

NEW JERSEY REGISTER



THE JOURNAL OF STATE AGENCY RULEMAKING

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See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT MAY 16, 1988

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INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **August 4, 1988**. 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. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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September 6 issue:	
Proposals	August 8
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September 19 issue:	
Proposals	August 22
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NEW JERSEY REGISTER

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

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF RURAL RESOURCES

State Agriculture Development Committee

Acquisition of Development Easements

Proposed New Rule: N.J.A.C. 2:76-6.16.

Proposed Amendments: N.J.A.C. 2:76-6.2, 6.5, 6.6, 6.8, 6.9, 6.10 and 6.11.

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

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

Proposal Number: PRN 1988-332.

Submit comments by August 4, 1988 to:

Donald M. Applegate, Executive Director
The State Agricultural Development Committee
CN 330
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The acquisition of development easements as provided for in the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, is an effort to encourage the preservation of agricultural lands to protect the State's diminishing farmland resources. Landowners that satisfy the eligibility requirements, as provided in N.J.A.C. 2:76-6, may voluntarily apply to a county agriculture development board (board) to sell a development easement. The value of the development easement is determined through an appraisal and review process defined in N.J.A.C. 2:76-6.8. Ultimately, the fair market value of the development easement shall be certified by the State Agriculture Development Committee (Committee).

Once a development easement has been purchased, a Deed of Easement is recorded which permanently prohibits any nonagricultural development on the premises. The restriction runs with the land and is binding upon every successor to the land.

The proposed new rule and amendments will augment the easement purchase evaluation criteria identified in the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 (landowner's asking price; the degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and the degree of imminence of change of the land from productive agriculture to non-agricultural use), with a system of prioritization criteria based on the land's future agricultural viability. The augmented criteria are designed to ensure sound, objective judgment in the evaluation of applications. The proposed criteria also incorporate a "project area" approach, promoting board and Committee focus on areas which indicate the strongest future viability of agriculture, as indicated by the presence of development easement purchase applications and deed-restricted farmlands. The proposed new rule and amendments are designed to work in conjunction with other criteria duly adopted by the Boards.

The proposed criteria will provide a tool to allow the boards and Committee to make sound decisions in the face of a substantially increased rate of landowner application to sell development easements, and to target bond funds most effectively toward development easement purchases in those areas identified by the Boards and the Committee as priority areas for agriculture retention. The proposed criteria will be employed at those points where the existing factors are currently indicated (preliminary and final Board and Committee reviews) and will be used to rank applications in a priority fashion.

To ensure the greatest possible accuracy of ranking, each application will be evaluated three ways: individually, with regard to the application's impact on its project area, and in comparison to other project areas throughout the State. Priority will be given to applications based on the following weighted criteria: soil quality; type and proportion of protective buffers; local commitment to the long-term viability of agriculture; size; density of lands dedicated to farmland preservation; degree of imminence of change; and relative best buy. The boards and Committee shall also consider pertinent special factors not covered by the criteria.

Two other sets of proposed new rules and amendments concerning the acquisition of development easements have recently been proposed by the Department and published in the February 16 and June 20, 1988 New Jersey Registers at 20 N.J.R. 324(a) and 20 N.J.R. 1319(a), respectively. The first would allow eligibility for a residual dwelling site opportunity on deed-restricted land at a net density of up to one unit per 50 acres. The second would bring the procedural rules into conformity with the amended Agriculture Retention and Development Act to raise the State's cost-share cap for easement purchase from 50 to 80 percent.

Social Impact

The proposed new rule and amendments will have a positive social impact on the preservation of agriculture in New Jersey. By providing an objective framework for the evaluation and ranking of development easement purchase applications, the criteria will promote accuracy and uniformity in board and Committee decision-making and maximize the efficiency and effectiveness of easement purchase.

The project area approach, combined with the criteria, provides boards and the Committee with a simplified, objective standard for the identification of priority areas for the targeting of farmland preservation activity. This uniformity fosters more efficient process for boards and the Committee, promotes the best use of farmland preservation funds and protects the long-term viability of agriculture within counties and Statewide. The proposed rule also provides a tool for evaluating the relative merits of applications in the face of greatly increased landowner competition for funds. This promotes decisions in the public's best interest.

Economic Impact

The proposed new rule and amendments will have a positive economic impact on the counties participating in the farmland preservation program, on the agricultural industry and on all the citizens of the State. With these criteria, participating counties will be able to more efficiently, objectively and effectively target farmland preservation efforts. Counties will be able to maximize their farmland preservation monies by preserving viable agricultural tracts, minimizing non-agricultural development in those areas and promoting a more efficient use of local infrastructure projects.

The proposed new rule promotes a prudent use of public monies for the enhancement of agriculture in the State. The agricultural industry will benefit from the protection of farmland based on specific, objective factors identifying long-term agricultural viability. Citizens will benefit from the protection of that land's contributions to the economic vitality of the agricultural industry and the State.

Regulatory Flexibility Statement

The majority of the land potentially subject to development easements is owned by small businesses, as the term is defined in the Regulatory Flexibility Act, P.L. c.160. The proposed new rule and amendments do not impose different or additional reporting, recordkeeping or other requirements on such farmland owners. The proposal provides objective and uniform guidance to the boards and Committee in decision-making on development easement purchases, with a focus on long-term agricultural viability.

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

2:76-6.2 Definitions

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

"Agricultural Development Area", hereinafter referred to as ADA, means an area identified by a board pursuant to the provisions of N.J.S.A. 4:1C-18 and certified by the State Agriculture Development Committee.

...

"Project area" means an area identified by a board or the Committee which is located within an ADA and is comprised of one or more development easement purchase applications, lands where development easements have already been purchased, other permanently deed restricted farmlands, farmland preservation programs and municipally approved programs.

...

2:76-6.5 Preliminary board review

(a) The board shall review, [and] evaluate **and decide on [all] the easement purchase application [applications] and respective project area** to determine the suitability of the land for development easement purchase **and establish a priority ranking** on the basis of the following factors:

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

1. Criteria for evaluating easement purchase applications as identified in N.J.A.C. 2:76-6.16; and

2. Criteria duly adopted by the board.

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

(d) The board shall forward [a copy of the application and recommendations] **an approved application(s) with a priority ranking, supporting documents and a detailed justification for its decision** to the committee for preliminary review.

2:76-6.6 Preliminary committee review

(a) Upon receipt of an application from the board, the committee shall review and evaluate the **easement purchase application and respective project area** [to determine the suitability of the land for development easement purchase on the basis of the following factors:] **in compliance with N.J.A.C. 2:76-6.16.**

- 1. Landowner's asking price;
- 2. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture;
- 3. The degree of imminence of change of the land from productive agriculture to nonagricultural use; and
- 4. Available State funds.]

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

(b) The committee shall forward its position and priority ranking of applications to the board.

2:76-6.8 Appraisals

(a) (No change.)

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

1.-3. (No change.)

4. Upon completion of the appraisals, the appraisers shall forward appraisal reports [directly to the committee] **to the appropriate person designated by the board to review the reports for completeness of contractual requirements.**

5. The completed reports shall be forwarded directly to the committee;

[5.]**6. The committee shall appoint a review appraiser to evaluate the two appraisals and [establish a reasonable] to recommend a fair market value of the development easement;**

[6. Upon completion of the reviewer's fair market value determination, a fair market value certification shall be issued to the board and the committee.]

7. The committee shall have final authority for certifying the fair market value of the development easement.

8. The committee shall inform the board of the certified fair market value of the development easement.

2:76-6.9 Final board review

(a) (No change.)

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

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

nonagricultural development value	-	agricultural value	-	landowner asking price
<hr/>				
nonagricultural development value	-	agricultural value		

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

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

4. Available funds.]

1. Criteria for evaluating easement purchase applications as identified in N.J.A.C. 2:76-6.16; and

2. Criteria duly adopted by the board.

(c) The board shall[:] **rank and approve or disapprove an application(s) and state the reasons for arriving at the decision.**

[1. Approve the application and rank the application in accordance with the provisions in (b) above; or

2. Disapprove the application and state the reasons for denial.

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

(d) Based on available funds, applications receiving priority ranking shall be forwarded to the committee for final review.

2:76-6.10 Board application to the committee

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

1. Priority ranking of applications;

[1.]**2. Negotiated development easement [offer] value; and**

[2.] **3. Justification for arriving at its decision.**

2:76-6.11 Final committee review

(a) The committee shall review the **easement purchase application, respective project area and the negotiated development easement, [offer and] value** to determine the suitability of the land for development easement purchase [on the basis of the following factors:] **in accordance with N.J.A.C. 2:76-6.16.**

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

nonagricultural development value	-	agricultural value	-	landowner asking price
<hr/>				
nonagricultural development value	-	agricultural value		

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

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

4. Available funds.]

(b) The committee shall[:] **rank and approve or disapprove an application(s) and state the reasons for arriving at the decision.**

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

2. Disapprove the application and state reasons for denial.]

(c) (No change.)

2:76-6.16 Criteria for evaluating development easement applications

(a) **The evaluation shall be based on the merits of the individual application, the application's contribution to the respective project area, the project area's ranking relative to other project areas and available funds.**

(b) The weight factor assigned to each criterion identifies the relative importance of the specific criterion in relation to the other criteria.

(c) The soil quality criterion (weight 30) is as follows:

1. Priority will be given to soils which exhibit superior quality, require minimal maintenance and have a greater potential for long term viability for a variety of agricultural purposes.

2. Factors to be considered are as follows:

i. **Prime soils identified by the U.S.D.A., Soil Conservation Service;**

- ii. Soils of Statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and
- iii. Other soils which are specifically suited for the production of specialty crops and are being used or intended to be used for that purpose.

(d) The boundaries and buffers criterion (weight 20) is as follows:

1. Priority will be given to the greatest proportion of boundaries with buffers which help protect the integrity of the individual application and/or project area from conflicting nonagricultural uses.

2. Factors to be considered are as follows:
 - i. The type and quality of buffers, including:
 - (1) Compatible uses as follows:
 - (A) Deed restricted farmland (permanent);
 - (B) Deed restricted wildlife areas;
 - (C) Eight year programs;
 - (D) Farmland (unrestricted);
 - (E) Streams and wetlands;
 - (F) Parks (limited public access);
 - (G) Parks (high use);
 - (H) Military installations;
 - (1) Highways (limited access); and
 - (J) Other compatible buffers
 - (2) Conflicting uses as follows:
 - (A) Residential; and
 - (B) Other;

- ii. Percentage of boundaries buffering the individual application; and
- iii. The application's added buffer to the project area.

(e) The local commitment criterion (weight 20) is as follows:

1. Priority will be given where municipal and county land use regulations and policies support the long term viability of the agricultural industry.

2. Factors to be considered are as follows:
 - i. Zoning ordinances and densities which discourage conflicting nonagricultural development;
 - ii. Absence of sewer or other growth leading infrastructure;
 - iii. Consistency with municipal, county, state and regional plans;
 - iv. Municipal commitment to actively participate in the Agriculture Retention and Development Program;
 - v. Right to farm and other ordinances supporting agriculture; and
 - vi. Community support for the project area.

(f) The size and density criterion (weight 20) is as follows:

1. Priority will be given to larger masses with a higher density of the lands dedicated to farmland preservation.

2. Factors to be considered are as follows:
 - i. The size of the individual application;
 - ii. The size of the individual application in relation to the average farm size in the respective county;
 - iii. The overall size of the project area; and
 - iv. The density and contiguity of the subject project area. Density shall be recognized as the proportion of lands encompassed by development easement purchase applications, development easements purchased, other permanently deed restricted farmlands, farmland preservation programs and municipally approved programs in relation to the remaining lands contained in the interstices of the outer boundaries of the project area.

(g) The degree of imminence of change criterion (weight 5) is as follows:

1. Priority will be given to minimizing the negative impacts caused by the imminent conversion of agricultural land to a nonagricultural use.

2. Factors to be considered are as follows:
 - i. The degree of imminence of change; and
 - ii. The impact of the conversion.

(h) The relative best buy criterion (weight 5) is as follows:

1. Priority will be given to offers with higher numerical values obtained by application of the following formula:

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

2. Factors to be considered are as follows:
 - i. The certified and/or negotiated value of the development easement determined for an individual application at the final review stage.
 - (i) Special considerations are as follows:
 1. The board and committee shall review the following factors and recognize special considerations which cannot be adequately addressed in the previous criteria.
 - i. A contribution to reduce the committee's percent cost share of the negotiated development easement value;
 - ii. The first application(s) in the county to receive the committee's preliminary approval which ultimately results in the purchase of the development easement(s);
 - iii. Historic contributions;
 - iv. Environmental contributions; and
 - v. Uniqueness of the agricultural operation.

EDUCATION

(a)

STATE BOARD OF EDUCATION Issuance of an Administrative Order Creating a State-operated School District

Proposed New Rule: N.J.A.C. 6:2-1.21

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

Authority: N.J.S.A. 18A:4-1 through 18A:4-20, 18A:6-27 through 18A:6-29, 18A:7A-15 and 18A:7A-25.

Proposal Number: PRN 1988-331.

Submit comments by August 4, 1988 to:

Irene Nigro, Rules Analyst
New Jersey Department of Education
225 West State Street, CN 500
Trenton, New Jersey 08625

The agency proposal follows:

Summary

On January 13, 1988, an amendment to N.J.S.A. 18A:7A-15 (P.L. 1987 c.398) became effective so that the statute now provides for the establishment of a State-operated school system in certain circumstances. As amended, the statute mandates that, following a comprehensive compliance investigation, the Commissioner shall order the district board to show cause why an administrative order establishing a State-operated school district should not be implemented. The statute further requires that, following a plenary hearing upon such order, the Commissioner must recommend to the State Board of Education that it issue an administrative order creating a State-operated school district if the Commissioner determines that the district has failed to take or is unable to take corrective actions necessary to establish a thorough and efficient system of education. Under the statutory scheme, the State Board must determine whether to issue the administrative order, whether or not the Commissioner's recommendation is contested.

The objective of the proposed new rule is to establish procedures that are fair and, recognizing the complexity and variation that may be present in these cases, to provide the structure and flexibility necessary to enable the State Board to consider systematically, fully and expeditiously any case before it on recommendation made pursuant to N.J.S.A. 18A:7A-15. The proposed rule would accomplish these objectives as follows:

1. N.J.A.C. 6:2-1.21(a) provides notice of the date on which a recommendation is deemed filed so as to enable a respondent to contest the recommendation within the time frame established by N.J.A.C. 6:2-1.21(c).

2. N.J.A.C. 6:2-1.21(b) establishes a time limit on transmittal of a recommendation to the State Board and for certification and transmittal of the record so as to insure that the matter and record are expeditiously before the State Board. This provision, together with N.J.A.C. 6:2-1.21(h), provides notice that in all cases, contested or not, the State Board's decision will be based on the record. N.J.A.C. 6:2-1.21(j) and (k) insure the integrity of the determination by requiring that it be embodied in a written decision, certified to the Commissioner and mailed to the respondent.

3. Although the State Board must make a decision in every case, whether or not a particular recommendation is contested, N.J.A.C. 6:2-1.21(c) and (d) provide opportunity for the respondent to contest the recommendation and specify the procedures for doing so. By requiring that respondent file a notice with the State Board, N.J.A.C. 6:2-1.21(c) insures that the State Board is aware that a recommendation is contested before it begins review, and the requirement for accompanying certification insures that there will be no question concerning whether a district board has authorized the filing of notice. Exceptions filed pursuant to N.J.A.C. 6:2-1.21(d) will provide the State Board with the basis upon which the recommendation is contested. N.J.A.C. 6:2-1.21(e) provides the Commissioner with an opportunity for response, but insures that such opportunity is not greater than that provided to the respondent.

4. The time limits specified in N.J.A.C. 6:2-1.21(a), (b), (c), (d), and (e) are shorter than in other matters, thereby expediting the State Board's consideration of these cases.

5. By requiring that a respondent desiring oral argument file a request, N.J.A.C. 6:2-1.21(g) provides the State Board with notice that a respondent desires argument in a particular case. At the same time, the rule permits the State Board to direct such argument on its own initiative whether or not it is requested, and whether or not the recommendation is contested, so as to assure that argument occurs whenever this procedure is necessary to fairly decide a case.

6. N.J.A.C. 6:2-1.21(i) provides notice that where no provision in this rule provides otherwise, the rules generally applicable to all appeals will apply.

Social Impact

The proposed new rule will assure that determinations made by the State Board of Education on recommendation under N.J.S.A. 18A:7A-15 are procedurally fair. This will enhance the ability of the Board to arrive at a substantive determination in each case that insures the provision of a thorough and efficient education to the students in districts that are subject to proceedings pursuant to the statute.

Economic Impact

No major economic impact is expected as a result of this new rule since it is anticipated that the rule can be implemented by existing departmental staff.

Regulatory Flexibility Statement

The proposed new rule will have no reporting, recording or compliance requirements for small businesses. A regulatory flexibility analysis is, therefore, not required.

Full text of the proposal follows.

6:2-1.21 Issuance of an administrative order creating a State-operated school district

(a) A recommendation made to the State Board by the Commissioner of Education for the issuance of an administrative order creating a State-operated school district shall be deemed filed three days after the date of mailing to the respondent.

(b) The Commissioner shall certify the record upon which the recommendation is based and remit the record, so certified, together with two copies of the recommendation to the State Board within three days after the recommendation is filed.

(c) Within 10 days after the recommendation is filed, a respondent contesting the recommendation shall file a Notice of Intention to Contest with the State Board of Education and with the Commissioner, identifying the recommendation and stating that the respondent intends to contest it. A notice filed on behalf of a district board shall have appended thereto a certification that the district board has authorized the filing of the notice by resolution of the board adopted by roll call vote.

(d) Within 15 days after the filing of notice, the respondent shall file with the State Board an original and 17 copies of its exceptions to the recommendation, and shall serve one copy upon the Commissioner.

1. The exceptions shall specify the basis upon which the respondent contests the recommendation and shall include the respondent's argument, clearly and concisely stated, as to why the State board should not issue an administrative order creating a State-operated school district.

2. Any transcript or exhibit admitted into evidence, or portion thereof, relied upon shall be specifically identified.

3. The respondent's exceptions may be in letter form, but shall not exceed 30 pages unless leave of the State Board has been obtained.

(e) Within 10 days after the respondent has filed its exceptions, the Commissioner may file a response not exceeding 30 pages, which shall specifically identify any transcript or exhibit admitted into evidence, or portion thereof, upon which the Commissioner relies in the response.

(f) No other papers shall be served or filed without leave of the State Board.

(g) Oral argument before the State Board, or a committee thereof, may be granted on request of the respondent made by a separate captioned paper filed concurrently with its exceptions, or, in the case of any recommendation, upon direction of the State Board.

(h) If no notice is filed as provided by (c) above, or exceptions are not filed within the 15 day period provided by (d) above, the decision of the State Board will be based solely on the record certified to it by the Commissioner.

(i) Except as otherwise provided, the rules included in this subchapter are applicable to proceedings pursuant to this section.

(j) Determinations of the State board made pursuant to this section shall be embodied in a written decision, which shall be certified to the Commissioner and simultaneously mailed to the respondent or its attorney of record.

(k) The decision of the State Board shall be deemed filed three days after the date of mailing.

HEALTH

(a)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances Schedule V

Proposed Amendment: N.J.A.C. 8:65-10.5

Authorized By: Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health.

Authority: N.J.S.A. 24:21-9.

Proposal Number: PRN 1988-324.

Submit comments by August 4, 1988 to:
Lucius Bowser, R.P., M.Ph., Chief
Office of Drug Control
CN 362
Trenton, N.J. 08625-0362
(609-984-1308)

The agency proposal follows:

Summary

The Department of Health proposes to amend Schedule V to follow a form more consistent with that used by the Federal Government (see the U.S. Controlled Substances Act, 21 U.S.C. 801 et seq. and the Code of Federal Regulations, 21 CFR 1308.15). The Department also proposes to add a new subsection for substances which may soon be scheduled under the 1971 Psychotropic Conventions obligations. These changes will not affect the placement of controlled substances which are now covered by N.J.A.C. 8:65-10.5.

The proposed changes add a category covering stimulants, but do not, at this time, add any drugs to that category. Any change in the controlled status of a drug will be published in the New Jersey Register as a Miscellaneous Notice.

Social Impact

The new format may be more convenient for the user.

Economic Impact

The proposed changes to N.J.A.C. 8:65-10.5 would have no economic impact upon the pharmaceutical industry, law enforcement personnel or the general public.

Regulatory Flexibility Statement

The proposal will have no effect upon small businesses, therefore, a regulatory flexibility analysis is not required.

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

8:65-10.5 Controlled dangerous substances; Schedule V

(a) (No change.)

(b) **The following is the Schedule V listing of controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers for Narcotic Drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, or mixture or preparation containing any of the following narcotic drugs and their salts is included in this schedule:**

Buphenorphine 9064

[(c)](b) The following is the Schedule V listing of [the] controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers[.] **for Narcotic Drugs Containing Non-Narcotic Active Medicinal Ingredients. Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone, is included in this schedule:**

[1. Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:]

Re-number i. through vi. as **1. through 6.** (No change in text.)

[2. Unless specifically excepted or unless in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

Buphenorphine 9064]

(d) **The following is the Schedule V listing of controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers for Stimulants. Unless specifically exempted or excluded, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including salts, isomers and salts of isomers is included in this schedule:**

(a)

**DRUG UTILIZATION REVIEW COUNCIL
Drug Evaluation and Acceptance Criteria
Proposed Readoption: N.J.A.C. 8:70**

Authorized By: Drug Utilization Review Council, Sanford Luger, Chairman.

Authority: N.J.S.A. 24:6E-6(g).

Proposal Number: PRN 1988-328.

Submit written comments by August 4, 1988 to:

Thomas T. Culkin, PharmD, MPH
Executive Director
Drug Utilization Review Council
New Jersey Department of Health
Room 108, CN 360
Trenton, N.J. 08625-0360
609-984-1304

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 8:70 will expire on September 17, 1988. The Drug Utilization Review Council (the Council) in the Department of Health proposes to readopt this chapter without change. The Council has reviewed these rules and has determined that

they are necessary, reasonable, and proper for the purposes for which they were originally promulgated.

N.J.A.C. 8:70 gives the criteria governing the acceptance of generic drugs onto the List of Interchangeable Drug Products ("the List;" see N.J.A.C. 8:71). These criteria were adopted to assure that manufacturers of drugs know the standards against which their products will be judged. When a manufacturer submits an application for products to be added to the List, it is through reviewing these criteria that the manufacturer may know whether any product is suitable for inclusion on the List.

In addition, the criteria also define terms so that all applicants possess an identical understanding as to what is required of them, as well as stipulating how manufacturers may reapply for any product which the Council may initially reject.

Social Impact

The Council believes that this readoption will continue the positive social impact that these rules have had in the past: the elderly, those persons with limited income, and any interested citizen will continue to be assured of reasonably priced generic substitutes for brand name drugs.

Economic Impact

The Council believes a positive economic impact will be exerted, not only on those groups mentioned under Social Impact (above), but on several State programs that pay for medications, such as the PAAD Program, the Medicaid Program, and the prescription insurance program available to all State employees. A 1987 Drug Utilization Review Council Survey has estimated that the Statewide total of these savings approximates \$35 million annually.

Regulatory Flexibility Statement

The readopted rules will continue to impact several dozen generic drug manufacturers which employ fewer than 100 employees. Small generic drug manufacturers have no recordkeeping requirements or other paperwork to complete under this rule. It would not be appropriate to allow any exemptions from this rule, due to an overriding concern for public health and welfare.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 8:70.

HEALTH/LABOR

(b)

**ASBESTOS CONTROL SERVICE
DIVISION OF WORKPLACE STANDARDS
Asbestos Licenses and Permits; Definition of
Removal**

**Joint Proposed Amendment: N.J.A.C. 8:60-2.1 and
12:120-2.1**

Extension of Comment Period

Take notice that the public comment period for the proposal published in the May 16, 1988 New Jersey Register at 20 N.J.R. 1049(a) has been extended to **August 17, 1988**. Comments may be submitted to:

Michael F. Lakat
Asbestos Control Service
Department of Health
CN 360
Trenton, N.J. 08625

HUMAN SERVICES

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Manual of Requirements for Family Day Care Registration

Proposed New Rules: N.J.A.C. 10:126

Authorized By: Drew Altman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:5B-19, 23 and 25.

Proposal Number: PRN 1988-321.

Submit comments in writing by August 4, 1988 to:

J. Patrick Byrne, Chief
Bureau of Licensing
Division of Youth and Family Services
CN 717
1 South Montgomery Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Family Day Care Provider Registration Act, N.J.S.A. 30:5B-16 et seq., (Public Law 1987, Chapter 27), went into effect on April 27, 1987, authorizing the first system for regulating family day care homes in New Jersey's history. The law defines family day care homes as those serving five or fewer children for not less than 15 hours a week in a private residence, excluding children legally related to the provider or children being cared for through a cooperative child care agreement with the parents for no payment.

The law provides for the voluntary registration of family day care providers through a two-tiered system of regulation. Under the law, the Division of Youth and Family Services (DYFS) will inspect, approve and contract with selected family day care sponsoring organizations to assist DYFS in administering the voluntary registration of family day care providers in specific geographic areas (which may include one or more counties). In turn, each sponsoring organization under contract with DYFS will be responsible for inspecting, registering and monitoring family day care providers to ensure their compliance with State regulations, and will provide technical assistance, training and consultation to providers to assist them in maintaining compliance. The proposed new rules set forth the requirements for both the sponsoring organizations and the family day care providers.

The proposed new rules were developed with extensive community input. During the Spring of 1987, a special citizens advisory group was formed, consisting of representatives from the State Child Care Advisory Council, the Family Day Care Organization of New Jersey, the Association for Children of New Jersey, the League of Women Voters and other organizations and State agencies. The group functioned as a Sub-committee of the Legislative and Government Action Committee of the Child Care Advisory Council. The Sub-committee reviewed the initial and subsequent drafts of the proposed Manual of Requirements, which were distributed to interested public and private agencies and organizations for review and comment. Revisions were made in response to comments received, and the final draft was distributed to sponsoring organizations and other interested groups and individuals on December 28, 1987. The final draft is being used as contract standards for the sponsoring organizations, pending adoption of the proposed new rules.

Specifically, Subchapter 1 (N.J.A.C. 10:126-1) cites the legal authority for the proposed new rules (N.J.A.C. 10:126-1.1), defines terms used in the Manual (N.J.A.C. 10:126-1.2), and lists the requirements for approval of sponsoring organizations by the Division's Bureau of Licensing (N.J.A.C. 10:126-1.3). Subchapter 2 (N.J.A.C. 10:126-2) explains the requirements for the administration of sponsoring organizations. Subchapter 2 specifies that sponsoring organizations may be public or private non-profit organizations, must demonstrate the capability of providing administrative services, and must comply with Department of Human Services contracting requirements (N.J.A.C. 10:126-2.1). Further, sponsoring organizations must establish a governing board or advisory committee and an appeals committee, and may subcontract for the provision of services to family day care providers (N.J.A.C. 10:126-2.2). Subchapter 2 also lists the requirements for reporting information to the Division and other agencies (N.J.A.C. 10:126-2.3), records to be kept by

sponsoring organizations (10:126-2.4), procedures for complaints against a sponsoring organization (N.J.A.C. 10:126-2.5), and public access to records (10:126-2.6).

Subchapter 3 (N.J.A.C. 10:126-3) lists staff requirements for sponsoring organizations. All staff members are required to disclose any criminal convictions prior to and during employment (N.J.A.C. 10:126-3.1). Sponsoring organizations must have an executive director or administrator and additional staff, as needed (10:126-3.2), who must meet specified qualifications (10:126-3.3). Ongoing staff training must be provided (10:126-3.4).

Subchapter 4 (N.J.A.C. 10:126-4) specified the service requirements for sponsoring organizations. The sponsoring organization must review each applicant's application form, references, health records, and disclosure of criminal convictions, and must conduct a home inspection (N.J.A.C. 10:126-4.1). The sponsoring organization must provide six hours of pre-service training and two two-hour sessions per year of in-service training (N.J.A.C. 10:126-4.2). Provisions are specified for the issuance of regular and temporary Certificates of Registration (N.J.A.C. 10:126-4.3 and 4.4) and for the collection of registration fees (10:126-4.5). Procedures for complaints and violations are specified (N.J.A.C. 10:126-4.6). The sponsoring organization must monitor each registered provider every two years and upon renewal, and must also monitor 20 percent of registered providers annually (N.J.A.C. 10:126-4.7). The sponsoring organization must provide technical assistance to providers (N.J.A.C. 10:126-4.8) and a written Information to Parents Statement for parents whose children are enrolled in a registered family day care home (N.J.A.C. 10:126-4.9). Referrals for parents seeking care in a registered family day care home will be handled by the existing New Jersey Child Care Resource and Referral System (N.J.A.C. 10:126-4.10). The sponsoring organization must also provide outreach and public relations in the community (N.J.A.C. 10:126-4.11).

Subchapter 5 (N.J.A.C. 10:126-5) specifies registration and operation procedures for the family day care provider. The provider must be 18 years old and of good character (N.J.A.C. 10:126-5.1), must submit an application form, and must attend training (10:126-5.2). The provider must display the Certificate of Registration in the home (N.J.A.C. 10:126-5.3), and must not operate under a temporary certificate for longer than six months (N.J.A.C. 10:126-5.4). The provider must pay a \$25.00 registration fee (N.J.A.C. 10:126-5.5) which is kept by the sponsoring organization. After three years, the certificate may be renewed subject to re-inspection of the home and documentation of six hours of in-service training (N.J.A.C. 10:126-5.6). Appeal procedures permit the provider to appeal adverse decisions to the sponsoring organization or to the Office of Administrative Law (N.J.A.C. 10:126-5.7). In case of imminent danger or hazard to children, the Bureau of Licensing may institute court action (N.J.A.C. 10:126-5.8). Subchapter 5 also specifies reporting requirements and records to be kept by family day care providers (N.J.A.C. 10:126-5.9 and 10:126-5.10).

Subchapter 6 (N.J.A.C. 10:126-6) specifies the safety, health and program requirements for family day care providers. Requirements for maximum number of children (N.J.A.C. 10:126-6.1) permit the provider to care for up to five children for a fee. The provider may also care for children residing in the provider's home who are under six years old, or other children cared for through a cooperative agreement between parents for no fee, provided that there are no more than a total of eight children in the home. Specific circumstances are outlined which require the provider to have an assistant to help care for infants and toddlers. Requirements for the physical environment in the home (N.J.A.C. 10:126-6.2) include safe play equipment and adequate heat and ventilation. A working telephone is required, with specific conditions permitting use of a nearby telephone if the provider cannot afford telephone service in the home. Additional safety requirements include a smoke detector (N.J.A.C. 10:126-6.3) and non-permanent barriers on stairs (N.J.A.C. 10:126-6.4). Outdoor play space must be available (N.J.A.C. 10:126-6.5) and parental permission is required for transportation of children away from the home (10:126-6.6).

Subchapter 6 also lists procedures for children's health examinations (N.J.A.C. 10:126-6.7), reporting accidents and injuries (N.J.A.C. 10:126-6.8), and maintaining proper sanitation (N.J.A.C. 10:126-6.9). Further requirements outline activities, rest and sleep, and nutrition for children (N.J.A.C. 10:126-6.10). Requirements for supervision, guidance and discipline specify that physical punishment is prohibited and parents must be consulted on discipline methods (N.J.A.C. 10:126-6.11). The provider is also required to communicate with parents regularly (N.J.A.C. 10:126-6.12).

Social Impact

The Division anticipates that a positive social impact will result from the adoption of this chapter. Registered providers will have access to training and support through their sponsoring organization, enabling them to improve their services to children. Registration will entitle the provider to participate in State programs providing parent referrals and reimbursement for food expenses, and will help the provider attract parents seeking safe, acceptable and reliable child care.

Parents will be assured that a registered provider has met State requirements and is subject to periodic monitoring. Registered providers will be required to communicate with parents regularly and to discuss their child's needs and daily routines. Parents can also be reassured that physical punishment is not permitted in a registered home; positive methods of discipline will be used to help children learn appropriate behavior. Parents will be able to contact the sponsoring organization for assistance if they have any questions or need special help for their children.

Economic Impact

The Division anticipates no negative economic impact of the proposed new rules on the sponsoring organizations or on the Division, since the funds appropriated under the law have been applied to implement the requirements of this Chapter. The program was provided with \$400,000 for the 1989 Fiscal Year. The rules have been designed to constitute minimum baseline requirements, in order to minimize the administrative and economic burden on sponsoring organizations and family day care providers. The required registration fee of \$25.00 presents minimal economic impact on the family day care provider, since the cost will be spread over three years. A few minor safety improvements may be required in some family day care homes, such as a smoke detector or stairway gate, again at minimal cost. Registered providers can expect to attract more parents seeking child care, so that any potential costs may be offset by parent fees for services. Registered providers will also be eligible for reimbursement for food expenses through the Child Care Food Program, and may be able to obtain liability insurance more easily and at reduced rates.

Regulatory Flexibility Analysis

These proposed new rules affect family day care providers and sponsoring organizations, all of which fall within the definition of a small business, as defined in the State Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. (P.L. 1986, c.169). It is not appropriate or necessary to establish differential regulations that would apply to larger and smaller entities, as all the regulated entities are considered small businesses.

However, it should be emphasized that the proposed rules already provide for less stringent standards than those governing child care centers, in recognition of the unique nature of child care provided in a home environment. For example, equipment such as window barriers, monitoring equipment and kitchen fire extinguishers, which are necessary and required in licensed child care centers, in view of the larger number of children served, are not required in the proposed new rules for family day care registration. The aim here is to ensure the basic safety, health and proper development of children cared for in these settings, but to do so in a way that does not impose unreasonable or additional costs on family day care providers, which could discourage them from seeking voluntary registration.

In addition, the Division is preparing a Technical Assistance Handbook which will assist sponsoring organizations and family day care providers in complying with the Manual of Requirements. This publication contains sample forms that can be used to comply with the recordkeeping requirements; lists of training materials and resource organizations; guidelines for ensuring children's health, safety, care and development; and instructions, management techniques and alternative means for complying with the provisions of the Manual. The handbook will be distributed to all sponsoring organizations, which will in turn supply family day care providers with the appropriate portions.

Full text of the proposed new rules follows.

**CHAPTER 126
MANUAL OF REQUIREMENTS FOR FAMILY
DAY CARE REGISTRATION**

SUBCHAPTER 1. GENERAL PROVISIONS**10:126-1.1 Legal authority**

(a) This chapter is promulgated pursuant to the Family Day Care Provider Registration Act of 1987, N.J.S.A. 30:5B-16 et seq. (P.L. 1987, Chapter 27), which became effective April 27, 1987.

(b) Under N.J.S.A. 30:5B-16 et seq., the Division of Youth and Family Services has the authority to:

1. Adopt regulations for the:
 - i. Operation and maintenance of family day care sponsoring organizations; and
 - ii. Voluntary registration of family day care providers; and
2. Contract with certain agencies or organizations to serve as sponsoring organizations for the voluntary registration of family day care providers.

(c) Responsibility for ensuring that a sponsoring organization complies with all applicable provisions of N.J.S.A. 30:5B-16 et seq., and of this chapter is delegated by the Division to the Bureau of Licensing, which shall:

1. Inspect and monitor the sponsoring organization to determine compliance with applicable provisions of this chapter;
2. Conduct random inspections of family day care homes to ensure compliance with applicable provisions of this chapter; and
3. Provide technical assistance to the sponsoring organization.

(d) A sponsoring organization is authorized to:

1. Register family day care provider applicants within a specific geographic area. A geographic area may include:
 - i. A single county; or
 - ii. A group of several counties;
2. Issue new and renewal Certificates of Registration to family day care providers;
3. Provide administrative services, including but not limited to technical assistance, training and consultation to providers;
4. Evaluate and monitor providers at least once every two years;
5. Annually monitor no less than 20 percent of providers on a random basis;
6. Collect a \$25.00 registration fee payable to the sponsoring organization each time a Certificate of Registration is initially granted or renewed;
7. Maintain permanent records on each provider;
8. Ensure that each provider complies with all applicable requirements of N.J.A.C. 10:126, the **Manual of Requirements for Family Day Care Registration**; and
9. Provide a program of outreach and public relations to inform providers and potential providers of the provisions of this chapter.

10:126-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Bureau" means the Bureau of Licensing, Division of Youth and Family Services, New Jersey Department of Human Services.

"Certificate of Registration" means a document issued by a sponsoring organization to a family day care provider, acknowledging that the provider is in compliance with all applicable provisions of this chapter.

"Chapter" means the requirements contained in the Manual of Requirements for Family Day Care Registration, N.J.A.C. 10:126.

"Child" means any person under 14 years of age.

"Cooperative agreement" means an agreement between a provider and a parent to exchange child care services in lieu of a fee for child care services.

"Denial of a Certificate of Registration" means a refusal by the sponsoring organization to issue an initial Certificate of Registration.

"Department" means the New Jersey Department of Human Services.

"Division" means the Division of Youth and Family Services, New Jersey Department of Human Services.

"Evaluate" or "evaluation" means the review of a family day care provider by a sponsoring organization upon receipt of an application for a Certificate of Registration to determine the applicant's compliance with the requirements of this chapter.

"Family day care home" means a private residence in which child care services are provided for a fee to no fewer than three and no more than five children for no fewer than 15 hours per week, except that the Division shall not exclude a family day care home with fewer than three children from voluntary registration.

"Family day care provider applicant" or "provider applicant" means a person at least 18 years of age who has applied for a Certificate of Registration.

"Family day care provider" or "registered family day care provider" or "provider" means a person who has received an initial, renewal or temporary Certificate of Registration issued by a sponsoring organization.

"Family day care sponsoring organization" or "sponsoring organization" means an agency or organization that contracts with the Division to assist in the voluntary registration of family day care providers and that complies with all applicable requirements of the Manual of Requirements for Family Day Care Registration.

"Fee for child care services" or "fee" means the payment of money or the provision of any service(s) other than child care, by the parent(s) of enrolled children, in exchange for family day care services.

"Manual of Requirements for Family Day Care Registration" or "Manual of Requirements" means the requirements contained in this chapter (N.J.A.C. 10:126).

"Monitor" or "monitoring visit" means to visit a registered family day care provider to review the provider's compliance with the applicable requirements of the Manual of Requirements.

"Parent" means a natural, foster or adoptive parent, guardian, or any person with responsibility for, or custody of, a child.

"Provider assistant" means a person at least 14 years of age who has been designated by the provider and approved by the sponsoring organization to assist the provider in caring for children in the home.

"Refusal to renew a Certificate of Registration" or "nonrenewal" means the nonissuance of a Certificate of Registration by the sponsoring organization after the expiration of the existing Certificate of Registration.

"Registration fee" means payment to a sponsoring organization by a provider or applicant upon issuance of a temporary or regular Certificate of Registration.

"Renewal of a Certificate of Registration" means the issuance of a Certificate of Registration by the sponsoring organization after the expiration of the existing Certificate of Registration.

"Revocation of a Certificate of Registration" means a permanent rescinding of a provider's current Certificate of Registration for failure to comply with the applicable requirements of the Manual of Requirements.

"Staff member" means a person employed by or working for a sponsoring organization on a regularly scheduled basis. This includes full-time, part-time, and voluntary staff, whether paid or unpaid.

"Substitute provider" means a person at least 18 years of age designated by the provider and approved by the sponsoring organization who is readily available to provide child care in the provider's home in the event the provider becomes ill or encounters an emergency.

"Suspension of a Certificate of Registration" means a temporary rescinding of a provider's current Certificate of Registration, which can be reinstated by the sponsoring organization upon the provider's compliance with the applicable requirements of the Manual of Requirements.

"Temporary Certificate of Registration" means a document issued by the sponsoring organization to a provider which indicates that the provider is in substantial compliance with the requirements of the Manual of Requirements, provided that no imminent hazard affecting the children exists in the home.

10:126-1.3 Approval requirements for sponsoring organizations

(a) A sponsoring organization shall obtain approval from the Bureau of Licensing pursuant to the legal authority specified in N.J.A.C. 10:126-1.1(c) upon execution of a contract with the Division.

(b) The Bureau will conduct a biennial comprehensive programmatic inspection of the sponsoring organization to determine compliance with the applicable provisions of this chapter.

(c) If the sponsoring organization meets all applicable provisions of this chapter, the Bureau will issue a letter of approval.

(d) The Bureau will notify the sponsoring organization in writing if a letter of approval will not be issued.

(e) If the Bureau determines that the sponsoring organization is in substantial compliance with all applicable provisions of this chapter, the Bureau may issue a letter of temporary approval.

(f) The Bureau may issue as many temporary approvals as it deems necessary. Each letter of temporary approval, however, may be issued for a period not to exceed six months.

(g) When a letter of temporary approval is issued, the Bureau will provide a written statement explaining what the sponsoring organization must do to achieve full compliance.

(h) Each approval period, which may include the issuance of one or more letters of temporary approval and/or one letter of approval, shall be two years.

1. In determining the expiration date of the first letter of approval, the Bureau shall compute the two-year approval period from the date of issuance of the first letter of approval or temporary approval.

2. In determining the expiration date of a renewed approval, the Bureau shall compute the two-year approval period from the date on which the sponsoring organization's previous letter of approval expired.

(i) The letter of approval or temporary approval shall be maintained on file at the sponsoring organization's offices.

(j) An authorized representative of the Bureau may make an announced or unannounced visit at any time during the sponsoring organization's normal operating hours to inspect the sponsoring organization and/or review files, reports or records to determine its compliance with provisions of this chapter and/or to investigate a complaint.

(k) A sponsoring organization's approval may be denied or revoked for any activity, policy or conduct that presents a serious or imminent hazard to the health, safety and well-being of a child or that otherwise demonstrates the sponsoring organization's unfitness or inability to operate a sponsoring organization or to administer the family day care registration program in accordance with the provisions of this chapter and with sound and effective administrative and financial policies, procedures and practices. (See N.J.A.C. 10:126-5.7.)

SUBCHAPTER 2. ADMINISTRATION OF SPONSORING ORGANIZATIONS

10:126-2.1 Sponsoring organization eligibility

(a) Any public agency or private not-for-profit agency or organization may apply to become a family day care sponsoring organization, provided the agency meets the eligibility requirements specified in (b) below.

(b) A family day care sponsoring organization, in order to secure, maintain or renew a contract to provide registration services, shall:

1. Demonstrate the capability of providing administrative services, including, but not limited to, training, technical assistance, consultation, inspection, supervision and monitoring of family day care providers;

2. Meet the contracting requirements of the Department of Human Services, as specified in the Department of Human Services' Contract Policy and Information Manual and Cost Reimbursement Manual and all applicable requirements of the Manual of Requirements; and

3. Comply with all performance provisions and level of service provisions, as specified in the executed contract and its annexes.

10:126-2.2 Administrative responsibility

(a) A privately operated sponsoring organization shall have a governing board that has the authority to:

1. Set overall administrative and operational policies for the sponsoring organization;

2. Ensure the financial viability of the sponsoring organization;

3. Establish policies pertaining to, but not limited to:

i. Program services; and

ii. Personnel recruitment, selection, training and performance evaluation; and

4. Oversee fiscal operations, including budget and resource development.

(b) A publicly operated sponsoring organization shall have an advisory board or committee that offers advice and counsel to the

sponsoring organization on the fiscal and administrative operation of the family day care registration program.

(c) The sponsoring organization shall delegate responsibility for day-to-day operations to an executive director or administrator and clearly delineate in writing the respective duties of the governing or advisory board and of the executive director or administrator.

(d) The sponsoring organization shall appoint an appeals committee, which shall:

1. Hear appeals made by providers or provider applicants on actions taken by the sponsoring organization to deny, suspend, revoke or refuse to renew a Certificate of Registration;

2. Exclude from its membership staff members responsible for decisions regarding the denial, suspension, revocation or refusal to renew a Certificate of Registration; and

3. Maintain on file documentation of its findings, as specified in N.J.A.C. 10:126-2.4(a)lix.

(e) The sponsoring organization shall provide family day care registration services throughout all municipalities in its designated geographic area.

(f) The sponsoring organization may subcontract for the provision of services to providers and/or provider applicants. The sponsoring organization shall ensure that:

1. An agency under subcontract complies with all applicable requirements of the Manual of Requirements in the delivery of services to providers and/or provider applicants;

2. An agency under subcontract to register providers does not deny a Certificate of Registration to any provider applicant who is in full compliance with the applicable requirements of the Manual of Requirements; and

3. A copy of the subcontract between the sponsoring organization and the agency subcontracted to perform services related to family day care registration is maintained on file, as specified in N.J.A.C. 10:126-2.4(a)lxi.

(g) The Bureau will notify the sponsoring organization and the appropriate regional office of the Division, in writing, whenever the Bureau determines that the sponsoring organization is operating in violation of any of the requirements of the Manual of Requirements, in which case the notification will specify the corrective action that must be taken by the sponsoring organization in order to abate the violation(s).

(h) Whenever the Division determines that a provider is operating in violation of any of the requirements of the Manual of Requirements, the Division will notify the sponsoring organization. In case of imminent danger(s) or hazard(s) to the health and safety of the children in the home, the Division may:

1. Suspend the Certificate of Registration (See N.J.A.C. 10:126-5.7) and

2. Institute a civil action, as specified in N.J.A.C. 10:126-5.8.

10:126-2.3 Reporting requirements

(a) The sponsoring organization or any staff member shall notify verbally the Division's Office of Child Abuse Control (toll free 1-(800)-792-8610) immediately, whenever there is reasonable cause to believe that a child has been subjected to abuse/neglect by a provider or any other person, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14).

(b) The sponsoring organization or any staff member shall notify the Bureau immediately of any imminent danger(s) or hazard(s) that threaten the health and safety of children in the provider's home.

(c) The sponsoring organization shall notify the local health department in the provider's municipality of the occurrence of a reportable disease, as specified in Chapter 2 of the State Sanitary Code (N.J.A.C. 8:57-1.2). Such notification shall be made by the next working day after the sponsoring organization learns of the occurrence.

(d) The sponsoring organization shall notify the appropriate regional office of the Division and the Bureau, verbally, of any of the following changes or events by the next working day after the sponsoring organization learns of their occurrence:

1. Injury that results in the admittance of a child to a hospital while in the care of a provider;

2. The death of a child while in the care of a provider;

3. Damage to the sponsoring organization's offices that affects the operation of family day care registration;

4. Any criminal conviction(s) of the staff of the sponsoring organization or of a provider, substitute provider, provider assistant, or member of a provider's household;

5. Cancellation of the sponsoring organization's general/comprehensive liability insurance coverage; and

6. Unanticipated permanent or temporary closing of the sponsoring organization.

(e) The sponsoring organization shall notify the appropriate regional office of the Division and the Bureau, verbally, within three working days, of any change in the name, location, executive director or administrator of the sponsoring organization.

(f) The sponsoring organization shall report statistical data, as specified in N.J.A.C. 10:126-2.4(a)3, to the Bureau upon request.

10:126-2.4 Sponsoring organization records

(a) The sponsoring organization shall maintain in files located at its office the following records:

1. Administrative records:

i. The Manual of Requirements for Family Day Care Registration;

ii. The document providing information to parents, as specified in N.J.A.C. 10:126-4.9(a);

iii. Staff records, as specified in N.J.A.C. 10:126-3.1(g);

iv. Documentation of training sessions provided to staff members, as specified in N.J.A.C. 10:126-3.4(a)2;

v. A copy of the sponsoring organization's insurance policy/policies, as specified in the Department of Human Services' Contract Policy and Information Manual;

vi. Financial records, as specified in the Department of Human Services' Contract Policy and Information Manual;

vii. Documentation of provider training sessions, as specified in N.J.A.C. 10:126-4.2(f);

viii. Files documenting denials, suspensions, revocations and nonrenewals of Certificates of Registration, as specified in N.J.A.C. 10:126-4.6(d);

ix. Documentation of findings by the appeals committee, as specified in N.J.A.C. 10:126-2.2(d)3;

x. Documentation of registration fees collected from providers, as specified in N.J.A.C. 10:126-4.5(b); and

xi. A copy of contracts between the sponsoring organization and any subcontracted agency to perform services related to family day care registration, as specified in N.J.A.C. 10:126-2.2(f)3.

2. Records on providers:

i. The provider's completed application form, as specified in N.J.A.C. 10:126-5.2(a);

ii. A copy of the provider's Certificate of Registration, as specified in 10:126-5.3 and 5.4;

iii. Health records, as specified in N.J.A.C. 10:126-5.2(b)1 and 2;

iv. References submitted by the provider applicant prior to the issuance of a Certificate of Registration, as specified in N.J.A.C. 10:126-5.2(b)3;

v. Disclosure(s) of criminal conviction(s) if any, as specified in N.J.A.C. 10:126-5.2(a)10;

vi. A written report of each visit to the home of the applicant/provider, as specified in N.J.A.C. 10:126-4.1(c)5 and 4.7(d);

vii. A record of pre-service and in-service training sessions completed by the applicant/provider, as specified in N.J.A.C. 10:126-4.2(f);

viii. A record of any complaints of alleged violations of the Manual of Requirements against the provider, as specified in N.J.A.C. 10:126-4.6(d);

ix. Files on providers who have discontinued family day care services; and

x. Additional information as may be received regarding the provider's compliance with the requirements of the Manual of Requirements.

3. Statistical records, including, but not limited to:

i. The number of providers registered;

ii. The number and ages of the children served; and

iii. The number of inquiries made to the sponsoring organization by parents seeking family day care.

(b) The administrative records specified in (a)1 and 2 above shall be maintained by the sponsoring organization for two calendar years.

10:126-2.5 Complaints against a sponsoring organization

(a) Whenever the Division receives a complaint questioning the compliance of a sponsoring organization with the requirements of the Family Day Care Provider Registration Act or of the Manual of Requirements, the Division will investigate the allegation within 10 working days to determine whether the complaint is substantiated.

(b) The Division will notify the sponsoring organization and the appropriate regional office of the results of the complaint investigation within 15 working days after the report of the Division's investigation has been finalized. Such notification shall include the results of the investigation, in keeping with the State Public Records Law (N.J.S.A. 47:1A-1 to 4), with the exception of any information not permitted to be disclosed under the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8 et seq.) or other State law.

(c) If the complaint is substantiated or if any violations are cited as a result of the complaint investigation, the sponsoring organization shall abate the violation(s), in accordance with the time frame established by the Bureau.

(d) Any individual filing a complaint against a sponsoring organization may do so anonymously. If the complaint reveals his or her identity, the name of the complainant shall be included in the Division's records.

(e) A description of the complaint allegations and the substantiation or non-substantiation of each allegation shall be included in the Division's records and shall be available for public review upon completion of the investigation by the Division, with the exception of any information not permitted to be disclosed under the State Child Abuse and Neglect Law or other State law.

(f) The sponsoring organization shall cooperate with the Division whenever complaint investigations are conducted.

10:126-2.6 Public access to records

(a) The Division shall make the following items in its files available for public review:

1. Correspondence between the Division and the sponsoring organization or other parties in matters pertaining to the Division's review or inspection of the sponsoring organization;

2. Inspection/violation reports, where applicable, reflecting results of Division inspections/reinspections of the sponsoring organization or of providers;

3. Forms and other standard documents used to collect routine data on the sponsoring organization and its program as part of its records of compliance with the Manual of Requirements;

4. Enforcement letters from the Division requiring abatement of violations of the Manual of Requirements;

5. Completed complaint investigation reports, except for child abuse/neglect investigations or other information restricted by the requirements of the State Child Abuse and Neglect Law or other State law; and

6. Any other documents, materials, reports or correspondence that would normally be included as part of the public record.

(b) The sponsoring organization shall make the following items in its files available for public review:

1. Applications for Certificates of Registration and related materials/documentation;

2. Copies of temporary and regular Certificates of Registration;

3. Correspondence between the sponsoring organization and the provider or other parties in matters pertaining to the sponsoring organization's monitoring or registration of the provider;

4. Evaluation/monitoring reports, where applicable, reflecting the results of the sponsoring organization's evaluation/monitoring of the provider;

5. Forms and other standard documents used to collect routine data on the provider as part of the provider's record of compliance with the Manual of Requirements;

6. Enforcement letters from the sponsoring organization requiring abatement of violations of the Manual of Requirements;

7. Correspondence to the sponsoring organization from the Division regarding enforcement actions against the provider;

8. Chronological lists of events about the provider on compliance/enforcement matters;

9. Completed complaint investigation reports, except for child abuse/neglect investigations or other information restricted by the requirement of the State Child Abuse and Neglect Law or any other State law; and

10. Any other documents, materials, reports, or correspondence that would normally be included as part of the public record.

(c) The Division and the sponsoring organization shall keep confidential and not part of the public record the following:

1. Records, reports or correspondence that pertain to child abuse/neglect investigations involving enrolled children that are restricted from public access under the requirements of the State Child Abuse and Neglect Law or other State law;

2. Records, reports, correspondence or forms containing names and/or any other information pertaining to children, parents or providers that are restricted from public access under the State Child Abuse and Neglect Law;

3. Records, reports, correspondence or forms containing names of enrolled children and/or their parents;

4. Confidential information with regard to specific sponsoring organization personnel;

5. Memoranda and other internal correspondence between and among public agencies, including internal communication between the Division and the Office of the Attorney General;

6. Any items that deal with reports of inspections and/or complaint investigations that are still in progress; and

7. Other material required by State law to be maintained as confidential.

SUBCHAPTER 3. STAFF REQUIREMENTS FOR SPONSORING ORGANIZATIONS

10:126-3.1 General staff requirements

(a) The executive director or administrator and every staff member of a sponsoring organization shall:

1. Be of good character and reputation;

2. Be in sufficient physical, mental and emotional health to perform his or her duties satisfactorily; and

3. Possess skills, attributes and characteristics conducive to and suitable for directing a sponsoring organization and/or providing services to parents and providers, as specified in the Manual of Requirements.

(b) Prior to the employment or utilization of the executive director/administrator or a staff member, the sponsoring organization shall require the applicant for executive director/administrator and each staff applicant to complete and sign an application for employment, indicating the applicant's:

1. Name, address and telephone number;

2. Education and work experience; and

3. Disclosure of criminal convictions, if any.

(c) Prior to the executive director/administrator's or any staff member's employment, the sponsoring organization shall obtain two references, either in writing or verbally, from former employers or other persons who have knowledge of the applicant's work experience, education, and character.

(d) The executive director/administrator and every staff member shall notify the sponsoring organization by the end of the sponsoring organization's next working day, of any criminal convictions during their employment or utilization by the sponsoring organization.

(e) Evidence of conviction for crimes of violence, anti-social behavior, child abuse/neglect or other crimes which may relate adversely to the operation of the sponsoring organization shall be among those actions that are considered in determining an individual's fitness and suitability to serve as executive director/administrator or as a staff member.

(f) Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as executive director/administrator or as a staff member and shall not automatically result in the removal or termination of the executive director/administrator or a staff member from his or her position or job. Such determination shall be made on a case by case basis, in keeping

with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

(g) The sponsoring organization shall maintain on file for the executive director/administrator and for each staff member:

1. A completed employment application;
2. Written documentation of references; and
3. Disclosure(s) of criminal convictions, if any.

10:126-3.2 Types and responsibilities of staff

(a) Each sponsoring organization shall have an executive director or administrator who is responsible for the overall management and administration of the sponsoring organization's family day care registration program.

(b) The sponsoring organization shall have sufficient staff to carry out the family day care registration program.

(c) The executive director/administrator may also serve as a staff member.

(d) The executive director/administrator shall ensure:

1. That the sponsoring organization operates in full compliance with all applicable requirements of the Manual of Requirements;
2. That each provider operates in full compliance with all applicable requirements of the Manual of Requirements;
3. The supervision of all staff members assigned to the sponsoring organization's family day care registration program;
4. The development and implementation of policies and procedures for the day-to-day operation of the sponsoring organization's family day care registration program;
5. The orientation of staff members to the policies and procedures of the sponsoring organization;
6. The development and maintenance of administrative, fiscal and program records;
7. The training of staff members, as specified in N.J.A.C. 10:126-3.4, and providers, as specified in N.J.A.C. 10:126-4.2; and
8. The development and implementation of a program of outreach and public relations, as specified in N.J.A.C. 10:126-4.11, and technical assistance, as specified in N.J.A.C. 10:126-4.8.

10:126-3.3 Staff qualifications

(a) The executive director/administrator designated in N.J.A.C. 10:126-3.2(a) shall possess the following:

1. A bachelor's degree; or
2. Three years of managerial and/or supervisory experience in the field of human services, child care services, child development, education, nursing, social work, or business.

(b) Staff members responsible for provider evaluation, monitoring, support, technical assistance and training shall possess the following:

1. An associate's degree in human services, child care services, child development, education, nursing or social work and one year of experience working with children; or
2. A high school diploma or General Education Development (GED) diploma and three years of experience in the field of human services, child care services, child development, education, nursing, or social work.

10:126-3.4 Staff training

(a) The executive director/administrator shall:

1. Provide staff members with access to a copy of the Manual of Requirements for Family Day Care Registration; and
2. Ensure that staff, as appropriate, are trained in:
 - i. Recognizing and reporting child abuse/neglect, as specified in N.J.A.C. 10:126-2.3(a);
 - ii. Evaluating provider applicants, as specified in N.J.A.C. 10:126-4.1;
 - iii. Conducting pre-service and in-service training sessions for providers, as specified in N.J.A.C. 10:126-4.2;
 - iv. Monitoring providers, as specified in N.J.A.C. 10:126-4.7;
 - v. Providing technical assistance to providers, as specified in N.J.A.C. 10:126-4.8;

- vi. Procedures for identification and referral of special needs children, as specified in N.J.A.C. 10:126-4.9(b);
- vii. Implementing outreach and public relations for family day care, as specified in N.J.A.C. 10:126-4.11; and
- viii. The requirements of the Manual of Requirements for Family Day Care Registration.

SUBCHAPTER 4. SERVICE REQUIREMENTS FOR SPONSORING ORGANIZATIONS

10:126-4.1 Evaluation of family day care provider applicants

(a) The sponsoring organization shall provide to each applicant for a Certificate of Registration:

1. A copy of subchapters 1, 5 and 6 of the Manual of Requirements for Family Day Care Registration or the entire Manual of Requirements, if requested;
2. An application form;
3. The names and addresses of all family day care networks known to the sponsoring organization and serving the applicant's geographic area; and
4. The name, address, and telephone number of the local resource and referral agency of the New Jersey Child Care Resource and Referral System serving the applicant's area, if other than the sponsoring organization.

(b) The sponsoring organization shall evaluate each applicant prior to the issuance of a Certificate of Registration.

(c) The sponsoring organization's evaluation of each applicant shall include a review of:

1. The application form;
2. Disclosures by the provider, the provider assistant, if any, the substitute provider and all members of the provider's household of any criminal conviction(s), as specified in N.J.A.C. 10:126-5.2(a)10;
3. References submitted by the applicant, as specified in N.J.A.C. 10:126-5.2(b)3;
4. Health records submitted by the applicant, as specified in N.J.A.C. 10:126-5.2(b)1 and 2;
5. A written report of the evaluation visit to the applicant's family day care home, as specified in (d) below; and
6. Evidence showing that the applicant has completed pre-service training, as specified in N.J.A.C. 10:126-4.2.

(d) The sponsoring organization shall visit each applicant's home to evaluate the applicant's compliance with all applicable requirements of the Manual of Requirements.

10:126-4.2 Training of family day care providers

(a) The sponsoring organization shall provide a minimum of six hours of pre-service training for each applicant prior to the issuance of a Certificate of Registration.

(b) The sponsoring organization shall ensure that the pre-service training includes information regarding, but is not limited to, the following subjects:

1. Child development;
2. Discipline;
3. Safety, first aid and emergency evacuation procedures;
4. Health and sanitation;
5. Nutrition;
6. Program activities; and
7. Parent-provider communication.

(c) The pre-service training session(s) for provider applicants shall include group or individual instruction provided by persons with expertise in areas listed in (b) above, and may be supplemented by:

1. Printed materials;
2. Television broadcasts; or
3. Audio-visual materials.

(d) The sponsoring organization shall also provide in-service training for providers on a semi-annual basis by means of group or individual instruction and written material. In-service training shall include continued reinforcement of the subjects listed in (b) above. Each in-service training session shall be at least two hours in length.

(e) The sponsoring organization shall arrange each pre-service and in-service training session in an appropriate location that is accessible to the providers.

(f) The sponsoring organization shall maintain on file documentation of all pre-service and in-service training, including for each training session:

1. A description;
2. A schedule; and
3. Attendance lists.

(g) The sponsoring organization shall provide to each provider:

1. Prior to the issuance of a Certificate of Registration, a copy of appropriate informational materials supplied by the Bureau; and
2. From time to time, any other available materials that may assist the provider in operating a family day care home.

10:126-4.3 Issuance of a Certificate of Registration

If the sponsoring organization determines that the provider applicant is in full compliance with all applicable requirements of the Manual of Requirements, the sponsoring organization shall issue a regular Certificate of Registration.

10:126-4.4 Issuance of a temporary Certificate of Registration

(a) If the sponsoring organization determines that a provider is in substantial compliance with the applicable requirements of the Manual of Requirements, and provided that there are no serious or imminent hazards affecting the children, the sponsoring organization shall issue a temporary Certificate of Registration.

(b) When a temporary Certificate of Registration is issued, the sponsoring organization shall explain in writing what the provider must do to secure a regular Certificate of Registration.

(c) In determining the expiration date of the first regular Certificate of Registration, the sponsoring organization shall compute the three-year registration period from the date of the issuance of:

1. The first temporary Certificate of Registration, if any; or
2. The regular Certificate of Registration, if no temporary Certificate of Registration has been issued.

10:126-4.5 Collection of registration fees

(a) The sponsoring organization shall collect a registration fee of \$25.00 from the provider upon the issuance of an initial temporary, or initial or renewal regular Certificate of Registration.

(b) The sponsoring organization shall retain the funds generated by registration fees and shall maintain a record of the registration fees collected from the providers, in accordance with Division contract requirements.

(c) The sponsoring organization shall ensure and document that the registration fees collected are directed to the maintenance or improvement of the sponsoring organization's family day care registration program.

10:126-4.6 Complaints and violations

(a) When the sponsoring organization receives a complaint of alleged violation(s) of the Manual of Requirements by a provider, other than child abuse/neglect, the sponsoring organization shall investigate the complaint and shall require the provider to abate any violations found. The sponsoring organization's investigation shall include a visit to the home whenever such a visit is necessary to substantiate the complaint.

(b) If, during the course of investigating an allegation of child abuse/neglect, the Division determines that in order to protect the children it is necessary for the Division to remove children from a provider's home, the sponsoring organization shall suspend the Certificate of Registration, if the Division recommends such action.

(c) When the sponsoring organization proposes to deny, suspend, revoke or refuse to renew a Certificate of Registration, the sponsoring organization shall follow the procedures specified in N.J.A.C. 10:126-5.7.

(d) The sponsoring organization shall maintain on file documentation of complaints against providers and of denials, suspensions, revocations, and nonrenewals of Certificates of Registration.

10:126-4.7 Monitoring of family day care providers

(a) The sponsoring organization shall monitor each provider at least once every two years to evaluate the provider's compliance with the applicable requirements of the Manual of Requirements.

(b) The sponsoring organization shall annually monitor no less than 20 percent of the providers on a random basis.

(c) The sponsoring organization shall monitor each provider prior to renewing the provider's Certificate of Registration.

(d) The sponsoring organization shall maintain on file a written report of each monitoring visit to the provider's home.

10:126-4.8 Technical assistance

(a) The sponsoring organization shall provide technical assistance to providers and parents of enrolled children, which shall address, but not be limited to, the following areas:

1. Improving the provider's care of and service to children in the home;
2. Improving and strengthening communications between providers and parents;
3. Educating parents and providers in child care and child development; and
4. Answering providers' and parents' questions regarding family day care.

(b) The sponsoring organization shall maintain a listing of support services available in the community and shall refer providers and parents of enrolled children upon request.

(c) The sponsoring organization shall make the following information available to providers:

1. A list of reportable communicable diseases;
2. A list of physical symptoms or conditions that indicate a child may have a communicable disease;
3. Guidelines for administration of medication, if applicable;
4. Guidelines for the care of sick children, if applicable; and
5. A list of services to which a provider is entitled, including:
 - i. Participating in at least two provider in-service training sessions per year offered by the sponsoring organization; and
 - ii. Receiving technical assistance from the sponsoring organization.

10:126-4.9 Information to parents

(a) The sponsoring organization shall supply to providers sufficient copies of a written Information to Parents Statement for the parents of all enrolled children. The Information to Parents Statement shall indicate that:

1. The provider has received a Certificate of Registration;
2. The provider is required to display the Certificate of Registration in a prominent location within the family day care home during its operating hours;
3. The provider is required to comply with all applicable requirements of the Manual of Requirements;
4. Parents may receive a copy of the Manual of Requirements by contacting the sponsoring organization;
5. Parents may report alleged violations of the Manual of Requirements to the sponsoring organization or to the Bureau;
6. Any person who has reasonable cause to believe that a child enrolled in the family day care home has been or is being subjected to any kind of child abuse/neglect by any person, whether in the family day care home or not, is required by State law to report such allegations to the Division's Office of Child Abuse Control (toll-free hotline at 1-(800)-792-8610). Such reports may be made anonymously;

7. Parents of enrolled children shall be permitted to visit the family day care home at any time when enrolled children are present without having to secure the prior approval of the provider. Parents may be restricted to visit only those areas of the home designated for family day care;

8. The operation of the family day care home is subject to monitoring by the sponsoring organization at least once every two years and by the Division; and

9. Parents may request that the sponsoring organization provide technical assistance to the parent or the provider, and referrals to appropriate community resources.

(b) When an enrolled child has been identified as having a handicapping condition, or a suspected handicapping condition, the sponsoring organization shall:

1. Inform the parent of the child's right to a special education program and related services;

2. Refer the parent to the New Jersey Department of Education Project Child Find at 1-(800)-322-8174 (toll-free) for a possible comprehensive evaluation and individual service plan development for the child; and

3. Refer the parent to the New Jersey Department of Health Special Child Health Services Program at (609) 292-5676 for a possible comprehensive medical evaluation for the child.

10:126-4.10 Referral procedures

(a) The sponsoring organization shall provide to the New Jersey Child Care Resource and Referral System the names, addresses, and telephone numbers of all providers who have agreed to receive referrals through that system.

(b) The sponsoring organization shall refer requests from parents seeking family day care or other child care services to the New Jersey Child Care Resource and Referral System serving the area(s) for which the parent is seeking child care information.

(c) The sponsoring organization may also refer parents seeking family day care services to any registered provider.

10:126-4.11 Outreach and public relations

The sponsoring organization shall provide information on family day care registration to agencies, organizations and the general public.

SUBCHAPTER 5. PROVIDER REGISTRATION AND OPERATION PROCEDURES

10:126-5.1 Provider eligibility

(a) A family day care provider, in order to be eligible for a Certificate of Registration, shall:

1. Be at least 18 years of age;
2. Be of good character and reputation, with sufficient knowledge, intelligence, stability, energy and maturity to maintain a family day care home and to care for children;
3. Be in sufficient physical, mental and emotional health to care properly for children to be placed in the home; and
4. Demonstrate to the satisfaction of the sponsoring organization and the Bureau, that he or she complies with all applicable requirements of the Manual of Requirements.

10:126-5.2 Application for registration

(a) A family day care provider applicant for a Certificate of Registration shall submit to the sponsoring organization a completed application form, which shall include, but not be limited to:

1. The provider applicant's name, address and telephone number;
2. A statement certifying:
 - i. The provider applicant is at least 18 years of age;
 - ii. The provider assistant, if any, is at least 14 years of age; and
 - iii. The substitute provider is at least 18 years of age;
3. A list of all adults residing in the provider applicant's household;
4. The number and ages of all children under 18 years of age residing in the provider applicant's household;
5. The number and ages of children presently in the provider applicant's care, if any;
6. The hours in which the provider applicant plans to provide child care;
7. The name, address and telephone number of the provider assistant, if any, and the substitute provider;
8. A statement from the provider indicating that all pets are domesticated, free from disease, non-aggressive, and meet all applicable State and local codes or ordinances pertaining to the keeping of pets;
9. An indication as to whether the provider wishes to be listed with the New Jersey Child Care Resource and Referral System to receive referrals; and
10. A disclosure of criminal convictions, if any, by the provider, the provider assistant, if any, the substitute provider, and all members of the provider's household who are at least 14 years old.

i. Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as a provider, provider assistant, or substitute provider, and shall not automatically result in denying, revoking, suspending or refusing to renew the Certificate of Registration. Such determination shall be made on a case by case basis, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.) which provides that a person convicted of a crime may not be disqualified or discriminated against by a licensing authority unless conviction relates adversely to the occupation, trade, vocation, profession or business for which a license is sought.

ii. The provider shall notify the sponsoring organization by the end of the sponsoring organization's next business day of any criminal conviction(s) by the provider, the provider assistant, if any, the substitute provider, and all members of the provider's household during the three-year registration period.

(b) The applicant shall return the completed application form along with:

1. A physician's statement(s) for the applicant and provider assistant, if any, verifying the applicant and provider assistant are in good health, free from communicable disease and able to care for children. Such statement(s) shall be based on a medical examination conducted within the six months immediately preceding the submission of the application;

2. Written proof of the results of one of the following for the applicant, the provider assistant, if any, and all other persons who care for children in the family day care home at least 15 hours per week:

- i. A Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin; or
- ii. A chest x-ray if the individual has had a previous positive Mantoux tuberculin test; and
3. Two letters of reference, including at least one from a person who can attest to the applicant's character, reputation and suitability to work with children.

(c) The provider applicant shall:

1. Permit and participate in an evaluation of the applicant's home by the sponsoring organization; and
2. Attend a minimum of six hours of pre-service training provided by the sponsoring organization.

(d) The sponsoring organization shall process all applications for a Certificate of Registration without regard to the applicant's race, national origin, religion, sex, age, or geographic location.

10:126-5.3 Issuance of a Certificate of Registration

(a) If the sponsoring organization determines that the provider is in full compliance with the requirements of the Manual of Requirements, the sponsoring organization shall issue a regular Certificate of Registration.

(b) Each registration period shall be three years, and may include the issuance of a regular Certificate of Registration, or one or more temporary Certificates of Registration and a regular Certificate of Registration.

(c) The Certificate of Registration shall be posted in a prominent location within the family day care home during the hours enrolled children are in the home.

(d) The Certificate of Registration shall be issued to a specific provider at a specific location and shall not be transferable.

(e) If it is necessary to change any identifying information noted on the Certificate of Registration, the provider shall advise the sponsoring organization no later than 30 calendar days after the change.

(f) If the provider changes residence:

1. The provider shall permit and participate in an evaluation of the new residence; and
2. A new Certificate of Registration shall be issued by the sponsoring organization if the new residence meets all applicable requirements of the Manual of Requirements.

(g) The provider shall permit and participate in all monitoring visits by the sponsoring organization and by the Bureau. Monitoring visits shall be conducted at least once every two years.

(h) The provider shall not claim in advertising or in any written or verbal announcement to be registered with the Division or the State of New Jersey unless a Certificate of Registration is currently in effect.

10:126-5.4 Issuance of a temporary Certificate of Registration

(a) If the sponsoring organization determines that the provider is in substantial compliance with the requirements of the Manual of Requirements, and provided that there are no serious or imminent hazards to the health, safety, and well-being of the children, the sponsoring organization shall issue a temporary Certificate of Registration.

(b) A provider shall not operate pursuant to a temporary Certificate of Registration for more than six months.

10:126-5.5 Registration fees

(a) At the time the regular Certificate of Registration is issued, the provider shall pay a non-refundable registration fee of \$25.00 in the form of a check or money order made payable to the sponsoring organization.

(b) If the provider is issued a temporary Certificate of Registration, the registration fee shall be payable at that time, with no additional registration fee required upon the issuance of a regular Certificate of Registration.

(c) An additional registration fee shall not be required if a change in information on a current Certificate of Registration occurs before the expiration date of the current Certificate of Registration.

10:126-5.6 Renewal of a Certificate of Registration

(a) The regular Certificate of Registration shall be subject to renewal upon the expiration of the three-year registration period.

(b) The sponsoring organization shall send a renewal application packet to the provider no later than 90 days prior to the expiration of the current Certificate of Registration.

(c) No later than 45 days prior to the expiration of the current Certificate of Registration, the provider shall submit to the sponsoring organization a completed application form, as specified in N.J.A.C. 10:126-5.2(a).

(d) The provider shall permit and participate in a monitoring visit prior to renewal of the Certificate of Registration.

(e) Prior to the renewal of a Certificate of Registration, the provider shall:

1. Provide documentation of attendance at a minimum of three two-hour in-service training sessions, provided or approved by the sponsoring organization, during the last three-year registration period; or
2. Repeat the six hours of pre-service training provided by the sponsoring organization.

10:126-5.7 Denials, suspensions, revocations, nonrenewals, and provider appeal procedures

(a) A provider's Certificate of Registration may be denied, suspended, revoked or refused for good cause, including, but not limited to:

1. Failure to comply with the provisions of the Family Day Care Provider Registration Act and/or the requirements of the Manual of Requirements;
2. Use of fraud or misrepresentation in obtaining a Certificate of Registration or in the subsequent operation of the family day care home;
3. Any conduct and/or activity which adversely affects or presents a serious hazard to the health, safety, and general well-being of an enrolled child, or which otherwise demonstrates unfitness by a provider to operate a family day care home;
4. Refusal to furnish the sponsoring organization with records; or
5. Refusal to permit a parent of an enrolled child or an authorized representative of the sponsoring organization or Division to gain admission to the family day care home during normal operating hours.

(b) When a provider is found to be in violation of any of the provisions of (a) above, the sponsoring organization shall notify the provider of the violation(s) in writing and shall afford the provider an opportunity to abate the violation(s). If the provider fails to abate

the violation(s), or commits a subsequent violation, the sponsoring organization may propose to deny, suspend, revoke or refuse to renew the Certificate of Registration.

(c) When the sponsoring organization proposes to deny, suspend, revoke or refuse to renew a Certificate of Registration, the sponsoring organization shall give written notice to the provider, specifying the reason for such action to the provider either by hand-delivery or by certified mail with return receipt requested. The notice shall afford the provider an opportunity for a review before the sponsoring organization's appeals committee. The notice shall advise the provider or provider applicant of the provisions specified in (d) to (g) below.

(d) The sponsoring organization's appeals committee shall review within 15 days each appeal presented to it and shall afford the provider an opportunity to be heard. The appeals committee shall issue a written report of its findings to the provider within five working days after completing its review.

(e) If the provider is not satisfied with the sponsoring organization's appeals committee's findings, the provider may appeal to the Bureau, which will refer the matter to the Division's Administrative Hearings Unit for transmittal to the Office of Administrative Law (OAL) for an administrative hearing pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1).

(f) If the provider does not want the matter reviewed by the sponsoring organization's appeals committee, the provider may appeal directly to the Bureau, which will refer the matter to the Division's Administrative Hearings Unit for transmittal to the Office of Administrative Law (OAL) for an administrative hearing.

(g) If the provider is not satisfied with the decision of the Division, the provider may appeal the final decision or action of the Division within 45 days from the date of service of the decision or notice of the action taken, to the Appellate Division of the Superior Court of New Jersey.

(h) If the provider's Certificate of Registration is suspended, revoked or not renewed, the sponsoring organization shall ensure that the provider notifies the parent of each enrolled child in writing within 10 days of the action.

10:126-5.8 Court action

The Bureau may institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of a family day care home for good cause, including, but not limited to, any imminent danger(s) or hazard(s) that threaten the health and safety of the children in the home.

10:126-5.9 Provider reporting requirements

(a) The provider shall verbally notify the Division of Youth and Family Services, Office of Child Abuse Control (toll-free 1-(800)-792-8610) immediately whenever there is reasonable cause to believe that a child has been or is being subjected to any kind of child abuse/neglect by any person, pursuant to the Child Abuse and Neglect Law (N.J.S.A. 9:68-9, 8.10, 8.13 and 8.14).

(b) The provider shall report the following incidents to the sponsoring organization as soon as possible but by no later than the beginning of the sponsoring organization's next working day:

1. Any injury that results in the admittance of a child to a hospital while in the provider's care;
2. The death of a child while in the provider's care;
3. Any damage to the provider's home that affects the provider's compliance with the requirements of the Manual of Requirements;
4. Any criminal conviction(s) of the provider, the provider assistant, if any, the substitute provider or any member of the provider's household, as specified in N.J.A.C. 10:126-5.2(a)10;
5. Any occurrence of a reportable disease, as specified in the list of reportable diseases provided by the sponsoring organization; or
6. The termination of all family day care services by the provider.

10:126-5.10 Provider record requirements

(a) The provider's records shall be open for inspection by authorized representatives of the sponsoring organization and of the Division.

(b) The provider shall maintain on file a signed statement from each parent, affirming receipt of the Information to Parents statement, as specified in N.J.A.C. 10:126-6.12(a).

(c) The provider shall maintain an individual record for each child in care. This record shall include:

- 1. The child's full name, address and birth date;
2. Name, address, and telephone number of each parent;
3. Name, address and telephone number of each parent's place of employment;
4. Name, address and telephone number of one or more persons designated by the parent(s) to be called in case of emergency when a parent cannot be reached;
5. Name, address and telephone number of the child's physician;
6. The child's allergies to medication or drugs, if applicable;
7. The name of the parent's hospitalization plan and number or medical assistance plan, if applicable;
8. The parent's signed authorization for the child's emergency medical treatment;
9. The child's date of enrollment in and date of withdrawal, when applicable, from the family day care home;
10. Results of the health examination for each child, as specified in N.J.A.C. 10:126-6.7(a);
11. An immunization record for each child, as specified in N.J.A.C. 10:126-6.7(a)2iii;
12. Authorization for a school age child to leave the provider's premises, if applicable, as specified in N.J.A.C. 10:126-6.10(e)2;
13. Authorization for the provider to transport an enrolled child, if applicable, as specified in N.J.A.C. 10:126-6.6(b); and

14. A record of any accidents and injuries sustained by a child, as specified in N.J.A.C. 10:126-6.8(d).

(d) The emergency contact information listed in (c) 1 through 8 above shall be made available to a physician, hospital or emergency care unit in the event of a child's accident, illness or injury.

(e) Whenever the provider leaves the home with the child(ren), the provider shall have the emergency contact information in his or her possession.

SUBCHAPTER 6. SAFETY, HEALTH AND PROGRAM REQUIREMENTS FOR PROVIDERS

10:126-6.1 Requirements for maximum number of children

(a) A provider shall be permitted to enroll, for a fee, no more than five children at any one time.

(b) A provider may serve additional children as part of a cooperative agreement between parents or guardians for no fee, provided that no more than eight children in total are present in the home at any one time.

(c) A provider caring for children residing in the provider's home who are under six years of age may care for up to five children for a fee, provided that no more than eight children in total are present in the home at any one time.

(d) Children residing in the provider's home who are six years of age or older shall not be counted in the total number of children being cared for in the home.

(e) The provider shall care for no more than the following maximum numbers of children without a provider assistant:

Maximum Numbers of Children Permitted in the Home Without a Provider Assistant (No more than five children may attend for a fee)

Table with 4 columns: Categories, Infants, Toddlers, Preschoolers, School Agers. Rows show combinations of child counts for each category.

Table with 3 columns: Categories, Infants, Toddlers, Preschoolers and School Agers Combined. Rows show combinations of child counts for each category.

1. Infants refers to children under 15 months of age, including children residing in the provider's home.

2. Toddlers refers to children aged 15 months to two years, including children residing in the provider's home.

3. Preschoolers refers to children aged two to six years, including children residing in the provider's home.

4. School Agers refers to children aged six to 14 years, excluding children residing in the provider's home.

(f) A provider assistant shall be present whenever the provider is caring for more children than the maximum numbers specified in each of the Infants, Toddlers, Preschoolers and School Agers categories in (e) above.

(g) Although a provider assistant may be present, the provider shall care for no more than the maximum numbers of children specified in (a) to (c) above.

10:126-6.2 Physical environment

(a) The provider shall ensure that:

- 1. Adequate floor space is available for the children's activities;

2. The temperature of rooms used by children is maintained at a minimum of 65 degrees Fahrenheit;

3. Floors, walls, ceilings, furniture, equipment and other surfaces are kept clean and in good repair;

4. Adequate ventilation is provided by means of open windows, fans, air conditioning or other mechanical ventilation systems;

5. Warm and cold running water are available;

6. Working indoor toilets are easily accessible to children;

7. Play equipment, materials and furniture for indoor and outdoor use are of sturdy and safe construction, non-toxic, easy to clean and free of hazards that may be injurious to young children;

8. The home contains sufficient furniture and equipment to accommodate the needs of the children in care; and

9. A working telephone is available in the home;

10. If no working telephone is available in the home:

- i. The provider shall demonstrate to the sponsoring organization that he or she is unable to afford the cost of installing and maintaining the telephone in the home;

ii. If the provider fails to demonstrate to the sponsoring organization that he or she is unable to afford the cost of installing and maintaining a telephone in the home, the provider shall install a working telephone in the home within 90 days;

iii. The provider shall care for no more than three children under two years of age or four children at least two years of age;

iv. A working telephone shall be accessible to the provider within five minutes from the home at all times when enrolled children are present; and

v. If the provider must leave the home to use the telephone, the children shall either accompany the provider or be supervised by the substitute provider, the provider assistant, or a person at least 14 years old.

10:126-6.3 Fire safety requirements

(a) The provider shall have a written plan for the emergency evacuation of the children from the home.

(b) The provider shall ensure that:

1. At least one working smoke detector is installed on each floor of the home;

2. All interior doors that can be locked from the inside have a means to be unlocked from the outside in case of emergency;

3. All heating or cooling devices are adequately vented, protected by guards and kept clear of combustible materials;

4. Woodburning stoves have protective barriers and are not accessible to children;

5. Portable liquid fuel-burning heating appliances are not in use when children are in care;

6. Stairways, hallways and exits from rooms and from the home are unobstructed, except for safety barriers; and

7. Electrical cords are maintained in good condition.

10:126-6.4 General safety requirements

(a) The provider shall ensure that:

1. The home and its furnishings present no hazard to the health and safety of the children in care;

2. All corrosive agents, insecticides, bleaches, detergents, polishes, medicines, poisonous plants, and all toxic substances are stored out of the reach of children;

3. Non-permanent safety barriers are installed to prevent children from falling from stairs, ramps, balconies, porches or elevated play areas;

4. All electrical outlets that are accessible to the children have protective covers; and

5. A working flashlight is available for emergency lighting.

10:126-6.5 Outdoor space

(a) The provider shall ensure that:

1. An adequate, safe outdoor play area is available either adjacent to or within walking distance of the home; and

2. The provider, substitute provider, provider assistant, or a person at least 14 years old is supervising any children who use swimming pools and wading pools.

10:126-6.6 Transportation requirements

(a) Whenever the provider transports enrolled children, the provider shall comply with all applicable State laws and/or regulations regarding:

1. The use of infant seats, child passenger restraint systems, and seat belts pursuant to New Jersey Division of Motor Vehicles Law (N.J.S.A. 39:3-76.2a); and

2. The possession of a valid automobile driver's license and valid vehicle inspection sticker.

(b) The provider shall obtain the parent's written consent before transporting a child.

10:126-6.7 Health examination requirements for children

(a) Each child shall have had a health examination performed by a licensed physician within:

1. Six months prior to or within one month following admission to the home for children who are 2 1/2 years of age or younger; or

2. One year prior to or within one month following admission to the home for children who are above 2 1/2 years of age.

(b) A record of the health examination shall be provided by the child's parent to the provider upon or within one month following admission to the home. The record shall include:

1. The name and address of the examining physician;

2. A statement by the examining physician indicating, when applicable:

i. Information on any condition or handicap affecting the child; and

ii. Any recommendations for needed medical treatment or special requirements as to diet, rest, allergies, avoidance of certain activities and other care; and

3. An up-to-date immunization record appropriate to the child's age or documentation that the child is under a prescribed medical program to obtain immunizations and a timetable for doing so.

(c) If immunizations are not given to a child for medical reasons, the provider shall require the parent to submit a written statement from a licensed physician attesting to:

1. The reason the immunization is medically contraindicated; and

2. The specific time period that the immunization is medically contraindicated.

(d) Any child whose parent objects to a physical examination, immunization and/or medical treatment for his or her child on grounds that it conflicts with the tenets and practice of a recognized religion of which the parent(s) or child is an adherent or member shall be exempt from complying with such requirements, provided that the parent(s) submits to the provider a signed written statement that the physical examination, immunization and/or medical treatment interferes with the free exercise of the child's religious rights.

(e) The immunization exemption may be suspended during the existence of a health emergency, as determined by the Commissioner of the State Department of Health.

10:126-6.8 Sick children

(a) The provider shall inform the sponsoring organization and the parents of enrolled children regarding the circumstances under which:

1. Sick children will be admitted to or excluded from the home; and

2. Medication will or will not be administered to children.

(b) The provider shall follow policies and procedures recommended by the sponsoring organization if the provider chooses to:

1. Care for sick children in the home; and/or

2. Administer medication to children.

10:126-6.9 Accident and injury to a child while in the provider's care

(a) When an accident or injury occurs to a child while in the provider's care, the provider shall take the necessary action to protect the child from further harm and arrange for any necessary emergency medical attention. The provider shall notify the child's parent(s):

1. Immediately in the event of a serious injury; or

2. By the end of the operating day, if the injury is not serious.

(b) Basic first aid supplies shall be in the home, and shall be stored out of children's reach but readily accessible to the provider.

(c) Telephone numbers of the nearest police department, fire department, ambulance service or rescue squad, and poison control center, the provider's address, and the telephone number through which the provider can be reached shall be posted in a readily accessible area of the home.

(d) The provider shall maintain on file a record of accidents and injuries sustained by a child while under the provider's care which require professional medical attention. The record shall include:

1. The name of the child involved in the accident or injury;

2. The date, time and location of the accident or injury;

3. A written description of the:

i. Accident;

ii. Injury to the child;

iii. Follow-up action taken by the provider, including application of first aid and consultation or treatment by a medical professional, if applicable; and

iv. Names of witnesses to the accident or injury.

(e) The provider shall provide to the child's parent a copy of the record specified in (d) above by the end of the next working day after the accident or injury.

10:126-6.10 Handwashing

(a) The provider shall ensure that children wash their hands with soap and running water as follows:

1. Before eating;
2. Immediately after using the toilet;
3. Immediately after coming into contact with blood, saliva and other body secretions and/or fluids; and
4. After caring for animals or their equipment or after coming in contact with an animal's body secretions.

(b) The provider shall ensure that an infant's hands are washed with soap and water immediately after a diaper change.

(c) The provider and all other adults caring for children in the home shall wash their hands with soap and running water immediately:

1. Before preparing or serving food;
2. After diapering a child;
3. After toileting;
4. After assisting a child in toileting;
5. After contact with blood, diarrhea, vomit or other body secretions and/or fluids; and
6. After caring for animals or their equipment or after coming in contact with an animal's body secretions.

(d) The provider shall ensure that each child is supplied with:

1. A clean towel and washcloth for his or her exclusive use; or
2. Disposable towels and washcloths.

(e) The provider shall ensure that:

1. A change of clothing is provided for each child;
2. A child's clothing is changed when wet or soiled; and
3. Each child's personal hygiene items, such as toothbrushes, hairbrushes, and combs, are stored separately from those of others.

10:126-6.11 Activities for children

(a) Activities for the children shall be structured to include:

1. Active and quiet play;
2. Indoor and outdoor play;
3. Rest or sleep; and Meals and snacks.

(b) The provider shall supply safe toys, play equipment and creative materials to ensure each child the opportunity to participate in a variety of activities appropriate for the ages, interests and number of children present.

Programs for pre-school age children shall offer materials from the following categories:

1. Dramatic play and language development (for example, dress-up clothes, puppets, books, play telephones and unbreakable dishes);
2. Visual and small muscle development (for example, mobiles, unbreakable mirrors, blocks, rattles, puzzles, sorting and stacking toys);
3. Auditory development (for example, records, musical instruments and tapes);
4. Creative expression (for example, clay, non-toxic paint, paper and blunt scissors); and
5. Large muscle development (for example, swings, balls, bicycles, large boxes and wagons).

(c) The provider shall ensure that the majority of every child's waking hours are spent out of cribs and playpens in a safe, clean place where he or she may move and explore freely.

(d) The provider shall plan the day to allow for time to offer each child individual attention, affection and comfort.

(e) Television shall be used with discretion and shall not be used as a substitute for planned activities.

10:126-6.12 Rest and sleep

(a) The provider shall plan a daily rest or sleep period for each child in a clean, safe area, according to the child's individual needs.

(b) Children under 18 months old and any child unable to walk unassisted shall sleep in a crib, playpen, cot, or bed with siderails, or on a mat at least one inch thick placed on the floor.

(c) Crib and playpen slats shall be no more than 2 3/8 inches apart.

(d) Each child shall have sheets, blankets and other coverings for his or her exclusive use, which shall be:

1. Immediately replaced when wet, soiled or damaged; and
2. Laundered at least once a week.

(e) During rest and sleep periods, only one child shall occupy a crib, playpen, bed, cot or mat at one time.

(f) Beds not used solely for a specific child shall have linens and blankets replaced with clean linens and blankets before each use.

10:126-6.13 Food and nutrition requirements

(a) The provider shall ensure that all enrolled children receive nutritious meals that have been prepared by:

1. The provider;
2. The parent(s) of an enrolled child; or
3. Another source.

(b) The provider shall ensure the provision of:

1. Breakfast for all children who:
 - i. Have not eaten breakfast; and
 - ii. Are present during the hours of 7:00 A.M. to 10:00 A.M.;
2. Lunch for all children who:
 - i. Have not eaten lunch;
 - ii. Are present during the hours of 10:00 A.M. to 1:00 P.M.; and
 - iii. Are under the provider's care for at least five consecutive hours;
3. Dinner for all children who:
 - i. Have not eaten dinner;
 - ii. Are present during the hours of 5:00 P.M. to 7:00 P.M.; and
 - iii. Are under the provider's care for at least five consecutive hours; and
- iv. A snack for all children who are under the provider's care for at least three consecutive hours, or who have arrived from school.

(c) The provider shall consult with each child's parent(s) regarding the feeding schedule, nutritional needs and introduction of new foods for each child.

10:126-6.14 Feeding requirements for children under 1½ years of age

(a) Formula, after it has been prepared from concentrate or after the can has been opened, shall be refrigerated.

(b) Bottles shall be labeled with the individual child's name when more than one child is bottle-fed.

(c) When a child is feeding, the bottle shall not be propped at any time.

(d) Drinking water shall be made available to children at all times.

10:126-6.15 Toilet Training

The provider shall discuss and agree upon toilet training methods with the parent(s) of each child being toilet trained.

10:126-6.16 School age children

(a) The provider shall give each school age child opportunities to:

1. Participate in outdoor, active play;
2. Rest, relax and enjoy quiet socialization;
3. Complete homework assignments, if necessary; and
4. Participate in indoor play, table games, cooking and arts and crafts activities.

(b) A school age child shall be permitted to leave the provider's supervision only with written permission from the child's parent(s).

(c) The provider and the parent(s) shall discuss and agree upon:

1. The child's use of the telephone and television; and
2. Time allocated for the child's homework assignments.

10:126-6.17 Children with special needs

When a provider identifies or suspects an enrolled child as having a handicapping condition, the provider shall contact the sponsoring organization for technical assistance in meeting the child's needs.

10:126-6.18 Supervision

(a) The provider shall be responsible for directly supervising the children at all times.

(b) If the provider can not be present, the designated substitute, as specified in N.J.A.C. 10:126-5.2(a)7, shall assume the provider's responsibility for direct supervision of the children. The substitute provider shall be familiar with all applicable requirements of the Manual of Requirements.

(c) When the number of children in the home requires that a provider assistant be present, as specified in N.J.A.C. 10:126-6.1(f), the provider shall ensure that:

1. The provider assistant and the provider are involved in direct interaction with the children for a major portion of the day;
2. The provider assistant is familiar with all applicable requirements of the Manual of Requirements;
3. An assistant under 18 years of age is not left alone with the children except in an emergency; and
4. An assistant under 16 years of age:
 - i. Does not work in the home at any time when his or her school is in session;
 - ii. Does not work an excessive number of hours to the detriment of his or her health or schoolwork; and
 - iii. Obtains working papers as required by State law.
- (d) Children shall be released from the home only to:
 1. The child's parent(s); or
 2. A person designated by the parent(s) in writing or by telephone.

10:126-6.19 Guidance and discipline

(a) The method of guidance and discipline used by the provider shall:

1. Be positive;
2. Be consistent with the age and needs of the child; and
3. Help the child maintain self control.

(b) The provider shall not subject a child to:

1. Humiliating or frightening treatment;
2. Loud, profane or abusive language;
3. Derogatory remarks about the child or the child's family;
4. Spanking, hitting, kicking, biting, or inflicting physical pain in any manner;
5. Deprivation of food, sleep, or toilet access;
6. Force feeding;
7. The withholding of emotional responses or attention; or
8. Long periods of enforced silence.

(c) Napping, toilet training or eating shall not be associated with punishment.

(d) The provider and the child's parent(s) shall discuss and agree upon positive methods of discipline, in accordance with the provisions of (a), (b), and (c) above.

10:126-6.20 Communicating with parents

(a) The provider shall supply each parent of an enrolled child with an Information to Parents statement that has been supplied to the provider by the sponsoring organization.

(b) The provider shall discuss the child's daily activities and routines with child's parent(s) upon enrollment and periodically thereafter.

(c) The provider shall inform each child's parent(s) of the name of the substitute provider who will be called upon to care for the children when the provider is unavailable.

(d) The provider shall inform each child's parent(s) upon enrollment about the presence of pets in the home.

(e) The provider shall permit the parents of enrolled children to visit the home at any time when enrolled children are present. Parents may be restricted to visit only those areas of the home designated for family day care.

(f) The provider shall inform parents that they may request the sponsoring organization to provide technical assistance or referral to appropriate community resources.

LABOR

The following proposals are authorized by Charles Serrano, Commissioner, Department of Labor.

Submit comments by August 4, 1988 to:

Alfred B. Vuocolo, Jr.
Chief Legal Officer
Office of the Commissioner
Department of Labor
CN 381
Trenton, New Jersey 08625-0381

(a)

DIVISION OF ADMINISTRATION

Audits

Audit Resolution Procedures

Proposed New Rules: N.J.A.C. 12:5-1

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 31 U.S.C. §7500 et seq. and 29 CFR §96.501 et seq.

Proposal Number: PRN 1988-334.

The agency proposal follows.

Summary

On October 19, 1984, Congress enacted 31 U.S.C. §7500 et seq. which sets forth requirements for single audits. On February 26, 1988, the Federal Department of Labor promulgated 29 CFR §96.501 et seq. to implement 31 U.S.C. §7500 et seq. 29 CFR §96.501 et seq. sets forth audit resolution procedures and is part of a larger Federal Department of Labor effort to streamline and standardize audit resolution procedures. See 29 CFR Part 96, Federal Register, Vol. 53, No. 38, p. 5966, February 26, 1988 for rights of agencies to establish procedures.

Pursuant to 31 U.S.C. §7500 et seq., 29 CFR 96.501 et seq. and the New Jersey Department of Labor's (Department) general rulemaking authority, the Department is proposing audit resolution procedures that set forth specific timeframes within the full cycle for resolving audits.

N.J.A.C. 12:5-1.1 sets forth the purpose and scope of the subchapter.

N.J.A.C. 12:5-1.2 sets forth definitions.

N.J.A.C. 12:5-1.3 sets forth the audit resolution procedures. In general, the Assistant Commissioner for Finance and Controller (Controller) must issue a written final determination within 180 days of the receipt of a final audit report. To ensure that the procedure is completed within 180 days, the Department has set forth time requirements.

Subsection (a) requires the Controller to issue an initial determination within 60 days of receipt of a final audit report.

Subsection (b) sets forth that a grantee/contractor/subrecipient who disagrees with the initial determination may request an informal review. The grantee/contractor/subrecipient must submit a written request for the review within 30 days of the receipt of the initial decision. If there are any data and arguments that support the grantee/contractor/subrecipient's position in the matter, the grantee/contractor/subrecipient must submit them to the Controller within 30 days of the written request for an informal review.

Also under subsection (b), if a grantee/contractor/subrecipient does not request an informal review or submit additional data for documentation within the given timeframes, the Controller's initial decision becomes final.

Subsection (c) sets forth the timeframe for the Controller's final determination and the contents of the determination. As mentioned before, the Controller must make a final determination within 180 days of the receipt of an audit. The final determination must indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful; list those matters upon which the parties continue to disagree; list any modifications to the factual findings and conclusions set forth in the initial determination; and list any sanctions and required corrective actions and appeal rights.

Subsection (d) sets forth that a grantee/contractor/subrecipient may request a formal hearing pursuant to the Administrative Procedure Act and the Uniform Administrative Rules Practice if the grantee/contractor/subrecipient disagrees with the Controller's final determination. The request must be made within 10 days from the date of receipt of the Controller's final decision.

Subsection (e) sets forth that any failure on the part of the Controller to issue decisions within the allotted timeframes will not relieve the grantee/contractor/subrecipient from liability for any audit disallowances and/or sanctions.

Social Impact

The proposed new rules will have a positive social impact on all parties involved in audit findings because they implement the Federal law and regulations concerning audits and streamlines the audit resolution process.

Under the existing resolution process, grantees/contractors/subrecipients tended to exhaust all the allowable time before pursuing an appeal of the Controller's initial determination. This delay, in turn, would cause the matter to be decided beyond the 180 day cycle. Conse-

quently, the resolution process became more difficult because of length of time involved.

The timeframes proposed in this subchapter will prevent delays and allow the Controller to make a timely decision.

Economic Impact

The proposed new rules will have a positive economic impact on all parties involved in audits because they streamline the audit resolution process. The proposed timeframes will allow the Controller to conduct an efficient review of audits because review requests and data and arguments will be submitted in a timely fashion. An efficient review and timely decision will reduce costs to the State.

The proposed timeframes will also benefit grantees/contractors/subrecipients because they will receive faster resolutions of their audit findings.

Regulatory Flexibility Statement

The proposed new rules will impact all small businesses that are awarded grants, contracts and other agreements by or on behalf of the New Jersey Department of Labor. The timeframes that small businesses must follow under the proposed rules are not burdensome. Small businesses will benefit from the proposed timeframes because they will receive timely decisions concerning audit disputes. The proposed rules will not impose any new recordkeeping or bookkeeping requirements.

Full text of the proposal follows.

CHAPTER 5
AUDITS

SUBCHAPTER 1. AUDIT RESOLUTION PROCEDURES

12:5-1.1 Purpose and scope

This subchapter sets forth procedures for the resolution of audit findings, including but not limited to questioned costs and administrative deficiencies, identified as a result of the audit of Federal grants, contracts and other agreements awarded by or on behalf of the New Jersey Department of Labor.

12:5-1.2 Definitions

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

“Controller” means the Assistant Commissioner for Finance and Controller, New Jersey Department of Labor.

“Final audit report” means an audit report received from the Office of Inspector General, United States Department of Labor, New York Regional Office or an audit that has cleared a desk review by the New Jersey Department of Labor and for which no deficiencies on the auditor’s part have been noted which could require correction or clarification.

“Grantee/contractor/subrecipient” means any person or government department, agency or establishment (private for profit/non-profit) that receives Federal financial assistance to carry out a program through a State or local government but does not include an individual who is a beneficiary of such a program.

12:5-1.3 Audit resolution procedures

(a) Upon receipt of a final audit report, the Controller shall promptly review the audit and issue to the grantee/contractor/subrecipient, within 60 days of receipt of the final audit, a written determination setting forth audit disallowances and/or proposed sanctions.

(b) If a grantee/contractor/subrecipient disagrees with the initial decision of the Controller, the grantee/contractor/subrecipient may submit to the Controller, within 30 days of the receipt of the initial decision, a written request for an informal review.

1. Each grantee/contractor/subrecipient who is requesting an informal review shall also submit any data and arguments that support the grantee’s/contractor’s/subrecipient’s position within 30 days of the request for an informal review.

2. If a grantee/contractor/subrecipient does not request an informal review within the timeframe set forth in this subsection, the initial decision of the Controller shall be considered the final decision.

(c) The Controller shall issue a written final determination in the matter to the grantee/contractor/subrecipient no later than 180 days

after the final audit report was received. The final determination shall:

1. Indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful;
2. List those matters upon which the parties continue to disagree;
3. List any modifications to the factual findings and conclusions set forth in the initial determination; and
4. List any sanctions and required corrective actions; and set forth the appeal rights.

(d) If the grantee/contractor/subrecipient disagrees with the final determination of the Controller, the grantee/contractor/subrecipient may submit to the Controller within 10 days from the date of receipt of the final decision, a written request for a formal hearing to be held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Any failure on the part of the Controller to issue decisions within the timeframes set forth in this subchapter will not relieve the grantee/contractor/subrecipient from liability for any audit disallowances and/or sanctions.

(a)

**DIVISION OF UNEMPLOYMENT AND TEMPORARY
DISABILITY INSURANCE**

Contributory Option for Governmental Employers

**Proposed New Rules: N.J.A.C. 12:16-7.1, 7.2, 7.5
and 7.8**

Proposed Amendment: N.J.A.C. 12:16-7.2

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 43:21-7.3, 43:21-11 and 43:21-16.

Proposal Number: PRN 1988-337.

The agency proposal follows:

Summary

The Department has received several questions from governmental entities using the contributory method of financing unemployment benefits concerning the permissible use of excess amounts in the entities’ unemployment trust funds.

In an effort to clarify the use of such funds pursuant to N.J.S.A. 43:21-7.3, the Department has decided to amend this subchapter to outline the conditions under which a local governmental entity may use excess trust fund amounts.

N.J.A.C. 12:16-7.1 is a new section which sets forth the purpose of the subchapter. N.J.A.C. 12:16-7.2 is a definitions section.

N.J.A.C. 12:16-7.3, recodified from N.J.A.C. 12:16-7.1, addresses the way in which a governmental entity or instrumentality can apply for contributory status.

N.J.A.C. 12:16-7.4, concerning finance, is a recodification of N.J.A.C. 12:16-7.2. A change was made in subsection (e) to conform the regulatory language to that found in the statute.

N.J.A.C. 12:16-7.5 is a new section which addresses the use of surplus funds by a governmental entity or instrumentality using the contributory method.

N.J.A.C. 12:16-7.6, recodified from N.J.A.C. 12:16-7.3, addresses the way in which a governmental employer can terminate an election to pay contributors.

N.J.A.C. 12:16-7.7, concerning liability, is a recodification of N.J.A.C. 12:16-7.4

N.J.A.C. 12:16-7.8 is a new penalty section.

Social Impact

The proposed new rules will enable local governmental entities using the contributory option to use surplus unemployment funds for alternate purposes, which may result in increased services and lower local taxes for local citizens. This diversion of funds will not affect the availability of funds for unemployment benefits, as the rules have a reserve requirement.

Economic Impact

The proposed new rules will make additional funds available to local governmental entities using the contributory method, allowing them to

pay for services which they would otherwise be unable to afford and to minimize local tax rates. The rules will provide these entities with greater fiscal flexibility, and thus will encourage them to use available funds more effectively.

The Department does not expect to experience any economic impact as a result of these new rules.

Regulatory Flexibility Statement

The proposed amendments do not impose any additional bookkeeping, recordkeeping or compliance requirements on small businesses, since the amendments are applicable only to governmental entities. Therefore, a regulatory flexibility analysis is not required.

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

SUBCHAPTER 7. CONTRIBUTORY OPTION FOR GOVERNMENTAL EMPLOYERS

12:16-7.1 Purpose

The purpose of this subchapter is to outline the conditions under which an employer can choose the contributory option and under which a governmental entity or instrumentality using the contributory method of financing unemployment benefits may use the surplus amount remaining in an unemployment trust fund.

12:16-7.2 Definitions

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

"Contributory" means the method of payment by which a governmental entity or instrumentality pays unemployment contributions into an unemployment fund.

"Governmental entity or instrumentality" means the State of New Jersey, any instrumentality of New Jersey or any political subdivision thereof, or any instrumentality of the State and one or more other states or political subdivisions.

"Reimbursable" means the method of payment by which a governmental entity or instrumentality finances benefits by payments in lieu of contributions.

12:16-[7.1]7.3 Application

(No change in text.)

12:16-[7.2]7.4 Finance

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

(c) Any covered governmental entity or instrumentality electing to pay contributions shall appropriate each year, out of its general funds, monies to pay the projected costs of [benefits] contributions at the rate determined under (b) above. These funds are to be held in a trust fund by the governmental entity or instrumentality strictly for this purpose. Any surplus in the fund [shall] may be retained in reserve for payment of benefits costs for subsequent years either by contributions or payments in lieu of contributions.

12:16-7.5 Use of surplus funds

(a) A governmental entity or instrumentality using the contributory method may use the surplus in its unemployment trust fund pursuant to the following conditions:

1. The governmental entity or instrumentality must request, in writing, permission to use a portion of the surplus funds. Upon written approval of the Commissioner, the governmental entity or instrumentality may proceed with its withdrawal of funds;

2. Worker contributions shall not be diverted from the fund;

3. In addition to worker contributions that remain in the fund, an amount equal to the highest of the previous three years' contribution payments must remain in the fund to cover the next year's anticipated contributions.

(b) A governmental entity or instrumentality using the reimbursable method may not use the surplus in its unemployment fund for any purpose other than payment of benefits.

1. Governmental entities or instrumentalities which change from the reimbursable method to the contributory method pursuant to N.J.S.A. 43:21-7.3(b) may divert surplus trust funds subject to the provisions of this subchapter.

i. Surplus trust funds may be diverted only after the governmental entity or instrumentality has received written approval from the Commissioner.

12:16-[7.3]7.6 Termination

(No change in text.)

12:16-[7.4]7.7 Liability

(No change in text.)

12:16-7.8 Penalties

(a) A governmental entity or instrumentality which diverts funds in violation of the provisions of this subchapter shall be required to immediately restore the amount diverted to the fund.

(b) A governmental entity or instrumentality which fails to comply with the provisions of this subchapter, shall be liable for a fine not to exceed \$50.00 per day for each day of violation.

(a)

DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

Registration for Work and Claim for Benefits Requalifying Requirements

Proposed New Rule: N.J.A.C. 12:17-2.5.

Proposed Recodification: N.J.A.C. 12:17-2.4 and 12:17-2.5.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 43:21-4(e) and 43:21-11.
Proposal Number: PRN 1988-336.

The agency proposal follows:

Summary

In July, 1987, legislation (P.L. 1987, c.216) was passed that amended the Unemployment Compensation Law to provide for a requalifying requirement that must be met by all transitional and successive claims filed after January 26, 1988. The Department proposes to codify these requalifying requirements, and to recodify existing sections of the unemployment benefit payments rules to accommodate the new rule.

N.J.A.C. 12:17-2.3, which had been reserved, is now codified to contain the existing language of N.J.A.C. 12:17-2.4 concerning forms prescribed for recording claims for benefits for unemployment. No change in text is proposed.

N.J.A.C. 12:17-2.4 is recodified to contain the substance of N.J.A.C. 12:17-2.5 concerning benefit determination notice. No change in text is proposed.

N.J.A.C. 12:17-2.5 contains the proposed new rule concerning requalification requirements.

Social Impact

The proposed rule will outline the circumstances under which an individual who files for benefits in a successive benefit year can receive those benefits. This will ensure that only those individuals who are entitled to benefits will receive them, and will help reduce the number of applicants who apply for benefits to which they are not entitled.

Economic Impact

The proposed new rule will place certain restrictions on individuals who apply for benefits in a successive benefit year. This may result in fewer individuals receiving benefit payments. The Department does not expect to experience any economic impact as a result of this rule.

Regulatory Flexibility Statement

The proposed new rule will not impose any additional reporting, recordkeeping or compliance requirements on small businesses, as it pertains only to unemployment qualification requirements. Thus, a regulatory flexibility analysis is not required.

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

Delete "Reserved" designation at 12:17-2.3 and recodify existing 12:17-2.4 and 2.5 as 2.3 and 2.4 (No change in text.)

12:17-2.5 Requalifying requirements

(a) An individual who files for benefits in any successive benefit year shall be eligible to receive benefits only if he or she:

1. Had earnings of at least six times his or her previous weekly benefit amount; and
2. Had four weeks of unemployment after the date of claim of the immediately preceding benefit year.

(a)

DIVISION OF WORKPLACE STANDARDS
Safety and Health Standards for Public Employees
Work in Confined Spaces

Proposed New Rules: N.J.A.C. 12:100-9.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 36:6A-25 et seq., specifically 34:6A-30.

Proposal Number: PRN 1988-335.

The agency proposal follows:

Summary

The Public Employees Occupational Safety and Health Act, N.J.S.A. 34:6A-25 et seq., requires the Department of Labor to establish health and safety standards for public employees.

On November 5, 1984, the Commissioner promulgated rules which adopted the Federal Occupational Safety and Health Administration (OSHA) standards by reference in N.J.A.C. 12:100, Safety and Health Standards for Public Employees.

OSHA has not yet adopted final rules on work in confined spaces. The Department is proposing these new rules which establish procedures designed to protect the lives and health of public employees who perform work in confined spaces.

Public employees involved in underground work, such as in sewage plants, are often exposed to hazardous and toxic substances in confined spaces. Such exposure often results in the occurrence of life-threatening situations, which may cause death to the workers and also to would-be rescuers.

The proposed new subchapter was developed in conjunction with the Advisory Board of Public Employees Occupational Safety and Health organized pursuant to N.J.S.A. 34:6A-28, and in consultation with the Commissioners of the Departments of Health and Community Affairs.

The subchapter consists of 18 sections. N.J.A.C. 12:100-9.1 covers the scope of the subchapter, and N.J.A.C. 12:100-9.2 is a definitions section.

N.J.A.C. 12:100-9.3 discusses the confined space program, N.J.A.C. 12:100-9.4 addresses the entry permit system, and N.J.A.C. 12:100-9.5 explains the use of the entry permit.

N.J.A.C. 12:100-9.6 through 9.9 set forth various training requirements.

N.J.A.C. 12:100-9.10 through 9.12 outline the duties of the attendants, the persons in charge of entry, and in-plant rescue teams, respectively.

N.J.A.C. 12:100-9.13 through 9.17 concern the issuance of special entry permits.

N.J.A.C. 12:100-9.18 concerns the role of contractors.

Social Impact

Exposure to toxic gases, fumes and mists in confined spaces has resulted in severe injury and death to a significant number of employees employed in the public sector.

The proposed new rules will effectively reduce the occurrence of injury, suffering and death among those public employees whose job assignment requires them to enter confined spaces to perform their duties. Public employees will be trained in self-protection techniques, and their safety will be protected by the use of different classes of entry permits, as well as by persons trained as attendants. Additionally, in-plant rescue teams with rescue and retrieval equipment will be available in the event of an emergency.

Economic Impact

The provisions of the proposed new rules will require a significant expenditure of funds to cover the costs of specialized training to educate employees to enter confined spaces safely and the increased labor costs resulting from the presence of an attendant outside of the confined space. There will be initial expenditure of funds for specified safety equipment, such as harnesses, testing equipment, etc. Such new expenses are necessary to properly implement the provisions of this subchapter. A decrease in expenses as a result of fewer lost work days, decreased medical expenses, and decreased costs for liability and worker compensation insurance will

be recognized. In addition, the reduction of accidents in this area of work will improve employee morale and improve productivity.

The Department does not expect to experience any economic impact as a result of the proposed new rules.

Regulatory Flexibility Statement

The proposed new rules will not impose any reporting, recordkeeping or compliance requirements on small businesses, since only public employers in the State of New Jersey will be affected by the proposed new rules. Thus, a regulatory flexibility analysis is not required.

Full text of the proposal follows.

SUBCHAPTER 9. WORK IN CONFINED SPACES

12:100-9.1 Scope

(a) The purpose of this subchapter is to set forth procedures to protect employees from the hazards of entry into and work within a confined space.

(b) The subchapter shall be applicable to employers and employees engaged in work within a confined space.

12:100-9.2 Definitions

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

"Acceptable environmental condition" means the limiting condition of health and safety required to be present before an employee can enter a confined space, such limiting conditions being set by established safety and health standards.

"Attendant" means a trained individual outside the confined space who acts as an observer of the authorized entrants within the confined space keeping in constant, though not necessarily continuous, communication with them, so the attendant can immediately call rescue services if needed.

"Authorized entrant" means an employee who is authorized by the employer or the designee of the employer to enter a confined space.

"Blanking" or "blinding" means the absolute closure of a pipe, line or duct by fastening across it a solid plate or cap capable of withstanding the maximum upstream pressure.

"Ceiling level" means the maximum airborne concentration of a toxic agent to which an employee may be exposed for a specified period of time.

"Combustible dust" means a dust capable of undergoing combustion or of burning when subjected to a source of ignition.

"Confined space" means a space which by design has limited openings for entry and exit, unfavorable natural ventilation which could contain or produce dangerous air contaminants, could contain a hazardous atmosphere and which is not intended for continuous employee occupancy. A confined space includes, but is not limited to, a tank, vessel, pit, ventilation duct work, vat, boiler, sewer, or underground utility vault.

"Double block and bleed" means a method used to isolate a confined space from a line, duct or pipe by locking or tagging closed two valves in series with each other, and locking or tagging open to the outside atmosphere a drain or bleed in the line between the two closed valves.

"Employee" means any public employee, any person holding a position by appointment or employment in the service of an employer and shall include any individual whose work has ceased as a consequence of, or in connection with, any administrative or judicial action instituted under the Act; provided, however, that elected officials, members of boards and commissions and managerial executives as defined in the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. shall be excluded from the coverage of the Act.

"Employer" means public employer and shall include any person acting directly on behalf of, or with the knowledge and ratification of:

1. The State, or any department, division, bureau, board, council, agency or authority, of the State, except any bi-state agency; or

2. Any county, municipality, or any department, division, bureau, board, council, agency or authority of any county or municipality, or of any school district or special purposes district created pursuant to law.

"Engulfment" means the surrounding and effective capture of an employee by finely divided particulate matter or a liquid.

"Entry" means any action resulting in any part of the face of the employee breaking the plane of any opening of the confined space and includes any ensuing work inside the confined space.

"Entry permit" means the written authorization of the employer for entry under defined conditions into a confined space for a stated purpose during a specified time.

"Entry permit system" means the system of the employer for assuring safe entry of an employee into and working within a confined space where entry is by permit only.

"Hazardous atmosphere" means an atmosphere presenting a potential for death, disablement, injury, or acute illness from one or more of the following causes.

1. A flammable gas, vapor, or mist in excess of 10 percent of its lower flammable limit;

2. An airborne combustible dust at a concentration that obscures vision at a distance of five feet or less;

3. Less than 19.5 percent or more than 23.5 percent oxygen;

4. An atmospheric concentration of any toxic or hazardous substance above the permissible exposure limits pursuant to N.J.A.C. 12:100-7, Standards for Toxic and Hazardous Substances;

5. An atmospheric concentration of any toxic or hazardous substance that is known to the employer to present a safety or acute health hazard; or

6. Any condition immediately dangerous to life or health.

"Hot work permit" means the written authorization of the employer to perform operations that could provide a source of ignition, such as riveting, welding, cutting, burning, or heating, in the confined space, or on the exterior surface of the space.

"Immediately dangerous to life or health" means any condition that poses an immediate threat to life, or which is likely to result in acute or immediately severe health effects.

"Immediate severe health effects" means any acute clinical sign of a serious, exposure-related reaction manifested within 72 hours after exposure.

"Inerting" means rendering the atmosphere of a confined space nonflammable, nonexplosive or otherwise chemically nonreactive by displacing or diluting the original atmosphere with steam or a gas that is nonreactive with the atmosphere in the confined space.

"In-plant rescue team" means a group of two or more employees designated and trained to perform a rescue from a confined space in the workplace.

"Isolation" means the positive prevention of any unwanted form of energy or other agent with a serious potential for hazard from entering the confined space by means, such as blanking, double block and bleed, or lockout and tagout.

"Linebreaking" means the intentional opening in a confined space of a pipe, line or duct that is or has been carrying flammable, corrosive or toxic material, inert gas, or any fluid at a pressure or temperature capable of causing injury.

"Not-permitted condition" means any condition or set of conditions whose hazard potential exceeds the limits authorized by the entry permit.

"Oxygen deficient atmosphere" means an atmosphere containing less than 19.5 percent oxygen by volume.

"Oxygen enriched atmosphere" means an atmosphere containing more than 23.5 percent oxygen by volume.

"Permissible exposure limit" means the maximum eight hour time weighted average of any airborne contaminant to which an employee may be exposed.

"Purging" means the method by which gases, vapors, or other airborne impurities are displaced from a confined space.

"Qualified person" means a person designated by the employer, in writing, as capable by education or specialized training, or both, of anticipating, recognizing, and evaluating employee exposure to hazardous substances or other unsafe conditions in a confined space

and capable of specifying necessary control or protective action both to insure worker safety.

"Retrieval line" means a line or rope secured at one end to a worker with the other end secured to a lifting or other retrieval device, or to an anchor point located outside the entry portal.

12:100-9.3 Confined space program

(a) The employer or individual who is responsible for sending workers into confined spaces shall:

1. Be a qualified person;

2. Establish written procedures for a confined space program;

3. Identify each confined space and inform employees by sign, placard, training program, or other effective means to prevent inadvertent entry;

4. Provide affected employees with the specific training necessary before the employees may be authorized to enter a confined space to perform their specific duties;

5. Assure the availability of protective clothing and other personal protective equipment necessary for safe entry;

6. Assure the ready on-site availability and use of rescue and safety related equipment or services, such as lifting or retrieval devices for use in an emergency;

7. Provide and require the use of retrieval lines for atmospheres immediately dangerous to life or health or where there is a risk of engulfment, to make a rescue possible without entering. There shall be adequate attachment points outside the confined space for tying-off or otherwise securing retrieval lines for all authorized entrants. Where retrieval lines could constitute an entanglement hazard or cannot be used, the employer shall provide an equivalent method for rescue;

8. Determine and evaluate the source of any atmospheric contamination found at the time of entry. The employer shall make appropriate provision in case the severity of the hazard could increase, while employees are in the confined space;

9. Provide and maintain the necessary monitoring devices to evaluate the atmosphere of a confined space;

10. Provide an attendant for each entry permit, unless otherwise permitted by this subchapter;

11. Provide and maintain in proper working order all equipment necessary to make safe entry;

12. Establish an entry permit system pursuant to N.J.A.C. 12:100-9.4; and

13. Properly train employees to perform atmospheric tests in a confined space in the use and calibration of testing equipment.

12:100-9.4 Entry permit system

(a) The employer shall develop, implement, and use an entry system that includes a written procedure for issuance of a permit to enter a confined space;

(b) The employer shall ensure that the entry permit system developed complies with the following:

1. That the system identifies all confined spaces for employees;

2. That the system determines the actual and potential hazards reasonably expected to be associated with the confined space at the time of entry, so the employer can choose the appropriate means to execute a safe entry;

3. That the system provides for the monitoring of any air contaminant, oxygen deficiency, or flammable vapor that could be associated with the atmosphere in the confined space. This monitoring shall be performed immediately prior to entry and as often as is necessary thereafter;

4. That the system provides for proper calibration of test and monitoring equipment;

5. That the system provides appropriate vehicle and pedestrian guards, barriers or other means to protect the entry party and attendants from local traffic hazards, and protects non-entering employees from hazards arising from the confined space;

6. That the system provides pre-planned emergency evacuation;

7. That the system provides for pre-planned emergency rescue;

8. That the system identifies by job title those persons who must sign the entry permit and the duties of each, including the person in charge of entry;

- 9. That the system defines the role of the qualified person, if such a person is a part of the employer's entry permit system;
- 10. That the system provides that any employee who participates in an entry permit system in any capacity has been properly trained; and
- 11. That the system provides by appropriate testing that the control measures used are effective.

12:100-9.5 Entry permit

(a) The original of the entry permit shall be kept on file in the office of the employer who issued the entry permit and a copy of the entry permit shall be posted at the entrance to the confined space.

(b) The entry permit shall authorize entry only by authorized entrants into a specific confined space, for a specific purpose, with entry by specific shifts or work crews, and be valid for a period not to exceed eight hours, except for:

- 1. Rescue team entry; or
- 2. Entry authorized by special permit described in N.J.A.C. 12:100-9.13 through 9.17.

(c) The entry permit shall:

- 1. Describe the hazards known or reasonably expected to be present in the confined space;
- 2. Specify the minimum acceptable environmental conditions for entry and work in the confined space.
- 3. Make provision for assuring and certifying that the specified pre-entry requirements are met;
- 4. Specify by name or job title the person authorizing or in charge of the entry;
- 5. Name the attendant, unless the permit directs that the attendant function rotates or unless otherwise permitted by this subchapter; and
- 6. Make provisions for assuring that the in-plant rescue team is available.

(d) The entry permit or a checklist attached to the entry permit shall:

- 1. Specify isolation, cleaning, purging, inerting, or ventilating to be done prior to entry to remove or control those hazards, or certify that these procedures have been done;
- 2. Describe any additional hazards that may be reasonably expected to be generated by the activities of the entrants in the confined space and specify any special work procedures to be followed;
- 3. Specify the personal protective equipment, including respiratory protection and protective clothing, that is necessary for entry or rescue in accordance with N.J.A.C. 12:100-4.2(a)7 Subpart I, Personal Protective Equipment;
- 4. Specify the atmospheric testing to be done immediately prior to and during the entry period and designate the individual responsible for performing the tests unless otherwise permitted by this section;
- 5. Where hot work is necessary, authorize such hot work, either as part of the entry itself or by a separate hot work permit which is attached to the entry permit, with its issuance noted on the entry permit; and
- 6. Specify the type of equipment necessary for rescue purposes that must be readily available. In the case of entry into an atmosphere actually or potentially immediately dangerous to life or health, a positive pressure, self-contained breathing apparatus approved by the National Institute of Occupational Safety and Health, and any other equipment necessary for rescue purposes shall be available at the point of entry.

12:100-9.6 Training for all employees

- (a) The employer shall assure that all employees who may be exposed to confined spaces in the course of their employment are aware of the appropriate procedures and controls for entry.
- (b) The employer shall assure that all employees are aware that unauthorized entry into such spaces is forbidden.
- (c) The employer shall make all employees aware that the consequences of unauthorized entry could be fatal, and that their senses are unable to detect and evaluate the severity of atmospheric hazards.

12:100-9.7 Training for authorized entrants

(a) The employer shall assure that all authorized entrants and in-plant rescue teams have received training including annual retraining

covering the issues of (b) through (f) below prior to entering any confined space. The employer shall retain a written record of the hours and subject matter of such training.

(b) The employer shall assure that every employee, before entering a confined space containing a potentially hazardous environment, understands the nature of the hazard and the need to perform appropriate testing to determine if it is safe to enter.

(c) Employees shall be taught the proper use of all personal protective equipment, including respirators and clothing required for entry or rescue, and the proper use of protective shields and barriers. The employer shall comply with the training provisions of N.J.A.C. 12:100-4.2(a)7 Subpart I, Personal Protective Equipment.

(d) Employees shall be trained to exit from a confined space as rapidly as they can without help (self-rescue), whenever an order to evacuate is given by the attendant, whenever an automatic evacuation alarm is activated, or whenever employees recognize the warning signs of exposure to hazardous substances whose presence in the confined space is known or expected.

(e) Employees shall be made aware of the toxic effects or symptoms of exposure to anticipated hazardous materials that may be inhaled or absorbed through the skin. Employees shall be trained to relay an alarm to their attendant and to attempt self-rescue immediately on becoming aware of these effects.

(f) The employer shall train employees in any modifications of normal work practices that are necessary for work in a confined space.

(g) Employees performing atmospheric tests of the confined space shall be properly trained in the use and calibration of testing equipment.

12:100-9.8 Training for person authorizing or in charge of entry

- (a) The person in charge of entry shall be trained to:
 - 1. Recognize the effects of exposure to hazards reasonably expected to be present; and
 - 2. Carry out those duties that the entry permit assigns to the person in charge of entry.

12:100-9.9 Training for the attendant

- (a) The attendant shall be trained in:
 - 1. Proper use of the communications equipment furnished by the employer for communicating with authorized entrants or summoning emergency or rescue service;
 - 2. Authorized procedures for summoning rescue or other emergency service;
 - 3. Recognition of the early behavioral signs of intoxication caused by contaminants or asphyxiants whose presence could be anticipated in the confined space;
 - 4. The requirements of N.J.A.C. 12:100-9.7, if the permit specifies that the function of the attendant will alternate among the authorized entrants; and
 - 5. The requirements of N.J.A.C. 12:100-9.12, if the attendant will have rescue duties that could require entry.

12:100-9.10 Duties of the attendant

- (a) The attendant shall:
 - 1. Remain outside the confined space;
 - 2. Maintain continuous communication with all authorized entrants within the confined space by voice, radio, telephone, visual observation, or other equally effective means. If it is not possible for one attendant to maintain communication with each entrant because of the work station of the entrant in the confined space, other arrangements shall be made to assure that the attendant is continuously aware of the location and condition of any entrant who is out of range of direct communication in the confined space because of his work station;
 - 3. Have the authority to order entrants to exit the confined space at the first indication of a not-permitted condition, an unexpected hazard, indication of a toxic reaction, for example, unusual conduct by the entrants, or if a situation occurs outside the confined space that could pose a hazard to the entrants;
 - 4. Know the procedure and have the means to summon immediate emergency assistance if needed;

5. Remain in his or her post and not leave for any reason except self-preservation, unless replaced by an equally qualified individual while entry continues. The attendant shall order the entrants to exit the confined space, if the attendant must leave and there is no replacement; and

6. Warn unauthorized persons not to enter, or to exit immediately if they have entered, and advise the authorized entrants and any others specified by the employer of entry by unauthorized persons.

12:100-9.11 Duties of the person in charge of entry

(a) The person in charge of entry shall:

1. Assure that the pre-entry portions of the permit are completed before any employee enters a confined space;

2. Verify that the necessary pre-entry conditions exist but he or she need not personally conduct the tests;

3. Verify, if an in-plant rescue team is to be used, that the in-plant rescue team is available;

4. Verify that the means for summoning the in-plant rescue team or other emergency assistance are operable; and

5. Terminate the entry upon becoming aware of a not-permitted condition.

(b) If the person in charge of entry is present throughout the entry period, this person may serve as the attendant.

12:100-9.12 In-plant rescue teams

(a) An in-plant rescue team shall consist of personnel equipped with the personal protective equipment, including respiratory protective equipment, necessary for entry into a confined space, and with the rescue and retrieval equipment the employer has provided for rescue from a confined space.

(b) The in-plant rescue team shall be trained in accordance with N.J.A.C. 12:100-9.7, and in the correct performance of the rescue functions assigned to them using the retrieval and rescue equipment furnished, and in the proper wearing and use of any personal protective equipment, including respirators, that they may need to use during an actual rescue.

(c) A rescue team shall practice, at least annually, removing simulated victims, such as dummies, mannequins, or real people, through representative openings and portals which have the same size, configuration and accessibility as the confined space from which an actual rescue would be required.

(d) At least one member of each rescue team shall hold current certification in basic first-aid and cardio-pulmonary resuscitation.

12:100-9.13 Special entry-permit for duration of job

(a) The procedures described in this section for the special entry permit for the duration of the job are applicable only for the restricted circumstances and conditions described in (b) below.

(b) Any entry permit for the duration of the job may be issued and used for the duration of a job provided that:

1. Conditions in the confined space have no known potential for presenting either an immediately dangerous to life or health atmosphere or an engulfment condition;

2. Inspection of the confined space and atmospheric testing, performed at least at the beginning of each work shift, confirms that acceptable conditions for entry exist, and that the periodic atmospheric testing conducted during the course of the work shift, as specified in the permit, also confirms that conditions remain acceptable as work progresses;

3. Only operations, processes or procedures that are specifically authorized by the permit, and which could not increase, or be the source of, a hazard to employees are used in the confined space;

4. Any process or procedure, such as welding, which is not addressed by the original permit shall not be conducted until the employer either issues a new entry permit or appends a special purpose permit to the original permit; and

5. All employees shall be immediately withdrawn from the confined space and the special permits shall be void if atmospheric testing or inspection indicates that a not-permitted condition exists as a result of special permit activity, or that conditions outside the confined space could pose a hazard to entrants. The employer shall correct the hazardous condition before a new special permit may be issued.

12:100-9.14 Special entry permit for one year duration

(a) The procedures described in this section for the special entry permit for one year duration are applicable only for the restricted circumstances and conditions described.

(b) Employers whose operations require employees to perform routine repetitive entry into a confined space which has no known potential for presenting an immediately dangerous to life and health atmosphere, and no potential for an engulfment condition, may issue an annual permit instead of a separate permit for each entry.

(c) When work in a confined space is to be done under the terms of an annual permit, the employer shall:

1. Establish specific entry procedures that must be followed for entry by annual permit before any employee may be authorized to make such an entry;

2. Train employees in the procedures required for such entries;

3. Assure that employees test the atmosphere prior to entry using an appropriate direct reading instrument, or other device which quantitatively identifies anticipated contaminants, with a remote sampling probe, testing for, in the following order, oxygen concentration, combustible gas, and suspected toxic materials;

4. Allow, at the employers' discretion, entry by one or more employees without an attendant where continuous, positive ventilation, sufficient to maintain the atmosphere within established permit conditions, or appropriate additional atmospheric monitoring is provided; and

5. Revoke the permit whenever any test done pursuant to this section shows that conditions in the confined space have become more hazardous than contemplated under the permit. When this occurs, entry may be made only after an entry permit has been issued in accordance with N.J.A.C. 12:100-9.4.

12:100-9.15 Special entry permit for diked areas

(a) The procedures described in this section for special entry permits for diked areas are applicable only for the restricted circumstances and conditions described.

(b) Diked areas for storage tanks may be entered using non-attendant entry procedures, without providing ventilation or performing atmospheric tests prior to entry to perform routine operations, provided that:

1. There is no reason to believe there is or may have been any escape of flammable, toxic, or corrosive material into the diked area in sufficient quantity to create an immediately dangerous to life and health atmosphere; and

2. If line breaking is to be done in a diked area, the line breaking procedure of the employer shall be followed.

12:100-9.16 Special entry for low hazard belowground space

(a) The procedures described in this section for special entry permits for low hazard belowground space are applicable only for the restricted circumstances and conditions described in (b) below.

(b) A belowground confined space may be entered by an annual or job duration permit as a non-attended entry where no risk of engulfment can exist, and where the atmosphere cannot become immediately dangerous to life and health, provided that:

1. The space prior to entry has been ventilated using a mechanically powered ventilator for not less time than is specified in the ventilation nomograph prepared for that ventilator, and that ventilation continues throughout the entry;

2. A combination of appropriate atmospheric testing and mechanically powered ventilation is used; or

3. Without the mechanically powered ventilation, appropriate continuous atmospheric monitoring or frequent atmospheric testing at intervals prescribed by the employer assures that permit conditions are maintained.

12:100-9.17 Special entry permit for a non-attended situation

(a) The procedures described in this section for the special entry permit for a non-attended situation are applicable only for the restricted circumstances and conditions described in (b) below.

(b) Routine or repetitive entries into a confined space, which have no known potential for an immediately dangerous to life or health atmosphere or an engulfment situation, and in which all known

hazards are positively controlled, are permitted without an attendant, provided that:

1. The employer verifies, immediately prior to entry, that no hazard exists;
2. The entrant takes no materials that could cause a hazard into the confined space;
3. The entrant will not perform any work that could cause a hazard in the confined space; and
4. Adherence to the above conditions is assured by established work practices, or the use of a checklist, or by both.

(c) A non-attendant situation may be created by a permit valid for a period of up to one year under the conditions described in N.J.A.C. 12:100-9.13.

12:100-9.18 Contractors

(a) An employer who retains contractor services for work in a confined space shall inform the contractor of any potential fire, explosion, health or other safety hazards of that confined space which are reasonably ascertainable by that employer.

(b) An employer who retains the services of a contractor shall inform the contractor of the confined space program and other applicable safety rules of the facility. The employer shall inform the contractor of those portions of the emergency action plan, based on N.J.A.C. 12:100-4.2(a) Subpart E, Means of Egress, which are applicable to the employees of contractors who are public employees.

STATE

(a)

ELECTION DIVISION

Voting Accessibility for the Elderly and Handicapped Reproposed New Rules: N.J.A.C. 15:10-6.

Authorized By: Jane Burgio, Secretary of State.

Authority: Public Law 98-435 and N.J.S.A. 52:16a-11.

Proposal Number: PRN 1988-308.

Submit comments by August 4, 1988 to:

Christine D. St. John, Director
Election Division Office
107 West State Street
CN 304
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Secretary of State proposed new rules at N.J.A.C. 15:10-6 concerning voting accessibility for the elderly and handicapped in the December 7, 1987 New Jersey Register at 19 N.J.R. 2249(a). In response to some of the comments received pertaining to those proposed rules, certain changes have been made to those proposed rules which are reflected in this reproposal. These proposed new rules supersede those published in the December 7, 1987 New Jersey Register at 19 N.J.R. 2249(a). The following consists of background information concerning the promulgation of these rules and a summary of the public comments and agency responses to the rules originally proposed.

Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act (the Act), was signed into law by President Reagan on September 28, 1984. The purpose of this law is to improve access to polling places for the elderly and handicapped voters for all Federal elections. The Act applies to Federal elections conducted after December 31, 1985.

Pursuant to the Act, the political subdivisions of each state which are responsible for conducting elections must "assure" that all polling places are accessible to the elderly and handicapped voters. In New Jersey, it is the 21 county boards of elections which are responsible for the selection of polling places within their respective jurisdiction.

The Act also requires that voting aids, that is sample ballots, large print voting instructions, telecommunication devices for the deaf, and absentee ballots, be available for elderly and handicapped voters.

The New Jersey Secretary of State is required to report to the Federal Election Commission, no later than December 31st of each even-

numbered year, the number of accessible polling places and the reason(s) for any instance of inaccessibility.

These new rules are proposed by the Secretary of State pursuant to the Secretary's general rulemaking authority. The proposed new rules with respect to parking, external and internal passages, and entrances and exits are based on N.J.A.C. 5:23-7, New Jersey Department of Community Affairs, Division of Housing and Development, Uniform Construction Code, Barrier Free Subcode.

Summary of Public Comments and Agency Responses:

The following comments were received from the Eastern Paralyzed Veterans Association:

COMMENT: The Association understands that the county boards are responsible for the administration of the election law; however, it has been the Association's experience that rendering sites accessible sometimes can be costly to certain persons. This often creates a reluctance to provide accessibility, which, in turn, results in a continued unacceptable situation. The Association would like to see some mechanism for insuring that cost is not a variable in the waiver process.

RESPONSE: Each county board of elections is responsible for implementing the provisions of the Act and these rules. The cost associated with such implementation is also the responsibility of each county board. While the prohibitive costs associated with making certain polling places accessible may have counties requesting waivers, the absence of Federal appropriations to assist in the implementation of the Act adds to the potential economic difficulties. The cost associated with making a polling place accessible could very well be a determinant factor in the Secretary granting an accessibility waiver.

COMMENT: The Association recommends that the language "is to improve access" in proposed N.J.A.C. 15:10-6.1 be changed to "assure access" as per the wording in the Federal statute.

RESPONSE: The language in the rule has been taken directly from the Federal statute.

COMMENT: In proposed N.J.A.C. 15:10-6.3, "election aids" should also include braille instructions for the blind, and accessible voting machines for those who cannot reach or manipulate the levers. At the very least, names and levers should be as far down as possible.

RESPONSE: The suggested additional voting aids are not required under the Act. Currently, Federal and State election law provides procedures for assisting both blind and handicapped individuals at polling places.

COMMENT: In proposed N.J.A.C. 15:10-6.3, the definitions of Polling Accessibility Checklist, Report and Waiver should refer to the Voting Accessibility Advisory Committee rather than to the county boards of elections.

RESPONSE: The Division disagrees. The county boards of elections, not the Voting Accessibility Advisory Committees, are legally responsible under the Act for not only implementing the provisions of the Act, but for documenting compliance as well.

COMMENT: The Association believes that each county board of elections should be required to establish a Voting Accessibility Advisory Committee. The definition of such Committee appears to make its establishment optional. The word "may" should be replaced by "shall", and the language "should one have been established" in proposed N.J.A.C. 15:10-6.7(b) deleted.

RESPONSE: The ultimate responsibility for not only implementing the Act but for documenting compliance is invested within the political subdivision responsible for conducting election. This political subdivision in New Jersey is the county board of elections. The Voting Accessibility Advisory Committee as established in these rules is to be used in an advisory capacity and not as a means for the county boards of elections to abdicate their responsibilities under the Act.

COMMENT: The Association strongly recommends that an elderly and handicapped person (or representatives thereof) be appointed to the board. While the law serves both groups, the needs and perceptions are quite different. Even more strongly recommended would be the mandated appointment of an advocate certified by the New Jersey Department of Community Affairs, instead of a "handicapped person". Also, proposed N.J.A.C. 15:10-6.7(b) should be continued to include suggested persons for Committee membership, "such as construction code officials, architects, and engineers."

RESPONSE: Since the determination as to the establishment of a Voting Accessibility Advisory Committee under the proposed rules is invested within the administrative judgment of the county boards of elections, the completion of such a committee, within the guidelines

established in proposed N.J.A.C. 15:10-6.7(a)1, 2 and 3, should be determined by the county boards.

COMMENT: In the proposed N.J.A.C. 15:10-6.8 parking requirements, no mention is made of above-grade signs. The installation of these signs at handicapped parking spaces, when applicable, is important to both the disabled motorist and others because it is often the only indication of the space, particularly during fall and winter months.

RESPONSE: The intent of N.J.A.C. 15:10-6.8(b)1 was to provide for above-grade signs. This provision will be repropoed to read, "Each parking space shall be identified with an above-grade sign . . ."

COMMENT: In proposed N.J.A.C. 15:10-6.10(a)1, requiring physical evaluation of polling places, the conjunction "and/or" should be replaced with "and". The county boards and the Voting Accessibility Advisory Committees should work together closely in preparing the checklists.

RESPONSE: The intent of the proposed rule is to provide the county boards the discretionary authority to utilize their committees for such evaluative purposes, should such committees be established.

COMMENT: Regarding proposed N.J.A.C. 15:10-6.10, it is essential that a good faith and determined effort be made to either make an inaccessible site accessible or locate a alternative site. The Association believes that the Voting Accessibility Advisory Committee should also participate in the surveying and selecting of alternative sites. The Association also is concerned about the waiver process, and believes that a more fully documented procedure be established in the rules for the Secretary of State in the determination of waivers. Although it is clear that waivers will not be granted easily, it is not clear how they will be granted or rejected. Further, although in some cases the cost of renovation is prohibitive, this is rare. Some mechanism should be inserted in the rules to prevent cost from being a de facto cause of waiver approval.

RESPONSE: With regard to the concerns expressed associated with the Voting Accessibility Advisory Committees' role in surveying and selecting alternative polling place sites, such participation could be requested under the discretionary authority invested within the county boards.

With regard to the concern expressed dealing with the waiver process for exempting inaccessible polling places from the provisions of the Act as outlined in proposed N.J.A.C. 15:10-6.10(a)2, such a waiver process requires substantiation and thorough documentation by the requesting county board. County boards are to document the accessibility status of each polling place within their jurisdiction on a Polling Place Accessibility Checklist. If the board determines that a polling place is not accessible and cannot be made accessible nor can the election district be relocated to an alternative accessible site, the county board is required to document their findings to the Secretary of State on a Polling Place Accessibility Waiver Form. After reviewing such forms, the Secretary may grant a waiver or may remand such forms back to the county boards for additional documentation or consideration. The cost associated with making a polling place accessible could very well be a determinant factor in the Secretary granting an accessibility waiver.

COMMENT: Concerning the insertion of citations to technical criteria in the rules, if the criteria for the New Jersey Barrier Free Subcode is amended, then the rules will also have to be amended. Rather than cause administrative chaos in the future, the Association suggests that a cross-reference to the Subcode stands alone.

RESPONSE: The Division agrees, and a cross reference to the Barrier Free Subcode (N.J.A.C. 5:23-7 in the Uniform Construction Code) will replace the specific criteria cited in the repropoed new rules.

The following comments were received from the Sussex County Board of Elections:

COMMENT: The requirement in proposed N.J.A.C. 15:10-6.9(a)3 that counties which do not maintain and operate TTS equipment are required to advertise the availability of such State equipment fails to set forth time and duration requirements for such advertisement.

RESPONSE: N.J.A.C. 15:10-6.9(a)3 has been repropoed to provide a minimum requirement for such advertisements for what are now called telecommunication devices for the deaf (TTD). Such a manner of advertising the county's or State's TTD telephone number as set forth in the repropoed rule should not place an undue burden upon the boards since each county board of election is currently required, under State election law, to advertise voting and election information as well as a telephone number for election inquiries.

COMMENT: The Board commented that, while it is responsible for obtaining handicapped accessible polling places, it has been given little "clout" to pursue the matter. If building owners refuse to make their buildings accessible, but a town continues to recommend it as a polling

place, the Board has no alternative but to refuse to certify it. The town then demands the Board find a new polling place or pay for the accessibility improvements. Some school districts, which use their buildings for many functions, refuse access to their buildings for polling places. Is there a legal basis to compel the school districts to allow the use of a building as a polling place unless an "impossible hardship" is shown?

RESPONSE: Under N.J.S.A. 19:8-1, county boards are not obliged to "select the polling places so suggested by the municipal clerks, but may choose other when they deem it expedient." Preference in locations, under this section of the law, "shall be given to schools and public buildings where space shall be made available by the authorities in charge, upon request, if same can be done without detrimental interruption of school or the usual public services thereof . . ." Under N.J.S.A. 19:8-3, schools or public buildings may be selected by the county boards of elections for polling places within the county whether or not such schools or public buildings are located within the election district for which the polling place is established. N.J.S.A. 19:8-2 requires that such polling places located outside an election district shall not be more than 1,000 feet distant from the boundary line of the district. Consideration, under N.J.S.A. 19:8-3, "shall be given to the use of buildings accessible to elderly and physically disabled persons." In those instances where the county board fails to agree as to the selection of the polling place or access for any election district within five days of an election, N.J.S.A. 19:8-2 requires the county clerk to select and designate the polling place in any such election district.

COMMENT: Sussex being a small, rural county, there are not very many public buildings, forcing the Board to use privately owned buildings. The owners of such buildings will not go to the expense of making the buildings handicapped accessible. Can the municipality be held liable for the expense?

RESPONSE: The ultimate cost of making an inaccessible polling place accessible is the responsibility of each county board of elections.

COMMENT: The Board feels that a very large percentage of the county's polling places will not meet the technical requirements of the proposed rules. While there are polling places without steps, etc., there are no parking facilities for the handicapped, doorways are not wide enough, etc. The Board also stated it was having difficulty in meeting both the handicapped specifications and the N.J.S.A. 19 requirements regarding polling places, particularly the requirement that, "polling places be located within 1,000 feet of the boundary line." The Board suggested consideration be given to changing the boundary line requirements.

RESPONSE: As to the lack of handicapped parking facilities, repropoed N.J.A.C. 15:10-6.8(b) provides, "While accessible parking spaces for each polling place location are desirable, the absence of such spaces is not a consideration of accessibility." Unlike handicapped parking facilities, specified door widths are a determinant in an accessibility decision. As to changing the boundary line distance requirements for out-of-district polling places, that distance is mandated by N.J.S.A. 19:8-2. Suggestions for such changes should be directed to the Legislature, as such changes are beyond the authority of the Department.

COMMENT: The Board believes it will have to submit many applications for waivers unless some adjustments to the requirements of N.J.S.A. 19, or financial assistance, can be provided, particularly with regard to the use of privately owned buildings.

RESPONSE: Repropoed N.J.A.C. 15:10-6.10 provides for the filing of waivers. Such Polling Place Accessibility Waiver Forms may be filed with the Secretary of State providing that the county board has physically surveyed the locations in question, completed a Polling Place Accessibility Checklist for each location and determined such locations to be inaccessible. The board is required to document on each waiver the measures undertaken to either make the polling place accessible, or to relocate such polling sites to an alternative accessible location. Since the Department has no authority to make statutory changes or to provide financial assistance, requests for action in this regard should be directed to the Legislature.

The following comments were received from the New Jersey Department of Community Affairs, Division of Housing and Development:

COMMENT: The Department's policy has been to advise against repeating technical criteria from the adopted subcodes. The Department believes it preferable to simply allow the cross references to stand alone. In this way, confusion may be avoided if the requirements of the Barrier Free Subcode are revised at some point in the future.

RESPONSE: All repetitions of citations to sections of the Barrier Free Subcode within the text of the repropoed rules are deleted and replaced with the words, "the Barrier Free Subcode".

COMMENT: The notion of the members of each of the county boards of elections participating in a walking tour of the county's polling places is a laudable one. However, such a tour may not prove very valuable as a means of assessing the accessibility of the polling place if none of the individuals on the tour has sufficient familiarity with the Barrier Free Subcode to recognize the complete range of physical barriers that may be present in a given location.

Therefore, the Department recommends that in addition to including a disabled or elderly individual in the Voting Accessibility Advisory Committee, the Committee should include an advocate trained in the provisions of the Barrier Free Subcode. In order to increase the number of such persons available, the Department has included interested individuals in the training offered to code enforcement officials.

RESPONSE: With regard to the Department's suggestion that an advocate trained in the provisions of the Barrier Free Subcode be included in the Voting Accessibility Advisory Committee, such a reference will be included within repropoed N.J.A.C. 15:10-6.7(a)3, and shall read, "Such person(s) trained in the provisions of the Barrier Free Subcode, or other such person(s) the board feels would be of assistance in the implementation of the Act."

COMMENT: It appears that the establishment of Voting Accessibility Advisory Committees is not required of boards of elections. The Department believes that such committee will prove valuable enough that their establishment should be mandated.

RESPONSE: The Division believes that the operation and membership of such a committee is best determined by each individual county board of elections.

COMMENT: In the N.J.A.C. 15:10-6.3 definition of ramp and in N.J.A.C. 15:10-6.8(d) and (e), the ratio given for the slope is the ratio of the rise to the run (or vertical change to horizontal change), not the slope to the length.

RESPONSE: This definition and cited subsections are corrected to read, "(one inch of vertical change to 12 inches horizontal change)."

COMMENT: In N.J.A.C. 15:10-6.8(b), where accessible parking is not available, designated temporary parking should be required.

RESPONSE: While such spaces are desirable in those situations when permanent accessible spaces are absent, the requirement for temporary as well as permanent parking spaces is not a condition of accessibility.

COMMENT: In N.J.A.C. 15:10-6.8(c), technical criteria for accessible routes of travel should include the limits on change in level on an accessible route of travel. It is essential that changes in level greater than three quarters of an inch be bridged by a ramp, elevator or lift to allow for wheelchair passage.

RESPONSE: N.J.A.C. 15:10-6.8(c)2 is repropoed to include that changes in level greater than three quarters of an inch shall be bridged by a ramp, elevator or lift to allow for wheelchair passage.

COMMENT: N.J.A.C. 15:10-6.8(e)3 suggests that doors which are difficult to open be propped or tied open. This recommendation should be limited to exterior doors inasmuch as interior doors may be fire doors which must remain closed to promote fire safety.

RESPONSE: The cited paragraph, as it refers to propping or tying doors open, has been repropoed to read, "If possible, exterior doors and nonfire doors which are difficult to open should be propped or tied open during voting hours."

COMMENT: N.J.A.C. 15:10-6.8(e)4 makes reference to the technical criteria for elevators contained in N.J.A.C. 5:23-7.70 through 7.79. It may be wise to examine these standards more carefully before instituting this requirement. These standards are intended for elevators which have been newly installed and it may be very difficult and costly to retrofit existing elevators to meet some of these criteria.

RESPONSE: This paragraph has been repropoed, removing the requirement of ANSI/ASME A17.1; "Safety Code for Elevators and Escalators", and the technical criteria of N.J.A.C. 5:23-7.70 through 7.79.

The following comments were received from the New Jersey State Association of Election Officials at their January 19, 1988 meeting:

COMMENT: Questions were asked regarding the cost associated with implementing the provisions of P.L. 98-435 as required under the proposed rules.

RESPONSE: All such costs are the responsibility of the county boards of elections, as reflected in the Economic Impact statement of the repropoed new rules.

COMMENT: Some school districts do not permit their buildings to be used for polling places.

RESPONSE: Current State election law addresses this matter. Municipal clerks are to supply the county boards of elections with a proposed

list of polling places on or before April 1 of each year. County boards, under N.J.S.A. 19:8-2, are not obliged to "select the polling places so suggested . . . but may chose others where they deem it expedient." Preference in locations, "shall be given to schools and public buildings where space shall be made available by the authorities in charge, upon request, if same can be done without detrimental interruption of school or the usual public services thereof . . ." In those instances where the county board and municipal clerks fail to agree as to the selection of the polling place or places for any election district within five days of an election, N.J.S.A. 19:8-2 requires the county clerk to select and designate the polling place or places in any such election district.

COMMENT: The establishment of Voting Accessibility Advisory Committees should be mandatory under N.J.S.A. 15:10-6.7(a).

RESPONSE: The Division believes that the establishment of such committees should be at the discretion of the county boards of elections. However, N.J.A.C. 15:10-6.7(c)3 will be repropoed to allow the boards to include on such committees, "[s]uch person(s) trained in the provisions of the Barrier Free Subcode, or such other person(s) the board feels would be of assistance in the implementation of the Act."

The following comments were received from the New Jersey Department of Human Services, Commission for the Blind and Visually Impaired:

COMMENT: There is no reference in the proposed rules to evaluating the accessibility of polling places in terms of public transportation availability, nor any reference to the provision of transportation to the polling place for elderly and handicapped persons.

RESPONSE: No State or Federal law holds public transportation availability to be a criteria for polling place selection. Should a polling place be far from a major network of public transportation for a handicapped or elderly voter, support groups at the municipal and county level might be able to provide specialized transportation services.

COMMENT: In proposed N.J.A.C. 15:10-6.9(a)5i, change the word "may" to "shall" on the third line.

RESPONSE: The suggested change will not be made, since the language at issue was taken directly from P.L. 97-208, the 1982 Amendments to the Voting Rights Act.

COMMENT: Regarding N.J.A.C. 15:10-6.10(a)3, there should be provisions requiring that the county board of election share the Polling Place Accessibility Report with the public, through newspaper or radio.

RESPONSE: The Act requires the Secretary of State to report to the Federal Election Commission, no later than December 31 of each even-numbered year, the number of accessible polling places and the reason(s) for any instances of inaccessibility. Such information is public and may be obtained upon request.

The following comments were received from the New Jersey Developmental Disabilities Council:

COMMENT: The Council stated its willingness to offer technical assistance or referrals to specialists in the field to the Division for its directives to the county boards of elections. For example, in almost every county, a county Office on the Aged/Disabled exists, which would be very helpful in notifying the pertinent populations about voting places, and for acquiring suggestions about alternative, accessible sites, etc.

RESPONSE: Each county will be notified of the Council's desire to assist them by providing a listing of county governmental offices that might be of assistance in notifying the pertinent populations about voting places, and/or providing suggestions about alternative accessible sites, and/or providing expert guidance on evaluating the accessibility of sites.

COMMENT: Historically, persons who are elderly or disabled too often have opted to use an absentee ballot rather than advocate for an accessible polling site. These persons need to be encouraged to have their needs heard and not opt for the use of an absentee ballot. "Thus, the utilization of absentee ballots and waivers for inaccessible sites must be cautiously issued."

RESPONSE: While the intent of proposing and implementing these rules is to assure that elderly and handicapped individuals will be able to cast their ballot in person, procedures established within these rules and State election law provide for the availability of absentee ballots should their polling location be inaccessible. Information regarding the number of polling places that have been granted waivers and the alternative site options chosen is public information and is available upon request from the Secretary of State. Statistics regarding the number of absentee ballots requested and issued is available from each of the 21 county clerks.

COMMENT: The proposed enforcement section, N.J.A.C. 15:10-6.6, offers only an ultimate recourse. Seemingly, it would be helpful and

necessary to define the complaint hierarchy at the county and State levels and the appeals process and procedures.

RESPONSE: This section is derived exclusively from P.L. 98-435. Any alleged violations associated with non-compliance are to be filed in the United States District Court for the District of New Jersey. This is not to say that any individuals who may feel they have been personally aggrieved by any non-compliance with the accessibility requirements of the Act or this subchapter may question the county or the State regarding any non-compliance. Declaratory or injunctive relief, however, can only be granted by the Federal District Court.

COMMENT: Under the proposed implementation section, N.J.A.C. 15:10-6.7, the Voting Accessibility Advisory Committee is an advantageous concept, and the Council recommends that the county Offices on the Aged/Handicapped be contacted for suggestions for participants. The Council will be requesting access to this list.

RESPONSE: The rules provide the county boards of elections with the discretionary power to appoint other such persons who would be of assistance in implementing the Act. The New Jersey State Association of Election Officials, which is comprised of officials responsible for implementing the provisions of the Act, will be advised of the Council's suggestion to incorporate the county Offices on the Aged/Handicapped. A list of the county offices responsible for implementing the provisions of the Act is available from the New Jersey Department of State, Election Division.

COMMENT: Under the voting aids rule, N.J.A.C. 15:10-6.9, where a sample ballot would indicate if a polling place was not accessible, it would be critical to add the other alternatives for the disabled voter on the sample form (for example, other nearby locations, absentee ballots, etc.).

RESPONSE: The referenced section is being repropounded to include the words "ABSENTEE BALLOT AVAILABLE; CONTACT COUNTY CLERK" after the words "NONACCESSIBLE POLLING LOCATION" on the primary and general election sample ballot.

COMMENT: The notification procedures in N.J.A.C. 15:10-6.9 are not clearly defined. The only reference appears to be the inclusion of a notice about TTY equipment in a newspaper. Additional procedures regarding notification need to be developed.

RESPONSE: Current State election law requires each county board to advertise the address of each polling place and the place, telephone number and times at which a voter may make inquiry as to the location of the polling place for the election district in which the voter resides. While not currently stated in law, voters may also choose to inquire as to the accessibility of their polling place.

On its own initiative, the Division has repropounded September 30 of each Federal election year as the deadline for filing accessibility status reports with the Secretary. While the deadline was originally proposed as October 31 of each such year, the Division felt that a more proper review and analysis of the reports could be conducted if the last date for filing was a greater time before the Federal elections would be held.

Social Impact

The proposed polling place accessibility rules will have a positive social impact as these rules will provide further access to voting information and polling places by both elderly and handicapped individuals.

Economic Impact

It is anticipated that the cost for implementing the provisions of these proposed polling place accessibility rules will be dependent upon the number of inaccessible polling places located within each county and to the degree that such locations are inaccessible. The cost associated with compliance of the proposed new rules by making polling places accessible is the responsibility of the 21 county Boards of Elections.

The anticipated costs associated with implementing the provisions of the proposed polling place accessibility rules regarding voting aids and accessibility notification will be the responsibility of the 21 county boards of elections. Such costs are considered minimal.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department of State, Election Division Office has determined that the proposed polling place accessibility rules will not impact those small businesses maintaining a polling place within their business buildings. While the Federal Act does not exempt small businesses from the requirements of the Act, the Act does provide that the Chief Election Officer of each State implement procedures to grant waivers to polling places that cannot be made accessible or that cannot be relocated to alternative accessible locations. Polling places located within an inac-

cessible business location may be granted a waiver providing all documentation for requesting a waiver is completed and properly filed with the Secretary of State by the county boards of elections.

Full text of the proposed new rules follows.

SUBCHAPTER 6. VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED

15:10-6.1 Purpose and scope

Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act, was signed into law on September 28, 1984. The purpose of the Act is to improve access to polling places and registration facilities for the elderly and handicapped voters for Federal elections. The Act applies to Federal elections conducted after December 31, 1985.

15:10-6.2 Responsibility

Pursuant to the Act, the political subdivision of each state which is responsible for conducting elections must "assure" that all polling places are accessible to elderly and handicapped voters. In New Jersey, it is the 21 county boards of elections which are responsible for the selection of polling places within their respective jurisdiction.

15:10-6.3 Definitions

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

"Accessible" means an environment that will permit a handicapped and/or elderly person to operate independently with comparative ease under normal circumstances and with little or no assistance.

"Accessible route" means a continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a handicapped person. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.

"Act" means the Voting Accessibility for the Elderly and Handicapped Act, Public Law 98-435.

"Barrier-free" means the same as and is synonymous with "accessible".

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Elderly" means 65 years of age or older.

"Election aids" means telecommunication devices, sample ballots, large print voting instructions, and absentee ballots.

"Federal election" means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"Handicapped" means having a temporary or permanent physical disability.

"Physically handicapped" means a person with a physical impairment which confines a person to a wheelchair, causes a person to walk with difficulty or insecurity, affects the sight or hearing to the extent that a person functioning in public areas is insecure or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

"Polling location" means the structure in which a polling place is located.

"Polling place" means the room or space that has been provided for the purpose of voting at a Federal primary, special, or general election.

"Polling Place Accessibility Checklist" means worksheets prepared by the Secretary of State in order that each county board of elections can evaluate the accessibility of polling sites within their jurisdiction.

"Polling Place Accessibility Report" means a worksheet prepared by the Secretary of State in order that each county board of elections can compile accessibility results from their Polling Place Accessibility Checklists.

"Polling Place Accessibility Waiver" means a worksheet developed by the Secretary of State, to be used by the county board of elections to request exemption(s) from the Act due to the inability to make

an inaccessible polling site accessible, or to relocate such a site to an alternative accessible location.

“Ramp” means a structure, either temporary or permanent, which has been constructed to bridge a level change from the path of travel to a polling place. The maximum slope shall not exceed 1:12 (one inch of vertical change to 12 inches of horizontal change).

“Secretary of State” means the Secretary of State of New Jersey.

“Temporary” means a facility or structure that is not of permanent construction but is extensively used or essential for public use during Federal elections.

“Voting Accessibility Advisory Committee” means a group of individuals that may be established by each county board of elections to assist the board in interpreting and implementing the provisions of the Act.

15:10-6.4 Exceptions

(a) The accessibility requirements of this subchapter do not apply under the following circumstances:

1. In the case of an emergency;
2. If the Secretary of State determines, based on documents supplied by the county, the following:
 - i. That all potential polling places in the election district have been surveyed and no accessible locations are available;
 - ii. That it is not possible to temporarily convert an inaccessible location to an accessible one; and
 - iii. That an alternative voting procedure in accordance with N.J.S.A. 15:10-6 is available upon request;
3. In any election other than a Federal election as defined in this subchapter.

15:10-6.5 Reporting by the Secretary of State

The Secretary of State is required to report to the Federal Election Commission, no later than December 31st of each even-numbered year, the number of accessible polling places and reason(s) for any instance of inaccessibility.

15:10-6.6 Enforcement

The United States Attorney General or any individual who is personally aggrieved by any non-compliance with the accessibility requirements of the Act and this subchapter may institute an action for declaratory or injunctive relief in the United States District Court for the District of New Jersey.

15:10-6.7 Implementation

(a) In order to assist and advise county election officers in implementing the provisions of the Act, each county board of elections office should establish a Voting Accessibility Advisory Committee, which shall be comprised of the follow individuals:

1. The four members of the county board of elections;
2. At least one elderly and handicapped individual or individuals from organizations representing such individuals;
3. Such person(s) trained in the provisions of the Barrier Free Subcode, or such person(s) the board feels would be of assistance in the implementation of the Act.

(b) In order to accurately evaluate the accessibility of all polling locations, each county board of elections and/or their designated representatives, in conjunction with their Voting Accessibility Advisory Committee, should one have been established, shall undertake a “walking tour” of each polling location. Both elderly and handicapped committee members should participate in such tours since these individuals can offer valuable insight into possible difficulties elderly and handicapped voters may experience at polling locations.

15:10-6.8 Polling place accessibility standards

(a) The polling place accessibility standards set forth in the following sections are based upon the State’s Uniform Construction Code, Barrier Free Subcode, N.J.A.C. 15:23-7.

(b) While accessible parking spaces for each polling location are desirable, the absence of such spaces is not a condition of accessibility. Where such spaces are provided the following standards shall be met:

1. Parking spaces for the handicapped shall be located as close as possible to elevators, ramps, walkways, and the accessible entrance they serve. They shall be not more than 200 feet from an accessible entrance. Parking spaces shall be as level as possible with surface

slopes not exceeding 1:48 (1/4 inch per foot) in any direction. Surfaces shall be constructed of either asphalt or concrete. Each parking space shall be identified with an above grade sign displaying the International Symbol of Accessibility and appropriate wordage to include “DISABLED PERSONS WITH VALID ID ONLY”.

2. There shall be four acceptable configurations for accessible parking spaces as follows:

- i. Parking spaces each not less than 12 feet wide;
- ii. Parking spaces each not less than eight feet wide with an adjacent access aisle at least five feet wide;
- iii. Curbside parking, provided the curb has been indented at least four feet so that a handicapped person does not exit from a vehicle into a traffic lane; or
- iv. Conventional curbside parking, permitted in modification and/or renovation work only.

3. In all configurations, to the degree feasible, accessible parking spaces shall be located so that handicapped persons are not compelled to wheel or walk behind parked cars. Additionally, in all configurations, ramps or curb ramps shall be provided to permit handicapped persons access from the parking lot level to the servicing walkway. A curb ramp shall never be located where it would be blocked by a parked vehicle. In all configurations, provisions such as curb or bumpers should be included to prevent parked vehicles from blocking accessible walkways.

4. In the event that a polling location does not have permanent accessible parking spaces, temporary spaces can be designated for use by the handicapped. All such temporary accessible spaces shall be clearly marked for use only by the handicapped and all such spaces shall be located near an accessible polling place entrance.

5. In the event that off street metered parking is provided, such accessible parking spaces shall be reserved for the handicapped by installing a meter cap over the meter. Such spaces should also be clearly marked for handicapped use only.

(c) Accessible routes of travel are continuous, unobstructed paths connecting all accessible elements and spaces that can be negotiated by a handicapped person. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. Interior accessible routes may include corridors, floors, ramps elevators, lifts and clear floorspace at fixtures. The standards for accessible routes are as follows:

1. Accessible routes shall provide a minimum clear width for passage of three feet. Such widths may be reduced, however, to two feet eight inches for a distance not to exceed two feet at points such as doorways.

2. Accessible routes shall be constructed of a hard, smooth, non-slip surface, with no abrupt changes in level. Changes in level greater than three-quarters of an inch shall be bridged by a ramp, elevator, or lift to allow for wheelchair passage.

(d) All ramps and curb ramps on accessible routes shall comply with the Barrier Free Subcode, except those curb cuts or curb ramps constructed within a public street. These structures shall meet the requirements of the respective public, city, county, or State agency having jurisdiction. The standards for ramps and curb ramps, except those within a public street, are as follows:

1. Ramps and curb ramps shall have a minimum clear width of three feet exclusive of edge protection or flared sides. The surface shall be stable, firm, and slip-resistant. Irregular surface materials, which may cause tripping or difficult wheelchair passage because of height differentials, shall not be permitted. The maximum slope of a ramp or a curb ramp shall not exceed 1:12 (one inch of vertical change to 12 inches of horizontal change).

2. In addition to the requirements of the Barrier Free Subcode, all ramps shall:

- i. Provide landings at the top, bottom, at all changes of direction, and after each 30 feet of projection. These landings shall:
 - (1) Have a width which shall be at least as wide as the widest ramp run approaching it;
 - (2) Have a minimum length of five feet; and
 - (3) Have a minimum size which will fulfill the latchside and hingeside provisions of the Barrier Free Subcode;
- ii. Providing handrails on both sides of any ramp run exceeding a nine inch rise; and

iii. Provide curbs, walls, vertical guards or projected edges at ramps and landings with drop-offs exceeding six inches. Minimum curb height shall be two inches.

3. In addition to the requirements of the Barrier Free Subcode, all curb ramps shall:

i. Provide flared sides if such ramps are located where pedestrians might walk across the ramp. If built-up ramps are used as an alternative to standard curb ramps, such ramps must be located so that they do not project into vehicular traffic lanes. The transition from ramp to walkways, gutters, or streets shall be flush and free of abrupt changes. Curb ramps having less than a nine inch rise do not require handrails.

(e) Accessible entrances shall meet the following standards:

1. All accessible entrances shall be identified by the "International Symbol of Accessibility". Accessible doorways shall provide a clear opening of two feet eight inches.

2. Raised thresholds, if provided, shall be beveled with a slope not to exceed 1:2 (one inch of vertical change to two inches of horizontal change) if the height is greater than one quarter inch. The maximum height for raised thresholds shall be three quarter inch.

3. Doors should be easily opened by elderly and handicapped individuals. Handles, pulls, latch sets, and other operating hardware that are easy to grasp with one hand and do not require twisting of the wrist, tight grasping, or tight pinching to operate shall be provided. If possible, exterior doors and nonfire doors which are difficult to open should be propped or tied open during voting hours.

4. In the event that an elevator is to be used, its doors shall be a minimum of three feet wide. The interior shall be large enough to accommodate a wheelchair and all controls shall be easy to use and to reach.

5. Should the main entrance to a polling place be inaccessible, an accessible alternative entrance may be used. All such alternative entrances, however, must conform to accessibility criteria established in this subchapter. Signs informing voters of an alternative accessible entrance shall be clearly posted and shall display the "International Symbol of Accessibility" as well as appropriate wordage to include "ACCESSIBLE ENTRANCE". To be effective, either arrows or hands shall be used to direct voters to accessible entrances.

(f) Accessible interior routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. All such accessible routes shall provide a minimum width for passage of three feet and a minimum vertical clearance of six feet eight inches. Such widths may be reduced, however, to two feet eight inches for a distance not to exceed two feet at points such as doorways. If the vertical clearance of an area adjoining an accessible route is reduced to less than six feet eight inches, a barrier to warn blind or visually-impaired persons shall be provided. Accessible interior routes shall be well lighted and shall be constructed of a hard, smooth, non-slip surface, with no abrupt changes in elevation. If carpet or carpet tiles is used on a ground or floor surface, then the carpet or carpet tiles shall be securely attached. The following standards apply to protruding objects in accessible interior routes:

1. No protruding objects shall reduce the clear width of an accessible route or maneuvering space below the minimum required widths of three feet for passage ways or two feet eight inches for a distance not to exceed two feet at a point such as doorways.

2. Objects less than two feet long that are fixed to wall surfaces shall not project into accessible routes more than four inches if mounted with their leading edges between two feet three inches and six feet above the finished floor.

3. Objects fixed to wall surfaces may project more than four inches if mounted with the lower extreme of their leading edge less than two feet three inches above the finished floor. These objects shall not project, however, into the minimum required clear widths.

4. Free standing objects mounted on posts or pylons may overhang one foot maximum from two feet three inches to six feet eight inches above the ground or the finished floor. However, these objects shall not project into the minimum required clear widths.

5. Interior routes to voting machines that are in excess of 50 feet shall provide a chair(s) in order to provide elderly and disabled voters a resting stop. Such chairs, however, shall not project into the minimum required clear widths.

(g) Signs shall meet the following standards:

1. Signs directing voters to the location(s) of voting machines shall be posted in interior passageways. Such signs shall include appropriate wordage to include "VOTING MACHINES" as well as "WARD-DISTRICT OR DISTRICT". Lettering should be in large type of at least 18 point for easy reading.

2. To be effective, signs should also use either arrows or hands to point to the direction of the voting machines. Signs using these symbols are easier to understand than ones that only use written directions.

15:10-6.9 Voting aids

(a) The following voting aids shall be provided:

1. Sample ballots which shall identify the accessibility of each polling place. The notice of accessibility shall be prominently identified on the sample ballot with a sign displaying the "International Symbol of Accessibility" and appropriate wordage to include "ACCESSIBLE POLLING LOCATION". Notice of nonaccessible polling locations shall be prominently identified on the sample ballot with appropriate wordage to include "NONACCESSIBLE POLLING LOCATION—ABSENTEE BALLOT AVAILABLE; CONTACT COUNTY CLERK".

2. Voting instructions which shall be printed in at least 14 point type for easy reading and shall be conspicuously displayed at each polling place. Lettering shall be dark, preferably black, with a light background, preferably white. Such instructions shall include, but shall not be limited to:

i. How to properly identify oneself at the polls;

ii. Materials that one must sign in order to vote;

iii. Procedures to follow in order to correctly use the voting machine or voting equipment to cast votes;

iv. Procedures to follow should mechanical difficulties be experienced while voting; and

v. How to correctly exit the voting machine in order to properly record votes.

3. Registration, voting, and election information by telecommunication device, or TDD, are required under the Act. County boards of elections will be required to advertise the availability of TDD equipment and telephone numbers in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county. Such advertisement shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week preceding the week in which the primary election is held, once during the 30 days next preceding the day fixed for the close of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held. Boards not maintaining and operating TDD equipment are required to advertise the State's "toll-free" TDD telephone number in the manner prescribed above.

4. The availability and use of absentee ballots are subject to the following requirements:

i. Handicapped and elderly voters may apply to the county clerk for absentee ballots. Should disability be permanent, affected voters may request that absentee ballot applications for each election be sent to their residence on a regular basis. In the event that the date for requesting an absentee ballot by mail should pass, a sick or confined voter may request in writing that an absentee ballot be picked up from the county clerk and delivered to him or her by a messenger authorized by such voter. Disabled voters are not required to medically document their disability. Absentee ballots shall be completed and returned in accordance with the requirements of N.J.S.A. 19:57-23.

ii. In the event that a polling location has been reported inaccessible by the county board of elections and such board has not been able to correct any instances of inaccessibility, or has been unable to relocate such polling location to an accessible site, affected elderly and handicapped voters may apply for an absentee ballot.

5. Voter assistance at a polling place shall be provided as follows:

i. Pursuant to P.L. 97-208, the 1982 Amendments to the Federal Voting Rights Act, any voter who requires assistance to vote by reason of blindness or disability may be given assistance by a person

of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union.

15:10-6.10 Reporting by county boards of elections; accessibility waivers

(a) Each county board of election office is legally responsible, under Public Law 98-435, for not only implementing the provisions of the Act, but for documenting compliance. In order to fulfill the requirements of the Act, each county board of elections office shall report to the Secretary of State, no later than September 30, in those years Federal elections are to be conducted, the accessibility status of each polling place located within their jurisdiction. All such reports are to be prepared on the following forms provided by the Secretary of State.

1. Each county board of elections office is required to complete a "Polling Place Accessibility Checklist" for each polling place located within their jurisdiction. This checklist requires the members of the county boards of elections, or individuals designated by the board, and/or members of their Voting Accessibility Advisory Committee to physically evaluate the accessibility status of parking facilities, exterior and interior routes of travel, ramps and curb ramps, and entrances of each polling place. Evaluators are required to note the accessibility status of each area and to provide comments where needed. Based upon Polling Place Accessibility Checklist evaluations, each county board of elections is required to determine and to note the accessibility of each polling place.

2. In instances where a polling place is determined to be inaccessible and is reported as such, a "Polling Place Accessibility Waiver Form" must be completed and attached to the inaccessible polling place's accessibility checklist. The Secretary of State is provided authority to grant a waiver, in certain cases, to polling places which have been evaluated as inaccessible. In order for the Secretary of State to consider granting any waivers for inaccessible polling places, affected county boards of elections must not only complete the required waiver form, they must also document on this form the measures that their office has undertaken to either make this polling location accessible or to relocate such an inaccessible polling location to an alternative accessible location. While the completion of a Polling Place Accessibility Waiver Form is required for each inaccessible polling place, such a form does not preclude that inaccessible locations will be granted waivers. Waivers will be granted by the Secretary only in those instances when an inaccessible polling place and its affected facilities cannot be made accessible and alternative accessible locations are not available.

3. A Polling Place Accessibility Report shall be completed by each county board of elections. Such reports shall include:

- i. The total number of polling places within each county;
- ii. The total number of polling places that have been evaluated using the Secretary of State's "Polling Place Accessibility Checklist" and have been found to be either accessible or inaccessible; and
- iii. A listing of the reason(s) for any instances(s) of inaccessibility.

TRANSPORTATION

TRANSPORTATION OPERATIONS

The following proposals are authorized by Hazel Frank Gluck, Commissioner, Department of Transportation.

Submit comments by August 4, 1988 to:

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

(a)

Restricted Parking and Stopping Route U.S. 9 in Monmouth County

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

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1 and 39:4-199.

Proposal Number: PRN 1988-322.

The agency proposal follows:

Summary

The proposed amendment will establish a "no parking bus stop" zone along Route U.S. 9 in Marlboro Township, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on and off loading of passengers at established bus stops.

Based upon a request from the local government officials, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no parking bus stop" zones along Route U.S. 9 in Marlboro Township, Monmouth County was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.7, based upon the request from the local government officials and the traffic investigation.

Social Impact

The proposed amendment will establish a "no parking bus stop" zone along Route U.S. 9 in Marlboro Township, Monmouth County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on and off loading of passengers at established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The local officials will bear the costs for "no parking bus stop" zone signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

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

(a) (No change.)

(b) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is granted to erect appropriate signs at the following established bus stops:

1.-41. (No change.)

42. Along the southbound (westerly) side in Marlboro Township, Monmouth County:

i. Near side bus stop:

(1) Ivy Hill Drive—Beginning at the northerly curb line of Ivy Hill Drive and extending 105 feet northerly therefrom.

(b)

Restricted Parking and Stopping Route U.S. 130 in Salem County

Proposed Amendment: N.J.A.C. 16:28A-1.46

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1.

Proposal Number: PRN 1988-323.

The agency proposal follows:

Summary

The proposed amendment will establish "no stopping or standing" zones along Route U.S. 130 in Pennsville Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

Based upon a request from the local government officials, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no stopping or standing" zones along Route 130 in Pennsville Township, Salem County was warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.46, based upon the request from the local government officials and the traffic investigation.

Social Impact

The proposed amendment will establish "no stopping or standing" zones along Route U.S. 130 in Pennsville Township, Salem County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "no stopping or standing" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the proposed amendment does not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28A-1.46 Route U.S. 130

(a) The certain parts of State highway Route U.S. 130 described in this subsection are designated and established as "no stopping or standing" zones where stopping or standing is prohibited.

1. No stopping or standing in Pennsville Township, **Salem County**; [along the westerly (southbound) side from Jackson Road southerly to the point of the junction of Route 49.]

i. **Along the westerly (southbound) side:**

(1) **From Jackson Road southerly to the point of the junction of Route 49.**

ii. **Along the easterly (northbound) side:**

(1) **From the northerly curb line of Broad Street to the southerly curbline of Plant Street.**

2.-9. (No change.) (see related Proposal at 20 N.J.R. 887(b).)

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

(a)

THE COMMISSIONER**Aeronautics****Regulation of Land Use Adjacent to Public Use****Airports****Notice of Pre-Proposal to Amend N.J.A.C. 16:62-5.1 and 9.1**

Authorized By: Hazel Frank Gluck, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-32 and "Air Safety and Hazardous Zoning Act of 1983", P.L. 1983 c.260, as amended by P.L. 1985 c.122.

Pre-Proposal Number: PPR 1988-4.

Submit comments by September 30, 1988 to:

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

The agency pre-proposal follows:

Summary

Under the provisions of N.J.S.A. 6:1-83 and 6:1-84, the Department of Transportation (Department) intends to propose amendments to N.J.A.C. 16:62-5.1, which establishes permitted and prohibited land uses within an airport hazard area delineated in N.J.A.C. 16:62-3.1. The purpose of this pre-proposal is to solicit comments on the rule changes the Department is considering and suggestions as to which other options, if any, the Department also might consider. Following the Department's review of all comments and suggestions, a formal proposal will be prepared.

P.L. 1983, c.260, (N.J.S.A. 6:1-80) provides in part, "That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; therefore, it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and, [that the prevention of the creation or establishment of airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power of the State, without compensation." Additionally, the Act (N.J.S.A. 6:1-84) states, "The commissioner shall adopt rules and regulations, pursuant to the Administrative Procedure Act, P.L. 1968, c.410 (c.52:14B-1 et seq.), promulgating standards which specify permitted and prohibited land uses, including the specification of the height to which structures may be erected and trees allowed to grow, within airport hazard areas. The standards shall be uniform for all airport hazard areas, except that where the commissioner determines that local conditions require it, he may adopt an amended or special standard. No standard adopted under this amendatory and supplementary act shall be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the standard when adopted or amended or otherwise interfere with the continuance of any nonconforming use. . . ."

Within the hazard area of an airport, there are both permitted and prohibited land uses. These uses are described in N.J.A.C. 16:62-5.1(a):

1. Permitted land uses:

- i. Industrial;
- ii. Commercial;
- iii. Open space;
- iv. Agricultural;
- v. Transportation;
- vi. Airport.

2. Specifically prohibited land uses:

- i. Residential (dwelling units);
- ii. Planned unit developments and multifamily dwellings;
- iii. Hospitals;
- iv. Schools;
- v. Above ground bulk tank storage of compressed toxic gases and liquids;
- vi. Within the RUNWAY END SUBZONES only, the above ground bulk tank storage or flammable or toxic gases and liquids;
- vii. Uses that may attract massing birds, including land fills;
- viii. Above grade major utility transmission lines and/or mains.

Background

On April 15, 1985, the Department adopted rules setting forth permitted and prohibited land use standards within airport hazard areas. After three years of operation, the Department believes that sufficient opportunities have been available to merit a review of those criteria.

The land use standards prohibit all residential development but permit commercial and industrial development in the delineated hazard area. The Department, upon administration and enforcement of the rules, notified all affected communities of their obligation to adopt ordinances to comply with the Air Safety and Hazardous Zoning Act of 1983, P.L. 1983, c.260. Many communities resisted, citing local concerns including pre-emption of home rule, newly created nonconforming uses of established residential dwellings, rezoning outside the character of the area, and perceived loss of property value and development rights.

The Department is sensitive to the communities' needs and to the concerns of residents impacted by the hazard zone. This sensitivity prompts the Department to seek land use standards which provide a level of protection to the flying public and to the general public's health and welfare but are compatible with the local environment and community.

Discussion

The Department of Transportation feels that any changes to the rules should be designed to allow a municipality more flexibility in tailoring the permitted land uses to the pattern of development sought in local master plans. Conversely, the Department feels that local zoning should also be sensitive to the existence of the airport. Review of the Division of Aeronautics accident records from 1983 through 1987 (See Figure 1) indicates that there is a high percentage of aircraft accidents occurring either on the airport landing area or near the end of the landing area along the extended runway centerline.

The Department has formulated this pre-proposal to seek public comment on changes to the rules. The objectives of the proposed regulatory change are:

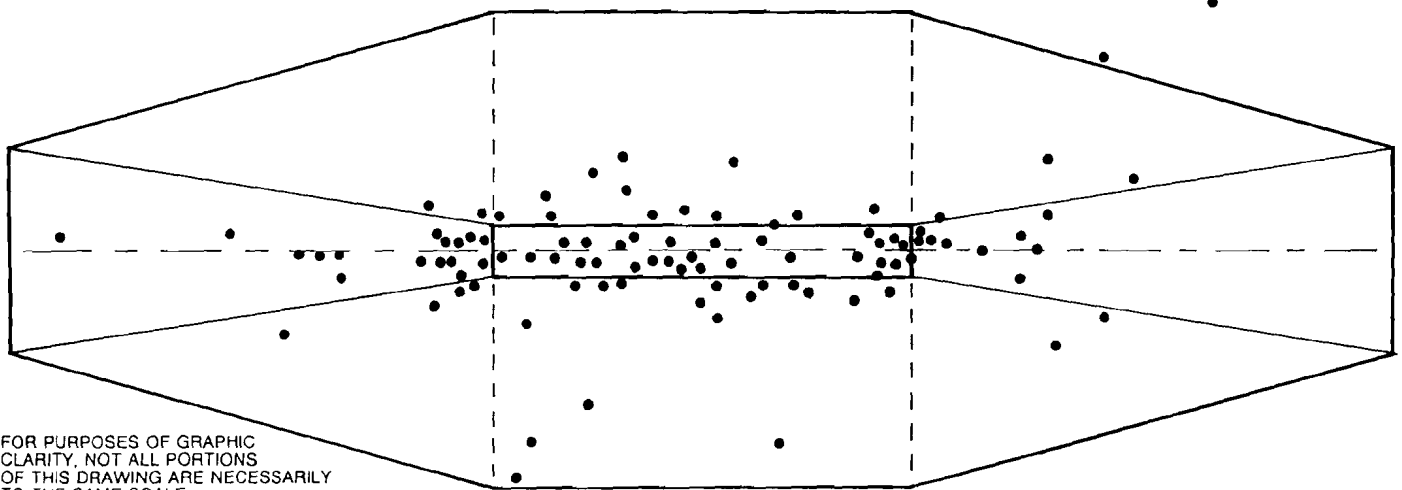
1. Limit all structure development in the clear zone;
2. Allow low density residential zoning;
3. Permit municipalities to zone preexisting residential structures as a conforming land use;

4. Require public disclosure of properties in hazard area;
5. Continue to provide municipalities with relief from land use standards; and
6. Clarification of application.

Discussion concerning these possible changes follows:

1. Limit all structure development in the clear zone. The theory underlining this change is that the potential for accidents, as shown in Figure 1, is greatest along the extended centerline of the runway. The Department suggests that the construction of all structures be prohibited in the areas along the extended centerline of the runway, which would be defined as the CLEAR ZONES. It is suggested that a) the clear zones would consist of trapezoids located within the runway end subzones along the flight approach and departure path; b) the base of the clear zone would be co-located with the end of the runway safety zone and would have a width of 250 feet; c) the length of the clear zone would be between 3,000 feet, which is the current length of the runway end subzone, and 1,000 feet, which is similar to the length of the minimum clear zone dimensions established by the Federal Aviation Administration, Federal Air Regulation Part 77, and by the State airport facility licensing regulations; and d) the width of the clear zone would increase as the distance from the end of the runway subzone increases. Its outer width would be between 450 feet, for a 1,000 foot long clear zone, and 850 feet, for a clear zone which would measure 3,000 feet in length.

**FIGURE 1
AIRCRAFT ACCIDENTS
1983 - 1987**



Recorded are accidents or incidents which resulted in damage to an aircraft and/or injury, death or property damage from 1983 - 1987. Plotted are the approximate locations of accidents/incidents which occurred in or near the airport hazard area as delineated in N.J.A.C. 16:62. The information is based on the accident records and the knowledge of the Division's Aeronautical Operations Specialists who investigated or recorded the accidents. These Aeronautical Operations Specialists have a combined total in excess of 59 years inspecting airports and investigating accidents in New Jersey and have a combined 149 years of flying experience as pilots. Additionally, two supervisory personnel are graduates of a formal federal aircraft accident investigation school.

2. **Allow low density residential zoning in the airport hazard area.** The Department proposes to permit single family residential dwellings on large lot parcels in all areas of the hazard zone, except in the proposed clear zone. It is suggested that the minimum lot size might be no less than three acres and that the specific minimum lot size be determined after receiving public comments. The Department's objective is to determine an acceptable lot size which would protect the safety and welfare of the general public and protect the safety of the flying public by providing open spaces to land aircraft in an emergency situation and yet

still provide sufficient latitude to allow municipalities to develop in accordance with their master plans.

3. **Conforming use.** The Department additionally is considering changes to N.J.A.C. 16:62-9.1 which currently states that preexisting land uses not in conformance with the rules may at the discretion of a municipality, be zoned by the municipality as either "nonconforming" or "conditional". The requirement that established residential dwellings be zoned as either "nonconforming" or "conditional" has resulted in a perceived loss of property value by both municipal officials and affected property

owners. The Department, therefore, suggests changes to the rules to permit the Commissioner to concur in a municipal ordinance recognizing the retention of preexisting neighborhoods zoned as "conforming" within the hazard area, except in the proposed clear zone.

4. **Public disclosure.** It is important that potential land buyers be notified of the proximity of an active public use airport before a purchase is made. Similar disclosures of items of public interest are made for flood plains, future road developments and/or land fills. The Department recommends that a means of informing purchasers of homes or property within the hazard area be incorporated into both State and local public disclosure notices.

5. **Continue to provide municipalities with relief from land use standards.** It is important to note that a municipality may implement land uses substantially similar to those listed as permitted land uses as long as they are in accord with the intent of the rules. The Department wants to emphasize that there is a provision within the existing rules which allows municipalities relief from the required land use standards. This provision states that the Commissioner may adopt an amended or special standard for an airport when local conditions require it.

6. **Clarification of application.** Both existing and proposed rules apply to public use airports within New Jersey as licensed by the Department. Restricted public use airports are not covered. To clarify the airports involved, the rules will list all licensed public use airports subject to the rules. A current list is attached (See Figure 2).

Recommended Course of Action

The Department solicits comments on the elements of this pre-proposal and welcomes other comments and recommendations concerning the rules with the intent of selecting, refining and incorporating the comments and options which will more equitably serve the flying and general public. The Department anticipates promulgation of new rules no later than January 1989.

FIGURE 2
LICENSED PUBLIC USE AIRPORTS

Aeroflex-Andover	Kupper	Princeton
Alexandria	Lakewood	Red Lion
Allaire	Licalzi	Red Wing
Bader Field	Lincoln	Robert J. Miller
Blairstown	Manahawkin	Rudys
Bridgeport	Marlboro	Sky Manor
Bucks	Mercer County	Solberg-Hunterdon
Burlington County	Millville	Somerset
Camden County	Morristown Municipal	Southern Cross
Cape May County	Newton	Sussex
Colts Neck	Nordheim Flying "K"	Trenton-Robbinsville
Cross Keys	Oakland Farms	Trinca
Flying W	Ocean City	Twin Pine
Greenwood Lake	Old Bridge	Vineland-Downstown
Hackettstown	Oldmans	Woodbine
Hammonton	Pemberton	
Kroelinger	Pine Hollow	

TREASURY-GENERAL

DIVISION OF PENSIONS

The following proposals are authorized by the State Health Benefits Commission, Gaius Mount, Secretary.

Submit comments by August 4, 1988 to:
Peter J. Gorman, Esq.
Administrative Practice Officer
Division of Pensions
20 West Front St.
CN 295
Trenton, New Jersey 08625

(a)

State Health Benefits Program

Proposed New Rules: N.J.A.C. 17:9

Authority: N.J.S.A. 52:14-17.27 et seq.
Proposal Number: PRN 1988-329.

The agency proposal follows:

Summary

The State Health Benefits Commission is proposing to readopt as new, the rules found at N.J.A.C. 17:9 concerning the State Health Benefits Program. Pursuant to Executive Order No. 66(1978), this chapter expired on June 6, 1988.

This chapter governs the administration of the program such as Commission meetings, records, appeals, voluntary employer termination, default of the employer and guidelines for local employers concerning purchases of contracts; coverage such as enrollment charges, forms, annual enrollment periods, coverage changes, requirements, effective dates, transfers, HMOs, Major Medical coverage and policies; dependents such as definitions of child and dependent, military service, Medicare, certification of dependency, ineligibles and multiple coverages; employees such as definitions of full time State and local employees and multiple positions; charges such as separate experience for State and local employers, waiting periods, advance charges, refunds and retroactive charges; retirement such as definitions of retired employee, coverages for retirants, disability earnings, discontinuance of allowance and beneficiaries' coverage; and termination such as termination effective date and conversion rights.

Social Impact

The rules governing the administration of the State Health Benefits Program affect and work to the benefit of all current, past and future State and local employees who are, were or will be enrolled in the State Health Benefits Program. The taxpaying public is affected by these rules in the sense that public funds are used to fund the programs.

Economic Impact

While the adoption of the rules by itself will not present an adverse economic impact to the public, the payment of the benefits and claims mandated in the statutes are funded by public employer contributions and thus indirectly by the taxpayers. If the administrative rules are not adopted, the benefits and claims mandated by the statutes would still have to be paid. Without the administrative rules to provide for the efficient operation of the programs, financial chaos would occur. The adoption will provide an economic benefit to all current, and future State and local employees who are, were or will be enrolled in the State Health Benefits Program.

Regulatory Flexibility Statement

The rules of the State Health Benefits Program only affect public employees and employers. Thus, this proposal does not impose any reporting, recordkeeping or other compliance requirements upon small businesses. Therefore, a regulatory flexibility analysis is not required.

Full text of the expired rules proposed as new can be found in the New Jersey Administrative Code at N.J.A.C. 17:9.

(b)

State Health Benefits Program

Eligible Charges; Copayment

Proposed Amendment: N.J.A.C. 17:9-2.12

Authority: N.J.S.A. 52:14-17.27.

Proposal Number: PRN 1988-325.

The agency proposal follows:

Summary

The purpose of this proposed amendment is to provide that employees of a local employer joining the State Health Benefits Program will be able to use eligible charges under the Major Medical coverage incurred before the effective date of coverage for their employer to satisfy the annual copayment limit. The rule currently permits charges from the beginning of the year to the effective date of coverage used to satisfy the deductibles under Major Medical. This amendment will permit these charges to be used to satisfy the copayment requirements under Major Medical.

While this rule expired on June 6, 1988 pursuant to Executive Order No. 66(1978), this amendment is proposed in conjunction with the proposed readoption of N.J.A.C. 17:9 as new rules, published elsewhere in this issue of the New Jersey Register.

Social Impact

This proposed amendment will benefit the employees of employers joining the State Health Benefits Program by enabling them to satisfy the copayment requirement under Major Medical coverage with eligible charges incurred before they were participating in the program. It will remove an obstacle for some local employers considering joining the program. It will help to maintain a large and stable group of local public employers participating in the program. This in turn will help to insure a favorable group experience for the local employers participating in the program and to foster the basic objective of uniformity of benefits for public employees in the State in the laws governing public employee benefits.

Economic Impact

No significant economic impact for the program is anticipated from this amendment. It will remove an obstacle to participation in the program for some local employers. Their participation should provide an economic benefit to themselves and their employees. Employees of employers joining the program will receive an economic benefit by receiving credit for eligible charges incurred before the effective date of their coverage in meeting the annual copayment requirement.

Regulatory Flexibility Statement

The rules of the State Health Benefits Commission affect only public employers and employees. Thus, this proposed amendment will not have any adverse effect upon small businesses or private industry in general. A regulatory flexibility analysis is not required.

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

17:9-2.12 Major Medical; eligible charges at enrollment (local employees)

(a) For purposes of local coverage, all eligible charges incurred by an eligible employee or his or her covered dependents, from January 1 of a calendar year to the effective date of coverage for his or her participating employer, will be considered to satisfy the [\$100.00 deductible] **deductibles and copayments** required under the Major Medical coverage. The above provision is contingent upon the eligible employee being actively at work on the effective date of coverage and his or her dependents not be deferred as stated in N.J.A.C. 17:9-2.8(b).

(b) The charges considered are to be eligible charges under the Major Medical contract and no charges will be considered that would have been paid by the basic plan, had the employee had such coverage. No charges will be used to satisfy [the deductible] **deductibles and copayments** for which the employee has been reimbursed by any source where any employer participated under another contract.

(c) This section shall apply to all eligible charges incurred on or after January 1, 1987.

(a)

**State Health Benefits Program
Education Retirees Coverage**

Proposed New Rule: N.J.A.C. 17:9-2.17

Authority: N.J.S.A. 52:14-17.27.

Proposal Number: PRN 1988-326.

The agency proposal follows:

Summary

The purpose of this proposed new rule is to clarify the applicability of Chapters 384 and 386 of the Laws of 1987 to retirees of boards of education participating in the State Health Benefits Program (SHBP). These laws, along with Chapter 385, constitute a package of legislation designed to provide for State payment of premiums for health care coverage under the SHBP for qualified retirees from the Teachers' Pension and Annuity Fund (TPAF) and to guarantee that all retirees from boards of education have an opportunity to participate in their employers' group health insurance plans in retirement. Chapter 386 concerns the law relative to private group health insurance contracts and specifically provides that retirees of boards of education with private contracts who are not eligible for State payment of premiums in the SHBP and are not currently enrolled under the employers' contracts have one year from the

effective date of the legislation to enroll under the employers' private contracts.

There is no similar specific provision in Chapter 384 which concerns coverage under the SHBP. However, the clear intent of the legislation is to guarantee all retirees of boards of education the opportunity to participate in their employers' group health insurance plans in retirement. To not permit retirees of boards of education participating in the SHBP the same opportunity to enroll in their employers' group health insurance plan as is provided to retirees of boards with private contracts would be a serious and substantial gap in the coverage offered by the package of legislation which was clearly not intended by the Governor and the Legislature. In addition, under N.J.S.A. 52:14-17.32, the State Health Benefits Commission is authorized to provide for continuance of basic coverage and major medical coverage after retirement.

The proposed new rule provides that retirees of boards of education participating in the SHBP will have the same opportunity to enroll in their employers' group health insurance plan as retirees of boards with private contracts. They will have one year from the effective date of the legislative package, June 1, 1988, to apply for enrollment in the SHBP.

Note that this new rule is proposed in conjunction with the proposed re-adoption as new rules of N.J.A.C. 17:9, which expired on June 6, 1988 pursuant to Executive Order 66(1978). The proposed re-adoption is published elsewhere in this issue of the New Jersey Register.

Social Impact

The proposed new rule will benefit retirees of boards of education participating in the SHBP who are not eligible for State payment of premiums and are not currently in the program by providing them with an opportunity to enroll. It will help to implement the intent of this package of legislation, and will provide a consistent and uniform policy relative to eligibility of retirees of boards of education to participate in their employers' group health insurance plans.

Economic Impact

This proposed new rule will not have any significant economic impact on the program. The retirees involved will be paying for the full cost of the coverage in the program.

Regulatory Flexibility Statement

The rules of the State Health Benefits Commission affect only public employers and employees. Thus, this proposed new rule will not have any adverse effect upon small businesses or private industry in general. A regulatory flexibility analysis is not required.

Full text of the proposal follows.

17:9-2.17 Chapters 384 and 386, Laws of 1987; enrollment of retirees

For the purposes of implementing Chapters 384 and 386 of the Laws of 1987, retirees of boards of education participating in the State Health Benefits Program who do not qualify for State payment of premiums for coverage and are not enrolled in the program may enroll within the one-year period from June 1, 1988 to May 31, 1989.

OTHER AGENCIES

(b)

CASINO CONTROL COMMISSION

Applications

Casino Service Industry License Applications

Proposed Amendment: N.J.A.C. 19:41-11.3

Authorized By: Casino Control Commission,

Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 5:12-69(a), 5:12-70(a) and 5:12-92.

Proposal Number: PRN 1988-327.

Submit comments by August 4, 1988 to:

Seth H. Brilliant, Assistant Counsel

Casino Control Commission

Arcade Building

Tennessee Avenue and the Boardwalk

Atlantic City, NJ 08401

The agency proposal follows:

Summary

The Commission may, in its discretion, permit an unlicensed casino service industry (CSI) enterprise to transact business with casino licensees for a reasonable time, provided certain prerequisites are met (see N.J.A.C. 19:41-11.3(g)). The Commission can also revoke its permission and prohibit a CSI enterprise from transacting business with casino licensees if the enterprise fails to file a CSI license application within a reasonable time after being requested to do so (see N.J.A.C. 19:41-11.3(h)).

Historically, a pattern has emerged: despite repeated requests, an unlicensed CSI enterprise fails to file a CSI license application until it is prohibited from transacting business for its failure to file. The prohibition order then results in the filing of the CSI license application. To emphasize the importance of a timely filing, and to underscore the effect of a prohibitory order, the Commission imposed a \$250.00 late filing fee and a 90-day waiting period following the filing of a late application before a prohibited CSI enterprise could resume transacting business with casino licensees (see N.J.A.C. 19:41-11.3(h)1). In several cases, CSI enterprises have petitioned the Commission for waivers of part or all of the 90-day waiting period, claiming that such an enforced hiatus would, as a practical matter, bankrupt or destroy their enterprises.

To provide a procedure that is equitable to all parties yet which still implements the purpose of a waiting period, the 90-day period is being reduced to 30 days, with the intention that the shorter waiting period will be strictly enforced. While not ruling out the possibility of a waiver for some or all of the 30-day period "in special cases and for good cause shown" as provided in N.J.A.C. 19:40-1.3(d), the proposed amendment expressly states that economic hardships or loss shall not constitute good cause for a waiver, thus formalizing the Commission's prior position in these matters.

Social Impact

The persons most likely to be affected by this proposed amendment are CSI enterprises which have been prohibited from transacting business with casino licensees for failure to timely file CSI license applications, and which attempt to obtain reinstatement by filing such applications. By reducing the existing 90-day waiting period to 30 days, the proposed amendment should have positive effects for all parties concerned. The shorter waiting period should result in fewer waiver petitions, while still preserving the purpose of the waiting period itself. Finally, in furtherance of the basic purposes of the waiting period, it is hoped that the proposed amendment will emphasize the importance of timely CSI license application filings and the consequences of noncompliance.

Economic Impact

The shortening of the waiting period by 60 days should result in a smaller economic impact upon those enterprises affected. The tightening of waiver requirements and the strict enforcement of the shorter waiting

period will result in a more definite and predictable economic impact. Since one of the projected results of the proposed amendment is a reduction in the number of waiver petitions filed, the amendment should also result in a reduction of time spent processing such matters.

Regulatory Flexibility Statement

Many CSI enterprises are "small businesses" as that term is defined in N.J.S.A. 52:14B-17. However, since the proposed amendment is designed to reduce the penalty for noncompliance with Commission rules and filing requirements, it is in compliance with the Regulatory Flexibility Act, which requires public agencies to minimize adverse economic impacts on small businesses.

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

19:41-11.3 Casino service industry license applications

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

(h) In exercising the discretion referred to in (g) above, the Commission shall consider any relevant evidence or comments provided to it by the Division.

[(h)](i) The Commission may expressly prohibit any such unlicensed enterprise from so providing goods or services or so conducting business on the basis that after having been directed to file a Casino service industry license application, such enterprise failed to properly file such application within a reasonable time. Any such unlicensed enterprise prohibited from so providing goods or services or so conducting business on the basis of its failure to properly file such application may resume so providing goods and services and conducting business:

1. [Ninety]Thirty days following the proper filing of its Casino service industry license application and after the payment of an additional late filing license fee of \$250.00; or

2. Immediately following a determination that such enterprise is not required to be licensed as a Casino service industry.

[(i) The Commission shall, in exercising the discretion referred to in (g) above, consider any relevant evidence or comments provided to it by the Division.]

(j) No waiver of all or any portion of the 30-day period mandated by (i)1 above shall be granted by the Commission on the ground of economic hardship or loss.

[(j)](k) The application process for the approval of Casino licensee agreements set forth in this subchapter shall not in any way limit the duty and obligation of any enterprise to, on its own initiative, apply for a Casino service industry license.

RULE ADOPTIONS

COMMUNITY AFFAIRS

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

(a)

Procedural Rules

Time for Serving and Filing Motions

Adopted Amendment: N.J.A.C. 5:91-13.4

Proposed: April 18, 1988 at 20 N.J.R. 864(a).

Adopted: June 6, 1988 by James L. Logue, III, Chairman, New Jersey Council on Affordable Housing.

Filed: June 6, 1988 as R.1988 d.296, with substantive change not requiring additional public notice and comment.

Authority: N.J.S.A. 52:27D-301 et seq.

Effective Date: July 5, 1988.

Expiration Date: June 16, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Summary of changes upon adoption:

After agency review, the legal staff suggested the addition of the requirement that all papers filed with the Council be accompanied by proof of service which is a commonly accepted practice. This has been added to the rule on adoption.

Full text of the adoption follows (additions to the proposal shown in boldface with asterisks *thus*).

5:91-13.4 Time for serving and filing motions and affidavits or briefs

A notice of motion shall establish a return date at least 20 days from the date of service upon the opposing party. All motions, except for those which seek emergent relief, shall be made returnable on the regularly scheduled meeting days of the Council. A party seeking emergent relief shall contact the Executive Director to arrange for an emergency hearing by the Council. If a motion is supported by affidavit or brief, the affidavit or brief shall be served and filed with the motion. Any opposing affidavits or briefs, or any cross-motions, shall be served and filed not later than 10 days after receipt of the moving papers. Answers or responses to any opposing affidavits or briefs, or to any cross-motions, shall be served and filed not later than five days after receipt of the opposing papers. ***All papers filed shall be accompanied by proof of service.***

(b)

Substantive Rules: Definition of Rehabilitation; Indigenous Need

Adopted New Rules: N.J.A.C. 5:92-1.3 and 5:92-17

Proposed: April 18, 1988 at 20 N.J.R. 864(b).

Adopted: June 6, 1988 by James L. Logue, III, Chairman, New Jersey Council on Affordable Housing.

Filed: June 6, 1988 as R.1988 d.295, without change.

Authority: N.J.S.A. 52:27D-301 et seq.

Effective Date: July 5, 1988.

Expiration Date: June 16, 1991.

Summary of Public Comments and Agency Responses:

COMMENT: The imposition of an \$8,000 standard on the actual capital costs of rehabilitation is excessive and penalizes communities that choose to rehabilitate its deficient housing stock.

RESPONSE: The census surrogates that the Council employs to identify a deficient unit include low and moderate income units built prior to 1940; units lacking complete plumbing; units lacking complete kitchen

facilities; units lacking private access; units lacking central heat; overcrowded units; and units of four stories or more lacking an elevator. A unit must fail at least two of these indicators before being included in the indigenous need count.

These surrogates usually signal other deficiencies that need to be addressed in order to bring the housing unit up to code. Given today's prices, the Council believes the \$8,000 standard is reasonable.

The Council does not believe that the standard penalizes communities that choose to rehabilitate their indigenous need. The subsidy involved in creating an average low or moderate income unit would probably be at least three times the Council's rehabilitation standard, requiring massive subsidies or the rezoning of land for inclusionary development.

COMMENT: The cost of rehabilitating a housing unit is irrelevant. It is only important that it is brought up to code.

RESPONSE: The rule recognizes that some units may be able to be rehabilitated for less than \$8,000. It is also likely that many units will require more than \$8,000 of work. The rule allows communities to do both types of units while providing incentives to rehabilitate the most needy units.

COMMENT: Housing units should be credited if the census surrogate that flagged the deficiency is corrected.

RESPONSE: The census surrogates are indicators of a deficient unit. Such deficiencies may include a faulty electrical system, a roof in need of repair or replacement or some other deficiency not monitored by the census. These conditions should be addressed.

Full text of the adoption follows.

5:92-1.3 Definitions

...

"Rehabilitation component" means the number of units that are to be rehabilitated as part of a municipality's fair share obligation. The rehabilitation component is the result of subtracting spontaneous rehabilitation from indigenous need.

SUBCHAPTER 17. REHABILITATION OF INDIGENOUS NEED

5:92-17.1 Rehabilitation cost standards

Municipalities that choose to rehabilitate their indigenous need shall provide a minimum of \$10,000 per unit of which at least \$8,000 shall be allocated to actual capital costs. Municipalities shall be expected to expend all moneys provided for actual capital rehabilitation costs.

5:92-17.2 Annual monitoring reports

Municipalities that rehabilitate their indigenous need shall file annual monitoring reports with the Council.

5:92-17.3 Rehabilitation costs less than \$8,000

Municipalities may rehabilitate deficient units that meet the Council's criteria, even if the actual capital costs are less than \$8,000. However, at the end of each two year period, the rehabilitation shall average at least \$8,000 per unit.

EDUCATION

(c)

STATE BOARD OF EDUCATION

Teacher Preparation and Certification Certification Fees

Adopted Amendment: N.J.A.C. 6:11-3.3

Proposed: April 18, 1988 at 20 N.J.R. 865(b).

Adopted: June 1, 1988 by Saul Cooperman, Commissioner, Department of Education, and Secretary, State Board of Education.

Filed: June 10, 1988 as R.1988 d.307, without change.

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:6-7, 18A:6-34, 18A:6-38 and 18A:26-10.

Effective Date: July 5, 1988.

Expiration Date: December 12, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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

(a) The State Board of Education may make and enforce rules for the granting of appropriate certificates or licenses to teach or to administer, direct, or supervise the teaching, instruction or educational guidance of pupils in public schools operated by district boards of education.

(b) Rules for certification fees include the following:

1. For each standard, provisional or emergency certificate, a fee of \$40.00 shall be charged.

2. For each county substitute certificate, a fee of \$30.00 shall be charged.

3. For each renewal of an emergency or provisional certificate, a fee of \$25.00 shall be charged.

4. For each request for a duplicate copy of a certificate or change of holder's name, a fee of \$20.00 shall be charged.

5. For each request for evaluation of credentials to determine eligibility to take a particular State licensing examination or to obtain information concerning qualification for certification, a fee of \$25.00 shall be charged.

6. Fees and refunds for obtaining a qualifying academic certificate as defined in N.J.S.A. 18A:6-40 are provided in N.J.S.A. 18A:6-41.

(c) The State Board may establish from time to time a fee schedule for services related to the issuance of certificates which includes, but is not limited to, fees charged by local districts to provisional teachers to pay for their training. This fee schedule shall be in addition to any tuition and fees charged by institutions of higher education for courses and credits offered in connection with State-approved training programs.

(d) The State Board of Education may establish fees which candidates shall pay in order to obtain services which are offered but not required, such as the inclusion of candidates' names or other personal information in publications of available candidates.

(a)

Adult Education Programs

Adopted Repeals and New Rules: N.J.A.C. 6:30-1 and 2.

Adopted New Rules: N.J.A.C. 6:30-3, 4, 5 and 6.

Adopted Repeals: N.J.A.C. 6:27-1.14 and 6:44-2, 3 and 4.

Proposed: April 4, 1988 at 20 N.J.R. 700(a).

Adopted: June 1, 1988 by Saul Cooperman, Commissioner, Department of Education and Secretary, State Board of Education.

Filed: June 13, 1988 as R.1988 d.311, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:7C-1 et seq, 18A:48-1, 18A:49-1 through 8, 18A:50-12, 13 and 14, and the Adult Education Act, 20 U.S.C. 1201 et seq.

Effective Date: July 5, 1988.

Expiration Date: July 5, 1993.

Summary of Public Comments and Agency Responses:

The Department received eight letters with comments following the publication of the proposed repeals and new rules at N.J.A.C. 6:30 on April 4, 1988. Three persons presented oral testimony at the May 18,

1988 monthly public testimony hearings held to allow comment to the State Board on education policies.

A letter from the New Jersey Association for School Administrators (NJASA) observed that

COMMENT: no provision was made for special funding for required remedial coursework in the adult high school.

RESPONSE: Funding is a legislative matter and categorical aid for compensatory education is only available to K-12 programs.

Two letters from NJASA and testimony from Marilyn Birnbaum, North Plainfield Adult High School, were received

COMMENT: opposing implementation dates of new graduation requirements for the adult high school.

RESPONSE: The new graduation requirements are being phased in over the next three years. It was not the Department's intention to create a roadblock or to impose new requirements on persons currently enrolled in an adult high school but rather to assure that persons entering adult high schools would not be responsible for anything academically less than they were responsible for as day school students. Clarifying amendments have been made in N.J.A.C. 6:30-4.8. The implementation dates apply only to newly enrolled or reenrolled adults in the program. Persons currently enrolled will not be required to meet any new requirements which have not been a part of their educational plans.

Two letters from NJASA

COMMENT: opposed use of the Maculaitis Assessment Program.

RESPONSE: The form of the Maculaitis Assessment Program used would be the form designed for use with high school students. This is judged to be appropriate for persons 16 years of age and older. The standard passing score is a fixed standard for all high school students. English fluency does not vary with age.

Two letters from NJASA and the testimony of Jacquelin Hale, Gloucester City Adult High School,

COMMENT: opposed the Department's evaluation of foreign transcripts.

RESPONSE: The current process is inconsistent among adult high schools and often relies on agencies or persons with little understanding or knowledge of New Jersey public schools.

Two letters from NJASA and the testimony of Jacquelin Hale, Gloucester City Adult High School,

COMMENT: opposed the continuity of attendance requirement.

RESPONSE: The requirement was established to provide assurance that adults enrolling in an adult high school were, in fact, continuing students and not just one-day contacts who had no interest in the program once they went through the enrollment process. The effect of this requirement has been to significantly curtail the potential for abuse and, in fact, has reduced the September count by about 10 percent each year for the past three years by removing non-students from the rolls.

Two letters from NJASA and the testimony of Mary Elizabeth O'Connor, Somerset County Adult Education Advisory Council,

COMMENT: opposed the referral process for students with special needs.

RESPONSE: Special needs students are referred in the best way possible given the limited resources in adult high schools to provide persons with special needs an opportunity to gain a high school diploma. There is no legislative mandate to provide special education services to persons with special needs in an adult high school.

A letter from NJASA

COMMENT: opposed allowing seniors in regular high schools to attend an adult high school.

RESPONSE: This provision will give some high school seniors a reason for staying in school and graduating rather than dropping out or facing a fifth year of high school to complete a five-credit course which would not fit into their senior year schedule.

A letter from NJASA

COMMENT: referred to the monitoring proposed as excessive and without checks and balances.

RESPONSE: Program monitoring has become an absolute necessity in the overall process of improving and upgrading adult programs at all levels. There are numerous checks in the three levels of monitoring including a peer review process.

The testimony of Jacquelin Hale, Gloucester City Adult High School,

COMMENT: suggested an "incongruity" in the general prohibition of tuitions, fees and book deposits in the adult high school and the exemption related to tuitions for certain high school seniors and post-graduates permitted to attend an adult high school.

RESPONSE: The prohibition on tuitions and fees occurs because the adult high school is supported by State aid. In the exception for high

school seniors permitted to attend an adult high school, the sending district will be responsible for the tuition. In the case of the postgraduate, the tuition would be paid by the person taking the course. Neither person can be counted toward State aid.

A letter from the New Jersey Education Association contained the following comments:

COMMENT: Concern was expressed that a 7th grade reading level is required for entry into General Educational Development (GED) preparatory program and the district may not have an adult basic skills program to support persons reading under a 7th grade level.

RESPONSE: The Department believes that it is a reasonable requirement to expect persons preparing for the GED test to be able to demonstrate reading ability at the 7th grade level. Persons may attend a basic skills program in any of the 139 communities sponsoring such programs across the state.

COMMENT: Opposition was stated to the adult high school requirement for graduation that five of the 20 credits in communication, be in literature. Further, the Association suggested that this may exclude ESL credits allowable under N.J.A.C. 6:30-4.9(a)12.

RESPONSE: The literature requirement is viewed as giving necessary specificity to the core requirement in communications. ESL students may still take up to 20 credits in ESL. Five credits in literature is, nonetheless, a requirement for all students.

COMMENT: Concern was expressed with the phrase "least educated and most in need" in establishing priority for entry into a basic skills program. Further, the Association is opposed to using an oral interview with limited English proficient adults.

RESPONSE: The phrase was used to contrast with persons who were simply out-of-school without a high school diploma. Federal guidelines require that programs focus on the least educated and most in need in communities sponsoring adult basic skills programs. The phrase is self-explanatory. The Department also believes that an oral interview is appropriate at the adult basic skills level of instruction and is the least threatening option for persons seeking language skill improvement.

Letters from Anthony Viteritto, Sheet Metal Workers International Association; M. K. Kirzecky, Congoleum Corporation; Pat Carroll Sproechnle, Royal Personnel Services, Inc.; and, Neal Orlando, Mercer County Area Vocational Technical Schools, made the following comment:

COMMENT: The above persons conclude that the changed requirement that programs meet three out of six program areas in order to qualify for a \$12,000 reimbursement to a district hiring an adult education supervisor, now forces the district to provide instruction in areas they feel are not appropriate and will consequently negatively impact on trade and apprenticeship programs.

RESPONSE: The new rule referred to does not affect, in any way, the vocational offerings which have traditionally been available in Vocational-Technical school settings. Supervisors seeking this reimbursement must offer adult programs broad enough to serve a wide variety of persons.

A letter from Dr. Patricia Holliday, State Department of Human Services, contained the following comments:

COMMENT: Changes were suggested which would specifically identify persons in the Department of Human Services with regard to the signing of the Certificate of Non-Enrollment in School.

RESPONSE: This change is unnecessary since the code already allows the chief administrator of an institution to execute this certificate in cases other than public schools.

COMMENT: A suggestion to specifically include "criterion referenced tests" among the tests which might be used in the testing requirements in the adult basic skills program was made. Further, the commenter opposed the 50-hour posttest requirement.

RESPONSE: There are increasing requirements from the Federal government to quantify basic skills growth in programs funded through the Adult Education Act. This is best done through a systematic collection of test data and the Department believes that standardized tests for adults should be used for this purpose. The 50-hour testing interval is important in the measurement of growth in the various basic skills. The 50 hours represents the average stay of an adult in a basic skills program.

COMMENT: A request was made for clarification of "State agencies" as providers of service when they are precluded from operating adult high schools.

RESPONSE: The reference in the rules to "county or State agencies or institutions" was made to advise principals that if their programs were unable to serve a person with special needs, other options might be

available and that referral to these types of external agencies would be the next best step to take.

In addition to clarifying changes to N.J.A.C. 6:30-4.8 mentioned in the second comment response in the Summary, the Department made several spelling and grammatical corrections to the chapter text upon adoption. A publication error, the omission of the word "free" in N.J.A.C. 6:30-2.5, was corrected upon adoption.

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

CHAPTER 30 ADULT EDUCATION PROGRAMS

SUBCHAPTER 1. ADMINISTRATION OF ADULT EDUCATION PROGRAMS

6:30-1.1 Purpose and functions

(a) The purpose of adult education is to provide comprehensive lifelong learning opportunities for adults.

(b) The Division of Adult Education is responsible for:

1. Providing educational leadership for adult education programs cited in this chapter;

2. Allocating funds to local school districts, county community colleges, county and State institutions, and non-profit and for profit agencies and organizations for the operation of adult education programs;

3. Monitoring and evaluating funded adult education programs;

4. Providing technical assistance and training to programs cited in this chapter;

5. Supervising General Education Development (GED) Testing Centers;

6. Evaluating college transcripts of persons applying for a State issued high school diploma; and

7. Awarding State issued high school diplomas to applicants meeting the requirements of N.J.A.C. 6:30-1.3.

6:30-1.2 Age and out-of-school requirements

(a) In order to participate in adult education programs described in this chapter, a person must be 18 years of age and out of school. Exceptions to this rule shall be made for out-of-school youth, 16 and 17 years of age pursuant to (b) below. Persons 14 years of age and older participating in Evening Schools for Foreign Born Residents pursuant to N.J.S.A. 18A:49-1 shall not be subject to (b) below.

(b) All requests for exceptions shall be accompanied by a Certification of Non-Enrollment in School.

1. The Certification of Non-Enrollment in School shall state that the person is not on the school rolls of the resident district. The certification shall affirm that the applicant and his or her parents or legal guardian have been counseled about the opportunity to attend available in-school program options provided by the district.

2. The Certification of Non-Enrollment in School for youth 16 and 17 years of age domiciled in a natural or foster home shall be signed by a parent, guardian, probation or parole officer, State rehabilitation counselor or judge and either the high school principal or the superintendent of schools for the public school district in which the applicant resides. The certification shall also include the raised seal of the district or high school, or shall be notarized in testimony to the validity of the signature.

3. Adult education programs shall accept out-of-school youth, 16 and 17 years of age, who possess a valid Certification of Non-Enrollment in School for the purpose of assessment and advisement.

4. Based upon the academic assessment, the adult education program administrator shall offer to enroll a 16- or 17-year-old youth.

5. A 16- or 17-year-old candidate who has demonstrated a readiness to take the GED examination shall be issued a Referral to GED Test form by an adult education program administrator. This referral form shall affirm that advisement has been provided and that the applicant has been administered and completed the GED Practice Test with results that are predictive of likely success. The referral form shall include, but not be limited to, the following:

i. The name of the program making the referral;

- ii. The signature of the administrator responsible for the program and the date of the referral;
- iii. The raised seal of the district or school, or notarization attesting to the validity of the signature;
- iv. The printed name and signature of the student;
- v. The date of birth of the student; and
- vi. The date of the Certification of Non-Enrollment in School and the district of issuance.

6. A student file shall be maintained at the program for two calendar years from the date of referral. This file shall include but not be limited to the following:

- i. The original Certification of Non-Enrollment in School;
- ii. The intake form of the program;
- iii. The answer sheet for the GED Practice Test which was the basis of the referral to test; and
- iv. A copy of the Referral to GED Test form.

7. Out-of-school youth, 16 or 17 years of age and applying to take the GED test, shall present a completed Referral for GED Testing Form at the time of testing.

(c) The Certification of Non-Enrollment in School for youth 16 or 17 years of age who are domiciled in a State, county or municipal institution, or in a residential program, must be signed by either a parent or guardian, or, when neither is available, a surrogate parent. The chief administrator of the institution shall sign in place of the public school superintendent or high school principal.

1. Each institution shall ensure that the rights of a youth are protected through the provision of a surrogate parent who shall assume all parental rights under this chapter, when either:

- i. The parent(s) cannot be located after reasonable efforts; or
 - ii. The youth is a ward of the State of New Jersey.
2. Each institution shall establish a method for selecting and training surrogate parents.

3. The person serving as a surrogate parent shall have:

- i. No interest that conflicts with those of the youth he or she represents; and
- ii. Knowledge and skills that ensure adequate representation of the youth.

4. A surrogate parent may be paid solely to act in that capacity. Persons serving as surrogate parents may not otherwise be employees of the institution.

6:30-1.3 Certification for a State-issued high school diploma

(a) Either of the following methods may be used to qualify for a State-issued high school diploma:

1. Persons may apply for a State-issued high school diploma by taking the Tests of General Educational Development (GED) of the American Council on Education or other tests approved by the State Board of Education which shall be used as the basis for qualifying for a State-issued high school diploma.

i. The State Board of Education, after consultation with the Commissioner, shall establish uniform, Statewide standard scores for passage of the GED test.

(1) The Board shall establish a standard score establishing English language fluency on the Maculaitis Assessment Program for candidates taking the GED test in a foreign language.

ii. These standard score requirements shall be adopted and be subject to change by resolution of the State Board of Education. The State Board shall announce its intent to change GED score requirements no less than 28 days prior to final adoption.

2. Persons may apply and qualify for a State-issued high school diploma by presenting evidence of basic skills mastery as determined by the Commissioner of the Department of Education, and official transcripts showing at least 30 general education credits leading to a degree at an accredited institution of higher education. Included in the 30 general education credits must be a minimum of three credits in each of the five general education categories as follows: communications; mathematics; science; social science; and the humanities. For the purpose of this section the five general education categories shall be defined as follows:

- i. "Communications" shall mean courses designed to enhance facility in the English language;

ii. "Mathematics" shall mean courses designed to enhance mathematical conceptual understanding and application including computer science;

iii. "Science" shall mean courses designed to enhance scientific conceptual understanding and application;

iv. "Social science" shall mean courses designed to promote social awareness, including understanding social, economic and political problems and the responsibilities of citizenship in an interdependent world; and

v. "Humanities" shall mean courses in literary, philosophical, foreign language, historical, aesthetic, or other humanistic studies to promote the understanding and transmission of values to one's own and other cultures.

6:30-1.4 Fees

(a) Persons submitting applications for a State-issued high school diploma by examination or reexamination on the GED test shall pay a fee of \$20.00 in the form of a money order or bank certified check payable to the Commissioner of Education.

(b) Persons housed under the custody and supervision of the New Jersey State Department of Corrections may, by contractual agreement with the New Jersey State Department of Education, be administered the GED test without charge to either the candidate or the New Jersey State Department of Corrections.

(c) Persons requesting a State-issued high school diploma based on the evaluation of college coursework and those requesting a duplicate State-issued high school diploma shall pay \$5.00 in the form of a money order or bank certified check payable to the Commissioner of Education. No fee will be charged for duplicate reports of GED scores.

6:30-1.5 School and community planning process

(a) Each district or agency sponsoring an adult education program shall adopt a school and community planning process for State and Federal funding for adult education programs received through the Division of Adult Education to operate these programs.

1. For purposes of this section, "community" shall have the following meanings:

i. In the case of a school district, the municipality in which the district is located;

ii. In the case of a State or county college or a county vocational school, the county in which the institution is located;

iii. In the case of a non-school agency, the county in which the agency is located, unless the agency has defined specific communities or populations of service; or

iv. In the case of a jointure, consortium, commission, regional school district, or other cooperative organizational structure where several districts join together to provide adult educational services, the municipalities making up the cooperative entity.

(b) The agency sponsoring the adult education program shall provide opportunity for public review and comment on programs funded under this chapter. The agency shall establish an adult education advisory committee which shall include community residents and program staff and shall make provision for public input.

1. Agencies funded for programs established pursuant to the Adult Education Act, 20 U.S.C. 1201 et seq., shall implement planning and coordination requirements established in the New Jersey State Plan for Adult Education.

6:30-1.6 Evaluation requirements

(a) The Commissioner shall evaluate all programs pursuant to N.J.A.C. 6:30-1.7 to ensure that each is performing according to the standards and procedures prescribed by law and rule.

(b) Based upon the evaluation, the Director, Division of Adult Education, shall determine approval or non-approval of all programs except for an adult high school, in which case, the Director shall make a recommendation to the Commissioner regarding the status of the adult high school.

(c) All adult education programs shall be monitored within two years following the adoption of these rules and thereafter within a three year period.

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(d) Monitoring teams shall evaluate programs pursuant to the monitoring elements and indicators set forth in N.J.A.C. 6:30-2 through 6.

6:30-1.7 Monitoring process

(a) The Director, Division of Adult Education shall establish evaluation worksheets for the monitoring of adult education programs.

1. Monitoring teams shall be composed of representatives of the Division of Adult Education and may include a representative from the county office of education in which the program is located.

2. The Director, Division of Adult Education shall establish annually a monitoring schedule. Each program scheduled for monitoring shall be notified in advance by the Director, Division of Adult Education, and dates for such monitoring visits shall be established with the concurrence of the chief school administrator of the district or agency director with notification to the appropriate county office of education.

(b) An entrance conference with the chief school administrator or agency director and the administrative leader(s) of the various adult programs shall be scheduled prior to the monitoring visit.

(c) The monitoring team shall record its findings on evaluation worksheets, as prescribed in (a) above, on each of 10 elements with associated indicators pursuant to N.J.A.C. 6:30-2 through 6. The 10 elements to be evaluated area as follows:

1. Educational planning;
2. School and community relations;
3. Curriculum and instruction;
4. Attendance and register maintenance;
5. Facilities;
6. Staff;
7. Mandated programs;
8. Mandated assessment testing;
9. Equal educational opportunity and affirmative action; and
10. Financial administration.

(d) When monitoring a program sponsored by a voluntary agency, the monitoring team shall evaluate the program based on the terms and conditions of the contract entered into between the voluntary agency and the New Jersey State Department of Education.

1. For the purposes of this section, a voluntary agency program is one which uses non-paid tutors exclusively.

(e) The monitoring team shall meet with the chief school administrator or the agency director and the administrative leader(s) of the various adult programs at an exit conference to review findings of the team.

(f) Approval of adult programs shall be based on acceptable ratings on all of the essential elements applicable to each given program. The Director, Division of Adult Education shall send formal notification of the findings to the chief school administrator and the appropriate county superintendent of schools or agency director within 30 days after the completion of the monitoring visit.

1. The notification shall include copies of a summary and the completed worksheets for non-approved elements which contain suggestions or recommendations regarding actions to be taken by the district or agency with respect to the adult programs.

2. For each adult high school that receives an acceptable rating, the Director, Division of Adult Education, in addition to (f)1 above, shall submit a report of findings and recommendations to the Commissioner for final action by the State Board.

i. The Commissioner, with the approval of the State Board of Education, shall notify the district regarding State approval of an adult high school.

(g) For any adult program not approved, the district board of education or a sponsoring agency board may, within 30 days following receipt of notification, petition the Assistant Commissioner, Educational Programs to rescind the rating by presenting written documentation of performance on elements rated as unacceptable in any given program.

1. The Assistant Commissioner, Educational Programs, shall rule on such petitions.

(h) A school district or agency with any adult program rated as not approved shall implement the following program improvement process for each program so rated:

1. The chief school administrator or agency director shall organize a self-study team, which shall include the administrator of the adult program, to analyze the nature and causes of the problem(s) identified by the monitoring team.

2. The self-study team shall analyze the nature and causes of the problem(s) identified through monitoring and within 30 days of receipt of notification of non-approval develop an improvement plan to correct the problems. The improvement plan shall contain the following components:

- i. Objectives;
- ii. Activities;
- iii. Persons responsible;
- iv. Resources;
- v. Timelines; and
- vi. Documentation and evaluation of completed activity.

3. The plan shall be submitted to the Director, Division of Adult Education who shall approve or disapprove the plan within 14 days of receipt.

i. Failure to submit a plan shall be cause for the Director, Division of Adult Education to judge the unacceptably rated adult program as being in non-compliance with law and rule and to determine the continuance or discontinuance of the program at a time established by the Director.

ii. For an adult high school, failure to submit a plan shall be cause for the Director, Division of Adult Education to notify the Commissioner of the non-compliance of the adult high school with law and rule and recommend to the Commissioner the continuance or discontinuance of the adult high school program at a time to be established by the Commissioner.

4. The approved plan shall be referred to the chief school administrator or agency director for implementation.

5. Unacceptable plans shall be referred to the chief school administrator or agency director with recommendations for improvement.

i. The chief school administrator or agency director shall have 30 days to make the necessary revisions and resubmit the plan to the Director, Division of Adult Education.

ii. Failure to resubmit a plan or resubmitting a plan which continues to be unacceptable shall be cause for the Director, Division of Adult Education to judge the non-approved adult program as being in non-compliance with law and rule and to determine the continuance or discontinuance of the program at a time established by the Director.

iii. For an adult high school, failure to resubmit a plan or resubmitting a plan which continues to be unacceptable shall be cause for the Director, Division of Adult Education to notify the Commissioner of the non-compliance of the adult high school with law and rule and recommend to the Commissioner the continuance or discontinuance of the adult high school program at a time to be established by the Commissioner.

6. The district or agency shall have 90 days from the date of improvement plan approval to fully implement the plan. The Director, Division of Adult Education may determine a longer time period for full implementation which shall be explicitly stated at the time of plan approval.

7. Upon completion of improvement plan activities, the monitoring team shall remonitor the adult program to evaluate whether previously identified deficiencies have been corrected.

8. Following the remonitoring, the Director, Division of Adult Education shall send formal notification of the findings to the chief school administrator and appropriate county superintendent of schools or agency director. The approval process shall be completed pursuant to (f) above.

(i) For adult programs that are not approved following the implementation of a program improvement plan, the Director, Division of Adult Education shall convene an external team consisting of three adult program administrators and two nonadministrative professional adult program staff members from programs outside of the county of the program which has failed to receive approval.

1. The members of the external team shall review reports and events leading to non-approval and may schedule visits to the program site in order to render an advisory report to the Director, Division of Adult Education, regarding the program's rating.

2. Following the receipt of the advisory report from the external team, the Director, Division of Adult Education may determine the continuance or discontinuance of the adult program at a time established by the Director and explicitly stated in a formal notification to the chief school administrator and appropriate county superintendent of schools or agency director at the time of this action.

3. Following the receipt of the advisory report from the external team for an adult high school, the Director, Division of Adult Education shall make a recommendation to the Commissioner regarding the status of the adult high school. The Commissioner will recommend to the State Board of Education the continuance or discontinuance of the adult high school program.

SUBCHAPTER 2. ADULT BASIC SKILLS PROGRAMS

6:30-2.1 Purpose and program description

(a) Adult basic skills programs shall offer instruction designed to enable students to acquire the skills necessary to function independently as parents, workers, consumers and citizens.

1. Adult Basic Education (ABE) programs are designed for persons who are least educated and lacking the most basic educational skills. ABE programs focus instruction on basic communication, computation, pre-occupational, civic and everyday living skills.

2. General Education Development (GED) programs are designed for persons preparing to take the Tests of General Educational Development (GED) in order to qualify for a State-issued high school diploma. GED programs focus instruction on subject areas covered by the GED test, namely, writing skills, social studies, science, interpreting literature and the arts, and mathematics. In these programs instruction may be offered in either English or Spanish. GED preparation programs offered in a foreign language shall include preparation for the Maculaitis Assessment Program which comprises the sixth test of a foreign language version of the Tests of General Educational Development.

3. English as a Second Language (ESL) programs are designed for persons with limited English language ability to prepare them in the acquisition of listening, speaking, reading and writing English language skills necessary to function effectively in an English speaking environment and further, for those who so desire*,* to enter other adult education programs as quickly as possible. Persons with limited English language ability are those whose primary language is other than English and who, by oral interview, are determined to be in need of instruction in the English language. An adult's primary language is the language most relied upon by the adult for communication or the language most spoken by the adult in his or her home or work environment.

4. All curricula shall be adult oriented and shall emphasize instructional approaches and learning activities which are geared to the personal and academic needs and aspirations of each student.

6:30-2.2 Eligibility for funding

The eligibility of an agency, institution or organization to apply for State and Federal funds shall be determined in accordance with requirements pursuant to N.J.S.A. 18A:50-12 and P.L. 91-230.

6:30-2.3 Application for funding

(a) Eligible agencies, institutions and organizations which have been previously funded or intend to apply for funds for the first time shall submit a statement of anticipated funding needs for the succeeding fiscal year. These statements shall be submitted to the Division of Adult Education by July 1 of the pre-budget year.

(b) Eligible agencies, institutions and organizations not previously funded shall submit an application for funds in accordance with procedures established by the Division of Adult Education by October 1 of the pre-budget year. All applications will be reviewed and approved or disapproved for funding in accordance with criteria established in the State Plan for Adult Education pursuant to P.L. 91-230.

(c) Amounts of grant awards for eligible agencies, institutions and organizations which are approved for funding shall be determined on a formula basis established by the Commissioner.

1. The formula for grant awards for adult basic skills programming shall be based upon:

i. An analysis of the impact of funding for the last three years;

ii. A review of current demographic data relating to under-educated adults in the State of New Jersey; and

iii. A review of the proposed formula with practitioners in the field of adult education.

(d) Eligible agencies, institutions and organizations which are approved for funding will receive contract offers. Contracts will be approved by the Department of Education based on certification that contractual terms and conditions will be met.

(e) Agencies, institutions and organizations with approved contracts shall maintain financial and program records and submit all reports as required by the terms and conditions of their contracts.

6:30-2.4 Eligibility for participation

(a) Participation in ABE programs shall be limited to adults and out-of-school youth who are residents of New Jersey and meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2.

(b) Participation in ESL programs shall be limited to adults and out-of-school youth who are residents of New Jersey and meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2 and judged by oral interview to be in need of instruction in the English language.

(c) Priority for participation in ABE and ESL programs shall be given first to adults and out-of-school youth who are least educated and most in need and, second, to adults and out-of-school youth who have not obtained a high school diploma.

(d) Participation in GED preparatory programs shall be limited to adults and out-of-school youth who do not possess a high school diploma, are residents of New Jersey, meet the age and out-of-school provisions of N.J.A.C. 6:30-1.2 and have demonstrated a reading level of 7.0 on a commercially available, nationally normed, standardized test for adults.

6:30-2.5 Fees

Adult basic skills programs provided in total or in part with State or Federal funds shall be offered *free* of tuition, fees or other charges, including the cost of books and other instructional materials.

6:30-2.6 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The educational planning element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Written program goals and policies based on the educational needs of the adults to be served and consistent with the current New Jersey State Plan for Adult Education and applicable State and Federal regulations shall be developed for the program and shall serve as a basis for the educational program. Effective September 1, 1989, the goals, policies and operation of the program shall be approved annually by the district board of education or by the sponsoring agency's board prior to July 1. Documentation shall include a copy of the goals and policies of the program and the action taken by the district board or agency board.

(1) Program goals shall reflect the primary purpose of programs pursuant to N.J.A.C. 6:30-2.1, and while addressing the educational needs of the least educated in the community, shall reference the special concerns of those citizens who are members of minority groups. Program goals shall also include: specific recruitment strategies, utilizing a variety of techniques appropriate to the target population to be served; specific plans to provide incoming students with appropriate orientation to the program; a plan for self-assessment to be implemented annually; and specific plans to provide advisement to all students.

2. The school and community relations element shall be rated as acceptable upon documentation of performance in the three indicators as follows:

i. Effective September 1, 1989, learning and program opportunities shall be advertised as widely as possible. Documentation shall include

brochures or other program announcements, posters, and general notices to the community.

ii. Effective September 1, 1989, the district board of education or sponsoring agency's board shall provide opportunities for discussion regarding the goals, policies and operation of the program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall be copies of minutes of advisory committee meetings and evidence of public notice.

iii. Cooperative relationships shall be established with community agencies, business and industry, and with other Federal and State programs which provide vocational training, job development and placement and other employment related services. Documentation shall include letters of intent or contractual agreements, minutes of meetings, or other evidence of cooperative activity.

3. The curriculum and instruction element shall be rated acceptable upon documentation of performance in four indicators as follows:

i. Effective September 1, 1989, the district board of education or agency's board shall approve annually a curriculum for the program. Documentation shall be a copy of the curriculum and the action taken by the appropriate board.

(1) The curriculum shall cover reading, writing, computation, and other educational skills critical to an adult's independent functioning in society. Second language acquisition skills shall be incorporated into the curriculum in programs serving ESL students.

(2) The curriculum shall be a written document at levels of instruction appropriate to program organization. The curriculum shall minimally include those topical areas identified by the State Department of Education as essential to a quality instructional program and shall conform to the outline which follows:

- (A) Title of content area;
- (B) Description;
- (C) Topical listing of content;
- (D) Proficiencies; and
- (E) Standard of achievement.

ii. An educational plan shall be developed for each adult student except for persons enrolled in ESL classes. The plan shall be developed jointly by a professional staff member and the adult and shall reflect the adult's interests, experiences, goals and objectives and those educational skills identified as requiring remediation. A diagnosis of academic needs shall be completed within 10 instructional hours of a student's enrollment using a standardized test approved by the Director, Division of Adult Education. Effective September 1, 1989, the educational plan shall also include a record of the adult's progress, as measured by the standardized test used above, administered 50 instructional hours following the initial diagnostic testing. Effective September 1, 1989, the plan shall also include a dated review of the degree to which a student's goals and objectives are being achieved. Documentation shall be copies of educational plans.

(1) For persons enrolled in ESL programs, a placement test approved by the Director, Division of Adult Education, consisting minimally of an oral interview, shall be administered within 10 instructional hours of enrollment.

iii. The instructional program shall be sufficiently extensive in duration and intensive within a scheduled unit of time to enable students to develop educational skills and competencies necessary for the attainment of the individual's educational objectives. Documentation shall include a schedule of dates and hours of program operation, and availability of instructional areas and advisement.

iv. Materials, books, teaching aids, communications media, and other necessary supplies shall be acquired in quantities adequate for student enrollment and suitable to the interests of adults. Documentation shall include, but not be limited to, copies of purchase orders, instructional materials and supplies, or inventory lists.

4. The attendance record maintenance element shall be rated acceptable upon documentation of performance in two indicators as follows:

i. Attendance shall be recorded, on a daily basis, in an attendance record book provided by the State Department of Education where the hours of participation of adults enrolled in the program shall be noted. Attendance of students shall be verifiable through backup data

maintained by teachers or program administrators. Certification of Non-Enrollment in School forms for students 16 and 17 years of age shall be filed as part of the student's educational records. Documentation shall include attendance books and educational records.

ii. The program director shall submit to the State Department of Education annually, prior to July 15, student and staff record forms for each student participant and staff member employed in the program. The student record form will note level of program enrollment, hours of attendance during each month *[or]* *of* program operation, demographic information, test information, and other data required to be compiled by Federal regulations. The program shall maintain backup data to verify entries made on student and staff record forms. Documentation shall be properly maintained record forms and data to verify entries.

5. The facilities element shall be rated acceptable upon documentation of performance in three indicators as follows:

i. Where public school facilities are used, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where facilities other than public school buildings are used, the district or agency shall perform annual inspections of those facilities to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall include copies of checklists or certificates issued by appropriate government agencies, and a statement from the county office of education issued within the 12 months prior to the date of monitoring approving the facility for instructional purposes.

iii. Where programs sponsored by agencies other than public school districts use facilities other than public school buildings, the agency shall be responsible for documenting that State health and safety laws have been met. Documentation shall include certificates from appropriate government agencies attesting to compliance with State health and safety rules.

6. The staff element shall be rated acceptable upon documentation of performance in four indicators as follows:

i. All professional staff members shall possess standard New Jersey teaching certificates. Documentation shall be copies of teaching certificates.

ii. Program staff shall be supervised and evaluated annually by qualified personnel, possessing supervisory certification, responsible to the district or agency. Documentation shall include copies of staff observation reports, a schedule of evaluation dates, and copies of certification for supervisory personnel.

iii. Program staff involved in adult advisement shall be certified as a teacher, counselor, or supervisor. Documentation shall include copies of appropriate certificates and a list of all staff involved in adult advisement.

iv. A staff development plan shall be developed and implemented annually, directed at improving the delivery of program services. The plan shall include a new teacher orientation program to assist new teachers in working effectively with adult learners and to be more knowledgeable about local program philosophy and organization. Documentation shall be a copy of the staff development plan, materials, schedule of activities, lists of participants, and lists of presenters.

7. The mandated programs element shall be rated acceptable upon documentation of performance in the two indicators as follows:

i. Effective September 1, 1989, an analysis of the results of the testing in (a)8i below shall demonstrate an improvement in reading scores. Documentation shall be copies of test results.

ii. Effective September 1, 1989, at least 60 percent of the participants who enroll and are initially tested shall complete a posttest at an interval of 50 instructional hours following initial testing. Persons who are initially placed in an ABE program and are transferred to a GED preparatory program or who take the GED examination shall be counted as having completed the posttest. Persons who are initially placed in a GED preparatory program who attain a score predictive of success on the Official GED Practice Test shall be counted as having completed the posttest. The 50-hour test requirement shall not apply to ESL students and such students shall not be part of the calculation for the 60 percent requirement.

8. The mandated assessment testing element shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. Adults enrolled in a program shall be tested within 10 instructional hours of enrollment. Effective September 1, 1989, students shall also be tested at 50 instructional hours following the initial testing, using standardized tests approved by the Director, Division of Adult Education. The 50 hour test requirement shall not apply to ESL students. Documentation shall be a dated record of test results.

9. The equal *[education]* *educational* opportunity and affirmative action element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The program shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district or agency. Documentation shall be a statement from the administrator confirming the program's commitment to these objectives and public notices of this commitment in brochures or other program announcements.

10. The financial element shall be rated acceptable upon documentation of performance in two indicators as follows:

i. Districts or agencies receiving funding pursuant to this subchapter shall not require, as a condition for participation in the program, the payment of any tuitions, book deposits, fees, or other charges related to the purchase of books or materials. Documentation shall include registration information and budgetary accounts.

ii. The district or agency shall maintain appropriate fiscal records of all monies allocated by the State through an approved contract and shall submit all reports in a timely fashion as required by the terms and conditions of the contract. Documentation shall include budgetary accounts and receipt of all reports by reporting deadline dates.

SUBCHAPTER 3. GENERAL EDUCATIONAL DEVELOPMENT (GED) TESTING CENTERS

6:30-3.1 Purpose

General Educational Development (GED) testing centers shall provide opportunities for adults to take the Tests of General Educational Development (GED) and the Maculaitis Assessment Program leading to the awarding of a State-issued high school diploma.

6:30-3.2 Eligibility for participation

Public schools, public post secondary education institutions, and State agencies as approved by the State Department of Education are eligible to operate GED testing centers.

6:30-3.3 Application for participation

Eligible agencies shall submit an application in accordance with procedures established by the Division of Adult Education which may include, but not be limited to, documentation related to location, target population, facilities, marketing strategies, institutional commitment, and hours of operation. Contracts shall be approved by the State Department of Education based on an agency's certification that contractual terms and conditions will be met.

6:30-3.4 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The annual planning element for the GED testing center shall be rated acceptable upon the documentation of performance in the indicator as follows:

i. The center shall develop a testing schedule which provides for a minimum of 12 full GED testing sessions with no more than 45 calendar days elapsing between each scheduled session. Documentation shall be a copy of the schedule.

2. The school and community relations element for the GED testing center shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. The center shall advertise testing opportunities as widely as possible. Documentation shall include brochures, testing program announcements, posters, and general notices to the community.

3. The curriculum and instruction element is not applicable to this subchapter.

4. The attendance and register maintenance element is not applicable to this subchapter.

5. The facilities element for the testing center shall be rated acceptable by documentation of performance in two indicators as follows:

i. The testing center shall have a suitable physical site which includes a limited access secure storage area for the restricted testing materials, as well as a quiet, comfortable, well-lighted testing room with seats spaced so as to preclude opportunity for copying or collaborating by examinees. Documentation shall be accomplished through a physical inspection of the site.

ii. The testing center location shall meet the following requirements:

(1) Where the center uses public school facilities, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

(2) Where the center is sponsored by a public school district and uses facilities other than public school buildings, the district shall perform annual inspections of those facilities to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall include copies of checklists or certificates issued by appropriate government agencies, and a statement from the county office of education issued within the 12 months prior to the date of monitoring approving the facility for instructional purposes.

(3) Where the center is sponsored by an agency other than a public school district and uses facilities other than public school buildings, the agency shall be responsible for documenting that State health and safety laws have been met. Documentation shall include certificates from appropriate government agencies attesting to compliance with State health and safety rules.

6. The staff element for the testing center shall be rated acceptable upon documentation of performance in three indicators as follows:

i. The testing center shall be staffed by persons with appropriate qualifications for administering the tests and for ensuring separation of GED instructional activities and testing functions. Staff administering or having access to the test shall be trained and approved by the Division of Adult Education. The testing center shall have a State-approved chief examiner who shall have access to all test center materials and records at all times. Documentation shall include the identification of the chief examiner and copies of valid approvals issued by the Division of Adult Education.

ii. The testing center shall have staff accessible for candidates to set testing appointments in accordance with contractual agreements. Documentation shall be a copy of the testing center schedule of operations.

iii. The testing center staff shall, upon request, provide candidates who have failed test(s) with information about local instructional programs and other options available to obtain a high school diploma. Effective September 1, 1989, documentation shall include informational letters or brochures used by the center for referral purposes.

7. The mandated programs element shall be rated acceptable upon documentation in the indicator as follows:

i. The testing center shall operate under the established procedural guidelines of the American Council on Education providing opportunity for the administration of the General Educational Development (GED) test under the terms and conditions of the contract between the testing center and the State Department of Education. Documentation shall include test forms, test materials, and effective September 1, 1989, an administrative plan for ensuring security of restricted materials.

(1) Forms and test materials for scoring shall be completed correctly and submitted to the State Department of Education in a timely manner.

(2) The administrative plan procedures shall ensure that restricted testing materials are handled so that security will not be compromised.

8. The mandated Statewide assessment testing element is not applicable to this subchapter.

9. The equal educational opportunity and affirmative action element shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. The testing center shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district or agency. Documentation shall be a statement from the administrator, responsible for the center, confirming the center's commitment to these objectives and public notices of this commitment in brochures or other program announcements.

10. The financial element for the testing center shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Fees shall be charged in accordance with N.J.A.C. 6:30-1.4, shall be recorded on cash control sheets, and shall be forwarded to the Division of Adult Education. Documentation shall include copies of properly completed cash control sheets and evidence from the Department of Education that all monies are forwarded in a timely manner.

SUBCHAPTER 4. ADULT HIGH SCHOOLS

6:30-4.1 General provisions

Adult high schools shall offer adults opportunity, accessibility and flexibility while maintaining the high standards inherent in the awarding of a high school diploma. Courses shall be sufficiently varied for meeting the educational needs of adults and shall be designed to challenge participants to achieve their highest level of educational ability.

6:30-4.2 Definitions

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

"Accredited" means that the high school, college or university has met the criteria and standards set by the appropriate accrediting agency such as the Middle States Association.

"Adult" means a person 18 years of age or older.

"Adult high school" means a school conducting supervised educational activities in the day or evening to provide adults with the necessary instruction to enable them to complete the requirements for a locally issued, State-endorsed diploma.

"Adult's primary language" means the language most relied upon by the adult for communication, or the language most spoken by the adult in the adult's home or work environment.

"Apprentice training" means a formal trade or industrial training program for one to five years duration which is based on at least 2,000 hours of supervised training and may include 144 hours of related instruction for each year of the apprenticeship.

"Approved" means that a program has met the standards established by the Department of Education as evidenced by action taken by the State Board of Education.

"Attendance" means participation in a learning activity for more than one hour. Any adult participating in a learning activity for less than one full hour is not considered as attending a scheduled session and is not present for that session.

"Comprehensive examination" means a test designed to assess mastery of a given set of proficiencies.

"Contact time" means the period in which a student interacts with a staff member of the adult high school for one hour or more at a Department of Education approved facility for purposes of instruction or advisement.

"Course" and "coursework" means activities and projects which are geared toward mastery of a set of proficiencies.

"Director" means the Director, Division of Adult Education.

"DD-214" means a Department of Defense form issued to all members of the military which describes their service record.

"Educational plan" means a signed and dated document developed by the student and a professional staff member of the adult high school. The educational plan reflects the student's past academic record, an analysis of past experiences for which credit may be awarded, graduation requirements, and a proposed schedule of courses for the current school year leading to completion of the requirements for graduation.

"Enrolled" means that an adult has completed and filed an application for enrollment and assisted in the development and completion of an educational plan.

"Flexible course" means a course that identifies and prescribes activities and projects necessary to achieve an accepted level of proficiency rather than a specified number of minutes of class time.

"Full-time employment" means work that is not less than 30 hours per week.

"Handicapped adult" means any adult who has any physiological, mental or psychological disorder or condition which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment.

"Language fluency" means the ability to understand conversational English and to speak the language with sufficient structural accuracy, to use vocabulary to participate effectively in most formal and informal conversations on practical, social and school topics, to read material for information and to complete forms and write essays and reports on familiar topics.

"Language proficiency" is defined as the full command of language skills, including proficiency in listening, speaking, reading and writing. Language proficiency is defined operationally as the passing score on an English language proficiency test. To attain proficiency in a language requires more time than to attain fluency.

"Limited English proficiency adult" is defined as an adult who has not demonstrated English language proficiency as measured by a language proficiency test. Persons who should be tested include those whose primary language is other than English and have not demonstrated a reading level of 7.0 on a commercially available, nationally normed, standardized test for adults or persons who as a result of an oral interview are judged to be candidates for English language proficiency testing.

"Locally issued, State-endorsed diploma" means a high school diploma awarded to an individual by a district board of education endorsed by the State Board of Education.

"Monitoring" means a process conducted by representatives of the Department of Education to evaluate programs for compliance with law and rule.

"Occupational license" means a certificate verifying that a person has met qualifications prescribed by an issuing State agency for occupations designated by the New Jersey State Department of Labor.

"New Jersey resident" means a person who resides in the State of New Jersey. The residence of a person is defined in terms of domicile. Domicile is defined as the place where a person has his or her true, fixed permanent home and principal establishment and to which, whenever absent, he or she has the intention of returning.

"Official transcript" means an individual's record of high school or college courses, grades and credits awarded. The official transcript shall have either of the following indicators: a raised school seal or the original signature of an administrator of the school.

"Part-time employment" means work that is more than 15 hours but less than 30 hours per week.

"Proficiency" means an explicitly stated and demonstrable knowledge and/or skill used to define a desired learning outcome.

"Provisional approval" means approval to begin to operate an adult high school for a period not to exceed one year during which time monitoring shall occur and approval may be subsequently granted.

"Proprietary school" means a privately owned school.

"Remedial college courses" means those courses taken at an accredited college or university which are not applied toward graduation and for which no college academic credit is awarded.

"School year" means a period of time commencing on July 1 and ending on June 30 of the following year.

"State-issued diploma" means a diploma issued by the State of New Jersey. This is contrasted with a locally issued, State-endorsed diploma.

"Statement of responsibilities" means an agreement signed by both the student and a representative of the adult high school establishing the requirements of each to engage in a successful academic program.

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"Traditional course" means a course which has specified lengths of time for class meetings and the completion of activities necessary to achieve the accepted level of proficiencies for the award of credit.

6:30-4.3 Permission to establish, expand or relocate an adult high school

(a) To establish an adult high school, the district board of education shall file a request with the Division of Adult Education prior to December 31 preceding the year of anticipated operation. The request shall include:

1. Data documenting community need;
2. An identification and description of the proposed program site;
3. A projection of enrollment for the first year of operation;
4. A projection of staff by job title;
5. A locally approved program of studies which includes State mandated courses required for graduation as prescribed in N.J.A.C. 6:30-4.8;

6. A projected budget for the first year of operation; and
7. A district board of education resolution approving the establishment of an adult high school.

(b) The Division of Adult Education shall evaluate the application of the district board of education and visit the proposed site before the Director shall grant or deny provisional approval to establish an adult high school.

1. If permission is not granted, the district may resubmit an amended application.

2. If permission is not granted following resubmission, the proposed adult high school may not begin operations during the subsequent school year.

(c) To expand or to relocate an existing program to another site, the district board of education shall file a request with the Division of Adult Education three months prior to the anticipated change. The request shall include elements (a)2, 3 and 4 listed above.

6:30-4.4 Evaluation elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The educational planning element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The district board of education shall approve annually the goals and operational policies of the adult high school. Documentation shall include copies of the minutes of the district board's action approving the goals and policies related to the school's operation. Action by the district board regarding expansion or relocation shall be made part of a file of board actions to clearly outline the board's approval of additional sites or program locations.

2. The school and community relations element will be rated as acceptable upon documentation of performance in the two indicators as follows:

i. Learning and program opportunities shall be advertised as widely as possible. Documentation shall include brochures or other program announcements, posters, and general notices to the community.

ii. The district board of education shall provide opportunities for discussion regarding the goals and operational policies of the program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall be copies of minutes of public meetings or public comment and evidence of public notice.

3. The curriculum and instruction element will be rated as acceptable upon documentation of performance in the three indicators as follows:

i. The district board of education shall approve annually the program of studies for the adult high school, a copy of which shall be maintained by the principal of the adult high school. Documentation shall include copies of the district board's minutes citing the approval and a copy of the written document. The program of studies shall include description*s* of all courses available as part of the instructional program or utilized in any assessment process to grant credit. The course descriptions shall conform to the outline in N.J.A.C. 6:30-4.7(c). Courses developed during the school year shall be approved by the district board before being offered to students as part

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of the instructional program or for assessment or credit granting purposes.

ii. The adult high school administrator shall develop and maintain educational plans for each adult enrolled in the adult high school. Documentation shall be copies of educational plans.

iii. The adult high school administrator shall maintain a staff schedule. Documentation shall be a copy of the schedule which clearly indicates the availability of personnel for consultation with adult students for either instructional or advisement purposes. The instructional program shall provide adult participants with adequate opportunity for advisement and consultation with subject matter specialists. With regard to program advisement, the principal of the adult high school shall make provision, through staff scheduling, to ensure the availability of at least one staff member during all hours of program operation for the purpose of meeting with adults in need of advisement.

4. The attendance and register maintenance element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school administrator shall maintain a New Jersey Adult High School Register and be responsible for the security of said Register for a period of six years following the close of the school year. Documentation of this shall be a correctly maintained *[register]* *Register* which follows the instructions for Register maintenance which are printed in the document. The Register is available from the Division of Adult Education. Attendance of students recorded in the Register shall be verifiable through backup data maintained by teachers. Certification of Non-Enrollment in School forms for students 16 and 17 years of age shall be filed with the student's educational plan.

5. The facilities element will be rated as acceptable upon documentation of performance in two indicators as follows:

i. Where the program uses public school facilities, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where the program uses facilities other than public school buildings, the district shall perform annually an inspection of those facilities used by the adult high school to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall be checklists or certificates issued by appropriate government agencies and a statement from the county office of education issued within 12 months prior to the date of monitoring approving the facility for instructional purposes.

6. The staff element will be rated as acceptable upon documentation of performance in three indicators as follows:

i. The district board of education shall ensure that all professional staff members are certified for the responsibilities they have been assigned to carry out in the adult high school. Documentation shall be copies of appropriate certifications.

ii. The adult high school principal shall maintain a written plan and schedule of staff observations. Documentation shall be copies of such a plan and schedule, and copies of evaluations which have been completed by the principal or an appropriate administrative staff person.

iii. The program shall develop and implement annually a staff development plan directed at improving the delivery of program services. The plan shall include a new teacher orientation program to assist new teachers in working effectively with adult learners and to be more knowledgeable about local program philosophy and organization. Documentation shall be a copy of the staff development plan, materials, schedule of activities, lists of participants, and lists of presenters.

7. The mandated programs element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school shall develop and maintain a plan to provide remedial coursework for participants who have been unable to demonstrate basic skills mastery. Documentation shall be such a plan referencing specific courses which are available to adults with this deficiency. This program shall be available to all students in the form of coursework every year they participate in the adult high school. The awarding of credit for this coursework shall meet the

criteria stated in N.J.A.C. 6:30-4.9(a)11. In order for the courses to count toward meeting communications and/or computation requirements for high school graduation, the work must include both remedial and board approved developmental proficiencies; these courses must be taught by or the student's work must be assessed by a teacher holding appropriate secondary certification.

8. The mandated Statewide assessment testing element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school shall participate in the Statewide assessment testing program. Documentation shall be notices or copies of schedules to adult students and the community regarding Statewide assessment testing opportunities.

9. The equal educational opportunity and affirmative action element will be rated as acceptable upon documentation of performance in the indicator as follows:

i. The adult high school shall share in the local effort to meet the objectives of the State-approved affirmative action plans for classroom and employment practices of the district. Documentation shall be a statement from the principal of the adult high school confirming the program's commitment to these objectives and public notices of this commitment in brochures or other public announcements. Such a statement of affirmation shall be part of the overall policies and procedures adopted by the district board with reference to the operation of the adult high school.

10. The financial administration element will be rated as acceptable upon documentation of performance in the two indicators as follows:

i. The district board of education shall receive accurate and timely fiscal and statistical reports from the adult high school pursuant to law and rule. Documentation shall include a budget account established solely for adult high school financial reporting purposes. Documentation shall also include the timely filing, prior to December 1, of adjustments to the Application for State School Aid, September 30 report.

ii. Districts receiving funding pursuant to this subchapter shall not require, as a condition for participation in the program, the payment of any tuitions, book deposits, fees, or other charges related to the purchase of books or materials. Documentation shall include registration information and budgetary accounts.

6:30-4.5 Eligibility for enrollment and State aid

(a) To qualify for enrollment in an adult high school, a person shall:

1. Be a New Jersey resident;
2. Meet the age and out-of-school requirement of N.J.A.C.

6:30-1.2;

i. A person enrolled in secondary school with senior standing, lacking an opportunity to take courses which are available in the adult high school, shall be exempt from the provisions of N.J.A.C.

6:30-1.2 provided that the district superintendents of schools of both the sending and receiving districts approve the participation of such a person on a space available basis in that adult high school. Such written approval shall explicitly state the course(s) to be taken and the time frame covered by the letter. Tuition established by the receiving district on a cost-recovery basis may be charged to the sending district for persons enrolled under this exception;

3. Have not earned a locally issued, State-endorsed high school diploma;

i. Persons holding locally issued high school diplomas may enroll in an adult high school on a space available basis for the express purpose of supplementing their high school record. Tuition established by the host district on a cost-recovery basis may be charged to persons enrolling under this exception; and

4. Complete and sign an application for enrollment including a statement of responsibilities.

(b) To qualify for State aid a person shall:

1. Have met the requirements set forth in (a) above;
2. Have an educational plan on file; and
3. Have met the following attendance requirements:

i. Be enrolled and on the school register as of September 30 of the current school year; and

ii. Be in attendance at least once during the first 14 days in October, unless excused by the adult high school principal for reasonable cause.

(c) Adults who qualify for State aid shall be reported for State aid purposes on the basis of the number of course credits projected in the educational plan for the current school year on the following schedule:

1. One, to and including, 14 credits as a value of 0.5.
2. Fifteen or more credits as a value of 1.0.

(d) Persons enrolled pursuant to (a)2i and 3i above shall not qualify for State aid with respect to their participation in the adult high school.

6:30-4.6 Adults with special needs

(a) When an adult's primary language is other than English, he or she shall be required to demonstrate language fluency on the Maculaitis Assessment Program at a score level determined by the State Board of Education.

1. Adults who cannot demonstrate English language fluency shall be referred to appropriate classes in the adult high school to attain English language fluency. If the language improvement needs of the adult cannot be met by the adult high school, then the principal shall refer the person to the nearest adult program with staff available to meet those needs.

(b) Effective September 1, 1989, limited English proficient adults shall be referred to appropriate classes in the adult high school to attain English language proficiency. If the language improvement needs of the adult cannot be met by the adult high school, then the principal shall refer the person to the nearest adult program with staff available to meet those needs.

(c) For an adult with previous experience in a special education program now seeking similar services at an adult high school, the principal of the adult high school with the concurrence of the adult shall request the most recent evaluation and individualized education plan (IEP) for that adult from the high school of last attendance, provided the evaluation was made within the last three years.

1. The principal shall review the IEP to determine the services required by the plan and also the availability of such services in the adult high school.

i. If the IEP can be carried out, it shall serve as the instructional guide for that adult.

ii. If the principal determines that the IEP cannot be carried out, the principal shall promptly refer the adult to the nearest adult high school with staff available to offer the special services required in the IEP or to appropriate county or State agencies or institutions with resources and personnel able to serve the special needs of the adult.

2. If the evaluation was made more than three years prior to application to the adult high school, the IEP may not serve as a guide for the adult's instructional program at the adult high school.

(d) Handicapped adults without previous experience in a special education program or those individuals with IEPs that have been issued more than three years prior to their application to the adult high school shall be counseled regarding educational options which would lead to high school graduation and shall be served to the maximum extent appropriate to the needs of the handicapped adult within the capability of the program to provide such services.

6:30-4.7 Curriculum

(a) The adult high school curriculum shall comply with the requirements of law and rule and shall include a program of studies which has been adopted by the district board of education.

(b) A copy of the program of studies together with the rules governing its administration as formulated locally and approved by the district board of education shall be kept on file in the principal's office of each adult high school. Such program shall include the course offering, both required and elective, and the number of credits for each course.

(c) The program of studies shall include all course descriptions. Each course description outline shall include:

1. The course title;
2. A course description;

- 3. A topical listing of course content;
- 4. A list of course proficiencies;
- 5. Evaluation criteria and the standard of mastery; and
- 6. A comprehensive examination.

(d) The comprehensive examinations for all courses, except for those in the fine, practical or performing arts, shall be written examinations.

(e) When similarly titled courses exist in the adult high school and in high schools of the district, the proficiencies for adult high school courses must meet or exceed the proficiencies previously established for those courses in the high schools of the district.

(f) The program of studies shall indicate whether a course is traditional or flexible.

1. Traditional courses shall be held in classroom sessions which meet a minimum of 7,200 minutes for each one-year, five-credit course.

2. Flexible courses shall require the completion of projects and activities which shall be reviewed in biweekly meetings between a subject area specialist and a student.

6:30-4.8 Graduation

(a) The district board of education of each adult high school shall adopt policies for adult high school graduation requirements pursuant to law and rule. Policies shall include passing the Statewide assessment tests. ESL students who are unable to pass Statewide assessment tests to demonstrate mastery of basic skills shall be further evaluated through a Special Review Assessment pursuant to N.J.A.C. 6:8-7.1(b)3, 4 and 5 and shall demonstrate English language fluency on the Maculaitis Assessment Program as a requirement for graduation.

1. Effective September 1, 1989, when limited English proficient adults are unable to pass the Statewide assessment tests, they shall be further evaluated through a Special Review Assessment pursuant to N.J.A.C. 6:8-7.1(b)3, 4 and 5 and shall demonstrate English language fluency on the Maculaitis Assessment Program as a requirement for graduation.

(b) The district board of education of each adult high school shall establish minimum credit requirements for graduation which shall meet the requirements of the district's regular high school ***and shall not be less than 110 credits for newly enrolled and reenrolled adults effective September 1, 1988***.

1. Of the required credits, no more than 15 credits may be in physical education.

2. Of the required credits, at least 10 credits must be earned in coursework taken at the adult high school issuing the diploma.

(c) Each adult high school shall establish minimum curriculum requirements for graduation which shall meet the requirements of the district's regular high school and include the following:

1. ***[20]* *Twenty*** credits of communication, of which five credits shall be in literature;

2. ***[10]* *Ten*** credits of mathematics effective through August, 1990; 15 credits of mathematics ***[effective September, 1990]* *for newly enrolled and reenrolled adults effective September 1, 1990***;

3. ***[10]* *Ten*** credits of history as required by N.J.S.A. 18A:35-1 and 2, and five credits of world history/cultures ***for newly enrolled and reenrolled adults effective September 1, 1988***;

4. Five credits of natural or physical science through August, 1989; 10 credits of natural or physical science ***[effective September, 1989]* *for newly enrolled and reenrolled adults effective September 1, 1989***;

5. Five credits of fine, practical or performing arts;

6. Five credits in health and safety; and

7. Two and one-half credits of career exploration or development.

(d) The staff of each adult high school shall distribute to each entering adult a copy of all State and local adult high school graduation requirements. In addition, all adults shall receive at the beginning of each course a list of proficiencies required for successful completion of that course.

(e) Successful completion of the requirements set forth in (a), (b) and (c) above, and those established by the district board of education, shall be required as conditions for awarding a locally issued, State-endorsed diploma.

(f) No district board of education may issue an adult high school diploma without State endorsement.

(g) No district board of education may issue an adult high school diploma without signed verifications for all credit awarded for experience and an official transcript(s) being on file.

6:30-4.9 Award of credit

(a) The district board of education of each adult high school shall annually adopt policies at a public meeting which provide for the awarding of credit.

1. Credits verified by an official transcript may be transferred from accredited or State-approved high schools or institutions. Experiences being considered for transferred credit from proprietary schools or public vocational training programs shall be assessed in terms of proficiencies for district courses offering similar experiences.

2. Credits may be awarded for other than remedial courses which lead to a degree and are taken at an accredited college. They must be verified by an official transcript. Five credits may be awarded for three college credits earned.

3. Credits may be awarded for physical education and basic military training with the following limitations:

i. Up to 15 credits may be awarded for previously earned high school physical education credits verified by an official transcript.

ii. Up to 10 credits verified by a DD-214 form may be awarded for basic military training.

iii. The combination of (a)3i and ii above may not exceed 15 credits.

4. A maximum of two and one-half credits in health and safety may be awarded for the possession of a valid New Jersey driver's license if credit for driver's education has not been awarded.

5. Credit may be awarded for work experience with the following limitations:

i. Two and one-half credits may be awarded for each 12 months of full-time employment that is verified by a signed statement from the employer(s).

ii. Two and one-half credits may be awarded for each 24 months of part-time employment that is verified by a signed statement from the employer(s).

iii. The combination of (a)5i and ii above may not exceed 10 credits and may not duplicate credits awarded for apprentice training, an occupational license or on-the-job training.

6. Credits may be awarded for completion of apprentice training with the following limitations:

i. The apprentice training must meet standards established by the United States Department of Labor, Bureau of Apprenticeship and Training;

ii. Completion of training must be verified by a signed document from the registered apprentice sponsor;

iii. The award may not exceed 20 credits and may not duplicate credits awarded for work experiences, an occupational license, on-the-job training or transferred credit from an official transcript; and

iv. The Director, Division of Adult Education, shall announce annually the apprenticeship titles eligible for the award of credit and determine the amount of credit to be awarded.

7. Credit may be awarded for possession of a current occupational license, issued by an agency of the State of New Jersey, with the following limitations:

i. A maximum of five credits may be awarded for a current occupational license;

ii. The Director, Division of Adult Education, shall announce annually those occupational titles eligible for the award of credit;

iii. Credit may be awarded for only one occupational license; and

iv. Credit awarded for an occupational license may not duplicate credit awarded for work experience, on-the-job training, apprenticeship or transferred credit from an official transcript.

8. Credits may be awarded for on-the-job training and advanced military training with the following limitations:

i. Five credits may be awarded for each 120 hours of on-the-job training that is formally supervised, follows a prescribed training outline and is verified by a signed statement from the employer;

ii. One credit may be awarded for each week of advanced military training not to exceed 10 credits that is verified by the Military

Occupational Speciality designation which appears on the DD-214 form; and

iii. The combination of (a)8i and ii above may not exceed 20 credits and may not duplicate credits for work experience, apprentice training, or an occupational license.

9. The cumulative award of credit for (a)5, 6, 7 and 8 above shall not exceed 30 credits.

10. Credit may be awarded for passing a comprehensive examination with the following limitations:

i. The award shall not exceed five credits;

ii. The comprehensive examination must be part of an approved course and may only be used to award credit for a single course; and

iii. The comprehensive examination may not be a standardized test, such as the General Education Development Test.

11. Credit may be awarded for remedial coursework in communications and computation only to persons who have demonstrated reading or computational proficiency below the 9.0 grade level on a commercially available, nationally normed, standardized test for adults or to persons unable to pass the *[s]**S*tatewide assessment tests.

i. The award of credit may not exceed 20 credits in communications and 20 credits in computation.

12. Credit may be awarded for coursework in English as a second language (ESL).

i. The award of credit in English as a second language may not exceed 20 credits.

ii. Courses in English as a second language shall be offered only as traditional courses pursuant to the requirements in N.J.A.C. 6:30-4.7(f)1.

6:30-4.10 Awarding credit for foreign studies

(a) Credit for the equivalent of American secondary school studies experienced in a foreign country may only be awarded as determined by the Director, Division of Adult Education following an evaluation of transcript(s) presented by the adult.

(b) Transcript evaluation shall be for the purpose of participating in an adult high school program and shall be transmitted to the Division of Adult Education with a request for such an evaluation by the principal of the adult high school.

1. Each request for a transcript evaluation shall be accompanied with a money order or bank certified check in the amount of \$25.00 payable to the Commissioner of Education.

6:30-4.11 Maintaining student records

(a) Each adult high school shall have the responsibility to compile, maintain and retain student records and to regulate access to and security of such records as prescribed in N.J.A.C. 6:30-2.

(b) The attendance records of all adult high schools shall be maintained annually in the official New Jersey Adult High School Register in accordance with the procedures prescribed therein and in accordance with the requirements of N.J.A.C. 6:30-4.4(a)4i.

6:30-4.12 Maintaining financial records

(a) The financial records of all adult high schools shall be:

1. Maintained in accordance with law and rule; and
2. Maintained in the appropriate accounts.

(b) Adult high school programs shall be offered free of tuition, fees or other charges, including the cost of books and other instructional materials.

6:30-4.13 Staffing

(a) The adult high school shall have an adequate number of professional staff, properly certified for their respective assignments; however, those persons involved in adult advisement shall be certified as principal, supervisor, counselor or teacher.

(b) District boards of education shall assign position titles to professional staff members which are recognized in N.J.A.C. 6:11.

6:30-4.14 Special conditions

The rules set forth in Title 6 of the New Jersey Administrative Code governing the operation of a high school within a school district shall govern the operation of an adult high school unless otherwise explicitly stated in this subchapter.

SUBCHAPTER 5. EVENING SCHOOLS FOR FOREIGN BORN RESIDENTS

6:30-5.1 Purpose

The purpose of Evening Schools for Foreign Born Residents is to provide foreign born persons with instruction in the English language pursuant to N.J.S.A. 18A:49-1. The program also provides instruction concerning the organization and function of Federal, State, and local government and in the laws of New Jersey and of the United States. All instruction shall be oriented toward preparation for citizenship.

6:30-5.2 Eligibility for funding

(a) Eligibility for funding under this program is limited to school districts.

(b) Teachers employed in the Evening School for Foreign Born Residents programs shall hold a valid New Jersey teaching certificate.

(c) The classes shall be separate and distinct from other adult education classes. They may be held in the same building with other classes but shall be maintained in separate rooms. Classes may be held during daytime hours but shall be available in the evening in all local programs funded under this subchapter.

6:30-5.3 Application for funding

(a) To receive funding under this program, school districts shall make application annually to the Division of Adult Education.

1. Each school district shall submit a statement of estimated funding needs to the Division by July 1 of the pre-budget year. These estimates shall be used by the Division to develop the allocations for programming for the following school year. A maximum allocation of \$5,000 may be requested by districts as reimbursement for the State share of actual costs incurred in conducting the program during any school year.

2. The school district shall appropriate in its annual budget an amount at least equal to the allocation anticipated from the State. The expenditure of State and local funds for that year shall be confirmed in a fiscal report submitted to the Division upon completion of the program but no later than August 1.

3. In any year that the State appropriation for this program is less than the amount applied for by school districts, the amounts requested by districts shall be prorated. The proration shall be based on the ratio of the State appropriation for that year to the total amount for which application is made.

4. Upon receipt of a notice of allocation from the Division of Adult Education, districts shall submit an application for approval by the Division. The annual allocation and application shall be distributed to school districts by June 30 of the school year preceding funding.

5. School districts approved for funding under this program shall maintain fiscal and program records and submit records as specified by the Commissioner.

6. A separate account shall be maintained for the receipt and disbursement of State and local funds. This account shall be shown in the annual audit of the district.

6:30-5.4 Eligibility for student participation

(a) Participants in the Evening School for Foreign Born Residents program shall be at least 14 years of age pursuant to N.J.S.A. 18A:49-1.

1. Participation by in-school youth shall not be in lieu of regular day school instruction.

6:30-5.5 Fees

(a) Except as stated in (b) below, programs provided in total or in part with State funds shall be offered free of tuition, fees or other charges, including the cost of books and other instructional materials.

(b) A district may charge a registration fee only when it can document that actual costs for the program exceed available funds from State and local sources.

6:30-5.6 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the educational process in the program using prescribed indicators of acceptable performance and documentation as follows:

1. The educational planning element shall be rated as acceptable upon documentation of performance in the indicator as follows:

i. Written goals and policies based on the educational needs of the adults to be served and consistent with current rules shall be developed for the program and shall serve as a basis for the educational program. Effective September 1, 1989, the goals, policies, and operation of the program shall be approved annually by the district board of education prior to July 1. Documentation shall include a copy of the goals and policies of the program and the action taken by the district board.

2. The school and community relations element shall be rated as acceptable upon documentation of performance in the two indicators as follows:

i. Effective September 1, 1989, learning and program opportunities shall be advertised as widely as possible. Documentation shall include brochures and other program announcements, posters, and general notices to the community.

ii. Effective September 1, 1989, opportunities shall be provided for discussion regarding the goals, policies and operation of the program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall include copies of minutes of the advisory committee meetings and evidence of public notice.

3. The curriculum and instruction element shall be rated acceptable upon documentation of performance in four indicators as follows:

i. Effective September 1, 1989, the district board of education shall approve annually a curriculum for the program. Documentation shall be a copy of the curriculum and the action taken by the district board.

(1) The curriculum shall make provision for instruction in the subject areas pursuant to N.J.S.A. 18A:49-1. The curriculum shall also be State Board approved pursuant to N.J.S.A. 18A:49-1.

(2) The curriculum shall be a written document at levels of instruction appropriate to program needs, and shall conform to the outline which follows:

- (A) Title *[to]* *of* content area;
- (B) Description;
- (C) Topical listing of content;
- (D) Proficiencies; and
- (E) Standard of achievement.

ii. Effective September 1, 1989, a placement test approved by the Director, Division of Adult Education, consisting minimally of an oral interview shall be administered within 10 instructional hours of enrollment. Documentation shall be copies of test results.

iii. The program shall acquire materials, books, teaching aids, communications media, and other necessary supplies in quantities adequate for student enrollment and suitable to the interest of adults. Documentation shall include, but not be limited to, copies of purchase orders, instructional materials and supplies, and inventory lists.

iv. Effective September 1, 1989, the program shall offer instruction for a minimum of 100 hours in a school year. Documentation shall be a current class schedule for the program.

4. The attendance record maintenance element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Teachers shall record the attendance of adults enrolled in the program on a per session basis. Documentation shall be an accurately maintained attendance record book or attendance record sheets.

5. The facilities element shall be rated as acceptable upon documentation of performance in three indicators as follows:

i. Where public school facilities are used, the district shall have on file a current five-year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where facilities other than public school buildings are used, the district shall perform annual inspections of those facilities to ensure adherence to health and safety laws and there shall be on file a statement of annual approval of the site for instructional purposes issued by the county office of education. Documentation shall include copies of checklists or certificates issued by appropriate government agencies, and a statement from the county office of education issued

within the 12 months prior to the date of monitoring approving the facility for instructional purposes.

iii. The district shall designate separate and distinct classrooms for Evening School for Foreign Born Residents program classes. Documentation shall be a schedule of classroom assignments.

6. The staff element shall be rated acceptable upon documentation of performance in the four indicators as follows:

i. All professional staff members shall possess standard New Jersey teaching certificates. Documentation shall be copies of teaching certificates.

ii. Program staff shall be supervised and evaluated annually by qualified personnel, possessing supervisory certification, and responsible to the district. Documentation shall include copies of staff observation reports, a schedule of evaluation dates, and copies of certification for supervisory personnel.

iii. Program staff involved in adult advisement shall be certified as a teacher, counselor or supervisor. Documentation shall include copies of appropriate certificates and a list of all staff involved in adult advisement.

iv. A staff development plan shall be developed and implemented annually, directed at improving the delivery of program services. The plan shall include a new teacher orientation program to assist new teachers in working effectively with adult learners and to be more knowledgeable about local program philosophy and organization. Documentation shall be a copy of the staff development plan, materials, schedule or activities, lists of participants, and lists of pres-enters.

7. The mandated programs element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The district shall make available Evening School for Foreign Born Residents program classes in the evening*.* Documentation shall be a copy of the program schedule indicating the hours of operation.

8. The mandated assessment testing element is not applicable to this subchapter.

9. The equal educational opportunity and affirmative action element shall be rated acceptable by documentation of performance in the indicator as follows:

i. The program shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district. Documentation shall be a statement from the administrator of the program confirming the program's commitment to these objectives and public notices of this commitment in brochures or other program announcements.

10. The financial element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The district shall maintain appropriate fiscal records of all monies allocated by the State and shall submit all reports in a timely manner as required by law and rule. Documentation shall be copies of relevant sections of the district's fiscal records.

SUBCHAPTER 6. SUPERVISORS OF ADULT EDUCATION PROGRAM

6:30-6.1 Purpose

The purpose of the Supervisors of Adult Education program is to provide reimbursement up to \$12,000 to school districts employing supervisors of adult education programs pursuant to N.J.S.A. 18A:50-7.

6:30-6.2 Eligibility for reimbursement

Eligibility for reimbursement is limited to school districts employing a full-time staff member at least half of whose responsibilities shall be supervision of the adult education program.

6:30-6.3 Requirements for reimbursement

(a) To be eligible for reimbursement, the district shall operate programs of adult education which have been approved by the district board of education pursuant to law and rule and supervised by qualified personnel possessing supervisory certification responsible to the district.

ADOPTIONS

1. The district shall maintain a comprehensive program of adult education which shall include classes or activities in at least three of the following program areas:

- i. Evening Schools for Foreign Born Residents program;
- ii. Adult Basic Education program;
- iii. General Educational Development Preparatory program;
- iv. Adult High School program;
- v. Vocational Education program;
- vi. Recreational/Avocational program.

2. In meeting the requirement of (a)1 above, any programs cited as meeting the requirements of (a)1i through (a)1iv above shall be State-approved programs.

6:30-6.4 Application for reimbursement

(a) School districts which intend to apply for reimbursement shall submit a statement of anticipated need for the succeeding fiscal year. The statement shall be submitted to the division by July 1 of the pre-budget year.

(b) A maximum of \$12,000 may be anticipated by districts as partial reimbursement for the salary of the supervisor of adult education. Proportionate reimbursement may be anticipated for supervisors spending less than 100 percent but 50 percent or more of their working day in this position.

(c) In any year that the State appropriation for this program is less than the amount applied for by school districts, the amounts requested shall be prorated. The proration shall be based on the ratio of the State appropriation for that year to the total amount for which application has been made.

(d) School districts approved for reimbursement shall maintain fiscal and program records, and shall submit reports specified by the Commissioner.

6:30-6.5 Monitoring elements and indicators

(a) The monitoring team shall examine the essential elements of the program's process using prescribed indicators of acceptable performance and documentation as follows:

1. The annual educational planning element shall be rated acceptable upon documentation of performance in two indicators as follows:

i. Effective September 1, 1989, written program goals based on the educational needs of the adults to be served and consistent with current rules shall be developed for the overall adult education program and shall serve as a basis for the educational program. The goals shall be approved annually by the district board of education prior to July 1. Documentation shall be a copy of the goals and the action taken by the board.

ii. The district board of education shall approve annually the application for salary reimbursement for the supervisor of adult education. Documentation shall include the minutes of the district board's action.

2. The school and community relations element shall be rated as acceptable based upon documentation of performance in the three indicators as follows:

i. Effective September 1, 1989, learning and program opportunities available as part of the general adult education program shall be advertised as widely as possible. Documentation shall include brochures or other program announcements, posters, and general notices to the community.

ii. Effective September 1, 1989, the district board of education shall provide opportunities for discussion regarding the operation and goals of the general adult education program through public meetings of an adult education advisory committee pursuant to N.J.A.C. 6:30-1.5. Documentation shall include copies of minutes of the advisory committee and evidence of public notice.

iii. The program shall establish a close relationship with other offices of the total school system, community agencies, business, industry, Federal, and State programs engaged in providing related adult education services. Documentation shall include letters of intent or contractual agreements, minutes of meetings or other evidence of cooperative activity.

3. The curriculum and instruction element is not applicable to this subchapter.

ENVIRONMENTAL PROTECTION

4. The attendance record maintenance element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. Programs used to substantiate eligibility for reimbursement shall maintain records of enrollment. Documentation shall be attendance logs or student sign-in sheets.

5. The facilities element shall be rated as acceptable upon documentation of performance in two indicators as follows:

i. Where public school facilities are used, the district shall have on file a current five year facilities plan. Documentation shall be a copy of the current facilities plan.

ii. Where facilities other than public school buildings are used, the district shall be responsible for ensuring that health and safety laws have been adhered to at the facilities used for program activities. Documentation shall include a statement from the chief school administrator acknowledging the use of non-district facilities and stating that applicable health and safety standards are being met unless other program requirements are explicitly stated in law and rule.

6. The staff element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The person for whom application has been made for salary reimbursement shall hold a valid supervisor's or administrator's certificate. Documentation shall be a copy of the supervisory or administrative certificate.

7. The mandated programs element shall be rated acceptable upon documentation of performance in the indicator as follows:

i. The educational services provided shall include classes or activities in three of the six program areas pursuant to N.J.A.C. 6:30-6.3. Documentation shall include class schedules and brochures.

8. The mandated assessment testing element is not applicable to this subchapter.

9. The equal educational opportunity and affirmative action element shall be rated as acceptable by documentation of performance in the indicator as follows:

i. The program shall share in the local effort to meet the equal educational opportunity and affirmative action objectives of the district. Documentation shall be a statement from the administrator of the program confirming the program's commitment to these objectives and public notices of this commitment in brochures and other program announcements.

10. The financial element shall be rated acceptable upon documentation of performance in the two indicators as follows:

i. The district shall maintain separate fiscal accounts of all monies derived from donations, tuitions, State, and local board funds for the purpose of providing an adult education program. These monies shall be applied pursuant to law and rule. The district shall not transfer any surpluses arising from an excess of receipts from donations, tuition fees or any other sources other than local taxes into the current expense balance of the district. Documentation shall include appropriate financial reports.

ii. The district board of education offering adult education courses not supported by Federal or State funds shall be entitled to charge tuition for persons taking such courses to enable the adult education program to operate on a cost-recovery basis except as otherwise prohibited by law and rule. Documentation shall include brochures, registration forms, and appropriate financial reports.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES

Freshwater Wetlands Protection Act Rules Fees, Penalties, and Hearings

Adopted New Rules: N.J.A.C. 7:7A-16 and 17.

Proposed: March 21, 1988 at 20 N.J.R. 576(a).

Adopted: June 10, 1988 by Richard T. Dewling, Commissioner,
Department of Environmental Protection.

ENVIRONMENTAL PROTECTION

ADOPTIONS

Filed: June 13, 1988 as R.1988 d.312, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1B-3, 58:10A-1 et seq., in particular 58:10A-4 and 58:10A-6, and 13:9B-1 et seq., in particular 13:9B-25.

DEP Docket Number: 011-88-02.

Effective Date: July 5, 1988.

Expiration Date: July 1, 1993.

Summary of Public Comments and Agency Responses:

These rules were proposed on March 21, 1988 as new rules at N.J.A.C. 7:7A-15 and 16. They are being adopted, however, at N.J.A.C. 7:7A-16 and 17 to accommodate numbering changes in the Department's June 6, 1988 adoption of DEP Docket Number 063-87-11. A public hearing was held on April 7, 1988. No members of the public attended. Three commenters submitted written comments before the comment period closed on May 20, 1988.

General Comments

COMMENT: The commenter stated that linear development activities, such as electric utility lines, do not have a significant adverse impact on freshwater wetlands and, therefore, should not be subject to the degree of regulation found in N.J.A.C. 7:7A.

RESPONSE: The comment was beyond the scope of the proposed rules concerning fees and penalties used to administer the freshwater wetlands program. The Department solicited comment on the degree of regulation of various types of activities during the 60-day comment period for the proposal of N.J.A.C. 7:7A (DEP Docket No. 063-87-11), which appeared in the New Jersey Register at 19 N.J.R. 2330(a) on December 21, 1987. Comments regarding the regulation of linear development were received and responded to by the Department in the adoption published in the June 6, 1988 New Jersey Register at 20 N.J.R. 1235(a).

COMMENT: The commenter stated that the destruction of plant material should not be defined as a regulated activity.

RESPONSE: The comment was beyond the scope of the proposed rules concerning the fees freshwater wetlands program. It should be noted, however, N.J.S.A. 13:9B-1 et seq., defines the "destruction of plant life which would alter the character of a freshwater wetland, including the cutting of trees" as a regulated activity.

7:7A-15

COMMENT: The commenter commended the Department for its effort in proposing a fee schedule which is fair and well thought out.

RESPONSE: The Department acknowledges this comment in support of the new rules.

COMMENT: The proposed new rules indicate that fees shall be paid by personal check, certified check, attorney check or money order. Was the absence of provisions for payment by corporate check an oversight?

RESPONSE: The Department will treat corporate checks in the same manner as personal checks. Accordingly, there is no need for their specific mention in the rule.

COMMENT: The formula for calculating letter of interpretation fees at N.J.A.C. 7:7A-15.2(b)2 is unrealistic. In the example of a 100 acre parcel with five acres of wetlands aggregated in one portion of the site, the fee would be \$2,250. A more realistic formula would be \$250.00 plus \$100.00 per 1000 linear feet of line delineated or verified.

RESPONSE: The fee formula as proposed provides certainty for both the Department and the applicant. The suggested formula would be administratively difficult because the exact fee amount could not be known until after the boundary was verified by the Department. Therefore, the provision, now at N.J.A.C. 7:7A-16.2(b)2, remains unchanged. If a person proposes to engage in a regulated activity on only one lot of a property, the person can minimize the fees by applying for a letter of interpretation for only the lot included in the proposed project area. However, the smallest piece of property for which the Department will issue a letter of interpretation is a lot. Any letter which would apply to the whole property must pay the total fee.

COMMENT: N.J.A.C. 7:7A-15.2(b) and (c) (fees for review of requests for letters of interpretation) should be revised so that the fee is based upon the actual amount of wetlands that are to be delineated or verified. This approach would be more equitable considering that some large projects may only have a small amount of wetlands.

RESPONSE: The Department considered this approach and found it to be extremely difficult to administer, particularly in cases where the

extent of freshwater wetlands on a given site is greater or lesser than those of which the Department is notified by an applicant. Even if portions of a property do not contain wetlands, the Department must invest time and resources in verifying this fact before issuing a letter of interpretation concerning that property. Therefore, the fee must remain the same per acre for a property even if no wetlands are found. As mentioned above, the Department will issue a letter of interpretation for a portion of a property, if that portion consists of one or more lots duly recorded on a tax map.

COMMENT: The formula for calculating fees at N.J.A.C. 7:7A-15.2(c) and pertaining to fees for additional site visits is excessive. A more appropriate fee would be based on travel time and length of wetlands boundary line to be inspected.

RESPONSE: The fee for additional site visits was calculated based on averages of travel time and staff time. The Department may, in its discretion, assess a fee of less than \$1,000.00 if the situation warrants. In addition, the provision only requires the additional site visit fee in cases where the applicant's act or omission is itself the cause of the additional visit. An applicant can avoid the extra site visit fee by fully complying with the rules regarding application procedures and fully cooperating with Department permit review staff. Accordingly, the provision, now at N.J.A.C. 7:7A-16.2(c), remains as proposed.

COMMENT: The fee schedule as proposed is excessive, particularly N.J.A.C. 7:7A-15.3 (fees for review of freshwater wetlands permit applications) and it places an undue burden on linear development such as electrical distribution and transmission lines.

RESPONSE: The fee schedule at N.J.A.C. 7:7A-15.3 (now at 16.3) is based upon an estimate of the actual cost to the Department to review an application and therefore will remain as proposed. Some utility line work is covered by a general permit in N.J.A.C. 7:7A-9.2 and may, therefore, be subject to a lesser fee.

COMMENT: There is a disparity between the fees charged for coastal wetland applications pursuant to the Wetlands Act of 1970 and those proposed at N.J.A.C. 7:7A-15.3. The fees for the freshwater wetlands program should be modeled after those of the coastal wetland program.

RESPONSE: The Department is currently reviewing the fees charged under the coastal wetlands program to bring them up to date with the current costs of reviewing those applications. Proposed N.J.A.C. 7:7A-15 is an assessment of the present cost to review an application and, therefore, will remain as proposed.

COMMENT: The fees proposed at N.J.A.C. 7:7A-15.3(b) (fees for review of freshwater wetlands permit applications) should not apply to the maintenance, reconstruction or repair of utility lines.

RESPONSE: The fees proposed at N.J.A.C. 7:7A-15.3(b) (now at 16.3(b)) do not apply to these activities. Since the maintenance, repair and reconstruction of existing facilities located in freshwater wetlands are covered under a Statewide General Permit (see N.J.A.C. 7:7A-9.2(a)), the fees for authorizations to act under a general permit will apply to these types of activities.

7:7A-16

COMMENT: It is not reasonable to assess a separate civil administrative penalty for the failure to pay a civil administrative penalty.

RESPONSE: The Department disagrees. This provision, posed at N.J.A.C. 7:7A-16.6 and adopted to N.J.A.C. 7:7A-17.6, is necessary to deter violators from failing to pay penalties owed to the Department. The Act at N.J.S.A. 13:9B-21d specifically authorizes the assessment of civil administrative penalties for each violation.

COMMENT: The penalty for the non-willful submission of inaccurate information of \$1,000 per day from the date of submission of the inaccurate information until the date of correction is excessive.

RESPONSE: The Department believes that this provision is necessary to ensure that the Department can rely upon the information submitted. It should be noted that the \$1,000 per day penalty established herein is only 10 percent of the statutory maximum, and is similar to that established for similar violations under the Water Pollution Control Act, N.J.S.A. 58:10A.

COMMENT: The Department should clarify how it will calculate the "amount equal to the total economic benefit which the violator has received" under N.J.A.C. 7:7A-16.7 (economic benefit factor).

RESPONSE: Judgments of economic benefit are often calculated by courts in determining penalties under pollution laws (for example, the Federal Clean Water Act), using data on the costs of antipollution equipment, the cost of alternatives, etc. Similar analyses, where appropriate, will be performed by the Department under this chapter.

COMMENT: The penalty for failure to allow entry and inspection proposed at N.J.A.C. 7:7A-16.5 is excessive, especially if no prior notice is given to landowners. Many property owners are unaware of the Department's right to inspect their property. An explicit requirement should be added, stating that the Department must notify property owners before inspection. Otherwise the inspection, and the penalty for failure to allow inspection, are both unfair.

RESPONSE: It is the Department's judgment that the penalty ranges for failure to allow entry and inspection are reasonable and are comparable to those assessed for similar violations of the Water Pollution Control Act, N.J.S.A. 58:10A. An explicit requirement of Departmental notice to land owners is not necessary in most cases because permit applications, permits and other documents held by landowners include notice of the Department's right to enter. In addition, N.J.S.A. 13:9B-21m specifically grants the Department this right, thus providing some notice. It should also be noted that the higher penalties are only to be charged for failure to allow entry in cases where a permit, order, or other document exists regarding the property. Each of these documents includes provisions notifying land owners of the Department's right to enter and inspect their properties. Therefore, these land owners already have notice of the Department's right to enter and inspect.

Agency Initiated Changes:

1. Provisions relating to three of the general permits in N.J.A.C. 7:7A-9.2, as proposed for amendment in the June 20, 1988 New Jersey Register, at 20 N.J.R. 1327(a), have been added to N.J.A.C. 7:7A-16.5(a). The new provisions delete a fee requirement for those three general permits.

2. Editorial changes which do not alter the meaning of the text have been made to clarify the rule, and to make it consistent with other rules concerning Department enforcement practices.

3. All references to "State regulated open waters" was changed to "State open waters" to comport with the revised definition in N.J.A.C. 7:7A-1.4.

4. In N.J.A.C. 7:7A-17.1(c), language was added to clarify that, in cases where a violation involves placement of objects or fill, each day the object or fill remains in the wetland after its placement will be considered a separate violation.

5. In N.J.A.C. 7:7A-17.2(a), "shall" was changed to "may" so as to make the assessment of a civil administrative penalty discretionary with the Department.

6. The environmental damage factor of a violation, used in classifying violations as major, moderate, or minor, was renamed the "seriousness" of the violation, to more accurately reflect the meaning of the term.

7. In N.J.A.C. 7:7A-17.2(d), language was added to make the Department's consideration of factors such as compliance history discretionary when determining penalty amounts.

Full text of the adoption follows (deletions indicated with brackets *[thus]*, additions indicated in boldface *thus*):

SUBCHAPTER *[15.]*16.* FEES

7:7A-*[15.1]**16.1* Payment of fees

(a) Except when submitted by an agency of the State, each request for a letter of interpretation, or freshwater wetlands permit application, open water fill permit application, or notice of proposed activity covered by a general permit shall be accompanied by the appropriate fee as set forth below at N.J.A.C. 7:7A-*[15.2 to 15.6]**16.2 to 16.6*. Except when submitted by an agency of the State, no request, application, or notice will be considered complete, and therefore will not be acted on by the Department, unless accompanied by the appropriate fee.

(b) All fees shall be paid by personal check, certified check, attorney check, or money order. Checks and money orders shall be payable to "Treasurer, State of New Jersey" and submitted to:

Division of Coastal Resources
New Jersey Department of Environmental Protection
CN 401
5 Station Plaza
501 East State Street
Trenton, New Jersey 08625

(c) Each check or money order shall be marked to identify the nature of the submittal (for example, freshwater wetlands permit application) for which the fee is paid and the name of the applicant.

7:7A-*[15]**16*.2 Fees for review of requests for letters of interpretation

(a) If a request is made for a letter of interpretation to determine only whether any freshwater wetlands are present or absent on a parcel of land, the fee shall be \$100.00.

(b) Any request for a letter of interpretation which requires any freshwater wetlands boundary delineation, or verification of a delineation, shall be accompanied by the following fee:

1. For a parcel of land which is smaller than one acre, the fee shall be \$100.00; or

2. For a parcel of land of one acre or more, the fee shall be \$250.00 plus \$20.00 per acre or any fraction thereof.

(c) If in order to review and process a request for a letter of interpretation, more than one inspection by the Department is necessary because of any act or omission of the applicant, the Department may assess an additional fee for each additional visit in an amount not to exceed \$1,000. No letter of interpretation shall be issued until this fee has been paid.

7:7A-*[15]**16*.3 Fees for review of freshwater wetlands permit applications

(a) The fee for the review and processing of a freshwater wetlands permit application to drive pilings shall be \$500.00. If a freshwater wetlands permit application is for any regulated activity *[as]* set forth in (b) below, in addition to pile driving, the fee for review will be that set forth in (b) below.

(b) The fee for the review and processing of a freshwater wetlands permit application for any of the following activities shall be \$1,000 plus \$100.00 per one-tenth acre, or any fraction thereof, of freshwater wetlands affected by any of the following proposed regulated activities:

1. The removal, excavation, disturbance or dredging of soil, sand, gravel, or aggregate material of any kind;

2. The drainage or disturbance of the water level or water table;

3. The dumping, discharging or filling with any materials;

4. The placing of obstructions other than pilings; and

5. The destruction of plant life which would alter the character of a freshwater wetland, including the cutting of trees.

(c) If, in order to review and process a freshwater wetlands permit application, more than one inspection by the Department is necessary because of any act or omission of the applicant, the Department may assess an additional fee for each additional visit in an amount not to exceed \$1,000. No permit shall be issued until this fee has been paid.

7:7A-*[15]**16*.4 Fees for review of open water fill permit applications

(a) The fee for the review and processing of an open water fill permit application shall be \$1,000 plus \$100.00 per one-tenth acre, or any fraction thereof, of State*[regulated]* open waters affected by the proposed discharge of dredged or fill material.

(b) If, in order to review and process an open water fill permit application, more than one inspection by the Department is necessary because of any act or omission of the applicant, the Department may assess an additional fee for each additional visit in an amount not to exceed \$1,000. No permit shall be issued until this fee has been paid.

7:7A-*[15]**16*.5 Fees for review of notices of proposed activity covered by a general permit

(a) The fee for review of a notice of proposed activity covered by a general permit pursuant to N.J.A.C. 7:7A-*[8.4(a)]**9.4(a)* shall be \$100.00 *except in the case of Statewide General Permits at N.J.A.C. 7:7A-9.2(b)12, 13 and 14, which require no fee*.

(b) If a *proposed* project *[proposal]* requires more than one type of general permit, the fee shall be \$100.00 for each general permit.

7:7A-[15]**16*.6 Fees for review and processing of requests for transition area waivers (Reserved)

SUBCHAPTER *[16.]**17.* CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:7A-[16.1]**17.1* General penalty provisions

(a) This subchapter shall apply only to violations of the Act **and this chapter** which involve freshwater wetlands and transition areas. This subchapter shall not apply to regulated activities in State[-regulated]* open waters. The penalty procedures and amounts for open water fill permit violations are set by N.J.A.C. 7:14-8. This subchapter shall also govern the procedures for requesting an adjudicatory hearing **[with respect to the assessment of]* **on** a **notice of** civil administrative penalty **assessment** or **[the issuance of]** an administrative order.**

(b) Each violation of **[each condition or]* **any** provision of the Act or any rule, **administrative** order, approved mitigation plan, waiver or permit issued pursuant thereto*, shall constitute an additional, separate, and distinct violation for which a separate penalty may be assessed.**

(c) Each day during which **[a]* **such** violation **exists and/or** continues shall constitute an additional, separate, and distinct violation for which a separate civil administrative penalty may be**

assessed. A violation shall be considered to continue as long as it is not rectified, remedied, repaired*, or removed*, to the satisfaction of the Department. For example, each day that an obstruction, structure, piling, fill or discharge placed or constructed in violation of the Act remains in place shall constitute an additional, separate, and distinct violation. **Also for example, for** **[For]** destruction, dredging, or removal of freshwater wetlands components such as soil or vegetation, each day between the destruction or removal and the replacement, restoration, or remediation to the satisfaction of the Department shall constitute an additional, separate, and distinct violation.

(d) In addition to the civil administrative penalties assessed under this subchapter, restoration and/or mitigation may be required pursuant to N.J.A.C. 7:7A-14 **and 15**.*

(e) The Department may in its discretion settle any civil administrative penalty assessed under this chapter.

7:7A-[16.2]**17.2* Civil administrative penalty determination

(a) **[The Department shall, except as provided in N.J.A.C. 7:7A-16.3 through 16.6 below,]* **Except for those violations set forth in N.J.A.C. 7:7A-17.3 through 17.6, the Department may** assess a civil administrative penalty **[within the following ranges, which have been established]* **for violations described in this section** on the basis of the **[environmental damage]* **seriousness of the violation** and the conduct of the violator **at the mid-point of the following ranges unless adjusted pursuant to (d) below*********

		[ENVIRONMENTAL DAMAGE] *SERIOUSNESS*		
		MAJOR	MODERATE	MINOR
C O N D U C T	MAJOR	\$10,000	\$7,000-\$10,000	\$6,000-\$8,000
	MODERATE	\$7,000-\$10,000	\$6,000-\$8,000	\$4,000-\$7,000
	MINOR	\$6,000-\$8,000	\$4,000-\$7,000	\$1,500-\$5,000

(b) The **[environmental damage]* **seriousness** factor of the violation shall be determined as major, moderate or minor as follows:**

1. Major **[environmental damage]* shall include:**

- i. Any violation which has caused or may cause serious harm to human health or the environment; or
- ii. Any violation which has caused or may cause irreparable or irreversible harm to the environment;

2. Moderate **[environmental damage]* shall include:**

- i. Any violation which has caused or may cause substantial harm to human health or the environment; or
- ii. Any violation which has caused or may cause harm to the environment, which harm can only be reversed with difficulty or will take more than 30 days to repair; and

3. Minor **[environmental damage]* shall include any violation not covered in (b)1 or 2 above.**

(c) The conduct factor of the violation shall be determined as major, moderate or minor as follows:

- 1. Major **[conduct]* shall include any intentional, deliberate, purposeful, knowing or willful act or omission by the violator;**
- 2. Moderate **[conduct]* shall include any unintentional but foreseeable act or omission by the violator; and**
- 3. Minor **[conduct]* shall include any other conduct not identified in (c)1 or 2 above.**

(d) **[The civil administrative penalty shall be determined by the Department within the ranges established pursuant to (a) above after consideration of the following]* **The Department may, in its discretion, adjust the amount determined pursuant to (a) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range on the basis of the following factors*****

- 1. The compliance history of the violator;
- 2. The number, frequency and severity of the violation(s);
- 3. The measures taken by the violator to mitigate the **effects of the** current violation or to prevent future violations;

- 4. **[Whether the penalty will provide a sufficient deterrent to future violation]* **The deterrent effect of the penalty*****; and/or
- 5. Other relevant factors.

7:7A-[16]**17.3 Civil administrative penalty for engaging in regulated activities without approval

(a) The Department may assess a civil administrative penalty in accordance with the provisions of this section against each violator who engages in a regulated activity in a freshwater wetland without a freshwater wetlands permit or engages in a regulated activity in a transition area without a transition area waiver.

(b) For each violation under this section, the penalty shall be \$10,000. Each day, from the day the regulated activity begins to the day its effects are rectified, **[remediated]* **remedied**, repaired, or removed to the satisfaction of the Department, shall constitute an additional, separate, and distinct violation.**

7:7A-[16]**17.4 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty **[in accordance with the provisions of]* **pursuant to** this section against each violator who submits inaccurate information or who makes a false statement, representation, or certification in any application, record, or other document required to be submitted or maintained, under the Act or any rule, administrative order, permit, mitigation plan, or waiver issued pursuant thereto.**

(b) Each day, from the day of receipt of the information by the Department, to the day of receipt **[of correction]* **of a written correction by the violator** by the Department, shall be an additional, separate, and distinct violation.**

(c) The Department shall determine the amount of the civil administrative penalty **[assessed pursuant to]* **for violations described in** this section based on the conduct of the violator as follows:**

1. For each intentional, deliberate, purposeful, knowing, or willful act or omission by the violator, the **civil administrative** penalty shall be in an amount of not more than \$10,000 nor less than \$8,000 per [violation] **for violations described in**; and

2. For each other violation, the penalty shall be in the amount of \$1,000.

7:7A-[16]**17*.5 Civil administrative penalty for failure to allow entry and inspection

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who refuses, inhibits or prohibits immediate entry and inspection of any premises, building or place by any authorized Department representative.

(b) Each day*, from the initial day of failure **by the violator** to allow **immediate** entry and inspection to the day of receipt by the Department of written notification from the violator that the violator will not refuse, inhibit or prohibit immediate entry and inspection, shall **constitute** **be** an additional, separate, and distinct violation.

(c) The Department shall determine the amount of the civil administrative penalty **assessed pursuant to** **for violations described in** this section as follows:

1. **If** **For** **refusing, inhibiting or prohibiting immediate entry and inspection of any premises, building or place for which** an administrative order, freshwater wetlands permit, open water fill permit, transition area waiver, approved mitigation plan or transition area averaging plan, or general permit authorization notification exists for the property in question **under the Act**, the **civil administrative** penalty shall be **in** an amount no **greater** **more** than \$10,000 nor less than \$7,000[.]; **and**

2. For any other refusal **not covered by (c)1 above**, **inhibition or prohibition of immediate entry and inspection**, the **civil administrative** penalty shall be **in** an amount **no greater** **of not more** than \$7,000 nor less than \$1,500.

7:7A-[16]**17*.6 Civil administrative penalty for failure to pay a civil administrative penalty assessed under the Act

(a) The Department **shall** **may** assess a civil administrative penalty pursuant to this section against each violator who fails to pay a civil administrative penalty **assessed** **when due** pursuant to the Act.

(b) The Department shall assess a civil administrative penalty pursuant to this section in an amount equal to the **amount of each** unpaid civil administrative penalty **for each** **up to a maximum of \$10,000 per** violation.

(c) Each day a civil administrative penalty is not paid after it is due shall constitute an additional, separate and distinct violation.

7:7A-[16.7]**17.7* Economic benefit factor

[The Department may add to each civil administrative penalty assessed pursuant to this subchapter an amount equal to the total economic benefit which the violator has received from not complying, or from] The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include as a civil administrative penalty the economic benefit (in dollars) which the violator has realized as the result of not complying, or by delaying compliance with the requirements of the Act or any rule, permit, mitigation plan, waiver or administrative order issued pursuant thereto. If the total economic benefit was derived from more than one violation, the total economic benefit amount may be apportioned among the violations from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than \$10,000 per violation.

7:7A-[16] *17*.8 Procedures for assessment of civil administrative penalties under the Act

(a) To assess a civil administrative penalty under the Act, the Department shall notify the violator by certified mail (return receipt requested) or by personal service. **[The] This** Notice of Civil Administrative Penalty Assessment shall:

1. Identify the section of the Act, rule, mitigation plan, waiver, permit or administrative order violated;

2. **Concisely state the facts alleged to constitute the violation.** **[2.]**3.** Specify the amount of the civil administrative **penalties to be assessed pursuant to this chapter** **penalty to be imposed**; and

[3.]4.** Advise the violator of the right to request an adjudicatory hearing pursuant to **the procedures in** N.J.A.C. 7:7A-[16.9]**17.9*.

(b) Payment of a civil administrative penalty is due upon **issuance** **receipt** by the **violator of the** **[Department]** **Department's** **[of a]** Final Order in a contested case*, or when **[the]** **a** Notice of Civil Administrative Penalty Assessment becomes a Final Order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:7A-[16.9]**17.9*, **[the]** **a** Notice of Civil Administrative Penalty Assessment becomes a Final Order on the 21st day following receipt of the Notice of Civil Administrative Penalty Assessment by the violator;

2. If the Department denies the hearing request, a Notice of Civil Administrative Penalty Assessment **[shall]** become*s* a Final Order upon receipt by the violator of notice of such denial; or

3. **If** an adjudicatory hearing is held, the Department, after the hearing and upon a finding that a violation has occurred, shall issue a Final Order in a contested case specifying the amount of the civil administrative penalty being assessed. The civil administrative penalty is due upon receipt by the violator of the Final Order.] **If the Department conducts an adjudicatory hearing, upon receipt by the violator of a final order of a contested case.**

7:7A-[16.9]**17.9* Procedures **for requesting** **to request** an adjudicatory hearing to contest an Administrative Order and/or a **Notice of Civil Administrative Penalty Assessment**; **procedures for conducting adjudicatory hearings.**

(a) To request an adjudicatory hearing to contest **[the assessment of a penalty, the issuance of] an administrative order, [or any findings of fact contained therein,] and/or a notice of civil administrative penalty assessment issued pursuant to the Act,** the violator shall **[include]** **submit** the following information in **[a request for an adjudicatory hearing]** **writing to the Department**:

1. The name, address, and telephone number of the violator and its authorized representative;

2. The violator's defenses to each of the findings of fact, stated in short and plain terms;

3. An admission or denial of each of the findings of fact. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all the findings but shall make all denials as specific denials of designated findings. For each finding the violator denies, the violator shall allege the fact or facts as the violator believes it or them to be;

4. Information supporting the request and copies of other written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location **accessible to physically disabled persons**.

(b) **[All requests for adjudicatory hearings shall be received by the Department] If the Department does not receive the hearing request** within 20 days after receipt by the violator of **[a]** **the** Notice of Civil Administrative Penalty Assessment and/or **[an]** **the** Administrative Order **being challenged, the Department shall deny the hearing request**.

[(c) Failure to comply with either (a) or (b) above shall be grounds for the Department to deny the request for a hearing.

(d) All adjudicatory hearings held pursuant to this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.*

(c) If the violator fails to include all the information required by (a) above, the Department may deny the hearing request.

(d) If it grants the request, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.*

HIGHER EDUCATION

(a)

STUDENT ASSISTANCE BOARD

Garden State Scholars

Program Categories; Eligibility Requirements; Award Combinations; Academic Eligibility for Undergraduate Scholarships; Renewal of Scholarships

Adopted Repeals and New Rules: N.J.A.C. 9:7-4.1, 4.3, and 4.5

Adopted Repeal: N.J.A.C. 9:7-4.6

Adopted Amendment: N.J.A.C. 9:7-4.8

Proposed: April 4, 1988 at 20 N.J.R. 720(a).

Adopted: June 9, 1988 by the Student Assistance Board, M. Wilma Harris, Chairperson.

Filed: June 9, 1988 as R.1988 d.303, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) and with a portion of the proposal not adopted.

Authority: N.J.S.A. 18A:71-26.5, 18A:71-26.6, 18A:71-26.8, 18A:71-26.10 and 18A:71-26.12.

Effective Date: July 5, 1988.

Expiration Date: February 28, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

The Board, however, has made one technical change upon adoption. Due to a printing error in N.J.A.C. 9:7-4.1, the correct title of this new rule is "Program categories" as adopted and filed by the Board.

While no public comments were received, it is necessary that the language in the proposal be amended to incorporate more specificity with regard to the academic eligibility requirements and award amounts under the Garden State Scholarship Program. In compliance with recent court decisions regarding administrative regulations, agencies are required to include specific requirements, procedures and benefits within their regulations rather than incorporation of such matters through a non-regulatory process.

As a result, language revisions in proposed N.J.A.C. 9:7-4.2 and 4.4 are of such a nature as to substantially alter the effect of those rules as proposed. Pursuant to N.J.A.C. 1:30-4.3, these two rules as changed will be resubmitted as a proposed repeal and new rule and a new rule respectively in a future issue of the New Jersey Register.

Full text of the adoption follows (deletions indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 4. GARDEN STATE SCHOLARSHIPS

9:7-4.1 Program*[s]* categories

(a) The Garden State Scholarship Program shall provide for grants to undergraduate students in the following program categories:

1. Garden State Scholars; and
2. Distinguished Garden State Scholars.

9:7-4.2 Academic requirements

(a) Garden State Scholarship recipients shall meet the academic requirements defined by the Student Assistance Board to be eligible to receive a grant in any program category.

(b) Each year, the Student Assistance Board shall determine and publish the actual academic requirements for eligibility to receive a grant in any program category prior to the distribution of awards.

(c) The academic requirements for the Garden State Scholarships shall include secondary school ranking in the graduating class and/or a combination of the secondary school ranking and combined Scholastic Aptitude Test (SAT) scores. Where SAT scores are not available, the appropriate equivalent from the American College Testing (ACT) Program may be used.

(d) The academic requirements for Distinguished Garden State Scholars who are identified as urban scholars attending secondary schools within Type A and B school districts as determined by the New Jersey Department of Education shall include secondary school ranking in the graduating class and/or secondary school grade point average.

9:7-4.3 Eligibility requirements

(a) Garden State Scholarship recipients shall attend an eligible New Jersey institution of higher education as defined by N.J.S.A. 18A:71-26.5.

(b) Scholarship awards shall be renewable for up to four or five years of undergraduate programs of study regularly requiring four or five academic years respectively for completion. In order to be eligible for a renewal award the student shall continue to achieve satisfactory academic progress pursuant to N.J.A.C. 9:7-2.10 and demonstrate continued financial need, if applicable.

(c) Garden State Scholarship recipients who transfer to another eligible New Jersey institution may transfer their awards provided they have demonstrated satisfactory academic progress.

9:7-4.4 Award amounts

(a) Garden State Scholars shall receive annual awards of up to \$500.00 without regard to financial need based upon their academic performance as determined by the Student Assistance Board. The award may be increased up to an additional \$500.00 based upon academic performance and financial need as determined by the Student Assistance Board.

(b) Distinguished Garden State Scholars shall receive annual awards of up to \$1,000 without regard to financial need. The award may be increased up to an additional \$1,000 based upon academic performance and financial need as determined by the Student Assistance Board.

(c) The Student Assistance Board shall annually establish award amounts in recognition of various levels of academic achievement. Undergraduate scholarship award amounts shall be a minimum of \$200.00.

(d) Depending upon the availability of funding, higher award amounts may be approved by the Student Assistance Board if matching funds are provided by the institution.

(e) These scholarships in combination with other financial aid shall not exceed the cost of attendance as determined by the institution.

9:7-4.5 Award combinations

(a) All scholarship recipients may be eligible for assistance under the Tuition Aid Grant Program.

(b) Distinguished Garden State Scholars may be eligible to receive an Educational Opportunity Fund grant.

9:7-4.6 (Reserved)

9:7-4.7 (Reserved)

9:7-4.8 Renewal of scholarships

(a) Students receiving undergraduate scholarship assistance will continue to receive aid provided they continue to meet all of the eligibility criteria as stipulated in the statute and in the rules adopted by the Student Assistance Board.

(b) Award eligibility based upon academic achievement shall only be evaluated when initial awards are being determined. The academic

eligibility criteria used at the time an initial scholarship is awarded shall remain in effect throughout the student's remaining period of eligibility.

(c) Students receiving awards prior to the 1989-90 academic year shall not have their award levels decreased as long as the students maintain satisfactory academic progress in accordance with N.J.A.C. 9:7-2.10 provided, however, that the scholarship in combination with other financial aid shall not exceed the cost of attendance as determined by the institution.

HUMAN SERVICES

(a)

DIVISION OF PUBLIC WELFARE

Public Assistance Manual

Fraudulent Receipt of Assistance

Adopted Amendment: N.J.A.C. 10:81-7.40

Proposed: April 4, 1988 at 20 N.J.R. 722(b).

Adopted: June 13, 1988 by Drew Altman, Commissioner,

Department of Human Services.

Filed: June 13, 1988 as R.1988 d.310, **without change.**

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Effective Date: July 5, 1988.

Expiration Date: October 15, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10:81-7.40 Fraudulent receipt of assistance

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

(d) Statutory authority regarding the identification and treatment of assistance fraud may be found in New Jersey Statutes Annotated, as follows:

1. N.J.S.A. 2C:20-4, Theft by Deception;
2. N.J.S.A. 2C:21-1a, Forgery;
3. N.J.S.A. 2C:21-3b, Offering a False Instrument for Filing;
4. N.J.S.A. 2C:28-2, False Swearing;
5. N.J.S.A. 2C:28-3, Unsworn Falsification to Authorities; and
6. N.J.S.A. 2C:28-7, Tampering with Public Records or Information.

CORRECTIONS

THE COMMISSIONER

(b)

Administration, Organization and Management

Personal Property of Inmates

Adopted New Rules: N.J.A.C. 10A:1-11

Proposed: March 7, 1988 at 20 N.J.R. 494(a).

Adopted: June 9, 1988 by William H. Fauver, Commissioner,

Department of Corrections.

Filed: June 10, 1988 as R.1988 d.306, **without change.**

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: July 5, 1988.

Expiration Date: July 6, 1992.

Summary of Public Comments and Agency Responses:

The Department of Corrections received six comments on the proposed rules concerning the personal property of inmates, and these comments are addressed below.

COMMENT: A commenter suggested that N.J.A.C. 10A:1-11.3 be amended to provide institutions with the authorization to dispose of non-

permissible personal property when an inmate does not respond to written notification that this type of personal property must be removed from the institution.

RESPONSE: This suggestion is accepted and N.J.A.C. 10A:1-11.3 will be amended in the near future.

COMMENT: A commenter suggested that N.J.A.C. 10A:1-11.3 be amended to add a subsection which would state that the inability of an inmate to provide a mailing address will not result in an extension of the time that is provided for the disposition of non-permissible personal property.

RESPONSE: This suggestion is accepted and N.J.A.C. 10A:1-11.3 will be amended in the near future.

COMMENT: A commenter suggested that all correctional institutions should have similar lists of permissible items of personal property.

RESPONSE: The differing custody classification of inmates and the differing security designations of correctional facilities require flexibility in the determination of permissible items of personal property. Items which may be considered contraband in a maximum security facility may sometimes be permitted in a minimum security facility.

COMMENT: A commenter suggested that small refrigerators should be permitted in the protective custody area of Trenton State Prison.

RESPONSE: It is not the purpose of these rules to list specific items which are either permitted or prohibited in a particular institution. Each institution is authorized to develop a list of permitted and prohibited items of personal property pursuant to N.J.A.C. 10A:1-11.2(a).

COMMENT: A commenter suggested that N.J.A.C. 10A:1-11 be amended to add a rule concerning the disposition of the property of deceased inmates.

RESPONSE: The rules for the disposition of the property of deceased inmates are found in N.J.A.C. 10A:16-7.4. An appropriate cross reference will be added to N.J.A.C. 10A:1-11 in the near future.

COMMENT: A commenter suggested that time limits for the disposal of non-permissible items in N.J.A.C. 10A:1-11.3 be clarified because of a possible conflict with rules in N.J.A.C. 10A:3-6 concerning contraband and the disposition of contraband.

RESPONSE: There are differences in the handling of personal property described in N.J.A.C. 10A:1-11, Personal property of inmates, and in N.J.A.C. 10A:3-6.4, Disposal of contraband personal property seized within a correctional facility. However, the commenter fails to point out any specific conflict in these two rules which could benefit from clarification. The two classes of property are intended to be handled somewhat differently.

Full text of the adoption follows.

SUBCHAPTERS 3.—10. (RESERVED)

SUBCHAPTER 11. PERSONAL PROPERTY OF INMATES

10A:1-11.1 Inmate's responsibility for personal property

While incarcerated within a correctional facility, the inmate shall be responsible for his or her own personal property and shall keep personal property at his or her own risk.

10A:1-11.2 Permissible personal property

(a) Each correctional facility shall develop a written list of permissible personal property items and the number of permissible personal property items which may be retained in the possession of the inmate.

(b) The listing and any regulations concerning inmate personal property shall be published in the Inmate Handbook (see N.J.A.C. 10A:8-3 INMATE HANDBOOK).

(c) New or revised lists or regulations not included in the current Inmate Handbook shall be posted in inmate housing units and incorporated into the next revision of the Inmate Handbook.

(d) The listing of permitted personal property shall be reviewed, signed and dated annually by the Superintendent or his or her designee and forwarded to the office of the appropriate Assistant Commissioner for his or her review and approval.

(e) The Assistant Commissioner may approve or disapprove the possession of any item and/or limit the number of items that may be possessed by inmates in correctional facilities within the Division for which the Assistant Commissioner is responsible.

(f) The Office of the Assistant Commissioner shall be notified, in writing, during the course of the year of any additions to or deletions from the list of permissible personal property.

(g) Each correctional facility within the Division of Adult Institution shall send the name and telephone number of the facility's property officer to the Office of the Assistant Commissioner.

(h) The Office of the Assistant Commissioner, Division of Adult Institutions, shall disseminate, to each correctional institution within the Division, the permissible personal property lists of all adult correctional facilities and any available county jail permissible property lists.

10A:1-11.3 Non-permissible personal property

(a) The correctional facility shall notify an inmate, in writing, whenever the inmate possesses any property which is non-permissible personal property.

(b) The correctional facility shall inventory and package the non-permissible personal property and shall:

1. Mail the non-permissible property to the inmate's home at the inmate's expense; or

2. Make the non-permissible property available for removal from the correctional facility by a designated family member(s) or friend(s) of the inmate.

(c) If the non-permissible property is to be removed by a family member or friend(s), the inmate shall arrange for the removal of the non-permissible personal property within 30 days after receiving the written notification from the correctional facility.

(d) If the inmate's non-permissible personal property is not removed from the correctional facility within 30 days after the written notification, the inmate shall receive a second written notification stating that:

1. The property will be held for a maximum of 30 additional days;

2. The property will be disposed of if it is not removed by a specified date; and

3. The correctional facility shall not be liable for personal property that is held longer than 60 days.

(e) Copies of written notices to the inmate about his or her personal property shall become a permanent part of the inmate's classification folder (see N.J.A.C. 10A:1-11.9).

10A:1-11.4 Storage of non-permissible personal property

(a) Correctional facilities shall not store inmate non-permissible personal property for more than 60 days except in instances as stated in (b) below.

(b) When an inmate does not have visitors, immediate family members or a home address, the inmate may request written approval of the superintendent to store non-permissible personal property for a period longer than 60 days.

(c) If the superintendent approves the inmate's request, made pursuant to (b) above, the personal property shall be stored at the inmate's risk, until an alternate plan can be made for storage.

10A:1-11.5 Marking inmate personal property

Each correctional facility shall establish a means of marking inmate personal property for identification purposes.

10A:1-11.6 Inventory of inmate personal property

(a) Each correctional facility shall develop and maintain an accurate inventory form which itemizes all personal property in the inmate's possession upon admission, while incarcerated, and upon transfer.

(b) If possible, the inmate's personal property shall be inventoried in his or her presence.

(c) The completed inventory form and any subsequent updates to the inventory form shall be signed by both the inventory officer and the inmate.

(d) The signed inventory form shall be maintained on file (see N.J.A.C. 10A:1-11.9) and a copy shall be given to the inmate.

10A:1-11.7 Correctional facility's responsibility for personal property when inmate is transferred

(a) Except for transfers to the St. Francis Hospital Unit or other hospital units, all inter-institutional and county jail transfers shall be considered permanent for the purpose of inmate personal property disposition.

(b) When an inmate is transferred from one institution to another, it shall be the responsibility of the sending correctional facility to

send with the inmate only the personal property which is permitted by the receiving correctional facility.

(c) Non-permissible personal property shall not be sent by the sending institution to the receiving correctional facility for storage. Non-permissible personal property shall be inventoried, packaged and mailed to the inmate's home at the sending correctional facility expense or the non-permissible personal property shall be made available for removal by designated family members or friends of the inmate.

(d) An inmate being transferred to another correctional facility who does not have visitors, immediate family members or a home address, may request written approval of the sending correctional facility superintendent to store the inmate's non-permissible personal property.

(e) If the sending correctional facility superintendent approves the inmate's request, the superintendent shall give the inmate a written notification stating that:

1. The personal property will be stored at the inmate's risk;

2. The personal property will be held for a maximum of 60 additional days;

3. The personal property will be disposed of if it is not removed by a specified date; and

4. The correctional facility shall not be liable for personal property that is held longer than 60 days.

(f) In every case that personal property is mailed to the inmate's home, a receipt shall be obtained from the post office or railway express representative and filed in the inmate's classification folder (see N.J.A.C. 10A:1-11.9).

10A:1-11.8 Responsibility for personal property when inmate is released

(a) When an inmate is released on parole or at the expiration of his or her maximum sentence, the inmate shall:

1. Take the personal property with him or her when leaving the correctional facility; or

2. Arrange for the personal property to be sent, at his or her expense, to the inmate's home; or

3. Arrange for a family member(s) or friend(s) to remove the personal property from the correctional facility within 30 days after the inmate's release.

(b) When the inmate's personal property is to remain at the correctional facility, a mailing address shall be obtained from the inmate before his or her release. If the inmate's personal property is not picked up within 30 days, the correctional facility shall forward written notification to the ex-inmate stating that:

1. The property will be held for a maximum of 30 additional days;

2. The property will be disposed of if not removed by a specified date; and

3. The correctional facility shall not be liable for personal property that is held longer than 60 days.

(c) Copies of written notices to the inmate about his or her personal property shall become a permanent part of the inmate's classification folder (see N.J.A.C. 10A:1-11.9).

10A:1-11.9 Records

(a) Copies or originals of the following shall become a permanent part of the inmate's classification folder:

1. Any written notices to the inmate about personal property;

2. Any receipts received or obtained for mailing personal property; and

3. Signed personal property inventory form(s).

10A:1-11.10 Written procedures

Each correctional facility shall develop written policy and procedures consistent with this subchapter.

(a)

Records**Release and Examination of Inmate and Parolee Records****Adopted New Rules: N.J.A.C. 10A:22-2**

Proposed: April 4, 1988 at 20 N.J.R. 723(a).

Adopted: June 9, 1988 by William H. Fauver, Commissioner, Department of Corrections.

Filed: June 10, 1988 as R.1988 d.305, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: July 5, 1988.

Expiration Date: July 5, 1993.

Summary of Public Comments and Agency Responses:

One comment was received which noted a misspelling in N.J.A.C. 10A:22-2.2(a)1, and raised a question that is not pertinent to this subchapter.

The Department has added "The Office of the Deputy Commissioner" following all references to the Special Assistant for Legal Affairs in order to specify the appropriate administrative unit to which inquiries regarding the confidentiality of inmate records should be referred.

In addition to these changes, there are several minor, non-substantive changes in language.

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

CHAPTER 22
RECORDS

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. RELEASE AND EXAMINATION OF INMATE AND PAROLLEE RECORDS

10A:22-2.1 Public records

(a) The following information and document*s* regarding an adult inmate or parolee shall be available for public inspection and copying:

1. Name;
2. Number;
3. Sentence;
4. Place of incarceration;
5. Order of Commitment; and
6. Any documents filed in a court of competent jurisdiction.

10A:22-2.2 Confidential records

(a) The following types of records are designated confidential and shall not be disclosed to unauthorized persons or agencies:

1. Reports which are evaluative, diagnostic or prognostic in nature ***[finished]* *furnished*** with a legitimate expectation of confidentiality and which, if revealed to the inmate, parolee or others, could be detrimental to the inmate or parolee, or could jeopardize the safety of individuals who signed the reports, or were parties to the decisions, conclusions or statements contained therein;

2. Information the disclosure of which could have a substantial adverse impact on the security or orderly operation of the correctional facility;

3. Information or reports which would invade or jeopardize privacy rights of the inmate, parolee or others;

4. Disclosures which would jeopardize internal decision making or policy determinations essential to the effective operation of any correctional facility or the Department of Corrections;

5. Disciplinary and criminal investigative reports, including those from informants, disclosure of which would:

- i. Impede ongoing investigations;
- ii. Create a risk of reprisal; or
- iii. Interfere with the security or orderly operation of the correctional facility.

6. Such other records as the Commissioner or Superintendent, based on their experience and exercise of judgment, believe must be kept confidential to ensure maintenance of discipline and the orderly operation of the correctional facility and/or Department of Corrections.

(b) Those documents deemed to be confidential shall be plainly stamped "Confidential Material—Do Not Release to Unauthorized Persons."

10A:22-2.3 Limitation on inmate and parolee records

(a) Information on adult inmate or parolee records other than that outlined in N.J.A.C. 10A:22-2.1 shall not be released to or examined by any unauthorized person or agency except as set forth in this subchapter.

(b) Juvenile offender records shall be strictly safeguarded from public inspection.

10A:22-2.4 Availability of information to non-institutional persons or outside agencies

(a) Information from adult inmate and parolee records shall be provided ***[by]* *to*** law enforcement agencies or persons, who request it in the performance of their public duties, in accordance with N.J.A.C. 10A:22-2.6.

(b) Adult inmate or parolee records may be made available to the following agencies or persons:

1. Courts of competent jurisdiction;
2. The Attorney General;
3. A county prosecutor;
4. The State Parole Board;
5. The Bureau of Parole;
6. A county probation department; and
7. Police departments.

(c) Upon advice of the Attorney General or the Department's Special Assistant for Legal Affairs, ***Office of the Deputy Commissioner,*** selected records of adult inmates or parolees shall be made available to government agencies or other authorized persons upon request. These agencies and persons include, but are not limited to, the following:

1. The Social Security Administration;
2. The Veteran's Administration;
3. Attorneys of record in pending cases, or investigating claims;
4. Law enforcement agencies other than those in (b) above; or
5. Medical or psychiatric doctors.

10A:22-2.5 Availability of information to correctional facility personnel

Information from inmate and parolee records shall be provided to correctional facility personnel on a limited basis, in accordance with written policies and procedures established by the facility.

10A:22-2.6 Procedure for release of confidential inmate or parolee records

(a) All requests for information shall be initially screened by the institutional classification officer to determine the purpose for which the information is sought and the legitimacy of the request.

(b) Only the specific documents or information directly related to the purpose for which the information is sought shall be released.

(c) Requests for information which are deemed irrelevant, improper or not authorized by law shall be rejected.

(d) If the institutional classification officer is unsure as to the legitimacy or authenticity of the request, he or she shall telephone the Department of Corrections' Special Assistant for Legal Affairs ***Office of the Deputy Commissioner,*** for guidance. In the event a question or dispute arises concerning release of material or the authority of the agency or person to obtain such information, the decision of the Special Assistant for Legal Affairs ***Office of the Deputy Commissioner,*** will be final.

(e) In the event a request for release of information is denied, the material shall not be released without a court order.

CORRECTIONS

ADOPTIONS

10A:22-2.7 Records authorized by the inmate or parolee for inspection or release.

(a) The following categories of records may be inspected by or released to authorized persons or agencies, upon written consent of the adult inmate or parolee:

1. Medical records, except for psychiatric or psychological;
2. Dental records;
3. Educational records;
4. Work records;
5. Any document listed in N.J.A.C. 10A:22-2.1; and
6. Such other material as may be authorized for release under N.J.A.C. 10A:22-2.4(c).

(b) All records released under this section are subject to deletion of confidential information (see N.J.A.C. 10A:22-2.2).

10A:22-2.8 Litigation

All requests for release of information or records concerning any matter which is the subject of pending or ongoing litigation shall be referred to the Deputy Attorney General of record, or to the Department of Corrections' Special Assistant for Legal Affairs*, **Office of the Deputy Commissioner,*** for handling pursuant to the applicable rules of court.

10A:22-2.9 Juvenile records

(a) Social, medical, psychological, legal and other records pertaining to juveniles shall be strictly safeguarded from public inspection.

(b) Juvenile records shall be made available only to the following agencies or persons:

1. Courts of competent jurisdiction;
2. A county probation department;
3. The Attorney General;
4. A county prosecutor;
5. The juvenile's parent(s) or guardian;
6. The attorney of the juvenile;
7. The Division of Youth and Family Services, if providing care or custody of the juvenile; or
8. A law enforcement agency when such records are necessary in connection with the apprehension or location of a juvenile, or the investigation of crime or delinquency.

(c) Pursuant to N.J.S.A. 2A:4A-60, information as to the identity of a juvenile, the offense charged, the adjudication and disposition shall be disclosed to:

1. The victim or a member of the victim's immediate family;
2. Any law enforcement agency which investigated the offense;
3. The person or agency which filed the complaint;
4. Any law enforcement agency in the municipality where the juvenile resides;
5. A party in a subsequent legal proceeding involving the juvenile, but only upon court order; or
6. The principal, on a confidential basis, of the school where the juvenile is enrolled for use by the principal or his or her designee in planning programs relevant to the juvenile's educational and social development. The principal shall be advised that this information shall not become part of the juvenile's permanent school records.

(d) In the event a question or dispute arises pertaining to disclosure of information or confidentiality of certain information concerning juveniles, the Department of Corrections' Special Assistant for Legal Affairs*, **Office of the Deputy Commissioner,*** shall be contacted for guidance. The decision of the Special Assistant for Legal Affairs*, **Office of the Deputy Commissioner,*** will be final.

(e) In the event a request for release of information is denied, the material shall not be released without a court order.

10A:22-2.10 Reimbursement for costs of copying

(a) Except as otherwise provided in this subchapter or by law, correctional facilities and other administrative units within the Department of Corrections may charge the following fees for copying records:

- | | |
|-------------------------------|-----------------|
| 1. First through 10th page | \$.50 per page |
| 2. Eleventh through 20th page | \$.25 per page |
| 3. Over 20 pages | \$.10 per page |

(b) Governmental agencies or officers shall be exempt from payment of fees for copying records.

LABOR/HEALTH

(a)

OFFICE OF SAFETY COMPLIANCE PREVENTABLE DISEASES

Requirements and Procedures for Obtaining Asbestos Worker or Supervisor Permit

Joint Adopted New Rules: N.J.A.C. 12:120-5.3 and 8:60-5.3

Notice of Correction

Take notice that new rules N.J.A.C. 12:120-5.3 and 8:60-5.3, published in the June 6, 1988 New Jersey Register at 20 N.J.R. 1232(b), retains a proposed provision in N.J.A.C. 12:120-5.3 (8:60-5.3) (b)2 which was deleted by the Departments upon adoption and published in error.

Full text of the corrected rules follows (deletions indicated in brackets with asterisks *[thus]*).

12:120-5.3 (8:60-5.3) Requirements for obtaining a permit

(a) (No change from published text.)

(b) The Commissioner shall issue a permit to an experienced asbestos worker who satisfies the requirements listed below. The experienced asbestos worker shall:

1. Be at least 18 years of age;
2. Verify his or her identity *[and eligibility to work in the United States]* at a New Jersey Employment Services Office;
- 3.-6. (No change from published text.)

LAW AND PUBLIC SAFETY

(b)

DIVISION OF CRIMINAL JUSTICE

Police Training Commission Police Training Commission Rules

Adopted Repeal and New Rules: N.J.A.C. 13:1

Proposed: March 21, 1988 at 20 N.J.R. 622(a).

Adopted: June 1, 1988 by Donald R. Belsole, Director, Division of Criminal Justice and Chairman, Police Training Commission.

Filed: June 13, 1988 as R.1988 d.309, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

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

Effective Date: July 5, 1988.

Operative Date: July 19, 1988.

Expiration Date: July 5, 1993.

Summary of Public Comments and Agency Responses:

The proposed repeal and new rules of the Police Training Commission were proposed on March 21, 1988. The comment period closed on April 20, 1988.

13:1-7.1 School directors

COMMENT: At the public hearing on April 12, 1988, representatives of the Police Academy Directors Association of New Jersey objected to the adoption of N.J.A.C. 13:1-7.1 which authorizes the Commission to suspend or dismiss a school director.

RESPONSE: The Commission is of the opinion that in order to uniformly administer the Commission-approved schools it should, if necessary, discipline a school director. Under the present rule, the only alternative is to de-certify the school. The Commission agreed to clarifying changes in N.J.A.C. 13:1-7.1 to indicate that disciplinary action against a school director should be for a violation of the duties imposed by the

Commission. Additionally, it amended the rule to make it clear that any such removal of a school director would be from performing those duties and not from any other official governmental position held by a school director.

13:1-7.2(a)20viii Operating entity responsibilities

COMMENT: The Director of the Division of Criminal Justice Training Academy recommended that, in addition to a county prosecutor's office, an official monitor of drug screening of female trainees could be obtained from any other law enforcement agency.

RESPONSE: The Commission agreed to permitting a female municipal, county or state police officer to act as an official monitor for drug screening of female trainees and has amended the rule accordingly.

13:1-7.2(a)20iii Operating entity responsibilities

COMMENT: The Director of the Division of Criminal Justice Training Academy recommended that a school director should request and receive written notification of a positive drug screening test result.

RESPONSE: The Commission agreed that the utilization of social security numbers to protect the anonymity of trainees could result in an error if transmitted orally and that there should be written notification of a positive result.

13:1-7.2(a)20xiii Operating entity responsibilities

COMMENT: The Administrator of Police Services recommended that a school director should, in addition to notifying a trainee of a positive drug test result, also notify the appointing authority.

RESPONSE: The Commission agreed that notice of a positive drug test result should be provided to the appointing authority at the same time it is provided to the trainee and has amended the rule accordingly.

The Commission has also made the following clarifying changes to the rules:

The order of N.J.A.C. 13:1-3.4 and 3.5 have been reversed and amended to make clear that the Commission staff conducts an initial review of an application for certification of a school, the Administrator of Police Services prepares a recommendation and the Commission may hold a hearing if there is an objection or multiple applications.

N.J.A.C. 13:1-4.6(a)2 has been amended to clarify the intent of the Commission that a firearms instructor is not obligated to score no less than 95 in a firearms course as long as that instructor satisfied the requirements for requalification.

N.J.A.C. 13:1-7.2(a)20viii has been changed to correct a typographical error.

Full text of the adoption follows (additions indicated in boldface with asterisks ***thus***; deletions indicated by brackets with asterisks ***[thus]***).

CHAPTER 1 POLICE TRAINING COMMISSION

SUBCHAPTER 1. DEFINITIONS

13:1-1.1 Definitions

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

"Administrator of Police Services" means the person designated by the Attorney General with the advice and consent of the Commission to perform its general administrative functions.

"Appointing authority" means a person or group of persons having the power of appointment to or removal from offices, positions or employment as law enforcement officers.

"Basic Course" means an entry-level police training course at a Commission-approved school designed for trainees who are required by law to be trained under Commission jurisdiction.

"Certification" means a written statement issued by the Commission attesting that a school or individual has complied with Commission requirements.

"Commission" means the Police Training Commission.

"Commission staff" means those employees of the Division of Criminal Justice assigned by the Director to administer the Police Training Act.

"Curriculum" means a specific course or the aggregate of courses of study at a Commission-approved school.

"In-service course" means any course of study which a police officer shall attend after completion of the basic course.

"Institution of higher learning" means any college or university accredited by the New Jersey Department of Higher Education.

"Law enforcement agency" means any police force or organization functioning within this State, except for the Division of State Police, which has by statute or ordinance the responsibility of detecting crime and enforcing the criminal laws of this State.

"Medical examination" means a fitness evaluation of an individual by a licensed physician.

"Police instructor" means an individual certified by the Commission to teach at a Commission-approved school.

"Police officer" means any employee of a law enforcement agency, other than a civilian employee, and any member of a fire department or force who is assigned to an arson investigation unit pursuant to Public Law 1981, Chapter 409.

"Range master" means an individual certified by the Commission and designated by a school director to control and supervise all activities at a firearms range.

"Scholarship recipient" means a police officer who has been awarded financial support by the Commission to attend college.

"School" means an institution approved by the Commission to provide basic and/or in-service courses of study.

"School director" means an individual designated as having the responsibility for the administrative and day-to-day operations of a Commission-approved school.

"Subject" means a component of a curriculum dealing with a specific matter.

"Trainee" means an individual attending a Commission-approved school.

SUBCHAPTER 2. GENERAL PROVISIONS

13:1-2.1 Relaxation of rules

The rules in this chapter shall be considered as general rules for the operation of the Commission and the administration of the Police Training Act. These rules have been designed to facilitate the education and training of police officers. The rules may be relaxed or dispensed with by the Commission in any instance where it shall be manifest to the Commission that strict adherence would result in an injustice to an individual or a law enforcement agency.

13:1-2.2 Authority of the Commission Chairman

In any matter not expressly controlled by this chapter or by statute or in any urgent or emergent matter, the Commission Chairman, acting on behalf of the other Commissioners, shall exercise his or her discretion in Commission matters. When it become necessary for the Commission Chairman to exercise such discretion, he or she shall report on his or her actions to the other Commissioners as soon thereafter as practical.

SUBCHAPTER 3. SCHOOL CERTIFICATION

13:1-3.1 Eligibility for certification

A law enforcement agency, a combination of law enforcement agencies, an institution of higher learning or a recognized governmental entity is eligible to apply to the Commission for certification to operate a school.

13:1-3.2 Application for certification

An application for certification shall be submitted on a form prescribed by the Commission. The application shall require the applicant to demonstrate a need for the school and the availability of necessary resources to operate the school. The application shall conform with the Commission's requirements with respect to buildings, facilities, firearms ranges, equipment, personnel and insurance.

13:1-3.3 Notice of application

The applicant shall send a written notice, on a form prescribed by the Commission, to every law enforcement agency within the county wherein certification for a school is sought, indicating the applicant's intent to seek Commission certification to operate a school. A written notice shall be forwarded to the Commission stating that this section has been complied with.

***[13:1-3.4 Hearing on application**

In the event a law enforcement agency interposes an objection with respect to school certification, the Administrator of Police Services may, for good cause, schedule a hearing on the matter after due notice to the affected parties.]*

13:1-[3.5]3.4* Application review**

The Commission staff shall review the application to determine if the applicant has demonstrated a need for the school, shall inspect the facility where the training is to be conducted and determine if the applicant has the necessary resources to operate the school. The Administrator of Police Services shall submit a written report to the Commission which shall contain a recommendation with respect to the request. The Commission shall approve or disapprove the certification request with any conditions it believes to be appropriate.

***13:1-3.5 Hearing on application**

In the event a law enforcement agency interposes an objection with respect to school certification or there is more than one application for certification of a school within the same or adjoining counties the Administrator of Police Services may, for good cause, schedule a hearing by the Commission on the matter after due notice to the affected parties. The Commission shall approve or disapprove the certification request with any conditions it believes to be appropriate.*

13:1-3.6 School recertification

Initial certification or recertification of a school by the Commission shall be for a period of three years. An application for recertification shall be the same as that provided in N.J.A.C. 13:1-3.2 through 3.5 together with a Commission staff determination that a school has complied with all Commission requirements. Schools which are currently certified shall apply for recertification *[within three years of (the effective date of these rules)]* ***by July 19, 1991*.**

13:1-3.7 Suspension or revocation of certification

(a) School certification may be temporarily suspended or revoked by the Commission for:

1. Failure to comply with Commission requirements;
2. Failure to substantiate that the school reasonably serves the needs of the law enforcement agencies within the locale where the school is situated;
3. Failure to operate a basic course for a period exceeding 18 months;
4. Failure to maintain the school's facilities, including any buildings, equipment and firearms range in a reasonably clean, safe and efficient condition in accordance with Commission standards; or
5. Other good cause.

(b) In the event of suspension or revocation, the school director shall be notified in writing as to the reasons(s) for the action and may request a hearing before the Commission in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Commission may restore certification when the conditions for the suspension or revocation have been corrected.

SUBCHAPTER 4. INSTRUCTOR CERTIFICATION**13:1-4.1 Certification requirement**

All instructors participating in a course authorized by the Commission must be certified before they are permitted to teach except as set forth in this subchapter.

13:1-4.2 Eligibility for certification

An individual who has completed two years of college, who has a minimum of three years of experience in his or her teaching specialty or career and who can demonstrate knowledge and/or skill in a subject contained in a Commission-approved curriculum is eligible for consideration for instructor certification. The Commission may waive the educational and/or work experience requirement for a compelling reason.

13:1-4.3 Certification process

An individual seeking instructor certification shall complete the Commission-prescribed application and shall have his or her law

enforcement agency's endorsement where applicable. The school director shall interview the applicant and, if there is an intention to utilize the services of the individual, shall then endorse the application and forward it to the Commission. The Commission staff shall review the application and either approve or disapprove the request for certification as an instructor.

13:1-4.4 Types of certification

Police officers who have completed or will subsequently complete a Commission-recognized instructor training course shall be entitled to a police instructor certificate. Individuals other than police officers shall be entitled to a special instructor certificate.

13:1-4.5 Certification

(a) Initial certifications and renewals thereof shall expire on December 31 of the granting or renewal year.

(b) The Commission may impose conditions with respect to any certification and may withdraw certification at any time, or deny renewal, for good cause.

(c) An instructor denied certification or renewal, or whose certification was withdrawn by the Commission, may request a hearing before the Commission in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

(a) Applicants who seek certification to instruct in certain subjects must be certified as an instructor and also comply with the following requirements:

i. An individual seeking certification 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. Demonstrate knowledge of the established range safety rules;
- ii. Identify the major parts of the handguns and shotguns used in the training program;
- iii. Demonstrate the 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; and
- (4) Cleaning and maintaining weapons properly;

iv. Demonstrate the knowledge and skills required to teach the techniques of marksmanship and be able to identify the reasons that may be leading a trainee to possible failure; and

v. Score no less than 95 in the Commission-required firearms course.

2. In order to be eligible for recertification, firearms instructors must annually satisfy the range master of their ability to perform the requirements as set forth in (a)1**i through iv** above and comply with an appropriate firearms requalification program.

3. An individual seeking certification as a Range Master must be certified by the Commission as a firearms instructor and:

i. Possess a minimum of five years active experience as a certified firearms instructor at a Commission-approved school. The Commission may waive this requirement for compelling reasons;

ii. Have served in the capacity of a certified firearms instructor under the supervision of a certified range master during at least six basic firearms courses at a Commission-approved school; and

iii. Be recommended to the Commission by both the school director and the range master at the school where the applicant will serve that the applicant is competent to perform the duties and responsibilities of range master.

4. An individual seeking certification as a radar instructor at a Commission approved school or at a law enforcement agency must meet the following requirements:

i. Prior completion of a course for radar operators, which shall have included a minimum of eight hours of training consisting of four hours of classroom instruction and four hours of supervised practice training;

ii. Two years of experience as a radar operator, with a minimum of 80 hours of hands-on experience; and

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iii. Successful completion of a Commission-recognized course for radar instructors.

13:1-4.7 Appeal of certification denial

An individual seeking instructor certification who is denied certification as a result of the Commission staff review may appeal this decision to the Commission.

SUBCHAPTER 5. LAW ENFORCEMENT OFFICER CERTIFICATION

13:1-5.1 Certification requirements; basic courses

(a) A trainee shall be eligible for certification when the school director affirms that:

1. The trainee has achieved the minimum requirements set forth in the Basic Course for Police Officers, the Basic Course for Investigators or the Basic Course for Special Law Enforcement Officers, and has demonstrated an acceptable degree of proficiency in the performance objectives contained therein*[:]**;*

2. The trainee has participated in no less than 90 percent of the total instructional time assigned to those performance objectives designated by the Commission; and

3. The trainee has successfully completed the training required by the Commission to be conducted by the employing law enforcement agency.

13:1-5.2 Certification requirements; other courses

A trainee shall be eligible for certification in other courses when the School Director affirms that the trainee has successfully completed a curriculum and course requirements approved by the Commission.

13:1-5.3 Revocation of certification

The Commission may revoke the certification conferred upon a trainee if the Commission ascertains that the certification would not have been issued had certain facts concerning inappropriate conduct of the trainee been known to the Commission at the time the certification was issued. The Commission may also revoke a certification which was issued as the result of administrative error. The individual shall be notified in writing as to the reasons for revocation and shall be required to return the certification to the Commission. The individual may request a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

SUBCHAPTER 6. CURRICULUM

13:1-6.1 Curriculum and courses

A curriculum promulgated by the Commission shall be the required curriculum at a Commission-approved school. The Commission curricula are incorporated herein by reference and are available from the Commission at the Richard J. Hughes Justice Complex, CN-085, Trenton, New Jersey 08625. An approved school shall conduct all basic courses and those other courses as shall be required by the Commission. In addition to the required curriculum, a school may also offer, with Commission staff approval, additional instruction.

SUBCHAPTER 7. SCHOOL ADMINISTRATION

13:1-7.1 School directors

Each Commission-approved school shall be under the immediate control of an individual who is designated for the purposes of these rules by the title "school director". The school director shall perform general administrative functions and shall be responsible for the day-to-day operations of the school. The Commission shall have the authority*, **after consultation with the agency responsible for operating a school,* to *[suspend or dismiss]* *remove* a school director *[for good cause]* *from all duties and responsibilities for the administrative and day-to-day operations of a Commission-approved school for a violation of Commission rules, policies or directives. Notice of removal shall be in writing and shall be served upon the school director and the agency responsible for operating the school.*** A school director suspended or dismissed by the Commission may request a hearing before the Com-

mission in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.*, **and shall, where applicable, also retain any rights that may be available under the laws pertaining to the State Department of Personnel.***

13:1-7.2 Operating entity responsibilities

(a) The law enforcement agency, combination of law enforcement agencies, institution of higher learning, or recognized governmental entity certified to operate a school is vested with the power, responsibility and duty:

1. To comply with all Commission rules, standards and directives governing the operation of the school;

2. To devise a curriculum, in conjunction with appropriate law enforcement officials and such other advisors that may be appropriate, that conforms to Commission requirements and submit same to the Commission staff for approval;

3. To promulgate, subsequent to Commission approval, and enforce rules governing the conduct of trainees and the use of the school's facilities. Each trainee shall be furnished a printed copy of the rules at the commencement of the course and a copy of the rules shall be posted in a conspicuous place on the school bulletin board and remain there for the duration of the course. These rules shall explicitly state which rule(s), the violation of which, may result in the trainee's suspension or dismissal from school;

4. To verify that the requirements for admission of an individual into the school have been complied with;

5. To maintain appropriate records for each trainee which shall include, but not be limited to, attendance, written examination grades, firearms qualification scores, behavior and counselling;

6. To report immediately the unauthorized absence of a trainee to an appropriate official in the trainee's law enforcement agency;

7. To report immediately the illness or injury of a trainee or an instructor to an appropriate official in the trainee's law enforcement agency and to the Commission staff;

8. To suspend or dismiss a trainee who has demonstrated that he or she will be ineligible for Commission certification, for unacceptable behavior or for other good cause. In such cases:

i. The trainee shall be informed immediately of the reason(s) for the action;

ii. As soon as possible thereafter a written statement of the reason(s) for the action shall be provided to the trainee, the appropriate official in the trainee's law enforcement agency and the Commission;

iii. The suspension or dismissal of a trainee for misconduct may take effect immediately when, in the opinion of the school director, the continued presence of the trainee would be disruptive of or detrimental to the conduct of the class;

iv. Upon the written request of a trainee, the Commission Chairman may, after consultation with the school director and for good cause, permit a trainee to remain in school pending the appeal of a suspension or dismissal pursuant to N.J.A.C. 13:1-9;

v. A trainee who is dismissed from a school for misconduct shall not receive credit for any subjects completed up to the time of dismissal;

9. To inform the Commission whether a trainee has complied with the certification requirements set forth herein;

10. To submit records and forms to the Commission as required in accordance with a written schedule prepared by the Commission;

11. To maintain, for a period of three years, a master copy of each written examination conducted by the school, together with the correct answers. The individual written examination papers of trainees who are academic failures and the targets of those who are firearms failures are also to be maintained for a period of three years;

12. To forward to the Commission, on the appropriate form, any request for the certification of an individual seeking to become a certified instructor;

13. To forward to the Commission, two months in advance of the beginning of a class, a request for Commission staff to conduct a training course for instructors;

14. To verify that all instructors have Commission certification. In an emergency or compelling circumstances, a non-certified instruc-

tor may be used. In such event, the Commission staff shall be notified as soon as possible and informed of the reason for this exception:

15. To designate a range master for the school who shall be qualified in accordance with Commission standards;

16. To maintain and safeguard all Commission equipment on loan to the school and to notify the Commission immediately if any of the equipment is damaged or missing;

17. To provide the Commission with class time for purposes of conducting orientation sessions for trainees and with bulletin board space for the posting of appropriate Commission rules and notices;

18. To charge a reasonable fee for each trainee enrolled at the school;

19. To appoint a school director and such assistants as may be required to implement this subchapter;

20. To conduct drug screening of all trainees so as to provide for the safety and welfare of all trainees, instructors and other school persons in accordance with the following procedures:

i. All trainees will be requested to sign a waiver in a form prescribed by the Commission consenting to the sampling and testing of urine during the course. This waiver will include notification that a positive confirmation of the presence of illegal drugs in the trainee's urine will result in dismissal from the school;

ii. Although criminal proceedings would not ordinarily be justified in the case of a positive drug test obtained as a result of mandatory, unannounced testing, the school director may report positive drug test results to the county prosecutor in appropriate circumstances;

iii. The Commission shall designate the facility for both the initial screening and confirmation analysis of urine

iv. Prior to the submission of a urine sample, the trainee will complete a medical questionnaire in a form prescribed by the Commission which shall clearly describe all drugs, both prescription and non-prescription, ingested during the past 30 days;

v. Trainees will be required to submit a urine sample at any time during the course:

vi. A staff member of the school will serve as the official monitor and, as such, will be responsible for ensuring that all required forms, such as waivers, laboratory request forms and medical questionnaires*,* have been thoroughly and accurately completed by the trainee. Prior to the submission of the sample, both the staff member and the trainee will inspect the specimen bottle for indications of pre-void tampering;

vii. Generally, the trainee will submit the urine sample in the presence of the official monitor. On those rare occasions where the trainee is not able to provide a sample in the presence of the official monitor, the school director may choose to permit the trainee to provide a sample without the witness, so long as the trainee removes his or her clothing in the presence of the official monitor prior to entering a room where he or she has no access to water or any other additive;

viii. The official monitor shall always be of the same sex as the trainee being tested. If there are no female staff members available who can serve as the official monitor for female *[applicants]* *trainees*, the appointing authority may request that a female member of the prosecutor's office *or another law enforcement agency* serve as the official monitor;

ix. Urine samples will be processed in accordance with accepted chain of evidence procedures. Throughout the urine acquisition process, the identity of the trainee shall be preserved through social security number. No forms forwarded to the laboratory will contain the trainee's name;

x. The trainee will complete the information requested on the specimen bottle label and the laboratory chain of request form;

xi. After the official monitor has inspected the information for accuracy, the trainee will void at least 50 milliliters of urine into the specimen bottle. The trainee will then secure the cap of the specimen bottle and initial and wrap evidence tape along the top of the bottle beginning on one side of the bottle, along the cap and down the other side. The trainee will place the specimen bottle and the original copy of the laboratory chain of custody form in a plastic evidence bag and initial and seal the bag with evidence tape prior to surrendering the specimen to the official monitor. The trainee and the school

director shall also maintain a copy of the laboratory chain of custody form;

xii. After ascertaining that all forms have been completed accurately by the trainee and the person serving as a witness to the void, the official monitor shall take possession of the sample and place it in a controlled access refrigerated storage area until it is delivered to the designated laboratory. This delivery shall occur within 24 hours of acquisition;

xiii. The school director shall request that the designated laboratory provide *[oral]* *written* notification of any urinalysis resulting in a positive test result. A sample shall be considered positive for the presence of drugs only when resulting from a confirmatory test procedure. A written laboratory report shall be obtained for all positive samples. All trainees who are found positive for drugs *and an appropriate official in the trainee's law enforcement agency* will be orally notified by the school director of the positive confirmation result as soon after the *[oral]* *written* notification from the laboratory as possible. A copy of the laboratory report may be provided to the trainee by the school director if requested;

21. To employ aides, with the written approval of the Commission, to assist instructors, provided that no aide shall act in any instructional capacity;

22. To immediately report to the Commission any allegation of misconduct, improper instruction or other actions of an instructor or school staff; and

23. To cooperate with the Commission in any investigation or inquiry.

SUBCHAPTER 8. RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES AND OTHER AGENCIES

13:1-8.1 Investigation of police officers prior to acceptance into a basic course

(a) Prior to the acceptance of a police officer into a basic course, the employing law enforcement agency shall:

1. Fingerprint the individual and forward copies of the fingerprints to the New Jersey State Police and the Federal Bureau of Investigation in order to ascertain if the individual has been convicted of an offense which would disqualify an appointment of a police officer. The results obtained from the State Police and the Federal Bureau of Investigation shall be made known and available to the appropriate appointing authority;

2. Investigate the individual to ascertain if he or she is eligible for permanent appointment in a law enforcement position. The results of this investigation shall be made known and available to the appropriate appointing authority;

3. Require that an individual must undergo a medical examination given by a licensed physician, to determine if the individual is fit to undergo training. The physician shall state, on a form prescribed by the Commission, that the individual is fit to undergo the training for which the individual is enrolled; and

4. Provide training at the employing law enforcement agency in those performance objectives designated by the Commission.

13:1-8.2 Notification to school director

An appropriate official from the employing law enforcement agency seeking to enroll an individual in a Basic Course shall notify the school director in writing, 10 days prior to the commencement of the course, that the agency has complied with its responsibilities as provided in this subchapter. In the event an agency is unable to comply with this section, the agency shall forward a written request to the Commission for an extension of time and shall indicate the reason(s) for the request. Failure to comply with respect to this notification may result in the affected individual being denied admittance into the basic course.

13:1-8.3 Other agencies

Individuals who are not police officers may enroll in a Basic Course or other courses when so approved in advance by the Commission and in compliance with N.J.A.C. 13:1-8.1 and 8.2.

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13:1-8.4 Waivers

(a) The Commission may, in its discretion, waive all or portions of any required training for an individual who has successfully completed a course conducted by any Federal, State or other public or private agency which is substantially equivalent to the Commission course.

(b) A request to waive training shall be submitted by the appointing authority to the Commission on a form prescribed by the Commission.

(c) In order to maintain uniformity, the Commission shall, from time to time consistent with existing law, establish criteria for granting a waiver of training by the Commission staff. These criteria shall be available at any time to an appointing authority upon request.

(d) Employing agencies shall be informed of the requirements utilized by the Commission in evaluating a request for a waiver.

SUBCHAPTER 9. APPEALS

13:1-9.1 Notice of appeal

All appeals to the Commission shall be by a notice of appeal to the Commission Chairman setting forth the subject matter of the appeal, the relief sought and the grounds therefor.

13:1-9.2 Service of notice

The appellant shall serve a copy of the notice of appeal upon the respondent. The notice of appeal, together with proof of service, shall be filed with the Commission Chairman within 30 days from the date of the action appealed.

13:1-9.3 Answer

Within 10 days after service of the notice the respondent shall file an answer with the Commission Chairman and serve a copy thereof on each of the parties to the appeal. The answer filed by the respondent shall include a statement of the grounds for its action.

13:1-9.4 Notice of hearing

Upon the filing of the notice and petition of appeal, at least five days' notice of the time and place fixed for the hearing of the appeal by the Commission shall be given to the parties. If the matter constitutes a contested case, the Commission may refer the appeal to the Office of Administrative Law for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:1-9.5 Conduct of hearing

All hearings held pursuant to this subchapter shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

DIVISION OF CONSUMER AFFAIRS

(a)

BOARD OF ARCHITECTS

Registration of Applicants Registered in Other Jurisdictions

Adopted Amendment: N.J.A.C. 13:27-5.4

Proposed: April 18, 1988 at 20 N.J.R. 884(b).

Adopted: May 27, 1988 by the New Jersey Board of Architects, Harry Spies, President.

Filed: June 10, 1988 as R.1988 d.308, **without change**.

Authority: N.J.S.A. 45:3-3, 45:3-7 and 45:1-3.2.

Effective Date: July 5, 1988.

Expiration Date: April 1, 1990.

Full text of the adoption follows:

13:27-5.4 Registration of a person holding an architecture certificate from another jurisdiction

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

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(c) In those cases where the applicant shall have been granted registration in such other state, territory or possession on education, experience and examination qualifications not substantially equal to the requirements of this State, the Board may grant registration upon presentation by the applicant of evidence satisfactory to the Board of at least five years of responsible practice of architecture while holding a valid license as an architect. This five years of responsible practice is defined as five years of practice including the signing and sealing of plans for those years in the state of registration as a principal architect or as a sole practitioner. Evidence of equivalent, responsible practice may be accepted by the Board.

(b)

STATE BOARD OF ACCOUNTANCY

Quality Enhancement Program

Adopted New Rules: N.J.A.C. 13:29-5

Proposed: December 7, 1987 at 19 N.J.R. 2240(a).

Adopted: May 19, 1988 by State Board of Accountancy,

Jerry C. Tobin, President.

Filed: June 3, 1988 as R.1988 d.294, **without change**.

Authority: N.J.S.A. 45:2B-1 et seq., specifically 45:2B-6(g).

Effective Date: July 5, 1988.

Expiration Date: June 3, 1990.

Summary of Public Comments and Agency Responses:

As a result of the Board of Accountancy's notice of proposed new rules, six comments were received. All but one of these suggested that the power to appoint members to the Quality Enhancement Committee be in the hands of the Board rather than the Director of Consumer Affairs. After long discussion and examination of the issue, the Board concluded that the power of appointing the committee members should remain with the Director of Consumer Affairs.

The only other comment received by the Board claimed that the Board was exceeding its authority in promulgating these new rules. In addition, this comment stated that the proper procedure to effect the proposed change would be the Reorganization Act rather than an amendment of the Board's rules. On the advice of the Deputy Attorney General assigned to it, the Board notified the commenter that the Board had not exceeded its authority in any way and that the Reorganization Act was not applicable.

Full text of the adoption follows.

SUBCHAPTER 5. QUALITY ENHANCEMENT PROGRAM

13:29-5.1 Purpose and scope

There is hereby established a Quality Enhancement Program (Program). The purpose of the Program is to improve the quality of financial reporting and to promote the fairness of presentation and the dependability of information on which the public relies for guidance in financial transactions, accounting and business performance. The Program emphasizes education and rehabilitation rather than disciplinary action. Appropriate educational programs or procedures will ordinarily be recommended or required where reporting does not comply with appropriate professional standards. However, when a licensee is unwilling or unable to comply with those standards, or a licensee's professional work is so egregious as to warrant disciplinary action, the Board may resort to such action as is appropriate to protect the public interest.

13:29-5.2 Definitions

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

"Practice Unit" means each office of a sole practitioner or firm registered under N.J.S.A. 45:2B-17.

"Report" includes financial statement and accountants' reports, compilation, review or audit.

13:29-5.3 Quality Enhancement Committee; members; duties; compensation

(a) The Director of the Division of Consumer Affairs shall annually appoint a Standing Committee to be known as the Quality Enhancement Committee (Committee) to assist the Board in the implementation and administration of the Program:

1. The Director shall receive for consideration nominees from the Board of Accountancy, and shall make the appointments in consultation with the Board;

2. The Committee will consist of no fewer than five members, all of whom must be licensees and holders of currently valid registrations issued under N.J.S.A. 45:2B-8, 13 or 33;

3. At least one member of the Committee shall be a Certified Public Accountant, at least one shall be a Licensed Public Accountant, and at least one shall be a Registered Municipal Accountant. At least two committee members will also be members of the State Board of Accountancy.

(b) The Committee's responsibilities shall include:

1. Developing procedures for the internal operation of the Board staff and of the Committee;

2. Assisting the Board in the selection and training of volunteer reviewers;

3. Developing criteria for assignment of volunteer reviewers to specific report reviews, taking into account such criteria as the Board determines appropriate;

4. Developing and recommending to the Board a system for selection of reports to be reviewed;

5. Evaluating the findings of the volunteer reviewers, assigning certain reports for field workpaper reviews upon directive by the Board, and making final recommendations to the Board;

6. Compiling and reporting to the Board statistics on the impact and effect of the Program; and

7. Considering such other matters and performing such other duties regarding the Program as may be delegated to it by the Board from time to time.

(c) Committee members shall be compensated on a per diem basis at a rate as determined by the Attorney General, such compensation to be drawn from current license and registration fees.

13:29-5.4 Reports to be furnished at request of Committee

(a) In accordance with a schedule to be set by the Committee, each practice unit shall complete a questionnaire indicating:

1. The number of audit, review and compilation reports issued by the practice unit during the most recent twelve-month period prior to renewal of registration;

2. Whether it has undergone any change of ownership or composition; and

3. Whether it has undergone another type of quality review within the three years prior to the most recent renewal of registration.

(b) Based upon the information contained in the questionnaires in (a) above, the Committee shall select practice units for report review. The practice units so selected shall then submit copies of those types of reports issued by the practice unit requested by the Committee.

(c) The Committee may also review financial statements and related reports of practice units submitted to it by the Board or by government or public agencies.

13:29-5.5 Exceptions

A practice unit which within the three years immediately preceding selection by the Committee pursuant to N.J.A.C. 13:29-5.4 had been subjected to a quality review acceptable to the Board may be excepted from the requirements of N.J.A.C. 13:29-5.4 above; provided, however, that a copy of the report of such quality review is submitted upon request by the Committee.

13:29-5.6 Confidentiality

(a) Any documents submitted in accordance with N.J.A.C. 13:29-5.4 shall have deleted the name of the client, the client's address and other identifying factors, provided that the deletion does not render the type or nature of the enterprise undeterminable:

1. For example, the client name, address, or federal identification number shall be deleted, but reference to the type of organization,

such as financial institution, school district, hospital, etc., shall be indicated.

(b) The identities of persons or entities who submit financial statements and reports to the Board or the Committee, other than the licensees who issued the reports, shall be preserved in confidence unless expressly ordered by the Board.

13:29-5.7 Review and evaluation of submitted reports

(a) The Committee shall determine, with respect to each report that it reviews:

1. Whether the report is in general conformity with applicable professional standards;

2. If not, in what respects the report is substandard or seriously deficient; and

3. Any recommendations the Committee may have concerning possible improvement of the quality of the report, and it shall report its determinations and recommendations to the Board. Reports shall be classified as: acceptable, marginal or substandard.

i. Acceptable reports contain no deficiencies, or only minor deficiencies;

ii. Marginal reports contain more serious deficiencies such as departures from technical reporting or accounting standards, but of the type that will not render the reports materially inaccurate or misleading; and

iii. Substandard reports are materially inaccurate or misleading. These reports violate one or more significant reporting standards, seriously depart from Generally Accepted Accounting Principles or Auditing Standards, or omit material disclosures necessary for a fair presentation.

13:29-5.8 Committee action on reviewed reports

(a) In any case where the Committee has determined that a report is in general conformity with applicable professional standards, the Committee's determination and recommendations, if any, shall be sent to the person in charge of the office which submitted the report.

(b) In cases where the Committee determines that a report is marginal or substandard with respect to applicable professional standards, the Committee shall submit to the practice unit a letter of comment detailing the perceived deficiencies noted in connection with the review.

1. Any practice unit which receives a letter of comment pursuant to (b) above shall have 30 days in which to respond in writing. The Committee shall review all such responses, if received in a timely fashion, prior to recommending corrective measures.

2. In cases where the Committee has determined that a report is marginal or substandard, and following receipt and review of the practice unit's response, if any, to the letter of comment, the Committee may recommend that the practice unit implement planned quality control procedures, as follows:

i. The Committee may recommend that the individual licensee who had responsibility for issuance of the report or who substantially participated in preparation of the report or the related workpapers, successfully complete specific courses or types of continuing education at his or her own expense.

ii. The Committee may recommend that the office responsible for the report submit all or specified categories of its reports to a pre-issuance review in a manner and for a period prescribed by the Committee.

iii. The Committee may recommend that the office or the practice unit responsible for the report submit to another Quality Enhancement Review pursuant to this rule.

3. In cases where the Committee has determined that a report is substandard, the following receipt and review of the practice unit's response, if any, to the letter of comment, the Committee may take any of the following actions in addition to those set forth in (b)2 above:

i. Recommend to the Board that it direct that a field review which includes a review of the workpapers be conducted by a reviewer employed by the Board.

ii. Recommend that the Board require that the individual licensee, office or practice unit responsible for the issuance of the substandard report undertake any of a variety of measures, as determined by the

Board, intended to improve the quality of reporting by the practice unit.

(c) In any case where the Board requires that a licensee or practice unit responsible for the issuance of a report containing substandard deficiencies undertake a measure which would impose substantial burdens on the professional practice, the practice unit affected shall have the right to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(d) Failure to comply with the recommendations of the Committee pursuant to (b) above may cause the Committee to recommend to the Board that it initiate appropriate disciplinary action against the individual licensee or practice unit pursuant to N.J.S.A. 45:1-14 et seq. and N.J.S.A. 45:2B-1 et seq.

(e) The State Board of Accountancy reserves the right to take any action it deems necessary if it appears that the professional conduct reflected in the substandard report is so serious as to warrant consideration of possible disciplinary action.

13:29-5.9 Reports and reviews not public records

(a) Reports submitted by practice units for review in accordance with this subchapter shall not be deemed to be public records and are not required to be disclosed under the Public Records Disclosure Act, N.J.S.A. 47:1A-1 et seq.

(b) Comments of reviewers, the Committee and the Board on reports submitted by practice units or workpapers relating thereto, as well as review results are deemed not to be public records and shall not be released to anyone other than the practice unit being reviewed, the Attorney General or his designee, or a Board representative.

TRANSPORTATION

TRANSPORTATION OPERATIONS

(a)

Speed Limits for State Highways; Restricted Parking and Stopping; No Passing; Miscellaneous Traffic Rules; Turns

Readoptions: N.J.A.C. 16:28, 28A, 29, 30 and 31

Proposed: April 18, 1988 at 20 N.J.R. 887(a).

Adopted: May 19, 1988 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 1, 1988 as R.1988 d.290, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 7-21, 39:4-98, 4-138, 4-139, 4-199, 4-201.1, 4-85.1, 4-140, 4-183.6, 4-88, 4-208, 4-94.1 and 4-183.27.

Effective Date: June 1, 1988.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption can be found at N.J.A.C. 16:28 through 31.

(b)

Restricted Parking and Stopping Routes U.S. 9 in Cape May County and U.S. 130 in Mercer County

Adopted Amendments: N.J.A.C. 16:28A-1.7 and 1.46

Proposed: April 18, 1988 at 20 N.J.R. 887(b).

Adopted: May 19, 1988 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 1, 1988 as R.1988 d.288, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-138.1.

Effective Date: July 5, 1988.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

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

(a) The certain parts of State highway Route U.S. 9 described in this subsection shall be designated as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1.-11. (No change.)

12. No stopping or standing in Middle Township, Cape May County:

i. (No change.)

ii. Along the easterly (northbound) side:

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

(3) From the northerly curb line of Atlantic Avenue to the prolongation of the southerly curb line of School House Lane.

13.-19. (No change.)

(b) (No change.)

16:28A-1.46 Route U.S. 130

(a) The certain parts of State highway Route U.S. 130 described in this subsection are designated and established as "no stopping or standing" zones where stopping or standing is prohibited.

1.-8. (No change.)

9. No stopping or standing in Washington Township, Mercer County:

i. Along both sides:

(1) For the entire length throughout the Township of Washington including all ramps and connections under the jurisdiction of the Commissioner of the Department of Transportation except those areas specifically designated as bus stops.

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

(c)

Restricted Parking and Stopping Route N.J. 49 in Cumberland County

Adopted Amendment: N.J.A.C. 16:28A-1.34

Proposed: April 18, 1988 at 20 N.J.R. 888(a).

Adopted: May 19, 1988 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 1, 1988 as R.1988 d.287, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.

Effective Date: July 5, 1988.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.34 Route 49

(a) The certain parts of State highway Route 49 described in this subsection are designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

1.-7. (No change.)

(b) (No change.)

(c) The certain parts of State highway Route 49 described in this subsection shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established bus stops:

1. (No change.)

2. Along West Broadway westbound on the northerly side in the City of Salem, Cumberland County:

i. Near side bus stop:

(1) Front Street: Beginning at the easterly curb line of Front Street and extending 155 feet easterly therefrom.

TRANSPORTATION

ADOPTIONS

3. Along the eastbound (southerly) side in Fairfield Township, Cumberland County:

i. Near side bus stops:

(1) Copin Drive: Beginning at the prolongation of the westerly curb line of Copin Drive and extending 105 feet westerly therefrom.

(2) Woodruff Road: Beginning at the westerly curb line of Woodruff Road and extending 105 feet westerly therefrom.

(3) Walden Drive: Beginning at the prolongation of the westerly curb line of Walden Drive and extending 105 feet westerly therefrom.

ii. Mid-block bus stop:

(1) Sunset Avenue: Beginning 528 feet west of the westerly curb line of Sunset Avenue and extending 135 feet westerly therefrom.

iii. Far side bus stops:

(1) East Avenue: Beginning at the prolongation of the easterly curb line of East Avenue and extending 100 feet easterly therefrom.

4. Along the westbound (northerly) side in Fairfield Township, Cumberland County:

i. Near side bus stops:

(1) Fordville Road: Beginning at the easterly curb line of Fordville Road and extending 105 feet easterly therefrom.

(2) Copin Drive: Beginning at the easterly curb line of Copin Drive and extending 135 feet easterly therefrom.

ii. Mid-block bus stop:

(1) Sunset Avenue: Beginning 358 feet west of the prolongation of the westerly curb line of Sunset Avenue and extending 135 feet westerly therefrom.

would not apply where the member has credit in the present system for service after the date of enrollment in the new system or where a person has ceased to be a member of the present system before establishing sufficient service credit to be eligible for deferred retirement.

(b) (No change.)

(c) The system will transfer membership to any State-administered system as follows:

1.-3. (No change.)

4. The member shall enjoy the same service credits established in the present system, subject to the provisions of the new system.

5. (No change.)

(d)-(e) (No change.)

(f) A member who makes a timely transfer in accordance with N.J.S.A. 43:2-1 et seq. will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable. The contribution rate for a member granted a deferred retirement in the present system who makes a timely transfer at the time of enrollment in the new system will be determined in accordance with the rules concerning enrollment after deferred retirement in the new system. A member who does not make a timely transfer will contribute to the new system at a rate based on his or her age at the time of enrollment in the new system.

(a)

Prohibited Right Turns on Red

Readoption: N.J.A.C. 16:31A

Proposed: April 18, 1988 at 20 N.J.R. 888(b).

Adopted: May 19, 1988 by John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 1, 1988 as R.1988 d.289, **without change.**

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 7-21, 39:4-123 and 4-183.27.

Effective Date: June 1, 1988.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption can be found at N.J.A.C. 16:31A.

TREASURY-GENERAL

(b)

DIVISION OF PENSIONS

State Police Retirement System

Interfund Transfers

Adopted Amendment: N.J.A.C. 17:5-6.1

Proposed: January 4, 1988 at 20 N.J.R. 47(b).

Adopted: June 7, 1988 by State Police Retirement System, Anthony Ferrazza, Secretary.

Filed: June 9, 1988 as R.1988 d.302, **without change.**

Authority: N.J.S.A. 53:5A-30.

Effective Date: July 5, 1988.

Expiration Date: December 2, 1990.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:5-6.1 Interfund transfers; other State systems

(a) Interfund transfers between State-administered pension funds are permitted by reciprocal transfer arrangements. Such transfers

(CITE 20 N.J.R. 1570)

TREASURY-TAXATION

DIVISION OF TAXATION

(c)

Business Personal Property Tax

Readoption: N.J.A.C. 18:9

Proposed: March 7, 1988 at 20 N.J.R. 511(a).

Adopted: June 6, 1988 by John R. Baldwin, Director, Division of Taxation.

Filed: June 7, 1988 as R.1988 d.297, **without change.**

Authority: N.J.S.A. 54:11A-19.

Effective Date: June 7, 1988.

Expiration Date: June 7, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 18:9.

(d)

Sales and Use Tax

Readoption: N.J.A.C. 18:24

Proposed: March 7, 1988 at 20 N.J.R. 512(a).

Adopted: June 6, 1988 by John R. Baldwin, Director, Division of Taxation.

Filed: June 7, 1988 as R.1988 d.298, **without change.**

Authority: N.J.S.A. 54:32B-24.

Effective Date: June 7, 1988.

Expiration Date: June 7, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 18:24.

ADOPTIONS

(a)

Transfer Inheritance Tax and Estate Tax

Redoption: N.J.A.C. 18:26

Proposed: March 21, 1988 at 20 N.J.R. 637(a).

Adopted: June 6, 1988 by John R. Baldwin, Director, Division of Taxation.

Filed: June 7, 1988 as R.1988 d.300, **without change.**

Authority: N.J.S.A. 54:50-1.

Effective Date: June 7, 1988.

Expiration Date: June 7, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the redoption appears in the New Jersey Administrative Code at N.J.A.C. 18:26.

(b)

Gross Income Tax

Setoff of Individual Liability

Redoption: N.J.A.C. 18:35

Adopted Repeal: N.J.A.C. 18:35-1.16

Proposed: March 7, 1988 at 20 N.J.R. 514(a).

Adopted: June 6, 1988 by John R. Baldwin, Director, Division of Taxation.

Filed: June 7, 1988 as R.1988 d.299, **without change.**

Authority: N.J.S.A. 54A:9-8.1 through 54A:9-8.3, 54A:9-17(a), and 54:50-1.

Effective Date: June 7, 1988.

Expiration Date: June 7, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the redoption appears in the New Jersey Administrative Code at N.J.A.C. 18:35.

18:35-1.16 (Reserved)

(The full text of the adopted repeal may be found in the New Jersey Administrative Code.)

OTHER AGENCIES

(c)

NEW JERSEY HIGHWAY AUTHORITY

Use and Administration of the Garden State Parkway

Adopted New Rules: N.J.A.C. 19:8

Proposed: April 18, 1988 at 20 N.J.R. 890(a).

Adopted: May 25, 1988 by George P. Zilocchi, Executive Director, New Jersey Highway Authority.

Filed: June 3, 1988 as R.1988 d.292, **without change.**

Authority: N.J.S.A. 27:12B-5(j) and (s) and 27:12B-20a.

Effective Date: July 5, 1988.

Expiration Date: July 5, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the rules appears in the New Jersey Administrative Code at N.J.A.C. 19:8.

Full text of the adopted amendments follows.

OTHER AGENCIES

19:8-9.3 Suspension or revocation of permit

(a) A permit issued pursuant to the provisions of N.J.A.C. 19:8-9, may be suspended or revoked for cause for any of the following reasons:

1. Whenever the sign for which the permit is issued impairs the safe and efficient operation of the Garden State Parkway;

2. Whenever any statement made in the application for a permit is knowingly false or misleading;

3. Whenever any provision of law or rules contained in this subchapter are violated; or

4. Whenever a stipulation made in granting of the permit is violated.

(b) When it shall appear to the Operations Manager of the Authority that any permittee has committed a violation or offense as stated in (a) above, the permittee will be given a written notice stating the violation or offense and within 30 days the permittee must:

1. Correct the violation if same is subject to correction or compliance; or

2. Remove all signs, spaces and advertisements; or

3. File a protest, in writing, under oath, signed by the permittee or its duly authorized agent stating the reason(s) for the protest. In addition, the permittee may request a formal hearing, which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., or an informal conference pursuant to N.J.A.C. 19:8-9.4.

(c) If the permittee has filed a protest but has not requested a hearing, the Operations Manager shall carefully consider all available, relevant information and then issue an order confirming, modifying or vacating the original find or determination.

(d) Whenever a permit has been revoked, the former holder shall be required to surrender same to the Operations Department, New Jersey Highway Authority, Garden State Parkway, Woodbridge, New Jersey 07095.

19:8-9.4 Informal conference

An informal hearing before the Executive Director of the Authority is in the nature of a conference, with or without representation on behalf of the permittee.

(d)

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Appeal Board

Redoption: N.J.A.C. 19:17

Proposed: April 18, 1988 at 20 N.J.R. 891(a).

Adopted: June 7, 1988 by the Public Employment Relations Commission, James W. Mastriani, Chairman.

Filed: June 8, 1988 as R.1988 d.301, **without change.**

Authority: N.J.S.A. 34:13A-5.9.

Effective Date: June 8, 1988.

Expiration Date: June 8, 1993.

Summary of Public Comments and Agency Responses:

One comment was received from the New Jersey Education Association (NJEA). NJEA supports the redoption of N.J.A.C. 19:17 without change. NJEA commented that the bulk of the chapter was originally adopted May 22, 1987 after a comprehensive process of consideration and reconsideration including two public hearings. NJEA also commented that the rules have worked well and that there have been no intervening changes in case law which would require a modification of any of the rules.

The Commission and the Public Employment Relations Commission Appeal Board, which administers the rules, agree that the rules should be readopted without change.

Full text of the redoption appears in the New Jersey Administrative Code at N.J.A.C. 19:17.

(a)

CASINO CONTROL COMMISSION**Accounting and Internal Controls
Procedure for Exchange of Checks Submitted By
Gaming Patrons
Verification of Travelers Checks****Adopted Amendment: N.J.A.C. 19:45-1.25
(Alternative I)**

Proposed: January 4, 1988 at 20 N.J.R. 51(a).

Adopted: June 9, 1988, by Casino Control Commission,
at Walter N. Read, Chair.Filed: June 9, 1988 as R.1988 d.304, **without change**
(Alternative II not adopted).

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

Effective Date: July 5, 1988.

Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

The written comment period for the proposed amendments ended on February 3, 1988. Written comments were received from Claridge Casino Hotel, Resorts International, Inc., Caesars Atlantic City, Trump's Castle Hotel and Casino, Trump Plaza Hotel and Casino, and the Division of Gaming Enforcement.

In addition, the Commission held a public hearing concerning the proposed amendments in Lawrenceville, New Jersey, on May 25, 1988, in order to provide further opportunity to anyone desiring to comment on the proposal. Oral comments were received from the Division of Gaming Enforcement (Division), Claridge Casino Hotel (Claridge) and the Atlantic City Casino Association (ACCA).

COMMENTS: The written comments received from the industry were in all respects supportive of Alternative I. The general thrust of the comments was that travelers checks have proven to be an extremely reliable instrument by simply utilizing the verification procedures required by the issuer of the travelers checks, which procedures are consistent with Alternative I. Conversely, the commentators claim that the procedures specified in Alternative II would impose additional, overburdensome verification procedures which are neither required nor desired by the issuers of travelers checks. The commentators claim that the adoption of Alternative II would result in increased time and expense to the industry and undue inconvenience to patrons without any corresponding benefit to casino operations in Atlantic City.

Claridge orally argued that Alternative I best comports with both industry practice and the requirements of the issuing institution; that the adoption of Alternative I would fulfill the Commission's goal of guarding against the loss of casino revenue; and that Alternative I strikes the correct balance between the interests of law enforcement and the free negotiability of cash equivalents.

The ACCA orally argued for the adoption of Alternative I. In support of its position that the fraudulent encashment of travelers checks is not a serious problem in Atlantic City, the ACCA noted that, out of 50 million dollars in American Express travelers checks encashed in Atlantic City in 1986 (which figure represents about 75 percent of all travelers checks encashed in Atlantic City that year), only \$95,000 involved fraudulent or stolen encashments, which represents one-fifth of one percent. Of that \$95,000, only \$300.00 in travelers checks were dishonored by American Express (due to the failure of a casino licensee to observe the standard verification procedure). The ACCA maintained that the travelers check companies rely mainly on "watch and compare" and supplement it with other procedures when deemed appropriate.

The ACCA noted, for example, that American Express requires verification of travelers checks in the amount of \$100.00 or more through an American Express computer terminal, and that other companies such as Thomas Cook, Barclay's or Master Card require "contact" verification for larger amounts (for example, some at \$400.00, others at \$500.00). The ACCA observed that, should these procedures become ineffective in the future, Alternative I would allow the travelers check companies the needed flexibility to make changes in their procedures right away to address the problem. Conversely, the ACCA argued that to require contact verification prior to the encashment of each and every travelers check, which would include checks in the amount of \$20.00, would be unworkable and more cumbersome than its worth.

RESPONSE: The Commission generally agreed with the written and oral comments of the industry as evidenced by its adoption of Alternative I.

COMMENTS: Written comments were received from the Division which supported the adoption of Alternative II. The Division claimed that the procedures specified in Alternative II are needed to reduce fraud in the encashment of travelers checks, and that the direct verification of all travelers checks required by Alternative II would only impose minimal burdens on casino licensees and the public.

The Division orally noted that fraudulent encashment is a crime and maintained that the integrity of casino operations would be undermined if thieves use casinos as a clearing house for stolen checks. The Division referred to a recent criminal investigation emanating from the theft of travelers checks in which an individual presented for encashment certain stolen travelers checks at eight Atlantic City casinos. The Division noted that the verification efforts performed through an independent verification service led to the arrest of that individual at a casino hotel.

RESPONSE: The Commission rejected the comments of the Division because the procedures specified in Alternative I have proven adequate to safeguard the financial operations of casino licensees.

Full text of the adoption follows.

19:45-1.25 Procedure for exchange of checks submitted by gaming patrons

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

(e) Cash equivalents and casino checks, as defined in N.J.A.C. 19:45-1.1, shall only be accepted at the cashiers' cage by general cashiers. Prior to acceptance of any cash equivalent from a patron, the general cashier shall determine the validity of such cash equivalent by performing the necessary verification for each type of cash equivalent and such other procedures as may be required by the issuer of such cash equivalent. Prior to the acceptance of a cash equivalent made payable to the presenting patron or of a casino check pursuant to N.J.S.A. 5:12-101(g), the general cashier shall examine that patron's identification credentials to ensure the patron's identity and shall maintain documentation supporting that examination.

1. Prior to acceptance of a travelers check from a patron, the general cashier shall verify its validity by:

- i. Requiring the patron to countersign the travelers check in his or her presence;
- ii. Comparing the countersignature with the original signature on the travelers check;
- iii. Examining the travelers check for any other signs of tampering, forgery or alteration; and
- iv. Performing any other procedures which the issuer of the travelers check requires in order to indemnify the acceptor against loss.

(f)-(p) (No change.)

EMERGENCY ADOPTION

TRANSPORTATION

(a)

THE COMMISSIONER

Speed Limits

Route N.J. 29 in Hunterdon County

Adopted Emergency Amendment and Concurrent Proposal: N.J.A.C. 16:28-1.77

Emergency Amendment Adopted: June 13, 1988,
by Hazel Frank Gluck, Commissioner, Department of
Transportation.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June 16,
1988.

Emergency Amendment Filed: June 21, 1988 as R.1988 d.324.

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

Emergency Amendment Effective Date: June 21, 1988.

Emergency Amendment Expiration Date: August 20, 1988.

The concurrent proposal is known as PRN 1988-360.

Submit comments by August 4, 1988 to:

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

The agency proposal follows:

Summary

The adopted amendment will establish a 15 mile per hour speed limit zone along Route N.J. 29 in the City of Lambertville, Hunterdon County within the Lambertville Public School Zone during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safety of children going to and from school and during recess.

Based upon requests from the local government officials, in the interest of the safety of the children within the Lambertville Public School Zone, the Department's Bureau of Traffic Engineering and Safety Program conducted a traffic investigation. The investigation proved that the estab-

lishment of a speed limit zone in the Lambertville Public School Zone was warranted.

The Department therefore has amended N.J.A.C. 16:28-1.77, based upon the request from the local officials and the traffic investigation.

Social Impact

The adopted amendment will establish a 15 mile per hour speed limit zone along Route N.J. 29 in the City of Lambertville, Hunterdon County within the Lambertville Public School Zone for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safety of children going to and from school and during recess. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The Department will bear the costs for the installation of "speed limit" zones signs. Motorists who violate the rules will be assessed the appropriate fine.

Regulatory Flexibility Statement

Since the adopted amendment does not place any bookkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-19, a regulatory flexibility analysis is not required. The rule primarily affects the motoring public.

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

16:28-1.77 Route 29

(a) The rate of speed for the certain parts of State highway Route 29 described in this subsection shall be adopted and established as the maximum legal rate of speed: [thereat:]

1. For both directions of traffic:

i.-vii. (No change.)

viii. Zone eight: [25 mph in the City of Lambertville to Elm Street (milepost 16.1); thence]

(1) 25 mph in the City of Lambertville to Elm Street (milepost 16.1); except that the maximum speed shall be 15 mph in the City of Lambertville, Hunterdon County, within the Lambertville Public School Zone during recess, when the presence of children is clearly visible from the roadway, or while children are going to or leaving school, during opening or closing hours; thence

ix.-xiv. (No change.)

MISCELLANEOUS NOTICES

PERSONNEL

(a)

MERIT SYSTEM BOARD

Action on Petition For Rulemaking

Non-interference in Collective Bargaining: 4A:1-1.5

Petition for Rulemaking Citation: June 6, 1988 New Jersey

Register at 20 N.J.R. 1298(c).

Petitioners: Employees of the Division of Motor Vehicles, New Jersey Department of Law and Public Safety.

Authority: N.J.S.A. 11A:1-2(e).

Take notice that, pursuant to N.J.A.C. 1:30-3.6(b), the Merit System Board has considered the above-referenced petition for rulemaking, which requests the promulgation of N.J.A.C. 4A:1-1.5, and for the reasons stated below, has decided not to take further action on the petition.

The proposal, which would prohibit the Commissioner of Personnel and the Merit System Board from promulgating a rule or taking other action that interferes with a negotiated contract, is not a workable standard. Because it lacks specificity, the requested rule could conflict with other rules of the Department of Personnel which are necessary to implement Title 11A. There are 14 negotiating units for State employees and virtually hundreds for local employees which may, from time to time, have provisions in conflict with regulations or other contracts. It should be noted that Title 11A expressly requires rulemaking in such areas as promotions, transfers, leaves, employee performance evaluations, compensation and layoffs, to name some examples. The rules promulgated by the Department of Personnel are intended to meet the legislative mandate of Title 11A and must be available under the Code as adopted.

Finally, the petitioners' comments concerning N.J.A.C. 4A:6-5.3(c) and (d), 4A:6-1.3 (provision on earned sick leave) and 4A:4-2.6 (provision on out-of-title work) are matters to be addressed during the comment period for those specific rule proposals.

N.J.A.C. 4A:6-5.3(c) and (d) are authorized by N.J.S.A. 11A:6-28, which directs the Commissioner to establish procedures for an employee performance evaluation system. An appeal mechanism such as that created by this rule is an appropriate part of an employee performance evaluation system.

The provision the petitioners refer to in N.J.A.C. 4A:6-1.3 as objectionable must also be considered as a comment to that specific rule proposal.

N.J.A.C. 4A:4-2.6(c), the proposed provision on out-of-title work, consisted of four options at the time of proposal, which were under review during the comment period for Chapter 4 and the petitioners' concerns were considered in that context.

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Office of Housing Advocacy

Grant Program

Public Notice

Take notice that a new grant program to provide administrative support for nonprofit community organizations engaged in housing development will soon be established within the Office of Housing Advocacy. Up to one million dollars will be available for distribution in the form of two year grants for the following purposes:

1. To help nonprofits develop the ability to actually produce housing;
2. To assist in the planning and carrying out of specific housing development projects; and
3. To increase the ability of nonprofits to find other sources of funds needed to keep producing housing.

Nonprofit organizations that can show that they have community support and are now, or want to become, housing developers may apply for grants on or after July 15, 1988.

(CITE 20 N.J.R. 1574)

For information on how to apply, write or call:

Office of Housing Advocacy
Department of Community Affairs
CN 806
Trenton, NJ 08625-0806
(1-609) 292-9470

(c)

DIVISION OF HOUSING AND DEVELOPMENT

Exemptions from Taxation

Definitions

Notice of Correction: N.J.A.C. 5:22-2.1

Take notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 5:22-2.1 concerning the definition of "Multiple Dwelling". The last sentence of the definition states that "Multiple Dwelling" also means and includes any group of ten or more buildings on a single parcel of land or on continuous parcels under common ownership . . ." The word "continuous", as is clear from the statutory language of N.J.S.A. 55:13A-3, should be "contiguous".

Full text of N.J.A.C. 5:22-2.1 should appear in the New Jersey Administrative Code as follows:

5:22-2.1 Definitions

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

"Multiple Dwelling" means any building or structure of one or more stories, and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or intended to be occupied, by three or more persons who live independently of each other. This definition shall not include hotels, motels, motor hotels, guesthouses, properties subject to the Rooming and Boarding House Act of 1979, or any building section containing not more than two dwelling units held under a condominium or cooperative form of ownership, or by a mutual housing corporation, where all the dwelling units in the section are occupied by their owners, if a condominium, or by shareholders in the cooperative or mutual housing corporation, and where such building section has at least two exterior walls unattached to any adjoining building section and is attached to any adjoining building sections exclusively by fire walls having a two-hour fire rating and/or by fire separation walls having a one and one-half hour fire rating, or any building of three stories or less, owned and controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community, as defined in the "Retirement Community Full Disclosure Act" (N.J.S.A. 45:22A-1 et seq.). "Multiple dwelling" also means and includes any group of ten or more buildings on a single parcel of land or on [continuous] **contiguous** parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof.

ENVIRONMENTAL PROTECTION

(d)

DIVISION OF WATER RESOURCES

Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that an amendment to the Northeast Water Quality Management (WQM) Plan has been submitted for approval by the Bergen

County Utilities Authority (BCUA). The amendment requests that an update of a water quality model be prepared to establish effluent limits for the BCUA's wastewater treatment facility. Upon the completion of the water quality study being prepared by BCUA, the Little Ferry Wastewater Treatment Facility will be modified, if necessary, to meet applicable Water Quality Standards reflecting the study. The Department of Environmental Protection (Department) will review and develop its wastewater allocations using the study which will be based on water quality events for the seven consecutive days, 10 year low flow conditions during the summer months. The existing treatment facility will maintain current permit conditions or modifications as determined by the Department to meet Water Quality Standards.

This notice is being given to inform the public that a plan amendment has been developed for the Northeast WQM Plan. All information dealing with the aforesaid WQM Plans and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Quality Planning at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(a)

Amendment to the Upper Raritan Water Quality Management Plan

Public Notice

Take notice that an amendment to the Upper Raritan Water Quality Management (WQM) Plan has been submitted for approval. This amendment proposes to adopt a Wastewater Management Plan (WMP) for Chester Township. The WMP proposes the construction of a sewage treatment plant to service the Westminster Estates and Schafer Tract residential developments. The Simmonds Precision Plant will construct a holding tank where additional wastewater flows can be collected and transported daily to their Hercules-Kenville plant for treatment. Chester Township will be designated as the Wastewater Management Agency.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that on March 16, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Lower Raritan/Middlesex County Water Quality Management Plan was adopted by the Department. This amendment will allow the proposed Jefflands II residential development in Plainsboro Township to be served by the Linpro Utilities Company. Presently, the development is partially outside of the sewer service area of that agency. There will be wetlands encroachment to allow the installation of a stormwater outfall structure and a sanitary sewer pipeline.

(c)

Amendment to the Upper Delaware Water Quality Management Plan

Public Notice

Take notice that on February 23, 1988 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the "Water Quality Management Planning and Implementation Process" Regulations (N.J.A.C. 7:15-3.4), an amendment to the Upper Delaware Water Quality Management Plan was adopted by the Department. This amendment will allow for an expansion of the Hackettstown Municipal Utilities Authority's (MUA) Sewage Treatment Plant (STP) from 1.65 MGD to 3.3 MGD. The proposed service area includes Hackettstown and portions of the Townships of Independence, Mansfield, and Allamuchy in Warren County and Mount Olive and Washington in Morris County. In addition, Hackettstown MUA is designated as the Wastewater Management Agency for the study area.

(d)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would allow the expansion of the sewer service area of the Gloucester County Utilities Authority to include the proposed Whispering Woods development in Monroe Township. The project site is partly located in the Unconsolidated Region of Gloucester County. The amendment would also allow the filling of 0.18 acres of isolated wetlands for this project.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, Third Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

HEALTH**(a)****Gerontology Program
Availability of Grants
Huntington's Disease Residential Program**

Take notice that, in compliance with P.L. 1987, ch. 7, the Department of Health hereby publishes notice of the availability of the following grant:

Name of grant program: Huntington's Disease Residential Program, Grant Program No. 89-57-GER.

Purpose for which the grant program funds will be used: To contract with a long-term care facility to establish a 15 to 20 bed unit to provide specialized care to victims of Huntington's Disease. DOH will delegate to an outside agency (as yet undetermined) responsibility for administering the award process under its direction.

Amount of money in the grant program: The availability of funds for this program is contingent on appropriation of funds to the department. Contact person identified in this Notice (see below) to determine whether the funds have been awarded and to receive further information.

Group or entities which may apply for the grant program: All licensed for profit and nonprofit long term care facilities.

Qualifications needed by an applicant to be considered for the grant: Demonstrated ability to provide services.

Procedures for eligible entities to apply for grant funds: Submission of completed Application for Health Service Grant.

For information contact:

Rickey Greene
Acting Chief
Gerontology Program
Division of Epidemiology & Disease Control
CN 369
Trenton, NJ 08625
(609) 588-7496

Deadline by which applications must be submitted: September 1, 1988.

Date by which applicant shall be notified whether they will receive funds: October 15, 1988.

HIGHER EDUCATION**(b)****STUDENT ASSISTANCE BOARD****Student Assistance Programs****Notice of Correction: N.J.A.C. 9:7-3.1**

Take notice that an error appears in the New Jersey Administrative Code at N.J.A.C. 9:7-3.1 concerning Determination of eligibility for and value of student assistance. The Tuition Aid Grant Award Tables should not appear at N.J.A.C. 9:7-3.1. The Tuition Aid Grant Award Tables were recodified from N.J.A.C. 9:7-3.1 to 9:7-3.2 and new text at N.J.A.C. 9:7-3.1 was proposed in the January 4, 1988 Register at 20 N.J.R. 33(a). The recodification of the tables to N.J.A.C. 9:7-3.2 and new rule 9:7-3.1 were adopted and published in the March 21, 1988 Register at 20 N.J.R. 656(a).

HUMAN SERVICES**(c)****DIVISION OF YOUTH AND FAMILY SERVICES****Dependent Care Development Grants Program**

Take notice that, in accordance with N.J.S.A. 52:14-34.4, 34.5, 34.6, the Department of Human Services announces the following availability of funds.

Name of the grant program: State Dependent Care Development Grants Act; P.L. 99-425 (the Human Services Reauthorization Act of September 1986).

Purpose for which the grant program funds shall be used: To fund activities for the planning, development, establishment, expansion or

improvement of school-age child care services. Activities appropriate for funding include:

1. Planning the development of a new school-age child care program;

2. Planning the development of a county-based, school-age child care coalition;

3. Development of a curriculum for use in a school-age child care program, with the purchase of materials to implement the curriculum;

4. Development and printing of materials which expand and/or improve school-age child care services or educate the public regarding the need for school-age child care services; or

5. Innovative projects specific to school-age child care programs.

Limitations on the use of these funds: These funds may not be used to:

1. Pay the costs of operation of any resource or referral system or school-age child care program established, expanded or improved with funds under this Act;

2. Make cash payments to the recipients of school-age child care services;

3. Subsidize the direct provision of school-age child care services; or

4. Pay for construction or renovation of a school-age child care program.

Amount of money in the grant program: \$30,000 will be available statewide. There will be a maximum of \$5,000 distributed to any single program.

Groups and entities which may apply for the grant program:

1. Public schools

2. Not for profit agencies

3. Public agencies that provide or plan to provide

4. Non-sectarian child care

Qualifications needed by an applicant to be considered for the grant program: Groups or entities that qualify under Section D of this notice who can demonstrate the necessary skills and abilities to be funded for activities set out under Section B of this notice.

Procedure for eligible entities to apply for grant funds: Agencies interested in applying for these funds should contact:

Steven K. Rosen
Division of Youth and Family Services
One South Montgomery Street, Room 1100
CN 717
Trenton, New Jersey 08625

Each agency will be mailed a Request for Proposal packet.

Address of division, office or official receiving application:

Steven K. Rosen
Division of Youth and Family Services
One South Montgomery Street, Room 1100
CN 717

Trenton, New Jersey 08625

Deadline by which applications must be submitted to that division, office or official: Applications must be submitted to the above address within 15 days of the appearance of this notice in The New Jersey Register.

Date by which applicants shall be notified whether they will receive funds under the grant program: Applicants will be notified within 25 days of this notice's appearance in the New Jersey Register.

TREASURY-GENERAL**(d)****DIVISION OF BUILDING AND CONSTRUCTION****Architect-Engineer Selection****Notice of Assignments—Month of May 1988**

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, pre-qualified New Jersey consulting firms. For information on DBC's pre-qualification and assignment procedures, call (609) 984-6979.

Last list dated May 2, 1988.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
A434-03	Testing/Inspection Services Horse Park-Stone Tavern Upper Freehold, NJ	Testwell Craig Testing Labs	\$15,000 Services

MISCELLANEOUS NOTICES

OTHER AGENCIES

P563	Water Supply Improvements Swartswood State Park Sussex County, NJ	Purcell Associates	\$180,000
T202	Reroofing DOT Maintenance Building Lawrence Twp., NJ	Matthew L. Rue, AIA	\$66,000
M790	Tunnel Steam Line Repair Woodbine Developmental Center Woodbine, NJ	Roy Larry Schlein & Associates	\$150,000
N105-01	Litigation Services Greystone Park Psychiatric Hospital Greystone Park, NJ	Harry W. Gooch, RA	\$3,600 Services
P523	Testing/Inspection Services New Maintenance Complex Fort Mott State Park Salem County, NJ	Ambric Testing Assoc.	\$5,923 Services
W023	Facility Consultant—FY 88 Dept. of Environmental Protection	Thomas E. Torricelli, AIA	\$30,000 Services
A494	Arsenic Study Union Lake Dam Millville, NJ	TRC Environmental Consultants, Inc.	\$1,109 Services
P572	Public Sanitary Facilities Island Beach State Park Ocean County, NJ	Joseph N. Wirth & Associates	\$100,000
I031	Asbestos Removal Power House Trenton State College Trenton, NJ	Northeastern Analytical Corp.	\$9,296 Services
M777	Replacement of Main Condenser Receiver Trenton Psychiatric Hospital Trenton, NJ	M. Benton & Assoc.	\$50,000
I022 Re- assign- ment	Asphalt Paving & Improvements Stockton State College Pomona, NJ	Post-Buckley-Schuh- Jernigan	\$180,000
P567	Maintenance & Administrative Complex Atsion Area Wharton State Forest Hammonton, NJ	Lammey & Giorgio, PA	\$750,000

COMPETITIVE PROPOSALS

Lammey & Giorgio, PA	10.90%
Ambruster/Grana Associates	11.95%
Kolbe & Poponi, PA	15.23%

P570	Recreational Facility Plan Long Pond Iron Works State Park Monksville Reservoir Site Passaic County, NJ	Schlessinger Assoc./ Short & Ford	\$34,700 Services
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COMPETITIVE PROPOSALS

Schlessinger Assoc./Short & Ford	\$34,700 Lump Sum
Cavagliari/Albin/Kruse	\$60,000 Lump Sum
Kehrt-Shatken-Sharon	\$97,000 Lump Sum
Richard Dattner	\$147,250 Lump Sum

M785	Asbestos Removal Multi-Purpose Room Vineland Developmental Center Vineland, NJ	Northeastern Analytical Corp.	\$255,000
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COMPETITIVE PROPOSALS

Northeastern Analytical Corp.	\$31,890 Lump Sum
Testwell Craig Testing Labs	\$32,100 Lump Sum
Environmental Health Inspections Commercial, Inc.	\$33,750 Lump Sum
Gaudet Associates	\$39,100 Lump Sum

M788	Asbestos Removal Cottage C-3 Woodbine Developmental Center Woodbine, NJ	Northeastern Analytical Corp.	\$210,000
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COMPETITIVE PROPOSALS

Northeastern Analytical Corp.	\$15,000 Lump Sum		
Accredited Environmental Technologies, Inc.	\$16,000 Lump Sum		
Testwell Craig Testing Labs	\$19,800 Lump Sum		
Princeton Testing Lab	Non-Responsive		
S208	New Two Lane Inspection Facility with Service Core Division of Motor Vehicles Southampton Township Burlington County, NJ	Oliver & Becica, AIA, PA	\$1,900,000

COMPETITIVE PROPOSALS

Oliver & Becica, AIA, PA	3.368%		
Clarke & Caton	3.60%		
Eugene F. O'Connor, AIA	4.68%		
Ambruster/Grana Associates	6.06%		
E188	Asbestos Removal Newark Skills Center/ COED Building Newark, NJ	PMK Engineering & Testing, Inc.	\$150,000

COMPETITIVE PROPOSALS

PMK Engineering & Testing, Inc.	\$17,450 Lump Sum
Testwell Craig Testing Labs	\$26,999 Lump Sum
Northeastern Analytical Corp.	Non-Responsive
Accredited Environmental Tech., Inc.	Non-Responsive

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

**Petition for Rulemaking
Possession of Firearms within Casino
N.J.A.C. 19:45-1.13**

Petitioner: Larry E. Holtz.
Authority: N.J.S.A. 5:12-69(c); N.J.S.A. 52:14B-4.

Take notice that on June 9, 1988 petitioner, Larry E. Holtz, filed a rulemaking petition with the Casino Control Commission requesting an amendment to N.J.A.C. 19:45-1.13.

The petitioner contends that N.J.A.C. 19:45-1.13 prohibits an armed Atlantic City police officer or detective from stepping onto the casino floor in the performance of duty without the express written permission of the Casino Control Commission. The petitioner asserts that this creates a dangerous condition because the Atlantic City Police Department must provide a timely response to a request for service or emergency help from casino security but is constrained because of the N.J.A.C. 19:45-1.13 prohibition.

To remedy this situation, the petitioner would amend the rule to permit sworn, full-time members of the Atlantic City Police Department to enter upon the casino floor in the performance of their official duties while armed without obtaining the express written approval of the Commission. Others who must seek this approval, however, would be required to demonstrate that specific training and licensing requirements have been satisfied.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.A.C. 52:14B-4.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	10/20/91
1:6	5/4/92
1:6A	5/4/92
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	10/6/91
1:11	5/4/92
1:13	5/4/92
1:20	5/4/92
1:21	5/4/92
1:30	2/14/91
1:31	6/17/92

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2	10/3/88
2:3	6/18/89
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	7/6/92
2:23	6/6/88
2:24	2/11/90
2:32	6/1/92
2:48	11/27/90
2:50	5/1/92
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6	3/3/91
3:7	9/16/90
3:11	3/19/89
3:13	11/17/91
3:17	6/18/91
3:18	1/19/93
3:19	3/17/91
3:21	2/2/92

N.J.A.C.	Expiration Date
3:22	5/21/89
3:23	7/6/92
3:24	8/20/89
3:25	8/17/92
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	10/5/92
3:41	10/16/90
3:42	4/4/93

PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/5/91
4:6	5/5/91
4A:1	10/5/92
4A:2	10/5/92
4A:4	6/6/93
4A:5	10/5/92
4A:7	10/5/92
4A:9	10/5/92
4A:6	1/4/93
4A:10	11/2/92

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:4	10/5/92
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	12/24/92
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:19	2/1/93
5:22	12/1/90
5:23	3/1/93
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	7/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	7/9/92
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91

N.J.A.C.	Expiration Date
5:92	6/16/91
5:100	5/7/89

N.J.A.C.	Expiration Date
7:25	2/18/91
(Except for 7:25-1 which expired 9/17/85)	

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

7:25A	5/6/90
7:26	11/4/90
7:27	Exempt
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	2/1/93
7:30	12/4/92
7:31	6/20/93
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Exempt
7:38	9/18/90
7:45	Expired 1/11/85

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	7/5/93
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	10/5/92
6:53	7/7/92
6:64	5/1/88
6:68	4/12/90
6:69	6/4/91
6:70	1/25/90
6:79	11/25/92

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	9/8/92
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	5/2/93
8:25	5/19/93
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	6/23/92
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/93
8:40	4/15/90
8:41	2/17/92
8:42	8/17/92
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	12/11/92
8:43F	3/18/90
8:43G	9/8/91
8:43I	3/21/93
8:44	11/7/88
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:52	12/15/91
8:53	8/4/91
8:57	6/18/90
8:59	10/1/89

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/5/92
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	4/20/92
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:3	3/21/93
7:6	12/19/88
7:7	5/7/89
7:7A	6/6/93
7:7E	7/24/90
7:7F	1/19/93
7:8	2/5/93
7:9	1/21/91
7:10	9/4/89
7:11	5/13/93
7:12	4/11/93
7:13	5/4/89
7:14	4/27/89
7:14A	6/4/89
7:14B	12/21/92
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:22	1/5/92
7:23	6/18/89
7:24	5/19/91

N.J.A.C.	Expiration Date
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

N.J.A.C.	Expiration Date
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	10/14/92
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	12/7/92
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	12/7/92
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	12/7/92
10:132	1/5/92
10:141	2/21/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	10/30/91
9:5	1/21/91
9:6	5/20/90
9:6A	1/4/93
9:7	2/28/93
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88

N.J.A.C.	Expiration Date
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	12/7/92
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	12/7/92
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	12/7/92
10:132	1/5/92
10:141	2/21/89

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	5/6/88
10:2	1/5/92
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:12	1/5/92
10:14	5/16/93
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:42	8/18/91
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91
10:69	6/6/93
10:69A	4/20/93
10:69B	11/21/88
10:70	6/16/91
10:71	1/6/91
10:72	8/27/92
10:80	8/23/89
10:81	10/15/89

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:1	7/6/92
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:6	11/2/92
10A:8	11/16/92
10A:9	1/20/92
10A:10-6	8/17/92
10A:16	4/6/92
10A:17	12/15/91
10A:18	7/6/92
10A:22	7/5/93
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:7	10/19/92
11:10	7/15/90
11:12	10/27/91
11:13	11/12/92
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91
11:17	4/18/93

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91

N.J.A.C.	Expiration Date
12:18	3/7/93
12:20	11/5/89
12:35	8/5/90
12:45	5/2/93
12:46	5/2/93
12:47	5/2/93
12:48	5/2/93
12:49	5/2/93
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:60	3/21/93
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:110	1/19/93
12:120	5/3/90
12:175	12/9/88
12:190	1/4/93
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12A:9	3/7/93
12A:10-1	8/15/89
12A:11	9/21/92
12A:12	9/21/92
12A:100-1	9/8/91

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/5/93
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	4/25/93
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:28	5/16/93
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	10/23/92
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44B	11/2/92
13:44C	6/2/91
13:45A	12/16/90

N.J.A.C.	Expiration Date
13:46	6/3/90
13:47	2/2/92
13:47A	10/5/92
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	4/27/92
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88
13:77	2/1/93

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	1/27/92
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3	10/7/90
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:11	9/20/89
14A:12	2/7/88
14A:13	2/2/92
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	5/2/93
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:26	8/6/89
16:27	9/8/91
16:28	6/1/93
16:28A	6/1/93

N.J.A.C.	Expiration Date
16:29	6/1/93
16:30	6/1/93
16:31	6/1/93
16:31A	6/1/93
16:32	4/15/90
16:33	9/3/90
16:41	7/28/92
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	5/25/93
16:49	3/18/90
16:51	4/6/92
16:53	3/19/89
16:53A	4/15/90
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	1/30/92
16:75	5/13/93
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90
16:79	10/20/91

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	5/6/93
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	5/6/93
17:12	8/15/89
17:16	12/2/90
17:19	3/18/90
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90
17:30	5/4/92
17:32	3/21/93

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89

N.J.A.C.	Expiration Date
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	6/7/93
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	6/7/93
18:25	1/6/91
18:26	6/7/93
18:30	4/2/89
18:35	6/7/93
18:36	2/4/90
18:37	8/5/90
18:38	2/16/93
18:39	9/8/92

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	5/26/93
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	5/26/93
19:4A	6/20/93
19:8	7/5/93
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	6/8/93
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/12/93
19:42	5/12/93
19:43	4/27/89
19:44	10/13/88
19:45	3/24/93
19:46	4/28/93
19:47	4/28/93
19:48	10/13/88
19:49	3/29/88
19:50	5/12/93
19:51	8/14/91
19:52	9/25/91
19:53	4/28/93
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

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 May 2, 1988 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1988 d.1 means the first rule adopted in 1988.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT APRIL 18, 1988

NEXT UPDATE: SUPPLEMENT MAY 16, 1988

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
19 N.J.R. 1121 and 1258	July 6, 1987	20 N.J.R. 125 and 220	January 19, 1988
19 N.J.R. 1259 and 1352	July 20, 1987	20 N.J.R. 221 and 320	February 1, 1988
19 N.J.R. 1353 and 1474	August 3, 1987	20 N.J.R. 321 and 434	February 16, 1988
19 N.J.R. 1475 and 1588	August 17, 1987	20 N.J.R. 435 and 570	March 7, 1988
19 N.J.R. 1589 and 1676	September 8, 1987	20 N.J.R. 571 and 692	March 21, 1988
19 N.J.R. 1677 and 1758	September 21, 1987	20 N.J.R. 693 and 842	April 4, 1988
19 N.J.R. 1759 and 1858	October 5, 1987	20 N.J.R. 843 and 950	April 18, 1988
19 N.J.R. 1859 and 1926	October 19, 1987	20 N.J.R. 951 and 1018	May 2, 1988
19 N.J.R. 1927 and 2086	November 2, 1987	20 N.J.R. 1019 and 1126	May 16, 1988
19 N.J.R. 2087 and 2224	November 16, 1987	20 N.J.R. 1127 and 1316	June 6, 1988
19 N.J.R. 2225 and 2324	December 7, 1987	20 N.J.R. 1317 and 1500	June 20, 1988
19 N.J.R. 2325 and 2510	December 21, 1987	20 N.J.R. 1501 and 1594	July 5, 1988
20 N.J.R. 1 and 124	January 4, 1988		

N.J.A.C. CITATION

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1:30-3.1	Regulatory flexibility analysis and proposed rulemaking	20 N.J.R. 573(a)	

Most recent update to Title 1: TRANSMITTAL 1988-2 (supplement March 21, 1988)

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2:5-2	Equine infectious anemia control	20 N.J.R. 695(a)	
2:23	Gypsy moth control: voluntary suppression program	20 N.J.R. 845(a)	
2:32-2.1, 2.3, 2.5, 2.8, 2.10, 2.12, 2.13, 2.14, 2.19, 2.20, 2.22, 2.25, 2.27, 2.33	Sire Stakes Program	20 N.J.R. 323(a)	R.1988 d.189 20 N.J.R. 975(a)
2:48-3	Sale of milk in new container sizes	20 N.J.R. 1129(a)	
2:69-1.11	Commercial values of primary plant nutrients	20 N.J.R. 696(a)	R.1988 d.284 20 N.J.R. 1343(a)
2:71	Grades and standards	20 N.J.R. 953(a)	
2:71-2.4, 2.5	Jersey Fresh Logo program	20 N.J.R. 1129(b)	
2:72	Licensing and bonding of buyers of perishable commodities	20 N.J.R. 955(a)	
2:73-2	Eggs: Seal of Quality program	20 N.J.R. 956(a)	
2:74-1	Controlled atmosphere storage for apples	20 N.J.R. 956(b)	
2:76-6.2, 6.5, 6.6, 6.8, 6.9, 6.10, 6.11, 6.16	Farmland preservation: acquisition of development easements	20 N.J.R. 1503(a)	
2:76-6.2, 6.5, 6.6, 6.9, 6.15, 6.16	Farmland development easements: residual dwelling sites	20 N.J.R. 324(a)	
2:76-6.9, 6.11, 6.14	Farmland preservation: acquisition of development easements	20 N.J.R. 1319(a)	

Most recent update to Title 2: TRANSMITTAL 1988-1 (supplement March 21, 1988)

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3:1-1.1	Maximum interest rate on first mortgages on residences with one to six units	19 N.J.R. 2089(a)	R.1988 d.282 20 N.J.R. 1343(b)
3:1-2.17	Repeal (see 3:32-1)	20 N.J.R. 697(a)	
3:1-14	Revolving credit equity loans	19 N.J.R. 1594(a)	
3:1-16	Mortgage loan practices	20 N.J.R. 1021(b)	
3:2-1.1, 1.2, 1.3, 1.4	Advertising by financial institutions	20 N.J.R. 1025(a)	
3:6-9	Capital stock savings bank: change in control	19 N.J.R. 1762(a)	
3:11-12	Commercial loans by savings banks	19 N.J.R. 1679(b)	R.1988 d.230 20 N.J.R. 1075(a)
3:32-1.1, 1.2, 1.4, 1.6, 1.7, 1.10, 1.11	Conversion of savings and loan associations from mutual to capital stock	20 N.J.R. 697(a)	
3:38-5	Repeal (see 3:1-16)	20 N.J.R. 1021(b)	

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4:1-16.1-16.6, 24.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)	

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4:2-6.4-6.10, 7, 27	Repeal (see 4A:3)	20 N.J.R. 846(a)		
4:2-16.1, 16.2	Repeal (see 4A:8)	19 N.J.R. 1363(a)		
4:3-2	Repeal (see 4A:3)	20 N.J.R. 846(a)		
4:3-6.4, 11.1, 13.2, 14	Repeal (see 4A:4)	20 N.J.R. 327(a)	R.1988 d.259	20 N.J.R. 1183(b)
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Most recent update to Title 4: TRANSMITTAL 1988-1 (supplement January 19, 1988)

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4A:4	Selection and appointment	20 N.J.R. 327(a)	R.1988 d.259	20 N.J.R. 1183(b)
4A:6-1.3, 1.10	Sick leave; leave without pay	20 N.J.R. 133(a)		
4A:6-1.3, 1.10	Sick leave, leave without pay: extension of comment period	20 N.J.R. 341(a)		
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Most recent update to Title 4A: TRANSMITTAL 1988-1 (supplement January 19, 1988)

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5:15	Emergency shelters for the homeless	20 N.J.R. 341(b)		
5:19-6.3, 8	Continuing care retirement communities: application fees; nonbinding reservation agreements	20 N.J.R. 347(a)	R.1988 d.190	20 N.J.R. 976(a)
5:22-2.1	Definition of multiple dwelling: correction			20 N.J.R. 1574(b)
5:23-2.5	Uniform Construction Code: increase in structure size	20 N.J.R. 1026(a)		
5:23-2.38, 3.11, 7.2, 7.3, 7.100-7.116	Barrier free subcode: recreation standards	19 N.J.R. 1270(a)		
5:23-3.2	Commercial farm building subcode: public hearings	19 N.J.R. 1862(a)		
5:23-3.6	Uniform Construction Code: manufacturer's recommendations	20 N.J.R. 699(a)	R.1988 d.283	20 N.J.R. 1343(c)
5:23-3.14, 3.20	Uniform Construction Code: 1988 building and mechanical subcodes	20 N.J.R. 575(a)	R.1988 d.270	20 N.J.R. 1344(a)
5:23-3.18	Energy Subcode	20 N.J.R. 699(b)		
5:23-8.17	Asbestos safety control monitor: correction			20 N.J.R. 1115(a)
5:23-9.1, 9.2	UCC interpretations: Plumbing Subcode and manufactured housing	20 N.J.R. 224(a)	R.1988 d.195	20 N.J.R. 977(a)
5:24-2.3	Senior citizens and disabled protected tenancy: taxable income	20 N.J.R. 349(a)	R.1988 d.191	20 N.J.R. 978(a)
5:24-2.5	Senior citizen and disabled protected tenancy: review of determination documents	20 N.J.R. 1026(b)		
5:24-2.7	Senior citizen and disabled protected tenancy: appeal procedure	20 N.J.R. 437(a)		
5:23-3.21	Uniform Construction Code: one and two-family dwelling subcode	20 N.J.R. 1130(a)		
5:23-8	Asbestos Hazard Abatement Subcode	20 N.J.R. 1130(b)		
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5:30	Local Finance Board rules	20 N.J.R. 1027(a)		
5:30	Local Finance Board rules: waiver of Executive Order No. 66 (1978) expiration provision	20 N.J.R. 1320(a)		
5:80-26.1, 26.2, 26.3, 26.11, 26.16, 26.21	Housing affordability controls	20 N.J.R. 862(a)		
5:91-13.4	Council on Affordable Housing: motion procedure	20 N.J.R. 864(a)	R.1988 d.296	20 N.J.R. 1539(a)
5:92-1.3, 17	Council on Affordable Housing: rehabilitation of indigenous need	20 N.J.R. 864(b)	R.1988 d.295	20 N.J.R. 1539(b)
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5:92-12.4	Council on Affordable Housing: initial pricing of rental units	20 N.J.R. 1320(b)		
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Most recent update to Title 5: TRANSMITTAL 1988-4 (supplement April 18, 1988)

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Most recent update to Title 5A: TRANSMITTAL 1 (supplement May 20, 1985)

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6:2-1.21	Issuance of administrative order creating State-operated school district	20 N.J.R. 1505(a)		
6:3	School districts	20 N.J.R. 1027(b)		
6:3-1.23, 1.24	Principal certification	20 N.J.R. 1320(c)		
6:3-2	Transfer of pupil records	20 N.J.R. 133(b)	R.1988 d.199	20 N.J.R. 978(b)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
6:11-3.3	Certification fees	20 N.J.R. 865(b)	R.1988 d.307	20 N.J.R. 1539(c)
6:11-3.25, 4.2, 5.7, 10	Principal certification	20 N.J.R. 1320(c)		
6:22-1.2	School site approval	20 N.J.R. 1032(a)		
6:27-1.14	Repeal (see 6:30)	20 N.J.R. 700(a)	R.1988 d.311	20 N.J.R. 1540(a)
6:28-11.12	Special Education Pilot Project: moderate behavior handicap class types	20 N.J.R. 1141(a)		
6:30	Adult education programs	20 N.J.R. 700(a)	R.1988 d.311	20 N.J.R. 1540(a)
6:31-1.10	Bilingual education and English as a second language programs: exit testing and reentry process	20 N.J.R. 1034(a)		
6:44-2, 3, 4	Repeal (see 6:30)	20 N.J.R. 700(a)	R.1988 d.311	20 N.J.R. 1540(a)
6:46-2.3, 4.13	Corrections concerning vocational school designation criteria and private school advertising	_____	_____	20 N.J.R. 1296(b)

Most recent update to Title 6: TRANSMITTAL 1988-2 (supplement April 18, 1988)

ENVIRONMENTAL PROTECTION—TITLE 7

7:1C-1.2, 1.5	90-day construction permits: fee structure for treatment works approvals	20 N.J.R. 135(a)		
7:1I	Sanitary Landfill Facility Contingency Fund	20 N.J.R. 443(a)		
7:2	State Park Service	20 N.J.R. 714(a)		
7:2	State Park Service: extension of comment period	20 N.J.R. 1035(a)		
7:7-2.2	Coastal wetlands maps for Gloucester County	19 N.J.R. 2090(b)		
7:7-2.2	Coastal wetlands boundaries in Salem County	20 N.J.R. 349(b)		
7:7A	Freshwater Wetlands Protection Act rules	19 N.J.R. 2330(a)	R.1988 d.267	20 N.J.R. 1235(a)
7:7A-8.1	Freshwater Wetlands Protection Act rules: correction	20 N.J.R. 22(a)		
7:7A-9.2, 9.4	Freshwater wetlands protection: Statewide general permits for certain activities	20 N.J.R. 1327(a)		
7:7A-15, 16	Freshwater Wetlands Protection Act rules: fees, penalties and hearings	20 N.J.R. 576(a)	R.1988 d.312	20 N.J.R. 1553(a)
7:7E-3.41, 3.46, 7.14, 8.11	Hudson River waterfront development	20 N.J.R. 139(a)		
7:7E-3.41, 3.46, 7.41, 8.11	Hudson River waterfront development: extension of comment period	20 N.J.R. 552(a)		
7:9-1	Sewer systems and wastewater treatment plants	19 N.J.R. 2227(b)	R.1988 d.205	20 N.J.R. 980(a)
7:10-10.2, 11.2, 15	Safe Drinking Water Program fees	20 N.J.R. 142(a)		
7:10-13.2, 13.10, 13.13	Industrial wastewater treatment systems: licensing of operators	20 N.J.R. 1141(b)		
7:10-16	Maximum Containment Levels (MCLs) for hazardous contaminants in drinking water	19 N.J.R. 2228(a)		
7:10-16.13, 16.14, 16.15	Hazardous contaminants in drinking water: pre-proposal concerning short-term action levels, sampling response levels, and unregulated and total volatile organics	19 N.J.R. 2231(a)		
7:11	New Jersey Water Supply Authority: policies and procedures	20 N.J.R. 448(a)	R.1988 d.264	20 N.J.R. 1285(a)
7:11-2.2, 2.3, 2.9, 2.13	New Jersey Water Supply Authority rates and charges	20 N.J.R. 144(a)	R.1988 d.265	20 N.J.R. 1286(a)
7:12	Shellfish growing waters	20 N.J.R. 450(a)	R.1988 d.206	20 N.J.R. 980(b)
7:14-8	Penalties and hearings concerning violations of Water Pollution Control Act	20 N.J.R. 455(a)		
7:14A-3.1	NJPDES permit requirements: discharges of dredged and fill material into freshwater wetlands and open waters	20 N.J.R. 1328(a)		
7:14A-5.12	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:14A-6.4	Groundwater monitoring parameters for hazardous waste facilities	19 N.J.R. 1863(b)		
7:19-6.14	Penalties and hearings concerning violations of Water Pollution Control Act	20 N.J.R. 455(a)		
7:22-3.4, 3.6-3.11, 3.13, 3.32, 4.4, 4.6-4.11, 4.13, 4.32, 5.11	Wastewater Treatment Financing Program	19 N.J.R. 1600(a)	R.1988 d.210	20 N.J.R. 1076(a)
7:22-9	Wastewater treatment: contract awards to small, female, and minority-owned businesses	19 N.J.R. 1604(a)	R.1988 d.263	20 N.J.R. 1287(a)
7:25-1	Shellfishing license program	19 N.J.R. 2358(a)		
7:25-2.20	Higbee Beach Wildlife Management Area	20 N.J.R. 460(a)	R.1988 d.266	20 N.J.R. 1292(a)
7:25-5	1988-89 Game Code	20 N.J.R. 1035(b)		
7:25-18.5	Drifting and anchored gill net seasons; netting mesh in staked gill net fishery	19 N.J.R. 1609(a)	R.1988 d.285	20 N.J.R. 1344(a)
7:25-18.5	Gill net seasons; staked gill net fishery: extension of comment period	20 N.J.R. 715(a)		
7:25-18.5	Marine fisheries: bait net license and conditions	20 N.J.R. 866(a)	R.1988 d.286	20 N.J.R. 1345(a)
7:26-1.4, 7.4, 9.1, 12.1	Hazardous waste research and testing facilities: pre-proposal	20 N.J.R. 460(b)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
7:26-1.4, 8.2, 8.3, 8.5, 8.12, 8.14, 9.4, App. A, 12.1, 12.5, 12.12	Hazardous waste management	19 N.J.R. 1936(a)		
7:26-1.4, 9.8-9.11, 9.13, App. A, 12.3	Hazardous waste management: closure and post-closure financial assurance	19 N.J.R. 2349(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Hunterdon, Morris, Ocean and Warren counties	19 N.J.R. 1142(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Cumberland and Gloucester counties	19 N.J.R. 1481(a)		
7:26-6.5	Interdistrict and intradistrict solid waste flow: Essex County	20 N.J.R. 1048(a)		
7:26-7.3, 7.4, 7.5, 7.6	Hazardous waste management	20 N.J.R. 867(a)		
7:26-7.4, 9.1, 12.1	Hazardous waste stored for reuse	20 N.J.R. 1329(a)		
7:26-12.9	Hazardous waste management: research, development and demonstration permits	20 N.J.R. 462(a)		
7:26-12.12	Hazardous waste facilities and public participation in permit process	20 N.J.R. 715(b)		
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)	R. 1988 d.268	20 N.J.R. 1346(a)
7:30	Pesticide Control Code	20 N.J.R. 579(a)		
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program	19 N.J.R. 1687(a)	R. 1988 d.272	20 N.J.R. 1356(a)
7:31-1, 2, 3, 4	Toxic Catastrophe Prevention Act program: extension of comment period	19 N.J.R. 2092(b)		
7:31-2.12, 2.15, 5	Toxic Catastrophe Prevention Act program: confidentiality and trade secrets	20 N.J.R. 350(a)		
7:31-2.12, 2.15, 5	Confidentiality and trade secrets: correction and extension of comment period	20 N.J.R. 554(a)		
7:36	Green Acres Program	19 N.J.R. 2358(b)		
7:36	Green Acres Program: extension of comment period	20 N.J.R. 552(b)		
7:36	Green Acres Program: extension of comment period	20 N.J.R. 869(a)		
7:45	Delaware and Raritan Canal: State Park review zone	20 N.J.R. 23(a)		
7:45	Delaware and Raritan Canal review zone: extension of comment period	20 N.J.R. 552(c)		
7:50-2.11, 3.32, 4.1, 4.40, 4.66, 5.22-5.26, 5.30, 5.43, 5.47, 6.7, 6.84, 6.107, 6.123, 6.131, 6.132, 6.133	Pinelands Comprehensive Management Plan	20 N.J.R. 716(a)		

Most recent update to Title 7: TRANSMITTAL 1988-4 (supplement April 18, 1988)

HEALTH—TITLE 8

8:7-1.2	Public Health Licensing and Examination Board	20 N.J.R. 364(a)	R. 1988 d.236	20 N.J.R. 1204(a)
8:24	Chapter XII, State Sanitary Code: retail food establishments	20 N.J.R. 365(a)	R. 1988 d.204	20 N.J.R. 982(a)
8:25	Youth Camp Safety Act standards	20 N.J.R. 463(a)	R. 1988 d.269	20 N.J.R. 1428(a)
8:26-1.2, 1.3, 2.10, 3.15, 3.17, 4.3, 4.4, 5.1, 5.2, 5.3, 5.7, 5.10, 5.11, 6.4, 7.9, 8.9, 8.10	Public recreational bathing	20 N.J.R. 464(a)	R. 1988 d.229	20 N.J.R. 1079(a)
8:31B-3.22, 3.31, 3.51	Hospital reimbursement: graduate medical residents	20 N.J.R. 594(a)	R. 1988 d.277	20 N.J.R. 1428(b)
8:31B-3.38	Apportionment of full financial elements	19 N.J.R. 1279(a)		
8:31B-3.45	Hospital reimbursement: submission of uniform bill-patient summaries	20 N.J.R. 1143(a)		
8:31B-4.37, 4.39	Uncompensated Care Trust Fund: charity care eligibility	20 N.J.R. 595(a)		
8:31B-4.38	Hospital reimbursement: uncompensated care coverage for outpatient dialysis	19 N.J.R. 2092(c)	R. 1988 d.276	20 N.J.R. 1430(a)
8:31B-4.62	Hospital reimbursement: outpatient HealthStart maternal and pediatric care	19 N.J.R. 2365(a)	R. 1988 d.213	20 N.J.R. 1082(a)
8:33B-1.3	Demonstration of extracorporeal shock wave lithotripsy services	20 N.J.R. 869(b)		
8:33E-1.1, 1.2	Cardiac diagnostic facilities: complex electrophysiology studies	20 N.J.R. 467(a)		
8:33E-2.2, 2.3, 2.4	Cardiac surgery centers: complex electrophysiology studies	20 N.J.R. 468(a)		
8:42B	Drug treatment facilities: standards for licensure	20 N.J.R. 598(a)		
8:39	Long-term care licensing standards	20 N.J.R. 469(a)	R. 1988 d.280	20 N.J.R. 1432(a)
8:43E-2.4, 2.5, 2.19, 2.20	Adult open acute psychiatric beds: need review	20 N.J.R. 617(a)	R. 1988 d.278	20 N.J.R. 1458(a)
8:43E-3.19, 3.20	Inpatient screening psychiatric beds: need review	20 N.J.R. 618(a)	R. 1988 d.278	20 N.J.R. 1458(a)
8:43E-5.20	Intermediate adult and special psychiatric beds: need review	20 N.J.R. 619(a)	R. 1988 d.278	20 N.J.R. 1458(a)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
8:60-2.1 (12:120-2.1)	Asbestos removal defined	20 N.J.R. 1049(a)		
8:60-2.1 (12:120-2.1)	Asbestos removal defined: extension of comment period	20 N.J.R. 1507(b)		
8:60-5 (12:120-5)	Asbestos worker and supervisor permits	20 N.J.R. 728(a)	R.1988 d.261	20 N.J.R. 1232(b)
8:60-5.3 (12:120-5.3)	Asbestos worker and supervisor permits: correction	20 N.J.R. 366(a)		20 N.J.R. 1507(b)
8:65-1.3, 6.6, 8.13	Handling of sodium pentobarbital in animal humane facilities			
8:65-10.1	Scheduling of controlled dangerous substances			20 N.J.R. 1000(a), 1000(b), 1001(a)
8:65-10.5	Schedule V, Controlled Dangerous Substances	20 N.J.R. 1506(a)		
8:70	Evaluation criteria for interchangeable drug products	20 N.J.R. 1507(a)		
8:70-1.4	Drug Utilization Review Council: notice of action on a drug product	20 N.J.R. 870(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 2279(b), 2401(a); 20 N.J.R. 190(a), 655(a), 899(b))	19 N.J.R. 1488(a)	R.1988 d.275	20 N.J.R. 1462(a)
8:71	Interchangeable drug products (20 N.J.R. 191(b), 654(b), 899(a))	19 N.J.R. 1878(a)	R.1988 d.274	20 N.J.R. 1462(b)
8:71	Interchangeable drug products (see 20 N.J.R. 900(a))	20 N.J.R. 146(a)	R.1988 d.273	20 N.J.R. 1461(a)
8:71	Interchangeable drug products	20 N.J.R. 871(a)		

Most recent update to Title 8: TRANSMITTAL 1988-4 (supplement April 18, 1988)

HIGHER EDUCATION—TITLE 9

9:4-1.5	Chargeback for disability—specific programs at county colleges	20 N.J.R. 1330(a)		
9:7-3.1	Correction to text			20 N.J.R. 1576(b)
9:7-4	Garden State Scholarship Program	20 N.J.R. 720(a)	R.1988 d.303	20 N.J.R. 1558(a)
9:9-11	Guaranteed Student Loan Program: compliance evaluation of participating institutions	20 N.J.R. 872(a)		
9:11-1.5	Educational Opportunity Fund: maximum income levels for undergraduate eligibility	20 N.J.R. 722(a)		

Most recent update to Title 9: TRANSMITTAL 1988-3 (supplement April 18, 1988)

HUMAN SERVICES—TITLE 10

10:1-2	Public comment procedure and petitions for rulemaking	20 N.J.R. 1050(a)		
10:4	Communication with communities regarding development of group homes	19 N.J.R. 1976(a)		
10:4	Communication with communities regarding development of group homes: extension of comment period	20 N.J.R. 149(a)		
10:13	Legal Assistance for Medicare Patients (LAMP)	20 N.J.R. 873(a)		
10:14	Statewide Respite Care Program	19 N.J.R. 1712(a)	R.1988 d.226	20 N.J.R. 1107(a)
10:14-1.4, 4.1, 6.3	Statewide Respite Care Program	20 N.J.R. 1051(a)		
10:44A	Licensed community residences for developmentally disabled	20 N.J.R. 149(b)		
10:49-1.1	Presumptive Medicaid eligibility for pregnant women	20 N.J.R. 367(a)	R.1988 d.192	20 N.J.R. 983(a)
10:49-1.1, 1.2	Medical assistance for aged, blind and disabled	20 N.J.R. 548(a)	R.1988 d.212	20 N.J.R. 1103(a)
10:49-1.4	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:49-6.9	Medicaid providers and administrative charges and service fees	20 N.J.R. 518(a)		
10:50-1.1-1.5, 2.3-2.8, 3.1, 3.2	Livery service for ambulatory Medicaid patients	19 N.J.R. 2103(a)	R.1988 d.262	20 N.J.R. 1214(a)
10:51-1, App. B, C, D, E	Pharmaceutical Services Manual: covered products	20 N.J.R. 875(a)		
10:52-1.6, 1.8	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:53-1.5, 1.7	Outpatient hospital services for Medically Needy	19 N.J.R. 1388(a)		
10:54-4	Medicaid coverage for postpartum services	20 N.J.R. 1052(a)		
10:58-1.2, 3	Medicaid coverage for postpartum services	20 N.J.R. 1052(a)		
10:60-2.2	Personal care assistant services: provider reimbursement	20 N.J.R. 1143(b)		
10:62-1, 2, 3	Vision Care Manual	20 N.J.R. 956(c)		
10:63-1.11, 1.19	Use of personal needs allowance in long-term care facilities	20 N.J.R. 1144(a)		
10:66-1.3, 3	Mental health services: partial care	20 N.J.R. 1054(a)		
10:66-1.6, 3	Medicaid coverage for postpartum services	20 N.J.R. 1052(a)		
10:69	Hearing Aid Assistance for Aged and Disabled (HAAAD)	20 N.J.R. 519(a)	R.1988 d.250	20 N.J.R. 1220(a)
10:69A	Pharmaceutical Assistance to the Aged and Disabled	20 N.J.R. 369(a)	R.1988 d.211	20 N.J.R. 1106(a)
10:69C	(see 10:14)	19 N.J.R. 1712(a)	R.1988 d.226	20 N.J.R. 1107(a)
10:71-5.4, 5.5, 5.6, 5.7	Medicaid Only computation amounts and income eligibility standards	20 N.J.R. 207(a)	R.1988 d.193	20 N.J.R. 985(a)
10:72-1.1, 1.2, 2.1, 2.3, 2.7, 3.4, 3.5, 4.3, 4.4, 4.5	Medical assistance for aged, blind and disabled	20 N.J.R. 548(a)	R.1988 d.212	20 N.J.R. 1103(a)
10:72-6	Presumptive Medicaid eligibility for pregnant women	20 N.J.R. 367(a)	R.1988 d.193	20 N.J.R. 983(a)
10:81-3.38-3.42, 3.46	PAM: client resources in AFDC program	20 N.J.R. 1056(a)		
10:81-4.5	AFDC program: transportation costs incident to education or training	20 N.J.R. 620(a)	R.1988 d.253	20 N.J.R. 1221(a)
10:81-7.40	AFDC program: fraudulent receipt of assistance	20 N.J.R. 722(b)	R.1988 d.310	20 N.J.R. 1559(a)
10:81-11.7	Child support enforcement program	19 N.J.R. 1879(b)		

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NEW JERSEY REGISTER, TUESDAY, JULY 5, 1988

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
10:81-11.18	Child support guidelines: spousal support obligation	20 N.J.R. 1058(a)		
10:82-3.2, 3.6, 3.7	ASH: client resources in AFDC program	20 N.J.R. 1059(a)		
10:82-5.10	Emergency Assistance in AFDC: temporary shelter allowances	20 N.J.R. 1147(a)		
10:85-3.2, 3.3	GAM: travel costs for job seeking or training	20 N.J.R. 879(a)		
10:85-4.6	Emergency Assistance benefits extension	Emergency (expires 6-30-88)	R.1988 d.291	20 N.J.R. 1484(a)
10:85-5.2	General Assistance: payment of inpatient hospital bills	20 N.J.R. 521(a)	R.1988 d.251	20 N.J.R. 1222(a)
10:85-8.4	GAM: Pharmaceutical Assistance (PAAD) program information	20 N.J.R. 522(a)	R.1988 d.252	20 N.J.R. 1222(b)
10:87-5.9	Food Stamps eligibility: income exclusion and utility allowance payments	19 N.J.R. 1986(a)		
10:89-3.5, 3.6, 5.3	Home Energy Assistance program	20 N.J.R. 1060(a)		
10:123-3.2	Residential health care facilities and boarding homes: personal needs allowance of residents	20 N.J.R. 225(b)	R.1988 d.201	20 N.J.R. 985(b)
10:126	Registration of family day care providers	20 N.J.R. 1508(a)		
10:127	Residential child care facilities	20 N.J.R. 1149(a)		

Most recent update to Title 10: TRANSMITTAL 1988-4 (supplement April 18, 1988)

CORRECTIONS—TITLE 10A

10A:1-2	Rulemaking and rule exemption authority of Commissioner	20 N.J.R. 493(a)	R.1988 d.240	20 N.J.R. 1222(c)
10A:1-11	Personal property of inmates	20 N.J.R. 494(a)	R.1988 d.306	20 N.J.R. 1559(b)
10A:3-5.6, 5.7	Pat and strip searches	20 N.J.R. 1331(a)		
10A:4-1.2, 1.3	Inmate discipline: Boy's Unit at Skillman	20 N.J.R. 496(a)	R.1988 d.239	20 N.J.R. 1224(a)
10A:4-11.9, 12	Inmate discipline: appeal to Office of Administrative Law	20 N.J.R. 496(b)		
10A:4-11.9, 12	Inmate appeals to Office of Administrative Law: public hearing	20 N.J.R. 880(b)		
10A:9-1.3, 5.6	Work credits for I.S.P. violators housed in county facilities	20 N.J.R. 879(b)		
10A:9-4.6	Open charges and reduced custody status	20 N.J.R. 880(a)		
10A:17-2, 5, 6	Social services: Volunteer Service Program; religion; institutional chaplaincy	20 N.J.R. 167(a)	R.1988 d.241	20 N.J.R. 1224(b)
10A:17-5.3, 5.8	Religious services	20 N.J.R. 1332(a)		
10A:18-7	Bedside and funeral visits	20 N.J.R. 1332(a)		
10A:18-8.7	Use of telephone by inmates	20 N.J.R. 496(c)	R.1988 d.238	20 N.J.R. 1229(a)
10A:22-2	Inmate and parolee records	20 N.J.R. 723(a)	R.1988 d.305	20 N.J.R. 1561(a)
10A:71-3.2, 3.4, 3.18-3.23, 3.25-3.28, 3.30, 3.43, 6.9	Parole Board rules	19 N.J.R. 1396(b)		

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INSURANCE—TITLE 11

11:1-20, 22	Cancellation and nonrenewal requirements and practices	20 N.J.R. 1061(a)		
11:2-1, 19	Repeal (see 11:17-3, 5.7)	20 N.J.R. 1152(a)		
11:2-17.3, 17.10	Replacement parts for damaged automobiles	20 N.J.R. 1159(a)		
11:4-2	Replacement of life insurance policy	19 N.J.R. 1286(a)		
11:4-16.6	Basic hospital expense coverage	20 N.J.R. 172(a)		
11:4-18.3, 18.5, 18.10	Individual health policies: loss ratio standards	19 N.J.R. 1620(b)		
11:4-19	Optional coverage for pregnancy and childbirth benefits	20 N.J.R. 43(a)		
11:4-30	Hospital preadmission certification programs (HPCPs)	20 N.J.R. 880(c)		
11:5-1.13	Control of real estate brokerage files	20 N.J.R. 883(a)		
11:5-1.15	Real estate advertising practices	20 N.J.R. 497(a)	R.1988 d.237	20 N.J.R. 1205(a)
11:5-1.18	Supervision of real estate offices	20 N.J.R. 1160(a)		
11:5-1.23	Real estate licensee's obligation to disclose certain information concerning a property and to submit to a seller all written offers: pre-proposal	19 N.J.R. 2238(a)		
11:5-1.23	Real estate services to handicapped	20 N.J.R. 725(a)		
11:5-1.25	Sale of interstate real properties: advertisements	19 N.J.R. 1718(a)		
11:5-1.27	Real estate brokers pre-licensure course	19 N.J.R. 1051(a)	R.1988 d.254	20 N.J.R. 1205(b)
11:5-1.27	Educational requirements for real estate licensure	20 N.J.R. 725(b)		
11:5-1.28	Certification as real estate instructor; classroom procedure	20 N.J.R. 1161(a)		
11:5-1.34	Discriminatory commission—split policies	20 N.J.R. 1163(a)		
11:16-1	Fraud prevention: verification and claim form statements	20 N.J.R. 1062(a)		
11:17-3, 5.7	Insurance producer licensing: professional qualifications	20 N.J.R. 1152(a)		
11:18	New Jersey Medical Malpractice Reinsurance Recovery Fund Surcharge: pre-proposed new rules	20 N.J.R. 242(a)		

Most recent update to Title 11: TRANSMITTAL 1988-3 (supplement April 18, 1988)

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
LABOR—TITLE 12				
12:5-1	Audit resolution procedures concerning awards of Federal money	20 N.J.R. 1520(a)		
12:16-7	Use of surplus unemployment funds by contributing local governments	20 N.J.R. 1521(a)		
12:16A-11	Unemployment and Disability Insurance group accounts	20 N.J.R. 1071(b)		
12:17-1.6	Unemployment insurance benefits: temporary separation from work	20 N.J.R. 1333(a)		
12:17-2.4, 2.5	Requalification for unemployment insurance benefits	20 N.J.R. 1522(a)		
12:17-2.6	Noncompliance with quality control reviews of unemployment insurance claims	20 N.J.R. 884(a)		
12:45-49	Vocational rehabilitation	20 N.J.R. 620(a)	R.1988 d.235	20 N.J.R. 1230(a)
12:60-6.1	Recordkeeping by public work project employers	20 N.J.R. 1164(a)		
12:60-7	Apprentice to journeymen ratios for public work projects	20 N.J.R. 1164(b)		
12:100-4.2	Public employee safety and health: exposure to ethylene oxide	20 N.J.R. 1334(a)		
12:100-4.2, 5.2, 6.2	Public employee safety and health	20 N.J.R. 726(a)	R.1988 d.260	20 N.J.R. 1232(a)
12:100-9	Public employee safety and health: work in confined spaces	20 N.J.R. 1523(a)		
12:112	Public Employees' Occupational Safety and Health Review Commission	20 N.J.R. 1165(a)		
12:120-2.1 (8:60-2.1)	Asbestos removal defined	20 N.J.R. 1049(a)		
12:120-2.1 (8:60-2.1)	Asbestos removal defined: extension of comment period	20 N.J.R. 1507(b)		
12:120-5 (8:60-5)	Asbestos worker and supervisor permits	20 N.J.R. 728(a)	R.1988 d.261	20 N.J.R. 1232(b)
12:120-5.3 (8:60-5.3)	Asbestos worker and supervisor permits: correction	_____	_____	20 N.J.R. 1507(b)
12:195	Carnival-amusement rides	20 N.J.R. 1072(a)		
12:210-1	Apparel industry registration system	20 N.J.R. 1334(b)		

Most recent update to Title 12: TRANSMITTAL 1988-3 (supplement March 21, 1988)

COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A

12A:12-2.3, 2.7	Local Development Financing Fund: project set-asides	20 N.J.R. 1171(a)		
12A:12-3	Tourism Matching Grant Program	20 N.J.R. 172(b)	R.1988 d.215	20 N.J.R. 1082(a)
12A:50-1	Cogeneration: reporting by non-utility generators	19 N.J.R. 2383(a)		
12A:54	Cogeneration equipment and use tax exemption: technical sufficiency standards	20 N.J.R. 1073(a)		
12A:120-1	Urban Enterprise Zone Program	20 N.J.R. 1336(a)		

Most recent update to Title 12A: TRANSMITTAL 1988-2 (supplement April 18, 1988)

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13:1	Police Training Commission rules	20 N.J.R. 622(a)	R.1988 d.309	20 N.J.R. 1563(a)
13:3-1, 2, 3, 4, 7	Amusement games control	20 N.J.R. 627(a)	R.1988 d.227	20 N.J.R. 1085(a)
13:3-3.4, 3.5, 3.6	Amusement games: preproposal concerning player fees and value of prizes	20 N.J.R. 44(a)		
13:4-3.4, 3.5, 8.2	Discrimination complaints: confidentiality of parties' identities	20 N.J.R. 499(a)		
13:21-11.13	Temporary registration of motor vehicles	20 N.J.R. 176(a)		
13:21-21	Auto body repair facilities	19 N.J.R. 1624(c)		
13:27-3, 4	Architectural practice; definitions	19 N.J.R. 1783(b)		
13:27-5.4	Licensure of out-of-state architects	20 N.J.R. 884(b)	R.1988 d.308	20 N.J.R. 1567(a)
13:27-5.8, 8.7, 8.8, 8.15	Certification of landscape architects	20 N.J.R. 885(a)		
13:27A	Repeal (see 13:28)	20 N.J.R. 370(b)	R.1988 d.214	20 N.J.R. 1088(a)
13:28	Board of Cosmetology and Hairstyling	20 N.J.R. 370(b)	R.1988 d.214	20 N.J.R. 1088(a)
13:28-5.1	Board of Cosmetology and Hairstyling: fee schedule	20 N.J.R. 886(a)		
13:29-5	Board of Accountancy: Quality Enhancement Program	19 N.J.R. 2240(a)	R.1988 d.294	20 N.J.R. 1567(b)
13:34-3.6	Marriage counseling: temporary permit holders	20 N.J.R. 501(a)	R.1988 d.228	20 N.J.R. 1095(a)
13:35-1.5	Participation in medical residency programs	19 N.J.R. 2243(a)	R.1988 d.203	20 N.J.R. 986(a)
13:35-6.7	Medical examiners board: prescribing of amphetamines and sympathomimetic amine drugs	19 N.J.R. 1786(a)		
13:39	Board of Pharmacy rules	19 N.J.R. 1952(a)		
13:39	Board of Pharmacy rules: extension of comment period	20 N.J.R. 244(a)		
13:40-3.1	Professional engineers and land surveyors: conflict of interest; approval of work	20 N.J.R. 736(a)		
13:44-1.2, 2.1	Licensure and practice of veterinary medicine	20 N.J.R. 1171(b)		
13:44C	Practice of audiology and speech-language pathology	20 N.J.R. 244(b)		
13:45A-12.1, 12.2, 12.3	Sale of animals	20 N.J.R. 501(b)	R.1988 d.271	20 N.J.R. 1463(a)
13:46-1A.3	Athletic Control Board: weighing of boxers	20 N.J.R. 380(a)		
13:70-1.30	Thoroughbred racing: horsemen associations	20 N.J.R. 1172(a)		
13:70-6.55	Thoroughbred racing: respiratory bleeders	20 N.J.R. 506(a)	R.1988 d.245	20 N.J.R. 1207(a)
13:70-14A.9	Thoroughbred racing: competition by bleeders	20 N.J.R. 506(b)	R.1988 d.244	20 N.J.R. 1207(b)
13:70-29.50	Thoroughbred racing: Daily Triple wagering	20 N.J.R. 1173(a)		
13:71-1.25	Harness racing: horsemen associations	20 N.J.R. 1174(a)		

N.J.A.C. CITATION		PROPOSAL NOTICE (N.J.R. CITATION)	DOCUMENT NUMBER	ADOPTION NOTICE (N.J.R. CITATION)
13:71-6.14	Harness racing: trainers leaving the paddock	20 N.J.R. 1175(a)		
13:71-11.9	Harness racing: respiratory bleeders	20 N.J.R. 507(a)	R.1988 d.246	20 N.J.R. 1207(c)
13:71-27.54	Harness racing: Daily Triple wagering	20 N.J.R. 1175(b)		
13:75-1.7	Violent crimes compensation: prosecution of offender	20 N.J.R. 736(b)		
13:76	Training requirements for arson investigators	20 N.J.R. 963(a)		
13:80-1	Hazard Waste Management Information Awards	20 N.J.R. 507(b)		

Most recent update to Title 13: TRANSMITTAL 1988-4 (supplement April 18, 1988)

PUBLIC UTILITIES—TITLE 14

14:3-7.5	Interest on customer deposits	20 N.J.R. 737(a)		
14:3-7.13	Collection activity on disputed charges; interest on overpayments	20 N.J.R. 963(b)		
14:11-6	Interest on fuel clause overrecoveries	19 N.J.R. 1967(c)		
14:18-3	Cable TV: pre-proposal for telephone service standards	19 N.J.R. 2125(b)		
14:18-15.1	Preproposal: Statewide cable TV access channel for educational and public affairs programming	20 N.J.R. 1063(a)		

Most recent update to Title 14: TRANSMITTAL 1988-1 (supplement January 19, 1988)

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14A:3-7	Individual electric metering in residential buildings: repeal	19 N.J.R. 2247(a)	R.1988 d.188	20 N.J.R. 991(a)
14A:6-2	Business Energy Improvement Program	20 N.J.R. 250(b)	R.1988 d.197	20 N.J.R. 991(b)
14A:22-1.2, 2.1, 3.1, 3.2, 3.8, 4.1, 5.1, 8.1	Commercial and apartment conservation service program	19 N.J.R. 2247(b)	R.1988 d.187	20 N.J.R. 995(a)

Most recent update to Title 14A: TRANSMITTAL 1988-1 (supplement February 16, 1988)

STATE—TITLE 15

15:2-1	Commercial recording: expedited services	20 N.J.R. 522(b)	R.1988 d.202	20 N.J.R. 997(a)
15:10-6	Voting accessibility for elderly and handicapped	20 N.J.R. 1527(a)		

Most recent update to Title 15: TRANSMITTAL 1987-1 (supplement February 17, 1987)

PUBLIC ADVOCATE—TITLE 15A

Most recent update to Title 15A: TRANSMITTAL 1987-1 (supplement April 20, 1987)

TRANSPORTATION—TITLE 16

16:25	Utility accommodation on highway rights-of-way	19 N.J.R. 1064(a)		
16:25A	Soil erosion and sediment control on DOT projects	19 N.J.R. 2126(a)		
16:28	Speed limits on State highway system	20 N.J.R. 887(a)	R.1988 d.290	20 N.J.R. 1569(a)
16:28-1.13, 1.15, 1.30, 1.93	Speed limit zones along Routes 13, 20, 44, and 70	20 N.J.R. 630(a)	R.1988 d.217	20 N.J.R. 1095(b)
16:28-1.26, 1.41	Speed limit zones along U.S. 9 and Route 185	20 N.J.R. 632(a)	R.1988 d.219	20 N.J.R. 1096(a)
16:28-1.31	Speed limits along Route 56 in Cumberland and Salem counties	20 N.J.R. 964(a)		
16:28-1.41	Speed limits along U.S. 9 in Cape May County	Emergency (expires 6-24-88)	R.1988 d.225	20 N.J.R. 1113(a)
16:28-1.49	Speed limits along Route 35 in Bay Head	20 N.J.R. 965(a)		
16:28-1.77	Speed limits along Route 29 in Hunterdon County	Emergency (expires 8-20-88)	R.1988 d.324	20 N.J.R. 1573(a)
16:28-1.112	Speed limit zones along Route 156 in Hamilton	20 N.J.R. 632(b)	R.1988 d.220	20 N.J.R. 1097(a)
16:28-1.158	Speed limits along Route 179 in Hunterdon County	20 N.J.R. 1176(a)		
16:28A	Restricted parking and stopping	20 N.J.R. 887(a)	R.1988 d.290	20 N.J.R. 1569(a)
16:28A-1.2, 1.7, 1.15	Bus stop zones along U.S. 1 and 9 in North Bergen, U.S. 9 in Howell, and Route 23 in Wayne	20 N.J.R. 965(b)		
16:28A-1.7	Bus stop zone along U.S. 9 in Marlboro	20 N.J.R. 1533(a)		
16:28A-1.7, 1.18, 1.57	Restricted parking along U.S. 9, Route 27, and U.S. 206	20 N.J.R. 633(a)	R.1988 d.218	20 N.J.R. 1097(b)
16:28A-1.7, 1.46	Stopping restrictions along U.S. 9 in Cape May and U.S. 130 in Mercer County	20 N.J.R. 887(b)	R.1988 d.288	20 N.J.R. 1569(b)
16:28A-1.9, 1.32	Bus stop zones along Route 17 in Lyndhurst and U.S. 46 in Elmwood Park	20 N.J.R. 1177(a)		
16:28A-1.28, 1.41	Restricted parking along U.S. 40 and Route 77 in Upper Pittsgrove Township	20 N.J.R. 508(a)	R.1988 d.208	20 N.J.R. 1098(a)
16:28A-1.33	Route 47 in Franklin: correction			20 N.J.R. 1001(c)
16:28A-1.34	Bus stops along Route 49 in Salem and Fairfield	20 N.J.R. 888(a)	R.1988 d.287	20 N.J.R. 1569(c)
16:28A-1.36	Restricted parking on Route 57 in Washington Township, Warren County	Emergency (expires 8-2-88)	R.1988 d.293	20 N.J.R. 1484(b)
16:28A-1.46	No parking bus stop along U.S. 130 in Edgewater Park	20 N.J.R. 634(a)	R.1988 d.222	20 N.J.R. 1098(b)
16:28A-1.46	No stopping or standing zones along U.S. 130 in Pennsville	20 N.J.R. 1533(b)		
16:28A-1.46, 1.98	Parking restrictions along U.S. 130 in Salem and Burlington counties, and Route 56 in Vineland	20 N.J.R. 1064(a)		
16:28A-1.51	Parking restrictions along Route 168 in Gloucester Township	20 N.J.R. 1065(a)		

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16:28A-1.61	No parking bus stop along U.S. 9W in Alpine	20 N.J.R. 634(b)	R.1988 d.223	20 N.J.R. 1098(c)
16:28A-1.70	No parking bus stop along Route 439 in Elizabeth	20 N.J.R. 635(a)	R.1988 d.221	20 N.J.R. 1099(a)
16:29	No passing zones	20 N.J.R. 887(a)	R.1988 d.290	20 N.J.R. 1569(a)
16:30	Miscellaneous traffic rules	20 N.J.R. 887(a)	R.1988 d.290	20 N.J.R. 1569(a)
16:30-3	Pre-proposal: Exclusive bus lane on Routes 3 and 495	19 N.J.R. 1421(b)		
16:30-3.6	Exclusive bus and HOV lanes along Routes 3 and 495 into Manhattan	20 N.J.R. 737(b)		
16:30-4.2	Bicycle restrictions along Route 88 in Point Pleasant	19 N.J.R. 2254(a)		
16:30-10.6, 10.7	Midblock crosswalks along Routes 35 and 37 in Seaside Heights	20 N.J.R. 509(a)	R.1988 d.207	20 N.J.R. 1099(b)
16:30-10.8	Midblock crosswalk along Route 88 in Point Pleasant	20 N.J.R. 1177(b)		
16:31	No left turns	20 N.J.R. 887(a)	R.1988 d.290	20 N.J.R. 1569(a)
16:31A	Prohibited right turns on red	20 N.J.R. 888(b)	R.1988 d.289	20 N.J.R. 1570(a)
16:41B	Newspaper boxes on State highways	20 N.J.R. 1178(a)		
16:44	Contract administration	20 N.J.R. 889(a)	R.1988 d.279	20 N.J.R. 1467(a)
16:53C	Rail Freight Program	20 N.J.R. 966(a)		
16:55	Licensing of aeronautical activities	20 N.J.R. 967(a)		
16:60	Aircraft safety: issuance of summons and designation of peace officer	20 N.J.R. 968(a)		
16:61	Aircraft accidents	20 N.J.R. 968(b)		
16:62-5.1, 9.1	Land uses within airport hazard areas: preproposal	20 N.J.R. 1534(a)		
16:75	NJ TRANSIT: bus allocation guidelines	20 N.J.R. 635(b)	R.1988 d.249	20 N.J.R. 1207(d)

Most recent update to Title 16: TRANSMITTAL 1988-4 (supplement April 18, 1988)

TREASURY-GENERAL—TITLE 17

17:1	Division of Pensions: general administration	20 N.J.R. 636(a)	R.1988 d.243	20 N.J.R. 1208(a)
17:1-1.10	Pension administration: bad balances in withdrawn accounts	20 N.J.R. 1181(a)		
17:1-2.36	Alternate Benefit Program: transfers and interest	20 N.J.R. 969(a)		
17:1-4.37	Applications for disability retirement	20 N.J.R. 510(a)	R.1988 d.231	20 N.J.R. 1208(b)
17:2-2.2	Public Employees' Retirement System: multiple enrollments	20 N.J.R. 969(b)		
17:3	Teachers' Pension and Annuity Fund	20 N.J.R. 1181(b)		
17:5-6.1	State Police Retirement System: transfer of service credit	20 N.J.R. 47(b)	R.1988 d.302	20 N.J.R. 1570(b)
17:9	State Health Benefits Program	20 N.J.R. 1536(a)		
17:9-2.12	State Health Benefits Program: local coverage	20 N.J.R. 1536(b)		
17:9-2.17	State Health Benefits Program: board of education retirees	20 N.J.R. 1537(a)		
17:9-4.2	State Health Benefits Program: full-time employee defined	20 N.J.R. 741(a)		
17:9-6.1	State Health Benefits Program: continuation of coverage into retirement	20 N.J.R. 1182(a)		
17:10	Judicial Retirement System administrative rules	20 N.J.R. 510(b)	R.1988 d.242	20 N.J.R. 1208(c)
17:10-6.1	Judicial Retirement System: transfer of service credit	20 N.J.R. 179(b)	R.1988 d.182	20 N.J.R. 998(a)
17:16-32.12	Common Pension Fund A: permitted investment	20 N.J.R. 741(b)	R.1988 d.248	20 N.J.R. 1208(d)
17:16-36.12	Common Pension Fund B: permitted investment	20 N.J.R. 742(a)	R.1988 d.247	20 N.J.R. 1208(e)
17:19-10.4, 10.5, 10.7, 10.9	Architect/engineer selection procedures	20 N.J.R. 180(a)		
17:20-6.3	State Lottery: confidentiality of individual agent's operation	20 N.J.R. 48(a)	R.1988 d.198	20 N.J.R. 998(b)

Most recent update to Title 17: TRANSMITTAL 1988-3 (supplement April 18, 1988)

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18:2-2	Post tax amnesty	19 N.J.R. 2255(b)		
18:5-1.1, 6.2, 12.5	Sale of tobacco to minors	20 N.J.R. 970(a)		
18:5-12.2	Post tax amnesty	19 N.J.R. 2255(b)		
18:7-3.15, 11.12, 13.1, 13.7, 13.12, 13.13, 14.1, 14.3, 14.7, 14.13-14.17, 14.20	Post tax amnesty	19 N.J.R. 2255(b)		
18:7-3.18	Corporation business tax: recycling equipment credit	20 N.J.R. 48(b)		
18:8-4.5, -8	Post tax amnesty	19 N.J.R. 2255(b)		
18:9	Business Personal Property Tax	20 N.J.R. 511(a)	R.1988 d.297	20 N.J.R. 1570(c)
18:9-8.5-8.7	Post tax amnesty	19 N.J.R. 2255(b)		
18:12-17	Local property taxation	20 N.J.R. 1066(a)		
18:15-2.15	Woodland owners: application for farmland assessment status	20 N.J.R. 1337(a)		
18:18-8.11, 12.5, 12.7	Post tax amnesty	19 N.J.R. 2255(b)		
18:22-2.4, 8.4	Post tax amnesty	19 N.J.R. 2255(b)		
18:24	Sales and Use Tax	20 N.J.R. 512(a)	R.1988 d.298	20 N.J.R. 1570(d)
18:26	Transfer inheritance tax and estate tax	20 N.J.R. 637(a)	R.1988 d.300	20 N.J.R. 1571(a)
18:26-8.4, 9.8	Post tax amnesty	19 N.J.R. 2255(b)		
18:35	Gross Income Tax; Setoff of Individual Liability	20 N.J.R. 514(a)	R.1988 d.299	20 N.J.R. 1571(b)
18:35-1.24	Gross income tax: investment fund distributions	20 N.J.R. 742(b)		

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18:35-1.9, 1.18, 1.19, 1.20	Post tax amnesty	19 N.J.R. 2255(b)		
18:35-1.21, 1.22, 1.23	Gross Income Tax: employee defined; employer withholding; business expenses	20 N.J.R. 515(a)		
18:37-2.1, 2.2, -3, -4	Post tax amnesty	19 N.J.R. 2255(b)		

Most recent update to Title 18: TRANSMITTAL 1988-2 (supplement March 21, 1988)

TITLE 19—OTHER AGENCIES

19:3, 4, 4A	Hackensack Meadowlands Development Commission rules	20 N.J.R. 743(a)	R.1988 d.281	20 N.J.R. 1467(a)
19:4-6.28	Rezoning in East Rutherford	19 N.J.R. 1975(a)		
19:8	Use and administration of Garden State Parkway	20 N.J.R. 890(a)	R.1988 d.292	20 N.J.R. 1571(c)
19:9	Turnpike Authority rules	20 N.J.R. 1338(a)		
19:9-1.6	Sleeping in parked vehicles	19 N.J.R. 1637(b)		
19:9 Exh. A	Prequalification of bidders for widening contracts	19 N.J.R. 2129(b)		
19:17	Appeal Board rules concerning majority representation fee in lieu of dues	20 N.J.R. 891(a)	R.1988 d.301	20 N.J.R. 1571(d)
19:25-16.4, 16.5, 16.6, 16.10, 16.11, 16.14, 16.18, 16.20, 16.27, 16.33	Public financing of primary election for Governor	20 N.J.R. 1339(a)		
19:25-19.3	Personal financial disclosure: reporting of earned income	19 N.J.R. 1541(a)		
19:25-19.3	Reporting of earned income: withdrawal of proposal	20 N.J.R. 762(a)		

Most recent update to Title 19: TRANSMITTAL 1988-1 (supplement April 18, 1988)

TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY

19:40-2	Access to information maintained by casino licensees	20 N.J.R. 1068(a)		
19:41	Applications	20 N.J.R. 763(a)	R.1988 d.255	20 N.J.R. 1209(a)
19:41-9.9A, 9.11A	Junket enterprise and representative license fees	20 N.J.R. 381(a)	R.1988 d.200	20 N.J.R. 998(c)
19:41-11.3	Filing of casino service industry applications	20 N.J.R. 1537(b)		
19:42	Hearings	20 N.J.R. 764(a)	R.1988 d.256	20 N.J.R. 1209(b)
19:45-1.1, 1.10, 1.11, 1.12, 1.16, 1.17, 1.32, 1.33, 1.36, 1.37, 1.38, 1.42, 1.44	Slot machine bill changer system	20 N.J.R. 765(a)		
19:45-1.1, 1.10, 1.11, 1.12, 1.16, 1.17, 1.32, 1.33, 1.36, 1.37, 1.38, 1.42, 1.44	Slot machine bill changer system: 90-day implementation	Expires 7-10-88	_____	20 N.J.R. 769(a)
19:45-1.2, 1.46	Reporting of complimentary items and services	19 N.J.R. 1975(b)	R.1988 d.209	20 N.J.R. 1102(a)
19:45-1.14, 1.36, 1.39, 1.40B, 1.45	Internal casino controls	20 N.J.R. 1069(a)		
19:45-1.25	Verification of travelers checks	20 N.J.R. 51(a)	R.1988 d.304	20 N.J.R. 1572(a)
19:45-1.25	Verification of travelers checks: public hearing	20 N.J.R. 1071(a)		
19:45-1.33, 1.42, 1.43	Count times for cash and coin	19 N.J.R. 2265(a)		
19:45-1.34, 1.36, 1.37, 1.44	Use of slot tokens not redeemable for cash	20 N.J.R. 516(a)	R.1988 d.224	20 N.J.R. 1099(c)
19:46	Gaming equipment	20 N.J.R. 638(a)	R.1988 d.232	20 N.J.R. 1209(c)
19:46-1.5, 1.25, 1.26, 1.33	Use of slot tokens not redeemable for cash	20 N.J.R. 516(a)	R.1988 d.224	20 N.J.R. 1099(c)
19:46-1.19	Dealing shoes	20 N.J.R. 1069(a)		
19:46-1.25, 1.26	Slot machine bill changer system	20 N.J.R. 765(a)		
19:46-1.25, 1.26	Slot machine bill changer system: 90-day implementation	Expires 7-10-88	_____	20 N.J.R. 769(a)
19:46-1.29	Approval of slot machine modifications	20 N.J.R. 52(a)		
19:47	Rules of the games	20 N.J.R. 639(a)	R.1988 d.233	20 N.J.R. 1209(d)
19:47-1.11	Rules of the games: craps	19 N.J.R. 1542(a)		
19:47-5.3	Roulette and "no more bets" procedure	19 N.J.R. 1638(a)		
19:50	Casino hotel alcoholic beverage control	20 N.J.R. 770(a)	R.1988 d.257	20 N.J.R. 1210(a)
19:53	Equal employment opportunity and affirmative action	20 N.J.R. 640(a)	R.1988 d.234	20 N.J.R. 1214(a)
19:53-1.3, 1.13	Casino licensee's EEO/AA office: reproposal	20 N.J.R. 970(b)		
19:53-1.5	Pre-proposal: Affirmative action employment goals for handicapped or disabled persons	19 N.J.R. 1182(a)		

Most recent update to Title 19K: TRANSMITTAL 1988-2 (supplement April 18, 1988)

OAL CUSTOMER INFORMATION

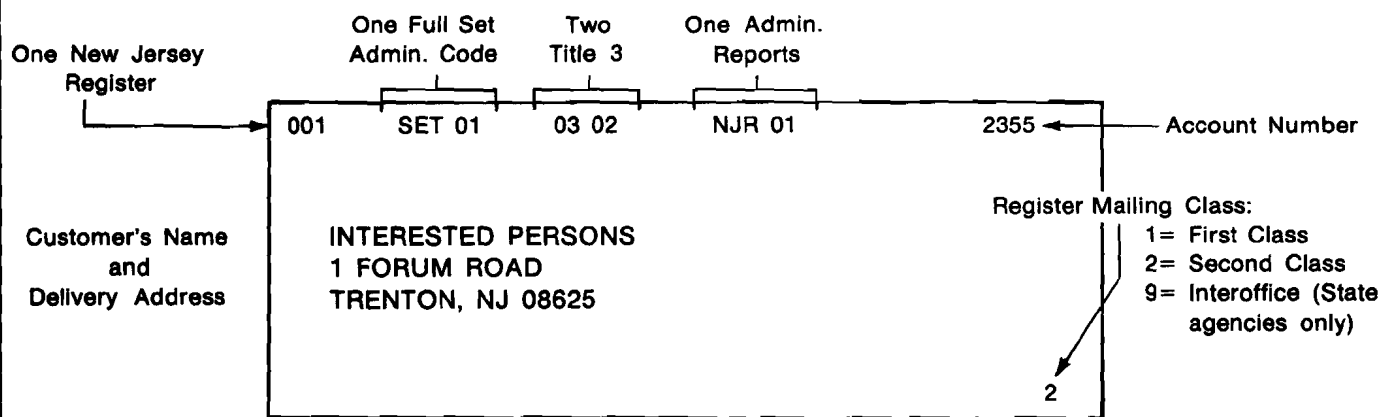
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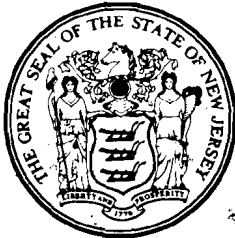
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