control Apparatus or Equipment" from the Department]. Such permit[s] may be cancelled if construction, installation or alteration is not begun within one year from the date of issuance.

(b) No person shall use or cause to be used any new or altered equipment or control apparatus without first having obtained a ["C]certificate. [to Operate Control Apparatus or Equipment" from the Department. Such certificates shall be valid for a period of five years unless sooner revoked by the Department, and such] **In order to insure timely renewal of an operating certificate, an application for renewal of an operating certificate[s] [may be renewed only after application] shall**

be made to the Department not less than 90 days prior to [their] **the expiration date of the operating certificate.**

(c) [Upon receipt of an application for the issuance of a "Certificate to Operate Control Apparatus or Equipment" or any renewal thereof, the Department may issue a temporary certificate valid for a period not to exceed 90 days.]

Upon request of the Department, the applicant shall demonstrate by air quality simulation modeling acceptable to the Department that the maximum controlled emissions stated on the permit application will not cause a violation of any ambient air quality standard as defined in N.J.A.C. 7:27-13, prevention of significant deterioration increment as defined in Title 40, Part 52 of the Code of Federal Regulations, or other criteria established by the Department to protect the public health and welfare from air pollution.

(d) Any person in possession of a permit or ["C]certificate [to Operate Control Apparatus or Equipment"] shall [maintain] **make said permit and certificate readily available for inspection on the operating premises.**

(e) No person shall use or cause to be used any equipment or control apparatus unless:

1. All conditions and provisions of the ["P]permit [to Construct, Install or Alter Control Apparatus or Equipment"] and ["C]certificate [to Operate Control Apparatus or Equipment"] are fulfilled; and

2. All components connected or attached to, or serving the equipment and/or control apparatus are functioning properly and are in use in accordance with the ["P]permit [to Construct, Install or Alter Control Apparatus or Equipment"] and ["C]certificate [to Operate Control Apparatus or Equipment"].

(f) A permit or ["C]certificate [to Operate Control Apparatus or Equipment"] shall not be transferable either from one location to another or from one piece of control apparatus or equipment to another. A transfer of a permit and certificate from one person to another is permissible provided a request for such transfer is [reported] **made** to the Department within 90 days of [the occurrence] **a change in ownership.**

(g) The possession of a permit or ["C]certificate [to Operate Control Apparatus or Equipment"] does not relieve any person from the obligation to comply with all other provisions of [this Chapter] **N.J.A.C. 7:27.**

(h) Permits and certificates issued under [this Subchapter] **N.J.A.C. 7:27-8** are based on emissions of air contaminants only and do not in any way [void] **relieve** the applicant[s] **from the obligation to obtain necessary permits from other governmental agencies.**

(i) The provisions of [subsections] (a) and (b) [of this Section] **above** shall not apply to structural changes, repairs or maintenance **to control apparatus or equipment**, if such changes, repairs or maintenance will not change the quality, nature or quantity of the air contaminants emitted.

7:27-8.4 Applications for permits and certificates

(a) Applications for a ["P]permit [to Construct, Install or Alter Control Apparatus or Equipment"] or a ["C]certificate [to Operate Control Apparatus or Equipment"] shall be made to the Department on forms provided by the Department.

(b) The Department may require such details regarding the equipment or control apparatus as it considers necessary to determine that the equipment or control apparatus is designed to operate without causing a violation of any provisions of [the New Jersey Air Pollution Control Act or any provisions of codes, rules or regulations promulgated thereunder] **rele-**

vant State or Federal laws or regulations and that the equipment or control apparatus incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment. Such information may include description of processes, raw materials used, operating procedures, physical and chemical nature of air contaminants, volume of gas discharged, and such other information as the Department considers necessary. **All such information shall be public except that which is designated confidential in accordance with N.J.S.A. 26:2C-9.2.**

(c) Before an operating ["C]certificate [to Operate Control Apparatus or Equipment"] or any renewal thereof is issued, the Department may require the applicant to conduct such tests as are necessary [in] at the [opinion] discretion of the Department to determine the kind and[/or] amount of air contaminants emitted from the equipment or control apparatus. Such tests shall be conducted in a manner approved by the Department and shall be made at the expense of the applicant. [who] **The applicant** shall give the Department no less than 48 hours advance notice of the time of the start of the test. The test results shall be reviewed and certified by a New Jersey licensed Professional Engineer, or by an industrial hygienist who has been certified by the American Board of Industrial Hygiene.

(d) Any person applying for a ["C]certificate [to Operate Control Apparatus or Equipment"] or a renewal thereof, or to whom such certificate has been issued shall, when requested by the Department, provide such sampling facilities exclusive of instrumentation and sensing devices as may be necessary for the Department to determine the kind and[/or] amount of air contaminants emitted from the equipment [and/]or control apparatus. During such testing by the Department, the equipment and[/or] control apparatus shall be operated under such conditions within their capacities as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

7:27-8.5 Denials and conditional approvals

(a) **The Department shall deny an application for a permit or certificate if construction or operation of control apparatus or equipment pursuant to the application would result in a violation of any provision of N.J.A.C. 7:27 or an exceedance of:**

1. Any ambient air quality standard established in N.J.A.C. 7:27-13; or
2. Any national ambient air quality standard established in Title 40, Part 50 of the Code of Federal Regulations; or
3. Any applicable prevention of significant deterioration increment as defined in Title 40, Part 52 of the Code of Federal Regulations; or
4. Other criteria established by the Department to protect the public health and welfare from air pollution.

(b) **The Department shall deny an application for a permit unless the applicant shows, to the satisfaction of the Department, that the equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment.**

(c) **The Department may include, as a condition of approval of an application for a certificate, the requirement that an applicant perform any of the following:**

1. **Conduct periodic sampling and analysis of fuels or other feed material to equipment;**

2. Provide instrumentation and sensing devices to determine the kind and amount of air contaminants emitted;

3. Provide instrumentation and sensing devices to demonstrate that operating parameters affecting air contaminant emissions are maintained within limits specified by the Department; and

4. Submit reports of such analysis and monitoring results in accordance with a format and schedule approved by the Department.

7:27-8.[5]6 Service Fees

(a) Any person subject to the provisions of [this Subchapter] **N.J.A.C. 7:27-8** [except as noted in subsection 8.5(g) of this Section,] shall submit with each application for a ["P]permit [to Construct, Install or Alter Control Apparatus or Equipment], **a certificate, an amendment, a mathematical combination, or banking,** as an integral part thereof, a non-refundable service fee in accordance with the following schedule:

1. \$40.00 base fee per "Permit to Construct, Install or Alter Control Apparatus or Equipment" which fee shall also include the associated initial temporary "Certificate to Operate" and initial permanent "Certificate to Operate Control Apparatus or Equipment" plus
2. An incremental additional service fee to be derived from the table shown below:]

[INCREMENTAL ADDITIONAL SERVICE FEE]

| [Stack Diameter or Equivalent Stack Diameter] | Additional Fee | INSTRUCTIONS |
|---|--------------------------|--------------|
| 1 Not Less Than | 2 But Less Than | 3 |
| -- | 5ft. | \$ 0.00 |
| 5 | 7 | 50.00 |
| 7 | 9 | 100.00 |
| 9 | 12 | 150.00 |
| 12 | 15 | 250.00 |
| 15 | 20 | 350.00 |
| 20 ft. and Greater | | 450.00 |

1. Determine the stack diameter range or equivalent stack diameter range (fee).

2. From Columns 1 and 2, locate the applicable stack diameter range.

3. Add the additional service fee in the corresponding entry of Column 3 to the base fee.]

(b) Any person subject to the provisions of this Subchapter shall submit with an application for renewal for a permanent "Certificate to Operate Control Apparatus or Equipment", as an integral part thereof, a service fee of \$20.00 for each such renewal.]

(c) Any person applying for a transfer of title from one person to another for a permanent or a temporary "Certificate to Operate Control Apparatus or Equipment" shall submit a service fee of \$10.00 as an intergral part of each group of such applications, regardless of the number of Certificates affected by such applications.]

SERVICE FEE SCHEDULE

| ACTIVITY | BASIS | AMOUNT |
|------------|-------------------------------------|----------|
| Base Fee | Per New or Altered Source Operation | \$250.00 |
| Amendments | Per Permit | 50.00 |
| Renewals | Per Operating Certificate | 75.00 |

| | | |
|--|----------------------|--------|
| Banking | | |
| Application | Per Source Operation | 100.00 |
| Verification | Per Source Operation | 100.00 |
| Use | Per Source Operation | 100.00 |
| Prevention of Significant Deterioration | | |
| Per Application | | 500.00 |
| Mathematical Combination (Bubble) | | |
| Per Application | | 500.00 |
| Per Source Operation | | 250.00 |
| Modeling Analysis | | |
| Per Evaluation | | 500.00 |

[(d) Service fees shall be submitted in the form of a certified check or postal order payable to the order of the New Jersey Bureau of Air Pollution Control.]

[(e) No Service fee(s) or portions thereof rendered in accordance with any provisions of this Subchapter shall be returnable except in the case of overpayment due to miscalculation of the required fee.]

[(f)] **(b) [No] An additional service fee[(s)] will not be [levied] assessed [if the information on the first submittal is found deficient and] solely for the failure by the applicant [is required to provide additional information provided the additional information does not affect the service fee established in subsection (a) of this Section.] to submit a complete application, pursuant to N.J.A.C. 7:27-8, provided that the applicant, within 90 days of the written request from the Department, submits, in writing, the requested supplementary information to the Department.**

[(g) Any person submitting an application for a "Permit to Construct, Install or Alter Control Apparatus or Equipment" for any storage tank shall include, as an integral part thereof, a service fee of \$10.00 provided that such an application is solely for the painting of said storage tank subject to the provisions of Subchapter 16 of this Chapter.]

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Ambient Air Quality Standards

Proposed Amendments: N.J.A.C. 7:27-13.1, 13.2, 13.5, 13.6, 13.7 and 13.8

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.
 Authority: N.J.S.A. 13:1D-5, 13:1D-9 and 26:2C-8.
 DEP Docket No. 038-84-06.

A public hearing concerning this proposal will be held on August 2, 1984 from 10:00 A.M. until the close of testimony at:

New Jersey State Library
 185 West State Street
 First Floor Meeting Room
 Trenton, New Jersey

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 17,

1984. These submissions, and any inquiries about submissions or responses, should be addressed to:

Herbert Wortreich, Assistant Director
 Division of Environmental Quality
 CN 027
 Trenton, New Jersey 08625

Copies of this notice, of the proposed regulations, and of the basis and background document are being deposited and will be available for inspection during normal office hours until the closing of the hearing record on August 17, 1984 at:

Atlantic County Health Department
 1200 Harding Highway
 Mays Landing, New Jersey 08330

New Jersey Bureau of Air Pollution Control
 Room 1108, Labor and Industry Building
 John Fitch Plaza
 Trenton, New Jersey 08625

New Jersey Bureau of Air Pollution Control
 Northern Field Office
 1259 Route 46
 Parsippany, New Jersey 07054

New Jersey Bureau of Air Pollution Control
 Southern Field Office
 100A Larwin Road
 Cherry Hill, New Jersey 08034

New Jersey Bureau of Air Pollution Control
 Metropolitan Field Office
 1110 Raymond Boulevard - Fifth Floor
 Newark, New Jersey 07102

Warren County Health Department
 151 West Washington Avenue
 Washington, New Jersey 07882

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption. The adopted rules become operative 60 days after the Commissioner signs said notice of adoption (see N.J.S.A. 26:2C-8).

This proposal is known as PRN 1984-368.

The agency proposal follows:

Summary

N.J.A.C. 7:27-13 sets standards for the concentration of several pollutants in ambient air. This proposal will make three changes in the New Jersey Ambient Air Quality Standards. In proposed N.J.A.C. 7:27-13.6, the chemical designation of the standard is changed from photochemical oxidants to ozone. The primary standard is raised from 0.08 parts per million (ppm) to 0.12 ppm. A violation is redefined as based on the number of times that the maximum daily one-hour average concentrations of ozone exceed the standard. These revisions reflect changes in the National Ambient Air Quality Standards (NAAQS) made by the United States Environmental Protection Agency (USEPA) in February 1979. In addition, the present standard of 0.08 ppm is retained as a secondary standard.

In proposed N.J.A.C. 7:27-13.7, the standard for hydrocarbons is eliminated and a new standard for lead of 1.5 micrograms per cubic meter is added. These revisions reflect

PROPOSALS

changes in the NAAQS made by the USEPA in January 1983 and October 1978, respectively. After promulgation of a NAAQS, the Federal Clean Air Act requires states to adopt and submit a plan to USEPA providing for attainment and maintenance of the NAAQS. As part of the New Jersey State Implementation Plan for Lead, it is proposed that the USEPA lead standard be adopted.

Finally, averaging times for State air quality standards based on moving or rolling averages will be retained. The USEPA, however, uses block or calendar averages for attainment demonstrations. All New Jersey Ambient Air Quality Standards are shown below:

NEW JERSEY AMBIENT AIR QUALITY STANDARDS BASED ON MOVING AVERAGES

TOTAL SUSPENDED PARTICULATE (TSP)

| | |
|-------------------------|-------------------------|
| Primary Standard | |
| Annual Geometric Mean | 75 ug/m ³ |
| 24-Hour Average | 260 ug/m ³ * |
| Secondary Standard | |
| Annual Geometric Mean†† | 60 ug/m ³ |
| 24-Hour Average | 150 ug/m ³ * |

SULFUR DIOXIDE (SO₂)

| | |
|-------------------------|------------------------------------|
| Primary Standard | |
| Annual Arithmetic Mean | 80 ug/m ³ (0.03 ppm) |
| 24-Hour Average | 365 ug/m ³ (0.14 ppm)* |
| Secondary Standard | |
| Annual Arithmetic Mean† | 60 ug/m ³ (0.02 ppm) |
| 24-Hour Average | 260 ug/m ³ (0.1 ppm)* |
| 3-Hour Average | 1,300 ug/m ³ (0.5 ppm)* |

CARBON MONOXIDE (CO)

| | |
|------------------------------|--------------------------------|
| Primary & Secondary Standard | |
| 8-Hour Average | 10 mg/m ³ (9 ppm)* |
| 1-Hour Average | 40 mg/m ³ (35 ppm)* |

OZONE (O₃)

| | |
|--------------------|------------------------------------|
| Primary Standard | |
| 1-Hour Average | 0.12 ppm (235 ug/m ³)* |
| Secondary Standard | |
| 1-Hour Average | 0.08 ppm (160 ug/m ³)* |

LEAD (Pb)

| | |
|------------------------------|-----------------------|
| Primary & Secondary Standard | |
| 3-Month Average | 1.5 ug/m ³ |

NITROGEN DIOXIDE (NO₂)

| | |
|------------------------------|----------------------------------|
| Primary & Secondary Standard | |
| Annual Arithmetic Mean | 100 ug/m ³ (0.05 ppm) |

* Not to be exceeded more than once per year.

† New Jersey standard only.

†† New Jersey standard only. The USEPA uses it for guidance to achieve the 24-hour standard.

ENVIRONMENTAL PROTECTION

Social Impact

The relaxation of the ozone standard and the elimination of the hydrocarbon standard as proposed reflects the goals of the State Implementation Plans (SIP's) to protect and enhance the quality of the air in New Jersey. The SIP's for Lead and for Ozone and Carbon Monoxide presently contain specific strategies for attaining and maintaining the primary lead and ozone standards. No additional social impact is expected because of this proposed rule as the attainment strategies are already in effect so as to achieve compliance by 1987.

Economic Impact

Of all the proposed amendments to the standards, only the new lead standard is expected to have any adverse economic effects. In most urban areas where automobile exhaust is the dominant source of lead, it is anticipated that the phase-down of lead in gasoline and increasing use of unleaded gasoline for catalyst-equipped vehicles will suffice to bring lead concentrations within the new standard. However, further controls may be necessary for attaining the standard in the vicinity of certain large industrial sources of lead emissions such as nonferrous smelters and battery recovery plants. This issue is addressed in the New Jersey State Implementation Plan for Lead.

The relaxation of the ozone standard and elimination of the hydrocarbon standard are not expected to change control requirements in the near term. Attaining the New Jersey secondary standard for ozone could result in economic benefits by protecting agriculture in the State from significant decreases in growth or yield.

Environmental Impact

The relaxation of the primary ozone standard is not expected to have any adverse environmental effects. The USEPA assessment of the health effects of ozone indicated that the most probable level for adverse health effects in sensitive persons, as well as less sensitive persons who are exercising vigorously, falls in the range of 0.15-0.25 ppm. The proposed standard of 0.12 ppm is intended to allow a margin of safety for protecting human health.

Retaining the old 0.08 ppm ozone standard as a secondary standard and maintaining ozone concentrations below that level will protect agricultural crops grown in New Jersey as well as rubber, organic dyes and textiles from the damage which is associated with exposure to ozone.

The elimination of the standard for hydrocarbons is not expected to have any adverse environmental effects. The USEPA decided to revoke the standard when it found no direct health or welfare basis for retaining the NAAQS for hydrocarbons. Any indirect health or welfare effects of dropping the standard will be minimal since hydrocarbons will continue to be controlled or restricted because of their contribution to the formation of ozone. The New Jersey State Implementation Plan depends primarily on hydrocarbon emission controls to attain the ozone standard.

The human health benefits of maintaining ambient lead concentrations below the new standard could be significant. The standard for lead in air is based on preventing most young children aged one through five years from exceeding a blood lead level of 30 micrograms lead per deciliter of blood. Blood lead concentrations above this level are associated with impairment of heme synthesis in cells. (Heme is a part of the hemoglobin protein which is instrumental in carrying oxygen through the blood.) The new standard also allows a margin of

safety for anemia and nervous system disorders which are known to occur at higher blood lead levels.

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

SUBCHAPTER 13. AMBIENT AIR QUALITY STANDARDS

7:27-13.1 Definitions

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

“Carbon monoxide (CO)” means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom and which, for purposes of this Subchapter, shall be collected and analyzed [by procedures adopted and published] **using methods approved** by the Department.

“Hydrocarbons” means gas phase organic compounds consisting of carbon and hydrogen and the oxidation products of such compounds which serve as precursors of photochemical oxidants and which, for purposes of this Subchapter, shall be collected and analyzed by procedures adopted and published by the Department.]

“Lead” means the element lead, whether in its elemental state or as part of a chemical compound, and which, for purposes of this Subchapter, shall be collected and analyzed using methods approved by the Department.

“Nitrogen dioxide (NO₂)” means a gaseous compound at standard conditions, having a molecular composition of one nitrogen atom and two oxygen atoms and which, for purposes of this Subchapter, shall be collected and analyzed [by procedures published and adopted] **using methods approved** by the Department.

[“Photochemical oxidants”] **“Ozone (O₃)” means a gas at standard conditions, having a molecular composition of three oxygen atoms** [compounds resulting from atmospheric reactions between reactive organic substances and nitrogen oxides in the presence of sunlight, and ozone] and which, for purposes of this Subchapter, shall be collected and analyzed [by procedures published and adopted] **using methods approved** by the Department.

“Sulfur dioxide (SO₂)” means a colorless gas at standard conditions, having a molecular composition of one sulfur atom and two oxygen atoms and which, for purposes of this Subchapter, shall be collected and analyzed [by procedures adopted and published] **using methods approved** by the Department.

“Suspended particulate matter” means any solid or liquid matter dispersed in the outdoor atmosphere which, for purposes of this Subchapter, shall mean the material collected and analyzed [by procedures adopted and published] **using methods approved** by the Department.

7:27-13.2 General ambient air quality standards

(a) Whereas air is vital to life and contamination of it to any degree is a condition to be endured reluctantly; and

whereas our knowledge of the long-term harmful effects of low levels of contamination is incomplete and uncertain; therefore, it is the air quality objective of the Department to assure, at all times and throughout the territory of the State, ambient air of the highest purity [achievable by the installation and diligent operation and maintenance of pollution source control devices and methods consistent with the lawful application of the most advanced state of the art].

(b) Furthermore, it is the objective of the Department, by prevention and correction, so to enhance the quality of [our] the outdoor air that as a minimum, and throughout the State, air quality will be in accord [at least] with the numerical air quality standards for specific pollutants set forth in subsequent Sections of this Subchapter.

(c) (No change.)

7:27-13.5 Ambient air quality standards for carbon monoxide

(a) The primary and secondary air quality standards are:

1. During any 12[-]consecutive months, [the] eight-hour average concentrations of carbon monoxide in ambient air may exceed ten milligrams per cubic meter (9 ppm) no more than once; and

2. During any 12[-]consecutive months, one-hour average concentrations may exceed 40 milligrams per cubic meter (35 ppm) no more than once.

7:27-13.6 Ambient air quality standards for [photochemical oxidants] ozone

(a) **The primary air quality standard is:**

1. **During any 12 consecutive months, maximum daily one-hour average concentrations of ozone in ambient air may exceed 0.12 ppm (235 micrograms per cubic meter) no more than once.**

(b) **The secondary air quality standard is:**

1. During any 12 consecutive months, [the] one-hour average concentrations of [photochemical oxidants] **ozone** in ambient air may exceed **0.08 ppm** (160 micrograms per cubic meter [(0.08 ppm)]) no more than once.

7:27-13.7 Ambient air quality standards for [hydrocarbons] lead

[During any 12-consecutive months, the average concentration of hydrocarbons, except methane, in ambient air during the three-hour period from 6:00 A.M. to 9:00 A.M. may exceed 160 micrograms per cubic meter (0.24 ppm) no more than once.]

(a) **The primary and secondary air quality standards are:**

1. **During any three consecutive months, the arithmetic mean of 24-hour averages of lead concentrations in ambient air shall not exceed 1.5 micrograms per cubic meter.**

7:27-13.8 Ambient air quality standards for nitrogen dioxide

(a) **The primary and secondary air quality standards are:**

1. During any 12 consecutive months, the arithmetic mean concentration of nitrogen dioxide in ambient air shall not exceed 100 micrograms per cubic meter (0.05 ppm).

(a)

**DIVISION OF ENVIRONMENTAL
QUALITY****Bureau of Air Pollution Control
Control and Prohibition of Air Pollution
from New or Altered Sources Affecting
Ambient Air Quality (Emission Offset
Rules)****Proposed Amendments: N.J.A.C. 7:27-18.1,
18.2, 18.3, 18.4 and 18.7**

Authorized By: Robert E. Hughey, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 26:2C-8 et seq.
DEP Docket No. 039-84-06.

A **public hearing** concerning this proposal will be held on August 2, 1984 from 10:00 A.M. until the close of testimony at:

New Jersey State Library
185 West State Street
First Floor Meeting Room
Trenton, New Jersey

Interested persons may submit in writing, data, views or arguments relevant to the proposals on or before August 17, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Herbert Wortreich, Assistant Director
Division of Environmental Quality
CN 027
Trenton, N.J. 08625

Copies of this notice, of the proposed regulations, and of the basis and background document are being deposited and will be available for inspection during normal office hours until the closing of the hearing record on August 17, 1984 at:

Atlantic County Health Department
1200 Harding Highway
Mays Landing, New Jersey 08330

New Jersey Bureau of Air Pollution Control
Room 1108, Labor and Industry Building
John Fitch Plaza
Trenton, New Jersey 08625

New Jersey Bureau of Air Pollution Control
Northern Field Office
1259 Route 46
Parsippany, New Jersey 07054

New Jersey Bureau of Air Pollution Control
Southern Field Office
100A Larwin Road
Cherry Hill, New Jersey 08034

New Jersey Bureau of Air Pollution Control
Metropolitan Field Office
1110 Raymond Boulevard - Fifth Floor
Newark, New Jersey 07102

Warren County Health Department
151 West Washington Avenue
Washington, New Jersey 07882

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5). The adopted rule becomes effective upon publication of a notice of adoption in the New Jersey Register. The adopted rules becomes operative 60 days after the Commissioner signs said notice of adoption (see N.J.S.A. 26:2C-8).

The proposal is known as PRN 1984-369.

The agency proposed follows:

Summary

Subchapter 18 became effective September 8, 1980. It is intended to reverse degradation of air quality in areas that are not attaining ambient air quality standards and to ensure that standards are maintained in areas in attainment. The proposed amendments add restrictions on lead emissions in accordance with the 1984 New Jersey State Implementation Plan (SIP) for Attainment and Maintenance of the National Ambient Air Quality Standard (NAAQS) for Lead; increase the offset requirements for emissions of volatile organic substances in accordance with the Ozone SIP; and make other miscellaneous changes for purposes of clarification. For lead, the proposed amendments add stricter requirements for new or increased lead emissions by lowering the significant emission increases for lead from 50 tons per year to 0.6 ton per year and defining a threshold increase in lead ambient air concentrations for nonattainment areas. These measures cause smaller lead emission increases to be modelled to determine if the NAAQS for lead is exceeded, set a limit on increases of ambient lead concentrations in areas where the NAAQS for lead is exceeded, and generally apply the offset requirements of N.J.A.C. 7:27-18 to smaller sources of lead emissions. Also, an offset for a lead emission increase must come from the same facility as the increase or from the facility causing the lead ambient air quality standard to be exceeded. The proposed amendments also apply the New Jersey ambient air quality standards of N.J.A.C. 7:27-13, as well as the NAAQS, for determining the need for controls and offsets.

Social Impact

Worker dislocation caused by the amendments should be minimal or absent. It will be outweighed by the benefits to health. The thrust of the amendments is to prevent increases in lead emissions which would exacerbate existing violations or cause new violations of the lead NAAQS. The increase in the minimum offset ratio for VOS will further reduce those emissions in order to achieve reasonable further progress toward achieving the NAAQS for ozone. Since several thousand tons of VOS emissions are in the emission bank, the increased VOS offset requirements can be met.

Economic Impact

Those sources of lead currently causing or contributing to a violation of the NAAQS may not be able to expand under these amendments unless emission offsets are obtained and attainment of the ambient standard demonstrated. Any necessary reduction of lead emissions from existing production will be achieved by other portions of the SIP. Subchapter 18 is applicable only when an increase in emissions is sought. Thus it would have an economic effect only with respect to expan-

sion or alteration. The same is true for the change in the minimum offset ratio for VOS. In this latter case, obtaining additional offsets is not now a bar to expansion since substantial quantities of VOS emissions have been banked.

Environmental Impact

The harmful effects of lead on public health have been well documented. The NAAQS has been established by the USEPA to protect the public health. The purpose of the proposed amendments is to prevent the NAAQS from being exceeded in areas where air quality is now within the prescribed standard and to promote further progress in reducing emissions where the standard is now being exceeded.

The amendments proposed pursuant to the lead SIP will not have a widespread effect on existing sources, but rather will affect only those few sites, described in the lead SIP, where the NAAQS is jeopardized or violated. On the other hand, if application of the rule results in a modelling demonstration of nonattainment where it is not now known to occur, measures can be taken to improve air quality or prevent a violation from occurring.

Increasing the minimum offset ratio for VOS will provide additional decreases in future annual emission totals and, thereby, promote reasonable further progress towards achieving the ozone ambient air quality standard.

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

SUBCHAPTER 18. CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY [IN NON-ATTAINMENT AREAS] (EMISSION OFFSET RULES)

7:27-18.1 Definitions

“Air quality simulation model” means a mathematical procedure for predicting the ambient air [contamination] **concentration of pollutants** resulting from the dispersive properties of the atmosphere.

“Allowable emission” means the rate at which an air contaminant may be emitted into the outdoor atmosphere. For the purposes of this subchapter, the allowable emissions shall be based on the maximum rated capacity of the equipment or on **Federally** enforceable permit conditions which limit the operating rate, hours of operations, or both, and on the most stringent of the following:

1. Applicable new source performance standards as set forth in 40 CFR Part 60.
2. Applicable standards for hazardous pollutants as set forth in 40 CFR Part 61.
3. Applicable emission, equipment, and operating standards as set forth in this Chapter **including those with a future compliance date**; and
4. The maximum emission rate specified as a condition of the last applicable permit in effect prior to an emission reduction approved by the Department for an emission offset or for banking.

“Ambient Air Quality Standard” means a limit on the concentration of a contaminant in the general outdoor atmosphere as set forth in N.J.A.C. 7:27-13 or in 40 CFR Part 50.

“Attainment area” means any area [determined] **identified** by the Department as one in which the ambient air concentration for a criteria pollutant does not exceed [a primary or secondary NAAQS.] **an ambient air quality standard.**

“Emission offset” means a legally enforceable reduction, approved by the Department, in the rate of actual emissions from an existing facility, **which reduction is used** to offset the increase in allowable emissions of air contaminants from a new or altered facility.

“Fugitive emissions” means any emissions of an air contaminant into the open air [other than] **which does not pass** through any stack[,] or chimney[, conduit, flue or other device].

[“NAAQS” means national ambient air quality standard.]

“Nonattainment area” means any area [determined] **identified** by the Department as one in which the ambient air concentration of a criteria pollutant exceeds [a NAAQS.] **an ambient air quality standard.**

“Reasonable further progress” means annual incremental reduction in emissions to the outdoor atmosphere of a criteria pollutant which are sufficient, in the judgment of the Department, to provide for attainment of the [NAAQS] **applicable ambient air quality standard** as required by the Clean Air Act, as amended August, 1977 (42 U.S.C. 7401 et. seq.).

“Significant emission increase” means an increase, **at a facility**, since December 21, 1976, in the rate of allowable emissions, including fugitive emissions, [at a facility,] **of lead that is greater than or equal to 0.6 ton per year or of any other criteria pollutant that is greater than or equal to [100] 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, not including decreases in the rates of allowable emissions except where such decreases are contemporaneous with emission increases.** The increases in the rates of allowable emissions shall be the cumulative total of increases from all new or altered equipment for which permits have been issued **or required** on or after December 21, 1976 [and for which permit applications have been received by the Department,] and the fugitive emissions associated with that equipment. The hourly and daily rates shall apply only with respect to a pollutant for which [a national] **an ambient air quality standard for a period not exceeding 24 hours has been established. Any emission increase that is considered significant for volatile organic substances shall be considered significant for ozone.**

“Stack or chimney” means a flue, conduit or opening designed and constructed for the purpose of emitting air contaminants into the outdoor air.

“Threshold increase” means an increase in ambient air concentration of a pollutant in an area which is nonattainment for that pollutant, by an amount equal to or greater than specified in Table 1 of this subchapter.

7:27-18.2 General provisions

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

(c) Any person required by [subsections] (a) or (b) [of this section] **above** to comply with this subsection shall demonstrate that:

1. Each new or altered equipment and facility is controlled to the degree which represents the lowest achievable emission rate (LAER) for the relevant criteria pollutant; and

2. All existing facilities owned or operated by the person (or an entity controlling, controlled by, or under common control with the person) in New Jersey are in compliance with the provisions of this Chapter and with all applicable emission limitations and standards [of] **promulgated pursuant to the Federal Clean Air Act as amended [August, 1977], 42 U.S.C. 7401 et seq.**, or are in conformance with an enforceable compliance schedule approved by the Department; and

3. Emission offsets in accordance with the provisions set forth in section 18.4 (Emission Offset Demonstration) of this subchapter are secured from existing facilities; and

4. All employer business travel control measures and employee commuter travel control measures have been analyzed to assess the feasibility of their use at the subject facility. Analysis of ride-sharing shall include participation in the state ride-sharing program; and

5. For a new or altered facility which would cause a significant emission increase in volatile organic substances, an analysis has been made of alternative sites, sizes, production processes, and environmental control techniques for such facility demonstrating that the benefits of the proposed facility significantly outweigh the environmental and social costs imposed as a result of its location, construction or alteration.

(d) No person shall cause, suffer, allow or permit an emission increase which has been determined, in accordance with N.J.A.C. 7:27-18.3(a) to cause a new violation of [a NAAQS] **an ambient air quality standard**, unless emission offsets, in accordance with the provisions of N.J.A.C. 7:27-18.4 (Emission offset demonstration), have been secured to eliminate such predicted violation.

(e) Once a facility is permitted to cause a significant emission increase in a nonattainment area for a criteria pollutant for which that area is nonattainment and has complied with the requirements of this section:

1. The requirements of [subsections] (c)3, (c)4, and (c)5 [of this section] **above** shall again become applicable when proposed new construction or alterations at the facility would cause the increase in the rate of allowable emissions of that criteria pollutant to again exceed **the significant emission increase** [100 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive]. The accumulation of increases in the rate of allowable emissions shall resume from zero after each application of [subsections] (c)3 and (c)4 [of this section] **above**;

2. The requirements of [subsections] (c)1 and (c)2 [of this section] **above** shall be applicable to each subsequent construction or alteration which increases the rate of allowable emissions for the relevant criteria pollutant.

(f) (No change.)

7:27-18.3 Air quality impact review

(a) Any person who proposes to cause [an] **a significant emission increase**, [since December 21, 1976 in the rate of allowable emissions] at a facility, of [any] **a criteria pollutant**, not including volatile organic substances (VOS), [greater than or equal to 50 tons per year, 1,000 pounds per day or 100 pounds per hour, not including decreases in the rates of allowable emissions except where such decreases are contemporaneous with emission increases; such increase in the rates of allowable emissions to be the cumulative total of increases from all new or altered equipment, for which permits have been issued on or after December 21, 1976 and for which permit applications have been received by the Department;] must determine, by means of an air quality simulation model approved by the Department, whether the **proposed** emission increase **of any criteria pollutant** would cause:

1. A threshold increase in ambient air concentration, as set forth in Table 1, to be exceeded in any nonattainment area for the criteria pollutant, not including volatile organic substances, for which that area is nonattainment; and

2. A new violation of [a National Ambient Air Quality Standard (NAAQS)] **an ambient air quality standard**.

TABLE 1
THRESHOLD INCREASES IN AMBIENT AIR CONCENTRATIONS
FOR NONATTAINMENT AREAS

| POLLUTANT | ANNUAL | 24-HOUR | AVERAGING TIME | |
|-----------------|-----------------------|-----------------------|-----------------------|----------------------|
| | | | 8-HOUR | 3-HOUR |
| SO ₂ | 1.0 ug/m ³ | 5 ug/m ³ | | 25 ug/m ³ |
| TSP | 1.0 ug/m ³ | 5 ug/m ³ | | |
| NO ₂ | 1.0 ug/m ³ | | | |
| CO | | | 0.5 mg/m ³ | 2 mg/m ³ |
| Pb | | 0.1 ug/m ³ | | |

(b) The determinations required by [subsection] (a) **above** [of this section] shall:

1. Consider all increases and contemporaneous decreases in the rate of allowable emissions since December 21, 1976 at the facility except for increases offset under the provisions of N.J.A.C. 7:27-18.2(c)3 and (d); and

2. Be required with each permit which causes the cumulative total of increases in the rates of allowable emissions of a criteria pollutant to exceed a multiple of **the significant emission increase** [50 tons per year, 1,000 pounds per day, or 100 pounds per hour], not including increases offset under the provisions of N.J.A.C. 7:27-18.2(c)3 and (d).

7:27-18.4 Emission offset demonstration

(a) Any person required to secure emission offsets in accordance with the requirements of this subchapter must achieve such offsets on or before the commencement of operation of the new or altered facility by:

1. Installing air pollution control equipment which reduces the rate of the actual emissions to less than that of the allowable emissions; or

2. Applying fugitive emission control measures which reduce the rate of the actual emissions to less than that of the allowable emissions; or

3. **Using emission reductions banked under the provisions of N.J.A.C. 7:27-18.7; or**

[3.] 4. Reducing production rate or operating hours to less than the actual rates or hours for the year immediately preceding such reductions or for any representative year within 5 years of the reductions. For volatile organic substances (VOS), winter reductions of actual emissions may not be used to offset summer increases in allowable emissions; or

[4.] 5. Establishing and supporting employer business travel control measures or employee commuter travel control measures, provided that the reductions are quantifiable and enforceable and that they are not already required by the New Jersey State Implementation Plan for attaining and maintaining national ambient air quality standards; or

[5.] 6. Adopting any other measures approved by the Department for reducing the rate of the actual emissions to less than that of the allowable emissions.

(b) Emission offsets required by this subchapter must:

1. Exceed the minimum offset ratio and be within the respective distance specified in Table 2; and

2. Be of like quality and nature to the emissions being offset; and

3. Have an effective stack height no greater than that of the emissions being offset in the cases of sulfur dioxide, **lead**, and suspended particulates; and

4. Be provided in a manner that will not cause summer increases of allowable volatile organic substances (VOS) emissions to be offset by winter reductions of actual emissions[.]; and

5. In the case of lead, come from the same facility as the increase or from the facility which is causing the lead ambient air quality standards to be exceeded. The minimum offset ratio for lead is 1.00:1.

| | VOS & NO ₂ | SO ₂ , TSP, CO | MINIMUM OFFSET RATIO |
|--------------------------|-----------------------|---------------------------|-------------------------|
| [VOS & NO ₂] | | | |
| [0-100] | — | 0-0.5 | 1.00 : 1 |
| [100-250] | — | 0.5-1.0 | 1.5 : 1 |
| [250-500] | 0-100 | 1.0-2.0 | 2.00 : 1 |
| | 100-250 | — | 4.00 : 1 |
| | 250-500 | — | 8.00 : 1 |

(c) The minimum offset ratios specified in Table 2 shall not apply if the Department determines that reasonable further progress toward attainment of the [national] ambient air quality standard [(NAAQS)] allows or requires that different minimum offset ratios be applied. Any person may petition the Department for the application of an emission offset different from those specified in Table 2 if it is shown by an air quality simulation model that a net air quality benefit would result from the proposed emission offset.

7:27-18.7 Banking of emissions

(a) The Department may credit a person with emission reductions achieved in accordance with the provisions of [subsection 18.4(a) of this subchapter.] **N.J.A.C. 7:27-18.4(a)**. To obtain such credit, documentation of emission reductions [achieved after the effective date of this subchapter] must be submitted to the Department within 6 months after the emission reduction occurs. Such emission reductions, if approved by the Department, shall become an enforceable operating restriction for the facility. Such banked emission reductions will be adjusted in accordance with the allowable emission rates in effect at the time when the banked emission reductions are offered to offset emissions from new or altered facilities.

[(b) The provisions of subsection (a) of this section shall not apply to emission reductions occurring:]

- [1. 1977; or]
- [2. between August 7, 1977 and the effective date of this subchapter unless documentation of the emission reductions is submitted to the Department within six months of the effective date of this subchapter.]

(a)

DIVISION OF ENVIRONMENTAL QUALITY

Noise Control

Proposed Amendments: N.J.A.C. 7:29-1.1, -1.2, -1.3, -1.4, and -1.5

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.
Authority: N.J.S.A. 13:1G-4.
DEP Docket No: 034-84-06.

Interested persons may submit in writing data, views, or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Edward DiPolvere
Division of Environmental Quality
65 Prospect Street
Trenton, New Jersey 08625

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

This proposal is known as PRN

The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 7:29, entitled "Noise Control" will make the technical definitions consistent with current terminology used and accepted by the acoustical profession and will clarify the meaning and extent of the definitions. In addition, the department proposes to eliminate the definition, "Commercial motor vehicle operation," and its reference in N.J.A.C. 7:29-1.4. By this action, the department will be subjecting these noise sources to the same standards as other commercial or industrial facilities. Other changes proposed reflect the aforementioned revisions to definitions.

Social Impact

The department expects that the regulation will be more meaningful and easier to understand as a result of the proposed revisions. Inclusion of commercial motor vehicles should reduce the differential impact of these rules on different segments of the public.

Economic Impact

Except for commercial motor vehicle operations, the proposed revisions do not reflect any substantive changes in the regulation and are not expected to have any economic impact. It is anticipated that these changes should have no or minimal economic impact on the department.

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

7:29-1.1 Definitions

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

"Commercial [operation] **facility**" means [any facility or property used for the purchase or utilization of goods, services, or land or its facilities,] **any premises, property, or facility involving traffic in goods or furnishing of services for sale or profit** including, but not limited to:

- [1. Banks and office buildings;
2. Commercial dining establishments;
3. Community services;
4. Noncommercial vehicle operations;
5. Other commercial services;
6. Public services;
7. Recreation and entertainment;
8. Retail services;
9. Wholesale services.]
- 1. Banking and other financial institutions;**
- 2. Dining establishments;**

3. Establishments for providing retail services;
4. Establishments for providing wholesale services;
5. Establishments for recreation and entertainment;
6. Office buildings;
7. Transportation;
8. Warehouses.

["Commercial motor vehicle operation" means any facility or property used primarily for the dispatching, garaging, servicing, maintaining, selling or leasing of any truck registered at a gross weight in excess of 6,000 pounds, omnibus, tractor, trailer, semitrailer, pole-trailer, or any vehicle registered in this State engaged in interstate commerce which is now or hereafter subject to regulation and license by the Interstate Commerce Commission and/or the Bureau of Motor Carrier Safety of the Federal Highway Administration.]

"Community service facility" means any non-residential facility used to provide services to the public, including but not limited to:

1. Club meeting halls, offices and facilities;
2. Organization offices and facilities;
3. Facilities for the support and practice of religion;
4. Private and parochial schools.

"Continuous airborne sound" means sound that is measured by the slow response setting of a sound level meter in accordance with the provisions of N.J.A.C. 7:29B-1.

"dBA" means [the measured sound level expressed in dB when using the "A" weighted network of a sound level meter.] **the abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting.**

["Decibel" means a unit for measuring the volume of a sound, equal to the logarithm of the ratio of the sound pressure of the sound, to the sound pressure of a standard sound (0.0002 microbars), abbreviated "dB."]

"Decibel" means the practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

"Emergency energy release device" means [emergency safety devices expressly used to release excess energy which do not have regularly scheduled operation. Process control devices are not to be considered emergency devices.] **a device used specifically to release excess energy on a non-scheduled basis as necessary for purposes of safety.**

"Frequency" means the number of sound pressure oscillations per second, expressed in hertz; abbreviated Hz."

["IEC" means International Electrotechnic Commission.]

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) [for] **having a duration of less than one second.**

["Impulsive sound level" means the maximum instantaneous sound pressure level measured by an impulse sound level meter meeting IEC publication 179 or the latest revision thereof.]

"Industrial [operation] facility" means any [facility or property used for the following:

1. Storage, warehouse or distribution, provided that said operation shall not be construed to be an industrial operation when it is part of a commercial motor vehicle operation as defined herein;
2. Property used for the production and fabrication of durable and nondurable manmade goods.
3. Activities carried out on the property.] **activity and its related premises, property, facilities, or equip-**

ment involving the fabrication, manufacture, or production of durable or nondurable goods.

"Octave band sound pressure level" means the sound pressure level measured in **decibels in standard octave bands with a sound level meter [and octave band analyser that meet ANSI S 1.4 & S 1.11 or the latest revision thereof].**

"Peak sound pressure level" means the maximum instantaneous sound pressure level measured by a sound level meter on the PEAK setting.

"Person" means any individual, public or private corporation, political subdivision, governmental agency, department or bureau of the State, municipality, industry, copartnership, or association.

"Public service facility" means any facility and its related premises, property, or equipment used to provide governmental services to the public including, but not limited to:

1. Maintenance centers;
2. Offices and buildings of agencies or instrumentalities of government;
3. Schools;
4. Waste collection centers;
5. Waste recycling centers;
6. Water and sewage facilities;

"Residential property" means property used for human habitation including, but not limited to [the following]:

1. Private property used for human habitation;

[1.] 2. Commercial living accommodations[,] and commercial property used for human habitation;

[2.] 3. Recreational and entertainment property used for human habitation;

[3.] 4. Community service property used for human habitation.

"Sound level" means [the measured level of a sound, expressed in dB re 0.0002 microbar, obtained using a sound level meter. Sound levels include all factors inherent in measuring with a sound level meter including microphone frequency response, amplifier characteristics, meter damping, observer effects and weighting networks] **the sound pressure level measured in decibels with a sound level meter set for A-weighting; sound level is expressed in dBA.**

"Sound level meter" means an instrument used in accordance with the provisions of N.J.A.C. 7:29B-1 to measure sound pressure level, sound level, octave band sound pressure level, or peak sound pressure level, separately or in any combinations thereof.

"Sound pressure level" means the [sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound pressure. Sound pressure level is measured with a sound level meter meeting ANSI—S 1.4 or the latest revision thereof.] **level of a sound measured in dB units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.**

"Stationary emergency signaling device" means any device, excluding those attached to motor vehicles, used to alert persons engaged in emergency operations. These include, but are not limited to, fire-fighters, first aid squad members, and law enforcement officers, whether paid or volunteer.

7:29-1.2 Industrial, [and] commercial, [operations] **public service, or community service facilities**

(a) [Upon effective date of this Chapter,] No person shall cause, suffer, allow, or permit sound from any industrial, [or] commercial, [operation] **public service or community service**

facility [which] that, when measured at any residential property line, is in excess of any of the following:

- 1. From 7:00 A.M. to 10:00 P.M.:
 - i. Continuous airborne sound which has a sound level in excess of 65 dBA; or
 - ii. (No change.)
 - iii. Impulsive sound in air which has [an impulsive] a **peak sound pressure** level in excess of 80 decibels.
- 2. From 10:00 P.M. to 7:00 A.M.:
 - i. Continuous airborne sound which has a sound level in excess of [55] **50** dBA; or
 - ii. Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below in one or more octave bands:

| Octave Band Center Frequency (Hz) | Octave Band Sound Pressure Level (dB) |
|---|---|
| 31.5 | [89] 86 |
| 63 | [75] 71 |
| 125 | [65] 61 |
| 250 | 53 |
| 500 | [53] 48 |
| 1000 | [50] 45 |
| 2000 | [47] 42 |
| 4000 | [45] 40 |
| 8000 | [43] 38 |

iii. Impulsive sound in air which has [an impulsive] a **peak sound pressure** level in excess of 80 decibels.

[3.] (b) No person shall cause, suffer, allow, or permit sound from any industrial, [or] commercial, [operation] **public service, or community service facility** [which] that, when measured at the property line of any other commercial [operation] **facility** is in excess of any of the following:

- [i.] 1. Continuous airborne sound which has a sound level in excess of 65 dBA; or
- [ii.] 2. Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below in one or more octave bands:

| Octave Band Center Frequency (Hz) | Octave Band Sound Pressure Level (dB) |
|---|---|
| 31.5 | 96 |
| 63 | 82 |
| 125 | 74 |
| 250 | 67 |
| 500 | 63 |
| 1000 | 60 |
| 2000 | 57 |
| 4000 | 55 |
| 8000 | 53 |

[iii.] 3. Impulsive sound in air which has [an impulsive] a **peak sound pressure** level in excess of 80 decibels.

[4. Starting January 1, 1976, paragraph 2. of this subsection shall be superseded by the following:

- i. From 10:00 P.M. to 7:00 A.M.:
 - (1) Continuous airborne sound which has a sound level in excess of 50 dBA; or
 - (2) Continuous airborne sound which has an octave band sound pressure level in decibels which exceeds the values listed below in one or more octave bands.

| Octave Band Center Frequency (Hz) | Octave Band Sound Pressure Level (dB) |
|---|---|
| 31.5 | 86 |
| 63 | 71 |
| 125 | 61 |
| 250 | 53 |
| 500 | 48 |
| 1000 | 45 |
| 2000 | 42 |
| 4000 | 40 |
| 8000 | 38 |

;or
(3) Impulsive sound in air which has an impulsive sound level in excess of 80 decibels.]

7:29-1.3 Stationary emergency signaling devices

[(a) Upon the effective date of this Chapter:]

[1.] (a) Testing of only the electromechanical functioning of a stationary emergency signaling device shall occur at the same time each day that a test is performed, but not before 8:00 A.M. or after 8:00 P.M. Any such testing shall only use the minimum cycle test time. [In no case shall] **Except as provided for in (b) below**, such test time shall not exceed ten seconds.

[2.] (b) Testing of the complete emergency signaling system including the electromechanical functioning of the signaling device and the personnel response to the signal shall not occur more than once in each calendar month. Such testing shall not occur before 8:00 A.M. or after 8:00 P.M. The ten second time limit on the electromechanical functioning of the signaling device shall not apply to such system testing.

[b] (c) Stationary emergency signaling devices shall be used only for testing in compliance with applicable provisions of these regulations and for emergency purposes where personnel and equipment are mobilized.

7:29-1.4 Exceptions

(a) The operational performance standards established in this [Chapter] **subchapter** shall not apply to any of the following noise sources:

- 1.-2. (No change.)
- [3. Commercial motor vehicle operations;]
- [4.] 3. Emergency energy release devices;
- [5.] 4. Emergency work to provide electricity, water or other public utilities when public health or safety is involved;
- [6.] 5. Motor vehicle race tracks;
- [7.] 6. National Warning System (NAWAS): Systems used to warn the community of attack or imminent public danger such as flooding or explosion. These systems are controlled by the New Jersey [Civil Defense & Disaster Control Agency] **Office of Emergency or Hazardous Spill Management, Division of State Police;**
- [8.] 7. Noise of aircraft flight operations;
- [9.] 8. Public celebrations;
- [10.] 9. Public roadways;
- [11.] 10. Surface carriers engaged in commerce by railroad;
- [12.] 11. The unamplified human voice;
- [13.] 12. Use of explosive devices: These are regulated by the New Jersey Department of Labor [& Industry] under the

1960 Explosive Act ([R.S. 21:1A-1-27] N.J.S.A. 21:1A-1 to 21:1A-144).

7:29-1.5 Performance test principle

For the purposes of measuring sound in accordance with the applicable provisions of these regulations, test equipment methods and procedures shall conform to [standards as published by the Department or its approved equivalent] **the provisions of N.J.A.C. 7:29B.**

HEALTH

(a)

CONSUMER HEALTH SERVICES

Good Drug Manufacturing Practices Medical Gas Lot or Control Numbers; Distribution Records

Proposed Amendment: N.J.A.C. 8:21A-2.55

Authorized By: J. Richard Goldstein, M.D. Commissioner, Department of Health.

Authority: N.J.S.A. 24:5-1 et seq., specifically 24:2-1.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Lucius A. Bowser, R.P., M.P.H.
Chief
Drug Control Program
New Jersey State Department of Health
CN 364
Trenton, New Jersey 08625

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

The proposal is known as PRN 1984-360.

The agency proposal follows:

Summary

The Department of Health proposes to amend that portion of the Good Drug Manufacturing Practices regulation dealing with the lot or control numbers having to appear on all distribution records. The proposed amendment brings the State regulations into conformity with Federal food and drug regulations that became effective on April 16, 1984 cited as 49 F.R. No. 53, page 9865, dated March 16, 1984. The proposal does away with the need to list the lot or control numbers on distribution records for compressed medical gases.

The compressed gas industry has a unique mechanism for prompt recall of any improper or violative compressed gas and such mechanism allows it to effectuate a recall without the need to record the lot or control numbers of the batches of compressed medical gases on invoices and other distribution records.

Social Impact

The proposed amendment would not create any social impact upon the manufacturers distributors, or users of compressed medical gases. It would not have any adverse effect on the general public because the protective mechanisms utilized by the medical gas industry already serve to protect the public from impure or adulterated compressed medical gas products.

Economic Impact

The proposed amendment would not cause any economic impact upon the manufacturer or distributors of compressed medical gases, but would in fact have a minor economic savings in time and manpower saved in recording lot or control numbers on all distribution records.

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

8:21A-2.55 Distribution records

Distribution records shall contain the name and strength of the product and a description of the dosage form, name and address of the consignee, date and quantity shipped, and lot or control number of the drug product. **For compressed medical gas products, distribution records are not required to contain lot or control numbers.**

HUMAN SERVICES

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Physician's Services Procedure Code Manual

Proposed Amendments: N.J.A.C. 10:54-3

Authorized By: George J. Albanese, Commissioner, Department of Human Services.

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

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

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625

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

This proposal is known as PRN 1984-355.

The agency proposal follows:

Summary

This proposal contains amendments to the Procedure Code Manual. The Division of Medical Assistance and Health Services continually updates procedure codes by adding, deleting or making revisions as necessary. This periodic updating insures that the procedure codes reflect current medical practice and current Division policy. The procedure codes are the basis for Medicaid reimbursement for fee-for-service providers, primarily physicians.

The procedure codes affected by this proposal are printed full text below. The significant changes include new procedure codes, narrative descriptions, and corresponding fee schedules for radiation therapy and treatment, and also for surgery of the pancreas. A non-specialist rate has been added for certain procedures involving ligation and/or stripping of varicose veins of the lower extremities.

Social Impact

There is little social impact associated with this proposal, because the procedure codes are monetary in nature. However, the basic objective of reimbursing providers is to enable the Medicaid patient to receive medical care and treatment.

Economic Impact

The procedure codes are directly related to fee-for-service provider reimbursement. They impact primarily on physicians. Whenever providers submit a claim to Medicaid, they must use the appropriate procedure code. They will be reimbursed in accordance with the dollar value assigned to the procedure code. Providers will receive an individual update to their manual via newsletter. The economic impact on an individual provider will vary, depending on the number of Medicaid patients being treated and the type of services performed.

There should be no significant economic impact on the Division, which is continually updating its procedure codes.

There is no economic impact on the Medicaid patient.

Full text of the proposed amendments appears below (additions indicated by boldface **thus**; deletions indicated by brackets [thus]).

| | Follow- | | | |
|---|------------|------------|----------------|-------------------------|
| | Up Days | Surg. S | Value \$ NS | Anes. Basic Units |
| 0457 Complete (simple) mastectomy to be used for "lumpectomy, quadrantectomy" or other sub-total or partial breast surgery for significant malignant disease. | 45 | 163. | 142. | 3. |
| 0643 Spinal fusion for scoliosis, child or young adult [(less than 18 years of age)], up to and including five interspaces. | 90 | 936. | 814. | 13. |
| 1137 Total shoulder replacement, arthroplasty with glenoid and proximal humeral prosthetic device, plastic cement, etc. (Use for revision or removal also.) | 90 | 604. | NA | 10. |
| 2151 Thoracotomy (open), exploratory (including biopsy), with or without biopsy, culture, cell washing, independent procedure. (Not for use with any definitive cardiac surgery procedure.) | 90 | 202. | 168. | 13. |
| 2157 Closed Tube Thoracotomy/Thoracostomy with closed drainage of empyema cavity; tube drainage with negative pressure (independent procedure), in hospital. | [30] 0 | 121. | 105. | 4. |
| 2558 (No change in text.) | 30 | 103. | [NA]88. | 3. |
| 2561 (No change in text.) | 30 | 144. | [NA]122. | 3. |
| 2562 (No change in text.) | 30 | 222. | [NA]189. | 3. |
| 2563 (No change in text.) | 30 | 205. | [NA]174. | 3. |

| | | | | |
|---|-----|------|----------|-----|
| 2565 (No change in text.) | 30 | 308. | [NA]262. | 3. |
| 2576 (No change in text.) | 30 | 54. | [NA]46. | 3. |
| 2581 (No change in text.) | 15 | 31. | [NA]26. | 3. |
| 2585 (No change in text.) | 15 | 29. | [NA]25. | 3. |
| 3540 Percutaneous skinny needle (aspiration) biopsy of the Pancreas. | 0 | 65. | NA | 3. |
| 3548 Biopsy of pancreas (incisional, wedge, punch or aspiration performed in addition to other intra-abdominal surgery). | 0 | 21. | 18. | 3. |
| 3549 Excision of lesion of pancreas (cyst, adenoma), independent procedure; any surgical approach. | 60 | 289. | 246. | 7. |
| 3550 Pancreatectomy, subtotal; resection of distal pancreas with or without splenectomy. | 60 | 332. | 289. | 7. |
| 3809 Percutaneous Nephrostomy Tube Placement | 2 | 75. | NA | 4. |
| 3926 Bladder irrigation, simple lavage and/or instillation. (To obtain drug replacement of DMSO used for FDA approved diagnosis obtain Prior Authorization (PA) for a prescription from Medicaid District Office and enter PA number and FDA approved diagnosis on the prescription made out in the patient's name.) | 0 | 13. | 11. | 3. |
| [3938 With subsequent fulguration of bladder tumor] | [30 | 61. | 53. | 3.] |
| 5207 Chemonucleolysis; Chymopapain injection therapy for herniated intervertebral disc single or multiple; lumbar region only (FDA eligibility criteria apply). | 30 | 302. | NA | 7. |
| 5639 Panretinal cryo-ablation (cutting panretinal cryopexy) through conjunctival incisions. | 30 | 362. | NA | 6. |

| | Medicaid Dollar Value | |
|---------------------------|-----------------------------|----------------|
| | Office | Hosp. Based |
| [*7099 Chest, "Minifilm"] | [4.00 | 1.80] |

[PER TREATMENT SCHEDULE (Code 7600 through 7609 includes concomitant office visit but not the concomitant surgical, radiological or laboratory procedures)]

| | | |
|--|-------|--------|
| [7600 Superficial (Grenz ray, chaoul, Phillips) | 10.00 | 10.00] |
| [7601 4 or more fields | 13.00 | 10.80] |
| [7602 Grenz ray benign lesions | 10.00 | 10.00] |
| [7603 Grenz ray malignant lesions | 15.00 | 10.80] |
| [7605 Orthovoltage (under 600 KVP) | 10.00 | 10.00] |
| [7606 Orthovoltage malignant lesions | 15.00 | 10.80] |
| [7607 Megavoltage (over 2 Me V - 8 Me V) | 25.00 | 10.80] |
| [7608 Megavoltage (over 8 Me V or electron beam) | 30.00 | 10.80] |
| [(Treatment planning see 9032)] | | |
| [7609 Supervoltage (600 KVP - 2 Me V, including cobalt and cesium) | 20.00 | 10.80] |

RADIUM AND RADIOISOTOPES

[(For dosage calculation, preparation and planning of treatment see 9032).]

[RADIOTHERAPY] RADIATION THERAPY AND TREATMENT PLANNING

PROPOSALS

HUMAN SERVICES

Treatment Planning

The treatment planning process includes interpretation of special testing, tumor localization, treatment volume determination, treatment time/dosage determination, choice of treatment ports, selection of appropriate treatment devices, and other procedures.

| | | | |
|------|--|-------|-------|
| 7604 | Simple - planning requiring single treatment area of interest encompassed in single port or simple parallel opposed ports with minimal blocking | 22.00 | 22.00 |
| 7620 | Intermediate planning requiring three or more converging ports, two separate treatment areas, special blocking, standard wedges, or special time dose constraints. | 34.00 | 34.00 |
| 7621 | Complex planning requiring highly complex blocking, tangential ports, special wedges or compensators, three or more separate treatment areas, special beam considerations. | 45.00 | 45.00 |
| 7622 | Unlisted procedure | BR | BR |

Teleradiotherapy Treatment

1. Includes use of x-ray and other high energy modalities (betatron, linear accelerator, etc.) radium, cobalt, and other radioactive substances unless otherwise specified [in this Study].

2. Values for treatment of MALIGNANCIES include one year follow-up care unless otherwise specified [in this Study].

3. Values for NONMALIGNANT conditions include 60 days follow-up care unless otherwise specified [in this Study].

4. Values include concomitant office visit, but not concomitant surgical, **diagnostic**, radiological, or laboratory procedures.

[5. Consultations on radiotherapeutic procedures, are listed under 9029, 9030, and 9032.]

Except where specified, assumes use of **supervoltage/megavoltage or high energy particle sources. Per Treatment - Single or multiple portals, same area.**

| | | | |
|------|---|-------|-------|
| 7623 | Simple - benign lesions and most metastatic lesions of appendicular skeleton. | 10.00 | 7.50 |
| 7624 | Intermediate - the usual treatment for malignancy, including skin cancer and metastases to the trunk or spine. | 20.00 | 15.00 |
| 7625 | Complex - treatment of more complex problems such as Hodgkins disease, central nervous system or head and neck irradiation. | 30.00 | 21.00 |
| 7626 | Additional areas, each | 10.00 | 7.50 |

Guidance for Radiation Therapy

| | | | |
|------|---|-------|-------|
| 7627 | Ultrasonic guidance for placement of radiation therapy fields. | 75.00 | 56.00 |
| 7628 | Computerized tomography guidance for placement of radiation therapy fields. | 75.00 | 56.00 |

The above codes include the concomitant office visit but not the concomitant surgical, diagnostic, radiological or laboratory services.

| | | |
|------|--|-------|
| 8982 | Virus Culture - all viruses except for Herpes Simplex (See Code 8983). Includes inoculation of embryonated egg, small animals, suitable tissue or other media. Includes required observation, dissection and identification by recognized laboratory method. | 44.00 |
| 8983 | Herpes Simplex Virus isolation and identification - Total Study | 25.00 |

| | |
|-----------------------------|----|
| Medicaid Dollar Value | |
| S | NS |
| 37. | NA |

9030 CONSULTATION - COMPREHENSIVE - referring to what is commonly known as a total systems evaluation by history and physical examination including a total systemic review and total systems physical examination. A written report must be provided to the referring physician including diagnosis and recommendations for future management.

This code usually refers to comprehensive medical problems requiring as a minimum the total history and physical examination as described. If this minimum is not met, the code may still be used provided evidence is available with documentation on the record and is accompanied by a statement that the consultation utilized 60 or more minutes of the physician's personal time.

NOTE: Reimbursement for this code is dependent upon the addition to item 34 of the 1500 N.J. Claim Form of either of the following applicable statements or language essentially similar to either applicable statement over the physician's personal signature.

1. I personally performed a total systems evaluation by history and physical examination as stated in the code narrative.

or

2. This consultation utilized 60 or more minutes of my personal time.

Failure to comply with one (1) or two (2) above will result in the downgrading of the code to the fee for Code 9029 if its requirements have been met.

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Submission of a copy of the consultation may be requested for professional review.

NOTE: If the patient is seen for the same illness on repeated visits by the same consultant, these visits may be billed only as routine visits if the criteria are met, e.g., 0001, 0002, 0003, 0004. The medical necessity and criteria for concurrent care also must be met.

NOTE: No reimbursement is allowable for Procedure Code 9030 if performed in an emergency room setting and the patient is then admitted within 24 hours to the consultant's service as a hospital inpatient. If the patient is admitted to another physician's service, then Procedure Code 9030 is reimbursable to the consultant and future visits to the consultant for that inpatient hospitalization may be billed as 0003 and may be considered as concurrent care if concurrent care can be justified as medically necessary.

NOTE: Procedure Code 9030 will be disallowed if performed on the same recipient, by the same physician, group, shared health care facility, or practitioners sharing a common record within a 12 month span of a prior claim for this code despite a different illness **unless the utilization of one hour or more of personal time as noted under #2 above applies. Otherwise** Code 9029 should be utilized if its criteria are met.

NOTE: This code and Code 9029 will be declined in an office or sheltered boarding home setting if the consultation occurs between or among members of the same group, shared health care facility, or practitioners sharing common records. Code 0001 or 0002 becomes applicable if codes criteria are met.

For Psychiatric/Psychological Consultations, see [PRVs] **Codes 9029-9030.**

For Psychiatric/Psychological evaluations, see [PRVs] **Codes 9056 and 9061.**

[9032] **RADIOTHERAPY:** Treatment planning to include each of the following: [80.]

1) All site selection, clinical staging of disease, determination of treatment modality and selection and interpretation of all past films

2) Calculation of dosimetry by any method and construction of plans for frequency and duration of therapy and selection of appropriate clinical safe guards

3) Services of physicians and other technical personnel under the direct supervision and employment of the radiologist

4) Requires written report or completion of other standard form of clinical record]

9040 Monthly **maintenance for dialysis patients (home or outpatient).** [reimbursement for patients not on self-dialysis (outpatient) (outpatient hemodialysis)] 160.

9041 Monthly reimbursement for patients on self-dialysis (home) (Home dialysis)] [112.]

9063 **Initial Evaluation Visit (new illness) by a physical therapist in a physician's office. Payable only to that physician with no prior authorization required. Refer to code 9090 for treatment visits where prior authorization is required.** 7. 7.

9091 Patient-Activated ECG Recorders Office, [Outpatient Hospital,] or Nursing Home, with or without transtelephonic transmissions of the recording; with or without voice recording. "Includes all services" (use of equipment decoder, professional interpretation, report, etc.) No additional allowances for either time or number of events recorded. 51. NA

9101 Electrocardiogram, mounted tracing - Technically acceptable with interpretation and report with minimum of 12 different leads performed in the office, [outpatient hospital,] home or nursing home. 16.

9104 Exercise tolerance test - Masters or equivalent including appropriate electrocardiograms, interpretation and report performed in the office [, outpatient hospital] or nursing home. 21.

NOTE: The report must be recorded on the mounted tracings.

9201 Spirometry, Complete (Respirometer) including spirographic record, total and timed vital capacity, maximal mid- [exploratory] **expiratory flow rate (MMF), maximal expiratory flow rate (MEFR),** maximal breathing capacity (MBC) with interpretation and report. 29.

NOTE: Code 9200 contains MMF and MEFR Code 9201 contains MMF, MEFR, and MBC

| | | | |
|------|---|-------|-----|
| 9400 | Phlebotomy, therapeutic [(independent procedure)] - (do not confuse with Code 9076, which is drawing of blood for laboratory tests.) performed by a physician in an "office" setting and includes supplies, equipment, and all related professional services. | [11.] | 28. |
| 9423 | PUVA therapy of Psoriasis (Psoralen and ultra-violet A therapy), office setting during initial 30 day course of therapy, includes all standard office visit services, plus required ultra-violet radiation; limited to 30 day course of treatment and includes the cost of the Psoralen. | 13.50 | NA |
| 9424 | PUVA therapy of Psoriasis (Psoralen and ultra-violet A therapy), second or third thirty day course of office treatment within calendar year (requires review of documentation of medical necessity). Also, includes cost of the Psoralen. | 13.50 | NA |

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Administrative Orders and Declarations

Proposed Readoption with Amendments: N.J.A.C. 11:1-5

Authorized By: Kenneth D. Merin, Acting Commissioner, Department of Insurance.
Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:29C-1 et seq.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Margaret Harrison
Executive Assistant
Department of Insurance
CN 325
Trenton, New Jersey 08625

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

This proposal is known as PRN 1984-363.

The agency proposal follows:

Summary

The current provisions of Subchapter 5 dealing with Administrative Orders and Declarations are scheduled to "sunset" on July 6, 1984 pursuant to Executive Order No. 66 (1978) (see Notice of 90-day waiver of Executive Order No. 66 (1978) at 16 N.J.R. 1451(9)). Upon review, the Department believes that several sections of the subchapter are still necessary and should be retained. These sections include: FAIR plan surcharge, Notice of cancellation of fire and casualty coverage, FAIR plan short notice cancellation procedures, and Distribution of fire insurance premium tax. The remaining sections of the original subchapter are no longer necessary and are being allowed to expire. The retained sections are being recodified. Certain technical and editorial modification are also being made to the provisions proposed for readoption.

The New Jersey Insurance Underwriting Association (FAIR Plan) was created to ensure that urban areas are afforded property insurance. Since all authorized New Jersey insurers are required to participate in the plan, the New Jersey Insurance Development Fund was established to provide financial backup for plan losses. This fund is maintained through a surcharge on basic property insurance premiums. Its continued necessity must be determined annually by the Commissioner. The proposed readoption of this section which is being recodified as N.J.A.C. 11:1-5.1 establishes the amount of the surcharge and the procedure for its collection.

Since the FAIR Plan insures properties in high risk areas, it is considered essential that the plan be able to contain losses by cancelling coverage as quickly as possible where certain situations such as abandonment of a building occurs. The provisions of this subchapter relating to such cancellations are being recodified as N.J.A.C. 11:1-5.2(b)3. They provide for five days written notice to the insured of cancellation and establish specific criteria which justify utilization of the short notice cancellation. Procedures concerning the issuance of such notices, including an appeal process for those so cancelled are set forth in the proposed readoption at N.J.A.C. 11:1-5.3.

The provision of this subchapter providing for 30 days notice of cancellation of fire and casualty coverage is also being repropoed because it insures that reasonable and adequate notice is given by insurers before cancellation occurs. The section is recodified as N.J.A.C. 11:1-5.2(a) and (b).

The final section of this subchapter involves the distribution of the fire insurance premium tax and is recodified as N.J.A.C. 11:1-5.4. It establishes a procedure to insure that the tax is properly appropriated to the Firemen's Relief Association located in the same municipality as the property covered by the fire insurance premium.

Social Impact

The FAIR Plan surcharge provisions set forth at N.J.A.C. 11:1-5.1 ensure the stability of the Plan which provides coverages to properties located in high risk areas. Continuance of the Plan should help to deter further decline of older urban areas. The short notice cancellation provisions applicable to FAIR Plan policies enable the Plan to terminate coverage in an expeditious fashion when circumstances indicate the existence of increased exposure to loss. These provisions also assist the Plan in combating frauds, such as arson. The procedures for issuing short notice cancellation, including the appeal process, protect the rights of FAIR Plan policyholders with respect to the continuance of basis property coverages.

The proposed readoption of N.J.A.C. 11:1-5.3 ensures that sufficient notice and time is granted insureds before coverage is cancelled. This permits insureds to seek and obtain other coverage or appeal their cancellation. The potential risk of uncovered loss because of a lapse in coverage is diminished.

Finally, the proposed readoption of N.J.A.C. 11:1-5.4 ensures that local Firemen's Relief Associations receive the premium tax attributable to the area they actually serve.

Economic Impact

The rules proposed for readoption have been in place for a number of years. It is not expected that there will be any additional costs to affected persons as a result of the readoption.

The readoption of N.J.A.C. 11:1-5.1 ensures the solvency of the FAIR Plan by providing for an assessment on basic property premiums. The Plan's short notice procedures are designed to limit losses and, therefore, control the costs of the Plan which may in turn be borne by the public.

11:1-5.3 limits the potential for uncovered loss where cancellation of coverage occurs by insuring sufficient time for seeking alternative coverage.

11:1-5.4 ensures that taxes are maintained in the area that generated them.

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

SUBCHAPTER 5. ADMINISTRATIVE ORDERS AND DECLARATIONS

[11:1-5.4] **11:1-5.1** FAIR plan surcharge

(a) On [January 5, 1978] **May 16, 1984**, the Commissioner of Insurance ascertained and determined that the net value of the New Jersey Insurance Development Fund, as of December 31, [1977] **1983**, was less than five percent of the premiums written on [essential] **basic** property insurance in New Jersey in calendar year [1976] **1983**.

(b) Application of surcharge [rules are]:

1. A two percent surcharge shall be imposed on premiums of the following policies and endorsements effective on or after March 1, 1978:

i. All fire, extended coverage and other allied lines coverage (property damage and time element) written under the fire policy.

ii. All burglary and theft policies.

iii. Commercial multiple peril policies. For the purpose of this computation, 65 percent of the commercial multiple peril premium shall constitute the premium subject to the surcharge, except that on individual risks where such percentage appears unreasonable, a company may use actual division by line, provided the company maintains a separate record on those risks.

iv. Policies issued under the homeowners policy program. For the purpose of this computation, 85 percent of the homeowners premium shall constitute the premium subject to surcharge, except that on individual risks where such percentage appears unreasonable, a company may use actual division by line provided the company maintains a separate record on those risks.

2. The surcharge shall apply to all new and renewal policies effective on or after March 1, 1978, and to the additional premiums on all endorsements effective on or after March 1, 1978. [There will be a 60-day grace period on enforcement

sanctions for collections under rule amendments effective March 1, 1978.]

3. Policies written for a term longer than one year with an effective date on or after March 1, 1978, shall be charged in accordance with the above sections. [For such term policies with effective dates prior to March 1, 1978, the charge shall be applied only if such policies are subject to rerating after the effective date of this amended regulation and then only as of the effective date of such rerating.]

4. Return of surcharge is permitted on policy activity **such as endorsement decreasing premium and cancellations effective March 1, 1978, and thereafter** [endorsements decreasing premium and cancellations].

5. For policies with effective date on or after March 1, 1978, which are subject to audit, the surcharge shall be based on the audited premium.

6. The surcharge shall be charged in full. Rounding to the nearest whole dollar is not permitted.

7. Commissions and premium taxes shall not be payable thereon, and the insurer is prohibited from absorbing such surcharge as an inducement for insurance or for any other reason.

(c) The surcharge shall be collected by each insurer and paid over to the State Treasurer of New Jersey, not later than March 1 and September 1 of each year.

(d) [Rules concerning] The method of billing [are]:

1. The surcharge shall be a separate charge to the insured in addition to the premium to be paid and shall be shown separately or combined with the Guaranty Association charge;

2. When the surcharge is combined with the Guaranty Association charge, it shall be identified as "Surcharges", and when it is shown separately, it shall be identified as "Surcharge".

[11:1-5.5] **11:1-5.2** Notice of cancellation and nonrenewal of fire and casualty coverage

(a) All fire and casualty policies of insurance, except accident and health policies, shall provide for the issuing company to give:

1. Thirty days' written notice to the [assured] **insured** of the cancellation of any policy;

2. Thirty days' written notice of cancellation of any policy to any mortgagee mentioned in said policy; and

3. Thirty days' written notice to the [assured] **insured** of said company's intent not to renew any policy.

(b) Provisions of policies to be effective on or after July 1, 1977, which are issued by any company doing business in New Jersey and provide for less than 30 days' notice of cancellation and nonrenewal shall be null and void, with the following exceptions:

1. Provisions for cancellations for nonpayment of premium or for "moral hazard" (such as insurance fraud) under N.J.S.A. 17:29C-2;

2. Provisions for cancellation and nonrenewal notice which are controlled by N.J.S.A. 17:29C-6 et seq., (Automobile insurance), 39:6A-3 and rules promulgated thereunder (No-fault insurance).

3. Provisions in New Jersey FAIR Plan policies for five day notice to the insured and ten days notice to the mortgagee with respect to any of the following properties or in any of the following circumstances:

i. Buildings which are unoccupied and accessible to unauthorized persons.

ii. Buildings which have been subject to damage by a peril insured against and the damage is not repaired or remedied within a reasonable time after the damage occurred.

iii. Buildings which are in danger of collapse because of serious structural conditions.

iv. The insured has been indicted for or convicted of arson or burning with intent to defraud, or there is evidence of incendiaryism or attempt threat by the insured or representative of the insured, absent a clear showing of special mitigating circumstances in an unusual case.

v. Buildings which have an exceptional degree of hazard, such as fire ruins or dilapidated condition, not contemplated by the applicable rating plans, as approved by the Commissioner.

vi. Buildings which have any of the following conditions existing:

(1) Repeated failure to furnish heat, water, sewer or public lighting;

(2) Failure to correct conditions dangerous to life, health or safety;

(3) Failure to maintain the building in accordance with applicable law;

(4) Failure to pay property taxes for two years.

vii. Building with at least sixty-five percent of the rental units in the building unoccupied and at least twenty-five percent of said unoccupied units are left unprotected against trespass. A rental unit will be deemed to be unprotected against trespass when an entrance door to such unit or an exterior door to a hall, stairway, or other common passage leading to such unit is missing, unlocked, not capable of being locked, or otherwise unsecured, or when a door or window in such unit which is accessible to entry has not been replaced or boarded up within [2] two days after the insured has been notified to replace or board up the door or window.

viii. Buildings from which fixed and salvageable items have been or are being removed and the insured can give no reasonable explanation for such removal.

ix. Buildings which have been condemned.

x. When there is reasonable knowledge and belief that the property is endangered and is not reasonably protected from possible arson for profit.

[11:1-5.6] 11:1-5.3 FAIR Plan short notice cancellation procedures

(a) When a notice of cancellation is served by mail, three days from the date of mailing shall be added to the otherwise applicable notice period.

(b) The association shall submit to the Commissioner, no later than three days after the last day of each month, a copy of all short notice cancellations issued during that month.

(c) The association shall notify the insured of any cancellation in a writing setting forth the reason or reasons for cancellation and the effective date. The writing shall advise the insured of a right to appeal the cancellation to the association within 15 days of the date of mailing, and, if the appeal is denied, to the Department of Insurance. Nothing herein shall imply a right to hearing procedures described in the Administrative Procedure Act, particularly "contested case" procedures. The appeal shall be processed in the following manner:

1. Upon issuance of a short notice cancellation, the file will be placed into special suspense, for a period of 15 days from the date of mailing of notice. If no written notice of appeal is received from the insured or his representative within that period, cancellation will be processed and return premium (if any) forwarded to the producer of record.

2. If timely written request for appeal is received, the following steps will be taken:

i. The N.J.I.U.A. appeals committee will review and determine the appeal within five working days from receipt of request for appeal. If the result of the appeal is favorable, a letter advising the insured or his representative, the producer and the mortgagee (if any) of favorable action will be sent together with reinstatement notice stating that no lapse in coverage has occurred.

ii. If the appeals committee denies the appeal for reinstatement, a letter advising the insured or his representative, the producer or mortgagee (if any) of this action and a right to appeal to the Commissioner will be sent; a copy will be forwarded to the Department of Insurance.

(1) The file will remain in suspense for 30 days awaiting notice of appeal to the Commissioner.

(2) Upon receipt of the appeal request, the Department of Insurance will notify N.J.I.U.A. and advise that the file should be held in suspense for an additional period.

(3) If, after 35 days have elapsed from the association's decision to deny appeal and no notification has been received from the Department of Insurance of a pending appeal, cancellation will be processed and return premium (if any) forwarded to the producer of record.

(4) The Department of Insurance will advise N.J.I.U.A. of its decision. If the appeal is granted, the policy will be reinstated without lapse. If the appeal is denied, cancellation will be processed and return premium (if any) will be forwarded to the producer of record.

[11:1-5.8] 11:1-5.4 Distribution of fire insurance premium tax

(a) Fire insurance premium taxes paid by insurers not domiciled in the State of New Jersey are required to be distributed to the respective Firemen's Relief Associations in which the property is situated.

(b) A three digit Firemen's Relief Association Code, published in the ISO New Jersey Public Fire Protection Classifications Manual, has been promulgated by the Insurance Services Office (ISO) for the purpose of coding the policies to properly allocate the premium taxes.

(c) The following steps shall be taken to assure correct tax distribution:

1. All agents, surplus lines agents and brokers producing fire insurance on any risks located in New Jersey are required to properly describe the risk and its location on the Policy Declaration Sheet.

2. The description of the property shall contain the complete address at which the property is located including the legal name of the municipality and the Firemen's Relief Association Code as promulgated by the Insurance Services Office.

3. All insurance companies writing fire insurance on property located in New Jersey shall require their agents to designate the Firemen's Relief Association by code on each Policy Declaration Sheet and disclose the complete address at which the property is located including the legal name of the municipality.

4. Each insurance company shall use the Firemen's Relief Association code as promulgated by the Insurance Services Office in making its annual report pursuant to N.J.S.A. 54:18-1 to the respective treasurers of the duly incorporated Firemen's Relief Association in which any property on which the company has taken a fire insurance risk is located.

(a)

DIVISION OF ADMINISTRATION**Automobile Insurance
Personal Injury Protection Option****Proposed Amendments: N.J.A.C. 11:3-14.3,
14.4 and 14.5**

Authorized By: Kenneth D. Merin, Acting Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), P.L. 1983 c.362 and P.L. 1984 c.40.

Interested persons may submit in writing, data, views or arguments relevant to the proposed amendments on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, shall be addressed to:

Margaret Harrison
Executive Assistant
New Jersey Department of Insurance
CN 325
Trenton, New Jersey 08625

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

This proposal is known as PRN 1984-362.

The agency proposal follows:

Summary

The New Jersey Freedom of Choice and Cost Containment Act of 1984 (P.L.1983 c.362) was recently amended by P.L.1984) c.40. The Act requires insurers to offer optional medical expense deductibles in the amount of \$500.00, \$1,000 or \$2,500. Originally, these deductibles were to apply on a per person/per accident basis. For example, if a named insured and three family members were injured in an auto accident and the named insured had selected a \$500.00 medical expense deductible, the named insured would be responsible for up to the first \$500.00 in medical costs sustained by each person or a maximum of \$2,000.00. The amended act changes the basis for determining when the medical expense deductible is reached from per person/per accident to per accident. For example, if the same insured and three family members were injured in an auto accident and the named insured had selected a \$500.00 medical expense deductible under the amended act, the named insured would be responsible for a maximum aggregate of \$500.00 in medical costs. The proposed amendment revises the regulation to conform to the amended statute regarding such deductible.

With respect to all personal injury protection (PIP) options, the original statute specified that such options apply only to the named insured and any resident relative in the named insured's household. The amended act imposes a qualification that a resident relative who is a named insured under another automobile insurance policy is covered under the options selected under that policy and the proposed amendments adds the same limitation.

Social Impact

It is expected that the proposed amendments will result in greater utilization of the medical expense deductible option since individuals will be able to determine with greater certainty how much potential medical costs they actually face in selecting a deductible.

Economic Impact

Insurance companies will incur additional costs in revamping their written notice/buyer's guide and in reoffering the medical expense deductible option to their insureds. Individuals will more likely select this option thereby lowering their insurance premiums and achieving greater cost efficiency. The Department will incur administrative expenses which it will absorb.

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

11:3-14.3 Optional medical expense benefit deductibles for personal injury protection coverage

(a) Effective December 3, 1983, each insurer must provide, at appropriately reduced premiums, the option to select medical expense benefit deductibles of \$500.00, \$1,000 and \$2,500 on all automobile policies which include personal injury protection coverages.

(b) The medical expense deductibles shall apply on a [per person/] per accident basis.

(c) A medical expense deductible elected by the named insured shall apply only to the named insured and any resident relative in the named insured's household, **who is not a named insured under another automobile policy** and not to any other person eligible for personal injury protection benefits required to be provided in accordance with N.J.S.A. 39:6A-4.

(d) Pursuant to Section 17 of P.L. 1983, c.362 the notice of the deductibles shall be in writing and shall be accompanied by a statement of the possible coordination of other health benefit coverages, prescribed by the Commissioner of Insurance. The minimum language which must be included in the notice is as follows:

The law permits you to select a deductible for the medical portion of your Personal Injury Protection Coverage. You can, under this law, select an **"aggregate"** deductible of \$500.00, \$1,000 or \$2,500. **The deductible is "aggregate" in that the medical bills of all persons to whom the deductible applies are combined to satisfy it.** This option may be of interest to those persons who have other health insurance that will pay the deductible amount.

Is a PIP medical expense deductible the right choice for you? If you are willing to pay the amount of the deductible yourself, or if you have health insurance such as Blue Cross-Blue Shield, Medicare, or medical expense benefits from another source that covers you and your resident relatives in auto accidents, you may wish to consider selecting a PIP deductible. Bear in mind health coverages may also contain coinsurance provisions and deductibles which you may have to pay and, your health coverage may not apply to every resident relative in your household.

If you select a deductible, it means that your auto insurance will not pay up to the amount of the deductible for any medical bills for you or your resident relatives which result from injuries suffered in an accident. Costs above that figure will continue to be met by your auto insurance carrier.

For example, if you and three resident relatives are injured in an auto accident and you have selected a \$500.00 aggregate deductible, you will be responsible for [up to the first] a total of \$500.00 in medical costs [sustained by each person, or a maximum of \$2,000].

Medical bills for each of four persons covered by the deductible are added together to satisfy the \$500 amount. If you select a \$2,500 deductible and you and three resident relatives are injured in an auto accident, you will be responsible for [up to a maximum the first] \$2,500 in medical costs [sustained by each person, or a maximum of \$10,000.]

You are not required to select a deductible, of course, and you are free to continue to carry the identical coverage you now have.

Whether or not to choose a deductible, should depend upon our ability to pay a portion of your medical costs, or whether your health insurance carrier will meet the cost.

You should bear in mind that not all health insurance policies contain provisions for payment of a PIP medical expense deductible amount, so it is important that you examine your health policy or contact your health insurer or employer to determine your health policy's provisions.

CAUTION: BEFORE YOU CHOOSE A PIP MEDICAL EXPENSE DEDUCTIBLE, YOU SHOULD FIND OUT IF AND TO WHAT EXTENT YOUR HEALTH CARE COVERAGE WILL PAY FOR MEDICAL EXPENSES FROM AUTO ACCIDENTS.

(e)-(h) (No change.)

11:3-14.4 Optional exclusion of income continuation benefits, essential services benefits, death benefits and funeral expense benefits

(a) Automobile insurers offering personal injury protection coverage shall, at an appropriately reduced premium, provide the named insured the option to exclude all of the following benefits from such coverage:

- 1. Income continuation benefits;
- 2. Essential services benefits;
- 3. Death benefits;
- 4. Funeral expense benefits.

(b) Election of the exclusion shall result in the elimination of all elements of personal injury protection coverage except medical expense benefits.

(c) An exclusion elected by the named insured in accordance with this subchapter shall apply only to the named insured, and any resident relative in the named insured's household, who is not a named insured under another automobile insurance policy but not to any other person eligible for personal injury protection benefits to be provided in accordance with N.J.S.A. 39:6A-4.

(d)-(i) (No change.)

11:3-14.5 Setoff option entitling an automobile insurer paying PIP medical expense benefits to reimbursement under certain conditions

(a) Automobile insurers offering personal injury protection coverage shall, at appropriately reduced premiums, provide a setoff option whereby the named insured agrees to reimburse the insurer from any award, judgment or settlement for non-economic loss for the medical expense benefits paid by it, up to a maximum of 20 percent of the award, judgment or settlement.

(b) A setoff option elected by the named insured in accordance with this section shall apply only to the named insured, who is not a named insured under another automobile insur-

ance policy and any resident relative in the named insured's household, but not to any other person eligible for personal injury protection benefits to be provided in accordance with N.J.S.A. 39:6A-4.

(c)-(g) (No change.)

(a)

DIVISION OF ADMINISTRATION

Automobile Insurance Standards for Buyer's Guide/Written Notice

Proposed Amendment: N.J.A.C. 11:3-15.6

Authorized By: Kenneth D. Merin, Acting Commissioner, Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), P.L. 1983 c.362 and P.L. 1984 c.40.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Margaret Harrison
Executive Assistant
Department of Insurance
CN 325
Trenton, NJ 08625

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

This proposal is known as PRN 1984-361.

The agency proposal follows.

Summary

Recent legislation (P.L.1984 c.40) amended certain portions of the New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act of 1984 (P.L.1983 C.362) by changing the manner for determining when the medical expense deductible has been reached. Under the new legislation the medical expense deductible is changed from a per person/per accident to strictly per accident basis. The proposed amendment incorporates that change into the written notice/buyer's guide required to be furnished by insurers.

Social Impact

It is expected that individuals will take greater advantage of the medical expense deductible option since the amount of medical cost being assumed can be determined with greater certainty.

Economic Impact

Insurance companies will incur additional costs in revising the written notice/buyer's guide and in renotifying their insureds of this change. Individuals will be better able to evaluate their personal needs and by selecting the option reduce their insurance premium. The Department will incur administrative costs which it will absorb.

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

11:3-15.6 Specific coverages and options to be included in written notice and buyer's guide

(a) At least the following coverages and options shall be included in the written notice and buyer's guide:

1. Optional higher limits of bodily injury and property damage liability, if available.

2. Tort threshold of \$200.00 with option to select \$1,500 in accord with sections 14 and 14.1 of P.L.1983, c.362.

3. Personal injury protection coverage:

i. Optional medical expense benefit deductibles of \$500.00, \$1,000 and \$2,500 applicable on a [per person/] per accident basis in accord with section 13A of P.L.1983, c.362. **as amended by P.L.1984, c.40.**

ii. Optional exclusion for all benefits except medical expense benefits in accord with section 13b of P.L.1983, c.362.

iii. Setoff option in accord with section 13c of P.L.1983, c.362.

iv. Additional personal injury protection coverage in accord with N.J.S.A. 39:6A-10.

4. Comprehensive and collision coverages with deductibles and copayment options in accord with P.L.1983, c.359.

5. Higher limit uninsured and underinsured motorist coverage in accord with P.L.1983, c.362.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Driver Control Service

Cardiovascular Disorders

Proposed Readoption: N.J.A.C. 13:19-4

Authorized By: Clifford W. Snedeker, Director.

Authority: N.J.S.A. 39:3-10 and 39:5-30.

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on September 17, 1984. The readoption of the existing rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of their readoption.

This proposal is known as PRN 1984-365.

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt the provisions of N.J.A.C. 13:19-4.1 through 13:19-4.8 concerning the procedures employed by the Division of Motor Vehicles to determine the driver qualification of persons who are affected by cardiovascular disorders. These rules were initially filed and became effective prior to September 1, 1969. These rules were subsequently amended on September 17, 1979, and are now to be readopted in accordance with Executive Order 66(1978).

The rules implement the provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-10 and 39:5-30) pertaining to driver qualification and license denial and suspension.

The rules provide for the appointment of a Cardiovascular Committee (Committee) to advise the Division of Motor Vehicles concerning the physical qualifications of drivers. The Director, in determining the driver qualification of a person affected by a cardiovascular disorder, may require the person to provide a statement of his medical history and a statement from his physician pertaining to diagnosis, treatment and prognosis. The Director may refer cases to the Committee for review and recommendation relating to driver qualification. The Director's determination to deny or suspend a driver's license is based on the medical statements and the Committee's recommendation.

Cases may be referred to the Committee upon application for restoration of driving privileges. Restoration of driving privileges may be conditioned upon the driver's agreement to submit interval medical reports. The Director may require a driver to be reexamined as to his ability to safely operate motor vehicles prior to the restoration of driving privileges.

The Division of Motor Vehicles has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated."

Social Impact

The rules proposed for readoption have a positive impact on highway safety. Persons who cannot safely operate motor vehicles due to a cardiovascular disorder may be suspended or denied a driver's license until their medical condition warrants licensure. Since 1979 the Division of Motor Vehicles has suspended the driving privileges of 254 drivers affected by cardiovascular disorders, determined not to suspend after review the driving privileges of 44 drivers and referred 1,981 cases to the Committee. The rules proposed for readoption will have a continuing beneficial impact on highway safety.

Economic Impact

There is an economic impact on the State in funding the Division's Driver Improvement Bureau and Cardiovascular Committee. There is not direct economic impact on the general public.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:19-4.

(a)

DIVISION OF MOTOR VEHICLES

Licensing Service
RegistrationsProposed Readoption with Amendments:
N.J.A.C. 13:21-5

Authorized By: Clifford W. Snedeker, Director.
Authority: N.J.S.A. 39:3-4, 39:3-8, 39:3-30, 39:3-33,
39:3-43 and 39:10-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clifford W. Snedeker, Director
Division of Motor Vehicles
25 So. Montgomery Street
Trenton, New Jersey 08666

The Division of Motor Vehicles thereafter may adopt this proposal without further notice (see N.J.A.C. 1:30-3.5).

This proposal is known as PRN 1984-366.

The agency proposal follows:

Summary

The Division of Motor Vehicles proposes to readopt with amendments the provisions of N.J.A.C. 13:21-5.1 through 13:21-5.10 concerning the registration of motor vehicles. Part of these rules (N.J.A.C. 13:21-5.1 through 13:21-5.7) were initially filed and became effective prior to September 1, 1969. These rules were supplemented by the adoption of N.J.A.C. 13:21-5.8 through 13:21-5.9 effective January 2, 1973 and the adoption of N.J.A.C. 13:21-5.10 effective August 15, 1979. The rules are now to be readopted in accordance with Executive Order 66(1978).

The rules implement those provisions of the Motor Vehicle and Traffic Law (N.J.S.A. 39:3-4, 39:3-8, 39:3-30, 39:3-33 and 39:10-1 et seq.) pertaining to the registration and titling of motor vehicles. N.J.A.C. 13:21-5.1 — 13:21-5.5 provide that the manufacturer's shipping weight contained on the Certificate of Origin, the model weight classification listed by the Division or the certification of weight by a certified weight master determines the weight class for passenger automobiles which are to be registered and titled in New Jersey. The registration fees paid pursuant to N.J.S.A. 39:32-8 are predicated on the weight classification.

N.J.A.C. 13:21-5.6 and 13:21-5.7 require that a flood-damaged motor vehicle be described as a "Flood Vehicle" on a manufacturer's statement of origin, an assignment of a certificate of ownership or an application for a certificate of ownership. Certificates of ownership thereafter issued for the motor vehicle shall describe the vehicle as a "Flood Vehicle".

N.J.A.C. 13:21-5.8 and 13:21-5.9 require that a person, when transferring ownership of a motor vehicle, certify on the certificate of ownership the date of transfer and the odometer mileage reading at the time of transfer.

N.J.A.C. 13:21-5.10(a) requires the surrender of registration plates whenever an owner transfers ownership of a motor

vehicle and does not register another motor vehicle for the unexpired portion of the registration year. The plates are required to be surrendered within five days of the transfer of ownership. N.J.A.C. 13:21-5.10(b) requires the surrender of registration plates within five days of the cancellation or termination of liability insurance coverage for a motor vehicle if replacement coverage is not obtained. The Division has reviewed the rules in accordance with Executive Order 66 and has determined that they are "necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were promulgated." The rules provide an efficient procedure for the administration of the registration and certificate of ownership laws and protect the public in areas relating to the titling of flood-damaged motor vehicles, the transfer of motor vehicles with tampered odometers, and the misuse of registration plates on unregistered or uninsured motor vehicles.

Social Impact

The rule proposed for readoption promote the public interest in matters relating to motor vehicle titling and registration. The rules have a beneficial social impact in that they regulate the titling and registration of flood-damaged motor vehicles, limit the transfer of motor vehicles with altered odometer readings and restrict the misuse of registration plates. The rules proposed for readoption will continue to promote the public interest in these areas.

Economic Impact

There is an economic impact on the Division of Motor Vehicles in administering the registration and certificate of ownership laws. There is a beneficial economic impact on the public to the extent that these rules limit the transfer of flood-damaged motor vehicles and motor vehicles with altered odometers.

Full text of the proposed readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:21-5.

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

13:21-5.1 Weight class

(a) In determining the weight class of all 1958 or later models of passenger automobiles which are being initially registered or titled in New Jersey, the manufacturer's shipping weight on the [New Jersey] Certificate of Origin shall govern.

(b) (No change.)

13:21-5.2 Certificate of Origin

(a) N.J.S.A. 39:10 requires a [New Jersey] Certificate of Origin when any new motor vehicle is delivered in this State by the manufacturer to his agent or dealer, or to a person purchasing direct from the manufacturer.

(b) Where registration or title is sought for a 1958 or later model passenger automobile for which no [New Jersey] Certificate of Origin has been issued and which vehicle is not in violation of N.J.S.A. 39:10-8, the owner will be required by the Director or his agent to register the vehicle in accordance with the weight classification described in the published listing of all models issued by this office.

(c) Only in a case where the published listing indicates [that there may be an exception, indicating] that there may be a

difference in weight in vehicles of the same model, shall the owner be required [to] by the Director or his agent to produce a certification of weight of the vehicle executed by a certified weighmaster.

13:21-5.3-5.9 (No change.)

13:21-5.10 Surrender of registration plates

(a) Whenever an owner of a motor vehicle registered in accordance with N.J.S.A. 39:3-4 transfers ownership of the motor vehicle and does not [intend to] register another motor vehicle for the unexpired portion of the registration period as provided in N.J.S.A. 39:3-30, [he shall remove the registration period as provided in N.J.S.A. 39:3-30,] he shall remove the registration plates from the motor vehicle and surrender them to the Division of Motor Vehicles within five days of the transfer of ownership.

(b) (No change.)

(a)

DIVISION OF CONSUMER AFFAIRS

Representations Concerning and Requirements for the Sale of Kosher Food

Proposed Amendments: N.J.A.C. 13:45A-21.3 and 21.4

Authorized By: Irwin I. Kimmelman, Attorney General of New Jersey.

Authority: N.J.S.A. 56:8-4.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

James J. Barry, Jr., Director
Division of Consumer Affairs
Room 504
1100 Raymond Boulevard
Newark, N.J. 07102

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

This proposal is known as PRN 1984-364.

The agency proposal follows:

Summary

The first proposed amendment provides that a clearly visible sign be affixed to the interior display cabinets containing either properly sealed Kosher meats or non-packaged Kosher meats. The current rule requires that a sign in block letters at least four inches in height be affixed to the interior display cabinet. Members of the food industry were concerned that the current four inch size requirement is too large and cumbersome. Furthermore, language was added to clarify the

requirement for a separate display cabinet containing non-packaged Kosher meat.

The second proposed amendment deletes the requirement that a supervising rabbi must have geographical jurisdiction over an exclusively Kosher establishment which advertises that it is under rabbinic supervision. The objective of this amendment is to simplify and clarify this section.

Social Impact

There is no social impact on the consuming public. The sign requirement and the additional language referring to a separate display cabinet for non-packaged Kosher meat should make compliance with display and handling requirements less burdensome on the food industry. The deletion of a geographical jurisdiction requirement for a supervising rabbi simplifies and clarifies the filing requirements section and places no jurisdictional restriction upon a rabbi for the purpose of supervision.

Economic Impact

There is little or no economic impact associated with this amendment because these amendments provide a practical response to or an attempt to clarify an existing requirement for a sign, display cabinet or document from a supervising rabbi or rabbinical organization.

Full text of the current rule may be found at 16 N.J.R. 220(a), 16 N.J.R. 741(a).

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

13:45A-21.3 Display and handling requirements

(a) A Kosher food or food product sold by a restaurant, hotel, store, catering facility or other place which advertises, represent or holds itself out as selling, serving or offering for sale both Kosher and Non-Kosher food or food products may be falsely represented to be Kosher within the meaning of N.J.A.C. 13:45A-21.2 unless the following display and handling requirements are observed.

1. Interior display and handling requirements:

i. Kosher meats which are contained in properly sealed packages may not be commingled with Non-Kosher meats but shall be kept in a separate display cabinet or shall be separated from Non-Kosher meats by a clearly visible divider. There shall be a **clearly visible** sign in block letters [at least four inches in height] affixed to said display cabinet or section indicating that only KOSHER FOOD is contained therein;

ii. (No change.)

iii. Non-packaged Kosher meats and Kosher food or food products shall be kept in a separate display cabinet which shall not contain any Non-Kosher meat, Non-Kosher food or food products or any dairy products **or shall be separated from any Non-Kosher meat, Non-Kosher food, or food products or any dairy products by a clearly visible divider**. There shall be a **clearly visible** sign in block letters [at least four inches in height] affixed to said cabinet **or Kosher section of said cabinet** indicating that only KOSHER FOOD is contained therein. Such Kosher meat and food or food products shall be sliced with a separate knife or on a separate slicing machine used solely for Kosher meat and food or food products;

iv. (No change.)

2. Exterior sign requirements:

i. (No change.)

13:45A-21.4 Filing requirements

Any restaurant, hotel, store, catering facility, or other place which advertises, represents or holds itself out as selling, serving or offering for sale exclusively Kosher food or food products, under rabbinic supervision, shall file with the Director of the Division of Consumer Affairs a document in writing from [the] a supervising rabbi or rabbinical organization [having geographical jurisdiction over such restaurant, hotel, store, catering facility or other place] that said establishment meet Orthodox Jewish dietary laws.

ENERGY

(a)

THE COMMISSIONER

Reporting of Energy Information Bulk Terminal Operating Companies

Proposed Readoption with Amendments: N.J.A.C. 14A:11-3

Authorized By: Leonard S. Coleman, Jr., Commissioner, Department of Energy.
Authority: N.J.S.A. 52:27F-11b, -18a.
DOE Docket No. DOE-011-84-06.

Interested persons may present in writing, statements or arguments relevant to the proposal on or before August 1, 1984. These submissions and any inquiries about submissions should be addressed to:

Linda M. Scurzo, Esq.
Office of Regulatory Affairs
Department of Energy
101 Commerce Street
Newark, New Jersey 07102

The Department may thereafter 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 18, 1984. The readoption becomes effective upon filing with the Office of Administrative Law of a notice of adoption.

This proposal is known as PRN 1984-350.

The agency proposal follows:

Summary

N.J.A.C. 14A:11-3.1 establishes energy information reporting requirements for bulk terminal operating companies. N.J.A.C. 14A:11-3.2 contains the relevant definitions. N.J.A.C. 14A:11-3.3 is the actual substance of the regulations, and requires such companies to report to the Department on a monthly basis certain information concerning the levels of their petroleum stocks. The proposed readoption will

require this information to be reported on an EIA-811 form since the EIA-88 has been discontinued. The information should now be sent to the Data Center rather than the Office of Regulatory Affairs.

The regulations were adopted in 1979, in view of the department's experience during the energy crisis. The reporting requirements were considered necessary to enable the department to monitor petroleum product stock levels. The regulation has been reviewed as part of the readoption process. With certain minor technical changes it has been determined to be necessary, adequate and responsive to the objectives and purposes that exist today.

Social Impact

The readoption will enable the Department to fulfill its Legislative mandate to collect and analyze data relating to present and future demands for energy. N.J.S.A. 52:27F-11b. The required reports provides the Department with important information concerning the levels of bulk terminal stocks in New Jersey, and assist the Department in monitoring petroleum product levels in the State. This information assists NJDOE in detecting supply disruptions with the State.

Economic Impact

Although the information sought from bulk terminal operators is important and necessary to the Department NJDOE has attempted to reduce the economic burden by requiring the information to be submitted on the same forms used for reporting the data to the U.S. Department of Energy. As such, the economic burden to regulated groups will be minimal.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14A:11-3.

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

14A:11-3.3 Reporting

(a) By the fifth day of each month all bulk terminal operators shall provide to the Department a tabulation of bulk terminal stocks for the preceding month. The tabulation shall include the following petroleum products held in custody: leaded motor gasoline, unleaded motor gasoline, aviation gasoline, special naphthas, jet fuel-naphtha type, jet fuel-kerosene type, kerosene, distillate fuel oil, No. 4 fuel oil, residual fuel oil, lube oil and greases, asphalt, and miscellaneous finished oils. All figures shall be reported in thousands of 42 gallon barrels. All figures shall represent actual physical inventories for midnight on the last day of the reported month.

(b) The tabulation of bulk terminal stocks shall be in the form of [EIA-881] **EIA-811**, Bulk Terminal Stocks of Finished Petroleum Products. This information should be sent to:

New Jersey Department of Energy
101 Commerce Street
Newark, New Jersey 07102
Attention: [Office of Regulatory Affairs]
Data Center

(a)

THE COMMISSIONER**Commercial and Apartment Conservation
Service Program, CACS
Qualifying and Disqualifying Auditors****Proposed Amendments: N.J.A.C.
14A:22-6.1, 6.3 and 6.4**

Authorized By: Leonard S. Coleman, Jr., Commissioner, Department of Energy.
Authority: N.J.S.A. 52:27F-11g and q.
DOE Docket No: DOE 010-84-06.

Interested persons may present in writing, statements or arguments relevant to the proposal on or before August 1, 1984. These submissions and any inquiries about submissions and responses should be addressed to:

Linda M. Scurzo, Esq.
Office of Regulatory Affairs
Department of Energy
101 Commerce Street
Newark, New Jersey 07102

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

This proposal is known as PRN 1984-351.

The agency proposal follows:

Summary

The Department is proposing to amend N.J.A.C. 14A:22-6 to include the grounds for and procedures to be followed in qualifying and disqualifying auditors from the CACS Program. These grounds include the violation of certain Federal and State laws and regulations, bankruptcy and other serious and compelling reasons in N.J.A.C. 14A:22-6.3. In order to disqualify an auditor, the Department will follow the procedures established in N.J.A.C. 14A:22-6.4, which include providing notice of the pending disqualification and an opportunity to consult with the Department.

The proposal also adds the word "architect" to N.J.A.C. 14A:22-6.1(c), as it was inadvertently omitted from the original regulations.

Social Impact

The proposed amendment will establish the same criteria for participation in the CACS Program for auditors as currently exist for building heating suppliers. The Department believes that equality of treatment between participating auditors and heating suppliers is warranted in view of the fact that the two groups perform similar services under the Program.

Economic Impact

The proposed amendments will not have any economic effect in most circumstances. The amendments may have an economic effect on a particular auditor in the event that he becomes the subject of a disqualification procedure. How-

ever, any potential loss to the individual is counterbalanced by the need to have such procedures in order to insure the integrity of those persons that participate in the program as auditors.

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

14A:22-6.1 General

(a)-(b) (No change, see 16 N.J.R. 1370.)

(c) Any professional engineer **or architect** who has been previously certified by the Department as an approved Technical Assistance Analyst or Certified Energy Manager as of the operative date of this chapter may apply for and receive a waiver of the auditor qualification for testing.

(d) (No change, see 16 N.J.R. 1370.)

14A:22-6.3 Qualification and disqualification

(a) **The Department shall qualify an auditor pursuant to N.J.A.C. 14A:22-6.1 and may disqualify any auditor pursuant to (b) below from participating in the program.**

(b) **Grounds for disqualification shall include, but are not limited to the following:**

1. Violation, within three years prior to the date of application, of any laws governing the conduct of occupations or professions regulated by the state(s) in which the applicant does business;

2. Violation of the Federal Organized Crime Control Act of 1970 or conviction for fraud, embezzlement, theft, forgery, bribery falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice or any other offense indicating lack of business integrity or honesty by the applicant, or if the applicant is a corporation, partnership, or business entity, by a person who is a principal of the corporation, partnership or business entity;

3. Violation of any Federal or State antitrust statutes, or the Federal Anti-Kickback Act;

4. Violations of any laws governing hours of labor, minimum wage standards, discrimination in wages or child labor;

5. Any other cause affecting the responsibility of an auditor of such a serious and compelling nature as may be determined by the Department to warrant disqualification, including such conduct as may be prescribed by law or regulation even though such conduct has or may not be prosecuted as a violation of such law or regulation; or

6. Bankruptcy, insolvency, or other conditions affecting financial integrity, capabilities or performance; and

7. Failure to fully comply with all applicable requirements of this chapter.

14A:22-6.4 Procedures for disqualification

(a) **Any auditor whom the Department plans to disqualify from participating in the program shall receive written notice from the Department of the disqualification and the grounds therefor at least 30 days before such disqualification.**

(b) **The Department shall allow the auditor to respond in writing to the allegations contained in the notice. All such responses must be received by the Department no later than 30 days after receipt of the proposed agency action. Disqualification from participation shall constitute final agency action.**

(c) **An auditor who has been disqualified by the Department may file a request for reconsideration after one year. The request for reconsideration shall be accompanied by a statement under oath setting forth substantial and appropri-**

ate grounds for reconsideration which shall be supported by documentary evidence. Substantial and appropriate grounds include, but are not limited to:

1. Newly discovered material evidence that the Department erred in its previous decision;
2. Reversal of a conviction of an offense or civil judgment which formed the basis of the Department's previous decision, on material grounds;
3. Actual change of ownership or control; and
4. Elimination of the causes for which disqualification occurred.

(d) The Department shall review the request for reconsideration and shall, within 45 days of its receipt, notify the auditor of its decision whether to allow the auditor to continue to participate in the CACS Program.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Speed Limits for State Highways Route U.S. 30 in Galloway and Route 29 in Hopewell

Proposed Amendments: N.J.A.C. 16:28-1.57 and 1.77

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 August 1, 1984. 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, New Jersey 08625

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

This proposal is known as PRN 1984-342.

The agency proposal follows:

Summary

The proposed amendments will establish maximum speed limits along Route U.S. 30 in Galloway Township, Atlantic County at the Church of the Assumption Elementary School during recess when the presence of children is clearly visible from the roadway, or while children are going to or leaving

school during opening or closing hours for the safety and well-being of the children attending school, and the safe and efficient flow of traffic.

The proposed amendments will also establish maximum speed limits along Route 29 in Hopewell Township, Mercer County for the safe and efficient flow of traffic.

Based upon a request from local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the imposition of the speed limits depicted were warranted.

The Department therefore proposed to amend N.J.A.C. 16:28-1.57 and 1.77, in compliance with the request from local officials and the traffic investigation.

Appropriate signs will be erected to advise the motoring public.

Social Impact

The proposed amendment will institute a maximum speed limit along Route U.S. 30 in Galloway Township, Atlantic County for the safety and well being of the children attending the Assumption Elementary School and along Route 29 in Hopewell Township, Mercer County for the safe and efficient flow of traffic and 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. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28-1.57 Route US 30

(a) In accordance with the provisions of N.J.S.A. 39:4-98 the rate of speed designated for the certain parts of State highway Route [number US] U.S. 30 described in this subsection shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:
 - i.-xxii. (No change.)

xxiii. In Galloway Township, Atlantic County:

(1) **35 mph School speed zone within the Church of the Assumption Elementary School zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours.**

16:28-1.77 Route 29

(a) The rate of speed for the certain part of State highway Route 29 described [herein below] **in this section** shall be [and hereby is] established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:
 - i.-iii. (No change.)

iv. Zone four: [45 mph in Ewing Township extending Hopewell Township to 600 feet south of Church Road (post 9.7); thence]

(1) **45 mph in Ewing Township and Hopewell Township between Route 175 overpass (milepost 6.2) and 200 feet of Wilford Avenue (milepost 8.57); thence**

(2) **40 mph in Hopewell Township between 200 feet of Wilford Avenue (milepost 8.57) and 550 feet Washington Crossing-Pennington Road (milepost 8**

(3) 45 mph between 550 feet north of Washington Crossing-Pennington Road (milepost 8.8) and 600 feet south of Church Road (milepost 9.7).

v.-xiv. (No change.)

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 7 in Belleville, Route U.S. 9 in Cape
May County, and Route 28 in Roselle
Park**

**Proposed Amendments: N.J.A.C.
16:28A-1.6, 1.7 and 1.19**

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

Authority: N.J.A.C. 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 August 1, 1984. 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, New Jersey 08625

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

This proposal is known as PRN 1984-343.

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 16:28A-1.6 will establish "no parking bus stop" zones along Route 7 in Belleville Township, Essex County, for the safe and efficient flow of traffic, the safe on/off loading of passengers at bus stops and the enhancement of the safety of the populace.

Based upon a request from local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that establishment of "no parking bus stop" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.6 in compliance with the request from local officials and the traffic investigation.

Appropriate signs will be erected to advise the motoring public.

The proposed amendment to N.J.A.C. 16:28A-1.7 will establish "no stopping or standing" zones along Route U.S. 9 in Dennis Township, Cape May County for the safe and efficient flow of traffic and the enhancement of the safety and well-being of the populace.

Based upon a request from local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation which proved that the establishment of "no stopping or standing" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7 in compliance with the request from local officials and the traffic investigation.

The proposed amendment at N.J.A.C. 16:28A-1.19 will establish one hour time limit parking along Route 28 in Roselle Park Borough, Union County for the safe and efficient flow of traffic and the enhancement of the safety and well-being of the populace.

Based upon a request from local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of time limit parking zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.19 in compliance with the request from local officials and the traffic investigation.

Appropriate signs will be erected to advise the motoring public.

Social Impact

The proposed amendments will restrict parking at established bus stops by establishing "no parking bus stop" zones along Route 7 in Belleville Township, Essex County for the safe on/off loading of passengers at established bus stops, establish "no stopping or standing" zones along Route U.S. 9 in Dennis Township, Cape May County and restrict parking by establishing one hour time limit parking zones along Route 28 except as designated in this rule, respectively. The amendments will enhance the safety and well-being of the populace and the safe and efficient flow of traffic along the highway system.

Appropriate signs will be erected to advise the motoring public of the restrictions.

Economic Impact

The Department and local officials will incur direct and indirect costs for their workforce for mileage, personnel and equipment requirements. The local officials will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.6 Route 7

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

(c) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State Highway Route 7 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is hereby granted to erect appropriate signs at the following established bus stops:

1. No parking bus stops in Belleville Township, Essex County:

i. Along Washington Avenue, southbound on the westerly side thereof at:

- (1) Near side bus stops:
 - (A) Carmer Avenue-Beginning at the northerly curb line of Carmer Avenue and extending 105 feet northerly therefrom.
 - (B) Greylock Parkway-Beginning at the northerly curb line of Greylock Parkway and extending 105 feet northerly therefrom.
 - (C) Overlook Avenue-Beginning at the northerly curb line of Overlook Avenue and extending 105 feet northerly therefrom.
 - (D) Little Street-Beginning at the northerly curb line of Little Street and extending 105 feet northerly therefrom.
 - (E) Division Avenue-Beginning at the northerly curb line of Division Avenue and extending 105 feet northerly therefrom.
 - (F) Essex Street-Beginning at the northerly curb line of Essex Street and extending 105 feet northerly therefrom.
 - (G) Joralemon Street-Beginning at the northerly curb line of Joralemon Street and extending 105 feet northerly therefrom.
 - (H) Rossmore Place-Beginning at the northerly curb line of Rossmore Place and extending 105 feet northerly therefrom.
 - (I) Holmes Street-Beginning at the northerly curb line of Holmes Street and extending 105 feet northerly therefrom.
 - (J) Van Houten Place-Beginning at the northerly curb line of Van Houten Place and extending 105 feet northerly therefrom.
 - (K) Academy Street-Beginning at the northerly curb line of Academy Street and extending 105 feet northerly therefrom.
 - (L) Rutgers Street-Beginning at the northerly curb line of Rutgers Street and extending 105 feet northerly therefrom.
 - (M) Belleville Avenue-Beginning at the northerly curb line of Belleville Avenue and extending 105 feet northerly therefrom.
 - (N) William Street-Beginning at the northerly curb line of William Street and extending 105 northerly therefrom.
 - (O) Howard Place-Beginning at the northerly curb line of Howard Place and extending 105 feet northerly therefrom.
 - (P) Van Rensselaer Street-Beginning at the northerly curb line of Van Rensselaer Street and extending 105 feet northerly therefrom.
 - (Q) Cleveland Street-Beginning at the northerly curb line of Cleveland Street and extending 105 feet northerly therefrom.
 - (R) Mill Street-Beginning at the northerly curb line of Mill Street and extending 105 feet northerly therefrom.
- (2) Mid-Block bus stop:
 - (A) Between Greylock Parkway-Beginning 400 feet south of the southerly curb line of Carmer Avenue and extending 135 feet southerly thereof.
 - ii. Along Washington Avenue, northbound on the easterly side thereof at:
 - (1) Near side bus stops:
 - (A) Cleveland Street-Beginning at the southerly curb line of Cleveland Street and extending 105 feet southerly therefrom.
 - (B) Van Rensselaer Street-Beginning at the prolongation of the southerly curb line of Van Rensselaer Street and extending 105 feet southerly therefrom.
 - (C) Howard Place-Beginning at the prolongation of the southerly curb line of Howard Place and extending 105 feet southerly therefrom.
 - (D) William Street-Beginning at the southerly curb line of William Street and extending 105 feet southerly therefrom.
 - (E) Belleville Avenue-Beginning at the southerly curb line of Belleville Avenue and extending 105 feet southerly therefrom.

- (F) Rutgers Street-Beginning at the southerly curb line of Rutgers Street and extending 105 feet southerly therefrom.
 - (G) Academy Street-Beginning at the southerly curb line of Academy Street and extending 105 feet southerly therefrom.
 - (H) Van Houten Place-Beginning at the southerly curb line of Van Houten Place and extending 105 feet southerly therefrom.
 - (I) Holmes Street-Beginning at the southerly curb line of Holmes Street and extending 105 feet southerly therefrom.
 - (J) Rossmore Place-Beginning at the prolongation southerly curb line of Rossmore Place and extending 105 feet southerly therefrom.
 - (K) Joralemon Street-Beginning at the southerly curb line of Joralemon Street and extending 105 feet southerly therefrom.
 - (L) Essex Street-Beginning at the southerly curb line of Essex Street and extending 105 feet southerly therefrom.
 - (M) Division Avenue-Beginning at the prolongation southerly curb line of Division Avenue and extending 105 feet southerly therefrom.
 - (N) Little Street-Beginning at the southerly curb line of Little Street and extending 105 feet southerly therefrom.
 - (O) East Overlook Avenue-Beginning at the southerly curb line of East Overlook Avenue and extending 105 feet southerly therefrom.
 - (P) Greylock Parkway-Beginning at the southerly curb line of Greylock Parkway and extending 105 feet southerly therefrom.
 - (Q) Carmer Avenue-Beginning at the southerly curb line of Carmer Avenue and extending 105 feet southerly therefrom.
 - (2) Mid-block bus stop:
 - (A) Between Greylock Parkway and Carmer Avenue-Beginning 1000 feet north of the northerly curb line of Greylock Parkway and extending 135 feet southerly thereof.
- 16:28A-1.7 Route U.S. 9
- (a) The certain parts of State highway Route U.S. 9 described in this section shall be designated as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.
 - 1.-17. (No change.)
 - 18. No stopping or standing in Dennis Township, Cape May County:
 - i. Along both sides:
 - (1) Beginning 170 feet from the northerly curb line of Tompkins Lane and extending 360 feet northerly therefrom.
 - (b) (No change.)
- 16:28A-1.19 Route 28
- (a)-(d) (No change.)
 - (e) In accordance with the provisions of N.J.S.A. 39:4-138.1, the certain parts of State highway Route 28 described in this subsection shall be designated and established as "Time Limit Parking" zones where parking is prohibited at all times except in the areas designated below. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established Time Limit Parking zones:
 - 1. One hour time limit parking in Roselle Park Borough, Union County:
 - i. (Westfield Avenue) westbound on the northerly side thereof at:
 - (1) Between Sheridan Avenue and Sherman Avenue.
 - (2) Between Camden Street and Dalton Street.

- ii. One-hour time limit parking, between 9:00 A.M. and 5:00 P.M. Monday, Tuesday, Thursday, Friday and Saturday.
 - iii. One-hour time limit parking, between 11:00 A.M. and 5:00 P.M. Wednesday.
2. Eastbound on the southerly side thereof at:
- i. Between Sherman Avenue and Sheridan Avenue.
 - ii. One-hour time limit parking, between 9:00 A.M. and 5:00 P.M. Monday, Tuesday, Wednesday, Friday and Saturday.
 - iii. One-hour time limit parking between 11:00 A.M. and 5:00 P.M. Thursday.

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route 24 in Morristown**

**Proposed Amendment: N.J.A.C.
16:28A-1.16**

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,
39:4-139 and 39:4-199.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before August 1, 1984. 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, New Jersey 08625

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

This proposal is known as PRN 1984-344.

The agency proposal follows:

Summary

The proposed amendments will establish "no parking loading zone", "no parking bus stop" zones and "no stopping or standing" zones along Route 24 in the Town of Morristown, Morris County for the safe and efficient flow of traffic, the enhancement of the safety and well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon requests from local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted traffic investigations. The investigations proved that the establishment of "no parking loading zone", "no parking

bus stop" and "no stopping or standing" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.16 in compliance with the requests from local officials and the traffic investigations.

Appropriate signs will be erected to advise the motoring public.

Social Impact

The proposed amendment will restrict parking at loading zones and established bus stops and will restrict stopping or standing along Route 24 in the Town of Morristown, Morris County for the safe and efficient flow of traffic, the safe on/off loading of passengers and the enhancement of the safety and well-being of the populace.

Economic Impact

The Department and local officials will incur direct and indirect costs for their workforce for mileage, personnel and equipment requirements. The local officials will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.16 Route 24

(a) The certain parts of State highway Route 24 described in [(a) of] this subsection are designated and established "no parking" zones where stopping or standing is prohibited at all time except as provided in N.J.S.A. 39:4-139.

1.-2. (No change.)

3. No stopping or standing in the Town of Morristown[:], **Morris County:**

i. Along the south side (South Street and Madison Avenue) from a point 160 feet west of the westerly curb line of James Street to the Town of Morristown-Morris Township corporate line.

ii. Along the north side of Route 24 (Madison Avenue and South Street)

(1) From the Morris Township-Town of Morristown corporate line to a point 50 feet west of the westerly curb line of Elm Street;

(2) From a point 175 feet east of the prolongation of the easterly curbline of the Miller Road to a point 215 feet east of the prolongation of the easterly curb line of Miller Road;

(3) From a point 50 feet east of the prolongation of the easterly curbline of Miller Road to a point 150 feet east of the westerly curb line of Pine Street;

(4) From a point 90 feet east of the prolongation of the easterly curb line of DeHart Street to a point 45 feet west of the prolongation of the westerly curb line of DeHart Street.

iii. 7:00 A.M. to 9:00 A.M., Monday through Friday along the south side (West Park Place and South Street) from the easterly curb line of Market Street (Route U.S. 202) and a point 160 feet west of the westerly curb line of James Street.]

i. Along the south side (South Street):

(1) From Bank Street to a point 200 feet east of the easterly curb line of Market Street.

(2) From a point 62 feet west of the westerly curb line of Madison Street to a point 110 feet east of the easterly curb line of Madison Street.

(3) From a point 190 feet east of the easterly curb line of Madison Street to Madison Avenue.

ii. Along the South Side (Madison Avenue):

(1) From South Street to a point 1,805 feet easterly therefrom.

(2) From a point 1910 feet east of the easterly curb line of South Street to Turtle Road.

(3) From a point 105 feet east of the easterly curb line of Turtle Road to the Morristown-Morris corporate line.

iii. Along the north side (Madison Avenue):

(1) From the Morristown-Morris Township corporate line to a point 105 feet east of the easterly curb line of Franklin Street.

(2) From the westerly curb line of Franklin Street to the easterly most driveway of the Morristown Memorial Hospital.

iv. Along the north side (Madison Avenue-South Street):

(1) From a point 100 feet west of the westerly curb line of the easterly most driveway of the Morristown Memorial Hospital to a point 56 feet west of the westerly curb line of Elm Street.

v. Along the north side (South Street):

(1) From a point 430 feet west of the westerly curb line of Elm Street to a point 88 feet westerly therefrom.

(2) From a point 606 feet west of the westerly curb line of Elm Street to a point 192 feet westerly therefrom.

(3) From a point 226 feet west of the prolongation of the westerly curb line of Community Place to a point 56 feet west of the prolongation of the westerly curb line DeHart Street.

(4) From the easterly curb line of South Park Place to a point 54 feet easterly therefrom.

4. No Stopping or Standing 2:00 A.M. to 10:00 A.M.

i. Along the south side (South Street):

(1) From a point 200 feet east of the easterly curb line of Market Street to a point 62 feet west of the westerly curb line of Madison Street.

(2) From a point 110 feet east of the easterly curb line of Madison Street to a point 80 feet easterly therefrom.

5. No Stopping or Standing 2:00 A.M. to 7:00 A.M. and 3:30 P.M. to 6:30 P.M.

i. Along the north side (South Street):

(1) From a point 56 feet west of the westerly curb line of Elm Street to a point 374 feet westerly therefrom.

(2) From a point 518 feet west of the westerly curb line of Elm Street to a point 88 feet westerly therefrom.

(3) From a point 158 feet east of the easterly curb line of Pine Street to a point 226 feet west of the prolongation of the westerly curb line of Community Place.

(4) From a point 54 feet east of the easterly curb line of South Park Place to a point 54 feet easterly therefrom.

[iv.] 6. No stopping or standing [A]along the north side of Route 24 (Washington Street):

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

[v.] 7. No stopping or standing [A]along the south side of Route 24 (Washington Street):

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

[4.] 8. (No change in text. See 14 N.J.R. 553(a), 14 N.J.R. 919(f)).

(b) The certain parts of State highway Route 24 described [herein below] in this subsection shall be [, and hereby are,] designated and established as "no parking" zones [for designated curb loading zones.] where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established **LOADING ZONE**:

1. (No change.)

[2. No parking loading zone along the north side in Town of Morristown (South Street) between the hours of 9:00 A.M. and 4:00 A.M. (except Sundays and holidays) from a point 45

feet west of the prolongation of the westerly curb line of DeHart Street to a point 95 feet west of the prolongation of the westerly curb line of DeHart Street.]

2. No parking loading zone in the Town of Morristown, Morris County:

i. Along the north side (South Street):

1. From a point 35 feet west of the prolongation of the westerly curb line of Community Place to a point 50 feet westerly therefrom:

2. From a point 56 feet west of the prolongation of the westerly curb line of DeHart Street to a point 50 feet westerly therefrom.

(c) The certain parts of State highway Route 24 described in [(c) of] this subsection shall be designated and established as "no parking" zones where parking is prohibited at all time. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stop[.]:

1.-3. (No change. See 14 N.J.R. 553(a), 14 N.J.R. 919(f)).

4. No parking bus stops in the Town of Morristown, Morris County:

i. Along the south side (Madison Avenue):

(1) Near side bus stop-(South Street) from a point 1,805 feet east of the easterly curb line of South Street to a point 105 feet easterly therefrom.

(2) Far side bus stop-(Turtle Road) from the easterly curb line of Turtle Road to a point 105 feet easterly therefrom.

ii. Along the north side (Madison Avenue):

(1) Near side bus stop-(Franklin Street) from the easterly curb line of Franklin Street to a point 105 feet easterly therefrom.

(2) Far side bus stop-Morristown Memorial Hospital Driveway (easterly) from the westerly curb line of the easterly most driveway of the Morristown Memorial Hospital to a point 100 feet westerly therefrom.

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping
Route U.S. 46 in Netcong and Route 124 in
Springfield

Proposed Amendments: N.J.A.C.
16:28A-1.32 and 1.69

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
39:4-139.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before August 1, 1984. 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, New Jersey 08625

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

This proposal is known as PRN 1984-345.

The agency proposal follows:

Summary

The proposed amendments will establish "no stopping or standing" zones along Route U.S. 46 in Netcong Borough, Morris County and along Route 124 in Springfield Township, Union County for the safe and efficient flow of traffic and the enhancement of the safety and well-being of the populace.

Based upon a request from local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no stopping or standing" zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.32 in compliance with the request from local officials and the traffic investigation.

Appropriate signs will be installed to advise the motoring public.

Social Impact

The proposed amendment will restrict stopping or standing in the area described along Route 24 in Netcong Borough, Morris County and along Route 124 in Springfield Township, Union County for the safe and efficient flow of traffic and the enhancement of the safety and well-being of the populace.

Economic Impact

The Department and local officials will incur direct and indirect costs for their workforce for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.32 Route U.S. 46

(a) The certain parts of State Highway Route U.S. 46 described in this **sub**-section shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1.-14. (No change.)

15. No stopping or standing in Netcong Borough, Morris County:

i. For the entire length within the corporate limits including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

(b) (No change.)

16:28A-1.69 Route 124

(a) The certain parts of State highway Route 124 described in [(a) of] this **sub**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.)

(b) Under the provisions of N.J.S.A. 39:4-138.1, the certain parts of State highway Route 124 described in this subsection shall be designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Springfield Township, Union County:

i. Along the northerly (westbound) side:

(1) From the prolongation of the easterly curb line of Millburn Avenue to a point 494 feet easterly thereof.

ii. Along the easterly side (Maple Avenue):

(1) Between Morris Avenue and the junction of existing Springfield Avenue.

iii. Along the westerly side (Maple Avenue):

(1) Between Morris Avenue and the ramp to Main Street.

iv. Along the southerly (eastbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township.

v. Along the northerly (westbound) side:

(1) Between points 300 feet easterly, and 300 feet westerly of the intersection of Short Hills Avenue.

2. No stopping or standing between the hours of 4:00 P.M. and 6:30 P.M. daily in Springfield Township, Union County:

i. Along the northerly (westbound) side:

(1) In the four lane sections of the route within the corporate limits of Springfield Township where not otherwise covered by this regulation.

(2) Morris Avenue (west side)-7:00 A.M. to 12:00 midnight, Sundays-From the intersection of Morris and Mountain Avenue to the intersection of Morris Avenue and Caldwell Place.

(3) Morris Avenue (east side)-7:00 A.M. to 12:00 midnight, Sundays-From the intersection of Morris Avenue and Walnut Court to the entrance of the parking lot directly across from Caldwell Place.

(a)

TRANSPORTATION OPERATIONS

**Restricted Parking and Stopping
Route U.S. 202 in Morristown**

**Proposed Amendment: N.J.A.C.
16:28A-1.55**

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 39:4-139.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before August 1, 1984. 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, New Jersey 08625

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

This proposal is known as PRN 1984-346.

The agency proposal follows:

Summary

This proposed amendment will establish “no stopping or standing” zones along Route U.S. 202, in the Town of Morristown, and in Morris Township Morris County for the efficient flow of traffic and the enhancement of the safety and well-being of the populace. The amendment will also establish “no parking loading zones” and “no parking bus stop” zones.

Based upon request from the local officials, the Department’s Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of “no stopping or standing” zones was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.55 in compliance with the request from local officials and the traffic investigation.

Appropriate signs will be erected advising the motoring public.

Social Impact

The proposed amendment will restrict stopping or standing along Route U.S. 202 in the Town of Morristown, Morris County for the safe and efficient flow of traffic and the enhancement of the safety and well-being of the populace.

The proposed amendments will also restrict parking along Route U.S. 202 in the Town of Morristown, Morris County at established loading zones and bus stops for the safe and efficient flow of traffic and the safe on/off loading of passengers at bus stops.

Economic Impact

The Department and local officials will incur direct and indirect costs for their workforce for mileage, personnel and equipment requirements. The local officials will bear the costs for the installation of signs. Motorists who violate the rules will be assessed the appropriate fine.

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

16:28A-1.55 Route U.S. 202

(a) **Under the provisions of N.J.S.A. 39:4-138.1**, [T]the certain parts of State highway Route U.S. 202 described in this subsection shall be designated and established as “no parking” zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

[1. No stopping or standing in Morristown:

i. Along the west side of Route US 202 (Speedwell Avenue)

(1) From the Morris Township — Town of Morristown corporate line to a point 155 feet south of the southerly curb line of Frederick Street;

(2) From a point 100 feet north of the northerly curb line of Cutler Street to a point 100 feet south of the southerly curb line of Cutler Street;

(3) From a point 105 feet north of the northerly curb line of Sussex Avenue to a point 155 feet south of the southerly curb line of Sussex Avenue;

(4) From the southerly curb line of Early Street to a point 270 feet south of the southerly curb line of Early Street;

(5) From a point 100 feet north of the northerly curb line of Cutler Street to a point 100 feet south of the southerly curb line of Cutler Street;

(6) From Park Place north to a point 325 feet north of the northerly curb line of High Street;

ii. Along the west side of Route US 202 (Speedwell Avenue and North Park Place) from a point 190 feet north of the prolongation of the westerly curb line of East Park Place;

iii. Along the west side of Route US 202 (Market Street, North Park Place, Bank Street, and Mt. Kemble Avenue) from a point 65 feet north of the northerly curb line of Washington Street of the Town of Morristown-Morris Township corporate line;

iv. Along the east side of Route US 202 (Bank Street);

(1) From the southerly curb line of West Park Place to a point 90 feet south of the southerly curb line of West Park Place;

(2) From a point 50 feet north of the prolongation of the northerly curb line of Ann Street to the westerly curb line of Market Street.

v. Along the south side of Route US 202 (West Park Place) from the easterly curb line of Bank Street to the westerly curb line of Market Street;

vi. Along the east side of Route US 202 (Mt. Kemble Avenue) from the Morris Township-Town of Morristown corporate line to the southerly curb line of Colles Avenue;

vii. Along the east side of Route US 202 (Market Street) from a point 75 feet south of the southerly curb line of Maple Avenue to the southerly curb line of West Park Place;

viii. Along the east side of Route US 202 (East Park Place and Speedwell Avenue) from the northerly curb line of Morris Street to a point 145 feet north of the prolongation of the northerly curb of North Park Place;

ix. Along the west side of Route US 202 (East Park Place) from the northerly curb line of South Park Place to the southerly curb line of North Park Place;

x. Along the east side of Route US 202 (Speedwell Avenue).

(1) From Park Place North to a point 100 feet north of Nail Place;

(2) From the northerly curb line of Thompson Street to the Town of Morristown — Morris Township corporate line.

2. No stopping or standing, 4:00 P.M. to 6:00 P.M., Monday through Friday:

i. Along the east side of Route US 202 (Speedwell Avenue):

(1) From a point 145 feet north of the northerly curb line of North Park Place to a point 25 feet south of the prolongation of the southerly curb line of High Street;

(2) From a point 40 feet north of the prolongation of the northerly curb line of High Street to a point 75 feet south of the prolongation of the southerly curb line of Clinton Place;

(3) From the northerly curb line of Vail Place to the southerly curb line of Thompson Street.

ii. Including all ramps and connections under the jurisdiction of the Commissioner of Transportation.

3. No stopping or standing, 7:00 A.M. to 9:00 A.M., Monday through Friday:

i. Along the west side of Route US 202 (Speedwell Avenue):

(1) From a point 155 feet south of the southerly curb line of Frederick Street to a point 105 feet north of the northerly curb line of Sussex Avenue;

(2) From a point 155 feet south of the southerly curb line of Sussex Avenue to the northerly curb line of East Street;

(3) From a point 270 feet south of the southerly curb line of Early Street a point 190 feet north of the prolongation of the westerly curb line of East Park Place.]

1. No stopping or standing in the Town of Morristown, Morris County:

i. Along the east side (Mount Kemble Avenue):

(1) From the Morris Township — Town of Morristown corporate line to Colles Avenue.

(2) From a point 300 feet south of the southerly curb line of Macculloch Avenue to a point 310 feet north of the northerly curb line of Macculloch Avenue.

ii. Along the east side (Market Street):

(1) From a point 40 feet south of the southerly curb line of Maple Avenue to West Park Place.

iii. Along the west side (Market Street):

(1) From its intersection with Bank Street and Mount Kemble Avenue to a point 270 feet north therefrom.

iv. Along both sides (East Park Place):

(1) Entire length.

v. Along the east side (Speedwell Avenue):

(1) From East Park Place to a point 180 feet south of the prolongation of the southerly curb line of High Street.

(2) From the prolongation of the northerly curb line of High Street to a point 100 feet south of the southerly curb line of Orchard Street.

(3) From the prolongation of the northerly curb line of Frederick Street to the Morristown-Morris Township corporate line.

vi. Along the west side (Speedwell Avenue):

(1) From the Morris Township-Morristown corporate line to the northerly curb line of Speedwell Place.

(2) From a point 450 feet south of the southerly curb line of Henry Street to a point 175 feet south of the southerly curb line of Sussex Avenue.

(3) From the northerly curb line of Early Street to a point 165 feet northerly therefrom.

(4) From the southerly curb line of Early Street to a point 270 feet southerly therefrom.

vii. Along the west side (Bank Street-Mount Kemble Avenue):

(1) From West Park Place to the Morristown — Morris Township corporate line.

viii. Along the east side (Bank Street):

(1) From West Park Place to a point 110 feet southerly therefrom.

(2) From the prolongation of the southerly curb of Ann Street to Market Street — Mount Kemble Avenue.

2. No stopping or standing — 2:00 A.M. to 10:00 A.M. in the Town of Morristown, Morris County:

i. Along the west side (Speedwell Avenue):

(1) From a point 145 feet south of the southerly curb line of Frederick Street to a point 375 feet south of the southerly curb line of Walker Avenue.

(2) From a point 100 feet south of the southerly curb of Cutler Street to a point 450 feet south of the southerly curb line of Henry Street.

(3) From a point 175 feet south of the southerly curb line of Sussex Avenue to a point 165 feet north of Early Street.

(4) From a point 270 feet south of the southerly curb line of Early Street to Park Place.

ii. Along the east side (Bank Street):

(1) From a point 110 feet south of the southerly curb line of West Park Place to a point 35 feet north of the prolongation of the northerly curb line of Ann Street.

3. No stopping or standing 2:00 A.M. to 7:00 A.M. and 3:30 P.M. to 6:30 P.M. in the Town of Morristown, Morris County:

i. Along the east side (Speedwell Avenue):

(1) From the northerly curb line of Orchard Street to the prolongation of the southerly curb line of Frederick Street.

4. No stopping or standing in Morris Township [:] (Morris County:

i.-iii. (No change.)

iv. Along the southbound (westerly) side:

(1) Beginning at the northerly curb line of Skyline Drive to a point 200 feet northerly therefrom.

5.-9. (No change.)

(b) Under the provisions of N.J.S.A. 39:4-138.1, [T]he certain parts of State highway Route U.S. 202 described in this subsection shall be [, and hereby are] designated and established as "no parking" zones [for designated curb loading zones] where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established **LOADING ZONES:**

[1. No parking loading zones in Morristown:

i. Along the east side of Route US 202 (Speedwell Avenue) between the hours of 9:00 A.M. and 4:00 P.M. (Except Sundays and holidays) from a point 85 feet south of the southerly curb line of Orchard Street to a point 35 feet south of the southerly curb line of Orchard Street.

ii. Along the west side of Route US 202 (Speedwell Avenue) between the hours of 9:00 A.M. and 4:00 P.M. (except Sundays and holidays):

(1) From a point 85 feet north of the northerly curb line of Early Street to a point 35 feet north of the northerly curb line of Early Street;

(2) From a point 110 feet south of the southerly curb line of Clinton Place to a point 160 feet south of the southerly curb line of Clinton Place;

(3) From a point 90 feet north of the northerly curb line of High Street to a point 35 feet north of the northerly curb line of High Street.

iii. Along the west side of Route US 202 (Market Street) between the hours of 9:00 A.M. and 4:00 P.M. (except Sundays and holidays) from a point 85 feet south of the southerly curb line of West Park Place to a point 35 feet south of the southerly curb line of West Park Place.

iv. Along the east side of Route US 202 (South Park Place) between the hours of 9:00 A.M. and 4:00 P.M. (except Sundays and holidays) from a point 96 feet north of the northerly curb line of South Street to a point adjusting 146 feet north of the northerly curb line of South Street.]

1. No parking loading zones — 10:00 A.M. to 6:00 P.M. in the Town of Morristown, Morris County:

i. Along the west side (Speedwell Avenue):

(1) From a point 107 feet south of the southerly curb line of Clinton Place to a point 50 feet southerly therefrom.

(2) From a point 452 feet south of the southerly curb line of Clinton Place to point 50 feet southerly therefrom.

ii. Along the east side (Speedwell Avenue):

(1) From a point 35 feet south of the southerly curb line of Orchard Street to a point 65 feet southerly therefrom.

(c) The certain parts of State highway Route U.S. 202 described in this subsection shall be designated and estab-

lished as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

- 1.-4. (No change.)
- 5. **No parking bus stop in the Town of Morristown, Morris County:**
 - i. **Along the east side (Speedwell Avenue):**
 - (1) **From the prolongation of the southerly curb line of High Street to a point 180 feet southerly therefrom.**

(a)

TRANSPORTATION OPERATIONS

**Miscellaneous Traffic Rules
Mid-block Crosswalk—Route 53 in Morris Plains
Route I-295 Rest Area in Carney's Point**

**Proposed New Rule: N.J.A.C. 16:30-10.3
Proposed New Subchapter: N.J.A.C. 16:30-11**

Authorized By: John P. Sheridan Jr., Commissioner,
Department of Transportation.
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-34.

Interested persons may submit in writing data, views or arguments relevant to the proposal on or before August 1, 1984. 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, New Jersey 08625

At the close of the period for comments the Department of Transportation thereafter may adopt this proposal with minor changes not in violation of the rule making procedures at N.J.A.C. 1:30-3.5. Upon adoption of this rule, a notice of the adoption shall be published in the Register.

The adopted rules shall become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-347.

The agency proposal follows:

Summary

The proposed new rule at N.J.A.C. 16:30-10.3 will establish a mid-block crosswalk along Route 53 in Morris Plains Borough, Morris County for the enhancement of public safety. It will establish a regular designated area for pedestrians to cross a roadway to other than an area covered by statute.

Based upon a request from local officials, the Department's Bureau of Traffic Engineering and Safety Programs con-

ducted a traffic investigation to determine the best method to control jaywalking. The traffic investigation proved that the establishment of a mid-block crosswalk was warranted.

The Department therefore proposes new rule N.J.A.C. 16:30-10.3 establishing a mid-block crosswalk in compliance with the request from local officials and the traffic investigation.

The proposed new rule at 16:30-11 will establish miscellaneous regulations for the Control of traffic and parking in the Route I-295 Rest Area in Carney's Point Township, Salem County for the safety and well-being of the populace utilizing the Rest Area.

Based upon a request from local officials the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishing of "no stopping or standing" zones, "yield intersection", "one-way streets" and "speed limits" were warranted within the Route I-295 Rest Area.

The Department therefore proposes new Subchapter 11 to N.J.A.C. 16:30 "Miscellaneous Traffic Rules" regarding the control of traffic and parking in rest areas under the jurisdiction of the Department of Transportation.

Appropriate signs will be installed to advise the motoring public in both instances.

Social Impact

The proposed new rule at N.J.A.C. 16:30-10.3 will establish a mid-block crosswalk along Route 53 in Morris Plains Borough, Morris County for the enhancement of the safety of pedestrians who cross the roadway at other than an area normally controlled either by a police officer or traffic control signal. Additionally, it will provide and establish a regular designated area, where pedestrians may safely cross the roadway rather than jaywalking. Appropriate signs will be installed to advise the motoring public of the pedestrian crossing.

The proposed new rule at N.J.A.C. 16:30-11 will control traffic and parking along the Route I-295 rest area in Carney's Point Township, Salem County for the safety and well-being of the populace utilizing the rest area.

Economic Impact

The Department and local officials will incur direct and indirect costs for their workforce for mileage, personnel and equipment requirements. The Department will bear the costs involved in the installation of signs to advise the motoring public. Motorists who violate the rules will be assessed the appropriate fine.

Full text of the proposed new rules follows.

16:30-10.3 Route 53

(a) Under the provisions of N.J.S.A. 39:4-34 the certain part of Route 53 described in this section shall be designated as a Mid-Block Crosswalk.

1. Along Route 53 in Morris Plains Borough, Morris County:

- i. From a point 1,750 feet south of the southerly curb line of Drake Way to a point 10 feet southerly therefrom.
- ii. From a point 2,370 feet south of the southerly curb line of Drake Way to a point 10 feet southerly therefrom.

SUBCHAPTER 11. REGULATIONS FROM THE CONTROL OF TRAFFIC AND PARKING IN REST AREAS UNDER THE JURISDICTION OF THE NEW JERSEY DEPARTMENT OF TRANSPORTATION

16:30-11.1 Route I-295 Rest Area

(a) Under the provisions of N.J.S.A. 39:4-208 the following regulations for the control of traffic upon the roadways of the Route I-295 Rest Area are hereby adopted:

1. No stopping or standing in Carney's Point Township, Salem County:

i. No person shall stop or stand a vehicle at any time upon the roadways of the Route I-295 Rest Area except in designated areas, between the painted lines, and all vehicles so parked shall be properly identified as shown on Site Plan 295 (MP 2.1 to 4.0) attached to, and made a part of, these regulations.

2. Yield Intersection in Carney's Point Township, Salem County:

i. The intersection of Ramp A and Ramp B-1, of the Route I-295 Rest Area is designated as a Yield Intersection. A YIELD sign shall be installed on Ramp B-1 as shown on Site Plan 295 (MP 2.1 to 4.0) attached to, and made a part of, these regulations.

3. One-way Streets in Carney's Point Township, Salem County:

i. All ramps and roadways within the Route I-295 Rest Area, are designated as One-way Streets, in the direction indicated on Site Plan 295 (MP 2.1 to 4.0), attached to and made a part of these regulations.

4. Speed Limits in Carney's Point Township, Salem County:

i. The Speed Limits for traffic along the ramps and roadways within the Route I-295 Rest Area, are established as indicated on Site Plan 295 (MP 2.1 to 4.0), attached to and made a part of these regulations.

The State Investment Council thereafter may adopt this proposed readoption without further notice (see: N.J.A.C. 17:16-4.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on August 4, 1984. The readoption becomes effective upon publication in the Register of notice of readoption.

This proposed readoption is known as PRN 1984-377.

The agency proposal follows:

Summary

The purpose of this proposal is to readopt N.J.A.C. 17:16-42, Covered Call Options rules of the State Investment Council. The subchapter sets fiduciary procedures and standards for Covered Call Options.

The subchapter is comprised of the following sections:

17:16-42.1 defines covered call options as options on common stocks held in a portfolio.

17:16-42.2 specifies what is a permissible transaction.

17:16-42.3 specifies that Common Pension Fund A and Supplemental Annuity Collective Trust are applicable funds.

17:16-42.4 States that covered call options shall not exceed 10 percent of a common stock holding.

Social Impact

The proposed readoption will have no direct affect upon the public at large. The rules directly affect only the Division of Investment which is subject to the rules' requirements which permit covered call options as a permissible investment with certain limitations.

The rules have a tangential impact o those retirement systems which invest in Common Pension Fund A or the Supplemental Annuity Collective Trust in that covered call options can be exercised for the benefit of these two funds which provides an additional means of investment flexibility. The covered call option rules have been found to be adequate as a permissible investment and necessary because of the flexibility they provide as an investment vehicle. The rules should be continued to provide such additional permissibility and flexibility for future investments.

Economic Impact

The substance of the rules themselves have no independent economic impact and the readoption of the rules will not impose any impact upon the state or any member of the public. No costs past, present or future, are involved in the implementation of the rules. The rules do, however, provide a mechanism to exercise options on common stock when it is determined to be in the best economic interests of the invested funds. When exercised, the options should result in a favorable economic impact for these funds. The rules are intended to maximize efficient management of the funds which are under the jurisdiction of the Division of Investment and conform to prudent standards established by Council rules and State law.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:16-42.

TREASURY-GENERAL

(a)

STATE INVESTMENT COUNCIL

Covered Call Options

Proposed Readoption: N.J.A.C. 17:16-42

Authorized By: State Investment Council, Roland M. Machold, Director, Division of Investment.
 Authority: N.J.S.A. 52:18A-91.

Interested persons may submit in writing, data, views or arguments relevant to the proposed readoption on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Roland M. Machold, Director
 Division of Investment
 349 West State Street
 Trenton, New Jersey 08625

(a)

STATE INVESTMENT COUNCIL

Mortgage Backed Securities

Proposed Readoption: N.J.A.C. 17:16-43

Authorized By: State Investment Council, Roland M. Machold, Director, Division of Investment.
 Authority: N.J.S.A. 52:18A-91.

Interested persons may submit in writing, data, views or arguments relevant to the proposed readoption on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Roland M. Machold, Director
 Division of Investment
 349 West State Street
 Trenton, New Jersey 08625

The State Investment Council thereafter may adopt this proposed readoption without further notice (see N.J.A.C. 1:30-4.5). Pursuant to Executive Order No. 66(1978), these rules would otherwise expire on August 9, 1984. The readoption becomes effective upon publication in the Register of notice of readoption.

This proposed readoption is known as PRN 1984-376.

The agency proposal follows:

Summary

The purpose of this proposal is to readopt N.J.A.C. 17:16-43, Mortgage Backed Securities rules of the State Investment Council. The subchapter sets fiduciary procedures and standards for the Mortgage Backed Securities.

The subchapter defines permissible investments; sets standards for the issues of the securities and the collateral, describes the legal papers which must be obtained prior to purchasing mortgage backed securities and Division staff certification that the securities are qualified as a satisfactory investment and meet the standards and criteria that are necessary to purchase a collateralized mortgage security.

Social Impact

The proposed readoption will have no direct affect upon the general public. The rules directly affect only the Division of Investment activities, since the Division of Investment, through its Director, purchases mortgage backed securities. The rules do affect the pension funds for which these securities are bought which in turn increases the value of the funds for the benefit of the fund's members.

The mortgage backed security rules provide an additional means of investment for the benefit of all Investment Council funds. The rules are necessary and should be continued to provide another means of permissible investment and flexibility for future investment.

Economic Impact

The substance of the rules themselves have no independent economic impact and the readoption of the rules will not impose any impact upon the State or any member of the public. No costs past, present or future, are involved in the implementation of the rule. Whatever economic impact that

will be realized because of these rules will result from any increased value the invested funds will realize by investing in mortgage backed securities. The rules are intended to maximize efficient management of the funds which are under the jurisdiction of the Division of Investment and conform to prudent standards established by Council rules and State law.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:16-43.

(b)

STATE LOTTERY COMMISSION

**Lottery Commission Rules
 Civil Penalties and Sanctions**

Proposed New Rule: N.J.A.C. 17:20-9

Authorized By: New Jersey Lottery Commission, Hazel Frank Gluck, Executive Director.
 Authority: N.J.S.A. 5:9-1 et seq., specifically 5:9-7(a)(b)(f) and P.L. 1983, c.429.

Interested persons may submit in writing, data, views, or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about the submissions and responses, should be addressed to:

Hazel Frank Gluck
 Executive Director
 New Jersey State Lottery
 CN 041
 Trenton, NJ 08625

The Division of Lottery thereafter may adopt this proposal with any minor changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. Upon adoption of these rules, a notice of the adoption shall be published in the Register. The adopted rules become effective upon publication of that notice of adoption in the Register.

This proposal is known as PRN 1984-349.

The agency proposal follows:

Summary

L.1983, c.429 granted the State Lottery Commission power to impose civil penalties on licensed ticket sales agents of the State Lottery, to issue cease and desist orders, require restitution and take other disciplinary actions. The following proposed new rules establish procedures for the imposition of penalties, delegating such actions in the first instance to the Director of the Division of the State Lottery. The proposal includes provisions governing appeals to the State Lottery Commission and also effectuates the cease and desist and restitution provisions in the enabling legislation.

Social Impact

The proposed new rules would directly affect only lottery ticket sales agents, who presently number approximately 4,000. The rules would enhance the disciplinary powers of the State Lottery and subject such agents to penalties not previ-

ously available with respect to violations of the Rules and Regulations of the State Lottery Commission. The State Lottery Law (N.J.S.A. 5:9-1, et seq.) presently provides criminal penalties for certain specified infractions by lottery agents. However, for other offenses the only available discipline is presently license suspension and revocation. This remedy is often disproportionate to the offense and can deprive the betting public of needed service. The proposal would improve the operation of the State Lottery by raising the caliber of agent conduct and by giving lottery administrators more flexible enforcement tools.

Economic Impact

Civil penalties collected pursuant to the proposed new rules would argument the State Lottery Fund (N.J.S.A. 5:9-22). It is impossible to estimate the amount of money which would accrue to the State in this manner; however, it is not anticipated that there would be any significant budgetary impact from such collections.

Full text of the proposed new rule follows.

SUBCHAPTER 9. CIVIL PENALTIES AND SANCTIONS

17:20-9.1 Penalties not exceeding \$2,500

(a) The Director may, after notice and hearing, impose civil penalties on licensed agents in an amount up to \$2,500 per incident for violations of the Act or this Chapter.

(b) The Director shall make findings of fact in each instance where penalties are imposed and shall report periodically to the Commission regarding the imposition of such penalties.

(c) In assessing civil penalties under this section, the Director shall give due consideration to:

1. The nature of the conduct or offense;
2. The impact of the offense upon the operations of the Division;
3. The prior history of the agent and any mitigating factors which may be proven;
4. The need to preserve the dignity of the State and the integrity of the Lottery;
5. The need for deterrence of future violations by the party charged or by others, and
6. The amount of the penalty in relation to the severity of the offense and the financial means of the agent.

17:20-9.2 Civil penalties between \$2,500 and \$5,000

(a) The Director may assess civil penalties pursuant to N.J.A.C. 17:20-9.1 in amounts from \$2,500 to \$5,000 per incident, subject to the right of the person against whom the penalty is assessed to seek review of the assessment before the Commission.

(b) Petitions for review under (a) above shall be filed with the Director, acting as Secretary of the Commission, within 15 days of the service of notice that a penalty has been assessed.

(c) Upon receipt of a petition for review, the Director shall place the matter on the agenda for the next meeting of the Commission, at which the matter shall be acted upon unless, for good cause, it is carried until a subsequent meeting.

(d) The Commission shall consider the matter on the record compiled by the Director and shall have the power to reverse, modify or amend the Director's actions, including an increase in the penalties assessed, but only if it finds that such actions constituted a gross abuse of discretion by the Director amounting to a miscarriage of justice.

17:20-9.3 Civil Penalties in excess of \$5,000

(a) The Director may assess civil penalties in excess of \$5,000 per incident in accordance with N.J.A.C. 17:20-9.1, pursuant to Commission review in accordance with N.J.A.C. 17:20-9.2.

(b) Such review will be a consideration de novo of the record compiled before the Director, and the Commission may call for further evidence, or seek oral argument, if it deems such actions, or either of them, to be necessary.

(c) Upon review under this section, the Commission shall make independent findings of fact if its action alters the action of the Director.

(d) The Commission may increase a penalty if it deems such increase proper under the criteria set forth in N.J.A.C. 17:20-9.1(c).

(e) No penalty shall exceed \$10,000 per incident.

17:20-9.4 Restitution; cease and desist orders

(a) The Director shall exercise the power to order restitution and/or enter cease and desist orders pursuant to L. 1983, c.429, acting as Secretary of the Commission, subject to the right of the person against whom an order is entered to seek review by the Commission.

(b) Petitions for relief shall be filed and considered in accordance with N.J.A.C. 17:20-9.2(b), (c) and (d).

(c) In the absence of a petition for review, or if the Commission has acted upon a petition, the Director shall be empowered to seek judicial relief for the enforcement of orders entered under this section.

17:20-9.5 Hearings; procedures

(a) All determinations under this subchapter shall be made in conformity with N.J.A.C. 17:20-5.3.

(b) The cost of all appeals to the Commission, including transcript preparation, shall be borne by the party seeking review.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls Procedure for acceptance, accounting for and redemption of patrons cash deposits

Proposed Amendment: N.J.A.C. 19:45-1.24

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

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

Interested persons may submit in writing, data, views or arguments relevant to the proposed amendments on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

William H. Delaney, Director
 Division of Financial Evaluation & Control
 Casino Control Commission
 3131 Princeton Pike
 Building No. 5, CN-208
 Trenton, NJ 08625

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

This proposal is known as PRN 1984-348.

The agency proposal follows:

CASINO CONTROL COMMISSION NOTE: On April 25, 1984, the Casino Control Commission approved for publication proposed amendments to N.J.A.C. 19:45-1.24 concerning procedures for acceptance, accounting for and redemption of patrons cash deposits. These amendments were originally proposed by the Division of Gaming Enforcement and filed with the Commission for approval for publication pursuant to N.J.S.A. 5:12-69(c). They were approved by the Casino Control Commission for publication in the New Jersey Register for the sole purpose of securing public comment thereon.

Summary

The Division of Gaming Enforcement has reviewed patron cash deposit accounts in excess of \$10,000 for all nine operating casinos for the months of June and September, 1983. It has been determined that an unacceptable number of patrons utilizing the cash deposit procedures are providing fictitious names or aliases in opening up such accounts. This practice significantly frustrates the legitimate law enforcement and regulatory objective of preserving the integrity of legalized gaming in New Jersey by extending strict State regulations to all persons dealing with licensed casino enterprises and excluding from participation therein persons with known criminal records, habits, or associations. (See N.J.S.A. 5:12-1(b)6 and -71.)

The proposed amendment requires that prior to acceptance of a cash deposit from a patron, a general cage cashier exam-

ine the patron's identification credentials. The proposed rules further provide that the safekeeping file for each cash deposit account contain the address of the patron and a recordation of the type of identification credentials examined, accompanied by the signature and license number of the cage cashier and the date.

Social Impact

The proposed amendments will facilitate the legitimate law enforcement and regulatory objectives of the Commission and the Division of Gaming Enforcement. They will also protect casinos from fraudulent practices concerning cash deposits.

Economic Impact

N.J.A.C. 19:45-1.24 will only effect patrons who do not wish to disclose their true identity to the casino prior to availing themselves of the cash deposit procedures. Since patron cash deposits do not directly affect casino gross revenue, the strengthening of the internal control procedures for the acceptance and accounting for patron cash deposits should not have an appreciable economic impact on casino gross revenue figures or the resultant gross revenue tax.

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

19:45-1.24 Procedure for acceptance, accounting for and redemption of patrons cash deposits

(a) (No change.)

(b) Prior to acceptance of a cash deposit from a patron, the general cage cashier shall examine the person's identification credentials.

(c) [(b)] A file for each patron shall be prepared manually or by computer prior to the acceptance of a cash deposit from a patron by a general cage cashier and such file shall include, at a minimum, the following:

1. (No change.)

2. The address of the patron;

3. The type of identification credentials examined, accompanied by the signature and license number of the cage cashier and the date;

Renumber 2.-4. as 4.-6.

Recodify (c)-(q) as **(d)-(r)**.

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice

“Hearings on the Papers” and Motor Vehicle Cases

Adopted Amendment: N.J.A.C. 1:2-3

Proposed: May 7, 1984 at 16 N.J.R. 942(a).
 Adopted: June 18, 1984 by Ronald I. Parker, Acting
 Director, Office of Administrative Law.
 Filed: June 19, 1984 as R.1984 d.285, **without change**.

Authority: N.J.S.A. 52:14F-5e, f and g.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): March 21, 1985, except that the surcharge rules will expire six months from the effective date, on January 2, 1985.

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

Full text of the adoption follows.

RULES OF SPECIAL APPLICABILITY

CHAPTER 3

“HEARINGS ON THE PAPERS” AND MOTOR VEHICLES CASES

1:2-3.1 Applicability, scope

These rules for the conduct of hearings on the papers shall apply on an experimental basis to contested cases from the Division of Motor Vehicles dealing with disciplinary actions, other than license revocations, for accumulating excessive points. The rules shall also apply to cases involving proposed suspensions by the Division of Motor Vehicles for failure to pay a surcharge under the New Jersey Merit Rating Plan. The rules involving surcharges must be read in conjunction with the prehearing conference procedures of the Division of Motor Vehicles found at N.J.A.C. 13:19-12.

1:2-3.2 Definitions

(a) A hearing on the papers is a summary proceeding conducted without any personal appearance or confrontation of the parties before the judge. The hearing is conducted through the submission of pleadings, affidavits, records and other documents to the Office of Administrative Law (OAL), for a decision by an administrative law judge.

(b) An in-person hearing for surcharge cases shall be a summary hearing conducted before a judge without any per-

sonal appearance by a Division of Motor Vehicles representative. The Division's case will be based on the surcharge bill, the licensee's driving record, any evidence of driving convictions or administrative suspensions, the conference reports, and any other documentary evidence or legal briefs necessary.

(c) Pre-hearing conferences are conducted by the Division of Motor Vehicles for the purpose of attempting to resolve disputes so that transmittal of the case to the OAL may not be required. In surcharge cases, prehearing conferences are conducted by the Division of Motor Vehicles pursuant to N.J.A.C. 13:19-12.1 through 12.11.

1:2-3.3 Prehearing conference; subsequent hearings

(a) In a case dealing with a surcharge or excessive points, the Division of Motor Vehicles will conduct a prehearing conference between the licensee and the Division.

(b) If settlement is not reached, the parties shall use the conference to prepare the issues and evidence for the hearing, including:

1. Ascertaining whether the licensee disputes any facts recorded on the licensee's record abstract issued by the Division, and, if so, which facts and on what basis;

2. Ascertaining whether the licensee disputes the severity of the action proposed by the Division, and, if so, on what basis; and

3. Ascertaining any discovery needs of the licensee.

(c) At or forthwith after the conference, the Division shall supply the licensee with any material requested pursuant to N.J.A.C. 1:2-3.6 (Discovery), or any other appropriate documents.

(d) In cases dealing with excessive points, a hearing on the papers shall occur if there is no settlement at the conference.

(e) In surcharge cases, if settlement is not reached at the conference, the licensee shall choose whether to submit his or her case on the papers or to appear at an in-person hearing.

1. If the licensee chooses to proceed on the papers, the licensee shall complete at the conference a certification in which he or she explains why the surcharge is not required for inaccurately calculated. The licensee may also be allowed to submit additional documentation.

2. The Division of Motor Vehicles shall transmit the case to the OAL including the licensee's surcharge bill, driving record, documentary evidence supporting any conviction or administrative suspension which the licensee contests, the conference report and any other necessary documentary evidence. When the licensee chooses to proceed on the papers, the Division shall also transmit to the OAL the licensee's certification and any other written documents the licensee provides.

1:2-3.4 Notice of filing and of hearing

(a) In cases dealing with excessive points, the notice of filing of the contested case, required by N.J.A.C. 1:1-5.2(d), shall notify the parties when a case has been scheduled as a hearing on the papers.

(b) In the notice of filing for cases concerning excessive points, the OAL shall request the licensee to respond in writing to the Clerk of the OAL, with a copy to the Division, within twenty 20 days of the date of the notice.

(c) In cases dealing with surcharges, the notice for a hearing on the papers on an in-person hearing will be mailed to the licensee by OAL after receiving the case from the Division of

ADOPTIONS

ADMINISTRATIVE LAW

Motor Vehicles. The notice for hearing shall constitute both the notice of filing and notice of hearing.

(d) In surcharge cases, the notice scheduling an in-person hearing shall permit the licensee to submit a certification or other written documents prior to the hearing in lieu of making a personal appearance at the hearing.

1:2-3.5 Response to notice of hearing on the papers; conversion to conference or plenary hearing

(a) As part of the response to the OAL, in cases dealing with excessive points, the licensee:

1. Shall indicate whether he or she disputes the facts recorded on the licensee's driving record abstract issued by the Division or disputes the severity of the sanction proposed by the Division, or both, or wants to raise any other relevant issue;

2. Shall submit any statements, records or other documents which supplement the initial papers or pleadings in the case, and which the party wants the judge to consider in determining the accuracy of the abstract, the appropriate penalty, or any other relevant issue. Upon request, the OAL shall grant the licensee an additional 20 days to submit supplemental documents for consideration as part of the hearing record. In the interests of justice, the OAL may grant a request for more than 20 additional days.

3. May request that the hearing be converted into a conference hearing, under N.J.A.C. 1:2-2 or a plenary hearing, under N.J.A.C. 1:1-1. As part of such request, the licensee shall explain his or her reasons for the request, pursuant to N.J.A.C. 1:2-3.7 (Conversion).

(b) If the licensee is a surcharge case elects to proceed on the papers but does not complete his or her written certification at the prehearing conference or indicates at the conference that other written documents will be submitted, the OAL shall allow the licensee to forward these submission.

1. Upon receipt of a surcharge case in which the licensee wishes to submit other documents, the OAL shall notify the licensee that he or she must submit the documents within 10 days.

2. If the licensee fails to forward the documents within the 10 days, the judge shall decide the case based upon the licensee's original hearing request plus any documents the OAL has received.

1:2-3.6 Discovery

(a) Discovery shall be limited to the records of the Division with respect to the case. The records shall include a certified copy of the licensee's driving record abstract, relevant notices and orders of suspension, and certified proof of relevant mailings to the licensee. In surcharge cases, when the licensee is contesting the validity of any conviction or administrative suspension entered on the surcharge bill, the records shall also include any documentary evidence in the possession of the Division which supports the contested entry.

(b) The Division shall supply the licensee with a copy of the records set forth in N.J.A.C. 1:2-3.6(a).

(c) The licensee may make any discovery request either as part of the licensee's request to the Division for a hearing or at any prehearing conference conducted by the Division.

1:2-3.7 Conversion of on the papers hearing to conference hearing or plenary hearing

(a) In the interest of providing a full and fair hearing, considering the circumstances of the case, the OAL may, on its own or on the request of a party, convert a case scheduled as a hearing on the papers into a conference hearing or plenary hearing.

(b) Reasons for such conversion include:

1. Discovery disputes or a genuine need for more extensive discovery;

2. Request for emergency relief;

3. Inability of a party to adequately communicate in writing;

4. Proofs on a disputed material fact which require oral presentation by a party or a party's witness;

5. Other genuine need for personal appearance or more extensive procedure.

1:2-3.8 Conduct of hearing on the papers

(a) At the conclusion of any time allotted for the submission of responses and supplemental documents (N.J.A.C. 1:2-3.4 and N.J.A.C. 1:2-3.5), the record in the case shall be closed.

(b) At any time prior to issuance of the initial decision in the case, the licensee may in writing request the OAL to reopen the record. Such motion shall be granted only for extraordinary reasons.

(c) Upon closing the record, the OAL shall assign the record for review and determination by an administrative law judge. The judge shall issue an initial decision no later than 45 days after he or she receives the record of the case.

(d) There shall be a presumption of authenticity for any writing offered as part of the record.

1:2-3.9 Oral decision

(a) At an in-person hearing in surcharge cases, where the judge determines that the questions of fact and law are sufficiently simple, the judge may render the initial decision orally on the record.

(b) Judges rendering oral decisions shall comply with N.J.A.C. 1:2-2.9(b) and (c).

1:2-3.10 Adjournment of in-person hearings

Adjournments shall not be granted except for good cause. Applications for adjournments shall be made in accordance with N.J.A.C. 1:1-8.1(b).

1:2-3.11 Expiration date

The rules pertaining to excessive point cases in this subchapter shall expire on March 21, 1985. The rules pertaining to surcharge cases in this subchapter shall expire six months from their effective date.

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Agriculture Development Committee Agricultural Development Areas

Adopted Amendment: N.J.A.C. 2:76-1.2

Proposed: May 7, 1984 at 16 N.J.R. 947(a).
Adopted: June 15, 1984 by Arthur R. Brown, Jr.,
Chairman, State Agriculture Development Commit-
tee.
Filed: June 18, 1984 as R.1984 d.274, **without change**.

Authority: N.J.S.A. 4:1C-5f and 4:1C-7a.

Effective Date: July 2, 1984.
Expiration Date pursuant to Executive Order No.
66(1978): February 17, 1989.

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

Full text of the adoption follows.

2:76-1.2 Definitions
As used in this subchapter, the following words and terms shall have the following meanings:
"Agricultural Development Area" hereinafter referred to as ADA, means an area identified by a county agriculture development board pursuant to the provisions of N.J.S.A. 4:1C-18 and certified by the State Agriculture Development Committee.
"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.
"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

(b)

DIVISION OF RURAL RESOURCES

State Agriculture Development Committee Agricultural Management Practices

Adopted Amendment: N.J.A.C. 2:76-2.2

Proposed: May 7, 1984 at 16 N.J.R. 948(a).
Adopted: June 15, 1984 by Arthur R. Brown, Jr.,
Chairman, State Agriculture Development Commit-
tee.

Filed: June 18, 1984 as R.1984 d.275, **with technical changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 4:1C-5f and 4:1C-7d.

Effective Date: July 2, 1984.
Expiration Date pursuant to Executive Order No.
66(1978): March 19, 1989.

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

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks ***thus***).

2:76-2.2 Definitions
As used in this subchapter, the following words and terms shall have the following meanings:
"Agricultural management practices" means practices either formally set forth in current published New Jersey Agricultural Experiment Station recommendations or practices which represent the best, collective professional judgment and opinion of the appropriate faculty of the New Jersey Agricultural Experiment Station and practices related to soil and water conservation and management approved by the State Soil Conservation Committee.¹
"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.
"Commercial farm" means any place producing agricultural or horticultural products worth \$2,500 or more annually.
"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

¹Published New Jersey Agricultural Experiment Station recommendations are available from the Cooperative ***Extension*** Service, Cook College, P.O. Box 231, New Brunswick, New Jersey 08903. Soil and water conservation and management practices are available from the State Soil Conservation Committee, New Jersey Department of Agriculture, CN 330, Trenton, New Jersey 08625.

COMMUNITY AFFAIRS

(c)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Private Onsite Inspection and Plan Review Agencies; Fee Appeals

Adopted New Rule: N.J.A.C. 5:23-4.5A Adopted Amendments: N.J.A.C. 5:23-4.18 and 4.21

Proposed: January 3, 1984 at 16 N.J.R. 3(a).
Adopted: May 31, 1984 by John P. Renna, Commis-
sioner, Department of Community Affairs.

Filed: June 6, 1984 as R.1984 d.260, **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. 52:27D-124, as amended by L.1983, c.338.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): April 1, 1988.

Summary of Public Comments and Agency Responses:

Comments were received from representatives of both private inspection agencies and municipalities. The following were objections raised by agency representatives:

1. A new agency seeking to enter the field would be placed at a disadvantage by a rule allowing renewal of existing contracts without rebidding. The Department agrees and has deleted this provision.

2. Reference to the Local Public Contracts Law is confusing. The Department agrees and has deleted specific reference to that law. Moreover, the Division of Local Government Services, which also raised this point, is recommending legislation to make the Local Public Contracts Law inapplicable to contracts entered into without price bidding pursuant to P.L. 1983, c.338.

3. The proposed monitoring fee is not authorized by law and is excessive. While the Department does not concede that it cannot charge a monitoring fee, it has revised the text of the rule to eliminate the monitoring fee but have the reauthorization fee include an amount equal to five percent of the gross revenue from code enforcement activities for the previous twelve months. The Department's position is that it is entitled by law to charge fees sufficient to cover its costs, that it cannot responsibly reauthorize an agency unless it is satisfied that the agency discharged its duties properly during the previous authorization period and that, in order to make this determination, it must have sufficient staff to monitor and audit the activities of the agencies. Since the amount of monitoring and auditing required should be reasonably proportionate to the volume of work done, basing part of the reauthorization fee on a percentage of gross revenues, is justified.

4. The proposed deduction from the fees to cover municipalities' administrative expenses is not authorized by statute. Upon review of P.L. 1983, c.338 and the legislative hearings leading to it, the Department concluded that this objection was correct and revised the proposed rule accordingly.

A municipal manager, with support from a representative of the New Jersey State League of Municipalities, wrote to protest the limitations imposed by the proposed rule upon the fees which a municipality using private inspection agencies may charge to cover its own costs. Upon review of the amendatory statute and the hearings leading to it, the Department concluded that there is no basis for any limitation upon municipal fees in such a case other than the generally-applicable requirement that municipal fees cover the costs of the construction code enforcement program but not be a source of general revenue over and above those costs. Accordingly, the limitations complained of have been removed.

Another complaint received from a municipal official was that the fees to be paid to private inspection agencies are excessive. Inasmuch as the Legislature has required these fees to be the same as the Department's own enforcement fees

(which are based upon the Department's costs), the Department has no authority to establish criteria for private agency inspection fees.

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

5:23-4.5A Selection of private onsite inspection and plan review agencies

(a) Whenever a local ***[enforcing agency]*** ***governing body having jurisdiction*** elects to contract with a private onsite inspection and plan review agency to carry out the enforcement of one or more subcodes, as permitted by N.J.A.C. 5:23-4.14, the agency shall be selected in accordance with the provisions of this section.

[1. Selection in accordance with the provisions of this section shall not be required if a municipality wishes to contract again for a new contract period with an agency already under contract to the municipality for the subcode in question. The required selection procedure shall be followed, however, whenever a municipality wishes to consider the employment of an agency not already under contract for the enforcement of a specific subcode.]

(b) Prior to the selection of an onsite inspection agency, ***[a]*** ***the*** local enforcing agency shall notify each ***[such]*** ***private onsite*** agency authorized by the Department to serve as a subcode official for the subcode(s) to be contracted. The notification shall be by certified mail, return receipt requested. No other notice shall be required. The notice shall specify that a ***written, sealed*** proposal is requested in accordance with N.J.A.C. 5:23-4.5A, shall identify the subcode(s) for which a proposal is requested*, ***[and]*** shall state the date and time by which proposals must be submitted, which shall be not less than 30 days following the date of mailing of the request for proposals*, **and shall state the name and address of the person to whom proposals shall be mailed or delivered***.

[c) Written, sealed proposals shall be submitted to the municipal officer responsible for receiving bids at or before the date and time established in the original notice of request for proposals. The said municipal officer shall forward all such proposals received to the construction official.]

[(c)]* (d) All proposals submitted by ***private*** onsite inspection agencies to serve as subcode officials shall be in writing and shall contain all of the information required by this subsection. Any omission ***of required information*** shall ***[result in automatic disqualification of]*** ***allow the local governing body the option to automatically disqualify*** the proposal. No additional information shall be required. The required information is as follows:

1. The name and principal business address of the agency;

2. The name of the person who will serve as the agency's responsible official and representative if the agency is awarded the contract;

3. A full listing of all agency technical, field inspection and supervisory personnel, grouped by job classification and title. The listing shall include the technical, educational and licensure qualifications of each person;

4. A full listing of the municipalities served by the agency. This list shall specifically identify the subcodes enforced in each case and the number of permits supervised and the number of inspections performed during an average month during the preceding year in each municipality;

5. A table of organization for the agency which is correlated by job title to the required personnel list;

6. The manner in which the agency compensates each class of employees (for example, full-time salaried, part-time salaried, full-time hourly, part-time hourly, piece work). Where employees of a given class are compensated in more than one way, a percentage breakdown shall be provided;

7. The full address of each agency office which is open and staffed at least 35 hours per week by salaried or hourly agency employees;

8. A narrative description of the arrangements the agency plans to make for the issuance of minor work and single trade permits *[and the arrangements it will make to discharge its plan review obligations]**;

9. *[Any performance guarantees with regard to inspection or plan review response time which exceed the minimum requirements established by these regulations. If an agency only guarantees minimum performance, its proposal shall so state.]* ***A narrative description of the arrangements the agency plans to make for discharging its plan review obligations;**

10. The time in which the agency can perform, or has performed, plan reviews upon assignment by the construction official;

11. Any guarantees of time in responding to requests for required inspections or plan reviews where the time in responding is less than the maximum time established in these regulations. If an agency does not guarantee response time less than the maximum, the agency shall so state in its proposal.

12. The time in which the agency can respond, or has responded, to requests for required inspections from the construction industry; and

13. A narrative description of the arrangements the agency plans to make for providing emergency inspection services, including response time.*

**(d) The following agency selection procedure shall be followed:*

1. Written, sealed proposals shall be submitted to the construction official of the local enforcing agency prior to the date and time established in the original notice of request for proposals.

2. The construction official shall, within 15 days of receipt of the proposals, recommend to the governing body having jurisdiction the acceptance of one of the proposals. The recommendation shall be in writing.

3. If the governing body shall accept the recommendation of the construction official, then a contract shall be entered into in accordance with the procedures set forth in the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

4. If the local governing body shall not accept the recommendation of the construction official and shall instead wish to award the contract to another agency, then the governing body shall inform each agency which submitted a proposal of this intent and of the reasons for rejecting the construction official's recommendation. Each agency shall be given an opportunity to comment before the governing body at a public hearing. At least seven days' notice of such hearing shall be given to each agency by certified mail. After the conclusion of the hearing, the governing body shall enter into a contract with the selected agency in accordance with the procedures set forth in the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).*

(e) When considering proposals submitted by authorized onsite inspection agencies to act as a subcode official, local

enforcing agencies and governing bodies shall base their selection on the following criteria:

1. The speed with which the agency can respond, or has responded, to requests for required inspections from the construction industry;

2. The speed with which the agency can perform, or has performed, plan reviews upon assignment by the construction official;

3. The technical qualifications and capabilities of agency staff;

4. The thoroughness with which the agency can carry out, or has carried out, its inspection and enforcement work in other jurisdiction;

5. The adequacy of the arrangements the agency is prepared to make to provide emergency inspection services, including response time;

6. The ability of the agency to ensure, through its organizational structure, and the qualifications of its management staff, positive control and direction of its field and office staff.

(f) It is recognized that the criteria set forth in (e) above are subjective and cannot be readily quantified. Inspection services being essentially technical and professional in nature, an agency cannot be chosen on a quantitative basis. These criteria are intended to set forth a framework within which the construction official can exercise his professional judgment and determine which among several agencies is most likely to provide the highest quality, and most responsive, code enforcement services.

***(g) The construction official shall, within 15 days of receipt of the proposals, recommend to the governing body having jurisdiction the acceptance of one of the proposals. The recommendation shall be in writing.**

(h) If the governing body accepts the recommendation of the construction official, it shall enter into a contract with the agency that submitted the recommended proposal in the manner prescribed by law.

(i) If the governing body does not accept the recommendation of the construction official and decides instead to award the contract to another agency, then the governing body shall advise each agency that submitted a proposal of this decision and of the reasons for rejecting the construction official's recommendation. Each agency shall be given an opportunity to comment before the governing body at a public hearing. At least seven days' prior notice of this public hearing shall be given to each agency by certified mail. After the conclusion of the hearing, the governing body, if it does not choose to reconsider the matter, shall enter into a contract with the agency which it has selected in the manner prescribed by law.*

5:23-4.18 Standards for municipal fees

(a)-(j) (No change.)

(k) Rules concerning the appeal of fees are:

1. (No change.)

2. In addition to any other actions that he may take upon determining that the fees established by a municipality fail to meet the standards of this section, the commissioner may order the repayment of the excess amount of such fees to the persons who have paid them.

(l) ***[Private onsite inspection and plan review agencies shall be subject to the following:]** ***Fees to be charged to municipalities by private onsite inspection and plan review agencies are as follows:***

1. Where the local enforcing agency uses the services of a private onsite inspection and plan review agency to enforce

one or more subcodes, then the fees charged *[by the municipality shall not be set by ordinance. The fees charged by]* **to* the municipality **by the private onsite agency*** shall be identical to those charged by the Department pursuant to N.J.A.C. 5:23-20 *[as follows:]* **and as provided in this paragraph.**

i. Building subcode: Where a private onsite agency performs building subcode services, the fees charged *[by]* **to* the municipality **by the private agency*** shall be the sum of *[60]* **70** percent of **either** the volume *-based** or cost-based fees, *[as appropriate to the type of work]* **whichever type is appropriate**, which are set forth at N.J.A.C. 5:23-4.20(c)2i, and 100 percent of the mechanical fee set forth at N.J.A.C. 5:23-4.20(c)2iv.

ii. Fire subcode: Where a private onsite agency performs fire subcode services, the fees charged *[by]* **to* the municipality **by the private agency*** shall be the sum of *[40]* **30** percent of **either** the volume *-based** or cost-based fees, *[as appropriate to the type of work]* **whichever type is appropriate**, which are set forth at N.J.A.C. 5:23-4.20(c)2i, and 100 percent of the sprinkler and standpipe fee which is set forth at N.J.A.C. 5:23-4.20(c)2v.

iii. Plumbing subcode: Where a private onsite agency performs plumbing subcode services, then the fees charged *[by]* **to* the municipality **by the private agency*** shall be *[those based on]* **100 percent of the fees for** plumbing fixtures and stacks as set forth at N.J.A.C. 5:23-4.20(c)2ii.

iv. Electrical subcode: Where a private onsite agency performs electrical subcode services, then the fees charged *[by]* **to* the municipality **by the private agency*** shall be *[those based on]* **100 percent of the fees for** electrical fixtures and devices which are set forth at N.J.A.C. 5:23-4.20(c)2iii.

[v. Other work: Where a private onsite inspection agency performs any subcode services for any subcode, the fees for demolitions, removals, signs and certificates of occupancy shall be set by the municipality by ordinance.

vi. Where a private onsite agency performs building subcode services or fire subcode services but not both, then the fees charged for that subcode shall be those set by the Department as set forth in this section. The fees charged by the municipality for the subcode which it enforces directly shall be as set by ordinance. The municipality shall only collect the following portions of these fees in such cases:

(1) Where the municipality enforces the building subcode and an onsite agency enforces the fire subcode:

- (A) 60 percent of the volume or cost charges.
- (B) 100 percent of any mechanical system fee.
- (C) 0 percent of any sprinkler and standpipe fee.

(2) Where the municipality enforces the fire subcode and an onsite agency enforces the fire subcode.

- (A) 40 percent of the volume or cost based charge.
- (B) 0 percent of any mechanical fee.
- (C) 100 percent of any sprinkler or standpipe fee.]*

***2. Demolition and removal fees shall be charged as follows:**

i. **Where a private onsite agency performs one or more subcode services for demolitions or removals, then the amount charged to the municipality by the private agency shall be a portion of the demolition or removal fees, whichever type is appropriate, which are set forth at N.J.A.C. 5:23-4.20(c)3 and 4, which portion shall be as follows:**

- (1) **Building subcode: 40 percent;**
- (2) **Fire subcode: 20 percent;**
- (3) **Plumbing subcode: 20 percent;**
- (4) **Electrical subcode: 20 percent.**

3. Sign fees shall be charged as follows:

i. **Where a private onsite agency performs one or more subcode services for signs or billboards, then the amount charged to the municipality by the private agency shall be as follows:**

(1) **Building subcode: 100 percent of the sign fees set forth at N.J.A.C. 5:23-4.20(c)5.**

(2) **Electrical subcode: 100 percent of the fees for electrical fixtures and devices set forth at N.J.A.C. 5:23-4.20(c)2iii.**

4. Elevator fees shall be charged as follows:

i. **When a private onsite agency performs services for elevators, then the elevator fees charged to the municipality by the private agency shall be identical to the elevator fees charged by the Department pursuant to N.J.A.C. 5:23-4.20(c)7, 10i, and 10ii.**

5. Fees for certificates of occupancy and certificates of continued occupancy charged to the municipality by the private agency shall be the following portions of the fees for a certificate of occupancy and certificate of continued occupancy set forth at N.J.A.C. 5:23-4.20(c)6:

- i. **Building subcode: 40 percent;**
- ii. **Fire subcode: 20 percent;**
- iii. **Plumbing subcode: 20 percent; and**
- iv. **Electrical subcode: 20 percent.**

6. Where plan review is performed more than one month before the construction permit is issued, or where a project does not go forward after a private onsite inspection and plan review agency has performed plan review, then the municipality shall pay to the private agency 20 percent of the amount that would otherwise be due pursuant to this section.*

5:23-4.21 Private enforcing agency ***authorization and reauthorization*** fees

(a) **Authorization fee:** Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for approval as an inspection agency shall pay a fee of \$2000.00 for each subcode for which authorization is sought. The total fee for an inplant agency application shall be \$500.00.

(b) **Reauthorization fee:**

1. Any onsite inspection agency submitting an application to the Department under N.J.A.C. 5:23-4.12 for reapproval as an inspection agency shall pay a fee of \$1000.00 for each subcode for which authorization is sought ***plus an amount equal to five percent of the gross revenue earned from State Uniform Construction Code enforcement activities during the previous 12-month period*.**

2. The total fee for reauthorization of an inplant inspection agency shall be \$250.00.

***[(c) Monitoring fee:** Any onsite inspection agency shall pay to the Department a monitoring fee of 5 percent of gross earnings made pursuant to all construction code enforcement activities. These fees shall be paid to the Department monthly. The payment for any month shall be made prior to the last business day of the month next following.

(d) Fees charged to a municipality by any private agency for inspection or plan review services shall be identical to those charged for such services by the Department when it serves as a local enforcement agency and set forth in N.J.A.C. 5:23-4.20 less an amount as set forth below which shall be retained by the local enforcing agency to cover administrative costs. This portion shall be as follows:

- 1. Electrical subcode enforcement-5 percent;
- 2. Plumbing subcode enforcement-5 percent;
- 3. Fire protection subcode enforcement-5 percent;

- 4. Building subcode enforcement-10 percent.
- 5. Where a local enforcing agency uses an onsite inspection and plan review agency as building subcode official but carries out fire protection subcode official responsibilities directly on through the local fire service, then a total of 40 percent of the agency fees for mixed building and fire protection subcode enforcement shall be retained by the local enforcing agency to cover the administrative costs and the cost of fire protection subcode enforcement.
- 6. Where plan review is required to be performed more than one month before inspections or where a project does not go forward after an agency has performed plan review, then the agency shall be paid 20 percent of the amount otherwise due and owing pursuant to this section.
- 7. Where a local enforcing agency uses an onsite inspection and plan review agency and those agencies are required to perform inspections related to demolitions, removals, or signs then the fees charged to the municipality shall be as follows:
 - i. Building subcode: 40 percent of the fee charged by the municipality for the permit.
 - ii. Fire subcode: 15 percent of the fee charged by the municipality except in the case of signs where no payment shall be made to an agency responsible for fire subcode enforcement.
 - iii. Plumbing subcode: 20 percent of the fee charged by the municipality except in the case of signs when no payment shall be made to an agency responsible for plumbing subcode enforcement.
 - iv. Electrical subcode: 20 percent of the fee charged by the municipality except in the case of unlighted signs where no payment shall be made to an agency responsible for electrical subcode enforcement]*

EDUCATION

(a)

STATE BOARD OF EDUCATION

School Districts: Standards for Determining Seniority; Approval of High Schools; Classification of Schools

Adopted Amendments: N.J.A.C. 6:3-1.10 and 6:27-1.2

Proposed: April 16, 1984, at 16 N.J.R. 785(a).
 Adopted: June 12, 1984, by State Board of Education, Saul Cooperman, Secretary.
 Filed: June 13, 1984, as R.1984 d.265, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).
 Authority: N.J.S.A. 18A:4-10; 18A:4-15; 18A:4-23, 24, 25; 18A:28-9 et seq. and 18A:45-1.
 Effective Date: July 2, 1984.

Expiration Dates pursuant to Executive Order No. 66(1978): N.J.A.C. 6:3-1.10—June 1, 1988; N.J.A.C. 6:27-1.2—June 1, 1989.

Summary of Public Comments and Agency Responses and Reasons for Making Changes:

Three letters were received commenting upon the proposed rules. All three generally supported the preserving of the seniority rights of junior high principals, assistant principals or vice principals when a grade level restructuring took place. One letter recommended that the change be made retroactive. Another comment requested that seniority rights of all teachers assigned to particular grades be transferred to any newly reorganized grades whether instruction in those grades was departmentalized or not or whether those grades were in the elementary or secondary category. The final comment urged a more specific and narrowly defined seniority status for persons assigned to grades seven and eight under elementary endorsement. The aforesaid comment also requested language clarification to ensure that the proposed revision was limited to junior high principals, assistant principals or vice principals.

The responses of the Department were as follows:

- 1. The proposal for clarification of language as it related to limiting applicability of the rule change was incorporated and approved by the State Board.
- 2. The recommendation to make the change retroactive was not adopted.
- 3. The recommendation to transfer seniority rights of persons previously assigned to grades whose designation had been changed was not adopted because such persons were deemed by the State Board as not having been deprived of seniority rights by existing rules and because possible clarification in this area was being considered as a separate issue.

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

- 6:3-1.10 Standards for determining seniority
 - (a)-(l) (No change.)
 - (m) In the event of a restructure of grade levels which results in the elimination of all junior high schools (as defined by N.J.A.C. 6:27-1.2) in the district and the creation of schools with a grade level organization which includes grades seven and eight with or without one or more elementary grades, the seniority rights of ***the junior high*** principals, vice principals and assistant principals ***displaced by such restructuring*** shall be transferable to the newly reorganized schools, in the category designated by the district board of education, in its classification plan adopted in compliance with N.J.A.C. 6:27-1.2.

- 6:27-1.2 Classification of schools
 - (a) (No change.)
 - (b) Grades seven and eight with or without one or more elementary grades may be classified as either elementary or junior high school as determined by the district board of education. The district board of education shall, by formal resolution, designate the classification for these grades in accordance with the plan of school organization of the district.

(a)

STATE BOARD OF EDUCATION**Thorough and Efficient System of Free Public Schools****Readoption with Amendments: N.J.A.C. 6:8**

Proposed: April 2, 1984, at 16 N.J.R. 597(a).

Adopted: June 18, 1984, by State Board of Education, Saul Cooperman, Secretary.

Filed: June 18, 1984, as R.1984 d.282, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15 et seq. as supplemented and amended by N.J.S.A. 18A:7A-1 et seq.

Effective Date for Readoption: June 18, 1984.

Effective Date for Amendments: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): January 1, 1987.

Summary of Public Comments and Agency Responses and Reasons for Making Changes:

Four written comments were received. Comments are presented below as issues with department's response to each issue.

ISSUE #1: Rules ignore school-based planning.

RESPONSE: Educational improvement has always required good planning practices. The Local District Planning Model is composed of the basic elements of proven planning practices necessary for school improvement. The intent of the process is to affix responsibility for student improvement at the district level. The following points demonstrate the planning process utilized by a district in developing their district-wide objectives:

1) The submission of objectives by the district represents the top priority needs of the entire district.

2) A comprehensive needs assessment involves analyzing data from all aspects of the district's educational and instructional programs and includes data from each and every school. A district-wide objective can reflect a similar need of several schools or it can be the culmination of an individual school's needs.

3) The planning process requires the involvement of teaching staff members and the community in developing objectives. The involvement of community and staff should guarantee the identification of all needs from each school.

4) The formal linkage established between the Department of Education and the school district is at the district level and not the school level. As part of its overall planning, the district is best able to coordinate individual school planning, analyze each school's efforts and then communicate to the SEA those objectives which reflect the priority needs of the entire district.

In addition, the monitoring process requires visits to each and every school. The purpose of these visits is to review the implementation of district objectives at the school level, eval-

uate a school's progress toward standards, and help identify future needs at the building level.

It was never intended that individual schools be left out of the planning process. As indicated above, good planning involves comprehensive needs assessments that must begin at the school level. For this reason, N.J.A.C. 6:8-3.3 will retain the current language, but is amended to reflect the new planning process.

ISSUE #2: The standards for approving the school/community element are inadequate.

RESPONSE: This element requires a rating of acceptable for the first indicator which states that "there is evidence of sharing information with the community". At least one of the other three indicators must be rated acceptable for the district to be recommended for certification. That does not mean that the other two indicators, if rated unacceptable, are not addressed by the district. The district must address any indicator not rated acceptable. If the indicator is not required for certification, the district must then address it through the planning process. An objective must be developed and submitted to the county superintendent by September 30 1984. The county superintendent will review the progress the district is making on that objective twice a year. By July 1 of the following year, the district must submit a report to the county superintendent describing the outcome of the objective and indicating what means were used to assess the district's attainment of each and every objective. The county superintendent will then report to the board at a public meeting the results of the district's progress on their objectives. This procedure enhances the process and allows the district to address its deficiencies in a more comprehensive manner.

ISSUE #3: The language of indicator in N.J.A.C. 6:8-6.2(b)3iii is ambiguous and is not flexible enough to address skill deficiencies.

RESPONSE: The intent of this indicator is to insure that the district has in existence educational programs which address any special needs, interests or abilities of pupils. Monitoring teams will review the process by which the individualized needs have been identified as well as the programs developed to meet these needs. This insures that the district is providing the proper programs, methods of instruction and the proper staff to meet these individualized needs of students.

ISSUE #4: No basis in research to support the term, level of achievement.

RESPONSE: The level of achievement is the standard being sought and provides a measurable means of determining attainment of an objective.

Levels of achievement should be stated in terms appropriate to the type of objective. Nothing precludes the use of subjective measurement where appropriate, but the measurement is necessary. Without the specific standard, it is not possible to determine to what extent the objective has been achieved. The intent of the entire planning process is to evaluate program effectiveness in meeting student needs and to allow districts to modify programs where needs are not being met.

Levels of achievement may vary depending upon the type of objective. It may be appropriate to use percentages as a standard on a teacher made test, whereas on a standardized test, one might use percentiles, NCEs, statistically significant improvement or grade levels. With checklists, mastery/profi-

ciency would require meeting a minimum number of skills or criteria. These examples demonstrate that regardless of the nature of the objective, a definitive level of achievement must be established in order to determine student gain.

ISSUE #5: Definition of an objective is in conflict with definition in N.J.A.S. 18A:7A-3.

RESPONSE: The definition of an objective is not being changed. An objective should still be a written statement with an intended outcome.

However, the outcome should be measurable and the objective should correlate with a district-wide need of major importance. Hence, the objective becomes significant to the district, educationally significant in regard to student performance and contains a level of achievement or standard which serves as a measurable means of determining attainment of that standard.

ISSUE #6: Distribution to parents and pupils of a list of course proficiencies required for graduation.

RESPONSE: The distribution of a list of proficiencies to students and parents is required by N.J.S.A. 18A:7C-5. Parents do not normally see courses of study. This provides them with the information parents need concerning graduation requirements and student expectations, and can elicit greater support from them. Parents need to encourage their children to take more rigorous courses. They, therefore, need to be familiar with the curriculum and the required proficiencies. The sharing of these proficiencies allows for greater and better communication between schools and parents. It makes the school, as well as the teacher, accountable for student learning and performance.

It provides the school the opportunity to identify students with deficiencies, use these deficiencies as a basis for future needs, and correct and remediate these deficiencies. Using proficiencies is a very natural process in curriculum alignment.

ISSUE #7 Teacher absenteeism.

RESPONSE: The intent of this indicator is to maximize the amount of contact between a student and his or her teacher. Teacher absenteeism is detrimental to a student's learning. Further, the intent was also to allow the district, as a whole, to implement staff attendance programs designed to encourage staff members to recognize the importance of good attendance records.

Unfortunately, some school districts are overreacting to the standards established in the monitoring procedure. The key to a successful program of staff attendance is to encourage the staff to join with the administration in developing effective programs. Staff members should not be penalized for absences due to illness or other justifiable reasons. Rather, the focus of the district's staff attendance program should be to identify individuals who are abusing sick leave provisions and other attendance policies of the board of education.

The monitoring of this indicator has demonstrated that district are not having difficulty meeting the standards. To date, only two of one hundred districts monitored have received a rating of unacceptable on this indicator.

ISSUE #8: Inadequate documentation of dropouts.

RESPONSE: The proposed amendments require the development of an improvement plan. A plan cannot be developed without first delving into the reasons why students drop out.

The proposed amendments very clearly states that the basis for an improvement plan is an analysis of pupils who drop out of school.

ISSUE #9: Corrective action by the Commissioner.

RESPONSE: The proposed amendments provide the commissioner with the power for corrective action as provided by law.

N.J.S.A. 18A:4-22 designates the chief officer of the State Department of Education to be the Commissioner of Education. The Commissioner is not only the chief executive and administrator of the Department but is also the official agent for the State Board of Education.

N.J.S.A. 18A:7A-14 requires the Commissioner to review school evaluations and directs the preparation of a remedial plan if he finds "that a school or a school district has failed to show sufficient progress toward the goals, guidelines, objectives and standards . . . established in and pursuant to this act . . ." If he finds that the remedial plan is insufficient, he has the authority to take corrective actions.

N.J.S.A. 18A:7A-15 states that the Commissioner, after a plenary hearing, has the authority to order corrective action which may include:

- 1) Necessary budgetary changes,
- 2) Inservice training programs, and
- 3) If such corrective actions are insufficient, recommend to the State Board that it take appropriate action.

ISSUE #10: The change throughout the rules to the word "pupil" from "student."

RESPONSE: The word pupil is seen as a more appropriate designation in an administrative sense for a person enrolled in a public school system. It is generally agreed that a pupil is one who studies under direct supervision, while a student is one who makes a study of something under little or no supervision. Therefore, in the generic sense, pupil is more descriptive of all persons enrolled in the public schools regardless of age or program.

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

CHAPTER 8
THOROUGH AND EFFICIENT SYSTEM OF FREE
PUBLIC SCHOOLS

SUBCHAPTER 1. DEFINITIONS

6:8-1.1 Words and phrases defined

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

"Action plan" means a written document describing how the district will organize and act to achieve its objectives.

"Articulation" means continuity, consistency and interdependence in the curricular offerings of the successive divisions of the school system.

"Assessment" means a written analysis of the current status of an educational system in terms of achieving its goals and objectives.

"Certification" means an acceptable rating in all required indicators as prescribed for all 10 essential elements in the educational process of the district.

“Educational plan” means a comprehensive procedure which enables participants working together to define and set goals, to appraise progress through assessment, to analyze problems, to plan for and to implement a program for improvement and to evaluate progress toward achieving goals, objectives and standards.

“Evaluation” means procedures used to determine the value and success of programs, projects, techniques and materials in relation to the achievement of goals, objectives and standards, that is, the act of making judgments based upon the data gathered.

“Goals” means a written statement of educational aspirations for learner achievement and the educational process stated in general terms.

“Levels of pupil proficiency” means standards established pursuant to N.J.S.A. 18A:7A-6 in grades where Statewide testing takes place; and the State approved uniform levels of achievement in grades where State testing does not take place.

“Objective” means a written statement of the intended outcome of a specific educational process.

“Preventive program” means programs designed to prevent regression in the areas of reading, writing and mathematics skills.

“Proficiency” means an explicitly stated and demonstrable knowledge and/or skill used to define a desired learning outcome.

“Regular school program” means curriculum content and materials, instructional activities, services and staff training designed to address the learning needs of all pupils, adopted annually by each district board of education funded by local resources and State equalization aid.

“Remedial program” means programs designed to improve the level of pupil proficiency in the areas of reading, writing and mathematics skills.

“Standards” means the procedures and stated levels of proficiency used in determining the extent to which goals and objectives are being met.

“State compensatory education pupil” means a pupil who is enrolled in preventive and remedial programs, approved by the State board, supplemental to the regular programs and designed to assist pupils who have academic, social, economic or environmental needs that prevent them from succeeding in regular school programs.

“State endorsed diploma” means a diploma signifying successful completion of a high school containing the minimum curriculum, programmatic and proficiency requirements as set forth by State law and regulations; and by local district policies and procedures.

“Supplemental program for State compensatory education” means instructional or related services provided over and above the regular school program which are funded in whole or in part by State compensatory education funds.

“Teaching staff members” means all teachers, principals, assistant principals, vice principals, superintendents, assistant superintendents, school nurses and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education.

SUBCHAPTER 2. STATE EDUCATIONAL GOALS AND STANDARDS

6:8-2.1 State educational goals

(a) The State educational goals shall be the following outcome and process goals and shall be applicable to all public school districts and schools in the State.

(b) The public schools in New Jersey shall help every pupil in the State:

1. To acquire basic skills in obtaining information, solving problems, thinking critically and communicating effectively;
2. To acquire a stock of basic information concerning the principles of the physical, biological and social sciences, the historical record of human achievements and failures, and current social issues;
3. To become an effective and responsible contributor to the decision-making processes of the political and other institutions of the community, State, country and world;
4. To acquire the knowledge, skills and understanding that permit him or her to play a satisfying and responsible role as both producer and consumer;
5. To acquire job entry level skills and, also, to acquire knowledge necessary for further education;
6. To acquire the understanding of and the ability to form responsible relations with a wide range of other people, including but not limited to those with social and cultural characteristics different from his or her own;
7. To acquire the capacities for playing satisfying and responsible roles in family life;
8. To acquire the knowledge, habits and attitudes that promote personal and public health, both physical and mental;
9. To acquire the ability and the desire to express himself or herself creatively in one or more of the arts, and to appreciate the aesthetic expressions of other people;
10. To acquire an understanding of ethical principles and values and the ability to apply them to his or her own life;
11. To develop an understanding of his or her own worth, abilities, potentialities and limitations;
12. To learn to enjoy the process of learning and to acquire the skills necessary for a lifetime of continuous learning and adaptation to change.

(c) The public schools in New Jersey shall provide:

1. Instruction which bears a meaningful relationship to the present and future needs and/or interests of pupils.
2. Significant opportunities, consistent with the age of the pupil, for helping to determine the nature of the educational experiences of the pupil;
3. Specialized and individualized kinds of educational experiences to meet the needs of each pupil;
4. Opportunities for teaching staff members and pupils to make recommendations concerning the operation of the schools;
5. Comprehensive guidance facilities and services for each pupil;
6. An environment in which any competition among pupils is positive;
7. Resources for education, used with maximum efficiency;
8. Teaching staff members of high quality;
9. Diverse forms of constructive cooperation with parents and community groups.

6:8-2.2 State educational standards

The State educational standards shall be those procedures set forth in N.J.A.C. 6:8-3 and N.J.A.C. 6:8-4, which shall be used for the implementation of a thorough and efficient system of free public schools in accordance with the New Jersey Constitution.

6:8-2.3 Review of State educational goals and standards

The State Board of Education, after consultation with the commissioner and review by the Joint Committee on the Public Schools, shall, from time to time but at least once every five years, review and update the State goals and standards.

SUBCHAPTER 3. STANDARDS AND PROCEDURES FOR ESTABLISHING EDUCATIONAL PLANS

6:8-3.1 Educational plan requirements

(a) Each district board of education in consultation with the chief school administrator and teaching staff members, as defined in these rules, shall develop a written educational plan for the district and each school within the district, pursuant to law and this subchapter.

(b) Such plan shall be adopted and implemented annually by the district board of education.

(c) Such plan shall include a proposed time schedule for the implementation of each of the components set forth in this subchapter, and shall identify, on a five-year cycle, both long and short-range objectives.

(d) Such plan shall include standards established by the district board of education for assessing and evaluating the achievement of its long and short-range objectives.

(e) The educational plan shall include, but not be limited to, the components set forth in this subchapter.

6:8-3.2 District and school educational goals

(a) Written educational goals, based on district educational needs and consistent with the intent of State educational goals, shall be developed and shall serve as the basis for the educational program (curriculum) for each school. Goals shall be developed in consultation with teaching staff members, pupils, parents or guardians of pupils and other district residents, under the direction of the chief school administrator.

(b) The district board of education shall give public notice of the proposed goals or revisions thereof and shall provide opportunity for comment at a public meeting.

(c) District and school educational goals shall be reviewed and updated at least once every five years according to the procedures set forth in this section.

6:8-3.3 District **and school educational** objectives, **and standards and** action plans

(a) Written educational objectives and standards for the educational program (curriculum), based upon district and school goals, shall be developed in consultation with teaching staff members and the community* under the direction of the chief school administrator.

(a)* *(b) Each district board of education shall identify priority needs in areas of the instructional program and pupil improvement based on an extensive study of the needs and socioeconomic characteristics of the student body of the district.

(b)* *(c) The chief school administrator in consultation with the public and teaching staff members shall create an objective and action plan for each priority need.

1. An objective is a result-oriented statement that shall contain the following three elements of information:

- i. Description of target population;
- ii. Description of what will be achieved; and
- iii. Description of the level of achievement which will be sought.

2. An action plan describing how the district will organize and act to achieve an objective shall contain the following components:

- i. Description of task and activities that will be taken to accomplish the objectives;

ii. List of personnel denoting who will be responsible for specific activities and who will be accountable for total objective;

iii. Statement of physical, financial and human factors which will be used to accomplish the stated tasks;

iv. Schedule of completion dates for individual tasks and activities; and

v. Description of specific accomplishments being sought and how they will be measured.

(c)* *(d) The chief school administrator shall meet with the county superintendent of schools for preliminary review of the objectives and action plans prior to adoption by the district board of education.

(d)* *(e) The district board of education shall approve the objectives as part of the annual educational plan.

(e)* *(f) The objectives and action plans of the district shall be submitted to the county superintendent by September 30, who shall review and approve them no later than October 31.

1. The review and approval shall focus on the educational significance of the objectives and action plans and on the potential for bringing about improved results for pupils.

2. The county superintendent of schools shall ensure that objectives are significant and measurable, and that plans are logical, achievable and realistic.

(f)* *(g) The assistant commissioner for the Division of County and Regional Services shall resolve an impasse between the chief school administrator and the county superintendent of schools regarding approval of objectives.

6:8-3.4 Assessment

(a) Pupil needs shall be assessed by teaching staff members to determine pupil attainment of educational objectives. Procedures for such assessment shall include but not be limited to teacher observation, parental or guardian interview, formal and informal evaluation techniques, cumulative pupil records, pupil performance data collected through local testing programs which meet State criteria, State testing results and visual, auditory, and/or medical examination. Pupil identification required by N.J.A.C. 6:8-3.8 (Pupil proficiency levels and preventive and remedial programs in reading, writing and mathematics skills) shall be determined as part of this assessment of pupil needs.

(b) District and school needs shall be assessed in order to determine the status of attainment of long and short-range objectives.

6:8-3.5 Educational program (curriculum)

(a) The educational program (curriculum) for each district and school shall be developed in consultation with the teaching staff members, under the direction of the chief school administrator, shall be adopted by each district board of education and shall:

- 1. Be consistent with written goals, objectives and identified pupil needs;
- 2. Develop individual talents and interests and serve diverse learning styles to motivate pupil achievement;
- 3. Provide for continuous learning through an effective articulation between and among the districts and schools;
- 4. Provide all pupils continuous access to sufficient programs and services of a library and/or media facility, classroom collection, or both, to support the educational program (curriculum);
- 5. Provide all pupils guidance and counseling to assist in career and academic planning;

6. Provide a continuum of educational programs and services for all handicapped children, pursuant to law and regulation;

7. Provide bilingual programs for pupils whose dominant language is not English, pursuant to law and regulation;

8. Provide compensatory education programs for pupils, pursuant to law and regulation;

9. Provide all pupils equal educational opportunity, pursuant to law and regulation;

10. Provide career awareness and vocational education, pursuant to law and regulation; and

11. Provide educational opportunities for exceptionally gifted and talented pupils.

6:8-3.6 Instruction

(a) Instruction shall be provided by teaching staff members in order to achieve goals, objectives and standards. Implementation shall include but not be limited to:

1. A school environment designed to foster positive feelings by pupils toward self and others;

2. Creative use of various instructional methods, materials and equipment;

3. Opportunities for pupils to participate in the study of individual, school and community problems;

4. Active involvement of pupils in directed and self-selected activities;

5. School and classroom organization and pupil assignment based upon individual pupil needs;

6. Effective use of personnel, resources and facilities of the school and community;

7. An emphasis on the interdisciplinary nature of knowledge and the interrelatedness of learning.

6:8-3.7 Evaluation of pupil progress

Evaluation procedures shall be developed and implemented to provide for the continuous and comprehensive review of pupil progress toward district and school goals and program objectives. The evaluation shall be conducted by teaching staff members under the direction of the chief school administrator and should include consultation with parents or guardians and pupils. District evaluation results shall be reported annually by the chief school administrator to the district board of education at a public meeting.

6:8-3.8 Pupil proficiency levels and preventive and remedial programs in reading, writing and mathematics skills

(a) Each pupil shall be assessed, upon entrance into the educational system and annually thereafter, to identify pupils not meeting State proficiency levels. In instances of pupil transfers, assessment records shall be forwarded from the previous school or district to the school or district in which the pupil is newly enrolled. Pupils so identified shall be provided with an individual comprehensive assessment which shall include but not be limited to the assessment procedures set forth in N.J.A.C. 6:8-3.4. For pupils with identified deficiencies after completion of six academic years of instruction beyond kindergarten, local school districts shall develop procedures for the development and implementation of individual pupil improvement plans. These procedures shall include but not be limited to:

1. A process for the development of the pupil improvement plan including those persons responsible for the development and implementation of the plan;

2. Identification of a teaching staff member responsible for monitoring the development, implementation and evaluation of the individual's public improvement plan; and

3. A process for notifying the pupil and the parent(s) or guardian(s) of the need for and content of the pupil improvement plan.

(b) Preventive and remedial programs, supplemental to the regular school program, shall be established. Application for and approval of these State compensatory education programs shall be based upon the following:

1. Enrollment of all pupils who have academic, social, economic, or environmental needs that prevent them from succeeding in the regular school program in appropriate preventive or remedial programs up to eligibility levels determined by the Department of Education, based upon the severity of academic need as measured by pupil performance on the Statewide assessment instruments and those pupils provided for in N.J.A.C. 6:39-1.2(b), and based upon the severity of socioeconomic need as measured by appropriate income and related indicators and documented by the needs assessment conducted pursuant to N.J.A.C. 6:8-3.4(a);

2. Procedures for the screening of currently and newly enrolled pupils in order to determine whether or not they should be enrolled in preventive of remedial programs. These procedures should include those diagnostic measures which are used to predict the relevant learning difficulties and needs;

3. Instructional and related activities and services, supplemental to the regular school program and based upon identified priority pupil needs;

4. Procedures to provide ongoing communication between teaching staff members and parents or guardians of pupils participating in State compensatory preventive and remedial programs;

5. Evaluation procedures which measure pupil gains in basic skills proficiency related to preventive and remedial program objectives and standards and to Statewide standards in reading, writing and mathematics skills;

6. Evaluation of the effectiveness of State compensatory preventive and remedial educational programs in terms of pupil gains in basic skills proficiency and other relevant indicators;

7. A detailed budget explaining expenditures for administration, instructional paraprofessional and clerical personnel, instructional materials and supplies, equipment, attendance, staff training, health and community services;

8. Assurance of maintenance of effort in the provision of the regular school program.

(c) Annually, on or before August 15, the commissioner shall determine which applications for compensatory education programs are approved and so notify each district board of education.

(d) State compensatory education funds shall be calculated and distributed in accordance with N.J.S.A. 18A:7A-17 and N.J.S.A. 18A:7A-20, on the basis of actual enrollment in approved programs as of the last school day of September.

(e) As part of the five-year district certification procedure, the State Department of Education shall monitor programs of the district board of education and the rate of pupil growth in achievement with particular attention to services and preventive and remedial educational programs for the reading, writing and mathematics skills.

(f) The Department of Education shall conduct studies and evaluate findings biennially after the effective date of this

chapter in order to report the status of progress toward the attainment of pupil proficiency levels in reading, writing and mathematics skills.

SUBCHAPTER 4. POLICIES AND PROCEDURES TO ASSIST IN IMPLEMENTING THE EDUCATIONAL PLAN

6:8-4.1 Reporting of pupil progress

The district board of education, after consultation with the teaching staff members, under the direction of the chief school administrator, shall develop a policy for reporting pupil progress to parents or guardians. Consideration should be given to the use of a variety of procedures such as parent-teacher conferences, report cards, pupil progress charts and other formal and informal methods.

6:8-4.2 Promotion and graduation

(a) The district board of education shall adopt policies and procedures for:

1. Pupil promotion, related to district goals, objectives and pupil proficiency; and
2. High school graduation requirements, pursuant to law and regulation, ***which*** shall be consistent with the achievement of State and district goals, objectives and pupil proficiency with particular reference to reading, writing and mathematics skills and shall be adopted as specified in N.J.A.C. 6:8-4.2(b), (c), (d) and (e).

(b) District boards of education shall adopt policies and procedures for high school graduation of all pupils pursuant to law and regulation, which shall include but not be limited to performing at or above the established uniform Statewide levels of pupil proficiency on the ninth grade Statewide assessment tests in reading, writing, and mathematics skills.

1. Pupils who perform below Statewide standards on one or more of these Statewide tests shall be provided with a comprehensive individualized assessment as specified in N.J.A.C. 6:8-3.4 and, on the basis of this assessment, provided necessary services to remedy those deficiencies identified which shall include but not be limited to the development and implementation of an individual pupil improvement plan. This individual program may be carried out through the regular program or through an extended school day, extended school week or extended school year. Comprehensive pupil assessment and re-evaluation of the individual plans shall take place at least once each year until all identified deficiencies have been remediated.

2. Each local school district shall develop procedures for the development of the individual pupil improvement plan. These procedures shall include but not be limited to those procedures set forth in N.J.A.C. 6:8-3.8(a).

3. Pupils who perform below State standards on one or more of these Statewide tests shall be provided with multiple opportunities to demonstrate mastery immediately after completion of the appropriate segments of their improvement plan provided that at least one opportunity is provided each academic year.

4. For each pupil who performs below State standards on any of these tests by the end of the eleventh grade, an additional evaluation shall also be provided during the twelfth year based on the individual pupil improvement plan required under paragraph 1 above. This evaluation shall include but not be limited to:

- i. Performance on State tests (including all re-tests);
- ii. Performance on locally selected examinations;
- iii. Performance in course work;
- iv. Formal interview with the pupil;
- v. Formal interview with the parents;
- vi. Formal interview with teaching staff;
- vii. Examination of the transcripts of the pupil noting his or her strengths in other related areas;
- viii. Guidance counselor and/or psychologist review as appropriate;
- ix. Visual, auditory and/or medical data as appropriate;
- x. Examination of credit and curriculum performance; and
- xi. Examination of pupil proficiencies in other areas.

5. On the basis of the evaluation required under paragraph 4 above, and an independent evaluation of these data by a local district review panel, a recommendation for each pupil not meeting Statewide basic skills requirements shall be forwarded to the county superintendent of schools by March 1 of the regularly scheduled graduation year as to whether the Statewide minimum basic skills requirement has been attained satisfactorily. This local district panel shall include at least three teaching staff members not currently instructing the pupil. On the basis of the evidence listed in paragraph 4 above and the recommendations of the review panel, the building principal, and the district superintendent, the county superintendent of schools may certify satisfactory attainment of the minimum basic skills graduation requirement.

6. Pupils classified pursuant to N.J.S.A. 18A:46-1 et seq. may be exempted from this basic skills proficiency requirement based on the recommendation of the child study team and the approval of the chief school administrator.

7. Any out-of-school youth or adult age 18 or older who has otherwise met all State and local graduation requirements but who has failed to pass the State assessment test(s), may return at times which have been scheduled and publicly announced by the district board, for the purpose of taking the necessary tests. Upon certification of passing the test(s), a State endorsed diploma will be granted by the high school of record.

8. Upon the completion of the first cycle of the program in 1985, and annually thereafter, the chief school administrator shall report prior to November 30 to the district board of education at a public meeting and to the Commissioner of Education the number of pupils graduated and the number of pupils denied graduation on the basis of this chapter. The chief school administrator shall include in these reports the number of pupils graduated under the special education and special evaluation procedures noted in this subsection.

(c) Minimum high school curriculum requirements include the following:

1. District boards of education providing high school diplomas shall adopt policies and procedures in cooperation with any sending district(s) for defining minimum high school curriculum requirements and locally determined proficiencies therein, pursuant to law and regulation, which shall include but not be limited to:

i. Requiring the successful completion of a program of study in grades nine through 12 which shall include but not be limited to:

- (1) One credit year of communication for each year of enrollment, up to four credit years;
- (2) Two credit years of computation;
- (3) Two credit years of social studies and history as required by N.J.S.A. 18A:35-1;

- (4) One credit year of natural or physical science;
- (5) One credit year of physical education, health and safety for each year of enrollment as required by N.J.S.A. 18A:35-7;
- (6) One credit year of fine, practical, and/or performing arts; and
- (7) One-half credit year of career exploration or development.

ii. Pupils may meet the curriculum requirements set forth in subparagraph i through demonstration of mastery of the locally determined proficiencies in each of the above curriculum areas or through program completion procedures noted in subsection (d). This determination shall be made by the district board of education.

2. Pupil proficiencies in areas other than those delineated in subsection (b) above shall be developed as follows:

i. The Commissioner of Education shall provide to district boards of education guidelines for the development of local proficiencies for each curriculum area noted in this subsection.

ii. District boards of education shall establish proficiency requirements in each curriculum area noted in paragraph 1 above. Upon approval of these proficiencies by the district board of education, demonstration of mastery will be required as a condition of graduation.

iii. District boards of education shall establish procedures for remediation and opportunities for pupils to satisfy any failed local proficiency.

iv. All district boards of education shall distribute to each entering ninth grade pupil and his or her parent(s) or guardian(s) a copy of all State and local high school graduation requirements. In addition, each district board of education shall distribute to all pupils and his or her parent(s) or guardian(s), at the beginning of each course required for graduation, a list of proficiencies required for successful completion of that course.

v. The Commissioner of Education shall monitor and approve the development and implementation of the manner of assessing the achievement of these proficiencies.

(d) Subject to approval of the State Board of Education:

1. Each district board of education shall establish graduation requirements on the basis of either course credits, program completion or a combination of course credits and program completion.

i. Regarding course credits, the rules include:

(1) Each four-year high school shall establish a minimum set number of credits to be required for graduation, to be not less than 92.

(2) Each senior high school shall establish a minimum set number which shall be not less than 69 credits to be completed in grades 10 to 12 inclusive.

(3) Six-year schools may base their graduation requirements on formal completion of grades nine to 12 or 10 to 12 within the credit limits established for four-year or senior high schools respectively.

(4) Credits toward graduation shall be awarded by the following method:

(A) Credit shall be assigned on the same basis to all high school courses offered by the district board of education.

(B) Credit may be assigned by each district board of education for curricular activities as defined in N.J.A.C. 6:27-1.13.

(C) The exception is that approved cooperative education programs shall receive a maximum of 15 credits per year.

ii. Credit year requirements set forth in subsection (c) above may be met in whole or in part through program completion as follows:

(1) District boards of education may determine and establish a set number of curricular activities or programs for promotion and graduation purposes.

(2) Programs shall be planned for individuals and/or a group based on specific instructional objectives.

(3) The principal shall certify completion of curricular activities or programs based upon specified instructional objectives.

(4) Group programs based on specific instructional objectives shall be approved in the same manner as other approved courses. Individual programs shall be on file in the local district subject to review by the commissioner or his or her representative.

2. District boards of education shall establish pupil attendance requirements appropriate to each of the particular educational programs.

3. Each junior high school shall establish a statement of policy governing graduation.

(e) Successful completion of the requirements set forth in subsections (b), (c), and (d) above, and any local requirements shall be required as conditions for awarding a State endorsed diploma, except as provided for seniors entering military or naval service pursuant to N.J.S.A. 18A:36-17. No district board of education may issue a high school diploma without State endorsement.

(f) Review and reporting rules include the following:

1. From time to time, but at least once every five years, the State Board of Education and district boards of education shall review and update their graduation requirement policies as a result of the State and local goal review processes noted in N.J.S.A. 18A:7A-8 and N.J.A.C. 6:8-3.2.

2. The Commissioner of Education in accordance with law and regulation shall, upon the completion of the first cycle of the program in 1985, and annually thereafter, report to the State Board of Education and Legislature on the status and outcomes of this program.

3. District boards of education shall submit their graduation requirements on forms provided by the State Department of Education in the following manner:

i. All public schools shall submit their local requirements, as they are adopted, to the county superintendent of schools.

ii. All diocesan schools shall submit their requirements, as they are adopted, to the diocesan superintendent of schools.

iii. All other nonpublic schools shall submit their requirements, as they are adopted, to the Division of General and Academic Education.

iv. District boards of education shall update this filed copy as their graduation policies are revised.

6:8-4.3 Staffing

(a) Teaching staff members shall be employed by the district board of education based upon the specific instructional needs of pupils of the district and each school within the district. The district board of education shall provide certified personnel needed to implement a thorough and efficient system of free public schools, which may include but not be limited to the following:

1. Adult, continuing and community education teachers;
2. Art teachers;
3. Educational supervisors;
4. Foreign language teachers;
5. Health teachers;
6. Instructional media specialists (librarians);
7. Instrumental and vocal music teachers;
8. Nurses;

- 9. Physical education teachers;
- 10. Reading specialists;
- 11. School counselors;
- 12. Speech correctionists;
- 13. Teachers of handicapped; and
- 14. Vocational educational specialists.

(b) The district shall employ for its teaching staff members, only persons certified under the rules of the State Board of Education.

(c) Rules on the principal are:

1. Each school shall be assigned the services of a fulltime nonteaching principal to be responsible for administration and supervision of the school.

2. A district board of education, upon advice of the chief school administrator, may request from the commissioner an exception to the provision of N.J.A.C. 6:8-4.3(c)1.

3. Assistants to principals and to principals assigned as chief school administrators shall be provided where necessary because of school enrollment, educational program and/or complexity of operation.

(d) All district boards of education shall provide the services of child study team personnel (school psychologists, school social workers and learning disabilities teacher-consultants), in numbers sufficient to insure implementation of pertinent law and regulation.

(e) All district boards of education shall maintain a list of available, certified substitute teachers, pursuant to regulation. Substitute teachers shall be provided orientation and training to meet pupil needs within the school district.

(f) Sufficient supportive services shall be provided, including but not limited to secretarial and clerical, janitorial, buildings and grounds maintenance, cafeteria and pupil transportation.

(g) Aides may be employed, and shall be approved and assigned, pursuant to law and regulation.

6:8-4.4 Staff inservice programs

Staff inservice improvement programs developed in consultation with the chief school administrator and teaching staff members shall be planned as needed to meet the priorities identified by the district or school.

6:8-4.5 Instructional materials and equipment

(a) The district board of education shall provide instructional and evaluation materials including textbooks, references, library print and nonprint materials, equipment and other materials to implement the district and school educational goals and objectives and meet pupil needs.

(b) The district board of education shall adopt an instructional materials and equipment policy which includes procedures for effective consultation with teaching staff members in the selection and utilization of such materials and equipment.

6:8-4.6 School and community relations

(a) The district board of education shall provide parents or guardians, other district residents and teaching staff members opportunities through one or more public meetings of the district board of education for discussion regarding State rules and local school procedures for implementation of district goals, objectives and standards. The initial meeting shall be held prior to September 30 of each year. The district board shall publish a special notice 10 days in advance of these meetings describing the purpose, listing the items to be dis-

cussed and indicating the availability of material relative to such items. The discussion at such meeting shall include, but not be limited to:

- 1. The annual evaluation of the district and schools;
- 2. The annual report of the district and schools submitted to the commissioner by July 1, pursuant to N.J.S.A. 18A:7A-11;
- 3. The results of:
 - i. The Statewide Testing System;
 - ii. The needs assessment conducted pursuant to N.J.A.C. 6:8-3.4(a) and (b);
 - iii. The needs assessment conducted pursuant to N.J.A.C. 6:8-3.8(a); and
 - iv. The plans and programs implemented (or to be implemented) to remediate the needs as identified through these assessments.

4. Plans including budget requirements to implement program improvements for the coming school year;

5. The above documents shall be accessible to the public for inspection at such meetings, and shall be available to citizens, upon request, at the earliest possible time, in accordance with the provisions of the public records law, N.J.S.A. 47:1A-1 et seq.;

6. Nothing in these rules shall be deemed to modify or repeal the provisions of N.J.A.C. 6:39, regarding Statewide assessment procedures.

(b) Teaching staff members, under the direction of the chief school administrator, shall identify community resources, services and needs in planning for continuous educational improvement, in consultation with parents or guardians, pupils and other district residents.

6:8-4.7 Administrative procedures

(a) Each district board of education, after consultation with the chief school administrator and teaching staff members, shall adopt efficient administrative procedures which shall include but not be limited to:

- 1. Sound district and school fiscal operations; and
- 2. Effective management procedures, pursuant to law and regulation.

6:8-4.8 School facilities

(a) New school facilities shall be planned to reflect current research and recommendations on the relationship of school design and size to educational program and a positive learning environment, pursuant to law and regulation.

(b) Each school building and site shall provide suitable accommodations to carry out the educational program of the school, including provision for the handicapped, pursuant to law and regulation.

(c) The district board of education shall ensure that all school buildings shall be safe, clean, attractive and in good repair.

SUBCHAPTER 5. REVIEW AND APPROVAL OF PROPOSED BUDGET

6:8-5.1 Review by county superintendent

(a) Each district board of education shall submit to the county superintendent of schools, on or before January 15, a copy of its proposed budget for the next school year. The county superintendent of schools shall review each item of appropriation within the current expense and capital outlay

budgets and shall determine the adequacy of such budgets with regard to the annual reports and long and short-range objectives. The following information shall be submitted with the proposed budget:

1. Number of teaching staff members, as defined in these rules and all other employees for the current year and requested budget year; and

2. A line item budget report or other authorized budget format.

(b) The county superintendent of schools shall review and approve the proposed budget prior to its advertisement. If changes in the proposed budget are recommended by the county superintendent after review, pursuant to law and regulation, the county superintendent shall consult with the chief school administrator and district board of education.

SUBCHAPTER 6. PROCEDURES FOR EVALUATION OF THE PERFORMANCE OF EACH PUBLIC SCHOOL DISTRICT AND SCHOOL

6:8-6.1 Annual evaluation

(a) The commissioner shall conduct annually a uniform, State-wide evaluation to ensure that each school district and each school within the district is performing according to the standards and procedures prescribed by law and regulation, as supplemented by this chapter.

(b) Each district board of education shall submit by July 1 a report describing progress of the district in achieving its objectives. This report shall constitute part of the commissioner's annual evaluation of the district.

(c) The annual report shall be submitted on forms provided by the Department of Education and shall include but not be limited to:

1. Demographic data related to each school;
2. Results of district and school assessment programs of pupil achievement in basic skills ;
3. Number of and reasons for school dropouts;
4. Evidence of the effectiveness by the district and each school within the district in achieving applicable State, district and school goals and long-and short-range objectives and standards;
5. Plans and programs for professional improvement;
6. Plans to carry out innovative or experimental educational programs designed to improve the quality of education;
7. Recommendations for school improvements during the ensuing year;
8. Master plans of projected capital construction needs, pursuant to law and regulation; and
9. Information on the fiscal operation of each school including the audit report, of the district when submitted, pursuant to law and regulation.

(d) The Department of Education shall not require in the annual report resubmission of information submitted in any other reports or forms.

6:8-6.2 Evaluation and certification

(a) Each school district within a county shall be monitored between January, 1984 and December 31, 1985, and if certified, every five years thereafter by a team of persons from the county office under the supervision of the county superintendent of schools.

1. The county superintendent of schools shall establish a monitoring schedule with the approval of the assistant commissioner, Division of County and Regional Services.

2. Districts with major uncorrected deficiencies identified through monitoring prior to January, 1984, shall be scheduled for monitoring between January and June, 1984.

3. Each district scheduled for monitoring shall be notified in advance by the county superintendent of schools. The dates for such monitoring visits to the district shall be established in consultation with the chief school administrator of the district.

4. A pre-monitoring conference shall be conducted by a representative of the county superintendent of schools with a representative of the district to establish the monitoring format.

5. Prior to the monitoring visit, the county office representative shall request that the district representative provide such documentation materials that are not available at the county office. The district representative shall be directed to either forward the documentation materials, or make them available at the time of the monitoring visit.

(b) During the monitoring visit, the team shall examine 10 essential elements of the educational process of the district using prescribed indicators of acceptable performance and documentation as follows:

1. The planning element of the district pursuant to N.J.A.C. 6:8-3.3 shall be rated acceptable upon documentation of performance in five indicators as follows:

i. The district board of education shall approve the objectives of the district after community participation and develop plans of action under the direction of the chief school administrator in consultation with teaching staff members. Documentation of these actions shall include but not be limited to the minutes of district board of education meetings, receipt of objectives and plans of action by the county superintendent of schools, and evidence of staff consultation and community participation.

ii. The county superintendent of schools shall approve the objectives and plans of action of the district pursuant to N.J.A.C. 6:8-3.3(e). The assistant commissioner, Division of County and Regional Services, shall approve the objectives and plans of action in the event of appeal pursuant to N.J.A.C. 6:8-3.3(f). Documentation of these respective actions shall be a letter of approval from the county superintendent or the assistant commissioner.

iii. The district board shall review and discuss the annually developed objectives and plans of action at a public meeting prior to September 30. Documentation of this action shall include but not be limited to minutes of meetings of the district board, news releases or other evidence of dissemination.

iv. The plans of action of the district shall indicate who was involved in developing the plans and the method of involvement. Documentation shall be pursuant to N.J.A.C. 6:8-3.3(b)2ii.

v. The plans of action of the district shall contain a long-range schedule for program evaluation. Documentation of such program shall be a written schedule and procedure for evaluating programs.

2. The school and community relations element of the district shall be rated acceptable upon documentation of performance in i below and one of the remaining three indicators as follows:

i. The district board of education shall share information with the community. Documentation of this shall include but not be limited to letters, newsletters or other media.

ii. The district board of education shall provide opportunity for comment by the public at regularly scheduled

monthly meetings of the district board. Documentation of this opportunity shall be agenda of meetings, reports of ad hoc committees, reports of community surveys and other similar evidence.

iii. The district shall involve business, industry and other community resources in the schools. Documentation of this involvement shall be resource files, cooperative programs, industry loan of materials and/or services, field trips to business and industry, and other similar evidence.

iv. The district shall involve the community as advisors in the decision making process of the district. Documentation shall be by reports of community surveys, membership on ad hoc committees or advisory councils, and other similar evidence.

3. The comprehensive curriculum and instruction element of the district shall be rated acceptable upon documentation of performance in eight indicators as follows:

i. The district board of education shall approve a curriculum for all grades from kindergarten through grade 12 for all subjects including all State mandated programs and services. Documentation of the existence of the curriculum shall include a written or printed curriculum formally cited in the minutes of the meeting at which such curriculum was adopted by the district board.

ii. The district shall implement the curriculum which was adopted by the district board of education. Documentation shall include but not be limited to a written program of studies, a master schedule or reports of program evaluation.

iii. The instructional program of the district shall recognize the individual talents, interests, needs and exceptional abilities of pupils. Documentation of such recognition shall include but not be limited to a written program of studies, a master schedule or reports of program evaluation.

iv. The instructional program of the district shall provide all pupils with guidance and counseling. Documentation shall be a written plan to provide guidance and counseling services for all pupils from kindergarten through grade 12.

v. The instructional program of the district shall provide all pupils with a library skills program. Documentation shall be a written description of a library skills program.

vi. The district shall introduce instruction in effective study and work skills early in the curriculum and reinforce such instruction throughout the curriculum of the district. Documentation of these efforts shall be a written description of the sequential introduction and reinforcement of study skills and work habits throughout the curriculum.

vii. The district shall make provisions for identifying disruptive pupils and providing them with an educational program and services. Documentation of these provisions shall be a written description of the identification process, the results of needs assessment, including out-of-school suspension and expulsion rates, and the year-end violence and vandalism report. If the district board of education deems the implementation of an improvement program as necessary for disruptive pupils, a written description shall be made available as documentation of the district program.

viii. The district board of education shall have the option of making provisions for identifying and providing for disaffected pupils. Documentation of these provisions shall include but not be limited to a description of the identification process, the results of a needs assessment and a statement of the program provisions.

4. The pupil attendance element of the district shall be rated acceptable upon documentation of performance in at least two of five indicators as follows:

i. The average daily attendance rate for the district shall be 90 percent or higher as calculated for the school year immediately prior to the school year in which monitored. Documentation shall be provided using district attendance data to divide total pupil days present for all pupils by total possible pupils days for all pupils and multiplying by 100. The resultant quantity subtracted from 100 shall be the attendance rate.

ii. The district shall implement an attendance improvement plan when the average daily attendance rate is calculated to be between 85 and 89.9 percent for the immediate prior school year. If the rate for the district is less than 85 percent, performance for this element shall be rated unacceptable. Documentation shall be a written attendance improvement plan based on the calculated average daily attendance rate of the district.

iii. Performance in the pupil attendance element shall be acceptable if the average daily attendance rate for each school within the district is at least 85 percent. Documentation shall be calculated using attendance data for the immediate prior school year for each school.

iv. The district shall implement an attendance improvement plan for each school within the district that has an average daily attendance rate for the immediate prior school year of 84.9 percent or below. If the rate is less than 80 percent, performance for this element shall be rated unacceptable.

v. The district shall implement an improvement plan to reduce rate of pupil dropouts. Documentation shall be a written plan to reduce the dropout rate based on an analysis of pupils who drop out of school after completion of the eighth grade.

5. The facilities element of the district shall be rated acceptable by documentation of performance in iv. below and one of the remaining three indicators as follows:

i. The district board of education shall implement a multi-year comprehensive maintenance plan. Documentation shall be a written maintenance plan, budget appropriation and other such records of facilities maintenance.

ii. The district shall perform an inspection of buildings to insure adherence to health and safety laws. Documentation shall be checklists and certificates issued within the last 12 months.

iii. The district shall approve a plan to upgrade or eliminate all standard classrooms. Documentation shall be a substandard classroom facility plan.

iv. The district shall review and revise, as necessary, the long-range facilities plan of the district every five years. Documentation shall be an updated written facilities plan.

6. The professional staff element of the district shall be rated acceptable by documentation of performance in the first five of six indicators as follows:

i. The district board of education shall insure that all professional staff members are certified for the position to which assigned. Documentation shall be obtained by comparison of data of the New Jersey State Department of Education Fall Report and certification records of the Department of Education.

ii. The annual rate of occasional absenteeism for district staff (including teachers and administrators) shall not exceed five percent. Documentation shall be calculated from district staff attendance data for the immediate prior school year by dividing total days of staff occasional absences by total possible days of attendance for all staff and multiplying by 100.

iii. The district board of education shall adopt a review and improvement process to address staff absenteeism, if the an-

nual rate of occasional staff absenteeism exceeds 3.5 percent. Documentation shall be a written description of the review process and improvement plan based on district staff attendance records.

iv. The district shall observe and evaluate tenured and non-tenured teaching and administrative staff pursuant to law and regulation. Documentation shall be a written plan including a schedule of staff observation and evaluation dates, including the name of person(s) responsible to conduct the evaluations.

v. The district shall adopt a staff development program based on the assessed needs of the district. Documentation shall show that school and individual development programs have been developed in consultation with teaching staff members and evaluated for demonstrable results.

vi. Minutes of meetings of the district board of education may be reviewed to determine that the chief school administrator has recommended to the district board formal appointment of all teaching staff members.

7. The mandated programs element of the district shall be rated acceptable upon documentation of performance in six indicators as follows:

i. The county superintendent of schools shall approve the basic skills improvement plan of the district. Documentation shall be a letter of approval from the county superintendent.

ii. The district board of education shall communicate a description of the basic skills improvement plan to the public. Documentation shall be an agenda and/or minutes of meetings of the district board of education indicating that the plan was described to the public, or newsletter and/or other media were used.

iii. The county superintendent of schools shall approve the bilingual and English as a second language ESL education plan of the district. Documentation shall be a letter of approval from the county superintendent.

iv. The district board of education shall communicate a description of the bilingual and ESL education plan to the public. Documentation shall be an agenda and/or minutes of the district board indicating that the plan was described to the public, or newsletters and/or other media were used.

v. The county superintendent of schools shall approve the annual special education plan of the district. Documentation shall be a letter of approval from the county superintendent.

vi. The district board of education shall communicate a description of the annual special education plan to the public. Documentation of this communication shall be an agenda and/or minutes of meetings of the district board indicating that the plan was described to the public, or newsletters and/or other media were used.

8. The mandated basic skills element of the district shall be rated acceptable upon documentation of achievement in the first two of the four indicators as follows:

i. Seventy-five percent of the pupils in grade nine of the district for the immediate prior school year shall have passed the State mandated minimum basic skills test pursuant to N.J.A.C. 6:39-1.2(a) and (b). Documentation shall be obtained by calculation using test results or data from the basic skills improvement application and/or plan of the district.

ii. Test scores of 75 percent of the pupils in grades three and six of each school of the district shall equal or exceed scores prescribed by the State Board of Education for commercially published tests or district criterion-referenced tests approved by the State Board of Education. Documentation shall be obtained from calculations using test results or data in the basic skills improvement application and/or plan of the district.

iii. The district shall develop a basic skills improvement plan pursuant to N.J.A.C. 6:8-3.8(b) for each school within the district that did not have 75 percent of the pupils in grade nine scoring at or above the State standard in the immediate prior school year. Documentation of the improvement plan shall be a written basic skills improvement plan and the test results for grade nine of each school of the district for the immediate prior school year.

iv. The district shall develop a basic skills improvement plan pursuant to N.J.A.C. 6:8-3.8(b) for each school within the district that did not have 75 percent of the pupils in each of grades three and six in the immediate prior school year score at or above the State standards for reading, writing and mathematics on standardized commercially published tests or State approved district criterion-referenced tests. Documentation of the improvement plan shall be a written basic skills improvement plan and the test results for grades three and six for each school of the district for the immediate prior school year.

9. The equal educational opportunity and affirmative action element of the district shall be rated acceptable by documentation of performance in three indicators as follows:

i. The district shall have an approved desegregation plan where required by the Commissioner of Education. Documentation of an approved desegregation plan shall be a written plan and a letter from the commissioner approving such plan.

ii. The district shall review annually progress in the objectives of the State approved affirmative action plans for classroom and employment practices of the district as developed pursuant to N.J.A.C. 6:4-1.3(b). Documentation of annual review shall be a statement by the district of progress in each plan.

iii. The district annually shall implement the affirmative action plans, including inservice training pursuant to N.J.A.C. 6:4-1.3(d), and the desegregation plan, if applicable. Documentation of the implementation of the plans shall be a written statement of objectives and activities for the district and a description of inservice training for personnel of the district.

10. The financial element of the district shall be rated acceptable upon documentation of performance in six indicators as follows:

i. The district board of education shall receive accurate and timely fiscal and statistical reports of the district pursuant to law and regulation. Documentation shall be the recorded submission for the immediate prior school year of the financial reports of the secretary to the district board of education and the financial reports of the treasurer of school monies.

ii. The fiscal and statistical reports of the district shall be accurate and timely in transmittal to county, State and Federal offices pursuant to law and regulation. Documentation shall be the record of submission of applications and reports.

iii. The annual budget for the district shall be developed and presented to the public pursuant to law and regulation. Documentation of these procedures shall be pursuant to N.J.A.C. 6:8-5.

iv. The district shall have an annual audit of accounts and financial transactions pursuant to law and regulation. Documentation shall be the completed audit of accounts and financial transactions for the immediate prior school year as accepted by the district board of education.

v. The district board of education shall implement recommendations cited in audit reports of the district and shall report such implementation to the commissioner. Documenta-

tion of implementation of the recommendations contained in the audit report shall be minutes of meetings of the district board of education and a letter of acknowledgment from the commissioner.

vi. The county superintendent of schools shall approve the cost of pupil transportation for the district. Documentation shall include but not be limited to approved transportation contracts and agreements, transportation route reports and reports of pupil transportation program costs for the district.

(c) The monitoring team shall record its findings on each element using worksheets prescribed by the commissioner.

1. The monitoring team shall review its findings and outline future directions for the district with the chief school administrator at an exit conference.

2. A formal notification of the findings shall be sent to the chief school administrator and board secretary within ten workdays of the completion of the monitoring visit.

3. The notification shall include:

- i. Copies of the completed worksheets;
- ii. A copy of the recommendation to the commissioner of the certification status of the district; and
- iii. If necessary, a statement of future actions to be taken by the district.

(d) Certification of a district shall be based on acceptable rating on all required indicators in the 10 essential elements.

1. For each district that receives an acceptable rating on the required indicators in the 10 essential elements, the county superintendent shall submit a nomination for certification and a summary report of the findings to the commissioner.

2. The commissioner, with approval of the State Board of Education, shall notify the district of State certification.

(e) A district which is certified and is given an unacceptable rating in an indicator(s) which is not required for certification shall include, pursuant to N.J.A.C. 6:8-3.3, the unacceptable indicator(s) as an objective(s) in the annual educational plan of the district for the succeeding year.

(f) A district rated as unacceptable may petition the county superintendent to rescind the rating by presenting written documentation of its performance on indicators previously rated as unacceptable.

(g) The assistant commissioner, Division of County and Regional Services, shall rule on petitions when there is lack of agreement on acceptable performance.

SUBCHAPTER 7. CORRECTIVE ACTION

6:8-7.1 Requirements for review process

(a) The chief school administrator of the district that is formally notified after monitoring that the district is not certified shall organize a self-study team within one month of such notification.

1. The team shall consist of teaching staff members and representatives of the community.

2. The team shall analyze the nature and causes of the problem identified by the monitoring team and, within three months, develop an improvement plan to correct the problems.

3. The plan shall be submitted to the district board of education for approval.

(b) The approved plan shall be submitted to the county superintendent of schools.

1. The county superintendent shall approve or disapprove the plan within one month of receipt.

2. If the plan is approved, the chief school administrator of the district shall be authorized to implement the plan.

3. If the plan is unacceptable, it shall be referred back to the chief school administrator with recommendations.

4. The district shall have one month to make the necessary revisions and resubmit the plan to the county superintendent for approval.

(c) The chief school administrator shall periodically make progress reports at public meetings of the district board of education.

(d) The county superintendent of schools shall monitor the progress of the district and conduct interim reviews at least once every three months.

(e) At the completion of the improvement plan activities, the county superintendent of schools shall determine once again if all the required indicators have been achieved. A formal report shall be submitted to the commissioner to include the following:

- 1. An assessment as to whether the improvement plan was followed;
- 2. An evaluation as to whether the deficiencies have been corrected; and
- 3. A recommendation as to whether the district shall be certified.

6:8-7.2 Corrective action when certification denied

(a) A district which fails to become certified as a result of its own corrective actions shall be reviewed by a team of persons appointed by the county superintendent of schools to address the deficiencies.

1. The team shall number from five to 10 persons according to the expertise required for the review.

2. Specific guidelines and time schedules for the team will be developed by the county superintendent in consultation with the chief school administrator.

3. The team shall be provided with background information about the district prior to visiting the district. The team shall also be provided with the findings of the monitoring team, the findings and recommendations of the self-study team and the results of the implementation of the improvement plan.

4. The team shall spend a minimum of three days in the district to gather as much information through interviews, reports, observations and other such means as deemed necessary to assess the reasons for the inability of the district to satisfy the essential elements.

5. The team may request resource and consultant support from the county superintendent.

(b) Specific recommendations to correct the deficiencies of the district shall be developed by the team and submitted to the county superintendent of schools for approval.

(c) The county superintendent of schools shall either approve the recommendations of the team or develop alternative recommendations in conjunction with team members or other resource persons.

(d) The approved recommendations shall be transmitted to the chief school administrator of the district for implementation. The chief school administrator shall establish an action plan within the time schedule of the approved recommendations and incorporate the action plan into the annual education plan of the district.

(e) The county superintendent of schools shall monitor and evaluate progress at least once every three months and present findings at the next regularly scheduled monthly meeting of

the district board of education. The county superintendent shall continue to monitor and evaluate until the district is certified.

6:8-7.3 Corrective action by Commissioner of Education

Any noncertified district which does not demonstrate reasonable progress toward compliance with the provisions of N.J.S.A. 18A:7A-1 et seq. (Public School Education Act of 1975) and New Jersey Administrative Code, Title 6, Education, and toward the resolution of major problems shall be subject to further intervention by the Commissioner of Education as provided by law.

(a)

STATE BOARD OF EDUCATION

School Health Services Procedures

Readoption with Amendments: N.J.A.C. 6:29-4

Proposed: February 21, 1984, at 16 N.J.R. 300(a).
Adopted: June 12, 1984, by State Board of Education,
Saul Cooperman, Secretary.
Filed: June 13, 1984, as R.1984 d.264, with **substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 18A:4-15, 18A:16-2, 18A:40-3,
18A:40-4, and 18A:40-16.

Effective Date for Readoption: June 13, 1984.
Effective Date for Amendments: July 2, 1984.
Expiration Date pursuant to Executive Order No.
66(1978): July 1, 1989.

Summary of Public Comments and Agency Responses:

Three letters were received commenting on various provisions of the proposed readoption of the rules governing School Health Services Procedures. The majority of comments reflected agreement with the proposed changes.

One commenter expressed three concerns in reference to the dental examination portion of the rule, N.J.A.C. 6:29-4.1:

1. She requested that the current reference to "dental assistant" be removed from the code and replaced by the term "Registered Dental Hygienist." The Department believes that since there is no existing statutory mandate requiring district boards of education to employ dental assistants, or anyone in that capacity, it should therefore remain the prerogative of the policy making mechanism of district boards of education to determine the most appropriate person for the position.

2. She also questioned the Department's elimination of the requirement to notify parents of the results of the dental examination. To eliminate repetition from the rule, the Department deleted this requirement from N.J.A.C. 6:29-4.4(d), but the requirement was retained in N.J.A.C. 6:29-4.1(d). The only thing actually removed from the rule was the requirement that a specific form be used in the reporting process.

3. Her third comment questioned the Department's elimination of the dental form. The Department requires the dental information to be recorded on the pupil's permanent health record. The elimination of the specific dental record prevents the mandating of duplicative procedures.

Another commenter requested that the Department revert to the multiple puncture technique for screening for tuberculosis infection. The present requirement, using the Mantoux test, was adopted in 1982 after thorough study and review. The Department's decision was based upon consultation with members of the New Jersey State Department of Health.

Finally, one commenter questioned the wisdom of transferring the original health record when a pupil moves to another district. The commenter suggests that the district retain the original and forward a copy, thus insuring that for those pupils who move frequently the original will remain safe. The Department realizes that there is a possibility of the record being lost in transit, but the health record contains pertinent health data and should accompany the pupil's other school records to the new district. In reality, the record belongs to the pupil, and original signatures of examining physicians might be required for subsequent treatment or consultation.

Full text of the readoption follows (addition to the proposal shown in boldface with asterisks *thus*; deletions from the proposal shown in brackets with asterisks *[thus]*).

6:29-4.1 Dental examination

(a) The school dentist shall direct the professional duties or activities of the dental assistant or of the nurse assigned to the dental service.

(b) Reparative dentistry shall be limited to pupils whose parents indicate consent to such treatment. In no case shall a pupil be required to undergo treatment against his or her will.

(c) Each school dentist or any dentist examining or treating pupils with the approval of the district board of education shall record the results of examinations, treatment administered, and recommendations upon the health records of the pupils.

(d) The results of dental examinations or of treatment administered or recommended shall be reported to parents.

6:29-4.2 Testing for tuberculosis infection

(a) (No change.)

6:29-4.3 Communicable disease

(a) The rules of a district board of education pertaining to the prevention and control of communicable disease, including a readmission policy, in schools shall be distributed to all principals, medical inspectors, and nurses. The rules shall be explained by the health service staff to the entire school personnel at the beginning of each school year.

(b) Any pupil who appears to be ill or who is suspected of having a communicable disease shall be excluded from school or isolated at school to await instructions from or the arrival of an adult member of his or her family, the medical inspector or the school nurse.

(c) Any pupil retained at home or excluded from school by reason of having or suspected of having communicable disease shall not be readmitted to his or her classroom until he or she presents written evidence of being free of communicable disease. Such evidence may be by a qualified physician*[,] *or* the medical inspector *[or the school nurse]* who has examined the pupil.

(d) The rules of the local board of health or the State Department of Health pertaining to communicable diseases among school children shall apply in determining periods of incubation, communicability, quarantine, and reporting.

6:29-4.4 Record and reports

(a) Each medical inspector shall record the results of examinations upon a record form recommended by the Commissioner of Education. Such form shall be kept in a permanent file and shall be the property of the district board of education and shall be preserved. The original health record shall be forwarded with other school records of pupils who transfer to another school district. If a child leaves school for any other reason, the record shall remain the property of the school.

(b) The results of health examinations or of emergency treatment administered or recommended by the medical inspector shall be reported to parents.

6:29-4.5 Nursing services

All nurses engaged in any capacity in the public schools shall comply with the rules and regulations of the district board or boards of education having jurisdiction, and shall be subject to the administrative authority of such school and school districts.

ENVIRONMENTAL PROTECTION

(a)

OFFICE OF SCIENCE AND RESEARCH

Worker and Community Right to Know Act Environmental Hazardous Substance List

Adopted New Rule: N.J.A.C. 7:1G

Proposed: April 2, 1984 at 16 N.J.R. 646(a).

Adopted: June 15, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: June 18, 1984 as R.1984 d.278, **with substantive and technical changes** not requiring additional public notice and comment.

Authority: N.J.S.A. 34:5A-1 et seq. and N.J.S.A. 13:1D-9.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): July 2, 1989.

DEP Docket No. 012-84-03.

Summary of Public comments and Agency Responses, and Revisions to Proposal:

The Department heard testimony from 14 persons at two public hearings held on April 30, 1984 at Cook Campus,

Rutgers University, New Brunswick and on May 2, 1984 at the College of Arts and Sciences, Rutgers University, Camden. Copies of hearing transcripts and the 15 written comments regarding the proposed new rule are available for inspection at the Office of Science and Research, 190 West State Street, Trenton, New Jersey 08625.

A summary of testimony presented and comments received and Department responses thereto are presented below. A copy of the Report of Public Hearing which provides additional information and responses to comments is not addressed in this Notice is available from the Department and is also on file with the Office of Administrative Law.

In the July 16, 1984 Register, the Department will publish its proposal to add four chemicals to the EHS list. Based on further research, the Department established that the following four compounds meet the criteria established for inclusions on the list:

| | Chemical Abstract Service Number |
|---------------------------|----------------------------------|
| Amitrol | 61-82-5 |
| 1,1-Dimethylhydrazine | 57-14-7 |
| Hexachlorocyclopentadiene | 77-47-4 |
| Vinylidene Chloride | 75-35-4 |

Summary of Revisions to Proposal

The Department is adopting the new rule with the following changes to the proposal:

A. Deletion of Three Compounds

The Department continued to examine information on the chemicals on the Environmental Hazardous Substance List (EHS) based on comments received during the comment period. As a result of this research, the Department determined that the following chemicals do not meet the criteria for inclusion on the EHS list and will delete them from the proposal:

| | Chemical Abstract Service Number |
|-----------------------|----------------------------------|
| Butyl Benzylphthalate | 85-68-7 |
| Chloramben | 133-90-4 |
| C.I. Acid Blue 9 | 2650-18-2 |

B. List of Inorganics Substances

The Department has reached the conclusion that instead of listing the inorganics as "element and salts" as proposed, it would be more appropriate to list them as "element and compounds". This designation would clarify the Department's intent to include the various oxides of certain substances on the EHS list. This change from the proposal should result in an insignificant increase in the reporting requirements for these chemicals.

C. Change on the Survey Form

Surveys will request the major methods of storage and types of container, rather than simply the major method of storage and type of container as originally proposed.

D. Waiver of Requirement to Complete the Emergency Services Information Survey

The Department will allow employers to provide a certification from local fire departments that employer emergency plans are adequate to enable fire officials to respond to emergencies. This would be in lieu of meeting the requirements of N.J.A.C. 7:1G-5.1, -5.2 and -5.3.

Summary of Comments and Agency Responses

GENERAL COMMENTS

1. Comment: What are the penalties for noncompliance?

Response: Section 33 of the Act sets forth several penalties for noncompliance of up to \$5,000 per day.

2. Comment: An exemption should be included for commercial products which are used by an employer and can be obtained by any consumer.

Response: The purpose of the survey reporting requirements is to identify potential hazards to the community and the environment. Therefore, all substances used or stored at an employer's facility should be considered for reporting based on inventory quantity.

Reporting requirements for "consumer products" will be addressed in the instructions provided with survey forms.

3. Comment: New Jersey should delay implementation of the Right-to-Know Act until the preemption issue is settled.

Response: The legislature has mandated that the Department implement the Act. It includes no provisions for delaying such implementation. The Department, therefore, has no discretion to delay its implementation until a future unknown date for resolution of any issues of Federal preemption.

By order of the United States Court of Appeals for the Third Circuit, dated January 23, 1984, the State was granted leave to intervene on behalf of the petitioners, United Steel Workers of America, AFL-CIO-CLC, on Petition for Review of a Rule Adopted by the United States Department of Labor, 29 C.F.R. 1900 (November 23, 1983). Regardless of any determination on petition for review, it is unlikely that the community portion of the Act, under the jurisdiction of the Department of Environmental Protection, would be affected.

4. Comment: 1) The U.S. Department of Transportation (USDOT) 101 list (49 CFR part 172.101) should be used for the Emergency Services Information Survey rather than the USDOT 102 list (49 CFR part 172.102) as proposed.

2) The USDOT 101 list should be merged with the USDOT 102 list for the Emergency Services Information Survey.

Response: The Department is adopting the USDOT 102 list as proposed in N.J.A.C. 7:1G-5.1. The USDOT 102 and 101 lists overlap to a great degree. The Department will ask the Right to Know Advisory Council to review the U.S. DOT 101 list and make its recommendations to the Department.

The Department will provide instructions to employers on how to complete the surveys. The instructions will advise employers of their option to voluntarily provide information on substances listed on the USDOT 101 list which are not on the USDOT 102 List. In any event, all employees are required to report on USDOT 102 substances. Employers may use either the United Nations (U.N.) numbers or North America (N.A.) number to identify such substances.

COMMENTS ON N.J.A.C. 7:1G-2

5. Comment: The Department of Environmental Protection should not use Criteria I (evidence of significant production or use) in evaluating chemicals for inclusion on the Environmental Hazardous Substance List.

Response: The purpose of the Environmental Survey is to obtain information on chemicals currently produced and used. There are 5 million known chemicals and, of those, 53,000 are important in commerce. In order to develop a useful Environmental Hazardous Substance List, the Department focused on chemicals used in commerce. Some carcinogens are currently used only in research on the mechanisms of

carcinogenesis. Additionally, some of the pesticides that were environmental problems in the past, such as Mirex and chlor-decane (Kepon), have been banned by EPA.

A second reason for this criteria is that chemicals used in small quantities are not going to be found in the environment to any significant degree. There is a dilution effect when a chemical is emitted from a plant either via a wastewater discharge or through stack or fugitive emissions. Only chemicals that are produced or used in significant quantities are likely to be emitted into the environment in measurable quantities.

6. Comment: There are 38 substances which the Department of Environmental Protection considered, but did not include on the EHS List; however the Department of Health (DOH) included them on the Workplace Hazardous Substance List. The Department of Environmental Protection should include these substances on the EHS List.

Response: There are 269 chemicals or groups of chemicals that the Department of Environmental Protection considered for inclusion on the Environmental Hazardous Substance List. Since 116 of these substances did not meet the criteria established for inclusion on the list, the Department of Environmental Protection did not include them. The DOH's Workplace Hazardous Substance List includes 38 of these 116 chemicals. The Department reexamined these 38 chemicals and decided, on the basis of new evidence received during the comment period, to include three of them. The results are summarized below.

Two of the chemicals are pesticides that have been banned by EPA. They are chlordecone (143-50-0) and Mirex (2385-85-5). A third pesticide, Endrin (72-20-8), has been severely restricted in its use by EPA. Its use is prohibited in New Jersey, and it is not manufactured in New Jersey.

The following 12 chemicals are not produced commercially in the United States. The Department was unable to find evidence that significant amounts of these chemicals are imported into the United States.

1. Benzidine (92-87-5)
2. Bis(2-chloromethyl)ether (542-88-1)
3. Calcium cyanamide (156-62-7)
4. 1,3-Dichlorobenzene (541-73-1)
5. Dieldrin (60-57-1)
6. Diepoxybutane (1464-53-5)
7. 2-Naphthylamine (91-59-8)
8. N-Nitrosodiethylamine (55-18-5)
9. N-Nitrosodimethylamine (62-75-9)
10. PBBs (59536-65-1)
11. 2,4,5-T (93-76-5)
12. 2,4,6-Trichlorophenol (88-06-2)

The Department was unable to find documented scientific evidence that the following 11 chemicals or groups of chemicals pose a potential chronic health effect to the general public or an environmental effect:

1. 1,2-Dichloroethylene (540-59-0)
2. Endosulfan (115-29-7)
3. Maleic anhydride (108-31-6)
4. Methyl bromide (74-83-9)
5. Methyl chloride (74-87-3)
6. Nitrobenzene (98-95-3)
7. 2-Nitrophenol (88-75-5)
8. Selenium and compounds (7782-49-2)
9. Silver and compounds (7440-22-4)
10. Trichlorofluoromethane (75-69-4)
11. Zinc and compounds (7440-66-1)

The following eight chemicals or groups of chemicals, while exhibiting some potential chronic health or environmental

effect, have very limited use in commerce, and are not produced in significant amounts. Since any potential harm from these chemicals would be limited to occupational exposure, the Department determined that their inclusion on the Workplace Hazardous Substance List is sufficient protection for the public.

1. Bis(2-chloroethyl)ether (111-44-4)
2. Bromoform (75-25-2)
3. 2-Chlorophenol (95-57-8)
4. 4,6-Dinitro-o-cresol (534-52-1)
5. beta-Propiolactone (57-57-8)
6. Propyleneimine (75-55-8)
7. Thallium and compounds (7440-28-0)
8. Vinyl bromide (593-60-2)

The Department received evidence indicating that three substances not included on the List are produced or used in quantities over 10,000 lbs. per year in the United States. It will, therefore, publish a notice of proposal in the July 16, 1984 Register to add the following to the EHS List: 1,1-Dimethyl hydrazine (57-14-7), hexachlorocyclopentadiene (77-47-4), and vinylidene chloride (75-35-4).

7. Comment: The Environmental Hazardous Substance (EHS) List and the United States Department of Transportation list (USDOT) should be merged.

Response: The USDOT list consists of materials that are potential safety hazards. USDOT did not intend that the list consist of chemicals which pose a threat to the environment in "nonemergency" situations. (see comment 24). Since any of these substances do not pose a long-term threat to health or the environment, a criteria for the EHS List, it is inappropriate to add them to the EHS List without a complete scientific assessment.

8. Comment: What are the procedures for amending the Environmental Hazardous Substances List? Are amendments subject to formal administrative procedures?

Response: The Department has not established specific procedures for amending the List; rather it intends to consult with the Advisory Council yet to be established pursuant to the Act, in developing such procedures. Any amendments to the List would be subject to formal administrative procedures contained in the Administrative Procedure Act. Under the APA a person may petition the Department to amend or adopt a new rule.

9. Comment: A person should be allowed to petition for addition of chemicals to the Environmental Hazardous Substance list with a formal hearing in 90 days.

Response: The Act does not specify a period of time for review of a petition to add chemicals to the Environmental Hazardous Substance List. Furthermore, the Act does not require that a hearing be held on any proposed amendments to the Environmental Hazardous Substance List. An arbitrary 90 day period might prevent the Department from conducting a thorough review of scientific literature or, if no such literature is available, its own research on such chemicals.

10. Comment: There were specific objections to the use of the following three categories used to evaluate chemicals for inclusion on the EHS List: Animal carcinogen—suspect; animal carcinogen—promoter; and animal teratogen—suspect.

Response: There are about 53,000 chemicals that are commercially important. Only a few hundred chemicals have undergone adequate animal testing due to the cost and length of time involved for an adequate carcinogenicity bioassay, and even fewer chemicals have been adequately tested for teratogenicity. It is the Department's position that where there

exists limited evidence of carcinogenicity or teratogenicity, it is necessary to err on the side of caution, and consider those substances as having the potential for causing an adverse health effect. In the future, when adequate testing of those chemicals has been completed, those results will be considered and the EHS list will be updated accordingly. (see 16 N.J.R. 649, Section VIII. 13.4 and 6.)

The Department considers it important to include on the EHS List the category of chemicals that have been shown to promote carcinogenicity in animals. A promoter increases the tumorigenic response in the test animal when it is administered after a carcinogen. People are exposed to carcinogens everyday (asbestos, benzo(a)pyrene, benzene, formaldehyde, chloroform, EDB, cigarette smoke). Since it is impossible at this time to eliminate exposure of the general population to initiators of carcinogenesis, it is important to consider promoters of carcinogenesis as potential health hazards. (see 16 N.J.R. 649, Section VII, D.3).

11. Comment: The inorganic substances should be listed as specific salts, and not as "Element and Compounds".

Response: The Department is interested in the total amount of inorganic substances which enter the environment as air emissions, wastewater discharges, and solid waste disposal. The Department would like to oblige and list all the various inorganic compounds separately; however, it does not have adequate information as to which specific inorganic compounds are used by industry. The Department hopes that during the first two years of this survey it will be possible to identify the specific inorganic compounds that are used in New Jersey in significant amounts to revise the EHS list.

In the meantime, in order to get more information on total inorganic emissions, the Department is revising the EHS list as proposed, to identify inorganic substances as "element and compounds". For example, arsenic and salts, as proposed, is adopted as arsenic and compounds.

12. Comment: "High photochemical activity" should not be a criterion for placement on the Environmental Hazardous Substance List.

Response: Several compounds have been proposed for the Environmental Hazardous Substances List because of their photochemical reactivity. Photochemical reactivity is a qualitative description for the reaction that occurs when a substance breaks down into new products upon exposure to high light energy. Photoreactivity is an intrinsic property of a chemical. It is contributing factor in the production of smog which, in turn, aggravates such respiratory conditions as asthma. Photoreactivity, therefore, results in chronic health effects. Consequently, the Department has included this chemical property as part of Criteria 2.

13. Comment: The Department should adopt a one percent minimum for materials in mixtures.

Response: The Act does not establish minimum levels for reporting Environmental Hazardous Substances as it does for hazardous substances regulated by the Department of Health. The Department of Environmental Protection, at this time, is not adopting minimum reportable quantities.

14. Comment: The Environmental Hazardous Substance list should not be finalized until the trade secret provisions are proposed and adopted.

Response: The specific chemicals proposed for inclusion on the EHS list have no bearing on the procedures for asserting a trade secret claim. The Department of Environmental Protection and the Department of Health will shortly be proposing joint regulations and anticipate adoption of the regulations

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before distribution of surveys to employers. In the event that such adoption does not occur prior to the mailings, employers will be advised by way of instructions for completion of surveys, on how to protect trade secrets until formal procedures are adopted, by regulation.

15. Comment: Questions were raised about specific chemicals on the proposed Environmental Hazardous Substance list.

Response: As part of its continuing review of scientific literature and in response to new information submitted during the comment period for the proposal, the Department has deleted the following three chemicals from the proposed Environmental Hazardous Substance List: butyl benzylphthalate, chloramben, and C.I. Acid Blue 9. A summary of the reasons for the deletions is provided below.

A. Butyl Benzylphthalate—This chemical, widely used as a plasticizer, was put on the EHS list based on the fact that it can bioaccumulate in fish tissue. After the April 2, 1984 proposal, the Department received additional information on the environmental effects of this chemical along with information on possible health effects that could be attributed to this chemical.

Butyl benzylphthalate is considered only slightly toxic. The oral LD₅₀ (lethal dose at which 50% of the test animals die) for rats and mice is between 2.3 and 6.2 gm/kg of body weight. In addition, there is no evidence presently available to show that this chemical can cause a chronic health effect. It has been inadequately tested for carcinogenicity, and there is no data available at this time to allow for the assessment of teratogenicity. However, this chemical has always been found to be non-mutagenic in several bacterial mutagenicity assays as well as mammalian cell assay.

In the environment, butyl benzylphthalate has been shown to be rapidly degraded in river water and by activated sludge treatment systems. There is evidence that it does bioaccumulate in blue gill trout and fathead minnows, but studies on bluegill trout indicate that it is rapidly metabolized. The half-life for the chemical is less than two days indicating that this chemical does not persist in fish.

For the foregoing reasons, the Department is deleting the chemical from the proposed EHS list.

B. Carbaryl—The Department received comments concerning the listing of this pesticide as a suspected teratogen. A review of the teratology literature led to the conclusion that there is currently insufficient evidence available to list carbaryl as a suspected teratogen. However, a review of the mutagenicity literature revealed that carbaryl is positive in both *in vitro* and *in vivo* mutagenicity assays.

Teratology assays on carbaryl have been carried out on ten mammalian species. Only the tests on dogs showed a probable positive response. It is generally accepted that this response is due to a unique metabolic pathway in dogs. The Department feels that there is currently insufficient information available to list carbaryl as a suspected teratogen.

Carbaryl has been shown to produce recessive lethal mutations in insects (*Drosophila*) and has produced positive results in a mammalian cell mutagenicity assay. Therefore, the Department has decided to retain carbaryl on the EHS list as a mutagen.

C. Chloramben—The pesticide chloramben was proposed for inclusion on the EHS list based on a National Cancer Institute (NCI) bioassay which was published in 1977. This study resulted in the listing of this pesticide as a suspected animal carcinogen. After the April 2, 1984 proposal, the De-

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partment received additional information concerning the quality of the bioassay, specifically a scientific audit of the bioassay. This review showed that there were serious flaws in both the design, implementation and interpretation of this bioassay. As a result the Department concluded that there is insufficient data available to assess the carcinogenicity of chloramben. In addition, the Department considered it significant that chloramben was negative when tested in an *in vitro* mutagenicity assay.

The Department has, therefore, determined that there is insufficient evidence available to include chloramben on the EHS list, and has deleted it from the proposed list.

D. C.I. Acid Blue 9 (FD&C Food Blue #1, Brilliant Blue FCP)—This dye was placed on the EHS list based on a carcinogenesis bioassay on rats using subcutaneous injection of the compound. After the April 2, 1984 proposal, the Department reevaluated this study and now considers it inadequate based on current standards for determining carcinogenicity. Additionally, the Department received the results of an FDA sponsored feeding study on this dye which was completed in 1981. The results of this latter study were negative for both rats and mice. Based on this recent study, the Department is deleting C.I. Acid Blue 9 from the EHS list.

E. Gasoline—There were a few comments suggesting that gasoline should be included on the EHS list. Since the Department is interested in identifying those hazardous substances released into the environment it has listed hazardous compounds of gasoline rather than gasoline itself. It should be noted that gasoline is included in N.J.A.C. 7:1G-5.1. In the future, the Department will consult with the Right to Know Advisory Council on how to handle gasoline and other mixtures which may be hazardous. As decisions are made, the EHS list will be amended accordingly.

16. Comment: All employers reporting use of an Environmental Hazardous Substance on Part I of the Environmental Survey should be required to complete a Part II Survey.

Response: In its proposal, the Department set forth considerations which would be the basis for distribution of the Part II Survey forms to selected employers (see 16 N.J.R. 647,648). The purpose of the two part survey is to eliminate unnecessary paperwork for the employer and the Department.

17. Survey forms should be included in the regulations.

Response: This was not required by the Act. Sample forms were published in the Basis and Background Document.

18. Comment: More than one major method of storage should be required in the Part I Survey. The definition of container was questioned.

Response: The Department has decided to require the major methods of storage. The exact definition of 'container' will be included in the instructions.

19. Comment: The Department of Environmental Protection should use the Department of Health Workplace Survey instead of Part I of the Environmental Survey.

Response: The Act provides that the two agencies prepare separate surveys. Part I of the Environmental Survey includes questions on quantities of substances, storage methods, and other information not found in the Workplace Survey.

COMMENTS ON N.J.A.C. 7:1G-4 and -5

20. Comment: Comments received concerning the authority of the Department to adopt N.J.A.C. 7:1G-4 and -5 addressed the authority of the Department to adopt N.J.A.C. 7:1G-4 and -5.

Senator Dalton, sponsor of the Act in the Senate, testified in favor of the proposed Hazardous Materials List (N.J.A.C. 7:1G-4) as follows:

. . . Even though this survey [EST Survey] is not specifically outlined in the Act, I believe it constitutes an appropriate means for the Department to fulfill another of its responsibilities under the Act. The annual updating of the Environmental Hazardous Substance List. By collecting basic information on substances on the DOT list, the Department can accumulate information on the kinds and quantities of hazardous substances coming into the State, and will have a valid statistical basis for adding substances to the Environmental Hazardous Substances List. . . .

Response: In the proposal, the Department set forth its reasons for proposing the ESI Survey and the Hazardous Materials List. (See 16 N.J.R. 648.) Senator Dalton's testimony quoted above is a concise statement of the Department's intent in making this proposal. The Department is adopting N.J.A.C. 7:1G-4 as proposed. It will also adopt N.J.A.C. 7:1G-5 with a change that would enable an employer to receive a waiver of N.J.A.C. 7:1G-5. A waiver would be granted upon a demonstration that an employer has filed a plan with its local fire department adequate to enable fire officials to respond to emergencies.

21. Comment: Information on the Emergency Services Information Survey is not afforded by the trade secret protection of the other two surveys (Part I and Part II Environmental Surveys).

Response: The Department of Environmental Protection and the Department of Health will jointly propose regulations governing protection of trade secret information. The regulations will include a provision for protecting trade secret information contained on the Emergency Services Information Survey.

22. Comment: What is the mechanism for public access to the information of the Emergency Information Survey?

Response: The completed Emergency Services Information Surveys will be made available to the public upon request to the Department. All inquiries must be in writing and should specify the facility or facilities about which the individual is seeking ESIS data. The request should also name the municipality and county where the facility is located. The written inquiries should be sent to:

N.J. Department of Environmental Protection
Office of Science and Research
Attn: Right to Know (ESIS)
CN 405
Trenton, New Jersey 08625

23. Comment: What is the mechanism by which Emergency Services Information (ESI) Survey will be distributed to firemen, police, and emergency personnel?

Response: After an employer has completed the ESI Survey, a copy is to be forwarded to the Department, the municipal police department, and the fire company with jurisdiction over the particular facility. The Department is investigating the best method of determining the appropriate fire company with jurisdiction over the particular facility. The Department is investigating the best method of determining the appropriate fire company and will provide information in the survey instructions.

24. Comment: The Right-to-Know Act requires that Chemical Abstract Services (CAS) numbers be used for all chemicals. Why are United Nation (UN) numbers used for the Hazardous Materials List?

Response: The Hazardous Materials List is based on the United States Department of Transportation Optional Hazardous Substance List which uses UN numbers. Although some substances on this list are identifiable by CAS number, others are not. Therefore, the Department of Environmental Protection has decided to retain the USDOT number identifying system. The Department will allow employers to use either the UN number (USDOT 102 List) or the North America (NA) number (USDOT 101 List).

Upon request, the Department will provide employers with applicable CAS numbers for any chemical on the Hazardous Materials List which has such a number.

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

CHAPTER 1G WORKER AND COMMUNITY RIGHT TO KNOW REGULATIONS

SUBCHAPTER 1. GENERAL PROVISIONS

7:1G-1.1 Scope

Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department implementing the Worker and Community Right to Know Act, P.L. 1983 c.315, N.J.S.A. 34:5A-1 et seq.

7:1G-1.2 Definitions

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

"Act" means the Worker and Community Right to Know Act, P.L. 1983 c.315, N.J.S.A. 34:5A-1 et seq.

"Chemical Abstracts Service number" or "C.A.S. number" means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

"Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

"Common name" means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

"Container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. "Container" shall not include process containers.

"Department" means the New Jersey Department of Environmental Protection unless the context clearly indicates otherwise.

"Emergency Services Information Survey" or "ESI Survey" means a written form prepared by the Department and transmitted to an employer, on which the employer shall provide certain information concerning each of the Hazardous Materials at his facility, including, but not limited to, the following: the name of the Hazardous Material and its ***[United Nation (U.N.)]* *United States Department of Transportation identification number,*** the United States Department of Transportation designated hazard class, the approximate range of the maximum inventory quantity, the units of measure, ***[and]*** the major method***s*** of storage or

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type*s* of container*s*, and whether the substance is present in a mixture.

“Employer” means any person or corporation in the State engaged in business operations having a Standard Industrial Classification, as designated in the Standard Industrial Classification Manual prepared by the Federal Office of Management and Budget, within Major Group numbers 20 through 39 inclusive (manufacturing industries), numbers 46 through 49 inclusive (pipelines, transportation services, communications, and electric, gas, and sanitary services), number 51 (wholesale trade, nondurable goods), number 75 (automotive repair, services, and garages), number 76 (miscellaneous repair services), number 80 (health services), number 82 (educational services), and number 84 (museums, art galleries, botanical and zoological gardens). For the purposes of N.J.A.C. 7:1G “employer” means the State and local governments, or any agency, authority, department, bureau, or instrumentality thereof.

“Environmental Hazardous Substance” means any substance designated by the Department in N.J.A.C. 7:1G-2.

“Environmental Hazardous Substance List” means the list of Environmental Hazardous Substances in N.J.A.C. 7:1G-2.

“Environmental Survey” means a written form, *entitled **Part I or Part II, as the case may be,*** prepared by the Department of Environmental Protection and transmitted to an employer, on which the employer shall provide certain information concerning each of the environmental hazardous substances at the facility, including, but not limited to, the following:

1. The chemical name and Chemical Abstracts Service number of the environmental hazardous substance;
2. A description of the use of the environmental hazardous substance at the facility;
3. The quantity of the environmental hazardous substance produced at the facility;
4. The quantity of the environmental hazardous substance brought into the facility;
5. The quantity of the environmental hazardous substance consumed at the facility;
6. The quantity of the environmental hazardous substance shipped out of the facility, as or in, products;
7. The maximum inventory of the environmental hazardous substance stored at the facility, the methods of storage, and the frequency and methods of transfer;
8. The total stack or point-source emissions of the environmental hazardous substance;
9. The total estimated fugitive or non point-source emissions of the environmental hazardous substance;
10. The total discharge of the environmental hazardous substance into the surface or groundwater, the treatment methods, and the raw wastewater volume and loadings;
11. The total discharge of the environmental hazardous substance into publicly owned treatment works; and
12. The quantity and methods of disposal, of any wastes containing an environmental hazardous substance, the methods of on-site storage of these wastes, the location or locations of the final disposal site for these wastes, and the identity of the hauler of the wastes.

“Facility” means the building, equipment and contiguous area at a single location used for the conduct of business. For the purpose of this chapter, “Facility” shall not include a research and development laboratory.

“Hazardous Material” means any substance designated by the Department in N.J.A.C. 7:1G-4.

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“Hazardous Materials List” means the list of Hazardous Materials designated by the Department in N.J.A.C. 7:1G-4.

“Mixture” means a combination of two or more substances not involving a chemical reaction.

“Research and development laboratory” means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which environmental hazardous substances are used by or under the direct supervision of a technically qualified person.

SUBCHAPTER 2. ENVIRONMENTAL HAZARDOUS SUBSTANCE LIST

7:1G-2.1 Designation of Substances

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

| Chemical | CAS Number | Group Number |
|-------------------------------------|---------------|--------------|
| ACETALDEHYDE | 75-07-0 | 02 |
| ACROLEIN | 107-02-8 | 02 |
| ACRYLIC ACID | 79-10-7 | 01 |
| ACRYLONITRILE | 107-13-1 | 23 |
| ALDRIN | 309-00-2 | 28 |
| ALLYL CHLORIDE | 107-05-1 | 15 |
| 2-AMINOANTHRAQUINONE | 117-79-3 | 31 |
| ANILINE | 62-53-3 | 06 |
| 0-ANISIDINE | 90-04-0 | 06 |
| ANTHRACENE | 120-12-7 | 07 |
| ANTIMONY AND *[SALTS]* *COMPOUNDS* | 7440-36-0 | 19 |
| ARSENIC AND *[SALTS]* *COMPOUNDS* | 7440-38-2 | 19 |
| ASBESTOS | 1332-21-4 | 19 |
| BENZAL CHLORIDE | 98-87-3 | 16 |
| BENZENE | 71-43-2 | 07 |
| BENZOTRICHLORIDE | 98-07-7 | 16 |
| BENZOYL CHLORIDE | 98-88-4 | 01 |
| BENZOYL PEROXIDE | 94-36-0 | 27 |
| BENZYL CHLORIDE | 100-44-7 | 16 |
| BERYLLIUM AND *[SALTS]* *COMPOUNDS* | 7440-41-7 | 19 |
| BIPHENYL | 92-52-4 | 07 |
| BIS(2-CHLORO-1-METHYLETHYL) ETHER | 108-60-1 | 13 |
| BIS(2-ETHYLHEXYL)ADIPATE | 103-23-1 | 12 |
| BIS(2-ETHYLHEXYL)PHTHALATE | 117-81-7 | 12 |
| BUTADIENE | 106-99-0 | 03 |
| *[BUTYL BENZYL PHTHALATE]* | *[85-68-7]* | *[12]* |
| 1,2-BUTYLENE OXIDE | 106-88-7 | 11 |
| *[C.I. ACID BLUE 9]* | *[2650-18-2]* | *[10]* |
| C.I. ACID GREEN 3 | 4680-78-8 | 10 |
| C.I. BASIC GREEN 4 | 569-64-2 | 10 |
| C.I. BASIC RED 1 | 989-38-8 | 10 |
| C.I. DIRECT BLACK 38 | 1937-37-7 | 10 |
| C.I. DIRECT BLUE 6 | 2602-46-2 | 10 |
| C.I. DIRECT BROWN 95 | 16071-86-6 | 10 |
| C.I. DISPERSE YELLOW 3 | 2832-40-8 | 10 |
| C.I. FOOD RED 5 | 3761-53-3 | 10 |
| C.I. FOOD RED 15 | 81-88-9 | 10 |
| C.I. SOLVENT ORANGE 7 | 3118-97-6 | 10 |
| C.I. SOLVENT YELLOW 1 | 60-09-3 | 10 |
| C.I. SOLVENT YELLOW 3 | 97-56-3 | 10 |
| C.I. SOLVENT YELLOW 14 | 842-07-9 | 10 |

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| Chemical | CAS Number | Group Number |
|---|--------------|--------------|
| C.I. VAT YELLOW 4 | 128-66-5 | 10 |
| CADMIUM AND *[SALTS]* *COM- POUNDS* | 7440-43-9 | 19 |
| CAPTAN | 133-06-2 | 28 |
| CARBARYL | 63-25-2 | 28 |
| CARBON TETRACHLORIDE | 56-23-5 | 14 |
| CATECHOL | 120-80-9 | 29 |
| *[CHLORAMBEN]* | *[133-90-4]* | *[28]* |
| CHLORDANE | 57-74-9 | 28 |
| CHLOROBENZENE | 108-90-7 | 16 |
| CHLOROFORM | 67-66-3 | 14 |
| CHLOROPRENE | 126-99-8 | 15 |
| CHLOROTHALONIL | 1897-45-6 | 28 |
| CHROMIUM AND *[SALTS]* *COMPOUNDS* | 7440-47-3 | 19 |
| COPPER AND *[SALTS]* *COM- POUNDS* | 7440-50-8 | 19 |
| P-CRESIDINE | 120-71-8 | 06 |
| CUMENE | 98-82-8 | 07 |
| CUMENE HYDROPEROXIDE | 80-15-9 | 27 |
| CYANIDE *[ION]* *COMPOUNDS* | 57-12-5 | 19 |
| 2,4-D | 94-75-7 | 28 |
| DECABROMODIPHENYL OXIDE | 1163-19-5 | 13 |
| DIALLATE | 2303-16-4 | 28 |
| 2,4-DIAMINOANISOLE | 615-05-4 | 06 |
| 4,4'-DIAMINODIPHENYL ETHER | 101-80-4 | 13 |
| 2,4-DIAMINOTOLUENE | 95-80-7 | 06 |
| 1,2-DIBROMOETHANE | 106-93-4 | 14 |
| DI-N-BUTYL PHTHALATE | 84-74-2 | 12 |
| 1,2-DICHLOROBENZENE | 95-50-1 | 16 |
| 1,2-DICHLOROETHANE | 107-06-2 | 14 |
| 1,4-DICHLOROBENZENE | 106-46-7 | 16 |
| 3,3'-DICHLOROBENZIDINE | 91-94-1 | 06 |
| DICHLOROMETHANE | 75-09-2 | 14 |
| 1,2-DICHLOROPROPANE | 78-87-5 | 14 |
| 1,3-DICHLOROPROPYLENE | 542-75-6 | 15 |
| DICHLORVOS | 62-73-7 | 28 |
| DICOFOL | 115-32-2 | 28 |
| DIETHYL PHTHALATE | 84-66-2 | 12 |
| DIMETHYL PHTHALATE | 131-11-3 | 12 |
| DIMETHYL SULFATE | 77-78-1 | 32 |
| 3,3'-DIMETHYLBENZIDINE | 119-93-7 | 06 |
| 2,4-DIMETHYLPHENOL | 105-67-9 | 29 |
| 2,4-DINITROTOLUENE | 121-14-2 | 24 |
| 2,6-DINITROTOLUENE | 606-20-2 | 24 |
| DI-N-OCTYL PHTHALATE | 117-84-0 | 12 |
| 1,4-DIOXANE | 123-91-1 | 13 |
| 1,2-DIPHENYL HYDRAZINE | 122-66-7 | 17 |
| EPICHLOROHYDRIN | 106-89-8 | 11 |
| ETHYLBENZENE | 100-41-4 | 07 |
| ETHYLENE OXIDE | 75-21-8 | 11 |
| ETHYLENE THIOUREA | 96-45-7 | 33 |
| ETHYLENEIMINE | 151-56-4 | 18 |
| FLUOMETURON | 2164-17-2 | 28 |
| FORMALDEHYDE | 50-00-0 | 02 |
| HEPTACHLOR | 76-44-8 | 28 |
| HEXACHLOROBENZENE | 118-74-1 | 16 |
| HEXACHLOROETHANE | 67-72-1 | 14 |
| HEXAMETHYLPHOSPHORAMIDE | 680-31-9 | 30 |
| HYDRAZINE | 302-01-2 | 17 |
| HYDROQUINONE | 123-31-9 | 29 |
| LEAD AND *[SALTS AND OR- GANO- METALLICS]* *COMPOUNDS* | 7439-92-1 | 19 |
| LINDANE | 58-89-9 | 28 |
| MANEB | 12427-38-2 | 28 |
| MERCURY AND *[SALTS AND ORGANOMETALLICS]* *COM- POUNDS* | 7439-97-6 | 19 |
| METHOXYCHLOR | 72-43-5 | 28 |

| Chemical | CAS Number | Group Number |
|---|-------------------|--------------|
| METHYL HYDRAZINE | 60-34-4 | 17 |
| METHYL IODIDE | 74-88-4 | 14 |
| METHYLMETHACRYLATE | 80-62-6 | 12 |
| 4,4'-METHYLENE BIS(2- CHLOROANILINE) | 101-14-4 | 06 |
| 4,4'-METHYLENEBIS(N,N- DIMETHYL) BENZENAMINE | 101-61-1 | 06 |
| 4,4'-METHYLENEDIANILINE | 101-77-9 | 06 |
| NAPHTHALENE | 91-20-3 | 07 |
| 1-NAPHTHYLAMINE | 134-32-7 | 06 |
| NICKEL AND *[SALTS]* *COM- POUNDS* | 7440-02-02 | 19 |
| 5-NITRO-O-ANISIDINE | 99-59-2 | 06 |
| NITROFEN | 1836-75-5 | 28 |
| 4-NITROPHENOL | 100-02-7 | 29 |
| 2-NITROPROPANE | 79-46-9 | 24 |
| N-NITROSODIPHENYLAMINE | 86-30-6 | 26 |
| PARATHION | 56-38-2 | 28 |
| PENTACHLOROPHENOL | 87-86-5 | 29 |
| PERACETIC ACID | 79-21-0 | 27 |
| PHENOL | 108-95-2 | 29 |
| 2-PHENYLPHENOL | 90-43-7 | 29 |
| PHOSGENE | 75-44-5 | 01 |
| POLYCHLORINATED BIPHENYLS | 1336-36-3 | 16 |
| PROPOXUR | 114-26-1 | 28 |
| PROPYLENE OXIDE | 75-56-9 | 11 |
| QUINOLINE | 91-22-5 | 25 |
| QUINTOZENE | 82-68-8 | 28 |
| SAFROLE | 94-59-7 | 13 |
| STYRENE | 100-42-5 | 07 |
| STYRENE OXIDE | 96-09-3 | 11 |
| 1,1,2,2-TETRACHLOROETHANE | 79-34-5 | 14 |
| TETRACHLOROETHYLENE | 127-18-4 | 15 |
| TETRACHLORVINPHOS | 961-11-5 | 28 |
| 4,4'-THIODIANILINE | 139-65-1 | 06 |
| THIOUREA | 62-56-6 | 33 |
| TOLUENE | 108-88-3 | 07 |
| TOLUENE-2,4-DIISOCYANATE | 584-84-9 | 20 |
| TOLUENE-2,6-DIISOCYANATE | 91-08-7 | 20 |
| 0-TOLUIDINE | 95-53-4 | 06 |
| TOXAPHENE | 8001-35-2 | 28 |
| TRICHLORFON | 52-68-6 | 28 |
| 1,2,4-TRICHLOROBENZENE | 120-82-1 | 16 |
| 1,1,1-TRICHLOROETHANE | 71-55-6 | 14 |
| 1,1,2-TRICHLOROETHANE | 79-00-5 | 14 |
| TRICHLOROETHYLENE | 79-01-6 | 15 |
| TRIFLURALIN | 1582-09-*(3)* *8* | 28 |
| URETHANE | 51-79-6 | 09 |
| VINYL CHLORIDE | 75-01-4 | 15 |
| XYLENES | 1330-20-7 | 07 |
| 2,6-XYLIDINE | 87-62-7 | 06 |
| ZINEB | 12122-67-7 | 28 |

7:1G-2.2 Chemical Group and Group Numbers

The groups, and their designated group numbers, to which Environmental Hazardous Substances listed in N.J.A.C. 7:1G-2.1 belong, are designated herein, to reflect similarity in chemical structure, with the exception of Pesticides (Number 28) and Dyes (Number 10), which reflect commercial use:

| GROUP NO. | CHEMICAL GROUP | GROUP NO. | CHEMICAL GROUP |
|-----------|------------------------|-----------|----------------|
| 01 | Acids & acid chlorides | 18 | Imides |
| 02 | Aldehydes | 19 | Inorganics |
| 03 | Aliphatic hydrocarbons | 20 | Isocyanates |
| 04 | Amides | 21 | Ketones |
| 05 | Anhydrides | 22 | Lactams |
| 06 | Aromatic amines | 23 | Nitriles |

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| | | | |
|----|-----------------------|----|-----------------------------------|
| 07 | Aromatic hydrocarbons | 24 | Nitro compounds |
| 08 | Azo compounds | 25 | Nitrogen heterocycles |
| 09 | Carbamates | 26 | Nitroso compounds |
| 10 | Dyes | 27 | Organic peroxides |
| 11 | Epoxides | 28 | Pesticides |
| 12 | Esters | 29 | Phenols |
| 13 | Ethers & Lactones | 30 | Phosphoramides |
| 14 | Halogenated alkanes | 31 | Quinones & Anthraqui- nones |
| 15 | Halogenated alkenes | 32 | Sulfuric acid esters |
| 16 | Halogenated aromatics | 33 | Thioureas |
| 17 | Hydrazines | | |

SUBCHAPTER 3. ENVIRONMENTAL SURVEY

7:1G-3.1 Completion of Environmental Survey

Within 90 days of receipt of Part I or Part II of the Environmental Survey, an employer shall complete the survey concerning each of the Environmental Hazardous Substances at his facility, and transmit a copy of the completed survey to the Department of Environmental Protection and the health department of the county in which the employer's facility is located (or county clerk if there is no county health department). This deadline shall be extended for an additional period not to exceed 30 days, at the discretion of the Department for good cause shown by the employer.

7:1G-3.2 Clarification of completed Environmental Survey

The Department may require an employer to submit information clarifying any statement made on Part I and Part II of the Environmental Survey. The Department shall transmit this clarifying information to the county health department (or county clerk if there is no county health department), as it deems necessary.

7:1G-3.3 Updating of Environmental Survey

(a) Every employer shall update a completed Part I and Part II of the Environmental Survey for his facility every other year. If there is any significant change during a nonreporting year in the information reported on his Environmental Survey, the employer shall inform the Department of the change.

(b) The Department may require an employer to update the Environmental Survey for his facility every year.

SUBCHAPTER 4. HAZARDOUS MATERIALS LIST

7:1G-4.1 Designation of Hazardous Materials

The substances contained in the Optional Materials Table in Title 49 of the Code of Federal Regulations, Part 172.102, as amended by publication in the Federal Register, 48 Fed. Reg. Vol. 48, No. 211, pp. 50234-50279 (October 31, 1983) are designated, by reference, as Hazardous Materials pursuant to the Worker and Community Right to Know Act, P.L. 1983, c.315, N.J.S.A. 34:5A-1 et seq.

7:1G-4.2 Amendments to Hazardous Materials List

(a) The Department intends to establish a procedure for annually receiving information, advice, testimony, and recommendations from the Right to Know Advisory Council

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established pursuant to the Act, the public, and any other interested party, concerning the implementation of the Act. This procedure shall include a mechanism for revising the Hazardous Materials List.

(b) The Department will publish in the New Jersey Register, any revisions by the United States Department of Transportation (USDOT) to the Optional Materials Table in Title 49 of the Code of Federal Regulations, as amended. Effective upon such publication in the Register, such amendments by the USDOT shall be incorporated into N.J.A.C. 7:1G-4.1.

(c) Amendments to N.J.A.C. 7:1G-4.1, other than in accordance with (a) above, shall be made pursuant to the provisions of the "Administrative Procedure Act", 1968, c.410, N.J.S.A. 52:14B-1 et seq.

SUBCHAPTER 5. EMERGENCY SERVICES INFORMATION (ESI) SURVEY

7:1G-5.1 Completion of ESI Survey

Within 90 days of receipt of an Emergency Services Information Survey, an employer shall complete the survey concerning each of the Hazardous Materials at his facility, and transmit a copy of the completed survey to the Department of Environmental Protection, the local fire department and the local police department. This deadline shall be extended for an additional period not to exceed 30 days, at the discretion of the Department for good cause shown by the employer.

7:1G-5.2 Clarification of completed ESI Survey

The Department may require an employer to submit information clarifying any statement made on the Emergency Services Information Survey. The Department shall transmit this clarifying information to the local fire department and local police department as it deems necessary.

7:1G-5.3 Updating of ESI Survey

(a) Every employer shall update the Emergency Services Information (ESI) Survey for his facility every other year. If there is any significant change during a nonreporting year in the information reported on his ESI Survey, the employer shall inform the Department of the change.

(b) The Department may require an employer to update the ESI Survey for his facility every year.

*7:1G-5.4 Waiver

(a) An employer may submit to the Department a written request for a waiver of N.J.A.C. 7:1G-5.1, -5.2, and -5.3. As an integral part of the request, the employer shall include certification from its local fire department that the employer has prepared a plan concerning the identity, characteristics and quantities of hazardous substances used and stored at its facility to enable the local fire officials to adequately plan for, and respond to, emergencies; that the local fire department has approved the plan; and that the local fire department does not need a completed Emergency Services Information Survey to adequately plan for, and respond to, emergencies.

(b) The Department shall grant a waiver of N.J.A.C. 7:1G-5.1, -5.2 and -5.3 to employers who satisfy the requirements of (a) above. As a condition of the waiver, the employer shall, upon request, submit to the Department all portions of the plan referred to in (a) above, that concern the identity, characteristics and quantities of hazardous substances used and stored at its facility. In the event that the employer fails to satisfy such condition, the Department shall revoke the waiver.*

(a)**DIVISION OF WATER RESOURCES****Licensing of Operators of Wastewater and Water Systems****Adopted New Rule: N.J.A.C. 7:10-13****Adopted Repeal: N.J.A.C. 7:10-13**

Proposed: May 7, 1984 at 16 N.J.R. 959(a).

Adopted: June 18, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: June 19, 1984 as R.1984, d.284, **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. 58:11-64 et seq., specifically 58:11-66, 67 and 69; N.J.S.A. 58:10A-1 et seq., and N.J.S.A. 58:12A-1 et seq.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): July 2, 1989.

DEP Docket No. 022-84-03.

Summary of Public Comments and Agency Responses:

Comment: Many licensed operators holding treatment system licenses commented that treatment system license holders should be given collection system licenses equal to their treatment system license, because they had to pass examinations which included questions on collection systems to obtain their treatment system licenses.

Response: The Department agrees that the treatment system license holders have sufficient training and experience to be given collection system licenses equal to their treatment system licenses. This determination has been reinforced by the fact that the examinations for treatment system licenses did include questions on collection systems. Therefore, the Department has inserted a provision at N.J.A.C. 7:10-13.13(h) allowing treatment system license holders to apply for the equivalent collection system license, if they do so within six months after the effective date of this subchapter.

Comment: Many people stated that the requirement that Class 4 treatment systems have a licensee on duty at the treatment systems to cover the shifts when the licensed operator was not on duty was too burdensome due to cost and labor problems, and unnecessary because of automation and warning signals.

Response: The Department still believes there should be shift coverage by a licensee at Class 4 treatment systems. However, so many comments were received to the effect that there would be labor and civil service problems if this requirement was adopted, and that it was unnecessary due to automation and warning systems, that the Department has decided to do more research into the need for shift coverage. Therefore N.J.A.C. 7:10-13.10(c) has been amended making shift coverage recommended rather than mandatory.

Comment: Would a system consisting solely of treatment and transmission (that is, force mains, pumping stations, interceptors) facilities fall within the definition of "Public Wastewater Collection Systems"?

Response: Yes. Interceptor systems transmitting waste from individual collection systems to a public wastewater treatment system is a public wastewater collection system. The definition of "public wastewater collection system" has been amended to make this clear.

Comment: The definitions of "Public Wastewater Treatment System" and "Industrial Wastewater Treatment System" are confusing and need clarification. Under the present wording, one could infer that an Industrial Wastewater Treatment System is also a Public Wastewater Treatment System because both treat industrial waste.

Response: Wastewater treatment systems that solely treat industrial waste are Industrial Wastewater Treatment Systems. Wastewater Treatment Systems that treat both industrial and domestic waste are classified as Industrial Wastewater Treatment Systems or Public Wastewater Treatment Systems based on the predominant waste flow. The definition of "Public Wastewater Treatment System" has been clarified in order to eliminate this confusion.

Comment: Comments indicated that the definitions of "Public Water Distribution System" and "Public Water Treatment System" are not clear as to what constitutes a separate and distinct system.

Response: The Department agrees and has clarified these definitions by adding language stating that systems are identified by the ID number they have been given pursuant to the Safe Drinking Water Act, N.J.A.C. 58:12A-1 et seq.

Comment: The members of the Board of Examiner who are licensed operators should hold a Class 4 license.

Response: The Department agrees and has added a provision to N.J.A.C. 7:10-13.3(b) requiring that members of the Board of Examiners who are licensed operators hold at least one Class 4 license.

Comment: The Authorities Association of New Jersey should be the management representatives on the Advisory Committee on Training.

Response: The Department agrees and N.J.A.C. 7:10-13.5, has been changed to delete the management representative from the American Water Works Association and the Water Pollution Control Association, and to give the Authorities Association two representatives, one from a water authority and one from a wastewater authority.

Comment: The annual license fee is too high.

Response: The Department has reviewed its proposed fees and has determined they appropriately reflect the cost incurred to administer the licensing program and stands by its position that the program must be economically self sufficient.

Comment: The requirement in N.J.A.C. 7:10-13.10(b) that the owner of a system provide coverage for the licensed operator who is unavailable to operate the system needs an explanation.

Response: The owner is responsible to provide the appropriate licensed operator for the proper operation of the system. Therefore, any time that the designated licensed operator is unable to properly operate the system because of unavailability, it is the responsibility of the owner to obtain the services of a licensee holding a license not more than one class lower than the license required to operate the system.

Comment: S-IN licenses should be given the appropriate transferable N license rather than the site specific NN license.

Response: Since the S-IN license was issued on the basis of being site specific and nontransferable, there is no reason to convert them into the transferable N license. S-IN license holders will be able to retain their present position and, if they wish, may apply to take an examination for a transferable N license if they meet the appropriate requirements.

Additionally the Department through its own review process made the following changes to the regulation. The definition of "Industrial Wastewater Treatment System" was changed to make it clear that systems permitted by rule pursuant to the NJPDES program do not require licensed operators. Provision has been made for representatives from groups representing industry to be members of the Advisory Committee. Finally, the Department has further broken out the classification considerations for classifying industrial wastewater treatment systems found at N.J.A.C. 7:13-14(c)2. This revision better reflects the reality of the classification system, and does not significantly alter the classification of individual industrial wastewater treatment systems.

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

SUBCHAPTER 13. WATER SUPPLY AND WASTEWATER COLLECTION AND TREATMENT SYSTEMS: EXAMINING AND LICENSING OF OPERATORS

7:10-13.1 Scope and construction of rules

(a) This subchapter shall constitute the rules governing the eligibility, examining, and licensing of persons for licenses as operators of Industrial Wastewater Treatment Systems, Public Wastewater Collection Systems, Public Wastewater Treatment Systems, Public Water Treatment Systems and Public Water Distribution Systems.

(b) This subchapter shall be liberally construed to permit the Department to discharge its statutory functions.

(c) If any section, subsection, provision, clause, or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

7:30-13.2 Definitions

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

"Act" means the Water Supply and Wastewater Operators Licensing Act, N.J.S.A. 58:11-64 et seq.

"Board" means the Board of Examiners established by N.J.A.C. 7:10-13.3.

"Bureau" means the Bureau of Collections and Licensing, CN 402, Trenton, New Jersey 08625.

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

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

"Licensed operator" means the licensee approved by the Department holding any local title, designation, or job description who is on-site at a system a significant amount of time, although not necessarily full time, and who has active involvement in and is responsible for the operation, and maintenance, and effectiveness of the system and who holds a license equal or superior to that required for the system.

"Licensee" means a person who possesses a valid license issued by the Department pursuant to the Act.

"Industrial Wastewater Treatment System" means any structure or structures by means of which industrial liquid waste or sludges are subjected to any treatment process ***requiring the issuance of an individual NJPDES permit*** regulated by the Department pursuant to the New Jersey Pollutant Discharge Elimination System Permit Program, N.J.A.C. 7:14A, under the authority of the Water Pollution Control Act N.J.S.A. 58:10A-1 et seq.

"Operating requirements" means provisions of permits or approvals, administrative orders, directives, or rules and regulations which the Department may issue or adopt to ensure the safe and efficient operation of systems, consistent with statutory authority.

"Owner" means any municipality, institution, authority, commission, corporation, person or other similar body who owns or controls a system.

"Public Wastewater Collection System" means a system which serves more than 250 people or conveys more than 25,000 gallons of wastewater Pollution Control Act, N.J.S.A. 58:10A-1 et seq. and which system consists of structures which, operating alone or with other structures, result in the collection and conveyance ***[or transmission]*** of wastewater from private, commercial, institutional or industrial sources, to public wastewater treatment plants for subsequent treatment, **or a system which solely transmits treated effluent from a public wastewater treatment system for disposal.***

"Public Wastewater Treatment System" means any structure or structures by means of which domestic, ***[industrial]*** or combined domestic and industrial liquid wastes or sewage are subjected to any process in order to remove or so alter constituents as to render the wastes less offensive or dangerous to public health, safety, welfare, comfort, property or environment of the State or any inhabitants of the State before discharge of the resulting effluent either directly or indirectly into any waters of the State, and which is regulated by the Department pursuant to the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

"Public Water Distribution System" means a system comprising structures which is a public community water system ***identified by a specific ID number*** pursuant to the Safe Drinking Water Act Regulations, N.J.A.C. 7:10, and which operating alone or with other structures, results in the derivation, conveyance (or transmission) or distribution of piped water for human consumption and domestic purposes.

"Public Water Treatment System" means any structure ***or structures*** delivering water into a public water distribution system ***as identified by a specific ID Number pursuant to the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.,*** and which subjects water, prior to use for potable purposes, to the addition or subtraction of a substance or substances in order to enhance the safety, palatability, public health, purity, or

aesthetic qualities; or reduce the corrosive or hazardous properties of the water use.

“System” means any Industrial Wastewater Treatment System, Public Wastewater Collection System, Public Wastewater Treatment System, Public Water Distribution System or Public Water Treatment System.

“Waters of the State” means the ocean and its estuaries, all springs, groundwater, streams or bodies of surface waters, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

7:10-13.3 Examining board

(a) A Board of Examiners is hereby established to advise and assist the Department in the preparation and administration of examinations conducted under the authority of the Act.

(b) The Board shall be comprised of certain engineering personnel of the Department, and actively engaged licensed operators having at least five years experience in the operation of a system in the State of New Jersey and possession a current ***Class 4*** license for one or ***[all]* *more*** at the time of appointment. The members of the Board shall be appointed and may be reappointed by the Commissioner and shall:

1. Be appointed for a three year term and shall serve until the appointment of a successor;

2. Be comprised of three representatives from the water works field and three representatives from the wastewater field and three representatives from the Department’s engineering personnel in the Division of Water Resources; and,

3. Be subject to removal at the discretion of the Commissioner.

(c) Five members of the Board shall constitute a quorum of the Board for conducting business.

(d) No compensation shall be paid for the services of the members of the Board but they shall be reimbursed for their necessary expenses incurred in performing the services herein prescribed.

(e) The Board shall keep minutes of its meetings and it shall transmit its recommendations through the Director, Division of Fiscal and Support Services to the Commissioner.

(f)* The current members of the Board shall continue as members of the Board until the completion of their terms, when they may be reappointed.

7:10-13.4 Examinations

(a) Examinations for licenses to operate Systems shall be given at least twice annually and at such other times as the Department may deem necessary. They shall be prepared, conducted, and scored in accordance with the Department’s standard operating procedures with the advice of the Board.

(b) The examinations may consist of written questions, or oral questions, or a combination thereof.

(c) The Board shall establish examination review procedures which are fair to the applicants and which preserve the integrity of the examinations.

7:10-13.5 Advisory committee on training

(a) An Advisory Committee on Water Supply and Wastewater Licensed Operator Training is hereby established to:

(b) The Committee members shall be appointed and may be reappointed by the Commissioner for terms of three years and shall include, as a minimum:

1. Advise the Department through the Board on such matters as are referred to the Committee by the Department or

Board with respect to the instructional process leading to State licensing of system operators and for the further educational advancement of licensees;

2. Coordinate the activities of New Jersey educational institutions offering or proposing to offer appropriate coursework.

3. Establish and periodically update standardized course outlines for the educational training of the operators of water supply and wastewater facilities leading to State licenses and specifying a minimum number of classroom hours for each.

4. Periodically review available textbooks in the field of water supply, water treatment and wastewater treatment, and make recommendations for standard textbooks which should be used for approved courses.

5. Act as a clearing house on matters affecting water supply and wastewater licensee training in New Jersey.

(b) The Committee members shall be appointed and may be reappointed by the Commissioner for terms of three years and shall include, as a minimum:

1. One representative from the Division of Fiscal and Support Services, Bureau of Collection and Licensing;

2. One representative who is a Department employee from the Board;

3. Three representatives from the Division of Water Resources;

4. ***[Three]* *Two*** representatives from nomination lists submitted by the New Jersey Section American Water Works Association; one of these representatives shall be a licensed operator, ***[one shall represent management]*** and one shall be a member of the Education Committee of the American Water Works Association;

5. ***[Three]* *Two*** representatives from nomination lists submitted by the New Jersey Water Pollution Control Association; one of these representatives shall be a licensed operator, ***[one shall represent management]*** and one shall be a member of the Education Committee of the Water Pollution Control Association;

6. Two representatives from nominations lists submitted by the Authorities Association of New Jersey; one of these representatives shall be from a water authority and one shall be from a wastewater authority.

7. One representative from a nomination list submitted by the New Jersey Chamber of Commerce.

8. One representative from a nomination list submitted by the New Jersey Business and Industry Council.

[6.]* *9.* *One representative* *per institution from a list submitted by each New Jersey Educational Institution currently conducting course in water supply or wastewater operations or which has conducted an appropriate course during the preceding academic year.

(c) If a vacancy should occur on the committee during the term of a member, the Commissioner may fill the vacancy by appointing a qualified person for the time remaining in the term.

(d) The Advisory Committee shall meet at least twice each year.

1. Minutes shall be kept.

2. A copy of all recommendations and minutes shall be sent to each member, the Chairman of the Board and the Director of the Division of Water Resources.

(e) Administrative support for the Advisory Committee shall be provided by the Division of Water Resources.

7:10-13.6 Applications

(a) Applications for licenses shall be made on forms to be furnished by the Department and shall be filed with the De-

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partment on or before the prestamped closing date on the application form.

1. All applications shall be completed to the satisfaction of the Department and shall be accompanied by documentary evidence supporting education and experience, and the nonrefundable application fee.

2. Applicants shall be advised at least two weeks in advance regarding admission to examinations.

(b) Any applicant who submits false information when applying for a license may be disqualified from taking the examination or receiving the license. In addition, any licensee whose eligibility for a license was based on the submission of false information is subject to having that license suspended or revoked by the Department.

7:10-13.7 Examination results

An applicant who passes the examination and pays the appropriate license fee shall be issued the license of the classification for which the applicant was examined.

7:10-13.8 Fees

(a) The fee schedule is based upon the approximate cost to the Department to process the action requiring the fee. All fees submitted to the Department are nonrefundable. The following fees must be received by the Department before any action shall be taken on the matter requiring the fee:

| | |
|------------------------|---------|
| 1. Application Fee | \$35.00 |
| 2. Initial License Fee | \$25.00 |
| 3. Annual License Fee | \$20.00 |
| 4. Late Renewal Fee | \$10.00 |

7:10-13.9 License renewal requirements

(a) Each license shall be valid from its issue date until the following October 1.

b. Each license holder shall renew his license by submitting a complete ***renewal*** application and the nonrefundable annual license fee to the Bureau, for a new license prior to September 30, of each year.

(c) A licensee who fails to renew his license within one year following the renewal date of the license, may not receive a new license until he successfully passes another qualifying examination.

7:10-13.10 Licensed operator required, penalties

(a) Every owner of a system shall employ a licensed operator holding the license prescribed by the Department for that classification of system. This licensed operator shall be in charge of the operation of the system.

1. If a system is reclassified the licensed operator of the reclassified system may continue as the licensed operator of that system, regardless of the new classification of that system.

(b) Any time the licensed operator is unavailable to cover the system for which he is the licensed operator, the owner shall obtain the services of a licensee holding a license not more than one class lower than the classification required for the operation of the system to cover the system during the unavailability of the licensed operator.

(c) Each class 3 treatment system and class 4 treatment system shall have the appropriate full-time licensed operator. In addition class 4 treatment systems ***[shall]* *should*** have a licensee possessing ***[a]* *any*** valid treatment license ***within the appropriate system classification,*** physically present at the treatment system during that portion of each 24 hour period when the licensed operator is not present.

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i. Those ***class 3 and class 4 treatment*** systems not ***[meeting the above requirements]* *presently employing a full time licensed operator*** shall have 2 years from the effective date of this subchapter to ***[comply with the above requirements.]* *obtain an appropriate full time licensed operator.***

(d) Those licensees desiring to be designated the licensed operator for more than one system shall apply for permission from the Department. If the Department grants permission it shall specify the time period of the permission and the minimum number of hours the licensed operator shall spend at each system.

1. The Department reserves the right to limit the number of systems a licensed operator may operate.

2. The licensed operator shall designate in his application for permission the person at the system to contact when the licensed operator is unavailable to the system.

(e) Licensed operators shall notify the department's Bureau of Collections and Licensing at least two weeks prior to changing their positions or employment.

(f) The owner of a system employing a new licensed operator shall notify, in writing, the Bureau of the name of the new licensed operator within two weeks after the licensed operator begins his employment.

(g) No person shall operate a system in violation of the provisions of the Act, this subchapter or any other operating requirements.

7:10-13.11 Reciprocity with other States

(a) The Department may issue licenses to persons meeting the requirements of N.J.S.A. 58:11-69.

(b) Any person meeting the requirements of N.J.S.A. 58:11-69 may apply to the Department for a license by filing a completed application form and the nonrefundable application fee with the Department.

(c) The Board shall evaluate the person's application and if it meets the criteria set forth in (a) above, the Department shall, upon receipt of the nonrefundable initial license fee, issue a license to the person.

7:10-13.12 Records and reports

Licensed operators shall submit to the Department, as may be required, reports pertaining to the operation of their system.

7:10-13.13 Conversion of licenses in effect on the effective date of these rules

(a) On the effective date of this subchapter the present public wastewater treatment system licenses, public water treatment system licenses, and the public water distribution system licenses shall be converted as follows:

1. The 1 level licenses shall become Class 4 licenses;
2. The 2 level licenses shall become Class 3 licenses; and,
3. The 3 level licenses shall become Class 2 licenses.

(b) Each holder of a S-IN license shall be granted a NN license which will permit the licensee to remain the licensed operator of the system at which he is employed on the effective date of this subchapter so long as he meets all requirements of this subchapter except the requirements of N.J.A.C. 7:10-13.15. However the NN license may not be used to meet the licensed operator requirements for any other system.

(c) The department shall begin accepting applications for the new industrial wastewater treatment system licenses on January 1, 1985. The closing date for applications to take the first set of examinations for the new industrial wastewater system license shall be February 28, 1985.

1. The department shall continue to accept applications for examination for the NN license until September 30, 1984.

(d) No paper documenting the new license shall be issued at the time of the conversion. The Department shall issue a new license document in accordance with this section at the time of the annual license renewal, to all persons holding valid licenses who apply for renewal.

(e) Any person operating a public wastewater collection system on the effective date of this subchapter shall be granted the collection system license required to operate that system if the person:

1. Submits a complete application and nonrefundable application fee to the Bureau within six months after the effective date of this subchapter. Said application shall include a notarized statement by the owner of the system that the applicant is the operator of the existing public wastewater collection system;

2. Meets the education and experience requirements, excluding the requirement for a license, set forth in N.J.A.C. 7:10-13.15(b).

3. Pays the nonrefundable initial license fee if notified he is eligible for the license.

(f) Any person employed at a public wastewater collection system on the effective date of this subchapter and who meets the education and experience requirements, excluding the requirement for a license, set forth in N.J.A.C. 7:10-13.15(b), shall be granted a license equal to the license required to operate the collection system where he is employed, if the person:

1. Submits a complete application and nonrefundable application fee to the Bureau within six months after the effective date of this subchapter. Said application shall include a notarized statement by the owner of the system substantiating the applicant's experience.

2. Pays the nonrefundable initial license fee if notified he is eligible for the license.

(g) Any person operating a public wastewater collection system on the effective date of this subchapter who does not meet the requirements of N.J.A.C. 7:10-13.15, shall be issued a CN license restricted to that system, which license shall permit him to continue to operate that system if the person:

1. Submits a complete application and the nonrefundable application fee to the Bureau within six months after the effective date of this subchapter. Said application shall include a notarized statement by the owner of the system that the applicant is the operator of the existing public wastewater collection system.

2. Pays the nonrefundable initial license fee if notified he is eligible for the license.

(h) Any person possessing a valid public wastewater treatment system license on the effective date of this subchapter (July 2, 1984) may obtain a public a public wastewater collection system license of the same class as his public wastewater treatment system license, if he submits a complete application and the nonrefundable application fee to the Bureau within six months after the effective date of this subchapter (July 2, 1984).

[(h)]* *(i) Owners of public wastewater collection system shall obtain a licensed operator or, if eligible, a restricted licensed operator (CN) by October 1, 1985.

7:10-13.14 System classification

(a) On the effective date of this subchapter all public wastewater treatment systems and public water treatment systems

shall be classified into one of the four classes established in Table I. Each public wastewater treatment system's classification shall be based upon the number of points it receives in accordance with Table II. Each public water treatment system's classification shall be based upon the number of points it receives in accordance with Table III.

1. Table I: Classification of Public Wastewater Treatment System(S) and Public Water Treatment System(T)

| | | | | |
|-----------------|-------------|----------|----------|--------------|
| FACILITY-CLASS | S1 or T1 | S2 or T2 | S3 or T3 | S4 or T4 |
| RANGE OF POINTS | 30 and Less | 31-55 | 56-75 | 76 & greater |

2. Table II: Point System to be used in conjunction with Table I for Classifying a Public Wastewater Treatment System. The department shall assign points to the system for every item that applies. The department shall then total the points assigned and place the system in the classification for that amount of points set forth in Table I above.

| Item | Points |
|---|---|
| Design flow | 2 pt. per MGD or part thereof, Max. 20 Points |
| Effluent Discharge | |
| Surface Water discharge | 2 |
| Land disposal - evaporation | 2 |
| Subsurface disposal | 4 |
| Effluent used in direct recycle and reuse system | 6 |
| Variation in Raw Wastes (slight to extreme) | |
| Points will be awarded in accordance with Table IIa | 0-10 |
| Pretreatment | |
| Screening, comminution | 3 |
| Grit removal | 3 |
| Plant pumping of main flow | 3 |
| Equalization | 3 |
| Primary Treatment | |
| Primary clarifiers | 5 |
| Combined sedimentation/digestion | 5 |
| Chemical addition (except chlorination, enzymes, etc) | 4 |
| Secondary Treatment | |
| Trickling filter or rotating biological contactor w/secondary clarifiers | 10 |
| Activated sludge w/secondary clarifiers ... (including extended aeration and oxidation ditches) | 20 |
| Stabilization ponds without aeration | 6 |
| Aerated lagoon | 10 |
| Advanced Waste Treatment | |
| Polishing Pond | 4 |
| Chemical/physical - without secondary ... | 18 |
| Chemical/physical - following secondary .. | 12 |
| Biological or chemical/biological | 14 |
| Ion exchange | 12 |
| Reverse osmosis, electrodialysis | 16 |
| Chemical recovery, carbon regeneration .. | 6 |
| San filters | 5 |
| Solids Handling | |
| Thickening | 6 |

ADOPTIONS

| | |
|--|-----------|
| Anaerobic digestion | 12 |
| Aerobic digestion | 8 |
| Evaporation sludge drying | 2 |
| Mechanical dewatering | 10 |
| Solids reduction (incineration, wet oxidation) | 14 |
| Composting | 5 |
| Disinfection | |
| Chlorination or comparable treatment | 6 |
| On-site generation of disinfectant | 6 |
| TOTAL † | 66 |

†If unique treatment plant conditions exist, the Department may adjust the facility classification.

i. Table IIa: to be used with the "Variations in Raw Wastes" item in Table II. The system shall be awarded 0 through 10 points based on the following:

The key concept is frequency and/or intensity of deviation or excessive variation from normal or typical fluctuations; such deviation can be in terms of strength, toxicity, shock loads, Inflow/Infiltration etc. Suggested point values are:

Variations do not exceed those normally or typically expected. 0

Recurring deviations or excessive variations of 100 to 200 percent in strength and/or flow. 3

Recurring deviations or excessive variations of more than 200 percent in strength and/or flow. 6

Raw wastes subject to toxic waste discharges which affect plant performance. 10

3. Table III: Point System to be used in Conjunction with Table I for classifying Public Water Treatment Systems. The department shall assign points to the system for each item that applies. The department shall then total the points assigned and place the system in the classifications for that amount of points set forth in Table I above.

| Item | Points |
|--|----------------------------------|
| Size: | |
| Maximum population served,1 point per (Max 10 pts10,000 or part thereof, | |
| Peak months's production (average day) (Max 10 pts) | 1 point per MGD or part thereof, |
| Water supply source: | |
| Ground water | 6 |
| Surface water | 22 |
| Treatment: | |
| Iron/manganese removal employing oxidation-sedimentation | 10 |
| Ion exchange | 10 |
| Chemical precipitation softening..... | 20 |
| Coagulation-flocculation-sedimentation ... | 15 |
| Filtration | 10 |
| pH adjustment and/or corrosion control .. | 8 |
| Taste and odor control (carbon or oxidants) | 8 |
| Fluoridation | 8 |
| Disinfection | 8 |
| On site generation of disinfectant | 5 |

ENVIRONMENTAL PROTECTION

| | |
|--|-----------|
| Reserve osmosis, electro dialysis, etc | 15 |
| In plant treatment of plant sludge including recycling but excluding lagooning | 6 |
| TOTAL † | 21 |

†If unique treatment plant conditions exist, the department may adjust the facility classification.

(b) Public wastewater collection systems (C) and public water distribution systems (W) shall be classified into one of the four classes as determined by the criteria found in Table IV:

1. Table IV: Public wastewater collection systems (C) and public water distribution systems (W) shall be classified in accordance with the population served or the population equivalent as follows.

| Facility-Class | Population served or Population Equivalent ¹ |
|----------------|--|
| C4 or W4 | 50,001 or more people |
| C3 or W3 | 15,001 to 50,000 people |
| C2 or W2 | 1,501 to 15,000 people |
| C1 | 251 to 1,500 people |
| W1 | 101 or more service connections and less than 1,501 people |

i. Population equivalent shall only be used to classify public wastewater collection systems and means the number of individuals who would normally be expected to generate a given flow or quantity of pollutants, based either on 100 gallons per person per day or 0.17 lbs. BOD or Suspended Solids per person per day.

(c) *[On the effective date of this subchapter]* ***On July 2, 1984*** all industrial wastewater treatment systems ***as defined herein*** including pretreatment plants shall be classified into one of the four classes established in Table V. Each industrial wastewater treatment system's classification shall be based upon the number of points it receives in accordance with Table VI.

1. Table V: Classification of Industrial Wastewater Treatment Systems (N)

| FACILITY—CLASS | N1 | N2 | N3 | N4 |
|-----------------|---------|----------|----------|------------|
| RANGE OF POINTS | 6 to 19 | 20 to 49 | 50 to 69 | 70 or more |

2. Table VI: Point system to be used in conjunction with Table V for classifying an industrial wastewater treatment system. The department shall assign points to the system for every item that applies. The department shall then total the points assigned and place the system in the classification for that amount of points set forth in Table V above.

| Classification Consideration | Point Rating |
|------------------------------|--------------|
| A. Toxicity Group | |
| 1. I | 1 |
| 2. II | 5 |
| 3. III | 10 |
| 4. IV | 15 |
| 5. V | 20 |
| 6. VI | 25 |
| B. Receiving Water | |
| 1. Surface Water—FW | 5 |
| 2. Surface Water—TW | 3 |
| 3. Surface Water—CW | 2 |
| 4. Ground Water | 5 |

| | |
|--|-----|
| C. Hydraulic Load | |
| 1. Less than 0.1 MGD | 2 |
| 2. 0.1-1.0 MGD | 4 |
| 3. 1.0-10.0 MGD | 6 |
| 4. Greater than 10.0 MGD | 10 |
| D. Primary | |
| 1. pH Adjustment | 1 |
| 2. Equalization | 1 |
| 3. Oil Separator | 3 |
| 4. Dissolved Air Flotation | 3 |
| 5. Chemical Coagulation/ Flocculation | 5 |
| 6. Sedimentation/Clarification | 3 |
| 7. Chemical Addition | 2 |
| 8. Filtration | 5 |
| 9. Disinfection | 2 |
| *10. Air Stripping | 5* |
| E. Secondary | |
| 1. Activated Sludge | 15 |
| 2. Bio-Filtration | 10 |
| 3. Stabilization Pond | 5 |
| 4. Disinfection | 2 |
| *5. Spray Irrigation | 10* |
| F. Advanced | |
| 1. Ammonia Removal | 10 |
| 2. Nutrient Removal | 10 |
| 3. Filtration | 5 |
| 4. Carbon Absorption | 10 |
| 5. Ion Exchange | 10 |
| 6. Post Aeration | 2 |
| *7. Reverse Osmosis | 10* |
| G. Sludge Handling/ Disposal | |
| 1. Digestion | 5 |
| 2. Sludge Conditioning | 2 |
| 3. Mechanical Dewatering | 4 |
| 4. Drying Beds or Lagoons | 2 |
| 5. Thickening or DAF | 3 |
| 6. On-Site Landfill | 2 |
| 7. Composting | 7 |
| 8. Incineration | 10 |

GRAND TOTAL† _____

† If unique treatment plant conditions exist, the department may adjust the facility classification.

7:10-13.15 *Reserved*

Agency Note: The text as proposed at 16 N.J.R. 965 has been deleted upon adoption. Proposed new text for the section will appear in the June 18, 1984 Register.

(a)

DIVISION OF WATER RESOURCES

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

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

Proposed: August 15, 1983 at 15 N.J.R. 1313(b).
Adopted: June 4, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: June 4, 1984 as R.1984 d.234, **with technical and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 58:10A-4 and N.J.S.A. 58:11-51.
Effective Date: July 2, 1984.
Expiration Date pursuant to Executive Order No.66(1978): June 4, 1989.
Docket No. 041-83-07.

Summary of Public Comments and Agency Responses:

Under the authority of the New Jersey Water Pollution Control Act N.J.S.A. 58:10A-1 et seq. (hereinafter "the Act"), the New Jersey Department of Environmental Protection, Division of Water Resources, promulgated on March 6, 1981, "Regulations Concerning the New Jersey Pollutant Discharge Elimination System" (NJPDES), N.J.A.C. 7:14A-1.1 et seq. Subsection 4(d) of the Act provides the necessary statutory authority for the State to adopt rules and regulations concerning "the limitation of effluent".

With the assistance of a Task Force, the draft regulations on oil and grease effluent limitations were formulated as proposed amendments to the NJPDES regulations. Formal public notice of the proposed regulations and the public hearing scheduled for September 19, 1983 were published in the New Jersey Register on August 15, 1983. Approximately 1500 copies of the regulations, a basis and background document, and notice of the proposal of the regulations were mailed to invite NJPDES permitted dischargers and interested parties to attend the public hearing and to submit comments on the proposed regulations.

The transcript of the hearing as well as comments received were reviewed and considered prior to the adoption of these amendments as Subchapter 14 of the NJPDES regulations. This document includes statements of the major issues raised and the Department's response. The issues are listed in the order in which the section to which the issue pertains appears in these amendments. Any revisions noted in this document concerning the amendments or the basis and background document supersede the statements made at the time of the proposal.

Written comments were submitted by the following persons or organizations:

1. American Cyanamid Company
2. Amerada Hess Corporation
3. Atlantic City Electric Company
4. Bergen County Utility Authority
5. The BF Goodrich Company
6. Brockway, Inc.
7. Consolidated Rail Corporation
8. Crowell and Moring
9. Fritzsche Dodge & Olcott Inc.
10. Fuel Merchants Association of New Jersey
11. Garden State Paper Company, Inc.
12. Hyatt Clark Industries, Inc.
13. Jersey Central Power & Light Company
14. Kimberly-Clark Corporation
15. The Landis Sewerage Authority
16. The Lummus Company
17. National Starch and Chemical Corporation
18. New Jersey Business and Industry Association
19. Pennzoil Company
20. Rahway Valley Sewerage Authority
21. Richard Willinger
22. Texaco Inc.

7:14A-14.1 Purpose and Scope

Issue 1

Several commenters requested that the Department clearly define the scope of the regulations. Specifically, the commenters asked for clarification of the Department's position on the inclusion under these regulations of discharges resulting from precipitation events from parking lots, roadways, parking garages, gasoline service stations and roof drains. It was suggested that the regulations cover only discharges that are "reasonably expected to collect runoff containing oil and grease" and that all requirements apply only to permitted discharges.

Response:

The scope of these regulations is clearly defined in N.J.A.C. 7:14A-14.1(b) wherein it is stated that the requirements specified in this subchapter apply to discharges to surface waters and indirect discharges of oil and grease, including discharges resulting from precipitation events, required to have a NJPDES permit. In short, the regulations are applicable only to NJPDES permitted discharges. Discharges from parking lots and other facilities if subject to the NJPDES permit program must meet the limitations for oil and grease discharge.

The purpose of this subchapter entitled "Oil and Grease Effluent Limitations" is to establish limitations for discharges of oil and grease for facilities required to have NJPDES permits, including permits-by-rule. Subchapters 1, 2, 3, 10 and 13 of the NJPDES Regulations discuss the scope of the NJPDES/DSW and SIU program, the case-by-case designation of a discharge for permitting processes, and the establishment of permit conditions. The Department agrees in principle with the commenter's suggestion that the present regulations cover only discharges that are "reasonably expected" to collect oil and grease. However, the function of this subchapter is not to decide on the permitting requirements of a discharge but simply to set effluent limitations to applicable discharges.

Issue 2

Two commenters questioned the inclusion of indirect dischargers in the regulations, as these dischargers are already "adequately regulated" by existing federal or local pretreatment requirements. Furthermore, they stated that regulating a particular pollutant by a single state only leads to confusion and unnecessary expense.

Response:

The Department recognizes that there are existing federal or local pretreatment requirements regulating the indirect dischargers. However, for the most part, the requirements in federal regulations and local ordinances are in general terms and prohibit only those discharges causing pass through or interference problems at the treatment plant. Only a limited number of industrial categories are subject to federal categorical industrial standards which provide specific effluent requirements. These regulations are designed to control a particular pollutant which can be controlled to meet the adopted limits, regardless of the industrial category.

The present regulations which establish effluent limitations for petroleum-based oil and grease are intended to supplement the existing rules. The Department, under the Pretreatment Standards for Sewage, (N.J.S.A. 58:11-49) and the Water Pollution Control Act, (N.J.S.A. 58:10A-1), has the authority and the mandate to establish pretreatment standards in order to prevent interference with the operations of the DTW's. As discussed in the basis and background document, petroleum-based oil and grease can cause interference with the operation of a DTW. Therefore, it is justified to require the indirect discharger to meet uniformly prescribed effluent limitations for this parameter in order to prevent interference. These regulations enable the Department and DTW's to uniformly set specific levels for the control of petroleum-based oil and grease in all applicable discharge permits rather than setting levels on a case-by-case basis. Thus, all dischargers are on notice of the effluent limitations which must be satisfied, prior to the issuance of a permit.

The additional expense of complying with these regulations will be neither unreasonable nor "unnecessary" in view of the objectives and goals of the Water Pollution Control Act. The Department has provided some possible relief to dischargers. An indirect discharger may be granted an exemption from effluent limitations, if the receiving DTW can satisfy the conditions established in N.J.A.C. 7:14A-14.8. This will decrease the cost of compliance for these indirect dischargers. A discharger's compliance with the limits also may decrease the permittee's costs, since such compliance is a basis for determining eligibility to reduce monitoring requirements.

Issue 3

One commenter charged the Department with "instituting such a significant departure from the regulating scheme adopted throughout the United States" by establishing effluent limitations for discharges due to precipitation. The commenter stated that these discharges are "really non-point source in nature" and are subject to regulations through best management practices, not numerical effluent limitations.

Response:

In response to the above comments, the Department notes the following:

1. Establishing effluent limitations for discharges due to precipitation does not mark a departure from the usual regu-

latory practice. Among others, Region II of the U.S. EPA has specified a 15 mg/1 maximum for storm water in their permit development guidance. The 15 mg/1 standard was consistently applied by EPA in developing NPDES permits for New Jersey dischargers whose discharges contain surface water runoff. (Basis and Background, p.10)

2. Not all storm water discharges are "non-point source in nature", for example, see N.J.A.C. 7:14A-3.8.

3. Storm water dischargers who are point source dischargers are required to have a NJPDES permit as specified at N.J.A.C. 7:14A-3.1(a) and would be regulated under the present regulations.

4. Best management practices provide a mechanism to control or abate the discharge of pollutants, most often from precipitation events, and as set forth at N.J.A.C. 7:14A-3.13(k) may or may not include numerical effluent limitations or standards, depending on the significance of the discharge.

7:14A-14.2 Definitions

Issue 1

One commenter pointed out that the term "biweekly" should be defined, since it can mean either "occurring twice a week" or "occurring every two weeks".

Response:

"Biweekly" as it appears in the N.J.A.C. 7:14A-14.5(a)2 is intended to mean "occurring every two weeks". The definition of "Biweekly" has been added to the regulations.

Issue 2

The definition of "existing discharger" should be expanded to include existing facilities whose permits are under review.

Response:

The Department has included those dischargers who have filed NPDES/NJPDES/DSW and SIU permit applications to the definition of "existing dischargers." The following requirements will apply: These dischargers will be subject to interim discharge limitations of 15/30 mg/1 (unless more stringent limits apply which the Department will strictly enforce), but will not have to be in compliance with more stringent standards (10/15 mg/1) for two years or whenever the NJPDES permit is issued, whichever is later. Under the proposed regulations these dischargers would have had to comply with the 10/15 upon permit issuance, which could have been less than two years, especially since the Department intends to issue general permits to many dischargers in this category. The Department finds this revision is reasonable in order to give a discharger who applied for a permit in "good faith", the same implementation period as a person who has been issued a permit.

Issue 3

A discharger of oil and grease who has been required to monitor oil and grease in the NJPDES/DSW permit upon the effective date of this subchapter should be classified as an existing discharger even though no effluent limitation is specified for oil and grease in the permit.

Response:

The Department agrees with the comment and has modified the definition of "existing discharger" accordingly. Those dischargers who monitor for oil and grease will now be re-

quired to satisfy the requirements of N.J.A.C. 7:14A-14.4(a)1. The Department's analysis of reported discharge data (i.e. DMRs) indicates that most values reported by dischargers who presently monitor for oil and grease, meet the discharge limitations of 10 mg/1 average and 15 mg/1 maximum. Thus, it is reasonable for the Department to adopt these regulations by including requirements that at least require compliance with a 15 mg/1 average and 30 mg/1 maximum, unless more stringent requirements apply. For dischargers who are presently reporting discharge values less than 15/30, there shall be no backsliding. Since most of them presently discharge at even lower values, the Department has determined that it would not be an unreasonable burden on these dischargers.

Issue 4

One commenter interpreted the definition of "new dischargers" to include "current dischargers who have never applied for a NJPDES permit" and would support the definition if so intended.

Response:

The commenter interpreted the definition of "new discharger" correctly. The regulations defined "new discharger" as "any discharger of oil and grease to surface waters who is not an existing discharger." "New dischargers" include not only the "non-filers" considered by this commenter, but also current dischargers who are NJPDES/DSW permittees but without oil and grease effluent limitations or monitoring requirements specified in their permits.

Issue 5

A petroleum hydrocarbon discharger suggested that there should not be a distinction between petroleum-based and non-petroleum-based oil and grease.

Response:

Oil and grease was designated by EPA as a conventional pollutant on July 30, 1979 (44 FR 44501). The following response to public comments in connection with that rulemaking should be noted:

"Several commenters expressed concern that the Agency does not distinguish between oils and greases from animal and vegetable origin and those associated with petroleum sources. . . . oil and grease from petroleum sources may contain toxic fractions. Where toxic substances are associated with oil and grease, this Agency may require control at BAT levels" (44 FR 44502).

The present regulations attempt to formalize the public concern of the toxicity of the petroleum-based oil and grease. As petroleum-based oil and grease can be distinguished from oil and grease of animal and vegetable origin by the infrared test procedure, the Department finds that it is justified to distinguish between these two broad categories of oil and grease so that the presence of the more toxic fraction can be adequately assessed.

7:14A-14.3 Implementation

Issue 1 Subsection (a)

One commenter commented on the "unnecessarily long time" that the Department allows existing dischargers to come into compliance with the more stringent standards. It

was suggested that the existing dischargers should meet the new discharger standard within two years or when a renewal permit is issued, whichever occurs sooner, not later, as stated in the proposed regulations.

Response:

It is necessary to grant existing dischargers sufficient time to update treatment facilities for improved oil and grease removal. It is not unreasonable for the Department to allow an interim period for existing dischargers to meet the more stringent standards. These discharges are not uncontrolled since they must continue to meet requirements in conformance with the existing permit until permit renewal, as long as the effluent concentrations do not exceed the 15/30 mg/l levels.

Under the condition "whichever occurs sooner", a discharger whose permit is due for renewal soon after the promulgation of the regulations would have to comply immediately with the new discharger standards. Depending on the permit renewal date, a discharger may have little or no lead time to obtain and install the proper treatment technology at the facility. Based upon the considerations indicated above, the Department has decided not to change the implementation schedule.

Issue 2 Subsection (b)

Although the regulations are clear as to the implementation of effluent limitations, it is not clear when other requirements such as monitoring, sampling, and analysis will take effect.

Response:

It was the intent of the Department under the proposed regulations that the monitoring methods, sampling and analysis requirements take effect on the date of adoption of the regulations; therefore, the proposed regulations did not separately specify an implementation schedule for requirements other than effluent limitations. These regulations have been revised by adding a new subsection (b) to clearly require existing dischargers to meet other requirements, such as monitoring methods, sampling, and analysis within 90 days of the effective date of these regulations. Permittees will be required to comply with the effluent limitations and monitoring frequencies in this regulation when the NJPDES permit (including general permit) is issued or within two years, whichever is later. These procedures provide the permittees and the Department with more accurate and reliable monitoring data in evaluating whether further treatment is required in order to meet the more stringent requirements of 10 mg/l average, 15 mg/l maximum, when a permit is renewed or issued.

7:14A-14.4 Oil and Grease Effluent Limitations

Issue 1 Subsection (a)

One commenter strongly objected to the proposed maximum effluent limitation of 30 mg/l for existing dischargers, reasoning that the studies conducted by the Department demonstrated excellent compliance of the reported discharge monitoring data with the proposed new discharger's standards of 10/15 mg/l. The commenter urged the Department to set the limitations at no higher than 15 mg/l average and 20 mg/l maximum for existing dischargers.

Response:

The Department's statistical analyses of DMR data showed that most of the reported maximum and average discharge

concentrations are equal or below the effluent limitations proposed for new dischargers. The Department determined that it would be reasonable to provide a period of time for those dischargers not in compliance with the proposed limits, to upgrade the treatment facility for further oil and grease removal, if needed. The requirement of meeting a less stringent limit on the interim basis will assist such existing dischargers to come into compliance with the more stringent standard.

It should be noted that not all existing dischargers are authorized to discharge a maximum limitation as high as 30 mg/l under the present regulations. A survey of oil and grease limitations specified in the NJPDES permits produced only about twenty dischargers with limitations higher than 10/15 mg/l. The existing dischargers shall continue to meet applicable standards and limitations or other legally binding requirements, in addition to the effluent limitations prescribed by this subchapter, whichever is more stringent. Therefore, if an existing discharger has been meeting limitations more stringent than the proposed 15/30 mg/l, such limitations shall continue to apply. Existing dischargers who have been required only to monitor shall meet the limitations as determined in the individual permits based upon the expected efficiency of the dischargers' equipment but no higher than 15/30 mg/l.

Issue 2 Subsection (a)

One commenter requested that the Department adopt alternative mass-based limits which have been specified for some existing dischargers practicing water conservation. The commenter noted that for these dischargers the cost associated with monitoring and treatment to comply with the proposed regulations would be significant and the proposed compliance schedule is unrealistic.

Response:

Although the Department is interested in water conservation, the primary concern of the Department lies in the safeguarding of the aquatic biota and human health. Various deleterious effects of oil and grease are discussed in the basis and background document. To allow assessment of risk, the amount of oil and grease present must be considered in relation to diluent water rather than in absolute terms. Hence, the concentration of oil and grease needs to be taken into account in addition to the mass discharged. The intent of the present regulations is to provide concentration-based limitations for industries for which EPA has promulgated mass-based limits and for other oil and grease dischargers not yet subjected to limitations for this parameter.

The Department realizes that there will be extra costs to the discharger as a result of these regulations. However, the Department considers the additional costs necessary and the implementation schedule for existing dischargers reasonable for all discharges to eventually comply with the State-wide concentration limitations.

Issue 3 Subparagraph (a)2ii

The proposed 10 mg/l average monthly discharge limitation requires that dischargers meet a concentration below the sheen "threshold", which the commenter claimed is 15 mg/l.

Response:

The sheen represents the diffraction of light by the monomolecular oily film on the water surface. Depending on the characteristics of the matrix, such as the presence of water

miscible solvents, surfactants, or dispersing agents in the effluent and the surface tension and solubility of the chemical constituents of oil, the sheen "threshold" can be considerably below 15 mg/1.

Issue 4 Subsections (a) and (c)

One commenter praised the proposed rule as "a commendable effort to eliminate the present non-uniform and subjective oil and grease limitations" and considered the limitations and the implementation schedule "acceptable". The same commenter, however, recommended the deletion of the sheen requirement, since "oil sheens are visible in a discharge ditch from concentrations much less than 15 mg/1" and the regulations "imply that the conditions of no visible sheen and an oil concentration of less than 15 or 30 mg/1 must simultaneously govern discharges."

Response:

It is the Department's intention to have the dischargers meet simultaneously the "no visible sheen" requirement as well as the 10/15 or 15/30 limitations. The Department's enforcement efforts are most effective by utilizing a numerically quantifiable limitation. It has been an accepted practice implementing State and Federal water pollution control statutes to meet the "no visible sheen" requirement as a means of prohibiting the discharge of oil and grease (See 40 CFR Part 110). It is also consistent with the requirements set forth in the water quality standards which apply in New Jersey. The sheen requirement is consistent with the "no readily visible oil" guideline of the Delaware River Basin Commission (DRBC) and the "none-noticeable" standard of the Interstate Sanitation Commission (ISC).

Issue 5 Subsections (a) and (c)

One commenter commended the Department for the proposed regulations and considered the no visible sheen requirement as "the key element . . . needed for uniformity". The commenter emphasized that the numerical limitations must be consistent with the no visible sheen provisions and should be no higher than the values specified in these regulations.

Response:

The Department concurs with the commenter on the necessity of the sheen requirement and that the effluent limitations should be set at no higher than the proposed values.

Issue 6 Paragraph (a)2

The stricter limits imposed on new dischargers may be technically unachievable.

Response:

The proposed average monthly limitation of 10 mg/1 and maximum of 15 mg/1 are technically achievable limitations. The Department performed a statistical analysis of approximately 12,000 average and maximum values reported by over 300 New Jersey dischargers. About 90 percent of the reported values are at or below the proposed limitations. Section VI of the basis and background document discusses treatment processes which enable the dischargers to meet the technically achievable limitations. In addition, improved oil and grease removal can be achieved by best management practices as suggested in Section VIII of the same document.

Issue 7 Paragraph (b)2

One commenter expressed concern about the much higher limits specified for indirect dischargers, that is, 100 mg/1 average and 150 mg/1 maximum concentrations.

Response:

The higher limits for indirect dischargers are justified on the basis of some treatment capability of a sewage treatment system. If necessary, a more stringent limitation may be imposed in the permit by the DTW or the Department to enable the receiving DTW to meet the required effluent limitations.

Issue 8 Subsection (c)

The rainfall intensity of "two inches per hour" does not indicate the duration of the precipitation event.

Response:

One hour's duration is implied. To avoid ambiguity the language of "two inches per hour" is changed to "two inches in an hour".

Issue 9 Subsection (c)

One commenter indicated that the Department "completely relinquishes its regulatory mandate" by granting an exception to effluent limitations whenever the precipitation exceeds two inches in an hour. As an alternative to the exception provision, the commenter suggested that for a heavy rainfall the Department require the dischargers to collect runoff for the first one-half hour, (the "first flush"), for treatment and to divert the rest to prevent overloading the treatment system.

Response:

The rainfall of "two inches in an hour" has the recurrence interval of approximately ten years for the Trenton area. The exception provision is not intended to grant permission to pollute but to recognize that it is not reasonable to substantially increase costs by requiring that facilities be designed and constructed for rare rainfall events. Where a rainfall event exceeds "two inches in an hour" a discharger is required to operate the treatment works as long as the flow to the system allows for treatment. Therefore, there is a lack of total treatment only when the flow to the treatment works exceeds the design capacity.

The alternative suggested by the commenter is not applicable to all rainfall events because the rainfall intensity can vary unpredictably. The "first flush" may last longer than the half-hour period suggested. Thus, this suggestion would not provide the same degree of protection to the environment as the proposed regulations which require treatment and monitoring of the entire runoff regardless of the severity of the rainfall. In addition, compliance with these regulations is monitored 15, 30 and 45 minutes after the onset of the rainfall event.

The suggested alternative poses other problems. Generally, the dischargers do not know in advance when a rainfall intensity greater than "two inches in an hour" will occur. The dischargers, therefore, have to continue operating their facilities after the first half-hour of a rainfall. The Department expects that the dischargers should utilize their wastewater treatment facilities to the maximum extent possible so as to achieve the optimum treatment levels. It should also be noted that diverting the runoff from any portion of a treatment facility constitutes a by-pass which is regulated under N.J.A.C. 7:14A-3.10. In addition, water quality standards could be violated if the runoff is untreated before discharge.

ADOPTIONS

Issue 10 Subsection (c)

Are discharges resulting from precipitation events required to meet an average monthly limitation as well as a maximum?

Response:

Discharges resulting from precipitation events are limited by a maximum allowable discharge concentration. The average monthly limitation has no meaning for such discharges where the flow is not continuous.

Issue 11 Subsection (d)

One sewerage authority agreed with the intent of the proposed regulations and stressed the importance of this subsection which allows a DTW to impose more stringent limitations. The authority termed it "essential" to retain this provision in the final regulations, since the proposed regulations do not impose limitations on the nonpetroleum-based oil and grease which can exert a very significant impact on biological treatment systems.

Response:

The Department agrees with the commenter on the importance of this subsection. It has been the Department's intent to allow local authorities to impose more stringent requirements when needed.

7:14A-14.5 Minimum Monitoring and Reporting Requirements

Issue 1 Subsection (a)

A commenter suggested that the monitoring schedule for NJPDES/DSW dischargers be specified in the individual permit and not in the regulations.

Response:

The Department considers it necessary to provide a minimum monitoring schedule in the regulations for uniform application to all NJPDES/DSW dischargers. Additional monitoring may be specified in the individual permit. However, a reduction in the monitoring requirement is also possible if the discharger satisfies the requirements of N.J.A.C. 7:14A-14.5(e).

Issue 2 Subparagraph (b)iii

Comments were made on the need to specify in the regulations a schedule for monitoring petroleum-based oil and grease by indirect dischargers. The commenters proposed that the sampling schedule be established individually in the discharger's NJPDES or DTW permit by the permit writer from either this Department or the receiving DTW, based on applicable federal or local pretreatment requirements, the history of the discharger's wastewater, and the treatment capability of the DTW.

Response:

The Department has re-evaluated the monitoring requirements for indirect dischargers. The monitoring schedule now only includes the minimum monitoring requirements (quarterly). Individual permits will be evaluated to determine if more frequent monitoring is necessary.

Issue 3 Paragraph (b)2

This provision states that indirect dischargers possessing a permit by rule are not required to submit monitoring reports.

ENVIRONMENTAL PROTECTION

It is not clear whether monitoring is required, even though monitoring reports are not to be submitted.

Response:

The language of this provision is changed to indicate that indirect dischargers possessing a permit by rule are not required to monitor pursuant to these regulations. The indirect dischargers may still wish to monitor their discharges to ensure compliance with the effluent limitations. However, in accordance with N.J.A.C. 7:14A-14.4(b) and as explained in the basis and background document under Applicability (p. 53), indirect dischargers are required to meet the effluent limitations, which will be enforced by the DTW with an approved Pretreatment Program as a condition of the Program Approval by the Department. For indirect discharges into a DTW without an approved Program, the Department will enforce said limits through the issuance of a NJPDES/SIU permit, which will require monitoring.

Issue 4 Subsection (c)

Storm water dischargers with an approved treatment system (oil/water separator) shall not be required to monitor, if the system can meet an annual test and the discharger can certify the satisfactory operation of the system.

Response:

The intent of the Water Pollution Control Act and these regulations is to ensure that the effluent complies with the specified limitations in order to protect water quality. Therefore, the regulations will require the dischargers to monitor their discharge.

Issue 5 Subsection (c)

Storm water monitoring should follow the federal proposal of classification as to type (Class I or Class II).

Response:

The commenter cited no specific reference for the classifications. Presumably Class I and Class II correspond to Group I and Group II storm water discharges discussed in the proposed Consolidated Permit Regulations (47 FR 52073) and later deleted from the final rule (48 FR 14146). The proposed regulations divided storm water dischargers into two broad groups with respect to application requirements on the basis of the potential for significant pollution problems.

At this time, the Department will not categorize storm water discharges. In accordance with N.J.A.C. 7:14A-14.5(f), if the permitted discharger can demonstrate the uncontaminated nature of the discharge, the discharger may be exempted from monitoring for oil and grease.

Issue 6 Paragraph (c)1

Several sets of comments were submitted in regard to monitoring for oil and grease during precipitation that may occur around the clock on any day of the week. The commenters stated that such a monitoring program would require staffing during nonworking hours, thereby causing an unarranged financial burden and also posing enforcement problems for the Department.

Response:

After re-evaluating the monitoring requirement, the Department has decided to require monitoring only for discharges which occur during working hours. Paragraph (c)1. is modified accordingly.

Issue 7 Paragraph (c)1

The regulations do "not define first precipitation event in paragraph 14.5(c)1—it could be anything from a few drops at one end of plant site to a deluge or anything in between."

Response:

With reference to flow, paragraph 14.5(c)1 qualifies the first precipitation event as that "which causes a discharge."

Issue 8 Paragraph (c)2 and 3

One commenter criticized the requirement of taking three individual samples during each precipitation event as excessive and burdensome. It was proposed that the dischargers take only one sample at 30 minutes after the onset of the discharge.

Response:

The Department recognizes the costs associated with sampling and analysis. However, because of the unpredictable variability of the storm intensity, more extensive data are needed than that from one single sample in order to "catch" the first flush. Therefore, the Department requires the dischargers to take samples 15, 30 and 45 minutes after the onset of the discharge and report the maximum value. The Department also finds this requirement reasonable since monitoring is required only for the first precipitation event of the monthly monitoring period.

Issue 9 Subsection (c) and (e)

One commenter suggested that the storm water monitoring be required on a case-by-case basis or that monitoring as specified in the regulations be applied only to facilities where a previous problem exists and no more than quarterly monitoring be required of the other dischargers. Another commenter requested that the Department expand subsection (e) to include dischargers who monitor only during precipitation so that such dischargers who have demonstrated consistent compliance shall be granted a reduction in monitoring requirement. A minimum monitoring frequency of "semi-annually" was also proposed.

Response:

Each discharge from storm water runoff is variable, depending on housekeeping, rainfall amount and intensity, and facility operations. The discharger must design for this variety of conditions. The future performance of a discharger can not be predicted on the basis of the past compliance record. Hence, the dischargers are required to monitor for an individual precipitation event as specified in the permit.

Issue 10 Paragraph (c)3 and Subsection (f)

One commenter suggested that the monitoring of uncontaminated storm water from tank basins, etc., be confined to the sheen test.

Response:

Uncontaminated discharges from precipitation events may be exempted from monitoring per se, as the result of the change in the proposed regulations (See Issue 12). If the uncontaminated discharges cannot be exempted from monitoring, the discharges must meet the specified effluent limitations in addition to the sheen test.

Where sheen is a sign of pollution, the absence of sheen does not necessarily assume the pristine state of the water quality. Depending on the solubility of the contaminant, a molecular film may or may not develop resulting in an iridescent appearance on the surface of water called "sheen". The Department, therefore, requires that all dischargers meet the quantitative limitations as well as the qualitative criterion of "no visible sheen".

Issue 11 Subsections (c) and (g)

One commenter suggested that the Department require the dischargers whose discharge results solely from a precipitation event to develop and implement "meticulous yard maintenance and spill clean-up" plans and that the Department accept the corporate official's periodic certification in lieu of regular monitoring.

Response:

The Department expects all dischargers to incorporate good housekeeping as an integral part of their environmental program. In addition, some dischargers have been required to maintain the facility according to best management practices under N.J.A.C. 7:14A-3.13(k) and Title 3 of the Federal Act. The effect of such practices on water quality can only be measured by regular monitoring of the discharge.

Issue 12 Subsection (f)

Three commenters requested that uncontaminated discharges from precipitation events be exempted from monitoring as is the case for uncontaminated non-contact cooling water.

Response:

In response to the commenter's request, the Department has decided to exempt uncontaminated discharges from precipitation events from monitoring, if the uncontaminated nature can be demonstrated. The discharger shall monitor pending the Department's decision concerning the exemption request.

Issue 13 Subsection (g)

The proposed regulations do not specify reporting frequencies for monitoring results.

Response:

The regulations did not specify the reporting frequencies because all monitoring results shall be submitted according to the schedule in the discharger's NJPDES permit. Accordingly, the Department has added a new subsection (g).

7:14A-14.6 Sampling Protocol

Issue 1 Subsection (a)

For sample collection the regulations should extend the use of one-liter bottles to include one-quart bottles, since they are also commercially available.

Response:

This provision is changed in response to the comment to allow more flexibility concerning the size of the bottle.

Issue 2 Paragraph (a)5

A commenter agreed with the Department on the importance of sample preservation. The commenter pointed out, however, that requiring preservation "at the time of collection" may necessitate a small facility to set up a mini-laboratory on site. "Preservation within four hours" is adequate and should be substituted.

Response:

This provision has been revised since preservation within four hours should not adversely affect the sample.

Issue 3 Paragraph (a)5 and Subparagraph 5ii

The Department was requested to substantiate the use of hydrochloric acid as a preservative and to provide a basis for the reduction in holding time "from the EPA recommended 28 days".

Response:

The use of hydrochloric acid as a preservative is well-documented in the references provided in the present regulations (N.J.A.C. 7:14A-14.2 and 14.7): namely, 40 CFR Part 136 for nonpetroleum-based oil and grease and Method 418.1 in EPA "Methods for Chemical Analysis of Water and Wastes" (1983) for petroleum hydrocarbons. According to 40 CFR Part 136, information on sample preservation may be found in EPA "Methods for Chemical Analysis of Water and Wastes" table 2, pp. viii-xii (1974). Table 2 on page X of the Methods manual under the heading "Oil and Grease" does not mention the use of hydrochloric acid as a preservative. However, on page 1 of the booklet "Changes and Errata" which accompanies the Methods manual, the following erratum is noted: "Page X, Table 2, For 'Oil and Grease' under 'Preservative' column, add 'or HCl'".

Preservation with hydrochloric acid is also specified on page 229 of the 1974 EPA Methods manual and on page 516 of the Standard Methods. These pages contain the approved test procedures, referenced in 40 CFR Part 136, which the Department requires for analyzing non-petroleum-based oil and grease. For preserving petroleum-based samples, the use of hydrochloric acid is prescribed on page 418.1-1 of the 1983 EPA Methods manual referred above. The "Field Procedures Manual for Water Data Acquisition" (1983) prepared by the Office of Quality Assurance of this Department recommends on pages ix and xiii "or HCl" under "Preservative" for "Oil and Grease" or "Petroleum Hydrocarbons".

As to the holding time, EPA has not recommended "28 days" as stated by the commenter. The 1974 EPA Methods manual referenced in 40 CFR Part 136 recommends on page X "24 hours" for samples analyzed by the Oil and Grease Method. There is no EPA specified holding time for samples analyzed by the petroleum hydrocarbons method. The Department's Field Procedure Manual recommends on page ix a holding time of "24 hours" for Oil and Grease or Petroleum Hydrocarbons.

The present regulations limit the holding time to 24 hours for nonpetroleum-based oil and grease and three days for petroleum-based oil and grease. The difference in holding time results from the State's being bound to the federal prescribed holding time of 24 hours for samples analyzed by the oil and grease procedure. In the absence of any federal guidance on preservation of samples to be analyzed for petroleum hydrocarbons, the Department allows a maximum holding period of three days. The intent is not to cause undue hardship to dischargers while assuring the preservation of the integrity of the sample.

Issue 4 Subsections (b), (c), and (d)

Several commenters objected to the sample collection requirements. Although the necessity to collect a representative sample and the technical validity of the proposed regulations were acknowledged, it was suggested that the Department provide a simplified and less expensive methodology. The sample site selection process was characterized as "unnecessarily elegant" or "too complicated and arbitrary". One commenter indicated that the proposed regulations would require a discharger "to employ and train personnel in observing the Froude and Reynolds numbers as well as noting velocity and gravitational requirements". Comments were also made that, rather than relying on a general formula, the Department should specify in the individual permit sampling site requirements, after a site visit. One commenter urged the Department to require formal documentation on flow conditions to avoid the temptation to "eyeball" or "disregard" the situation.

Response:

The Department has carefully established sample collection requirements in order to obtain representative samples. Froude Number or Reynolds Numbers can be computed after measurement and calculation of parameters, such as velocity of the fluid, depth of flow, pipe diameter, or temperature. Much of the required information may be already available on record in connection with other operations at the facility. Noting the gravitational requirements is no more than writing down 32.2 ft/sec^2 , the value for the acceleration by gravity.

As stated in the basis and background document, obtaining a representative sample for oil and grease is difficult because the oil may float on the surface or sink to the bottom. Thus, the sampling point should be located in an area of turbulence. Both the Froude Number and the Reynolds Number are indicative of the degree of turbulence in a conduit. A flow with a Froude Number of one or higher or a Reynolds Number over 4000 is generally regarded as turbulent.

It is not the Department's intent to require that all dischargers characterize the flow conditions by a general formula. The requirement for measurement and calculation of flow conditions will be determined in the individual permit. Flow conditions which allow integral sampling without a specific quantitative evaluation are described in the regulations, with specific cases cited in the basis and background document. For example, samples may be obtained from an open channel at a sampling point located immediately downstream of a hydraulic jump, or immediately after a properly installed V-notch weir. Samples from a closed conduit may be collected from a tap on a force main which conveys the discharge from a centrifugal pump, located immediately upstream of the tap. For small discharges, representative samples can be collected directly from the entire flow. This allows for a measure of flexibility. However, the Department must still exercise some control over the sampling and measuring procedure without requiring each discharger to employ and/or train personnel in a specialized methodology. Therefore, as suggested, the regulations have been modified to state that the sampling methodology shall be documented. Where site conditions present problem requiring more than documentation, the regulations have also been modified to allow the Department to require a professional engineer's statement concerning the flow conditions. Sampling and measurement may then be conducted accordingly by regular employees. Dischargers may also request the Department to approve an alternative sampling protocol for representative sampling.

It is recognized that some dischargers may have to change their existing sampling points to obtain representative samples of their discharge. The costs of doing so are site-specific. Nevertheless, such costs will be small because it is expected any modifications necessary will be minor. Furthermore, the costs to ensure representative sampling are necessary to the integrity of the program.

7:14A-14.7 Analytical Methods

Issue 1 Paragraph (a)2

Comments were received on the use of the infrared (IR) method for analyzing petroleum hydrocarbons. Unlike the gravimetric method, the IR method has not been listed in 40 CFR Part 136 as an approved test procedure for the analysis of pollutants. It was pointed out that the two methods measure complex mixtures unique to each test method. One commenter was concerned that the IR method reports higher concentrations of oil and grease than the gravimetric procedure for the same sample and, therefore, termed the Department's action arbitrary and capricious.

Response:

Because oil and grease represents a very broad category of chemical compounds of differing chemical and physical characteristics, there is no single method available which can adequately measure all oils and greases. Both the gravimetric methods and the infrared method measure only the freon-extractables. Residue-type materials contained in crude oils and heavy fuel oils which are not soluble in freon will not be measured by either method. Both methods involve extraction manipulation during which loss of volatile petroleum distillates, such as gasoline, can be expected. On the other hand, materials not belonging to the category of oil and grease may be measured as oil and grease if they are extractable by freon.

The gravimetric method involves a solvent removal step where substantial or complete loss of petroleum fuels from gasoline through #2 fuel oils would occur. The IR method is more specific for petroleum-based oil and grease because of the prior removal of polar materials of oil and grease of animal and vegetable origin by the silica gel treatment before IR Measurement. The two methods emphasize different components of oil and grease. The IR method is also more sensitive to low concentrations of levels of 1 mg/l or less. Because of the impact that petroleum hydrocarbons have on the aquatic biota, the Department deems it necessary to measure petroleum based oil and greases in low concentrations.

Since 1976, the State has required petroleum hydrocarbon dischargers to monitor by the IR Method. Under Section 510 of the Clean Water Act, the State may adopt any limitation respecting discharges of pollutants or any requirement respecting control or abatement of pollution more stringent than that specified by the Federal Act. Thus, the Department is requiring the IR test procedure even though a higher concentration level may be measured.

Issue 2 Paragraph (a)2

A commenter objected to the proposed infrared method since they do not presently possess an infrared analyzer. "The Standard Method 502E analysis for petroleum hydrocarbons" was proposed as an alternative.

Response:

Part 502 of the current edition of Standard Methods for the Examination of Water and Wastewater (15th edition, 1980)

discusses the determination of methane and does not contain a Standard Method 502E for petroleum hydrocarbons.

The method referred to by the commenter is listed as method 502E in the 1975 edition of the Standard Methods for the Examination of Water and Wastewater. It also appears as method 503E in the 1980 edition. This procedure involves essentially silica gel adsorption and subsequent analysis of hydrocarbons in the sample by either gravimetric or infrared determinations. As stated in Issue 1, the Department prescribes the infrared determination as the method for analyzing petroleum hydrocarbons and does not agree that hydrocarbon dischargers should have an option without prior approval. Petroleum hydrocarbon dischargers who do not own an infrared spectrophotometer may contract an outside laboratory or acquire such capability.

Issue 3 Paragraph (a)3

The proposed regulations do not explicitly state the analytical method required of discharges consisting of mixed petroleum and nonpetroleum-based oil and grease. One chemical manufacturer proposed the use of the gravimetric method, since it measures "total oil and grease". A sewerage authority suggested the infrared method for petroleum hydrocarbons be specified for domestic treatment works, as "naturally occurring oil and grease" will be degraded by a well-operated secondary treatment plant and the gravimetric method is not reliable for measuring the more persistent petroleum hydrocarbons at low concentrations.

Response:

It is the Department's intent to specify the appropriate analytical method(s) in an individual permit for discharges of mixed oil and grease. Based on considerations of the source and nature of the discharge and the amount of each type of oil and grease present, the method of choice may be either gravimetric, infrared, or both. For clarification, paragraph (a)3 has been added to the proposed regulations.

In general, both methods may be required for analyzing mixed oil and grease. The infrared method for petroleum hydrocarbons does not measure oil and grease of animal or vegetable origin. Although the gravimetric method purports to measure "total oil and grease", that is, animal fats, vegetable oils, as well as relatively non-volatile hydrocarbons, it is not applicable to the measurement of light hydrocarbons. Even if the gravimetric method could measure the total oil and grease concentration, it would be appropriate to assess the amount of petroleum hydrocarbons present due to their persistence and toxicity.

A well-operated secondary treatment plant is normally capable of degrading naturally occurring oil and grease of animal and vegetable origin, provided that the plant is also properly designed, constructed, and operated within its design capacity, and does not receive interfering industrial wastes. For such a treatment plant, the Department agrees with the sewerage authority that frequent analyses by the gravimetric method shall not be obligatory and the infrared method for petroleum hydrocarbons should be specified as the primary procedure to measure oil and grease.

The Department recommends that domestic and other treatment plants which reduce nonpetroleum-based oil and grease to minimal or non-detectable levels submit documentation during the permitting process so that regular monitoring by the gravimetric method shall not be required. Minimal monitoring may be necessary to ensure that oil and grease of animal and vegetable origin are being biodegraded before discharge.

ADOPTIONS

Issue 4 Paragraph 7(a)4

The commenters requested that a discharger with pre-existing approval for an alternative method of analysis be exempted from Method 418.1, the infrared method for petroleum hydrocarbons.

Response:

Within 90 days of the effective date of these regulations, all dischargers are required to analyze in accordance with N.J.A.C. 7:14A-14.7. Dischargers may request approval of alternative methods in accordance with N.J.A.C. 14A-14.7(a)4.

7:14A-14.8 Exemptions

Issue 1

One commenter proposed that the Department establish a volume of discharge below which a discharger shall be exempted from meeting the effluent limitations. The commenter is concerned with the discharger which "emits a de minimis level of oil and grease or uses only lubricating oils and is involved in no oil processing".

Response:

The regulations require the discharger to meet the effluent limitations of a specified concentration. Therefore, the Department cannot exempt a discharger based on the volume of discharge.

Issue 2

One commenter suggested adding an exemption clause in the regulations to exempt surface water dischargers who will be connected to a DTW.

Response:

The Department may allow an exemption where the discharger proves the connection to the DTW is imminent.

Issue 3 Subsection (b)

Clarification is needed in the regulations to show that the monitoring schedule is no longer required of indirect dischargers who have been granted an exemption from meeting the effluent limitations.

Response:

An exemption from the effluent limitations does not necessarily imply an exemption from the monitoring schedule. The Department has modified paragraphs (b)1. and 2. of the proposed regulations so that petroleum-based indirect dischargers who are SIU's required to obtain an individual NJPDES/SIU permit shall follow the monitoring schedule established in the individual NJPDES/SIU permit and indirect dischargers possessing a permit by rule are not required to monitor under these regulations. Thus, pursuant to the discharger's type of NJPDES permit, the monitoring schedule may or may not be required.

Issue 4 Subparagraph (b)Iii

Which sludge disposal option qualifies under the criterion for exemption that considers petroleum hydrocarbons a beneficial constituent? Which does not?

ENVIRONMENTAL PROTECTION

Response:

In general, sludge disposal or treatment options such as thermal destruction (incineration, pyrolysis) and heat treatment qualify for possible exemption. Types of sludge disposal which do not qualify include ocean dumping, land application, and composting. The Department will review each application individually to determine the eligibility for exemption.

Issue 5 Subparagraph Iiii

One commenter had some questions concerning the cost criterion the Department uses to evaluate exemption requests.

Response:

The DTW must show that the costs to treat oil and grease are in proportion to other costs to treat pollutants at the treatment plant, prior to receiving approval for the exemption. The Department finds that a DTW should not expend excessive efforts solely to meet this oil and grease limit, and then pass these costs to domestic users.

BASIS AND BACKGROUND

Issue 1 Section I. Introduction

A commenter disagreed with the Department on the proposed issuance of a general permit to oil terminals and bulk stations whose discharges result solely from precipitation events. The commenter was concerned with the possibility of backsliding from the existing permit requirements and stressed that these discharges should be closely regulated due to a significant potential for oil pollution from these dischargers.

Response:

The issuance of general permits is not an opportunity for backsliding from existing requirements for these dischargers. Basically, a general permit covers the same provisions as an individual permit. Dischargers which have general permits are required to meet the same effluent limitations as dischargers with individual permits. In addition, all general permits are required to be issued in accordance with the procedures in N.J.A.C. 7:14A-3.9, which allow for public comment concerning permit conditions.

Under Subchapter 3 of the NJPDES Regulations the Department intends to issue general permits to those terminal facilities which store petroleum products and whose discharges result solely from precipitation events. Although some dischargers will retain their individual permit as determined on a case-by-case basis, about 70 facilities already permitted under the NJPDES program and any new dischargers similarly qualified could be affected.

The Department recognizes the potential of oil pollution from these facilities. Therefore, the general permit is an instrument to facilitate the implementation of the oil and grease regulations for a large number of dischargers with similar discharge characteristics, that is, sources, operations. The general permit will enable the Department to implement the regulations not only efficiently but also in a consistent manner.

Issue 2 Section I. Introduction

Several commenters from business and industry expressed regrets that they were not included in the Oil and Grease Task Force.

Response:

The Department regards public participation essential to the development of regulations. In forming the Oil and Grease Task Force the Department assembled members representing the academia, consulting engineering firms, environmental groups, industry, regulatory agencies and sewage authorities. With their collaborative efforts, the draft regulations were revised for proposal.

The Department must consider that the participation of representatives of the Chemical Industry Council of New Jersey and the New Jersey Business and Industry Association as representative of those New Jersey businesses who are members of these organizations.

Issue 3 Section IV. Present Conditions

"The DEP statistical analysis describing compliance with oil and grease data measured by the gravimetric method can not be used to establish the limitations for petroleum hydrocarbons."

Response:

The Department's statistical analyses of the reported data for petroleum hydrocarbons support the limitations for petroleum hydrocarbons. In order to assess the extent of expected compliance with the proposed limitations of 10/15 mg/l, the Department examined and analyzed effluent data reported for the period of September 1976 to September 1981. The data include 2,107 maximum and average values for petroleum hydrocarbons measured by the infrared method as reported by over one hundred petroleum hydrocarbon dischargers.

As shown in Graphs C through H on Tables I and III of the Basis and Background document (pp. 15-20, 22, 24), most of the reported values for petroleum hydrocarbons are below the proposed limitations and the petroleum hydrocarbon discharger have, by and large, met the limitations. Thus, based on the available data, the majority of dischargers of petroleum hydrocarbon would not have violated the proposed limitations.

Since 1976, effluent monitoring of petroleum hydrocarbons has been a standard requirement for NJPDES (NPDES)/DSW petroleum hydrocarbon dischargers, as the result of the "Proposed Revisions to Surface Water Quality Standards" (Basis and Background, p.9). In addition, some dischargers of petroleum hydrocarbons have been required to meet specified limitations for petroleum hydrocarbons. Therefore, the Department is in possession of extensive data on this parameter for statistical analyses.

The data on petroleum hydrocarbons collected since 1976 does not include effluent values from a number of oil terminals and bulk stations since these facilities did not submit required monitoring data. The Department, however, does not consider that the lack of such data invalidates the analyses since both treatment technology and best management practices can be successfully utilized to achieve the limitations specified in the adopted regulations.

Issue 4 Section X. Estimated Costs of Equipment and Installation

A commenter noted that the information provided in this section does not consider below-ground separator systems which would be much more costly nor include information on the added costs of venting, pumping equipment, etc. The commenter also recommended that the Department make

available a list of vendors or commercial products acceptable to the Department.

Response:

The Department recognizes that additional costs may be incurred by a discharger seeking to comply with these regulations. The table in this section provides some indication on the estimated costs of equipment and installation. It is not intended to cover all situations which may require special considerations, such as below ground installation.

The Department is not in the position to supply a list of acceptable vendors or commercial products since this would be viewed as an endorsement. Dischargers should investigate the appropriate equipment for the individual facility.

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

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.

"Biweekly" means occurring every two weeks.

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

"Existing discharger" means any discharges of oil and grease who has an ***[oil and grease]*** effluent limitation ***or monitoring requirement specified for oil and grease*** ***[specified]*** in the NJPDES/DSW permit ***or who has applied for a NJPDES/NPDES 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 amend-

ments, 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.

"Working hours" means including and not limited to 8:00 A.M. through 5:00 P.M. Eastern Standard Time, Monday through Friday.*

7:14A-14.3 Implementation

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

(b) Within 90 days of the effective date of this regulation, existing dischargers shall meet the requirements or N.J.A.C. 7:14A-14.5(c) Monitoring method, 7:14A-14.6 Sampling protocol, and 7:4A-14.7 Analytical methods.

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/1; and
- iii. Exceed a concentration of 30 mg/1 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/1; and
- iii. Exceed a concentration of 15 mg/1 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/1; and
- ii. The concentration in any single sample shall not exceed 150 mg/1.

(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]* *in an* 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/1 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/1 in any single sample.

3. Indirect dischargers shall meet a maximum concentration of 150 mg/1.

(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 ***and reporting*** 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*/SIU* 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.]* ***established in the individual NJPDES/SIU permit with no less than quarterly monitoring.***

2. Indirect dischargers possessing a ***NJPDES*** permit by rule (see N.J.A.C. 7:14A.*[1.9]* ***10.5(f)***) are not required to ***monitor*** *[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 ***SIU*** 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 ***during working hours*** 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 in individual NJPDES*/SIU* permit, where the discharger has met the required oil and grease limitations for each of the reporting periods during the preceding twelve months, the Department may reduce the monitoring requirements of subsection*s* (a) ***and (b)*** above by up to 50 percent but ***[to no]* *not*** less than quarterly ***[reporting]* *monitoring***. Whenever a report indicates the discharger has exceeded its effluent limitations, the discharger shall resume its former, more frequent reporting schedule.

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*/SIU* permit can demonstrate to the Department that the discharge consists entirely of uncontaminated non*[-]*contact cooling water ***or uncontaminated discharge resulting from precipitation events***, the Department may exempt ***[this]* *such*** 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.

(g) All monitoring results required by this section shall be submitted to the Department in accordance with N.J.A.C. 7:14A-1.5(a)10 and the reporting schedule specified in the NJPDES permit.

7:14A-14.6 Sampling protocol

(a) All samples shall be grab samples collected and stored in ***[one-liter,]* wide-mouth glass bottles ***approximately one-liter in volume and*** fitted with TEFLON[®]-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 H₂SO₄ (1:1) ***[at the time]* ***within four hours*** 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:

$$R = Vd/\nu$$

Where R = Reynolds number (dimensionless).

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

d = diameter of the pipe (ft).

ν = kinematic viscosity (ft²/sec).

Using the following values for ν, kinematic viscosity:

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

(d)* ***The discharger shall document the sampling methodology and such records shall be available to the Department. The Department may require that flow conditions at sampling points specified in (b) and (c) above be certified by a professional engineer.**

[(d)] *(e)* 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 method*s* 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 Waters, USEPA, Environmental Monitoring and Support Laboratory, Office of Research and Development, Cincinnati, OH, March 1983, shall be used.

3. ***Mixed nonpetroleum-based and petroleum-based oil and grease shall be analysed by the method specified in the individual permit.***

[3.] *4.* 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 days period may be extended. The Department shall publicly notice the tentative decision.

(a)

OFFICE OF SCIENCE AND RESEARCH

Laboratory Certification and Standards of Performance

Adopted Amendments: N.J.A.C. 7:18-1.7, 2.2, 2.3, 2.6, 2.7, 2.10, 2.12, 3.3, 3.4, 3.6, 3.7, 3.8, 4.3, 4.4, 4.5, 4.7, 4.8, 5.4

Proposed: May 7, 1984 at 16 N.J.R. 966(a).

Adopted: June 15, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: June 18, 1984 as R.1984, d.283, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq., 58:12A-1 et seq., and P.L. 1983, c.443.

Effective Date: July 2, 1984.

DEP Docket No: 019-84-04.

Expiration Date pursuant to Executive Order No. 66(1978): August 6, 1986.

Summary of Public Comments and Agency Responses:

Comment: Several comments were made concerning the requirement of keeping raw data, quality control data, chain of custody information and laboratory reports in a "bound" form. It was felt that this requirement would significantly impact the speed and efficiency of the laboratory's daily operations and did not adequately address the use of electronic data and records management.

Response: The Department has decided to drop this requirement based upon the laboratories' concerns. Over the next year, the Department will be reviewing the current data automation capabilities available to laboratories in order to determine whether guidelines or requirements need to be established in this area.

Comment: Several comments were made both in favor and against the new personnel requirements for the Gas Chromatography/Mass Spectrometer (GC/MS) operator.

Response: The Department has decided not to change the proposed GC/MS operator requirements based upon the complexity of and technical requirements for operating GS/MS instrumentation.

Comment: A few requests were made asking clarification on the requirement of N.J.A.C. 7:18-4.7(e)8, "The absorb-

ance or transmittance readings for each standard shall be based upon the average of three replicate readings for each standard;”.

Response: This requirement is for the analyst to read each “prepared” standard three times. Language to make this clear has been incorporated into the amendment.

Comment: A comment was made concerning the quality control check on the pH meter. Concern was raised over its application to pH meters having slope adjustment.

Response: The regulation has been revised to provide for proper quality control checks of calibrated pH meters having slope adjustment.

Comment: A comment was made concerning the more stringent requirements on laboratory pure water.

Response: These new requirements were made to keep the certification standards consistent with current United States Environmental Protection Agency requirements.

Comment: A comment was made concerning the necessity of the requirement that an autoclave have a separate pressure gauge. It was felt that this requirement was a safety indicator to prevent laboratory personnel from opening the autoclave’s door prior to complete exhausting of the pressure chamber. It was indicated that some autoclaves have been developed with sufficient built-in safety devices which will prevent such premature opening of the autoclave and is recognized by the U.S. EPA as being acceptable.

Response: The regulation has been revised to allow the usage of autoclaves not having pressure gauges provided the manufacturer certifies that the autoclave will operate safely without the separate pressure gauge.

Comment: A comment was made suggesting modifications which could be made to the proposed interim methodologies for analyzing organic contaminants which would expand the methods analytical coverage and possibly lower the analytical detection limits.

Response: Through a research grant, these suggestions, as well as other alternatives are being investigated and may possibly be considered in future amendments. However, the proposed interim methods represent the best available analytical methodologies for the analysis of the organic contaminants identified in P.L. 1983, c.443. These methods provide the option for conducting the analyses by either GC or GC/MS.

Comment: One comment was made concerning the requirements for the bioassay supervisor. It was felt that the experience requirements were too stringent considering the limited amount of bioassay testing currently being performed in New Jersey.

Response: Due to the technical nature of the bioassay test, the Department has determined that the bioassay supervisor must be well versed and experienced in the holding and handling of a diverse group of aquatic organism, as well as interpretation of test results. Therefore, the Department has decided not to change the proposed amendments concerning the bioassay supervisor requirements. This requirement is consistent with the supervisor requirements for the other certification categories.

Comment: A question was raised as to why the Beckman Microtox System is not an approved State bioassay method?

Response: The comparability of data from the Beckman Microtox System with currently State approved bioassay methods has not yet been demonstrated to the Department. Therefore, it has not been approved as an alternative method. However, as additional information is made available, its applicability will be reassessed.

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

SUBCHAPTER 1. GENERAL PROVISIONS

7:18-1.7 Definitions

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

“Certified thermometer” is a thermometer that has documentation from the manufacturer showing that it has been compared against a National Bureau of Standards thermometer for the temperature ranges employed by the laboratory and the correction factors from that comparison.

“40 CFR 136” means the “Guidelines Establishing Test Procedures for the Analysis of Pollutants”, as amended, which were duly promulgated as regulations by the Administrator of the United States Environmental Protection Agency.

“Indicator parameter” means a parameter which is identified in a proficiency test and is used to evaluate the overall analytical performance of a laboratory on that specific method. The laboratory’s performance on analyzing an indicator parameter is then used to determine the laboratory’s certification status on all parameters covered by that analytical method.

SUBCHAPTER 2. PROGRAM PROCEDURES AND REQUIREMENTS

7:18-2.2 Categories for certification

(a) A laboratory may apply for certification in any one or more of the following categories and shall be certified in those parameters within the category for which it demonstrates acceptable performance on proficiency samples, when available, and meets all other requirements of this chapter. The laboratory certificate shall specify the categories and the parameters within each category for which the laboratory is certified and shall be conspicuously displayed in the laboratory in a location visible to the public. The certification categories are as follows:

- 1.-3. (No change.)
4. Gas Chromatography, which comprises tests or analyses required to determine compliance with the Safe Drinking Water Act and the State Primary Drinking Water Regulations, and the Water Pollution Control Act and the New Jersey Pollutant Discharge Elimination System Regulations for which the gas chromatography method is applicable or required. Tests for the Gas Chromatography category shall be conducted in accordance with the methods and procedures specified in 40 CFR 141 and N.J.A.C. 7:18-4.5 for compliance with the Safe Drinking Water Act and the State Primary Drinking Water Regulations, and 40 CFR 136 for compliance with the Water Pollution Control Act and the New Jersey Pollutant Discharge Elimination System Regulations.
- 5.-6. (No change.)

7:18-2.3 Application procedures for laboratories located in New Jersey including special provisions for the phase-in of the New Jersey Pollutant Discharge Elimination System Laboratory Certification Program.

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

(c) If the applicant submits a complete application, the appropriate fee, proficiency data if required, and the information submitted meets the minimum requirements of this chapter for the category or categories for which certification is requested, the application shall be accepted. Acceptance of the application does not authorize the laboratory to perform water analyses regulated by this chapter. The applicant shall be notified of the acceptance and shall participate in the following laboratory evaluation:

1. (No change.)

2. Limited Chemistry, Atomic Absorption and Gas Chromatography:

i. (No change.)

ii. The laboratory shall analyze the proficiency samples and return the proficiency data, within [30] 45 days of its receipt of the samples to the Office of Quality Assurance, Division of Water Resources, CN 029, Trenton, New Jersey 08625.

iii. (No change.)

iv. Acceptable analysis for a value in all water pollution parameters occurs when the reported value falls within the 99 percent confidence interval calculated by the USEPA from available performance evaluation data of USEPA and State Laboratories;

v. Acceptable analysis for a value in all drinking water parameters excluding trihalomethane parameters occurs when the reported value falls within the 95 percent confidence interval calculated by the USEPA from available data of USEPA and State laboratories;

vi. Acceptable analysis for a trihalomethane parameter occurs when the reported value falls within the acceptance limits calculated by the USEPA as ± 20 percent of the true value;

vii. The laboratory shall have three separate opportunities to acceptably analyze one of three different sets of proficiency samples for each parameter;

viii. If the laboratory's analytical values for the proficiency samples are acceptable, the Department shall contact the laboratory to arrange a mutually acceptable date for an on-site laboratory inspection;

ix. If the laboratory demonstrates, during the on-site inspection, that it is in compliance with the requirements of this chapter, then it shall be certified in the category and the parameters within the category for which it has acceptably analyzed proficiency samples.

x. If performance evaluation samples are not available, then the evaluation of the laboratory will be based only on the on-site laboratory inspection.

3. (No change.)

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

(f) The following special provisions are applicable to the phase-in of the New Jersey Pollutant Discharge Elimination System Laboratory certification program:

1. The owner of a laboratory who has been issued an interim approval in parameters within categories for the New Jersey Pollutant Discharge Elimination System laboratory certification program shall follow the procedures and meet all the requirements of all previous subsections of this section except that:

i. The laboratory that has been granted an interim approval is authorized to perform analyses for the New Jersey Pollutant Discharge Elimination System program while the laboratory is being evaluated for certification;

ii. The interim approval shall be valid until the laboratory is certified or June 30, 1985, whichever is earlier, where the laboratory demonstrates to the satisfaction of the Department that it is making good faith efforts and diligently seeking to meet the requirements for certification;

iii. A laboratory that fails to acceptably analyze the proficiency samples or otherwise fails to meet the requirements of this chapter for certification shall be allowed to remain in the interim approved status until June 30, 1985 if the laboratory submits an acceptable plan to correct the deficiencies within 30 days of receiving notification of its deficiencies, to the Department's Office of Quality Assurance, Division of Water Resources, CN 029, Trenton, New Jersey 08625;

iv. Laboratories notified that their interim approval has been revoked shall immediately cease performing analyses required to be performed in a certified laboratory for compliance with the Water Pollution Control Act and the New Jersey Pollutant Discharge Elimination System Regulations and shall comply with (e) above before reapplying for certification.

***v. Laboratories which are interimly approved shall follow the normal renewal of certification procedures set forth in N.J.A.C. 7:18-2.5*.**

7:18-2.6 Fees

(a) (No change.)

(b) The annual fees shall not be prorated and shall apply in full to any portion of the fiscal year which remains prior to the annual renewal date, June 30.

(c) This section is applicable to interimly approved laboratories.

7:18-2.7 Required laboratory personnel policies

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

(d) The laboratory supervisor shall possess the qualifications for the category which he/she supervises, or for laboratories applying for New Jersey Pollutant Discharge Elimination certification during the period in which the Department offers interim approvals, meet the requirements of (d)8 below:

1. (No change.)

2. If a laboratory performs tests or analyses in the category of Limited Chemistry for chlorine residual, pH, temperature, turbidity, or settleable solids, the supervisor shall have had at least one year of laboratory training or experience in chemistry;

3. If the laboratory performs tests or analyses in the category of Limited Chemistry for parameters other than chlorine residual, pH, temperature, turbidity, or settleable solids, the supervisor shall hold a bachelor's degree in chemistry or in a biological science from an accredited institution and, subsequent to graduation, shall have had at least one year of laboratory training or experience in chemistry;

4.-6. (No change.)

7. If the laboratory performs tests in the category of Bioassay, the supervisor shall:

i. (No change.)

ii. Have subsequent to graduation at least one year of laboratory training or experience in the bioassay procedure being considered for certification; or

(1) A master's degree from an accredited institution in a biological or environmental science may be substituted for the one year of laboratory training or experience requirement, as specified in 7ii above, provided the applicant can demonstrate competency in the operation of bioassay equipment and methodologies by having successfully completed at least six definitive bioassays prior to applying for supervisor. Competency in test organism handling, sample handling/preservation, test and data methodologies must be documented. The documentation shall be available during an inspection by a representative of the Department; and

iii. (No change.)

8. (No change.)

(e) If a laboratory performs tests or analyses utilizing gas chromatography/mass spectrometry (GC/MS), the GC/MS operator shall:

1. Meet the requirements of N.J.A.C. 7:18-2.7(d)5;

2. Have completed a formal training course in GC/MS; and

3. Have six months experience in the operation of GC/MS equipment.

(f) Experience in a certified laboratory which was gained prior to acquiring a bachelors degree may be substituted on an equivalency basis of 1.5 years of such experience for every one year of post-degree training and experience required.

7:18-2.10 Proficiency testing

(a) Except when determined by the Department that an appropriate proficiency test is not readily available, all certified laboratories or laboratories seeking certification shall participate in a proficiency testing program covering all tests, analyses and analytical methods as made available within the category and categories in which the laboratory is certified or seeks certification.

1. In the Gas Chromatography category, a laboratory's performance on a specific analytical method may be determined by the ability of the laboratory to acceptably analyze three or four indicator parameters during a proficiency test.

(b)-(f) (No change.)

(g) Certified laboratories that desire to extend the range of tests or analyses offered shall submit a written request, comply with the requirements of N.J.A.C. 7:18-2.3 or 2.4, and shall demonstrate satisfactory results in at least one round of proficiency testing samples prior to the inclusion of this test or analysis in the list of tests or analyses for which proficiency has been established.

7:18-2.12 Cancellation, suspension, and revocation of certification

(a) (No change.)

(b) The Department may temporarily suspend a laboratory's certification in any or all categories or in any parameter when the laboratory fails to fully meet the standards of this chapter and the failure does not merit immediate decertification action. The Department shall notify the laboratory by letter of its suspension and the reason therefor. Suspension may be invoked for, but are not limited to, the following reasons:

1.-4. (No change.)

5. For all categories except Radiological and Gas Chromatography Testing, failing to acceptably analyze both the high and low values for any one parameter during a proficiency test shall be grounds for suspension in the parameter;

6. (No change.)

7. For the Gas Chromatography category, failing to acceptably analyze both the high and low values for any one

parameter during a proficiency test shall be grounds for suspension in all parameters covered by that gas chromatography method.

(c) Certification may be revoked by order of the Department for due cause, including, but not limited to:

1.-8. (No change.)

9. For all categories except Radiological and Gas Chromatography Testing, failing to acceptably analyze both the high and low values for any one parameter during a proficiency test shall be grounds for decertification in the parameter;

10. (No change.)

11. For the Gas Chromatography category, failing to acceptably analyze both the high and low values for any one parameter during a proficiency test shall be grounds for decertification in all parameters covered by that gas chromatography method; or

12. Performing and charging for additional tests or analyses that have not been requested by the customer, falsifying analyses, or engaging in other unethical or fraudulent practices.

(d) (No change.)

SUBCHAPTER 3. CRITERIA AND PROCEDURES FOR MICROBIOLOGICAL TESTING AND ANALYSIS

7:18-3.3 Laboratory equipment, supplies and materials

(a) Laboratories performing microbiological tests and analyses shall have on the premises and under the control of the laboratory supervisor the equipment and instruments listed in this section necessary for the preparation of the specific media and analysis of the samples for which the laboratory is seeking certification or is certified. Such instruments, when required, shall meet the following specifications:

1. The pH meters shall have an accuracy of and scale graduations within ± 0.1 unit.

2. (No change.)

3. Temperature-monitoring devices shall meet the following requirements.

i. (No change.)

ii. Continuous temperature recording devices shall be sensitive and accurate to within 1.0 degrees C;

iii.-iv. (No change.)

4. Air or water-jacketed incubators, aluminum block incubators, incubator rooms, and water baths shall meet the following requirements:

i. (No change.)

ii. Incubators and water baths must maintain internal temperatures of 35.0 ± 0.5 degrees C for total coliform and fecal streptococci analysis, and 44.5 ± 0.2 degrees C for fecal coliform analysis, in the area of use at maximum loading;

iii. (No change.)

iv. The water bath or aluminum block shall be equipped with a calibrated thermometer graduated in increments of at least 0.2 degrees C and the temperature recorded daily;

v. Whenever an air incubator is in use, a calibrated thermometer with its bulb immersed in liquid shall be placed on the top and bottom shelves in use within the incubator; and the temperature within the incubator shall be recorded daily; and

vi. A recording thermometer, sensitive and accurate to a temperature of 1 degrees C may be used to monitor the general operation of the unit.

5. The autoclave shall meet the following requirements:

i. (No change.)

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ii. The autoclave shall be equipped with an accurate thermometer, a separate pressure gauge, and a safety valve that is in good operating condition;

(1) The requirement for a separate pressure gauge shall be waived provided the laboratory has documentation from the manufacturer of the autoclave certifying that the equipment will operate safely without a separate pressure guage.

iii.-iv. (No change.)

6. The hot air oven shall meet the following requirements:

i.-ii. (No change.)

iii. A calibrated thermometer in at least 10 degrees C increments with its bulb placed in sand shall be placed on one of the shelves in use within the hot air oven.

7.-8. (No change.)

9. Inoculation equipment shall meet the following requirements:

i. The diameter of inoculation loops shall be at least 3mm and the loops shall be constructed of 24 to 26 gauge Nichrome, chromel, or platinum - iridium wire;

ii.-iii. (No change.)

10.-12. (No change.)

13. Sample bottles shall meet the following requirements:

i.-iv. (No change.)

v. Pre-sterilized plastic bags containing 10 mg. of sodium thiosulfate may be used for collecting drinking water samples for total coliform analyses.

14.-18. (No change.)

7:18-3.4 Sample collection, handling, and preservation

(a)-(l) (No change.)

(m) Pre-sterilized plastic bags containing 10 mg of sodium thiosulfate may be used for collecting drinking water samples for total coliform.

7:18-3.6 General laboratory practices

(a) Laboratory sterilization practices shall meet the following requirements:

1. The following times and temperatures shall be used for sterilization of materials by autoclaving:

| Material | Temperature/Minimum Time |
|---|---|
| Membrane filter and pads | 121°C/10 min. |
| Carbohydrate-containing media (lauryl tryptose, brilliant green lactose bile broth, etc.) | 121°C/12-15 min. |
| Contaminated materials and discarded tests | 121°C/30 min. |
| Membrane filter assemblies (wrapped), sample collection bottles (empty), individual glassware items | 121°C/15 min. |
| Rinse water volumes of 500 ml to 1,000 ml | 121°C/15 min. |
| Rinse water in excess of 1,000 ml | 121°C/time adjusted for volume; check for sterility |
| Dilution water blanks | 121°C/15 min. |

2. Membrane filter assemblies made of metal shall be autoclaved after each sample filtration series, the end of which is marked by the lapse of 30 minutes or more between sample filtrations;

3. Membrane filter assemblies made of glass or plastic may be sterilized by two minutes of exposure in an ultraviolet sterilizer unit, provided its use does not affect the validity of

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the results and the ultraviolet lamps are tested with a light meter and a spread plate irradiation test is performed quarterly.

4.-5. (No change.)

(b) (No change.)

(c) Rinse water and dilution water used by the laboratory shall meet the following requirements:

1. Stock buffer solution shall be prepared in accordance with Standard methods, 15th Edition on Microbiological Methods - EPA, using laboratory pure water adjusted to pH 7.2;

2.-3. (No change.)

4. Rinse and dilution water shall be prepared by adding 1.25 ml of stock buffer solution and 5 ml of magnesium chloride solution per liter of laboratory pure water, and the final pH shall be 7.2 ± 0.1.

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

7:18-3.7 Quality control program

(a) Each laboratory shall develop and have on file and available for inspection a written description of the current laboratory quality control program. Such written description shall outline the procedures which the laboratory will use in meeting the quality control requirements set forth in this section and N.J.A.C. 7:18-3.4 and 7:18-3.6. Management, supervisors, and analysts should participate in developing the quality control program. Each participant within the laboratory should have a copy of the quality control program and detailed guidelines for implementation of the participants responsibility. A record of analytical control tests and quality control checks on media, materials, and equipment shall be prepared by the laboratory and retained for at least five years.

1. Laboratories shall perform the following analytical quality control tests to ensure that general laboratory practices and methodology are in compliance with the requirements of this subchapter:

i.-vii. (No change.)

viii. Requirements for laboratory pure water:

| | |
|---|--|
| pH | 5.5 - 7.5 |
| Conductivity | Greater than 0.5 megohm-cm as resistivity or less than 2.0 micromhos/cm as conductance at 25 degrees C |
| Trace metals: Pb, Cd, Cr, Cu, Ni and Zn | Not greater than 0.05 mg/L |
| Total metals not limited to those above | Equal to or less than 1.0 mg/L |
| Test for bactericidal properties of distilled water | |
| Standard Methods, 14th Edition p. 888, or Microbiological Methods EPA, p.200) | 0.8 - 3.0 |
| Free chlorine residual | 0.0 |
| Standard plate count | Less than 1,000 colonies/mL |

ix.-xv. (No change.)

xvi. Laboratories shall maintain an acceptable quality control program covering each method or procedure for testing and analyses performed by the laboratory in order to verify and assess accuracy, measure precision, and detect errors in the results of such tests and analyses.

2. The following procedures shall be followed in performing quality control checks of laboratory media, equipment, and supplies:

- i. (No change.)
- ii. Top loader or pan balances shall be checked monthly against class "S" weights, and a record shall be made of each calibration check;
- iii. (No change.)
- iv. The temperature of air or water-jacketed incubators, water baths, and incubator rooms shall be either recorded continuously or recorded twice daily from in-place thermometers immersed in liquid and placed on the top and bottom water volumes of 500 ml toshelves in use;
- v.-viii. (No change.)
- ix. Washing processes shall be adequate to provide clean glassware with no stains or spotting, and at the time of initial use of a detergent or washing product and whenever the brand or type of washing product is changed, the rinsing process shall demonstrate that the detergent or washing product provides glassware free of toxic material by the inhibitory residue test as set forth in Standard Methods, 14th Edition, P.885, or Microbiological Methods - EPA, P.199;
- (1) Test each batch of clean glassware for acid or alkaline residues by adding bromthymol blue indicator to representative items;
- x.-xiv. (No change.)
- xv. Testing should be carried out on membranes to determine recovery and performance as compared to a previously acceptable lot of membranes;
- xvi. (No change.)
- xvii. Heat sensitive tapes, spore strips, or spore ampoules should be used during sterilization, and, it is recommended that a maximum registering thermometer be used;
- xviii. All reagents and solutions shall be labeled to indicate identity and, when applicable, strength or concentration, recommended storage requirements, preparation or expiration date, and other information pertinent to identification;
- xix.-xx. (No change.)

7:18-3.8 Records and data reporting

- (a) Each laboratory shall maintain *[bound]* records and report data in accordance with the requirements set forth in this section.
- (b) *[Bound records]* ***Records*** of microbiology analysis shall be kept by the laboratory for not less than five years. This requirement is equally applicable to all raw data, quality control data, chain of custody forms and laboratory reports.
- (c)-(j) (No change.)

SUBCHAPTER 4. CRITERIA AND PROCEDURES FOR CHEMICAL TESTING AND ANALYSES

7:18-4.3 Specifications for laboratory equipment and instrumentation

(a) Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have on the premises and under the control of the laboratory manager, all of the equipment and instruments necessary to analyze each parameter in which the laboratory is certified, or is seeking certification and such equipment and instruments shall meet the following specifications:

- 1. Analytical balance shall meet and be operated in accordance with the following specifications:
 - i.-v. (No change.)
 - vi. Two class "S" weights shall be available for checking the analytical balance.
- 2.-14. (No change.)

15. Laboratory glassware should be made of borosilicate glass that is resistant to damage by heat, chemicals, and repeated use. When applicable, Class A volumetric glassware shall be used and need not be calibrated before use. The following criteria and procedures apply to laboratory glassware:

- i. Unless otherwise specified, borosilicate bottles shall be used for the storage of reagents and standard solutions;
- ii.-iii (No change.)
- 16.-17. (No change.)

7:18-4.4 Sample collection, handling and preservation

- (a)-(b) (No change.)
- (c) Sample collection, handling, and preservation techniques required by the analytical methods listed in Table III shall be followed for the organic parameters analyzed by these methods.
- (d) (No change.)
- (e) (No change.)
- (f) (No change.)

7:18-4.5 Methodology

- (a) Analytical methods for drinking water parameters
 - 1.-2. (No change.)
 - 3. Test procedures set out in the following Table III shall be utilized for the analysis of the parameters identified in the Interim Safe Drinking Water Act Testing Schedule for Hazardous Contaminants by Public Community Water Systems, N.J.A.C. 7:10-14.
- Table II (No change.)

Table III — Interim Methodology for Drinking Water Parameters

| Parameter | Method Description | Method EPA (4) | EPA (5) |
|---------------------------|------------------------|----------------|---------|
| Trichloroethylene | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| Tetrachloroethylene | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| Carbon Tetrachloride | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| 1,1,1-Trichloroethane | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| 1,2-Dichloroethane | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| Vinyl Chloride | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| Methylene Chloride | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| 1,1,-Dichloroethylene | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| tran-1,2-Dichloroethylene | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| Benzene | Gas Chromatography | 602 | |
| | Gas Chrom./Mass. Spec. | 624 | |
| Chlorobenzene | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 602 | |
| Dichlorobenzene | Gas Chromatography | 601 | |
| | Gas Chrom./Mass. Spec. | 602 | |
| Polychlorinated Biphenyls | Gas Chromatography | 608 | |
| | Gas Chrom./Mass. Spec. | 625 | |
| Chlordane | Gas Chromatography | 608 | |
| | Gas Chrom./Mass. Spec. | 625 | |
| Trichlorobenzene(s) | Gas Chromatography | 612 | |
| | Gas Chrom./Mass. Spec. | 625 | |
| Xylenes | Gas Chromatography | 602 | 503.1 |
| | Gas Chron./Mass. Spec. | 625 | |

REFERENCES

- (1) "Standard Methods for the Examination of Water and Wastewater", American Public Health Association, 14th Edition.
- (2) "Methods for Chemical Analysis of Water and Wastes", Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1979.
- (3) "Annual Book of ASTM Standards", American Society for Testing Materials, Part 31.
- (4) "Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater", United States EPA - 600/4-82-057, July 1982.
- (5) "The Analysis of Aromatic Chemical Indicators of Industrial Contamination in Water by the Purge and Trap Method", USEPA - 600/4-81-057.

7:18-4.7 Quality control program

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

(e) Laboratories shall perform the following internal quality control checks:

1. Each analytical balance shall be checked and adjusted annually by a service person employed by the laboratory or by a balance consultant. The accuracy of each analytical balance shall be checked once a month using at least two class "S" weights one in the gram range and one in the milligram range. The weights used, weight detected to nearest 0.1 mg, dates on which checks were performed, analyst, and other pertinent information shall be recorded in a log book.

2. (No change.)

3. Each pH meter shall be cleaned immediately after each use period and calibrated prior to usage with two pH buffer standards bracketing the value to be measured and the calibration recorded. A daily check shall be made of the pH meter ***after calibration*** by setting the meter to pH 7.00 with a buffer standard and then without further adjustment, reading pH buffer standards of pH 4.00 and 10.00 and recording the actual readings.

4.-7. (No change.)

8. Standard curves used in analysis of parameters in the Limited Chemistry category shall be prepared as follows:

i. Standard curves consisting at a minimum of one reagent blank and five standards shall be prepared with each analysis. The absorbance or transmittance reading for each ***prepared*** standard shall be based upon the average of three replicate readings of each standard; or

ii. A standard curve consisting at a minimum of a reagent blank and five standards shall be prepared and shall be used with each subsequent analysis provided the standard curve is verified by using at least one reagent blank and one standard at or near the maximum contaminant level (MCL) in the case of analyses under the Safe Drinking Water Program, or in the case of analyses under the NJPDES program at the concentration levels normally encountered in such analyses. The absorbance or transmittance reading for each ***prepared*** standard shall be based upon the average of three replicate readings of each standard. A new standard curve should be prepared on a daily basis or whenever a new reagent is prepared, and shall be prepared on at least a quarterly basis. Such verifications shall be considered satisfactory if, and only if, the results are within ± 10 per cent of the original curve.

All data used in drawing the curve, shall be so indicated on the curve, and record shall be made of the verification containing the dates on which such verifications were performed, the results of the verification, and the name of the analyst who performed the check.

9.-22. (No change.)

23. Dissolved oxygen meters shall be checked weekly using the Winkler Method and the results recorded.

7:18-4.8 Records and data reporting

(a) Records of chemical analysis, including but not limited to all raw data, calculations, quality control data, and laboratory reports, shall be kept ***[in a bound form]*** by the laboratory for at least five years.

(b)-(f) (No change.)

SUBCHAPTER 5. CRITERIA AND PROCEDURES FOR RADIOLOGICAL TESTING AND ANALYSIS

7:18-5.4 Preservation of samples, methodology, and major instrumentation

(a) Table IV below gives the minimum requirements for sample handling including preservation, methodology, and major instrumentation **TABLE IV SAMPLE HANDLING, PRESERVATION, METHODOLOGY AND MAJOR INSTRUMENTATION** (minimum requirements).

(No change in table.)

(a)**DIVISION OF WATER RESOURCES****Flood Control Bond Grants****Readoption: N.J.A.C. 7:23-1 and 2**

Proposed: April 2, 1984 at 16 N.J.R. 668(a).

Adopted: June 12, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: June 18, 1984 as R.1984 d.277 **without change**.

Authority: N.J.S.A. 13:1D-1 et seq. and P.L.1978, c. 78.

DEP Docket No. 010-84-03.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 7:23, as amended in the New Jersey Register.

(a)**DIVISION OF WASTE MANAGEMENT**

**Solid and Hazardous Waste Regulations
Licensing of Collector/Haulers
(Transporters) and Facilities: Disclosure
Statements, Background Investigations,
Disqualification Criteria, License Issuance
and Revocation**

**Adopted Amendments: N.J.A.C. 7:26-1.2,
1.3, 1.4, 2.2, 2.5, 3.2, 4.7, 4.8, 5.1
through 5.8, 7.5, 12.2, 12.3, 12.5, 12.7,
12.10 and 12.13**

**Adopted New Rules: N.J.A.C. 7:26-4.9, 5.9
and 7:26-16 and 16A**

Adopted Repeal: N.J.A.C. 7:26-4.9

Proposed: May 7, 1984 at 16 N.J.R. 986(a).

Adopted: June 15, 1984 by Robert E. Hughey, Commissioner, Department of Environmental Protection. N.J.A.C. 7:26-16.13 adopted June 15, 1984 by Irwin I. Kimmelman, Attorney General.

Filed: June 18, 1984 as R.1984 d.279, **with technical, procedural and substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1D-9 and N.J.S.A. 13:1E-6 as supplemented by N.J.S.A. 13:1E-126 et seq.

Effective Date: July 2, 1984.

Expiration Dates pursuant to Executive Order No. 66(1978): 7:26-1, February 21, 1989; 7:26-2, December 6, 1987; 7:26-3, June 9, 1985; 7:26-4, June 20, 1988; 7:26-5, October 7, 1985; 7:26-7, August 6, 1986; 7:26-12, October 8, 1986; 7:26-16, July 2, 1989; 7:26-16A, June 11, 1986.

DEP Docket No. 023-84-04.

Summary of Public Comments and Agency Responses:

Following publication of the proposed rules in the New Jersey Register on May 7, 1984, the Department mailed out approximately 4,000 notices to registered solid and hazardous waste haulers and facility operators. The notice contained a brief description of the proposed rules, noted the availability of a basis and background document, and included maps showing the locations of public hearing sites.

In response to the mass mailing, the Bureau of Registration and Permits Administration in the Division of Waste Management received approximately 200 telephone calls. Most callers were seeking information about whether the proposed rules applied to their businesses.

Public hearings were held on May 23, 1984 at Douglass College in New Brunswick and on May 24, 1984 at Burlington County College in Pemberton, New Jersey. The hearings were open on both dates from 2:00 P.M. to 10:00 P.M., with a

recess from 5:00 to 6:00 P.M. Attendance was extremely light: approximately 30 people on May 23 and 10 people on May 24. Only one person indicated an intention to give testimony: his comments were general in nature. Other persons indicated their purpose in attending was to gain information about the proposed rules and the licensing program under N.J.S.A. 13:1E-126, also known as "A. 901".

The hearing panel, which included representatives of the New Jersey State Police as well as the Department of Environmental Protection, therefore determined to conduct the hearings as informational sessions and to take comments via questions and answers, to the extent possible. The panel chairman gave an explanation of N.J.S.A. 13:1E-126 ("the Licensing Act") and the proposed regulations and took questions from the public. All members of the public were advised of the opportunity to have their questions or comments noted on the transcript. In most cases, however, individuals preferred that the discussions be informal, and these were not recorded.

Several of those who attended the public hearings characterized themselves as the operators of small businesses which would be excessively burdened by the \$200.00-per-individual fees proposed under N.J.A.C. 7:26-16.13 in connection with the filing of the disclosure statement. However, most of these individuals had come to the hearing under the mistaken impression that the fees would be collected annually, like the other registration fees charged by the Department. Once assured that these fees would be collected only once, objections diminished, though obviously no one was happy about paying another fee. Several people requested that the fees be reduced for small businesses.

The comment period ran through June 6, 1984. Written comments were received from:

1. Clydesdale Enterprises, Inc.
2. Goodman Warehouse Corp.
3. Hoffman-La Roche, Inc.
4. Land O'Pines Mobile Home Park
5. R. Lobosco & Sons, Inc.
6. McKesson Corporation
7. P. Pepe Sons, Inc.
8. Pennsylvania Society for the Prevention of Cruelty to Animals
9. Provan Transport Corp.
10. Rollins Environmental Services, Inc.
11. St. Joseph Motor Lines
12. Solvents Recovery Service of New Jersey, Inc.
13. Zozzaro Brothers, Inc.

Additionally, on June 4, 1984, representatives of the Department and the State police began meeting with a group of representatives of solid waste industry organizations who had been asked to work on a Task Force developing the forms of the disclosure statements to be used in the administration of the Licensing Act. (For notice of availability of disclosure statements for public comment, see the New Jersey Register, Monday, June 18, 1984, 16 N.J.R. 1425(a).) These organizations included the New Jersey Waste Management Association, New Jersey Municipal Contractors Association, the Solid Waste Industry Council of New Jersey, and the National Solid Wastes Management Association.

Although the primary work of this Task Force had been defined as the development of the disclosure statement forms, a number of the industry members' comments suggested changes in the regulations that would clarify the Department's intent, reduce paperwork burdens and simplify the administration of the disclosure statement program. Several of these suggestions have been incorporated into the rules as adopted.

A summary of the comments and agency responses follows:

1. Comment: The proposed regulations are unnecessary and excessive, and the fees add another economic burden to an already overburdened industry.

A number of comments in this vein were received: most did not point out which parts of the proposal were excessively burdensome. Representative of these letters was the comment of St. Joseph Motor Lines: "It is our opinion that the waste industry is already burdened with excessive regulations and fees, and that new regulations which add to that burden would not benefit the general public or lessen the workload of the government. The information requested in this proposed regulation is already a matter of public record.

"It seems superfluous that those of us who have shown years of conscientious, accident free hauling should have to pay additional costs so that 'bad apples' in the business can be investigated."

Response: Most of these commenters seem to have been under the impression that the disclosure statement and background investigation program is a discretionary exercise of the Department's regulatory powers. In fact, it is not. The Licensing Act, N.J.S.A. 13:1E-126 et seq., contains specific directives from the Legislature as to what the Department and the Attorney General must do. The bulk of the proposed regulations are restatements of requirements set forth in the statute itself. What the Department has added are mainly procedural requirements (for example, how to file disclosure statements, where, and when); policies describing how the Department will exercise its discretion in certain situations involving disqualification (N.J.A.C. 7:26-16.20 through 16.24); and amendments to existing rules designed to mesh the new licensing requirements with existing ones.

While the Department could offer a number of responses to the argument that it is unfair to burden a whole industry because of a few bad actors, it is unnecessary to do so. The Legislature, in enacting N.J.S.A. 13:1E-126 et seq., has made the judgment that additional regulation of the solid and hazardous waste industry is called for, and the Department is required to carry out that mandate.

With respect to fees levied under N.J.A.C. 7:26-16.13, it must be noted that the component of that fee dedicated to the Attorney General's Office is specifically set by N.J.S.A. 13:1E-128.d. at \$100.00 "per each individual required to be listed in the disclosure statement". While the Department's component of the fee, adopted pursuant to N.J.S.A. 13:1E-18, is within the discretion of the Department, it is a general policy within the Department that to the extent permitted by law the costs of regulating licensed activities should be borne by the operators of the activities themselves—who presumably will pass them along to customers. In economic terms this is considered more efficient than funding regulatory activities out of general tax revenues, as the cost of regulatory activities designed to prevent environmental harm are in this way allocated as a cost of conducting the regulated activity that threatens the harm in the first place.

The Department has decided to reduce the impact of its component of the fee on small, family owned and operated businesses. See the Response to Comment 10 below.

2. Comment: The definition of "key employee" in N.J.A.C. 7:26-16.2 is unclear with respect to some employees. It is suggested the Department list some examples of employee situations that would be considered "key employees".

Response: This issue emerged at a meeting of the disclosure statement Task Force, and was recognized as a matter of

particular consequence to large companies—especially in view of the fact that an employee's status as "key" or non-key determines whether his listing on the disclosure statement entails payment of the \$200.00 fees.

A particular question was raised as to whether an employee who is "supervisory", but not over any aspect of a solid or hazardous waste operation, should be considered a "key" employee? For example, would the supervisor of a secretarial pool be considered "key"?

A straight grammatical reading of the statutory definition of "key employee" at N.J.S.A. 13:1E-127(f) is ambiguous as to whether the words "supervisory capacity" are modified by the subsequent phrase "with respect to the solid or hazardous waste operations of the business concern". The Department believes that it was not the Legislature's intent to classify as "key employees" persons in no position to influence solid or hazardous waste operations. Accordingly, the Department interprets the words "supervisory capacity" as being modified by the phrase "with respect to the solid or hazardous waste operations of the business concern," and has amended the definition of "key employee" in the rules as adopted to make this clear.

Thus, a supervisor of a secretarial pool would not be considered a "key employee". Nor, under most circumstances, would the supervisor of an accounting department.

However, this does not mean that accountants cannot be "key employees". The answer will depend, in every case, on the way the particular company is organized and the duties assigned to the employee. Particularly in smaller companies, an accountant may be a "key employee" under the act and rules if his role as financial officer gives him the power to "call shots" over a waste disposal operation. A salesman may not be a "key employee" if his only job is to get contracts for his company. But if his job lets him decide how wastes get packaged for transportation, how they get listed on a manifest, and where they go for disposal, then he may be a "key employee". The operative test is whether an employee has supervisory capacity or discretionary power over solid or hazardous waste operations.

As a practical matter, the determination of whether an employee is a "key employee" or non-key will have to be made by employers in the process of completing the disclosure statement. The Department will handle inquiries and make determinations about particular situations on a case-by-case basis, using the interpretations described above. If, in its review of a disclosure statement, the Department finds that an employee who should have been classified as a "key employee" has not been so listed, the Department may assess additional fees pursuant to N.J.A.C. 7:26-16.13(c). Ordinarily, no penalty will be assessed unless the Department finds the misclassification was manifestly incorrect and the employer should have known it. In an extreme case, an intentional misclassification of a "key employee" as non-key could lead to license disqualification for misrepresentation, pursuant to N.J.A.C. 7:26-16.8(h) or 7:26-16.9(a)2.

3. Comment: The definition of "key employee" would appear to require companies with multistate operations to list as "key employees" all supervisory personnel, even those with no control over or connection to the operation licensed by NJDEP. A large company conceivably would have to list thousands of supervisory employees and pay hundreds of thousands of dollars in fees for employees that have nothing to do with New Jersey solid or hazardous waste operations.

Response: This issue also was raised in the disclosure statement Task Force. A partial answer to the problem is afforded

by the interpretation of "supervisory capacity" as described in the response to Comment 2, above. However, this still leaves the question open as to key employees of solid or hazardous waste operations in other states.

The Department does not believe it was the Legislature's intent to impose reporting requirements and fees upon multi-state companies where the out-of-state personnel have no capacity to affect the companies' operations in New Jersey. In any case, there are provisions in the disclosure statement requirements other than the listing of "key employees" which require disclosure of out-of-state solid waste or hazardous waste operations, and the Department and the Attorney General have the investigative tools to inquire into the management of those operations should it become relevant to do so.

The Department therefore interprets the definition of "key employee" to mean only those employees with supervisory capacity or discretionary power over a company's solid waste or hazardous waste operations in New Jersey. The definition of "key employee" at N.J.A.C. 7:26-16.2 has been revised to reflect this.

Here again, whether an employee is to be considered "key" depends on company organization and the employee's duties. Geography is not the only test. For example, an employee may be based in an office outside New Jersey. But if he has the power to direct solid waste or hazardous waste operations in New Jersey, then he is a "key employee".

Some grey areas are still inevitable. The manager of a hazardous waste plant in California, for example, theoretically has the power to direct waste to be transported into New Jersey. The Department, however, will take a practical view of the matter. The California manager's power is more theoretical than actual. On the other hand, where a company operates a Pennsylvania facility and a New Jersey facility, and there is considerable exchange of material or personnel between the two, the Department would expect to see the Pennsylvania facility manager listed as a "key employee".

As previously stated, the Department expects to handle inquiries and make determinations about particular situations on a case-by-case basis.

4. Comment: Under proposed N.J.A.C. 7:26-16.3, all copies of the disclosure statement would be filed with DEP, which would then transmit copies to the Attorney General. This means an applicant has no way of knowing when its disclosure statement has reached the Attorney General's office, and therefore no way of knowing when the "clock" has started to run on the 120 day period provided for background investigation under N.J.S.A. 13:1E-128(b)(3). It is suggested that the Department impose a requirement upon itself to transmit disclosure statements to the Attorney General's office within 30 days of receipt, or advise the applicant that the statement is incomplete.

Response: This was another recommendation voiced in the disclosure statement Task Force. It should be noted that the "clock" is not a factor for existing license holders, since they continue to operate while the Attorney General conducts investigations, and there is no time limit on the Attorney General's office for returning a report on an existing license holder to DEP.

The Department has decided on its own initiative to alter the procedure for filing disclosure statements from that proposed. Instead of having disclosure statements initially filed with DEP, with a transmittal going from DEP to the Attorney General's Office, the adopted rules require all copies of the disclosure statements to be filed directly with the State Police. (The State Police has been designated as the arm of the Attor-

ney General's Office that will conduct background investigations under N.J.S.A. 13:1E-126 et seq.) The State Police will then transmit copies to DEP.

This change has been made primarily to ensure the security of confidential information in the disclosure statement filings. It was determined that arrangements to guarantee the secure receipt of mail by the Division of Waste Management could not be guaranteed in time for the effective date of these rules. Secondly, several units of the Division of Waste Management will be relocating during the summer of 1984, and it was uncertain at the time of this adoption whether security arrangements for storing and handling disclosure statements could be guaranteed during this period. It is contemplated that no disclosure statements will be physically stored at DEP until security can be guaranteed. If necessary during the initial phases of implementing the Licensing Act, DEP reviewers will examine filed disclosure statements at the headquarters of the State Police.

This change eliminates the need for a time limit on DEP's transmitting disclosure statements to the State Police, since they will now receive the forms directly. It is anticipated that applicants will be notified within 30 days that their application has either been accepted as complete or is being returned as incomplete.

As the change in routing of the disclosure statements is procedural, and affects no substantive right of the public, additional notice and comment is not required.

5. Comment: Hoffman-La Roche Inc. commented on what it found to be the "unclear" language of proposed N.J.A.C. 7:26-16.3(d), the provision exempting persons who dispose of their own waste from the requirement of filing a disclosure statement. Roche cited as unclear a clause added by the Department to the statutory exemption (N.J.S.A. 13:1E-127.9(2)), to the effect that "this exemption shall not apply where the waste generated is from a facility requiring a license and not itself exempted under this subsection." Roche suggested eliminating the modifying clause entirely.

Response: This language was proposed in order to prevent the use of subsidiary companies to avoid full disclosure under the Licensing Act. Specifically, the Department was concerned that the operator of, for example, a transfer station might set up a hauling subsidiary and claim it was exempt from the requirements of N.J.S.A. 13:1E-126 et seq. because the waste hauled from the transfer station was waste "generated by that person". The additional language is intended to close off this possible loophole.

To clarify the Department's intent, an illustrative example has been added to N.J.A.C. 7:26-16.3(d).

6. Comment: Commercial waste paper and scrap dealers should be exempted from the requirements of the Licensing Act.

Response: This comment was received from two members of the New Jersey Paper Recycling Association. Although the Department's policy is to favor recycling of solid waste wherever possible, our discretion in this instance is limited by the clear directives of the Licensing Act. All persons who hold or apply for approved registrations under the Solid Waste Management Act are subject to the requirements of the Licensing Act unless specifically exempted under N.J.S.A. 13:1E-127(g). That section lists five categories of operators that are exempt: waste paper and scrap recyclers are not among them. The Department does not perceive that it has the power to extend the exempt categories beyond what the Legislature has directed.

ADOPTIONS

These comments will be transmitted to the appropriate Legislative Committees. It is suggested to the commenters that they pursue changes in the statute if they want the exemption they seek.

7. Comment: Four letters were received which indicated misunderstanding or confusion about the "self-disposer" exemption of N.J.A.C. 7:26-16.3(d)2. Because they describe particular situations, they require individual determinations. However, since the letters were sent as comments, and because the responses are useful in illustrating how the Department interprets this provision, the determinations are being set forth here.

An operator of a private animal shelter that holds a DEP license solely for the purpose of occasional disposal of shelter wastes in a New Jersey landfill is disposing of its own generated waste, and is exempt under the Licensing Act.

A warehouse operator holds a DEP license solely because the company hauls its own office waste and receiving room trash to a landfill. The company is exempt under the Licensing Act.

A third inquiry is raised by a company that describes itself as "basically an excavation contractor, dealing mainly in fill dirt and grading." As a by-product of these operations, the company occasionally must haul some waste to a landfill, and maintains DEP licenses for this purpose. Similar inquiries have been received informally from contractors and demolition contractors whose activities generate waste they must haul away. The Department, as a general policy, takes the position that operators who haul away solid waste generated as a result of a primary business activity that is not itself waste disposal are handling their "own" wastes and will be considered exempt under the Licensing Act.

Finally, the operator of a mobile home park who occasionally hauls away bulky items generated by his tenants asks whether he must file disclosure statements. Routine garbage collection is handled by a hired carter. The Department determines that the park operator's activity is within the "self-disposer" exemption because of the following factors: It does not involve hazardous waste, the waste is generated on his property, the waste disposal is ancillary to his primary business of running a mobile home park, and he charges no fee for the disposal of the bulky items.

In general, the Department takes the position that N.J.S.A. 13:1E-126 et seq. was aimed at persons in the "commercial" solid waste and hazardous waste businesses. In interpreting N.J.A.C. 7:26-16.3(d)2., the less an operation partakes of this "commercial" nature the likelier it is to be classed as "self-disposal".

The Department emphasizes that licensees with doubts as to whether a particular operation falls within an exempted category under N.J.A.C. 7:26-16.3(d) should submit their questions to the Department for a determination.

8. Comment: Companies in common ownership should be able to submit their disclosure statements as a group, and should not be billed more than once because a given individual's name appears on more than one disclosure statement.

Response: This was raised in the disclosure statement Task Force. A specific example of this situation would be where a family controls several companies in the solid waste business, and family members are directors in more than one company.

One purpose of the Licensing Act is to allow the Department and the Attorney General's office, via the disclosure statements, to gain knowledge of the real management structure of companies in the solid and hazardous waste industries. Obtaining the disclosure statements of an interlocked group

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all at once, rather than piecemeal as they are called in, should enhance this understanding while cutting down on duplicate filings and unnecessary paperwork. The Department sees no violation of the spirit of the fee requirements; since the fee is directly related to the cost of investigating individuals, there is no reason to bill twice for an individual who will only be investigated once.

A new subsection N.J.A.C. 7:26-16.3(e) and amendments to N.J.A.C. 7:26-16.13 have been added to the rules as adopted to allow for group filing of disclosure statements by interconnected business concerns.

9. Comment: The requirement to list "all" other employees of the applicant under proposed N.J.A.C. 7:26-16.4(a)9. is overbroad. Large companies, especially, will be put to the trouble of reporting the names of hundreds of employees who have nothing to do with the licensed operations.

Response: The Department has narrowed this requirement. Only the names of persons employed in the applicant's or licensee's solid or hazardous waste operations will be required to be listed.

10. Comment: The requirement to report "any" change of information required to be included in the disclosure statement, as required under proposed N.J.A.C. 7:26-16.6, will force many operators, particularly larger companies, to file frequent updates containing information of relatively little value to DEP and the attorney general. Industry would prefer an annual update only.

Response: This was raised in the disclosure statement Task Force. It was pointed out that certain items of information, especially those connected to debt liability, could change very frequently. Neither the Department representatives nor the State Police welcomed the prospect of a flood of amendments every time a minor item on the disclosure statement changed.

The Department therefore decided to distinguish between those items of information on the disclosure statement required by the Licensing Act itself (as opposed to those added by DEP or the State Police), and to require 30 day updating for those items only. Basically, those items can be summarized as follows: (1) Change in identity of officers, directors, partners, key employees, stockholders, and major creditors. (2) Acquisition of stock in another company that handles solid or hazardous waste. (3) Significant notices of violation of environmental laws or regulations. (4) Civil judgments or criminal convictions. (5) Signing of collective bargaining agreement with a new labor union. (6) Joining a trade or business association not previously listed on a disclosure statement. (7) Starting solid or hazardous waste operations in a new state.

All other changes in disclosure statement information would be subject to annual updating only.

The Department has also decided not to require updating of Personal History Disclosure Forms, other than to reflect criminal charges or convictions.

These changes are contained in revisions to N.J.A.C. 7:26-16.6 as adopted.

11. Comment: Fees charged under proposed N.J.A.C. 7:26-16.13 are excessive and will pose an economic hardship for small businesses.

Response: Several persons voiced this comment at the public hearings. As previously noted, the Licensing Act is inflexible as to the Attorney General's component of the fee. The

Department's component of the fee could be changed, and the Department did consider several schemes for reducing the fees to small business. In the end, however, the Department determined that the fees proposed were reasonably related to the costs of administering the Licensing Act and that contemplated methods of giving relief to small business were likely to result in significant loss of revenues while benefiting businesses that are not small at all. The Bureau of Registration and Permits Administration indicated familiarity with a number of closely held companies dominated by a sole proprietor that were nevertheless quite large in terms of number of trucks and volume of business.

A suggestion to base the fee on the number of trucks registered was considered and rejected on the ground that some companies do considerable business through leased haulers.

Other proposals involved making inquiries into licensees' sales or profits. It was felt these would be administratively unworkable and an unnecessary intrusion upon privacy in an area where the State is already asking for a great deal of disclosure.

The Department has carved out a single area of fee relief for true "mom & pop" small businesses. Under N.J.A.C. 7:26-16.13 as adopted, the Department will limit its component of the fee when: (1) There are three or fewer names listed on the disclosure statement as owners, officers, directors, partners and/or key employees, and (2) two or all three of the individuals are spouses or parent and child and reside at the same address. In these cases, the fee shall be \$100.00 per residence. For example, if a company's officers are a husband, wife and child, and all live at the same address, the fee would be a flat \$100.00 for the company. However, if the child maintains a separate home, the DEP fee would be \$200.00.

12. Comment: Solvents Recovery Service of New Jersey, Inc., criticized the wording of proposed N.J.A.C. 7:26-16.14(g) as implying insufficient safeguards against dissemination of confidential information stored in computers or magnetic media. SRS suggested additional regulations specifying computer safeguards, including secure access codes and a monitor system that would maintain a record of all requests for display or printout of confidential data.

Response: SRS' suggestions have been incorporated into revisions to N.J.A.C. 7:26-16.14 as adopted. It should be noted that, for the foreseeable future, it is contemplated that information obtained under the Licensing Act program will not be entered into "mainframe" computers. Some information may be maintained on standalone microcomputer systems employing diskettes with physical access thereto limited to authorized employees. Under the regulation as adopted, records will be kept of the individual employees who access these files, and of any printouts made therefrom. Electronic security measures such as access codes will be required at such time, if ever, as the information is introduced into computer systems shared with or accessible to persons not authorized to have access to Licensing Act data.

13. Comment: Rollins Environmental Services, Inc., citing "the need to build public confidence" in hazardous waste companies and their management in view of the significance of issues surrounding hazardous wastes, urged the Depart-

ment "to give serious consideration to shortening the time frame" for existing license holders to file disclosure statements from two years, to one year or less.

Response: The Department has given this serious consideration and concluded that it will be best to maintain the flexibility of the proposed 90 day call-in procedure. As desirable as it may be to have early filing of disclosure statements, there is no point in collecting this information faster than it can be absorbed and utilized by the Department and the Attorney General's office.

Indeed, too rapid an intake could lead to a backlog of investigative files, and if it became known that the State was unable to follow up on leads revealed in the disclosure statements, it could actually result in less public confidence.

The Department is aware of the special sensitivity with which substantial numbers of the public regard the hazardous waste industry, and is contemplating early call-in of disclosure statements from companies holding hazardous waste licenses. However, this requires no change of the regulations from what was proposed, and the Department prefers to retain the flexibility of that approach.

14. Comment: McKesson Corporation commented that the proposed regulations "needlessly duplicate existing provisions" in N.J.A.C. 7:26-12.2 and 12.10. These rules have to do with the filing by hazardous waste facilities of what have previously been termed "disclosure statements". The letter noted that McKesson filed such a statement in connection with its Part B/RCRA application in March, 1984.

Response: The new disclosure statement requirements are broader than those in N.J.A.C. 7:26-12. For one thing, they apply to all solid and hazardous waste operators, not just hazardous waste facilities. Second, the old requirements arose from regulations adopted by DEP; the new ones are mandated by the legislature. Third, there was no formal mechanism provided for use of the information as the basis for investigation by an investigating agency such as the State Police; thus there was little opportunity to go behind the bare surface of the disclosures.

Unfortunately, the Department has not been able to find a way to avoid requiring companies such as McKesson which have previously filed "disclosure statements" from having to file the new disclosure statements when they are called in over the next two years. On the brighter side, there is no reason why some of the information contained in the older statement cannot simply be clipped into the new ones and updated if necessary. The Department and the State Police will attempt insofar as possible to relax format restraints on the disclosure statement forms so as to permit companies that have previously filed "disclosure statements" with DEP to incorporate their previous filings into the new ones.

Other than the comment of McKesson Corporation, no comments were received which addressed the proposed amendments to existing regulations in N.J.A.C. 7:26-1.2 through 12.13.

No comments were received on proposed N.J.A.C. 7:26-16.20 through 16.24, concerning policies on disqualification.

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

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SUBTITLE F. DIVISION OF WASTE MANAGEMENT

CHAPTER 26 DIVISION OF WASTE MANAGEMENT

7:26-1.2 Construction

These rules shall be liberally construed to permit the Department to discharge its statutory functions.

7:26-1.3 Practice where rules do not govern

The Commissioner may rescind, amend or expand these rules from time to time, and such rules shall be filed with the Secretary of State as provided by law. In any matter concerning solid waste management that arises not governed by these rules, the Commissioner or Director shall exercise his discretion within the authority of N.J.S.A. 13:1E-1 et seq.

7:26-1.4 Definitions

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

...
"Approved Registration" means the registration of solid waste disposal site, collector/hauler, or other solid waste facility issued by the Department of Environmental Protection after review and approval of the registration statement.

...
"Director" means the Director of the Division of Waste Management or any person designated to act on the Director's behalf.

...
"Division" means the Division of Waste Management in the Department.

...
"Existing hazardous waste facility" or "Existing facility" means a hazardous waste facility which was in operation, or for which construction had commenced, on or before November 19, 1980. Construction had commenced if the owner or operator had obtained all necessary Federal permits as well as any permit required by the Division's predecessor, the Solid Waste Administration, and either:

1. A continuous physical, on-site construction program had begun, or
2. The owner or operator had entered into contractual obligations—which could not be cancelled or modified without substantial loss—for the construction of the facility to be completed within a reasonable time.

...
"New hazardous waste incinerator" means a hazardous waste incinerator which began operation, or for which construction commenced, after January 1, 1982. Construction commenced if the owner or operator has obtained all necessary Federal permits as well as any permit required by the Department, the Division or its predecessor, the Solid Waste Administration, and either:

- 1.-2. (No change.)

...
"Registration statement" means an application for approved registration executed on forms provided by the Department and containing such information as may be required.

7:26-2.2 Registration

(a) No person shall engage or continue to engage in disposal of solid waste in this State without first filing a com-

pleted registration statement with the Department for each disposal facility. The registration statement shall be signed by the person engaged in or desiring to engage in solid waste disposal, shall be executed on forms furnished by the Department, and shall state such information necessary and proper for the enforcement of this subchapter as the Department may require. An engineering design must be submitted with the registration statement.

(b) No person shall engage in disposal of solid waste in this State without having first obtained Departmental approval of the registration statement required under (a) above.

(c) After July 2, 1984, any person who files an application for approval of a Registration Statement shall submit with the application the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d).

(d) No new facility shall begin operations without first obtaining Departmental approval of the engineering design submitted with the registration statement; nor shall any existing facility continue to operate subsequent to receiving notice that the Department has disapproved the engineering design for that facility. Failure to comply with the requirements of this subsection shall be cause for revocation of an approved registration for an existing facility or the denial of registration for a new installation.

(e) No person shall engage in disposal of solid waste in this State if such an operation does not meet the operational requirements listed in this Subchapter. In addition, each disposal facility must comply with any conditions or limitations which may be specified on the approved registration. Approved registrations are further contingent upon implementation of all features contained in the approved engineering design.

(f) Prior to May 1 in each calendar year, each registrant shall submit to the Department *[,]* a statement updating the information contained in the initial registration statement. This update shall be on forms furnished by the Department. In no case shall the submission of an updated registration statement alter the requirements of (e) above.

(g) A registrant shall notify the Department in writing within thirty (30) days of any change in the information supplied on its current registration statement *[or disclosure statement]*.

(h) The failure to submit an updated registration statement and to submit all applicable fees (see Subchapter 4 of this Chapter) on or before June 1 of each calendar year shall be sufficient cause to revoke the approved registration of a solid waste facility or to declare it expired.

(i) No person shall be issued an approved registration if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

7:26-2.5 Sanitary landfill operational requirements (General)

(a)-(u) (No change.)

(v) No new solid waste facility shall begin operations without first installing a ground water monitoring system constructed and located in accordance with instructions furnished by the Department. Further, no new facility shall begin operations prior to obtaining ground water samples, and analyses thereof, for the purpose of establishing baseline information. Upon written notice from the Department that in the opinion of the Department, continued operation of an existing solid waste facility poses a real or potential threat to the quality of

the ground waters of the State, the operator of the solid waste facility shall install a ground water monitoring system located and constructed in accordance with instructions furnished by the Department. The taking and analyses of samples shall be done by a laboratory acceptable to the State using methods approved by the Department, and copies of analyses shall be forwarded to the Department within 30 days of sampling date. The initial and annual (submitted with each updated registration statement) analyses shall include the following determinations:

1.-29. (No change.)

(w)-(x) (No change.)

(y) Rules on topographic surveys, maps and reports include the following:

1.-3. (No change.)

(z) (No change.)

7:26-3.2 Registration

(a) No person shall engage or continue to engage in the collection or haulage of solid or hazardous waste in this State without first filing a completed registration statement with the Department. The registration statement shall be signed by the person engaged in or desiring to engage in the collection or haulage of solid or hazardous waste, shall be executed on forms prescribed by and furnished by the Department and shall state such information necessary and proper to enforcement of this subchapter as the Department may require.

(b) After July 2, 1984, any person who files an application for approval of a registration statement shall submit with the application the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d).

(c) No person shall engage in the collection or haulage of solid or hazardous waste in this State without first obtaining an approved registration from the Department.

(d) No person shall engage in the collection or haulage of solid or hazardous waste in this State if such an operation does not meet the collector/hauler requirements listed in this subchapter. In addition, the operator must comply with any other conditions or limitations which may be specified on the approved registration.

(e) Prior to May 1 in each calendar year (for the registration year of initial registration, a pro rata adjustment of fees will be made by the Department), each registrant other than a hazardous waste hauler shall submit to the Department a statement updating the information contained in the original registration statement. This update shall be on forms furnished by the Department. In no case shall the submission of an updated registration statement alter the conditions under which the approved registration was granted. Hazardous waste haulers shall submit updated registration statements on or before October 1, as more fully set forth at N.J.A.C. 7:26-7.5(c)5.

(f) A registrant shall notify the Department in writing within thirty (30) days of any change in the information supplied on its current registration statement *[or disclosure statement]*.

(g) The failure to submit an updated registration statement and to submit all applicable fees (see Subchapter 4 of this Chapter) on or before June 1 in each calendar year shall be sufficient cause to revoke the approved registration of a solid waste collector-hauler or to declare it expired.

(h) No person shall be issued an approved registration if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

7:26-4.7 Fee schedule for collection and haulage

(a) For all solid waste collector/haulers, an annual registration and inspection fee shall be paid. The fee shall be \$20.00 for each vehicle per year or part thereof. The registration year shall extend from May 1 through April 30.

(b) For all hazardous waste collector/haulers, an annual registration and inspection fee shall be paid. The registration year shall extend from October 1 through September 30. The registrant may elect either of the following fee schedules:

1. \$50.00 for each vehicle per year or part thereof; or

2. \$50.00 for each vehicle up to 20 vehicles and \$5.00 per additional vehicle per year or part thereof. If the registrant intends to register more than 20 vehicles, he or she must notify the Department with the initial application in order to qualify for the reduction of fee for additional vehicles.

(c) (No change.)

7:26-4.8 Exemption from fee payment

(a) A solid waste facility is exempt from payment of annual registration, inspection, and regulation fees if:

1. The facility is operated solely for the purpose of composting leaf; and

2. The operation of the facility does not require a Certificate of Public Convenience and Necessity issued by the Board of Public Utilities; and

3. The annual Updated Registration Statement form filed with the Department prior to May 1 of each calendar year is accompanied by a certification, executed by the operator of the facility on forms supplied by the department, that the facility qualifies under the conditions set forth above.

(b) A sanitary landfill or transfer station is exempt from payment of inspection and regulation fee if:

1. The operation of the facility does not require a Certificate of Public Convenience and Necessity issued by the Board of Public Utilities; and

2.-3. (No change.)

4. The annual Updated Registration Statement form filed with the Department prior to May 1 of each calendar year is accompanied by a certification, executed by the operator of the facility on forms supplied by the Department, that the facility qualifies under the conditions set forth above.

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

7:26-4.9 Time for submission of fees

(a) Fees for annual registration of a disposal facility (N.J.A.C. 7:26-4.3(a)1.), annual registration of a collector/hauler (N.J.A.C. 7:26-4.7(a)) and transfer of a registration are due at the time for submission of the updated registration statement.

(b) Fees for inspection and regulation of disposal facilities (N.J.A.C. 7:26-4.3(a)3.) are due quarterly, on or before January 1, April 1, July 1 and October 1.

(c) Fees for engineering design review are due at the time of submission of an engineering design.

7:26-5.1 Definitions

The following words and terms when used in this Subchapter shall have the following meanings unless the context clearly indicates otherwise:

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“Code” means the New Jersey Administrative Code, Title 7, Chapter 26 (N.J.A.C. 7:26-1.1 et seq.)

“Division” means the Division of Waste Management in the Department.

“Director” means the Director of the Division of Waste Management or any person designated to act on the Director’s behalf.

7:26-5.2 Scope and construction

(a) Unless otherwise provided by statute, rule, regulation or code, the following rules shall constitute the rules of practice and procedure of, and shall govern all proceedings in, the Division of Waste Management.

(b) These rules shall be liberally construed to permit the Department to effectuate the purposes of the law. The Commissioner or Director may, upon notice to all persons involved in a specific proceeding, in the interest of justice, relax the application of these rules.

7:26-5.3 Administrative orders

(a) All administrative orders shall be in writing, shall state clearly the statute, rule, regulation or code allegedly violated, the time period within which compliance is to be achieved and the person or persons who have actual administrative responsibility who shall be responsible for having such correction made. Such orders may require interim measures directed toward ultimate compliance. All such orders shall include notice to the person advising him of the statutory sanctions provided for noncompliance, and of any right to seek redress from the Department and the procedure and time limitations for doing so except in cases of stipulations or administrative orders consented to by the parties involved.

(b) The Commissioner or Director may, in his discretion, upon written application by the person against whom the order was issued and for good cause, stay the operation of any administrative order pending a hearing.

(c) (No change.)

7:26-5.4 Administrative hearings

(a) The conduct of all hearings shall conform to the requirements of the Solid Waste Management Act, as amended, (N.J.S.A. 13:1E-1 et seq.) and the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

(b) In addition to any hearing mandated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), any person aggrieved by any of the following actions of the Department may be entitled to a hearing before the Department:

1.-2. (No change.)

3. Refusal to renew an approved registration when renewal application has been timely made;

4. (No change.)

(c) Nothing in this section shall prohibit the Department from proceeding with an action in Superior Court when authorized to do so by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) or any other statute.

(d) Application for a hearing pursuant to (b) above shall be made to the Department in writing identifying the relevant statute, rule, regulation or code; the specific actions of the Department causing the grievance, the nature of and reasons for the grievance; and the remedies sought.

(e) Application for a hearing shall be made within 30 days of notice of intent to deny a registration application. In revocation or suspension cases and all other cases application shall

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be made within 15 days after notice of the action of the Division precipitating the hearing request.

(f) Any person making application for a hearing before the Department pursuant to (b) above shall have a written notice of hearing served upon him or forwarded to him by certified mail, return receipt requested, not less than 15 days before the hearing.

7:26-5.5 Penalties and rebates

(a) When good and sufficient cause exists, the Commissioner or Director may exercise his discretion in deviating from the following guide, including referral of violation to the Office of the Attorney General for prosecution.

(b) Compromises and settlements of any claims for penalties and rebates thereof pursuant to N.J.S.A. 13:1E-9 shall be made for the New Jersey Administrative Code, Title 7, Chapter 26 in accordance with the following guide:

(Schedule) (No change.)

(c) (No change.)

(d) Requests for rebates of penalty settlements must be made in writing to the Department. Such requests shall identify clearly the amount of the settlement, the date on which it was made and justifications for the rebate. The Department shall respond to all requests for rebates in writing stating its decision and the reasons therefor.

7:26-5.6 Stipulations and consent orders

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

(c) Upon request for and during negotiation, the Commissioner or Director may stay an enforcement action or postpone a hearing pending a satisfactory conclusion to such negotiation.

(d) The Commissioner or Director may terminate the process of negotiation at any time, in which event the Department will lift any stays or postponements in force and proceed with the enforcement process.

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

7:26-5.7 Test facilities and reports

(a) A request by the Department to furnish test facilities will be made in writing and shall identify the operation to be tested, the location of the test facility, the purpose of the test, the contaminants to be measured, the nature of the facilities to be furnished and the date by which the request is to be honored.

(b) A request by the Department that tests be conducted and the results be submitted will be made in writing and shall identify the facility at which the test is to be made, the contaminants to be measured and the conditions to prevail during the test.

(c) (No change.)

7:26-5.8 Renewal of approval registration

(a) Any person to whom an approved registration has been issued pursuant to the Solid Waste Management Act (N.J.S.A. 13:1E-5) and N.J.A.C. 7:26-2.2, shall be notified by the Department in writing, not less than 90 days before the expiration of such approved registration, of the requirement to apply for renewal before the expiration date indicated on the registration certificate. The notification will identify the operation involved, the number of the certificate to be renewed, and the expiration date of the certificate and will have attached the forms provided by the Department for making the application for renewal.

(b) (No change.)

7:26-5.9 Effect of non-renewal or revocation of approved registration

(a) An approved registration constitutes a continuing authorization from the Department to engage in the collection and/or disposal of solid waste, including hazardous waste. It continues in effect for so long as the registrant continues to renew it within the time limits set forth in this Chapter, unless its duration is limited by its terms or the terms of an applicable District Solid Waste Management Plan, or unless explicitly revoked by the Department after notice and opportunity for a hearing.

(b) An approved registration expires automatically if the registrant fails to submit an updated registration statement and to pay all applicable fees within 30 days after the annual renewal/expiration date indicated on the approved registration. The expiration becomes effective upon the end of the 30-day grace period.

(c) If a hearing is requested in any case where the Department has declared that an approved registration has expired because of failure by the registrant to submit an updated registration statement or to pay applicable fees, the only issues that may be raised by the aggrieved party are:

1. That the updated registration statement and/or fees were in fact submitted to the Department within the applicable time periods; or

2. That the failure of the registrant to submit the updated registration statement and/or fees is excusable in light of all circumstances.

(d) A refusal by the Department to renew an approved registration is equivalent to a revocation, and shall be regarded as equivalent in any appeals process.

(e) If a registration expires pursuant to (b) above, or if the Department revokes or refuses to renew an approved registration after notice and opportunity for a hearing, it cannot be renewed for any subsequent year. If the registrant thereafter wishes to become authorized again to engage in the disposal, collection or haulage of solid waste, the registrant must submit a new application and disclosure statement, and be subject to all requirements of this Chapter that apply to new applicants.

7:26-7.5 Hazardous waste hauler responsibilities

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

(c) License issuance, renewal and revocation:

1. Prior to operation, a hazardous waste hauler shall obtain a hazardous waste hauler license from the Department. A "hazardous waste hauler license" is a form of approved registration, and shall be deemed the equivalent of an "approved registration" under N.J.S.A. 13:1E-5.

2. The application for a hazardous waste hauler license shall be executed on forms provided by the Department, and shall state such information as required below, as well as any additional information that the Department may require. This information includes, but is not limited to, the following:

i. After July 1, 1981, proof of compliance with the minimum financial responsibility requirements covering public liabilities, property damage and environmental restoration set out in section 30 of the Federal Motor Carrier Act of 1980, 23 U.S.C. 315, and 49 CFR 387 as adopted;

ii.-iii. (No change.)

3. After July 2, 1984, any person who files an application for a hazardous waste hauler license shall submit with the application the disclosure statement described in N.J.A.C.

7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d).

4. Any applicant who claims to be exempted under N.J.A.C. 7:26-16.3(d) from the requirement of a disclosure statement shall submit an affidavit stating the basis for the claim. In addition, such applicant shall submit in lieu of a disclosure statement an alternative information statement on forms supplied by the Department, *[in accordance with]* ***and containing the information set forth in*** N.J.A.C. 7:26-12.2(g)2.

5. Every hazardous waste hauler license issued by the Department shall indicate on its face an annual renewal/expiration date, which shall be September 30. Prior to October 1 in each calendar year, each licensee shall submit to the Department a statement updating the information contained in the license application. Such information shall be submitted on forms supplied by the Department. In no case shall the submission of an updated licensing statement alter the conditions under which the license was granted.

6. A licensee shall notify the Department in writing within 30 days of any change of information supplied on the licensee's current licensing application *[or disclosure statement]*.

7. The failure to submit updated information and to submit all applicable fees (see N.J.A.C. 7:26-4) within 30 days after the annual renewal/expiration date of a hazardous waste hauler license shall be sufficient cause to revoke the license or to declare it expired pursuant to N.J.A.C. 7:26-5.9(b).

8. No person shall be issued a hazardous waste hauler license nor shall any hazardous waste hauler license be renewed if the applicant or licensee has failed to provide the accurate and complete information required to be submitted on the application for issuance or the updating statement for renewal.

9. No person shall be issued a hazardous waste hauler license if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

10. The Department, after notice and opportunity for hearing, may revoke the license of a hazardous waste hauler for the causes listed in this paragraph which are in addition to, and not a limitation of any disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9:

i. Failure to maintain the financial responsibility requirements or to provide for employee training as required under paragraphs 2.i. and 2.ii. above;

ii. Any of the disqualifying reasons set forth in N.J.A.C. 7:26-16.8 or 16.9;

iii. Violation of any applicable provision of the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), this Chapter, any administrative order issued by the Department or any environmental protection statute of this State;

iv. A pattern of violations of the environmental protection statutes or regulations of this or any other State, or the federal government.

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

(i) Annual Report—On or before May 1 of each year, every hazardous waste hauler shall submit to the Department an annual report describing the types and quantities of hazardous waste transported by the hauler during the previous calendar year. The annual report shall be submitted on forms provided by the Department.

7:26-12.2 Permit Application

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

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(g) In addition to the submittals required in Parts A and B of the permit application, all applicants shall submit to the Department the disclosure statement described in N.J.A.C. 7:26-16.4.

1. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d).

2. Any applicant exempted under N.J.A.C. 7:26-16.3(d) from the requirement of a disclosure statement shall submit to the Department an alternative information statement including but not limited to:

i. (No change.)

ii. The names and addresses of all officers, directors or partners of any business concern disclosed pursuant to i. above and all persons holding more than 10 percent equity share in or more than 10 percent of the debt liability of any business concern disclosed pursuant to i. above;

iii. (No change.)

iv. A description of the experience, credentials, and licenses in the field of hazardous waste management possessed by the key employees, officers, directors, or partners of the business concern seeking a permit;

v. (No change.)

vi. A listing and explanation of any judgment of liability or conviction under any State or Federal statute or local ordinance concerning hazardous waste management against the business concern seeking a permit or against any key employee, officer, director or partner of the business concern; and

vii. Any other information the Department may require that relates to the competency or reliability of the applicant.

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

7:26-12.3 Existing facilities

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

(c) Owners or operators making changes during operation prior to final deposition of permit application shall comply with the requirements of this section.

1.-3. (No change.)

4. Changes in the ownership or operational control of a facility must be approved in advance by the Department.

i. The prospective new owner or operator shall submit a Part A permit application and a disclosure statement not less than 180 days prior to the contemplated change; provided, however, that if the new owner or operator is a person exempted from the requirement of a disclosure statement under N.J.A.C. 7:26-16.3(d) he shall submit a Part A permit application and an alternative information statement not less than 90 days prior to the contemplated change.

ii. The prospective new owner or operator shall also submit a notification of changes in ownership or operational control pertaining to the potential applicability of N.J.A.C. 7:1-3, regulations under the Environmental Cleanup Responsibility Act, P.L. 1983, c.330, N.J.S.A. 13:1K-6, to:

Department of Environmental Protection
Division of Waste Management
Bureau of Industrial Sites Evaluation
(or its successor)
CN 028
Trenton, New Jersey 08625

iii. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the hazardous waste facility financial requirements of N.J.A.C. 7:26-9.10 and N.J.A.C. 7:26-9.11, until the new owner or operator has demonstrated to the Department that it

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is complying with those sections. All other duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with N.J.A.C. 7:26-9.10 and N.J.A.C. 9.11, the Department shall notify the old owner or operator in writing that it no longer needs to comply with those sections as of the date of demonstration.

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

(f) Eligibility to continue operation of an existing hazardous waste facility under this section terminates when:

1.-3. (No change.)

4. The Department, after notice and opportunity for hearing, revokes the owner or operator's authorization to operate a hazardous waste facility for any of the disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9.

5. For the purposes of P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.), any authorization to operate a hazardous waste facility, whether conferred by temporary operating authorization, judicial or administrative order, approved registration and engineering design plan or arising from the operation of this section, shall be deemed the equivalent of an approved registration statement.

(g) (No change.)

(h) The owner or operator of an existing hazardous waste facility may be required at the Department's discretion to submit Part B of its permit application along with a disclosure statement and an Environmental and Health Impact Statement, where applicable.

1. Any owner or operator shall be allowed at least six months from the date of request to submit the requested information, except that a disclosure statement shall be filed within 90 days of the Department's request.

2. (No change.)

7:26-12.5 Transfer of ownership or operational control

(a) (No change.)

(b) The permittee shall notify the Department at least 180 days in advance of any proposed change of ownership or operational control of a facility (90 days in the case of a prospective new permittee exempt from the requirement of a disclosure statement under N.J.A.C. 7:26-16.3(d)). The notice shall include:

1. A disclosure statement or alternative information statement prepared by the prospective new permittee meeting the requirements of N.J.A.C. 7:26-12.2(g);

2.-3. (No change.)

7:26-12.7 Termination of permits

(a) The following are causes for terminating a permit during its term or for denying a permit renewal application:

1. Noncompliance with any condition of the permit;

2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination;

4. A change in ownership or operational control of a permitted hazardous waste facility; or

5. Any of the reasons for disqualification set forth in N.J.A.C. 7:26-16.8 or 16.9.

(b) The Department shall follow the applicable procedures in N.J.A.C. 7:26-12.13(c) in terminating any permit under this section.

(c) For the purposes of license revocation under N.J.S.A. 13:1E-12 and P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.), a "permit" issued pursuant to this subchapter shall be deemed the equivalent of an approved registration statement.

7:26-12.10 Permit application procedures

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

(c) Except as otherwise set forth in (d) below, the Department shall not begin processing of a permit until the applicant has fully complied with the application requirements of N.J.A.C. 7:26-12.2 and the process set out in this paragraph.

1. Not less than 180 days prior to filing a Part B application (90 days in the case of an applicant exempted from the requirement of a disclosure statement under N.J.A.C. 7:26-16.3(d)), as required by N.J.A.C. 7:26-12.2(e) and an Environmental and Health Impact Statement, as required by N.J.A.C. 7:26-12.2(e), the applicant shall submit to the Department:

i. A letter of intent to apply for a permit which shall include a brief description of the facility; and

ii. A disclosure statement or alternative information statement meeting the standards set forth at N.J.A.C. 7:26-12.2(g).

(d) Within 150 days of receipt of the disclosure statement or within 60 days of receipt of the alternative information statement, the Department shall inform the applicant whether the disclosure statement or alternative information statement shows sufficient indication of competency and reliability in the area of hazardous waste management to warrant the submission of a Part B application and an Environmental and Health Impact Statement (EHIS). Such indication shall include a preliminary evaluation of the character of the applicant and the applicant's history of compliance with or violation of all relevant laws, rules and regulations concerning hazardous waste management in this State or elsewhere. This evaluation shall be finalized to the extent practicable by the time the Part B application review is completed. It is the Department's intent to continue this evaluation process during the term of the permit if issued.

1. An applicant may voluntarily submit a Part B application and EHIS to the Department earlier than set forth above, and request that the Department review the application concurrently with the background investigation and disclosure statement review required under N.J.A.C. 7:26-16.1 et seq. The Department in its discretion may begin reviewing the application.

2. The Department shall not be bound in any way to continue review of the application should an investigative report from the Attorney General or review of the disclosure statement indicate that the applicant may be subject to one of the causes for disqualification set forth in N.J.A.C. 7:26-16.8.

(e) (No change.)

7:26-12.13 Procedures for modification, revocation and reissuance, or termination of permits

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

(c) If the Department tentatively decides to terminate a permit under N.J.A.C. 7:26-12.7(a)1. through (a)4., it shall issue a notice of intent to terminate. This form of notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under N.J.A.C. 7:26-12.11.

(d) If the Department decides to terminate a permit under N.J.A.C. 7:26-12.7(a)5, it need issue a notice to the permittee only. In this case, the notice shall not be considered a form of

draft permit, but the permittee shall have the same right to a hearing as in any other proceeding to revoke an approved registration under N.J.S.A. 13:1E-12 and N.J.A.C. 7:26-16.

SUBCHAPTER 16 SOLID AND HAZARDOUS WASTE LICENSING AND REVOCATION- DISCLOSURE STATEMENTS AND INTEGRITY REVIEW

7:26-16.1 Scope and authority

(a) This subchapter 16 implements P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.), and the public policy declared therein to preclude from participation in the solid and hazardous waste industries persons with known criminal records, habits, or associations, and to exclude or remove from positions of authority or responsibility in those industries any person known to be so deficient in reliability, expertise or competence that his or her participation would create or enhance the danger of unsound, unfair or illegal practices, methods or activities in the business of those industries.

(b) This subchapter applies to any proceeding involving the issuance, approval, termination or revocation of any approved registration or equivalent authorization to operate a solid or hazardous waste business in New Jersey, including any temporary operating authorization, hazardous waste hauler license, or hazardous waste facility permit.

7:26-16.2 Definitions

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

"Applicant" means any person seeking a license.

"Application" means the forms and accompanying documents filed in connection with the applicant's request for a license.

"Broker" means any person, not registered with the Department, who for compensation (e.g., a commission or fee) arranges for the transportation or disposal of solid waste or hazardous waste, other than waste generated by that person.

"Business concern" means any corporation, association, firm, partnership, trust or other form of commercial organization.

"Disclosure statement" means a statement containing information about an applicant or licensee as set forth in N.J.A.C. 7:26-16.4.

"Key employee" means any person employed by an applicant or licensee in a supervisory capacity * [or empowered to make discretionary decisions]* with respect to the solid or hazardous waste operations of the business concern *in New Jersey or empowered to make discretionary decisions with respect to those operations*, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage or disposal of solid or hazardous waste.

"License" means the initial approval and first renewal of any registration statement or engineering design pursuant to N.J.S.A. 13:1E-1 et seq. and/or N.J.S.A. 13:1E-49 et seq. for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste in this state, except that "license" shall not include any registration statement or engineering design approved for any of the persons listed in N.J.A.C. 7:26-16.3(d). "License" includes any authorization equivalent to an approved registration, including any tempo-

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rary operating authorization, hazardous waste hauler license, or hazardous waste facility permit.

"Licensee" means any person who has received a license.

7:26-16.3 Filing of disclosure statement

(a) Every applicant shall file a disclosure statement with the Department and the Attorney General at the time the application is filed, unless exempted under (d) below. Applicants for siting under the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq., shall file a disclosure statement at the time specified in N.J.A.C. 7:26-13A.6.

(b) Disclosure statements shall be filed by submitting an original and three conformed copies of all papers, including Personal History Disclosure Forms, to the *[Department]*

Division of State Police at the following address:

[Department of Environmental Protection
Division of Waste Management
License Section
32 E. Hanover Street
CN 208
Trenton, N.J. 08625]*

***Division of State Police
Division Headquarters
P.O. Box 7068
West Trenton, N.J. 08625
Attn: Solid/Hazardous Waste
Background Investigation Unit***

1. The *[Department]* ***Division of State Police*** will transmit copies to the *[Attorney General for purposes of the investigative report]* ***Department***.

2. Additional conformed copies of disclosure statements, or any portions thereof, shall be supplied upon the request of the Department or the Attorney General.

(c) Any person required to be listed in the disclosure statement, other than a non-supervisory employee required to be listed under N.J.A.C. 7:26-16.4(a)9., shall be fingerprinted for identification and investigation purposes in accordance with procedures established by the Attorney General.

1. Completed fingerprint cards shall be supplied by the applicant with the filed disclosure statement. The applicant shall arrange for the taking of fingerprints.

2. Fingerprints shall be supplied on fingerprint cards specified for the purpose by the Attorney General and made available by the Department. Fingerprints must be taken and verified by an employee of a police agency authorized to take fingerprints. (Most local police departments will provide this service *[for]*. ***Some charge*** a fee.)

(d) Exemptions—The following persons are exempted from the requirement to submit a disclosure statement:

1. Any department, division, agency, commission or authority of the Federal government or *[the]* ***any*** State, or any county, municipality or agency thereof;

2. Any person whose application or license is solely for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste generated by that person; provided, however, that this exemption shall not apply where the waste generated is from a facility requiring a license and not itself exempted under this subsection.

***i. Example—a corporation that operates a hazardous waste treatment facility organizes a hauling subsidiary to transport its "own" waste from the facility. If the facility must file a disclosure statement, the hauling subsidiary must do so as well*;**

3. Any person whose application or license is for the operation of a hazardous waste facility, if at least 75 percent of the total design capacity of that facility is utilized to treat, store or dispose of hazardous waste generated by that person;

4. Any person whose application or license is for the operation of a hazardous waste facility which is considered as such solely as the result of the recycling or refining of hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper;

5. Any person whose application or license is solely for the collection, transportation, treatment, storage or disposal of granular activated carbon used in the adsorption of hazardous waste.

***(e) Where an applicant or licensee owns or operates more than one facility or operation requiring a license, or is one of two or more business concerns requiring licenses which are under common ownership or management, the business concerns may file disclosure statements concurrently as a group. In the case of such a group filing:**

1. Disclosure statements covering all members of the group must be filed in a single submission;

2. A cover letter must be supplied indicating the intent to file disclosure statements as a group and identifying the members of the group and their relationships;

3. A single set of Personal History Disclosure Forms for any individual identified in any of the group's disclosure statements will be accepted, even though the name appears on more than one statement;

4. The Department in its discretion may authorize departures from the disclosure statement forms so as to minimize duplicate reporting of information;

5. For the purposes of fee calculation under N.J.A.C. 7:26-16.13, the group shall be treated as a single applicant or licensee; and

6. A group filing may be made even if one or more members of the group have previously filed disclosure statements separately. However, those members will not be regarded as part of the group filing and no refund of fees or credit for fees paid shall be allowed on account of the earlier separate filings.*

7:26-16.4 Content of disclosure statement

(a) The disclosure statement shall be filed on forms supplied by the Department, and shall include the following information:

1. The full name, business address, home address, date of birth, social security number and/or Federal Employer Identification Number of the applicant, or, if the applicant is a business concern, of any officers, directors, partners, or key employees thereof and all persons or business concerns holding any equity in or debt liability of that business concern, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than 5 percent of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

2. The full name, business address, home address, date of birth and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than 5 percent of

the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

3. The full name and business address of any company which collects, transports, treats, stores or disposes of solid waste or hazardous waste in which the applicant holds an equity interest;

4. A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste possessed by the applicant, or, if the applicant is a business concern, by the key employees, officers, directors, or partners thereof;

5. A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by any state or federal authority, in the 10 years immediately preceding the filing of the application, which are pending or have resulted in a finding or a settlement of a violation of any law or regulation relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by the applicant, or if the applicant is a business concern, by any key employee, officer, director, or partner thereof;

6. A listing and explanation of any judgement of liability or conviction which was rendered, pursuant to any State or Federal statute or local ordinance, against the applicant, or, if the applicant is a business concern, against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes (N.J.S.A.) or comparable motor vehicle offenses in jurisdictions other than New Jersey;

7. A listing of all labor unions and trade and business associations in which the applicant was a member or with which the applicant had a collective bargaining agreement;

8. A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant in connection with its collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;

9. A listing of all ***[employees of]* *persons employed by*** the applicant ***in its solid or hazardous waste operations in New Jersey and*** not otherwise required to be listed, and as to each, the full name, home address, date of birth and social security number;

10. As to every person required to be listed in the disclosure statement (other than a ***holder of debt liability or*** non-supervisory employee required to be listed under N.J.A.C. 7:26-16.4(a)9.), a completed Personal History Disclosure Form on forms supplied by the Department, including information about family, education and employment history;

11. Any other information the Attorney General or the Department may require that relates to the competency, reliability or good character of the applicant.

(b) The disclosure statement shall be sworn to or affirmed and subscribed and dated by the applicant or the author before a person legally competent to take an oath or affirmation, who shall himself subscribe and date the signature of the affiant and indicate the basis of his authority to take oaths and affirmations. Personal History Disclosure Forms shall be sworn to or affirmed and subscribed in the same manner, by the individual and the oath-taker. The following statement shall immediately precede the signature of the affiant: "I swear (or affirm) that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

(c) Disclosure statements shall be signed by each of the following:

1. If of a corporation, by its president, its chairman of the board, any other chief executive officer thereof, its secretary and its treasurer.

2. If of a partnership, by each of its partners; if of a limited partnership, only by each of its general partners.

3. If of any other business concern, by its chief executive officer, its secretary and its treasurer.

4. If of a natural person, by the person himself or herself.

(d) Personal History Disclosure Forms shall be signed by the individual described thereon.

(e) All signatures shall be signed in ink and dated on original papers, but may be photocopies, typed, stamped or printed on copies. The name and address of the signatory shall be typed, stamped or printed beneath each signature.

7:26-16.5 Investigative Report by Attorney General

(a) The Department shall not issue any license (other than a temporary registration for not more than one year) to an applicant until it has received and reviewed an investigative report from the Attorney General.

(b) The departmental review of the application shall include a review of the disclosure statement and investigative report.

(c) In its discretion, the Department may issue a temporary registration for not more than one year to an applicant, if such issuance is necessary to prevent or ameliorate a hazard to the public health, safety or the environment; to prevent economic hardship to a public body, or otherwise serves some interest of the general public, and the applicant signs an agreement that it will cease its solid or hazardous waste operations upon the expiration date of the temporary registration if a license has not been approved by the Department, or upon order of the Department.

7:26-16.6 Change of information on disclosure statement

(a) ***[If]* *Where an applicant has an application pending before the Department and*** any of the information required to be included in a disclosure statement changes, or ***[if]*** any additional information should be added after the filing of the statement, the applicant or licensee shall provide that information to the Department and the Attorney General in writing within 30 days of the change or addition.

***(b) Licensees shall report to the Department and the Attorney General within 30 days any changes or additions in the following information required to be included in the disclosure statement:**

1. **The name of the licensee;**

2. **The names or identities of any officers, directors, partners or key employees of the licensee;**

3. **The names or identities of any holders of equity in or debt liability of the licensee, if they would have been required on the original disclosure statement; except that holders of less than five per cent of the debt liability of the licensee need only be reported on the annual update described in (c) below;**

4. **The name and business address of any company which collects, transports, treats, stores or disposes of solid waste or hazardous waste in which the licensee acquires an equity interest;**

5. **A listing and explanation of any notices of violation, administrative orders or license revocations issued by any State or Federal authority, except that notices issued by the Department and notices demanding a penalty of less than**

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\$5,000 and not involving an intent to revoke a license need only be reported annually;

6. Any judgement of liability or conviction rendered against the licensee or against any key employee, officer, director or partner thereof, other than for a motor vehicle offense;

7. Any collective bargaining agreement entered into with a labor union not previously listed on a disclosure statement, and any new membership in a trade or business association.

(c) Any other changes in the information contained in a licensee's disclosure statement currently on file with the Department and the Attorney General shall be reported on an annual update to be filed with the Division of State Police at the time of the licensee's annual renewal of its registration with the Department; provided, however, that amending or updating of Personal History Disclosure Forms, other than to report a judgement of liability or conviction or a criminal charge, is not required unless specifically requested by the Department or the Attorney General.

(d) Changes of information required to be filed within 30 days pursuant to (b) above may be filed by letter, on amendment forms supplied by the Department, or on copies of applicable portions of disclosure statement forms. The person filing the report of change shall swear to or affirm the truth of the information contained therein.*

[(b)]* *(e)* [Changes of information]* *Annual updates* shall be filed on amendment forms supplied by the Department, or on copies of applicable portions of the disclosure statement or Personal History Disclosure Form. *Annual updates shall include a recapitulation of any changes previously reported on a 30-day notice.

***[(c)]* *(f)* Changes of information shall be filed by submitting an original and three conformed copies to the *[Department]* *Division of State Police*, which shall transmit copies to the *[Attorney General]* *Department*.**

***[(d)]* *(g)* [Changes of information]* *Annual updates* shall be sworn to or affirmed and subscribed in the manner prescribed for original disclosure statements at N.J.A.C. 7:26-16.4(b).**

***[(e)]* *(h)* Where an applicant or licensee has submitted multiple amendments to its disclosure statement; or the information concerning an applicant or licensee has undergone substantial change; or if the disclosure statement currently on file with the Department is more than five years old, the Department, in its discretion, may require the applicant or licensee to file a new disclosure statement.**

7:26-16.7 Additional information; Duty to cooperate

(a) All applicants and licensees have the continuing duty to provide any assistance or information requested by the Department or the Attorney General, and to cooperate in an inquiry or investigation conducted by the Attorney General and any inquiry, investigation, or hearing conducted by the Department. If, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant or licensee refuses to comply, the license of that person may be denied or revoked by the Department.

(b) Upon request, the applicant shall supply physical evidence, including but not limited to photographs or handwriting exemplars of any individual listed on the disclosure statement or any amendment thereof.

7:26-16.8 Disqualification criteria

(a) No license shall be approved by the Department unless the Department finds that the applicant, in any prior perform-

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ance record in the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste or hazardous waste facility, given the potential for harm to human health and the environment which could result from the irresponsible operation thereof, or if no prior record exists, that the applicant is likely to exhibit that reliability, expertise and competence.

(b) No license shall be approved by the Department if any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, has been convicted of any of the following crimes under the laws of New Jersey or the equivalent thereof under the laws of any other jurisdiction:

1. Murder;
2. Kidnapping;
3. Gambling;
4. Robbery;
5. Bribery;
6. Extortion;
7. Criminal usury;
8. Arson;
9. Burglary;
10. Theft and related crimes;
11. Forgery and fraudulent practices;
12. Fraud in the offering, sale or purchase of securities;
13. Alteration of motor vehicle identification numbers;
14. Unlawful manufacture, purchase, use or transfer of firearms;
15. Unlawful possession or use of destructive devices or explosives;
16. Violation of section 19 of the "New Jersey Controlled Dangerous Substances Act," N.J.S.A. 24:21-19, except possession of 84 grams or less of marijuana;
17. Racketeering, N.J.S.A. 2C:41-1 et seq.
18. Violation of criminal provisions of the "New Jersey Antitrust Act," N.J.S.A. 56:9-1 et seq.
19. Any purposeful, knowing, willful or reckless violation of the criminal provision of any federal or state environmental protection laws, rules, or regulations;
20. Violation of N.J.S.A. 2C:17-2;
21. Perjury, false swearing or any other offense set forth in Chapter 28 of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:28-1 et seq.;
22. Any violation of the criminal provisions of the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.

(c) Notwithstanding the provisions of (b) above, no applicant shall be denied a license on the basis of a conviction of any individual required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, for any of the offenses enumerated in (b) above as disqualification criteria, if the person has affirmatively demonstrated by clear and convincing evidence his rehabilitation. In determining whether an applicant has affirmatively demonstrated rehabilitation, the Department shall request a recommendation thereon from the Attorney General, and shall consider the following factors and weigh them in light of the policies set forth in N.J.A.C. 7:26-16.20 et seq.:

1. The nature and responsibilities of the position which a convicted individual would hold;
2. The nature and seriousness of the offense;

3. The circumstances under which the offense occurred;
4. The date of the offense;
5. The age of the individual when the offense was committed;
6. Whether the offense was an isolated or repeated incident;
7. Any social conditions which may have contributed to the offense;
8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

(d) No license shall be approved by the Department if the Attorney General determines that there is a reasonable suspicion to believe that a person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, does not possess a reputation for good character, honesty and integrity, and that person or the applicant fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

(e) No license shall be approved by the Department with respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation, for any of the offenses enumerated in (b) above, provided, however, that at the request of the applicant or the person charged, the department shall defer decision upon such application during the pendency of such charge.

(f) No license shall be approved by the Department if any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this chapter would be inimical to the policies of N.J.S.A. 13:1E-126 et seq. For purpose of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

(g) No license shall be approved by the Department if the applicant refuses to comply with inquiries as required under N.J.A.C. 7:26-16.7.

(h) No license shall be approved by the Department if the applicant in its application, disclosure statement or any other materials supplied to the Department or the Attorney General shall supply information which is untrue or misleading as to a material fact pertaining to the disqualification criteria.

7:26-16.9 Cause for License Revocation

(a) In addition to any other cause set forth in this Chapter, any license may be revoked by the department for any of the following causes:

1. Any cause which would require disqualification, pursuant to N.J.S.A. 7:26-16.8, from receiving a license upon original application;

2. Fraud, deceit or misrepresentation in securing the license, or in the conduct of the licensed activity;

3. Offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1E-126 et seq., or of any other law relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, or of any rule or regulation adopted pursuant thereto;

4. Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any licensee;

5. Preventing, without authorization of the department, any licensee from disposing of solid waste or hazardous waste at a licensed treatment, storage or disposal facility.

7:26-16.10 Administrative hearing; Requests

(a) Any applicant who is denied an initial license pursuant to this subchapter shall, upon a written request transmitted to the Department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq.

(b) Any licensee who receives a notice of intent to revoke or refuse to renew a license shall have 15 days from receipt of the notice to transmit to the Department a request for a hearing.

7:26-16.11 Severance of disqualifying individuals

(a) Notwithstanding the disqualification of any applicant or licensee pursuant to N.J.A.C. 7:26-16.8 or 16.9, the department may issue or renew a license if the applicant or licensee severs the interest of or affiliation with the person who would otherwise cause that disqualification.

(b) Where the disqualifying individual is the owner of an equity interest or interest in the debt liability of the licensee or applicant, he must completely divest himself of that interest. Where immediate sale of the interest would work an economic hardship on the individual, the licensee or applicant, the Department may, in its discretion, allow for divestiture over a period of time not to exceed one year.

(c) Arrangements such as blind trusts will be acceptable only as part of a divestiture arrangement under which the trustee is obliged to sell the disqualifying individual's interest within a period not to exceed two years.

(d) Before the Department will issue or renew a license to an applicant or licensee which has severed a disqualifying individual, the applicant or licensee must submit to the Department an affidavit, sworn to by the chief executive officer, attesting to the severance of the disqualifying individual and describing the terms, circumstances and conditions of that severance. Any instruments pertaining to that severance (such as a trust agreement) shall be submitted with the affidavit.

7:26-16.12 License revocation; Ineligibility for reapplication

(a) The Department will not issue a license to any person who has had an application denied, or a license revoked, for any of the reasons set forth in N.J.A.C. 7:26-16.8 or 16.9, for a period of 5 years following such denial or revocation.

(b) A person that is a business concern shall be considered as the same person if the management structure of the concern includes the person or persons that were the cause of the original disqualification.

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7:26-16.13 Fees charged by the Attorney General and the Department

Note: The fee for the Attorney General is *[proposed]* ***adopted*** pursuant to Section 3.d of P.L. 1983, c.392, N.J.S.A. 13:1E-128d. The fee for the Department is *[proposed]* ***adopted*** pursuant to N.J.S.A. 13:1E-18.

(a) Every applicant or licensee who files a disclosure statement shall submit a fee to the Attorney General to cover the cost of enforcing P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.) and a fee to the Department to cover the cost of reviewing disclosure statements and securing confidential documents. ***Except as provided in (e) below,*** *[E]* ***e*** each fee shall be \$100.00 per each individual required to be listed in the disclosure statement (other than a non-supervisory employee required to be listed pursuant to N.J.A.C. 7:26-16.4(a)9 or shown to have a beneficial interest in the business of the applicant or licensee other than an equity interest or debt liability interest.

(b) The applicant shall calculate the amount of each fee due and submit to the *[Department]* ***Division of State Police*** separate checks for each fee amount, made payable to "Treasurer, State of New Jersey." The *[Department]* ***Division of State Police*** shall forward the check for the *[Attorney General's fee to the Attorney General]* ***Department's fee to the Department***. *[The Department will not accept an]* ***An*** application or disclosure statement ***will not be accepted*** as complete for filing unless accompanied by the appropriate fee payments.

(c) If on the basis of investigation the Department or the Attorney General determine that a person not listed on the disclosure statement should have been listed thereon, the Department and Attorney General may require the payment of additional separate fees along with the submission of additional information pertaining to that person. The applicant shall pay such additional separate fees promptly upon demand. Nothing in this subsection shall be construed as limiting the power of the Department to deny or revoke a license if the Department finds the omission of a person from the disclosure statement was intended to mislead or conceal information from the Department.

(d) If an applicant or licensee files a change of information pursuant to N.J.A.C. 7:26-16.6, and discloses thereon an individual not listed in the disclosure statement information (including any amendments) currently on file with the Department, the applicant or licensee shall pay additional separate fees of \$100.00 per each individual so disclosed (other than a non-supervisory employee required to be listed pursuant to N.J.A.C. 7:26-16.4(a)9.).

*** (e) In the case of an applicant or licensee that is a small, family owned and operated business, the Department will reduce its fee as follows:**

1. Where there are three or fewer names listed on the disclosure statement as owners, officers, directors, partners and/or key employees, and two or all three of these individuals are related as spouses or as parent and child, then the Department fee shall be \$100.00 per principal residence of the individuals listed.

2. If all three reside at separate addresses, however, the fee must be computed as under (a) above.

(f) **Where business concerns file disclosure statements concurrently as a group pursuant to N.J.A.C. 7:26-16.3(e), for the purposes of fee calculation under this section the group shall be treated as a single applicant or licensee, and fees shall be calculated on the basis of the total number of individuals required to be listed in all of the disclosure statements filed by**

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members of the group. Individuals whose names appear on more than one disclosure statement shall be counted only once for purposes of fee calculation.*

7:26-16.14 Confidential information

(a) As used in this section, the following terms shall mean:

1. "Authorized personnel" means any employee of the Department or the Attorney General authorized to act in the enforcement of P.L. 1983, c.392, N.J.S.A. 13:1E-126 et seq.

2. "Confidential information" means

i. Any information required to be furnished to the Department or the Attorney General by an applicant, licensee or an individual required to be listed on a disclosure statement, which pertains to private financial matters of the applicant, licensee or individual which are not otherwise subject to public disclosure by any statute or regulation;

ii. Any information which pertains to the criminal record, family or personal background of an applicant, a licensee or an individual required to be listed on a disclosure statement;

iii. Any information obtained by the Department or the Attorney General pursuant to an interrogatory issued pursuant to N.J.S.A. 13:1E-129 or a subpoena issued pursuant to N.J.S.A. 13:1E-130; and

iv. Any other information which is confidential pursuant to applicable statutory provision, judicial decision or rule of court.

3. "Secure storage facility" means any area, room, furniture, equipment, machinery or other device used for the storage of confidential information, access to which is limited to authorized personnel at all times by locks, alarms, codes or other appropriate security precautions.

(b) Confidential information shall not be released or disclosed to any person except in accordance with the provisions of this section.

(c) Except as otherwise provided ***in*** (k) below, access to confidential information within the possession of the Department or the Attorney General shall be restricted to authorized personnel who require such information in the performance of their official duties.

(d) Confidential information not currently being used by authorized personnel shall be stored in secure storage facilities. Every such facility shall be under the direct supervision of a supervisor designated by the Commissioner or Director. The said supervisor shall periodically review for their effectiveness all security measures. Measures determined to be ineffective shall be immediately corrected or improved.

(e) The Commissioner or Director shall designate in writing all Department personnel authorized to have access to confidential information.

(f) Authorized personnel shall not remove confidential information from designated secure storage facilities unless such removal is necessary to the fulfillment of their official duties. Confidential information which is not presently being utilized by authorized personnel shall be promptly returned to its secure storage facility.

(g) A record shall be maintained of all confidential information which is removed from secure storage facilities ***[other than those which utilize computer or magnetic media]***. This record shall include:

1. The name of the person removing the information;

2. The name of the person for whom the information is being obtained;

3. The date of removal;

4. A description of the information removed or the number of the file which has been removed; and

5. The date the information is returned.

(h) Confidential information shall not be removed from the offices of the Department without the prior approval of an appropriate supervisor. Such approval shall only be granted where removal of the confidential information is necessary to the performance of the official duties of authorized personnel.

(i) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties. Confidential information temporarily stored outside designated secure storage facilities shall be maintained in a locked desk or filing cabinet, or protected by other appropriate security precautions.

(j) A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Department shall only be made where absolutely necessary to the administration of N.J.S.A. 13:1E-126 et seq., or where an authorized release of the confidential information is made pursuant to the provisions of (k) and (l) below.

***1. Where confidential information is stored on a computer or magnetic medium to which access is physically restricted to authorized personnel, a record shall be kept of the persons who access the data, including the time and date of the access.**

2. If confidential information is stored on a computer system or on magnetic media, access to which is shared with users who are not authorized personnel, access to the confidential information shall be restricted to authorized personnel by means of secure access codes, code names and other appropriate software safeguards. In addition, the computer shall be programmed so as to maintain a list of all requests for display or printout of confidential information, identifying the user who made the request.*

(k) Confidential information within the possession of the Department shall not be released or disclosed in whole or in part to any person, except:

1. Upon lawful order of a court of competent jurisdiction; or

2. In the course of the necessary administration of N.J.S.A. 13:1E-126 et seq.; ***or***

3. With the approval of the Attorney General, to a duly authorized law enforcement agency; or

4. Upon presentation of proper identification, to the applicant, licensee or individual who furnished the confidential information to the Department or the Attorney General; or

5. Upon presentation of a duly executed and notarized release authorization by the applicant, licensee or individual who furnished the confidential information, to any person making a written request for specifically identified confidential information.

(l) If confidential information is released or otherwise disclosed to any person under any circumstances other than those identified in (k)2 through 5 above, written notice shall be given to any applicant, licensee or individual affected prior to the release or disclosure, whenever possible, unless such notice would otherwise imperil the administration of N.J.S.A. 13:1E-126 et seq. To the extent known, the notice shall include:

1. The name and address of the person to whom the information was released or disclosed;

2. A description of the information released or disclosed; and

3. The date of the release ***[of]* *or*** disclosure.

(m) Any confidential information disclosed in the course of any proceeding in the administration of N.J.S.A. 13:1E-126 et seq., or in the course of a judicial proceeding in which disclosure has been made pursuant to lawful order of the court, shall cease to be confidential information to the extent the record of the proceeding becomes a public record.

(n) Any knowing or willful disclosure of confidential information by personnel of the Department, other than a disclosure authorized under this section, shall be a violation of the Department's code of ethics and shall subject the violator to the penalties provided by N.J.S.A. 52:13D-23(d), following notice and the right to a hearing before the Executive Commission on Ethical Standards. The violator may also be subject to disciplinary action, including suspension or dismissal. Unauthorized disclosure of information obtained pursuant to interrogatory or subpoena may subject the violator to criminal penalties under N.J.S.A. 13:1E-131.

7:26-16.15 to 16.19 (Reserved)

7:26-16.20 Policies on disqualification

(a) To guide in the exercise of its discretion under N.J.A.C. 7:26-16.8 and 16.9, the Department from time to time shall promulgate policies and publish them as regulations in this subchapter.

(b) Where no published policy applies, the Department shall evaluate applicants and licensees in light of the policies expressed in N.J.S.A. 13:1E-126.

7:26-16.21 Convicted persons generally

(a) No licensee shall knowingly hire as an officer, director or key employee, nor knowingly allow to acquire an equity interest or debt liability interest, any person who has been convicted of any of the crimes enumerated in N.J.A.C. 7:26-16.8(b), without first obtaining the approval of the Department. This provision does not apply to persons who were employed or held their interests before June 11, 1984.

(b) In connection with any such request, the licensee shall file with the Department and the Attorney General an amended disclosure statement, containing the necessary information about the person, including any evidence the licensee wishes to bring forth demonstrating the person's rehabilitation.

(c) The Department shall request a recommendation from the Attorney General as to whether the person has affirmatively demonstrated rehabilitation, and shall consider the factors set forth at N.J.A.C. 7:26-16.8(c) in determining whether to grant permission to the licensee to employ the individual or allow him to acquire an interest in the licensee.

(d) Any licensee that violates (a) above may be subject to having its license revoked, notwithstanding the rehabilitation of the individual in question.

7:26-16.22 Persons convicted of environmental crimes

(a) In the case of persons convicted of violating the criminal provisions of any federal or state environmental protection laws, rules or regulations, including N.J.S.A. 2C:17-2, N.J.S.A. 13:1E-9(e) or (f) and N.J.S.A. 58:10A-10(f), or persons convicted of any crime which involved the violation of

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such laws, rules or regulations, the Department will not consider such person rehabilitated unless he has made all reasonable efforts to clean up or mitigate any environmental damage caused by the activities for which he was convicted, and to make restitution to any victims injured thereby; and

(b) In the absence of clear and convincing evidence to the contrary, the Department will hold that such a conviction warrants a finding of "unreliability" under N.J.A.C. 7:26-16.8(a) if the date the conviction became final (including the exhaustion of any appeals) is less than ten years preceding the filing of the application or notice of intent to revoke a license.

(c) Notwithstanding (a) and (b) above, the Department may still deny or revoke a license because of a conviction more than ten years old if the person in question fails to demonstrate rehabilitation by clear and convincing evidence.

7:26-16.23 "Independent contractors" or "consultants"

(a) Applicants and licensees may not avoid the effects of N.J.A.C. 7:26-16.8 and 16.9 by designating an employee as an "independent contractor" or "consultant". The Department will look beyond the form of such contracts, and if it finds that a person designated as an "independent contractor", "consultant" or similar term is performing functions commonly performed in the industry by employees, or is exercising any discretion over the solid waste or hazardous waste operations of an applicant or licensee, the Department will regard that person as an employee.

(b) The Department may deny or revoke a license if it finds that an applicant or licensee has entered into an "independent contractor" arrangement, "consultant" agreement or similar arrangement for the purpose of avoiding disqualification under N.J.A.C. 7:26-16.8 or 16.9.

7:26-16.24 "Brokerage" by convicted persons

(a) It is the policy of the Department to discourage persons who would be disqualified from obtaining licenses under N.J.A.C. 7:26-16.8(b) from acting as brokers in the solid waste or hazardous waste industries.

(b) The Department may examine an applicant or licensee's relationship with a broker in order to determine whether the broker is or has acted as an employee. In making this determination the Department may consider the following factors:

1. Whether the broker was formerly employed by the licensee or a business concern owned, controlled or under the same ownership as the licensee or applicant.

2. Whether the broker is under retainer to the applicant or licensee, or receives any compensation that is not dependent on producing sales.

3. Whether the commissions paid to the broker are disproportionate to those paid to other brokers similarly situated in the industry.

4. Whether the broker derives the bulk of his income from one licensee, or from licensees under common ownership.

5. Whether the broker performs functions customarily performed by employees, such as signing manifests, supervising the loading of trucks, instructing drivers on routes to follow, etc.

6. Whether the broker has an agreement (written or oral) with a licensee to "steer" business to the licensee rather than to competitors, such that the broker is not exercising independent judgment in his choice of licensed operators.

(c) If the Department finds that a broker who would be disqualified from obtaining a license is or has acted as an employee, it may result in the applicant or licensee being disqualified under N.J.A.C. 7:26-16.8 or 16.9.

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(d) The Department may deny or revoke a license if it finds that an applicant or licensee has set up or maintained a relationship with a broker for the purpose of avoiding disqualification under N.J.A.C. 7:26-16.8 or 16.9.

SUBCHAPTER 16A SPECIAL RULES FOR SUBMISSION OF DISCLOSURE STATEMENTS BY EXISTING LICENSEES AND APPLICANTS WHOSE APPLICATIONS WERE PENDING BEFORE THE DEPARTMENT PRIOR TO JULY 2, 1984

Executive Order No. 66 (1978) notice: This Subchapter will expire on June *10* *11*, 1986.

7:26-16A.1 Scope and applicability; Conflicts

(a) This subchapter implements section 3.a. of L. 1983, c.392, N.J.S.A. 13:1E-128.a., which states that "Every licensee who is not otherwise required to file a disclosure statement within two years of the effective date of this act (June 11, 1984) shall file a disclosure statement with the department and the Attorney General within that period."

(b) This subchapter is intended to provide for orderly and timely filing of disclosure statements by existing licensees so as to equalize the administrative burdens on the Department and the Attorney General over the two-year period.

(c) Except where the context would require otherwise, the provisions of N.J.A.C. 7:26-16 are applicable to this subchapter.

(d) In case of any conflict between a provision of this subchapter and any other provision of this chapter, the provision of this subchapter shall govern.

(e) The Commissioner or Director may relax the application of any part of this subchapter if necessary to prevent unreasonable delay in the processing of any application that was pending before the Department prior to July 2, 1984.

7:26-16A.2 Schedule for submitting disclosure statements

(a) All persons who had received a license from the Department prior to July 2, 1984 shall submit a disclosure statement to the Department and the Attorney General within two years after June 11, 1984. Disclosure statements shall be submitted according to the procedures and requirements set forth in N.J.A.C. 7:26-16.3 and 16.4.

(b) A person shall be deemed to have "received a license" if he had received from the Department final approval to operate a solid or hazardous waste collector-hauler business or treatment, storage or disposal facility, or was actually operating pursuant to any authorization equivalent to an approved registration, such as a temporary operating authorization, judicial order or administrative consent order.

(c) The Department may require any applicant or licensee to submit a disclosure statement on demand upon 90 days notice.

(d) Any licensee may voluntarily submit a disclosure statement earlier than demanded.

(e) The applicant or licensee shall have 90 days from the time of receipt of the demand to file a disclosure statement with the Department and the Attorney General. Refusal to file the disclosure statement shall be deemed a refusal to comply under N.J.A.C. 13:1E-128.c. and N.J.A.C. 7:26-16.7.

(f) Any licensee who has not received a demand to file a disclosure statement by March 11, 1986 shall file a disclosure statement on or before June 10, 1986.

7:26-16A.3 Applications pending on July 2, 1984

(a) Persons with applications pending before the Department on the effective date of these rules (July 2, 1984) shall submit a disclosure statement to the Department and the Attorney General no later than *[August 31]* *September 30*, 1984.

(b) It is the Department's intention that applicants whose applications were pending before the department prior to the proposal date of subchapter 16 (May 7, 1984) shall have the licensing process delayed as little as possible by reason of the new licensing requirements imposed by L. 1983, c.392. When it finds that it is in the public interest to do so, or to prevent unreasonable economic hardship, the Department may conditionally issue a license to an applicant whose application was pending on May 7, 1984 before it has received a full investigative report from the Attorney General, provided that:

1. The disclosure statement has been filed, and a preliminary review by the Department indicates no reason for disqualification;

2. The Attorney General has conducted a check of applicable criminal history information and reported to the Department that such check indicates no reason for disqualification; and

3. The applicant has signed a statement indicating its understanding that its license may be revoked if the full investigative report or subsequent investigation indicate reasons for disqualification.

(c) Applicants who filed their applications after May 7, 1984 may not be issued licenses until completion of the investigative report. However, the Department will attempt to expedite processing of such applications by requesting the Attorney General to accord highest priority to completing investigative reports on applicants whose applications are pending before the Department prior to July 2, 1984. Also, in appropriate cases, the Department will continue technical review of such applications concurrent with the disclosure statement review and investigative report.

HEALTH

(a)

HEALTH PLANNING AND RESOURCES DEVELOPMENT

Certificate of Need: Reviews of Long-Term Care Facilities and Services Temporary Expansion of Long-Term Care Bed Supply for Former Psychiatric Patients

Adopted New Rule: N.J.A.C. 8:33H-3.11

Proposed: April 16, 1984 at 16 N.J.R. 806(a).

Adopted: June 14, 1984 by Allen N. Koplen, M.D., Acting Commissioner, Department of Health (with approval of Health Care Administration Board).

Filed: June 18, 1984 as R.1984 d.276, with substantive changes not requiring additional public notice and comment.

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5b.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): September 18, 1985.

Summary of Public Comments and Departmental Responses:

Written comments were received during the comment period. Commentors were the New Jersey State Division of Medical Assistance and Health Services, the New Jersey State Division of Mental Health and Hospitals, the Department of Health's Division of Health Facilities Evaluation, the New Jersey Association of Health Care Facilities, and the New Jersey Coalition for the Protection of Vulnerable Adults.

COMMENT: The Division of Medical Assistance and Health Services suggested that an additional sentence be added at 8:33H-3.11(a)3.vi.: "Any additional costs attributed to these beds will not be reported as long-term care costs in the annual cost report." This text differs from the original proposal in that it includes language which eliminates the reporting of additional costs attributable to these added beds. It has been their position during the negotiations that have taken place that the policy would be to either include or exclude all patient days and costs. If they were to include either the costs or patient days separately, it would serve to distort the prospectively determined reimbursement rates. This distortion would occur by proportioning costs over too few days or vice versa. The Division of Medical Assistance and Health Services has submitted the language proposed herein to H.C.F.A. Region II and has received notification from Mr. Arthur J. O'Leary, Associate Regional Administrator, Division of Financial Operations, that this concept would be appropriate for Medicaid State Plan purposes.

RESPONSE: The Department acknowledges this policy decision based upon previous communications. The requested language has been added to this section.

COMMENT: The New Jersey Division of Mental Health and Hospitals proposes that language be included to clarify the effective date of the three year period and to establish a closing date for the consideration of applications. It is suggested that the following language be added at 8:33H-3.11(a) 1.i.: "All applications must be submitted within 30 working days from the effective date of this regulation." In addition, the Division suggested that the language of 8:33H-3.11(a)2.i. be changed to read: "This temporary permission shall expire three years from the date the facility is authorized by the Department of Health to exceed the licensed bed capacity or from the date these rules are promulgated, whichever date is later."

RESPONSE: The Department agrees that some deadline shall be placed on requests for temporary bed expansion but believes that a deadline of December 31, 1984 would maximize the opportunity for as many beds as possible to be made available for this purpose. In regard to the second point, the Department wishes to identify a single expiration date for all facilities to avoid the potential administrative problems of staggered expiration dates.

COMMENT: The Department of Health's Division of Health Facilities Evaluation has requested correction of titles specified at 8:33H-3.11(a)1.iv. and vi., and an additional physical plant factor to be added at 8.33H-3.11(b)1., as follows: "vi. Available toilet and bath facilities."

RESPONSE: The Department has accepted the requested changes and additions and has incorporated them into the language of the adopted rules.

COMMENT: The New Jersey Association of Health Care Facilities requests that language regarding Medicaid be added to 8:33H-3.11(a)2.iv. to read as follows: "The facility shall agree to retain the patients placed in the additional beds through their orderly transfer to licensed and approved Medicaid beds by the end of the three year period."

RESPONSE: The Department agrees that this additional language clarifies the intent that the patients be retained as Medicaid patients at the end of the temporary bed addition period. The additional language has been added to this section.

COMMENT: The New Jersey Coalition for the Protection of Vulnerable Adults has requested that their comments be written into the record. They commented that:

"1. The needs of these psychiatric patients for long term care provided in a nursing home are indeed valid as they have been overlooked at times. These persons are entitled to such long term care as others in similar need.

"2. The process of developing this new amendment to the Health Department's Long Term Care Manual concerns us considerably. We are of the belief that any significant changes in key services areas such as long term care should provide opportunities and well defined channels for citizen, consumer and public interest participation and review.

"While the Nursing Home Task Force made this recommendation, nevertheless, its makeup was essentially that of individuals from state government and the nursing home industry.

"Further, we are concerned that residents of Glen Gardner are considered feasible for such placement. It is our understanding that this facility is an accredited nursing home, and we wonder why such transfers of patients is needed or desired."

COMMENT: The Department believes that public interest participation and review was served through the usual regulatory development process, which includes initial review and comment by the Statewide Health Coordinating Council and its Plan Development and Implementation Committee. These bodies include members of the Five Health Systems Agencies statewide, which in turn have a majority consumer composition. In addition, the regulatory process includes promulgation of a proposed rule in the New Jersey Register with a subsequent 30-day public comment period. In regard to the Glen Gardner situation, the Division of Mental Health and Hospitals has indicated that while this facility is indeed a licensed long-term care facility, it is considered part of a continuum of care and that this concept would be best served by the placement of select patients into other community-based long-term care facilities to permit new placements into Glen Gardner from state psychiatric hospitals.

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

8:33H-3.11 Temporary expansion of long-term care bed supply for former psychiatric patients

(a) Standards for determining temporary expansion of long-term care bed supply for former psychiatric patients are as follows:

1. Standard XI-01: The process for requesting permission to temporarily exceed licensed bed capacity shall be as follows:

i. The Department of Health shall accept written requests to temporarily exceed licensed bed capacity beginning on the effective date of these rules ***(July 2, 1984) and extending through December 31, 1984.***

ii. Each request must state the number of beds to be added, along with the floor and room numbers of the rooms where each of the beds are proposed to be located.

iii. Each request shall be sent to:

Solomon Goldberg, D.D.S., Director
Licensing, Certification and Standards
New Jersey Department of Health
CN 367
Trenton, New Jersey 08625

In addition, an informational copy of the request shall be sent to the appropriate Health Systems Agency.

iv. After receipt of the request the Department may send ***[surveyors and]*** inspectors from the Division of Health Facilities Evaluation to the facility to determine its ability to add beds.

v. The Department of Health also shall consult with the Department of Human Services and the Office of the Ombudsman for the Institutionalized Elderly concerning the ability of the facility to add beds and care for additional patients.

vi. Following receipt of a recommendation from the Director of Health Facilities ***[Evaluation]*** ***Inspection,*** the Director of Licensing, Certification and Standards shall notify each facility and appropriate Health Systems Agency of the disposition of the request.

2. Standard XI-02: Expiration of permission to temporarily exceed licensed bed capacity shall be treated as follows:

i. Permission to exceed licensed bed capacity shall not extend beyond three years from the effective date if these rules.

ii. Beds added through the process outlined in Standard XI-01 above shall not require a Certificate of Need. Such beds shall not be counted in the inventory of existing licensed beds.

iii. A facility which desires to maintain beds obtained through the process defined in Standard XI-01 above after the expiration date shall be required to request the addition of such beds through the Certificate of Need process and will be subject to the rules governing that process.

iv. The facility shall agree to retain the patients placed in the additional beds through their orderly transfer to licensed ***[beds]*** ***and approved Medicaid beds by the end of the three year period.***

3. Standard XI-03: Maximum number of beds shall be determined as follows:

i. The maximum number of beds an individual facility may add under the process described in Standard XI-01 above shall be 10 beds or 10 percent of current total licensed capacity, whichever is less.

ii. No facility shall be granted permission to add a fifth bed in a room currently containing four beds.

iii. All beds added under Standard XI-01 shall be reserved solely for the use of Medicaid patients discharged from state and county psychiatric hospitals. Further, the beds added may not be considered toward meeting any Certificate of Need obligations already in place for former psychiatric patients.

iv. All beds added under Standard XI-01 shall be in addition to the facilities' annual average level of Medicaid beds.

v. Any beds added under Standard XI-01 shall not be included in determining a facility's compliance with Standard III-04 of these rules.

vi. Participation in this program of temporarily exceeding licensed bed capacity will not affect a facility's current per diem rate as determined under the CARE system, that is, patient days generated by these beds will not be included in the rate calculation for the duration of the three year period of these rules. ***Any additional costs attributed to these beds will not be reported as long-term care costs in the annual costs report.***

(b) The following guidelines may be considered when adding beds:

1. Guideline XI-01: The Department of Health may consider the following physical plant factors in determining the ability of a facility to add beds:

- i. Number of beds currently in the room(s) proposed for additional beds.
- ii. Current square footage in the room(s) proposed for additional beds.
- iii. Amount of space between and around beds if beds are added in a room.
- iv. Ratio of single to multiple bed rooms.
- v. Total square footage available for ancillary and support services after bed addition.

vi. Available toilet and bath facilities.

2. Guideline XI-02: The Department of Health may consider the following quality of care factors in determining the ability of a facility to add beds:

- i. Current number of, as well as history of, operational licensure deficiencies in patient care areas such as nursing service, infection control, dietary, and pharmacy.
- ii. Current number of, as well as history of, physical plant and life safety code deficiencies.
- iii. Current number of, as well as history of, licensure deficiencies in all other areas.

3. Guideline XI-03: To the extent possible, beds shall be added to facilities in such a manner so as to place a patient as near his home county as possible.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Licensing and Degree Program Approval Rules

Notice of Correction: N.J.A.C. 9:1-1.1

Errors appear in the March 19, 1984 issue of the New Jersey Register at 16 N.J.R. 539 concerning the definition of "Semester credit hour". N.J.A.C. 9:1-1.1 should have appeared as follows:

"Semester credit hour" usually means 50 minutes of class activity each week for 15 weeks ***(or the equivalent attained by scheduling more minutes of class activity per week for**

fewer weeks in the semester)* in one semester complemented by at least two hours each week of laboratory or outside assignments ***(or the equivalent thereof for semesters of different length)***. A semester credit hour shall not be counted on an hour-for-hour basis for a library, an independent-study, a laboratory ***or*** a physical education activity. ***No more than one semester credit hour shall be granted for an experience compressed into one week's time or less.***

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(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Manual for Special Hospital Services Subchapter 1. Coverage

Readoption: N.J.A.C. 10:53-1.2, 1.3, 1.5, 1.6, 1.8, 1.9, 1.11 through 1.15
Readoption with Amendments: N.J.A.C. 10:53-1.1, 1.4, 1.7, 1.10

Proposed: April 16, 1984 at 16 N.J.R. 809(a).

Adopted: June 12, 1984 by George J. Albanese, Commissioner, Department of Human Services.

Filed: June 13, 1984 as R.1984 d.266, **with technical and substantive changes** not N.J.A.C. 1:30-3.5.

Authority: N.J.S.A. 30:4D-6a(1),(2),(4)(a), b(14), 7 and 7b.

Effective Date of Readoption: June 13, 1984.

Effective Date of Concurrent Amendments: July 2, 1984.

Expiration Date pursuant to Executive Order 66(1978): June 13, 1989.

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

Summary of Changes Between Proposal and Adoption:

There were some changes made on adoption. The definitions of special hospitals with classification A and B were amended to indicate the specific state agency, namely the New Jersey Department of Health, is responsible for licensure. In addition, the utilization review procedures were deleted from the definition section and placed in N.J.A.C. 10:53-1.4(b). The requirement for prior authorization from the Medicaid District Office was retained, and the reference to utilization review conducted by the PSRO (Professional Standard Review Organization) was added. There are three Class B special hospitals where this function is performed by the PSRO.

The definition for Class B (rehabilitation) special hospitals was amended to indicate that the facility can be accredited by either the Joint Commission on Accreditation of Hospitals

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(JCAH), or the Commission on Accreditation of Rehabilitation Facilities (CARF). The JCAH requirement is an existing program standard; the CARF requirement provides an alternative method of accreditation. Some rehabilitation hospitals are accredited by CARF.

With respect to Class C special hospitals, the definition was amended to refer the reader to the Long Term Care Services Manual which appears at N.J.A.C. 10:63-1. The reference to Class B special hospitals requiring prior authorization after the first twenty-one days was deleted from this section and placed under the Class B definition as noted above.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:53-1.2, 1.3, 1.5, 1.6, 1.8, 1.9 and 1.11 through 1.15.

Full text of the adopted amendments to the readoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions shown in brackets with asterisks ***[thus]***).

SUBCHAPTER 1. COVERAGE

10:53-1.1 Definitions

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

“Approved special hospital” means a hospital that meets one of the following classifications listed below. In order to qualify as a provider in the New Jersey Medicaid Program, each special hospital must meet the appropriate standards pertaining to its classification. The three classifications, and standards for participation are:

1. Classification A (Acute or short term): may be reimbursed if all following criteria are met:

i. Licensed as a special hospital by the ***[State of New Jersey;]* ***New Jersey Department of Health*****;

ii. Accredited by the Joint Commission on Accreditation of Hospitals as a hospital;

iii. Signed agreement to participate in the New Jersey Medicaid Program;

iv. Be reimbursed according to the SHARE (Standard Hospital Accounting and Rate Evaluation) system established by the New Jersey Department of Health and described in N.J.A.C. 8:31A, or by the DRG (Diagnosis Related Groups) system established by the New Jersey Department of Health in N.J.A.C. 8:31B.

2. Classification B. (Rehabilitation): May be reimbursed on the basis of reasonable costs if all following criteria are met:

i. Licensed as a special hospital by the ***[State of New Jersey;]* ***New Jersey Department of Health*****;

ii. Accredited by the Joint Commission on Accreditation of Hospitals ***or the Commission on Accreditation of Rehabilitation Facilities*** as a hospital or rehabilitation facility;

iii. Adoption of utilization review as ***[follows:]* ***are set forth in N.J.A.C. 10:53-1.4(b)*****;

***[(1) Twenty-one day recertification by attending physician Active Utilization Review Committee;**

(2) Prior authorization through Medicaid District Office or Medicaid’s Bureau of Child Health Services* for each additional 30-day period after the first 21 days, with authorizations to list expiration dates;

(3) Treatment plan required to support authorization request.]*

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iv. Signed agreement to participate in the New Jersey Medicaid Program;

v. Be reimbursed according to the SHARE (Standard Hospital Accounting and Rate Evaluation system established by the New Jersey Department of Health in N.J.A.C. 8:31A.

3. Classification C. (Special hospital not qualifying to meet the standards of Classification A or B.) Special hospital in this classification approved for participation in the New Jersey Medicaid Program must adhere to the long term care facility policies and procedures ***[or the Classification B special hospital regulations, for example, prior authorization for each additional 30-day period after the first 21 days.]* ***as set forth in N.J.A.C. 10:63-1 et seq., entitled Long Term Care Services Manual.***** Reimbursement is based upon a rate as determined under the guidelines of the Cost Accounting and Rate Evaluation (CARE) system (see N.J.A.C. 10:63-3). The following criteria must be met for all Class C special hospitals:

i.-iii. (No change).

NOTE: There is no change in the remaining text in this section.

10:53-1.4 Conditions of payment

(a) Entitlement to payment for each continuous period of hospitalization is subject to the following conditions:

1.-2. (No change.)

[5.] 3. (No change.)

[6.] 4. (No change.)

[7.] 5. (No change.)

[8.] 6. (No change.)

*** (b) There are the procedures governing utilization review in special hospitals designated by (Classification B):**

1. Twenty-one day recertification by attending physician, Active Utilization Review Committee;

2. Following the 21-day recertification, utilization review is accomplished by one of the following methods:

i. Prior authorization through Medicaid District Office or Medicaid’s Bureau of Child Health Services for each additional 30 day period. The request for prior authorization must be supported by the treatment plan, listing expiration dates.

ii. The Professional Standards Review Organization (PSRO) may certify as to the need for continued care in a special hospital.*

10:53-1.7 Noncovered outpatient special hospital services

(a) Approved hospital outpatient departments will not be reimbursed for any of the following:

1. Elective cosmetic surgery;

2. Private duty nursing services;

3. Services and supplies not related to patient care;

4. Research or teaching studies;

5. Services rendered prior to and after period of eligibility:

i. Outpatient services rendered prior to date of eligibility for medical assistance; and

(1) Exception: Retroactive eligibility (see N.J.A.C. 10:49-1.1(d)).

6. Services or items requiring prior authorization where such authorization has not been obtained or has been denied.

7. Any service, admission or item which is not medically required for the diagnosis or treatment of a disease, injury or condition;

8. Screening Services, except for:

i. Vision Screening.

9. Transportation including non-emergency ambulance.

10:53-1.10 Special hospital outpatient rehabilitation services
(a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

...
"Speech-language pathologist" means a person who holds the certificate of clinical competence in speech-language pathology granted by the American Speech-Language Hearing Association, or who has completed the academic requirements and is in the process of accumulating the necessary supervised work experience required for certification.

(b)-(f) (No change.)

(a)

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

**Manual for Physicians Services, Independent
Clinic Manual
Definition of Specialist**

**Adopted Amendments: N.J.A.C. 10:54-1.1,
10:66-1.2**

Adopted Repeal: N.J.A.C. 10:54-1.19

Proposed: April 16, 1984 at 16 N.J.R. 811(a).
Adopted: June 15, 1984 by George J. Albanese, Commissioner, Department of Human Services.
Filed: June 15, 1984 as R.1984 d.271 **without change**.
Authority: N.J.S.A. 30:4D-a(5), 7 and 7b.

Effective Date: July 2, 1984.
Expiration Date pursuant to Executive Order 66(1978):
Physicians Manual,
10:54-1, February 1, 1989;
Independent Clinic Manual,
10:66-1, December 15, 1988.

Summary of Public Comments and Agency Responses:
No comments received.
Full text of the adoption follows.

10:54-1.1 Definitions
"Specialist", for purposes of the New Jersey Medicaid Program, means a fully licensed physician who:
1. Is a diplomate of the appropriate American board, or osteopathic board; or
2. Is a fellow of the appropriate American specialty college, or a member of an osteopathic specialty college; or
3. Has been notified of admissibility to examination by the appropriate American board, or osteopathic board, or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association, or American Osteopathic Association; or

4. Holds an active staff appointment with specialty privileges in a voluntary or governmental hospital which is approved for training in the specialty in which the physician has privileges; or

5. Is recognized in the community as a specialist by his peers.

"Specialist in family practice or general practice", for purposes of the New Jersey Medicaid Program, means a fully licensed physician who is a diplomate of the American Board of Family Practice, or a Diplomate of the American Osteopathic Board of General Practice.

10:54-1.19 (Reserved)

10:54-1.20 through 1.23 recodified as **10:54-1.19** through **1.22**

10:66-1.2 Definitions

"Specialist" means a fully licensed physician who:

1. Is a diplomate of the appropriate American board, or osteopathic board; or

2. Is a fellow of the appropriate American specialty college, or a member of an osteopathic specialty college; or

3. Has been notified of admissibility to examination by the appropriate American board, or osteopathic board, or has evidence of completion of an appropriate qualifying residency approved by the American Medical Association or American Osteopathic Association; or

4. Holds an active staff appointment with specialty privileges in a voluntary or governmental hospital which is approved for training in the specialty in which the physician has privileges; or

5. Is recognized in the community as a specialist by his peers.

"Specialist in family practice or general practice" means a fully licensed physician who is a diplomate of the American Board of Family Practice, or a Diplomate of the American Osteopathic Board of General Practice.

(b)

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

**Manual for Dental Services
Revisions to the Fee Schedule;
Replacement of Dentures**

**Adopted Amendments: N.J.A.C. 10:56-1.1,
1.2, 1.3, 1.19, 3.3, 3.6 through 3.10, 3.12
through 3.16**

**Adopted New Rules: N.J.A.C. 10:56-1.23,
3.17 and 3.18**

Proposed: April 16, 1984 at 15 N.J.R. 813(a).
Adopted: June 15, 1984 by George J. Albanese, Commissioner, Department of Human Services.

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Filed: June 15, 1984 as R.1984 d.270 **with technical and substantive changes** not requiring further public notice or comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:4D-6b(4), 7 & 7b.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order 66(1978):
10:56-1—July 9, 1986; 10:56-3—May 7, 1986.

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

Summary of Changes Between Proposal and Adoption:

A new procedure code (5995) was added to allow for reimbursement (\$4.00 per denture) for insertion of the patient's name and Social Security Number into the base material of a complete or partial denture as required by State law (P.L. 1983, c. 514, approved January 17, 1984). The complete text appears at N.J.A.C. 10:56-3.12(q) below.

Procedure codes 1515 and 1522 were increased slightly because they were not increased when the rule was proposed (see N.J.A.C. 10:56-3.8). With respect to endodontics (N.J.A.C. 10:56-3.10), both a "d" and asterisk were added in front of the procedure code. The "d" indicates documentation is required; the asterisk means prior authorization is required.

The remaining changes were made for clarification. For example, the phrase "silver amalgam" was deleted from N.J.A.C. 10:56-3.9(b) because it is redundant. The word "pins" was deleted from code 2953, and the word "more" was added to procedure code 6931.

Full text of the adopted amendments and new rules follows (additions to the proposal shown in boldface with asterisks *thus*; deletions from proposal shown in brackets with asterisks *[thus]*).

SUBCHAPTER 1. DENTAL SERVICES; GENERAL PROVISIONS

10:56-1.1 Definitions

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

"Attending dentist" means one who assumes the primary and continuing dental care of the patient. The services of only one attending dentist will be recognized at a given time.

"Concurrent care" means that type of service rendered to a patient by practitioners where the dictates of dental necessity requires the services of dentists of different specialties in addition to the attending dentist so that appropriate and needed care can be provided.

"Consultation" means that service rendered by a qualified dentist upon request of another practitioner in order to evaluate through personal examination of the patient, history, appropriate physical findings and other ancillary means, the nature and progress of a dental or related disease, illness, or condition and/or to establish or confirm a diagnosis, and/or to determine the prognosis, and/or to suggest appropriate therapy. A consultation should not be confused with "referral for treatment" when one practitioner refers a patient to another practitioner for treatment, either specific or general, that is, endodontic treatment on teeth #s 3 and 5; or extract

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teeth #s 7, 8, 9, and 10; or extract tooth or teeth causing pain; etc. For additional procedures on consultation, please refer to N.J.A.C. 10:56-1.23.

"Dental Services" means any diagnostic, preventive, or corrective procedures administered by or under the direct personal supervision of a dentist in the practice of his profession. Such services include treatment of the teeth and associated structures of the oral cavity, and of disease, injury, or impairment which may effect the oral or general health of the individual. Such services shall maintain a high standard for quality and shall be within the reasonable limits of those services which are customarily available and provided to most persons in the community within the limitations and exclusions hereinafter specified.

NOTE: Direct personal supervision means the actual physical presence of the dentist on the premises.

"Emergency" means a specific condition of the oral cavity and/or contiguous tissues which cause severe and/or intractable pain or could compromise the life, health, or safety of the patient unless treated immediately.

For example:

1. Pain or acute infection from a restorable or a non-restorable tooth;
2. Pain resulting from injuries to the oral cavity and related structures;
3. Extensive, abnormal bleeding;
4. Fractures of the maxilla or mandible or related structures or dislocation of the mandible.

NOTE: When a case of an emergency nature arises and consultation with the attending practitioner is impossible, due consideration must be given to the preservation of those teeth that could be involved in the overall treatment plan of the attending practitioner.

"Participating dentist" means any dentist licensed to practice dentistry by the appropriate agency of the State where the dental services are rendered, who accepts the policies, regulations and procedures as promulgated by the New Jersey Division of Medical Assistance and Health Services, and signs a provider agreement.

"Referral" means the directing of the patient from one practitioner to another for diagnosis and/or treatment.

NOTE: If in the opinion of a dentist, the patient requires the services of a specialist, he must note the name of the practitioner to whom the patient is being referred on the Dental Services Claim Form (MC-10) (remarks). The specialist must note the name and individual Medicaid practitioner number (IMP number) of the referring dentist on the Dental Services Claim Form (MC-10) (referring practitioner).

"Specialist" means one who is licensed to practice dentistry in the state where treatment is rendered, who limits his practice solely to his specialty, which is recognized by the American Dental Association.

(a) In addition, a specialist must meet one of the following conditions:

- i. In New Jersey, and where required in other states, has obtained specialty certification from the appropriate agency of the state where dental services are to be rendered; or
- ii. In those states not requiring specialty certification:

- (1) Is a diplomate of the appropriate American Dental Association recognized board; or
- (2) Meets the minimum requirements for that specialty as stipulated by the American Dental Association.

(b) Any provider who meets the above-cited qualifications and desires specialist reimbursement is required to submit written documentation to the Prudential Insurance Company,

Medical Administration Division, P.O. Box 1900, Millville, New Jersey 08332. This documentation must be as follows:

- i. In New Jersey, and where required in other states, a copy of the specialty certificate/permit issued by the appropriate agency of the state where dental services are to be rendered; or
- ii. In those states not requiring specialty certification and when the practitioner is not listed in the Directory of the American Dental Association under "Character of Practice" as a specialist:

(1) From his specialty board indicating his status as a diplomate; or

(2) From the American Dental Association stipulating that he meets the minimum requirements for his specialty.

(c) Specialist reimbursement where appropriate will be limited to the following specialties.

- i. Oral surgery;
- ii. Endodontics;
- iii. Pedodontics;
- iv. Orthodontics;
- vi. Periodontics;
- vi. Prosthodontics.

"Transfer" means the relinquishing of responsibility for the continuing care of the patient by one dentist and the assumption of such responsibility by another dentist. Such transfers will require a new authorization where prior authorization is required.

10:56-1.2 Dental treatment plan

(a) In accordance with good dental practice, a plan of treatment, as appropriate, shall be developed and described for all patients on the Dental Services Claim Form (MC-10) following an examination. If no treatment is necessary, this fact must be entered on the dental form (diagnosis).

(b) The dental treatment plan not requiring prior authorization may be reviewed by dental consultants of the New Jersey Medicaid Program to determine its appropriateness.

(c) In those instances where prior authorization is necessary, a dental consultant may modify the provider's treatment plan in accordance with the guidelines of the dental aspects of the New Jersey Medicaid Program. If in the professional judgment of the provider such modification is not appropriate, he may request another review by the dental consultant. A further review in the office of the Chief, Bureau of Dental Services may be requested through the dental consultant.

(d) In any dental treatment plan, the dentist must discuss the proposed treatment with the patient or responsible person.

(e) Consideration for development of a dental treatment plan shall be based upon the least costly treatment fulfilling the requirements of the specific situation.

(f) Authorization for a dental treatment plan does not guarantee eligibility for payment under the New Jersey Medicaid Program. The validation form should be examined carefully on each visit to be certain the patient is currently eligible.

10:56-1.3 Prior authorization

(a) Prior authorization means approval by a dental consultant of the New Jersey Medicaid Program before a service is rendered. All dental service claim forms to request prior authorization should be submitted to:

Division of Medical Assistance and Health Services
Dental Claims Review Unit
*[Building 7
Quakerbridge Plaza
Quakerbridge Road]*

CN-713

Trenton, New Jersey 08625

Telephone: (609) 633-7787

(b) Procedures which do not require prior authorization include:

1. Diagnostic examination with required radiography (limited to a maximum of \$25.00) necessary to develop a treatment plan;

2. Emergency treatment with required radiography;

3. Adjustments to, or repair of dentures when the Medicaid reimbursement does not exceed \$53.00, specialist fee or \$48.00, nonspecialist fee.

4. Routine dental services, as limited to those designated below, may be performed to the extent that they are dentally necessary:

- i. Oral prophylaxis;
- ii. Topical fluoride application for persons 20 years of age and under;

NOTE: This is not a covered service for persons 21 years of age and over.

iii. Restoration of carious permanent and deciduous teeth with silver amalgam, composite, or other plastic materials;

iv. Pulp capping for permanent and deciduous teeth;

v. Pulpotomy for permanent and deciduous teeth. More than one pulpotomy requires prior authorization;

vi. Uncomplicated extractions of non-restorable teeth;

(1) Exception: Extractions necessitating a dental prosthesis require prior authorization.

vii. All dental services other than those listed as not requiring prior authorization in this subsection are defined as non-routine dental services and must be authorized.

viii. No reimbursement will be made for any dental service performed beyond one year (365 days) from the date of the initial examination on that treatment plan.

(c) Procedures which require prior authorization include:

1. Treatment plans involving a combination of routine and non-routine dental services;

2. All treatment plans involving non-routine dental services;

3. Supplemental authorization:

i. Additional and/or amended services found necessary after the dental treatment plan has been authorized may be requested by recording such need on the Dental Services Claim Form (MC-10). This should then be submitted for supplemental authorization together with the original treatment plan. Payment will not be made for such treatment without authorization (see subsection (a)).

ii. No reimbursement will be made for any dental services performed beyond one year (365 days) from the date of the initial examination on that treatment plan.

(1) Exception: Orthodontic treatment.

10:56-1.19 Prosthodontic treatment

(a) Fixed bridges will not be authorized.

(b) Removable denture policies are as follow:

1.-5. (No change.)

6. Partial dentures must be described on the Dental Services Claim Form (MC-10), indicating material used, position of clasps and teeth to be replaced. Fee includes necessary adjustments for a six month period following insertion.

7. Payment for dentures will be denied unless all dental procedures, in both arches are completed before impressions are taken for authorized dentures.

8. Dentures will not be authorized when:

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i. Dental history reveals that any or all dentures made in recent years have been unsatisfactory for reasons that are not remedial because of physiological or psychological reasons; or

ii. Dental history reveals that a denture was provided through any New Jersey State, county, or municipal agency in the seven and one-half (7½) year period prior to the date of the current request; or

iii. Repair, relining, or rebasing (jumping) of the patient's present denture will make it servicable.

9. Dental relining, rebasing (jumping) or repairing (other than as noted in this section) are reimbursable.

i. The fee will include all necessary adjustments for a six month period following insertion for relining and rebasing and three months for repairs.

10. The patient's name (first and last names or where space is a factor, first initial and last name) must be processed into all dentures during the original fabrication or where possible during any subsequent processing procedure (repair, reline, rebase, and so forth). The social security number should also be included if space permits.

10:56-1.23 Consultations

(a) Consultations are subject to the following conditions:

1. A written report must be provided to the referring practitioner which includes diagnosis and recommendations for future management. A copy must be retained with the patient's records and must be available, upon request, to the New Jersey Medicaid Program or any of its authorized representatives.

i. When the practitioner rendering the consultation services assumes the continuing care of the patient, any subsequent services rendered by him will no longer be considered as consultation.

ii. When consultation services are requested, the referring practitioner must include in his clinical records and on the Dental Services Claim Form MC-10 (remarks) the name of the consulting practitioner to whom the patient is being referred. The consulting practitioner must note the name and the individual Medicaid practitioner number (IMP number) of the referring (attending) practitioner in his clinical records and on the Dental Services Claim Form (MC-10) (referring practitioner).

iii. A consultation will be disallowed if there is no referring practitioner, that is, the patient makes an appointment on his own.

iv. A consultation will be disallowed if performed on the same recipient by the same practitioner, members of the same group, members of a shared health care facility, or practitioners sharing a common record within a 12 month span of a prior claim for the same or related disease, illness or condition.

v. A consultation will be declined in any setting, if the consultation occurs between members of the same group, shared health care facility, or practitioners sharing common records.

vi. If a consultation is billed in an inpatient setting and the patient is then transferred to the service of the consultant, the consultant may not bill for a Hospital Day — Initial; however, Hospital Day — Subsequent — may be billed for visits on ensuing days.

vii. If a consultation is billed in an Emergency Room setting and the patient is then admitted to the consultant's service as a hospital inpatient, future visits of the consultant may be billed as a Hospital Day — Subsequent. If the patient is

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admitted to another practitioner's service, that practitioner may bill for Hospital Day — Initial. Future visits of the consultant for that inpatient hospitalization may be billed as a Hospital Day — Subsequent — and be considered as concurrent care IF concurrent care can be justified as dentally/medically necessary.

10:56-3.3 Clinical oral examination

(a) Procedure code 0110, Comprehensive clinical oral examination has a maximum allowance of \$7.00, S, and \$6.00, NS:

1. This requires a thorough observation of all conditions present in the oral cavity and contiguous structures to include:

i. Charting of all abnormalities;

ii. Diagnosis; and

iii. Development of a complete treatment plan to be recorded in its entirety on the Dental Services Claim Form (MC-10).

2. For reimbursement of the examination:

i. A comprehensive clinical oral examination shall be limited to once every six months for those patients through age 17, and once every 12 months for those patients 18 years of age or older except as authorized by a Dental Consultant of the New Jersey Medicaid Program.

ii. All items on the Dental Services Claim Form (MC-10) must be completed;

iii. If no treatment is indicated, this fact must be noted on the Dental Services Claim Form (MC-10) in the diagnosis box.

(b) Procedure code d0130, Emergency clinical oral examination (for diagnosis and/or observation of a specific complaint — make note of diagnosis and/or observations on Dental Services Claim Form (MC-10)) has a maximum allowance of \$4.00, S, and \$3.00, NS, and is not reimbursable as an adjunct to any reimbursable service (exception: diagnostic radiographs).

(c) Procedure Code 0140, Orthodontic Assessment Examination, using the Handicapping Malocclusion Assessment System has a maximum allowance of \$6.00, S, and \$5.00, NS. The Orthodontic Assessment Form (FD-10) must accompany the Dental Services Claim Form (MC-10) when requesting reimbursement.

1. Reimbursement is limited to the provider or provider group who does such an examination with the intention of personally providing any orthodontic treatment necessary.

2. Reimbursement is limited to once every 12 months unless authorized.

3. The Orthodontic Assessment Examination is not reimbursable for individuals age 20 or older.

10:56-3.5 Miscellaneous diagnostic procedures

(a) Biopsy — see codes number 7285 and 7286

(b) Procedure code *0470, Diagnostic casts, has a maximum allowance of \$11.50, S, per cast and \$10.00, NS, per cast. Casts must have bases and be trimmed to permit articulation.

(c) Procedure code *0471, Diagnostic photographs or slides, has a maximum allowance of \$1.00, S, per view and \$1.00, NS per view.

(d) *0999 — Unspecified Diagnostic Procedure. Complete description of procedure and why. IC

10:56-3.6 Dental prophylaxis

(a) Dental prophylaxis is the removal of calculus and stains from the *[supraginival]* *supragingival* and *[subginival]* *subgingival* surfaces of the teeth by scaling and polishing.

1. For reimbursement purposes, dental prophylaxis shall be limited to once every six months for those patients through age 17 and once every 12 months for those patients 18 years of age or older except as authorized by a Dental Consultant of the Medicaid Program.

i. Procedure code 1110, Patient over 15 years of age, maxillary and mandibular arches, has a maximum allowance of \$11.00, S, and \$10.00, NS.

ii. Procedure 1111, Patients over 15 years of age, maxillary or mandibular arch (code to be used if patient is edentulous in opposing arch) has a maximum allowance of \$5.50, S, and \$5.00, NS.

iii. Procedure 1120, Patients up to and including 15 years of age, maxillary and mandibular arches has a maximum allowance of *\$800]* *\$8.00*, S, and \$7.00, NS.

(b) Scaling over and above that necessary under prophylaxis (see (a) above), the calculus must be abnormal and visible to the Dental Consultant on radiograph(s). Such scaling must be authorized.

1. Procedure code *1150, Patients over 15 years of age, maxillary and mandibular arches has a maximum allowance of \$11.00, S, and \$10.00, NS.

2. Procedure code *1151, Patients over 15 years of age, maxillary or mandibular arch (code to be used if patient is edentulous in opposing arch), has a maximum allowance of \$5.50, S, and \$5.00, NS.

10:56-3.7 Fluoride treatment —including prophylaxis

(a) Topical application of stannous fluoride or acid fluoride phosphate — one treatment following a complete prophylaxis (fee includes both services).

1. Reimbursement for topical fluoride treatment shall be limited to once every six months without authorization for those patients through age 17 and once every 12 months for those patients 18 years of age up to and including 20 years of age. (Not a covered service for persons 21 years of age and over). A complete prophylaxis must be performed immediately prior to the topical fluoride treatment.

2. Procedure code 1235, Patients over 15, up to and including 20 years of age, maxillary and mandibular arches has a maximum allowance of \$17.00, S, and \$15.00, NS.

3. Procedure code, 1236, Patients over 15, up to and including 20 years of age, maxillary or mandibular arch (code to be used if patient is edentulous in opposing arch), has a maximum allowance of \$8.50, S, and \$7.50, NS.

4. Procedure code 1245, Patients up to and including 15 years of age, maxillary and mandibular arches, has a maximum allowance of \$14.00, S, and \$12.00, NS.

10:56-3.8 Other preventive services

(a) Procedure codes and maximum allowance for space maintainers is as follows:

| | | | |
|--|--|----------------------|---------------------|
| *1510 | Fixed, unilateral, band type | \$40.00 | \$35.00 |
| *1515 | Fixed, unilateral, stainless steel crown type (one crown) | *[53.00]* *\$59.00* | *[46.00]* *\$51.00* |
| *1520 | Fixed, lingual or palatal arch, band type | 61.00 | 53.00 |
| *1522 | Fixed, lingual or palatal arch, stainless steel crown type | *[93.00]* *\$105.00* | *[81.00]* *\$91.00* |
| *1524 | Tooth processed to arch bar (wire) each tooth | 6.00 | 5.00 |
| *1525 | Removable, bilateral type | 69.00 | 60.00 |
| 1550 | Recementation of space maintainer | 7.00 | 6.00 |
| *1999 | Unspecified Preventive Procedure | IC | IC |
| <u>Complete description of procedues and why</u> | | | |

10:56-3.9 Restorations

(a) For restoration, the fee will include lining or base, restoration, polishing of restoration and local anesthesia, or analgesia. Reimbursement for restorations in deciduous teeth is limited to deciduous cuspids and molars of children up to and including age nine or in deciduous incisors up to and including age five but not where exfoliation is imminent. Prior authorization by a dental consultant is required above age limits.

(b) Amalgam restorations are reimbursable only when *[silver amalgam is]* utilized for restoration of posterior teeth. Exception: Prior authorization by a dental consultant.

1. Procedure code must be selected on the basis of the number of surfaces restored per individual tooth (not on the basis of individual fillings), therefore, the fee for any surface will include one or more restorations on that surface.

2. Only one code is reimbursable per tooth.

3. Reimbursement for an occlusal restoration includes any extensions onto the occlusal one-third of the buccal or lingual surface(s) of the tooth.

4. The following are procedure codes and maximum allowances:

| | | | |
|------|-----------------------------------|-------|-------|
| 2110 | One surface-deciduous | 9.00 | 7.50 |
| 2120 | Two surfaces-deciduous | 14.50 | 13.00 |
| 2130 | Three surfaces-deciduous | 20.00 | 18.50 |
| 2131 | Four (or more) surfaces-deciduous | 25.50 | 24.00 |
| 2140 | One surface — permanent | 9.00 | 7.50 |
| 2150 | Two surfaces — permanent | 14.50 | 13.00 |
| 2160 | Three surfaces — permanent | 20.00 | 18.50 |
| 2161 | Four (or more) surfaces—permanent | 25.50 | 24.00 |

(c) For acrylic, plastic or composite restorations, reimbursement will only be made when composite, plastic, or acrylic filling material is utilized for the six anterior teeth in each arch. (Teeth numbers 6 through 11 and 22 through 27 and/or C. through H. and M. through R).

1. Exceptions:

i. Composite restorations may be provided on the mesial, occlusal and buccal surfaces of the first bicuspid; however, the distal surface may also be provided but only in conjunction with the mesial and occlusal surfaces; or

ii. When so authorized by the dental consultant.

2. When access to an inter-proximal cavity is gained by involvement of a second surface, reimbursement will be permitted for only one restoration.

3. Only one code is reimbursable per tooth.

4. Fee will include Acid Etch where appropriate.

(d) Acrylic, plastic or composite restorations (Anterior teeth): procedure codes and maximum allowances are as follows:

| | | | |
|------|--|-------|-------|
| 2320 | One restoration per tooth (class III or class V) | 11.00 | 10.00 |
| 2321 | Two restorations per tooth (class III and/or class V) | 18.00 | 16.00 |
| 2322 | Three or more restorations per tooth, (class III and/or class V) | 25.00 | 22.00 |
| 2323 | One restoration per tooth (class IV) | 20.00 | 18.00 |
| 2324 | Two restorations per tooth (class IV) | 31.50 | 28.00 |
| 2325 | Two restorations per tooth (One class IV plus one class III or class V) | 28.00 | 25.00 |
| 2326 | Three or more restorations per tooth (One class IV plus additional class III, IV, or V(s)) | 31.50 | 28.00 |

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(e) Composite restorations (Posterior teeth; first bicuspid only) procedure codes and maximum allowances are as follows:

| | | | |
|------|------------------------|---------|---------|
| 2351 | One surface | \$11.00 | \$10.00 |
| 2352 | Two surfaces | 18.00 | 16.00 |
| 2353 | Three or more surfaces | 25.00 | 22.00 |

(f) Gold foil restoration (Primarily for use in dental colleges): procedure codes and maximum allowance are as follows:

| | | | |
|-------|-----------------------|---------|---------|
| *2410 | One surface | \$ 9.00 | \$ 8.00 |
| *2420 | Two surfaces | 18.00 | 16.00 |
| *2430 | Three or more surface | 27.00 | 24.00 |

(g) Gold inlay restorations (Primarily for use in dental colleges): procedure codes and maximum allowances are as follows:

| | | | |
|-------|--|---------|---------|
| *2510 | One surface | \$31.00 | \$27.00 |
| *2520 | Two surfaces | 56.00 | 49.00 |
| *2530 | Three or more surfaces | 75.00 | 65.00 |
| *2540 | Onlay, per tooth (in addition to above) | 23.00 | 20.00 |

(h) Authorization for crowns will be granted only when substantial loss of tooth structure exists and condition of remaining teeth and supporting tissues justify this treatment.

1. Acrylic or porcelain veneer on metal will be authorized only when esthetically necessary.,

2. Procedure codes and maximum allowances are as follows:

| | | | |
|-------|--|-----------------|-----------------|
| *2710 | Plastic (acrylic or vinyl) (Laboratory processed) | \$ 98.00 | \$ 85.00 |
| *2711 | Polycarbonate — prefabricated — generally authorized only for deciduous and permanent anterior teeth (up to and including 15 years of age). | 40.00 | 35.00 |
| *2721 | Plastic processed to cast metal substrate | 161.00 | 140.00 |
| 2751 | Porcelain fused to cast metal substrate | 201.00 | 175.00 |
| 2791 | Full cast crown Stainless steel—generally authorized only for deciduous teeth and permanent posterior teeth up to and including 17 years of age). | 161.00 41.00 | 140.00 35.00 |
| *2840 | Temporary acrylic (quick cure) for fractured tooth not in conjunction with any other restorative procedure on same tooth | 29.00 | 25.00 |
| *2891 | Cast post and core-independent of crown-in addition to crown | \$ 52.00 | \$45.00 |
| *2892 | Preformed dowel or post and built up core of composite or amalgam in addition to crown | 34.00 | 30.00 |
| *2893 | Prefabricated post and core — in addition to crown | 34.00 | 30.00 |
| *2894 | Preformed dowel or post | 14.00 | 14.00 |
| *2895 | Preformed dowel or post including cementation | 21.00 | 20.00 |
| *2896 | Built up core of composite or amalgam in conjunction with codes 2951, 2952, or 2953. | 17.00 | 15.00 |

Other restorative services: procedure codes and maximum allowance of other restorative services are as follows:

| | | | |
|------|------------------------------|---------|---------|
| 2910 | Recement inlay | \$ 7.00 | \$ 6.00 |
| 2920 | Recement crown | 7.00 | 6.00 |
| 2951 | Reinforcement pins, one pin | 4.00 | 3.00 |
| 2952 | Reinforcement pins, two pins | 7.00 | 6.00 |

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| | | | |
|------|---|-------|-------|
| 2953 | Reinforcement pins, three * [pins]* or more pins | 10.00 | 9.00 |
| 2954 | Reinforcement band, including cementation, not reimbursable as an adjunct to any reimbursable filling procedure on that tooth | 18.00 | 16.00 |

10:56-3.10 Endodontics

(a) Authorization of endodontic treatment will be influenced by the:

1. Age and general health of the patient,
2. Status of the tooth in the arch, and
3. Condition of the remaining dentition and supporting structures.

(b) A direct pulp cap is defined as an obtundent or regenerative dressing over the directly exposed vital pulp. This is differentiated from the routine placement of a medicated base, indirect pulp cap, or lining which is not reimbursable, and has a procedure code of 3110 and a maximum allowance, excluding final restoration of \$6.00, S, and \$5.00, NS.

(c) (No change.)

(d) The fee for root canal therapy includes the extirpation, treatment—complete filling of all the root canal(s) with permanent material, all necessary radiographs during treatment and post-operatively, and follow-up care. Excludes final restoration.

1. Conventional Type Root Canal Therapy

| | | | |
|--------|--|----------|----------|
| d*3310 | Incisors and cuspids (permanent) and deciduous teeth without permanent successor | \$103.00 | \$90.00 |
| d*3320 | Bicuspid (permanent) | \$132.00 | \$115.00 |
| d*3330 | Molars (permanent) | \$172.00 | \$150.00 |

2. Paste Fill Type Root Canal Therapy

| | | | |
|------|---|---------|---------|
| 3311 | Incisors and cuspids, (permanent) and all deciduous teeth without permanent successors. Sargenti Type Technique and/or Root Canal Filling | *75.00* | *65.00* |
| 3321 | Bicuspid (permanent) Sargenti Type Technique and/or Root Canal Filling | 109.00 | 95.00 |
| 3331 | Molars (permanent) Sargenti Type Technique and/or Root Canal Filling | 144.00 | 125.00 |

(e) A pulpectomy for deciduous teeth includes extirpation, treatment, and filling of all the root canal(s) with resorbable filling material. Post-operative X-ray(s) must be available.

| | | | |
|--------|--|---------|---------|
| d*3345 | Pulpectomy (deciduous teeth with permanent successor only) | \$17.00 | \$15.00 |
|--------|--|---------|---------|

(f) Periapical services:

1. For complete details of periapical services, see subchapter 1 of this chapter.
2. Apicoectomy will be considered for authorization and reimbursement only if one or more of the following conditions exist:
 - i. Overfilled canal (previously treated tooth).
 - ii. Canal cannot be filled properly because of excessive root curvature or calcification.
 - iii. Fractured root tip that cannot be reached endodontically.
 - iv. Broken instrument in canal.
 - v. Perforation of apical third of canal.

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vi. Broken root canal filling lying free in periapical tissues and acting as an irritant.

vii. Periapical pathology not resolved by previous endodontic therapy.

viii. Periapical pathology which will not be resolved by endodontic therapy alone.

ix. A post, post and core, or post-crown which cannot be removed.

3. Apicoectomy should not be performed for convenience. If endodontic treatment is necessary, but none of the above conditions exist, authorization for the apicoectomy will not be granted.

4. When more than one apical curettage and/or apicoectomy is performed through the same operative incision, the maximum amount reimbursable by the New Jersey Medicaid Program shall be the amount specified in this schedule with the greater allowance, plus one-half of the amounts specified for each of the other procedures.

5. Retrograde filling(s) will be inserted when necessary in conjunction with appropriate endodontic treatment, but not in lieu of a properly filled canal.

6. Post-treatment radiographs are required.

7. The following are procedure codes and maximum allowances for apicoectomy:

| | | | |
|--------|----------------------------------|---------|---------|
| d*3411 | Incisors and cuspids, per tooth | \$55.00 | \$48.00 |
| d*3412 | Bicuspsids and molars, per tooth | 83.00 | 72.00 |

8. The following are procedure codes and maximum allowances for apicoectomy combined with single stage nerve extirpation and canal filling:

| | | | |
|--------|----------------------------------|--------|----------|
| d*3425 | Incisors and cuspids, per tooth | 111.50 | \$ 98.50 |
| d*3426 | Bicuspsids and molars, per tooth | 155.50 | 135.00 |

9. The following are procedure codes and maximum allowances for other periapical services:

| | | | |
|--------|---|-------|-------|
| *3430 | Retrograde filling — additional (one root), per tooth | 9.00 | 7.50 |
| *3431 | Retrograde filling—additional (two or more roots), per tooth | 14.50 | 13.00 |
| d*3440 | Apical curettage, per tooth | 49.00 | 42.00 |
| *3450 | Surgical resection of entire tooth roots(s), hemi-section (not apicoectomy) | 55.00 | 48.00 |

(g) The following are procedure codes and maximum allowances for other endodontic procedures:

| | | | |
|-------|--|----------|----------|
| *3960 | Bleaching of nonvital discolored tooth — per visit (limit two visits) | \$ 11.00 | \$ 10.00 |
| *3965 | Apexification — limit two (2) — visits — Treatment may extend over a period of eighteen months, first visit. | 31.00 | 27.00 |
| *3966 | Apexification—Second visit | 16.00 | 13.00 |
| 3990 | Emergency procedures (palliative) | 7.00 | 6.00 |
| *3999 | Any other uncodified Endodontic, service, by report | 1C | 1C |

10:56-3.11 (No change.)

10:56-3.12 Prosthodontics — removable

(a)-(1) (No change.)

(m) The following are procedure codes and maximum allowances for additional units for partial dentures:

| | | | |
|-------|---|-------|-------|
| *5310 | Each additional cast chrome Cobalt alloy clasp and rest | 21.00 | 18.00 |
| *5312 | Each additional wrought gold clasp and rest | 21.00 | 18.00 |
| *5313 | Each additional buccal or facial arm clasp | 16.00 | 14.00 |
| *5315 | Immediate replacement of anterior teeth in conjunction with partial dentures (codes 5211 through 5283 only) in addition to denture, maximum six teeth, per tooth. | 6.00 | 5.00 |

(n) The following are procedure codes and maximum allowances for adjustment to denture (other than dentist providing denture or after the required period of post delivery care (for example, new dentures, relines, rebases — six months; repairs — three months, and so forth)).

| | | | |
|-------------------------------------|------------|---------|---------|
| 1. Adjustments to complete dentures | | | |
| 5411 | Maxillary | \$ 7.00 | \$ 6.00 |
| 5412 | Mandibular | 7.00 | 6.00 |

| | | | |
|-----------------------------------|------------|------|------|
| 2. Adjustments to partial denture | | | |
| 5421 | Maxillary | 7.00 | 6.00 |
| 5422 | Mandibular | 7.00 | 6.00 |

(o) Repairs to dentures include adjustments for three months. Prior authorization is not normally necessary when Medicaid reimbursement for a repair to a denture does not exceed \$53.00 specialist fee or \$48.00 non-specialist fee. The following are procedure codes and maximum allowances:

| | | | |
|--|------------|-------|-------|
| 1. Repairing broken denture with no teeth damaged. | | | |
| 5611 | Maxillary | 34.50 | 30.00 |
| 5612 | Mandibular | 34.50 | 30.00 |

| | | | |
|--|------------|-------|-------|
| 2. Repairing broken partial denture with no teeth damaged. | | | |
| 5616 | Maxillary | 34.50 | 30.00 |
| 5617 | Mandibular | 34.50 | 30.00 |

| | | | |
|---|------------|-------|-------|
| 3. Repairing broken complete denture, and in addition, replacing one tooth. | | | |
| 5621 | Maxillary | 39.50 | 35.00 |
| 5622 | Mandibular | 39.50 | 35.00 |

| | | | |
|------|--|------|------|
| 5630 | Replacing additional teeth, each tooth | 5.00 | 5.00 |
|------|--|------|------|

| | | | |
|---|------------|-------|-------|
| 4. Repairing broken partial denture, and in addition replacing one tooth. | | | |
| 5623 | Maxillary | 39.50 | 35.00 |
| 5624 | Mandibular | 39.50 | 35.00 |

| | | | |
|------|--|------|------|
| 5630 | Replacing additional teeth, each tooth | 5.00 | 5.00 |
|------|--|------|------|

| | | | |
|---|--|-------|-------|
| 5. Replacing broken tooth on complete denture (no other repairs) first tooth. | | | |
| 5641 | Maxillary | 34.50 | 30.00 |
| 5642 | Mandibular | 34.50 | 30.00 |
| 5630 | Replacing additional teeth, each tooth | 5.00 | 5.00 |

| | | | |
|---|--|-------|-------|
| 6. Replacing broken tooth on partial denture (no other repairs) first tooth | | | |
| 5643 | Maxillary | 34.50 | 30.00 |
| 5644 | Mandibular | 34.50 | 30.00 |
| 5630 | Replacing additional teeth, each tooth | 5.00 | 5.00 |

7. Adding tooth to partial denture (resin or cast) to replace extracted tooth not involving clasp or abutment tooth — attachment with resin only, first tooth.

| | | | |
|------|--|-------|-------|
| 5651 | Maxillary | 46.00 | 40.00 |
| 5652 | Mandibular | 46.00 | 40.00 |
| 5630 | Replacing additional teeth, each tooth | 5.00 | 5.00 |

8. Adding tooth to cast partial denture — additional casting welded to original case — resin attachment of teeth, first tooth.

| | | | |
|-------|--|-------|-------|
| *5654 | Maxillary | 69.00 | 60.00 |
| *5655 | Mandibular | 69.00 | 60.00 |
| *5630 | Replacing additional teeth, each tooth | 5.00 | 5.00 |

9. Adding tooth and new cast chrome cobalt alloy clasp and rest to partial denture following extraction of abutment tooth.

| | | | |
|-------|-------------------------------------|-------|-------|
| *5661 | Maxillary | 67.00 | 58.00 |
| *5662 | Mandibular | 67.00 | 58.00 |
| *5630 | Adding additional teeth, each tooth | 5.00 | 5.00 |

| | | | |
|--|------------|-------|-------|
| 10. Reattaching undamaged clasp on denture | | | |
| 5671 | Maxillary | 34.50 | 30.00 |
| 5672 | Mandibular | 34.50 | 30.00 |

| | | | |
|--|------------|-------|-------|
| 11. Replacing damaged clasp with new clasp on denture. | | | |
| 5681 | Maxillary | 52.50 | 48.00 |
| 5682 | Mandibular | 52.50 | 48.00 |

12. Repairing broken clasp by adding buccal/facial or lingual clasp arm only.

| | | | |
|------|------------|-------|-------|
| 5683 | Maxillary | 50.50 | 44.00 |
| 5684 | Mandibular | 50.50 | 44.00 |

13. Adding Steele's facing and backing to cast partial denture — additional casting welded to original case; first tooth.

| | | | |
|-------|------------|-------|-------|
| *5685 | Maxillary | 79.00 | 69.00 |
| *5686 | Mandibular | 79.00 | 69.00 |

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| | | | |
|-------|---|-------|-------|
| *5687 | Each additional tooth (in conjunction with procedure codes 5685 and 5686 only). | 33.00 | 29.00 |
| *5695 | Welding in addition to repair procedure (Exception-codes 5654, 5655, 5685, and 5686 which include welding) limit two per denture. | 23.00 | 20.00 |

(p) Denture rebasing and relining includes adjustments for six months:

1. Rebasings is the process of refitting a denture by the complete replacement of the denture base material without changing the occlusal relationship of the teeth and has the following procedure codes and maximum allowances:

| | | | |
|-------------------------------|------------|-------|-------|
| i. Rebasings complete denture | | | |
| *5711 | Maxillary | 92.00 | 80.00 |
| *5712 | Mandibular | 92.00 | 80.00 |
| ii. Rebasings partial denture | | | |
| *5721 | Maxillary | 86.00 | 75.00 |
| *5722 | Mandibular | 86.00 | 75.00 |

2. Relining is the process of resurfacing the tissue side of a denture with new base material to make it fit more accurately, and has the following procedure codes and maximum allowances:

| | | | |
|---|------------|---------|---------|
| i. Relining complete denture (office procedure) | | | |
| *5731 | Maxillary | \$20.00 | \$17.00 |
| *5732 | Mandibular | 20.00 | 17.00 |
| ii. Relining partial denture (office procedure) | | | |
| *5741 | Maxillary | \$20.00 | \$17.00 |
| *5742 | Mandibular | 20.00 | 17.00 |
| iii. Relining complete denture (laboratory procedure) | | | |
| *5751 | Maxillary | 69.00 | 60.00 |
| *5752 | Mandibular | 69.00 | 60.00 |
| iv. Relining partial denture (laboratory procedure) | | | |
| *5761 | Maxillary | 63.00 | 55.00 |
| *5762 | Mandibular | 63.00 | 55.00 |

(q) Procedure Code 5995 - Insertion of name and Social Security Number of recipient into base material of complete or partial denture during initial fabrication, rebasing, relining or repair. This is required to comply with New Jersey Medicaid regulations in effect since May, 1978, and the new "Denture I.D. Law" which became effective April 16, 1984 (N.J.S.A. 45:6-19.1 et seq.) Per Denture \$4.00

***[(q)]* *(r)* Procedure code *5999, Any other uncoded prosthodontic removable service, by report, the fee will be by individual consideration.**

[(g) Procedure code *5999, Any other uncoded prosthodontic removable) service, by report, the fee will be by individual consideration.]

10:56-3.13 Prosthodontics-Fixed

(a) For abutments, See procedure codes 2721 through ***2791* *2810***.

1. The following are procedure codes and maximum allowance for Pontics:

| | | | |
|-------|---|--------|--------|
| *6211 | Cast metal | 76.00 | 66.00 |
| *6241 | Porcelain fused to cast metal substrate | 115.00 | 110.00 |
| *6251 | Plastic processed to cast metal substrate | 90.00 | 80.00 |

(b) The following are procedure codes and maximum allowances for Repairs:

| | | | |
|-------|--|---------|---------|
| *6610 | Replacing broken pin facing with slotted or other facing | \$23.00 | \$20.00 |
| *6620 | Replacing broken facing where post is intact | 20.00 | 17.00 |
| *6630 | Replacing broken facing where post backing is broken | 31.00 | 27.00 |

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| | | | |
|-------|--|-------|-------|
| *6640 | Replacing broken facing with acrylic resin (office procedure quick cure-filling material, and so forth). | 25.00 | 23.00 |
| *6645 | Replacing broken facing with acrylic resin (laboratory procedure) | 52.00 | 45.00 |

(c) The following are procedure codes and maximum allowances for other prosthetic services-fixed:

| | | | |
|-------|--|---------|---------|
| 6930 | Recement bridge-one abutment | \$ 8.00 | \$ 7.00 |
| 6931 | Recement bridge-two or *more* abutments | 14.00 | 12.00 |
| 6970 | Recement facing | 8.00 | 7.00 |
| *6999 | Any other uncoded Prosthodontic-fixed service | IC | IC |

10:56-3.14 Exodontia and oral surgery

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

(c) The following are procedure codes and maximum allowance for uncomplicated extractions:

| | | | |
|------|-----------------------------|-------|------|
| 7110 | Permanent tooth, each tooth | 10.50 | 9.00 |
| 7115 | Deciduous tooth, each tooth | 10.50 | 9.00 |

(d)-(q) (No change.)

10:56-3.15 Orthodontics

(a) Appliances for tooth guidance have the following procedure codes and maximum allowances for S and NS respectively:

| | | | |
|-------|---|---------|---------|
| *8110 | Removable | \$69.00 | \$60.00 |
| *8120 | Fixed or cemented | 69.00 | 60.00 |
| 8130 | Adjustment-maximum 10 visits, per visit | 6.00 | 5.00 |

(b) Appliances to control harmful habits have the following procedure codes and maximum allowances for S and NS respectively:

| | | | |
|-------|---|---------|---------|
| *8210 | Removable | \$69.00 | \$60.00 |
| *8220 | Fixed or cemented | 69.00 | 60.00 |
| 8230 | Adjustment-minimum 10 visits, per visit | 6.00 | 5.00 |

(c) Retention appliances-orthodontic retaining appliances (following comprehensive treatment by a previous dentist) have the following procedure codes and maximum allowances for S and NS respectively:

| | | | |
|-------|---|---------|---------|
| *8310 | Removal | \$69.00 | \$60.00 |
| *8320 | Fixed or cemented | 69.00 | 60.00 |
| 8330 | Adjustment-maximum 12 visits, per visit | 6.00 | 5.00 |

(d) Comprehensive orthodontic treatment: Case type-fixed or removable appliances. Itemize fee for diagnostic procedures and formal treatment separately. Indicate anticipated time under treatment-maximum treatment including retention, three years. When authorized, reimbursement for comprehensive orthodontic treatment will include retention as required at no additional charge. The procedure codes and maximum allowances for S and NS are as follows:

| | | | |
|-------|--|----------|----------|
| *8410 | Appliances | \$162.00 | \$140.00 |
| *8420 | First through 12th month of treatment (to start on day | | |

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| | | | |
|-------|---|-------|-------|
| | insertion of appliance(s) is completed), per month | 30.00 | 26.00 |
| *8430 | 13th through 24th month of treatment, per month | 28.00 | 24.00 |
| *8440 | 25th through 30th month of treatment, per month | 11.00 | 9.00 |
| *8450 | 31st through 36th month (maximum of treatment), per month | 11.00 | 9.00 |
| *8999 | Any other uncoded orthodontic services, by report | IC | IC |

NOTE: Reimbursement for the monthly fee is based on one or more visits to the practitioner during any calendar month. Reimbursement must not be requested for any month in which there is no monthly visit.

10:56-3.16 Other services

(a) Procedure code d9110, Emergency treatment of dental, pain or infection, palliative (flat fee for all services performed) when not covered by separately listed procedure has a maximum allowance of \$7.00, S, and \$6.00 NS.

(b) Procedure code 9220, General anesthesia has a maximum allowance of \$12.50, S, and \$12.50, NS.

1. The code above applies when the dentist performing the service (attending dentist) also administers the general anesthesia.

2. Reimbursement will be made for the administration of only one general anesthesia per visit.

(c) Special anesthesia procedure codes (Basic units-See American College Anesthesiologists Relative Value Guide-1967) has the following procedures codes and maximum allowances:

| | | | |
|-------|--|----------|----------|
| *9221 | Maximum 4 units | 22.00 | 22.00 |
| *9225 | Time units: Each additional 15 minute period or major portion thereof. (Limited to "table" or "chair" time only) | *[5.00]* | *\$5.50* |
| | Maximum reimbursable two hours | *[5.00]* | *\$5.50* |

1. The general anesthesia codes above are limited to use in restorative dentistry alone or restorative dentistry in conjunction with other dental services requiring anesthetic management, and must receive prior authorization from the Office of the Chief, Bureau of Dental Services. These codes apply to those dentists appropriately qualified in general anesthesia (see section 1.22(a)3.ii.) and are reimbursable only to the dentist whose sole function is to administer general anesthesia.

2. An anesthesia record must be submitted which shows elapsed anesthesia time, and pinpoints time and amounts of drugs administered, pulse rate and character, blood pressure, respiration, and so forth. The Dental Services Claim Forms (MC-10) for anesthesia and treatment must accompany this record to permit authorization for reimbursement.

| | | | |
|-----------|--|---------|---------|
| *[*]*9235 | Intravenous sedation (see section 10:56-1.22(a)4.) | \$10.00 | \$ 9.00 |
|-----------|--|---------|---------|

(d) Professional consultation:

1. Diagnostic service provided by a dentist other than practitioner providing treatment. A complete report must be available. (See 10:56-1.1).

| | | | |
|-------|------------------------|---------|---------|
| d9310 | Consultation, per case | \$22.00 | \$17.00 |
|-------|------------------------|---------|---------|

(e) Professional visits:

| | | | |
|------|---|---------|--------|
| 9410 | House visit, in addition to fee for service provided. | \$10.50 | \$9.00 |
| 9411 | Long term care facility visit, in addition to fee for service provided. Code 9411 is reimbursed only once per trip per facility regardless of number of patients examined or treated. | \$10.50 | \$9.00 |

(f) Hospital visit:

| | | | |
|------|--|--------|--------|
| 9412 | Hospital visit, in addition to fee for service provided NOTE 1: Code 9412 will not be reimbursed in conjunction with Code 9310 or Codes 9420 or 9421. Not applicable in conjunction with those services which include follow-up days. NOTE 2: Code 9412 is reimbursed only once per trip per facility regardless of number of patients examined or treated. NOTE 3: Code 9412 is not reimbursable when Medicaid fee for service exceeds \$25.00. | \$9.00 | \$7.00 |
| 9420 | Hospital Day-Initial- To include on the record as a minimum: 1) Chief Complaint(s) 2) Complete history of the present illness and related systemic review including recording of pertinent negative findings 3) Complete pertinent past medical history 4) Pertinent family history 5) A full examination pertaining to the history of the present condition and including recording of pertinent negative findings 6) Working diagnosis and treatment plan, including preparation of the "order sheet" 7) If history and examination noted above is not personally done by the "billing" practitioner then this code will be downgraded to Code 9421 provided that code's criteria are met. NOTE: Code 9420 will not be reimbursed again if performed on the same recipient by the same practitioner, members of the same group, members of a shared health care facility, or practitioners sharing a common record or when Code 9310 has been billed in any hospital setting in conjunction with the same hospital admission and/or stay. | 22.00 | 17.00 |
| 9421 | Hospital Day-Subsequent- consisting of care and treatment by the practitioner and including those procedures ordinarily performed during a hospital visit dependent upon | \$9.00 | \$7.00 |

ADOPTIONS

HUMAN SERVICES

- the practitioner's discipline.
 The following may be included in the progress notes:
- 1) Update of symptoms
 - 2) Update of physical findings
 - 3) Resume of findings of procedures, if any done
 - 4) Laboratory, X-ray, consultations, etc., pertinent positive and negative findings
 - 5) Changes or confirmations of diagnosis and progress of case
 - 6) Additional planned studies, if any, and why
 - 7) Treatment changes, if any

NOTE: Not reimbursable for those services that include follow-up days.

(g) Injections:

| | | | |
|---------|---|---------|---------|
| d9610 | Therapeutic drug injection (see 10:56-section 1.22(b)) | \$ 2.50 | \$ 2.50 |
| d**9611 | Injection of one or more muscles of mastication in conjunction with treatment of T.M.J. dysfunction. | \$13.00 | \$11.00 |
| d**9612 | Infiltration and/or nerve block for diagnostic purposes or purposes other than anesthesia in conjunction with operative or surgical procedure. | \$13.00 | \$11.00 |
| 9910 | Application of desensitizing medicaments, i.e. cervical sensitivity, erosions, etc. | \$ 6.00 | \$ 5.00 |
| *9915 | Stabilization of teeth (trauma), per tooth | \$11.00 | \$10.00 |
| d**9999 | Other uncoded services (where no code number exists or existing code is not precisely applicable). Complete description of condition and proposed treatment must be submitted. By report. | IC | IC |

10:56-3.17 Submission of requests for authorization
 (a) For dentists, hospital outpatient departments, and independent clinics located in New Jersey requests for authorization should be submitted to:
 Division of Medical Assistance and Health Services
 Dental Claims Review Unit
 *[Building 7
 Quakerbridge Plaza
 Quakerbridge Road]*
 CN-713
 Trenton, New Jersey 08625
 Telephone: (609) 633-7787

(b) For providers located outside the State of New Jersey requests for authorization should be submitted to:
 Division of Medical Assistance and Health Services
 Bureau of Dental Services
 *[Building 7
 Quakerbridge Plaza
 Quakerbridge Road]*
 CN-713
 Trenton, New Jersey 08625
 Telephone: (609) 984-7863

***(c) All requests for authorization of COMPREHENSIVE ORTHODONTIC TREATMENT should be submitted to:**
 Division of Medical Assistance and Health Services
 Bureau of Dental Services
 CN-713
 Trenton, New Jersey 08625
 Telephone: 609-984-7863*

10:56-3.18 Requests; payments, manuals, newsletters and forms
 Request for payment, provider manuals, newsletters, additional Dental Service Claim Forms (MC-10) and other printed information should be addressed to:
 The Prudential Insurance Company
 Medicaid Claims Division
 P.O. Box 1900
 Millville, New Jersey 08332
 Telephone: (609) 293-2176

(a)
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Pharmaceutical Assistance to the Aged and Disabled
 Confidentiality and Disclosure of Information**

Adopted New Rule: N.J.A.C. 10:69A-6.11

Proposed: April 16, 1984 at 16 N.J.R. 823(a)
 Adopted: June 15, 1984 by George J. Albanese, Commissioner, Department of Human Services.
 Filed: June 15, 1984 as R.1984 d.269, **without change.**
 Authority: N.J.S.A. 30:4-24.3 and 30:4D-20, 24.
 Effective Date: July 2, 1984.
 Expiration Date pursuant to Executive Order 66(1978): April 26, 1988.

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

Full text of the adopted new rule follows.

10:69A-6.11 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under this program shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.

(b) Disclosure of information without the consent of the applicant, beneficiary or their authorized agent shall be limited to purposes directly connected with the administration of the program pursuant to State law and regulations.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified.

2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, beneficiary or their authorized agent challenging the program's statute, regulations or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted.

3. The release of information to the program's contractor's, the Lifeline Credit Program, Tenant Lifeline Assistance Program, Social Security Administration, and other plans of assistance or insurance that covers the cost of prescription drugs in whole or in part.

4. The release of information or files to the State Treasurer or other governmental agency or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law.

5. The release of information or files to any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.

6. The release of information to the New Jersey Department of Health and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program.

(a)

**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

**Lifeline Credit Program
Tenants Lifeline Assistance Program
Confidentiality and Disclosure of
Information**

Adopted New Rule: N.J.A.C. 10:69B-2.6

Proposed: April 16, 1984 at 16 N.J.R. 824(a).

Adopted: June 15, 1984 by George J. Albanese, Commissioner, Department of Human Services.

Filed: June 15, 1984 as R.1984 d.268, **without change**.

Authority: N.J.S.A. 30:4-24.3 and 48:2-29.19, 35.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order 66(1978):
November 21, 1988.

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

Full text of the adopted new rule follows.

10:69B-2.6 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under these programs shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.

(b) Disclosure of information without the consent of the applicant, beneficiary or their authorized agent shall be limited to purposes directly connected with the administration of the program pursuant to State law and regulations.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified.

2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, beneficiary or their authorized agent challenging the program's statute, regulations or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly or illegally applied or issued benefits has been instituted.

3. The release of information to electric utilities, gas utilities, the Pharmaceutical Assistance to the Aged and Disabled Program, the Social Security Administration and the New Jersey Division of Public Welfare for the Special Utility Supplement.

4. The release of information or files to the State Treasurer or other governmental agency or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law.

5. The release of information or files to any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal laws of this State.

6. The release of information to the New Jersey Department of Health and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program.

INSURANCE

(b)

DIVISION OF ADMINISTRATION

Auto Body Repair Facilities

Adopted New Rule: N.J.A.C. 11:14

Proposed: January 3, 1984 at 16 N.J.R. 25(a).

Adopted: June 15, 1984 by Kenneth D. Merin, Acting Commissioner, Department of Insurance.

Filed: June 18, 1984 as R.1984 d.280 **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. 17:1C-6(e), 17:1-8.1 and P.L. 1983, c. 360, N.J.S.A. 39:13-1 et seq.

Effective Date: July 2, 1984.

Operative Date: October 1, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): July 2, 1989.

Summary of Public Comments and Agency Responses:

On February 8, 1984, a hearing on this proposed new rule was conducted at the Department of Insurance. More than 180 individuals representing auto repair industry associations, repair facility owners, insurers and other interested groups attended the hearing and generated a considerable number of comments, criticisms and suggestions. In addition, written comments were received and read into the hearing record. Upon review, the Department has amended the adopted rule by incorporating some suggestions and deleting some highly criticized sections.

Initially, it should be noted, some commenters questioned the necessity of regulation while others criticized allocation of jurisdiction to the Insurance Department rather than the Division of Motor Vehicles or Division of Consumer Affairs. The Department responded that such regulatory duties and authority are mandated by statute to this Department.

A representative of the Garden State Automotive Federation suggested that the proposed "purpose" section be amended to exclude "those persons who are unqualified" from consideration for licensing at this time. However, the Department believes that in the absence of an objective standard for determining an "unqualified" applicant such a provision could be used to arbitrarily restrict entry into the auto repair business.

The American Insurance Association representative presented some proposals primarily concerned with the right of insurers to inspect a repaired vehicle or one undergoing repair. While some of these suggestions had merit, the Department felt that requiring auto body shops to wait for an adjuster to inspect the unrepaired vehicle at various stages would tie-up the auto repair facilities' equipment which would have the effect of increasing the cost of repairs.

Probably the most controversial provision was N.J.A.C. 11:14-2.1(e)3 which required a certificate of good character and reputation from the local ranking law enforcement officer. This proposal was uniformly denounced as vague, unreasonable and subject to arbitrary abuse. The Department concurs with the misgivings and concern expressed and has deleted this section from the adoption. In view of this decision, N.J.A.C. 11:14-4.2(a)5 is also being deleted.

N.J.A.C. 11:14-2.2(a), and (c) are being amended to establish classifications designated as "Type 17 and Type 18" in place of the proposed "Class A and Class B" licenses. These changes are being introduced because of concern that the original designations might be perceived by the public as conferring different degrees of expertise. The Department is also deleting N.J.A.C. 11:14-2.2(b) which provided for an annual license fee for the calendar year 1984. Since the chapter will not become operative until October 1, 1984, it would appear

inappropriate to issue an annual license for the limited period remaining in the calendar year. The Department will, accordingly, issue biennial licenses to auto body repair facilities from the outset. The effective date of the biennial license, as set forth at N.J.A.C. 11:4-2.3(a), has been amended to coincide with the October 1, 1984 operative date of the chapter.

Upon consideration of the practical difficulties involved in the retention of parts for inspection, the Department has modified N.J.A.C. 11:14-3.2(a)3. Commenters argued that the original proposal was too restrictive because it impeded normal industry practices such as sales involving an exchange basis, required return to manufacturers or distributors of defective parts as well as problems associated with storage of replaced parts. The amendment establishes a time frame for retaining parts for customer inspection, which runs from the time the customer has been informed that repairs to the vehicle have been completed rather than from the time the customer takes possession of the vehicle, as was specified in the proposed rule. With respect to required returns and exchanges of parts, the facility's records should reflect such transactions. Accordingly, the Department does not believe that special provisions for exchanges or returns need to be set forth in the rule.

Some concern was expressed that N.J.A.C. 11:14-3.2(a) apparently conflicts with a Department of Community Affairs rule, N.J.A.C. 13:45A-7.1 which permits waiver of written estimates. However, the enabling statute specifies that a customer be provided with "a copy of any estimate or document requiring his signature . . ." The Department, therefore, believes that the legislative intent clearly supports this section.

Some commenters complained that the requirement of N.J.A.C. 11:14-3.3(e), which specified that licensees must provide written notice to the Department of any change in employees within 10 days after such change, was burdensome. The Department has modified the rule to provide for quarterly reporting of this information. It is believed that this change will alleviate unnecessary bookkeeping while still allowing Departmental oversight.

N.J.A.C. 11:14-4.3 is added as a penalty provision. The section conforms with the provisions of L.1983, c.360 and is being incorporated into the adopted rule for the purpose of clarity and emphasis.

OFFICE OF ADMINISTRATIVE LAW NOTE: The Department of Insurance intends to make this chapter operative approximately 120 days after the effective date of the adoption. In order to facilitate the licensing process, existing auto body repair facilities, as well as prospective facilities, desiring to be licensed in accordance with the operative date of the chapter, must submit applications within 60 days of the effective date of the chapter.

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

CHAPTER 14 AUTO BODY REPAIR FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

11:14-1.1 Purpose

The Auto Body Repair Facility Act (P.L. 1983, c. 360, N.J.S.A. 39:13-1 et seq.) provides for the licensure and regu-

lation of auto body repair facilities by the Commissioner of Insurance. The purposes of this chapter are to:

1. Establish a system for the licensure of auto body repair facilities; and
2. Establish standards and procedures necessary to protect the public from dishonest, deceptive and fraudulent practices in the repair of automobiles damaged by collision and to eliminate or exclude from licensing those persons who engage in such practices or who otherwise demonstrate unfitness.

11:14-1.2 Scope

(a) This chapter shall apply to every person engaged in the business of an auto body repair facility.

(b) No person shall, on or after the operative date of this chapter, engage in the business of an auto body repair facility unless licensed by the Commissioner in accordance with the provisions of this chapter.

11:14-1.3 Definitions

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

“Applicant” means any person applying under the provisions of this chapter for a license to engage in the business of an auto body repair facility. In the case of a partnership or corporation applying for a license, the term “applicant” shall respectively include all partners and officers and directors.

“Auto body repair facility” means a business or person who for compensation, engages in the business of repairing, removing or installing integral component parts of an engine, power train, chassis or body of an automobile damaged as a result of a collision. For the purpose of this chapter, the following are not deemed to be auto body repair facilities and are not required to be licensed:

1. An employee of an auto body repair facility who engages in the business of repairing automobiles solely by reason of his employment;
2. Any person who is solely engaged in the business of repairing automobiles owned or leased by a single*[,]* commercial or industrial establishment;
3. Any person or business whose activities consist solely of fueling, changing oil, water, batteries or tires, replacing fan belts, air filters or oil filters, installing windshield wiper blades, light bulbs, communication equipment, or such other minor repair and servicing functions;
4. A person or business who solely examines automobiles to determine the cause or location of malfunctions where no repairs as a result of collision take place.

[“Class A”] *Type 17* license” means a license issued to a person or business whose gross annual billings, including work subcontracted to others, for the repair, removal or installation of integral component parts of an automobile damaged as a result of a collision equals or exceeds \$75,000.

[“Class B”] *Type 18* license” means a license issued to a person or business whose gross annual billings, including work subcontracted to others, for the repair, removal or installation of integral component parts of an automobile damaged as a result of a collision is less than \$75,000.

“Collision” means any damage caused by missiles, falling objects, fire, theft, larceny, windstorm, hail, earthquake, explosion, riot or civil commotion, malicious mischief, vandalism, water, flood, lightning, external discharge or leakage of water, smoke or colliding with a bird, animal or stationary object.

“Commissioner” means the Commissioner of Insurance.

“Estimate” means the auto body repair facility’s determination of the *approximate* cost of parts and cost of labor needed to perform the necessary services.

“Gross negligence” means a pattern of conduct whereby the Commissioner has determined repairs are of such a nature that incompetent repairs which could endanger the customer or the public in general have occurred.

“Manager” means a person, designated by the applicant or licensee, who is directly responsible for the supervision and control of the activities of the auto body repair facility. The manager may be a person with ownership interest in the facility or an employee of the facility.

“Place of business” means an address where an auto body repair facility’s services are offered or ordinarily performed.

“Suspension, revocation or refusal to issue” means administrative action by the Commissioner, after investigation of relevant information, to refuse to grant to an applicant for an auto body repair facility a license to do business in New Jersey or to suspend or revoke an existing license.

“True owner” means the controlling interest in the auto body repair facility.

SUBCHAPTER 2. LICENSING PROCEDURES

11:14-2.1 Application for a license

(a) Any person seeking to engage in the business of an auto body repair facility shall apply, in accordance with the provisions of this subchapter, to the Commissioner for a license authorizing him to engage in such business.

1. Any person now engaged in the business of an auto body repair facility or otherwise desiring to engage in such business in accordance with the operative date of this chapter shall apply to the Commissioner for a license within 60 days of the effective day of this chapter.

(b) Every applicant for a license, whether *[Class A]* *Type 17* or *[Class B]* *Type 18* designated, shall file with the Commissioner, in such form and detail as may be required by the Commissioner, an application setting forth the following:

1. The name, address and telephone number of the auto body repair facility;
2. The name and residence address of the true owner of the facility, if a single proprietorship; if a partnership, the name and address of each partner; if a corporation, the name and address of each officer and director;
3. The name, address and telephone number of the person designated as the manager of the facility;
4. The business in which the applicant has been engaged for the five years preceding the date of application, and, if employed, the name and address of the employer;
5. Whether the applicant or the manager has ever been convicted of a crime;
6. Whether the applicant or manager of the facility has ever been denied, or had suspended or revoked a license to engage in any business, profession or occupation licensed under the laws of any state; and
7. Whether the applicant has an ownership and/or beneficial interest in any other auto body repair facility.

(c) Each application for a license shall be duly notarized by a New Jersey Notary Public.

(d) Each application shall be accompanied by proof of the following:

1. A Certificate of Occupancy for the facility or the municipality's equivalent;

2. New Jersey Sales Tax Number;
3. New Jersey Employer Registration Number; and
4. Federal Business Identification Number.

(e) Each application shall be accompanied by the following:

1. A list of all employees of the auto body repair facility on a form to be prescribed *[and furnished]* by the Commissioner; **and**

2. Two passport size (1½" by 2") photographs of the applicant and the person designated as the manager of the facility*;* *and]* **.**

[3. A certificate by the ranking law enforcement officer of the municipality in which the applicant resides or in which the facility is located attesting to the good character and reputation of the applicant.]

(f) If there are multiple locations for an auto body repair facility, a separate application, accompanying documents, and applications and license fees as specified in N.J.A.C. 11:14-2.2 shall be submitted for each such location.

(g) Upon approval by the Commissioner, a license shall be issued to the auto body repair facility. Such license shall be prominently displayed in the office or other conspicuous location at the business accessible to the public.

11:14-2.2 Application and license fees

(a) Each application for an auto body repair facility license, whether *[Class A]* **Type 17** or *[Class B]* **Type 18** designated, shall be accompanied by an application fee of \$20.00 which shall in no event be refunded.

**[(b) During calendar year 1984, the following annual license fees shall be paid to the Commissioner at the time of initial application for a license:*

1. Class A License \$200.00
2. Class B License \$ 50.00*]**

[(c)]* *(b)*** *[Commencing January 1, 1985, the ***[biennial]**]* ***The following*** license fees shall be paid to the Commissioner at the time of initial application for a license ***and at the time of the biennial renewal thereof***:**

1. *[Class A]* **Type 17** License \$400.00
2. *[Class B]* **Type 18** License \$*[100.00]* **200.00**

11:14-2.3 License renewals

(a) **[A license issued to an auto body repair facility during calendar year 1984 shall continue in force until December 31, 1984; and commencing January 1, 1985 until December 31 of every other year, unless suspended or revoked by the Commissioner.] ***Every license issued to an auto body repair facility on or after October 1, 1984, the operative date of this chapter, shall continue in force until September 30 of every other year, unless suspended or revoked by the Commissioner.****

(b) A renewal application shall be submitted to the Commissioner and shall be accompanied by the applicable biennial license fee specified in N.J.A.C. 11:14-2.2*[(c)]****(b)***.*

(c) With each application for renewal of a *[Class B]* **Type 18** license, the licensee shall submit a notarized statement certifying to its continuance as a *[Class B]* **Type 18** auto body repair facility as a result of there being no change in its original status.

(d) The application for renewal of a license shall be accompanied by evidence of garage liability insurance ****in the form of a certificate of insurance****.

11:14-2.4 Surrender of license

All licenses, although issued and delivered to a licensee, shall at all times be the property of the State of New Jersey and upon any suspension, revocation, refusal to renew or other termination of the license, such license shall no longer be in force and effect. Under these circumstances the licensee or other person having possession or custody of the license shall forthwith deliver it to the Commissioner either by personal delivery or by mail.

SUBCHAPTER 3. REQUIREMENTS OF A LICENSED AUTO BODY REPAIR FACILITY

11:14-3.1 Responsibility of licensees

(a) The owner of the auto body repair facility shall be responsible for the conduct of the business of the facility and for the actions of all employees, including the designated manager, performed in connection with the business of the facility.

(b) In the case of partnership and corporate licensees, the partners or corporate officers and directors, as the case may be, shall be held individually responsible for the conduct of the business of the facility.

11:14-3.2 Estimates and repairs

(a) Every licensed auto body repair facility shall provide a written estimate to any customer seeking their services.

1. Each estimate shall bear the name of the facility, its license reference number and shall be signed by the person performing the estimate.

2. The estimate shall contain the following information:

i. The customer's name; the date of the estimate; a list of parts necessary for each specific repair together with the ****approximate**** costs for each part, indicating any parts which are not new parts of at least original equipment quality; the labor charge for each repair together with the *[costs of each]* ****total**** labor charge; a description of the vehicle; a promised date of delivery if any such date is given; and the terms and limit of any guarantee for the repair work performed.

3. The estimate shall include a statement informing the customer of his right to inspect replaced parts and components thereof *[, pursuant to (b) below].* The statement shall specify any time limitation on such right of inspection, which shall be for a reasonable time not to be less than 48 hours from the time the customer takes possession of the automobile ****within 48 hours from the time that the customer has been informed by the auto body repair facility that repairs to the vehicle have been completed.****

4. The estimate shall include a statement informing the customer of his right to receive replaced parts if the customer makes a written request for such return.

(b) Customers or insurers have a right to inspect the repaired automobile before paying for repair work. Such right of inspection shall also include the right to inspect all replaced parts and components thereof ****in accordance with N.J.A.C. 11:14-3.2(a)3****.

(c) An auto body repair facility shall be responsible for all work subcontracted to others.

(d) An auto body repair facility may charge a reasonable fee for making an estimate.

11:14-3.3 Notice and recordkeeping requirements

(a) Each licensee is to furnish an outdoor sign which shall read: "Registered: State of New Jersey—Auto Body Repair

Facility" with the facility's license number. The sign must contain letters at least 2" high with a stroke of approximately 1/2" and visible from the road and located in a conspicuous location for the general public to see. ***In the event zoning ordinances prohibit the posting of this sign or such posting is otherwise impractical, the facility shall place the sign on its building.***

(b) Each facility shall post in a conspicuous location accessible to the public a "Notice to Consumers", concerning violations of the Auto Body Repair Facility Act and the availability of the Department for complaints pertaining thereto. The Notice shall be prescribed and furnished by the Commissioner.

(c) All licensed auto body repair facilities shall maintain copies of estimates, work orders, invoices, parts purchase orders and appraisals prepared by that facility. Such copies shall be kept for two years and shall be available for inspection by the Commissioner during normal business hours.

(d) The person designated as manager of the facility shall be available during normal business hours.

(e) ***[The auto repair facility shall provide the Commissioner with written notice of any change in the list of employees furnished pursuant to N.J.A.C. 11:14-2.1(e)1 within 10 calendar days of such change.]* *Each auto body repair facility shall, on a quarterly basis, provide the Commissioner with written notice of any change in the list of employees furnished in accord with N.J.A.C. 11:14-2.1(e).***

SUBCHAPTER 4. VIOLATIONS, INVESTIGATIONS AND GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE

11:14-4.1 Violations

(a) Pursuant to section 4 of P.L. 1983 c. 360, the Commissioner may refuse to issue a license or may suspend or revoke the license of any auto body repair facility or refuse to issue a renewal thereof if he determines that the applicant or licensee:

1. Has made or authorized any material written or oral statement, which is known to be untrue or misleading;

2. Has caused or allowed a customer to sign any estimate for repairs which did not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;

3. Has failed to provide a customer with a copy of any estimate or document requiring his signature, as soon as a customer signed the estimate or document;

4. Has made false promises or representations intended to influence, persuade or induce a customer to authorize a repair of an automobile which has been damaged as a result of a collision;

5. Has given an adjuster or appraiser directly or indirectly any gratuity or other consideration in connection with his appraisal service;

6. Has made appraisals of the cost of repairing an automobile, which has been damaged as a result of a collision, through the use of photographs, telephone calls or any manner other than personal inspection;

7. Has made an estimate for repairs or has charged for repairs in such an amount as to compensate the insured for the cost of the deductible applicable under the automobile insurance policy;

8. ***[A]* *Has engaged in a* pattern of conduct which includes any of the acts or omissions prohibited in this section.**

11:14-4.2 Additional violations

(a) The Commissioner may refuse to issue a license or may suspend or revoke the license of any auto body repair facility or refuse to issue renewal thereof, if he determines that the applicant or licensee:

1. Has made a material false statement or concealed a material fact in connection with the application for a license;

2. Is not the true owner of the facility of the auto body repair facility;

3. Has been guilty of gross negligence;

4. Has been guilty of fraud or fraudulent or deceptive practices; ***or***

[5. Has failed to furnish satisfactory evidence of good character, reputation and fitness; or]

[6.]* *5. Has willfully failed to comply with any of the provisions of this chapter.

***11:14-4.3 Penalty**

In any case in which the Commissioner has the power to revoke, refuse to renew or suspend the license of any auto body repair facility, the Commissioner shall also have the power to impose, as an alternative or in addition to such revocation, refusal to renew or suspension, a penalty of not more than \$2,000 for the first offense and not more than \$5,000 for each succeeding offense.*

***[11:14-4.3]* *11:14-4.4* Investigations**

(a) Duties of the Commissioner are as follows:

1. The Commissioner shall, on his own initiative or in response to complaints, investigate on a continuous basis and gather evidence of violations of P.L. 1983, c.360, N.J.S.A. 39:13-1 et seq. and of any regulation adopted pursuant to this Act by auto body repair facilities.

(b) Powers of the Commissioner are as follows:

1. The Commissioner shall have the power to ***conduct investigations,*** administer oaths, to interrogate licensees, to issue subpoenas signed by him or in his behalf by his deputy, or by an employee of the department authorized by the Commissioner to do so, and to compel witnesses to answer at any hearing.

i. Said subpoenas shall be served in the same manner and the witnesses shall be entitled to the same fees as in the case of subpoenas issued out of the Superior Court of New Jersey.

ii. In case of a failure of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court, on application of the Commissioner, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the court's order may be punished by the court as for a contempt.

SUBCHAPTER 5. WRITTEN NOTICE AND HEARING

11:14-5.1 Written notice

(a) Upon gathering grounds for denial of a license of an auto body repair facility, the Commissioner shall notify said facility of the denial in writing by certified mail.

(b) Upon gathering evidence and grounds for suspension or revocation of a license of an auto body repair facility, the Commissioner shall notify said facility that the suspension or revocation of the license will be effective 60 days from the time of official written notice on the day said notice is sent by certified mail. Unless the facility files with the Commissioner a written request for a hearing concerning the suspension or

revocation within the 60 day notice period, said license shall be suspended or revoked.

11:14-5.2 Request for a hearing

(a) If an auto body repair facility has been notified in accordance with N.J.A.C. 11:14-5.1(a), then the auto body repair facility shall be entitled to a hearing, if within 60 days thereafter, the facility files with the Commissioner a written request for a hearing concerning the denial to grant a license.

(b) If an auto body repair facility has been notified in accordance with N.J.A.C. 11:14-5.1(b), then the facility shall be entitled to a hearing if a written request for a hearing concerning the suspension or revocation of the license is filed with the Commissioner within the 60 day period after official notice has been sent by the Commissioner.

(c) The written request for a hearing by an auto body repair facility must be sent by certified mail and duly notarized by a Notary Public in New Jersey.

(d) If an auto body repair facility does not file a written request for a hearing in accordance with (a), (b) or (c) above, then the denial, suspension or revocation of the license shall be affirmed. The facility shall cease all engagement and activities of the business of an auto body repair facility effective at 12:01 A.M. of the 61st day after official notice has been sent by the Commissioner.

11:14-5.3 Hearing procedures

Any hearing concerning the denial, suspension or revocation of an auto body repair facility's license shall be conducted in accordance with procedures established pursuant to N.J.S.A. 52:14B-1 et seq. (The Administrative Procedure Act) and any rules adopted thereunder.

11:14-5.4 Limitations on issuance of license after revocation

No person, partnership or corporation whose license is revoked shall be entitled to apply for a license under this chapter for a period of at least one year from the effective date of revocation.

(a)

THE COMMISSIONER

List of Municipalities Requiring Payment of Liens by Companies Writing Fire Insurance

On June 6, 1984, Kenneth D. Merin, Acting Commissioner of Insurance, pursuant to authority N.J.S.A. 17:1-8.1, 17:1C-6(e), and 17:36-9, filed a list of municipalities that have passed on ordinance requiring insurance companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

Full text of the list follows (changes and additions shown in boldface).

LIST OF MUNICIPALITIES REQUIRING PAYMENT OF LIENS BY COMPANIES WRITING FIRE INSURANCE

The following is a list of municipalities that have passed an ordinance requiring insurance companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

| | Date Filed With The Department of Insurance |
|---|--|
| 1. City of Paterson 07505 (Passaic County) | February 16, 1979 |
| 2. City of East Orange 07019 (Essex County) | February 20, 1979 |
| 3. City of Jersey City 07302 (Hudson County) | February 23, 1979 |
| 4. Town of West Orange 07052 (Essex County) | February 26, 1979 |
| 5. Township of Jackson 08527 (Ocean County) | March 7, 1979 |
| 6. City of Bayonne 07002 (Hudson County) | March 12, 1979 |
| 7. Township of Washington 08215 (Burlington County) | March 12, 1979 |
| 8. Town of West New York 07093 (Hudson County) | March 16, 1979 |
| 9. Borough of South River 08882 (Middlesex County) | March 16, 1979 |
| 10. City of Newark 07102 (Essex County) | March 16, 1979 |
| 11. City of Atlantic City 08401 (Atlantic County) | March 19, 1979 |
| 12. Town of Irvington 07111 (Essex County) | March 20, 1979 |
| 13. Township of Howell 07731 (Monmouth County) | March 20, 1979 |
| 14. Borough of Eatontown 07724 (Monmouth County) | March 23, 1979 |
| 15. Borough of Somerville 08876 (Somerset County) | March 23, 1979 |
| 16. Town of Bloomfield 07003 (Essex County) | March 27, 1979 |
| 17. Township of Maplewood 07040 (Essex County) | April 4, 1979 |
| 18. Town of Montclair 07042 (Essex County) | April 5, 1979 |
| 19. City of Plainfield 07061 (Union County) | April 5, 1979 |
| 20. Borough of Sea Bright 07760 (Monmouth County) | April 10, 1979 |
| 21. City of Millville 08332 (Cumberland County) | April 10, 1979 |
| 22. City of Union City 07087 (Hudson County) | April 23, 1979 |
| 23. Township of Lawrence 08648 (Mercer County) | April 24, 1979 |
| 24. Borough of Florham Park 07932 (Morris County) | April 25, 1979 |
| 25. City of Elizabeth 07201 (Union County) | April 30, 1979 |
| 26. City of Bridgeton 08302 (Cumberland County) | April 30, 1979 |

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- 27. City of Camden 08101 (Camden County) May 4, 1979
- 28. Township of Randolph 07801 (Morris County) May 10, 1979
- 29. Township of Riverside 08075 (Burlington County) May 10, 1979
- 30. Township of Mannington 08079 (Salem County) May 17, 1979
- 31. Township of Berkeley 08721 (Ocean County) May 22, 1979
- 32. City of Cape May 08204 (Cape May County) May 22, 1979
- 33. City of Asbury Park 07712 (Monmouth County) May 25, 1979
- 34. Township of Washington 07853 (Morris County) May 30, 1979
- 35. Township of Westampton 08060 (Burlington County) June 4, 1979
- 36. Township of Hillside 07205 (Union County) June 4, 1979
- 37. City of Salem 08079 (Salem County) June 20, 1979
- 38. Township of Lower 08204 (Cape May County) June 25, 1979
- 39. Borough of Fanwood 07023 (Union County) June 29, 1979
- 40. City of Orange 07050 (Essex County) July 2, 1979
- 41. Township of Carneys Point 08069 (Salem County) July 2, 1979
- 42. City of Vineland 08360 (Cumberland County) July 6, 1979
- 43. Borough of Penns Grove 08069 (Salem County) July 9, 1979
- 44. Town of Phillipsburg 08865 (Warren County) July 13, 1979
- 45. Borough of Westwood 07675 (Bergen County) July 13, 1979
- 46. Township of Pohatcong 08865 (Warren County) July 20, 1979
- 47. Township of Edgewater Park 08010 (Burlington County) July 24, 1979
- 48. Town of Hammonton 08037 (Atlantic County) August 3, 1979
- 49. Borough of Roselle 07203 (Union County) August 8, 1979
- 50. Township of Cedar Grove 07009 (Essex County) August 10, 1979
- 51. Borough of Keyport 07735 (Monmouth County) August 15, 1979
- 52. Borough of Victory Gardens 07801 (Morris County) August 15, 1979
- 53. Township of Scotch Plains 07076 (Union County) August 22, 1979

- 54. City of North Wildwood 08260 (Cape May County) August 24, 1979
- 55. Borough of Fort Lee 07024 (Bergen County) August 27, 1979
- 56. Township of Cinnaminson 08077 (Burlington County) August 30, 1979
- 57. Township of Delran 08075 (Burlington County) August 30, 1979
- 58. Township of Lopatcong 08865 (Warren County) August 30, 1979
- 59. Borough of Fair View 07022 (Bergen County) September 5, 1979
- 60. Borough of Sayreville 08872 (Middlesex County) September 19, 1979
- 61. Township of Egg Harbor 08221 (Atlantic County) September 24, 1979
- 62. Township of Hopewell 08302 (Cumberland County) September 26, 1979
- 63. Township of Dover 08753 (Ocean County) September 26, 1979
- 64. City of Hoboken 07030 (Hudson County) October 15, 1979
- 65. Township of Upper Pittsgrove 08318 (Salem County) October 15, 1979
- 66. Borough of Berlin 08009 (Camden County) October 18, 1979
- 67. The Borough of Sussex 07461 (Sussex County) October 24, 1979
- 68. The Township of Ocean 07755 (Monmouth County) November 27, 1979
- 69. Borough of Lavallette 08735 (Ocean County) December 11, 1979
- 70. City of Rahway 07065 (Union County) December 18, 1979
- 71. City of Pleasantville 08232 (Atlantic County) December 27, 1979
- 72. Township of Mount Holly 08060 (Burlington County) January 29, 1980
- 73. Town of Secaucus 07094 (Hudson County) March 5, 1980
- 74. Township of Berlin 08091 (Camden County) March 20, 1980
- 75. City of Asbury Park 07712 (Monmouth County) April 1, 1980
- 76. Town of Dover 07801 (Morris County) April 16, 1980
- 77. Township of Willingboro 08046 (Burlington County) April 17, 1980
- 78. City of Hackensack 07602 (Bergen County) April 22, 1980
- 79. Township of Brick 08723 (Ocean County) May 2, 1980
- 80. Township of Mount Laurel 08054 (Burlington County) May 27, 1980
- 81. City of Trenton 08608

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(Mercer County) **June 12, 1980**
 82. Borough of Tenafly
 07670 (Bergen County) **June 17, 1980**
 83. Township of Franklin
 08873 (Somerset County) June 20, 1980
 84. Borough of Tinton Falls
 07724 (Monmouth
 County) June 20, 1980
 85. Township of
 Readington 08889
 (Hunterdon County) June 23, 1980
 86. Borough of Princeton
 08540 (Mercer County) July 16, 1980
 87. Township of Maple
 Shade 08052 (Burlington
 County) July 18, 1980
 88. Township of South
 Orange Village 07079
 (Essex Cty) August 19, 1980
 89. Township of Fairfield
 07006 (Essex County) August 21, 1980
 90. Town of Kearny 07032
 (Hudson County) August 26, 1980
 91. Borough of Hightstown
 08520 (Mercer County) September 3, 1980
 92. City of Passaic 07055
 (Passaic County) September 4, 1980
 93. Township of Aberdeen
 07747 (Monmouth
 County) September 8, 1980
 94. Borough of Red Bank
 07701 (Monmouth
 County) September 9, 1980
 95. Township of Princeton
 08540 (Mercer County) September 25, 1980
 96. Borough of South
 Plainfield 07080
 (Middlesex County) September 26, 1980
 97. Township of Maurice
 River 08332 (Cumberland
 County) September 26, 1980
 98. Township of Byram
 07860 (Sussex County) October 9, 1980
 99. Township of Fredon
 07860 (Sussex County) October 28, 1980
 100. Township of Winslow
 08037 (Camden County) November 13, 1980
 101. Borough of Butler
 07405 (Morris County) November 14, 1980
 102. Borough of Roselle
 Park 07204 (Union
 County) March 5, 1981
 103. Township of
 Piscataway 08854
 (Middlesex County) March 20, 1981
 104. Borough of Paulsboro
 08066 (Gloucester County) May 7, 1981
 105. Borough of
 Farmingdale 07727
 (Monmouth County) May 18, 1981
 106. Township of Millburn
 07041 (Essex County) May 19, 1981
 107. City of Egg Harbor
 08215 (Atlantic County) May 21, 1981

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**108. Borough of Spotswood
 08884 (Middlesex County) June 19, 1981**
**109. Borough of Matawan
 07747 (Monmouth
 County) June 19, 1981**
**110. Township of Lacey
 08731 (Ocean County) August 18, 1981**
 111. Township of Ewing
 08618 (Mercer County) November 10, 1981
 112. Township of Clinton
 08801 (Hunterdon
 County) December 10, 1981
 113. Borough of Eatontown
 07724 (Monmouth
 County) December 15, 1981
 114. Township of Neptune
 07753 (Monmouth
 County) January 4, 1982
 115. Borough of Pine Hill
 08021 (Camden County) March 2, 1982
 116. Borough of Belmar
 07719 (Monmouth
 County) March 5, 1982
 117. City of Ventnor City
 08401 (Atlantic County) March 30, 1982
**118. Borough of
 Runnemede 08078
 (Camden County) May 6, 1982**
**119. Borough of
 Woodlynne 08107
 (Camden County) June 7, 1982**
**120. Township of Green
 07821 (Sussex County) July 20, 1982**
**121. Borough of Somerdale
 08083 (Camden County) July 28, 1982**
**122. Borough of Barrington
 08007 (Camden County) September 17, 1982**
**123. Township of
 Manchester 08733 (Ocean
 County) September 21, 1982**
**124. City of Brigantine
 08203 (Atlantic County) October 14, 1982**
**125. Borough of Buena
 08341 (Atlantic County) November 1, 1982**
**126. Township of Hamilton
 08330 (Atlantic County) November 18, 1982**
**127. Borough of Neptune
 City 07712 (Monmouth
 County) December 2, 1982**
**128. Borough of Jamesburg
 08831 (Middlesex County) March 2, 1983**
**129. Township of Jefferson
 07849 (Morris County) April 19, 1983**
**130. Borough of
 Woodstown 08079 (Salem
 County) September 8, 1983**
**131. City of Absecon City
 08201 (Atlantic) July 5, 1983**
**132. Township of the
 Borough of Verona 07044
 (Essex) February 23, 1984**
**133. Borough of Keansburg
 07734 (Monmouth) April 5, 1984**
**134. Borough of Little
 Silver 07739 (Monmouth) April 5, 1984**

This list is filed as R.1984 d.273 and is not subject to codification, but will appear in Title 11 for informational purposes.

LAW AND PUBLIC SAFETY

(a)

BOARD OF MEDICAL EXAMINERS

Standards for Licensure of Physicians Graduated from Medical Schools Not Approved by American National Accrediting Agencies

Adopted New Rule: N.J.A.C. 13:35-3.11

Proposed: March 19, 1984 at 16 N.J.R. 503(b).
Adopted: May 9, 1984 by Board of Medical Examiners,
Frank J. Malta, M.D., Acting President.
Filed: June 18, 1984 as R.1984 d.281, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:9-2 and 45:9-8.

Effective Date: July 2, 1984.

Operative Date: July 2, 1984, except subsection (f) which will be operative July 1, 1985.

Expiration Date pursuant to Executive Order No. 66(1978): August 1, 1988.

Summary of Public Comments and Agency Responses:

Comments were received from 17 persons who included current students, recent graduates of foreign medical schools, parents of current students and an organization of hospital interns and residents. Some writers contended that the proposed new rule discriminated against foreigners seeking New Jersey licensure as compared with Americans—missing the essential point that the rule imposes extra training on graduates (whether Americans or not) of all non-accredited medical schools. As noted in the rule, the discrimination is based upon the non-accreditation status of those schools and not on their location. One writer misperceived the status and effect of the E.C.F.M.G. examination (soon to be replaced by the F.M.G.E.M.S. examination) and assumed that mere passage of that exam qualified persons for licensure. The parents of an American studying outside this country contended erroneously that the rule requires “waiting time” for licensure of three years after passing the F.L.E.X.; in fact, the Board has already adopted a companion rule (N.J.A.C. 13:35-2.13) which permits graduates of most foreign schools to take the F.L.E.X. at the same time as graduates of American accredited schools, provided that they have taken all major clinical clerkships in hospitals with accredited teaching programs. Those graduates may then complete the additional two years of post-graduate training in hospitals which will now presum-

ably be more willing to keep them. Some writers claimed discrimination asserting that the foreign medical schools are at least as good as American schools. However, the F.L.E.X. results do not support such an assertion, as the failure rate of foreign medical graduates is very high. As many as two-thirds of the candidates fail and some take the test repeatedly even though F.L.E.X. questions have traditionally been taken from the same pool of questions used on the National Board examination and the pass rate of students at American schools on that exam is 90 percent or better. Finally, some writers recognized the serious threat to the integrity of medical education which has been exposed by the recent revelations of large scale bogus and/or deficient credentials being disseminated in the name of certain foreign medical schools.

In light of the educational background made known to the Board through research and candidate interviews and by review of the F.L.E.X. test results, the Board is satisfied that this rule is very much in the public interest and that the comments of those in opposition are either erroneous or are far outweighed by the need to protect the health and welfare of patients receiving medical care under the auspices of the New Jersey licensing system.

A correction was made to subsection (a) which had incorrectly referred to eligibility “to sit for the F.L.E.X.”; it was amended to reflect that the rule requirements are applied to persons seeking to be licensed by F.L.E.X. examination or to be licensed by endorsement of a sister state.

In order not to disrupt the expectations of persons newly graduated, subsection (f) was amended to make the standard three-year training requirement mandatorily applicable to those persons receiving a medical degree on and after July 1, 1985. Persons graduating prior to that date will receive case-by-case review despite the administrative burden of that task.

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

13:35-3.11 Standards for licensure of physicians graduated from medical schools not approved by American national accrediting agencies

(a) An applicant for a license to practice medicine and surgery in this State, who is a graduate of a medical school not eligible for and not accredited by the Liaison Committee on Medical Education or the American Osteopathic Association, must satisfy the conditions in this section to be deemed eligible *[either to sit for the F.L.E.X.]* ***for New Jersey licensure by examination*** or to be licensed by endorsement of a sister-state license.

(b) During the course of the applicant’s medical training, and at the time of graduation, the medical school(s) was listed (or notified of eligibility for listing) in the World Directory of Medical Schools published by the World Health Organization, or the medical school(s) was approved and authorized by the country of domicile to confer the degree or certificate evidencing completion of a medical curriculum for the plenary practice of medicine and surgery.

(c) The applicant must demonstrate successful completion of the full medical curriculum (including clinical training) prescribed by the medical school and by the country in which it is located and within which the training took place, and successful completion of all of the educational requirements to practice medicine in that country.

(d) If the applicant is a national of the country in which the medical training was received, the applicant shall have obtained an unrestricted license or certificate of registration to practice medicine and surgery in that country.

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(e) An applicant who has successfully completed basic science studies (or the equivalent of the first two years of an American medical school) in the foreign medical school and has been given academic credit for successful completion of clinical training programs in United States hospitals, shall demonstrate that the medical school was approved by the New Jersey State Board of Medical Examiners to conduct such a program in this State, or that the program was performed in a sister-state and recognized as acceptable by this Board.

(f) A graduate of a foreign medical school shall demonstrate successful completion of three years of post-graduate training approved by the Board of Medical Examiners. ***This section shall apply to all persons receiving a medical degree on or after July 1, 1985.***

(g) The applicant shall demonstrate satisfaction of all other requirements of N.J.S.A. 45:9-1 et seq.

(h) The applicant shall demonstrate attainment of a grade of at least 75 on the F.L.E.X.

(i) An applicant who has successfully completed the full medical curriculum in a foreign medical school approved by the Board of Medical Examiners pursuant to N.J.S.A. 45:9-8 but who has completed clinical training in the United States in a program not specifically approved by the Board, must demonstrate prior licensure in a sister-state and compliance with all other provisions of this section and of N.J.S.A. 45:9-1 et seq., and may then be licensed in this State by endorsement. An applicant from a program specifically disapproved by the Board or conducted outside of an available approved-program procedure, shall not be eligible under this subsection.

(j) A graduate of a foreign medical school satisfying each of the above subsections, as pertinent, but who has been licensed in a sister-state with a F.L.E.X. grade of less than 75, may be eligible for endorsement of license in this State upon demonstration of good and reputable clinical practice in the sister-state for no less than ten years, and compliance with all other requirements of N.J.S.A. 45:9-1 et seq. Proof of good and reputable practice shall include, but not necessarily be limited to:

1. Review, to the satisfaction of the Board, of all malpractice claims, if any, filed against the applicant;
2. Certification of all hospital affiliations during the pertinent time and letters of recommendation from each such institution. There must be at least one such affiliation; and
3. Letters of recommendation from all professional society affiliations.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

**Bills and Payments for Service
Service; Bills and Payments for Service;
Return of Deposits**

Readoption: N.J.S.A. 14:3-3 and 7

Proposed: April 2, 1984 at 16 N.J.R. 693(a).

TREASURY-GENERAL

Adopted: May 29, 1984 by Board of Public Utilities, George H. Barbour, Commissioner.
Filed: June 6, 1984, as R.1984 d.259, **without change**.

Authority: N.J.S.A. 48:2-12, 48:2-13, 48:2-24, 48:2-25 and 48:2-29.5.

Effective Date: July 2, 1984.

Expiration Date pursuant to Executive Order No. 66(1978): July 2, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 14:3-3 and -7, as amended in the New Jersey Register.

(b)

BOARD OF PUBLIC UTILITIES

**Bills and Payments for Service
Budget Billing Plans**

**Notice of Correction: Executive Order No.
66(1978) Expiration Date, N.J.A.C.
14:3-7.11A**

An error appears in the February 6, 1984 New Jersey Register at 16 N.J.R. 250(a) concerning the expiration date of N.J.A.C. 14:3-7.11A. The Executive Order No. 66(1978) Expiration Date should read **February 6, 1989**.

TREASURY-GENERAL

(c)

STATE INVESTMENT COUNCIL

State of New Jersey Cash Management Fund

Readoption: N.J.A.C. 17:16-31

Proposed: May 7, 1984 at 16 N.J.R. 1041(a).
Adopted: June 12, 1984 by State Investment Council, Roland M. Machold, Director, Division of Investment.

Filed: June 13, 1984 as R.1984 d.262 **without change**.

Authority: N.J.S.A. 52:18A-91.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 17:16-31.

(a)

STATE INVESTMENT COUNCIL

Repurchase Agreements

Readoption: N.J.A.C. 17:16-37

Proposed: May 7, 1984 at 16 N.J.R. 1042(a).
 Adopted: June 12, 1984 by State Investment Council, Roland M. Machold, Director, Division of Investment.
 Filed: June 13, 1984 as R. 1984 d.261, **without change**.

Authority: N.J.S.A. 52:18A-91.

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

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 17:16-37.

OTHER AGENCIES

(b)

**NEW JERSEY ECONOMIC
 DEVELOPMENT AUTHORITY**

Affirmative Action Program

Adopted New Rule: N.J.A.C. 19:30-6

Proposed: April 2, 1984 at 16 N.J.R. 704(a).
 Adopted: June 11, 1984 by New Jersey Economic Development Authority, James J. Hughes, Jr., Executive Director.
 Filed: June 13, 1984 as R.1984 d.263, **without change**.

Authority: N.J.S.A. 34B-1 et seq., specifically 34:1B-5.4.

Effective Date: July 2, 1984.

Summary of Public Comments and Agency Responses:

Full text of the adoption follows.

SUBCHAPTER 6. AFFIRMATIVE ACTION IN AUTHORITY-FINANCED CONSTRUCTION PROJECTS

19:30-6.1 Definitions

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

“Authority” means the New Jersey Economic Development Authority, in but not of the Department of Commerce and Economic Development.

“Construction contract” shall mean any contract, subcontract, or agreement, whether written or oral, for construction, reconstruction, demolition, alteration, repair work, maintenance work, or construction related to installation of equipment, undertaken in connection with a project receiving Authority assistance.

“Contractor” means any party who enters into a construction contract with the project owner/applicant, or any party to whom funds will be disbursed for payment of construction work, including any subcontractor of the Contractor.

“Executive Director” means the Executive Director of the Authority.

“Minority” means any person who is Black American, Spanish surnamed, a woman, or an American Indian.

“Project owner/applicant” means the entity or individual which has applied for, or is the recipient of, Authority financial assistance.

19:30-6.2 Application of affirmative action regulations

(a) Every contractor involved in the construction of a project receiving Authority assistance is required to undertake a program designed to employ minority workers in accordance with the minority hiring goals established by the New Jersey Department of Labor. All construction done in connection with such a project is subject to the application of this subchapter.

(b) The project owner/applicant shall be responsible for the performance of its contractors under this subchapter.

19:30-6.3 Compliance

(a) A contractor will be considered in compliance with this subchapter only if the contractor has made every effort to meet the minority hiring goal for each trade or craft employed on the project. Minority hiring goals are established by the New Jersey Department of Labor for each county in New Jersey. The goals are expressed as percentages of the total man-hours worked on the project in each trade. The Authority will publish these goals as part of its Affirmative Action Program. At a minimum, the contractor must take the following steps in this effort:

1. Notify the Authority and at least two minority referral organizations of the contractor’s manpower needs, and request referrals of minority workers. The contractor shall leave standing requests for referrals of minority workers with the local unions, the State Employment Service, New Jersey Bureau of Apprenticeship & Training, and at least two referral sources designated from time to time by the Authority until such time as the contractor has met its minority hiring goals;

2. Give notice of employment opportunities to any minority workers who have been listed with the contractor as awaiting available vacancies;

3. Employ qualified minority workers who have been listed with the contractor as candidates for available vacancies;

4. Keep complete and accurate records of all requests for worker referrals and man-hours worked.

19:30-6.4 Monitoring by the Authority

(a) The Authority will maintain an Office of Affirmative Action, the staff of which will review contractor performance for compliance with this subchapter. Each contractor will be required to submit to the Office of Affirmative Action, on a weekly basis, certified payroll records identifying the name, address, Social Security Number, race, number of hours worked in each craft or trade, hourly wage rate and gross earnings of minority and nonminority workers. The Office of Affirmative Action will make field inspections of project sites, and may perform audits of records relating to construction activities on the project.

(b) The project owner/applicant and the contractor are required to identify an officer or employee as the Affirmative Action Officer who will coordinate the Affirmative Action Program and act as liaison with the Authority's Office of Affirmative Action.

(c) Each project owner/applicant and contractor should resolve any questions regarding this subchapter with the Authority's Office of Affirmative Action prior to the execution of any construction contracts in connection with a project receiving Authority assistance.

19:30-6.5 Contract provisions

(a) Every construction contract executed in connection with projects receiving Authority assistance must require that:

1. Ten percent of each disbursement for the construction of the project will be retained by the project owner/applicant, agent or trustee until the Authority's Office of Affirmative Action gives written notice that the amount may be released.

2. The contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, or religion.

3. The contractor must make every effort to employ minority workers at a level consistent with the applicable county employment goal prescribed by the New Jersey Department of Labor.

4. The contractor submit employment reports to the Authority on a weekly basis.

5. The contractor submit such certificates to the Authority as are required by the application for financial assistance.

6. The addendum to construction contract which is provided by the Authority with its application for financial assistance must be made a part of all construction contracts and must be signed by the contractor.

19:30-6.6 Failure to comply

(a) In the event the Authority determines that a contractor is not in compliance with this subchapter, the Authority will notify the contractor, the project owner/applicant, the construction lender, and the agent or trustee, in writing, of the steps of contractor should take to be considered in compliance.

(b) If the contractor fails to comply or otherwise respond after receipt of the notice in (a) above, the Authority may take action against the contractor or project owner/applicant including:

1. Direct the project owner/applicant, agent or trustee to withhold 10 percent of any disbursements to that contractor of bond proceeds or construction funds obtained with Authority assistance;

2. Institute debarment proceedings to preclude a contractor from contracting on Authority projects;

3. Refer reported violations to the Attorney General for enforcement action under "Laws Against Discrimination".

19:30-6.7 Executive Director to enforce regulation

(a) The Executive Director may require applicants for Authority assistance and recipients of Authority assistance to make such additional representations to the Authority and to enter into such covenants and agreements with the Authority as are necessary to carry out the purposes of this subchapter. The Executive Director shall take such steps as are necessary to ensure compliance with this subchapter.

(b) The Executive Director of the Authority may, for good cause shown, grant exemptions from the requirements of this subchapter. In granting an exemption, the Executive Director may consider such factors as the cost, nature, and extent of the work to be performed under a particular contract, the availability of qualified minority workers, the length of time in which the work is expected to be performed, the percentages of minority workers in the total work force in the immediate labor area, the number of employees needed to perform the work under the contract, and the efforts which a contractor has made to comply with the requirements of this subchapter prior to seeking such exemption.

1. Exemptions may also be granted to any contractor or project owner/applicant who demonstrates that the work to be performed under a particular contract will be performed under an existing Federally approved or sanctioned Affirmative Action Program or in accordance with the Affirmative Action Program of a municipality or State agency.

(a)

CASINO CONTROL COMMISSION

Applications
Fees

Adopted Amendments: N.J.A.C. 19:41-9.4,
9.5, 9.6, 9.8, 9.9, 9.9A, 9.11 and 9.12

Proposed: May 7, 1984 at 16 N.J.R. 1066(a).

Adopted: June 15, 1984 by Casino Control Commission, Walter N. Read, Chairman.

Filed: June 15, 1984 as R.1984 d.272 with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 5:12-63(c)(d), -69, -70(e), -141 and -142.

Effective Date: July 2, 1984.

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

Summary of Public Comments and Responses:

Comments concerning the proposed amendments were received from three sources: the Division of Gaming Enforcement ("Division"); counsel for the Atlantic City Casino Hotel Association ("Association"); and a joint comment from a group of licensed casino service industry enterprises (A.C. Coin and Slot; Paulson Dice, Inc.; Atlantic City Casino Supply Corp.; Price Enterprises, Inc., and Casino Schools, Inc.).

In addition to generally criticizing the regulatory and budgetary processes associated with the regulation of the casino industry in New Jersey, the Association submitted some specific comments concerning the proposed amendments to the rules. The Association opposed the proposed amendments to N.J.A.C. 19:41-9.8, -9.9 and -9.9A on several grounds.

First, the Association argued that the Commission, by limiting the amount of fees which can be charged to casino service industry enterprises, was in fact increasing the amount of the liability which would exist in the Casino Control Fund at the end of the fiscal year, thus directly contravening the stated purpose of the amendments. The Commission rejects this comment for two reasons. The amount of fees which will no longer be collected from casino service industry enterprises as a result of the limits imposed by these amendments will be insignificant compared to the overall operating budgets of the two agencies. Moreover, the other adjustments being made to the fee regulations will offset this amount, thus achieving the goal of minimizing the amount of liability existing in the Casino Control Fund after the imposition of directly allocated fees.

Second, the Association objected to the casino service industry fee amendments on the basis that they unfairly shift the burden of paying for the investigation and licensure of these companies from the enterprises themselves to the casino operators. According to the Association, this situation creates an "inherent conflict" and inequitably forces a "captive" casino market to fund the cost of service industry licensure regardless of whether the casinos wish to deal with those enterprises.

The Commission rejects these comments as well. First of all, since the Association does not explain the nature of this "inherent conflict," the Commission is unable to fully address this comment. But it should be noted that the Casino Control Act itself, and the Commission's existing regulations in furtherance thereof, recognize "that casino applicants and licensees benefit directly or indirectly from all aspects of the regulatory process and are best suited to bear the largest share of the costs incurred by the agencies in implementing that process." N.J.A.C. 19:41-9.1(b); see N.J.S.A. 5:12-139. Thus, the Commission has already adopted a policy which recognizes that casino licensees should be held responsible for paying part of the cost required to license service industry enterprises. The proposed amendments merely represent an adjustment of this policy intended to encourage more competition among casino service industry enterprises by removing the unintended barriers to license application which the present service industry fee regulations had apparently erected. This adjustment comports directly with the statutory mandate which requires the Commission "to regulate, control and prevent economic concentration in the casino operations and the ancillary industries regulated by this act, and to encourage and preserve competition." N.J.S.A. 5:12-1(b)(12) (emphasis added). Although impossible to quantify, casino

operators should ultimately benefit from the licensure of additional service industry enterprises since increased competition for the casinos' business should result in lower costs for the goods and services which the casinos purchase.

Finally, the Association, as well as the licensed service industry enterprises, opposed the amendments on the ground that the present unlimited service industry fee structure acts as a deterrent to prevent unqualified, inexperienced or financially unstable enterprises from entering the casino industry market. Imposition of a fee limit, according to these commenters, would encourage these entities to risk entering the market on the hope they "might slip by."

The Commission's response to these comments is simply that the Commission's fee regulations are not, nor have they ever been, intended to be used as a means of excluding persons from participating in the casino industry in this State. The concerns raised by the commenters are addressed and resolved by the extensive application and licensing requirements of the Casino Control Act and Commission regulations. As noted above, one of the primary policies of the Act is to encourage all qualified individuals or entities to apply for licensure so that a healthy climate of competition is maintained. This objective cannot be achieved if economic barriers to application are maintained. The proposed amendments will, consistent with the revitalization goals of the Act, enable more small businesses, including many minority enterprises, to compete for the business generated by the casino industry in Atlantic City.

The Association also objected to the proposed amendments to N.J.A.C. 19:41-9.5 concerning work permit fees. The primary objection was that "there is no relationship to the costs or efforts involved in administering and monitoring the program and [it] is simply a revenue raising device designed to close the deficit gap." While the Commission acknowledges that not all of the fees generated by work permits are used to reimburse expenditures directly related thereto, it must be noted that one of the areas which significantly contributes to the creation of the Casino Control Fund liability at the end of the fiscal year is the unreimbursed cost of individual employee licensing. N.J.A.C. 19:41-9.1. Accordingly, to the extent that the work permit fee regulation distributes this liability among casino operators in accordance with their proportionate participation in the pool of licensed employees, it represents a rational effort to distribute this liability among those licensees who most benefit from the services rendered. Therefore, the Association's comment concerning N.J.A.C. 19:41-9.5 is rejected.

Finally, both the Association and the Division concur that the increase in the hourly fee for Commission and Division professional services to \$40.00 per hour is reasonable since this is the first adjustment which has been made to these rates in six years. The Division also generally expressed its support for the adoption of each of the fee amendments proposed by the Commission.

Various technical changes to the proposal are being adopted by the Commission as a result of its own review of the rules as published. These wording changes are being made for purposes of clarification, and do not alter in any way the substance of the proposal as published.

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

ADOPTIONS

19:41-9.4 Casino license fees

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

(e) As a component of its initial license fee or renewal fee and as a condition of casino licensure, each applicant or licensee shall be required:

1. * [Except as otherwise provided herein, to] * **To** pay at the rate of \$40.00 per hour for efforts of professional staff members of the Commission and the Division on matters directly related to the applicant or licensee * [;], and all other professional staff as required by N.J.S.A. 5:12-63(f) of the Act, who are required to be present at all times during the operation of any casino] *; and

2. To reimburse any unusual costs or out of pocket expenses incurred by the Commission or the Division in regard to such matters.

(f) (No change.)

19:41-9.5 Work permits

In accordance with Sections 106 and 142 of the Act, a casino licensee shall obtain work permits for all persons appointed or employed by such licensee. Each casino licensee shall pay an annual fee of \$50.00 **for each** * [per person per] * work permit **obtained** *.

19:41-9.6 Slot machine fees

(a) (No change.)

(b) In accordance with Section 100(h) of the Act, no slot machine shall be used to conduct gaming unless it is identical to a model thereof which has been specifically tested by the Division and licensed for use by the Commission. Any person seeking to have a prototype slot machine so tested and licensed shall pay an initial minimum amount of \$500.00, which shall be applied to the total fee. Such person shall be required to pay at the rate of \$40.00 per hour for the efforts of professional employees or agents of the Commission and Division engaged in the examination, testing and consideration of the prototype slot machine.

(c) (No change.)

19:41-9.8 Casino service industry license fees; gaming related

(a) (No change.)

(b) In order to recover the cost of the thorough investigation and consideration of license applications by those sensitive industries, the initial **license** application and issuance fee for these industries * [is] * **shall be** \$3,000 * [per year] *.

(c) In order to recover costs for monitoring compliance with the Act and the regulations and for assuring the continued fitness of these sensitive service industries, the * [renewal] * application and issuance fee **for the annual renewal**

OTHER AGENCIES

of the license required * for these industries * [is] * **shall be** \$3,000 * [per year] *.

19:41-9.9 Casino service industry license fees; non-gaming related

(a) (No change.)

(b) The **initial application and** issuance fee for a three year non-gaming related casino service industry license shall be \$1,500.

(c) The **application and issuance** * [renewal] * fee for **the renewal of** a three year non-gaming related casino service industry license shall be \$1,500.

19:41-9.9A Junket enterprise license fees

(a) (No change.)

(b) The **initial application and** issuance fee for a three year junket enterprise license shall be \$1,500.

(c) The **application and issuance** * [renewal] * fee for **the renewal of** a three year junket enterprise license shall be \$1,500.

19:41-9.11 Casino key employee license fees

(a) (No change.)

(b) The fee for the issuance or renewal of a casino key employee license shall be as follows:

1. (No change.)

2. Payment for the efforts of professional agents and employees of the Commission and Division at the rate of \$40.00 per hour spent on matters directly related to the applicant or licensee; and

3. Payment for all unusual or out of pocket expenses incurred by the Commission and the Division on matters directly related to the applicant or licensee; provided, however, that the amount of the issuance or renewal fee shall not exceed \$3,000.

19:41-9.12 Gaming school resident director license fees

(a) (No change.)

(b) The issuance fee or renewal fee for a three-year resident director license shall be as follows:

1. (No change.)

2. Payment for the efforts of professional agents and employees of the Commission and the Division at the rate of \$40.00 per hour spent on matters directly related to the applicant or licensee; and

3. Payment of any unusual or out of pocket expenses incurred by the Commission or the Division on matters directly related to the application; provided, however, that the amount of the issuance fee or renewal fee shall not exceed \$3,000.

EMERGENCY ADOPTION

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code Inspection of Public School Facilities

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 5:23-1.6

Emergency Amendment Adopted: June 11, 1984 by John P. Renna, Commissioner, Department of Community Affairs.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June 14, 1984.

Emergency Amendment Filed: June 14, 1984 as R.1984, d.267.

Authority: N.J.S.A. 52:27D-124 and L.1983, c.496.

Emergency Amendment Effective Date: June 14, 1984.
Emergency Amendment Expiration Date: August 13, 1984.

Interested persons may submit, in writing, data, views or arguments relevant to the proposal on or before August 1, 1984. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, New Jersey 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 amendment becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

This proposal is known as PRN 1984-384.

The agency emergency adoption and concurrent proposal follows:

Summary

L. 1983, c. 496, which became effective April 17, 1984, made public school facilities subject to the State Uniform Construction Code Act. This amendment allocates responsibility for code enforcement in construction projects in public school facilities begun prior to April 17, 1984 between the State Department of Education and local enforcing agencies. The amendment provides that, if the State Department of Education had begun plan review by April 17, 1984, the project may be completed under the code in effect prior to

that date. If the plan review was completed prior to that date, and in all cases involving only the removal of asbestos from public school facilities, the State Department of Education shall be responsible for inspections. In all projects, other than removal of asbestos, in which final plan review was not completed by April 17, 1984, the local enforcing agency is responsible for inspections.

The provisions of this emergency regulation will authorize staff of the Bureau of Facility Planning Services, New Jersey Department of Education, to complete the plan reviews and inspections on construction projects covered by this regulation. This regulation will be in effect until such time as all construction projects covered by it have been completed.

Social Impact

This amendment will establish a workable transition procedure and clearly set forth the responsibilities of all those involved in the code enforcement process for public school facilities. Elimination of an area of confusion will allow work to proceed on current projects.

Economic Impact

It is the Department's understanding that there are projects in progress which may be held up as a result of confusion over applicability of the State Uniform Construction Code Act and enforcement responsibilities. Since delay is necessarily costly to those doing the construction, emergency adoption of this amendment may be expected to save considerable amounts of money.

Full text of the emergency amendment and concurrent proposal follows (additions indicated in boldface **thus**).

5:23-1.6 Prior permits; **transitional rules for public school facilities**

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

(c) In the case of a project involving a public school facility for which an application for final plan approval, equivalent to a permit application, was made to, and final plan review was begun by, the State Department of Education prior to the effective date of L. 1983, c. 496 (April 17, 1984), the construction of such project may be completed in accordance with and pursuant to the code applicable to such facilities prior to April 17, 1984.

1. If final plan review was started by the State Department of Education but not completed by April 17, 1984, and the project does not involve only the removal of asbestos, the final plan review shall be completed by the State Department of Education and the inspections shall be done by the local enforcing agency having jurisdiction. A construction permit shall be required. The plan review portion of the fee shall be paid to the State Department of Education and the balance of the fee shall be paid to the local enforcing agency.

2. If final plans were approved by the State Department of Education on or before April 17, 1984, regardless of whether or not construction started on or before April 17, 1984, or if the project involves only the removal of asbestos from a public school facility, inspections shall be done by the State Department of Education. A construction permit shall not be required and all fees shall be paid to the Department of Education.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

**DIVISION OF FISH, GAME AND WILDLIFE
BUREAU OF SHELLFISHERIES**

Oyster Seed Beds Closure

Authority: N.J.S.A. 50:1-5 and 50:1-18.

Take notice that on June 8, 1984, at 3:30 P.M., the Oyster Seed Beds in Delaware Bay were closed to harvest, by the Shellfish Council, pursuant to N.J.A.C. 7:25A-3.1(b).

INSURANCE

(b)

DIVISION OF ADMINISTRATION

Change of Address for the Department of the Public Advocate, Division of Rate Counsel

Public Notice

Take notice that Kenneth D. Merin, Acting Commissioner of the Department of Insurance, announces that the address for the Department of the Public Advocate, Division of Rate Counsel, shown in N.J.A.C. 11:1-2.5 was:

80 Mulberry Street
Newark, New Jersey

has been changed to:

**744 Broad Street
29th and 30th Floors
Newark, New Jersey 07102**

LAW AND PUBLIC SAFETY

(c)

DIVISION OF MOTOR VEHICLES

Bulk Commodities Application

Public Notice

Take notice that Clifford W. Snedeker, Director, Division of Motor Vehicles pursuant to the authority of N.J.S.A. 39:5E.11, hereby lists the name and address of the applicant who has filed an application for a common carrier's Certificate of Public Convenience and Necessity.

COMMON CARRIER (NON-GRANDFATHER)

Franklin N. Brown
10 Ataylor Lane
Forker River, New Jersey 08731

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of an application.

TREASURY-GENERAL

(d)

DIVISION OF BUILDING AND CONSTRUCTION

New Project Solicitation of Design Services

Applications (DBC Form 48B) for the project described below are due in DBC no later than 5:00 P.M., June 29, 1984, and shall be submitted to the attention of Ron Wengerd, Secretary of the A/E Selection Board. Submissions received after this time and date will not be considered. If not currently prequalified by DBC, applicants must have submitted a completed DBC Form 48A by the closing date of June 22, 1984. Either DBC form can be obtained by calling (609) 984-6979. DBC No.: A472
CCE: \$6,200,000.

Project Title & Location:
 New DEP Parking Garage
 Trenton, NJ

DBC is seeking to engage the services of an architectural or structural engineering firm to prepare the design documents and administer the construction contracts for the referenced project. Current plans call for a simple and functional six-floor facility to accommodate nearly 1,000 vehicles, utilizing both roof and underground space.

Only architectural or structural engineering firms with a DBC rating of at least \$10,000,000 and comparable parking facility experience will be considered. At least one firm of a joint venture must have a DBC prequalification rating of \$10,000,000.

(a)

DIVISION OF BUILDING AND CONSTRUCTION

**New Project
 Solicitation of Design Services**

Applications (DBC Form 48B) for the project described below are due in DBC no later than 5:00 P.M., June 29, 1984, and shall be submitted to the attention of Ron Wengerd, Secretary of the A/F Selection Board. Submissions received after this time and date will not be considered. If not currently prequalified by DBC, applicants must have submitted a completed DBC Form 48A by the closing date of June 22, 1984.

DBC No.: P446
 CCE: \$665,000
 Title: New Regional Office Building
 Department of Environmental Protection
 Winslow Wildlife Management Area

DBC is seeking to engage the services of an architectural firm to prepare the necessary design documents and to administer the construction contracts for the referenced project, which consists of a pre-engineered building with an area of approximately 13,000 sq. ft. for conference and training rooms and offices. Sitework is included.

Only architectural firms with a DBC Rating of \$1,000,000 or more and related experience will be considered. At least one firm of a Joint Venture must have a DBC Prequalification Rating of \$1,000,000.

(b)

DIVISION OF BUILDING AND CONSTRUCTION

**New Project
 Solicitation of Design Services**

Applications (DBC Form 48B) for the project described below are due in DBC no later than 5:00 P.M., July 13, 1984,

and shall be submitted to the attention of Ron Wengerd, Secretary of the A/E Selection Board. Submissions received after this time and date will not be considered. If not currently prequalified by DBC, applicants must submit a completed DBC Form 48A by the closing date of July 6, 1984.

DBC No.: M561
 CCE: \$900,000
 Title: Air Conditioning of Main Building
 Ancora Psychiatric Hospital

DBC is seeking to engage the services of a mechanical engineering firm to prepare program and design documents and to administer construction contracts for the referenced project. The scope of work calls for the installation of new air conditioning systems, which will require electrical system revisions and extensions, including a new transformer, and limited drop ceiling work.

Only engineering firms with a DBC Rating of at least \$1,000,000 and relevant air conditioning experience will be considered. At least one firm of a Joint Venture must have a DBC Prequalification Rating of \$1,000,000. Applicants must identify their electrical consultant on the 48B submittal.

(c)

**DIVISION OF BUILDING AND CONSTRUCTION
 Architect Engineer Selection
 Notice of Assignments**

The following assignments have been made:

| DBC No. | PROJECT | A/E | CCE |
|---------|--|-----------------------------------|----------------|
| M553 | Replacement of HVAC Units Day Training Centers Burlington/ Monmouth/Warren Counties | John C. Morris & Associates, Inc. | \$96,000 |
| C243 | Fire Alarm & Sprinklers Youth Correctional Institution Annandale, NJ | O'Connor & Jeffrey, Engineers | \$1,200 Study |
| T163 | New 'A' Frame Roof DOT Maintenance Bldg. Pennsauken, NJ | Van B. Bruner, Jr., FAIA | \$40,000 |
| C204-04 | Food Service Renovations Trenton State Prison Trenton, NJ | The Grad Partnership | \$22,000 Study |
| M558 | Emergency Air Conditioning 8 Cottages Marlboro Psychiatric Hospital Marlboro, NJ | Wagner Associates | \$100,000 |

MISCELLANEOUS NOTICES

TREASURY-GENERAL

| | | | | | | | |
|---------|---|--|------------------|---------|---|--|-------------|
| E136 | New Water Main Piscataway Reg'l Day School Piscataway, NJ | Bernard R. Berson & Associates | \$20,000 | A466 | Renovations for Management Information Systems Arnold Constable Building Dept. of Civil Service | Eugene F. O'Connor, AIA | \$51,000 |
| H721* | Elevator Control Systems Upgrading Rossey Hall Jersey City State College Jersey City, NJ *REASSIGNED PROJECT | Turek Associates | \$79,000 | M557 | Water Service Improvements Edison Habilitation Center Edison, NJ | Bernard R. Berson & Associates | \$32,000 |
| M559 | Laundry Evaluation Trenton Psychiatric Hospital Trenton, NJ | London, Kantor, Umland & Associates | \$2,000 Study | M556 | Water Softeners-Power House Woodbridge Developmental Center Woodbridge, NJ | O'Connor-Jeffrey-Kallaur | \$24,000 |
| S901 | Boiler Replacement Eatontown, Lodi, Wayne, Trenton Secaucus Motor Vehicle Inspection Stations Division of Motor Vehicles | A.D. Jilajian & Associates | \$50,000 | A434-01 | Storage & Utility Buildings N.J. Horse Park at Stone Tavern Dept. of Agriculture Upper Freehold, NJ | Eugene F. O'Connor, AIA | \$130,000 |
| S904 | Ventilation Alterations, H.P.S. Lighting Various Motor Vehicles Inspection Stations Division of Motor Vehicles | O'Connor & Jeffrey, Engineers | \$86,000 | | Competitive Proposals Eugene F. O'Connor, AIA | 9.61% | |
| S157-01 | Metal Storage Building Troop "C" Headquarters State Police Princeton, NJ | Matthew L. Rue, AIA | \$45,000 | A463 | Richard M. Horowitz, AIA Malloy & Duffe, AIA TDEC Uninterrupted Power Supply L & I Building Trenton, NJ Gannett-Fleming Frank R. Holtaway & Son Jansen & Rogan, Engrs. | 11.25% 11.70% Gannett-Fleming \$450,000 | |
| H739 | Renovations to NMR Spectrometer Math/Science Building Montclair State College Montclair, NJ | A.D. Jilajian & Associates | \$15,000 | M532 | Air Conditioning Ten Cottages Marlboro Psychiatric Hospital Marlboro, NJ | *Wagner Associates, Inc. | \$2,000,000 |
| S178 | Installation of Radio Tower Cumberland County Communication Center Division of State Police | Borda Engineers | \$50,000 | | Competitive Proposals M. Benton & Associates Wagner Associates O'Connor & Jeffrey, Engrs. | 4.32% 7.65% 7.90% | |

*Previously awarded to M. Benton & Associates

HOW TO USE THE TABLE OF CITATIONS

Generally, the key to locating a particular adopted rule is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research.

The N.J.A.C. citation itself indicates the extent of the changes to a rule. Every citation includes, at a minimum, the numerical designation of the title and chapter (1:30), and may include subchapter and section designations (1:30-1.1). In general, the less specific the citation, the more extensive the rule change. For example, 1:30 means that much or all or chapter 30 of title 1 has been modified; 1:30-1 means that several sections of subchapter 1 of 1:30 have been revised; and 1:30-1.1 means that only section 1 of 1:30-1 has been changed.

An N.J.A.C. citation that includes several section numbers (1:30-1.1, 1.3, 1.4) or several different subchapter and section numbers (1:30-1.1, 2.1, 4.3) means that similar or related changes have been made to those provisions. Additionally, a citation may designate an entirely new rule rather than an amended one.

In general, each rule is listed separately and chronologically. However, where an adoption notice contained several related rule adoptions or amendments within a single chapter, all of those changes may be under a single entry. Therefore, to be certain that you have found all of the changes to a given rule, be sure to scan the citations above and below that rule to find any entries which might contain related rule adoptions, including the one you are researching.

INDEX OF ADOPTED RULES

The *Index of Adopted Rules* contains rules which have been promulgated subsequent to the most recent update of the New Jersey Administrative Code. **Rules which are being promulgated in this Register, and which appear in the Table of Rules in this issue, do not appear in this index. These rules will appear in next month's Index of Adopted Rules.**

The rules in this index are listed in order of their N.J.A.C. citations. Accompanying the N.J.A.C. citation for each rule is a brief description of the rule's content, the Register citation for its proposal notice, its Office of Administrative Law (OAL) document citation (which should be used if ordering a copy of the rule from OAL), and the Register citation for its adoption. At the bottom of the listing for each Title is the date of the most recent Code update for that Title.

The *Index of Adopted Rules* appears in the first Register of each month, complementing the *Index of Proposed Rules* which appears in the second Register of each month. Together,

these indices make available to a Code and Register subscriber all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activities from the initial proposal through final promulgation.

For any rule not yet published in a Code update, the full text of the proposal notice as published in the Register, plus the full text of any changes published with the adoption notice in the Register, constitute an official copy of the promulgated rule. If the full text of either the proposed rule or any changes does not appear in the Register, it is available for a fee from:

Administrative Filings
CN 301

Trenton, New Jersey 08625

To be certain that you have a copy of each proposed rule which may have been adopted but which does not yet appear in the most recent Code update, you should retain each Register beginning with July 9, 1981.

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT CITATION | ADOPTION NOTICE (N.J.R. CITATION) |
|---|---|-----------------------------------|-------------------|-----------------------------------|
| ADMINISTRATIVE LAW-TITLE 1 | | | | |
| 1:2-2 | Readopted: Conference hearing rules | 16 N.J.R. 94(a) | R.1984 d.117 | 16 N.J.R. 707(a) |
| 1:2-3 | Readopted: Hearings on the papers | 16 N.J.R. 95(a) | R.1984 d.118 | 16 N.J.R. 707(b) |
| 1:6A-3.1 | Special education hearings: applications for emergency relief | 16 N.J.R. 780(a) | R.1984 d.258 | 16 N.J.R. 1468(a) |
| 1:6A-5.2 | Special Education hearings: record keeping | 15 N.J.R. 1402(a) | R.1984 d.9 | 16 N.J.R. 238(a) |
| 1:6A-5.3 | Special Education hearings: transfer of record | 16 N.J.R. 408(a) | R.1984 d.203 | 16 N.J.R. 1196(a) |
| (Title 1, Transmittal 3 dated January 3, 1984) | | | | |
| AGRICULTURE-TITLE 2 | | | | |
| 2:1-2 | Readopted: Department organizational rules | 15 N.J.R. 1538(a) | R.1983 d.528 | 15 N.J.R. 1939(a) |
| 2:2-1 | Animal Health: readopted Reportable Diseases | 15 N.J.R. 1202(a) | R.1983 d.448 | 15 N.J.R. 1753(a) |
| 2:2-2 | Readopted: Brucellosis Control and Eradication | 15 N.J.R. 1203(a) | R.1983 d.411 | 15 N.J.R. 1647(a) |
| 2:2-1, 2.6, 2.10, 2.13, 2.14, 2.15, 2.17, 2.18 | Swine brucellosis control | 14 N.J.R. 487(a) | R.1982 d.237 | 14 N.J.R. 833(a) |
| 2:2-2.3 | Calfhood brucellosis vaccination | 14 N.J.R. 487(a) | R.1982 d.234 | 14 N.J.R. 833(b) |
| 2:2-2.19 | Brucellosis testing for intrastate movement | 14 N.J.R. 865(a) | R.1982 d.360 | 14 N.J.R. 1154(a) |
| 2:2-3 | Animal Health: readopted Tuberculosis Control and Eradication | 15 N.J.R. 1203(b) | R.1983 d.449 | 15 N.J.R. 1753(b) |
| 2:2-3.3 | Bovine tuberculosis testing | 16 N.J.R. 782(a) | R.1984 d.222 | 16 N.J.R. 1469(a) |
| 2:2-4 | Readopted: Swine Disease Control | 15 N.J.R. 1204(a) | R.1983 d.450 | 15 N.J.R. 1753(c) |
| 2:2-10 | Repealed: Duplicate poultry and turkey rules | 15 N.J.R. 1204(b) | R.1983 d.451 | 15 N.J.R. 1753(d) |
| 2:3.1 | Readopted: Livestock and Poultry Importations | 15 N.J.R. 1205(a) | R.1983 d.452 | 15 N.J.R. 1754(a) |
| 2:3-1.8 | Livestock: prior import permits | 15 N.J.R. 1290(a) | R.1983 d.455 | 15 N.J.R. 1754(b) |
| 2:3-2 | Readopted: Livestock for Breeding and Herd Replacements | 16 N.J.R. 294(a) | R.1984 d.226 | 16 N.J.R. 1469(b) |

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| 2:3-3.7 | Swine brucellosis control | 14 N.J.R. 487(b) | R.1982 d.237 | 14 N.J.R. 833(a) |
| 2:3-4 | Correction: Livestock for Immediate Slaughter | | | 15 N.J.R. 1876(a) |
| 2:3-6.2 | Goats for exhibition: Disease testing | 14 N.J.R. 489(a) | R.1982 d.235 | 14 N.J.R. 833(c) |
| 2:5-2 | Readopted: Equine Embargo rules | 16 N.J.R. 578(a) | R.1984 d.221 | 16 N.J.R. 1471(a) |
| 2:5-3 | Poultry quarantine and embargoes | 15 N.J.R. 2048(a) | R.1984 d.59 | 16 N.J.R. 518(a) |
| 2:5-4 | Area quarantine for avian influenza | Emergency | R.1983 d.585 | 15 N.J.R. 2176(a) |
| 2:6 | Readopted: Biological Products for Diagnostic and Therapeutic Purposes | 15 N.J.R. 1205(b) | R.1983 d.453 | 15 N.J.R. 1754(c) |
| 2:7 | Readopted: Poultry and Turkey Improvement Plans | 15 N.J.R. 1206(a) | R.1983 d.454 | 15 N.J.R. 1754(d) |
| 2:23 | Voluntary Gypsy-Moth Suppression Program | 15 N.J.R. 370(a) | R.1983 d.267 | 15 N.J.R. 1093(b) |
| 2:32-2 | Sire Stakes Program | 15 N.J.R. 69(a) | R.1983 d.84 | 15 N.J.R. 439(a) |
| 2:32-2.17, 2.32, 2.36 | Sire Stakes Conditions | 16 N.J.R. 297(a) | R.1984 d.161 | 16 N.J.R. 1069(a) |
| 2:50-1.1 | Dairy farmers and relief from notice of intent | 14 N.J.R. 489(b) | R.1982 d.238 | 14 N.J.R. 833(d) |
| 2:68-1 | Commercial feeding stuffs: Association standards | 15 N.J.R. 583(a) | R.1983 d.325 | 15 N.J.R. 1372(a) |
| 2:69 | Readopted: Commercial Fertilizers and Soil Conditioners | 15 N.J.R. 1206(b) | R.1983 d.412 | 15 N.J.R. 1647(b) |
| 2:69-1.11 | Commercial values of fertilizers | 14 N.J.R. 402(a) | R.1982 d.236 | 14 N.J.R. 833(e) |
| 2:69-1.11 | Commercial values for fertilizers and soil conditioners | 16 N.J.R. 782(b) | R.1984 d.223 | 16 N.J.R. 1471(b) |
| 2:71-1 | Readopted: Quality of Individual Shell Eggs | 15 N.J.R. 1050(a) | R.1983 d.394 | 15 N.J.R. 1574(a) |
| 2:71-2 | Readopted: Grades of Fruits and Vegetables | 15 N.J.R. 1051(a) | R.1983 d.395 | 15 N.J.R. 1574(b) |
| 2:71-2.28 | Fruits and vegetables: rates for inspection services | 15 N.J.R. 462(a) | R.1983 d.312 | 15 N.J.R. 1245(a) |
| 2:72-1.1 | Readopted: Bonding Requirement of Commission Merchants, Dealers, Brokers, Agents | 15 N.J.R. 1051(b) | R.1983 d.369 | 15 N.J.R. 1574(c) |
| 2:73-2 | Readopted: State Seal of Quality for eggs | 15 N.J.R. 584(a) | R.1983 d.313 | 15 N.J.R. 1245(b) |
| 2:74-1 | Readopted: Controlled Atmosphere Storage for Apples | 15 N.J.R. 1052(a) | R.1983 d.397 | 15 N.J.R. 1574(d) |
| 2:76-1 | Agriculture retention and development | 15 N.J.R. 2086(a) | R.1984 d.58 | 16 N.J.R. 518(b) |
| 2:76-2 | Agricultural management practices | 16 N.J.R. 95(b) | R.1984 d.84 | 16 N.J.R. 707(c) |
| 2:76-3 | Farmland preservation programs | 16 N.J.R. 579(a) | R.1984 d.229 | 16 N.J.R. 1471(c) |
| 2:76-4 | Municipally-approved farmland preservation | 16 N.J.R. 582(a) | R.1984 d.230 | 16 N.J.R. 1475(a) |
| 2:85-1 | Repealed: Agricultural Preserve Demonstration Program | 15 N.J.R. 371(a) | R.1983 d.169 | 15 N.J.R. 889(a) |

(Title 2, Transmittal 19 dated June 21, 1982)

BANKING--TITLE 3

| | | | | |
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| 3:1-2.21 | New Capital stock savings and loan associations | 16 N.J.R. 174(a) | R.1984 d.119 | 16 N.J.R. 870(a) |
| 3:1-10 | Readopted: Restrictions on Real Property Transactions | 16 N.J.R. 2(a) | R.1984 d.63 | 16 N.J.R. 520(a) |
| 3:1-13.1 | Insurance tie-in prohibition | 16 N.J.R. 586(a) | R.1984 d.209 | 16 N.J.R. 1338(a) |
| 3:6-2.1 | Readopted: Approved Depositories for Security Funds Investments | 15 N.J.R. 1974(a) | R.1984 d.14 | 16 N.J.R. 238(b) |
| 3:6-3 | Readopted rules on Executive Officers and loan policy | 16 N.J.R. 475(a) | R.1984 d.188 | 16 N.J.R. 1196(b) |
| 3:6-7.2, 7.3, 7.6, 7.8 | Investment restatement accounting: stock savings banks | 16 N.J.R. 783(a) | R.1984 d.224 | 16 N.J.R. 1479(a) |
| 3:11-5 | Bank investments and domestic operating subsidiaries | 15 N.J.R. 1787(a) | R.1984 d.69 | 16 N.J.R. 520(b) |
| 3:11-8.1 | Savings banks investment securities | 15 N.J.R. 2087(a) | R.1984 d.38 | 16 N.J.R. 365(a) |
| 3:22-1.4 | Premium finance agreement disclosure | 16 N.J.R. 298(a) | R.1984 d.194 | 16 N.J.R. 1196(c) |

(Title 3, Transmittal 19 dated January 3, 1984)

CIVIL SERVICE--TITLE 4

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| 4:1-17 | Leaves of Absence | 16 N.J.R. 590(a) | R.1984 d.208 | 16 N.J.R. 1338(b) |
| 4:2-7.1 | Title reevaluation requests and appeals (State) | 15 N.J.R. 1290(b) | R.1984 d.73 | 16 N.J.R. 521(a) |
| 4:2-17 | Leaves of Absence | 16 N.J.R. 590(a) | R.1984 d.208 | 16 N.J.R. 1338(b) |
| 4:2-18.4, 18.5, 18.6 | Flexitime, work hours, alternative workweek (State) | 15 N.J.R. 373(a), 374(a) | R.1984 d.46 | 16 N.J.R. 422(a) |
| 4:3-8.2 | Repealed: County welfare board promotion rule | 15 N.J.R. 1788(b) | R.1984 d.152 | 16 N.J.R. 1070(a) |
| 4:3-17 | Leaves of Absence | 16 N.J.R. 590(a) | R.1984 d.208 | 16 N.J.R. 1338(b) |

(Title 4, Transmittal 17 dated January 3, 1984)

COMMUNITY AFFAIRS--TITLE 5

| | | | | |
|---------------------|---|-------------------|--------------|-------------------|
| 5:3-2.1 | Nonpublic records: rental assistance applications | 15 N.J.R. 1910(a) | R.1983 d.643 | 16 N.J.R. 128(a) |
| 5:10 | Readopted: Hotel and Multiple Dwellings rules | 15 N.J.R. 727(a) | R.1983 d.629 | 16 N.J.R. 128(b) |
| 5:11 | Readopted with amendments: Relocation Assistance and Eviction rules | 16 N.J.R. 175(a) | R.1984 d.127 | 16 N.J.R. 870(b) |
| 5:23-1.4, 2.23 | UCC: Certificate of continued occupancy | 16 N.J.R. 179(a) | R.1984 d.120 | 16 N.J.R. 873(a) |
| 5:23-4.14 | UCC: on-site inspection; fees | 15 N.J.R. 1406(a) | R.1983 d.642 | 16 N.J.R. 129(a) |
| 5:23-4.20, 5.5, 5.9 | UCC: department fees; licensing | 15 N.J.R. 1911(a) | R.1983 d.641 | 16 N.J.R. 129(b) |
| 5:23-4.26 | Construction boards of appeal | 15 N.J.R. 2088(a) | R.1984 d.54 | 16 N.J.R. 424(a) |
| 5:23-6.1, 6.2 | UCC: Technical standards for fire suppression systems | 16 N.J.R. 180(a) | R.1984 d.121 | 16 N.J.R. 874(a) |
| 5:23-6.2, 6.3, 6.5 | UCC: solar facilities tax exemption | 15 N.J.R. 1977(a) | R.1984 d.25 | 16 N.J.R. 238(c) |
| 5:27-1.6, 1.9 | State-contracted community residences | 16 N.J.R. 181(a) | R.1984 d.154 | 16 N.J.R. 1071(a) |
| 5:27-11.7 | Boarding house residents: home energy assistance payments | 15 N.J.R. 1622(a) | R.1983 d.628 | 16 N.J.R. 130(a) |
| 5:80-2 | Private investment in HFA-financed housing | 15 N.J.R. 1208(a) | R.1984 d.130 | 16 N.J.R. 875(a) |

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| 5:100-1 | Ombudsman for Institutionalized Elderly: administrative rules | 16 N.J.R. 476(a) | R.1984 d.168 | 16 N.J.R. 1072(a) |

(Title 5, Transmittal 18 dated January 3, 1984)

EDUCATION-TITLE 6

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|--------------|---|-------------------|--------------|-------------------|
| 6:2-1.1-1.20 | Appeals to State Board | 15 N.J.R. 1977(b) | R.1984 d.122 | 16 N.J.R. 878(a) |
| 6:20-3.1 | Determining tuition rates (public schools) | 15 N.J.R. 2089(a) | R.1984 d.205 | 16 N.J.R. 1345(a) |
| 6:20-8.1 | Public school contracts: competitive bidding | 16 N.J.R. 299(b) | R.1984 d.204 | 16 N.J.R. 1347(a) |
| 6:29-6 | Readopted: Physical Education and Athletics Personnel rules | 16 N.J.R. 303(a) | R.1984 d.192 | 16 N.J.R. 1197(a) |

(Title 6, Transmittal 19 dated January 3, 1984)

ENVIRONMENTAL PROTECTION-TITLE 7

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| 7:1-3 | Interim Environmental Cleanup Responsibility Rules | 16 N.J.R. 151(a) | R.1984 d.81 | 16 N.J.R. 523(a) |
| 7:1A | Water Supply Bond Loan Programs | 16 N.J.R. 631(a) | R.1984 d.232 | 16 N.J.R. 1479(b) |
| 7:1A-2.3, 2.4, 2.5, 2.8, 2.9, 2.12, 2.13, 2.14, 2.18, 2.20, 2.35 | Water Supply bond Loan rules | 15 N.J.R. 1307(a) | R.1983 d.534 | 15 N.J.R. 1940(a) |
| 7:1A-2.4 | Application period for Water Supply Rehabilitation Loans | | | 16 N.J.R. 568(a) |
| 7:1A-2.5, 2.12, 2.13 | Water Supply Bond Act loans | 14 N.J.R. 499(c) | R.1982 d.281 | 14 N.J.R. 915(a) |
| 7:1A-3 | Emergency interim repair of water systems | 14 N.J.R. 1075(b) | R.1983 d.26 | 15 N.J.R. 141(d) |
| 7:1D-1 | Emergency water projects: allocation of costs | 15 N.J.R. 117(a) | R.1983 d.639 | 16 N.J.R. 130(b) |
| 7:1E-App. A | List of hazardous substances—Part V | Emergency | R.1984 d.8 | 16 N.J.R. 158(a) |
| 7:1E-App.A | List of Hazardous Substances-Part V | 16 N.J.R. 158(a) | R.1984 d.217 | 16 N.J.R. 1347(b) |
| 7:1G | Loan procedures: water supply interconnections | 14 N.J.R. 1012(a) | R.1983 d.425 | 15 N.J.R. 1650(b) |
| 7:1G | Repealed (see 7:1A) | 16 N.J.R. 631(a) | R.1984 d.232 | 16 N.J.R. 1479(b) |
| 7:1G-2.4 | Application period for Water Supply Interconnection Loans | | | 16 N.J.R. 568(b) |
| 7:1H-3.4 | County fees for solid waste enforcement activities | 14 N.J.R. 1328(a) | R.1983 d.50 | 15 N.J.R. 330(d) |
| 7:11 | Sanitary Landfill Facility Contingency Fund | 15 N.J.R. 1213(a) | R.1983 d.571 | 15 N.J.R. 2034(d) |
| 7:2 | Readopted: State Park Service rules | 15 N.J.R. 822(b) | R.1983 d.320 | 15 N.J.R. 1373(d) |
| 7:2 | State Park Service rules | 15 N.J.R. 983(a) | R.1983 d.464 | 15 N.J.R. 1760(b) |
| 7:2 | Correction: State Park Service rules | 15 N.J.R. 983(a) | R.1983 d.464 | 16 N.J.R. 1495(a) |
| 7:6 | Readopted: Boating Regulations | 15 N.J.R. 1799(a) | R.1983 d.640 | 16 N.J.R. 131(a) |
| 7:6-1.37 | Water skiing events on private lakes | 15 N.J.R. 765(a) | R.1983 d.280 | 15 N.J.R. 1180(b) |
| 7:6-7.1, 7.2, 7.4, 7.6 | Obtaining title to abandoned vessels | 15 N.J.R. 1411(a) | R.1983 d.503 | 15 N.J.R. 1861(b) |
| 7:7 | Coastal Permit Program rules | 15 N.J.R. 2090(a) | R.1984 d.164 | 16 N.J.R. 1073(a) |
| 7:7A-1 | Repealed (see 7:7) | 15 N.J.R. 2090(a) | R.1984 d.164 | 16 N.J.R. 1073(a) |
| 7:7A-1.13 | Correction to Code: Wetlands maps | | | 14 N.J.R. 1403(a) |
| 7:7A-1.13 | Wetlands maps in Atlantic County | 15 N.J.R. 119(a) | R.1983 d.335 | 15 N.J.R. 1374(a) |
| 7:7A-1.13 | Wetlands maps in Cumberland County | 15 N.J.R. 119(a) | R.1983 d.401 | 15 N.J.R. 1576(b) |
| 7:7A-1.13 | Wetlands maps in Cape May County | 14 N.J.R. 1330(a) | R.1983 d.402 | 15 N.J.R. 1576(c) |
| 7:7A-1.13 | Correction: Expiration date of wetlands maps | | | 15 N.J.R. 1654(a) |
| 7:7A-1.13 | Wetlands maps in Middlesex County | 15 N.J.R. 386(a) | R.1983 d.535 | 15 N.J.R. 1941(a) |
| 7:7D-1, 2 | Repealed (see 7:7) | 15 N.J.R. 2090(a) | R.1984 d.164 | 16 N.J.R. 1073(a) |
| 7:7E | Coastal Management Program: "Routine implementation" determination | | | 14 N.J.R. 1467(b) |
| 7:7E-5.3, 5.6, 5.7 | Coastal resource and development | 14 N.J.R. 1129(b) | R.1983 d.27 | 15 N.J.R. 142(a) |
| 7:7F | Shore Protection Program | 14 N.J.R. 865(b) | R.1982 d.421 | 14 N.J.R. 1365(b) |
| 7:8 | Storm water management | 14 N.J.R. 1022(a) | R.1983 d.24 | 15 N.J.R. 142(b) |
| 7:9-2 | Readopted: rules on individual subsurface disposal systems | 15 N.J.R. 591(a) | R.1983 d.243 | 15 N.J.R. 1042(a) |
| 7:9-10 | Repealed: Duplicative review of Pinelands and coastal area sewerage installation | 15 N.J.R. 1155(a) | R.1983 d.432 | 15 N.J.R. 1654(b) |
| 7:9-10.2, 10.3, 10.9 | Pinelands and coastal area sewerage approval | 14 N.J.R. 504(a) | R.1982 d.298 | 14 N.J.R. 979(a) |
| 7:9-10.4, 10.5, 10.6 | One-year suspension of rules | 14 N.J.R. 504(a) | R.1982 d.298 | 14 N.J.R. 979(a) |
| 7:10 | Readopted: Safe Drinking Water Act rules | 15 N.J.R. 592(a) | R.1983 d.244 | 15 N.J.R. 1019(c) |
| 7:11-2 | Consolidated Rate Schedule: D&R Canal and Spruce Run-Round Valley | 15 N.J.R. 122(a) | R.1983 d.191 | 15 N.J.R. 891(a) |
| 7:11-2.10, 2.13 | Sale of water from D/R Canal and Spruce Run/Round Valley | 15 N.J.R. 1311(a) | R.1984 d.109 | 16 N.J.R. 708(a) |
| 7:11-2, -4 | Water rate schedule: D and R, Spruce Run-Round Valley | 14 N.J.R. 681(a) | R.1982 d.455 | 14 N.J.R. 1449(b) |
| 7:11-4 | Repealed (see 7:11-2) | 15 N.J.R. 122(a) | R.1983 d.191 | 15 N.J.R. 891(a) |
| 7:12 | Readopted: Shellfish-Growing Water Classification | 15 N.J.R. 595(a) | R.1983 d.249 | 15 N.J.R. 1020(a) |
| 7:12-1.2, 1.3, 1.6 | Shellfish-growing water condemnations | 15 N.J.R. 2103(a) | R.1984 d.42 | 16 N.J.R. 365(b) |
| 7:12-1.3, 1.4 | Shellfish-growing water classification | 16 N.J.R. 786(a) | R.1984 d.233 | 16 N.J.R. 1495(b) |
| 7:12-1.7 | Closure of shellfish harvesting areas | Emergency | R.1984 d.134 | 16 N.J.R. 929(a) |
| 7:12-2.7 | Hard clam relay: Special Permits Program | Emergency | R.1984 d.66 | 16 N.J.R. 558(a) |

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| 7:12-2.7 | Hard clam relay: Special Permits Program | 16 N.J.R. 558(a) | R.1984 d.199 | 16 N.J.R. 1199(a) |
| 7:12-2.9, 2.12 | Correction: Shellfish transplant and processing programs | 15 N.J.R. 595(a) | R.1983 d.249 | 15 N.J.R. 1761(a) |
| 7:13 | Flood hazard area rules | 15 N.J.R. 2104(a) | R.1984 d.201 | 16 N.J.R. 1201(a) |
| 7:13-1.11 | Readopted: Delineated Floodway rules | 15 N.J.R. 839(a) | R.1983 d.321 | 15 N.J.R. 1374(b) |
| 7:13-1.11 | Recodified as 7:13-7 | 15 N.J.R. 2104(a) | R.1984 d.201 | 16 N.J.R. 1201(a) |
| 7:13-1.11(b)5 | Delineated streams along Upper Mullica River | 14 N.J.R. 367(b) | R.1982 d.209 | 14 N.J.R. 755(c) |
| 7:13-1.11(b)31 | Delineated streams in Somerset County | 14 N.J.R. 367(a) | R.1982 d.392 | 14 N.J.R. 1211(b) |
| 7:13-1.11(d)42 | Floodway delineations in Union County | 14 N.J.R. 870(a) | R.1982 d.428 | 14 N.J.R. 1365(c) |
| 7:13-1.11(b)6 | Floodway delineations along Cedar Creek, Lacey Twp. | 14 N.J.R. 683(a) | R.1982 d.430 | 14 N.J.R. 1365(d) |
| 7:13-1.11(c)2 | Floodway delineations along Big Timber Creek | 14 N.J.R. 505(a) | R.1982 d.431 | 14 N.J.R. 1366(a) |
| 7:13-1.11(c)27 | Floodway delineations along Pond Run, Mercer County | 14 N.J.R. 506(a) | R.1982 d.432 | 14 N.J.R. 1366(b) |
| 7:13-1.11(d)48 | Floodway delineations in Morris County | 14 N.J.R. 870(b) | R.1982 d.453 | 14 N.J.R. 1451(a) |
| 7:13-1.11(d)48 | Floodway delineations in Essex County | 14 N.J.R. 1027(a) | R.1982 d.478 | 15 N.J.R. 32(b) |
| 7:13-1.11(d)1 | Floodway delineations in Hunterdon County | 14 N.J.R. 1131(b) | R.1983 d.109 | 15 N.J.R. 622(c) |
| 7:13-1.11(c)28 | Floodway delineations in Burlington County | 14 N.J.R. 1434(a) | R.1983 d.135 | 15 N.J.R. 689(b) |
| 7:13-1.11(d)42 | Floodway delineations in Somerset-Union counties | 14 N.J.R. 1131(a) | R.1983 d.136 | 15 N.J.R. 690(a) |
| 7:13-1.11(c)29 | Floodway delineations in Monmouth County | 14 N.J.R. 1134(a) | R.1983 d.168 | 15 N.J.R. 893(a) |
| 7:13-1.11(b)10 | Floodway delineations in Ocean-Monmouth counties | 14 N.J.R. 1189(a) | R.1983 d.197 | 15 N.J.R. 894(a) |
| 7:13-1.11(d)47 | Floodway delineations along Mill Brook in Montvale | 15 N.J.R. 989(a) | R.1983 d.405 | 15 N.J.R. 1576(d) |
| 7:13-1.11(c) | Floodway delineations in Mercer County | 14 N.J.R. 1132(a) | R.1983 d.462 | 15 N.J.R. 1761(b) |
| 7:13-1.11(d)45 | Floodways along the Raritan River | 15 N.J.R. 659(a) | R.1983 d.463 | 15 N.J.R. 1761(c) |
| 7:13-1.11(b) | Flood hazard area delineations in Monmouth County | 15 N.J.R. 198(a) | R.1983 d.569 | 15 N.J.R. 2039(a) |
| 7:13-1.11(d)11, 12 | Floodway delineation along Rockaway Creek, Hunterdon County | 16 N.J.R. 5(a) | R.1984 d.108 | 16 N.J.R. 711(a) |
| 7:13-1.11(d)50 | Floodway delineation along Third River in Clifton | 15 N.J.R. 1412(a) | R.1984 d.131 | 16 N.J.R. 881(a) |
| 7:13-1.11(c)30 | Delineated floodways for Delaware Bay tributaries | 15 N.J.R. 1541(a) | R.1984 d.200 | 16 N.J.R. 1224(a) |
| 7:14-2 | Construction of wastewater treatment facilities | 14 N.J.R. 75(a) | R.1982 d.338 | 14 N.J.R. 1155(b) |
| 7:14-2.12 | Correction: Select trench backfill payment width | 14 N.J.R. 75(a) | R.1982 d.338 | 15 N.J.R. 440(b) |
| 7:14-4.4 | NJPDES: local control over dischargers | 15 N.J.R. 1059(b) | R.1984 d.133 | 16 N.J.R. 882(a) |
| 7:14-8 | Water pollution control: readopted civil penalty assessment rules | 16 N.J.R. 181(a) | R.1984 d.189 | 16 N.J.R. 1225(a) |
| 7:14A | Readopted: NJPDES permit program rules | 15 N.J.R. 606(a) | R.1983 d.260 | 15 N.J.R. 1094(c) |
| 7:14A-1.2, 1.9 | NJPDES: local control over dischargers | 15 N.J.R. 1059(b) | R.1984 d.133 | 16 N.J.R. 882(a) |
| 7:14A-1.8, 1.9, 2.1 | Fee schedule for NJPDES permittees | 14 N.J.R. 684(a) | R.1982 d.495 | 15 N.J.R. 85(a) |
| 7:14A-1.9 | Water quality: Underground injection control | 14 N.J.R. 1136(a) | R.1983 d.9 | 15 N.J.R. 145(a) |
| 7:14A-4.2, 4.3 | Hazardous waste management | 14 N.J.R. 1137(a) | R.1983 d.25 | 15 N.J.R. 146(a) |
| 7:14A-4.3 | "Wastewater treatment unit" defined | 14 N.J.R. 506(b) | R.1982 d.310 | 14 N.J.R. 1054(b) |
| 7:14A-4.4, 4.7, 6.1, 6.2, 6.15 | Hazardous waste land disposal | 15 N.J.R. 1997(a) | R.1984 d.198 | 16 N.J.R. 1230(a) |
| 7:14A-4.5 | Hazardous waste management: interim authorization | 15 N.J.R. 1800(a) | R.1983 d.610 | 16 N.J.R. 47(b) |
| 7:14A-4.5 | NJPDES: local control over dischargers | 15 N.J.R. 1059(b) | R.1984 d.133 | 16 N.J.R. 882(a) |
| 7:14A-4.6 | Hazardous waste management | 16 N.J.R. 306(a) | R.1984 d.202 | 16 N.J.R. 1261(a) |
| 7:14A-5.11, 5.13, 5.15, 5.16 | Underground injection control | 14 N.J.R. 1136(a) | R.1983 d.9 | 15 N.J.R. 145(a) |
| 7:14A-10.1, 10.5 | NJPDES: local control over dischargers | 15 N.J.R. 1059(b) | R.1984 d.133 | 16 N.J.R. 882(a) |
| 7:14A-13.1, 13.2, 13.5-13.9 | NJPDES: local control over dischargers | 15 N.J.R. 1059(b) | R.1984 d.133 | 16 N.J.R. 882(a) |
| 7:15 | Water quality management planning and implementation process | 15 N.J.R. 765(b) | R.1984 d.110 | 16 N.J.R. 712(a) |
| 7:19-3 | Water diversion fees for non-growing use | 14 N.J.R. 459(a) | R.1982 d.239 | 14 N.J.R. 834(f) |
| 7:19-3.9 | Annual review: fee schedule for water supply allocation | | | 15 N.J.R. 950(a) |
| 7:19-4 | Diversion assessment and payment for public water supply | 15 N.J.R. 276(a) | R.1983 d.400 | 15 N.J.R. 1577(a) |
| 7:20A | Water diversion for agriculture and horticulture | 14 N.J.R. 1249(a) | R.1983 d.562 | 15 N.J.R. 2154(b) |
| 7:20A-1.3, 2.2, 2.7-2.11, 2.19, 2.21, 2.22 | Water diversion for agriculture and horticulture | 15 N.J.R. 2122(a) | R.1984 d.107 | 16 N.J.R. 719(a) |
| 7:25-2 | Use of Wildlife Management Areas | 15 N.J.R. 840(a) | R.1983 d.336 | 15 N.J.R. 1374(c) |
| 7:25-2.14 | Field trials and horseback riding permits | 15 N.J.R. 387(a) | R.1983 d.185 | 15 N.J.R. 894(b) |
| 7:25-4 | Readopted: Endangered, Nongame and Exotic Wildlife rules | 16 N.J.R. 97(b) | R.1984 d.132 | 16 N.J.R. 889(a) |
| 7:25-5 | 1982-83 Game Code | 14 N.J.R. 402(b) | R.1982 d.212 | 14 N.J.R. 755(d) |
| 7:25-5.13, 5.28, 5.29 | 1982-83 Game Code changes | 14 N.J.R. 871(a) | R.1982 d.351 | 14 N.J.R. 1158(a) |
| 7:25-5 | 1983-1984 Game Code | 15 N.J.R. 771(a) | R.1983 d.302 | 14 N.J.R. 1247(b) |
| 7:25-6 | 1983 Fish Code | 14 N.J.R. 872(a) | R.1982 d.429 | 14 N.J.R. 1366(c) |
| 7:25-6 | 1984-85 Fish Code | 15 N.J.R. 1217(a) | R.1983 d.542 | 15 N.J.R. 1942(a) |
| 7:25-7.10 | Senior citizen's oyster license | 14 N.J.R. 629(a) | R.1982 d.337 | 14 N.J.R. 1158(b) |
| 7:25-7.13 | Crab dredging in Atlantic Coast section | 15 N.J.R. 1413(a) | R.1983 d.541 | 15 N.J.R. 1943(a) |

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| 7:25-7.13 | Vetoed amendment: crab dredging in Atlantic Coast section | 15 N.J.R. 1413(a) | R.1983 d.541 | 16 N.J.R. 535(a) |
| 7:25-9.1 | Taking of hard clams: size tolerance control | 14 N.J.R. 689(a) | R.1983 d.270 | 15 N.J.R. 1095(a) |
| 7:25-9.2 | Penalties for harvesting undersized clams | 15 N.J.R. 1220(a) | R.1983 d.461 | 15 N.J.R. 1762(a) |
| 7:25-11 | Recodified under 7:25-4 | 16 N.J.R. 97(b) | R.1984 d.132 | 16 N.J.R. 889(a) |
| 7:25-11.1, 20.2 | Endangered species and status of nongame species | 15 N.J.R. 1623(a) | R.1983 d.638 | 16 N.J.R. 131(b) |
| 7:25-12.1 | Sea clam harvest | 14 N.J.R. 881(a) | R.1982 d.393 | 14 N.J.R. 1213(a) |
| 7:25-12.1 | Preservation of sea clams | 15 N.J.R. 1414(a) | R.1983 d.567 | 15 N.J.R. 2039(b) |
| 7:25-12.1 | Correction: expiration date of sea clam rules | 15 N.J.R. 1414(a) | R.1983 d.567 | 16 N.J.R. 47(a) |
| 7:25-14 | Crab pots | 15 N.J.R. 388(b) | R.1983 d.291 | 15 N.J.R. 1181(a) |
| 7:25-15.1 | Readopted: Relay of hard clams | 14 N.J.R. 1055(a) | R.1982 d.411 | 14 N.J.R. 1300(d) |
| 7:25-15.1 | Relay of hard clams | Emergency | R.1983 d.519 | 15 N.J.R. 1959(a) |
| 7:25-15.1 | Relay of hard clams | Emergency | R.1984 d.65 | 16 N.J.R. 560(a) |
| 7:25-15.1 | Relay of hard clams | 16 N.J.R. 186(a) | R.1984 d.165 | 16 N.J.R. 1086(a) |
| 7:25-16.1 | Upstream fishing lines | 14 N.J.R. 882(a) | R.1982 d.454 | 14 N.J.R. 1451(b) |
| 7:25-18A | Readopted: Fisheries closures and advisories | 15 N.J.R. 39(a) | R.1983 d.102 | 15 N.J.R. 543(c) |
| 7:25-20 | Recodified under 7:25-4 | 16 N.J.R. 97(b) | R.1984 d.132 | 16 N.J.R. 889(a) |
| 7:25-22.1 | Marine finfish: Menhaden season | 14 N.J.R. 945(a) | R.1983 d.137 | 15 N.J.R. 690(b) |
| 7:25A-1.1, 1.2, 2.1, 2.3-2.5 | Oyster dredging and management | 15 N.J.R. 990(a) | R.1983 d.351 | 15 N.J.R. 1473(a) |
| 7:25A-1.2 | Sale of licensed oyster vessel | 15 N.J.R. 1415(a) | R.1983 d.591 | 15 N.J.R. 2158(a) |
| 7:25A-3.1 | 1983 oyster seed bed season | 15 N.J.R. 200(a) | R.1983 d.161 | 15 N.J.R. 804(b) |
| 7:25A-3.1 | Oyster seed beds | 15 N.J.R. 1415(b) | R.1983 d.568 | 15 N.J.R. 2040(a) |
| 7:25A-3.1 | Oyster seed bed rules: expiration date | 15 N.J.R. 1415(b) | R.1983 d.568 | 16 N.J.R. 367(a) |
| 7:25A-4 | Oyster cultch program | 15 N.J.R. 1416(a) | R.1983 d.590 | 15 N.J.R. 2159(a) |
| 7:26-1.1, 1.4 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-1.1, 1.4 | Hazardous waste management: interim authorization | 15 N.J.R. 1800(a) | R.1983 d.610 | 16 N.J.R. 47(b) |
| 7:26-1.1, 1.4, 1.6, 1.8 | Readopted: certain solid and hazardous waste rules | 15 N.J.R. 2017(a) | R.1984 d.40 | 16 N.J.R. 367(b) |
| 7:26-1.4 | Hazardous waste management | 13 N.J.R. 567(a) | R.1982 d.324 | 14 N.J.R. 1089(d) |
| 7:26-1.4 | Correction: Hazardous waste management | 14 N.J.R. 1137(a) | R.1983 d.25 | 15 N.J.R. 333(a) |
| 7:26-1.4 | Sanitary landfill closure and post-closure | 14 N.J.R. 883(a) | R.1983 d.192 | 15 N.J.R. 894(c) |
| 7:26-1.4 | Hazardous waste: gas cylinder facility exemption | 15 N.J.R. 390(a) | R.1983 d.350 | 15 N.J.R. 1474(a) |
| 7:26-1.4 | Solid waste classifications | 15 N.J.R. 660(a) | R.1983 d.570 | 15 N.J.R. 2040(b) |
| 7:26-1.4 | Hazardous waste management: on-site recycling exemption | 14 N.J.R. 1435(a) | R.1983 d.623 | 16 N.J.R. 132(a) |
| 7:26-1.4 | Hazardous waste land disposal | 15 N.J.R. 1997(a) | R.1984 d.198 | 16 N.J.R. 1230(a) |
| 7:26-1.7 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-1.7 | Solid waste disposal: exemption from registration | Emergency | R.1984 d.174 | 16 N.J.R. 1100(a) |
| 7:26-2.6, 2.11, 2.13, 3.5 | Solid waste classifications | 15 N.J.R. 660(a) | R.1983 d.570 | 15 N.J.R. 2040(b) |
| 7:26-2.9, 2.13 | Sanitary landfill closure and post-closure | 14 N.J.R. 883(a) | R.1983 d.192 | 15 N.J.R. 894(c) |
| 7:26-2.13 | Sanitary landfills: transporter documentation | Emergency | R.1984 d.148 | 16 N.J.R. 930(a) |
| 7:26-2.13 | Sanitary landfills: records | 16 N.J.R. 930(a) | R.1984 d.231 | 16 N.J.R. 1497(a) |
| 7:26-2.14 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-3.8 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-4 | Readopted: solid waste fee schedules | 15 N.J.R. 662(a) | R.1983 d.269 | 15 N.J.R. 1095(b) |
| 7:26-4.7 | Registration of hazardous waste collector/haulers | 14 N.J.R. 368(a) | R.1982 d.289 | 14 N.J.R. 979(b) |
| 7:26-4.10 | County fees for solid waste enforcement activities | 14 N.J.R. 1328(a) | R.1983 d.50 | 15 N.J.R. 330(d) |
| 7:26-5.5 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-6 | Interdistrict and intradistrict solid waste flow | 14 N.J.R. 1027(b) | R.1982 d.434 | 14 N.J.R. 1368(a) |
| 7:26-6 | Correction: Interdistrict and intradistrict solid waste flow | 14 N.J.R. 1027(b) | R.1982 d.434 | 15 N.J.R. 900(a) |
| 7:26-6.5 | Interdistrict and intradistrict solid waste flow | 15 N.J.R. 1914(a) | R.1984 d.4 | 16 N.J.R. 134(a) |
| 7:26-6.5 | Interdistrict and intradistrict solid waste flow | 15 N.J.R. 1417(a) | R.1984 d.41 | 16 N.J.R. 367(c) |
| 7:26-7.4 | Hazardous waste management | 13 N.J.R. 567(a) | R.1982 d.324 | 14 N.J.R. 1089(d) |
| 7:26-7.4, 7.5, 7.7 | Waste oil management as hazardous material | 14 N.J.R. 20(a) | R.1982 d.494 | 15 N.J.R. 88(a) |
| 7:26-7.4, 7.6, 8.15, 9.1, 9.4, 9.6, 10.3, 12.1, 12.11 | Hazardous waste management | 16 N.J.R. 306(a) | R.1984 d.202 | 16 N.J.R. 1261(a) |
| 7:26-7.6 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-7.6 | Interim authorization | 15 N.J.R. 1800(a) | R.1983 d.610 | 16 N.J.R. 47(b) |
| 7:26-8.13, 8.15 | Waste oil management | 14 N.J.R. 20(a) | R.1982 d.494 | 15 N.J.R. 88(a) |
| 7:26-8.13, 8.16 | Dioxin and dibenzofuran contamination | Emergency | R.1982 d.292 | 15 N.J.R. 1184(a) |
| 7:26-8.13, 8.16 | Dioxin and dibenzofuran contamination | 15 N.J.R. 1184(a) | R.1983 d.502 | 15 N.J.R. 1861(c) |
| 7:26-8.15, 8.16 | Delist Indomethacin as hazardous waste | 15 N.J.R. 1817(a) | R.1984 d.166 | 16 N.J.R. 1088(a) |
| 7:26-8.16 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-9.1, 9.5, 9.9 | Hazardous waste management | 14 N.J.R. 1138(a) | R.1982 d.433 | 14 N.J.R. 1367(a) |
| 7:26-9.1-9.6, 9.8-9.14 | Interim authorization | 15 N.J.R. 1800(a) | R.1983 d.610 | 16 N.J.R. 47(b) |

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| 7:26-9.1, 9.2, 9.4, - 10, 11.2, 11.3, 11.5, 11.7, 12.1, 12.2 | Hazardous waste management | 13 N.J.R. 567(a) | R.1982 d.324 | 14 N.J.R. 1089(d) |
| 7:26-9.1, 12.1 | Gas cylinder facility exemption | 15 N.J.R. 390(a) | R.1983 d.350 | 15 N.J.R. 1474(a) |
| 7:26-9.1, 12.1 | On-site recycling exemption | 14 N.J.R. 1435(a) | R.1983 d.623 | 16 N.J.R. 132(a) |
| 7:26-10.6, 10.8, 11.3, 12.2 | Hazardous waste land disposal | 15 N.J.R. 1997(a) | R.1984 d.198 | 16 N.J.R. 1230(a) |
| 7:26-12.2, 12.12 | Interim authorization | 15 N.J.R. 1800(a) | R.1983 d.610 | 16 N.J.R. 47(b) |
| 7:26-12.3 | Permits for existing hazardous waste facilities | 15 N.J.R. 1063(a) | R.1983 d.403 | 15 N.J.R. 1578(a) |
| 7:26-13 | Siting of new hazardous waste facilities | 15 N.J.R. 113(a) | R.1983 d.276 | 15 N.J.R. 1096(a) |
| 7:26-13.7 | Siting of commercial hazardous waste facilities | 15 N.J.R. 1064(a) | R.1983 d.406 | 15 N.J.R. 1579(a) |
| 7:26-15.5, 15.7 | Recycling Grants and Loans | 16 N.J.R. 6(a) | R.1984 d.75 | 16 N.J.R. 535(b) |
| 7:26-15.8 | Recycling grants and loans: Supplementary projects | 14 N.J.R. 1346(a) | R.1983 d.119 | 15 N.J.R. 622(d) |
| 7:27-9 | Sulfur in fuels | 13 N.J.R. 870(a) | R.1982 d.456 | 14 N.J.R. 1452(a) |
| 7:27-15.1 | Specifications for Exhaust Gas Analytical System | Emergency | R.1983 d.407 | 15 N.J.R. 1607(a) |
| 7:27-15.1 | Specifications for Exhaust Gas Analytical System | 15 N.J.R. 1607(a) | R.1983 d.536 | 15 N.J.R. 1943(b) |
| 7:28-1, 2 | Radiation protection | 15 N.J.R. 391(a) | R.1983 d.592 | 15 N.J.R. 2160(a) |
| 7:28-24 | Licensing of nuclear medicine technologists | 14 N.J.R. 507(a) | R.1982 d.457 | 14 N.J.R. 1455(a) |
| 7:30-1, -2, -4, -8 | State Pesticide Control Code | 14 N.J.R. 787(a) | R.1982 d.435 | 14 N.J.R. 1385(a) |
| 7:30-3, -5, -6, -7 | State Pesticide Control Code | 14 N.J.R. 787(a) | R.1983 d.166 | 15 N.J.R. 915(a) |
| 7:30-3.2, 4.2, 4.4 | Pesticide Control Code: dealers and dealer businesses | 15 N.J.R. 2017(b) | R.1984 d.39 | 16 N.J.R. 368(a) |
| 7:30-10 | State Pesticide Control Code: Pesticide use | 14 N.J.R. 787(a) | R.1983 d.63 | 15 N.J.R. 333(b) |
| 7:36-3.1 | Green Acres reimbursement | 14 N.J.R. 461(a) | R.1982 d.231 | 14 N.J.R. 835(a) |

(Title 7, Transmittal 17 dated June 21, 1982)

HEALTH—TITLE 8

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| 8:8 | Blood collection, processing, storage and distribution | 16 N.J.R. 316(a) | R.1984 d.193 | 16 N.J.R. 1263(a) |
| 8:21-1.32 | Drug manufacturer's labeling requirements | 16 N.J.R. 99(a) | R.1984 d.143 | 16 N.J.R. 891(a) |
| 8:21-2.31, 2.32, 2.33, 13 | Wholesale food establishments | 15 N.J.R. 1318(a) | R.1984 d.246 | 16 N.J.R. 1499(a) |
| 8:21-2.40 | EDB levels in food; recall of products | 16 N.J.R. 436(a) | R.1984 d.171 | 16 N.J.R. 1089(a) |
| 8:21-2.45 | Retention period for radioactive drug samples | 15 N.J.R. 1818(a) | R.1984 d.235 | 16 N.J.R. 1505(a) |
| 8:31-16.1 | Hospital long-range strategic plans | 16 N.J.R. 100(a) | R.1984 d.145 | 16 N.J.R. 891(b) |
| 8:31-28 | Readopted Certification of Need and Designation of Regional Services | 16 N.J.R. 101(a) | R.1984 d.146 | 16 N.J.R. 893(a) |
| 8:31A-7 | Readopted: SHARE Rate Review Guidelines | 15 N.J.R. 1542(a) | R.1984 d.24 | 16 N.J.R. 239(a) |
| 8:31A-8.1 | Hospital reporting: readopted medical discharge abstract rule | 15 N.J.R. 1708(a) | R.1984 d.23 | 16 N.J.R. 239(b) |
| 8:31B-4.32 | Waiver of Medicare/Medicaid reimbursement principles | 16 N.J.R. 252(a) | R.1984 d.124 | 16 N.J.R. 893(b) |
| 8:33J | Certificate of Need: Nuclear Magnetic Resonance Services | 16 N.J.R. 102(a) | R.1984 d.163 | 16 N.J.R. 1090(a) |
| 8:33K | Certificate of Need: Residential Alcoholism Treatment Beds Standards | 16 N.J.R. 104(a) | R.1984 d.144 | 16 N.J.R. 894(a) |
| 8:43-6 | Residential health care: Dietary Services | 15 N.J.R. 1710(a) | R.1983 d.630 | 16 N.J.R. 139(a) |
| 8:43-7.2 | Residential health care patients: home energy assistance payments | 15 N.J.R. 1713(a) | R.1983 d.631 | 16 N.J.R. 140(a) |
| 8:43B-10 | Pharmaceutical services in hospital facilities | 16 N.J.R. 107(a) | R.1984 d.248 | 16 N.J.R. 1506(a) |
| 8:43B-17 | Readopted: Cardiac Services rules | 15 N.J.R. 1713(b) | R.1983 d.632 | 16 N.J.R. 141(a) |
| 8:43B-17 | Correction: effective date of Cardiac Services rules | 15 N.J.R. 1713(b) | R.1983 d.632 | 16 N.J.R. 254(b) |
| 8:43E-2 | Adult open acute psychiatric beds: need certification | 15 N.J.R. 1717(a) | R.1983 d.627 | 16 N.J.R. 135(a) |
| 8:43E-3 | Psychiatric inpatient screening beds: need certification | 15 N.J.R. 1720(a) | R.1983 d.626 | 16 N.J.R. 138(a) |
| 8:43E-4 | Children's acute psychiatric beds: need certification | 15 N.J.R. 1723(a) | R.1983 d.625 | 16 N.J.R. 138(b) |
| 8:59-1 | Workplace Hazardous Substances | 16 N.J.R. 478(a) | R.1984 d.247 | 16 N.J.R. 1519(a) |
| 8:65-10.2, 10.3 | Controlled dangerous substances: schedule changes | 15 N.J.R. 844(a) | R.1984 d.35 | 16 N.J.R. 369(a) |
| 8:71 | Generic drug list additions | 15 N.J.R. 127(a) | R.1983 d.633 | 16 N.J.R. 141(b) |
| 8:71 | Additions to generic drug list | 15 N.J.R. 846(a) | R.1983 d.634 | 16 N.J.R. 142(a) |
| 8:71 | Generic drug list additions | 15 N.J.R. 1819(a) | R.1983 d.635 | 16 N.J.R. 142(b) |
| 8:71 | Readopted: Generic drug product list | 16 N.J.R. 116(a) | R.1984 d.106 | 16 N.J.R. 725(a) |
| 8:71 | Generic drug list changes | 15 N.J.R. 1819(a) | R.1984 d.158 | 16 N.J.R. 1093(a) |
| 8:71 | Generic drug list changes | 15 N.J.R. 846(a) | R.1984 d.159 | 16 N.J.R. 1094(a) |
| 8:71 | Generic drug list changes | 16 N.J.R. 202(a) | R.1984 d.160 | 16 N.J.R. 1092(a) |
| 8:71 | Additions to generic drug list | 16 N.J.R. 202(a) | R.1984 d.220 | 16 N.J.R. 1595(a) |

(Title 8, Transmittal 16 dated January 3, 1984)

HIGHER EDUCATION—TITLE 9

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| 9:1 | Licensing and degree program approval | 15 N.J.R. 1418(a) | R.1984 d.74 | 16 N.J.R. 536(a) |
| 9:1-6.1, 6.4 | Petitions from out-of-state institutions | 14 N.J.R. 372(a) | R.1982 d.219 | 14 N.J.R. 756(a) |
| 9:2-2.25 | Mandatory retirement at State colleges | 14 N.J.R. 947(a) | R.1982 d.444 | 14 N.J.R. 1458(a) |

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| 9:2-2.25 | Correction: State college retirement | 14 N.J.R. 947(a) | R.1982 d.444 | 15 N.J.R. 809(c) |
| 9:2-13.1-13.12 | State college auxiliary organizations | 14 N.J.R. 1141(a) | R.1982 d.493 | 15 N.J.R. 91(b) |
| 9:2-13.9 | Auxiliary organizations at county colleges | 15 N.J.R. 1626(a) | R.1983 d.575 | 15 N.J.R. 2168(a) |
| 9:3-1.1 | Approval of renovation projects | 15 N.J.R. 1070(a) | R.1983 d.447 | 15 N.J.R. 1767(a) |
| 9:4-1.5 | County colleges: Chargebacks to sending counties | 14 N.J.R. 690(b) | R.1982 d.335 | 14 N.J.R. 1099(a) |
| 9:4-1.5 | County college chargeback calculation | 16 N.J.R. 117(a) | R.1984 d.78 | 16 N.J.R. 547(a) |
| 9:4-1.6 | County colleges: General education requirements | 15 N.J.R. 203(a) | R.1983 d.147 | 15 N.J.R. 805(a) |
| 9:4-3.1-3.10 | County college annual audit | 14 N.J.R. 318(a) | R.1982 d.218 | 14 N.J.R. 757(a) |
| 9:4-3.4 | Correction: Assets to be capitalized by county colleges | | | 15 N.J.R. 700(b) |
| 9:4-3.7, -8 | County college contract rules | 15 N.J.R. 1916(a) | R.1984 d.80 | 16 N.J.R. 548(a) |
| 9:4-3.10-3.16 | County colleges: State aid guidelines | 16 N.J.R. 671(a) | R.1984 d.236 | 16 N.J.R. 1595(b) |
| 9:4-5 | County colleges reduction in force rules | 15 N.J.R. 128(a) | R.1983 d.146 | 15 N.J.R. 805(b) |
| 9:4-5.7 | Layoff notification at county colleges | 15 N.J.R. 1070(b) | R.1984 d.77 | 16 N.J.R. 548(b) |
| 9:5-1.5 | State funding for senior citizens | 15 N.J.R. 73(b) | R.1983 d.118 | 15 N.J.R. 625(a) |
| 9:7 | Readopted: Student Assistance Programs | 15 N.J.R. 129(a) | R.1983 d.126 | 15 N.J.R. 692(a) |
| 9:7-2.3 | Foreign nationals and student assistance eligibility | 15 N.J.R. 1071(a) | R.1983 d.468 | 15 N.J.R. 1768(a) |
| 9:7-2.10 | Student Assistance Programs: minimum academic progress | 15 N.J.R. 205(a) | R.1983 d.261 | 15 N.J.R. 1101(a) |
| 9:7-2.10 | Student Assistance: minimum academic progress | 16 N.J.R. 674(a) | R.1984 d.237 | 16 N.J.R. 1598(a) |
| 9:7-3.1 | 1983-84 Tuition Aid Grant Award Table | 15 N.J.R. 206(a) | R.1983 d.250 | 15 N.J.R. 1032(a) |
| 9:7-3.1 | 1983-84 Tuition Aid Grant Award Table | 15 N.J.R. 1427(a) | R.1983 d.485 | 15 N.J.R. 1864(a) |
| 9:7-3.1 | Tuition Aid Grants: 1984-85 Award Table | 16 N.J.R. 9(a) | R.1984 d.76 | 16 N.J.R. 143(c) |
| 9:9 | Readopted: Student Loan Program rules | 15 N.J.R. 475(a) | R.1983 d.413 | 15 N.J.R. 1663(b) |
| 9:9-1.2, 1.3 | Gauranteed Student Loan and Parent Loan amounts | 16 N.J.R. 203(a) | R.1984 d.153 | 16 N.J.R. 1094(b) |
| 9:9-1.9, 3.5 | Student loans: disbursement procedures; accrued interest | 15 N.J.R. 1820(a) | R.1983 d.605 | 16 N.J.R. 49(a) |
| 9:9-10.1, 10.2 | Student loan programs: reducing default rates | 15 N.J.R. 1336(b) | R.1983 d.647 | 16 N.J.R. 143(a) |
| 9:11-1 | Educational Opportunity Fund Program | 14 N.J.R. 691(a) | R.1982 d.385 | 14 N.J.R. 1214(c) |
| 9:11-1 | Educational Opportunity Fund financial aid guidelines | 15 N.J.R. 1428(a) | R.1983 d.646 | 16 N.J.R. 143(b) |
| 9:11-1.5, 1.16 | Educational Opportunity Fund financial aid rules | 15 N.J.R. 206(b) | R.1983 d.170 | 15 N.J.R. 924(b) |
| 9:12-1, -2 | Educational Opportunity Fund Program | 14 N.J.R. 691(a) | R.1982 d.385 | 14 N.J.R. 1214(c) |
| 9:12-1, 2 | Academic year program support funds; summer program | 15 N.J.R. 1428(a) | R.1983 d.646 | 16 N.J.R. 143(b) |
| 9:14-1.3, 1.4 | Aid to independent colleges and universities | 16 N.J.R. 10(a) | R.1984 d.79 | 16 N.J.R. 549(a) |
| 9:15 | Readopted: Graduate Medical Education Program | 15 N.J.R. 1429(a) | R.1983 d.518 | 15 N.J.R. 1864(b) |

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HUMAN SERVICES-TITLE 10

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| 10:6 | Administrative hearings and reviews | 15 N.J.R. 1725(a) | R.1984 d.27 | 16 N.J.R. 369(b) |
| 10:49-1.3, 1.4 | Personal care services: Administration manual | 15 N.J.R. 1726(a) | R.1984 d.21 | 16 N.J.R. 239(c) |
| 10:49-1.16 | LTCF: loss of provider certification | 16 N.J.R. 118(a) | R.1984 d.91 | 16 N.J.R. 727(a) |
| 10:49-10 | Prepaid Health Care Services: readopted Title XIX Eligibles | 16 N.J.R. 675(a) | R.1984 d.211 | 16 N.J.R. 1348(a) |
| 10:51-2.6, 5.25 | Pharmacy Manual: claims requiring special handling | 16 N.J.R. 808(b) | R.1984 d.225 | 16 N.J.R. 1599(a) |
| 10:52-1 | Readopted: Manual for Hospital Services (Coverage) | 15 N.J.R. 2125(a) | R.1984 d.47 | 16 N.J.R. 424(b) |
| 10:54-1 | Readopted: Manual for Physicians (General Provisions) | 15 N.J.R. 2129(a) | R.1984 d.34 | 16 N.J.R. 371(a) |
| 10:54-3 | Procedure Code Manual updating | 15 N.J.R. 1730(a) | R.1983 d.614 | 16 N.J.R. 144(a) |
| 10:54-3 | Readopted: Medicaid Procedure Code Manual | 16 N.J.R. 485(a) | R.1984 d.206 | 16 N.J.R. 1349(a) |
| 10:55-3.1 | Prosthetic and orthotic procedure codes | 16 N.J.R. 678(a) | R.1984 d.212 | 16 N.J.R. 1350(a) |
| 10:60-1.1 -1.6, 2.1, 2.7 | Personal care services: Home Health Services | 15 N.J.R. 1726(a) | R.1984 d.21 | 16 N.J.R. 239(c) |
| 10:62-1, 2 | Vision Care Manual: readopted Eye Care and Optical Appliances rules | 15 N.J.R. 1731(a) | R.1983 d.620 | 16 N.J.R. 144(b) |
| 10:63-1 | Long Term Care: readopted General Provisions | 16 N.J.R. 204(a) | R.1984 d.123 | 16 N.J.R. 896(a) |
| 10:63-1.6 | Long-term care: authorization process | 15 N.J.R. 1917(a) | R.1984 d.210 | 16 N.J.R. 1351(a) |
| 10:63-1.15 | LTCF: loss of provider certification | 16 N.J.R. 118(a) | R.1984 d.91 | 16 N.J.R. 727(a) |
| 10:65-1.2, 1.6, 1.7, 2.4 | Medical day care: authorization periods; "center" defined | 15 N.J.R. 1337(a) | R.1983 d.637 | 16 N.J.R. 144(c) |
| 10:66-1 | Independent Clinic Services Manual: readopted General Provisions | 15 N.J.R. 1732(a) | R.1983 d.615 | 16 N.J.R. 145(a) |
| 10:66-1.2 | "Medical day care center" defined | 15 N.J.R. 1337(a) | R.1983 d.637 | 16 N.J.R. 144(c) |
| 10:66-1.2, 1.5, 1.6, 3.3 | Personal care services: Independent Clinic Manual | 15 N.J.R. 1726(a) | R.1984 d.21 | 16 N.J.R. 239(c) |
| 10:81-7 | PAM: administrative agency responsibilities | 16 N.J.R. 826(a) | R.1984 d.227 | 16 N.J.R. 1599(b) |
| 10:81-8 | PAM: readopted Other Governmental Programs | 16 N.J.R. 679(a) | R.1984 d.238 | 16 N.J.R. 1603(a) |
| 10:81-8.24 | PAM: Medicaid Special; income calculations | 16 N.J.R. 682(a) | R.1984 d.239 | 16 N.J.R. 1605(a) |
| 10:81-9 | Readopted: PAM Definitions | 16 N.J.R. 206(a) | R.1984 d.92 | 16 N.J.R. 727(b) |
| 10:81-11 | PAM: Child Support and Paternity | 16 N.J.R. 328(a) | R.1984 d.147 | 16 N.J.R. 898(a) |
| 10:81-11.18 | PAM: minimum support assessment | 16 N.J.R. 828(a) | R.1984 d.243 | 16 N.J.R. 1605(b) |
| 10:81-App. C | PAM: AFDC forms | | | 16 N.J.R. 162(a) |
| 10:81-App. D | Repealed (see 10:81-11) | 16 N.J.R. 328(a) | R.1984 d.147 | 16 N.J.R. 898(a) |
| 10:82-1.2, 2.13, 3.9, 3.11 | AFDC: increase in allowance standards; legally responsible relatives schedules | 16 N.J.R. 829(a) | R.1984 d.242 | 16 N.J.R. 1607(a) |

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| 10:82-4.10, 4.12 | ASH: income from rentals | 15 N.J.R. 2019(a) | R.1984 d.191 | 16 N.J.R. 1272(a) |
| 10:82-5.11 | AFDC: supplemental payments-retrospective budgeting | 16 N.J.R. 832(a) | R.1984 d.240 | 16 N.J.R. 1608(a) |
| 10:85-3.1 | GAM: determination of household size | 15 N.J.R. 1629(a) | R.1984 d.16 | 16 N.J.R. 245(a) |
| 10:85-3.2 | GAM: Initial work registration | 15 N.J.R. 1630(a) | R.1983 d.622 | 16 N.J.R. 145(b) |
| 10:85-3.3 | GAM: residential health care allowance rate | 16 N.J.R. 119(a) | R.1984 d.111 | 16 N.J.R. 729(a) |
| 10:85-4.1, 9.4 | General Assistance: increase in allowance standards; legally responsible relative schedules | 16 N.J.R. 833(a) | R.1984 d.241 | 16 N.J.R. 1610(a) |
| 10:85-9 | GAM: readopt rules on Legally Responsible Relatives | 15 N.J.R. 2019(b) | R.1984 d.56 | 16 N.J.R. 427(a) |
| 10:87 | Readopted Food Stamp Program rules | 15 N.J.R. 2134(b) | R.1984 d.68 | 16 N.J.R. 550(a) |
| 10:87-2.10, 2.19, 2.21, 3.2, 3.8, 4.2 | Food Stamp Program revisions | 15 N.J.R. 1821(a) | R.1984 d.17 | 16 N.J.R. 246(a) |
| 10:87-5.1, 5.4, 5.9 | Food Stamp Program revisions | 15 N.J.R. 1821(a) | R.1984 d.17 | 16 N.J.R. 246(a) |
| 10:87-6.22, 7.6, 7.8, 9.2, 9.3, 9.8-9.14 | Food Stamp Program revisions | 15 N.J.R. 1821(a) | R.1984 d.17 | 16 N.J.R. 246(a) |
| 10:87-12.5 | Food Stamp allotment proration | 15 N.J.R. 1918(a) | R.1984 d.20 | 16 N.J.R. 246(b) |
| 10:94-5.6 | Medicaid "cap" income eligibility standard | 16 N.J.R. 684(a) | R.1984 d.244 | 16 N.J.R. 1611(a) |
| 10:97 | Vending Facility Program for Blind | 15 N.J.R. 2020(a) | R.1984 d.149 | 16 N.J.R. 909(a) |
| 10:100-3 | Readopted: Special Payments Handbook rules | 15 N.J.R. 2025(a) | R.1984 d.37 | 16 N.J.R. 375(a) |
| 10:112-1 | Division of Veterans Programs and Special Services | Organizational | R.1984 d.57 | 16 N.J.R. 427(b) |
| 10:121-4 | Readopted: Release of Criminal History Record Information | 16 N.J.R. 119(b) | R.1984 d.88 | 16 N.J.R. 730(a) |
| 10:140 | Division of Mental Retardation | Organizational | R.1984 d.93 | 16 N.J.R. 725(b) |
| 10:141 | Charity racing days for developmentally disabled | 15 N.J.R. 1826(a) | R.1984 d.28 | 16 N.J.R. 375(b) |

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CORRECTIONS—TITLE 10A

(Title 10A, Transmittal 7 dated June 21, 1982)

INSURANCE—TITLE 11

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| 11:1-5 | 90-day waiver of expiration of N.J.A.C. 11:1-5—FAIR Plan, fire and casualty policy cancellation, other declarations | | | 16 N.J.R. 1451(a) |
| 11:3-6 | Readopted: Auto Insurance Identification Card rules | 15 N.J.R. 1919(a) | R.1983 d.648 | 16 N.J.R. 145(c) |
| 11:3-6 | Correction: effective date of Auto Insurance ID Card rules | 15 N.J.R. 1919(a) | R.1983 d.648 | 16 N.J.R. 254(c) |
| 11:3-13 | Auto insurance: collision and comprehensive deductibles | 15 N.J.R. 1342(a) | R.1983 d.467 | 15 N.J.R. 1769(b) |
| 11:3-13 | Options for collision and comprehensive coverages | 15 N.J.R. 1961(a) | R.1984 d.3 | 16 N.J.R. 246(c) |
| 11:3-14 | Auto insurance: personal injury protection options | 15 N.J.R. 2139(a) | R.1984 d.116 | 16 N.J.R. 730(b) |
| 11:3-15 | Auto insurance policies: buyer's guide and written notice | 15 N.J.R. 2142(a) | R.1984 d.114 | 16 N.J.R. 733(a) |
| 11:5-1.2, 1.27, 1.28 | Real estate salesperson: license and educational requirements | 16 N.J.R. 489(a) | R.1984 d.218 | 16 N.J.R. 1352(a) |
| 11:10-2 | Employees' dental benefit plans: alternate coverage | 15 N.J.R. 1350(a) | R.1984 d.115 | 16 N.J.R. 735(a) |
| 11:15 | Hospital workers' group self insurance | 16 N.J.R. 340(a) | R.1984 d.172 | 16 N.J.R. 1273(a) |

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LABOR—TITLE 12

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LAW AND PUBLIC SAFETY—TITLE 13

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| 13:2-2 | ABC: readopted filing and notice rules for Municipal License Applications | 16 N.J.R. 345(a) | R.1984 d.141 | 16 N.J.R. 916(a) |
| 13:2-5 | ABC: readopted Insurance of Special Permits by Director | 16 N.J.R. 492(a) | R.1984 d.175 | 16 N.J.R. 1277(a) |
| 13:2-7 | ABC: readopted Transfers of State and Municipal Licenses rules | 16 N.J.R. 493(a) | R.1984 d.176 | 16 N.J.R. 1277(b) |
| 13:2-8 | ABC: readopted Club Licenses rules | 16 N.J.R. 494(a) | R.1984 d.177 | 16 N.J.R. 1277(a) |
| 13:2-18 | ABC: readopted Petition Proceedings; Discrimination Against Wholesalers rules | 16 N.J.R. 495(a) | R.1984 d.178 | 16 N.J.R. 1278(a) |
| 13:2-23 | Readopted: ABC rules for licensee conduct | 16 N.J.R. 29(a) | R.1984 d.51 | 16 N.J.R. 428(a) |
| 13:2-24 | ABC: readopted Trade Member Discrimination, Marketing and Advertising rules | 16 N.J.R. 412(a) | R.1984 d.155 | 16 N.J.R. 1095(a) |
| 13:2-24.11 | ABC: use of manufacturers' rebates and coupons | 15 N.J.R. 1830(a) | R.1983 d.644 | 16 N.J.R. 146(a) |
| 13:2-24.12 | ABC: marketing and advertising | 15 N.J.R. 1921(a) | R.1984 d.140 | 16 N.J.R. 916(b) |
| 13:2-24.12 | Correction: ABC rule on marketing and advertising | 15 N.J.R. 1921(a) | R.1984 d.140 | 16 N.J.R. 1278(b) |
| 13:2-25 | ABC: readopted Diversion, Transshipment and Registered Distribution rules | 16 N.J.R. 496(a) | R.1984 d.179 | 16 N.J.R. 1278(c) |
| 13:2-26.1 | ABC: readopted Retail Cooperative Purchases rules | 16 N.J.R. 497(a) | R.1984 d.180 | 16 N.J.R. 1279(a) |
| 13:2-27 | ABC: readopted Labeling and Standards of Fill; Deposit Marked Containers rules | 16 N.J.R. 497(b) | R.1984 d.181 | 16 N.J.R. 1279(b) |

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| 13:2-27.2 | ABC: sale of out-of-state deposit containers | 16 N.J.R. 31(a) | R.1984 d.50 | 16 N.J.R. 428(b) |
| 13:2-29 | ABC: readopted Records rules | 16 N.J.R. 498(a) | R.1984 d.182 | 16 N.J.R. 1279(c) |
| 13:2-33 | ABC: readopted Product Information Filing; Brand Registration rules | 16 N.J.R. 499(a) | R.1984 d.183 | 16 N.J.R. 1279(d) |
| 13:2-36.1 | ABC: readopted Requests for Advisory Opinions rules | 16 N.J.R. 500(a) | R.1984 d.184 | 16 N.J.R. 1280(a) |
| 13:2-37 | ABC: readopted Contracts of Employment and Conduct of Solicitors rules | 16 N.J.R. 501(a) | R.1984 d.185 | 16 N.J.R. 1280(b) |
| 13:2-39 | ABC: readopted rules on Credit Terms; Required Records; Returns; Notices | 16 N.J.R. 501(b) | R.1984 d.186 | 16 N.J.R. 1280(c) |
| 13:3-1.10, 1.13, 1.15, 1.18, 2.1, 2.3, 3.1 | ABC: amusement games licensing | 16 N.J.R. 208(a) | R.1984 d.90 | 16 N.J.R. 737(a) |
| 13:4-12.1, 12.3 | REadopted: Certain rules on civil rights hearings | 15 N.J.R. 1922(a) | R.1983 d.650 | 16 N.J.R. 146(b) |
| 13:10 | Readopted: Multiple Dwelling Reporting of tenancy composition | 16 N.J.R. 415(a) | R.1984 d.169 | 16 N.J.R. 1095(b) |
| 13:19-1.2-1.13 | Motor vehicle license suspensions: prehearing conferences | 15 N.J.R. 2143(a) | R.1984 d.129 | 16 N.J.R. 918(a) |
| 13:19-10 | Readopted: Point System and Driving During Suspension rules | 16 N.J.R. 347(a) | R.1984 d.128 | 16 N.J.R. 920(a) |
| 13:19-12 | Motor vehicle insurance surcharge | 15 N.J.R. 2027(a) | R.1984 d.18 | 16 N.J.R. 247(a) |
| 13:19-13 | Motor vehicle insurance surcharges | 16 N.J.R. 124(a) | R.1984 d.61 | 16 N.J.R. 551(a) |
| 13:20-7.4 | Motor vehicle inspection: odd-even system repealed | 15 N.J.R. 1261(a) | R.1984 d.83 | 16 N.J.R. 738(a) |
| 13:20-31 | Readopted: Motor Vehicles Alcohol Countermeasures rules | 15 N.J.R. 1923(a) | R.1984 d.7 | 16 N.J.R. 247(b) |
| 13:20-33 | Motor Vehicles: readopted Licensed Reinspection Center rules | 16 N.J.R. 503(a) | R.1984 d.173 | 16 N.J.R. 1280(d) |
| 13:20-33.1, 33.2, 33.50, 33.51 | Licensed motor vehicle reinspection centers | 15 N.J.R. 1963(a) | R.1984 d.10 | 16 N.J.R. 247(c) |
| 13:20-34.7 | Motor Vehicles: reissuance of particular identifying marks | 16 N.J.R. 347(b) | R.1984 d.157 | 16 N.J.R. 1095(c) |
| 13:21-7 | Special driver permits; test for hearing impaired | 15 N.J.R. 1831(a) | R.1984 d.11 | 16 N.J.R. 247(d) |
| 13:21-8.24 | Driver license suspension: failure to notify of address change | 15 N.J.R. 2029(a) | R.1984 d.19 | 16 N.J.R. 248(a) |
| 13:21-19 | Motor Vehicle Franchise Committee: procedural rules | 15 N.J.R. 1232(a) | R.1983 d.621 | 16 N.J.R. 146(c) |
| 13:23 | Licensing of commercial drivers' schools | 16 N.J.R. 209(a) | R.1984 d.216 | 16 N.J.R. 1354(a) |
| 13:33 | Ophthalmic Dispensers and Technicians Board: readopted administrative rules | 16 N.J.R. 215(a) | R.1984 d.112 | 16 N.J.R. 738(b) |
| 13:33-1.3, 1.4, 1.29, 1.36 | Ophthalmic dispensers and technicians | 15 N.J.R. 1832(a) | R.1984 d.22 | 16 N.J.R. 248(c) |
| 13:35-2.13 | Graduate physician pending licensure: privileges and conditions | 16 N.J.R. 216(a) | R.1984 d.138 | 16 N.J.R. 920(b) |
| 13:35-2.14 | Graduate nurse midwife certification | 16 N.J.R. 685(a) | R.1984 d.245 | 16 N.J.R. 1612(a) |
| 13:35-6.6 | Prescribing and dispensing medications | 16 N.J.R. 416(a) | R.1984 d.197 | 16 N.J.R. 1281(a) |
| 13:35-6.8 | Prescribing, administering or dispensing laetrile | 15 N.J.R. 2029(b) | R.1984 d.67 | 16 N.J.R. 552(a) |
| 13:35-6.10 | Advertising by medical board licensees | 16 N.J.R. 32(a) | R.1984 d.139 | 16 N.J.R. 921(a) |
| 13:37-2-6, 9, 10, 11 | Board of Nursing: licensure by examination and endorsement; foreign nurses; nursing procedures | 15 N.J.R. 1850(a) | R.1984 d.137 | 16 N.J.R. 922(a) |
| 13:39 | Pharmaceutical internships and externships: readopted Approved Training rules | 16 N.J.R. 843(a) | R.1984 d.228 | 16 N.J.R. 1613(a) |
| 13:39-6 | Recordkeeping in pharmacies: 30-day waiver of expiration date | 16 N.J.R. 217(a) | _____ | 16 N.J.R. 396(c) |
| 13:39-6 | Board of Pharmacy: readopted Prescriptions rules | 16 N.J.R. 217(a) | R.1984 d.89 | 16 N.J.R. 739(a) |
| 13:45A-20 | Resale of tickets of admission to places of entertainment | 16 N.J.R. 417(a) | R.1984 d.196 | 16 N.J.R. 1281(b) |
| 13:45A-21 | Sale of Kosher food | 16 N.J.R. 220(a) | R.1984 d.113 | 16 N.J.R. 741(a) |
| 13:47B | Readopted: rules on General Weighing and Measuring Devices | 15 N.J.R. 1925(a) | R.1984 d.6 | 16 N.J.R. 249(a) |
| 13:47C-1.1, 3.6 | Industry standards for treated lumber | 15 N.J.R. 1835(a) | R.1984 d.5 | 16 N.J.R. 249(b) |
| 13:70-3.5, 3.6 | Thoroughbred rules: racing associations | 15 N.J.R. 1928(a) | R.1984 d.43 | 16 N.J.R. 377(a) |
| 13:70-4 | Readopted certain Thoroughbred rules | 16 N.J.R. 221(a) | R.1984 d.103 | 16 N.J.R. 742(a) |
| 13:70-4 | Correction: expiration date of certain Thoroughbred rules | 16 N.J.R. 221(a) | R.1984 d.103 | 16 N.J.R. 1360(a) |
| 13:70-6 | Thoroughbred rules: readopted Entries and Subscriptions | 16 N.J.R. 690(a) | R.1984 d.213 | 16 N.J.R. 1361(a) |
| 13:70-6.53 | Thoroughbred rules: New Jersey stallions | 15 N.J.R. 2147(a) | R.1984 d.45 | 16 N.J.R. 378(a) |
| 13:70-14.16 | Thoroughbred rules: equine fatality report | 16 N.J.R. 222(a) | R.1984 d.104 | 16 N.J.R. 743(a) |
| 13:71-6.25 -6.30 | Harness racing: association rules | 15 N.J.R. 1928(b) | R.1984 d.44 | 16 N.J.R. 378(b) |
| 13:71-7, 8, 17 | Readopted certain Harness rules | 16 N.J.R. 221(a) | R.1984 d.103 | 16 N.J.R. 742(a) |
| 13:71-7, 8, 17 | Correction: expiration date of certain Harness Racing rules | 16 N.J.R. 221(a) | R.1984 d.103 | 16 N.J.R. 1360(a) |
| 13:71-7.25, 7.26 | Harness racing: application for driver's license | 16 N.J.R. 691(a) | R.1984 d.214 | 16 N.J.R. 1361(b) |
| 13:71-20.24 | Harness rules: equine fatality report | 16 N.J.R. 224(a) | R.1984 d.105 | 16 N.J.R. 743(b) |

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| 14:1-3.3 | Board proceedings and ex parte communications | 14 N.J.R. 1148(a) | R.1983 d.415 | 15 N.J.R. 1667(c) |
| 14:3-3.6 | Diversion-of-service disputes | 15 N.J.R. 787(a) | R.1983 d.526 | 15 N.J.R. 1949(a) |
| 14:3-7.5 | Customer accounts: deposits for service | 16 N.J.R. 1355(a) | R.1984 d.87 | 16 N.J.R. 744(a) |
| 14:3-7.11A | Uniform budgeting plan for residential customers | 15 N.J.R. 1235(a) | R.1984 d.651 | 16 N.J.R. 250(a) |
| 14:3-7.16 | Diversion-of-service disputes | 15 N.J.R. 787(a) | R.1983 d.526 | 15 N.J.R. 949(a) |
| 14:17-6.21 | CATV: petitions to set aside variance refusal | 16 N.J.R. 125(a) | R.1984 d.167 | 16 N.J.R. 1096(a) |
| 14:17-18 | Cable television: common tariff rate-making | 15 N.J.R. 1356(a) | R.1983 d.435 | 15 N.J.R. 1673(a) |
| 14:18-11 | Readopted: CATV application for municipal consent and certification rules | 15 N.J.R. 874(a) | R.1983 d.346 | 15 N.J.R. 1483(a) |

(Title 14, Transmittal 16 dated June 21, 1982)

ENERGY—TITLE 14A

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|------------------------------|--|-------------------|--------------|-------------------|
| 14A:2-3 | Readopted: Emergency allocation rules for motor gasoline | 16 N.J.R. 419(a) | R.1984 d.162 | 16 N.J.R. 1097(a) |
| 14A:2-6 | Suppliers of motor gasoline (recodified from 14A:11-1) | 16 N.J.R. 224(b) | R.1984 d.86 | 16 N.J.R. 745(a) |
| 14A:3 | Correction: Expiration date of N.J.A.C. 14A:3, Energy Conservation | _____ | _____ | 15 N.J.R. 701(a) |
| 14A:3-1, 2, 3, 4, 6, 7, 8, 9 | Readopted: Energy Conservation rules | 15 N.J.R. 789(a) | R.1983 d.298 | 15 N.J.R. 1256(b) |
| 14A:3-11.3, 11.5 | Designation of used oil collection sites | 13 N.J.R. 681(a) | R.1982 d.262 | 14 N.J.R. 919(d) |
| 14A:3-15.8 | Recycling grants and loans: Supplementary projects | 14 N.J.R. 1346(a) | R.1983 d.119 | 15 N.J.R. 622(d) |
| 14A:4 | Solar energy systems: readopted standards and qualifications for tax exemption | 15 N.J.R. 1448(a) | R.1983 d.487 | 15 N.J.R. 1867(a) |
| 14A:4-1.3, 2.1, 2.2, 2.3 | Solar systems: qualifications for property tax deduction | 16 N.J.R. 34(a) | R.1984 d.53 | 16 N.J.R. 429(a) |
| 14A:5 | Solar energy systems: readopted sales tax exemption rules | 15 N.J.R. 1450(a) | R.1983 d.486 | 15 N.J.R. 1867(b) |
| 14A:5-1.3, 2.1, 2.2, 2.3 | Solar systems: qualifications for sales tax exemption | 16 N.J.R. 37(a) | R.1984 d.52 | 16 N.J.R. 430(a) |
| 14A:6-1.5, 1.7 | Recycling Grants and Loans | 16 N.J.R. 6(a) | R.1984 d.75 | 16 N.J.R. 535(b) |
| 14A:11-1 | Reporting of energy information: readopted Suppliers of Motor Gasoline rules | 16 N.J.R. 224(b) | R.1984 d.86 | 16 N.J.R. 745(a) |
| 14A:12-1 | Computing cost savings in shared-savings contracts | 14 N.J.R. 820(a) | R.1983 d.10 | 15 N.J.R. 158(d) |
| 14A:14 | Certificates of need for electric facilities | 15 N.J.R. 1735(b) | R.1984 d.2 | 16 N.J.R. 250(b) |
| 14A:22 | Commercial and Apartment Conservation Service Program | 16 N.J.R. 349(a) | R.1984 d.215 | 16 N.J.R. 1362(a) |

(Title 14A, Transmittal 8 dated June 21, 1982)

STATE—TITLE 15

(Title 15, Transmittal 14 dated January 3, 1984)

PUBLIC ADVOCATE—TITLE 15A

(Title 15A, Transmittal 1 dated March 20, 1978)

TRANSPORTATION—TITLE 16

| | | | | |
|------------|--|-------------------|--------------|-------------------|
| 16:2 | Readopted: Award of Contracts for Professional services | 15 N.J.R. 1176(a) | R.1983 d.410 | 15 N.J.R. 1668(a) |
| 16:16 | Readopted: State aid for municipal operation and construction of roads | 15 N.J.R. 1505(a) | R.1983 d.494 | 15 N.J.R. 1867(c) |
| 16:17 | Readopted: State aid for municipal operation and construction of roads | 15 N.J.R. 1505(a) | R.1983 d.494 | 15 N.J.R. 1867(c) |
| 16:21A | Bridge Rehabilitation and Improvement Fund: local aid | Emergency | R.1984 d.64 | 16 N.J.R. 437(a) |
| 16:25-13 | Railroad crossing and bridge cases | 14 N.J.R. 1197(a) | R.1983 d.45 | 15 N.J.R. 341(a) |
| 16:28-1 | Readopted: State traffic rules | 15 N.J.R. 1450(b) | R.1983 d.495 | 15 N.J.R. 1867(d) |
| 16:28-1.2 | Speed rate, Route 1-80 interchange, Morris County | 15 N.J.R. 877(a) | R.1983 d.329 | 15 N.J.R. 1868(a) |
| 16:28-1.22 | Speed rate on Route 109 in Cape May County | 15 N.J.R. 1358(a) | R.1983 d.438 | 15 N.J.R. 1868(e) |
| 16:28-1.23 | School speed zone on Route 18 in Old Bridge | Emergency | R.1982 d.465 | 15 N.J.R. 41(a) |
| 16:28-1.23 | Speed rate on Route 18 in East Brunswick | 14 N.J.R. 1446(a) | R.1983 d.51 | 15 N.J.R. 341(b) |
| 16:28-1.23 | Readopted school zone on Route 18 in Old Bridge | 15 N.J.R. 41(a) | R.1983 d.70 | 15 N.J.R. 448(a) |
| 16:28-1.23 | Speed limits on Route 18 in Monmouth and Middlesex Counties | 15 N.J.R. 519(a) | R.1983 d.232 | 15 N.J.R. 1036(a) |
| 16:28-1.44 | Speed rate on Route 27, Somerset and Middlesex counties | 16 N.J.R. 39(a) | R.1984 d.71 | 16 N.J.R. 553(a) |
| 16:28-1.69 | Speed rates on US130 in Gloucester County | 14 N.J.R. 824(a) | R.1982 d.323 | 14 N.J.R. 1060(d) |
| 16:28-1.69 | Speed rates on US 130 in North Brunswick | 14 N.J.R. 1197(b) | R.1982 d.499 | 15 N.J.R. 94(c) |
| 16:28-1.75 | Speed rates on Route 36 in Monmouth County | 15 N.J.R. 1236(a) | R.1983 d.417 | 15 N.J.R. 1869(d) |
| 16:28-1.90 | School zone on Route 166 in Dover Twp. | 15 N.J.R. 520(a) | R.1983 d.231 | 15 N.J.R. 1036(b) |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT CITATION | ADOPTION NOTICE (N.J.R. CITATION) |
|---|---|--|------------------------------|--|
| 16:28-1.158 | Speed rates on Route 179 in Hunterdon County | 16 N.J.R. 852(a) | R.1984 d.250 | 16 N.J.R. 1616(a) |
| 16:28A-1 | Readopted: State traffic rules | 15 N.J.R. 1450(b) | R.1983 d.495 | 15 N.J.R. 1867(d) |
| 16:28A-1.1, 1.2, 1.4, 1.7 | Parking on Routes US1, 1 and 9, 4, US9 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.1, 1.57, 1.84 | Parking on US1 and 206, Mercer County; Route 159, Morris-Essex | 16 N.J.R. 853(a) | R.1984 d.251 | 16 N.J.R. 1616(b) |
| 16:28A-1.2 | Parking on Routes 1 and 9 in Newark | 14 N.J.R. 1049(a) | R.1982 d.420 | 14 N.J.R. 1402(a) |
| 16:28A-1.2, 1.7, 1.18, 1.19, 1.25, 1.64 | Parking on US1 and 9, US9, Routes 27, 28, 35, 41 | 15 N.J.R. 1739(a) | R.1983 d.581 | 15 N.J.R. 2174(a) |
| 16:28A-1.3, 1.5 | Parking on Routes 3 and 5 | 14 N.J.R. 552(b) | R.1982 d.247 | 14 N.J.R. 919(e) |
| 16:28A-1.4 | Bus stops on Route 4 in Elmwood Park | 14 N.J.R. 825(a) | R.1982 d.328 | 14 N.J.R. 1100(b) |
| 16:28A-1.4 | Parking on Route 4 in Fair Lawn | 15 N.J.R. 1632(a) | R.1983 d.559 | 15 N.J.R. 2045(a) |
| 16:28A-1.4 | Parking on Route 4 in Hackensack | 16 N.J.R. 854(a) | R.1984 d.252 | 16 N.J.R. 1617(a) |
| 16:28A-1.5, 1.68 | Parking on Routes 5 and 93 in Bergen County | 15 N.J.R. 1836(a) | R.1983 d.617 | 16 N.J.R. 147(a) |
| 16:28A-1.6 | Parking on Route 7 | 14 N.J.R. 424(a) | R.1982 d.203 | 14 N.J.R. 710(a) |
| 16:28A-1.7 | Parking on US 9 in Dover Twp, Ocean County | 15 N.J.R. 686(a) | R.1983 d.279 | 15 N.J.R. 1181(c) |
| 16:28A-1.7, 1.18 | Parking on US 9 (Freehold) and Route 27 (Rahway) | 16 N.J.R. 126(a) | R.1984 d.102 | 16 N.J.R. 745(b) |
| 16:28A-1.7, 1.89 | Parking on US 9 in Freehold; I-280 collector-distributor road, Orange | 16 N.J.R. 855(a) | R.1984 d.253 | 16 N.J.R. 1617(b) |
| 16:28A-1.8 | Parking and bus stops on Route 10 | 14 N.J.R. 464(b) | R.1982 d.223 | 14 N.J.R. 838(a) |
| 16:28A-1.9 | Readopted: Route 17 parking in Mahwah | 14 N.J.R. 429(e) | R.1982 d.201 | 14 N.J.R. 710(b) |
| 16:28A-1.9 | Parking on Route 17 in Paramus | 15 N.J.R. 520(b) | R.1983 d.228 | 15 N.J.R. 1036(c) |
| 16:28A-1.9, 1.10, 1.11, 1.13, 1.15 | Parking on Routes 17, 20, 21, US22, 23 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.13 | Parking on US 22 | 14 N.J.R. 753(a) | R.1982 d.313 | 14 N.J.R. 1061(a) |
| 16:28A-1.13 | Parking on US 22 | 14 N.J.R. 1198(a) | R.1982 d.500 | 15 N.J.R. 94(d) |
| 16:28A-1.13, 1.16, 1.37, 1.67, 1.76, 1.97, 1.98 | Parking on US 22, Routes 24, 70, 63, 37, US1 Alternate, Route 56 | 16 N.J.R. 85(b) | R.1984 d.254 | 16 N.J.R. 1618(a) |
| 16:28A-1.13, 1.31 | Parking on US 22 and Route 45 | 15 N.J.R. 1740(a) | R.1983 d.577 | 15 N.J.R. 2175(a) |
| 16:28A-1.15 | Parking on Route 23 (Temporary) | 14 N.J.R. 1199(a) | R.1982 d.501 | 15 N.J.R. 95(a) |
| 16:28A-1.15 | Parking on Route 23 in Sussex County | Emergency | R.1983 d.96 | 15 N.J.R. 555(a) |
| 16:28A-1.15 | Readopted: Parking on Route 23 in Sussex County | 15 N.J.R. 555(a) | R.1983 d.225 | 15 N.J.R. 1036(d) |
| 16:28A-1.16 | Route 24 parking | 14 N.J.R. 553(a) | R.1982 d.248 | 14 N.J.R. 919(f) |
| 16:28A-1.18 | Parking on Route 27 | 14 N.J.R. 554(a) | R.1982 d.249 | 14 N.J.R. 920(a) |
| 16:28A-1.18 | Route 27 parking in South Brunswick | 15 N.J.R. 317(a) | R.1983 d.150 | 15 N.J.R. 807(d) |
| 16:28A-1.18, 1.19 | Parking on Routes 27, 28 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.19 | Handicapped parking on Route 28 in Elizabeth | 15 N.J.R. 1237(a) | R.1983 d.408 | 15 N.J.R. 1868(c) |
| 16:28A-1.20, 1.21 | Parking on Routes 29 and US 30 | 14 N.J.R. 554(b) | R.1982 d.250 | 14 N.J.R. 920(b) |
| 16:28A-1.21 | Parking on US30 | 14 N.J.R. 825(b) | R.1982 d.322 | 14 N.J.R. 1061(b) |
| 16:28A-1.21 | Parking on US30 in Atlantic County and Route 94 in Sussex County | 15 N.J.R. 1080(a) | R.1983 d.377 | 15 N.J.R. 1868(d) |
| 16:28A-1.22 | Parking on Route 31 | 14 N.J.R. 555(a) | R.1982 d.251 | 14 N.J.R. 920(c) |
| 16:28A-1.23, 1.24, 1.25 | Parking on Routes 33, 34, 35 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.24, 1.26 | Parking on Routes 34 and 36 | 15 N.J.R. 1633(a) | R.1983 d.557 | 15 N.J.R. 2045(b) |
| 16:28A-1.25 | Route 35 parking | 14 N.J.R. 1198(a) | R.1982 d.500 | 15 N.J.R. 94(d) |
| 16:28A-1.25 | Route 35 parking | 14 N.J.R. 1199(a) | R.1982 d.501 | 15 N.J.R. 95(a) |
| 16:28A-1.25 | Route 35 parking in Dover Township | 15 N.J.R. 318(a) | R.1983 d.151 | 15 N.J.R. 808(a) |
| 16:28A-1.25 | Parking on Route 35 in Old Bridge | 15 N.J.R. 792(a) | R.1983 d.297 | 15 N.J.R. 1256(c) |
| 16:28A-1.25, 1.61 | Parking on Routes 35 and US 9W | 15 N.J.R. 1634(a) | R.1983 d.558 | 15 N.J.R. 2045(c) |
| 16:28A-1.26, 1.27 | Parking on Routes 36, 38 | 14 N.J.R. 702(b) | R.1982 d.312 | 14 N.J.R. 1061(c) |
| 16:28A-1.27 | Parking on Route 38 | 14 N.J.R. 424(a) | R.1982 d.203 | 14 N.J.R. 710(a) |
| 16:28A-1.27 | Parking on Route 38 | 14 N.J.R. 753(a) | R.1982 d.313 | 14 N.J.R. 1061(a) |
| 16:28A-1.28, 1.31, 1.32 | Parking on Routes 40, 45, 46 | 14 N.J.R. 702(b) | R.1982 d.312 | 14 N.J.R. 1061(c) |
| 16:28A-1.31 | Bus stops on Routes 45 and 77 in Gloucester County | 15 N.J.R. 1358(b) | R.1983 d.437 | 15 N.J.R. 1869(a) |
| 16:28A-1.31, 1.91 | Parking on Route 45 in Gloucester County; US1 Alternate in Mercer County | 16 N.J.R. 858(a) | R.1984 d.255 | 16 N.J.R. 1619(a) |
| 16:28A-1.33 | Parking on Route 47 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.33 | Parking on Route 47 in Glassboro | 15 N.J.R. 1559(b) | R.1983 d.531 | 15 N.J.R. 1954(a) |
| 16:28A-1.33 | Parking on Routes 47 (Deptford) and 73 (Mt. Laurel) | 15 N.J.R. 1451(a) | R.1983 d.478 | 15 N.J.R. 1869(b) |
| 16:28A-1.34 | Parking on Route 49 | 14 N.J.R. 554(a) | R.1982 d.249 | 14 N.J.R. 920(a) |
| 16:28A-1.34 | Parking on Route 49 in Millville | 14 N.J.R. 1283(a) | R.1983 d.1 | 15 N.J.R. 162(a) |
| 16:28A-1.36, 1.37 | Parking on Routes 57, 70 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.37 | Parking on Route 70 in Lakehurst | 15 N.J.R. 426(a) | R.1983 d.172 | 15 N.J.R. 929(a) |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT CITATION | ADOPTION NOTICE (N.J.R. CITATION) |
|--|--|--|--------------------------|--|
| 16:28A-1.37 | Parking on Routes 70 and 183 in Camden and Sussex Counties | 15 N.J.R. 1560(a) | R.1983 d.532 | 15 N.J.R. 1954(b) |
| 16:28A-1.38 | Parking on Route 71 in Spring Lake Heights | 15 N.J.R. 686(a) | R.1983 d.279 | 15 N.J.R. 1181(c) |
| 16:28-1.38, 1.40, 1.41, 1.42, 1.45, 1.46 | Parking on Routes 71, 73, 77, 79, 94, US 130 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.40 | Parking on Routes 47 (Deptford) and 73 (Mt. Laurel) | 15 N.J.R. 1451(a) | R.1983 d.478 | 15 N.J.R. 1869(b) |
| 16:28A-1.41 | Bus stops on Routes 45 and 77 in Gloucester County | 15 N.J.R. 1358(b) | R.1983 d.437 | 15 N.J.R. 1869(a) |
| 16:28A-1.43 | Parking on Route 82 in Springfield | 15 N.J.R. 1452(a) | R.1983 d.479 | 15 N.J.R. 1869(c) |
| 16:28A-1.43 | Parking on Routes 82 and 208 in Union and Fair Lawn | 15 N.J.R. 1562(a) | R.1983 d.533 | 15 N.J.R. 1954(c) |
| 16:28A-1.45 | Parking on US30 in Atlantic County and Route 94 in Sussex County | 15 N.J.R. 1080(a) | R.1983 d.377 | 15 N.J.R. 1868(d) |
| 16:28A-1.50, 1.51 | Parking on Routes 166, 168 | 14 N.J.R. 702(b) | R.1982 d.312 | 14 N.J.R. 1061(c) |
| 16:28A-1.52, 1.55, 1.57 | Parking on Routes 173, US 202, US 206 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.53 | Parking on Route 179 in E. Amwell | 15 N.J.R. 1929(a) | R.1983 d.645 | 16 N.J.R. 147(b) |
| 16:28A-1.55 | Parking on US 202 in Morris Township | 15 N.J.R. 131(a) | R.1983 d.111 | 15 N.J.R. 626(d) |
| 16:28A-1.55 | Parking on US 202 in Morris Plains | 16 N.J.R. 512(a) | R.1984 d.249 | 16 N.J.R. 1615(a) |
| 16:28A-1.56, 1.63 | Parking on US 202-206 and 202-31 | 14 N.J.R. 556(a) | R.1982 d.252 | 14 N.J.R. 920(d) |
| 16:28A-1.61 | Bustops and parking on US 9W | 14 N.J.R. 465(a) | R.1982 d.224 | 14 N.J.R. 838(b) |
| 16:28A-1.61 | Parking on US 9W in Fort Lee | 15 N.J.R. 521(a) | R.1983 d.227 | 15 N.J.R. 1036(e) |
| 16:28A-1.64 | Parking on Route 41 | 14 N.J.R. 425(a) | R.1982 d.202 | 14 N.J.R. 710(c) |
| 16:28A-1.64 | Parking on Route 41 in Cherry Hill | 14 N.J.R. 1446(b) | R.1983 d.52 | 15 N.J.R. 342(a) |
| 16:28A-1.65 | Parking on Route 15 | 14 N.J.R. 466(a) | R.1982 d.226 | 14 N.J.R. 838(c) |
| 16:28A-1.65 | Route 15 Parking | 14 N.J.R. 1198(a) | R.1982 d.500 | 15 N.J.R. 94(d) |
| 16:28A-1.67, 1.71 | Parking on Routes 63, 67 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.68, 1.70 | Parking on Routes 93, 439 | 14 N.J.R. 702(b) | R.1982 d.312 | 14 N.J.R. 1061(c) |
| 16:28A-1.70 | Parking on Route 439 in Elizabeth | 15 N.J.R. 521(b) | R.1983 d.226 | 15 N.J.R. 1037(a) |
| 16:28A-1.70 | Handicapped parking on Route 439 in Elizabeth | 15 N.J.R. 1012(a) | R.1983 d.362 | 15 N.J.R. 1868(b) |
| 16:28A-1.72, 1.73 | Parking on Routes 31-57 and 32 | 14 N.J.R. 555(a) | R.1982 d.251 | 14 N.J.R. 920(c) |
| 16:28A-1.74-1.94 | Parking on Routes 33-34, 35, 35-71, 37, US 40-50, 53, 59, I-80, 87, US 130, 33, 153, 159, 161, 182, 62, 208, 280, I-280, 287, I-295, US322, US322-45 | 14 N.J.R. 637(a) | R.1982 d.283 | 14 N.J.R. 982(a) |
| 16:28A-1.81 | Parking along Route 87 in Atlantic City | 15 N.J.R. 234(a) | R.1983 d.130 | 15 N.J.R. 694(a) |
| 16:28A-1.88 | Parking on Routes 82 and 208 in Union and Fair Lawn | 15 N.J.R. 1562(a) | R.1983 d.533 | 15 N.J.R. 1954(c) |
| 16:28A-1.95 | Readopted: Parking on Rising Sun Square Road | 14 N.J.R. 825(b) | R.1982 d.322 | 14 N.J.R. 1061(b) |
| 16:28A-1.96 | Parking on Routes 70 and 183 in Camden and Sussex Counties | 15 N.J.R. 1560(a) | R.1983 d.532 | 15 N.J.R. 1954(b) |
| 16:28A-2 | Readopted: State traffic rules | 15 N.J.R. 1450(b) | R.1983 d.495 | 15 N.J.R. 1867(d) |
| 16:29 | Readopted: State traffic rules | 15 N.J.R. 1450(b) | R.1983 d.495 | 15 N.J.R. 1867(d) |
| 16:29-1.3, 1.20, 1.24-1.28 | No passing zone changes | 14 N.J.R. 1283(b) | R.1983 d.2 | 15 N.J.R. 162(b) |
| 16:29-1.10, 1.29 - 1.34 | No passing zones on Routes 49, 37, 68, 175, 170, 52, 83 | 15 N.J.R. 2148(a) | R.1984 d.32 | 16 N.J.R. 379(a) |
| 16:30 | Readopted: State traffic rules | 15 N.J.R. 1450(b) | R.1983 d.495 | 15 N.J.R. 1867(d) |
| 16:30-2.5 | Stop intersection on Route 71, Oceanport-Eatontown | 15 N.J.R. 318(b) | R.1983 d.152 | 15 N.J.R. 808(b) |
| 16:30-2.6 | Readopted: Stop sign on Old Yorke Road | 14 N.J.R. 990(a) | R.1982 d.414 | 14 N.J.R. 1402(b) |
| 16:30-2.6 | Stop intersection: Rising Sun Square-Old York Road, Bordentown | 15 N.J.R. 1359(a) | R.1983 d.436 | 15 N.J.R. 1869(e) |
| 16:30-2.7, 2.8 | Yield intersections: Routes 31 (Clinton) and 23 (Wayne) | 15 N.J.R. 1636(a) | R.1983 d.560 | 15 N.J.R. 2046(a) |
| 16:30-3.4 | Readopted: US9 bus and HOV lane | 14 N.J.R. 661(b) | R.1982 d.299 | 14 N.J.R. 982(c) |
| 16:30-3.6 | Repealed: HOV lanes on Parkway | 14 N.J.R. 662(a) | R.1982 d.294 | 14 N.J.R. 982(d) |
| 16:30-3.7 | Bus lane on US 22 in Westfield-Mountainside | 15 N.J.R. 522(a) | R.1983 d.229 | 15 N.J.R. 1037(b) |
| 16:30-7.5 | Exclusion of trucks on US1 and 9, Pulaski Skyway | 15 N.J.R. 1506(a) | R.1983 d.480 | 15 N.J.R. 1870(a) |
| 16:30-9.1 | Drawbridge use on Route 35 in OldBridge-Sayerville | 15 N.J.R. 132(a) | R.1983 d.106 | 15 N.J.R. 554(b) |
| 16:30-10.1 | Mid-block crosswalk on Route 28 in Somerville | 15 N.J.R. 1837(a) | R.1983 d.616 | 16 N.J.R. 147(c) |
| 16:30-10.2 | Crosswalk on US 206, Morris County | 16 N.J.R. 859(a) | R.1984 d.256 | 16 N.J.R. 1620(a) |
| 16:31 | Readopted: State traffic rules | 15 N.J.R. 1450(b) | R.1983 d.495 | 15 N.J.R. 1867(d) |
| 16:31-1.1 | U turns on US 206 in Bordentown | 15 N.J.R. 426(b) | R.1983 d.173 | 15 N.J.R. 930(a) |
| 16:31-1.1 | Turns on US 206 in Somerset County | 15 N.J.R. 522(b) | R.1983 d.230 | 15 N.J.R. 1037(c) |
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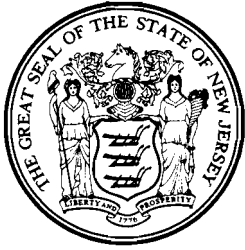
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