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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS*, PAGE 434.

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*MOST RECENT UPDATE TO ADMINISTRATIVE CODE: DECEMBER 16, 1985.
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE WILL BE DATED JANUARY 21, 1986.

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RULE PROPOSALS

Interested persons may submit, in writing, information or arguments concerning any of the following proposals until **March 20, 1986**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-3.5. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice.

COMMUNITY AFFAIRS

DIVISION OF HOUSING AND DEVELOPMENT

For proposals numbered PRN 1986-24 and 25, submit comments by March 20, 1986 to:

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

(a)

Uniform Construction Code Asbestos Hazard Abatement Subcode

Proposed Amendments: N.J.A.C. 5:23-8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.14, 8.15, 8.16

Proposed New Rules: N.J.A.C. 5:23-8.13, 8.17, 8.18, 8.20, 8.21

Authorized By: Gerome R. White, Jr., Acting
Commissioner, Department of Community Affairs.
Authority: N.J.S.A. 52:27D-124.
Proposal Number: PRN 1986-25.

The agency proposal follows:

Summary

The Department of Community Affairs, in cooperation with the Departments of Health and Labor seeks to modify the existing Asbestos Hazard Abatement Program rules. Asbestos, a material used in buildings to provide fire protection, has been found to create a health hazard in certain situations in which its fibers can get into the air.

Since the work of asbestos removal or containment necessarily involves alteration or repair of buildings, it must be done in accordance with the State Uniform Construction Code (N.J.A.C. 5:23). The proposed amendments introduce a third party, the asbestos safety control monitor firm with its employee, the asbestos safety technician, to act as an agent for the State of New Jersey to ensure that the provisions of this subchapter are met whenever asbestos hazard abatement is performed.

Other amendments to N.J.A.C. 5:23-8 are proposed to improve the regulations based upon the experience of the past months since their initial adoption.

This subchapter concerning asbestos abatement contains rules which deal with approval of asbestos safety control monitor firms, certification of asbestos safety technicians, permits, fees, licenses, certifications, required reports and documentation, inspection requirements, air monitoring, enforcement responsibilities and procedures and inspector certification. These rules will apply to buildings and structures in Use Group E as defined in the building subcode and State owned and State managed buildings. See definition of Use Group E in N.J.A.C. 5:23-8.2 for educational buildings affected.

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Social Impact

With this subchapter in effect, the Department will continue to implement an asbestos removal and containment program that will protect the health and welfare of people using those educational buildings and State owned and State managed buildings subject to these rules in which asbestos is now present.

Economic Impact

Permit fees are established for asbestos work. The authorization fees for Asbestos Safety Control Monitor firms will be \$2,000 plus five percent of the gross revenue earned from asbestos safety control monitor activities payable quarterly. There will be an application fee of \$30.00 for the Asbestos Safety Technician.

The procedure for asbestos removal will clearly impose costs upon property owners that would not otherwise exist. However, asbestos removal poses serious hazards not posed by other repair or alteration activities and the special procedures and requirements are necessary to protect the health, safety and welfare of all who use the building.

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

5:23-8.1 Title; scope; intent

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

(c) This subchapter, which pertains to Educational Facilities as defined in N.J.A.C. 5:23-8.2, and all State-owned and State-managed buildings, shall control matters relating to: construction permits for asbestos abatement; fees; licenses; certification; work permits; reports required; documentation; inspections by the [administrative authority having jurisdiction;] **asbestos safety technician**; air monitoring; enforcement responsibilities; [inspector certification;] and remedies and enforcement. Until further action is taken, this Subcode remains advisory for all other buildings and structures in the state.

(d) (No change.)

5:23-8.2 Definitions

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

...
"Asbestos Safety Control Monitor" means a business entity authorized pursuant to N.J.A.C. 5:23-8 to ensure compliance with the Asbestos Hazard Abatement Subcode.

"Asbestos Safety [Monitor] Technician" means a [private firm] **person** [approved] **certified** by the New Jersey Department of [Health] **Community Affairs**, hired by the [building owner,] **asbestos safety control monitor** who continuously monitors and inspects the asbestos abatement work pursuant to this subchapter. This [monitor] **person** shall be required to be on the job site during the time the asbestos abatement work is taking place and **perform all duties and responsibilities established by these regulations.**

"Barrier" means polyethylene sheeting that completely seals off the work area to prevent the distribution of fibers to surrounding area.]

"Bureau" means Bureau of Construction Code Enforcement, Division of Housing and Development, Department of Community Affairs.]

...

"Large asbestos hazard abatement job" means asbestos-containing materials which: involves the removal, [repair,] enclosure, or encapsulation within one year of 160 square feet or more of asbestos-containing material used on an equipment, wall, or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, within one year of 260 linear feet or more of asbestos-containing material on covered piping.

"Minor asbestos hazard abatement job" means [asbestos-containing materials which:] **corrective action using recommended work practices to minimize the likelihood of fiber release from small damaged areas of asbestos ceilings, pipe and boiler insulation** which involves the removal, repair, encapsulation or enclosure of 25 square feet or less of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, of 10 linear feet or less of asbestos-containing material on covered piping as delineated in N.J.A.C. 5:23-8.4. [Encapsulation by other methods and] **The repair [and], enclosure and encapsulation by methods other than pressurized spray** of any amount of asbestos-containing material, used to cover piping, shall also be a minor asbestos hazard abatement job.

"Negative pressure" means air pressure lower than surrounding areas, generally caused by exhausting air from a sealed space (work area).

...

"Repair" means corrective action using recommended work practices to minimize the likelihood of fiber release from small damaged areas of asbestos ceilings, pipe and boiler insulation. Repair may include but is not limited to: enclosure of pipe and boiler insulation, spot removal and replacement with non-asbestos materials, and spot encapsulation of ceiling materials with minor damage.]

"Sealant" means a liquid or solution to be used as a binding agent, such as a diluted encapsulant or a water based paint, on dried exposed surfaces from which asbestos containing material has been removed. The color of the coat shall be separate and distinct from the underlying substrate.

"Separation barrier" means a constructed wall with no door that separates the clean area from the work area having a fire rating, if applicable, and does not interfere with the means of egress. Polyethylene sheeting (minimum 2 layers of 6 mil) shall be placed on the work side of the barrier so that it completely seals off the work area to prevent the distribution of fibers to the surrounding area.

"Small asbestos hazard abatement job" means asbestos-containing materials which: involves the removal, [repair,] enclosure, or encapsulation within one year of more than 25 and less than 160 square feet of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, within one year of more than 10 and less than 260 linear feet of asbestos-containing material on covered piping.

"Wet cleaning" means the process of eliminating asbestos contamination from building surfaces and objects by using cloths, mops, or other cleaning utensils which have been dampened with amended water and afterwards thoroughly decontaminated or disposed of as asbestos contaminated waste.

"Work area" means the area where asbestos related work or removal operations are performed which is defined and/or isolated to prevent the spread of asbestos dust, fibers or debris, and entry by unauthorized personnel.

5:23-8.3 [Matters covered; exceptions] **Enforcement; licensing; special technical services**

(a) Except as is otherwise provided in 1. below, the provisions of this subchapter shall be enforced by municipal enforcing agencies **utilizing Asbestos Safety Control Monitors** (the [Bureau of Construction Code Enforcement] **New Jersey Department of Community Affairs**, hereafter cited as the [Bureau] **Department**, if applicable) and shall be administered and enforced uniformly throughout the State. [Any municipality shall be authorized to enforce this subchapter when staffed with at least one inspector who is certified pursuant to this subchapter.] This subchapter shall be in addition to existing regulations already adopted pursuant to the Uniform Construction Code Act (P.L. 1975, c.217 as amended) and known as the Regulations for the Uniform Construction Code (N.J.A.C. 5:23). This subchapter contains administrative procedure for the inspection of asbestos abatement work involving: removal; encapsulation; enclosure; repair; renovation or demolition work which disturbs asbestos in Educational Facilities.

1. Rules concerning exceptions are as follows:

i. State-owned or State-managed buildings: The [Division of Building and Construction, New Jersey Department of Treasury,] **Department utilizing asbestos safety control monitors** shall be the sole enforcing agency to administer and enforce the Asbestos Hazard Abatement Subcode with respect to State-owned or State-managed buildings.[where construction work is required to be contracted through the Division. This shall involve the issuance of permits; monitoring of asbestos projects; issuance of written notices to proceed and certificates of approval or occupancy; and any other provisions as may be deemed appropriate.]

(b) Except as is otherwise provided in 1. below, the joint regulations adopted by the New Jersey Department of Health and Labor, which are cited as N.J.A.C. 8:60 and N.J.A.C. 12:120, respectively, provide the licensing requirements of contractors who perform any of the functions of application, enclosure, removal or encapsulation.

1. Rules concerning [exceptions] **licenses** are as follows:

[i. Repair: A contractor is not required to be licensed to perform the function of repair.]

i. **A licensed contractor shall be required for a large asbestos hazard abatement job or a small asbestos hazard abatement job.**

ii. **A licensed contractor shall not be required for a minor asbestos hazard abatement job.**

(c) **Whenever the Asbestos Safety Control Monitor determines that the need for interpretations and/or assistance exists with regard to a particular project, the asbestos safety control monitor shall contact the department who shall make such determination deemed necessary. Such may include, but not be limited to:**

1. **Plan and specification services;**
2. **Site investigation;**
3. **Site inspections.**

5:23-8.4 Minor asbestos hazard abatement job

(a) Minor asbestos hazard abatement job, as defined in N.J.A.C. 5:23-8.2 involves asbestos abatement work which may be made without application or notice to the administrative authority having jurisdiction. This work requires general isolation of the work area from the surrounding environment, proper clean-up procedures, and shall be conducted by trained personnel who have successfully completed a training program for maintenance and custodial personnel and other construction trade groups which meets the applicable requirements of the New Jersey Public Employees OSHA or appli-

cable federal standards. Specific records of each minor asbestos hazard abatement job shall be kept on file at a central location by the owner of the facility and shall be open for review and audit by the administrative authority having jurisdiction and for public inspections during normal business hours. The information required shall be: exact locations of the worksite within the building, type of abatement work conducted, scope of work, type of replacement material used (if applicable), date, name(s) and address(es) of personnel, and the location of the disposal site. A copy of this information shall be sent to the administrative authority having jurisdiction each time a minor asbestos hazard abatement job takes place. **Mechanical, electrical, plumbing or general construction work which involves the incidental disturbance of less than 25 square feet of asbestos-containing material used on an equipment, wall or ceiling area, or less than 10 linear feet of asbestos-containing material on covered piping shall be considered a minor asbestos hazard abatement job.**

1. Exception: [Although asbestos abatement work involving enclosure of any amount of asbestos-containing material used to cover piping does not require a construction permit for asbestos abatement pursuant to this subchapter, it shall be considered construction work and, therefore, may require a construction permit issued by the administrative authority having jurisdiction pursuant to N.J.A.C. 5:23-2.] **Although the enclosure of any amount of asbestos-containing material used to cover pipe does not require a permit for asbestos abatement pursuant to this subchapter it shall be considered construction work. A construction permit, therefore, may be required by the administrative authority having jurisdiction pursuant to N.J.A.C. 5:23-2.**

5:23-8.6 Construction permit for asbestos abatement

(a) It shall be unlawful to undertake a large or small, but not a minor, asbestos hazard abatement job unless the owner, or an authorized representative on behalf of the owner, first files an application in writing with the administrative authority having jurisdiction and obtains the required permit. **This permit shall serve as notice for public record in the office of the administrative authority having jurisdiction. All work shall be monitored and controlled by the Asbestos Safety Control Monitor, who will advise the administrative authority having jurisdiction of its findings.** All asbestos abatement work shall be conducted in unoccupied buildings as approved by the New Jersey Departments of Community Affairs and Health, **county or local health departments, or a private business entity authorized by the New Jersey Department of Health** (and New Jersey Department of Education for public school projects). The type of asbestos abatement work to be performed and the amount of asbestos to be removed, encapsulated, enclosed or repaired shall be the governing factor in determining whether it is considered a large asbestos hazard abatement job, a small asbestos hazard abatement job or a minor asbestos hazard abatement job.

1. The [Bureau; Division of Building and Construction, New Jersey Department of Treasury] **Department** or a municipality **utilizing an Asbestos Safety Control Monitor** which has been authorized by the [Bureau] **Department** to enforce the Asbestos Hazard Abatement Subcode within its jurisdiction, shall be the sole enforcing agency for asbestos hazard abatement work.[which:]

[i. For the purposes of this subchapter, the following work shall be considered a large hazard abatement job: Involves the removal, repair, enclosure or encapsulation within one year of 160 square feet or more of asbestos-containing material used on an equipment, wall, or ceiling area; or involves the

removal, or encapsulation, using a liquid material applied by pressurized spray, within one year, of 260 linear feet or more of asbestos-containing material on covered piping.

ii. For the purposes of this subchapter, the following work shall be considered a small asbestos hazard abatement job: Involves the removal, repair, enclosure, or encapsulation within one year of more than 25 and less than 160 square feet of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by pressurized spray, within one year of more than 10 and less than 260 linear feet of asbestos-containing material on covered piping.]

(b) The application for a construction permit for asbestos abatement shall be subject to the following:

1. The application for a permit shall be submitted in such form as the [Bureau] **department** may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

2. The application for a construction permit for asbestos abatement shall be required to include the following:

i. The name, address and license number of the asbestos contractor pursuant to N.J.A.C. 12:120 Asbestos Licenses and Permits under the jurisdiction of the New Jersey Department of Labor;

ii. The asbestos hazard assessment [conducted] **prepared** by the New Jersey Department of Health, **county or local health department, or a private business entity, authorized by New Jersey Department of Health unless the requirement for an assessment has been waived by any of the above;**

iii. The name and address of the private air monitoring firm, hired by the building owner shall act as the Asbestos Safety Control Monitor [approved] **authorized** by the New Jersey Department of [Health] **Community Affairs** who will be responsible for continuously monitoring the asbestos abatement project;

[iv. The name and address of the analytical testing laboratory approved by the New Jersey Department of Health which shall analyze bulk, dust and air monitor samples, as needed;]

[v.] **iv. Plans and specifications (not less than [two] three sets) indicating the scope of the proposed work, [,] and the provisions proposed to contain the asbestos-containing material during abatement work showing but not limited to separation barriers, primary seal/critical barriers, route of travel of removing asbestos waste from the work site, a copy of the site plan and a floor plan indicating exits. [and scheduled starting and completion dates for the asbestos work project];**

[vi.] **v. Documentation that all buildings, except as approved by the New Jersey Department of Health, Education or Community Affairs, as appropriate, will be unoccupied at the time an asbestos abatement job takes place[.]. A building may be occupied only if the work area can be properly separated and sealed off from the occupied portion of the building.**

[vii.] **vi. The name and address of the New Jersey Department of Environmental Protection registered waste hauler and of the New Jersey Department of Environmental Protection registered landfill where the asbestos waste will be deposited.**

vii. The scheduled starting and completion dates for the asbestos abatement project.

(c) The issuance of a construction permit for asbestos abatement shall be subject to the following:

1. Submission of a completed application;

2. The described work and containment measures conform to the requirements of this subchapter and the requirements of any other applicable law or regulation adopted or enforced by any other State agency;

3. **A written release of the plans and specifications by the Asbestos Safety Control Monitor.**

4. **Cursory plan review shall be done by the authority having jurisdiction to determine the need of replacement material for maintaining the structural integrity of a building; if required, a separate construction permit shall be issued by the authority having jurisdiction. In addition, a review shall be done to ensure that means of egress is maintained in occupied buildings.**

(d) The issuance of the construction permit for asbestos abatement authorizes the preparation of the [job site.] **work area. This initial preparation of the work area shall be observed by the asbestos safety technician to ensure compliance with this subchapter.** No actual asbestos abatement work shall commence until:

1. A pre-commencement inspection has been conducted and approved by the [administrative authority having jurisdiction.] **asbestos safety technician.**

(e) (No change.)

(f) The applicant or contractor shall notify the following agencies in writing prior to the start of the asbestos abatement project. Such notice shall be supplied in the form of a copy of the completed application for a construction permit for asbestos abatement and a copy of the permit if the administrative authority is a municipal enforcing agency and not the [Bureau:] **department:**

1.-3. (No change.)

4. **New Jersey Department of Labor
Office of Asbestos Control and Licensing
CN 054**

Trenton, New Jersey 08625-0054

5. **U.S. Environmental Protection Agency
Asbestos NESHAPs Contact
Air & Waste Management Division
USEPA
26 Federal Plaza
New York, N.Y. 10007**

5:23-8.7 Inspections; violations

(a) Pre-commencement inspections shall be conducted as follows:

1. Notification to the [administrative authority having jurisdiction] **Asbestos Safety Control Monitor** shall be made by the applicant or contractor to request a pre-commencement inspection at least 48 hours in advance of the desired date of inspection. This inspection shall be requested each time another worksite is started in a multi-phase project.

2. The [inspector] **Asbestos Safety Technician** shall ensure that:

i. The job site is properly prepared and that all containment measures are in place pursuant to this subchapter;

ii. All workers shall present to the [inspector] **Asbestos Safety Technician** a valid work permit issued by the New Jersey Department of Labor;

iii. Measures for the disposal of removed asbestos material are in place and shall conform to the adopted standards;

[iv. The Asbestos Safety Monitor approved by the New Jersey Department of Health is on the job site and properly equipped to carry out the monitor's responsibilities;]

[v.] **iv. The contractor has a list of emergency telephone numbers at the job site which shall include the [monitoring] Asbestos Safety Control Monitor firm employed by the building owner and telephone numbers for fire, police, emergency squad, local hospital and health officer, New Jersey Department of Labor and New Jersey Department of Health.**

3. If all is in order, the [inspector] **Asbestos Safety Technician** [from the administrative authority having jurisdiction] shall issue a written notice to proceed **with the asbestos removal** in the field. If the job site is not in order, then any needed corrective action must be taken before any work is to commence. Conditional approvals shall not be granted.

(b) Progress inspections shall be conducted as follows:

1. Primary responsibility for ensuring that the asbestos abatement work progresses in accordance with this subchapter rests with the **Asbestos Safety [Monitor.] Technician**. This [monitor] **Asbestos Safety Technician** shall continuously be present to observe the progress of work and perform required **inspections and tests**.

[2. Inspections performed by inspectors from the administrative authority shall be unannounced and ensure that:

i. The Asbestos Safety Monitor is present and is performing all required tests and maintaining required records; and

ii. The work is progressing in accordance with this subchapter.]

[3.] 2. If the Asbestos Safety [Monitor] **Technician** observes irregularities at any time, the [monitor] **Asbestos Safety Technician** shall direct such corrective action as may be necessary. If the contractor fails to take the corrective action required, or if the contractor or any of their employees habitually and/or excessively violate the requirements of any regulation, then the Asbestos Safety [Monitor] **Technician** shall [inform the inspector from] **order the work stopped in writing. If the contractor fails to comply with the order, then the asbestos safety technician shall notify the administrative authority having jurisdiction who shall issue a Stop Work Order to the contractor [and] , have the work site secured until all violations are abated [.] and assess a penalty of \$500 which shall not be waived or settled for any reason.**

3. Where a sealant is required to be applied after removal, a pre-sealant inspection shall be conducted to ensure that all asbestos-containing material has been removed properly before the sealant is applied. If the pre-sealant inspection is acceptable to the asbestos safety technician, he should indicate this **acceptance in writing**.

(c) Clean-up inspections shall be conducted as follows:

1.-2. (No change.)

3. The [inspector] **Asbestos Safety Technician** [from the administrative authority having jurisdiction] shall ensure that:

i. (No change.)

[ii. All Asbestos Safety Monitor responsibilities have been properly performed and all records are complete and demonstrate compliance with this subchapter; and]

[iii.] ii. All removed asbestos has been properly [disposed of off-site in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq.] **placed in a locked secure container outside of the work area.**

4. If all is in order, the [inspector] **Asbestos Safety Technician** shall issue a written notice of authorization to remove barriers from the job site.

(d) Final inspections shall be conducted as follows:

1. Upon notice by the owner or by the contractor and at least 48 hours after the removal of the critical barriers, a final inspection shall be made to ensure the absence of any visible signs of asbestos or asbestos-containing materials[.] **and that all removed asbestos and asbestos contaminated materials have been properly disposed of off-site in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq. NOTE: A vehicle registered by the**

New Jersey Department of Environmental Protection shall be used.

(e) [Bureau] **Department** inspections shall be conducted as follows:

1. The [Bureau] **Department** shall make unannounced periodic inspections of any job-site involving asbestos abatement work.

(f) Violations: The [inspector] **Asbestos Safety Technician** shall ensure that the work conforms to this subchapter. If it is found that the asbestos abatement work is being conducted in violation of this subchapter, the [inspector] **Asbestos Safety Technician** shall [issue a Stop Work Order to the contractor and have the work site secured until all violations are abated.] **in writing order the work stopped. If the contractor fails to comply with the order, then the asbestos safety technician shall notify the administrative authority having jurisdiction who shall issue a stop work order to the contractor, have the work site secured until all violations are abated, and assess a penalty of \$500 which shall not be reduced or settled for any reason.**

5:23-8.8 Certificate of occupancy; certificate of [Approval] **completion**

(a) Certificate of occupancy requirements are as follows:

1. It shall be unlawful to [use or occupy] **re-occupy** the portion of [the] a building [affected by asbestos abatement in whole or in part] **which was vacated during an asbestos hazard abatement project** until a certificate of occupancy has been issued by the administrative authority having jurisdiction. The certificate of occupancy shall be issued [after the project has been successfully completed in which asbestos is disturbed and the work is conducted in an unoccupied building.] **upon receipt of a certificate of completion issued by the Asbestos Safety Control Monitor and verified by the administrative authority having jurisdiction that the building or a portion of a building is in conformance with all applicable requirements of the Uniform Construction Code and that any walls, floors, trim, doors, furniture or other items damaged during the work shall be repaired or refinished to match existing materials.**

2. The application for a certificate of occupancy shall be in writing and submitted in such form as the [Bureau] **department** may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

i. The application shall include the following:

(1) The name and address of the owner;

(2) The address of the building or structure;

(3) [The statement by the responsible person in charge of work, that to the best of his knowledge all work has been completed in accordance with the permit, the approved plans, and the regulations;] **Certificate of completion submitted by the asbestos safety control monitor;**

[(4) A statement of the final costs of the asbestos abatement project;]

[(5) The report of the Asbestos Safety Monitor, including all records and test data required; and]

[(6)] (4) Final air monitoring level of .01 fibers/cc or lower submitted by the Asbestos Safety Control Monitor.

3. If all the information required is complete and in accordance with this subchapter, [and if the final inspection reveals no visible evidence of asbestos,] a certificate of occupancy shall be issued.

[i. If the project fails to pass the final inspection or meet the final air monitoring level, a certificate shall not be issued until remedial measures are taken.]

(b) Certificate of [Approval] **Completion** requirements are as follows:

1. It shall be unlawful to [use or occupy the portion of the building affected by asbestos abatement in whole or part until a certificate of approval has been issued by the administrative authority having jurisdiction. The certificate of approval shall be issued after the project has been successfully completed and the work has been conducted in an occupied building.] **apply for a certificate of occupancy until a certificate of completion has been issued by the asbestos safety control monitor.**

2. **Within 5 days of completion of an asbestos hazard abatement job the owner/agent shall file for a certificate of completion from the asbestos safety control monitor.**

[2.] 3. The application for a certificate of [approval] **completion** shall be in writing and submitted in such form as the [Bureau] **department** may prescribe [and shall be accompanied by the required fee as provided for in this subchapter].

[i. The application shall include the information specified in (a) 2. i. (1) through (4) above.]

[3. If all the information required is complete and in accordance with this subchapter, and if the final inspection reveals no visible evidence of asbestos, a certificate of approval shall be issued.]

[i. If the project fails to pass the final inspection, a certificate shall not be issued until remedial measures are taken.]

4. **A certificate of completion shall be issued only if:**

i. **All information is complete.**

ii. **Final inspection by the asbestos safety technician reveals no visible evidence of asbestos.**

iii. **All requirements of this subcode have been met.**

iv. **Final air monitoring level of .01 fibers per cc or lower has been attained.**

5:23-8.9 Fees

(a) [Bureau of Construction Code Enforcement fees are as follows:] **The administrative authority having jurisdiction who issues the construction permit and the certificate of occupancy for an asbestos hazard abatement project shall establish by regulation/ordinance the following flat fee schedule:**

[i. The fee charged for a construction permit for asbestos abatement shall be based upon the estimated cost of the abatement work. The fee shall be charged according to the following rate: \$40.00 per \$1000.00 for each \$1000.00 increment up to \$50,000.00; \$32.00 per \$1000.00 for each \$1000.00 increment from \$50,001.00 to \$100,000.00; \$24.00 per \$1000.00 for each \$1000.00 above \$100,000.00. For the purpose of determining estimated cost, the applicant shall submit to the department, if available, cost data produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The department will make the final decision regarding estimated costs. This fee shall be paid before the permit is issued.]

[i. The minimum fee charged for a construction permit for asbestos abatement shall be \$300.00.] **1. An administrative fee of \$50 for each construction permit issued for an asbestos hazard abatement project.**

[2. The fee charged for a Certificate of Occupancy or a Certificate of Approval shall be in the amount of 10 percent of the construction permit for asbestos abatement fee which is charged pursuant to this subchapter.]

[i. The minimum fee charged for a certificate of occupancy or a certificate of approval pursuant to this subchapter shall be \$100.00.] **2. An administrative fee of \$10.00 for each certificate of occupancy issued following the successful completion of an asbestos hazard abatement project.**

(b) [Municipal enforcing agency fees are as follows:] **The authorization and reauthorization fees for the Asbestos Safety Control Monitor are defined in N.J.A.C. 5:23-8.17.**

[1. The fees charged for a construction permit for asbestos abatement, certificate of occupancy, and certificate of approval shall be set forth by Ordinance as provided in N.J.A.C. 5:23-4.17.]

5:23-8.10 Precautions and procedures during a large asbestos abatement job

(a) Protective clothing and equipment for asbestos abatement shall be subject to the following requirements:

1. The contractor shall provide the required respirators and **make available** protective clothing to all who may inspect or visit the job site;

2.-7. (No change.)

8. The contractor shall have available ladders and/or scaffolds of adequate length and sufficient quantity so that all work surfaces may be easily reached by [inspectors;] **asbestos safety technician and all others who may inspect the work;**

9. (No change.)

(b) (No change.)

(c) Preliminary preparations in the work area shall be conducted as follows:

1. The contractor shall provide and post in clearly visible locations, caution signs indicating that asbestos work is being conducted and that unprotected persons should not enter;

2. The contractor or persons employed by the building owner shall clean with wet cloths **and/or with HEPA vacuums as appropriate** all movable items that can be removed from the work area without disrupting the asbestos material. This shall include furniture, equipment, drapes, curtains. The cloths used for cleaning shall be disposed of as asbestos contaminated waste;

3.-5. (No change.)

(d) (No change.)

(e) Initial activity in the work area shall be conducted in the following order:

1. Remove filters from all heating, ventilating and air conditioning systems and place them in 6 mil plastic bags, doubled bagged with visible labels, for disposal as asbestos-containing waste and securely sealed by knotting the bag[.] **or by sealing the bag with high quality tape, all excess air shall be squeezed out of the bag before sealing to prevent punctures during disposal.** These bags should be handled in the same manner as removed asbestos;

2.-4. (No change.)

5. For floor covering two layers of 6 mil polyethylene sheeting shall be used. **The first layer of floor sheeting shall extend up the wall at least 12 inches.** [Floor sheeting] **The second layer shall be extended up sidewalls at least 24 inches.** Sheetting shall be sized so as to minimize the number of seams necessary. No seams shall be located at the joints between walls and floors;

6.-8. (No change.)

(f) Sequence of asbestos removal activities shall be conducted as follows:

1.-6. (No change.)

7. After completion of this removal phase (stripping), all surfaces from which asbestos has been removed shall be scrubbed using nylon [or], bristle **or wire** brushes and wet sponged or cleaned by an equivalent method to remove all visible asbestos containing material. During this work the surfaces being cleaned shall be kept wet using amended water. All disposal equipment shall be packaged for disposal. Con-

tainers shall be washed with amended water and shall have all exterior particulate matter removed prior to removal from the contaminated area.

8.-10. (No change.)

(g) Final clean-up work of the work area shall be conducted as follows in the order listed:

1. The contractor shall first clean all surfaces in the work area using a fine spray or mist of amended water applied to all surfaces followed by the wet-wiping procedure using disposable cloths. These cloths shall be disposed of or rinsed thoroughly on a frequency sufficient to eliminate visible accumulation of debris. Allow [24 hours] **all surfaces to dry** before re-entering the work area and proceeding to step No. 2 below of this procedure.

i. Notify the asbestos safety technician in writing that a pre-sealant inspection is requested.

2. After completion of cleaning all surfaces in the work area[,] **and upon receiving a satisfactory pre-sealant inspection**, the contractor shall spray coat all dried exposed surfaces with a [binding agent such as a diluted clear encapsulant or a water based paint.] **sealant. The color of this coat shall be separate and distinct from the underlying substrate.** The surfaces to be coated shall include surfaces from which asbestos-containing materials have been removed (such as ceilings) and polyethylene which has been used to cover walls, floors and non-removable fixtures and equipment.

3.-5. (No change.)

6. After completion of the cleaning operations the contractor shall:

i. Notify the [administrative authority having jurisdiction] **asbestos safety technician** that a clean-up inspection can be performed to [insure] **ensure** all visible asbestos has been removed and the area is dust free;

ii. Request air monitoring of the work area.

7. (No change.)

8. After the work area is found to be in compliance with the acceptance criteria, the following tasks shall be performed by the contractor:

i.-ii. (No change.)

[iii. Any walls, floors, trim, doors, furniture or other items damaged during the work shall be repaired and refinished to match existing material;]

9. Notice for a final inspection shall be made by the owner or contractor to the [administrative authority having jurisdiction.] **asbestos safety technician.**

10. Upon receiving a satisfactory final inspection, application for a Certificate of [Occupancy] **Completion** may be made.

5:23-8.11 Precautions and procedures during a small asbestos hazard abatement job

(a) Since this work may disturb small amounts of asbestos, it does not require the same level of precautions as with a large asbestos hazard abatement job, but it does require that all asbestos abatement work be performed by a licensed contractor and that the employees have valid work permits issued by the New Jersey Department of Labor. A construction permit shall be [issued.] **required.** An asbestos safety control monitor [approved] **authorized** by the New Jersey Department of [Health] **Community Affairs shall ensure compliance with the regulations [and] except** air monitoring will not be required [but the work will have to be contained and performed in accordance with established standards]. **However a final air sample shall be taken to ensure that the asbestos fiber content of the air is .01 fibers/cc or lower.**

1. Exception: The [administrative authority having jurisdiction] **Asbestos safety control monitor** may require [an asbestos safety monitor, with the responsibility of] air monitoring[,] and the installation of a decontamination unit consisting of a serial arrangement of rooms or spaces adjoining the work area or a decontamination trailer]. Reasons for which, but are not limited to, may be that] **when** the type of asbestos abatement work to be performed may involve a highly friable asbestos-containing material, or that the asbestos-containing material contains a high percentage of asbestos by weight, or because of the asbestos abatement procedure, the asbestos-containing material becomes highly friable. [The administrative authority shall receive written approval from the New Jersey Department of Community Affairs or the New Jersey Department of Health, which may require this additional measure.] **If the owner or contractor believes that such measures are not necessary, the owner or contractor may appeal the requirement to the New Jersey Department of Health, county or local department of health or a private business entity authorized by the New Jersey Department of Health which performed the hazard assessment.**

(b) The following minimum level of precautions and procedures shall be employed:

1.-6. (No change.)

7. Fans or blowers shall not be used to ventilate tunnels, basement areas or manholes before or during asbestos removal or repair work[;] **unless HEPA filter equipped. Note: Other safety precautions may be required for work in confined spaces such as these.**

8.-9. (No change.)

10. All asbestos waste shall be picked up while wet and shall be placed in 6 mil plastic bags, double bagged with visible labels for disposal as asbestos-containing waste, and securely sealed by knotting the bag[;] **or by sealing the bag with high quality tape.**

11. (No change.)

12. A final air sample shall be taken.

[12.] **13.** Asbestos waste must be disposed of in accordance with the regulations of the New Jersey Department of Environmental Protection, N.J.A.C. 7:26-1 et seq.

[13.] **14.** Outside contractors, who will be working in an area where asbestos materials are located, should be advised of its presence and cautioned to prevent disturbance of the material and possible exposure to the workers.

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

5:23-8.13 Glove bag technique

(a) **The removal of asbestos by use of the glove bag shall be limited to the removal of asbestos-containing insulation from pipe fittings, elbows and pipe.**

(b) **The preparation of the work area for glove bag removal shall include the following:**

1. A minimum of two persons are required to perform a glove bag removal project. A third person may be required to conduct air monitoring and assist with supplies.

2. The work area where the technique is to be utilized shall be roped off and warning signs posted on the perimeter to prevent unauthorized personnel from entering the work area.

3. All necessary materials and supplies shall be brought into the work area before any removal begins.

(c) **The following is a list of recommended equipment and tools for the removal of asbestos by the glove bag technique:**

1. The glove bag which consists of a 6 mil bag fitted with long sleeve gloves, a tool pouch and a two-inch opening used for water application:

2. A pump-up sprayer (garden type) with a two or three gallon capacity;
3. Amended water (water with a surfactant);
4. 6 mil polyethylene disposal bags with the proper markings for asbestos waste;
5. A HEPA filtered vacuum with a capillary tube for insertion into the glove bag;
6. Tools such as: a small scrub brush; a utility knife for cutting the insulation, a stapler; wire cutters; smoke tubes with aspirator bulb; a bone saw; tin snips; duct tape and wettable cloths;
7. A roll of 6 mil polyethylene;
8. An encapsulant (tinted).

(d) Removal procedures shall be conducted as follows:

1. A visual inspection of the pipe where the work will be performed shall be made to determine if any damaged pipe covering (broken lagging, hanging etc.) exists. If there is, the pipe shall be wrapped in polyethylene plastic and fully secured with duct tape. This procedure will prevent high airborne fiber concentrations from occurring during the glove bag work cause by pipe lagging, hanging several feet or even several yards away which may be jarred loose by the activity. Debris on the floor and other surfaces which has accumulated and contains asbestos must be cleaned up as necessary. If the pipe is undamaged, one layer of duct tape shall be placed around the pipe at each end of where the glovebag will be attached. This permits a good surface to which to seal the ends of the glovebag, and it minimizes the chance of releasing fibers when the tape at the ends of the glovebag is peeled off at the completion of the job.

2. Slit the top of the glovebag open (if necessary) and cut down the sides to accommodate the size of the pipe (about two inches longer than the pipe diameter).

3. Place the necessary tools into the pouch located inside the glovebag. This will usually include the bone saw, utility knife, rags, scrub brush, wire cutters, tin snips and pre-cut wettable cloth. Cut out a donut shape in the cloth with the inner diameter one-half-inch smaller than the diameter of the pipe beneath the insulation. The outer diameter of the donut should be three inches longer than the diameter of the pipe insulation being removed. Finally, cut a slit in each of the two donuts so they can be slipped around the pipe.

4. One strip of duct tape shall be placed along the edge of the open top slit of the glovebag for reinforcement.

5. Place the glovebag around the section of pipe to be worked on and staple the top together through the reinforcing duct tape. Staple at intervals of approximately one inch. Next, fold the stapled top flap back and tape it down with a strip of duct tape. This should provide an adequate seal along the top. Next, duct tape the ends of the glovebag to the pipe itself, previously covered with plastic or duct tape (see step 1 above).

6. Using the smoke tube and aspirator bulb, place the tube into the water sleeve (two-inch opening to glovebag). By squeezing the bulb, fill the bag with visible smoke. Remove the smoke tube and twist the water sleeve closed. While holding the water sleeve tightly, gently squeeze the glovebag and look for smoke leaking out, especially at the top and ends of the glovebag. If leaks are found, they shall be taped closed using duct tape and the bag shall be re-tested.

7. Insert the wand from the water sprayer through the water sleeve. Using duct tape, tape the water sleeve tightly around the wand to prevent leakage.

8. One person places their hands into the long-sleeved gloves while the second person directs the water spray at the work.

9. If the section of pipe is covered with an aluminum jacket, this is removed first using the wire cutters to cut any bands and

the tin snaps to remove the aluminum. It is important to fold the sharp edges in to prevent cutting the bag when it is placed in the bottom. A box may be put in the bottom of the bag when the tools are placed in, and the metal placed in the box to further protect the bag from being cut.

10. With the insulation exposed, using the bone saw, cut the insulation at each end of the section to be removed. A bone saw is a serrated heavy-gauge wire with ring-type handles at each end. Throughout this process, water is sprayed on the cutting area to keep dust to a minimum.

11. Once the ends are cut, the section of insulation should be slit from end to end using the utility knife. The cut should be made along the bottom of the pipe and water continuously supplied. Again, care should be taken when using the knife not to puncture the bag. Some insulation may have wire to be clipped as well. Again, a box may be used here as in step nine above to protect the bag from puncture.

12. Rinse all tools with water inside the bag and place back into pouch.

13. The insulation can now be lifted off the pipe and gently placed in the bottom of the bag, while the side of the insulation adjacent to the pipe is being thoroughly wetted.

14. Using the scrub brush, rags and water, scrub and wipe down the exposed pipe.

15. Wet the donut-shaped pieces of wettable cloth over the exposed ends of insulation remaining on the pipe.

16. Remove the water wand from the water sleeve and attach the small nozzle from the HEPA-filtered vacuum. Turn on the vacuum only briefly to collapse the bag.

17. Remove the vacuum nozzle and twist the water sleeve closed and seal with duct tape.

18. From outside the bag, pull the tool pouch away from the bag. Place duct tape over the twisted portion and then cut the tool bag from the glovebag, cutting through the twisted/taped section. In this manner, the contaminated tools may be placed directly into the next glovebag without cleaning. Alternatively, the tool pouch with the tools can be placed in a bucket of water, opened underwater, and the tools cleaned and dried without releasing asbestos into the air. Rags and the scrub brush cannot be cleaned in this manner and should be discarded with the asbestos waste. If more than one adjacent section of pipe is to be removed, the glovebag may be loosened at each end and slid along the pipe to the next section. In this case, the tools would remain in the bag for continued use.

19. With removed insulation in the bottom of the bag, twist the bag several times and tape it to keep the material in the bottom during removal of the glovebag from the pipe.

20. Slip a 6 mil disposal bag over the glovebag (still attached to the pipe). Remove the tape and open the top of the glovebag and fold it down into the disposal bag.

21. All surfaces in the work area shall be cleaned using disposable cloths wetted with amended water. These cloths shall be disposed of or rinsed thoroughly to eliminate visible accumulation of debris. Then, when these surfaces have been allowed to dry, all surfaces shall be cleaned again using a HEPA filtered vacuum.

22. Place any contaminated articles, debris, etc. into the bag with the waste.

23. Twist the top of the bag closed, fold this over, and seal with duct tape. Place this bag into a second 6 mil disposable bag, and seal as in the above manner. Label the bag with a warning label.

24. Asbestos-containing material shall be disposed of as specified in N.J.A.C. 5:23-8.14.

25. Air sampling shall be conducted after completion of glovebag projects to determine if undetected leakage occurred. Once the area has been found to be safe for re-entry by unprotected personnel, the barriers may be removed.

5:23-8.[13]14 Disposal of asbestos waste

(a) This subsection shall apply to the removal of asbestos from the job site and the disposal of asbestos waste.

1. Disposal of asbestos waste shall be conducted as follows:

i. A notification of intent to dispose of asbestos shall be sent to the New Jersey Department of Environmental Protection at least 10 days prior to actual disposal. The notification shall be sent to the Division of Waste Management, Bureau of Field Operations, 120 Route 156, Yardville, New Jersey 08620 pursuant to N.J.A.C. 7:26-1 et seq.

ii. All asbestos waste materials destined for disposal in New Jersey shall be wetted and packaged in permanently sealed, leaktight containers (such as 6 mil plastic bags, double bagged with visible labels) in accordance with 40 CFR 61.20-25 before it can be legally transported and disposed of in New Jersey. No haulage of loose asbestos is permitted.

iii. **A locked, secure container shall be provided if asbestos waste is to be stored outside unattended.**

[[iii].]iv. The notification of [(a)]ii) (a)i above shall include the following:

(1) Name, address, and telephone number of the removal project;

(2) Quantity and nature of the waste to be disposed;

(3) Name, address, and New Jersey Department of Environmental Protection registration number of the collector-handler;

(4) Name and address of the landfill at which disposal will occur;

(5) Date and time of disposal;

(6) A copy of any written notification required by 40 CFR 612.22 to 61.25.

[iv].]v. Asbestos waste which is properly packaged is classified as Waste ID No. 27, non-hazardous industrial waste, and shall be disposed of at a landfill which is registered by the New Jersey Department of Environmental Protection in conformance with the following:

(1) **The asbestos waste container shall be taken to the landfill by a vehicle that is registered by the New Jersey Department of Environmental Protection;**

[(1)](2) The landfill used must be registered by the New Jersey Department of Environmental Protection to accept Waste ID No. 27;

[(2)](3) The specific landfill facility chosen must be one designated by the New Jersey Department of Environmental Protection as the recipient facility for the community in which the removal project is located;

[(3)](4) The waste hauler must possess a valid solid waste transporter registration issued by the New Jersey Department of Environmental Protection. A licensed solid waste transporter shall be a commercial collector/hauler or shall be the removal company if they are so registered;

[(4)](5) Asbestos waste can be hauled in **trucks or in dumpster containers** provided the load is comprised only of asbestos in bags and does not contain any other wastes or asbestos-containing wastes which could compromise the integrity of the permanent containers;

[(5)](6) If rough surfaces or other materials are present in the load which could potentially puncture the permanent containers, then those containers shall be enclosed in temporary fiber or steel drums during loading, transport, and unloading

operations. In addition, asbestos wastes shall not be loaded into or hauled with vehicles containing compaction devices;

[(6)](7) To determine which landfill to use for a particular project, N.J.A.C. 7:26-6.5 shall be consulted.

5:23-8.[14]15 Duties of the asbestos Safety [Monitor]

Technician

(a) The asbestos safety [monitor] **technician** shall perform all air sampling specified in this subchapter, and shall be thoroughly familiar with this subchapter. He shall have access to all areas of the asbestos removal project at all times and shall continuously inspect and monitor the performance of the contractor to verify that said performance complies with this subchapter. The asbestos safety [monitor] **technician** shall be on site [throughout] **from the initial preparation of the work area and during** the entire abatement operation.

(b) The asbestos safety [monitor] **technician** shall have the authority to direct the actions of the contractor verbally and in writing to assure compliance. The [monitor] **asbestos safety technician** shall have authority to require that all workers present a valid work permit issued by the New Jersey Department of Labor before entering the worksite. The [monitor] **asbestos safety technician** shall have the authority to test the seal of the respirator of all who enter the worksite to ensure a proper fit. In matters of gross negligence and/or flagrant disregard for the safety of others including the possibility of contaminating the building environment and the appearance of an emergent, unsafe condition at the worksite, the [monitor] **asbestos safety technician** shall [have the authority to stop work. In the event of continual noncompliance or serious violation, the asbestos safety monitor shall notify the inspector from the administrative authority having jurisdiction who shall issue a written Stop Work Order to the contractor and have the work site secured until all violations are abated.] **direct such corrective action as may be necessary. If the contractor fails to take the corrective action, or if the contractor or any of their employees habitually and/or excessively violate the requirements of any regulation, then the asbestos safety technician shall order the work stopped in writing. If the contractor fails to comply with the order, then the asbestos safety technician shall notify the administrative authority having jurisdiction who shall issue a Stop Work Order to the contractor and have the work site secured until all violations are abated.**

(c) The asbestos safety [monitor] **technician** upon receipt of testing results indicating that concentrations above 0.01 fibers per cc have occurred outside the containment barriers or above 0.02 fibers/cc within the clean room of the decontamination chamber during the abatement action shall report these results within one working day verbally or by telephone communication if necessary to the contractor, the owner and the architect/engineer so that prompt corrective action may be taken. This telephone or verbal communication shall be followed by a written report **to the contractor, the owner and the architect/engineer** a copy of which shall be sent to the administrative authority having jurisdiction.

(d) The asbestos safety [monitor] **technician** shall keep a daily log of on-site observations concerning contractor's compliance with activities required under this subchapter[.] **listing all deficiencies encountered. In addition, this log shall list the names of all persons entering the work area.** This log shall be made available upon request at all times to the owner, the architect/engineer and to appropriate local and State agencies.

(e) The asbestos safety [monitor] **technician** shall [report results in] **prepare** a comprehensive final report, including daily logs, **required inspection reports**, observations and air

monitoring results. [simultaneously to the owner or his agent, the contractor and the New Jersey Department of Community Affairs within 20 working hours following final testing for re-occupancy. For public school projects only, the results of tests shall be reported also to the New Jersey Department of Education, Bureau of Facility Planning Services.] **The asbestos safety control monitor shall maintain the report as a permanent record, and present a copy to the owner and file a copy with the Department of Community Affairs within 20 working days.**

i. For public school projects only, the results of tests shall be reported also to the Department of Education, Bureau of Facility Planning Services.

(f) [Removal phase] During the removal phase the duties of the asbestos safety technician shall be [conducted] as follows:

1.-3. (No change.)

4. If the contractor's barriers or other control methods are observed to malfunction and if the contractor does not correct the problems immediately upon notification, the [monitor] **asbestos safety technician** shall inform the administrative authority having jurisdiction. In such a situation additional sampling of up to three samples per day shall be performed by the asbestos safety [monitor;] **technician;**

5.-7. (No change.)

8. A series of smoke tests shall be performed at the decontamination unit entrance/exit, by the asbestos safety [monitor] **technician** to ensure continuous negative air pressure. This test shall be performed before each work shift and every four hours thereafter until the work stops;

9. The asbestos safety [monitor] **technician** shall calculate the required number of negative air filtration units for each work area. This calculation shall be made whenever the volume of the work area changes. The asbestos safety [monitor] **technician** shall inform the owner, contractor and the architect/engineer of any discrepancies between the number of units required and those in operation within the work area. If problems are identified and not corrected, the [monitor] **asbestos safety technician** shall inform the administrative authority having jurisdiction.

10. A record shall be kept in a daily log of all on-site observations, **inspections** and required activities of the contractor[.], **asbestos safety technician and the owner.**

11. The asbestos safety technician shall ensure that all asbestos waste shall be removed from the worksite by a New Jersey Department of Environmental Protection registered waste hauler pursuant to N.J.A.C. 5:23-8.14 unless it is placed in a locked secure container outside of the work area prior to removal by a registered waste hauler in a registered vehicle.

(g) Post-removal test shall be conducted as follows:

1. Within 48 hours after final clean-up and before the removal of critical barriers, **a visual inspection and a final air test shall be performed.** This test is required to establish safe conditions for removal of critical barriers and to permit reconstruction activity to begin. Sufficient time following clean-up activities shall be allowed so that all surfaces are dry during monitoring. Negative air filtration units shall not be in use during monitoring. At least 24 hours shall be allowed to pass after any wet cleaning has been done and negative air filtration units have been used before the post-removal tests are begun;

2.-6. (No change.)

7. Evaluation criteria: If test results exceeds 0.01 fiber/cc [TWA], the asbestos safety [monitor] **technician** shall so inform the contractor, the owner and the architect/engineer. If these criteria have not been met, the contractor shall be required to re-clean all surfaces using wet cleaning methods and

provide negative HEPA-filtered exhaust air during the re-cleaning process. This process of re-cleaning, allowing surfaces to dry and re-testing shall be repeated until compliance is achieved.

(h) [Submission of final report shall be conducted as follows:] Final inspections shall be conducted by the asbestos safety technician as follows:

[1. Upon satisfactory completion of all asbestos removal work and of all tests, the asbestos safety monitor and an official of the testing laboratory shall jointly submit a written final report to the owner including copies of all back-up records (charts, logs, calibration results, records, ventilation measurements, etc.) documenting the day-by-day progress of work and related tests;

2. Copies of this report shall be made available upon request to appropriate State or Federal agencies. This report shall be presented in logical form; neatly bound, and properly titled, dated and signed;

3. Any deviations from acceptable practice on the part of the contractor, and any unsatisfactory test results reported during the course of the job, shall be highlighted in the report for record purposes.]

1. Upon notice by the owner or by the contractor and at least 48 hours after the removal of the critical barriers, a final inspection shall be made to ensure the absence of any visible signs of asbestos or asbestos-containing material.

2. The asbestos safety technician shall ensure that all asbestos waste and asbestos-contaminated waste has been removed from the work site in a registered vehicle by a registered waste hauler.

5:23:8.[15]16 Coordination with other permits

(a) (No change.)

(b) When it is certified that asbestos may become disturbed, an assessment performed by a New Jersey Department of Health [certified assessor], **county or local health departments or a private business entity authorized by the New Jersey Department of Health** shall be required.

1. If the assessment indicates that the work and the disturbance which will result from it has made asbestos hazard abatement work necessary, then the construction official shall [determine if the issuance of the permit is within the proper jurisdiction or if it is within the administrative authority having jurisdiction to enforce this subchapter.] **inform the building owner that all asbestos abatement work shall conform to this subchapter.**

i. The work which will cause the disturbance will not be permitted to proceed until the hazard abatement work is complete or the asbestos-containing material clearly presents no further hazard.

ii. The construction official shall issue a partial permit for work which clearly will not disturb or interfere with the asbestos hazard abatement work. [Written approval from the administrative authority having jurisdiction is required before such a partial permit is issued.]

[5:23-8.16 Asbestos Hazard Abatement Inspector:

Qualifications

(a) Individuals permitted to administer and enforce the Asbestos Hazard Abatement Subcode shall possess the following requirements:

1. Licensed code enforcement officials pursuant to N.J.A.C. 5:23-5 shall have:

i. A technical license as an Inspector with at least a license level of Residential and Small Commercial Structures (R.C.S.); and

ii. Successful completion of a training program approved for inspectors by the New Jersey Department of Health and certification by the New Jersey Department of Health.

iii. As delineated in i and ii above, for the purposes of this subchapter, the inspector shall be permitted to inspect all aspects of asbestos abatement work including replacement work pursuant to the Uniform Construction Code.

iv. The license may be renewed as follows:

(1) Individuals must meet the requirements for license renewal pursuant to N.J.A.C. 5:23-5.7; and

(2) Successful completion of such continuing educational requirements as may be established by the New Jersey Department of Health.]

2. As an alternative to 1. above, a person shall be permitted to inspect the removal of asbestos only, if:

i. That person demonstrates practical knowledge in the area of architecture, inspection, engineering, construction, environmental sciences or health; and

ii. Successful completion of a training program approved for inspectors by the New Jersey Department of Health and certification by the New Jersey Department of Health.]

5:23-8.17 Asbestos Safety Control Monitor

(a) The department shall authorize the establishment of an asbestos safety control monitor:

1. No person shall undertake the services described in this section or enter into any contract pursuant to this subchapter without first receiving the authorization of the department.

i. Except that, applicants who have received notice from the department that their application is complete and suitable for processing may begin to promote or otherwise make their anticipated availability known provided that the applicant discloses in writing at the time of undertaking any such activity, that he has not yet been authorized by the department.

2. Applicants for authorization as an asbestos safety control monitor shall submit an application, with the required fee pursuant to (f) below, and any additional information the department may require.

3. Following a determination by the department that an application is complete and suitable for processing, the department shall review and evaluate the information contained in the application and such other information as the department shall deem necessary to enable it to make an accurate and informed determination of approval or disapproval. Within 30 days following the receipt of a completed application, the department shall make its determination as to whether authorization as an asbestos safety control monitor shall be granted or denied, and shall notify the applicant. In the event of denial, the department shall provide the applicant with a written explanation of the reasons therefor and provide for a hearing pursuant to N.J.A.C. 5:23-8.20.

4. The authorization application shall contain information relating to:

i. The financial integrity of the applicant and any of its principal officers;

ii. The qualifications of the management and technical personnel of the applicant, including a statement that all technical personnel are certified by the department;

iii. The applicant shall indicate the type of analysis done (for example, NIOSH 7400) and the laboratory(s) that do the procedures. If the applicant does its own lab work then it shall list the equipment used and the personnel using it, with their qualifications. All laboratories shall participate in the Proficiency Analytic Testing Program conducted by the National Institute for Occupational Safety and Health and in the U.S.

Environmental Protection Agency Asbestos Bulk Sample Analysis Quality Assurance Program;

iv. The range of salaries and other compensation of all technical personnel of the applicant;

v. The policies and procedures of the applicant for the hiring, training education and supervision of all technical personnel;

vi. The prior experience of the applicant in performing similar or related functions;

vii. The capability of the applicant to review plans and specifications and to inspect asbestos abatement work to ensure that the completed work is in compliance with this subcode;

viii. A statement that the applicant is not affiliated with, influenced or controlled by any producer, manufacturers, supplier or vendor or products, supplies or equipment used in asbestos hazard abatement.

5. Authorization shall be valid for a period of one year.

6. Applications for reauthorization shall be filed with the department at least 60 days prior to the scheduled expiration for the current authorization from the department. The asbestos safety control monitor shall make current the information previously submitted to the department. The asbestos safety control monitor shall provide additional information as the department may request. The application shall be accompanied by the fee established pursuant to (f) below. The department may conduct such additional investigations of the applicant as it may deem necessary.

i. Within 30 days following receipt by the department of an application for reauthorization, the department shall make its determination as to whether the asbestos safety control monitor continues to meet the requirements of the regulations. In the event of disapproval, the department shall provide the asbestos safety control monitor with a written explanation of the reasons for such disapproval. Each reauthorization shall expire one year from the date of the current authorization from the department.

ii. The department may, on its own motion or at the request of any asbestos safety control monitor, grant a temporary reauthorization of such agency for a period not to exceed 60 days.

(b) An asbestos safety control monitor may be an individual, partnership, corporation, or other business entity organized for the purpose of enforcing and administering this subcode.

1. Each asbestos safety control monitor shall enter into a contract for each asbestos hazard abatement project with the building owner. The contract shall specify: the scope of the project and provide that the asbestos safety control monitor shall carry out all the rules and responsibilities established by this subcode; how the asbestos safety control monitor is to be paid for their services and the name of the employee who shall serve as the responsible official and representative of the asbestos safety control monitor authorized to review and approve all documents related to the administration of this subcode.

2. Each asbestos safety control monitor authorized by the department shall organize its operation to effectively fulfill the requirements of this subcode. All personnel assigned to perform the duties of an asbestos safety technician shall be certified as an asbestos safety technician by the department prior to the date of authorization.

3. The asbestos safety control monitor shall report to the department through their designated responsible official and shall be subject to the orders and directives of the department in matters relating to the enforcement of this subcode.

(c) Records shall be maintained by the asbestos safety control monitor of all inspections, applications, plans reviewed, air tests, and any other information that may be required by the municipal construction official or the department. These records shall be

open to department audit and shall not be destroyed or removed from the offices of the asbestos safety control monitor without the permission of the department.

1. The asbestos safety control monitor shall provide the department with the following:

i. A copy of each permit, within two days of issuance, that they are contracted for;

ii. A list of names, certification numbers, addresses and telephone numbers of all technical personnel employed.

2. The administrative authority having jurisdiction shall be the sole agent for the collection of all fees and penalties from the property owner, his designated agent or anyone in his employ.

3. Each asbestos safety control monitor shall have the following responsibilities:

i. To maintain an adequate number of certified staff to enforce the Asbestos Hazard Abatement Subcode;

ii. To review plans and specifications, and release in writing, and forward to the administrative authority having jurisdiction for issuance of a permit;

iii. To be subject to the department's rulings, directives and orders;

iv. To provide adequate supervision, so that its employees are prompt and diligent in discharging their duties;

v. To carry general liability insurance, at least in the amount of \$500,000.00 for each person and each occurrence;

vi. To process and return all documents, plans, specifications, and applications within the time frame specified by this subcode.

vii. To provide technical assistance to building owner in the preparation of a construction permit application;

viii. To perform all required inspections and re-inspections;

ix. To perform all tests required by this subcode;

x. To give testimony at a hearing or in court, as required by the construction official or department;

xi. To prepare all reports to the department as are required by this subcode or as may be required from time to time;

xii. To meet its obligations under its contract with the building owner;

xiii. To issue documentation and certification, such a written Pre-Commencement Inspections as required by this subcode;

xiv. To ensure the attendance of all technical and supervisory employees at required training and orientation programs;

xv. Upon completion of an asbestos hazard abatement project the asbestos safety control monitor shall submit a final report consisting of but not limited to daily logs, inspections, observations, calculations, backup records, air monitoring results and a separate listing of any contractor deficiencies observed during the course of the work. The report shall be submitted within 20 days of issuance of the Certificate of Completion. Copies of the final report shall be submitted to the building owner and the department. For public school projects this report shall be also submitted to the New Jersey Department of Education, Bureau of Facility Planning Services.

(d) Whenever an asbestos safety control monitor enters into a contract to provide asbestos safety control monitor services, in connection with an asbestos hazard abatement project, the asbestos safety control monitor shall be in conflict of interest if it has any economic relationship with another party involved with that project; except for a sub-contract for laboratory services needs by the asbestos safety control monitor to perform its duties under this subcode.

(e) Suspension and revocation procedures are as follows:

1. In addition to any other remedies provided by the Uniform Construction Code regulations, N.J.A.C. 5:23, the department may suspend or revoke its authorization of any asbestos safety control monitor if the department determines that the

authorization or reauthorization was based on the submission of fraudulent or materially inaccurate information, or that the authorization or reauthorization was issued in violation of this subcode, or that a change of facts or circumstances make it unlikely that the asbestos safety control monitor can continue to discharge its responsibilities under this subcode in a satisfactory manner, or that the asbestos safety control monitor has violated this subcode.

1. During the period of suspension the affected asbestos safety control monitor shall not be authorized to discharge any of its responsibilities under this subcode unless otherwise specified in the notice of suspension or order of the department.

2. The department shall notify such asbestos safety control monitor of its suspension or revocation in writing. Copies of the notice of suspension shall be forwarded by the department to all building owners with implementing contracts with the affected asbestos safety control monitor. The suspension shall be effective on the date the affected asbestos safety control monitor receives the notice of suspension or on any later date that may be designated in the notice of suspension.

3. The department may revoke its approval of any asbestos safety control monitor without previously suspending its authorization. In such event, the department shall send a written notice to the affected asbestos safety control monitor of its intention to consider revocation of its authorization, stating the grounds therefore, and establishing a time and a place for a hearing on the question. The notice shall be sent to the affected asbestos safety control monitor and to all building owners with implementing contracts with the affected asbestos safety control monitor.

i. No such asbestos safety control monitor shall reapply for approval as an asbestos safety control monitor until the expiration of one year from the date of the order of revocation.

4. Upon the suspension or revocation of approval of an asbestos safety control monitor, any building owner with an implementing contract with the asbestos safety control monitor shall have the right to terminate its contract with such asbestos safety control monitor and be free of all obligations thereon and to enter into an implementing contract with any other asbestos safety control monitor.

(f) Authorization and reauthorization fees are as follows:

1. Authorization fee: Any asbestos safety control monitor submitting an application to the department under this subcode, for approval as an asbestos safety control monitor shall pay a fee of \$2,000.00 for the authorization which is sought, plus an amount equal to five percent of the gross revenue earned from asbestos safety control monitor activities, payable quarterly.

2. Reauthorization fee: Any asbestos safety control monitor submitting an application to the department under this subcode for reapproval as an asbestos safety control monitor shall pay a fee of \$1,000.00 plus an amount equal to five percent of the gross revenue of four consecutive quarters starting with the previous year's last quarter. The fee shall be payable quarterly with the first quarter due with application.

5:23-8.18 Asbestos Safety Technician: Certification Requirements

(a) The department establishes standards and procedures for the certifying of asbestos safety technicians and requires all persons performing duties with respect to this subcode to be certified as provided in this subcode.

(b) No person shall act to enforce this subchapter without first holding a certification from the department.

1. Any individual who holds a certification as an Asbestos Safety Monitor from the New Jersey Department of Health and

who applies within one year from the date of the issuance of that certification shall be entitled to certification as an Asbestos Safety Technician upon submittal of a proper application and the required fee.

(c) It shall be a violation of this subcode for any person to hold or perform the duties of an asbestos safety technician for which a certification is required herein, or for any person to represent himself as qualified for such position, or to use any title or otherwise represent himself as certified or authorized to act under the code if the person does not possess a certification. A violation of this section shall subject the person to a penalty of not more than \$500.00 for each offense.

1. It shall be a violation of this subcode for any asbestos safety control monitor to offer employment to a person to act as an asbestos safety technician or to retain for employment any person who is not certified in accordance with this subcode. Further, it shall be a violation of this subcode for an asbestos safety control monitor to continue an individual in employment, in a position for which a certification is required pursuant to this subcode, if such person is not certified in accordance with this subcode. Violation of this section shall be deemed a failure to perform within the meaning of N.J.A.C. 5:23-8.17(b)ii and be subject to a penalty of not more than \$500.00 for each offense.

(d) Any candidate for certification as an asbestos safety technician shall submit an application to the department accompanied by the required application fee established in (i) below. The requirements for certification as an asbestos safety technician are as follows:

1. At least two years of college in academic sciences, that is, biology, chemistry, industrial hygiene, environmental science, or related fields; or one year experience which included performing environmental assessment activities may be substituted for this education requirement;

2. Successful completion of a course in air monitoring methods. This course could have been part of an academic curriculum or as a continuing education course. The course should have consisted of a minimum of 30 contact hours and include hands-on experience with using and calibrating various types of air monitoring equipment; or six months of employment experience performing air monitoring which included at least 30 hours of on-the-job training may be substituted for this education requirement;

3. Successful completion in an approved core training course for asbestos workers certified by the New Jersey Department of Health pursuant to N.J.A.C. 12:120 and N.J.A.C. 8:60; or two years of experience in monitoring asbestos abatement activities may be substituted for completion of a certified training course;

4. Successful completion of a special course for Asbestos Safety Technicians approved by the New Jersey State Department of Health;

5. Successful passing of an Asbestos Abatement Examination administered by the Department of Health (pursuant to N.J.A.C. 12:120-6.12 and 8:60-6.12).

(e) The department may renew the certification following submission of an application, payment of the required fee pursuant to (i) below, and verification by the department that the applicant meets the requirements for the certification in this section.

1. Every two years any certification already issued shall be renewed upon submission of an application, payment of the required fee, and verification by the department that the applicant has met such continuing educational requirements as may be established by the Commissioner. The department shall renew the certification previously issued for a term of two years. The

renewal date shall be 45 days prior to the expiration date. The expiration dates shall be July 31 or January 31.

2. The department shall issue, upon application, a duplicate certification upon a finding that the certification has been issued and the applicant is entitled to such certification to replace one which has been lost, destroyed, or mutilated. Payment of a fee as may be established by the Commissioner shall be required.

3. The department may establish continuing education requirements as deemed necessary for the renewal of a certification.

(f) The department may suspend or revoke a certification, or assess a civil penalty of not more than \$500.00, if the department determines that the holder:

1. Has violated the provisions of the Uniform Construction Code regulations;

2. Has obtained a certification by fraud or misrepresentation, or the person named in the certification has obtained it by fraud or misrepresentation;

3. Has aided or abetted in practice as an Asbestos Safety Technician any person not authorized to practice as an Asbestos Safety Technician under the provisions of this subcode;

4. Has fraudulently or deceitfully practiced as an Asbestos Safety Technician;

5. Has been grossly negligent or has engaged in misconduct in the performance of any of his duties;

6. Has failed, over a period of time, to maintain a minimally acceptable level of competence.

7. Has been found to have failed to report an offer or bribe or other favor in a proceeding under this act or other appropriate law of this or any other state or jurisdiction.

8. Has failed to comply with any order issued by the department;

9. Has made a false or misleading written statement, or has made a material omission in any submission to the department; or

10. Has failed to enforce this subchapter.

(g) The department, in addition or as an alternative, as the case may be, to revoking or suspending a certification, or assessing a penalty, may issue a letter or warning, reprimand, or censure with regard to any conduct which, in the judgement of the department, warrants a letter of warning, reprimand or censure. Such letter, in addition to any other filing requirements, shall be made a part of the certification file of the individual.

(h) Conviction of a crime or an offense in connection with the practice as an Asbestos Safety Technician shall constitute grounds for revocation or suspension of a certification.

(i) No application for certification shall be acted upon unless said application is accompanied by a fee as follows:

1. An application fee shall be \$30.00;

2. A renewal application fee shall be \$30.00.

5:23-8.[17]19 Application of asbestos

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

5:23-8.20 Appeals

(a) An appeal may be made to the department for any of the following reasons:

1. Denial of the release of plans;

2. Denial of the release of specifications;

3. Denial of an application for a construction permit;

4. Refuse to act on an application for a construction permit;

5. Refuse to grant a variation;

6. Refuse to grant a Certification of Completion;

7. Failure to act on an application for a Certificate of Completion;

8. Failure to act on an application for a Certificate of Occupancy;

9. Denial of an application for a Certificate of Occupancy;

10. Issue an Order to Stop Work;

11. Assessment of a penalty;

12. Rejection of or suspension of or revocation of authorization as an Asbestos Safety Control Monitor;

13. Rejection of or suspension of or revocation of certification as an Asbestos Safety Technician.

(b) The application for appeal shall be made to the department within 20 business days of the receipt of written notice of the denial or other decision of the enforcing agency.

(c) The application for appeal shall be in writing, filed with the department briefly setting forth the appellant's position. Such application shall state the name and address of the appellant, the address of the building or site in question, the permit number, and shall reference the specific sections of the regulations in question, and the extent and nature of the appellant's reliance on them. The appellant may append to his written application any data or information that he may deem appropriate to his cause.

1. The enforcing agency shall make available to the department the full record of the application, which shall include a detailed explanation of the reasons for the denial of the appellant's request.

(d) The time for appeal may be extended prior to a meeting upon application to the department.

(e) Should the applicant be dissatisfied with the decision of the department, the case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the Commissioner. Such hearings shall be governed by the provisions of the Administrative Procedure Act, (See N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. as implemented by N.J.A.C. 1:1), and the time provisions applicable.

5:23-8.21 Demolition

(a) The asbestos that is present in a building or portion of a building that is to be demolished, shall be removed from that building or portion of a building prior to the demolition of that building.

1. This section applies only to buildings and portions of buildings that will not be reoccupied prior to demolition.

(b) A permit for the removal of asbestos shall be obtained from the administrative authority having jurisdiction.

(c) The permit for the removal of asbestos shall be obtained in the following manner:

1. A Plan Review must be conducted by the administrative authority having jurisdiction. The following shall be available for the plan review:

i. An asbestos hazard assessment prepared by the New Jersey Department of Health, County or local health department, or a private business entity, authorized by New Jersey Department of Health unless the requirement for an assessment has been waived by any of the above. This requirement can be met by removing all suspect material as asbestos containing waste.

ii. Uncertified plans and specifications:

(1) Site plan or sketch indicating adjacent buildings in the immediate area;

(2) Floor plan of building to indicate the scope of the work;

(3) Specifications; describe scope of work, removal procedures, and waste disposal;

(4) On large asbestos hazard abatement jobs as defined in this subcode a written release of the plans and specifications by a person, with technical knowledge of the project and designated by the owner to act in his behalf shall be required;

(5) Any deviations from the regulations of this subchapter suggested by the building owner or his agent will be evaluated during the plan review stage of the permit application procedure;

(6) The regulations of this subcode shall be followed unless modifications are specifically agreed to in writing by the plan reviewer or the regulations are modified by this section.

2. The plans and specifications will be released in writing by the administrative authority having jurisdiction. The written release of plans and specifications will allow the owner to obtain bids on the asbestos removal part of the demolition project.

3. The issuance of a construction permit for asbestos abatement shall be subject to the following:

i. A written release of the plans and specification by the administrative authority having jurisdiction;

ii. The name, address and license number of the asbestos contractor pursuant to N.J.A.C. 12:120 Asbestos Licenses and Permits under the jurisdiction of the New Jersey Department of Labor;

iii. The name, and address of the asbestos safety control monitor authorized by the New Jersey Department of Community Affairs who will be responsible for continuously monitoring the asbestos abatement part of the demolition project; and documentation that the building will be unoccupied at the time an asbestos abatement job takes place;

iv. The name and address of the analytical testing laboratory;

v. The name and address of the New Jersey Department of Environmental Protection registered waste hauler and of the New Jersey Department of Environmental Protection registered landfill where the asbestos waste will be deposited;

vi. The scheduled starting and completion dates for the asbestos abatement project.

(d) The requirements for actual asbestos removal will be the same as for asbestos abatement projects that are performed in buildings that are not to be demolished.

(e) Air monitoring samples during removal and final air samples after removal will be required for large asbestos abatement jobs only unless this is changed during the plan review.

1. Results of .02 fibers/cc or less shall be attained prior to demolition;

2. If the demolition does not take place within thirty days of obtaining the fiber level above the building or portion of a building to be demolished will be resampled to ensure compliance with 1 above;

3. If air levels above .02 fibers/cc are obtained in either of the above cases the areas where the asbestos removal took place must be recleaned and resampled until they do meet the required level.

(a)**Planned Real Estate Development Full Disclosure Regulations****Proposed Readoption: N.J.A.C. 5:26**

Authorized By: William M. Connolly, Director of the Division of Housing and Development, Department of Community Affairs.

Authority: N.J.S.A. 45:22A-35.

Proposal Number: PRN 1986-24.

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the Division of Housing and Development of the Department of Community Affairs proposed to readopt the Planned Real Estate Development Full Disclosure Regulations, N.J.A.C. 5:26, which expire April 1, 1986.

The rules were amended in 1983 and the Division is considering the proposal of further amendments. For the present, however, the Division has reviewed the rules and found them to be necessary, reasonable and proper for their original intended purpose of insuring that purchasers of units or interests in planned real estate developments are fully informed as to all relevant facts concerning the development and the interest in it that they are purchasing.

A "planned real estate development" is any real property within the State consisting of, or to consist of, separately owned areas offered or disposed of under a common promotional plan which provides for common shared elements or interests in real property. The term includes, but is not limited to, condominiums, cooperatives, planned unit developments, planned unit residential developments and other subdivisions involving commonly held property as well as individual units. Properties that are entirely commercial or industrial are not included.

The rules proposed for readoption contain standards and procedures for the registration and marketing of planned real estate developments. Information required to be given to prospective purchasers is set forth, as are administrative procedures of the Division in dealing with complaints.

The following summarizes the content of the disclosure rules:

Subchapter 1 contains general provisions and subchapter 2 outlines registration requirements.

Subchapter 3 explains the application requirements for registration.

Subchapter 4 discusses the required public offering statement.

Subchapters 5, 6 and 7 contain rules concerning advertising, contracts and warranties, respectively.

Subchapter 8 outlines rules on community associations.

Subchapter 9 regulates conversions.

Subchapter 10 contains rules on nonbinding reservation agreements.

Subchapter 11 contains administration and enforcement rules.

An Appendix at the end of the chapter contains an engineering survey outline.

In 1985 the Division received 298 applications for registration and registered 244 developments containing 19,540 units. The Division registered 206 amendments to registrations, approved 201 nonbinding reservation forms, issued 606 exemptions from registration and handled 124 complaints. Since the inception of the program in 1978, the Division has received 1,461 applications for registration and has registered 1,269 developments containing 120,921 units.

Social Impact

Failure to readopt this rule will result in an absence of standards necessary to provide the consumer protection mandated by the Planned Real Estate Development Full Disclosure Act. Both purchasers and developers will be benefited by the continual existence of criteria for determining their respective rights and obligations.

Economic Impact

Without clear and adequate disclosure requirements, purchasers will be faced with the possibility of uncertainty as to exactly what their purchase might entail. This uncertainty, in turn, might make consumers more wary about purchasing, to the economic detriment of developers.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 5:26.

EDUCATION**STATE BOARD OF EDUCATION**

The following proposals are authorized by the State Board of Education, Saul Cooperman, Secretary.

Submit comments by March 20, 1986 to:

Patricia Joseph
Administrative Code Analyst
Department of Education
225 West State Street
Trenton, New Jersey 08625

(b)**State Aid: Asbestos Removal and Encapsulation****Proposed Amendment: N.J.A.C. 6:20-5.5**

Authority: N.J.S.A. 18A:4-15, 18A:58-68 and P.L. 1985 c.209.

Proposal Number: PRN 1986-13.

The agency proposal follows:

Summary

The amendments to the rule concerning asbestos removal and encapsulation State aid are proposed, pursuant to the authority of N.J.S.A. 18A:4-15 and Chapter 209, Laws of 1985.

On December 28, 1984, Governor Kean signed the "State School Aid Act for Asbestos." This law provided \$10 million in State aid to district boards of education which have a current or potential health hazard because of asbestos materials, or which have expended local funds for asbestos re-

removal or encapsulation prior to the effective date of the law. N.J.A.C. 6:20-5.5 was adopted by the State Board of Education on June 5, 1985 (effective July 1, 1985) to enable the State Board of Education to award the initial State aid entitlements pursuant to the "State School Aid Act for Asbestos."

On June 28, 1985, the "Appropriations Act" for fiscal year 1985-86 was approved as Chapter 209, Laws of 1985. This law provided an additional \$10 million in State aid to district boards of education for asbestos removal or encapsulation. Due to the provision of this additional funding, it is now necessary to amend the rule which was adopted on June 5, 1985 to delete the language which was specifically required to prioritize the initial applications for State aid under the law. The Department of Education will be requesting district boards of education to apply for State aid for currently planned asbestos removal or encapsulation projects. Therefore, it is necessary to delete the references in the current rule to the 1984-85 and 1985-86 school years.

Social Impact

The proposed amendments will impact on all district boards of education which will be applying for or receiving State aid pursuant to the "State School Aid Act for Asbestos." The amendments require that a district board of education applying for reimbursement for currently planned asbestos removal or encapsulation projects must budget for the projects for the school year in which the asbestos removal or encapsulation project is planned. This is critical since the "State School Aid Act for Asbestos" is a reimbursement program.

Economic Impact

The proposed amendments do have a direct economic impact on the district boards of education which will be applying for State aid, due to the additional funding. The amendments are necessary to comply with the requirement in the law that State aid for asbestos work be in the form of a reimbursement. On the whole, however, the amendments present a positive economic impact since the rule ensures that all district boards of education which are eligible for reimbursement, will receive State aid funds in an equitable manner for the asbestos work which must be done.

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

6:20-5.5 Asbestos removal and encapsulation; State aid

(a) A district board of education applying for reimbursement under the provisions of the "State School Aid Act for Asbestos" for a currently planned asbestos removal or encapsulation project shall certify that funds have been budgeted for the project and that such funds are included in the [1984-85 or 1985-86] school district budget statement **for the school year in which the asbestos removal or encapsulation project is planned.**

[(b) A district board of education may apply for reimbursement for an asbestos removal or encapsulation project which has been undertaken if the project was begun in the 1984-85 school year and 50 percent or less of the funds budgeted for the project were expended prior to December 28, 1984.

(c) A district board of education may apply for reimbursement for an asbestos removal or encapsulation project which has been substantially completed if the project was begun in the 1984-85 school year and more than 50 percent of the funds budgeted for the project were expended prior to December 28, 1984.

(d) A district board of education may apply for reimbursement for an asbestos removal or encapsulation project which was begun before 1984-85 or which has been completed.]

[(e)](b) A district board of education shall only be reimbursed under the provisions of the "State School Aid Act for Asbestos" for expenditures actually incurred. State aid reimbursements for projects currently planned, undertaken and substantially completed shall be adjusted when actual expenditures are known. Adjustments shall only be made to the extent State aid funds are available.

[(f)](c) A district board of education shall not be reimbursed for an asbestos removal or encapsulation project under both the "State School Aid Act for Asbestos" and the Federal "Asbestos School Hazard Abatement Program" for more than the actual expenditures less any State aid received under any other law.

[(g)](d) A district board of education which recovers funds expended for asbestos removal or encapsulation through a legal action shall have its State aid reimbursement adjusted for any such funds recovered.

[(h)](e) A district board of education shall maintain separate accounting records which identify all expenditures for which reimbursement is approved.

[(i)](f) A district board of education receiving a State aid reimbursement under the provisions of the "State School Aid Act for Asbestos" shall submit reports as required concerning work progress, expenditures or any other factors which the commissioner shall deem necessary.

[(j)](g) A district board of education shall comply with all requirements established by the Bureau of Facility Planning Services (N.J.A.C. 6:22), Department of Community Affairs (N.J.A.C. 5:23-8) and the Department of Health (N.J.A.C. 8:60) concerning asbestos removal or encapsulation. State aid funds may be withheld for noncompliance.

(h) A district board of education receiving such a State aid reimbursement shall maintain any funds which are not necessary for debt service purposes in the budget year in which such funds are received as a special appropriation balance. All or any part of the special appropriation balance which is needed for debt service purposes in the subsequent budget years immediately succeeding the budget year in which such funds are received, shall be appropriated to reduce the amount raised by local taxes for debt service purposes.

(a)

Teaching Staff Member Minimum Salary; State Aid

Proposed New Rule: N.J.A.C. 6:20-5.6.

Authority: N.J.S.A. 18A:4-15 and P.L. 1985, c. 321
(N.J.S.A. 18A:29-5.1 et seq.).

Proposal Number: PRN 1986-14.

The agency proposal follows:

Summary

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15 and N.J.S.A. 18A:29-5.1 et seq. (P.L. 1985, c. 321), proposes a new rule pertaining to State aid: "Teaching staff member minimum salary; State aid," N.J.A.C. 6:20-5.6. This new rule is being prepared to fully implement

the State aid provisions of the "Teacher Quality Employment Act" (P.L. 1985 c. 321) for the current school year.

On September 9, 1985, Governor Kean signed the "Teacher Quality Employment Act." This law provided \$37.7 million State aid to district boards of education to fund minimum salaries for teaching staff members. The law took effect immediately for the 1985-86 school year and requires that each district board of education pay a minimum salary of \$18,500 to each full-time teaching staff member in the 1985-86 school year and subsequent school years. District boards of education were given 60 days to report information concerning teaching staff members whose salaries are eligible for State aid so that State aid payments to district boards of education could begin as quickly as possible.

The proposed new rule will enable the department to expediate the payment of State aid to district boards of education by clarifying those items which are not fully addressed in the "Teacher Quality Employment Act" which impact on the amount of State aid a district board of education will receive and establish how a district board of education must account for the receipt of the State aid funds in accordance with the provisions of the law. In addition district boards of education will be made aware of these requirements while budgets for the 1986-87 school year are being prepared.

The proposed new rule establishes \$18,500 as the lowest salary on a teaching staff member's salary guide(s); specifies the treatment for teaching staff members returning from a sabbatical, sick leave, maternity leave or other leave of absence; or whose salary increment was withheld; establishes basis for the proration of State aid; establishes the base salary for teaching staff members who were or who are employed on more than one step of a salary guide(s); establishes the bookkeeping requirements concerning the transfer of funds; establishes how State aid is treated for tuition purposes and in federal programs; and requires a district board of education to submit its 1984-85 and 1985-86 salary guides and definition of full-time.

Social Impact

The proposed new rule will impact all district boards of education in New Jersey which are responsible for the payment of the minimum \$18,500 salary under the provisions of the "Teacher Quality Employment Act" and which are also eligible for State aid under this law. The proposed new rule is necessary to clarify certain items relating to the calculation of the amount of State aid which a district board of education is entitled to receive and to establish the bookkeeping requirements for the receipt of the State aid. These clarifications are absolutely essential if the department is to expedite the payment of State aid to district boards of education as required by law.

Economic Impact

The proposed new rule has a direct economic impact on the district boards of education which will be receiving State aid pursuant to the "Teacher Quality Employment Act." The proposed new rule has an immediate positive fiscal impact on district boards of education because the rule will enable the department to expedite the payment of State aid to district boards of education. The proposed new rule clarifies those items where clarification is needed in order to determine the amount of State aid a district board of education is entitled to receive under this law.

Full text of the proposed new rule follows.

6:20-5.6 Teaching staff member minimum salary; State aid

(a) For the 1985-86 school year and thereafter, a district board of education shall adopt a salary guide(s) for full-time teaching staff members which provides that no step on the salary guide(s) is lower than \$18,500 regardless of funding source.

(b) The base salary for State aid shall be determined as follows:

1. For a teaching staff member returning from an unpaid sabbatical, sick leave, maternity leave or other unpaid leaves of absence or whose salary increment was withheld in the 1984-85 school year, the base salary shall be determined in the same manner as the base salary for a newly employed teaching staff member.

2. For a teaching staff member who was employed during the 1984-85 school year with a prescribed salary based upon different steps of the salary guide(s), the base salary shall be the actual salary paid to the teaching staff member during the 1984-85 school year.

3. For a teaching staff member newly employed after the 1984-85 school year with a prescribed salary based upon different steps of the salary guide(s), the base salary shall be determined as if the teaching staff member was newly employed in the 1984-85 school year.

4. For all other teaching staff members, the base salary shall be determined pursuant to N.J.S.A. 18A:29-5.6.

(c) State aid for a teaching staff member who was hired or who left employment during the school year, shall be the proportionate amount determined by dividing the actual salary paid to the teaching staff member in such school year by the salary prescribed for the teaching staff member had the teaching staff member been employed for the entire year.

(d) Every district board of education shall submit to the Division of Finance the salary guide(s) prescribed for all teaching staff members for the 1984-85 school year; the salary guide(s) prescribed for all teaching staff members for the 1985-86 school year prior to September 9, 1985; and the period of time in each day prescribed by the district board of education pursuant to N.J.A.C. 6:3-1.13 which is required for full-time employment in the district.

(e) For the 1985-86 school year and subsequent school years a district board of education shall not transfer out of any line item account or program category any funds replaced by State aid received pursuant to the "Teacher Quality Employment Act" (N.J.S.A. 18A:29-5.1 et seq.).

(f) For the purpose of (e) above, for the 1985-86 school year, a district board of education shall determine the amount of funds replaced by State aid as follows:

1. For each line item account or program category, determine the salaries for aided teaching staff members employed in the 1984-85 school year from the salary guide(s) which was in effect for the 1985-86 school year prior to September 9, 1985;

2. For each line item account or program category, determine the base salaries for aided teaching staff members employed in the 1984-85 school year;

3. Subtract the amount obtained in 2 above from that obtained in 1. above.

(g) For the purpose of (e) above, for the school years subsequent to the 1985-86 school year, a district board of education shall determine the amount of funds replaced by State aid as follows:

1. For each newly employed training staff member, determine the base salary;

2. For each newly employed teaching staff member, determine the amount of State aid which is anticipated on the budget form submitted pursuant to N.J.S.A. 18A:7A-28, for the position in which the newly employed teaching staff member is employed;

3. Subtract the amount obtained in 1. and 2. above from \$18,500.

(h) Any part of the funds replaced by State aid as determined in (f) and (g) above which remains unexpended at the completion of the 1985-86 school year or a subsequent school year shall be held as a special balance appropriated which shall only be used in subsequent school years for the payment of full-time teaching staff member salaries for duties which are part of the teaching staff member's regular contractual responsibilities.

(i) For the 1985-86 school year a district board of education shall increase the amounts appropriated for teaching staff member salaries in the various line item accounts or program categories by an amount equal to the amount of State aid which the district board of education is entitled to receive pursuant to the "Teacher Quality Employment Act."

(j) For the 1986-87 school year and thereafter, teaching staff member salaries supported by Federal funds shall be budgeted at no lower than \$18,500 per full-time teaching staff member. Such teaching staff members are not eligible for State aid under the provisions of the "Teacher Quality Employment Act."

(k) The audited expenditures for the purposes of determining the "actual cost per pupil" in accordance with N.J.A.C. 6:20-3.1 shall be reduced by the amount of State aid received pursuant to the "Teacher Quality Employment Act."

ENVIRONMENTAL PROTECTION

The following proposals are authorized by Robert E. Hughey, Commissioner, Department of Environmental Protection.

(a)

DIVISION OF WATER RESOURCES

Natural Resources Bond Act

Dam Restoration Grant Regulations

Proposed New Rule: N.J.A.C. 7:24

Authority: N.J.S.A. 13:1D-9, 13:1D-15, 58:4-1 et seq. and P.L. 1980, c. 70.

DEP Docket No. 005-86-01.

Proposal Number: PRN 1986-26.

Submit comments by March 20, 1986 to:

Mark McQuerrey
Department of Environmental Protection
Office of Regulatory Services
CN 402
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978) the Dam Restoration Grant Rules, N.J.A.C. 7:24, will expire on March 12, 1986. Because these rules will expire before a re-adoption could become effective, the Department is required to propose new rules. The Department has reviewed the existing rules and has deemed them to be necessary, reasonable and proper for the purposes for which they were originally promulgated.

The Department of Environmental Protection (Department) proposes to adopt the Dam Restoration Grant Regulations (N.J.A.C. 7:24), without change from the text of the expiring rules. The Department finds the rules to be of continued usefulness, since much of the funds available under the Natural Resource Bond Act (P.L. 1980, c. 70) have yet to be distributed. The Department has reviewed the expiring rules in detail and concludes that no changes are or will be necessary in the near future.

A summary of the Dam Restoration Grant Regulations follows:

7:24-1.1 describes the activities to which the rules apply and requires that the rules be interpreted liberally to effectuate the purposes of the law.

7:24-1.2 sets forth the purposes of the rules, including establishment of policies and procedures for administration of the grants, establishment of standards of conduct to insure proper use of funds and establishment of criteria to insure that the purposes of the law are met.

7:24-1.3 cites the legal authority for the rules.

7:24-1.4 contains a notice that the Commissioner may amend the rules as needed.

7:24-1.5 summarizes in outline form the phases of the Dam Restoration Grant Program.

7:24-1.6 summarizes the procedures for obtaining a grant.

7:24-1.7 contains a notice that, should a specific provision of the rules or law be found unconstitutional, the remainder of the rules will not be affected.

7:24-2.1 describes the scope of Subchapter 2, Grant Procedures and Requirements.

7:24-2.2 contains the definitions applicable to the grant rules.

7:24-2.3 establishes the criteria for eligibility to be considered for receipt of a dam restoration grant.

7:24-2.4 describes the procedure for a pre-application conference with the Department.

7:24-2.5 contains the procedures for filing and processing of an application for a grant.

7:24-2.6 contains a notice that the grant application and associated materials are public records, available for public review.

7:24-2.7 describes standards for application evaluation for completeness, environmental merit, cost effectiveness and final conclusion.

7:24-2.8 notifies applicants that the Department will approve the application for priority ranking under 7:24-2.9 and possibly grant or disapprove the application.

7:24-2.8 establishes a point system for prioritizing grant applications, based upon such factors as whether the dam impounds a public water supply and how much is so impounded; whether the dam impounds an industrial water supply and how many people are employed in the associated industry; whether the impoundment is used for public recreational swimming, fishing, boating; the amount of flood control the impoundment provides, including an evaluation of the spillway design adequacy; the number of people residing or

working in the area impacted by a dam break; the amount of property, transportation systems etc. impacted by a dam break.

7:24-2.10 describes the manner in which the spillway design flood will be calculated.

7:24-2.11 sets forth the details of the design and data submissions required for the project development phase for applicants who have received a Notice of Conditional Grant Award.

7:24-2.12 contains a notice of the fact that the amount and terms of the grant will be determined at the time of award.

7:24-2.13 contains a notice that the State share of the grant cannot exceed \$1,000,000 or 50 percent of the project costs, whichever is less.

7:24-2.14 sets forth procedures for the preparation and processing of the grant award document.

7:24-2.15 contains notices that the execution of the grant award document will obligate the Natural Resources Bond Fund and that the grant does not obligate the Department to award additional funds for cost overruns.

7:24-2.16 describes conditions for determining allowable project costs.

7:24-2.17 provides that unused funds resulting from project costs being less than the project costs set in the award document will be retained by the State.

7:24-2.18 requires that the contracts associated with the grant be free of fraud or other corrupt practices and that the grantee must pursue available judicial and administrative remedies, where such practices are alleged.

7:24-2.19 sets general grant conditions which must be met by all grantees

7:24-2.20 places primary responsibility upon the grantees for the administration and success of the dam restoration project.

7:24-2.21 requires that Department personnel be provided access to records of the grantee or any contractors/subcontractors.

7:24-2.22 describes procedures for payment of funds by the State.

7:24-2.23 contains a notice that the grantee may not assign its right to receive payment under the grant.

7:24-2.24 provides that signs and public notices of the project acknowledge the State's grant support.

7:24-2.25 describes procedures for insuring that contracts for work on a grant project do not go to contractors who have been debarred, suspended or disqualified, pursuant to N.J.A.C. 7:1-5.

7:24-2.26 governs project changes and grant modifications and provides that no change or modification may result in an increase in the grant amount.

7:24-2.27 sets procedures for a formal grant amendment.

7:24-2.28 sets procedures for minor, administrative changes which may be required to be made to the grant.

7:24-2.29 applies to all other changes to the project and requires Departmental approval, thereof.

7:24-2.30 describes the various responses available to the Department for grantee noncompliance with any conditions of the grant, including notice of noncompliance, withholding of grant funds, suspension of work and grant termination.

7:24-2.31 establishes the procedures for issuance of a notice of noncompliance.

7:24-2.32 sets the standard for withholding funds.

7:24-2.33 describes the standards and procedures for suspension of work in the form of stop-work orders.

7:24-2.34 sets the standards and procedures for grant termination.

7:24-2.35 describes the procedures for administrative hearings for disputes arising under a grant.

Social Impact

The Dam Restoration Grant Regulations set forth procedures for distribution of funds made available under the Bond Act for repair of dams in New Jersey, which have deteriorated to a degree that substantial remedial construction has become necessary. The Department is presently reviewing several dam restoration project proposals, and the rules governing distribution of the funds remain necessary. The proposal allows the Department to continue in full force and effect the program of dam restoration funding.

Economic Impact

The proposal will result in a continuation of orderly distribution of dam restoration funds under the Natural Resources Bond Act. Consequently, the Department foresees no additional economic impact. Absence of the rules could interfere with the Department's ability to manage the grant program which is contemplated under the Act.

Environmental Impact

The grant procedures in N.J.A.C. 7:24 do not generate any direct environmental impact, though the grant program which they govern provides for increased safety and flood control capabilities at the dams which have and will receive funds. Without these rules, the absence of effective procedures could delay the distribution of funds under the program and, thereby, increase the possibility of dam failure. At worst, however, this effect would be minimal.

Full text of the proposed rules appear in the New Jersey Administrative Code at N.J.A.C. 7:24.

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Bureau of Shellfisheries Clam Dredging

Proposed Repeal: N.J.A.C. 7:25-8.1

Authority: N.J.S.A. 50:1-5.

DEP Docket No. 004-86-01.

Proposal Number: PRN 1986-23.

Submit comments by March 20, 1986 to:
Gale Critchlow, Chief
Bureau of Shellfisheries
Division of Fish, Game and Wildlife
1566-1570 Edgewood Avenue
Trenton, NJ 08618

The agency proposal follows:

Summary

N.J.A.C. 7:25-8.1 was promulgated prior to Executive Order 66(1978), and, therefore, will not expire by operation of law. Its purpose was to allow a clam dealer whose leased grounds were threatened with marine algae (*Codium*) to harvest quickly, by mechanical means instead of by hand, his

clams planted thereon before they were washed away by wave action on the algae-covered clams. The threat no longer exists and the department does not anticipate its recurrence, but the rule remains in force. In the interest of streamlining shellfisheries regulations, the department proposes to repeal this obsolete rule.

Social Impact

No adverse social impact is expected as a result of the repeal of this obsolete rule because, there has been no interest among clam dealers to mechanically harvest their clams.

Economic Impact

N.J.A.C. 7:25-8.1 has outlasted any economic benefit that might be expected from its continued existence. This rule was promulgated to help solve an emergency situation that no longer exists.

Environmental Impact

Failure to repeal this rule would continue to allow for the mechanical harvest of clams which, with their environment, are now protected by the laws that mandate harvest by hand only. Consequently, only a positive effect on the environment is anticipated from this repeal.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:25-8.1.

Firearms instructors must score 92 in the Handgun Qualification Course in order to demonstrate skill equivalent to the score of 90 required in the former firearms course. The proposed rule reflects this change.

The proposed amendment sets forth specific criteria relating to the technical knowledge of a firearms instructor, including range safety and required abilities.

Social Impact

The commission is vested with the power "to prescribe minimum qualifications for instructors" at commission-approved schools (N.J.S.A. 52:17B-71(d)).

This amendment is in accordance with the legislative findings of the Police Training Act that police work "requires proper educational and clinical training . . . in a society where greater reliance on better law enforcement through higher standards of efficiency is of paramount need" (N.J.S.A. 52:17B-66). The proposed amendment helps to ensure that firearms instructors are capable of providing efficient training.

Economic Impact

The adoption of the proposed amendment is not expected to present any additional economic impact. Agencies currently employing the Handgun Qualification Course have not experienced any additional economic impact as a result of its implementation.

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

13:1-4.6 Certification requirements for instructors of specialized subjects

(a) Applicants who seek certification to instruct in specialized subjects must possess the basic qualifications set forth in N.J.A.C. 13:1-4.1 through 13:1-4.4 and, further, must comply with the following requirements:

1. An individual seeking certification to serve as a firearms instructor must successfully complete a commission-recognized firearms instructor course. Under the immediate supervision of a school's Range Master, the individual must successfully:

i. [Identify the principal parts of the weapons used in the training program;] **Demonstrate knowledge of the established range safety rules;**

ii. [Demonstrate familiarity with the proper and safe handling of weapons;] **Identify the major parts of the handguns and shotguns used in the training program;**

iii. [Demonstrate familiarity with the established range safety rules; and] **Demonstrate ability to handle handguns and shotguns safely under conditions such as the following:**

- (1) **Loading and unloading;**
- (2) **Using loading devices;**
- (3) **Clearing ammunition and weapon malfunctions;**
- (4) **Cleaning and maintaining weapons properly.**

iv. Score no less than [90] **92** in the commission-required firearms course.

2. In order to be eligible for recertification, instructors used for firearms training must [successfully perform (a)1i through iv above] annually [under the immediate supervision of a] **satisfy the Range Master of their ability to perform the requirements as set forth in (a)1 above.**

3. (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CRIMINAL JUSTICE

**Police Training Commission
Certification Requirements for Instructors of
Specialized Subjects**

Proposed Amendment: N.J.A.C. 13:1-4.6

Authorized By: Police Training Commission, Leo A. Culloo, Executive Secretary.

Authority: N.J.S.A. 52:17B-71h.

Proposal Number: PRN 1986-21.

Submit comments by March 20, 1986 to:
New Jersey Police Training Commission
Leo A. Culloo, Executive Secretary
Richard J. Hughes Justice Complex
CN 085
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The purpose of the proposed amendment is to bring the certification requirements for firearms instructors at commission-approved schools into conformance with the Handgun Qualification Course that became effective September 1, 1985. (See New Jersey Police Training Commission, "Basic Course Firearms Manual.")

(a)**BOARD OF DENTISTRY****General Provisions****Fee Schedules****Proposed Amendments: N.J.A.C. 13:30-2.2,
2.3, 2.18 and 8.1**

Authorized By: New Jersey Board of Dentistry, Arthur
L. Yeager, D.D.S., President.

Authority: N.J.S.A. 45:6-1 et seq. and 45:1-3.2.

Proposal Number: PRN 1986-16.

Submit comments by March 20, 1986 to:
William Gutman, Executive Secretary
New Jersey State Board of Dentistry
1100 Raymond Boulevard, Room 321
Newark, New Jersey 07102

Summary

The State Board of Dentistry is proposing registration fee increases for dentists and dental hygienists. Also the Board is proposing to increase the application fee for registered dental assistants. The Board is proposing new fees for dental hygienist's branch office registration and registered dental assistant's active registration. Late fees are being proposed for dentist's active registration and inactive registration, dental hygienist's active registration and registered dental assistant's active registration.

Social Impact

The proposed amendments to increase registration fees will impact applicants and licensees of the Board, that is dentists, dental assistants and dental hygienists. No additional societal impact is expected.

Economic Impact

The proposed fees are expected to have no economic impact on the consuming public, although they will impose an economic burden on licensees. The new fees will enable the Board to meet its estimated expenses, as is required by N.J.S.A. 45:1-3.2.

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

13:30-2.2 Application procedure

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

(e) The examination fee for the Northeast Regional Board examination is established by and payable to the N.E.R.B. The fee for the simultaneous examination and licensure in New Jersey is [\$20.00] **\$25.00**. The fee for simultaneous reexamination is \$10.00. The simultaneous examination, reexamination and licensure fee is payable to the State of New Jersey, in care of the New Jersey State Board of Dentistry.

13:30-2.3 Qualifying certificate

(a) A New Jersey qualifying certificate must accompany the application. The certificate is procured from the [Bureau of Teacher Education and Academic Credentials, State Department of Education, Division of Field Services, P.O. Box 2019]

Department of Education, Office of Teacher Certification and Academic Credentials, 3535 Quakerbridge Road, CN 503, Trenton, NJ 08625-0503. The applicant shall request his high school to send an official transcript of his record directly to the [Bureau of Teacher Education] **Office of Teacher Certification and Academic Credentials.** The applicant shall send a fee [\$5.00] **\$30.00** (certified check or money order) to the Bureau, as required by N.J.S.A. 18A:6-41, made payable to the Commissioner of Education, with a letter stating that the record will be sent directly by the high school.

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

13:30-2.18 Application fee

(a) The application fee charged by the State Board of Dentistry shall be:

1. (No change.)
2. Registered dental assistants: [\$10.00] **\$15.00.**

13:30-8.1 Fee schedules

(a) The Biennial Registration fees charged by the Board of Dentistry shall be the following:

1. Dentists:
 - i. Active registration [\$50.00] **\$75.00**
 - ii. Inactive registration [\$10.00] **\$30.00**
 - iii. Branch office [\$10.00] **\$20.00**
2. Dental Hygienists:
 - i. Active registration [\$10.00] **\$20.00**
 - ii. Branch office **\$10.00**
3. Registered Dental Assistants:
 - i. Active registration **\$20.00**

(b) Registrations submitted after due dates shall have the following late fees assessed:

1. Dentists:
 - i. Active registration **\$25.00**
 - ii. Inactive registration **\$25.00**
2. Dental Hygienists:
 - i. Active registration **\$25.00**
3. Registration Dental Assistants:
 - i. Active registration **\$25.00**

[b](c) Except for the fee herein established, other fees prescribed by statute shall continue to be assessed by the Board in the lawful amount.

(b)**BOARD OF NURSING****Nursing Procedures****Administration of Renal Dialysis Treatment****Proposed New Rule: N.J.A.C. 13:37-6.3**

Authorized By: New Jersey State Board of Nursing,
Sylvia C. Edge, R.N., M.A., President.

Authority: N.J.S.A. 45:11-23 and 11-24.

Proposal Number: PRN 1986-22.

Submit comments by March 20, 1986 to:

Sister Teresa L. Harris
Executive Director
New Jersey State Board of Nursing
1100 Raymond Boulevard, Room 319
Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed new rule allows the initiation, administration and termination of renal dialysis, including the administration of heparin, to be delegated by a registered nurse to another licensed nurse or appropriately trained and qualified dialysis technician as long as the registered nurse supervises the performance of that procedure and supervises no more than three such persons at any one time. Advances in technology have made it feasible to delegate the administration of prescribed renal dialysis treatment to unlicensed persons without endangering patient care provided certain reasonable safeguards are followed to assure that these functions will not be performed by untrained or unqualified persons or without proper supervision. It is inherent in the rule that the licensed physician will continue to exercise his or her medical judgment, over the patients' condition. It is the intent of this rule to recognize the nurse as a professional whose expertise is essential to assure that prescribed renal dialysis treatment is carried out in the appropriate manner.

Social Impact

While there is a degree of risk and hazard associated with delegating the administration of renal dialysis care to dialysis technicians it is expected that the reasonable safeguards established in this rule will assure to the public that an acceptable level of patient care will be maintained. The patient will receive all the benefits of lower cost treatment due to the utilization of technicians, however, they will be assured that the responsibility for their care will fall to a licensed professional. The rule is not intended to interfere with judgment of a licensed physician, by orders or protocol, on how to medically treat the patient. However, it recognizes that in the usual case, it is the registered nurse who is relied upon by the physician to carry out prescribed medical orders and to coordinate the implementation of such among other health care workers in order to assure patient safety and well being.

Economic Impact

The use of technicians will allow renal dialysis care to be provided in a cost effective manner. Minimum patient care will be maintained by reasonable safeguards which will require adequate supervision.

Full text of the proposed new rule follows.

13:37-6.3 Administration of prescribed renal dialysis treatment

(a) The implementation of physicians' orders directing renal dialysis treatment is a nursing function within the meaning of N.J.S.A. 45:11-23. A registered nurse may delegate the initiation, administration and termination of prescribed renal dialysis treatment, including the administration of heparin to another licensed nurse or other qualified person only where the following conditions are satisfied:

1. There shall be proper documentation that the level of education, competence and comprehension of the renal dialysis function has been achieved;
2. The registered nurse shall supervise the effective execution of the nursing regimen relating to this function;
3. The registered nurse shall supervise no more than three delegates at any one time;

4. In an institutional setting, the registered nurse shall be available and within reasonable proximity to the treatment room; and

5. In a home dialysis setting, the registered nurse shall be available by telephone or in person at the agency.

(a)

BOARD OF VETERINARY MEDICAL EXAMINERS

Directory Listings Advertising and Solicitation

Proposed Repeal: N.J.A.C. 13:44-2.3.
Proposed Amendment: N.J.A.C. 13:44-2.11.

Authorized By: Board of Veterinary Medical Examiners, David Eisenberg, D.V.M., President.
 Authority: N.J.S.A. 45:16-9.9.
 Proposal Number: PRN 1986-20.

Submit comments by March 20, 1986 to:
 Maurice W. McQuade, Executive Secretary
 Board of Veterinary Medical Examiners
 1100 Raymond Boulevard, Room 513
 Newark, New Jersey 07102

The agency proposal follows:

Summary

The proposed amendments would result in less restrictive advertising regulations for licensed veterinarians by more precisely articulating that advertising which the Board of Veterinary Medical Examiners considers to be false, misleading or deceptive. The proposed amendments also delete certain provisions which the Board considers unnecessary or unduly restrictive.

N.J.A.C. 13:44-2.3 permitting telephone directory listings only in the section listing veterinarians was originally adopted when the Veterinary Practice Act prohibited listing veterinarians names in directories under any category "but that of veterinarian." This statutory provision was repealed when the Veterinary Practice Act was amended in 1983; however, the regulation was retained by the Board when it readopted subchapter 2 of its regulations.

Upon reconsideration, the Board considered the rule to be unnecessarily restrictive and therefore proposes deletion of the provision.

N.J.A.C. 13:44-2.11(c)2 was intended to apply to situations where a veterinarian advertises "emergency services" but in fact does not actually provide emergency care that the Board would deem adequate. N.J.A.C. 13:44-2.11(c)4 was intended to prohibit the implication that a facility is open and operating when in fact it is not. In reality both provisions deal with the same concern—advertising of emergency services. Under the proposed amendments the two sections are combined and the subject of the rule, emergency services, is more directly addressed.

N.J.A.C. 13:44-2.11(c)3 is intended to prohibit licensees who are not board certified from implying or stating that they have expertise in fields where board certificate exists. Upon review of the rule as it is presently written the Board de-

terminated that this intention was not clearly expressed. Therefore, an amendment is proposed which more precisely articulates the intention of the rule.

The intent of N.J.A.C. 13:44-2.11(c)5 is to prohibit undue pressure or intimidation in veterinarians advertisements. Upon review of the rule as it presently exists the Board concludes that the prohibition of techniques or communications which "appear to" intimidate, etc., was overbroad and could result in substantial uncertainty about what constitutes acceptable conduct. Therefore, an amendment narrowing the language of the rule is proposed.

N.J.A.C. 13:44-2.11(c)6 was intended to prohibit the use of testimonials from unqualified laymen about a veterinarian's professional competence. As presently written however the provision's use of the terms "quality" and "competence" could be broadly interpreted to encompass testimonials regarding such things as courtesy and accessibility, areas to which the rule was not meant to apply. Therefore, an amendment is proposed which more precisely articulates the intent of the rule.

The intent of N.J.A.C. 13:44-2.11(c)7 was intended to prohibit the advertising of kickbacks and fee splitting, but was not meant to prevent a veterinarian from offering, for example, free pet inoculations to a client who has referred new clients to the veterinarians since rewarding client loyalty does not raise the same potential for deception that offering or accepting money from another veterinarian does. Therefore, an amendment is proposed which the Board believes more clearly meets the purpose of the rule.

N.J.A.C. 13:44-2.11(c)10 currently prohibits the use of advertising that contains, "any format which directly or indirectly obscures a material fact." Inasmuch as N.J.A.C. 13:44-2.11(c)9 already prohibits "the knowing suppression, omission or concealment of any material fact or law" and such conduct would also be within the statutory prohibition of advertising which is false, misleading or deceptive, the Board believes 13:44-2.11(c)10 to be unnecessary and redundant. It therefore proposes the deletion of this paragraph.

Upon review of N.J.A.C. 13:44-2.11(c)11 the Board was concerned that the rule could be interpreted to preclude money-back guarantees which the regulation was not meant to prohibit. Therefore, the Board proposes an amendment which more clearly expresses the intent of the rule which is to prohibit guarantees that a veterinary cure will result from the professional services offered.

N.J.A.C. 13:44-2.11(e), (e)1 and (e)2 were intended to prevent the advertising of nonexistent discounts and to prevent hidden charges caused by the failure to disclose additional services which are inherent in the advertised treatment but whose costs are not included in the advertised fee. The rule was meant to require the veterinarian to include sufficient specificity in price advertising so as not to mislead consumers. As it currently exists, the Board was concerned that the rule may be burdensome in the number of disclosures required to be included in the actual advertisement. Therefore, an amendment is proposed which mandates fewer disclosures in price advertising while still providing consumer safeguards, such as the posting of regularly charged fees in the veterinarian's office.

N.J.A.C. 13:44-2.11(i) prohibits advertising which "appears to be essentially non-informational in nature and used primarily to gain attention." Upon review the Board determined that the rule was unlikely to be invoked by the Board because of the difficulty in judging when violation has occurred and the likelihood that Board members would disagree as to what

constitutes violation of the provision. In addition the Board believed that the prohibition against false, misleading and deceptive advertising could be used to reach professionally objectionable advertising which is harmful to consumer. Therefore, the Board proposes deletion of this provision from the advertising regulation.

Social Impact

By reducing the restrictions on advertising, it is expected that more information may be communicated to consumers by veterinarians through their advertisements. Consumer protection against advertising which is false, misleading or deceptive is not expected to be affected by the amendments.

Economic Impact

Except to the extent that advertising costs for veterinarians may be reduced because fewer disclosures will be required in certain types of advertising, no economic impact on governmental bodies or the public is anticipated as a result of the proposed amendments.

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

13:44-2.3 [Directory listings] (Reserved)

[Listings may be inserted in the telephone book only in the section listing veterinarians and may not appear under any other category including kennels, grooming establishments, animal hospitals and clinics.]

13:44-2.11 Advertising

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

(c) A licensee who engages in the use of advertising which contains the following, shall be deemed to be engaged in professional misconduct:

1. (No change.)

[2. Any implication that a service is unique when in fact it is common or is required by law, such as "emergency service provided" unless that service is the principal service provided in which case it must be clearly stated.]

2. Any statement that emergency service is provided or any statement or implication that a facility is open and operating to provide services during non-regular business hours unless the veterinary facility advertised meets the requirements of N.J.A.C. 13:44-2.14.

3. Any statement or implication that [special certification or training is possessed by the licensee.] **the licensee is a specialist or possesses special training in a specialty** including such phrases as "special interest in" or the actual use of a title such as cardiologist, dermatologist, etc., [when no such special certification or training in fact exists.] **where the licensee does not possess board certification or special training in the area of practice named.**

[4. Any implication or statement that a facility is open and operating to provide services during non-regular business hours when in fact it is only providing routine required veterinary services, such as required emergency coverage.]

[5.]4. Techniques or communications which [appear to] **tend to, or in fact,** intimidate or [to] exert undue pressure or influence over a prospective client.

[6.]5. The use of any personal testimonial attesting to the [quality or] **professional** competence of a service or treatment offered by a licensee.

[7.]6. Any offer to **fee-split or offer to** give to or receive from a [third party] **veterinarian** a fee or any other consideration

for referral of a patient or client for whom professional services are to be rendered, or for the prescribing or utilization of any product.

[8.]7. The use of any misrepresentation.

8. Any statement which guarantees that a veterinary cure will result from the professional service offered, provided however that nothing herein shall prohibit an offer or statement guaranteeing a return of professional fees received or a repeat treatment in the event an owner is dissatisfied with services rendered.

9. The knowing suppression, omission or concealment of any material fact or law.

[10. Any format which directly or indirectly obscures a material fact.

11. Any guarantee that satisfaction or cure will result from the professional service offered.]

(d) (No change.)

(e) Advertising making reference to setting forth a fee shall be limited to that which contains a fixed or stated range of fees for a specifically described routine professional veterinary service.

1. A licensee who advertises fees shall disclose all the relevant variables and considerations which are ordinarily included in such a service so that the fee will not be misunderstood. In the absence of such a disclosure, the stated fees shall be presumed to include everything ordinarily required for such a service. [No additional charges shall be made for an advertised veterinary service, unless the advertisement includes the following disclaimer: "additional charges may be incurred for related services which may be required in individual cases." This disclaimer cannot be used for veterinary services where related services are ordinarily required].

2. Offers of discounts or fee reductions shall indicate the fixed or stated range of fees against which said discount is to be made. **Where an "across the board" discount is offered, such as "10% of all fees," the advertisement shall, at the least, include a list of the regular fees of common, representative services along with a statement that a complete list of veterinary services and the regular fees therefor is available for examination at the veterinarian's office.**

3. (No change.)

(f)-(h) (No change.)

[(i) Any licensee who engages in any format which appears to be essentially non-informational in nature and used primarily to gain attention shall be deemed to be engaged in professional misconduct.]

Redesignate (j)-(k) as (i)-(j) (No change in text.)

NEW JERSEY RACING COMMISSION

The following proposals are authorized by the New Jersey Racing Commissioner, Harold G. Handel, Executive Director.

Submit comments by March 20, 1986 to:
Bruce H. Garland, Deputy Director
New Jersey Racing Commission
CN-088 Justice Complex
Trenton, New Jersey 08625

(a)

Thoroughbred Racing Track Entrance; Coggins Test Requirement for Horses, Ponies or Equine Mascot

Proposed Repeal and New Rule: N.J.A.C. 13:70-3.47

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

Proposal Number: PRN 1986-17.

The agency proposal follows.

Summary

The proposed new rule, N.J.A.C. 13:70-3.47, will ensure that horses entering the grounds of track associations have had a negative Coggins test. A Coggins test is used to determine the presence of infectious equine anemia. The new rule changes the current rule (proposed for repeal) by requiring horses to have had a negative Coggins test before entering the grounds, although provision has been made to segregate and test horses who arrive without evidence of a negative test. The new rule also places responsibility for ensuring compliance with this rule on the racing secretary and subject the racing secretary and track association to penalties for violation.

Social Impact

The social impact of this new rule will be positive. The rule will provide greater assurance that horses will be tested for infectious equine anemia. There is no other direct social impact upon the public.

Economic Impact

The economic impact of the proposed new rule will be minimal, if there is any at all. There are no additional or increased costs to the State, the participants or the public since the rule primarily assures that horses have been tested and certified.

Full text of the proposed repeal and new rule follows (deletion shown in brackets [thus]; addition shown in boldface thus).

13:70-3.47 Track entrance; Coggins test requirements for horses, ponies or equine mascot

[(a) No horse shall be stabled on the grounds of any racing association nor shall any horse be eligible to enter any race absent presentation of a certificate of a negative Coggins test to the racing secretary. Said certificate shall:

1. Identify the horse by tattoo number;

2. Indicate said test was performed within one year prior to the date of presentation to the racing secretary;

3. Indicated said test was conducted by a laboratory approved by the United States Department of Agriculture; and

4. Be attached to the appropriate foal certificate.

(b) No horse shall be stabled on the grounds of any racing association nor shall any horse be eligible to enter any race absent presentation to the racing secretary of evidence of vaccination for equine encephalitis within the preceding year.

(c) In the case of any pony or other equine mascot, evidence of a negative Coggins test, as well as evidence of vaccination for equine encephalitis, together with a photograph of the animal, must be filed with the racing secretary.]

(a) No horse shall enter the grounds of any track association absent presentation of a valid certificate of a negative Coggins test. Said certificate shall:

1. Identify the horse by tattoo number;

2. Indicate said test was performed within one year prior to the date of presentation to the racing secretary;

3. Indicate said test was conducted by a laboratory approved by the United States Department of Agriculture; and,

4. Be attached to the appropriate foal certificate.

(b) In the event that a horse arrives at a track association without a valid certificate of a negative Coggins test, the horse will be permitted to be stabled in an area designated by the State Veterinarian. A certificate must be presented to the Racing Secretary within twelve hours or a new certificate must be obtained as soon as possible. The State Veterinarian shall be notified immediately if any horse enters the grounds under these conditions.

(c) No horse shall be stabled on the grounds of any track association absent presentation of evidence of vaccination for equine encephalitis within the preceding year.

(d) In the case of any pony or equine mascot, evidence of a negative Coggins test, as well as evidence of vaccination for equine encephalitis, together with a photograph of the animal, must be filed with the racing secretary.

(e) The racing secretary shall be responsible for ensuring compliance with this rule. Violation of this rule may subject the racing secretary and/or track association to penalties, provided for in these rules.

(a)

Thoroughbred Racing Time; Claims

Proposed Amendment: N.J.A.C. 13:70-12.16

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

Proposal Number: PRN 1986-19.

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 13:70-12.16 would extend the time to deposit claims to 10 minutes before post time from the present 15 minutes. This will allow those eligible to file claims an added five minutes to evaluate horses, prepare the claim form and deposit it in the claim box.

Social Impact

The social impact of the proposed amendment is minimal but positive. It will simply allow 5 more minutes for the filing of a claim.

Economic Impact

The economic impact will also be positive. There are no costs to the State, tracks or public. To the extent more claims are filed as a result of the extended time, the State should expect to receive some additional revenue in the form of sales tax on the claims.

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

13:70-12.16 Time; claims

Claims must be deposited in the claim box at least [15] 10 minutes before post time of each race.

(b)

Harness Racing Track Entrance; Coggins Test Requirement for Horses, Ponies or Equine Mascot

Proposal Repeal and New Rule: N.J.A.C. 13:71-6.24

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

Proposal Number: PRN 1986-18.

The agency proposal follows:

Summary

The proposed new rule, N.J.A.C. 13:71-6.24, will ensure that horses entering the grounds of track associations have had a negative Coggins test. A Coggins test is used to determine the presence of infectious equine anemia. The new rule changes the current rule (proposed for repeal) by requiring horses to have had a negative Coggins test before entering the grounds, although provision has been made to segregate and test horses who arrive without evidence of a negative test. The new rule also places responsibility for ensuring compliance with this rule on the racing secretary and subject the racing secretary and track association to penalties for violation.

Social Impact

The social impact of this new rule will be positive. The rule will provide greater assurance that horses will be tested for infectious equine anemia. There is no other direct social impact upon the public.

Economic Impact

The economic impact of the proposed new rule will be minimal, if there is any at all. There are no additional or increased costs to the State, the participants or the public since the rule assures that horses have been tested and certified.

Full text of the proposed repeal and new rule follows (additions shown in boldface **thus**; deletions shown in brackets [thus]).

13:71-6.24 [Evidence of a negative Coggins test; entrance upon a track]

[(a) No horse shall be stabled on the grounds of any racing association nor shall any horse be eligible to enter any race absent presentation of a certificate of a negative Coggins test to the racing secretary. Said certificate shall:

1. Identify the horse by tattoo number;
2. Indicate said test was performed within one year prior to the date of presentation to the racing secretary;
3. Indicate said test was conducted by a laboratory approved by the United States Department of Agriculture; and
4. Be attached to the appropriate eligibility certificate.

(b) No horse shall be stabled on the grounds of any racing association nor shall any horse be eligible to enter any race absent presentation to the racing secretary of evidence of vaccination for equine encephalitis within the preceding year.

(c) In the case of any pony or other equine mascot, evidence of a negative Coggins test, as well as evidence of vaccination for equine encephalitis, together with a photograph of the animal, must be filed with the racing secretary.]

Track Entrance; Coggins Test Requirement for horses, ponies or equine mascot

(a) No horse shall enter the grounds of any track association absent presentation of a valid certificate of a negative Coggins test. Said certificate shall:

1. Identify the horse by tattoo number;
2. Indicate said test was performed within one year prior to the date of presentation to the racing secretary;
3. Indicate said test was conducted by a laboratory approved by the United States Department of Agriculture; and
4. Be attached to the appropriate foal certificate.

(b) In the event that a horse arrives at a track association without a valid certificate of a negative Coggins test, the horse will be permitted to be stabled in an area designated by the State Veterinarian. A certificate must be presented to the Racing Secretary within twelve hours or a new certificate must be obtained as soon as possible. The State Veterinarian shall be notified immediately if any horse enters the grounds under these conditions.

(c) No horse shall be stabled on the grounds of any track association absent presentation of evidence of vaccination for equine encephalitis within the preceding year.

(d) In the case of any pony or equine mascot, evidence of a negative Coggins test, as well as evidence of vaccination for equine encephalitis, together with a photograph of the animal, must be filed with the racing secretary.

(e) The racing secretary shall be responsible for ensuring compliance with this rule. Violation of this rule may subject the racing secretary and/or track association to penalties, provided for in these rules and regulations.

Submit comments by March 20, 1986 to:

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

The agency proposal follows:

Summary

In accordance with the "sunset" and other provisions of Executive Order No. 66(1978), the Department of Transportation proposes to readopt N.J.A.C. 16:54 concerning "Licensing of Aeronautical Facilities." These rules were originally filed and became effective prior to September 1, 1969. Subsequent amendments were filed and became effective on May 19, 1975 and June 4, 1981. Under the Executive Order the chapter expires on June 4, 1986.

These rules bring New Jersey fixed wing, rotary wing and other aircraft facility standards into basic conformance with applicable national standards, and include lighter than air and parachute facilities.

These rules also define those aeronautical facilities which are licensed in the State of New Jersey; outline the procedures for obtaining license(s); specify the licensing requirements which applicants must meet; specify the liability and penalty for failure to observe the requirements; and describe the procedures for requesting exemption therefrom.

The Department finds these rules necessary and required for the maintenance and enhancement of public safety at aeronautical facilities and therefore proposes to readopt N.J.A.C. 16:54.

Social Impact

The proposed readoption of these rules will continue the procedure to be followed in the licensing of aeronautical facilities within the State of New Jersey. The continuation of these rules will assure that the requirements for and the interest of public safety at aeronautical facilities is protected. There will be no significant additional impact since the current procedures are not changed and there are no proposed amendments.

Economic Impact

The proposed readoption will have no new or additional economic impact on those doing business with the Department since the rules are proposed without change. However, those persons found to be in violation of these rules are subject to a penalty.

Full text of the rules proposed for readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:54.

TRANSPORTATION

(a)

DIVISION OF AERONAUTICS

Licensing of Aeronautical Facilities

Proposed Readoption: N.J.A.C. 16:54

Authorized By: Roger A. Bodman, Commissioner,
 Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29 and
 6:1-44.

Proposal Number: PRN 1986-12.

NEW JERSEY TRANSIT CORPORATION

(a)

Procurement Policies and Procedures**Proposed Readoption: N.J.A.C. 16:72**

Authorized By: New Jersey Transit Corporation,
Jerome C. Premo, Executive Director.

Authority: N.J.S.A. 27:25-5(e).

Proposal Number: PRN 1986-27.

Submit comments by March 20, 1986 to:

Albert R. Hasbrouck, III
Assistant Executive Director
New Jersey Transit Corporation
(NJ TRANSIT)
P.O. Box 10009
Newark, NJ 07101

The agency proposal follows:

Summary

In accordance with the sunset provisions of Executive Order No. 66(1978), the New Jersey Transit Corporation (hereinafter "NJ TRANSIT") proposes to readopt N.J.A.C. 16:72-1.1 through 16:72-4.11, NJ TRANSIT'S Procurement Policies and Procedures.

These subchapters are scheduled to expire on May 1, 1986. The provisions of Executive Order No. 66 require that NJ TRANSIT review periodically its present regulations to determine their continuing usefulness. Accordingly, NJ TRANSIT has reviewed its Procurement Policies and Procedures and has found them to be reasonable, proper and necessary for the purposes for which they were originally promulgated.

N.J.A.C. 16:17-1.1 through 4.11 contain the regulations governing the procurement of goods and services for NJ TRANSIT as well as the debarment, suspension and disqualification of persons from doing business with NJ TRANSIT. The regulations require all purchases, whether by formal advertising or otherwise, to be made on a competitive basis to the maximum practicable extent (N.J.A.C. 16:72-1.4). Specifically, the regulations implement the procurement requirements as set forth in N.J.S.A. 27:25-1 et seq. Subchapter 1 describes the general provisions, applicable to all procurements, including the methods of procurement. Subchapter 2 describes bidding procedures. Subchapter 3 describes the procedures for procurements using the request for proposals (RFP) method and Subchapter 4 describes the procedures to be used when debarring persons from doing business with NJ TRANSIT.

Social Impact

The regulations proposed for readoption have and will continue to affect NJ TRANSIT'S ability to not only operate a statewide public transit system on a daily basis, but also to continue NJ TRANSIT'S capital improvement program which results in a better quality ride for the public today and a safeguarding of the infrastructure for tomorrow.

Economic Impact

The proposed readoption of these regulations will not change the manner in which NJ TRANSIT procures goods and services. Therefore, no additional economic impact is foreseen. The present economic impact resulting from competitive procurements remains the same.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 16:72.

EDUCATION

(b)

STATE BOARD OF EDUCATION**Controversies and Disputes Rules****Proposed Readoption with Amendments:
N.J.A.C. 6:24**

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

Authority: N.J.S.A. 18A:4-15, 18A:6-9, 18A:6-10 et seq.
and 18A:29-14.

Proposal Number: PRN 1986-15.

The agency proposal follows:

Summary

The State Board of Education, pursuant to the authority of N.J.S.A. 18A:4-15, 18A:6-9, 18A:6-10 et seq. and 18A:29-14, proposes a readoption with amendments of the rules pertaining to Controversies and Disputes, N.J.A.C. 6:24. Under the provisions of Executive Order No. 66, 1978 (which provides for the expiration of amended or new rules within five years), N.J.A.C. 6:24 will expire June 1, 1986, unless readopted.

This chapter provides the rules of procedure for filing of a petition with the Commissioner of Education pursuant to his statutory authority to hear controversies and disputes arising under school law. In conformity with the requirements of Executive Order No. 66, the entire chapter has been carefully reviewed by the staff of the Bureau of Controversies and Disputes, the Office of Administrative Law, representatives of the Attorney General, and the Administrative Code Review Committee which consists of representatives of all the professional education associations in the State. Its readoption and revision has been deemed to be essential to the fulfillment of the Commissioner's responsibilities to hear and decide cases involving alleged violations of school law and rules and for providing the means for individuals to initiate due process proceedings for the correction of alleged violations of statutes, rules or abuse of discretion.

Further, the following amendments have been determined to be necessary in order to recognize and incorporate into the rules procedural changes in the actual hearing process necessitated by the provisions of N.J.S.A. 52:14F-1 et seq. which established in January 1979 the Office of Administrative Law (OAL) as an independent agency for the conduct of administrative hearings. Consequently, the bulk of the following amendments remove specific procedures governing the pre-

hearing and hearing process before the Commissioner and reference those portions of the rules of OAL which presently govern the pre-hearing and hearing phases of the administrative law process.

A more detailed summary of the existing rules and proposed amendments is presented below:

N.J.A.C. 6:24-1, General Provisions, has been generally amended to improve clarity of language without changes in the substance of the procedures for the filing of petitions and answers, and to reference applicable portions of OAL rules which apply to the hearing process after transmittal to OAL. N.J.A.C. 6:24-1.5, 1.6, and 1.7 provide for disposition of motions of applications for stays, amendment of petitions or answers or intervention, dependent upon whether the motions are made prior to or after the transmittal of the contested case to OAL.

One significant substantive addition to this subchapter is the proposed new N.J.A.C. 6:24-1.18 which deals with the establishment of criteria for the awarding of pre-judgment and post-judgment interest recently deemed to be within the Commissioner's authority as a result of a decision of the Appellate Division of the Superior Court in *Levitt and Sasloe v. Board of Education of the City of Newark*.

N.J.A.C. 6:24-2, Declaratory Rulings, describes the method for filing a petition for declaratory judgment pursuant to N.J.S.A. 52:14B-8.

The single change in this subchapter is non-substantive and designed to clarify that determinations by the Commissioner as to whether to grant declaratory judgment will be made upon receipt and review of the answer submitted by respondent.

N.J.A.C. 6:24-3, Order to Show Cause, defines the authority of the Commissioner to enforce the school laws through issuance of an order to show cause and to illustrate those circumstances where such orders are appropriate. The single substantive change within this subchapter provides that the order to show cause procedure shall not be deemed to be in lieu of a contested case hearing. Other proposed changes are editorial in nature.

N.J.A.C. 6:24-4, Petitions under Teachers' Minimum Salary Act, defines the right of a teacher to file a petition of appeal for a hearing when a district board of education acts to withhold a salary increment pursuant to N.J.S.A. 18A:29-14. The proposed change in this subchapter is non-substantive and limited to providing greater clarity of language.

N.J.A.C. 6:24-5, Charges Under Tenure Employees' Hearing Act, which describes the procedure for the filing of charges under the Act, has been expanded to spell out specific timelines which must be met in the filing and certification process. These timelines, while previously spelled out in decisional law, have never before been explained in the rules. The proposed timelines and citations are as follows:

At 6:24-5.1(b)2, charges along with sworn statement of the evidence shall be transmitted to affected employee within three working days of their filing.

At 6:24-5.1(b)3, opportunity by the employee to file a written statement of position and a written statement of evidence under oath within 15 days of receipt of the charges.

At 6:24-5.1(b)4, district board of education to make a probable cause determination within 45 days after receipt of the answer or the expiration of the 15 day period for filing the answer.

At 6:24-5.1(c)3, provides, in conformity with statute, for a minimum of 90 days for improvement if the charges are charges of inefficiency.

At 6:24-5.1(c)4, provides that the person instituting the charges shall notify the district board of education upon completion of the minimal 90 day period, which inefficiencies have been corrected and which, if any, remain.

At 6:24-5.1(c)5, provides that upon receipt of the aforesaid report the district board of education shall notify the affected employee relative to the inefficiencies. Such notification to the employee shall be provided within 30 calendar days of the expiration of the minimal 90 day period.

At 6:24-5.1(c)6, 7, 8 and 9 provide for the same process as applies when the charges are other than inefficiency.

At 6:24-5.2(a)2, requires the certification to include information as to whether the employee was suspended and whether such suspension was with or without pay.

N.J.A.C. 6:24-6, Contested School Elections, details the process whereby defeated candidates or, in the case of a question or referendum, qualified voters may seek a recount of a school election result or an inquiry into alleged election violations.

This subchapter has been amended so as to remove from the rules those subsections which merely repeat the language of the statute and substitute the statutory reference. Subsections (b), (c) and (d) of N.J.A.C. 6:24-6.1 are being removed while a new proposed subsection (b) references the statute N.J.S.A. 18A:14-63.12 and a new proposed subsection (c) provides that hearings into alleged violations of election procedures are to be conducted pursuant to OAL rules (N.J.A.C. 1:1).

Similarly, subsections (a), (b), (c), (d) and (e) of N.J.A.C. 6:24-6.2, Cost of recounts, have been deleted and proposed to be replaced by the statutory reference. All other proposed changes are minor editorial revisions.

N.J.A.C. 6:24-7, Budget Hearing Rules, describes the school budget appeal hearing process. Specifically, N.J.A.C. 6:24-7.7(d), (e), (f) and (g), have been added to provide an itemization of exactly what materials and information must be filed by both parties pursuant to the budget appeal hearing process. Other proposed changes are editorial in nature.

Social Impact

The readoption of these rules and the minor editorial and procedural revisions which they contemplate explain and clarify an historically long-standing administrative review process. This readoption will enable individuals and boards of education to continue to obtain due process adjudication of controversies and disputes which may arise under school law.

Economic Impact

The readoption and revisions generally impose no additional burden upon those who will avail themselves of its provisions; there will be little new or additional economic impact. The authority to require the payment of pre and/or post-judgment interest may create an additional cost factor upon those district boards of education who are deemed to be liable for the payment of interest. The requirement that interest only be paid upon demonstration of bad faith will, however, limit the economic impact of this amendment.

Full text of the readoption with amendments follows (additions shown in boldface thus; deletions shown in brackets [thus]).

SUBCHAPTER 1. GENERAL PROVISIONS

6:24-1.1 Definitions

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

"ALJ" means an administrative law judge from the Office of Administrative Law.

"Commissioner" as used in these rules, unless a different meaning appears from the context, shall mean the Commissioner of Education or [the Assistant Commissioner of Education assigned to hear and determine controversies and disputes or a hearing officer assigned to conduct the proceedings in any case] his or her designee.

"Interested person(s)" [as used in these rules shall be defined as person(s) having a direct and substantial interest in the subject matter of a controversy before the Commissioner and whose rights, status or legal relations will be affected by a determination thereof] means a person(s) who will be substantially, specifically and directly affected by the outcome of a controversy before the commissioner.

"OAL" means the Office of Administrative Law.

6:24-1.2 Filing and service of petition

[To initiate a proceeding before the Commissioner to determine a controversy or dispute arising under the school laws, a petitioner shall file with the Commissioner the original copy of the petition, together with proof of service of a copy thereof on the respondent or respondents. Such petition must be filed within 90 days after receipt of the notice by the petitioner of the order, ruling or other action concerning which the hearing is requested. Petitions are to be mailed to the Assistant Commissioner of Education, Division of Controversies and Disputes, New Jersey Department of Education, 225 West State Street, Trenton, New Jersey 08625.]

(a) To initiate a contested case for the commissioner's determination of a controversy or dispute arising under the school laws, a petitioner shall serve a copy of a petition upon each respondent. The petitioner then shall file proof of service and the original of the petition with the commissioner c/o the Director of the Bureau of Controversies and Disputes, New Jersey Department of Education, 225 West State Street, CN 500, Trenton, New Jersey 08625.

(b) The petitioner shall file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling or other action by the district board of education which is the subject of the requested contested case hearing.

6:24-1.3 Format of petition

[(c)] (a) The petition must include the name and address of each petitioner, the name and address of or a description sufficient to identify each party respondent, and a statement of the specific allegation(s) and essential facts supporting them which have given rise to a dispute under the school laws, and must be verified by oath. The petition should also cite, if known to petitioner, the section or sections of the school laws under which the controversy has arisen and should be presented in substantially the following form:

(NAME OF PETITIONER(S)), : BEFORE THE COMMISSIONER
PETITIONER(S), : OF EDUCATION OF NEW JERSEY

v.

(NAME OF RESPONDENT(S)), : PETITION
RESPONDENT(S). :

Petitioner, _____ residing at _____, hereby requests the Commissioner of Education to consider a controversy which has arisen between petitioner and respondent whose address (or other identification) is _____, pursuant to the authority of the commissioner to hear and determine controversies under the school law (N.J.S.A. 18A:6-9), by reason of the following facts:

1. (Here set forth in appropriate paragraphs the specific allegations, and the facts supporting them, which constitute the basis of the controversy.)

WHEREFORE, petitioner requests that (here set forth prayer for the relief desired).

Signature of petitioner or his[/] or her attorney

Date _____

(Name of petitioner), of full age, being duly sworn upon his[/] or her oath according to law deposes and says:

- 1. I am the petitioner in the foregoing matter.
- 2. I have read the petition and aver that the facts contained therein are true to the best of my knowledge and belief.

(Signature)

Sworn and subscribed to before me this

_____ day of _____, 19 _____

(Signature)

[(a)] (b) Any party to a controversy or dispute before the [C]commissioner [of Education], who is a party to another action before any other administrative agency, arbitration proceeding or court involving the same or similar issue of fact or law, shall indicate the existence of such action or complaint within the petition of appeal or the answer to the [C]commissioner, as may be appropriate. Failure to so certify may be deemed to be sufficient cause for dismissal of the petition of appeal[,] when, in the judgment of the [C]commissioner and/or the [administrative law judge] ALJ, such failure results in the duplication of administrative procedures for the resolution of a controversy or dispute.

[(b)] (c) Whenever such duplicate filing is discovered, and after the filing of the answer by the respondent, the case will be transmitted to the [Office of Administrative Law] OAL for initial determination of which agency, if any, has the predominant interest in the outcome of the case.

6:24-1.4 Filing and service of answer

(a) The respondent(s) shall serve an answer upon the petitioner within 20 days after [service] receipt of the petition [upon them], which [answer] shall state in short and plain terms the [respondent(s)] defenses to each claim asserted and shall admit or deny the allegation(s) of the petition. [Such time may be extended by the commissioner upon written application to him.] Upon written application by a party the commissioner may extend the time for answer. Such application must be received prior to the expiration of the 20 day period.

(b) Respondent(s) may not generally deny all the allegations, but shall make [their denials as] specific denials which meet the substance of designated allegations or paragraphs of the complaint.

(c) [Allegations in any answer setting forth an affirmative defense shall be taken as denied.] The commissioner shall deem

an affirmative defense to an allegation as also a denial of that allegation.

(d) The original [copy] of the answer shall be filed with the commissioner, together with proof of service of a copy thereof upon petitioner[s].

(e) Failure to answer within the 20 day period from receipt of service may result in the petition being transmitted to the OAL for proceedings pursuant to the provisions of N.J.A.C. 1:1-5.1.

6:24-1.5 Interim relief and stay of [local] district board [of education] action

(a) Where [a petition is filed seeking to prevent] **the subject matter of the controversy is** a particular course of action by a [local school] district board of education, [there] **the petitioner may [be included] include** in the petition an application for a stay of that action pending the commissioner's final decision [on] in the [petition] **contested case.**

(b) Any party opposing such an application shall so indicate as part of the answer to the petition filed pursuant to N.J.A.C. 6:24-1.4; **however, upon review, the commissioner may act upon such application prior to the filing of an answer.**

(c) The commissioner may decide such application prior to any transmittal of the matter to the OAL for hearing. After transmittal, any motion for emergent relief shall be determined by the OAL. (See N.J.A.C. 1:1-9.6.)

6:24-1.6 Amendment of petition and answer

Prior to the transmittal of any matter to the OAL, [The] the commissioner may order the amendment of any petition or answer, or any petitioner may amend his[/] or her petition, and any respondent may amend his[/] or her answer, at any time and in any manner which the commissioner deems fair and reasonable. Upon transmittal to the OAL, motions to amend a petition or answer shall be determined by the OAL. (See N.J.A.C. 1:1-6.3.)

6:24-1.7 Permission to intervene

[The commissioner may allow any person upon a showing that he/she may be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding. The commissioner, in his discretion, may also permit an individual, group or organization to intervene as amicus and to participate by presentation of argument, orally or in writing, or for any other limited purpose, as may be ordered.] **Prior to any transmittal to the OAL, requests for intervention or participation in a contested case shall be addressed to the commissioner. Upon transmittal, requests should be made to the OAL. Such requests are governed by N.J.A.C. 1:1-12.**

6:24-1.8 Appearance pro se

Any person may appear pro se or may be represented by an attorney at law admitted and authorized to practice in this State. (See N.J.A.C. 1:1-1.3.)

[6:24-1.9 Conference of counsel]

[(a) After an answer has been filed or the time for doing so has expired, the commissioner may summon the counsel for parties or the parties pro se to appear before him at a conference for the purpose of eliminating or simplifying issues, obtaining admissions of fact or of documents that will avoid unnecessary proof, arriving, if possible, at an agreement of facts, and otherwise expediting the determination of the controversy. The commissioner may require the parties to submit written statements, verified by oath, as to the facts involved in any controversy or dispute, and may further require the submission of certified copies of all documents necessary to

a full understanding of the question. In addition to the aforementioned items, the conference shall include, but not be limited to, such matters as discovery procedures, interlocutory proceedings, subpoena requirements, witnesses, pupil witnesses and their sequestration, submission of briefs or memoranda of law, order of proceedings, and other matters which may be pertinent. The rules with respect to discovery are set forth as follows:

1. Either party may propound interrogatories to the other, subject to the provisions hereinafter set forth. Interrogatories shall be answered within 20 days from the date of service upon a party or his/her representative. When interrogatories are deemed improper, application may be made to the commissioner to strike same or for such other relief as may be deemed proper by the commissioner in the circumstances.

2. Depositions may not be taken prior to the conference of counsel and then same may be taken only in accordance with such order as may be entered at said conference. Where a party proposes to depose a superintendent or any administrator, such depositions shall take place only at the office of the superintendent or the administrator to be deposed and at no other place, unless the commissioner shall, for good cause shown, otherwise order. In no event shall a party to be deposed be required to appear in any county other than the county wherein the school district is situate. Where a party seeks to depose a teacher, such depositions shall not take place during teaching hours but shall be scheduled at a mutually convenient time.

3. Where a party seeks to inspect or copy board or employee records, such inspection and/or copying shall take place only at the office where said records are maintained and at no other place unless the commissioner shall, for good cause shown, otherwise order. The costs of reproduction of any such records shall be borne by the party seeking to copy same.

4. All discovery shall be completed within 90 days of the date of the conference of counsel, unless the commissioner shall, for good cause shown, extend the time for such discovery.

(b) For failure to appear at such conference or to participate therein or to take action required by the commissioner by authority of this rule, the commissioner in his discretion may make such order with respect to the continued prosecution of the matter, including dismissal of a petition or of an objection thereto, as he deems just and proper.]

6:24-1.[10]9 Dismissal of petition

At any time [following such conference] **after the receipt of the answer and prior to transmittal of the pleadings to the OAL, the commissioner, in his or her discretion, may dismiss the petition on the grounds that no sufficient cause for determination has been advanced, lack of jurisdiction, failure to prosecute or other good reason.**

6:24-1.[11]10 Hearing

[(a) If the parties and the commissioner are unable to agree upon a statement of the material facts, the commissioner shall issue an order or directive fixing the date, time and place at which the hearing will be held, and shall give at least five business days' notice to the parties by serving copies of such order or directive upon them personally or by regular mail, or give such other notice as may be agreed upon and requested by all parties. At such a hearing, the parties shall be afforded opportunity for submission of oral testimony and documentary evidence.

(b) In hearings before the commissioner, any postponement therein requested by one of the parties may be granted if the commissioner determines that the request is based on good and sufficient reasons and accompanied by timely notice. "Good and sufficient reasons" may include, but are not limited to:

1. Unavoidable appearance by the attorneys or either party before any court of this State or of the United States;
2. Illness of the petitioner, the respondent or their attorneys, evidenced by a doctor's certificate of illness, and/or an affidavit from the parties or their attorneys, at the discretion of the commissioner.]

(a) **Upon the filing of the petition and answer(s) in a contested case, the commissioner may either retain the matter for hearing directly and individually or transmit the matter for hearing before the OAL. Should the commissioner retain the matter, procedures relating to pre-hearing conferences shall be governed by the rules of the OAL. (See N.J.A.C. 1:1-10.1).**

(b) **Upon transmittal to the OAL, the conduct of the proceedings shall be governed by the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1.**

(c) **Determination relating to pre-hearing conferences, discovery and other procedural matters shall be made by the commissioner or the ALJ, whoever is hearing the case.**

6:24-1.[12]11 [Authority of commissioner] Oaths

The commissioner or the ALJ, whoever is hearing the case, shall have authority to administer oaths and affirmations, examine witnesses and receive evidence, issue subpoenas, rule upon offers of proof, take or cause depositions to be taken whenever the ends of justice would be served thereby, regulate the course of the hearing, and dispose of procedural requests or similar matters. (See N.J.A.C. 1:1-15.5(b).)

6:24-1.[13]12 Subpoenas

Subpoenas, including subpoenas duces tecum, may be issued in the discretion of the commissioner or the ALJ, whoever is hearing the case, upon request of any party. [Any witnesses summoned may request the commissioner to vacate or modify a subpoena, whereupon the commissioner shall give notice of such request to the party in whose interest the subpoena was issued. After such investigation as the commissioner considers appropriate, he may grant the request in whole or in part upon a finding that the testimony or the evidence whose production is required does not relate with reasonable directness to any matter in question or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive, or has not been issued a reasonable period in advance of the time when the evidence is requested.] (See also N.J.A.C. 1:1-8.3, 8.4, 8.5.)

6:24-1.[14]13 Evidence

[All evidence, including any records, investigations, reports and documents in the possession of the commissioner of which he desires to avail himself in making a decision, shall be offered and made a part of the record in the proceeding, and no other factual information or evidence shall be considered except that the commissioner may take official notice of any fact which may be judicially noticed by the courts, and in addition, may take official notice of general, technical, or scientific facts within his specialized knowledge. Parties shall be notified of the material so noticed, and they shall be afforded a fair opportunity to refute the facts so noticed. The requirements of this rule shall not apply to cases in which the truth of the particular fact or matter is admitted, or to a determination of appropriate relief.] **Parties in a contested case**

shall be bound by the rules of evidence as contained within the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1 (See N.J.A.C. 1:1-15.)

6:14-1.[15]14 Stenographic transcript

Where there is available a stenographic transcript of proceedings before a [local] **district board of education** or before any other official or body whose action is called into question before the commissioner, either party may, if at least three days' notice of intention to do so has been given to opposing parties or counsel therefor, offer the transcript of testimony of any witness or witnesses named in said notice in lieu of producing said witness or witnesses at the hearing. In such event, any opposing party may subpoena such witness or witnesses to appear personally and any party may produce any additional relevant or material evidence, oral or documentary, at the hearing. The parties may agree, or the commissioner or the ALJ, whoever is hearing the case, may require, that the controversy be presented solely upon such stenographic transcript.

6:24-1.[16]15 Summary judgment

(a) **Should the commissioner determine to decide a motion for summary judgment such motion shall be subject to the following process:**

[(a)]1. If a statement of the material facts has been agreed upon by the parties and the commissioner, or if the controversy is submitted solely upon a stenographic transcript of proceedings with the approval, or at the direction, of the commissioner, or if for any other reason there are no issues of fact to be heard, the commissioner shall require all parties to submit briefs on the matter. Such briefs shall be submitted within the time fixed by the commissioner **in consultation with the parties and confirmed by a written directive**. The commissioner shall thereupon determine the matter on the basis of the total record before him or her.

[(b)]2. At any time **prior to transmittal to the OAL** any party may move for summary judgment, which motion shall be decided by the commissioner on the basis of conference stipulations, affidavits and briefs. The parties must submit said affidavits and briefs within the time fixed by the commissioner **in consultation with the parties and confirmed by a written directive**. **Applications for summary judgment made after transmittal to the OAL shall be subject to the provision of N.J.A.C. 1:1-13.**

[(c)]3. Unless otherwise ordered by the commissioner, there shall be no oral argument in connection with a summary judgment action. If the commissioner grants oral argument, it shall be limited to 30 minutes for each party and shall not include testimony of witnesses.

6:24-1.[17]16 Written decision

[(a)] Every determination of a controversy or dispute **arising** under the school law, or of charges against a [school] **district board of education** employee under tenure, shall be made by the commissioner [who may designate a hearing examiner to hear the matter and prepare recommended findings of fact and/or conclusions of law]. Every such determination shall be embodied in a written decision which shall set forth the findings of fact and conclusions of law and an appropriate order **pursuant to the provisions of N.J.A.C. 1:1-16**

[(b) Whenever a determination of a controversy or dispute shall incorporate findings of fact and/or conclusions of law prepared by a hearing examiner appointed by the commissioner, copies of the report of the recommended findings

of fact and/or conclusions of law shall be delivered or mailed to all parties to the controversy or dispute who may, concurrently within 15 days of such delivery or 18 days of mailing, file written exceptions, objections or replies thereto with the commissioner.

(c) The commissioner shall adopt, reject or modify the report of the hearing examiner and shall thereafter make a final determination with respect to such controversy.

(d) Such final determination shall be embodied in a written decision which shall set forth the report of the hearing examiner, the commissioner's adoption, rejection or modification of the hearing examiner's report, and an appropriate order.

(e) Such written decision and appropriate order shall be filed in the office of the commissioner and copies thereof shall be served or mailed to the parties of record affected thereby or their attorneys of record.]

6:24-1.18 Waiving of rules]

[Any of the provisions of these rules relating to the presentation of his/her case or argument may be waived by any party or his/her attorney.]

6:24-1.[19]17 Relaxing of rules

The rules herein contained shall be considered general rules of practice to govern, expedite and effectuate the procedure before, and the actions of, the commissioner in connection with the [hearing and] determination of controversies and disputes under the school laws. They may be relaxed or dispensed with by the commissioner, in his or her discretion, in any case where a strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.

6:24-1.18 Awarding of interest

(a) The commissioner pursuant to the criteria herein may award both pre-judgment and/or post-judgment interest in any circumstance in which a petitioner has sought such relief and has successfully established a claim to a monetary award.

(b) "Interest" is defined as follows:

1. Pre-judgment interest is interest awarded for that period of time prior to the adjudication of the monetary claim.

2. Post-judgment interest is interest determined by the commissioner to be due to a petitioning party for that period of time after the claim has been successfully adjudicated but remains unsatisfied.

(c) The following criteria shall be applied when awarding interest:

1. Pre-judgment interest shall be awarded by the commissioner when he or she has concluded that the denial of the monetary claim was an action taken in bad faith and/or has been determined to have been taken in deliberate violation of statute or rule.

2. Post-judgment interest shall be awarded when a respondent has been determined through adjudication to be responsible for such payment, the precise amount of such claim has been established and the party responsible for the payment of the judgment has neither applied for nor obtained a stay of the decision but has failed to satisfy the claim within 60 days of its award.

(d) Rate of interest shall be awarded as follows:

1. Pre-judgment interest shall be awarded based upon the average rate of interest earned on investments by the party responsible for such payment during the period of time in which the monies awarded were illegally detained.

2. Post-judgment interest shall be awarded based upon the prevailing rate of interest established by court rules at the time that the right to the monetary claim was determined. (See New Jersey Court Rules, R. 4:42-11(a).

SUBCHAPTER 2. DECLARATORY RULINGS

6:24-2.1 Petition for declaratory rulings

Pursuant to N.J.S.A. 52:14B-8, any interested person(s) may petition the commissioner for a declaratory ruling with [request] respect to the applicability to any person, property or state of facts of any statute or regulation enforced or administered by the commissioner. The determination to entertain such petitions for declaratory judgments shall be within the sole discretion of the commissioner. If upon receipt and review of the answer such request is granted, the matter shall proceed in accordance with these regulations as they pertain to petitions. A declaratory judgment shall be binding upon the commissioner and all parties to the proceedings on the specific statement of facts set forth therein.

6:24-2.2 Format of petition for declaratory rulings

(a) The format of the petition for declaratory rulings follows:

CAPTION : BEFORE THE COMMISSIONER OF
: EDUCATION OF NEW JERSEY
: PETITION FOR DECLARATORY
: JUDGMENT

Petitioner, _____, residing at _____, hereby requests the [C]commissioner to render a declaratory judgment concerning the application of (N.J.S.A. 18A: _____, N.J.A.C. 6:_____) to the controversy which has arisen between petitioner and respondent who resides at _____ by reason of:

1. (Here set forth in appropriate paragraphs the specific allegations, and the facts supporting them, which constitute the basis of the controversy.)

WHEREFORE, petitioner respectfully prays that the [C] commissioner shall construe the provisions of _____ and determine and declare _____

Signature of petitioner or his[] or her attorney

Date: _____

(Name of petitioner), of full age, being duly sworn upon his[] or her oath according to law deposes and says:

- 1. I am the petitioner in the foregoing matter.
- 2. I have read the petition and aver that the facts contained therein are true to the best of my knowledge and belief.

(Signature)

Sworn and subscribed to before me this day of _____, 19 _____

(Signature)

SUBCHAPTER 3. ORDER TO SHOW CAUSE

6:24-3.1 Commissioner's order to show cause

(a) If in the course of supervising the schools, and following investigation, the commissioner should become aware of violation(s) of the school laws in local school districts which if true would entitle him or her to impose a sanction on his or her own initiative, he or she may accord the [local] district board of education an opportunity to present its views

preliminary to imposing such sanction by issuing an order directing such board to show cause why such sanction should not be imposed. A statement of the factual details and investigative findings supporting the charge shall accompany the order. **This procedure shall not be deemed to be in lieu of a contested case hearing and, where authorized by law, the right to a contested case hearing is independent of and in addition to this step.** [This procedure] An order to show cause shall be appropriate in the following circumstances, although it is not to be deemed limited thereto:

1. Ordering alteration or abandonment of a school building (N.J.S.A. 18A:20-36);
2. Withholding State aid for unsuitable facilities (N.J.S.A. 18A:33-2);
3. Withholding salaries of:
 - i. A county superintendent (N.J.S.A. 18A:7-4); and
 - ii. Any teaching staff member (N.J.S.A. 18A:29-4) who neglects or refuses to perform any duty lawfully imposed upon him or her until such time as he or she complies;
4. Suspending teachers' certificates for wrongful cessation of duties (N.J.S.A. 18A:26-10 and 18A:28-8);
5. Withdrawing approval of a vocational school (N.J.S.A. 18A:54-4), [of] a private school (N.J.S.A. 18A:69-3, 69-5), [of] or a private correspondence school (N.J.S.A. 18A:69-13).

(b) If in the course of pending litigation any party defaults in a procedural obligation imposed by this chapter, the commissioner may direct such party to show cause why the relief urged by the adversary party should not be granted. If good cause be shown for the default, the commissioner may then relax the rules to permit its cure.]

SUBCHAPTER 4. PETITIONS UNDER TEACHERS' MINIMUM SALARY ACT

6:24-4.1 Withholding salary increment

[A petition by a teacher against the action of a board of education in withholding a salary increment pursuant to N.J.S.A. 18A:29-14 shall follow the general rules of procedure of subchapter 1 (General Provisions) of this chapter.]

Where a district board of education acts to withhold a teacher's salary increment pursuant to N.J.S.A. 18A:29-14, the teacher may file a formal petition of appeal for a hearing according to the procedures outlined in this chapter.

SUBCHAPTER 5. CHARGES UNDER TENURE EMPLOYEES' HEARING ACT

6:24-5.1 Filing of written charges and certificate of determination

(a) In a case of charges preferred against an employee of a district board of education pursuant to the Tenure Employees' Hearing Act which are to be brought before the commissioner, N.J.A.C. 6:24-1.2 (Filing and service of petition) shall not apply. In place of the usual petition, the district board of education shall file the written charges and the required certificate of determination with the commissioner together with proof of service upon the employee.

(b) In all instances of the filing and certification of tenure charges, other than for reasons of inefficiency, the following procedures and timelines shall be observed:

1. Charges shall be filed in writing with the secretary of the district board of education, accompanied by a supporting statement of evidence, both of which shall be executed under oath by the person or persons instituting such charges.

2. Charges along with the required sworn statement of evidence shall be transmitted to the affected tenured employee within three working days of the date they were filed with the secretary of the district board. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. The affected tenured employee shall have an opportunity to submit to the district board of education a written statement of position and a written statement of evidence both of which shall be executed under oath with respect thereto within 15 days of receipt of the tenure charges.

4. Upon receipt of respondent's written statement of evidence under oath, or upon expiration of the allotted 15 day time period, the district board of education shall determine by a majority vote of its full membership within 45 days whether there is probable cause to credit the evidence in support of the charges and whether such charges, if credited, are sufficient to warrant a dismissal or reduction of salary. (See N.J.S.A. 18A:-6-11.)

5. The district board of education shall forthwith notify in writing the affected employee against whom the charge has been made of its determination, in person or by certified mail to the last known address of the employee.

6. In the event the district board of education finds that such probable cause exists and that the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then it shall file such written charge and the required certificate of determination with the commissioner together with proof of service upon the employee.

7. All deliberations and actions of the district board of education with respect to such charges shall take place at a closed meeting.

(c) In the event that the tenure charges are charges of inefficiency, the following procedures and timelines shall be observed:

1. Initial charges of inefficiency must be filed with the secretary of the district board of education along with a statement of evidence in support thereof executed under oath.

2. The district board of education, through its board secretary, upon receipt of the charges of inefficiency and the written statement of evidence in support thereof shall cause a copy of same to be transmitted to the affected employee within three working days. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. The district board of education, through its board secretary, shall direct that the employee be informed in writing that, unless such inefficiencies are corrected within the minimal 90 day period, or any longer period provided by the board, it intends to certify those charges of inefficiency to the commissioner pursuant to N.J.S.A. 18A:6-11.

4. Concurrent with notifying the employee of such charges of inefficiency, the district board of education shall direct that there be a modification of the individual professional improvement plan mandated by N.J.A.C. 6:3-1.21(f) to assure that such plan addresses the specific charges of inefficiency and comports with the timelines established for correction.

5. Upon completion of the minimal 90 day period for improvement, or such longer period as may be provided by the district board of education, the administrator or administrators responsible for bringing such charges to the attention of the board shall notify the board in writing of what charges, if any, have not been corrected.

6. The district board of education upon receipt of the written notification shall notify the affected employee in writing that all of the inefficiencies have been corrected or, in the alternative, which of the inefficiencies have not been corrected. The time from the expiration of the minimal 90 day period, or such longer

period as may be provided by the board, to the notification of the employee by the board shall not exceed 30 calendar days.

7. In the event that certain charges of inefficiency have not been corrected, the affected employee shall have an opportunity to respond within 15 days of the receipt of said notification of inefficiency by filing a statement of evidence under oath in opposition to those charges.

8. Upon receipt of such written statement of evidence under oath or upon expiration of the allotted 15 day time period, the district board of education shall determine by a majority vote of its full membership within 45 days whether there is probable cause to credit the evidence in support of the charges and that such charges, if credited, are sufficient to warrant a dismissal or reduction in salary. (See N.J.S.A. 18A:6-11.)

9. In the event the district board of education finds that such probable cause exists and that the charges, if credited, are sufficient to warrant a dismissal or reduction of salary, then it shall file such written charges and the required certificate of determination with the commissioner together with proof of service upon the employee.

10. All deliberations and actions of the district board of education with respect to such charges shall take place at a closed meeting.

6:24-5.2 Format of certificate of determination

(a) The certificate of determination which accompanies the written charges shall contain a certification by the district board of education secretary:

1. That the district board of education has determined that the charges and the evidence in support of the charges are sufficient, if true in fact, to warrant dismissal or a reduction in salary;

2. Of the date, place and time of the meeting at which such determination was made and whether or not the employee was suspended and if so whether such suspension was with or without pay;

3. That such determination was made by a majority vote of the whole number of members of the district board of education;

4. In the case of a charge of inefficiency, that the employee was given at least 90 days' prior written notice of the nature and particulars of the alleged inefficiency.

6:24-5.3 Filing and service of answer to written charges

The filing and service of an answer to written charges pursuant to the Tenure Employees' Hearing Act shall be performed in accordance with N.J.A.C. 6:24-1.4.

SUBCHAPTER 6. CONTESTED SCHOOL ELECTIONS

6:24-6.1 Request for recount or investigation

(a) Request for recount of the ballots cast or for an investigation of the procedures at a school election shall be in compliance with N.J.S.A. 18A:14-63.1 et seq. and need not conform with N.J.A.C. 6:24-1.2 (Filing and service of petition). Such request shall be in letter form addressed to the commissioner and shall set forth with particularity the grounds on which the election results are contested.

[(b) When any defeated candidate at any school election shall have reason to believe that an error has been made in counting the vote or declaring the vote for the office to which he/she seeks election, the candidate may, within ten days following the announcement or declaration of the result of the voting, apply to the commissioner for a recount of the votes cast at the election, whether by paper ballot or by voting

machine. Such requests shall be in letter form addressed to the commissioner and shall set forth with particularity the grounds on which the election results are contested.

(c) When ten voters at any school election or the board of education for the school district in which the election was held shall have reason to believe that an error has been made in counting or declaring the vote on any question, proposition or referendum, such voters or such board may, within ten days following the announcement or declaration of the result of the voting, apply to the commissioner for a recount of the votes cast at the election, whether by paper ballot or by voting machine, as the case may be, on such question, proposition or referendum. Such requests shall be in letter form addressed to the commissioner and shall set forth with particularity the grounds on which the election results are contested.

(d) Upon written request within five days of the announcement of the result of an election by any defeated candidate or, in the case of a question, proposition or referendum, upon petition of ten qualified voters at any school election, the commissioner or his authorized representative shall inquire into alleged violations of statutorily prescribed procedures for school elections, to determine if such violations occurred and if they affected the outcome of the election.]

(b) Request for inquiry into alleged violations of statutorily prescribed election procedures, pursuant to N.J.S.A. 18A:14-63.12, shall be in writing to the commissioner.

(c) Hearings inquiring into alleged violations of statutorily prescribed election procedures shall be conducted pursuant to N.J.A.C. 1:1 by the commissioner or an ALJ.

6:24-6.2 Cost of recounts

[(a) In districts in which voting machines were used at the election, any applicant or group of applicants for a recount shall, upon application, simultaneously deposit with the commissioner a sum of \$2.00 per voting machine to be rechecked, as security for the payment of the cost and expenses of the recount.

(b) In districts where paper ballots have been used, any applicant or group of applicants, as the case may be, for a recount, upon applying therefor, shall deposit with the commissioner such sum of money proportioned to the number of votes to be counted, but not exceeding \$30.00 for any one school district recount, as the commissioner may order, as security for the payment of the cost and expenses of the recount.

(c) If it appears as a result of the recount that error or errors have occurred which alter the result of the election, or that the difference between the negative and affirmative announced result of any public question is altered so as to change the result of the election, the commissioner shall order the cost and expenses of the recount to be paid by the school district in and for which the election was held, as other election expenses are paid.

(d) If no error shall appear sufficient to alter the result of the election, the cost and expenses of the recount shall be paid from the security deposit made by the party or parties making the application. If no such error shall appear in districts in which voting machines were used, the commissioner upon completion of the recount shall promptly forward the security deposit of the applicant or applicants for a recount to the county superintendent of elections or the county board of elections, as the case may be, for deposit in the county treasury. In districts in which paper ballots have been used, the security deposit of the applicant or applicants for the

recount may be applied by the commissioner to offset expenses, other than those of the commissioner, in conducting a recount.

(e) The cost for recount of paper ballots shall be as follows:

Number of ballots to be recounted	Cost
1-499	\$10.00
500-999	15.00
1,000-1,499	20.00
1,500-1,999	25.00
2,000 or more	30.00]

Cost of recounts shall be in compliance with N.J.S.A. 18A:14-63.6 and 63.7.

6:24-6.3 [Supoenas]Subpoenas

In any school election recount initiated pursuant to this [act] subchapter, the commissioner shall have the power to subpoena necessary witnesses to testify and to produce books, papers, documents and other objects designated in the subpoena.

6:24-6.4 Continuation of recheck

In districts where election machines have been used, the commissioner shall ascertain from the party or parties applying for a recount which voting machines shall be rechecked. In the event that it shall appear during the course of the recheck that there has been a sufficient change in the tally of the votes cast to alter the result of the election, any candidate who appears then to have been defeated, or, in the event of a question, proposition or referendum, the parties in interest who may be affected adversely, may, within five days, apply to the commissioner to continue the recheck on his[]or her behalf upon the same terms and conditions under which the original recheck was held.

6:24-6.5 Finding of error/relief

Where the commissioner finds as a result of a recount or an inquiry that an error has occurred which alters the result of the election or that irregularities have occurred sufficient to influence the outcome, he or she shall order such relief as is appropriate.

SUBCHAPTER 7. BUDGET HEARING [REGULATIONS]RULES

6:24-7.1 Authority

Unless otherwise expressly noted, all provisions of [these regulations] this subchapter governing a petition by a [school] district board of education appealing a governing body's decision to reduce a school budget have been prescribed by the commissioner and approved by the State Board of Education pursuant to N.J.S.A. 18A:6-9[, N.J.S.A. 18A:6-10 et seq.] and Bd. of Ed., E. Brunswick Tp. v. Tp. Council, E. Brunswick, 48 N.J. 94 (1966).

6:24-7.2 Time for filing petition

A petition by a [school] district board of education appealing the decision of its governing body to certify a tax levy less than that deemed necessary by the district board to insure a thorough and efficient educational program shall be taken no later than 30 days following the governing body's decision.

6:24-7.3 Format and documentation of petition

(a) The format of the petition shall be the same as that set forth in N.J.A.C. 6:24-1.3.

(b) The district board of education shall attach to its petition a copy of a resolution adopted by a majority of its members authorizing the filing of such a petition and setting forth its reasons for doing so.

(c) The district board of education shall attach to its petition a copy of the following form:

Proposed tax levy adopted by the district board of education	Amount of tax levy certified by governing body
Current expense \$	Current expense \$
Capital outlay \$	Capital outlay \$
Amount of reduction in the budget by governing body	
Current expense \$	
Capital outlay \$	
Amount of reduction in dispute before the commissioner	
Current expense \$	
Capital outlay \$	

6:24-7.4 Filing and service of answer

The governing body shall file an answer with the commissioner not later than 15 days after receiving the district board[']s of education's petition.

6:24-7.5 Documentation of answer

(a) The governing body shall submit with its answer the following documents:

1. The amount certified for each of the major accounts;
2. Line item budget stating recommended specific economies together with supporting reasons.

6:24-7.6 Conference of parties with county superintendent

(a) Following receipt of the petition and answer, the commissioner [will] may schedule a conference to be attended by representatives of the district board of education and the governing body and to be conducted by the county superintendent of schools [who, acting on behalf of the commissioner, may require the materials and follow the procedures set forth in N.J.A.C. 6:24-1.9].

(b) If the district board of education and governing body reach an agreement at the conference as to the tax levy to be certified to the county board of taxation, the district board shall submit a consent order reflecting the elements of that agreement to the commissioner not later than [ten] 10 days after the [pre-hearing] conference is concluded.

(c) If the parties do not reach an agreement settling the case, any agreement reached as to stipulations of facts or narrowing of issues shall be submitted to the commissioner or the ALJ, whoever is hearing the case.

[6:24-7.7 Pre-hearing conference of counsel]

[The commissioner may at his discretion summon the counsel for the parties or the parties pro se to appear before him at a conference for the purposes set forth in N.J.A.C. 6:24-1.9, and particularly for the purpose of expediting discovery proceedings and an agreement upon a statement of the material facts.]

6:24-7.[8]7 Hearing

(a) [If the parties are unable to agree upon a statement of the material facts at the pre-hearing conference, the commissioner shall schedule a hearing in the matter upon reasonable notice to all parties as defined in N.J.S.A. 52:14B-9.] Upon the filing of the petition and answer(s) in a contested case,

the conduct of the proceedings shall be governed by the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1, as supplemented by the Rules of Special Applicability in this chapter.

[(b) At least ten days before the hearing, the board shall supply both the hearing examiner and the governing body with the following documents:]

1. A complete line item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the next school year (as submitted to the voters), amount reduced by the governing body and revised budgeted amount for the next school year. This budget should be accompanied by written testimony, approved by the board, as to why each of the amounts in dispute is necessary to provide a "thorough and efficient" system of education;
2. Staff, numbers of professional and nonprofessional, during the current school year and projected staff for the next school year. Notate reasons for increase or decrease;
3. Pupil enrollment by grade for the district as of June 30, preceding, September 30, preceding, and that projected for September of the next school year;
4. Salary schedules for all employees;
5. Number of schools and classrooms in each;
6. Costs for non-aided transportation for the previous school year and projected for the current school year and the next school year;
7. Tuition received or paid during the previous school year and anticipated for the current school year and the next school year;
8. Advertised budget for the next school year.]

(b) Upon the filing of the petition and answer(s) in a contested case, the commissioner may either retain the matter for hearing directly and individually or transmit the matter for hearing before the OAL.

[(c) At least five days before the hearing the governing body shall respond to the documentation submitted by the board pursuant to N.J.A.C. 6:24-7.7(b), where deemed necessary.]

(d) The hearing procedure shall be as follows:

1. Questions to parties by hearing examiner based on documentation previously submitted;
2. Cross-examination by governing body based on the board's written documentation;
3. Oral testimony by witnesses for the board, which testimony must not duplicate written documentation, or information which could have been submitted in written form;
4. Cross-examination of the board's witnesses;
5. Cross-examination by the board based on the governing body's written documentation;
6. Oral testimony by witnesses for the governing body, which testimony must not duplicate written documentation or information which could have been submitted in written form;
7. Cross-examination of the governing body's witnesses.]

(c) Determination relating to pre-hearing conferences, discovery and other procedural matters shall be made by the commissioner or the ALJ, whoever is hearing the case.

(d) When transmitting the case to the OAL, the commissioner shall include any material submitted by the district board of education or board of school estimate or any decisions by the commissioner relating to a request for a cap waiver by the district board.

(e) Within 10 days of receipt of the notice of hearing, the governing body shall forward a copy of each of the following

to the district board of education and two copies to the ALJ assigned to hear the case:

1. If changes were made to the operating budget, a line item budget detailing the specific reductions that were effectuated by the governing body and a statement of supporting reasons for each of these reductions;

2. If changes were made to the capital budget, a capital budget with a statement of supporting reasons for each change.

(f) Within 10 days of receipt of the governing body's budget(s), the district board of education shall forward a copy to the governing body and two copies to the ALJ of each of the following:

1. A complete line item budget listing each item by code and line description, including actual expenditures for the previous school year, actual budgeted amount for the current school year, proposed budgeted amount for the next school year (as submitted to the voters), amount reduced by the governing body and revised budgeted amount for the next school year. This budget should be accompanied by written testimony, approved by the district board of education, as to why each of the amounts in dispute is necessary to provide a "thorough and efficient" system of education;

2. Staff, numbers of professional and nonprofessional, during the current school year and projected staff for the next school year. Notate reasons for increase or decrease;

3. Pupil enrollment by grade for the district as of June 30, preceding, September 30, preceding, and that projected for September of the next school year;

4. Salary schedules for all employees;

5. Number of schools and classrooms in each;

6. Costs for non-aided transportation for the previous school year and projected for the current school year and the next school year;

7. Tuition received or paid during the previous school year and anticipated for the current school year and the next school year;

8. Advertised budget for the next school year;

9. If a capital budget is in dispute, a substantiation for each proposed capital project.

(g) The governing body and the district board shall submit their statements of supporting reasons in the form of written testimony, verified by each and accompanied by a certified copy of each official document.

6:24-7.8 (Reserved)

6:24-7.9 [Authority of commissioner] (Reserved)

[In conducting the hearing, the commissioner shall have the powers set forth in N.J.A.C. 6:24-1.12, 6:24-1.13 and 6:24-1.14.]

6:24-7.10 [Briefs] (Reserved)

[(a) The school board may submit a brief not later than ten days after the hearing.

(b) The governing body may submit a reply brief no later than ten days after receiving the board's brief.]

6:24-7.11 [Decision] (Reserved)

[The commissioner's decision shall be prepared and served upon the parties in the manner set forth in N.J.A.C. 6:24-1.17 (Written decision).]

6:24-7.12 Waiving or relaxing rules (Reserved)

[The foregoing regulations may be waived or relaxed pursuant to N.J.A.C. 6:24-1.18 (Waiving of rules) and N.J.A.C. 6:24-1.19 (Relaxing of rules).]

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Uniform Administrative Procedure Rules of Practice Conference Hearings

Adopted Amendments: N.J.A.C. 1:2-2.1 and 2.4

Proposed: November 18, 1985 at 17 N.J.R. 2712(a).
Adopted: January 22, 1986 by Ronald I. Parker, Acting Director, Office of Administrative Law.
Filed: January 22, 1986 as R.1986 d.33, **without change**.
Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: February 18, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): May 15, 1990.

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

Full text of the adoption follows:

OFFICE OF ADMINISTRATIVE LAW
TITLE 1
RULES OF SPECIAL APPLICABILITY
CHAPTER 2
CONFERENCE HEARINGS AND CIVIL SERVICE CASES

SUBCHAPTER 2. CONFERENCE HEARINGS

1:2-2.1 Applicability; scope

These rules for the conduct of conference hearings shall apply to contested cases from the Civil Service Commission dealing with layoffs, disciplinary actions including terminations and termination after probationary work period. Any aspect of hearing not covered by these rules of special applicability shall be governed by the Uniform Administrative Procedure Rules (UAPR) contained in N.J.A.C. 1:1. To the extent that these conference hearing rules are inconsistent with the UAPR, these rules shall apply.

1:2-2.4 Modification of conference hearing procedures or conversion of conference hearing into plenary hearing

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

(d) In cases involving disciplinary actions resulting in termination from employment, the conference hearing shall be converted into a plenary proceeding upon the request of either party.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations Delineated Floodways for Various Tributaries and Streams in the Hackensack Basin (Project Q)

Adopted Amendment: N.J.A.C. 7:13-7.1

Proposed: May 20, 1985 at 17 N.J.R. 1175(a).
Adopted: January 22, 1986 by Robert E. Hughey, Commissioner, Department of Environmental Protection.
Filed: January 27, 1986 as R.1986 d.40, **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. and 58:16A-50 et seq.

Effective Date: February 18, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): May 4, 1989.
DEP Docket No. 020-85-04.

Summary of Public Comments and Agency Responses:

Notice of the proposed rule change was published on May 20, 1985 in the New Jersey Register at 17 N.J.R. 1175(a). That notice also advised that a Public Hearing had been scheduled for Wednesday, June 12, 1985 at 1:00 P.M. at the Borough of Bogota Municipal Building, 375 Larch Avenue, Bogota, Bergen County, New Jersey to afford the public an opportunity to be heard on this proposed action by the Department. In addition, a notice of public hearing was issued by the Division of Water Resources on May 3, 1985. Both notices invited written comments to be submitted on or before June 26, 1985. There was also a series of meetings with representatives of the Hackensack Meadowlands Development Commission.

COMMENT: The land in the Boroughs of Fairview, Ridgefield and Paramus are extremely valuable pieces of commercial property and before any specific action is taken, the individual communities should be contacted and advised as to the exact effect on their community.

RESPONSE: Copies of the maps affecting each particular community were mailed to the various borough clerks over a month before the public hearing. Also, the State of New Jersey was commissioned by the Federal Emergency Management Agency to make flood insurance studies for the bulk of these communities and a Department representative personally attended both evening and day meetings to explain to the various communities what the National Flood Insurance Program and the State Flood Delineation Programs involved.

ADOPTIONS

COMMENT: A representative of the towns of Fairview, Ridgefield and Paramus questioned the method by which revisions to floodway limits and flood fringe limits along Wolf Creek in the area of Elite Court were made. He was of the opinion on that the stream profiles seemed to be accurate but that a few contour designs might be in error.

RESPONSE: The Department requested that revised data be sent to its attention for any revision that might be required. The information, however, was never forwarded to the Department.

COMMENT: An attorney representing a property owner in the Borough of Fairview requested clarification on the record as to the effect that this proposed delineation would have on his client's property. He indicated that he would submit a statement on behalf of his client, who had been on the site for thirty years, containing his client's observations on flooding in the area.

RESPONSE: The proposed flood plain delineation maps are not based on historical records of flooding but rather a theoretical 100 year storm event.

COMMENT: The Hackensack Meadowlands Development Commission (HMDC) had recently had new maps of their land area compiled by the firm of ADR Associates which were not entirely consistent with the mapping used by the Department both in topography and interpretation of delineations.

RESPONSE: After the new maps were made available to NJDEP, the Bureau of Flood Plain Management reviewed them and agreed to use HMDC mapping to determine the flood limits on the DEP's original State mapping within the HMDC area. The Bureau also agreed to delete plate Nos. HSR-1, (HR-1, CC-1, BC-1) and CC-2; Hudson River-1, Penn Horn Creek-1, (Hackensack River-1, Cromakill Creek-1, Bellmans Creek-1) and Cromakill Creek-2 respectively, since they do not indicate floodways and those areas are regulated by HMDC to the same extent as they would be regulated by the Department.

In addition, the Bureau of Flood Plain Management has made minor revisions to the eleven plates covering the Overpeck River Basin based on revised volume storage calculations of Lake Overpeck and a reanalysis of the tide gates at the mouth.

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

7:13-7.1 Delineated floodways

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

(h) A list of delineated streams in the Hackensack Basin follows:

The floodway and flood hazard area of Saddle River for the entire reach within South Hackensack Township, ***[Hudson River for the entire reach within North Bergen Township, Penhorn Creek from Secaucus Road upstream 159,000 feet to an I-495 ramp, Cromakill Creek from its mouth upstream to Route 3]***, Hackensack River from ***[the confluence of Cromakill Creek upstream 3,500 feet to the confluence of Bellman's Creek and from]*** 400 feet upstream of the New Jersey Turnpike at the South Hackensack-Little Ferry corporate limit upstream to approximately 1,900 feet upstream of River Edge Road in River Edge Borough, Bellman's Creek from ***[its mouth]*** ***approximately 700 feet downstream of N.Y. Central Rail Road*** upstream to the confluence of Wolf Creek, Wolf Creek from its mouth upstream to approximately 30 feet downstream of Elite Court, Losen

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Slofe from its mouth upstream to Moonachie Road, Frenches Creek from its mouth upstream to New Bridge Road, Coles Brook from its mouth upstream to Catalpa Avenue, Van Saun Mill Brook from its mouth upstream to approximately 1,100 upstream of Continental Avenue, Overpeck Creek from its mouth upstream of Each Hudson Avenue, Teaneck Creek from its mouth upstream to approximately 650 feet downstream of Fycke Lane, Metzler Creek for the entire reach within Englewood and Teaneck, Tributary No. 1 to Overpeck Creek from its mouth upstream to Thompson Avenue, and Flat Rock Brook from its mouth upstream to Middlesex Avenue.

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Disposal and Possession of Dead Deer

Adopted New Rules: N.J.A.C. 7:25-17

Proposed: November 18, 1985 at 17 N.J.R. 2715(a).

Adopted: January 22, 1986 by Robert E. Hughey, Commissioner, Department of Environmental Protection.

Filed: January 27, 1986 as 1986 d.41, **without change**.

Authority: N.J.S.A. 13:1B-3 and N.J.S.A. 23:4-43.

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No. 66 (1978): February 18, 1991.

DEP Docket No. 060-85-10.

Summary of Comments and Agency Response:

No comments received.

SUBCHAPTER 17. DISPOSAL AND POSSESSION OF DEAD DEER

7:25-17.1 Scope

This subchapter shall constitute the rules governing the disposal and possession of dead deer found on or along any New Jersey public highway or on private property.

7:25-17.2 Purpose

The purpose of this subchapter is to provide for efficient, effective and utilitarian removal of dead deer found on or along any New Jersey public highway or on private property.

7:25-17.3 Construction

These rules shall be liberally construed to permit the department to effectuate the purposes of N.J.S.A. 23:4-43.

7:25-17.4 Authorized persons and disposal or possession

Deer found dead on or along any New Jersey public highway shall be disposed of by New Jersey State or municipal police officers or persons authorized by them at a sanitary landfill or other site approved by the Division of Waste Management of the Department of Environmental Protection or the police agency may authorize possession, as conditioned in N.J.A.C. 7:25-17.6.

7:25-17.5 Dead deer on private property

Deer found dead on any private property shall be disposed of by State or municipal police officers, or personnel authorized by them, upon request of the property owner, in the manner prescribed in N.J.A.C. 7:25-17.4. The owner or lessee of cultivated lands who kills deer under permit of the Division of Fish, Game and Wildlife on such property shall dispose of the dead deer as directed by the Division of Fish, Game and Wildlife.

7:25-17.6 Possession of dead deer

(a) New Jersey State or municipal police officers shall issue a written permit to possess the accidentally killed deer for consumption, or to transfer the deer carcass to another person for consumption, on forms provided by the Division of Fish, Game and Wildlife upon satisfaction of both of the following conditions:

1. The deer was killed by an accidental collision with a motor vehicle; and
2. The accidental collision was reported to the New Jersey State or municipal police as soon as possible.

(b) The permit described in (a) above shall be valid for 90 days from date of issue.

(c) A deer that has been so severely injured by a collision with a motor vehicle that it must be killed shall be considered as accidentally killed for the purposes of this subchapter.

7:25-17.7 Information required

(a) Any State or municipal officer disposing of or authorizing the disposal or possession of accidentally killed deer shall notify the New Jersey Division of Fish, Game and Wildlife on a quarterly basis of the following information on forms provided by the Division of Fish, Game and Wildlife:

1. The location where the deer was killed;
2. The sex of the deer;
3. The date of the accidental deer kill; and
4. The name and address of the permittee.

HEALTH

(a)

PUBLIC HEALTH COUNCIL

**Chapter V—State Sanitary Code
Disposal of Cremains**

Adopted New Rule: N.J.A.C. 8:9-1.11

Proposed: October 7, 1985, at 17 N.J.R. 2325(a).

Adopted: January 21, 1986 by Evelyn Geddes,
Chairperson, Public Health Council, and J. Richard
Goldstein, M.D., Commissioner, Department of
Health.

Filed: January 24, 1986 as R.1986 d.39, **with substantive changes** not requiring additional notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 26:7-18.3 and 26:1A-7.

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No.
66(1978): February 18, 1991.

Summary of Public Comments and Agency Responses:

The Department received two comments in connection with this new rule. The comments and responses thereto are set forth below.

COMMENT: A comment was received from the Administrative Practice Officer of the New Jersey State Department of Community Affairs, questioning the use of the word "cremains" in the new rule. Since that term is not defined in Webster's Third International Dictionary, it was requested that the term "cremated remains" be substituted for "cremains" in the rule.

RESPONSE: The term "cremains" is defined in the statute authorizing promulgation of this rule, at N.J.S.A. 26:7-18.2. Therefore, the requested change has not been made.

COMMENT: A comment was received from a representative of the New Jersey State Funeral Directors Association (NJSFDA) supporting the proposed new rule.

However, the NJSFDA was concerned that the statute authorizing this regulation might be interpreted to require that a funeral director provide "certification to the Commissioner" that a diligent effort was made to comply with the law. Since the NJSFDA did not believe that this was the intent of the legislation, it requested that the proposed new rule be amended to clarify that a funeral director must only provide a certified letter, return receipt requested, to the person who authorized the cremation.

RESPONSE: The Department agrees with the comment, and has amended the proposed new rule, at N.J.A.C. 8:9-1.11(c), to so indicate.

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

8:9-1.11 Disposal for unclaimed cremains

(a) The purpose of this section is to establish general guidelines for the purpose of assisting funeral directors in their efforts to dispose of cremains which have been left with the funeral director for at least one year after cremation and after the funeral director has made a diligent effort, pursuant to N.J.S.A. 26:7-18.2 to identify, locate, and notify a relative or friend of the deceased.

(b) Any person who has complied with the provisions of N.J.S.A. 26:7-18.2 may dispose of the cremains of a dead human body by scattering same at sea or by interring same on land in a dignified manner.

(c) A certified letter, return receipt requested, mailed to the person who authorized the cremation shall be certification satisfactory to the Commissioner.

***[(c)]*(d)** No claims shall be made by a person against any person who invokes the provisions of N.J.S.A. 26:7-18.2 or this regulation, nor shall any liability be attendant to such invocation.

DRUG UTILIZATION REVIEW COUNCIL

(a)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: December 2, 1985, at 17 N.J.R. 2842(a).

Adopted: January 17, 1986 by the Drug Utilization Review Council, James Perhach, Ph.D., Chairman.

Filed: January 22, 1986 as R.1986 d.34, with portions of the proposal **not adopted** and **portions** not adopted but still **pending**.

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

1. Regarding chlorpheniramine/pseudoephedrine extended release capsules:

Everett Laboratories (distributors of the Graham product) asked the Council to waive the normal bioequivalency study required, stating that the FDA does not require such data. The Council deferred action pending a review of the policy on extended release products.

2. Regarding Ibuprofen tablets 400 mg by Chelsea:

Chelsea asked that dissolution and comparative formulation data be used for approval of this strength. The Council agreed.

3. Regarding Nystatin/triamcinolone creams:

Squibb noted that two ingredients in the vehicles of the generics (not present in their brand, Mycolog II) have caused clinical problems in some patients. The Council deferred action pending receipt of verifying data from Squibb, rebuttals from the generic manufacturers, and a review of the list of ingredients for the generics.

4. Regarding Trifluoperazine tablets:

SKF reminded the Council that the FDA has drafted (but not formally adopted) a policy stipulating certain restrictions on the bioequivalency studies for "phenothiazines," of which group trifluoperazine is a member. The Council notes that the FDA policy is 5 years old and not yet adopted, and that the FDA has recently accepted many phenothiazines as being therapeutically equivalent to their branded counterparts, thus the FDA's strict proposed policy is now dated and has little bearing on current decisions.

5. Regarding Metoclopramide:

Robins Company objected to the proposed generic substitutes for their product, Reglan, stating that a federal law (Waxman-Hatch Act) grants Robins "marketing exclusivity" in their package labeling for the drug's use in "heartburn," which Robins claims is the major use of the drug. Robins asked the Council to be "ethically correct" by denying listing of the generics in the substitution formulary until Robins's exclusivity claim expires in September, 1986.

The Council referred this objection to its legal counsel, who informed the Council in writing that there was no legal impediment to the Council placing potentially patent infringing drugs into the generic substitution formulary; that is, the federal Waxman-Hatch law had no bearing on the Council's decisions.

6. Regarding Carbamazepine:

CIBA-Geigy objected to the proposed generic substitute for their product, Tegretol, stating that the FDA had not yet approved such a generic. The Council agreed, and will not entertain placing this generic in the Formulary until after the FDA has given its approval.

7. Regarding Erythromycin 2% topical solution:

Abbott Laboratories objected to the possible substitution of the proposed erythromycin 2% topical solution for their brand, Eryderm. Abbott based this objection on the major differences between Eryderm's "vehicle" (the liquid in which the active drug is dissolved, which contains acetone) and the vehicle of the generic, which does not contain acetone. Abbott pointed out that the proposed generic was obviously identical in active and inactive ingredients to the branded product, A/T/S, from a different manufacturer, therefore Eryderm should not also be made substitutable if the proposed product is added to the Formulary.

The Council rejected this contention because Abbott presented no clinical evidence to support their position that the difference in the vehicle had therapeutic importance to patients. In addition, the Council has in the past uniformly decided that inactive ingredients are not germane to the substitution issue unless there are data supporting possible hazards due to the inactive ingredients (for example, sulfites in generic methyldopa products). The Council does note that dermatologists may prefer one vehicle to another, and points out that the statute gives them the option to negate substitution in those specific instances.

8. Regarding Methyldopa/HCTZ:

Merck noted that these drugs do not yet possess FDA approval. As with Tegretol (carbamazepine—see number 6 above), the Council will not act until FDA approval is obtained.

The following products and their respective manufacturers were **adopted**:

Naphazoline HCl 0.025%/pheniramine 0.3% ophth sol	Pharmafair
Dextromethorphan HBr/brompheniramine maleate/pseudoephedrine HCL liquid	Bay
Fluocinolone acetonide 0.01% solution	Bay
Vitamins A, D, C with Fluoride 0.25 mg & 0.5 mg soln	Bay
Codeine/guaifenesin/pseudoephedrine liquid	Bay
Trimeprazine tartrate syrup 3.125 mg/5 ml	Bay
Triamcinolone acetonide 0.025%, 0.1% lotion	Bay
Fluocinolone acetonide cream 0.01%, 0.025%	Bay
Fluocinolone acetonide oint. 0.025%	Bay
Brompheniramine/codeine/phenylpropa- nolamine oral liquid	Bay
Promethazine/codeine liquid	Bay
Promethazine/codeine/phenylephrine liquid	Bay
Promethazine/dextromethorphan liquid	Bay
Promethazine/phenylephrine liquid	Bay
Prochlorperazine edisylate syrup	Bay
Hydralazine HCl tabs 10, 25, 50, 100 mg	Camall
Nystatin ointment 100,000 U/g	Clay-Park
Acetaminophen/codeine tabs 15, 30, 60 mg	Superpharm
Meclizine HCl tabs 12.5, 25 mg	Superpharm
Hydrocortisone/neomycin/polymyxin B otic susp	Lemmon
Diphenhydramine HCl elixir 12.5 mg/5 ml	Naska
Nystatin oral susp. 100,000 U/ml	Naska
Folic acid tabs 1 mg	PFI

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Hydroxyzine HCl tabs 10, 25, 50 mg
Hydralazine HCl tabs 10, 25, 50 mg
Multivitamin/fluoride chew. tab 0.5 mg, 1 mg
Multivitamin/fluoride/iron chew, tabs 1 mg
Erythromycin topical solution 2%
Benzoyl peroxide gel 2.5%, 5%, 10%
Hydrocortisone cream 1%
Ibuprofen tabs 400 mg
Procainamide HCl extended tabs 250, 500, 750 mg

Amer. Ther.
Amer. Ther.
Amer. Ther.
Amer. Ther.
Pharmafair
DermProd/Owen
DermProd/Owen
Chelsea
Central

The following products and their respective manufacturers were not adopted:

Amitriptyline HCl tabs 25, 50, 75, 100 mg
Hydroflumethiazide 50/reserpine 0.125 mg tabs
Chlordiazepoxide 5 mg/clidinium 2.5 mg caps
Hydrocortisone butyrate cream, ointment 1%
Coal tar solution 12%

Amer. Ther.
Par
Barr
DermProd/Owen
DermProd/Owen

The following products were not adopted but are still pending:

Erythromycin ethylsuccinate susp. 200, 400 mg/5 ml
Trifluoperazine HCl tabs 1, 2, 5, 10 mg
Procainamide tabs slow-release 250, 500 mg
Chlorthalidone tabs 25, 50 mg
Sulfamethoxazole/trimethoprim tabs 400/80,800/160
Metoclopramide tabs 10 mg
Ibuprofen tabs 200, 400, 600 mg
Procainamide tabs slow-release 250, 500, 750 mg
Furosemide tabs 20, 40 mg
Tolazamide tabs 100, 250, 500 mg
Betamethasone valerate lotion 0.1%
Nystatin 100000 U/triamcinolone 1 mg/g cream
Trolbutamide tabs 500 mg
Nystatin 100000 U/triamcinolone 1 mg/g cream
Hydralazine/Hydrochlorothiazide caps 25/25, 50/50
Isosorbide dinitrate oral tabs 5, 10, 20 mg
Indomethacin caps 25, 50 mg
Spirolactone tabs 25 mg/hydrochlorothiazide 25 mg
Thioridazine tabs 10, 25, 50 mg
Chlorpheniramine maleate 8 mg/pseudoephedrine HCl 120 mg caps, slow-release
Indomethacin capsules 25, 50 mg
Procainamide HCl tabs, slow-release, 500 mg
Temazepam caps 15, 30 mg
Dipyridamole tabs 25, 50, 75 mg
Diazepam tabs 2, 5, 10 mg
Chlorthalidone tabs 25, 50 mg
Indomethacin caps 25, 50 mg
Spirolactone tabs 25 mg
Spirolactone 25 mg/hydrochlorothiazide 25 mg tabs

Pharmafair
Zenith
Sidmak
Sidmak
Sidmak
Danbury
Danbury
Danbury
Lemmon
Clay-Park
Purepac
NMC
Superpharm
Superpharm
Superpharm
Superpharm
Superpharm
Superpharm
Graham
Duramed
Copley
PharmBasic
Duramed
P-D
P-D
P-D
P-D
P-D

Diazepam tabs 2, 5, 10 mg
Hydroflumethiazide tabs 50 mg
Sulfinpyrazone tabs 100 mg & caps 200 mg
Allopurinol tabs 100, 300 mg
Methylidopa 250/hydrochlorothiazide 15 mg tabs
Methylidopa 250/hydrochlorothiazide 25 mg tabs
Methylidops 500/hydrochlorothiazide 50 mg tabs
Methylidopa 500/hydrochlorothiazide 30 mg tabs
Ibuprofen tabs 400, 600 mg
Ibuprofen tabs 400, 600 mg
Propoxyphene napsylate/APAP 50/325, 100/650 mg
Spirolactone 25/hydrochlorothiazide 25 mg tabs
Quinidine sulfate tabs 200 mg
Ergoloid mesylates oral tablet 1 mg
Ergoloid mesylates SL tabs 0.5, 1.0 mg
Diazepam tabs 2, 5, 10 mg
Trimethoprim tabs 100 mg
Tolazamide tabs 100, 250, 500 mg
Metoclopramide tabs 10 mg
Disopyramide caps 100, 150 mg
Diazepam tabs 2, 5, 10 mg
Carbamazepine tabs 200 mg
Metoclopramide tabs 10 mg
Betamethasone dipropionate lotion 0.05%
Betamethasone valerate lotion 0.1%
Quinidine sulfate tabs 200 mg
Thioridazine HCl tabs 150, 200 mg
Methylidopa tabs 250, 500 mg
Propranolol tabs 10, 20, 40 mg
Diazepam tabs 2, 5, 10 mg
Disopyramide phosphate caps 100, 150 mg
Flurazepam caps 15, 30 mg
Nalidixic acid tabs 250, 500, 1000 mg
Oxytriphyllyne tabs 100, 200 mg
Phenylbutazone caps 100 mg & tabs 100 mg
Propranolol tabs 10, 20, 40, 60, 80 mg
Tolazamide tabs 100, 250, 500 mg
Ibuprofen tabs 400 mg
Desonide 0.5 mg/g cream

Par
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Superpharm
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Superpharm
Superpharm
Danbury
Chelsea
Chelsea
Chelsea
PharmBasic
Purepac
NPC,
Pharmaderm,
Fougera,
Savage
NPC
PFI
Danbury
Cord
Duramed
Barr, Lederle
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Barr
Ohm
DermProd/Owen

(a)

Interchangeable Drug Products

Adopted Amendment: N.J.A.C. 8:71

Proposed: July 15, 1985 at 17 N.J.R. 1733(a).
 Adopted: January 17, 1986 by the Drug Utilization Review Council, James Perhach, Chairman.
 Filed: January 22, 1986 as R.1986 d.35, **with portions** of the proposal **not adopted**, and **portions** of the proposal not adopted but still **pending**.

Authority: N.J.S.A. 24:6E-6(b).

Effective Date: February 18, 1986.
 Expiration Date pursuant to Executive Order No. 66(1978): April 2, 1989.

Summary of Public Comments and Agency Responses:

Regarding metoclopramide: Robins Company objected to the proposed generic substitute for their product, Reglan, stating that a federal law (Waxman-Hatch Act) grants Robins "marketing exclusivity" in their package labeling for the drug's use in "heartburn," which Robins claims is the major use of the drug. Robins asked the Council to be "ethically correct" by denying listing of the generics in the substitution formulary until Robins's exclusivity claim expires in September, 1986.

The Council referred this objection to its legal counsel, who informed the Council in writing that there was no legal impediment to the Council placing potentially patent infringing drugs into the generic substitution formulary; that is, the federal Waxman-Hatch law had no bearing on the Council's decisions.

The following products and their respective manufacturers were **adopted**:

Tolazamide tablets 100, 250, 500 mg	Duramed
Tolazamide tablets 100, 250, 500 mg	Par
Propranolol HCl tabs 80 mg	Duramed
Metoclopramide tabs 10 mg	Quantum

The following products were not adopted but are still pending:

Ethaverine Hcl tabs 100 mg	Sidmak
Isometheptene mucate 65 mg, dichloralphenazone 100 mg, acetaminophen 325 mg caps	Central
Phenylephrine HCl ophth soln 2.5%	Pharmafair
Phenylephrine HCl ophth soln 10% (viscous)	Pharmafair
Phentermine HCL caps 30 mg	Duramed
Tolazamide tablets 250, 500 mg	Pharm Basics
Dipyridamole tabs 25, 50, 75 mg	Zenith
Dipyridamole tabs 25, 50, 75 mg	Danbury
Thioridazine HCl tabs 10, 15, 25, 50 mg	Cord
Deserpidine/methyclothiazide tabs 0.5/5 mg	Zenith
Disopyramide phosphate caps 100, 150 mg	Zenith
Fluphenazine HCl tabs 5 mg	Zenith
Ibuprofen tabs 300, 600 mg	Zenith
Meprobamate 200 mg with aspirin 325 mg tabs	Zenith
Methylidopa 250 mg/HCTZ 15 mg and 250 tabs mg/25 mg	Mylan
Methylidopa tabs 250, 500 mg	Zenith
Propranolol HCl tabs 10, 20, 40, 60, 80, 90 mg	Zenith
Propranolol HCl tabs 40 mg	Mylan

OFFICE OF ADMINISTRATIVE LAW NOTE: Related Notices of Adoption appear at 17 N.J.R. 2557(a), 17 N.J.R. 2769(a) and 18 N.J.R. 183(a).

HUMAN SERVICES

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Social Services Program for Individuals and Families

Personal Needs Allowance: Residential Health Care Facilities and Boarding Homes

Adopted Amendment: N.J.A.C. 10:123-3.2

Proposed: December 16, 1985 at 17 N.J.R. 2995(a).

Adopted: January 27, 1986 by Geoffrey S. Perselay, Acting Commissioner, Department of Human Services.

Filed: January 27, 1986 as R.1986 d.42, **without change**.

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

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): July 29, 1990.

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

Full text of the adoption follows.

10:123-3.2 Amount

The owner or operator of each residential health care facility or boarding house shall reserve to each Supplemental Security Income recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein, a personal needs allowance in the amount of at least \$53.00 per month. No owner or operator or agency thereof shall interfere with the recipient's retention, use, or control of the personal needs allowance.

INSURANCE

(b)

DIVISION OF ADMINISTRATION

Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies

Readoption: N.J.A.C. 11:1-20.1

Proposed: December 2, 1985 at 17 N.J.R. 2915(a).

Adopted: January 14, 1986 by Hazel Frank Gluck, Commissioner, Department of Insurance.

Filed: January 14, 1986 as R.1986 d.27, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22-6.14a1, 2 and 3, 17:29C-1 et seq., 17:29A-1 et seq., 17:29AA-1 et seq., and 17:29B-4.

Effective Date: January 14, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): November 16, 1990.

Summary of Public Comments and Agency Responses:

The Department of Insurance received three written comments concerning its concurrent proposal of an emergency amendment to the scope section of N.J.A.C. 11:1-20 (Cancellation and Nonrenewal of Property and Casualty/Liability Insurance Policies). Comments were submitted by two insurance industry trade associations and one insurer.

All of the writers commended the Department for acting to restrict the scope of the regulation. One submission, for example, stated that the emergency amendment and concurrent proposal represented an important step toward a more workable and finely-tuned regulation.

In addition to commenting on this proposal, the writers, in some cases, also expressed concern regarding various aspects of the adopted rule, N.J.A.C. 11:1-20. However, such observations are essentially outside the scope of this rule-making procedure and, accordingly, are not addressed in this Summary.

Two commenters objected to the applicability of the rule to personal lines coverages, such as homeowners' insurance. One writer asserted that there is no situation in the personal lines area which warrants such a restrictive regulation. The other commenter argued that the requirements imposed on insurers by N.J.A.C. 11:1-20 are unnecessary with respect to personal lines coverages since these lines are not currently subject to availability problems. Also, it was indicated that there are already several regulations applicable to personal lines cancellations and nonrenewals (see N.J.S.A. 17:29C-1 through 9).

It must be noted that the Department received several public comments objecting to the application of N.J.A.C. 11:1-20 to personal lines coverages in conjunction with the readoption of that subchapter (see 17 N.J.R. 2978(b)). As a result of the Department's review of those comments, as well as other considerations, amendments to N.J.A.C. 11:1-20 were proposed on December 16, 1985 which, among other things, eliminate the applicability of the subchapter to personal lines coverages (see 17 N.J.R. 2956(a)).

The arguments which have been raised by commenters on this amendment to the rule are substantially similar to those offered previously. In view of this fact and recognizing the substantive nature of the writer's recommendations, the Department believes it is appropriate to give further consideration to the comments submitted on this proposal as part of its review of comments offered on the December 16, 1985 proposal.

One writer also recommended the exclusion of certain other lines of insurance from the rule's scope, including commercial automobile insurance, excess and umbrella policies, policies subject to retrospective rating plans and boiler and machinery insurance. It was argued with respect to commercial automobile coverage that the regulation is unnecessary since an availability problem does not exist for this line. In any event, it was noted that a residual market mechanism exists for commercial automobile coverage which is designed to alleviate any possible availability problems.

The writer claimed that the other lines noted above should be excluded either because they require a more flexible regulatory environment (as in the case of excess lines) or because there is no availability problem. This commenter further suggested that the scope of N.J.A.C. 11:1-20 be specifically limited to commercial liability lines and not extend to commercial property risks.

The recommendations made by this commenter and the arguments offered in support thereof are substantially similar to those submitted to the Department in connection with its readoption of N.J.A.C. 11:1-20 (see 17 N.J.R. 2978(b)). The Department remains unpersuaded by the argument that insurance availability is the sole criterion by which the appropriateness of the protections afforded by N.J.A.C. 11:1-20 should be judged. In addition, some of the lines recommended for exclusion by this commenter are subject to availability problems, and the writer's argument concerning the "requirement of a more flexible regulatory environment" has not been adequately supported in this submission.

It should also be noted that the recommendations made by this commenter constitute a substantive modification of the Department's proposal, requiring the publication of a new proposal and the opportunity for additional public comment. Any further review of the issues raised by this commenter must, therefore, be conducted as a matter separate and apart from this rule-making proceeding.

Finally, one writer requested clarification as to the status of inland marine insurance under the rule, apparently believing that it was the Department's intent to exclude this line, as well as ocean marine insurance, from the rule's scope. It was, therefore, recommended that the rule be amended to specifically exclude inland marine.

N.J.A.C. 11:1-20.1 clearly describes the lines of insurance falling within the rule's purview. Contrary to this writer's assertion, it was not the intent of the Department to exclude inland marine insurance.

Full text of the adoption follows.

SUBCHAPTER 20. CANCELLATION AND NONRENEWAL OF PROPERTY AND CASUALTY INSURANCE POLICIES

11:1-20.1 Scope

(a) This subchapter shall apply to all property and casualty/liability insurance policies except workers' compensation and employers' liability insurance, accident and health insurance, fidelity, surety, performance and forgery bonds, ocean marine and aviation insurance and any policy written by a surplus lines insurer. This subchapter shall not apply to any policy issued in this State covering risks with multi-state locations except with respect to coverages applicable to locations within this State. This subchapter shall apply to policies covering automobiles as defined at N.J.S.A. 39:6A-3, and its requirements are in addition to any imposed by other statutes or regulations.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF MOTOR VEHICLES

Licensing Service Registrations

Adopted New Rule: N.J.A.C. 13:21-5.11

Proposed: November 18, 1985 at 17 N.J.R. 2737(a).
Adopted: January 9, 1986 by Robert S. Kline, Acting Director of the Division of Motor Vehicles.
Filed: January 24, 1986 as R.1986 d.38, **without change**.

Authority: N.J.S.A. 39:2-3, 39:3-4, 39:3-5, 39:3-20 and 39:5-30.

Effective Date: February 3, 1986.
Expiration Date pursuant to Executive Order No. 66(1978): September 17, 1989.

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

Full text of the adoption follows.

13:21-5.11 Registration refusal
The Director shall refuse registration of a vehicle if the applicant therefor has failed to furnish proof, in the form prescribed by the United States Secretary of the Treasury at 26 CFR §41.6001-2, that the Federal Heavy Vehicle Use Tax imposed by section 4481 of the Internal Revenue Code of 1954 (26 U.S.C. §4481) has been paid.

(b)

BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Fee Schedule

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

Proposed: December 2, 1985 at 17 N.J.R. 2860(a).
Adopted: January 9, 1985 by Sol Seid, President, Board of Professional Engineers and Land Surveyors.
Filed: January 24, 1986 as R.1986 d.37, **without change**.

Authority: N.J.S.A. 45:1-3.2.

Effective Date: February 18, 1986.
Expiration Date pursuant to Executive Order No. 66 (1978): October 3, 1988.

Summary of Public Comments and Agency Responses:
The Board received one letter which noted without comment the proposed fee schedule charges. Receipt of the letter was acknowledged by the Board.

Full text of the adoption follows.

- 13:40-6.1 Fee schedule
 - (a) The following fees shall be charged by the Board:
 - 1. All application fees shall accompany the application as follows:
 - i. Engineer-in-training \$25.00;
 - ii. Professional engineer \$60.00;
 - iii. Land surveyor \$60.00.

NOTE: These fees do not include the cost of any examination required to be taken.

- 2. Examination and reexamination fees are based upon the nature of the certificate or license for which the applicant has applied, and will be billed prior to the examination, as follows:
 - i. Engineer-in-training (fundamentals of engineering) \$45.00;
 - ii. Professional engineer:
 - (1) Fundamentals \$45.00;
 - (2) Specialized training \$55.00.
 - iii. Land surveyor:
 - (1) Fundamentals \$45.00;
 - (2) Specialized training (Principles of land surveying and New Jersey State portion) \$100.00.
- 3. Reexamination fees are the same as examination fees.
- 4. Renewal fees:
 - i. The annual fee shall be \$15.00 renewed biennially upon the payment of \$30.00 during the month of April in every even year.

ii. If a licensee fails to renew his certificate of license in the month of April, a late renewal fee of \$10.00 shall be charged (in addition to any other fees due and owing), provided that the licensee applies for renewal within a one-year period immediately subsequent to the 30th day of April in the year of renewal. If a license is not renewed within the one-year time period provided, the licensee upon application for reinstatement shall pay a reinstatement fee of \$30.00 plus \$15.00 for each year in which the licensee is in arrears.

- 5. Fee for filing full name of the licensee with the Secretary of State, \$1.00.
- 6. Certificate replacement fees:
 - i. The charge for reissuing a certificate of license to any licensee whose certificate may have been lost, mislaid or destroyed shall be \$10.00 and accompanied by a certified statement explaining the need for reissuance.
 - ii. The charge for reissuing a renewal certificate of license to any licensee whose renewal certificate may have been lost, mislaid or destroyed shall be \$5.00 and accompanied by a certified statement explaining the need for reissuance.
- 7. All licensees, and the clerks of each municipality in the State, shall receive without charge one copy of the roster of licensed professional engineers and land surveyors. Additional copies, if and when available, may be purchased at a fee of \$6.00 each.
- 8. Fees shall be nonrefundable and nontransferable.

STATE

(a)

DIVISION OF ELECTIONS

Election Rules

Adopted Repeal and New Rules: N.J.A.C. 15:10

Proposed: October 7, 1985 at 17 N.J.R. 2381(a).

Adopted: December 12, 1985 by Jane Burgio, Secretary of State.

Filed: January 22, 1986 as R.1986 d.32, **without change**.

Authority: N.J.S.A. 19:23-45 et seq., 19:4-10 et seq. and 19:31-6 et seq.

Effective Date: February 18, 1986

Expiration Date pursuant to Executive Order No.

66(1978): February 18, 1991.

Summary of Public Comments and Agency Responses:

The following comments were received from the Sussex County Board of Elections:

With regard to N.J.A.C. 15:10-1.1, the last sentence states the county should maintain a record of all organizations or individuals requesting 100 or more forms. The county currently does so but it thought a period of time should be stated as to how long it should retain this record such as 1 year, 4 years, etc.

With regard to N.J.A.C. 15:10-1.5(c)2 and the failure to supply a street address, the county agreed because it has a terrible time with these type of registrations since the county is an area of predominately rural addresses. However, possibly a few words should be added to say it shall render the form invalid, after the Board of Elections has made an earnest attempt to ascertain the necessary information.

With regard to N.J.A.C. 15:10-1.6(b) "If the form is rejected because of an omission, the county voter registration official shall return to the denied registrant the incomplete form . . ." The county does not feel this is a good idea. Once the form is returned to the voter, the record is lost. Further, if another form must be sent this will mean increased postage. A post card notification should be sent to the voter with an appropriate comment such as "for assistance in becoming properly registered, please call our office at . . . or call your municipal clerk, etc." Especially since time would be of the essence, it would be better if the voter could come in to the Election Board or Municipal Clerk's office. However, when this situation arises and the voter cannot come to the office, at the voter's request, the county would send another mail-in form, and code the form to indicate that it is a correction of a timely form. This the county can distinguish it from forms that come to the office that are ineligible due to the date.

With regard to N.J.A.C. 15:10-2.1(a)3, this portion of the rule tends to provide problems in Sussex County. Over the past few years, there have been several instances where a declared Republican will win the Democratic nomination in the Primary and run and even win in the General Election. The following year he goes to vote in the Primary and he has not filed a change of party and the poll worker does not know he was elected or appointed to an office of the opposing party.

Therefore, the person's page is not marked and there is confusion at the polls. Further, there is one person who is a declared Democrat who won the Republican nomination in the Primary, went on to win the election in the General Election, but never changed his party to Republican and goes to the polls in the Primary maintaining he is still a Democrat. The county suggested this either be eliminated altogether from the rule or possibly the rule should be amended that when a person of one party accepts the nomination or appointment, at this same time that he/she receives the paper work accepting the nomination, a further requirement be that he/she files a party affiliation card indicating he is now embracing the new political party.

With regard to N.J.A.C. 15:10-2.8(a), the last sentence requiring a record be maintained of all requests in excess of 100 forms, should include a period of time of how long the record should be kept.

With regard to the applications for absentee ballots, the county asked whether there is some way that in a Primary Election, the voter should indicate which ballot he/she wants, when the voter has not previously voted in a Primary. Currently, the County Clerk sends one of each ballot when the voter is not declared, since there is no way for her to know which one to send. Under the circumstances, the action is appropriate, but there should be some party designation made.

The Division responded by letter to the Sussex County Board of Elections. A summary of that response follows:

With regard to the lack of a specific time requirement for retaining records of organizations and individuals requesting 100 or more voter registration forms (15:10-1.1) and/or voter declaration forms (15:10-2.8(a)), it is agreed that the rules and regulations should include a defined retention period for such records. The addition of a four year retention period can best be accomplished by proposing a supplemental regulation to amend the above sections. This procedure can be undertaken once the rules and regulations have been promulgated.

With regard to the comment concerning applicants who fail to supply a street address, N.J.A.C. 15:10-1.5(c)2 renders such forms invalid. Provisions within N.J.A.C. 15:10.6 establish the method of notifying the applicants of their rejected form and of the manner by which the rejection may be cured.

With regard to the type of notification that applicants should receive regarding incomplete voter registration forms and the method to complete such forms, provisions within the proposed rules and regulations address this situation. While N.J.A.C. 15:10-1.6 requires that written notification of rejection along with the incomplete registration form be mailed to the applicant, procedures may be implemented in which a photo copy of the incomplete form could be forwarded to the applicant for completion. A postcard notification system could also be implemented.

With regard to the concern about individuals nominated at primary elections to run as municipal party candidates even though they may not be a member of that political party and who go on to win the general election, New Jersey election law addresses this situation. N.J.S.A. 19:23-45 states that " . . . a public official . . . holding any office . . . to which he has been elected . . . shall be deemed a member of such political party." Changes to reflect the new party affiliation of such elected officials should be made after the general election.

With regard to the comment concerning the possibility of establishing a requirement that first-time voters requesting a primary absentee ballot indicate which ballot (Democratic or Republican) they desire, it should be understood that many voters may not have decided their preference by the time they

submit their request. In fact, requests for primary absentee ballots can be made before knowing who the actual candidates will be.

Full text of the adoption follows.

SUBCHAPTER 1. VOTER REGISTRATION BY MAIL

Authority

N.J.S.A. 19:31-6, specifically 19:31-6.9.

15:10-1.1 Availability of forms; reasonable quantity defined

(a) A bona fide organization or individual candidate for public office may request a reasonable quantity of voter registration forms from the county voter registration official of the county or counties in which the organization operates or the candidate is seeking public office. The number requested shall be limited to two percent of the total number of registration forms which the county voter registration official has available at the time of the request. There shall be no limit as to the number of requests that such an organization or candidate may make. The county voter registration official shall maintain a record of all organizations and individual candidates requesting 100 or more such forms.

(b) An individual, who is not a candidate for public office, may request in person from the county voter registration official of each county up to 25 voter registration forms, and shall be entitled to the forms. There shall be no limit as to the number of requests such an individual may make. An individual making such a request by telephone shall be entitled to at least two forms.

(c) The term "organization" shall be defined as broadly as possible for purposes of these rules.

15:10-1.2 Reordering forms; notification

When the supply of voter registration forms has reached a level of 25 percent of the amount of such forms previously allocated to a county, the county voter registration official shall notify the Office of the Secretary of State, which shall then take appropriate steps to supply the county with an adequate number of forms to meet reasonably expected needs.

15:10-1.3 Acceptance of photocopies and reproductions of form

(a) The county voter registration official shall accept and validate legible photocopies and reproductions of voter registration forms, provided that such photocopied or reproduced forms comply with the provisions of these rules and applicable statutory requirements.

(b) The county voter registration official may adopt a numbering system or other method of identifying the supply of voter registration forms, but such system or method shall not be used to prevent the acceptance and validation of voter registration forms which would otherwise be valid.

(c) Any photocopies and reproductions must be true facsimiles of the official voter registration form.

15:10-1.4 Acceptance of registrants after the 29th day before any election

(a) Any form not postmarked, but dated by the registrant on or before the 29th day before any election shall be deemed timely, provided that the registration form is received by mail not later than the 25th day prior to the election. If the 25th day prior to the election falls on a day when the county voter registration office is not open, then the deadline is extended to the first business day thereof.

(b) Any registrant whose timely voter registration form was rejected by the commissioner of registration, superintendent of election, or Secretary of State, on or before the 29th day prior to any election and whose validly completed form is received by the commissioner of registration or superintendent of elections, whichever appropriate, at any time before the day of an ensuing election shall be entitled to vote in that election.

15:10-1.5 Completion of the form

(a) A registrant must complete the voter registration form and have the voter registration form witnessed by a qualified voter of this State. The witness may supply the county of his residence, but shall supply his street address and the municipality wherein the witness resides.

(b) The county voter registration official shall place the original voter registration form onto the original permanent registration form that is used by the district board of elections at any election; and shall place a photocopy or other facsimile of the voter registration form onto the duplicate permanent registration form.

(c) In order for the registrant to be deemed validly registered, the following items on the voter registration form must be completed in the following manner:

1. The printed name of the registrant is validly completed if the registrant's entire last name and the first initial appears on registration form. Failure to insert the whole first and/or middle name(s) or middle initial shall not render the form invalid.

2. The address of the applicant is validly completed by supplying the street address, municipality and county. The supplying of a rural mailing address or post office box number without supplying a street address shall render the form invalid. Failure to supply an apartment number or zip code shall not render the voter registration form invalid.

3. Failure to supply a rural mailing address, shall not render the voter registration form invalid. The county voter registration official may, in his discretion, make an investigation to determine the proper information for this item.

4. The date is validly completed if the statement "over 18 years" or its substantial equivalent is placed on the registration form by the registrant. The registration form shall also be deemed validly completed if, by statement of year of birth, the registrant could only be over 18 years of age, even if the day and/or month of birth are not completed. If it appears that the registrant is 17 years of age, the entire birth date must be complete for item 4 to be validly complete.

5. Failure to designate the prior place of registration shall not render the form invalid.

6. The form is validly completed by checking one of the appropriate boxes either native born or naturalized citizen. Failure to supply the location and/or date of naturalization shall not render the form invalid.

7. The signature is validly completed by supplying the full and last name and the insertion of a date. Signature in pencil shall not invalidate the registration form; however, the registrant shall be required to submit his signature in ink on the first occasion that he wishes to vote. If the registrant's legal "signature" is a form of printing, the printed name shall be valid.

8. Witness information is validly completed by insertion of the first initial, the entire last name of the witness, and the signature of the witness. The witness must also supply an address which is sufficient so that the county voter registration official may contact the witness if he so desires. The witness must also date his signature. Failure to insert county, full first,

and/or middle names, middle initial or zip code shall not render the form invalid.

(d) The county voter registration official may request a mail registrant to complete any omitted or incomplete items on the registration form the first time the registrant appears to vote.

(e) The Secretary of State, or county voter registration official, may reject any voter registration form if the county of residence is not ascertainable from the submitted form. In the event the form is returned, the appropriate officer shall notify the registrant pursuant to N.J.A.C. 15:10-1.6 with instructions to forward to the appropriate county voter registration official.

15:10-1.6 Notification to registrant

(a) When the voter registration form is accepted or rejected, the registrant shall be notified by regular mail.

(b) If a voter registration form is rejected, the denied registrant shall be notified in writing of the precise reason(s) for the rejection, and of the manner by which the reason(s) for rejection may be cured. If the form is rejected because of an omission, the county voter registration official shall return to the denied registrant the incomplete form; otherwise, the commissioner shall send a blank voter registration form. If a form ultimately rejected was received by the county voter registration official in accordance with N.J.S.A. 15:10-1.4(a), the attempted registrant shall be notified in writing of the right to vote in the immediately ensuing election in accordance with N.J.A.C. 15:10-1.4(b).

(c) On the face of such notification in the upper left-hand corner shall be printed the words: "Do Not Forward. Return Postage Guaranteed. If Not Delivered In Two Days, Return to Superintendent of Elections." In those counties not having a superintendent of elections, the form shall be returned to the "Commissioner of Registration."

15:10-1.7 Signatures

(a) When a mail registrant attempts to vote for the first time, such voter must sign his or her name on the reverse side of the permanent registration form maintained by the county voter registration official.

(b) The signatures on the voter registration form and the reverse side of the permanent registration form must match before the voter will be allowed to vote.

15:10-1.8 Sample and instruction ballots

(a) In election districts where the primary language of the registered voters is Spanish, the sample ballots for primary and general election shall be printed bilingually in English and Spanish in their entirety, excepting names of candidates, including public questions, and mailed to each registered voter.

(b) In such election districts, ballots together with such sample instructions printed bilingually in English and Spanish shall be displayed prominently at all such polling places on election day.

(c) The official primary and general election ballots in the actual voting booth at the polling place need not be printed bilingually.

15:10-1.9 Out-of-office registration

(a) The statutory term "out-of-office registration" shall be defined as broadly as possible to include all registration conducted by the county voter registration official at any location other than his office. Out-of-office registration facilities may be stationary or fixed vehicles or buildings, or mobile vehicles. The nature, number and route of any moving facility shall be subject to approval by the Secretary of State.

(b) The place or places designated by the county voter registration official other than his office shall be publicized in a newspaper circulated in the municipality, containing such designated place or places. The publication shall include the addresses and dates and hours of operation of such designated place or places and shall be made pursuant to N.J.S.A. 19:12-7. Nothing in these rules shall prohibit a county voter registration official from voluntarily publicizing the places designated more than is required by these rules.

(c) Whenever any individual or organization, other than the commissioner of registration, superintendent of elections, the commissioner's or superintendent's duly authorized clerk, conducts registration activities, whether by door-to-door canvassing, mobile techniques or otherwise, there need be no publication whatsoever by the individual, organization, commissioner or superintendent.

15:10-1.10 Secretary of State as agent for purposes of mail registration

(a) The Secretary of State shall be an agent of each county voter registration official. Completed voter registration forms may be returned to the Office of the Secretary of State, Election Division, CN-304, Trenton, New Jersey, 08625-0304. The Secretary of State shall cause such forms to be immediately forwarded to the appropriate county voter registration official.

(b) Voter registration forms may also be filed directly with the appropriate county voter registration official.

SUBCHAPTER 2. VOTER DECLARATION OF POLITICAL PARTY

Authority

N.J.S.A. 19:23-45 et seq., specifically 19:23-45.3.

15:10-2.1 General provisions

(a) A voter becomes a member of a political party by either:

1. Having voted in a previous primary of that party;
2. By filing a declaration of membership in that party. The declaration must be signed and filed with the municipal clerk or appropriate county election officer no later than the 50th day preceding the primary. However, a voter who has not previously voted in a party primary may vote in any primary without filing any declaration.

3. By being a member of the county committee of the party of a public official holding office to which he has been elected or appointed as a member of that political party.

(b) In the event such day falls on a Saturday, Sunday, or legal holiday, the county voter registration official shall accept as timely filed those voter declaration cards which he receives on the first regular business day following the 50th day before the primary election.

15:10-2.2 Who must file declarations

(a) To determine whether a voter must file a declaration, three steps should be followed:

1. It must be determined whether the voter has ever voted in a primary election under the voter's current registration;
2. If so, it must be determined in which political party primary the voter participated when the voter cast the most recent primary ballot;

3. If the voter now wishes to participate in the primary election of a different political party, the voter must file a declaration.

(b) A voter who has never previously participated in a primary election under the voter's current registration need not file a declaration of party preference.

(c) If a voter cast a ballot in a primary several years ago, that voter must file a declaration in order to vote in the primary of another party. The passage of time has no effect on the status of the voter as a member of a political party. However, if a voter cast a ballot in a primary under a previous registration, even though that registration was in the same county, the voter is still deemed not to have voted in a previous primary under the voter's current registration.

15:10.2.3 Responsibilities of municipal clerks

(a) Municipal clerks should obtain and have available for distribution voter declaration forms.

(b) Upon receipt of a signed declaration or a written statement declaring political party membership, the municipal clerk should mark on the form or statement the date on which it was filed with him or her.

(c) The municipal clerk should accurately maintain a registry of declarations received showing the name and address of the voter the political party declared and the date received.

(d) Once it has been dated and recorded, the municipal clerk should submit the form or statement to the county voter registration official.

(e) Appropriate measures should be taken to insure that the forms are properly delivered in the condition in which they were received. Immediately after the expiration of the deadline for the receipt of forms (that is, 50 days before the primary election), the municipal clerk should deliver those forms in his possession to the county voter registration official.

(f) In the event that declaration forms or statements are lost or damaged in transit, the municipal clerk may rely upon the records maintained by him or her to advise the county voter registration official of the declarations received, but this measure should only be used after all reasonable means of locating or repairing the original forms or statements have been exhausted.

15:10.2.4 Responsibilities of county election officers

(a) The superintendent of elections in all counties having a superintendent of elections and the commissioner of registration in all other counties has complete responsibility for the permanent registration of all eligible voters within their respective counties and for the enforcement of the provisions of N.J.S.A. 19:23-45 et seq.

(b) The appropriate county election officer must distribute the declaration forms prepared by the Department of State to all municipal clerks and to other sources where, in the judgment of the officer, there is a substantial likelihood that such forms will be distributed to the voting public.

(c) Upon receipt of a signed declaration form or statement, the election officer should immediately mail an acknowledgment to the voter indicating the political party the voter declared. The acknowledgment must also indicate that, if the voter believes that he or she has not filed a declaration, or that an error has occurred, the voter must so advise the officer by either personally appearing, writing or telephoning within two weeks. The voter must be informed that, in the absence of any response, the voter will be deemed to be a member of the political party declared. In the event a voter submits a written, signed statement to the effect that he or she has not filed a declaration or that an error occurred, whatever the case may be, the records of the commissioner of registration or superintendent of elections shall reflect this action.

15:10-2.5 Appearance at polls; declaration not required from excused voters

Voters who are not required to file a declaration card under N.J.S.A. 19:23-45 do not have to make a written declaration when appearing at the polls to participate in the primary election. It is sufficient that the voter proceeds to vote in the primary of one party and is thereby deemed to be a member of that party.

15:10-2.6 Method of filing declaration of political party membership

(a) The Department of State has prepared party declaration forms which may be obtained from the appropriate county voter registration official or municipal clerk. Upon filling out the form the voter shall file the completed form with the superintendent of elections or commissioner of registration, whichever appropriate, in the county in which he resides. The voter may also file the party declaration form with the municipal clerk of the municipality wherein he resides.

(b) Any voter wishing to file a declaration of political party membership is not required to use those forms provided by the Secretary of State. However, the voter should prepare a written statement indicating that he or she is a member of a political party. The statement should be signed by the voter. The name and full address should appear and the statement should be dated by the voter.

15:10-2.7 Effect of prior registration and voting

(a) Any voter who has voted in a primary election under a current registration shall vote in the same party as he or she has previously voted, unless the voter has filed a party declaration form in accordance with these rules.

(b) If a voter has registered to vote in a previous year, but has failed to vote in any primary election, then at the first primary election which the voter wishes to vote, he shall declare the party in whose primary he wishes to vote. The voter shall then be allowed to vote in the primary of the political party of his declared choice.

15:10-2.8 Availability of declaration forms

(a) A bona fide organization or individual candidate for public office may request a reasonable number of declaration forms from the county voter registration official in each county in which the organization functions or where the candidate is seeking public office. The number requested may be limited to two percent of the total number of declaration forms which the appropriate election official has available at the time of such request. There shall be no limit as to the number of requests that such a candidate or organization may make. The appropriate election official shall maintain a record of all organizations and individual candidates requesting 100 or more forms.

(b) Any individual who is not a candidate for public office, may request from the appropriate election official of each county up to 25 declaration forms and shall be entitled to those forms. There shall be no limit as to the number of requests such an individual may make. An individual making such a request by telephone shall be entitled to at least two such forms.

(c) The term "organization" shall be defined as broadly as possible for the purposes of these rules.

(d) Declaration forms shall be prepared in the Spanish language for use by individuals or organizations requesting them.

SUBCHAPTER 3. ELECTION DISTRICT MAPS

Authority

N.J.S.A. 19:4-10 et seq., specifically 19:4-16.

15:10-3.1 General provisions

(a) The county board of elections shall cause to have prepared an up-to-date map of the county and of each constituent municipality clearly delineating the boundary of each election district (established in conformance with N.J.S.A. 19:4-10 et seq.), contained therein and of each ward contained therein. Maps shall also be maintained showing all legislative districts, freeholder districts, and congressional districts, or part thereof which are within the county. A word description of said boundaries shall be attached to each such map.

(b) The county board of elections shall file three copies of such maps and descriptions with the Secretary of State. One copy of each such map and description shall also be filed with the county clerk. A copy of the municipal map shall also be filed with the clerk of the appropriate municipality. Within 30 days of any changes in the boundaries of any of the aforementioned districts, the county board of elections shall file revised maps and descriptions in the same manner.

(c) Election district boundaries shall follow visible, easily recognized features (for example, streets, railroad tracks, drainage features such as streams, creeks and lakes, and topographical features such as ridges) which are to be indicated on the various maps.

(d) Election district boundaries shall be drawn in red. Where the boundary of an election district and the boundary of a constituent municipality or a county line are the same, the common boundary shall be shown as a single green line. The boundaries of wards shall be drawn as an orange line drawn adjacent to the election district boundary.

(e) Where the election district boundary coincides with a county or municipal boundary which does not follow a physical feature, the first address number (in rural areas, the first rural route box number) on either side of the boundary shall be listed on the map next to the boundary. If there are no address numbers or box numbers near the respective sides, both sides shall be marked with a zero.

(f) The number of each election district shall be clearly shown in red within its boundaries.

(g) The accuracy of the election district boundaries shall be certified on each map sheet by the county board of elections, or by its designated agent, as follows: "I certify that, to the best of my knowledge, the election district boundaries shown on this map are those legally in effect and are accurate of this date." This statement shall be signed and dated, and the title of the signer shall be indicated.

(h) No election district shall be divided during the period commencing 75 days before the primary or the general election. No election districts shall, except with the prior approval of the Secretary of State, be created, abolished, divided or consolidated between January 1 of a year whose last digit is seven, and December 1 of any year whose last digit is zero.

(i) Failure to follow the color requirements for these maps shall cause rejection of them by the Secretary of State.

15:10-3.2 Maps of counties; specifications

(a) The county map shall clearly delineate the boundaries of the constituent municipalities.

(b) The size of the map shall conform to the provisions of N.J.S.A. 46:23-9.11(b). These maps shall be one of four standard sizes; namely:

1. Eight and one-half inches by 13 inches; or

2. Thirty inches by 42 inches; or
3. Twenty-four inches by 36 inches; or
4. Fifteen inches by 21 inches.

(c) These dimensions shall be measured from cutting edges. The scale of the map shall be clearly indicated on the map. The date (month/year) of the map shall be indicated. If the map has been updated, the date (month/year) shall be shown.

15:10-3.3 Maps of municipalities; specifications

(a) The municipal map shall not exceed 30 inches by 42 inches. The scale shall not be so small that the information on the map is difficult to read. The scale should generally range between one inch = 800 feet and one inch = 1,600 feet. The scale should be clearly indicated on the map. Each municipal map shall, wherever practicable, be composed of one sheet and, where not practicable, of a series of sheets, in which event all maps of a series shall be of the same scale.

(b) Maps shall include all existing roads and streets. "Paper" or undeveloped streets or roads (that is, those for which no scraping or road bed has been taken) shall not be shown. Railroad tracks and major drainage features (for example, rivers, lakes, creeks, streams, etc.) shall be shown and the names of such features shall be indicated.

(c) Other features or symbols (for example, churches, schools, factories, underground utility lines, land use and zoning symbols or shadings, symbols for vegetation cover, topographic contour lines, and similar items that obscure the basic street and road pattern and names) shall be excluded. All features, names, titles and symbols shall be clearly shown and legible.

(e) The effective date (date/month/year) of the current municipal boundary, if different from that in effect on January 1, 1980, shall be specified on the map.

15:10-3.4 Maps of congressional, legislative and freeholder districts

(a) The boundaries of congressional districts shall be shown by a thin broken line (---) or yellow line drawn adjacent to the election district boundary line. The boundaries of legislative districts shall be shown by a thin dotted line (. . . .) or blue line drawn adjacent to the election district boundary line. The boundaries of county freeholder districts, where such freeholder districts are established, shall be shown by a thin broken and dotted line (-.-.-) or brown line drawn adjacent to the election district boundary.

SUBCHAPTER 4. ABSENTEE BALLOTS

Authority

N.J.S.A. 19:57-1 et seq., specifically 19:57-4.1(b).

15:10-4.1 Printing absentee ballot applications

(a) The reproduction of absentee ballot applications, under the statute (N.J.S.A. 19:57-8), is the responsibility of the county clerks at the cost and expense of the individual counties.

(b) The requirements of the Secretary of State are:

1. The applications be printed in post card style;
2. The size be four inches wide by 9¼ inches long (to be mailed in a number 10 envelope);
3. Be printed on sufficient quality cardboard stock to withstand printing and mailing;
4. There be no additions, deletions or changes from the prescribed form and text, except as incidental to printing;
5. Each county clerk shall print, type or stamp the clerk's name and address on the mailing panel and insert the name of the county on the military form in the space provided for the home address of the applicant.

ADOPTIONS

15:10-4.2 Completion requirements; civilian absentee ballot application; generally; authorized messenger

(a) The completed civilian absentee ballot application must be received by the appropriate county clerk not later than seven days prior to the election unless the applicant applies in person or is sick or confined.

(b) If the applicant is sick or confined, an authorized messenger may deliver the application to the appropriate county clerk's office before 3:00 P.M. on the day prior to the election. Both the applicant and the authorized messenger must complete the application if the applicant is sick or confined.

(c) The text of the civilian absentee ballot application is hereby made a part of these rules. Copies of such text may be obtained from the Office of the Secretary of State.

SUBCHAPTER 5. DEFINITIONS

Authority
N.J.S.A. 19:32-1.

15:10.5.1 County voter registration official; defined

The county voter registration official is the commissioner of registration or the superintendent of elections, whichever title is applicable in a particular county.

TRANSPORTATION

(a)

CONSTRUCTION AND MAINTENANCE

Contract Administration

Classification of Prospective Bidders

Adopted Amendment: N.J.A.C. 16:44-1.2

Proposed: November 18, 1985 at 17 N.J.R. 2746(a).

Adopted: January 14, 1986 by Jack Freidenrich, Assistant Commissioner for Engineering and Operations (State Highway Engineer).

Filed: January 21, 1986 as R.1986 d.29, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1, 14A:1-1 and 14:15-2.

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): October 3, 1988.

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

Full text of the adoption follows.

16:44-1.2 Classification of prospective bidders

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

(d) As to the amount of work:

For less than Class A = actual rating in thousands

Class A to Class Q (No change.)

Class R \$25,000,001 to \$30,000,000

Class S \$30,000,001 to \$35,000,000

Class T \$35,000,001 to \$40,000,000

TREASURY-GENERAL

Class U \$40,000,001 to \$45,000,000

Class V \$45,000,001 to \$50,000,000

Class W Over \$50,000,000

Class "W" (Unlimited) involves work in excess of \$50,000,000. A prospective bidder, so classified, will be notified of the intention of the New Jersey Department of Transportation to undertake a project in the "Unlimited" class, and such prospective bidder shall be required to specifically prequalify to bid upon the work in question by applying for such specific classification at least 20 days before the date set for the receiving of bids.

A prospective bidder, whose statements do not qualify him to bid in an amount that will be sufficient to place him in "Class A" will be graded and classed according to his actual ability to undertake a project as shown by his statements.

(e)-(q) (No change.)

TREASURY-GENERAL

(b)

STATE HEALTH BENEFITS COMMISSION

State Health Benefits Program Interest Charges

Adopted Amendment: N.J.A.C. 17:9-5.3

Proposed: December 2, 1985 at 17 N.J.R. 2868(a).

Adopted: January 14, 1986 by State Health Benefits Commission, Gaius Mount, Acting Secretary.

Filed: January 15, 1986 as R.1986 d.28, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 52:14-17.27 et seq.

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No. 66(1978): June 6, 1988.

Summary of Public Comments and Agency Responses:

No comments were received concerning this proposal. However, upon internal review by the State Health Benefits Commission and the Director of Pensions it was decided to reduce the proposed penalty rate from a fixed 15 percent to a floating rate.

The change involves amending the proposed fixed interest rate of 15 percent to a floating rate one percent above the annualized return on investments earned on the State Cash Management Fund. It was felt that this floating rate would be more reasonable since it is related to the amount of investment return that such funds could earn if submitted in a timely fashion.

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

17:9-5.3 Advance charges; interest charges

(a) For the purpose of local coverage, in the traditional program, the employer must remit to the Division of Pensions charges covering a one-month period in advance of the coverage date whereas charges for HMO coverage are remitted directly to the HMO in which the employee is enrolled.

(b) If the transmittal report and full payment of health benefits charges are not received within 15 days of the due date, as cited on the monthly transmittal mailed from the Division of Pensions, **[the]* interest *[penalty of 15 percent]* *at the rate* per annum *of one percent above the average annualized daily rate of return on the State Cash Management Fund as published by the Division of Investment for the most recent fiscal year** shall be applied to the total transmittal of health benefits charges from the 16th day until the payment is received. The interest penalty will also be applied if payment is received by the Health Benefits Bureau **[but]** without the transmittal report for proper distribution.

(a)

DIVISION OF INVESTMENT

Covered Call Options

Limitations: South African Divestment

Adopted Amendment: N.J.A.C. 17:16-42.4

Proposed: December 16, 1985 at 17 N.J.R. 2968(a).
 Adopted: January 17, 1986 by Roland M. Machold,
 Director, Division of Investment and State
 Investment Council.

Filed: January 21, 1986 as R.1986 d.30, **without change.**

Authority: N.J.S.A. 52:18A-91.

Effective Date: February 18, 1986.

Expiration Date pursuant to Executive Order No.
 66(1978): September 4, 1989.

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

Full text of the adoption follows.

17:16-42.4 Limitations

Sales of covered call options shall not exceed 10 percent of any one common stock holding, except in the case of holdings subject to divestment under the provisions of P.L. 1985, c.308.

OTHER AGENCIES

CASINO CONTROL COMMISSION

(b)

**Accounting and Internal Controls
 Patron Credit**

Adopted Amendment: N.J.A.C. 19:45-1.27

Proposed: December 16, 1985 at 17 N.J.R. 2970(a).
 Adopted: January 22, 1986 by the Casino Control
 Commission, Walter N. Read, Chairman.

Filed: January 23, 1986 as R.1986 d.36, **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), 5:12-69, 5:12-70(g) and (l) and 5:12-101.

Effective Date: February 18, 1986.

Operative Date: March 1, 1986.

Expiration Date pursuant to Executive Order 66(1978):
 April 7, 1988.

Summary of Public Comments and Agency Responses and Reasons for Changes:

Comments were received from the Division of Gaming Enforcement which are in all respects supportive of the published rule.

Comments were also received from the Atlantic City Casino Association (ACCA). These comments and the Commission's responses are summarized below.

The ACCA seeks to amend a portion of the proposed amendment to provide that the credit privileges of a patron whose credit file has not been subjected to the requirements of certain enumerated subsections should not be suspended until after December 1, 1986. Further, the ACCA proposes that the Commission or Division of Gaming Enforcement, upon complaint, may seek appropriate relief if a licensee does not substantially comply with the phase-in plan. The Commission rejects this comment. The plan contemplated by this amendment has an effective existence of nine months and serves to permit a phased application of the Commission's new credit regulations to pre-existing credit files. Once December 1, 1986, arrives the terms of the plan become insignificant since, on that date, the entire set of credit regulations will clearly apply to all credit patrons and files.

The plan must, to a certain extent, be self-executing to be effective. The Commission and Division of Gaming Enforcement need not necessarily rely on the formal complaint process to bring casino licensees into compliance with the short-lived plan, or to make such plan effective, although that option is certainly available. The ACCA's proposal neglects the fact that the plan itself may provide for remedies and sanctions for the failure to comply with any particular provision of such plan.

The plan is an essential element of the phase-in concept. The ACCA's proposal does not give sufficient recognition to the importance of the plan in achieving an orderly and effective phase-in of the credit regulations to pre-existing files.

The changes by the Commission to the proposal are of a technical, non-substantive nature and merely reflect corrections of typographical or printing errors made when the proposal was originally published.

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

19:45-1.27 Procedures for granting credit and recording checks exchanged, redeemed or consolidated

(a)-(o) (No change.)

(p) Notwithstanding any other provisions of this section to the contrary, the requirements of (a)1, 2, 3, 4, 5, 7, 8, 9, 10, 11*,* (b), and (i)1.i, ii and v above shall not apply to the patron credit files of a casino licensee which are in existence on the operative date of this section if the casino licensee has submitted a plan for the phased application of the above enumerated subsections to such files in accordance with this subsection. This plan must be filed with the Commission and Division at least 90 days prior to the operative date of this section and shall provide for the phased application of the above enumerated subsections to all patron credit files in existence on the operative date of this section within nine months of such operative date. Such plan shall further provide for the suspension of the credit privileges of any patron whose credit file has not been subject*ed* to the requirements of the above enumerated subsections in accordance with the terms of the approved plan. In addition, the plan shall provide that if any event takes place which would subject a patron credit file which was in existence on the operative date of this section to any requirement of subsections (g), (h), (i)1iii, or iv, then that credit file shall be subject to all the requirements of this section, including (a)1, 2, 3, 4, 5, 7, 8, 9, 10, 11, (b) and (i)1.i, ii and v above. Any plan which is not timely received pursuant to this subsection shall not be considered by the Commission until all timely received submissions have been finally reviewed and, unless and until such untimely plan is reviewed and approved, the submitting casino licensee shall not grant or issue any credit subsequent to the operative date of this section except in accordance with all the requirements of this section.

(a)

Gaming Equipment

Issuance and Use of Tokens for Gaming in Slot Machines

Adopted Amendment: N.J.A.C. 19:46-1.33 (Alternative I)

Proposed: January 21, 1985 at 17 N.J.R. 184(a).
 Adopted: January 21, 1986 by the Casino Control Commission, Walter N. Read, Chairman.
 Filed: January 21, 1985 as R.1986 d.31, Alternative I **without change** (Alternatives II and III **not adopted**).

Authority: N.J.S.A. 5:12-63(c).

Effective Date: February 18, 1986
 Expiration Date pursuant to Executive Order No. 66(1978): May 4, 1988.

Summary of Public Comments and Agency Responses:

COMMENT: Harrah's urges the Casino Control Commission to adopt Alternative I which permits the use of tokens in any denomination without restrictions.

If the Commission believes that restrictions are necessary, Harrah's urges that the Commission impose them by way of conditions to a licensee's certificate of operation. However, if the Commission does not agree, Harrah's urges the Commission to adopt Alternative II rather than Alternative III which would prohibit all but \$1.00 tokens.

Finally, Harrah's requests that the Commission address the use of promotional tokens. Since the promotional tokens will not be used for gaming, Harrah's believes the weight and composition standards do not apply to them. However, if the Commission feels the standards would apply, Harrah's suggests a statement be added to the proposal clearly stating that promotional tokens need not comply with N.J.A.C. 19:46-1.33(a)7, 8ii.

RESPONSE: Relative to the denomination of tokens allowable, the Commission agrees that market demand should regulate the use of slot machines which accept tokens in denominations greater than \$1.00. Relative to promotional tokens, a petition seeking a declaratory ruling that promotional tokens are not tokens as defined by regulation, is presently pending hearing by the Commission. Therefore, Harrah's response will be addressed in conjunction with that ruling.

COMMENT: IGT opposes the amendments to N.J.A.C. 19:45-1.37(g) and 19:46-1.26(f) which would require that any slot machines that accept tokens in excess of \$1.00 not accept more than three tokens for each play of the machine. IGT suggests that market pressures should determine the maximum.

IGT also opposes the amendment to N.J.A.C. 19:46-1.27(d) which would limit the number of machines that accept tokens greater than \$1.00 to one percent. However, if the Commission determines that some limitation is necessary, IGT recommends that a five percent limitation be imposed.

IGT believes that some definition of token denominations should be maintained since the amended wording would allow tokens of less than \$1.00 or tokens in uneven amounts.

RESPONSE: The Commission agrees that market demand should regulate the use of slot machines which accept tokens in denominations greater than \$1.00. However, the Commission does not agree that the regulation should restrict the allowable denomination of tokens to dollar amounts and amounts of \$1.00 or more.

COMMENT: The Division of Gaming Enforcement believes that the Commission should allow the use of tokens in excess of \$1.00 and, therefore, not consider Alternative III which would prohibit tokens in excess of \$1.00.

The Division has the following concerns regarding Alternative II which would restrict the use of tokens in excess of \$1.00:

1. The Division feels that it would set bad precedent to require, by regulation, payouts in excess of 83 percent. The Division acknowledges that the Commission has set policy which requires that slot machines with an element of skill pay out in excess of 83 percent, but insists that there is no precedent or valid reason to increase the minimum payout for machines based on the amount of money that can be inserted therein.

2. The Division advises against limiting the acceptance of coins to no more than three for machines that accept tokens in excess of \$1.00.

3. The Division submits that it would not be inappropriate to limit the number of slot machines that accept tokens in

excess of \$1.00 to one percent of the total slot machines, since precedent has been set previously with 5 cent and 25 cent machines. The Division points out, however, that it is within the discretion of the Commission to determine whether the percentage is too low and should be adjusted upward.

RESPONSE: Accepted. The Commission is of the opinion that market demand should regulate the use of slot machines which accept tokens in denominations greater than \$1.00.

COMMENT: Claridge opposes the amendment articulated in Alternative II because Claridge believes that the regulation, which proposes to increase the minimum payout, is in direct conflict with the Casino Control Act which sets the minimum payout at 83 percent. Furthermore, Claridge suggests that the Commission has no authority either through promulgation of regulation or other interpretive mechanism to expand or otherwise modify the statute.

Claridge also believes that the regulation that places a one percent cap on the number of machines that accept tokens in denominations in excess of \$1.00 assumes that there are no potential gradations of token amounts or combinations between \$1.00 and \$5.00. While Claridge believes that market conditions will not support large numbers of high denomination machines, it does believe that market conditions may support more than one percent of the total machines in a single token amount of \$1.25 or \$1.50. Therefore, the number of such machines should be determined by market conditions and not by a regulatory cap.

RESPONSE: Claridge's comment that the Commission absolutely lacks authority to raise the required minimum payout is rejected. The Commission is of the opinion that the minimum payout may be increased in order to fulfill a statutory policy or goal. However, since the Commission feels that market demand should regulate the use of slot machines which accept tokens in denominations greater than \$1.00, the restrictions related to payout percentage or number of slot machines were not adopted.

COMMENT: GNOC strongly urges the Commission to adopt Alternative I which permits the use of tokens in any denomination without restriction.

GNOC believes that the market place should be permitted to govern the use of the tokens and, therefore, objects to restricting their use. Accordingly, GNOC strenuously opposes Alternative II.

RESPONSE: Accepted. The Commission agrees that market demand should regulate the use of slot machines which accept tokens in denominations greater than \$1.00.

Full text of the adoption follows.

ALTERNATIVE I

19:46-1.33 Issuance and use of tokens for gaming in slot machines

(a) A casino licensee may, with the approval of the Casino Control Commission, issue metal tokens designed for gaming use in its slot machines provided that such tokens:

- 1.-4. (No change.)
- 5. Are not deceptively similar to any current or past coin of the United States or a foreign country;
- 6. (No change.)
- 7. Are not manufactured from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core nor from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metal exceeds 25 percent of the tokens weight; nor from a ferromagnetic material.

8. Comply with the following specifications:
i. Measure outside the following ranges in diameter (inches):

0.680	0.860
0.890	0.980
1.018	1.068
1.180	1.230
1.475	1.525

- ii. Weigh no less than two grams;
- iii. Be no less than 0.060 inch thick.

(b) No casino licensee shall issue or cause to be utilized in its casino any tokens for gaming use in slot machines unless and until such tokens are approved by the Casino Control Commission. In requesting approval of such tokens, a casino licensee shall first submit to the commission a detailed schematic of its proposed token which shall show the front, back and edge of such token, its diameter and thickness and any logo, design and wording to be contained thereon, all of which shall be depicted on such schematic as they will appear, both as to size and location, on the actual token. Once the design schematics are approved by the Casino Control Commission or its designee, no token shall be issued or utilized until and unless a sample of such token is also submitted and approved by the commission.

MISCELLANEOUS NOTICES

EDUCATION

(a)

THE COMMISSIONER

State Plan for the Education of all Handicapped Children

Public Hearing

Take notice that the New Jersey Department of Education, Division of Special Education will receive public comment on the State Plan for the Education of All Handicapped Children. It is the Department's intent that the current State Plan for the Education of All Handicapped Children be extended for an additional two years for fiscal years 1987 and 1988. This extension will put New Jersey on the regular three year schedule for State Plan submission. The next scheduled revision will apply to fiscal year 1989, 1990, and 1991.

This State Plan is **not** the same as the recently released "Plan to Revise Special Education in New Jersey." The State Plan must be submitted to the federal Office of Special Education and Rehabilitation Services (OSERS) in compliance with P.L. 94-142. Approval of the State Plan is required prior to the receipt of federal funds, Part B, for special education services.

Minor changes and updates of the State Plan are listed below. Additional copies of the State Plan to be amended may be obtained from the 21 offices of the county superintendents of schools. Appendices to the plan and updated charts will be available for review at the Division of Special Education at 225 West State Street in Trenton, New Jersey. If you wish to review the appendices or updated charts, contact Dr. Mari Molenaar at the address/telephone listed below.

Interested agencies, organizations, and individuals are invited to comment on the proposed State Plan, to suggest improvements in the administration of the program and/or to allege that there has been a failure to any entity to comply with applicable statutes and regulations. This is **not** a forum for comment on the "Plan to Revise Special Education."

The public comment period is March 20, 1986 to April 18, 1986. Public hearing dates, times and places will be announced in the next Register. The State Plan will be revised after a review of public comments and submitted to OSERS on or about May 1, 1986. If you wish to comment on the proposed State Plan, you may request an opportunity to testify or you may comment in writing to:

Dr. Mari Molenaar
Division Data Analyst
Division of Special Education
Box CN500
225 West State Street
Trenton, New Jersey 08625
Telephone: 609-984-7136 or 609-292-0147

The proposed New Jersey State Plan for the Education of All Handicapped Children for FY 1987 and 1988 is an extension of the previous State Plan submitted and approved for FY 1984-1986 with the following minor revisions:

Description of Changes

1. Substitute FY 1987 and 1988 for all references to FY 1984, 1985 and 1986.

2. Change all references to the administrative code to read N.J.A.C. 6:28.

3. Change the name from "Special Needs/Handicapped" to "Division of Special Education." (300.121)

4. Substitute priorities under: "Other priorities established for services to handicapped children are (300.127):"

Encourage the development of cooperative arrangements among school districts to initiate needed special education and related services to handicapped students.

To initiate and/or expand services and programs to support handicapped students whose IEP includes placement in a mainstream setting for a portion of the school day.

To encourage the establishment of new programs in public school settings to serve severely handicapped NI, CH, MH, and ED students.

5. Under a(2), second paragraph add, ". . . , as required by N.J.A.C. 6:28, . . ." in reference to intervention resources prior to referral. (300.128)

6. Under (b)2, second paragraph, substitute, "The department also evaluates and provides special education services for handicapped children under their jurisdiction," for "The department also maintains liaison with the public school districts, particularly to report to them any children considered to be in need of special education." (300.128)

7. Under (j), third paragraph, drop the word "proposed" in reference to the now adopted New Jersey Administrative Code. Replace Appendix C with the approved code. Drop Appendix H—Draft revisions to N.J.A.C. 6:28. (300.130)

8. Substitute the term "Administrative Law Judge" for "Hearing Officer." (300.131)

9. Under (a), sixth paragraph, substitute the administrative code requirements (N.J.A.C. 6:28-3.4(c)) for the paragraph describing non-discriminatory assessment as follows (300.133):

(c) All evaluations specified in this chapter shall:

1. Be conducted on an individual basis;

2. Use information from group tests only to supplement individual evaluations;

3. Be conducted in the language(s) or method of communication determined in the evaluation plan;

4. Consider the pupil's sociocultural background and adaptive behavior in home, school, and community.

These procedures are intended to provide a non-discriminatory assessment." (300.133)

10. Under (b), second paragraph, delete ". . . , or denied placement in, a special education program, and before a pupil is transferred, or refused transfer, from a special education program to a regular classroom program." (300.133)

Add, as cited in 1.6A-2.1, "When a board of education or public agency proposes to act or to make any change with regard to a pupil, the board or agency shall send a written notice to the parent(s) or guardian of the pupil no later than 15 days after making such a determination, and in no event less than 15 days prior to the date for implementing the proposed action or change unless the parent(s) or guardian otherwise consents to the proposal.

When a board of education or public agency is requested by a parent or guardian to make any change with regard to a pupil, the board or agency shall send a written notice to

the parent(s) or guardian of the pupil forthwith upon approving or denying the request, and in no event more than 30 days from the date of the request. (300.133)

11. Add updated comprehensive system of personnel development priorities and projected personnel needs. Replace Appendix J accordingly. (300.139)

12. Change "A Guide for Evaluation of Special Education and Related Pupil Personnel Services" to "Guidelines for Conducting a Needs Assessment for the Special Education Plan." Replace Appendix N accordingly. (300.146)

13. Add updated chart describing the use of part B administrative funds. (300.149)

14. Add updated chart on LEA allocation estimates. (300.149)

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF ENVIRONMENTAL QUALITY

New Jersey Radiological Emergency Response Plan

Public Notice

Take notice that pursuant to the "Radiation Accident Response Act of 1981," N.J.S.A. 26:2D-43 et seq., the Department of Environmental Protection in cooperation with the Division of State Police will hold a public hearing on:

Wednesday, February 26, 1986

7:30 P.M. to 10:00 P.M.

Salem High School Auditorium

Walnut Street

Salem City

Salem, New Jersey

The purpose of the hearing will be to receive public comment on the adequacy and effectiveness of the New Jersey Radiological Emergency Response Plan (RERP).

Invited speakers include the Director of the Office of Emergency Management, Division of State Police and Bureau Chiefs from the Department of Environmental Protection, Bureau of Radiation Protection and Bureau of Emergency Response Coordination.

Copies of the Plan are available at the Office of Emergency Management, State Police Headquarters, West Trenton, New Jersey.

For additional information contact:

Department of Environmental Protection

Wanda Cristali, Nuclear Engineer

Bureau of Radiation Protection

380 Scotch Road

Trenton, NJ 08628

Telephone: (609)984-4169

(a)

New Jersey Clean Air Council 1986 Public Hearing

Indoor Air Pollution

Take Notice that the New Jersey Clean Air Council will hold a public hearing on Indoor Air Pollution on:

Monday, March 17, 1986 at 9:30 A.M.

Labor Education Center Auditorium

Rutgers University

Ryderson Lane

New Brunswick, New Jersey

The 1986 Clean Air Council public hearing will focus on Indoor Air Pollution, its sources, health effects and methods of control. The hearing will address air pollutants in residential and commercial buildings only, and will exclude the issue of occupational exposure to chemicals. Unlike "outdoor" air pollution, indoor pollution has only recently become a concern to the general public and to scientists, government administrators, public health officials, and legislators.

Experts in the field of indoor air pollution have been invited to address technical issues related to radon, cigarette smoke, formaldehyde, and asbestos. In addition, the Council invites members of the public to participate in the hearing by asking questions, presenting oral statements, or submitting written testimony. The Clean Air Council will use information gathered at this hearing in its mission to advise the Commissioner of the Department of Environmental Protection on matters relating to air pollution.

Persons wishing to make oral presentations are asked to reserve a 10 minute time period by writing to Mrs. Helen Benedetti, NJ Department of Environmental Protection, Division of Environmental Quality, CN027, Trenton, NJ 08625, or by telephone at 609-292-6704. Presenters should bring 15 copies of their remarks to the hearing for the Council members and the press. The hearing record will be held open until April 1, 1986 in order for additional written testimony to be received.

Questions the Clean Air Council wants to explore at the public hearing on Indoor Air Pollution are:

1. Which are the indoor air pollutants of major concern with respect to human health effects?
2. What are the immediate health effects and long-term risks from exposure to indoor air pollutants, including, but not limited to radon, cigarette smoke, formaldehyde, and asbestos?
3. What are the sources and air concentrations of indoor air pollutants?
4. What methods, devices, or practices can be used to reduce air pollution in buildings?
5. What is the federal government (EPA or other agencies) doing about indoor air pollution? What should it be doing?
6. How can State government best address the problem of indoor air pollution, for example, regulation, building codes, public education, guidelines, labeling of consumer products, air monitoring, research?
7. Should the State take any action on (a) solvents in consumer products, (b) venting of residential gas stoves, (c) residential woodburning, or (d) unvented kerosene space heaters? If so, what action?

8. Should the State take any action on particular sources of indoor air pollution such as hair sprays, pesticides, spray paints, insulation, or building materials? If so, what action?

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Petition for Rulemaking Assistance Standards Handbook Schedules of Allowance

N.J.A.C. 10:82-1.2

General Assistance Manual State and Local Responsibilities

N.J.A.C. 10:85-4.1

Petitioners: Legal Services of New Jersey
Melville D. Miller, Jr., Esq., President.

Riker, Danzig, Scherer, Hyland and
Perretti
Douglas S. Eakeley, Esq.

Authority: N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6.

Take notice that on December 19, 1985, Melville D. Miller, Jr., Esq., President, Legal Services of New Jersey, filed a class petition for certain individual recipients of assistance from the Aid to Families with Dependent Children (AFDC) and Gen-

eral Assistance (GA) programs on behalf of all recipients of AFDC and GA in the State of New Jersey. The petitioner seeks a rule raising welfare benefits and establishing a level of assistance in the AFDC and GA programs that is compatible with basic human needs, as required, according to the petitioner, by the New Jersey statutes and Constitution.

Also on December 19, 1985, Douglas S. Eakeley, Esq., of the law firm of Riker, Danzig, Scherer, Hyland and Perretti, filed an amicus petition on behalf of seventy groups and organizations in support of that class petition. Petitioners request that the Department of Human Services conduct a rulemaking proceeding as soon as practicable to determine the minimally adequate standard of need of recipients of assistance under the AFDC and GA programs in New Jersey, and fund such programs at the standard established by that rulemaking proceeding.

Take further notice that the Department of Human Services, in accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6(c), has determined to act on this petition by initially taking the matter under consideration. The entire subject area will be reviewed by the Department, and in conjunction with assistance from the Office of the Attorney General, the Department's official position and response will be determined and made public within 60 days of this Notice. The Department has responded to the petitioners advising them of same.

For further information concerning this petition for rulemaking, you may contact:

Audrey Harris, Director
Division of Public Welfare
6 Quakerbridge Plaza
CN 716, 3rd Floor
Trenton, New Jersey 08625

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the January 6, 1986 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1985 d.300 means the three hundredth rule adopted in 1985.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: DECEMBER 16, 1985.

NEXT UPDATE WILL BE DATED JANUARY 21, 1986.

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
17 N.J.R. 237 and 338	February 4, 1985	17 N.J.R. 1955 and 2070	August 19, 1985
17 N.J.R. 339 and 502	February 19, 1985	17 N.J.R. 2071 and 2170	September 3, 1985
17 N.J.R. 503 and 634	March 4, 1985	17 N.J.R. 2171 and 2318	September 16, 1985
17 N.J.R. 635 and 762	March 18, 1985	17 N.J.R. 2319 and 2484	October 7, 1985
17 N.J.R. 763 and 858	April 1, 1985	17 N.J.R. 2485 and 2584	October 21, 1985
17 N.J.R. 859 and 1006	April 15, 1985	17 N.J.R. 2585 and 2710	November 4, 1985
17 N.J.R. 1007 and 1158	May 6, 1985	17 N.J.R. 2711 and 2814	November 18, 1985
17 N.J.R. 1159 and 1358	May 20, 1985	17 N.J.R. 2815 and 2934	December 2, 1985
17 N.J.R. 1359 and 1460	June 3, 1985	17 N.J.R. 2935 and 3032	December 16, 1985
17 N.J.R. 1461 and 1608	June 17, 1985	18 N.J.R. 1 and 128	January 6, 1986
17 N.J.R. 1609 and 1700	July 1, 1985	18 N.J.R. 129 and 234	January 21, 1986
17 N.J.R. 1701 and 1818	July 15, 1985	18 N.J.R. 235 and 376	February 3, 1986
17 N.J.R. 1819 and 1954	August 5, 1985	18 N.J.R. 377 and 446	February 18, 1986

N.J.A.C. CITATION	PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:1-3.8	Attorney disqualification from a case	18 N.J.R. 2(a)	
1:1-14.6	Consolidated cases involving exempt agencies	18 N.J.R. 130(a)	
1:2-2.1	Civil Service cases: pre-proposal concerning conference hearings	17 N.J.R. 2072(a)	
1:2-2.1, 2.4	Conference hearings and employee/employer disputes	17 N.J.R. 2712(a)	R.1986 d.33 18 N.J.R. 414(a)
1:6A-5.4	Special education hearings: placement of child pending an appeal	17 N.J.R. 2586(a)	
1:30	Agency rulemaking	18 N.J.R. 3(a)	

(TRANSMITTAL 16, dated November 18, 1985)

AGRICULTURE—TITLE 2			
2:32-2	Sire Stakes Program	18 N.J.R. 236(a)	
2:32-2.36, 3	Sire Stakes Program: appeals	17 N.J.R. 2320(a)	R.1986 d.18 18 N.J.R. 266(a)
2:48-5	Use of coupons in milk promotions	17 N.J.R. 2486(a)	R.1985 d.649 18 N.J.R. 77(a)
2:90-1.5, 1.14	Soil conservation plan certifications; minor subdivisions	17 N.J.R. 2172(a)	
2:90-1.13	Soil conservation: extraction activity	17 N.J.R. 1957(a)	
2:90-2.15, 2.17, 2.18, 2.24	Soil and water conservation projects	18 N.J.R. 131(a)	

(TRANSMITTAL 35, dated December 16, 1985)

BANKING—TITLE 3			
3:1-2.24	Modification of Commissioner's Order restricting stock transfers	17 N.J.R. 2487(a)	
3:1-12	Multiple-party deposit accounts	17 N.J.R. 2488(a)	R.1985 d.660 18 N.J.R. 77(b)
3:1-15	Availability of funds deposited in individual accounts: written disclosure	18 N.J.R. 13(a)	
3:6-10	Savings banks: unsecured days funds transactions	17 N.J.R. 2936(a)	
3:6-11	Short-term investments for trust cash	17 N.J.R. 2937(a)	
3:11-10	Savings banks: credit card services	18 N.J.R. 241(a)	
3:11-11	Leeway investments	18 N.J.R. 132(a)	
3:19-1	Home repair financing	18 N.J.R. 15(a)	
3:26-4.1	State savings and loan parity with Federal associations	17 N.J.R. 2713(a)	R.1985 d.720 18 N.J.R. 266(b)
3:38-5.2	Return of borrower's commitment fee	17 N.J.R. 2488(b)	

(TRANSMITTAL 29, dated November 18, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
CIVIL SERVICE—TITLE 4				
4:1-5.1, 8.26, 8.27	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	R.1985 d.661	18 N.J.R. 77(c)
4:1-10.1, 10.2	Noncompetitive and labor appointments	17 N.J.R. 2937(b)		
4:1-12.12	Restorations to promotional lists	17 N.J.R. 645(a)		
4:1-23	Grievances and minor discipline	17 N.J.R. 2587(a)		
4:2-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	R.1985 d.661	18 N.J.R. 77(c)
4:2-23	Grievances and minor discipline	17 N.J.R. 2587(a)		
4:3-12.1, 12.2	Appeals concerning removal from eligible list for medical reasons	17 N.J.R. 1957(b)	R.1985 d.661	18 N.J.R. 77(c)
4:3-23	Grievances and minor discipline	17 N.J.R. 2587(a)		

(TRANSMITTAL 27, dated September 16, 1985)

COMMUNITY AFFAIRS—TITLE 5

5:10-24.4	Parking for handicapped residents of multiple dwellings	18 N.J.R. 16(a)		
5:11-2.1	Uniform Fire Code enforcement and relocation assistance	17 N.J.R. 2938(a)		
5:12-2.4, 2.5	Homelessness Prevention Program: eligibility and priorities	17 N.J.R. 2939(a)		
5:14	Neighborhood Preservation Balanced Housing Program	17 N.J.R. 2489(a)	R.1985 d.688	18 N.J.R. 162(a)
5:18-1.1, 1.4, 1.5, 1.6, 2.3, 4	Uniform Fire Code, Fire Safety Code	17 N.J.R. 1161(a)		
5:23-2.14, 4.18, 4.20	UCC: annual construction permits	17 N.J.R. 2490(a)		
5:23-2.15, 2.21	UCC: engineers and architects	17 N.J.R. 1033(a)		
5:23-3.11, 4.22, 4.24, 4.25	Uniform Construction Code: premanufactured construction	17 N.J.R. 1169(a)		
5:23-3.15	UCC: Plumbing Subcode	17 N.J.R. 2714(a)	R.1986 d.12	18 N.J.R. 267(a)
5:23-5.4, 5.5	UCC inspectors: experience requirements	17 N.J.R. 1821(a)	R.1985 d.612	18 N.J.R. 80(a)
5:23-5.11	Uniform Construction Code: revocation of licenses	18 N.J.R. 16(b)		
5:25	New Home Warranties and Builders' Registration	17 N.J.R. 2816(a)		
5:25	New Home Warranty and Builders' Registration rules: waiver of sunset provision	18 N.J.R. 218(a)		
5:28	Readopt State Housing Code	17 N.J.R. 1174(a)	R.1985 d.689	18 N.J.R. 163(a)
5:80-4	Housing and Mortgage Finance	17 N.J.R. 1174(b)		
5:80-8	Housing and Mortgage Finance Agency: housing project occupancy requirements	17 N.J.R. 1620(a)		
5:80-20	HMFA housing projects: applicant and tenant income certification	17 N.J.R. 2321(b)		

(TRANSMITTAL 36, dated December 16, 1986)

DEFENSE—TITLE 5A

(TRANSMITTAL 1, dated May 20, 1985)

EDUCATION—TITLE 6

6:11-3	Teacher education: Basic Certification Requirements	17 N.J.R. 2181(a)	R.1985 d.665	18 N.J.R. 85(a)
6:12	Governor's Teaching Scholars Program	18 N.J.R. 135(a)		
6:20-2.13	Local districts: overexpenditure of funds	17 N.J.R. 2939(b)		
6:21-16.1	Pupil transportation contracts	18 N.J.R. 138(a)		
6:22	School facility planning services	17 N.J.R. 650(a)		
6:43-1.3	Vocational and technical education: schools designated "other than full-time day"	17 N.J.R. 2940(a)		

(TRANSMITTAL 37, dated December 16, 1985)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1-3	Interim Environmental Cleanup Responsibility Act rules	18 N.J.R. 242(a)		
7:1-7	Hazardous substance discharges: reports and notices	17 N.J.R. 1826(a)		
7:1F	Industrial Survey Project rules: waiver of Executive Order No. 66	17 N.J.R. 866(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R.CITATION)
7:2-11.22	Bear Swamp East natural area	18 N.J.R. 139(a)		
7:2-12	Open lands management	17 N.J.R. 866(b)		
7:7-2.2	Wetlands maps in Ocean County	17 N.J.R. 1710(a)		
7:7E	Revisions to Coastal Resources and Development rules	17 N.J.R. 1466(a)	R.1985 d.715	18 N.J.R. 314(a)
7:7E	Coastal Resource and Development revisions: extension of comment period	17 N.J.R. 1797(b)		
7:7E	Coastal Resource and Development Policies: correction to Code and proposed revisions	17 N.J.R. 1797(c)		
7:9-15	Restoration of publicly-owned freshwater lakes	17 N.J.R. 2182(a)	R.1985 d.717	18 N.J.R. 163(b)
7:11-2.2, 2.3, 2.9	Sale of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoirs	18 N.J.R. 17(a)		
7:13-7.1	Flood hazard area along Long Brook and Manasquan River	17 N.J.R. 2324(a)		
7:13-7.1(c)29	Floodway delineations within Maurice River Basin	17 N.J.R. 2186(a)		
7:13-7.1(d)14	Flood hazard along Lamington River in Morris County	17 N.J.R. 2324(a)		
7:13-7.1(d)47	Redelineation of Pine Brook in Bergen County	17 N.J.R. 2074(a)		
7:13-7.1(d)49	Floodway delineations in Union County	17 N.J.R. 1965(a)		
7:13-7.1(d)53	Floodway delineations in Raritan Basin (Project H)	17 N.J.R. 2492(a)		
7:13-7.1(h)	Floodway delineations in Hackensack Basin	17 N.J.R. 1175(a)	R.1986 d.40	18 N.J.R. 414(b)
7:13-7.1(i)	Floodway delineations in Central Passaic Basin Projects G and R	17 N.J.R. 1176(a)		
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 140(a)		
7:17	Hard shell clam depuration: pilot plant program	18 N.J.R. 141(a)		
7:22	Wastewater treatment facilities: construction grants and loans	18 N.J.R. 243(a)		
7:25-4.6	Nongame and exotic wildlife: possession permit fees	17 N.J.R. 2589(a)	R.1985 d.716	18 N.J.R. 166(a)
7:25-5.12	Use of steel-jaw leghold traps	17 N.J.R. 2714(b)	R.1986 d.24	18 N.J.R. 354(a)
7:25-9	Minimum legal size for hard clams	18 N.J.R. 146(a)		
7:25-17	Disposal and possession of dead deer	17 N.J.R. 2715(a)	R.1986 d.41	18 N.J.R. 415(a)
7:25-18	Marine fisheries	Emergency	R.1985 d.674	18 N.J.R. 102(a)
7:25-19	Atlantic Coast harvest season	17 N.J.R. 2494(a)		
7:26-1.4, 1.6, 9.1, 12.1	Tolling agreements and reclamation of hazardous waste	17 N.J.R. 1968(a)		
7:26-1.4, 7.4, 9.1, 12.1, 12.8	Reuse of hazardous waste	17 N.J.R. 2716(a)		
7:26-1.7	Waste management: on-site disposal of construction debris	17 N.J.R. 1040(a)	R.1985 d.666	18 N.J.R. 99(a)
7:26-1.7	Solid waste disposal: exemption from registration	17 N.J.R. 1368(a)		
7:26-1.8	Solid waste disposal: land application operations	17 N.J.R. 2945(a)		
7:26-2.6, 2.7	Disposal of asbestos waste	17 N.J.R. 2719(a)		
7:26-2.9	Closure and post-closure of sanitary landfills	18 N.J.R. 252(a)		
7:26-6.5	Solid waste flow: Ocean County	17 N.J.R. 2590(a)		
7:26-6.5	Solid waste flow: Camden County	17 N.J.R. 2591(a)		
7:26-7.4, 8.3, 8.15, 9.2, 10.6, 10.	Restriction of land disposal of hazardous waste	17 N.J.R. 779(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management	17 N.J.R. 2941(a)		
7:26-8.1, 8.2, 8.19, 9.3, 9.7, 12.2	Hazardous waste management: extension of comment period	18 N.J.R. 254(a)		
7:26-14	Resource Recovery grants and loans: extension of comment period	17 N.J.R. 242(a)		
7:26-16.4	Solid and hazardous waste: transporters and facilities	17 N.J.R. 518(a)		
7:27-16	Air pollution by volatile organic substances	17 N.J.R. 1969(a)		
7:27B-3	Determination of volatile organic substances from source operations	17 N.J.R. 2194(a)		
7:27B-4.6	Lead test paper procedure	17 N.J.R. 781(a)		
7:45	Delaware Raritan Canal State Park: Review Zone rules	17 N.J.R. 1711(a)		

(TRANSMITTAL 37, dated December 16, 1985)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
HEALTH—TITLE 8				
8:9-1.11	State Sanitary Code: disposal of unclaimed cremains	17 N.J.R. 2325(a)	R.1986 d.39	18 N.J.R. 416(a)
8:9-1.11	Disposal of cremains: public hearing	17 N.J.R. 2835(a)		
8:13-2.1, 2.4, 2.6—2.11, 2.13, 2.14	Depuration of soft shell clams	17 N.J.R. 1370(a)	R.1985 d.691	18 N.J.R. 166(b)
8:21-10	Designated fluid milk products	18 N.J.R. 59(b)		
8:31-16.1	Hospital long-range strategic plans	18 N.J.R. 148(a)		
8:31A-7.4, 7.5, 7.14	SHARE: Medicaid rates and transfer of ownership	18 N.J.R. 150(a)		
8:31A-9.1, 9.2	SHARE economic factor	17 N.J.R. 2495(a)	R.1985 d.685	18 N.J.R. 170(a)
8:31B-3.5, 3.22, 3.54	Hospital reimbursement: "efficiency standard"	17 N.J.R. 2946(a)		
8:31B-3.19	RIM methodology for nursing cost allocation: implementation date	17 N.J.R. 2464(a)		
8:31B-3.31, 3.51	Hospital reimbursement: graduate medical education	17 N.J.R. 2947(a)		
8:31B-3.76-3.82	Hospital reimbursement: URO performance evaluation; post-billing denial of payments	18 N.J.R. 150(b)		
8:33A-2.6	Surgical facilities: criteria for review and approval	17 N.J.R. 2497(a)	R.1985 d.680	18 N.J.R. 172(a)
8:33F-1.2, 1.6, App. B	Renal disease: regional end-stage services	17 N.J.R. 2948(a)		
8:34-1.8	Nursing home administrators: limitations on responsibility	18 N.J.R. 74(a)		
8:34-1.9	Reexamination for Nursing Home Administrator's License	18 N.J.R. 75(a)		
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8:43-1	Residential health care facilities	17 N.J.R. 2498(a)	R.1985 d.684	18 N.J.R. 173(a)
8:43B-1.14	Hospital facilities: psychiatric patient rights	17 N.J.R. 665(a)		
8:43B-5	Licensure of hospital facilities: personnel	17 N.J.R. 2501(b)	R.1985 d.683	18 N.J.R. 174(a)
8:43B-8.16	Obstetric and newborn services: use of oxytocic agents	17 N.J.R. 2213(a)		
8:43B-8.33—8.44	Newborn care services: physical plant standards	17 N.J.R. 519(a)	R.1986 d.1	18 N.J.R. 267(a)
8:43B-15	Hospital facilities: renal dialysis services	17 N.J.R. 2503(a)	R.1985 d.682	18 N.J.R. 174(b)
8:43B-16	Hospital facilities: nurse-midwifery services	17 N.J.R. 2512(a)	R.1985 d.681	18 N.J.R. 180(a)
8:43E-1	Hospital Policy Manual: Certificate of Need rules	17 N.J.R. 1220(a)		
8:44-2.10	Reportable occupational and environmental diseases and poisons	17 N.J.R. 1831(a)		
8:53	Implementation of Local Health Services Act	17 N.J.R. 2836(a)		
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8:60-1.1, 4.2, 4.4, 4.8, 5.2, 5.4, 5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		
8:65-8	Controlled dangerous substances: manufacture, distribution, disposal and nondrug use	17 N.J.R. 2721(a)		
8:65-10.1	Controlled dangerous substances: 3, 4-methylenedioxymethamphetamine	17 N.J.R. 2214(a)	R.1985 d.669	18 N.J.R. 87(a)
8:65-10.1	Temporary placement of Meperidine analogs MPPP and PEPAP into Schedule I	17 N.J.R. 2950(a)		
8:65-10.1	Controlled dangerous substances: analogs of fentanyl	18 N.J.R. 254(b)		
8:65-11.2	Narcotic treatment programs: registration fee	17 N.J.R. 359(a)		
8:71	Additions to generic drug list (see 17 N.J.R. 1295(a), 1562(a), 2043(a), 2556(a))	17 N.J.R. 158(a)	Expired	
8:71	Generic drug list additions (see 17 N.J.R. 2042(b), 2556(b), 2769(a))	17 N.J.R. 1043(a)	R.1985 d.686	18 N.J.R. 182(a)
8:71	Generic drug list additions (see 17 N.J.R. 2557(a), 2769(b), 18 N.J.R. 183(a))	17 N.J.R. 1733(a)	R.1986 d.35	18 N.J.R. 418(a)
8:71	Generic drug list additions	17 N.J.R. 2842(a)	R.1986 d.34	18 N.J.R. 417(a)

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9:2-11	Veterans Tuition Credit Program	17 N.J.R. 2844(a)		

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9:5-1, 2	Tuition policies at public institutions	17 N.J.R. 2326(a)	R.1985 d.701	18 N.J.R. 183(b)
9:7-2.3	Status of foreign nationals	18 N.J.R. 19(a)		
9:7-2.9	Student assistance programs: award combinations	17 N.J.R. 2725(a)		
9:7-3.1	Tuition Aid Grant Program: 1986-87 Award Table	18 N.J.R. 19(b)		
9:7-4.1, 4.2, 4.3, 4.5, 4.8	Garden State Scholarship Program	17 N.J.R. 2726(a)		
9:9-1.6	Guarantee Student Loans and payment of insurance fee	17 N.J.R. 2727(a)		
9:9-1.16	Interest liability on defaulted student loans	17 N.J.R. 2728(a)		
9:9-9.2	Direct PLUS program and co-signer requirement	17 N.J.R. 2728(b)		
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10:36-1	Patient supervision at State psychiatric hospitals	17 N.J.R. 2593(a)		
10:36-1	Patient supervision at State psychiatric hospitals: public hearing	18 N.J.R. 20(a)		
10:36-2	Clinical review procedures for special status psychiatric patients	17 N.J.R. 2951(a)		
10:42	Developmental Disabilities: Emergency Mechanical Restraint	17 N.J.R. 1832(a)		
10:48	Division of Mental Retardation: appeal procedures	17 N.J.R. 876(b)	R.1985 d.673	18 N.J.R. 184(a)
10:49-1.1	Administration Manual: retroactive Medicaid eligibility	17 N.J.R. 2729(a)		
10:49-1.4	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:50	Transportation Services: HCFA Common Procedure Coding System	17 N.J.R. 1519(b)		
10:51-1, App. B, D, E	Pharmaceutical Services Manual	18 N.J.R. 255(a)		
10:51-1.14, 5.16	Pharmaceutical services: ineligible prescription drugs	17 N.J.R. 2730(a)		
10:51-4	Consultant Pharmacist Services	17 N.J.R. 2731(a)		
10:52-1.16	Termination of pregnancy in licensed health care facilities	17 N.J.R. 1375(a)		
10:52-1.17	Out-of-state inpatient hospital services	17 N.J.R. 2225(a)		
10:52-1.21	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:53-1.14	Termination of pregnancy	17 N.J.R. 1375(a)		
10:54	Physician Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:54-1.23	Termination of pregnancy	17 N.J.R. 1375(a)		
10:55	Prosthetic-Orthotic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:56-3	Dental Services: procedure codes and descriptions	18 N.J.R. 154(a)		
10:57	Podiatry Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:58	Nurse Midwifery Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59	Medical Supplier Manual: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:59-1.11	Medical Supplier Manual: repair of durable medical equipment	17 N.J.R. 2516(a)	R.1985 d.671	18 N.J.R. 186(a)
10:60-1.1, 1.2, 2.2, 2.3, 3.1	Personal care assistant services: hours per week and rate of reimbursement	17 N.J.R. 2327(a)	R.1985 d.656	18 N.J.R. 87(b)
10:60-2.2, 3.1	Personal care assistant services: procedure codes	17 N.J.R. 2330(a)	R.1985 d.656	18 N.J.R. 87(b)
10:61	Independent Laboratory Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:62	Vision Care: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:62-3	Vision Care Manual: billing procedures	17 N.J.R. 2731(b)		
10:63-1.5, 1.6, 1.8, 1.13, 2.5, 2.7	Long term care facilities: certification and plan of care	17 N.J.R. 2075(a)	R.1985 d.703	18 N.J.R. 187(a)
10:63-3.2, 3.4, 3.5, 3.6, 3.8, 3.10-3.15, 3.18, 3.19	Long-term care facilities: CARE Guidelines	18 N.J.R. 257(a)		

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10:63-3.2, 3.5, 3.10, 3.19	Reimbursement to long-term care facilities	17 N.J.R. 2331(a)	R.1985 d.705	18 N.J.R. 189(a)
10:63-3.17	Long Term Care Services: adjustments to base period data	17 N.J.R. 1736 (a)		
10:64	Hearing Aid Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66	Independent Clinic Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:66-1.2, 1.6, 3.3	Narcotic and drug abuse treatment centers	17 N.J.R. 1235(a)		
10:66-1.6	Termination of pregnancy	17 N.J.R. 1375(a)		
10:66-1.6, 3.3	Personal care assistant services: hours per week and rate of reimbursement	17 N.J.R. 2327(a)	R.1985 d.656	18 N.J.R. 87(b)
10:66-3.3	Personal care assistant services: procedure codes	17 N.J.R. 2330(a)	R.1985 d.656	18 N.J.R. 87(b)
10:67	Psychological Services: Common Procedure Coding System	17 N.J.R. 1519(b)		
10:69A-1.1, 1.2, 2.1, 4.1, 4.4, 5.3, 6.2, 6.4, 6.10	PAAD: eligibility standards	17 N.J.R. 2332(a)	R.1985 d.690	18 N.J.R. 190(a)
10:81-2.7, 3.18	PAM: continued absence; WIN registration	17 N.J.R. 2333(a)	R.1986 d.9	18 N.J.R. 272(a)
10:81-2.16, 3.18	PAM: photo IDs; ex-WIN children	17 N.J.R. 2335(a)	R.1986 d.6	18 N.J.R. 273(a)
10:81-10.7	PAM: eligibility for refugee and entrant programs	17 N.J.R. 2227(a)		
10:81-11.2, 11.7, 11.9, 11.20	PAM: child support paternity	17 N.J.R. 2845(a)		
10:81-11.3, 11.9	PAM: Social Security numbers; restriction of information	17 N.J.R. 2516(b)		
10:81-11.9	PAM: reimbursement by counties to State	17 N.J.R. 369(a)		
10:81-11.9	Public Hearing: County reimbursement to State for Tax Setoff Program for child support enforcement	17 N.J.R. 1526(a)		
10:82-1.8, 1.9, 2.14, 2.20, 3.1, 3.2, 4.4, 4.6, 4.15, 4.17, 5.3, 5.10	ASH: conformity with Federal regulations	18 N.J.R. 260(a)		
10:82-1.10, 1.11	ASH: retrospective budgeting and monthly reporting	17 N.J.R. 2518(a)	R.1985 d.710	18 N.J.R. 191(a)
10:82-2.19	ASH: recovery of overpayments	17 N.J.R. 2847(a)		
10:82-3.2	ASH: exempt resources	17 N.J.R. 2518(b)	R.1985 d.709	18 N.J.R. 192(a)
10:82-3.9, 3.11, 3.14, 4.13	ASH: evaluation of legally responsible relatives in AFDC	18 N.J.R. 20(b)		
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2336(a)		
10:82-5.10	ASH: emergency assistance	17 N.J.R. 2337(a)		
10:85-3.2	GAM: determination of unemployability	17 N.J.R. 547(a)		
10:85-3.2	GAM: nursing home patients from out-of-state	17 N.J.R. 2338(a)	R.1985 d.692	18 N.J.R. 192(b)
10:85-3.3	GAM: unearned income exclusion	17 N.J.R. 2849(a)		
10:85-3.3, 5.2	GAM: hospital notices and billings	17 N.J.R. 2519(a)		
10:85-3.4	GAM: disposal of resources	17 N.J.R. 2339(a)	R.1985 d.693	18 N.J.R. 193(a)
10:85-3.4	GAM: eligibility in other programs	17 N.J.R. 2520(a)	R.1986 d.4	18 N.J.R. 274(a)
10:85-3.4	GAM: disposal of assets	17 N.J.R. 2952(a)		
10:85-3.4	GAM: parent-sponsored aliens	18 N.J.R. 21(a)		
10:85-5.2, 11.2	GAM: inpatient hospital care	17 N.J.R. 2521(a)	R.1986 d.7	18 N.J.R. 274(b)
10:85-5.3	GAM: nursing home bed-hold payments	17 N.J.R. 2953(a)		
10:85-10.1	GAM: "Workfare" defined	17 N.J.R. 2849(b)		
10:86	Repeal obsolete AFDC Work Incentive Program rules	17 N.J.R. 1838(b)		
10:87-2.38, 5.9	Food Stamp Program: elderly or disabled defined; JTPA income exclusion	17 N.J.R. 2521(b)	R.1985 d.707	18 N.J.R. 193(b)
10:87-5.10, 12.1	Food Stamp Program: utility allowance standards	Emergency	R.1985 d.713	18 N.J.R. 214(a)
10:89-2.2, 2.3, 3.2, 3.3, 3.4, 3.6, 4.1, 5.1	Home energy assistance	17 N.J.R. 2791(a)	R.1985 d.708	18 N.J.R. 194(a)
10:90-2.2, 2.3, 2.4, 2.6, 3.3, 4.1—4.10, 5.1, 5.2, 5.6, 6.1, 6.2, 6.3	Monthly Reporting Policy Handbook	17 N.J.R. 1839(a)		

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10:94-1.6, 3.14	Medicaid Only: ineligible individuals	17 N.J.R. 2522(a)		
10:94-3.6	Medicaid Only: change of county of residence	17 N.J.R. 2523(a)	R.1986 d.8	18 N.J.R. 275(a)
10:94-4.1	Medicaid Only: resource eligibility	17 N.J.R. 2524(a)		
10:94-4.1	Medicaid Only: availability of resources in third-party situations	17 N.J.R. 2954(a)		
10:94-5.4, 5.5, 5.6, 5.7	Medicaid Only: eligibility computation amounts	Emergency	R.1985 d.714	18 N.J.R. 215(a)
10:94-5.5	Medicaid Only: deeming of income	17 N.J.R. 2732(a)		
10:94-7, 8, 9	Medicaid Only program for aged, blind and disabled	17 N.J.R. 2340(a)	R.1986 d.5	18 N.J.R. 276(a)
10:100-App. A	Supplemental Security Income payment levels	Emergency	R.1985 d.712	18 N.J.R. 216(a)
10:109	Public Assistance Staff Development Program	18 N.J.R. 22(a)		
10:121-2	Adoption subsidy	18 N.J.R. 24(a)		
10:122-4.4	Child care centers: staff qualification	18 N.J.R. 155(a)		
10:123-3.2	Personal needs allowance: residential health care and boarding homes	17 N.J.R. 2955(a)	R.1986 d.42	18 N.J.R. 419(a)
10:129-2	Child abuse prevention	17 N.J.R. 2735(a)	R.1985 d.706	18 N.J.R. 196(a)

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10A:31-3.12, 3.15	Medical screening of new inmates in county facilities: public hearing	17 N.J.R. 2955(b)		
10A:34	County correctional facilities	17 N.J.R. 2525(a)		

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11:1-19	Uniform registration of branch offices	17 N.J.R. 42(a)	R.1986 d.11	18 N.J.R. 280(a)
11:1-20, 22	Cancellation and nonrenewal of property and casualty/liability policies	17 N.J.R. 2956(a)		
11:1-20.1	Property and casualty/liability coverage	17 N.J.R. 2915(a)	R.1986 d.27	18 N.J.R. 419(b)
11:1-21	Property/casualty insurers: preparation of annual loss reserve opinions	17 N.J.R. 2596(a)	R.1985 d.711	18 N.J.R. 196(b)
11:2-19.2	Continuing education	18 N.J.R. 44(a)		
11:2-20	License renewal: continuing education requirement	17 N.J.R. 2962(a)		
11:3-20	Reporting excess profits	17 N.J.R. 370(a)		
11:3-20	Automobile insurers: financial disclosure and excess profit reporting	17 N.J.R. 2597(a)		
11:3-21	Reduced PIP premium charges	16 N.J.R. 3286(a)	R.1985 d.654	18 N.J.R. 89(a)
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 887(a)		
11:4-2	Replacement of life insurance and annuities	17 N.J.R. 2344(a)		
11:4-20	Coverage of the handicapped	18 N.J.R. 44(b)		
11:4-27	Reporting of liquor law liability loss experience	18 N.J.R. 45(a)		
11:5-1.3	Licensing of real estate brokers and salespeople	17 N.J.R. 2350(a)		
11:5-1.15	Real estate advertising	17 N.J.R. 2351(a)		
11:5-1.15, 1.25	Advertising of real estate; sale of interstate property	17 N.J.R. 666(a)		
11:5-1.20	Payment of fees prescribed by Real Estate License Act	17 N.J.R. 2353(a)		
11:5-1.28	Approved real estate schools: requirements	17 N.J.R. 376(a)		
11:16	Provider verification of services	17 N.J.R. 47(a)	R.1986 d.13	18 N.J.R. 281(a)
11:17-1	Surplus lines insurance guaranty fund surcharge	17 N.J.R. 1045(b)		

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12:16-4.10	Temporary disability payments under private plans	17 N.J.R. 2850(b)	R.1986 d.21	18 N.J.R. 284(b)
12:16-5.2	Due dates of employer's combined Forms UC-27/WR-30	17 N.J.R. 2851(a)	R.1986 d.22	18 N.J.R. 285(a)
12:17-10	Refund for unemployment benefits	17 N.J.R. 2525(b)	R.1985 d.657	18 N.J.R. 91(a)

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12:17-11	Unemployment compensation and pension offset	17 N.J.R. 2736(a)	R.1985 d.718	18 N.J.R. 285(b)
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12:105	Board of Mediation: arbitration	17 N.J.R. 2526(a)	R.1985 d.702	18 N.J.R. 198(a)
12:120-1.1, 4.2, 4.4, 4.8, 5.2, 5.4, 5.7, 6.1, 6.3, 6.11	Asbestos licenses and permits	18 N.J.R. 156(a)		
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LAW AND PUBLIC SAFETY—TITLE 13				
13:4	Division on Civil Rights: practice and procedure	17 N.J.R. 2682(a)	R.1985 d.697	18 N.J.R. 198(a)
13:20-25	Approval of motor vehicle safety glazing materials and other equipment	18 N.J.R. 47(a)		
13:20-32.16	Motor vehicle reinspection centers	17 N.J.R. 676(a)		
13:20-33.1	Motor vehicle reinspection centers: fees for initial inspections	18 N.J.R. 158(a)		
13:20-33.6	Glazing inspection standards for motor vehicles	17 N.J.R. 894(a)		
13:20-36.1, 36.2	Special National Guard Plates	17 N.J.R. 2602(a)	R.1985 d.678	18 N.J.R. 203(a)
13:21-5.11	Registration of vehicles subject to Federal Heavy Vehicle Use Tax	17 N.J.R. 2737(a)	R.1986 d.38	18 N.J.R. 421(a)
13:21-7	Student driver permits	18 N.J.R. 48(a)		
13:21-8.2	Photo IDs and driver license application procedure	18 N.J.R. 49(a)		
13:21-15.6	Auto dealers: acceptance of altered title documents	17 N.J.R. 169(a)	R.1985 d.699	18 N.J.R. 203(b)
13:27	Rules of Board of Architects	17 N.J.R. 2851(b)		
13:29-1.4	Change of address by licensed accountants	17 N.J.R. 1639(a)	R.1985 d.695	18 N.J.R. 204(a)
13:29-1.11	Fee for CPA certificate	17 N.J.R. 2092(a)	R.1985 d.700	18 N.J.R. 204(b)
13:29-1.14	Board of Accounting licenses: notification requirement concerning convictions	18 N.J.R. 264(a)		
13:29-2.	Applicants for registered municipal accountant's test	17 N.J.R. 2092(b)	R.1985 d.696	18 N.J.R. 204(c)
13:30-8.1	Board of Dentistry: fee schedule	17 N.J.R. 378(a)		
13:35-2.15	Physician-nurse anesthetist standards	17 N.J.R. 796(a)		
13:35-3.11	Licensure of foreign medical school graduates	18 N.J.R. 50(a)		
13:35-4.2	Termination of pregnancy	17 N.J.R. 2738(a)	R.1986 d.25	18 N.J.R. 286(a)
13:35-6.4	Pre-proposal: professional conduct of Medical Board licensees	17 N.J.R. 894(b)		
13:37-6.2	Delegation of nursing tasks by RPNs	17 N.J.R. 2354(a)		
13:38-3.2	Board of Optometrists: reexamination	17 N.J.R. 677(a)		
13:39-3.10	Practice of pharmacy: qualifying examinations	17 N.J.R. 2528(a)	R.1985 d.670	18 N.J.R. 92(a)
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13:39A-2	Authorized practice by physical therapists	17 N.J.R. 2356(a)		
13:39A-3	Unlawful practices by physical therapists	17 N.J.R. 2358(a)		
13:39A-3.2	Pre-proposal: fee splitting and kickbacks by physical therapists	17 N.J.R. 2360(a)		
13:39A-4	Unlicensed practice of physical therapy	17 N.J.R. 2361(a)		
13:39A-5	Physical therapy applicants: required credentials	17 N.J.R. 2362(a)		
13:40-1, 2	Title block contents on drawings, site plans and land surveys	17 N.J.R. 2602(b)	R.1985 d.694	18 N.J.R. 205(a)
13:40-6.1	Professional engineers and land surveyors: application, examination, and licensing fees	17 N.J.R. 2860(a)	R.1986 d.37	18 N.J.R. 421(a)
13:41-4	Board of Professional Planners: readopt preparation of site plan rules	17 N.J.R. 1240(a)		
13:44C-1.1	Audiology and Speech Language Pathology Advisory Committee: fees and charges	17 N.J.R. 1062(a)		
13:44D	Public moving and warehousing	17 N.J.R. 1382(a)		
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13:45A-24	Sale of grey market merchandise	17 N.J.R. 2866(a)		

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13:54	Regulation of firearms businesses	18 N.J.R. 51(a)		
13:70-6.57	Thoroughbred rules: workout program	17 N.J.R. 2529(a)	R.1985 d.663	18 N.J.R. 92(b)
13:76-1.2, 1.3, 3.2, 4.1	Arson investigators	17 N.J.R. 2011(a)	R.1985 d.679	18 N.J.R. 211(a)

(TRANSMITTAL 37, dated December 16, 1985)

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(TRANSMITTAL 17, dated December 16, 1985)

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(TRANSMITTAL 15, dated August 19, 1985)

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(TRANSMITTAL 1, dated March 20, 1978)

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16:32-2.3	Temporary exemptions from Federal bridge formula	17 N.J.R. 1868(a)	R.1985 d.672	18 N.J.R. 212(a)
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17:1-2.18	Alternate Benefit Program: contributions	17 N.J.R. 2603(a)	R.1985 d.664	18 N.J.R. 93(a)
17:1-4.11	PERS: purchase of credit for temporary service	17 N.J.R. 2529(b)	R.1985 d.659	18 N.J.R. 93(b)
17:3-2.1	Teachers' Pension and Annuity Fund: eligibility for enrollment	17 N.J.R. 2238(b)	R.1985 d.658	18 N.J.R. 93(c)
17:5-5.12	State Police disability retirant rule	17 N.J.R. 2746(b)		
17:9-5.3	State Health Benefits Program: interest penalties against participants	17 N.J.R. 2868(a)	R.1986 d.28	18 N.J.R. 427(b)
17:9-6.1, 6.3	State Health Benefits Program: retired employees' coverage	17 N.J.R. 2386(a)	R.1985 d.676	18 N.J.R. 212(b)

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17:12-2.11	Out-of-state vendors: reciprocal action in public contracts	18 N.J.R. 264(b)		
17:12-5.1, 5.2	Cooperative purchasing and independent schools of higher education	18 N.J.R. 265(a)		
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18:26-11.1	Transfer Inheritance Tax: spousal waiver	17 N.J.R. 2241(b)	R.1985 d.650	18 N.J.R. 94(d)

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19:25-15	Public financing of gubernatorial elections	17 N.J.R. 2868(b)	R.1986 d.17	18 N.J.R. 312(a)

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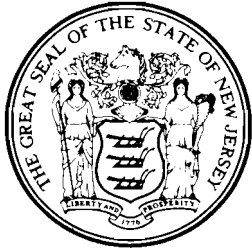
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(TRANSMITTAL 19, dated December 16, 1985)

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